

## Enrolled House Bill 1042

Sponsored by Representative SMITH, Senator BOIVIN, Representative DAVIS, Senators COOK, INSKEEP, McKAY, OUDERKIRK

CHAPTER.....

### AN ACT

Relating to public lands, including but not limited to provisions affecting the Common School Fund; creating new provisions; amending ORS 164.470, 273.006, 273.055, 273.075, 273.081, 273.085, 273.111, 273.121, 273.145, 273.151, 273.155, 273.225, 273.231, 273.251, 273.265, 273.271, 273.281, 273.300, 273.311, 273.316, 273.326, 273.382, 273.384, 273.511, 273.990, 274.005, 274.040, 274.060, 274.075, 274.210, 274.220, 274.230, 274.240, 274.260, 274.280, 274.310, 274.525, 274.550, 274.560, 274.620, 274.915, 274.990, 352.560, 352.570, 352.580, 352.600, 352.610, 352.620, 352.630, 352.640, 520.055, 530.480, 530.510, 551.160, 567.255 and 778.100; repealing ORS 273.221, 273.380, 274.035 and 274.523; appropriating money; providing penalties; and prescribing an effective date.

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

Section 1. ORS 164.470 is amended to read:

164.470. Any person ~~+, firm or corporation+~~ who cuts timber or slashing, or digs, pulls or cuts stumps for the purpose of clearing land ~~for agricultural purposes, which land is+~~ subject to overflow along or adjacent to the banks of any stream within this state, without burning or removing the timber, slashing or stumps before ~~the same or+~~ any part thereof is carried away by flood or high water, shall be punished upon conviction ~~by a fine of not more than \$500 nor less than \$25, or by imprisonment in the county jail for not less than one month nor more than six months+~~ as for a misdemeanor.

Section 2. ORS 273.006 is amended to read:

273.006. As used in this chapter, unless the context requires otherwise:

- (1) "Board" means the State Land Board.
- (2) "County recording officer" means the recorder of conveyances, county clerk or other county officer carrying out ORS 205.130 to 205.230.
- (3) "Director" means the Director of the Division of State Lands.
- (4) "Division" means the Division of State Lands.
- (5) "Land" includes water, water rights, easements of every nature and all appurtenances to land.
- (6) "Material" includes gravel, rock, sand and silt, but does not include hard minerals subject to ORS 274.611 to 274.645, or oil, gas and sulphur subject to ORS 274.705 to 274.860.

Section 3. ORS 273.055 is amended to read:

273.055. If it finds it advisable in carrying out its duties, the division ~~may take title+~~ in the name of the State of Oregon ~~in fee simple+~~ may take title to real and personal property in fee simple or absolutely, in trust or under such other conditions as it considers advisable, and may convey title thereto or execute agreements necessary to carry out its duties.

Section 4. ORS 273.075 is amended to read:

273.075. ~~{Where}~~ When lands formerly belonging to the State of Oregon are disposed of and final payment has been made, the ~~{division}~~ director shall execute and deliver to the purchaser a deed in a manner and form prescribed by the rules of the division, conveying all right, title and interest which the state may have in and to such lands, except as otherwise provided by law.

Section 5. ORS 273.081 is amended to read:

273.081. The director may execute on behalf of the division all documents required to carry out its powers and duties, in the ~~{same}~~ manner and form ~~{that he may execute deeds under ORS 273.306}~~ prescribed by the rules of the division. All documents so executed shall be admitted to record without acknowledgment.

Section 6. ORS 273.085 is amended to read:

273.085. Copies of any document executed by the ~~{division}~~ director, or executed by the State Land Board before January 1, 1968, and certified by the director, are entitled to record in the office of any county recording officer. Documents affecting the title to real property shall be recorded in the county where such real property is situated; copies of all other documents executed by the division may be recorded in any county designated by the division.

**Note:** Sections 7 and 8 were deleted by amendment.

Section 9. ORS 273.111 is amended to read:

273.111. There are appropriated such sums of money ~~{not otherwise appropriated, for use from time to time,}~~ as are necessary to carry out the purposes of ORS 274.280 ~~{and 274.290}~~ to 274.310, out of the Common School Fund in an amount not to exceed the net receipts from ~~{the sale of material, as defined in ORS 274.523, from the submersible and submerged lands of navigable streams in this state. Such sums of money shall be deposited in the State Treasury in a special account to be known as the Swamp and Overflow Land Reclamation Fund}~~ operations under ORS 274.530. When sufficient funds become available from the proceeds of the sale or lease of ~~{such}~~ reclaimed lands, all money appropriated by this section and expended pursuant to ORS 274.280 to 274.310 shall be repaid to the Common School Fund.

**Section 10.** (1) The Swamp and Overflow Land Reclamation Fund, maintained under ORS 273.111 before its amendment by section 9 of this Act, is abolished. On the operative date of this section all moneys in the Swamp and Overflow Land Reclamation Fund shall revert to the Common School Fund. Such moneys shall not be credited to the Distributable Income Account, but are subject to appropriation as provided in ORS 273.111.

(2) Expenses and obligations incurred before the operative date of this section, payable under the law then in effect out of the Swamp and Overflow Land Reclamation Fund, shall be paid, in the same manner as other claims against the state are paid after the operative date of this section out of moneys in the Common School Fund.

**Note:** Section 11 was deleted by amendment.

Section 12. ORS 273.121 is amended to read:

273.121. Notwithstanding any other provision of law, all funds under the control of the division shall be expended by warrant drawn ~~{by the Secretary of State}~~ on the State Treasurer, and then only upon proper claim approved by the director or his authorized representative submitted to the Secretary of State for audit.

Section 13. ORS 273.225 is amended to read:

273.225. Before any person shall take any material from any real property of the State of Oregon, except in the manner and for the purposes mentioned in ORS 274.525 or 274.550, he shall apply to the division

for a lease ~~[under ORS 274.530]~~. The application shall include a complete description of the location of the contemplated operation, the time and manner of contemplated removal, and such other pertinent information as the ~~[board]~~ division may require. Upon receipt of such application the division may award a lease to the applicant ~~[as]~~ and fix a royalty in the same manner provided in ORS 274.530 ~~[and fix a royalty]~~.

Section 14. ORS 274.310 is amended to read:

274.310. All costs in connection with the surveys and construction of any reclamation project pursuant to ORS 274.280 ~~[and 274.290]~~ to 274.310 shall be paid ~~[by voucher drawn against the Swamp and Overflow Land Reclamation Fund established]~~ out of moneys appropriated under ORS ~~[274.300]~~ 273.111, when approved by the division.

Section 15. ORS 273.145 is amended to read:

273.145. The division may enter into contracts with any person owning lands adapted to the purposes of ORS ~~[273.055, 273.075, 273.145 to 273.155,]~~ 273.316 ~~[, 273.326]~~ to 273.345 and 273.511, for the subdivision, settlement and sale of all or any portion thereof, under the direction and supervision of the division and such conditions as may be agreed to.

Section 16. ORS 273.151 is amended to read:

273.151. The division may cooperate with the Federal Government for the development, settlement, subdivision and disposition of lands belonging to the State of Oregon, or which otherwise may be made available for carrying out the purposes of ORS ~~[273.055, 273.075, 273.145 to 273.155,]~~ 273.316 ~~[, 273.326]~~ to 273.345 and 273.511. In such cooperation, the division may provide the lands but the Federal Government shall provide the money necessary to meet the expenses of reclamation, subdivision, necessary improvement and equipment.

Section 17. ORS 273.155 is amended to read:

273.155. The division, in carrying out its duties ~~[under ORS 273.145 to 273.155, 273.326 and 273.331]~~, may call upon all related state and county agencies, including Oregon State University and any state or county officers through whom necessary information and aid may be received. Such agencies, institution and officers shall cooperate with the division without additional compensation.

Section 18. ORS 273.231 is amended to read:

273.231. (1) No person shall remove material from any real property of the State of Oregon for commercial uses without complying with ORS 273.225, 274.550 and 274.560.

(2) *The establishment or placing of a dredging or digging outfit on any waters, the submersible or submerged lands of which belong to the State of Oregon, and the removal of material from the submersible or submerged lands thereof for commercial uses, without having applied for and received a lease under ORS 274.530, is a continuing trespass.*

Section 19. ORS 273.251 is amended to read:

273.251. Unless the context or a specially applicable definition requires otherwise, state lands are classified as follows:

(1) "Agricultural college lands." Lands granted to the state by the Act of July 2, 1862 (12 Stat. 503), and otherwise, for the support and maintenance of Oregon State University.

(2) "Farm lands." Lands acquired by deed, gift, operation of law, or by the foreclosure of mortgages taken to secure loans from the common school, agricultural college, university or other funds.

(3) "Indemnity lands." Lands selected to satisfy losses in sections 16 and 36, as provided by sections 851 and 852 of title 43, United States Code, as amended, or any other laws of the United States.

(4) "School lands":

(a) Sections 16 and 36 in each township granted to the state by the Act of February 14, 1859 (11 Stat. 383).

(b) Lands selected for internal improvements under the Act of September 4, 1841 (5 Stat. 455), and diverted for common schools with the consent of Congress by the Joint Resolution of February 9, 1871 (16 Stat. 595).

(c) Lands selected for capitol building purposes under the Act of February 14, 1859 (11 Stat. 383).

(5) "Swamp lands." Lands claimed by the state under the Act of September 28, 1850 (9 Stat. 519), and extended to the State of Oregon by the Act of March 12, 1860 (12 Stat. 3).

(6) "Submerged lands." *Lands defined as submerged by ORS 274.005.*

~~[(6) "Tide and overflow"]~~ (7) "Submersible lands." ~~[(All) Lands [over which the tide ebbs and flows from the line of ordinary high tide to the line of mean low tide, and all islands, shore lands and other such lands held by the state by virtue of her sovereignty]~~ *defined as submersible by ORS 274.005.*

~~[(7)]~~ (8) "University lands." Lands granted to the state under the Act of February 14, 1859 (11 Stat. 383), for the support and maintenance of the University of Oregon.

Section 20. ORS 273.265 is amended to read:

273.265. (1) If application is made for the purchase of ~~[tide or overflow]~~ submersible lands, the applicant must cause such lands to be surveyed at his expense by a surveyor, whose selection is subject to prior approval by the division. The survey must connect with and conform to adjacent surveys acceptable to the division, so far as practicable. The applicant must submit to the division, with his application, an accurate map of the lands applied for, showing the boundaries and stating the area. The map must be verified by the surveyor before an officer authorized by law to administer oaths.

(2) Each application to purchase ~~[tide or overflow]~~ submersible lands must, in addition to all other requirements, contain the applicant's statement that application is made with knowledge of the character of the land applied for and the title of the state thereto, and his waiver of all claims upon the state for the return of the purchase price of the lands in the event that the lands, or any part thereof, do not belong to the state.

Section 21. ORS 273.271 is amended to read:

273.271. (1) An eligible individual may apply to purchase not more than 640 acres of each of the following classes of land: School, indemnity, university, agricultural college, swamp ~~[,]~~ or ~~[tide and overflow]~~ submersible lands.

(2) This section shall not interfere with the issuance of deeds to the holders of assignments of certificates of sale as provided in ORS 273.295, nor shall the limitations of this section apply to ~~[municipal corporations]~~ political subdivisions in this state purchasing such lands for any public use.

Section 22. ORS 273.281 is amended to read:

273.281. The division shall require applicants ~~[to]~~ for the purchase ~~[tide and overflow]~~ of submersible lands to pay in full for such lands at the time of purchase. Applicants ~~[to]~~ for the purchase of school, agricultural college, university, swamp or indemnity lands shall make payments at such times, and with such interest for deferred payments as the division may prescribe. However, the obligation may not be allowed to stand for a longer period than five years ~~[from]~~ after the date of issuance of the certificate under ORS 273.285.

Section 23. ORS 273.300 is amended to read:

273.300. Whenever any purchaser of state lands holding a certificate of sale therefor ~~[,]~~ has paid three-fifths or more of the purchase price thereof, the ~~[division]~~ director may ~~[issue]~~ execute a deed conveying the lands to such purchaser, upon ~~[his]~~ the purchaser's executing:

- (1) A note for the remainder of the purchase price; and
- (2) A mortgage on the premises in the same form and manner as other

mortgages are executed for loans from the Common School Fund under ORS 327.405 to 327.480.

Section 24. ORS 273.311 is amended to read:

273.311. (1) In all cases where clerical errors have been made in deeds for any state lands sold, upon satisfactory proof and if the rights of innocent parties have not intervened, the ~~division~~ director may execute corrected deeds to the holders thereof.

(2) Where lands, other than ~~tide or overflowed~~ *submersible lands* and unsurveyed or unpatented swamp lands have been sold and the state cannot convey title to the purchaser, the division shall repay the purchaser, his heirs or assigns, all sums which may have been paid to the division on the purchase price of the lands, including the interest paid upon deferred payments, upon the presentation of a proper application for repayment, satisfactory proof and the surrender of the certificate; or if deed has been issued, upon reconveyance by executed and recorded quitclaim deed of whatever title or color of title was received from the state.

(3) Where a certificate of sale has been issued by the division upon a fraudulent application and the certificate is held by assignment by a third party who had no knowledge of the fraud at the time of assignment, the division may refund to the holder such sums as were paid the division on the purchase price of the lands covered by the certificate, including the interest paid upon deferred payments, upon his making proper application to the division for repayment and surrendering for cancellation the certificate and assignment.

Section 25. ORS 273.316 is amended to read:

273.316. (1) The division may exchange any state lands under its control for any other lands in this state for the purpose of accumulating larger and contiguous tracts of state lands. The division may enter into the necessary contracts to accomplish such purposes, subject to the rights of lessees under ORS 273.321. The exchange may be made on the basis of value or acreage, and the division may pay or accept money as part of the consideration to the extent required for a fair transaction.

~~[(2) The object of this section is to authorize the division to exchange isolated tracts of state lands for larger and contiguous tracts of lands suitable for development and settlement or lands valuable for their timber.]~~

~~[(3)]~~ (2) The object of this section is to authorize the division to exchange isolated tracts of state lands for the purpose of accumulating larger and contiguous tracts of state lands.

Section 26. ORS 273.326 is amended to read:

273.326. In all cases where the division believes that any ~~state~~ lands were acquired from the state by fraud or in violation of the laws relating to the disposal thereof, it may:

(1) Enter into contracts with the persons asserting ownership thereto for the subdivision and sale thereof on conditions agreed upon by the contracting parties; or

(2) Exchange or accept in lieu thereof other lands suitable for settlement and development or valuable for timber. The division may enter into contracts for disposal and settlement of such other lands as in the case of the lands first mentioned in this section ~~[; or]~~.

~~[(3) Cooperate with the Federal Government and state agencies, subject to ORS 273.151 and 273.155.]~~

Section 27. ORS 273.382 is amended to read:

273.382. As used in ORS 273.382 to 273.386, unless the context requires otherwise:

~~[(1) "Additional cost of acquisition" means the total outlay in money and in property made on the part of the State of Oregon in the acquisition and~~

establishment of the Space Age Industrial Park in excess of the sum of \$900,000 appropriated by ORS 273.380.]

~~[(2)]~~ "Boardman Precision Bombing Range" means the United States War Department Boardman Precision Bombing Range approved February 17, 1947 (Official Drawing No. 0-31-52).]

~~[(3)]~~ (1) "Director" means the Director of Veterans' Affairs.

~~[(4)]~~ (2) "Lease" means ~~[that certain]~~ the lease dated July 2, 1963, between the State of Oregon, acting by and through the State Land Board, as the lessor, and The Boeing Company, a Delaware corporation, as the lessee.

~~[(5)]~~ (3) "Space Age Industrial Park" means all land and property comprising the leased premises particularly described in the lease and any other land or property ~~[hereafter]~~ added thereto as provided in the lease.

Section 28. ORS 273.384 is amended to read:

273.384. (1) The Space Age Industrial Park shall be managed and administered by the Director of Veterans' Affairs for the benefit of the Oregon War Veterans' Bond Sinking Fund.

(2) Notwithstanding the provisions of any law, all net income and other net proceeds derived from the rental, sale, disposition or use of the Space Age Industrial Park (after payment of all costs and expenses incident to the maintenance and administration of the Space Age Industrial Park and costs incident to any sale or other disposition thereof) shall be deposited in the State Treasury and credited to the Oregon War Veterans' Bond Sinking Fund.

Section 29. ORS 273.511 is amended to read:

273.511. The division shall ascertain the amount of land to which it is entitled under the Acts of Congress relative to ~~[overflow]~~ submersible and swamp lands, acquire title thereto and enter into contracts for drainage and reclamation in order that the lands may be available for development and settlement.

Section 30. ORS 273.990 is amended to read:

273.990. Violation of ORS 273.231 is ~~[punishable, upon conviction, by a fine of not more than \$1,000, or by imprisonment for not more than 250 days, or both]~~ a misdemeanor.

Section 31. ORS 274.005 is amended to read:

274.005. As used in this chapter, unless the context requires otherwise:

(1) "Director" means the Director of the Division of State Lands.

(2) "Division" means the Division of State Lands.

(3) "Line of ordinary high water" means the line on the bank or shore to which the high water ordinarily rises annually in season.

(4) "Line of ordinary low water" means the line on the bank or shore to which the low water ordinarily recedes annually in season.

(5) "Land" includes water, water rights, easements of every nature and all appurtenances to land.

(6) "Material" includes gravel, rock, sand and silt, but does not include hard minerals subject to ORS 274.611 to 274.645, or oil, gas and sulphur subject to ORS 274.705 to 274.860.

~~[(5)]~~ (7) "Submerged lands," except as provided in ORS 274.705, means lands lying below the line of ordinary low water of all navigable waters within the boundaries of this state as heretofore or hereafter established, whether such waters are tidal or nontidal.

~~[(6)]~~ (8) "Submersible lands," except as provided in ORS 274.705 means lands lying between the line of ordinary high water and the line of ordinary low water of all navigable waters and all islands, shore lands or other such lands held by or granted to this state by virtue of her sovereignty, wherever applicable, within the boundaries of this state as heretofore or hereafter established, whether such waters or lands are tidal or nontidal.

~~[(7)]~~ "Tide and overflow lands" has the meaning defined by ORS 273.251.]

Section 32. ORS 274.040 is amended to read:

274.040. (1) Except as provided in subsection (2) of this section, ~~tidal and overflow~~ submersible lands owned by the State of Oregon may be sold or leased only to the highest bidder after being advertised not less than once each week for four successive weeks in two or more newspapers of general circulation in the state, one of which must be of general circulation in the county in which the lands are situated. However:

(a) No such lands shall be sold for less than \$5 per acre.

(b) Any owner of lands abutting or fronting on such ~~tidal and overflow~~ submersible lands shall have the preference right to lease or purchase at the highest price offered in good faith. This preference does not apply as to any lease offered or issued by the division under ORS 274.615 or 274.705 to 274.860.

~~(c) No accretions to islands heretofore sold by the state shall be leased.~~

(2) The division may grant to any person holding a permit from the State Engineer authorizing the impoundment for beneficial use of the waters of any lake or stream, easements or licenses over ~~tidal and overflow~~ lands, including the shores of navigable lakes and streams, submersible lands for flowage and storage of waters, and for the construction, maintenance and operation of any structures or facilities necessary for the use of the water under the terms of the permit upon payment of just compensation by the grantee. Such an easement or license shall not be construed to be a sale or lease of the ~~tidal or overflow~~ submersible lands within the ~~par-~~view meaning of subsection (1) of this section.

(3) All easements or licenses granted pursuant to subsection (2) of this section shall be subject to conditions that will assure the safety of the public and the preservation of economic, scenic and recreational values and to lawful rules promulgated by state agencies affected by the activities of the grantee or licensee.

Section 33. ORS 274.060 is amended to read:

274.060. (1) Nothing in ORS 274.040 prevents the Legislative Assembly ~~or the governing body of a city in this state~~ from ~~regulating~~ providing for regulation of the building of wharves or other improvements in any bay, harbor or inlet of this state, or grants the exclusive right to any person to use the natural oyster beds of this state.

(2) The grantee of any ~~tidal and overflow~~ submersible lands under ORS 274.040 shall hold the same subject to the easement of the public, under the provisions and restrictions of law, to enter thereon and remove oysters and other shell fish therefrom.

Section 33a. If Senate Bill 117 (1969 session) becomes law, then ORS 274.060, as amended by section 33 of this Act, is amended to read:

274.060. (1) Nothing in ORS 274.040 prevents the Legislative Assembly from providing for regulation of the building of wharves or other improvements in any bay, harbor or inlet of this state, *subject to section 20, chapter \_\_\_\_\_, Oregon Laws 1969 (Enrolled Senate Bill 117)*, or grants the exclusive right to any person to use the natural oyster beds of this state.

(2) The grantee of any submersible lands under ORS 274.040 shall hold the same subject to the easement of the public, under the provisions and restrictions of law, to enter thereon and remove oysters and other shell fish therefrom.

**Section 33b.** Section 33a of this Act does not become operative until the operative date of section 20, chapter \_\_\_\_\_, Oregon Laws 1969 (Enrolled Senate Bill 117).

Section 34. ORS 274.075 is amended to read:

274.075. (1) Notwithstanding ORS ~~274.070~~ 390.720, the division may grant easements and licenses for pipe lines, cable lines and other conduits across and under the ocean shore, as defined in ORS 390.710, and the adjacent submerged lands, upon payment of just compensation by the

grantee. Such an easement or license is not a sale or lease of ~~tidal and overflow~~ submersible lands within the ~~purview~~ meaning of ORS 274.040.

(2) All easements or licenses granted pursuant to this section shall be subject to conditions that will assure the safety of the public and the preservation of economic, scenic and recreational values and to lawful rules promulgated by state agencies affected by the activities of the grantee or licensee.

(3) No easement or license shall be granted for a term exceeding 99 years.

(4) Easements and licenses granted under this section shall not be valid unless filed for record by the grantee or licensee in the deed records of the county or counties wherein the property affected by the grant or privilege is located not later than the 30th day after the date of execution thereof.

**Section 35.** Section 36 of this Act is added to and made a part of ORS chapter 274.

**Section 36.** As used in ORS 274.210 to 274.310, "reclamation" includes, but is not limited to, irrigation.

**Section 37.** ORS 274.210 is amended to read:

274.210. The division ~~for and~~ in behalf of the State of Oregon may enter into contracts for:

(1) The drainage ~~and irrigation~~ of submersible and submerged lands adjoining or underlying any lakes, marshes or swamps ~~lying~~ in this state, or for the drainage ~~and irrigation~~ of that part which is in this state ~~of submersible and submerged lands adjoining or underlying any lake, marsh or swamp lying partly in this state and partly in another state, and for the reclamation of the~~ any such lands ~~forming the beds of or submerged by any such lakes, marshes or swamps~~; and

(2) The sale or disposal of such drained and reclaimed lands as provided for in ORS 274.210 to ~~274.265~~ 274.260.

