SENATE BILL REPORT
SB 6478

As Reported by Senate Committee On:
Ways & Means, February 5, 2014

Title: An act relating to streamlining forest and fish agreement-related programs providing funding with accountability.

Brief Description: Streamlining forest and fish agreement-related programs providing funding with accountability.

Sponsors: Senators Hill and Hargrove; by request of Department of Natural Resources and Department of Ecology.

Brief History:
Committee Activity: Ways & Means: 2/03/14, 2/05/14 [DPS].

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 6478 be substituted therefor, and the substitute bill do pass.
Signed by Senators Hill, Chair; Honeyford, Capital Budget Chair; Hargrove, Ranking Member; Keiser, Assistant Ranking Member on the Capital Budget; Ranker, Assistant Ranking Member on the Operating Budget; Bailey, Becker, Billig, Braun, Conway, Dammeier, Fraser, Frockt, Hasegawa, Hatfield, Hewitt, Kohl-Welles, Padden, Parlette, Schoesler and Tom.

Staff: Sherry McNamara (786-7402)

Background: The Adaptive Management Program is a component of the Department of Natural Resources' (DNR's) Forest Practices and arose out of the 1999 Forest and Fish Report. The Adaptive Management Program provides science-based recommendations and technical information to assist the Forest Practices Board in determining if and when it is necessary or advisable to adjust rules and guidance for protecting aquatic resources on state and private forestlands. The Cooperative Monitoring, Evaluation, and Research (CMER) Committee is the scientific component of the Adaptive Management Program.

In 1971 the Legislature excluded timber from property taxation. In place of the property tax on timber, timber owners must pay a 5 percent excise tax on the stumpage value of any trees harvested from private or public lands. The Department of Revenue (DOR) collects the

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excise tax from timber harvested on private and public lands and deposits the revenue into the Timber Tax Distribution Account (TTDA). The revenue distribution from harvested timber is split between the counties and the state. The timber is taxed at 5 percent, with 4 percent distributed to the county where the harvest occurred and 1 percent to the state general fund.

The Enhanced Aquatic Resource Requirements (EARR) credit allows taxpayers a credit on their excise tax for timber harvested under a DNR-approved Forest Practices Application that is subject to EARR. The credit is equal to 0.8 percent of the taxable stumpage value.

Summary of Bill (Recommended Substitute): <u>Timber Excise Tax Redirect.</u> The state's portion of the timber excise tax that would be transferred to the general fund from the TTDA is redirected to the Forest and Fish Support Account (FFSA) in different scheduled amounts each fiscal year from 2016 to 2040 minus the following amounts:

- $100,000 beginning in the biennium starting July 1, 2017, to the Performance Audits of Government Account every four years;
- 4 percent of the tax owed to the counties; and
- DOR's costs of collecting and administering the state's portion of the tax.

For fiscal years 2016 through 2040, any revenue in excess of the amount provided in the schedule must be transferred by the state treasurer to the Forest Landowner Incentive Account in equal parts to support three programs:

- the Forest Riparian Easement Program (FREP);
- the Family Forest Fish Passage Program (FFFPP); and
- Riparian Open Space and Critical Habitat (ROS).

Beginning in fiscal year 2041, equal parts must be distributed to the three programs.

<u>Creates New Account.</u> The Forest Landowner Incentive Account is created to receive the transfers from the TTDA to fund the FREP, FFFPP, and the ROS and Critical Habitat Program.

<u>Distribution from the FFSA.</u> All monies deposited from the TTDA into the FFSA must be used only for conducting and completing the work identified in the CMER work plan as adopted by the Forest Practices Board. The State Treasurer must transfer any unexpended monies in excess of $500,000 to the Forest Landowner Incentive Account in equal parts to fund the above specified three programs no later than September 30 of each year.

The distribution of monies from the TTDA to FFSA which support the Endangered Species Act (ESA), incidental take permit, or Habitat Conservation Plan (HCP) compliance must cease and be transferred equally to the three programs, FREP, FFFPP, and ROS, six months after any of the following occur:

- the state's incidental take permit is terminated, revoked, or rendered ineffective, or is substantially altered outside of the adaptive management process; or
- the state withdraws from the Forest and Fish Habitat Conservation Plan or relinquishes its incidental take permit.

The distribution of monies from the TTDA to FFSA which support clean water compliance must cease and be transferred equally to the three programs six months after the following occurs:

- the state, the U.S. EPA, or a court made a final determination that Clean Water Act assurances are terminated, revoked, or otherwise rendered ineffective by federal, state legislation, or rulemaking.

Distributions are reinstated under the following circumstances:

- if the incidental take permit or Clean Water Act assurances are reinstated; or
- the Forest Practices Board requests distributions to fund specific studies and activities.

Reports, Studies, and Audits. DNR must report biennially to the Legislature on the receipts and distributions of the monies, the amounts used on work under the CMER master schedule, and any transfers made to the three programs.

The State Auditor must conduct a fiscal audit each fiscal biennium of DNR's compliance.

The Washington Institute for Public Policy must study and make recommendations to the Legislature on the management, funding, transparency, efficiency, effectiveness, and overall operations of the Adaptive Management Program at DNR. The initial report is due by October 31, 2016, and must be updated every five years consistent with the five-year review required by the Forest Practices' HCP. The definition of Forest Practices HCP is added to RCW Chapter 76.09.

EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (Recommended Substitute):

- Adds "up to" to the specified distribution amounts to be transferred from the TTDA to the FFSA. This will prevent the Treasurer from transferring more money than is available.
- Creates the Forest Landowner Incentive Account to receive transfers from the TTDA to fund the FREP, FFFPP, and the ROS and Critical Habitat Program.
- Requires all valid Forest Practice Applications to qualify for the EARR credit.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: The bill contains several effective dates. Please refer to the bill.

Staff Summary of Public Testimony on Original Bill: PRO: This bill is important to the forest industry and in keeping the collaboration working between parties that do not always get along. There is strong support from all of us to provide a stable funding source for the Adaptive Management Program and to protecting fish and habitat into the future. This legislation would ensure that the commitments made with the Forest and Fish Report are met.

Financial support for the Adaptive Management Program has lagged over the past few years. The small forest landowner has been affected disproportionately by the forest practice rules and the programs that would assist them have never been fully funded. This bill will supplement those three capital programs.

Persons Testifying: PRO: Margen Carlson, Dept. of Fish and Wildlife; Heather Hansen, WA Farm Forestry Assn; Aaron Everett, DNR; Mark Doumit, WA Forest Protection Assn.; Jay Manning, WA Environmental Council; Jim Peters, NW Indian Fisheries Commission; Stephen Bernath, Dept. of Ecology.