**Section 38.** ORS 274.220 is amended to read:

274.220. (1) Any person desiring to enter into a contract to drain ~~any lake, marsh or swamp lying wholly or partly within this state~~ submersible and submerged lands under ORS 274.210 to 274.260 and reclaim ~~the land forming the bed thereof or submerged thereby,~~ such lands shall file with the division an application ~~for a contract to drain such lake, marsh or swamp and reclaim such land~~.

(2) The applicant ~~shall~~, at his own expense and without any cost or charge to the state, shall make the necessary surveys and prepare a map of the ~~land~~ lands proposed to be reclaimed. The map shall exhibit a plan showing the ~~submerged~~ area that is submersible or submerged and the mode of the contemplated drainage and reclamation, and shall be accompanied by a list of the lands proposed to be drained, with sufficient description to identify the ~~land, either by legal subdivisions or monuments,~~ all lands in accordance with rules promulgated by the division.

(3) The application shall contain an estimate of the cost of the construction of the proposed system of drainage and reclamation.

**Section 39.** ORS 274.230 is amended to read:

274.230. (1) Upon receipt of the application, map and plan of drainage and reclamation under ORS 274.220, the division may require the State Engineer to make an investigation and report at the expense of the applicant. If the project appears feasible and desirable and such applicant responsible, the division may enter into a contract with the applicant for construction of the drainage and reclamation works.

(2) The applicant shall agree:

(a) To drain the ~~lake, marsh or swamp~~ submersible and submerged lands substantially in accordance with the plans set forth in the contract;

(b) To make such proofs of reclamation as are required by the division;



(c) To pay all costs incident to the contract and making of the proof and any other expense connected therewith;

(d) That work will be commenced upon the ditches or other works necessary for such drainage and reclamation at a time fixed by the division and agreed upon in the contract;

(e) That by the end of the first year after the time fixed in the contract for beginning such work, 10 percent of the necessary expenditure will be made; and

(f) That this work will be prosecuted with due diligence until complete and the required proof of reclamation is made.

(3) The division shall require a bond subject to its approval in any sum it finds necessary to insure the faithful performance of the contract.

Section 40. ORS 274.240 is amended to read:

274.240. (1) Immediately upon execution of the contract, the contractor undertaking the drainage and reclamation may enter upon the lands for the purpose of reclaiming the same.

(2) The division shall fix the amount to which the contractor is entitled for reclaiming the lands ~~{by drainage or drainage and irrigation}~~ and shall also fix the amount to be paid to the state for such lands. The division may permit the contractor to sell or dispose of the ~~{land}~~ lands at such price and upon such terms as ~~{it}~~ the division may fix in tracts not to exceed ~~{320}~~ 640 acres to any one person under such rules as the division may promulgate governing disposal.

(3) Upon proof satisfactory to the division that ~~{at least 50 percent of any such tract is producing agricultural crops, and upon proof that}~~ the amount fixed by the division as due for reclamation and the amount due the State of Oregon has been fully paid, the division shall issue a quit-claim deed for not more than ~~{320}~~ 640 acres to the purchaser of such land.

Section 41. ORS 274.260 is amended to read:

274.260. (1) The title of owners of land riparian to lakes and ponds drained under ORS 274.210 to ~~{274.270}~~ 274.260 extends to only so much of the ~~{bottom or bed of}~~ submersible or submerged lands adjoining or underlying such lake or pond which may be reclaimed by such drainage as is required to fill up the fractional subdivision or subdivisions of a section which he owns and which are rendered fractional by such lake or pond, and the title of such owner is so limited when the waters of such lake or pond receding, because of such drainage, uncover the ~~{bed thereof}~~ submersible or submerged lands adjoining or underlying such lake or pond.

(2) This section shall not affect the right of riparian owners to land acquired by natural accretion or reliction because of the gradual and natural recession of the waters of the lake or pond to which the lands of such owners are riparian.

Section 42. ORS 274.280 is amended to read:

274.280. *In addition to its powers under ORS 274.210 to 274.260*, the division may cause reclamation surveys, plans and specifications to be made for the reclaiming of any unsold swamp ~~{and overflow}~~ lands and submersible lands under the control of the division ~~{, for grazing and agricultural purposes}~~.

Section 43. ORS 274.525 is amended to read:

274.525. (1) Any city of the State of Oregon bordering on a navigable stream may dredge out and use material from submersible and submerged lands of the stream, owned by the State of Oregon and in front of such city, for the purpose of filling in or reclaiming the ~~{tide lands or mud flats}~~ submersible lands within such city, under the rules of the division. The consent of the appropriate agency of the United States Government shall be first obtained by such city.

(2) Any contractor who has entered into a contract with any such city

to fill in or reclaim any of its ~~[tide flats or overflowed]~~ submersible lands may dredge and use such material in the same manner as may be done by such city.

Section 44. ORS 274.550 is amended to read:

274.550. (1) The removal of material from submersible and submerged lands of any navigable stream, owned by the State of Oregon, is authorized when the material (a) is removed for channel or harbor improvement or flood control, or (b) is used for filling, diking or reclaiming land located not more than one-half mile from the bank of the stream, or (c) is used for filling, diking or reclaiming land owned by the state or any political subdivision as defined in subsection (1) of ORS 271.300 and located not more than two miles from the bank of the stream. However, prior to removal, such person, organization or agency contemplating removal shall first notify the division ~~+, and the division shall in turn notify the state agencies mentioned in ORS 274.530].~~

(2) No payment of royalty shall be required for such material unless it is removed from the place deposited and sold or used as an article of commerce. Before any material may be removed from the place deposited and sold or used as an article of commerce, the division shall be duly notified in writing of such intended removal and sale or use as an article of commerce and payment shall be made to the board of such royalty as it may fix therefor.

(3) In addition to the purposes enumerated in subsection (1) of this section, any person may take material for his own exclusive use to the extent of not more than 50 cubic yards in any one year. However, prior to such taking, the person shall first notify the division ~~+, and the division shall in turn notify the state agencies mentioned in ORS 274.530].~~

Section 45. ORS 274.560 is amended to read:

274.560. The division may enter into contract of lease for purposes of ORS 274.525 to ~~[274.605]~~ 274.590 with such stipulations protecting the interest of the state as the division may require, and shall require a bond with a surety company authorized to transact a surety business in this state, as surety, to be given by the lessee for performance of such stipulations, and providing for forfeiture for nonpayment or failure to operate under the contract. No contract shall be entered into giving any person an option of leasing or purchasing the property of the State of Oregon. The lessee in all such contracts shall report monthly to the division the amount of material taken under the contract and pay to the division the amount of royalty thereon provided in the contract.

Section 46. ORS 274.620 is amended to read:

274.620. (1) Whenever it appears advisable to the division to offer the submersible and submerged lands of navigable bays and rivers for leasing under ORS 274.615, or whenever any person files a written application with the division requesting that such lands be offered for leasing under ORS 274.615, accompanying the same with the fee required by the division, the division ~~+, upon concurrence of a majority of the members thereof,~~ shall first hold a public hearing in the manner prescribed by ORS 274.755.

(2) Before inviting bids on the submersible and submerged lands of any navigable bays and rivers the division shall cause written notice describing the area under consideration for bidding, and other pertinent information to be transmitted in the manner prescribed by ORS 274.755 to the applicant, prospective bidders and the public, and to the officers designated in ORS 274.755.

Section 47. ORS 274.915 is amended to read:

274.915. Except as provided in ORS 274.930, the division may sell, lease or trade submersible or submerged lands owned by the state and new lands created upon submersible or submerged lands owned by the state

~~[of Oregon]~~ in the same manner as provided for ~~[tide and overflow]~~ submersible lands in ORS chapters 273 and 274.

Section 48. ORS 274.990 is amended to read:

274.990. ~~[(1)]~~ Violation of ~~[any provision of]~~ ORS 274.080, 274.745 or 274.895, or any rule promulgated under ~~[such statute, is punishable, upon conviction, by a fine not exceeding \$500 or imprisonment in the county jail for not more than six months, or both]~~ such sections, is a misdemeanor.

~~[(2) Violation of ORS 274.745 is a misdemeanor.]~~

~~[(3) Violation of ORS 274.895 is punishable, upon conviction, by a fine not exceeding \$100 for each offense.]~~

Section 49. ORS 352.560 is amended to read:

352.560. For the endowment, maintenance and support of Oregon State University, there is set apart and appropriated the interest on the Oregon State University Fund ~~[which has arisen and which shall hereafter arise]~~, arising from the sale of all lands granted to the State of Oregon, or to which the state was entitled, under the Act of ~~[Congress to provide colleges for the benefit of agriculture and the mechanic arts to the several states and territories, approved]~~ July 2, 1862 ~~[, and the Acts amendatory thereof]~~ (12 Stat. 503), as amended, or so much thereof as may be necessary. In no case shall the interest arising from ~~[said]~~ the fund be applied to the purchase of sites, or for buildings for Oregon State University, but only in the payment of the salaries of professors, officers and other current expenses. The remainder of such interest remaining over at the close of each fiscal year after the payment of such expenses shall be added to and become a part of the principal or endowment fund forever.

Section 50. ORS 352.570 is amended to read:

352.570. All moneys belonging to the Oregon State ~~[College]~~ University Fund shall be loaned by the Division of State Lands in accordance with ~~[the provisions of]~~ ORS 327.425 to 327.455, governing loans from the Common School Fund.

Section 51. ORS 352.580 is amended to read:

352.580. The Division of State Lands shall pay the interest received on loans from the Oregon State ~~[College]~~ University Fund to the State Board of Higher Education semiannually.

Section 52. ORS 352.600 is amended to read:

352.600. The ~~[Division of State Lands is authorized and empowered to]~~ State Land Board shall execute the trust created by the last will and testament of John T. Apperson, deceased ~~[, and as such trustee to]~~. *On behalf of such trustee, the Division of State Lands shall administer the fund provided for and designated in [said] the will as the J. T. Apperson Agricultural College Educational Fund.*

Section 53. ORS 352.610 is amended to read:

352.610. The Division of State Lands *on behalf of the State Land Board* may accept, receive, own, hold, sell and dispose of any and all real and personal property given, devised or bequeathed to ~~[it]~~ the board by John T. Apperson in trust for the purpose of creating the J. T. Apperson Agricultural College Educational Fund. The ~~[trustee of said fund]~~ division shall manage and use it in accordance with the directions contained in the will of John T. Apperson, deceased, for the purpose of defraying the expenses and assisting in the education at Oregon State University of deserving young men and women who are actual bona fide residents of Oregon and are unable to bear the expense of a collegiate course at ~~[said]~~ that institution.

Section 54. ORS 352.620 is amended to read:

352.620. The *Director of the Division of State Lands* may execute all deeds, conveyances, contracts, mortgage releases and all other instruments necessary to be executed by the ~~[trustees]~~ division in carrying out the terms of the trust referred to in ORS 352.600. All such deeds and other

instruments may be executed in manner and form as prescribed by the division and shall be entitled to record without acknowledgment.

Section 55. ORS 352.630 is amended to read:

352.630. All necessary expenses incurred by the Division of State Lands in connection with the administration of the trust referred to in ORS 352.600 shall be payable out of the fund referred to in that section. The division may make such rules ~~and regulations~~ as it ~~may deem~~ considers necessary for the transaction of business and carrying out ~~the provisions of~~ ORS 352.600 to 352.640.

Section 56. ORS 352.640 is amended to read:

352.640. The Division of State Lands ~~as trustee shall~~ annually, on October 1, ~~shall~~ make and file with the Secretary of State a full report of the condition of the fund referred to in ORS 352.600, showing the amount thereof, moneys outstanding and any other data necessary to a full understanding of its conditions ~~which report the Secretary of State~~. The division shall include ~~in his~~ a summary of this report in its biennial report to the legislature under ORS 273.181.

Section 57. ORS 520.055 is amended to read:

520.055. (1) The board has jurisdiction and authority over all persons and property necessary to enforce effectively this chapter and all other laws relating to the conservation of oil and gas.

(2) In addition to and not in lieu of any other powers granted under this chapter, the Department of Geology and Mineral Industries and its governing board may in compliance with ORS 520.105 promulgate reasonable rules, regulations and orders necessary to regulate geological, geophysical and seismic surveys on, and operations to remove oil, gas and sulphur from the ~~tide and~~ tidal submerged and submersible lands of this state under ORS 274.705 to ~~274.865~~ 274.860.

Section 58. 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 ~~and~~. 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 ~~certified~~ copy of each board resolution *certified by the Director of the Division 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 59. ORS 530.510 is amended to read:

530.510. ~~[(1)]~~ The State Forester ~~thereby is authorized to~~ 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 ~~provided~~. However ~~that~~ :

(1) Any exchange of land of the Elliott State Forest ~~shall~~ must be for the consolidation of ~~said~~ the forest; ~~and provided further, that~~

(2) The State Land Board and the State Board of Forestry shall, each separately, approve such exchanges by resolutions of the respective boards ~~and provided, further, that~~

(3) 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 ~~State Land Board~~ Division of State Lands.

~~[(2)]~~ (4) 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 60. ORS 551.160 is amended to read:

551.160. The ~~county court~~ governing body of any county shall have the powers provided for it in this chapter to regulate the building and maintenance of dikes and dams for the purpose of reclaiming and improving submersible lands ~~subject to tide overflow~~, as defined in ORS 274.005, or lands subject to overflow by freshets, and for the purpose of protecting lands from overflow where great damage is liable to be caused thereby.

Section 61. ORS 567.255 is amended to read:

567.255. In order to investigate and demonstrate the conditions under which useful plants, grains and fruits may be grown on ~~tidal~~ submersible lands, reclaimed swamp lands and logged-off lands in this state and to determine the kinds of plants, grains and fruits best adapted for growth on such lands, there is established an agricultural experimental station in Clatsop County in such place as may be selected by the board of higher education. The station shall be known as the John Jacob Astor Agricultural Experiment Station.

Section 62. ORS 778.100 is amended to read:

778.100. (1) Whenever the port in the exercise of any powers possessed by it contemplates the filling or reclamation of any low, swamp or ~~overflowed~~ submersible land within its territory held in private ownership, it may provide by ordinance for assessment by the board of the damages and benefits to be sustained by and to accrue to such land by reason of the filling or reclamation in which the question of channel frontage as well as filling shall be considered in assessing benefits, may provide for payment to the owner of the land of such damages and may provide for creation of a lien upon the land in favor of the port for the amount of such benefits and payment of the amount of such lien, either in cash or in instalments, with interest thereon over a term of years.

(2) The ordinance shall provide for a hearing before the board upon due notice to all owners of and persons interested in the lands to be affected by the assessment of damages and benefits before the assessment is made.

(3) Provision shall be made by the ordinance for an appeal to the Circuit Court for Multnomah County by any owner or person interested in any land affected, who considers himself aggrieved by such assessment. Jurisdiction to hear the appeals and review the assessments is granted to the Circuit Court of Multnomah County.

Section 63. ORS 273.221, 273.380, 274.035 and 274.523 are repealed.

Section 64. This Act does not affect the validity of any acts heretofore performed by the State Land Board, the Division of State Lands or the Director of the Division of State Lands, including but not limited to the making and promulgation of rules and the execution of documents authorized by law. This Act does not impair any privilege granted, right acquired or penalty incurred under any law of this state prior to the effective date of this Act.

Section 65. Sections 9, 10 and 14 of this Act do not become operative until July 1, 1970.

Section 66. There is created from abandoned property funds an Abandoned Property Revolving Fund. The moneys in the fund are appropriated continuously to the Division of State Lands for the purpose of repaying claims as provided under ORS 98.396.

Revised

~~[of Oregon]~~ in the same manner as provided for ~~[tide and overflow]~~ submersible lands in ORS chapters 273 and 274.

Section 48. ORS 274.990 is amended to read:

274.990. ~~[(1)]~~ Violation of ~~[any provision of]~~ ORS 274.080, 274.745 or 274.895, or any rule promulgated under ~~[such statute, is punishable, upon conviction, by a fine not exceeding \$500 or imprisonment in the county jail for not more than six months, or both]~~ such sections, is a misdemeanor.

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necessary  
(sp. pr.)

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Section 54. ORS 352.620 is amended to read:

352.620. The Director of the Division of State Lands may execute all deeds, conveyances, contracts, mortgage releases and all other instruments necessary to be executed by the ~~[trustees]~~ division in carrying out the terms of the trust referred to in ORS 352.600. All such deeds and other

~~ENGROSSED~~ Enrolled  
**House Bill 1042**

Sponsored by Representative SMITH, Senator BOIVIN, Representative DAVIS, Senators COOK, INSKEEP, McKAY, OUDERKIRK (at the request of the Interim Committee on Public Lands)

~~CHAPTER~~

**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**.

Revises laws on state lands without substantial change.

**NOTE:** Matter in *italics* in an amended section is new; matter ~~[lined out and bracketed]~~ is existing law to be omitted; complete new sections begin with **Section**.

## A BILL FOR AN ACT

1  
2 Relating to public lands; creating new provisions; amending ORS 164.470,  
3 273.006, 273.055, 273.075, 273.081, 273.085, 273.111, ~~273.115~~, 273.121, 273.145,  
4 273.151, 273.155, 273.225, 273.231, 273.251, 273.265, 273.271, 273.281, 273.300,  
5 273.311, 273.316, 273.326, 273.382, 273.384, 273.511, 273.990, 274.005, 274.040,  
6 274.060, 274.075, 274.210, 274.220, 274.230, 274.240, 274.260, 274.280, 274.310,  
7 274.525, 274.550, 274.560, 274.620, 274.915, 274.990, 352.560, 352.570, 352.580,  
8 352.600, 352.610, 352.620, 352.630, 352.640, 520.055, 530.480, 530.510, 551.160,  
9 567.255 and 778.100; repealing ORS ~~273.105~~, 273.221, 273.380, 274.035 and  
10 274.523; providing penalties; and prescribing an effective date.

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

12 Section 1. ORS 164.470 is amended to read:

13 164.470. Any person ~~+, firm or corporation+~~ who cuts timber or slashing,  
14 or digs, pulls or cuts stumps for the purpose of clearing land ~~+, for agricultural~~  
15 ~~purposes, which land is+~~ subject to overflow along or adjacent to the banks  
16 of any stream within this state, without burning or removing the timber,  
17 slashing or stumps before ~~+, the same or+~~ any part thereof is carried away  
18 by flood or high water, shall be punished upon conviction ~~+, by a fine of not~~  
19 ~~more than \$500 nor less than \$25, or by imprisonment in the county jail for not~~  
20 ~~less than one month nor more than six months+~~ as for a misdemeanor.

21 Section 2. ORS 273.006 is amended to read:

22 273.006. As used in this chapter, unless the context requires otherwise:

23 (1) "Board" means the State Land Board.

24 (2) "County recording officer" means the recorder of conveyances,  
25 county clerk or other county officer carrying out ORS 205.130 to 205.230.

26 (3) "Director" means the Director of the Division of State Lands.

27 (4) "Division" means the Division of State Lands.

28 (5) "Land" includes water, water rights, easements of every nature  
29 and all appurtenances to land.

30 (6) "Material" includes gravel, rock, sand and silt, but does not include  
31 hard minerals subject to ORS 274.611 to 274.645, or oil, gas and sulphur  
32 subject to ORS 274.705 to 274.860.

33 Section 3. ORS 273.055 is amended to read:

34 273.055. If it finds it advisable in carrying out its duties, the division



1 ~~may take title~~ in the name of the State of Oregon ~~in fee simple~~ may  
2 take title to real and personal property in fee simple or absolutely, in trust  
3 or under such other conditions as it considers advisable, and may convey  
4 title thereto or execute agreements necessary to carry out its duties.

5 Section 4. ORS 273.075 is amended to read:

6 273.075. ~~Where~~ When lands formerly belonging to the State of Ore-  
7 gon are disposed of and final payment has been made, the ~~division~~ di-  
8 rector shall execute and deliver to the purchaser a deed in a manner and  
9 form prescribed by the rules of the division, conveying all right, title and  
10 interest which the state may have in and to such lands, except as other-  
11 wise provided by law.

12 Section 5. ORS 273.081 is amended to read:

13 273.081. The director may execute on behalf of the division all docu-  
14 ments required to carry out its powers and duties, in the ~~same~~ manner  
15 and form ~~that he may execute deeds under ORS 273.306~~ prescribed by the  
16 rules of the division. All documents so executed shall be admitted to  
17 record without acknowledgment.

18 Section 6. ORS 273.085 is amended to read:

19 273.085. Copies of any document executed by the ~~division~~ director, or  
20 executed by the State Land Board before January 1, 1968, and certified by  
21 the director, are entitled to record in the office of any county recording  
22 officer. Documents affecting the title to real property shall be recorded  
23 in the county where such real property is situated; copies of all other  
24 documents executed by the division may be recorded in any county  
25 designated by the division.

26 ~~Section 7. ORS 273.105 is repealed and section 8 of this Act is enacted~~  
27 ~~in lieu thereof.~~

28 Section 8. The Distributable Income Account is established within the  
29 Common School Fund. The division shall administer this account in ac-  
30 cordance with section 4, Article VIII, Oregon Constitution, and applicable  
31 laws. The interest on moneys in the Common School Fund shall be credited  
32 ~~to the Distributable Income Account.~~

33 Section 9. ORS 273.111 is amended to read:

34 273.111. There are appropriated such sums of money ~~not otherwise~~

*note: Sections 7 and 8 were deleted by amendment.*

1 appropriated, for use from time to time,] as are necessary to carry out the  
2 purposes of ORS 274.280 ~~and 274.290~~ to 274.310, out of the Common  
3 School Fund in an amount not to exceed the net receipts from ~~the sale of~~  
4 material, as defined in ORS 271.523, from the submersible and submerged  
5 lands of navigable streams in this state. Such sums of money shall be deposited  
6 in the State Treasury in a special account to be known as the Swamp and  
7 Overflow Land Reclamation Fund] operations under ORS 274.530. When  
8 sufficient funds become available from the proceeds of the sale or lease  
9 of ~~such~~ reclaimed lands, all money *appropriated by this section and ex-*  
10 pended pursuant to ORS 274.280 to 274.310 shall be repaid to the Common  
11 School Fund.

12 **Section 10.** (1) The Swamp and Overflow Land Reclamation Fund,  
13 maintained under ORS 273.111 before its amendment by section 9 of this  
14 Act, is abolished. On the operative date of this section all moneys in the  
15 Swamp and Overflow Land Reclamation Fund shall revert to the Common  
16 School Fund. Such moneys shall not be credited to the Distributable  
17 Income Account, but are subject to appropriation as provided in ORS  
18 273.111.

19 (2) Expenses and obligations incurred before the operative date of this  
20 section, payable under the law then in effect out of the Swamp and  
21 Overflow Land Reclamation Fund, shall be paid, in the same manner as  
22 other claims against the state are paid after the operative date of this  
23 section out of moneys in the Common School Fund.

24 ~~Section 11. ORS 273.115 is amended to read:~~

25 273.115. The necessary expenses of the division, including but not  
26 limited to the salaries of the director and employees of the division and of  
27 rentals under ORS 276.412, if required, shall be paid out of the ~~Distributable~~  
28 ~~Income Account established under ORS 273.105. However, no such expenses~~  
29 ~~shall be paid to the extent that the balance of the account after payment would~~  
30 ~~be less than an amount equal to current receipts credited to the account pur-~~  
31 ~~suant to ORS 530.520. Common School Fund.~~

32 *Section 11 was deleted by amendment.*  
32 Section 12. ORS 273.121 is amended to read:

33 273.121. Notwithstanding any other provision of law, all funds under  
34 the control of the division shall be expended by warrant drawn ~~by the~~

1 ~~Secretary of State~~ on the State Treasurer, and then only upon proper  
2 claim approved by the director or his authorized representative submitted  
3 to the Secretary of State for audit.

4 Section 13. ORS 273.225 is amended to read:

5 273.225. Before any person shall take any material from any real  
6 property of the State of Oregon, except in the manner and for the pur-  
7 poses mentioned in ORS 274.525 or 274.550, he shall apply to the division  
8 for a lease ~~under ORS 274.530~~. The application shall include a complete  
9 description of the location of the contemplated operation, the time and  
10 manner of contemplated removal, and such other pertinent information as  
11 the ~~board~~ division may require. Upon receipt of such application the  
12 division may award a lease to the applicant ~~and~~ and fix a royalty in the  
13 same manner provided in ORS 274.530 ~~and fix a royalty~~.

14 Section 14. ORS 274.310 is amended to read:

15 274.310. All costs in connection with the surveys and construction of  
16 any reclamation project pursuant to ORS 274.280 ~~and 274.290~~ to 274.310  
17 shall be paid ~~by voucher drawn against the Swamp and Overflow Land~~  
18 ~~Reclamation Fund established~~ out of moneys appropriated under ORS  
19 ~~274.300~~ 273.111, when approved by the division.

20 Section 15. ORS 273.145 is amended to read:

21 273.145. The division may enter into contracts with any person owning  
22 lands adapted to the purposes of ORS ~~273.055, 273.075, 273.115 to 273.155,~~  
23 273.316 ~~to 273.326~~ to 273.345 and 273.511, for the subdivision, settlement  
24 and sale of all or any portion thereof, under the direction and supervision  
25 of the division and such conditions as may be agreed to.

26 Section 16. ORS 273.151 is amended to read:

27 273.151. The division may cooperate with the Federal Government for  
28 the development, settlement, subdivision and disposition of lands belong-  
29 ing to the State of Oregon, or which otherwise may be made available for  
30 carrying out the purposes of ORS ~~273.055, 273.075, 273.115 to 273.155,~~  
31 273.316 ~~to 273.326~~ to 273.345 and 273.511. In such cooperation, the division  
32 may provide the lands but the Federal Government shall provide the  
33 money necessary to meet the expenses of reclamation, subdivision, neces-  
34 sary improvement and equipment.

1 Section 17. ORS 273.155 is amended to read:

2 273.155. The division, in carrying out its duties ~~under ORS 273.145 to~~  
3 ~~273.155, 273.326 and 273.331~~, may call upon all related state and county  
4 agencies, including Oregon State University and any state or county  
5 officers through whom necessary information and aid may be received.  
6 Such agencies, institution and officers shall cooperate with the division  
7 without additional compensation.

8 Section 18. ORS 273.231 is amended to read:

9 273.231. (1) No person shall remove material from any real property  
10 of the State of Oregon for commercial uses without complying with ORS  
11 273.225, 274.550 and 274.560.

12 (2) *The establishment or placing of a dredging or digging outfit on any*  
13 *waters, the submersible or submerged lands of which belong to the State*  
14 *of Oregon, and the removal of material from the submersible or sub-*  
15 *merged lands thereof for commercial uses, without having applied for and*  
16 *received a lease under ORS 274.530, is a continuing trespass.*

17 Section 19. ORS 273.251 is amended to read:

18 273.251. Unless the context or a specially applicable definition requires  
19 otherwise, state lands are classified as follows:

20 (1) "Agricultural college lands." Lands granted to the state by the  
21 Act of July 2, 1862 (12 Stat. 503), and otherwise, for the support and  
22 maintenance of Oregon State University.

23 (2) "Farm lands." Lands acquired by deed, gift, operation of law, or by  
24 the foreclosure of mortgages taken to secure loans from the common  
25 school, agricultural college, university or other funds.

26 (3) "Indemnity lands." Lands selected to satisfy losses in sections 16  
27 and 36, as provided by sections 851 and 852 of title 43, United States Code,  
28 as amended, or any other laws of the United States.

29 (4) "School lands":

30 (a) Sections 16 and 36 in each township granted to the state by the  
31 Act of February 14, 1859 (11 Stat. 383).

32 (b) Lands selected for internal improvements under the Act of Sep-  
33 tember 4, 1841 (5 Stat. 455), and diverted for common schools with the

1 consent of Congress by the Joint Resolution of February 9, 1871 (16 Stat.  
2 595).

3 (c) Lands selected for capitol building purposes under the Act of Feb-  
4 ruary 14, 1859 (11 Stat. 383).

5 (5) "Swamp lands." Lands claimed by the state under the Act of  
6 September 28, 1850 (9 Stat. 519), and extended to the State of Oregon by  
7 the Act of March 12, 1860 (12 Stat. 3).

8 (6) "Submerged lands." *Lands defined as submerged by ORS 274.005.*

9 ~~[(6) "Tide and overflow"]~~ (7) "Submersible lands." ~~[(All)]~~ Lands ~~[(ever~~  
10 ~~which the tide ebbs and flows from the line of ordinary high tide to the line of~~  
11 ~~mean low tide, and all islands, shore lands and other such lands held by the~~  
12 ~~state by virtue of her sovereignty]~~ *defined as submersible by ORS 274.005.*

13 ~~[(7)]~~ (8) "University lands." Lands granted to the state under the  
14 Act of February 14, 1859 (11 Stat. 383), for the support and maintenance  
15 of the University of Oregon.

16 Section 20. ORS 273.265 is amended to read:

17 273.265. (1) If application is made for the purchase of ~~[(tide or overflow)]~~  
18 *submersible* lands, the applicant must cause such lands to be surveyed at  
19 his expense by a surveyor, whose selection is subject to prior approval  
20 by the division. The survey must connect with and conform to adjacent  
21 surveys acceptable to the division, so far as practicable. The applicant  
22 must submit to the division, with his application, an accurate map of the  
23 lands applied for, showing the boundaries and stating the area. The map  
24 must be verified by the surveyor before an officer authorized by law to  
25 administer oaths.

26 (2) Each application to purchase ~~[(tide or overflow)]~~ *submersible* lands  
27 must, in addition to all other requirements, contain the applicant's state-  
28 ment that application is made with knowledge of the character of the land  
29 applied for and the title of the state thereto, and his waiver of all claims  
30 upon the state for the return of the purchase price of the lands in the  
31 event that the lands, or any part thereof, do not belong to the state.

32 Section 21. ORS 273.271 is amended to read:

33 273.271. (1) An eligible individual may apply to purchase not more  
34 than 640 acres of each of the following classes of land: School, indemnity,

1 university, agricultural college, swamp ~~+~~ or ~~tide and overflow~~ sub-  
2 mersible lands.

3 (2) This section shall not interfere with the issuance of deeds to the  
4 holders of assignments of certificates of sale as provided in ORS 273.295,  
5 nor shall the limitations of this section apply to ~~municipal corporations~~  
6 *political subdivisions in this state* purchasing such lands for any public use.

7 Section 22. ORS 273.281 is amended to read:

8 273.281. The division shall require applicants ~~+~~ for the purchase ~~tide~~  
9 ~~and overflow~~ of submersible lands to pay in full for such lands at the time  
10 of purchase. Applicants ~~+~~ for the purchase of school, agricultural college,  
11 university, swamp or indemnity lands shall make payments at such times,  
12 and with such interest for deferred payments as the division may pre-  
13 scribe. However, the obligation may not be allowed to stand for a longer  
14 period than five years ~~from~~ after the date of issuance of the certificate  
15 under ORS 273.285.

16 Section 23. ORS 273.300 is amended to read:

17 273.300. Whenever any purchaser of state lands holding a certificate of  
18 sale therefor ~~+~~ has paid three-fifths or more of the purchase price  
19 thereof, the ~~division~~ director may ~~issue~~ execute a deed conveying the  
20 lands to such purchaser, upon ~~his~~ the purchaser's executing:

21 (1) A note for the remainder of the purchase price; and

22 (2) A mortgage on the premises in the same form and manner as other  
23 mortgages are executed for loans from the Common School Fund under  
24 ORS 327.405 to 327.480.

25 Section 24. ORS 273.311 is amended to read:

26 273.311. (1) In all cases where clerical errors have been made in deeds  
27 for any state lands sold, upon satisfactory proof and if the rights of in-  
28 nocent parties have not intervened, the ~~division~~ director may execute  
29 corrected deeds to the holders thereof.

30 (2) Where lands, other than ~~tide or overflowed~~ submersible lands and  
31 unsurveyed or unpatented swamp lands have been sold and the state  
32 cannot convey title to the purchaser, the division shall repay the pur-  
33 chaser, his heirs or assigns, all sums which may have been paid to the  
34 division on the purchase price of the lands, including the interest paid

1 upon deferred payments, upon the presentation of a proper application  
2 for repayment, satisfactory proof and the surrender of the certificate; or  
3 if deed has been issued, upon reconveyance by executed and recorded  
4 quitclaim deed of whatever title or color of title was received from the  
5 state.

6 (3) Where a certificate of sale has been issued by the division upon a  
7 fraudulent application and the certificate is held by assignment by a third  
8 party who had no knowledge of the fraud at the time of assignment, the  
9 division may refund to the holder such sums as were paid the division  
10 on the purchase price of the lands covered by the certificate, including  
11 the interest paid upon deferred payments, upon his making proper appli-  
12 cation to the division for repayment and surrendering for cancellation  
13 the certificate and assignment.

14 Section 25. ORS 273.316 is amended to read:

15 273.316. (1) The division may exchange any state lands under its con-  
16 trol for any other lands in this state for the purpose of accumulating  
17 larger and contiguous tracts of state lands. The division may enter into  
18 the necessary contracts to accomplish such purposes, subject to the rights  
19 of lessees under ORS 273.321. The exchange may be made on the basis of  
20 value or acreage, and the division may pay or accept money as part of  
21 the consideration to the extent required for a fair transaction.

22 ~~[(2) The object of this section is to authorize the division to exchange iso-~~  
23 ~~lated tracts of state lands for larger and contiguous tracts of lands suitable for~~  
24 ~~development and settlement of lands valuable for their timber.]~~

25 ~~[(3)]~~ (2) The object of this section is to authorize the division to ex-  
26 change isolated tracts of state lands for the purpose of accumulating  
27 larger and contiguous tracts of state lands.

28 Section 26. ORS 273.326 is amended to read:

29 273.326. In all cases where the division believes that any ~~[state]~~ lands  
30 were acquired from the state by fraud or in violation of the laws relating  
31 to the disposal thereof, it may:

32 (1) Enter into contracts with the persons asserting ownership thereto  
33 for the subdivision and sale thereof on conditions agreed upon by the  
34 contracting parties; or

1 (2) Exchange or accept in lieu thereof other lands suitable for settle-  
2 ment and development or valuable for timber. The division may enter  
3 into contracts for disposal and settlement of such other lands as in the  
4 case of the lands first mentioned in this section ~~+, or~~.

5 ~~[(3) Cooperate with the Federal Government and state agencies, subject to~~  
6 ~~ORS 273.151 and 273.155.]~~

7 Section 27. ORS 273.382 is amended to read:

8 273.382. As used in ORS 273.382 to 273.386, unless the context requires  
9 otherwise:

10 ~~[(1) "Additional cost of acquisition" means the total outlay in money and~~  
11 ~~in property made on the part of the State of Oregon in the acquisition and~~  
12 ~~establishment of the Space Age Industrial Park in excess of the sum of \$900,000~~  
13 ~~appropriated by ORS 273.380.]~~

14 ~~[(2) "Boardman Precision Bombing Range" means the United States War~~  
15 ~~Department Boardman Precision Bombing Range approved February 17,~~  
16 ~~1947 (Official Drawing No. 0-31-52).]~~

17 ~~[(3)]~~ (1) "Director" means the Director of Veterans' Affairs.

18 ~~[(4)]~~ (2) "Lease" means ~~that certain~~ the lease dated July 2, 1963,  
19 between the State of Oregon, acting by and through the State Land Board,  
20 as the lessor, and The Boeing Company, a Delaware corporation, as the  
21 lessee.

22 ~~[(5)]~~ (3) "Space Age Industrial Park" means all land and property  
23 comprising the leased premises particularly described in the lease and any  
24 other land or property ~~hereafter~~ added thereto as provided in the lease.

25 Section 28. ORS 273.384 is amended to read:

26 273.384. (1) The Space Age Industrial Park shall be managed and ad-  
27 ministered by the Director of Veterans' Affairs for the benefit of the  
28 Oregon War Veterans' Bond Sinking Fund.

29 (2) Notwithstanding the provisions of any law, all net income and  
30 other net proceeds derived from the rental, sale, disposition or use of the  
31 Space Age Industrial Park (after payment of all costs and expenses in-  
32 cident to the maintenance and administration of the Space Age Industrial  
33 Park and costs incident to any sale or other disposition thereof) shall be



1 deposited in the State Treasury and credited to the Oregon War Veterans'  
2 Bond Sinking Fund.

3 Section 29. ORS 273.511 is amended to read:

4 273.511. The division shall ascertain the amount of land to which it is  
5 entitled under the Acts of Congress relative to ~~overflow~~ submersible  
6 and swamp lands, acquire title thereto and enter into contracts for drain-  
7 age and reclamation in order that the lands may be available for develop-  
8 ment and settlement.

9 Section 30. ORS 273.990 is amended to read:

10 273.990. Violation of ORS 273.231 is ~~punishable, upon conviction, by a~~  
11 ~~fine of not more than \$1,000, or by imprisonment for not more than 250 days,~~  
12 ~~or both~~ a misdemeanor.

13 Section 31. ORS 274.005 is amended to read:

14 274.005. As used in this chapter, unless the context requires otherwise:

15 (1) "Director" means the Director of the Division of State Lands.

16 (2) "Division" means the Division of State Lands.

17 (3) "Line of ordinary high water" means the line on the bank or shore  
18 to which the high water ordinarily rises annually in season.

19 (4) "Line of ordinary low water" means the line on the bank or shore  
20 to which the low water ordinarily recedes annually in season.

21 (5) "Land" includes water, water rights, easements of every nature  
22 and all appurtenances to land.

23 (6) "Material" includes gravel, rock, sand and silt, but does not include  
24 hard minerals subject to ORS 274.611 to 274.645, or oil, gas and sulphur  
25 subject to ORS 274.705 to 274.860.

26 ~~+(5)+~~ (7) "Submerged lands," except as provided in ORS 274.705,  
27 means lands lying below the line of ordinary low water of all navigable  
28 waters within the boundaries of this state as heretofore or hereafter estab-  
29 lished, whether such waters are tidal or nontidal.

30 ~~+(6)+~~ (8) "Submersible lands," except as provided in ORS 274.705 means  
31 lands lying between the line of ordinary high water and the line of ordinary  
32 low water of all navigable waters and all islands, shore lands or other such  
33 lands held by or granted to this state by virtue of her sovereignty, wherever

1 applicable, within the boundaries of this state as heretofore or hereafter  
2 established, whether such waters or lands are tidal or nontidal.

3 ~~[(7) "Tide and overflow lands" has the meaning defined by ORS 273.251.]~~

4 Section 32. ORS 274.040 is amended to read:

5 274.040. (1) Except as provided in subsection (2) of this section, ~~[tide~~  
6 ~~and overflow]~~ submersible lands owned by the State of Oregon may be  
7 sold or leased only to the highest bidder after being advertised not less  
8 than once each week for four successive weeks in two or more newspapers  
9 of general circulation in the state, one of which must be of general circu-  
10 lation in the county in which the lands are situated. However:

11 (a) No such lands shall be sold for less than \$5 per acre.

12 (b) Any owner of lands abutting or fronting on such ~~[tide and overflow]~~  
13 submersible lands shall have the preference right to lease or purchase at  
14 the highest price offered in good faith. This preference does not apply as  
15 to any lease offered or issued by the division under ORS 274.615 or 274.705  
16 to 274.860.

17 ~~[(c) No accretions to islands heretofore sold by the state shall be leased.]~~

18 (2) The division may grant to any person holding a permit from the  
19 State Engineer authorizing the impoundment for beneficial use of the  
20 waters of any lake or stream, easements or licenses over ~~[tide and overflow]~~  
21 ~~lands, including the shores of navigable lakes and streams,~~ submersible lands  
22 for flowage and storage of waters, and for the construction, maintenance  
23 and operation of any structures or facilities necessary for the use of the  
24 water under the terms of the permit upon payment of just compensation  
25 by the grantee. Such an easement or license shall not be construed to be  
26 a sale or lease of the ~~[tide or overflow]~~ submersible lands within the ~~[pur-~~  
27 ~~view]~~ meaning of subsection (1) of this section.

28 (3) All easements or licenses granted pursuant to subsection (2) of this  
29 section shall be subject to conditions that will assure the safety of the  
30 public and the preservation of economic, scenic and recreational values  
31 and to lawful rules promulgated by state agencies affected by the activities  
32 of the grantee or licensee.

33 Section 33. ORS 274.060 is amended to read:

34 274.060. (1) Nothing in ORS 274.040 prevents the Legislative Assembly

1 ~~to~~ or the governing body of a city in this state] from ~~regulating~~ providing  
2 for regulation of the building of wharves or other improvements in any  
3 bay, harbor or inlet of this state, or grants the exclusive right to any person  
4 to use the natural oyster beds of this state.

5 (2) The grantee of any ~~tide and overflow~~ submersible lands under  
6 ORS 274.040 shall hold the same subject to the easement of the public,  
7 under the provisions and restrictions of law, to enter thereon and remove  
8 oysters and other shell fish therefrom.

9 Section 34. ORS 274.075 is amended to read:

10 274.075. (1) Notwithstanding ORS ~~274.070~~ 390.720, the division may  
11 grant easements and licenses for pipe lines, cable lines and other conduits  
12 across and under the ocean shore, as defined in ORS 390.710, and the  
13 adjacent submerged lands, upon payment of just compensation by the  
14 grantee. Such an easement or license is not a sale or lease of ~~tide and~~  
15 ~~overflow~~ submersible lands within the ~~purview~~ meaning of ORS 274.040.

16 (2) All easements or licenses granted pursuant to this section shall be  
17 subject to conditions that will assure the safety of the public and the  
18 preservation of economic, scenic and recreational values and to lawful  
19 rules promulgated by state agencies affected by the activities of the grantee  
20 or licensee.

21 (3) No easement or license shall be granted for a term exceeding 99  
22 years.

23 (4) Easements and licenses granted under this section shall not be valid  
24 unless filed for record by the grantee or licensee in the deed records of  
25 the county or counties wherein the property affected by the grant or  
26 privilege is located not later than the 30th day after the date of execution  
27 thereof.

28 Section 35. Section 36 of this Act is added to and made a part of ORS  
29 chapter 274.

30 Section 36. As used in ORS 274.210 to 274.310, "reclamation" includes,  
31 but is not limited to, irrigation.

32 Section 37. ORS 274.210 is amended to read:

33 274.210. The division ~~for and~~ in behalf of the State of Oregon may  
34 enter into contracts for:

1 ~~to~~ or the governing body of a city in this state from ~~regulating~~ providing  
2 for regulation of the building of wharves or other improvements in any  
3 bay, harbor or inlet of this state, or grants the exclusive right to any person  
4 to use the natural oyster beds of this state.

5 (2) The grantee of any ~~tide and overflow~~ submersible lands under  
6 ORS 274.040 shall hold the same subject to the easement of the public,  
7 under the provisions and restrictions of law, to enter thereon and remove  
8 oysters and other shell fish therefrom.

9 "Section 33a. If Senate Bill 117 (1969 session) becomes law, then ORS  
10 274.060, as amended by section 33 of this Act, is amended to read:

11 "274.060. (1) Nothing in ORS 274.040 prevents the Legislative Assembly  
12 from providing for regulation of the building of wharves or other improve-  
13 ments in any bay, harbor or inlet of this state, *subject to section 20, chapter*  
14 *—, Oregon Laws 1969 (Enrolled Senate Bill 117)*, or grants the ex-  
15 clusive right to any person to use the natural oyster beds of this state.

16 "(2) The grantee of any submersible lands under ORS 274.040 shall  
17 hold the same subject to the easement of the public, under the provisions  
18 and restrictions of law, to enter thereon and remove oysters and other shell  
19 fish therefrom.

20 "Section 33b. Section 33a of this Act does not become operative until  
21 the operative date of section 20, chapter —, Oregon Laws 1969 (Enrolled  
22 Senate Bill 117).".

23 (4) Easements and licenses granted under this section shall not be valid  
24 unless filed for record by the grantee or licensee in the deed records of  
25 the county or counties wherein the property affected by the grant or  
26 privilege is located not later than the 30th day after the date of execution  
27 thereof.

28 Section 35. Section 36 of this Act is added to and made a part of ORS  
29 chapter 274.

30 Section 36. As used in ORS 274.210 to 274.310, "reclamation" includes,  
31 but is not limited to, irrigation.

32 Section 37. ORS 274.210 is amended to read:

33 274.210. The division ~~for and~~ in behalf of the State of Oregon may  
34 enter into contracts for:

(1) The drainage ~~and irrigation~~ of *submersible and submerged lands* adjoining or underlying any lakes, marshes or swamps ~~lying~~ in this state, or for the drainage ~~and irrigation~~ of that part which is in this state ~~of~~ of *submersible and submerged lands* adjoining or underlying any lake, marsh or swamp lying partly in this state and partly in another state, and for the reclamation of ~~the~~ any such lands ~~forming the beds of or submerged~~ by any such lakes, marshes or swamps; and

(2) The sale or disposal of such drained and reclaimed lands as provided for in ORS 274.210 to ~~274.265~~ 274.260.

Section 38. ORS 274.220 is amended to read:

274.220. (1) Any person desiring to enter into a contract to drain ~~any lake, marsh or swamp lying wholly or partly within this state~~ *submersible and submerged lands* under ORS 274.210 to 274.260 and reclaim ~~the land~~ *forming the bed thereof or submerged thereby,* such lands shall file with the division an application ~~for a contract to drain such lake, marsh or swamp and reclaim such land~~.

(2) The applicant ~~shall~~, at his own expense and without any cost or charge to the state, *shall* make the necessary surveys and prepare a map of the ~~land~~ *lands* proposed to be reclaimed. The map shall exhibit a plan showing the ~~submerged~~ *area that is submersible or submerged* and the mode of the contemplated drainage and reclamation, and shall be accompanied by a list of the lands proposed to be drained, with sufficient description to identify the ~~land, either by legal subdivisions or monuments,~~ *all* ~~all~~ *lands* in accordance with rules promulgated by the division.

(3) The application shall contain an estimate of the cost of the construction of the proposed system of drainage *and reclamation*.

Section 39. ORS 274.230 is amended to read:

274.230. (1) Upon receipt of the application, map and plan of drainage and reclamation under ORS 274.220, the division may require the State Engineer to make an investigation and report at the expense of the applicant. If the project appears feasible and desirable and such applicant responsible, the division may enter into a contract with the applicant for construction of the drainage and reclamation works.

1 (2) The applicant shall agree:

2 (a) To drain the ~~lake, marsh or swamp~~ *submersible and submerged*  
3 *lands* substantially in accordance with the plans set forth in the contract;

4 (b) To make such proofs of reclamation as are required by the division;

5 (c) To pay all costs incident to the contract and making of the proof  
6 and any other expense connected therewith;

7 (d) That work will be commenced upon the ditches or other works  
8 necessary for such drainage and reclamation at a time fixed by the division  
9 and agreed upon in the contract;

10 (e) That by the end of the first year after the time fixed in the contract  
11 for beginning such work, 10 percent of the necessary expenditure will be  
12 made; and

13 (f) That this work will be prosecuted with due diligence until complete  
14 and the required proof of reclamation is made.

15 (3) The division shall require a bond subject to its approval in any  
16 sum it finds necessary to insure the faithful performance of the contract.

17 Section 40. ORS 274.240 is amended to read:

18 274.240. (1) Immediately upon execution of the contract, the contractor  
19 undertaking the drainage and reclamation may enter upon the lands  
20 for the purpose of reclaiming the same.

21 (2) The division shall fix the amount to which the contractor is en-  
22 titled for reclaiming the lands ~~by drainage or drainage and irrigation~~ and  
23 shall also fix the amount to be paid to the state for such lands. The division  
24 may permit the contractor to sell or dispose of the ~~land~~ *lands* at such  
25 price and upon such terms as ~~it~~ *the division* may fix in tracts not to  
26 exceed ~~320~~ 640 acres to any one person under such rules as the division  
27 may promulgate governing disposal.

28 (3) Upon proof satisfactory to the division that ~~at least 50 percent of~~  
29 ~~any such tract is producing agricultural crops, and upon proof that~~ the  
30 amount fixed by the division as due for reclamation and the amount due  
31 the State of Oregon has been fully paid, the division shall issue a quit-  
32 claim deed for not more than ~~320~~ 640 acres to the purchaser of such land.

33 Section 41. ORS 274.260 is amended to read:

34 274.260. (1) The title of owners of land riparian to lakes and ponds

1 drained under ORS 274.210 to ~~274.270~~ 274.260 extends to only so much  
2 of the ~~bottom or bed of~~ submersible or submerged lands adjoining or  
3 underlying such lake or pond which may be reclaimed by such drainage  
4 as is required to fill up the fractional subdivision or subdivisions of a sec-  
5 tion which he owns and which are rendered fractional by such lake or  
6 pond, and the title of such owner is so limited when the waters of such  
7 lake or pond receding, because of such drainage, uncover the ~~bed thereof~~  
8 submersible or submerged lands adjoining or underlying such lake or pond.

9 (2) This section shall not affect the right of riparian owners to land  
10 acquired by natural accretion or reliction because of the gradual and  
11 natural recession of the waters of the lake or pond to which the lands of  
12 such owners are riparian.

13 Section 42. ORS 274.280 is amended to read:

14 274.280. *In addition to its powers under ORS 274.210 to 274.260, the*  
15 *division may cause reclamation surveys, plans and specifications to be*  
16 *made for the reclaiming of any unsold swamp ~~and overflow~~ lands and*  
17 *submersible lands under the control of the division ~~for grazing and agri-~~*  
18 *cultural purposes.*

19 Section 43. ORS 274.525 is amended to read:

20 274.525. (1) Any city of the State of Oregon bordering on a navigable  
21 stream may dredge out and use material from submersible and submerged  
22 lands of the stream, owned by the State of Oregon and in front of such  
23 city, for the purpose of filling in or reclaiming the ~~tide lands or mud~~  
24 ~~flats~~ submersible lands within such city, under the rules of the division.  
25 The consent of the appropriate agency of the United States Government  
26 shall be first obtained by such city.

27 (2) Any contractor who has entered into a contract with any such city  
28 to fill in or reclaim any of its ~~tide flats or overflowed~~ submersible lands  
29 may dredge and use such material in the same manner as may be done by  
30 such city.

31 Section 44. ORS 274.550 is amended to read:

32 274.550. (1) The removal of material from submersible and submerged  
33 lands of any navigable stream, owned by the State of Oregon, is author-  
34 ized when the material (a) is removed for channel or harbor improvement

1 or flood control, or (b) is used for filling, diking or reclaiming land located  
2 not more than one-half mile from the bank of the stream, or (c) is used  
3 for filling, diking or reclaiming land owned by the state or any political  
4 subdivision as defined in subsection (1) of ORS 271.300 and located not  
5 more than two miles from the bank of the stream. However, prior to  
6 removal, such person, organization or agency contemplating removal shall  
7 first notify the division ~~+~~ and the division shall in turn notify the state  
8 agencies mentioned in ORS ~~271.530~~. X

9 (2) No payment of royalty shall be required for such material unless  
10 it is removed from the place deposited and sold or used as an article of  
11 commerce. Before any material may be removed from the place deposited  
12 and sold or used as an article of commerce, the division shall be duly noti-  
13 fied in writing of such intended removal and sale or use as an article of  
14 commerce and payment shall be made to the board of such royalty as it  
15 may fix therefor.

16 (3) In addition to the purposes enumerated in subsection (1) of this  
17 section, any person may take material for his own exclusive use to the  
18 extent of not more than 50 cubic yards in any one year. However, prior  
19 to such taking, the person shall first notify the division ~~+~~ and the division  
20 shall in turn notify the state agencies mentioned in ORS ~~271.530~~.

21 Section 45. ORS 274.560 is amended to read:

22 274.560. The division may enter into contract of lease for purposes of  
23 ORS 274.525 to ~~[274.605]~~ 274.590 with such stipulations protecting the in-  
24 terest of the state as the division may require, and shall require a bond  
25 with a surety company authorized to transact a surety business in this  
26 state, as surety, to be given by the lessee for performance of such stipula-  
27 tions, and providing for forfeiture for non-payment or failure to operate X  
28 under the contract. No contract shall be entered into giving any person  
29 an option of leasing or purchasing the property of the State of Oregon.  
30 The lessee in all such contracts shall report monthly to the division the  
31 amount of material taken under the contract and pay to the division the  
32 amount of royalty thereon provided in the contract.

33 Section 46. ORS 274.620 is amended to read:

34 274.620. (1) Whenever it appears advisable to the division to offer



1 the submersible and submerged lands of navigable bays and rivers for  
2 leasing under ORS 274.615, or whenever any person files a written appli-  
3 cation with the division requesting that such lands be offered for leasing  
4 under ORS 274.615, accompanying the same with the fee required by the  
5 division, the division ~~+, upon concurrence of a majority of the members~~  
6 ~~thereof,+~~ shall first hold a public hearing in the manner prescribed by ORS  
7 274.755.

8 (2) Before inviting bids on the submersible and submerged lands of  
9 any navigable bays and rivers the division shall cause written notice  
10 describing the area under consideration for bidding, and other pertinent  
11 information to be transmitted in the manner prescribed by ORS 274.755  
12 to the applicant, prospective bidders and the public, and to the officers  
13 designated in ORS 274.755.

14 Section 47. ORS 274.915 is amended to read:

15 274.915. Except as provided in ORS 274.930, the division may sell,  
16 lease or trade submersible or submerged lands owned by the state and new  
17 lands created upon submersible or submerged lands owned by the state  
18 ~~[of Oregon]~~ in the same manner as provided for ~~[tide and overflow]~~ sub-  
19 ~~mersible~~ lands in ORS chapters 273 and 274.

20 Section 48. ORS 274.990 is amended to read:

21 274.990. ~~[(1)]~~ Violation of ~~[any provision of]~~ ORS 274.080, 274.745 or  
22 274.895, or any rule promulgated under ~~[such statute, is punishable, upon~~  
23 ~~conviction, by a fine not exceeding \$500 or imprisonment in the county jail for~~  
24 ~~not more than six months, or both]~~ such sections, is a misdemeanor.

25 ~~[(2) Violation of ORS 274.745 is a misdemeanor.]~~

26 ~~[(3) Violation of ORS 274.895 is punishable, upon conviction, by a fine not~~  
27 ~~exceeding \$100 for each offense.]~~

28 Section 49. ORS 352.560 is amended to read:

29 352.560. For the endowment, maintenance and support of Oregon  
30 State University, there is set apart and appropriated the interest on the  
31 Oregon State University Fund ~~[which has arisen and which shall hereafter~~  
32 ~~arise]~~, arising from the sale of all lands granted to the State of Oregon,  
33 or to which the state was entitled, under the Act of ~~[Congress to provide~~  
34 ~~colleges for the benefit of agriculture and the mechanic arts to the several~~

1 states and territories, approved] July 2, 1862 [, and the Acts amendatory  
2 thereof] (12 Stat. 503), as amended, or so much thereof as may be necessary.

3 In no case shall the interest arising from ~~the~~ fund be applied to the  
4 purchase of sites, or for buildings for Oregon State University, but only  
5 in the payment of the salaries of professors, officers and other current  
6 expenses. The remainder of such interest remaining over at the close of  
7 each fiscal year after the payment of such expenses shall be added to and  
8 become a part of the principal or endowment fund forever.

9 Section 50. ORS 352.570 is amended to read:

10 352.570. All moneys belonging to the Oregon State ~~College~~ University  
11 Fund shall be loaned by the Division of State Lands in accordance with  
12 ~~the provisions of~~ ORS 327.425 to 327.455, governing loans from the Com-  
13 mon School Fund.

14 Section 51. ORS 352.580 is amended to read:

15 352.580. The Division of State Lands shall pay the interest received  
16 on loans from the Oregon State ~~College~~ University Fund to the State  
17 Board of Higher Education semiannually.

18 Section 52. ORS 352.600 is amended to read:

19 352.600. The ~~Division of State Lands is authorized and empowered to~~  
20 *State Land Board shall* execute the trust created by the last will and testa-  
21 ment of John T. Apperson, deceased [, and as such trustee to] . *On behalf of*  
22 *such trustee, the Division of State Lands shall* administer the fund pro-  
23 vided for and designated in ~~the~~ will as the J. T. Apperson Agricul-  
24 tural College Educational Fund.

25 Section 53. ORS 352.610 is amended to read:

26 352.610. The Division of State Lands *on behalf of the State Land*  
27 *Board* may accept, receive, own, hold, sell and dispose of any and all real  
28 and personal property given, devised or bequeathed to ~~it~~ the board by  
29 John T. Apperson in trust for the purpose of creating the J. T. Apperson  
30 Agricultural College Educational Fund. The ~~trustee of said fund~~ division  
31 shall manage and use it in accordance with the directions contained in the  
32 will of John T. Apperson, deceased, for the purpose of defraying the ex-  
33 penses and assisting in the education at Oregon State University of  
34 deserving young men and women who are actual bona fide residents of

1 Oregon and are unable to bear the expense of a collegiate course at ~~that~~  
2 ~~that~~ institution.

3 Section 54. ORS 352.620 is amended to read:

4 352.620. The *Director of the Division of State Lands* may execute all  
5 deeds, conveyances, contracts, mortgage releases and all other instruments  
6 necessary to be executed by the ~~trustees~~ *division* in carrying out the  
7 terms of the trust referred to in ORS 352.600. All such deeds and other  
8 instruments may be executed in manner and form as prescribed by the  
9 division and shall be entitled to record without acknowledgment.

10 Section 55. ORS 352.630 is amended to read:

11 352.630. All necessary expenses incurred by the Division of State  
12 Lands in connection with the administration of the trust referred to in  
13 ORS 352.600 shall be payable out of the fund referred to in that section.  
14 The division may make such rules ~~and regulations~~ as it ~~may deem~~  
15 *considers* necessary for the transaction of business and carrying out ~~the~~  
16 ~~provisions of~~ ORS 352.600 to 352.640.

17 Section 56. ORS 352.640 is amended to read:

18 352.640. The Division of State Lands ~~as trustee shall~~ annually, on  
19 October 1, *shall* make and file with the Secretary of State a full report  
20 of the condition of the fund referred to in ORS 352.600, showing the  
21 amount thereof, moneys outstanding and any other data necessary to a  
22 full understanding of its conditions ~~, which report the Secretary of State~~ .  
23 *The division shall include ~~in his~~ a summary of this report in its biennial*  
24 *report to the legislature under ORS 273.181.*

25 Section 57. ORS 520.055 is amended to read:

26 520.055. (1) The board has jurisdiction and authority over all persons  
27 and property necessary to enforce effectively this chapter and all other  
28 laws relating to the conservation of oil and gas.

29 (2) In addition to and not in lieu of any other powers granted under  
30 this chapter, the Department of Geology and Mineral Industries and its  
31 governing board may in compliance with ORS 520.105 promulgate reason-  
32 able rules, regulations and orders necessary to regulate geological, geo-  
33 physical and seismic surveys on, and operations to remove oil, gas and

1 sulphur from the ~~[tide and]~~ tidal submerged and submersible lands of  
2 this state under ORS 274.705 to ~~[274.865]~~ 274.860. 4 X

3 Section 58. ORS 530.480 is amended to read:

4 530.480. As the Common School Forest Lands are determined as re-  
5 quired by ORS 530.450 to 530.520, such lands shall be described by legal  
6 subdivision ~~[, and]~~. The State Land Board and the State Board of Forestry,  
7 respectively in their regular meetings, shall by separate board resolutions  
8 designate and set aside such lands as a part of the Common School Forest  
9 Lands; lands in the Elliott State Forest, as determined by ORS 530.450,  
10 shall be similarly described and reserved. A ~~[certified]~~ copy of each  
11 board resolution *certified by the Director of the Division of State Lands*  
12 *or the State Forester, respectively*, together with the description of the  
13 lands involved, shall be filed with the Secretary of State, who shall keep  
14 such copies and descriptions in conjunction with the auditing records of  
15 the State Forestry Department Account.

16 Section 59. ORS 530.510 is amended to read:

17 530.510. ~~[(1)]~~ The State Forester ~~[hereby is authorized to]~~ may propose  
18 and initiate any exchange of land of the Elliott State Forest or Common  
19 School Forest Lands, or propose and initiate any exchange of timber on  
20 such lands, for land of approximately equal aggregate value, when any  
21 such exchange is in the furtherance of the purposes of ORS 530.450 to  
22 530.520 ~~[, provided,]~~. However ~~[, that]~~ :

23 (1) Any exchange of land of the Elliott State Forest ~~[shall]~~ must be for  
24 the consolidation of ~~[said]~~ the forest; ~~[and provided further, that]~~

25 (2) The State Land Board and the State Board of Forestry shall, each  
26 separately, approve such exchanges by resolutions of the respective boards  
27 ~~[,]~~ ; and ~~[provided, further, that]~~

28 (3) The county court or board of county commissioners of the county,  
29 or counties, in which such land is situated, shall approve such exchange,  
30 and after such approval the exchanges shall be consummated by legal  
31 conveyance from the ~~[State Land Board]~~ *Division of State Lands*.

32 ~~[(2)]~~ (4) Under the authority granted in this section, in addition to  
33 land to be exchanged, a monetary consideration may be provided or re-  
34 ceived where necessary to make the values comply with this section. No

1 exchange shall be made until title to the lands to be received has been  
2 approved by the Attorney General. All lands received in exchange shall  
3 have the same status and be subject to the same provisions of law as the  
4 lands given in exchange therefor.

5 Section 60. ORS 551.160 is amended to read:

6 551.160. The ~~county court~~ governing body of any county shall have  
7 the powers provided for it in this chapter to regulate the building and  
8 maintenance of dikes and dams for the purpose of reclaiming and im-  
9 proving submersible lands ~~subject to tide overflow~~, as defined in ORS  
10 274.005, or lands subject to overflow by freshets, and for the purpose of  
11 protecting lands from overflow where great damage is liable to be caused  
12 thereby.

13 Section 61. ORS 567.255 is amended to read:

14 567.255. In order to investigate and demonstrate the conditions under  
15 which useful plants, grains and fruits may be grown on ~~tidal~~ submersible  
16 lands, reclaimed swamp lands and logged-off lands in this state and to  
17 determine the kinds of plants, grains and fruits best adapted for growth  
18 on such lands, there is established an agricultural experimental station  
19 in Clatsop County in such place as may be selected by the board of higher  
20 education. The station shall be known as the John Jacob Astor Agricul-  
21 tural Experiment Station.

22 Section 62. ORS 778.100 is amended to read:

23 778.100. (1) Whenever the port in the exercise of any powers possessed  
24 by it contemplates the filling or reclamation of any low, swamp or ~~over-~~  
25 ~~flowed~~ submersible land within its territory held in private ownership,  
26 it may provide by ordinance for assessment by the board of the damages  
27 and benefits to be sustained by and to accrue to such land by reason of  
28 the filling or reclamation in which the question of channel frontage as  
29 well as filling shall be considered in assessing benefits, may provide for  
30 payment to the owner of the land of such damages and may provide for  
31 creation of a lien upon the land in favor of the port for the amount of such  
32 benefits and payment of the amount of such lien, either in cash or in in-  
33 stalments, with interest thereon over a term of years.

34 (2) The ordinance shall provide for a hearing before the board upon

1 due notice to all owners of and persons interested in the lands to be  
2 affected by the assessment of damages and benefits before the assessment  
3 is made.

4 (3) Provision shall be made by the ordinance for an appeal to the  
5 Circuit Court for Multnomah County by any owner or person interested  
6 in any land affected, who considers himself aggrieved by such assessment.  
7 Jurisdiction to hear the appeals and review the assessments is granted  
8 to the Circuit Court of Multnomah County.

9 **Section 63.** ORS 273.221, 273.380, 274.035 and 274.523 are repealed.

10 **Section 64.** This Act does not affect the validity of any acts heretofore  
11 performed by the State Land Board, the Division of State Lands or the  
12 Director of the Division of State Lands, including but not limited to the  
13 making and promulgation of rules and the execution of documents author-  
14 ized by law. This Act does not impair any privilege granted, right ac-  
15 quired or penalty incurred under any law of this state prior to the effective  
16 date of this Act.

17 **Section 65.** Sections 9, 10 and 14 of this Act do not become operative  
18 until July 1, 1970.

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15 quired or penalty incurred under any law of this state prior to the effective  
16 date of this Act.

17 **Section 65.** Sections 9, 10 and 14 of this Act do not become operative  
18 until July 1, 1970.

6 **"Section 66.** There is created from abandoned property funds an  
7 Abandoned Property Revolving Fund. The moneys in the fund are  
8 appropriated continuously to the Division of State Lands for the purpose  
9 of repaying claims as provided under ORS 98.396."

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PREVIOUS AMENDMENTS

By House May 10, 1969

SENATE AMENDMENTS TO  
HOUSE BILL 1042

By COMMITTEE ON STATE AND FEDERAL AFFAIRS

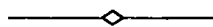
May 21, 1969

1 On page 2 of the printed bill, line 2, after "public lands" insert  
2 ", including but not limited to provisions affecting the Common School  
3 Fund".

4 In line 10, after "274.523;" insert "appropriating money;".

5 On page 23, after line 18, insert:

6 "Section 66. There is created from abandoned property funds an  
7 Abandoned Property Revolving Fund. The moneys in the fund are  
8 appropriated continuously to the Division of State Lands for the purpose  
9 of repaying claims as provided under ORS 98.396.".





PREVIOUS AMENDMENTS  
By House May 10, 1969

SENATE AMENDMENTS TO HOUSE BILL 1042  
By COMMITTEE ON STATE AND FEDERAL AFFAIRS  
May 21, 1969

On page 2 of the printed bill, line 2, after "public lands" *EN.*  
insert "including but not limited to provisions affecting the Common  
School Fund". *EN.*

*Insert 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000*  
On page 23, after line 18, insert:

"Section 66. There is created from abandoned property funds an  
Abandoned Property Revolving Fund. The moneys in the fund are  
appropriated continuously to the Division of State Lands for the  
purpose of repaying claims as provided under ORS 98.396.".

Submit:

2 copies if no amdts.

4 copies if amdts.

5 copies if to be printed engrossed.

*Glenn Ferguson*  
(Chairman)

Sen. Ouderkirk

will lead floor discussion.

## HOUSE AMENDMENTS TO HOUSE BILL 1042

By COMMITTEE ON NATURAL RESOURCES

May 10, 1969

- 1 On page 2 of the printed bill, line 3, delete "273.115,".
- 2 On page 2, line 9, delete "273.105,".
- 3 On page 3, delete lines 26 through 32 and insert:
- 4 "Note: Sections 7 and 8 were deleted by amendment."
- 5 On page 4, delete lines 24 through 31 and insert:
- 6 "Note: Section 11 was deleted by amendment."
- 7 On page 13 after line 8 insert:
- 8 "Section 33a. If Senate Bill 117 (1969 session) becomes law, then ORS
- 9 274.060, as amended by section 33 of this Act, is amended to read:
- 10 "274.060. (1) Nothing in ORS 274.040 prevents the Legislative Assembly
- 11 from providing for regulation of the building of wharves or other improve-
- 12 ments in any bay, harbor or inlet of this state, *subject to section 20, chapter*
- 13 *\_\_\_\_, Oregon Laws 1969 (Enrolled Senate Bill 117)*, or grants the ex-
- 14 clusive right to any person to use the natural oyster beds of this state.
- 15 "(2) The grantee of any submersible lands under ORS 274.040 shall
- 16 hold the same subject to the easement of the public, under the provisions
- 17 and restrictions of law, to enter thereon and remove oysters and other shell
- 18 fish therefrom.
- 19 "Section 33b. Section 33a of this Act does not become operative until
- 20 the operative date of section 20, chapter *\_\_\_\_*, Oregon Laws 1969 (Enrolled
- 21 Senate Bill 117).".

---

NOTE: Matter in *italics* in an amended section is new; matter ~~lined out and bracketed~~ is existing law to be omitted; complete new sections begin with **Section**.

HOUSE AMENDMENTS TO HOUSE BILL 1042

By COMMITTEE ON NATURAL RESOURCES

May 10, 1969

On page 2 of the printed bill, line 3, delete "273.115,".

On page 2, line 9, delete "273.105,".

On page 3, delete lines 26 through 32 and insert:

"Note: Sections 7 and 8 were deleted by amendment.".

On page <sup>4</sup>3, delete lines 24 through 31 and insert:

"Note: Section 11 was deleted by amendment.".

On page 13 after line 8 insert:

"Section 33a. If Senate Bill 117, <sup>(117 is deleted)</sup> becomes law, then  
ORS 274.060, as amended by section 33 of this Act, is amended  
to read:

"274.060. (1) Nothing in ORS 274.040 prevents the  
Legislative Assembly from providing for regulation of the  
building of wharves or other improvements in any bay, harbor  
or inlet of this state, subject to section 20, chapter \ \ ,  
Oregon Laws 1969 (Enrolled Senate Bill 117), or grants the  
exclusive right to any person to use the natural oyster beds  
of this state.

"(2) The grantee of any submersible lands under ORS 274.040  
shall hold the same subject to the easement of the public, under

  
PAUL A. HANNEMAN Chairman

Johnson

will lead

Rep.  
floor discussion on this measure.

Submit 2 copies if no amendments  
4 copies if amendments  
5 copies if to be printed engrossed

Retain 1 copy for committee files

the provisions and restrictions of law, to enter thereon and remove oysters and other shell fish therefrom.

"Section 33b. Section 33a of this Act does not become operative until the operative date of section 20, chapter\_\_\_\_, Oregon Laws 1969 (Enrolled Senate Bill 117).".

LEGISLATIVE COUNSEL

410 State Capitol

TO: Rep. Smith, Chairman Date: 5/6/69

Committee on: House: Natural Resources

FROM: Legislative Counsel's Office

Your Committee has House Bill No. 1042. This bill conflicts with Senate Bill No. 117 which has passed both houses.

If this conflict has been taken care of, please disregard this memo. If not, and you desire our assistance in preparing a corrective amendment, let us know.

LEGISLATIVE COUNSEL

410 State Capitol

1042

TO: Rep. Smith, Chairman Date 4/25/69

Committee on: Natural Resources (House)

FROM: Legislative Counsel's Office

Your Committee has House Bill No. 1042 This bill  
conflicts with Senate Bill No. 484 which has passed both  
houses.

If this conflict has been taken care of, please  
disregard this memo. If not, and you desire our assistance  
in preparing a corrective amendment, let us know.

HB 1042

may conflict with

SB 117

because both bills amend ORS 274.060

HB 1042

may conflict with

HB 1045

because HB 1042 amends - HB 1045 repeals  
ORS 274.075

because HB 1042 repeals - HB 1045 amends  
ORS 273.105

Change 1

HB 1042	may conflict with	HB 1316
	because both bills amend ORS 273.281	

HB 1042	may conflict with	HB 1315
	because all bills amend ORS 273.990	HB 1318

HB 1042	may conflict with	HB 1315
	because both bills amend ORS 273.231	
	and 274.550	
	because both bills repeal ORS 274.035	
	because HB 1042 amends - HB 1315 repeals	
	ORS 274.525	



Change 2

HB 1042

may conflict with

SB 272

because both bills amend ORS 274.915

Change 8

HB 1042

may conflict with

HB 1683

because both bills amend ORS 274.040

because HB 1683 amends - HB 1042 repeals  
ORS 274.523

Change 3

HB 1042                      may conflict with                      HB 1510

because both bills amend ORS 273.384  
and 273.882

both bills repeal ORS 273.380

HB 1042      may conflict with                      HB 1319

because HB 1042 amends - HB 1319 repeals  
ORS 274.060

HB 1042

may conflict with

HB 1045  
SB 421 E

because HB 1045 and SB 421 E amends -  
HB 1042 repeals ORS 273.105

HB 1042

may conflict with

SB 421 E

because both bills amend ORS 273.115

5  
Change #

HB 1042

may conflict with  
because both bills amend ORS 273.006

HB 1742

Change 6

HB 1042

may conflict with  
because both bills amend ORS 530.510

SB 484

*in our Com.*

Change 7

HB 1042

may conflict with

HB 1683 E

because HB 1042 amends § HB 1683 E repeals  
ORS 274.620

*in own name*

# House Bill 1042

Sponsored by Representative SMITH, Senator BOIVIN, Representative DAVIS, Senators COOK, INSKEEP, McKAY, OUDERKIRK (at the request of the Interim Committee on Public Lands)

## 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**.

Revises laws on state lands without substantial change.

**NOTE:** Matter in *italics* in an amended section is new; matter ~~lined out and bracketed~~ is existing law to be omitted; complete new sections begin with **Section**.



## 1 A BILL FOR AN ACT

2 Relating to public lands; creating new provisions; amending ORS 164.470,  
3 273.006, 273.055, 273.075, 273.081, 273.085, 273.111, 273.115, 273.121, 273.145,  
4 273.151, 273.155, 273.225, 273.231, 273.251, 273.265, 273.271, 273.281, 273.300,  
5 273.311, 273.316, 273.326, 273.382, 273.384, 273.511, 273.990, 274.005, 274.040,  
6 274.060, 274.075, 274.210, 274.220, 274.230, 274.240, 274.260, 274.280, 274.310,  
7 274.525, 274.550, 274.560, 274.620, 274.915, 274.990, 352.560, 352.570, 352.580,  
8 352.600, 352.610, 352.620, 352.630, 352.640, 520.055, 530.480, 530.510, 551.160,  
9 567.255 and 778.100; repealing ORS 273.105, 273.221, 273.380, 274.035 and  
10 274.523; providing penalties; and prescribing an effective date.

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

12 Section 1. ORS 164.470 is amended to read:

13 164.470. Any person ~~+, firm or corporation+~~ who cuts timber or slashing,  
14 or digs, pulls or cuts stumps for the purpose of clearing land ~~{for agricultural~~  
15 ~~purposes, which land is}~~ subject to overflow along or adjacent to the banks  
16 of any stream within this state, without burning or removing the timber,  
17 slashing or stumps before ~~{the same or}~~ any part thereof is carried away  
18 by flood or high water, shall be punished upon conviction ~~{by a fine of not~~  
19 ~~more than \$500 nor less than \$25, or by imprisonment in the county jail for not~~  
20 ~~less than one month nor more than six months}~~ as for a misdemeanor.

21 Section 2. ORS 273.006 is amended to read:

22 273.006. As used in this chapter, unless the context requires otherwise:

23 (1) "Board" means the State Land Board.

24 (2) "County recording officer" means the recorder of conveyances,  
25 county clerk or other county officer carrying out ORS 205.130 to 205.230.

26 (3) "Director" means the Director of the Division of State Lands.

27 (4) "Division" means the Division of State Lands.

28 (5) "Land" includes water, water rights, easements of every nature  
29 and all appurtenances to land.

30 (6) "Material" includes gravel, rock, sand and silt, but does not include  
31 hard minerals subject to ORS 274.611 to 274.645, or oil, gas and sulphur  
32 subject to ORS 274.705 to 274.860.

33 Section 3. ORS 273.055 is amended to read:

34 273.055. If it finds it advisable in carrying out its duties, the division

1 ~~may take title~~ in the name of the State of Oregon ~~in fee simple~~ may  
2 *take title to real and personal property in fee simple or absolutely*, in trust  
3 or under such other conditions as it considers advisable, and may convey  
4 title thereto or execute agreements necessary to carry out its duties.

5 Section 4. ORS 273.075 is amended to read:

6 273.075. ~~Where~~ When lands formerly belonging to the State of Ore-  
7 gon are disposed of and final payment has been made, the ~~division~~ di-  
8 rector shall execute and deliver to the purchaser a deed in a *manner and*  
9 *form prescribed by the rules of the division*, conveying all right, title and  
10 interest which the state may have in and to such lands, except as other-  
11 wise provided by law.

12 Section 5. ORS 273.081 is amended to read:

13 273.081. The director may execute on behalf of the division all docu-  
14 ments required to carry out its powers and duties, in the ~~same~~ manner  
15 and form ~~that he may execute deeds under ORS 273.306~~ *prescribed by the*  
16 *rules of the division*. All documents so executed shall be admitted to  
17 record without acknowledgment.

18 Section 6. ORS 273.085 is amended to read:

19 273.085. Copies of any document executed by the ~~division~~ director, or  
20 *executed by the State Land Board before January 1, 1968*, and certified by  
21 the director, are entitled to record in the office of any county recording  
22 officer. Documents affecting the title to real property shall be recorded  
23 in the county where such real property is situated; copies of all other  
24 documents executed by the division may be recorded in any county  
25 designated by the division.

26 Section 7. ORS 273.105 is repealed and section 8 of this Act is enacted  
27 in lieu thereof.

28 Section 8. The Distributable Income Account is established within the  
29 Common School Fund. The division shall administer this account in ac-  
30 cordance with section 4, Article VIII, Oregon Constitution, and applicable  
31 laws. The interest on moneys in the Common School Fund shall be credited  
32 to the Distributable Income Account.

33 Section 9. ORS 273.111 is amended to read:

34 273.111. There are appropriated such sums of money ~~not otherwise~~

1 ~~appropriated, for use from time to time,~~ as are necessary to carry out the  
2 purposes of ORS 274.280 ~~[and 271.290]~~ to 274.310, out of the Common  
3 School Fund in an amount not to exceed the net receipts from ~~[the sale of~~  
4 ~~material, as defined in ORS 271.523,~~ from the submersible and submerged  
5 lands of navigable streams in this state. Such sums of money shall be deposited  
6 in the State Treasury in a special account to be known as the Swamp and  
7 ~~Overflow Land Reclamation Fund]~~ operations under ORS 274.530. When  
8 sufficient funds become available from the proceeds of the sale or lease  
9 of ~~[such]~~ reclaimed lands, all money *appropriated by this section and ex-*  
10 *pended pursuant to ORS 274.280 to 274.310 shall be repaid to the Common*  
11 *School Fund.*

12 **Section 10.** (1) The Swamp and Overflow Land Reclamation Fund,  
13 maintained under ORS 273.111 before its amendment by section 9 of this  
14 Act, is abolished. On the operative date of this section all moneys in the  
15 Swamp and Overflow Land Reclamation Fund shall revert to the Common  
16 School Fund. Such moneys shall not be credited to the Distributable  
17 Income Account, but are subject to appropriation as provided in ORS  
18 273.111.

19 (2) Expenses and obligations incurred before the operative date of this  
20 section, payable under the law then in effect out of the Swamp and  
21 Overflow Land Reclamation Fund, shall be paid, in the same manner as  
22 other claims against the state are paid after the operative date of this  
23 section out of moneys in the Common School Fund.

24 **Section 11.** ORS 273.115 is amended to read:

25 273.115. The necessary expenses of the division, including but not  
26 limited to the salaries of the director and employees of the division and of  
27 rentals under ORS 276.412, if required, shall be paid out of the ~~[Distributable~~  
28 ~~Income Account established under ORS 273.105. However, no such expenses~~  
29 ~~shall be paid to the extent that the balance of the account after payment would~~  
30 ~~be less than an amount equal to current receipts credited to the account pur-~~  
31 ~~suant to ORS 530.520]~~ Common School Fund.

32 **Section 12.** ORS 273.121 is amended to read:

33 273.121. Notwithstanding any other provision of law, all funds under  
34 the control of the division shall be expended by warrant drawn ~~[by the~~

1 ~~Secretary of State~~ on the State Treasurer, and then only upon proper  
2 claim approved by the director or his authorized representative submitted  
3 to the Secretary of State for audit.

4 Section 13. ORS 273.225 is amended to read:

5 273.225. Before any person shall take any material from any real  
6 property of the State of Oregon, except in the manner and for the pur-  
7 poses mentioned in ORS 274.525 or 274.550, he shall apply to the division  
8 for a lease ~~under ORS 274.530~~. The application shall include a complete  
9 description of the location of the contemplated operation, the time and  
10 manner of contemplated removal, and such other pertinent information as  
11 the ~~board~~ division may require. Upon receipt of such application the  
12 division may award a lease to the applicant ~~and~~ and fix a royalty in the  
13 same manner provided in ORS 274.530 ~~and fix a royalty~~.

14 Section 14. ORS 274.310 is amended to read:

15 274.310. All costs in connection with the surveys and construction of  
16 any reclamation project pursuant to ORS 274.280 ~~and 274.290~~ to 274.310  
17 shall be paid ~~by voucher drawn against the Swamp and Overflow Land~~  
18 ~~Reclamation Fund established~~ out of moneys appropriated under ORS  
19 ~~274.300~~ 273.111, when approved by the division.

20 Section 15. ORS 273.145 is amended to read:

21 273.145. The division may enter into contracts with any person owning  
22 lands adapted to the purposes of ORS ~~273.055, 273.075, 273.115 to 273.155,~~  
23 273.316 ~~to 273.326~~ to 273.345 and 273.511, for the subdivision, settlement  
24 and sale of all or any portion thereof, under the direction and supervision  
25 of the division and such conditions as may be agreed to.

26 Section 16. ORS 273.151 is amended to read:

27 273.151. The division may cooperate with the Federal Government for  
28 the development, settlement, subdivision and disposition of lands belong-  
29 ing to the State of Oregon, or which otherwise may be made available for  
30 carrying out the purposes of ORS ~~273.055, 273.075, 273.115 to 273.155,~~  
31 273.316 ~~to 273.326~~ to 273.345 and 273.511. In such cooperation, the division  
32 may provide the lands but the Federal Government shall provide the  
33 money necessary to meet the expenses of reclamation, subdivision, neces-  
34 sary improvement and equipment.

1 Section 17. ORS 273.155 is amended to read:

2 273.155. The division, in carrying out its duties ~~under ORS 273.145 to~~  
3 ~~273.155, 273.326 and 273.331~~, may call upon all related state and county  
4 agencies, including Oregon State University and any state or county  
5 officers through whom necessary information and aid may be received.  
6 Such agencies, institution and officers shall cooperate with the division  
7 without additional compensation.

8 Section 18. ORS 273.231 is amended to read:

9 273.231. (1) No person shall remove material from any real property  
10 of the State of Oregon for commercial uses without complying with ORS  
11 273.225, 274.550 and 274.560.

12 (2) *The establishment or placing of a dredging or digging outfit on any*  
13 *waters, the submersible or submerged lands of which belong to the State*  
14 *of Oregon, and the removal of material from the submersible or sub-*  
15 *merged lands thereof for commercial uses, without having applied for and*  
16 *received a lease under ORS 274.530, is a continuing trespass.*

17 Section 19. ORS 273.251 is amended to read:

18 273.251. Unless the context or a specially applicable definition requires  
19 otherwise, state lands are classified as follows:

20 (1) "Agricultural college lands." Lands granted to the state by the  
21 Act of July 2, 1862 (12 Stat. 503), and otherwise, for the support and  
22 maintenance of Oregon State University.

23 (2) "Farm lands." Lands acquired by deed, gift, operation of law, or by  
24 the foreclosure of mortgages taken to secure loans from the common  
25 school, agricultural college, university or other funds.

26 (3) "Indemnity lands." Lands selected to satisfy losses in sections 16  
27 and 36, as provided by sections 851 and 852 of title 43, United States Code,  
28 as amended, or any other laws of the United States.

29 (4) "School lands":

30 (a) Sections 16 and 36 in each township granted to the state by the  
31 Act of February 14, 1859 (11 Stat. 383).

32 (b) Lands selected for internal improvements under the Act of Sep-  
33 tember 4, 1841 (5 Stat. 455), and diverted for common schools with the

1 consent of Congress by the Joint Resolution of February 9, 1871 (16 Stat.  
2 595).

3 (c) Lands selected for capitol building purposes under the Act of Feb-  
4 ruary 14, 1859 (11 Stat. 383).

5 (5) "Swamp lands." Lands claimed by the state under the Act of  
6 September 28, 1850 (9 Stat. 519), and extended to the State of Oregon by  
7 the Act of March 12, 1860 (12 Stat. 3).

8 (6) "*Submerged lands.*" *Lands defined as submerged by ORS 274.005.*

9 ~~+(6) "Tide and overflow"~~ (7) "*Submersible lands.*" ~~+(All) Lands +over~~  
10 ~~which the tide ebbs and flows from the line of ordinary high tide to the line of~~  
11 ~~mean low tide and all islands, shore lands and other such lands held by the~~  
12 ~~state by virtue of her sovereignty~~ *defined as submersible by ORS 274.005.*

13 ~~+(7)~~ (8) "University lands." Lands granted to the state under the  
14 Act of February 14, 1859 (11 Stat. 383), for the support and maintenance  
15 of the University of Oregon.

16 Section 20. ORS 273.265 is amended to read:

17 273.265. (1) If application is made for the purchase of ~~+tide or overflow~~  
18 *submersible* lands, the applicant must cause such lands to be surveyed at  
19 his expense by a surveyor, whose selection is subject to prior approval  
20 by the division. The survey must connect with and conform to adjacent  
21 surveys acceptable to the division, so far as practicable. The applicant  
22 must submit to the division, with his application, an accurate map of the  
23 lands applied for, showing the boundaries and stating the area. The map  
24 must be verified by the surveyor before an officer authorized by law to  
25 administer oaths.

26 (2) Each application to purchase ~~+tide or overflow~~ *submersible* lands  
27 must, in addition to all other requirements, contain the applicant's state-  
28 ment that application is made with knowledge of the character of the land  
29 applied for and the title of the state thereto, and his waiver of all claims  
30 upon the state for the return of the purchase price of the lands in the  
31 event that the lands, or any part thereof, do not belong to the state.

32 Section 21. ORS 273.271 is amended to read:

33 273.271. (1) An eligible individual may apply to purchase not more  
34 than 640 acres of each of the following classes of land: School, indemnity,

1 university, agricultural college, swamp ~~+~~ or ~~+~~ ~~tide and overflow~~ sub-  
2 mersible lands.

3 (2) This section shall not interfere with the issuance of deeds to the  
4 holders of assignments of certificates of sale as provided in ORS 273.295,  
5 nor shall the limitations of this section apply to ~~+~~ ~~municipal corporations~~  
6 *political subdivisions in this state* purchasing such lands for any public use.

7 Section 22. ORS 273.281 is amended to read:

8 273.281. The division shall require applicants ~~+~~ ~~for the purchase~~ ~~+~~ ~~tide~~  
9 ~~and overflow~~ of submersible lands to pay in full for such lands at the time  
10 of purchase. Applicants ~~+~~ ~~for the purchase~~ of school, agricultural college,  
11 university, swamp or indemnity lands shall make payments at such times,  
12 and with such interest for deferred payments as the division may pre-  
13 scribe. However, the obligation may not be allowed to stand for a longer  
14 period than five years ~~+~~ ~~from~~ ~~+~~ after the date of issuance of the certificate  
15 under ORS 273.285.

16 Section 23. ORS 273.300 is amended to read:

17 273.300. Whenever any purchaser of state lands holding a certificate of  
18 sale therefor ~~+~~ has paid three-fifths or more of the purchase price  
19 thereof, the ~~+~~ ~~division~~ ~~+~~ director may ~~+~~ ~~issue~~ ~~+~~ execute a deed conveying the  
20 lands to such purchaser, upon ~~+~~ ~~this~~ ~~+~~ the purchaser's executing:

21 (1) A note for the remainder of the purchase price; and

22 (2) A mortgage on the premises in the same form and manner as other  
23 mortgages are executed for loans from the Common School Fund under  
24 ORS 327.405 to 327.480.

25 Section 24. ORS 273.311 is amended to read:

26 273.311. (1) In all cases where clerical errors have been made in deeds  
27 for any state lands sold, upon satisfactory proof and if the rights of in-  
28 nocent parties have not intervened, the ~~+~~ ~~division~~ ~~+~~ director may execute  
29 corrected deeds to the holders thereof.

30 (2) Where lands, other than ~~+~~ ~~tide or overflowed~~ ~~+~~ submersible lands and  
31 unsurveyed or unpatented swamp lands have been sold and the state  
32 cannot convey title to the purchaser, the division shall repay the pur-  
33 chaser, his heirs or assigns, all sums which may have been paid to the  
34 division on the purchase price of the lands, including the interest paid

1 upon deferred payments, upon the presentation of a proper application  
2 for repayment, satisfactory proof and the surrender of the certificate; or  
3 if deed has been issued, upon reconveyance by executed and recorded  
4 quitclaim deed of whatever title or color of title was received from the  
5 state.

6 (3) Where a certificate of sale has been issued by the division upon a  
7 fraudulent application and the certificate is held by assignment by a third  
8 party who had no knowledge of the fraud at the time of assignment, the  
9 division may refund to the holder such sums as were paid the division  
10 on the purchase price of the lands covered by the certificate, including  
11 the interest paid upon deferred payments, upon his making proper appli-  
12 cation to the division for repayment and surrendering for cancellation  
13 the certificate and assignment.

14 Section 25. ORS 273.316 is amended to read:

15 273.316. (1) The division may exchange any state lands under its con-  
16 trol for any other lands in this state for the purpose of accumulating  
17 larger and contiguous tracts of state lands. The division may enter into  
18 the necessary contracts to accomplish such purposes, subject to the rights  
19 of lessees under ORS 273.321. The exchange may be made on the basis of  
20 value or acreage, and the division may pay or accept money as part of  
21 the consideration to the extent required for a fair transaction.

22 ~~[(2) The object of this section is to authorize the division to exchange iso-~~  
23 ~~lated tracts of state lands for larger and contiguous tracts of lands suitable for~~  
24 ~~development and settlement or lands valuable for their timber.]~~

25 ~~[(3)]~~ (2) The object of this section is to authorize the division to ex-  
26 change isolated tracts of state lands for the purpose of accumulating  
27 larger and contiguous tracts of state lands.

28 Section 26. ORS 273.326 is amended to read:

29 273.326. In all cases where the division believes that any ~~state~~ lands  
30 were acquired from the state by fraud or in violation of the laws relating  
31 to the disposal thereof, it may:

32 (1) Enter into contracts with the persons asserting ownership thereto  
33 for the subdivision and sale thereof on conditions agreed upon by the  
34 contracting parties; or



1 (2) Exchange or accept in lieu thereof other lands suitable for settle-  
2 ment and development or valuable for timber. The division may enter  
3 into contracts for disposal and settlement of such other lands as in the  
4 case of the lands first mentioned in this section ~~{; or}~~.

5 ~~{(3) Cooperate with the Federal Government and state agencies, subject to~~  
6 ~~ORS 273.151 and 273.155.}~~

7 Section 27. ORS 273.382 is amended to read:

8 273.382. As used in ORS 273.382 to 273.386, unless the context requires  
9 otherwise:

10 ~~{(1) "Additional cost of acquisition" means the total outlay in money and~~  
11 ~~in property made on the part of the State of Oregon in the acquisition and~~  
12 ~~establishment of the Space Age Industrial Park in excess of the sum of \$900,000~~  
13 ~~appropriated by ORS 273.380.}~~

14 ~~{(2) "Boardman Precision Bombing Range" means the United States War~~  
15 ~~Department Boardman Precision Bombing Range approved February 17,~~  
16 ~~1947 (Official Drawing No. 0-31-52).}~~

17 ~~{(3)}~~ (1) "Director" means the Director of Veterans' Affairs.

18 ~~{(4)}~~ (2) "Lease" means ~~{that certain}~~ the lease dated July 2, 1963,  
19 between the State of Oregon, acting by and through the State Land Board,  
20 as the lessor, and The Boeing Company, a Delaware corporation, as the  
21 lessee.

22 ~~{(5)}~~ (3) "Space Age Industrial Park" means all land and property  
23 comprising the leased premises particularly described in the lease and any  
24 other land or property ~~{hereafter}~~ added thereto as provided in the lease.

25 Section 28. ORS 273.384 is amended to read:

26 273.384. (1) The Space Age Industrial Park shall be managed and ad-  
27 ministered by the Director of Veterans' Affairs for the benefit of the  
28 Oregon War Veterans' Bond Sinking Fund.

29 (2) Notwithstanding the provisions of any law, all net income and  
30 other net proceeds derived from the rental, sale, disposition or use of the  
31 Space Age Industrial Park (after payment of all costs and expenses in-  
32 cident to the maintenance and administration of the Space Age Industrial  
33 Park and costs incident to any sale or other disposition thereof) shall be

1 deposited in the State Treasury and credited to the Oregon War Veterans'  
2 Bond Sinking Fund.

3 Section 29. ORS 273.511 is amended to read:

4 273.511. The division shall ascertain the amount of land to which it is  
5 entitled under the Acts of Congress relative to ~~overflow~~ submersible  
6 and swamp lands, acquire title thereto and enter into contracts for drain-  
7 age and reclamation in order that the lands may be available for develop-  
8 ment and settlement.

9 Section 30. ORS 273.990 is amended to read:

10 273.990. Violation of ORS 273.231 is ~~punishable, upon conviction, by a~~  
11 ~~fine of not more than \$1,000, or by imprisonment for not more than 250 days,~~  
12 ~~or both~~ a misdemeanor.

13 Section 31. ORS 274.005 is amended to read:

14 274.005. As used in this chapter, unless the context requires otherwise:

15 (1) "Director" means the Director of the Division of State Lands.

16 (2) "Division" means the Division of State Lands.

17 (3) "Line of ordinary high water" means the line on the bank or shore  
18 to which the high water ordinarily rises annually in season.

19 (4) "Line of ordinary low water" means the line on the bank or shore  
20 to which the low water ordinarily recedes annually in season.

21 (5) "Land" includes water, water rights, easements of every nature  
22 and all appurtenances to land.

23 (6) "Material" includes gravel, rock, sand and silt, but does not include  
24 hard minerals subject to ORS 274.611 to 274.645, or oil, gas and sulphur  
25 subject to ORS 274.705 to 274.860.

26 ~~+(5)+~~ (7) "Submerged lands," except as provided in ORS 274.705,  
27 means lands lying below the line of ordinary low water of all navigable  
28 waters within the boundaries of this state as heretofore or hereafter estab-  
29 lished, whether such waters are tidal or nontidal.

30 ~~+(6)+~~ (8) "Submersible lands," except as provided in ORS 274.705 means  
31 lands lying between the line of ordinary high water and the line of ordinary  
32 low water of all navigable waters and all islands, shore lands or other such  
33 lands held by or granted to this state by virtue of her sovereignty, wherever

1 applicable, within the boundaries of this state as heretofore or hereafter  
2 established, whether such waters or lands are tidal or nontidal.

3 ~~[(7) "Tide and overflow lands" has the meaning defined by ORS 273.251.]~~

4 Section 32. ORS 274.040 is amended to read:

5 274.040. (1) Except as provided in subsection (2) of this section, ~~[tide~~  
6 ~~and overflow]~~ submersible lands owned by the State of Oregon may be  
7 sold or leased only to the highest bidder after being advertised not less  
8 than once each week for four successive weeks in two or more newspapers  
9 of general circulation in the state, one of which must be of general circu-  
10 lation in the county in which the lands are situated. However:

11 (a) No such lands shall be sold for less than \$5 per acre.

12 (b) Any owner of lands abutting or fronting on such ~~[tide and overflow]~~  
13 submersible lands shall have the preference right to lease or purchase at  
14 the highest price offered in good faith. This preference does not apply as  
15 to any lease offered or issued by the division under ORS 274.615 or 274.705  
16 to 274.860.

17 ~~[(c) No accretions to islands heretofore sold by the state shall be leased.]~~

18 (2) The division may grant to any person holding a permit from the  
19 State Engineer authorizing the impoundment for beneficial use of the  
20 waters of any lake or stream, easements or licenses over ~~[tide and overflow~~  
21 ~~lands, including the shores of navigable lakes and streams,]~~ submersible lands  
22 for flowage and storage of waters, and for the construction, maintenance  
23 and operation of any structures or facilities necessary for the use of the  
24 water under the terms of the permit upon payment of just compensation  
25 by the grantee. Such an easement or license shall not be construed to be  
26 a sale or lease of the ~~[tide or overflow]~~ submersible lands within the ~~[par-~~  
27 ~~view]~~ meaning of subsection (1) of this section.

28 (3) All easements or licenses granted pursuant to subsection (2) of this  
29 section shall be subject to conditions that will assure the safety of the  
30 public and the preservation of economic, scenic and recreational values  
31 and to lawful rules promulgated by state agencies affected by the activities  
32 of the grantee or licensee.

33 Section 33. ORS 274.060 is amended to read:

34 274.060. (1) Nothing in ORS 274.040 prevents the Legislative Assembly

1 ~~for the governing body of a city in this state~~ from ~~regulating~~ providing  
2 for regulation of the building of wharves or other improvements in any  
3 bay, harbor or inlet of this state, or grants the exclusive right to any person  
4 to use the natural oyster beds of this state.

5 (2) The grantee of any ~~tide and overflow~~ submersible lands under  
6 ORS 274.040 shall hold the same subject to the easement of the public,  
7 under the provisions and restrictions of law, to enter thereon and remove  
8 oysters and other shell fish therefrom.

9 Section 34. ORS 274.075 is amended to read:

10 274.075. (1) Notwithstanding ORS ~~274.070~~ 390.720, the division may  
11 grant easements and licenses for pipe lines, cable lines and other conduits  
12 across and under the ocean shore, as defined in ORS 390.710, and the  
13 adjacent submerged lands, upon payment of just compensation by the  
14 grantee. Such an easement or license is not a sale or lease of ~~tide and~~  
15 ~~overflow~~ submersible lands within the ~~purview~~ meaning of ORS 274.040.

16 (2) All easements or licenses granted pursuant to this section shall be  
17 subject to conditions that will assure the safety of the public and the  
18 preservation of economic, scenic and recreational values and to lawful  
19 rules promulgated by state agencies affected by the activities of the grantee  
20 or licensee.

21 (3) No easement or license shall be granted for a term exceeding 99  
22 years.

23 (4) Easements and licenses granted under this section shall not be valid  
24 unless filed for record by the grantee or licensee in the deed records of  
25 the county or counties wherein the property affected by the grant or  
26 privilege is located not later than the 30th day after the date of execution  
27 thereof.

28 **Section 35.** Section 36 of this Act is added to and made a part of ORS  
29 chapter 274.

30 **Section 36.** As used in ORS 274.210 to 274.310, "reclamation" includes,  
31 but is not limited to, irrigation.

32 Section 37. ORS 274.210 is amended to read:

33 274.210. The division ~~for and~~ in behalf of the State of Oregon may  
34 enter into contracts for:

1 (1) The drainage ~~and irrigation~~ of *submersible and submerged lands*  
2 *adjoining or underlying* any lakes, marshes or swamps ~~lying~~ in this state,  
3 or for the drainage ~~and irrigation~~ of that part which is in this state ~~of~~  
4 *submersible and submerged lands adjoining or underlying* any lake, marsh  
5 or swamp lying partly in this state and partly in another state, and for  
6 the reclamation of ~~the~~ any such lands ~~forming the beds of or submerged~~  
7 ~~by any such lakes, marshes or swamps~~; and

8 (2) The sale or disposal of such drained and reclaimed lands as pro-  
9 vided for in ORS 274.210 to ~~274.265~~ 274.260.

10 Section 38. ORS 274.220 is amended to read:

11 274.220. (1) Any person desiring to enter into a contract to drain ~~any~~  
12 ~~lake, marsh or swamp lying wholly or partly within this state~~ *submersible*  
13 *and submerged lands under ORS 274.210 to 274.260* and reclaim ~~the land~~  
14 ~~forming the bed thereof or submerged thereby,~~ *such lands* shall file with  
15 the division an application ~~for a contract to drain such lake, marsh or swamp~~  
16 ~~and reclaim such land~~.

17 (2) The applicant ~~shall~~, at his own expense and without any cost or  
18 charge to the state, *shall* make the necessary surveys and prepare a map  
19 of the ~~land~~ *lands* proposed to be reclaimed. The map shall exhibit a plan  
20 showing the ~~submerged~~ *area that is submersible or submerged* and the  
21 mode of the contemplated drainage and reclamation, and shall be ac-  
22 companied by a list of the lands proposed to be drained, with sufficient  
23 description to identify the ~~land, either by legal subdivisions or monuments,~~  
24 ~~all~~ *lands* in accordance with rules promulgated by the division.

25 (3) The application shall contain an estimate of the cost of the con-  
26 struction of the proposed system of drainage *and reclamation*.

27 Section 39. ORS 274.230 is amended to read:

28 274.230. (1) Upon receipt of the application, map and plan of drainage  
29 and reclamation under ORS 274.220, the division may require the State  
30 Engineer to make an investigation and report at the expense of the ap-  
31 plicant. If the project appears feasible and desirable and such applicant  
32 responsible, the division may enter into a contract with the applicant for  
33 construction of the drainage and reclamation works.

1 (2) The applicant shall agree:

2 (a) To drain the ~~lake, marsh or swamp~~ *submersible and submerged*  
3 *lands* substantially in accordance with the plans set forth in the contract;

4 (b) To make such proofs of reclamation as are required by the division;

5 (c) To pay all costs incident to the contract and making of the proof  
6 and any other expense connected therewith;

7 (d) That work will be commenced upon the ditches or other works  
8 necessary for such drainage and reclamation at a time fixed by the division  
9 and agreed upon in the contract;

10 (e) That by the end of the first year after the time fixed in the contract  
11 for beginning such work, 10 percent of the necessary expenditure will be  
12 made; and

13 (f) That this work will be prosecuted with due diligence until complete  
14 and the required proof of reclamation is made.

15 (3) The division shall require a bond subject to its approval in any  
16 sum it finds necessary to insure the faithful performance of the contract.

17 Section 40. ORS 274.240 is amended to read:

18 274.240. (1) Immediately upon execution of the contract, the contractor  
19 undertaking the drainage and reclamation may enter upon the lands  
20 for the purpose of reclaiming the same.

21 (2) The division shall fix the amount to which the contractor is en-  
22 titled for reclaiming the lands ~~by drainage or drainage and irrigation~~ and  
23 shall also fix the amount to be paid to the state for such lands. The division  
24 may permit the contractor to sell or dispose of the ~~land~~ *lands* at such  
25 price and upon such terms as ~~it~~ *the division* may fix in tracts not to  
26 exceed ~~320~~ 640 acres to any one person under such rules as the division  
27 may promulgate governing disposal.

28 (3) Upon proof satisfactory to the division that ~~at least 50 percent of~~  
29 ~~any such tract is producing agricultural crops, and upon proof that~~ the  
30 amount fixed by the division as due for reclamation and the amount due  
31 the State of Oregon has been fully paid, the division shall issue a quit-  
32 claim deed for not more than ~~320~~ 640 acres to the purchaser of such land.

33 Section 41. ORS 274.260 is amended to read:

34 274.260. (1) The title of owners of land riparian to lakes and ponds

1 drained under ORS 274.210 to ~~274.270~~ 274.260 extends to only so much  
2 of the ~~bottom or bed of~~ submersible or submerged lands adjoining or  
3 underlying such lake or pond which may be reclaimed by such drainage  
4 as is required to fill up the fractional subdivision or subdivisions of a sec-  
5 tion which he owns and which are rendered fractional by such lake or  
6 pond, and the title of such owner is so limited when the waters of such  
7 lake or pond receding, because of such drainage, uncover the ~~bed thereof~~  
8 submersible or submerged lands adjoining or underlying such lake or pond.

9 (2) This section shall not affect the right of riparian owners to land  
10 acquired by natural accretion or reliction because of the gradual and  
11 natural recession of the waters of the lake or pond to which the lands of  
12 such owners are riparian.

13 Section 42. ORS 274.280 is amended to read:

14 274.280. *In addition to its powers under ORS 274.210 to 274.260, the*  
15 *division may cause reclamation surveys, plans and specifications to be*  
16 *made for the reclaiming of any unsold swamp ~~and overflow~~ lands and*  
17 *submersible lands under the control of the division ~~for grazing and agri-~~*  
18 *cultural purposes*.

19 Section 43. ORS 274.525 is amended to read:

20 274.525. (1) Any city of the State of Oregon bordering on a navigable  
21 stream may dredge out and use material from submersible and submerged  
22 lands of the stream, owned by the State of Oregon and in front of such  
23 city, for the purpose of filling in or reclaiming the ~~tide lands or mud~~  
24 ~~flats~~ submersible lands within such city, under the rules of the division.  
25 The consent of the appropriate agency of the United States Government  
26 shall be first obtained by such city.

27 (2) Any contractor who has entered into a contract with any such city  
28 to fill in or reclaim any of its ~~tide flats or overflowed~~ submersible lands  
29 may dredge and use such material in the same manner as may be done by  
30 such city.

31 Section 44. ORS 274.550 is amended to read:

32 274.550. (1) The removal of material from submersible and submerged  
33 lands of any navigable stream, owned by the State of Oregon, is author-  
34 ized when the material (a) is removed for channel or harbor improvement

1 or flood control, or (b) is used for filling, diking or reclaiming land located  
2 not more than one-half mile from the bank of the stream, or (c) is used  
3 for filling, diking or reclaiming land owned by the state or any political  
4 subdivision as defined in subsection (1) of ORS 271.300 and located not  
5 more than two miles from the bank of the stream. However, prior to  
6 removal, such person, organization or agency contemplating removal shall  
7 first notify the division ~~†, and the division shall in turn notify the state~~  
8 ~~agencies mentioned in ORS 271.530†.~~

9 (2) No payment of royalty shall be required for such material unless  
10 it is removed from the place deposited and sold or used as an article of  
11 commerce. Before any material may be removed from the place deposited  
12 and sold or used as an article of commerce, the division shall be duly noti-  
13 fied in writing of such intended removal and sale or use as an article of  
14 commerce and payment shall be made to the board of such royalty as it  
15 may fix therefor.

16 (3) In addition to the purposes enumerated in subsection (1) of this  
17 section, any person may take material for his own exclusive use to the  
18 extent of not more than 50 cubic yards in any one year. However, prior  
19 to such taking, the person shall first notify the division ~~†, and the division~~  
20 ~~shall in turn notify the state agencies mentioned in ORS 274.530†.~~

21 Section 45. ORS 274.560 is amended to read:

22 274.560. The division may enter into contract of lease for purposes of  
23 ORS 274.525 to ~~†274.605†~~ 274.590 with such stipulations protecting the in-  
24 terest of the state as the division may require, and shall require a bond  
25 with a surety company authorized to transact a surety business in this  
26 state, as surety, to be given by the lessee for performance of such stipula-  
27 tions, and providing for forfeiture for non-payment or failure to operate  
28 under the contract. No contract shall be entered into giving any person  
29 an option of leasing or purchasing the property of the State of Oregon.  
30 The lessee in all such contracts shall report monthly to the division the  
31 amount of material taken under the contract and pay to the division the  
32 amount of royalty thereon provided in the contract.

33 Section 46. ORS 274.620 is amended to read:

34 274.620. (1) Whenever it appears advisable to the division to offer



1 the submersible and submerged lands of navigable bays and rivers for  
2 leasing under ORS 274.615, or whenever any person files a written appli-  
3 cation with the division requesting that such lands be offered for leasing  
4 under ORS 274.615, accompanying the same with the fee required by the  
5 division, the division ~~+, upon concurrence of a majority of the members~~  
6 ~~thereof,]~~ shall first hold a public hearing in the manner prescribed by ORS  
7 274.755.

8 (2) Before inviting bids on the submersible and submerged lands of  
9 any navigable bays and rivers the division shall cause written notice  
10 describing the area under consideration for bidding, and other pertinent  
11 information to be transmitted in the manner prescribed by ORS 274.755  
12 to the applicant, prospective bidders and the public, and to the officers  
13 designated in ORS 274.755.

14 Section 47. ORS 274.915 is amended to read:

15 274.915. Except as provided in ORS 274.930, the division may sell,  
16 lease or trade submersible or submerged lands owned by the state and new  
17 lands created upon submersible or submerged lands owned by the state  
18 ~~[of Oregon]~~ in the same manner as provided for ~~[tide and overflow]~~ sub-  
19 ~~mersible~~ lands in ORS chapters 273 and 274.

20 Section 48. ORS 274.990 is amended to read:

21 274.990. ~~[(1)]~~ Violation of ~~[any provision of]~~ ORS 274.080, 274.745 or  
22 274.895, or any rule promulgated under ~~[such statute, is punishable, upon~~  
23 ~~conviction, by a fine not exceeding \$500 or imprisonment in the county jail for~~  
24 ~~not more than six months, or both]~~ *such sections, is a misdemeanor.*

25 ~~[(2) Violation of ORS 274.745 is a misdemeanor.]~~

26 ~~[(3) Violation of ORS 274.895 is punishable, upon conviction, by a fine not~~  
27 ~~exceeding \$100 for each offense.]~~

28 Section 49. ORS 352.560 is amended to read:

29 352.560. For the endowment, maintenance and support of Oregon  
30 State University, there is set apart and appropriated the interest on the  
31 *Oregon State University Fund* ~~[which has arisen and which shall hereafter~~  
32 ~~arise]~~ , *arising* from the sale of all lands granted to the State of Oregon,  
33 or to which the state was entitled , under the Act of ~~[Congress to provide~~  
34 ~~colleges for the benefit of agriculture and the mechanic arts to the several~~

1 ~~states and territories, approved~~ July 2, 1862 ~~†~~, and the Acts amendatory  
2 ~~thereof~~ (12 Stat. 503), as amended, or so much thereof as may be necessary.

3 In no case shall the interest arising from ~~†said~~ the fund be applied to the  
4 purchase of sites, or for buildings for Oregon State University, but only  
5 in the payment of the salaries of professors, officers and other current  
6 expenses. The remainder of such interest remaining over at the close of  
7 each fiscal year after the payment of such expenses shall be added to and  
8 become a part of the principal or endowment fund forever.

9 Section 50. ORS 352.570 is amended to read:

10 352.570. All moneys belonging to the Oregon State ~~†College~~ University  
11 Fund shall be loaned by the Division of State Lands in accordance with  
12 ~~†the provisions of~~ ORS 327.425 to 327.455 , governing loans from the Com-  
13 mon School Fund.

14 Section 51. ORS 352.580 is amended to read:

15 352.580. The Division of State Lands shall pay the interest received  
16 on loans from the Oregon State ~~†College~~ University Fund to the State  
17 Board of Higher Education semiannually.

18 Section 52. ORS 352.600 is amended to read:

19 352.600. The ~~†Division of State Lands is authorized and empowered to~~  
20 State Land Board shall execute the trust created by the last will and testa-  
21 ment of John T. Apperson, deceased ~~†~~, and as such trustee ~~to~~ . On behalf of  
22 such trustee, the Division of State Lands shall administer the fund pro-  
23 vided for and designated in ~~†said~~ the will as the J. T. Apperson Agricul-  
24 tural College Educational Fund.

25 Section 53. ORS 352.610 is amended to read:

26 352.610. The Division of State Lands on behalf of the State Land  
27 Board may accept, receive, own, hold, sell and dispose of any and all real  
28 and personal property given, devised or bequeathed to ~~†it~~ the board by  
29 John T. Apperson in trust for the purpose of creating the J. T. Apperson  
30 Agricultural College Educational Fund. The ~~†trustee of said fund~~ division  
31 shall manage and use it in accordance with the directions contained in the  
32 will of John T. Apperson, deceased, for the purpose of defraying the ex-  
33 penses and assisting in the education at Oregon State University of  
34 deserving young men and women who are actual bona fide residents of

1 Oregon and are unable to bear the expense of a collegiate course at ~~that~~  
2 *that* institution.

3 Section 54. ORS 352.620 is amended to read:

4 352.620. The *Director of the* Division of State Lands may execute all  
5 deeds, conveyances, contracts, mortgage releases and all other instruments  
6 necessary to be executed by the ~~trustees~~ *division* in carrying out the  
7 terms of the trust referred to in ORS 352.600. All such deeds and other  
8 instruments may be executed in manner and form as prescribed by the  
9 division and shall be entitled to record without acknowledgment.

10 Section 55. ORS 352.630 is amended to read:

11 352.630. All necessary expenses incurred by the Division of State  
12 Lands in connection with the administration of the trust referred to in  
13 ORS 352.600 shall be payable out of the fund referred to in that section.  
14 The division may make such rules ~~and regulations~~ as it ~~may deem~~  
15 *considers* necessary for the transaction of business and carrying out ~~the~~  
16 ~~provisions of~~ ORS 352.600 to 352.640.

17 Section 56. ORS 352.640 is amended to read:

18 352.640. The Division of State Lands ~~as trustee shall~~ annually, on  
19 October 1, *shall* make and file with the Secretary of State a full report  
20 of the condition of the fund referred to in ORS 352.600, showing the  
21 amount thereof, moneys outstanding and any other data necessary to a  
22 full understanding of its conditions ~~+, which report the Secretary of State~~ .  
23 *The division* shall include ~~in his~~ *a summary of this report in its biennial*  
24 *report to the legislature under ORS 273.181.*

25 Section 57. ORS 520.055 is amended to read:

26 520.055. (1) The board has jurisdiction and authority over all persons  
27 and property necessary to enforce effectively this chapter and all other  
28 laws relating to the conservation of oil and gas.

29 (2) In addition to and not in lieu of any other powers granted under  
30 this chapter, the Department of Geology and Mineral Industries and its  
31 governing board may in compliance with ORS 520.105 promulgate reason-  
32 able rules, regulations and orders necessary to regulate geological, geo-  
33 physical and seismic surveys on, and operations to remove oil, gas and

1 sulphur from the ~~[tide and]~~ tidal submerged and submersible lands of  
2 this state under ORS 274.705 to ~~[274.865]~~ 274.860.

3 Section 58. ORS 530.480 is amended to read:

4 530.480. As the Common School Forest Lands are determined as re-  
5 quired by ORS 530.450 to 530.520, such lands shall be described by legal  
6 subdivision ~~[, and]~~. The State Land Board and the State Board of Forestry,  
7 respectively in their regular meetings, shall by separate board resolutions  
8 designate and set aside such lands as a part of the Common School Forest  
9 Lands; lands in the Elliott State Forest, as determined by ORS 530.450,  
10 shall be similarly described and reserved. A ~~[certified]~~ copy of each  
11 board resolution *certified by the Director of the Division of State Lands*  
12 *or the State Forester, respectively*, together with the description of the  
13 lands involved, shall be filed with the Secretary of State, who shall keep  
14 such copies and descriptions in conjunction with the auditing records of  
15 the State Forestry Department Account.

16 Section 59. ORS 530.510 is amended to read:

17 530.510. ~~[(1)]~~ The State Forester ~~[hereby is authorized to]~~ may propose  
18 and initiate any exchange of land of the Elliott State Forest or Common  
19 School Forest Lands, or propose and initiate any exchange of timber on  
20 such lands, for land of approximately equal aggregate value, when any  
21 such exchange is in the furtherance of the purposes of ORS 530.450 to  
22 530.520 ~~[, provided,]~~. However ~~[, that]~~ :

23 (1) Any exchange of land of the Elliott State Forest ~~[shall]~~ must be for  
24 the consolidation of ~~[said]~~ the forest; ~~[and provided further, that]~~

25 (2) The State Land Board and the State Board of Forestry shall, each  
26 separately, approve such exchanges by resolutions of the respective boards  
27 ~~[,]~~; and ~~[provided, further, that]~~

28 (3) The county court or board of county commissioners of the county,  
29 or counties, in which such land is situated, shall approve such exchange,  
30 and after such approval the exchanges shall be consummated by legal  
31 conveyance from the ~~[State Land Board]~~ *Division of State Lands*.

32 ~~[(2)]~~ (4) Under the authority granted in this section, in addition to  
33 land to be exchanged, a monetary consideration may be provided or re-  
34 ceived where necessary to make the values comply with this section. No

1 exchange shall be made until title to the lands to be received has been  
2 approved by the Attorney General. All lands received in exchange shall  
3 have the same status and be subject to the same provisions of law as the  
4 lands given in exchange therefor.

5 Section 60. ORS 551.160 is amended to read:

6 551.160. The ~~county court~~ governing body of any county shall have  
7 the powers provided for it in this chapter to regulate the building and  
8 maintenance of dikes and dams for the purpose of reclaiming and im-  
9 proving *submersible* lands ~~[subject to tide overflow]~~, as defined in ORS  
10 274.005, or lands subject to overflow by freshets, and for the purpose of  
11 protecting lands from overflow where great damage is liable to be caused  
12 thereby.

13 Section 61. ORS 567.255 is amended to read:

14 567.255. In order to investigate and demonstrate the conditions under  
15 which useful plants, grains and fruits may be grown on ~~[tide]~~ *submersible*  
16 lands, reclaimed swamp lands and logged-off lands in this state and to  
17 determine the kinds of plants, grains and fruits best adapted for growth  
18 on such lands, there is established an agricultural experimental station  
19 in Clatsop County in such place as may be selected by the board of higher  
20 education. The station shall be known as the John Jacob Astor Agricul-  
21 tural Experiment Station.

22 Section 62. ORS 778.100 is amended to read:

23 778.100. (1) Whenever the port in the exercise of any powers possessed  
24 by it contemplates the filling or reclamation of any low, swamp or ~~[over-~~  
25 ~~flowed]~~ *submersible* land within its territory held in private ownership,  
26 it may provide by ordinance for assessment by the board of the damages  
27 and benefits to be sustained by and to accrue to such land by reason of  
28 the filling or reclamation in which the question of channel frontage as  
29 well as filling shall be considered in assessing benefits, may provide for  
30 payment to the owner of the land of such damages and may provide for  
31 creation of a lien upon the land in favor of the port for the amount of such  
32 benefits and payment of the amount of such lien, either in cash or in in-  
33 stalments, with interest thereon over a term of years.

34 (2) The ordinance shall provide for a hearing before the board upon

1 due notice to all owners of and persons interested in the lands to be  
2 affected by the assessment of damages and benefits before the assessment  
3 is made.

4 (3) Provision shall be made by the ordinance for an appeal to the  
5 Circuit Court for Multnomah County by any owner or person interested  
6 in any land affected, who considers himself aggrieved by such assessment.  
7 Jurisdiction to hear the appeals and review the assessments is granted  
8 to the Circuit Court of Multnomah County.

9 **Section 63.** ORS 273.221, 273.380, 274.035 and 274.523 are repealed.

10 **Section 64.** This Act does not affect the validity of any acts heretofore  
11 performed by the State Land Board, the Division of State Lands or the  
12 Director of the Division of State Lands, including but not limited to the  
13 making and promulgation of rules and the execution of documents author-  
14 ized by law. This Act does not impair any privilege granted, right ac-  
15 quired or penalty incurred under any law of this state prior to the effective  
16 date of this Act.

17 **Section 65.** Sections 9, 10 and 14 of this Act do not become operative  
18 until July 1, 1970.

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A BILL FOR  
AN ACT

Relating to public lands; creating new provisions; amend-  
ing ORS 164.470, 273.006, 273.055, 273.075, 273.081,  
273.085, 273.111, 273.115, 273.121, 273.145, 273.151,  
273.155, 273.225, 273.231, 273.251, 273.265, 273.271,  
273.281, 273.300, 273.311, 273.316, 273.326, ~~273.382~~,  
273.384, 273.511, 273.990, 274.005, 274.040, 274.060,  
274.075, 274.210, 274.220, 274.230, 274.240, 274.260,  
274.280, 274.310, 274.525, 274.550, 274.560, 274.620,  
274.915, 274.990, 352.560, 352.570, 352.580, 352.600,  
352.610, 352.620, 352.630, 352.640, 520.055, 530.480,  
530.510, 551.160, 567.255 and 778.100; repealing ORS  
273.105, 273.221, 273.380, 274.035 and 274.523;  
providing penalties; and prescribing an effective date.

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

Section 1. ORS 164.470 is amended to read:

164.470. Any person [, firm or corporation] who cuts  
timber or slashing, or digs, pulls or cuts stumps for the  
purpose of clearing land [for agricultural purposes, which  
land is] subject to overflow along or adjacent to the banks

of any stream within this state, without burning or removing the timber, slashing or stumps before [the same or] any part thereof is carried away by flood or high water, shall be punished upon conviction [by a fine of not more than \$500 nor less than \$25, or by imprisonment in the county jail for not less than one month nor more than six months] as for a misdemeanor.

Section 2. ORS 273.006 is amended to read:

273.006. As used in this chapter, unless the context requires otherwise:

(1) "Board" means the State Land Board.

(2) "County recording officer" means the recorder of conveyances, county clerk or other county officer carrying out ORS 205.130 to 205.230.

(3) "Director" means the Director of the Division of State Lands.

(4) "Division" means the Division of State Lands.

(5) "Land" includes water, water rights, easements of every nature and all appurtenances to land.

(6) "Material" includes gravel, rock, sand and silt, but does not include hard minerals subject to ORS 274.611 to 274.645, or oil, gas and sulphur subject to ORS 274.705 to 274.860.

Section 3. ORS 273.055 is amended to read:

273.055. If it finds it advisable in carrying out its



duties, the division [may take title] in the name of the State of Oregon [in fee simple] may take title to real and personal property in fee simple or absolutely, in trust or under such other conditions as it considers advisable, and may convey title thereto or execute agreements necessary to carry out its duties.

Section 4. ORS 273.075 is amended to read:

273.075. [Where] When lands formerly belonging to the State of Oregon are disposed of and final payment has been made, the [division] director shall execute and deliver to the purchaser a deed in a manner and form prescribed by the rules of the division, conveying all right, title and interest which the state may have in and to such lands, except as otherwise provided by law.

Section 5. ORS 273.081 is amended to read:

273.081. The director may execute on behalf of the division all documents required to carry out its powers and duties, in the [same] manner and form [that he may execute deeds under ORS 273.306] prescribed by the rules of the division. All documents so executed shall be admitted to record without acknowledgment.

Section 6. ORS 273.085 is amended to read:

273.085. Copies of any document executed by the [division] director, or executed by the State Land Board before January 1, 1968, and certified by the director,

are entitled to record in the office of any county recording officer. Documents affecting the title to real property shall be recorded in the county where such real property is situated; copies of all other documents executed by the division may be recorded in any county designated by the division.

66  
Section 7. ORS 273.105 is repealed, and section 8 of this Act is enacted in lieu thereof.

67  
Section 8. The Distributable Income Account is established within the Common School Fund. The division shall administer this account in accordance with section 4, Article VIII, Oregon Constitution, and applicable laws. The interest on moneys in the Common School Fund shall be credited to the Distributable Income Account.

Section 9. ORS 273.111 is amended to read:

273.111. There are appropriated such sums of money [not otherwise appropriated, for use from time to time,] as are necessary to carry out the purposes of ORS 274.280 [and 274.290] to 274.310, out of the Common School Fund in an amount not to exceed the net receipts from [the sale of material, as defined in ORS 274.523, from the submersible and submerged lands of navigable streams in this state. Such sums of money shall be deposited in the State Treasury in a special account to be known as the Swamp and Overflow Land Reclamation Fund] operations under ORS 274.530. When sufficient funds become available from the

proceeds of the sale or lease of [such] reclaimed lands, all money appropriated by this section and expended pursuant to ORS 274.280 to 274.310 shall be repaid to the Common School Fund.

6/ Section 10. (1) The Swamp and Overflow Land Reclamation Fund, maintained under ORS 273.111 before its amendment by section 9 of this Act, is abolished. On the operative date of this section all moneys in the Swamp and Overflow Land Reclamation Fund shall revert to the Common School Fund. Such moneys shall not be credited to the Distributable Income Account, but are subject to appropriation as provided in ORS 273.111.

(2) Expenses and obligations incurred before the operative date of this section, payable under the law then in effect out of the Swamp and Overflow Land Reclamation Fund, shall be paid, in the same manner as other claims against the state are paid after the operative date of this section out of moneys in the Common School Fund.

Section 11. ORS 273.115 is amended to read:

273.115. The necessary expenses of the division, including but not limited to the salaries of the director and employees of the division and of rentals under ORS 276.412, if required, shall be paid out of the [Distributable Income Account established under ORS 273.105. However, no such expenses shall be paid to the extent that the balance of the account after payment would be less than an amount

equal to current receipts credited to the account pursuant to ORS 530.520] Common School Fund.

Section 12. ORS 273.121 is amended to read:

273.121. Notwithstanding any other provision of law, all funds under the control of the division shall be expended by warrant drawn [by the Secretary of State] on the State Treasurer, and then only upon proper claim approved by the director or his authorized representative submitted to the Secretary of State for audit.

Section 13. ORS 273.225 is amended to read:

273.225. Before any person shall take any material from any real property of the State of Oregon, except in the manner and for the purposes mentioned in ORS 274.525 or 274.550, he shall apply to the division for a lease [under ORS 274.530]. The application shall include a complete description of the location of the contemplated operation, the time and manner of contemplated removal, and such other pertinent information as the [board] division may require. Upon receipt of such application the division may award a lease to the applicant [as] and fix a royalty in the same manner provided in ORS 274.530 [and fix a royalty].

Section 14. ORS 274.310 is amended to read:

274.310. All costs in connection with the surveys and construction of any reclamation project pursuant to ORS 274.280 [and 274.290] to 274.310 shall be paid [by voucher drawn against the Swamp and Overflow Land Reclamation Fund

established] out of moneys appropriated under ORS [274.300] 273.111, when approved by the division.

Section 15. ORS 273.145 is amended to read:

273.145. The division may enter into contracts with any person owning lands adapted to the purposes of ORS [273.055, 273.075, 273.145 to 273.155,] 273.316 [, 273.326] to 273.345 and 273.511, for the subdivision, settlement and sale of all or any portion thereof, under the direction and supervision of the division and such conditions as may be agreed to.

Section 16. ORS 273.151 is amended to read:

273.151. The division may cooperate with the Federal Government for the development, settlement, subdivision and disposition of lands belonging to the State of Oregon, or which otherwise may be made available for carrying out the purposes of ORS [273.055, 273.075, 273.145 to 273.155,] 273.316 [, 273.326] to 273.345 and 273.511. In such cooperation, the division may provide the lands but the Federal Government shall provide the money necessary to meet the expenses of reclamation, subdivision, necessary improvement and equipment.

Section 17. ORS 273.155 is amended to read:

273.155. The division, in carrying out its duties [under ORS 273.145 to 273.155, 273.326 and 273.331], may call upon all related state and county agencies, including

Oregon State University and any state or county officers through whom necessary information and aid may be received. Such agencies, institution and officers shall cooperate with the division without additional compensation.

Section 18. ORS 273.231 is amended to read:

273.231. (1) No person shall remove material from any real property of the State of Oregon for commercial uses without complying with ORS 273.225, 274.550 and 274.560.

(2) The establishment or placing of a dredging or digging outfit on any waters, the submersible or submerged lands of which belong to the State of Oregon, and the removal of material from the submersible or submerged lands thereof for commercial uses, without having applied for and received a lease under ORS 274.530, is a continuing trespass.

Section 19. ORS 273.251 is amended to read:

273.251. Unless the context or a specially applicable definition requires otherwise, state lands are classified as follows:

(1) "Agricultural college lands." Lands granted to the state by the Act of July 2, 1862 (12 Stat. 503), and otherwise, for the support and maintenance of Oregon State University.

(2) "Farm lands." Lands acquired by deed, gift, operation of law, or by the foreclosure of mortgages taken

to secure loans from the common school, agricultural college, university or other funds.

(3) "Indemnity lands." Lands selected to satisfy losses in sections 16 and 36, as provided by sections 851 and 852 of title 43, United States Code, as amended, or any other laws of the United States.

(4) "School lands":

(a) Sections 16 and 36 in each township granted to the state by the Act of February 14, 1859 (11 Stat. 383).

(b) Lands selected for internal improvements under the Act of September 4, 1841 (5 Stat. 455), and diverted for common schools with the consent of Congress by the Joint Resolution of February 9, 1871 (16 Stat. 595).

(c) Lands selected for capitol building purposes under the Act of February 14, 1859 (11 Stat. 383).

(5) "Swamp lands." Lands claimed by the state under the Act of September 28, 1850 (9 Stat. 519), and extended to the State of Oregon by the Act of March 12, 1860 (12 Stat. 3).

(6) "Submerged lands." Lands defined as submerged by ORS 274.005.

[(6) "Tide and overflow] (7) "Submersible lands."  
[All] Lands [over which the tide ebbs and flows from the line of ordinary high tide to the line of mean low tide, and all islands, shore lands and other such lands held by the state by virtue of her sovereignty] defined as submersible by ORS 274.005.

[(7)] (8) "University lands." Lands granted to the state under the Act of February 14, 1859 (11 Stat. 383), for the support and maintenance of the University of Oregon.

Section 20. ORS 273.265 is amended to read:

273.265. (1) If application is made for the purchase of [tide or overflow] submersible lands, the applicant must cause such lands to be surveyed at his expense by a surveyor, whose selection is subject to prior approval by the division. The survey must connect with and conform to adjacent surveys acceptable to the division, so far as practicable. The applicant must submit to the division, with his application, an accurate map of the lands applied for, showing the boundaries and stating the area. The map must be verified by the surveyor before an officer authorized by law to administer oaths.

(2) Each application to purchase [tide or overflow] submersible lands must, in addition to all other requirements, contain the applicant's statement that application is made with knowledge of the character of the land applied for and the title of the state thereto, and his waiver of all claims upon the state for the return of the purchase price of the lands in the event that the lands, or any part thereof, do not belong to the state.

Section 21. ORS 273.271 is amended to read:

273.271. (1) An eligible individual may apply to



purchase not more than 640 acres of each of the following classes of land: School, indemnity, university, agricultural college, swamp[,] or [tide and overflow] submersible lands.

(2) This section shall not interfere with the issuance of deeds to the holders of assignments of certificates of sale as provided in ORS 273.295, nor shall the limitations of this section apply to [municipal corporations] political subdivisions in this state purchasing such lands for any public use.

Section 22. ORS 273.281 is amended to read:

273.281. The division shall require applicants [to] for the purchase [tide and overflow] of submersible lands to pay in full for such lands at the time of purchase. Applicants [to] for the purchase of school, agricultural college, university, swamp or indemnity lands shall make payments at such times, and with such interest for deferred payments as the division may prescribe. However, the obligation may not be allowed to stand for a longer period than five years [from] after the date of issuance of the certificate under ORS 273.285.

Section 23. ORS 273.300 is amended to read:

273.300. Whenever any purchaser of state lands holding a certificate of sale therefor[,] has paid three-fifths or more of the purchase price thereof, the [division] director may [issue] execute a deed conveying the lands

to such purchaser, upon [his] the purchaser's executing:

(1) A note for the remainder of the purchase price;  
and

(2) A mortgage on the premises in the same form and manner as other mortgages are executed for loans from the Common School Fund under ORS 327.405. to 327.480.

Section 24. ORS 273.311 is amended to read:

273.311. (1) In all cases where clerical errors have been made in deeds for any state lands sold, upon satisfactory proof and if the rights of innocent parties have not intervened, the [division] director may execute corrected deeds to the holders thereof.

(2) Where lands, other than [tide or overflowed] submersible lands and unsurveyed or unpatented swamp lands have been sold and the state cannot convey title to the purchaser, the division shall repay the purchaser, his heirs or assigns, all sums which may have been paid to the division on the purchase price of the lands, including the interest paid upon deferred payments, upon the presentation of a proper application for repayment, satisfactory proof and the surrender of the certificate; or if deed has been issued, upon reconveyance by executed and recorded quitclaim deed of whatever title or color of title was received from the state.

(3) Where a certificate of sale has been issued by

the division upon a fraudulent application and the certificate is held by assignment by a third party who had no knowledge of the fraud at the time of assignment, the division may refund to the holder such sums as were paid the division on the purchase price of the lands covered by the certificate, including the interest paid upon deferred payments, upon his making proper application to the division for repayment and surrendering for cancellation the certificate and assignment.

Section 25. ORS 273.316 is amended to read:

273.316. (1) The division may exchange any state lands under its control for any other lands in this state for the purpose of accumulating larger and contiguous tracts of state lands. The division may enter into the necessary contracts to accomplish such purposes, subject to the rights of lessees under ORS 273.321. The exchange may be made on the basis of value or acreage, and the division may pay or accept money as part of the consideration to the extent required for a fair transaction.

[(2) The object of this section is to authorize the division to exchange isolated tracts of state lands for larger and contiguous tracts of lands suitable for development and settlement or lands valuable for their timber.]

[(3)] (2) The object of this section is to authorize the division to exchange isolated tracts of state lands

for the purpose of accumulating larger and contiguous tracts of state lands.

Section 26. ORS 273.326 is amended to read:

273.326. In all cases where the division believes that any [state] lands were acquired from the state by fraud or in violation of the laws relating to the disposal thereof, it may:

(1) Enter into contracts with the persons asserting ownership thereto for the subdivision and sale thereof on conditions agreed upon by the contracting parties; or

(2) Exchange or accept in lieu thereof other lands suitable for settlement and development or valuable for timber. The division may enter into contracts for disposal and settlement of such other lands as in the case of the lands first mentioned in this section[; or].

[(3) Cooperate with the Federal Government and state agencies, subject to ORS 273.151 and 273.155.]

Section 27. ORS 273.382 is amended to read:

273.382. As used in ORS 273.382 to 273.386, unless the context requires otherwise:

[(1) "Additional cost of acquisition" means the total outlay in money and in property made on the part of the State of Oregon in the acquisition and establishment of the Space Age Industrial Park in excess of the sum of \$900,000 appropriated by ORS 273.380.]

[(2)] "Boardman Precision Bombing Range" means the United States War Department -- Boardman Precision Bombing Range -- approved February 17, 1947 (Official Drawing No. 0-31-52).]

[(3)] (1) "Director" means the Director of Veterans' Affairs.

[(4)] (2) "Lease" means [that certain] the lease dated July 2, 1963, between the State of Oregon, acting by and through the State Land Board, as the lessor, and The Boeing Company, a Delaware corporation, as the lessee.

[(5)] (3) "Space Age Industrial Park" means all land and property comprising the leased premises particularly described in the lease and any other land or property [hereafter] added thereto as provided in the lease.

Section 28. ORS 273.384 is amended to read:

273.384. (1) The Space Age Industrial Park shall be managed and administered by the Director of Veterans' Affairs for the benefit of the Oregon War Veterans' Bond Sinking Fund.

(2) Notwithstanding the provisions of any law, all net income and other net proceeds derived from the rental, sale, disposition or use of the Space Age Industrial Park (after payment of all costs and expenses incident to the maintenance and administration of the Space Age Industrial

Park and costs incident to any sale or other disposition thereof) shall be deposited in the State Treasury and credited to the Oregon War Veterans' Bond Sinking Fund.

Section 29. ORS 273.511 is amended to read:

273.511. The division shall ascertain the amount of land to which it is entitled under the Acts of Congress relative to [overflow] submersible and swamp lands, acquire title thereto and enter into contracts for drainage and reclamation in order that the lands may be available for development and settlement.

Section 30. ORS 273.990 is amended to read:

273.990. Violation of ORS 273.231 is [punishable, upon conviction, by a fine of not more than \$1,000, or by imprisonment for not more than 250 days, or both] a misdemeanor.

Section 31. ORS 274.005 is amended to read:

274.005. As used in this chapter, unless the context requires otherwise:

(1) "Director" means the Director of the Division of State Lands.

(2) "Division" means the Division of State Lands.

(3) "Line of ordinary high water" means the line on the bank or shore to which the high water ordinarily rises annually in season.

(4) "Line of ordinary low water" means the line on

the bank or shore to which the low water ordinarily recedes annually in season.

(5) "Land" includes water, water rights, easements of every nature and all appurtenances to land.

(6) "Material" includes gravel, rock, sand and silt, but does not include hard minerals subject to ORS 274.611 to 274.645, or oil, gas and sulphur subject to ORS 274.705 to 274.860.

~~[(5)]~~ (7) "Submerged lands," except as provided in ORS 274.705, means lands lying below the line of ordinary low water of all navigable waters within the boundaries of this state as heretofore or hereafter established, whether such waters are tidal or nontidal.

~~[(6)]~~ (8) "Submersible lands", except as provided in ORS 274.705 means lands lying between the line of ordinary high water and the line of ordinary low water of all navigable waters and all islands, shore lands or other such lands held by or granted to this state by virtue of her sovereignty, wherever applicable, within the boundaries of this state as heretofore or hereafter established, whether such waters or lands are tidal or nontidal.

~~[(7)]~~ "Tide and overflow lands" has the meaning defined by ORS 273.251.]

Section 32. ORS 274.040 is amended to read:

274.040. (1) Except as provided in subsection (2)

of this section, [tide and overflow] submersible lands owned by the State of Oregon may be sold or leased only to the highest bidder after being advertised not less than once each week for four successive weeks in two or more newspapers of general circulation in the state, one of which must be of general circulation in the county in which the lands are situated. However:

(a) No such lands shall be sold for less than \$5 per acre.

(b) Any owner of lands abutting or fronting on such [tide and overflow] submersible lands shall have the preference right to lease or purchase at the highest price offered in good faith. This preference does not apply as to any lease offered or issued by the division under ORS 274.615 or 274.705 to 274.860.

[(c) No accretions to islands heretofore sold by the state shall be leased.]

(2) The division may grant to any person holding a permit from the State Engineer authorizing the impoundment for beneficial use of the waters of any lake or stream, easements or licenses over [tide and overflow lands, including the shores of navigable lakes and streams,] submersible lands for flowage and storage of waters, and for the construction, maintenance and operation of any structures or facilities necessary for the use of the water under the



terms of the permit upon payment of just compensation by the grantee. Such an easement or license shall not be construed to be a sale or lease of the [tide or overflow] submersible lands within the [purview] meaning of subsection (1) of this section.

(3) All easements or licenses granted pursuant to subsection (2) of this section shall be subject to conditions that will assure the safety of the public and the preservation of economic, scenic and recreational values and to lawful rules promulgated by state agencies affected by the activities of the grantee or licensee.

Section 33. ORS 274.060 is amended to read:

274.060. (1) Nothing in ORS 274.040 prevents the Legislative Assembly [, or the governing body of a city in this state] from [regulating] providing for regulation of the building of wharves or other improvements in any bay, harbor or inlet of this state, or grants the exclusive right to any person to use the natural oyster beds of this state.

(2) The grantee of any [tide and overflow] submersible lands under ORS 274.040 shall hold the same subject to the easement of the public, under the provisions and restrictions of law, to enter thereon and remove oysters and other shell fish therefrom.

Section 34. ORS 274.075 is amended to read:

274.075. (1) Notwithstanding ORS [274.070] 390.720,

the division may grant easements and licenses for pipe lines, cable lines and other conduits across and under the ocean shore, as defined in ORS 390.710, and the adjacent submerged lands, upon payment of just compensation by the grantee. Such an easement or license is not a sale or lease of [tide and overflow] submersible lands within the [purview] meaning of ORS 274.040.

(2) All easements or licenses granted pursuant to this section shall be subject to conditions that will assure the safety of the public and the preservation of economic, scenic and recreational values and to lawful rules promulgated by state agencies affected by the activities of the grantee or licensee.

(3) No easement or license shall be granted for a term exceeding 99 years.

(4) Easements and licenses granted under this section shall not be valid unless filed for record by the grantee or licensee in the deed records of the county or counties wherein the property affected by the grant or privilege is located not later than the 30th day after the date of execution thereof.

bf Section 35. Section 36 of this Act is added to and made a part of ORS chapter 274.

bf Section 36. As used in ORS 274.210 to 274.310, "reclamation" includes, but is not limited to, irrigation.

Section 37. ORS 274.210 is amended to read:

274.210. The division [for and] in behalf of the State of Oregon may enter into contracts for:

(1) The drainage [and irrigation] of submersible and submerged lands adjoining or underlying any lakes, marshes or swamps [lying] in this state, or for the drainage [and irrigation] of that part which is in this state[,] of submersible and submerged lands adjoining or underlying any lake, marsh or swamp lying partly in this state and partly in another state, and for the reclamation of [the] any such lands [forming the beds of or submerged by any such lakes, marshes or swamps]; and

(2) The sale or disposal of such drained and reclaimed lands as provided for in ORS 274.210 to ~~[274.265]~~ <sup>274.260</sup>

Section 38. ORS 274.220 is amended to read:

274.220. (1) Any person desiring to enter into a contract to drain [any lake, marsh or swamp lying wholly or partly within this state] submersible and submerged lands under ORS 274.210 to ~~274.270~~ <sup>280</sup> and reclaim [the land forming the bed thereof or submerged thereby,] such lands shall file with the division an application [for a contract to drain such lake, marsh or swamp and reclaim such land].

(2) The applicant [shall], at his own expense and without any cost or charge to the state, shall make the necessary surveys and prepare a map of the [land] lands

proposed to be reclaimed. The map shall exhibit a plan showing the [submerged] area that is submersible or submerged and the mode of the contemplated drainage and reclamation, and shall be accompanied by a list of the lands proposed to be drained, with sufficient description to identify the [land, either by legal subdivisions or monuments, all] lands in accordance with rules promulgated by the division.

(3) The application shall contain an estimate of the cost of the construction of the proposed system of drainage and reclamation.

Section 39. ORS 274.230 is amended to read:

274.230. (1) Upon receipt of the application, map and plan of drainage and reclamation under ORS 274.220, the division may require the State Engineer to make an investigation and report at the expense of the applicant. If the project appears feasible and desirable and such applicant responsible, the division may enter into a contract with the applicant for construction of the drainage and reclamation works.

(2) The applicant shall agree:

(a) To drain the [lake, marsh or swamp] submersible and submerged lands substantially in accordance with the plans set forth in the contract;

(b) To make such proofs of reclamation as are required by the division;

(c) To pay all costs incident to the contract and making of the proof and any other expense connected therewith;

(d) That work will be commenced upon the ditches or other works necessary for such drainage and reclamation at a time fixed by the division and agreed upon in the contract;

(e) That by the end of the first year after the time fixed in the contract for beginning such work, 10 percent of the necessary expenditure will be made; and

(f) That this work will be prosecuted with due diligence until complete and the required proof of reclamation is made.

(3) The division shall require a bond subject to its approval in any sum it finds necessary to insure the faithful performance of the contract.

Section 40. ORS 274.240 is amended to read:

274.240. (1) Immediately upon execution of the contract, the contractor undertaking the drainage and reclamation may enter upon the lands for the purpose of reclaiming the same.

(2) The division shall fix the amount to which the contractor is entitled for reclaiming the lands [by drainage or drainage and irrigation] and shall also fix the amount to be paid to the state for such lands. The division may permit the contractor to sell or dispose of the [land] lands at such price and upon such terms as [it] the division may fix in

tracts not to exceed [320] 640 acres to any one person under such rules as the division may promulgate governing disposal.

(3) Upon proof satisfactory to the division that [at least 50 percent of any such tract is producing agricultural crops, and upon proof that] the amount fixed by the division as due for reclamation and the amount due the State of Oregon has been fully paid, the division shall issue a quitclaim deed for not more than [320] 640 acres to the purchaser of such land.

Section 41. ORS 274.260 is amended to read:

274.260. <sup>(1)</sup> The title of owners of land riparian to lakes and ponds drained under ORS 274.210 to <sup>274.260</sup> [274.270] extends to only so much of the [bottom or bed of] submersible or submerged lands adjoining or underlying such lake or pond which may be reclaimed by such drainage as is required to fill up the fractional subdivision or subdivisions of a section which he owns and which are rendered fractional by such lake or pond, and the title of such owner is so limited when the waters of such lake or pond receding, because of such drainage, uncover the [bed thereof] submersible or submerged lands adjoining or underlying such lake or pond.

(2) This section shall not affect the right of riparian owners to land acquired by natural accretion or reliction because of the gradual and natural recession of the waters of the lake or pond to which the lands of such owners are riparian.

Section 42. ORS 274.280 is amended to read:

274.280. In addition to its powers under ORS 274.210<sup>✓</sup>  
<sup>260</sup>to 274.270, the division may cause reclamation surveys, plans and specifications to be made for the reclaiming of any unsold swamp [and overflow] lands and submersible lands under the control of the division [, for grazing and agricultural purposes].

Section 43. ORS 274.525 is amended to read:

274.525. (1) Any city of the State of Oregon bordering on a navigable stream may dredge out and use material from submersible and submerged lands of the stream, owned by the State of Oregon and in front of such city, for the purpose of filling in or reclaiming the [tide lands or mud flats] submersible lands within such city, under the rules of the division. The consent of the appropriate agency of the United States Government shall be first obtained by such city.

(2) Any contractor who has entered into a contract with any such city to fill in or reclaim any of its [tide flats or overflowed] submersible lands may dredge and use such material in the same manner as may be done by such city.

Section 44. ORS 274.550 is amended to read:

274.550. (1) The removal of material from submersible and submerged lands of any navigable stream, owned by the State of Oregon, is authorized when the material (a) is

removed for channel or harbor improvement or flood control, or (b) is used for filling, diking or reclaiming land located not more than one-half mile from the bank of the stream, or (c) is used for filling, diking or reclaiming land owned by the state or any political subdivision as defined in subsection (1) of ORS 271.300 and located not more than two miles from the bank of the stream. However, prior to removal, such person, organization or agency contemplating removal shall first notify the division[, and the division shall in turn notify the state agencies mentioned in ORS 274.530].

(2) No payment of royalty shall be required for such material unless it is removed from the place deposited and sold or used as an article of commerce. Before any material may be removed from the place deposited and sold or used as an article of commerce, the division shall be duly notified in writing of such intended removal and sale or use as an article of commerce and payment shall be made to the board of such royalty as it may fix therefor.

(3) In addition to the purposes enumerated in subsection (1) of this section, any person may take material for his own exclusive use to the extent of not more than 50 cubic yards in any one year. However, prior to such taking, the person shall first notify the division[, and the division shall in turn notify the state agencies mentioned in ORS 274.530].



Section 45. ORS 274.560 is amended to read:

274.560. The division may enter into contract of lease for purposes of ORS 274.525 to [274.605] 274.590 with such stipulations protecting the interest of the state as the division may require, and shall require a bond with a surety company authorized to transact a surety business in this state, as surety, to be given by the lessee for performance of such stipulations, and providing for forfeiture for non-payment or failure to operate under the contract. No contract shall be entered into giving any person an option of leasing or purchasing the property of the State of Oregon. The lessee in all such contracts shall report monthly to the division the amount of material taken under the contract and pay to the division the amount of royalty thereon provided in the contract.

Section 46. ORS 274.620 is amended to read:

274.620. (1) Whenever it appears advisable to the division to offer the submersible and submerged lands of navigable bays and rivers for leasing under ORS 274.615, or whenever any person files a written application with the division requesting that such lands be offered for leasing under ORS 274.615, accompanying the same with the fee required by the division, the division [, upon concurrence of a majority of the members thereof,] shall first hold a public hearing in the manner prescribed by ORS 274.755.

(2) Before inviting bids on the submersible and submerged lands of any navigable bays and rivers the division shall cause written notice describing the area under consideration for bidding, and other pertinent information to be transmitted in the manner prescribed by ORS 274.755 to the applicant, prospective bidders and the public, and to the officers designated in ORS 274.755.

Section 47. ORS 274.915 is amended to read:

274.915. Except as provided in ORS 274.930, the division may sell, lease or trade submersible or submerged lands owned by the state and new lands created upon submersible or submerged lands owned by the state [of Oregon] in the same manner as provided for [tide and overflow] submersible lands in ORS chapters 273 and 274.

Section 48. ORS 274.990 is amended to read:

274.990. [(1)] Violation of [any provision of] ORS 274.080, 274.745 or 274.895, or any rule promulgated under [such statute, is punishable, upon conviction, by a fine not exceeding \$500 or imprisonment in the county jail for not more than six months, or both] such sections, is a misdemeanor.

[(2)] Violation of ORS 274.745 is a misdemeanor.]

[(3)] Violation of ORS 274.895 is punishable, upon conviction, by a fine not exceeding \$100 for each offense.]

Section 49. ORS 352.560 is amended to read:

352.560. For the endowment, maintenance and support

of Oregon State University, there is set apart and appropriated the interest on the Oregon State University Fund [which has arisen and which shall hereafter arise], arising from the sale of all lands granted to the State of Oregon, or to which the state was entitled, under the Act of [Congress to provide colleges for the benefit of agriculture and the mechanic arts to the several states and territories, approved] July 2, 1862 [, and the Acts amendatory thereof] (12 Stat. 503), as amended, or so much thereof as may be necessary. In no case shall the interest arising from [said] the fund be applied to the purchase of sites, or for buildings for Oregon State University, but only in the payment of the salaries of professors, officers and other current expenses. The remainder of such interest remaining over at the close of each fiscal year after the payment of such expenses shall be added to and become a part of the principal or endowment fund forever.

Section 50. ORS 352.570 is amended to read:

352.570. All moneys belonging to the Oregon State [College] University Fund shall be loaned by the Division of State Lands in accordance with [the provisions of] ORS 327.425 to 327.455, governing loans from the Common School Fund.

Section 51. ORS 352.580 is amended to read:

352.580. The Division of State Lands shall pay the

interest received on loans from the Oregon State [College] University Fund to the State Board of Higher Education semiannually.

Section 52. ORS 352.600 is amended to read:

352.600. The [Division of State Lands is authorized and empowered to] State Land Board shall execute the trust created by the last will and testament of John T. Apperson, deceased[, and as such trustee to]. On behalf of such trustee, the Division of State Lands shall administer the fund provided for and designated in [said] the will as the J. T. Apperson Agricultural College Educational Fund.

Section 53. ORS 352.610 is amended to read:

352.610. The Division of State Lands on behalf of the State Land Board may accept, receive, own, hold, sell and dispose of any and all real and personal property given, devised or bequeathed to [it] the board by John T. Apperson in trust for the purpose of creating the J. T. Apperson Agricultural College Educational Fund. The [trustee of said fund] division shall manage and use it in accordance with the directions contained in the will of John T. Apperson, deceased, for the purpose of defraying the expenses and assisting in the education at Oregon State University of deserving young men and women who are actual bona fide residents of Oregon and are unable to bear the expense of a collegiate course<sup>x</sup> at [said] that institution. *course*

Section 54. ORS 352.620 is amended to read:

352.620. The Director of the Division of State Lands may execute all deeds, conveyances, contracts, mortgage releases and all other instruments necessary to be executed by the [trustees] division in carrying out the terms of the trust referred to in ORS 352.600. All such deeds and other instruments may be executed in manner and form as prescribed by the division and shall be entitled to record without acknowledgment.

Section 55. ORS 352.630 is amended to read:

352.630. All necessary expenses incurred by the Division of State Lands in connection with the administration of the trust referred to in ORS 352.600 shall be payable out of the fund referred to in that section. The division may make such rules [and regulations] as it [may deem] considers necessary for the transaction of business and carrying out [the provisions of] ORS 352.600 to 352.640.

Section 56. ORS 352.640 is amended to read:

352.640. The Division of State Lands [as trustee shall] annually, on October 1, shall make and file with the Secretary of State a full report of the condition of the fund referred to in ORS 352.600, showing the amount thereof, moneys outstanding and any other data necessary to a full understanding of its conditions[, which report the Secretary of State]. The division shall include [in his] a summary of this report in its biennial report to the legislature under ORS 273.181.

Section 57. ORS 520.055 is amended to read:

520.055. (1) The board has jurisdiction and authority over all persons and property necessary to enforce effectively this chapter and all other laws relating to the conservation of oil and gas.

(2) In addition to and not in lieu of any other powers granted under this chapter, the Department of Geology and Mineral Industries and its governing board may in compliance with ORS 520.105 promulgate reasonable rules, regulations and orders necessary to regulate geological, geophysical and seismic surveys on, and operations to remove oil, gas and sulphur from the [tide and] tidal submerged and submersible lands of this state under ORS 274.705 to [274.865] 274.860.

Section 58. 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 [, and]. 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 [certified] copy of each board resolution certified by the Director of the Division 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 59. ORS 530.510 is amended to read: ,

530.510. (1) The State Forester [hereby is authorized to] 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[; provided,]. However[, that]:

(1) Any exchange of land of the Elliott State Forest [shall] must be for the consolidation of [said] the forest; [and provided further, that]

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

(3) 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 [State Land Board] Division of State Lands.

[(2)] (4) 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 60. ORS 551.160 is amended to read:

551.160. The [county court] governing body of any county shall have the powers provided for it in this chapter to regulate the building and maintenance of dikes and dams for the purpose of reclaiming and improving submersible lands [subject to tide overflow], as defined in ORS 274.005, or lands subject to overflow by freshets, and for the purpose of protecting lands from overflow where great damage is liable to be caused thereby.

Section 61. ORS 567.255 is amended to read:

567.255. In order to investigate and demonstrate the conditions under which useful plants, grains and fruits may be grown on [tide] submersible lands, reclaimed swamp lands and logged-off lands in this state and to determine the kinds of plants, grains and fruits best adapted for growth on such lands, there is established an agricultural experimental station in Clatsop County in such place as may be selected by the board of higher education. The station shall be known as the John Jacob Astor Agricultural Experiment Station.



Section 62. ORS 778.100 is amended to read:

778.100. (1) Whenever the port in the exercise of any powers possessed by it contemplates the filling or reclamation of any low, swamp or [overflowed] submersible land within its territory held in private ownership, it may provide by ordinance for assessment by the board of the damages and benefits to be sustained by and to accrue to such land by reason of the filling or reclamation in which the question of channel frontage as well as filling shall be considered in assessing benefits, may provide for payment to the owner of the land of such damages and may provide for creation of a lien upon the land in favor of the port for the amount of such benefits and payment of the amount of such lien, either in cash or in instalments, with interest thereon over a term of years.

(2) The ordinance shall provide for a hearing before the board upon due notice to all owners of and persons interested in the lands to be affected by the assessment of damages and benefits before the assessment is made.

(3) Provision shall be made by the ordinance for an appeal to the Circuit Court for Multnomah County by any owner or person interested in any land affected, who considers himself aggrieved by such assessment. Jurisdiction to hear the appeals and review the assessments is granted to the Circuit Court of Multnomah County.

11 Section 63. ORS 273.221, 273.380, 274.035 and 274.523 are repealed.

46 Section 64. This Act does not affect the validity of any acts heretofore performed by the State Land Board, the Division of State Lands or the Director of the Division of State Lands, including but not limited to the making and promulgation of rules and the execution of documents authorized by law. This Act does not impair any privilege granted, right acquired or penalty incurred under any law of this state prior to the effective date of this Act.

47 Section 65. Sections 9, 10 and 14 of this Act do not become operative until July 1, 1970.

# HOUSE BILL BACK

RECEIVED  
HOUSE DESK

▼ CROSS OUT INAPPLICABLE WORDS ▼

BILL

1969 FEB 3 PM 4 09

~~RESOLUTION~~

NUMBER

1042

~~XXXXXXXXXX~~

~~MEMORIAL~~

Title: Relating to public lands; creating new provisions; amending ORS 64.470, 273.006, 273.055, 273.075, 273.081, 273.085, 273.111, 273.115, 273.121, 273.145, 273.151, 273.155, 273.225, 273.231, 273.251, 273.265, 273.271, 273.281, 273.300, 273.311, 273.316, 273.326, 273.382, 273.384, 273.511, 273.880, 274.005, 274.040, 274.060, 274.075, 274.210, 274.220, 274.230, 274.240, 274.260, 274.280, 274.310, 274.310, 274.525, 274.550, 274.560, 274.620, 274.915, 274.990, 352.560, 352.570, 352.580;

Introduced by: Representatives

352.600, 352.610, 352.620, 352.630, 352.640, 520.055, 530.380, 530.510, 551.160, 567.255 and 778.100; repealing ORS 273.105, 273.221, 273.380, 274.035 and 274.525 providing penalties; and prescribing an effective date.

## ADDITIONAL SIGNERS

### HOUSE

### SENATE

Akeson .....  
Anunsen .....  
Bazett .....  
Bennett .....  
Boe .....  
Bradley .....  
Browne .....  
Carson .....  
Chuinard .....  
Cole .....  
Crothers .....  
Davis .....  
Day .....  
Detering .....  
Dielschneider .....  
Dugdale .....  
Elliott .....  
Eymann .....  
Frost .....  
Graham .....  
Groener .....  
Gwinn .....  
Haas .....  
Hanneman .....  
Hansell .....  
Hart .....  
Hartung .....  
Heard .....  
Howard .....  
Howe .....

Ingalls .....  
Johnson .....  
Kennedy .....  
Lang .....  
Macpherson .....  
Mann .....  
Markham .....  
Martin .....  
McCready .....  
McGilvra .....  
McKenzie .....  
Meeker .....  
Peck .....  
Priestley .....  
Pynn .....  
Richards .....  
Ripper .....  
Roberts .....  
Rogers .....  
Skelton .....  
Smith .....  
Stathos .....  
Stevenson .....  
Thornton .....  
Turner .....  
Willits .....  
Wilson, Don .....  
Wilson, M. Keith .....  
Wingard .....  
Young .....

Atiyeh .....  
Bain .....  
Bateson .....  
Boivin .....  
Burns .....  
Cook .....  
Dement .....  
Eivers .....  
Elfstrom .....  
Fadeley .....  
Flegel .....  
Hallock .....  
Holmstrom .....  
Hoyt .....  
Husband .....  
Huston .....  
Inskeep .....  
Ireland .....  
Jernstedt .....  
Lent .....  
McKay .....  
Morgan .....  
Newbry .....  
Ouderkirk .....  
Potts .....  
Raymond .....  
Roberts .....  
Stadler .....  
Willner .....  
Yturri .....