

**(1)AN ACT**

(1) Note: Matter in **boldface** type in an amended section is new. New sections are in **boldface** type. [*italic and bracketed*] are existing law.

Relating to health services; creating new provisions; amending ORS 249.002, 249.056, 254.005, 316.168, 316.502; and appropriating money.

Whereas the people of the State of Oregon declare that it is necessary to ensure that all Oregon residents have access to medically necessary, comprehensive health care as determined by licensed practitioners of their choice through a publicly accountable fund; now, therefore,

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

**SECTION 1. Oregon Comprehensive Health Care Finance Plan.**

**(1) There is established the Oregon Comprehensive Health Care Finance Plan. The Plan shall provide payment for medically necessary health services provided to participants.**

**(2)**

**(a) All residents of the State of Oregon except those defined under (2)(b) of this section, are eligible to participate in the Plan. The Oregon Comprehensive Health Care Finance Board shall establish by rule eligibility criteria for persons working in Oregon and residing elsewhere.**

**(b) Where a private employer provides health insurance for employees through a trust fund which is financed solely by the employer and governed jointly by equal representation of both employees and employer, the employees are exempt from the income tax and the employer is exempt from the payroll tax. Under these conditions, the employees may not be participants in the Plan. Dependents of these employees also may not be participants in the Plan, unless such dependents are also dependents of a person who is a participant.**

**(c) Where an employer/employee group is exempted under (2)(b) of this section, on or before September 30th of each year commencing with 2004 each such group may choose to become participants in the Plan. After such time as a respective group chooses to participate in the plan it will no longer be eligible for exemption.**

**(3) Health benefits provided under the Plan shall include medically necessary health services provided by any licensed, certified or registered health service provider without regard to preexisting conditions. Covered services include, but are not limited to:**

**(a) Preventive services, including immunizations, prenatal care, well baby care and physical examinations, except for physical examinations required to determine eligibility for private health insurance coverage;**

**(b) Inpatient hospital care, including 24-hour emergency services and emergency transportation services;**

- (c) Outpatient services;**
- (d) Services provided by individual practitioners;**
- (e) Mental health services, including substance abuse treatment services;**
- (f) Long term care, including nursing facility, home health and community-based long term care services and hospice care;**
- (g) Prescription medications;**
- (h) Dental services;**
- (i) Eye care services and related equipment;**
- (j) Diagnostic tests, including interpretative services;**
- (k) Durable medical equipment, including hearing aids and other prosthetic devices;**
- (l) Medically related transportation and language interpretation services;**
- (m) Treatment of injuries, including injuries arising out of or in the course of employment and injuries to participants arising from auto accidents: and**
- (n) Rehabilitation services, except vocational rehabilitation services provided under ORS 344.511 to 344.690.**

**(4) No participant seeking services shall be discriminated against by any provider under this plan on the basis of race, religious creed, color, national status, sex, sexual orientation, age, wealth or any other basis prohibited by the civil rights laws of this state.**

**(5) No practitioner under this Plan shall be compelled to offer any particular service, provided that the practitioner does not discriminate among recipients in the provision of services.**

**(6) The Board shall establish rules by which the Plan shall provide payment for medically necessary health services provided to participants who are traveling outside of Oregon.**

## **SECTION 2. Utilization of Plan.**

**(1) Participants may receive health services under the Oregon Comprehensive Health Care Finance Plan from any health care practitioner of their choice who is licensed, certified or registered in this state, and serving participants of the plan.**

**(2) Each health care practitioner will decide what diagnostic and therapeutic procedures are necessary for participants under his/her care according to his/her legally defined scope of practice.**

**(3) In cooperation with District Advisory committees, described in Section 5(g) of this 2002 Act, and organizations representing practitioners of health services covered by the Plan, the Oregon Comprehensive Health Care Finance Board shall:**

- (a) Assemble information about the reliability and cost effectiveness of modes of treatment offered by providers participating in the Plan; and**
- (b) Establish guidelines for utilization of health services consistent with the budget of the Plan.**
  
- (4) The Board shall monitor utilization of health services by practitioners, suppliers and participants and may adopt rules necessary to initiate corrective action when patterns of abuse are identified.**
  
- (5) All insurers offering health insurance in this state must inform prospective customers in writing of the benefits available under the Plan.**

**SECTION 3. Oregon Comprehensive Health Care Finance Board.**

**(1) The Oregon Comprehensive Health Care Finance Board is established as a public corporation and shall exercise and carry out all powers, rights and privileges that are expressly conferred upon it, are implied by law or are incident to such powers. The Board shall be a governmental entity performing governmental functions and exercising governmental powers. The Board shall be an independent public corporation with statewide purposes and missions and without territorial boundaries.**

**(2) All members of the Board must be electors registered to vote in accordance with ORS Chapter 247. The membership of the Board shall consist of:**

**(a) Five members appointed by the Governor. One must be a person with a demonstrated history of health care consumer advocacy, and the other four must represent the following categories:**

- (A) Health service providers;**
- (B) Alternative health care providers;**
- (C) Organized labor; and**
- (D) Employers.**

**(b) Two members elected at the general election from each congressional district in the state. Members elected from a congressional district must be registered to vote in that district.**

**(3) The term of office for a board member is four years. A member may not serve more that two terms consecutively. The term of office for each elected member of the board begins on the first Monday of January next following the election.**

**(4) If there is a vacancy on the Board for any cause, the Governor shall fill the vacancy by appointment. A vacancy in the office of an appointed member shall be filled for the remainder of the term. In the case of a vacancy in an elected office of the Board, the period of service of an appointee under this subsection shall commence upon appointment and shall expire on the Sunday before the first Monday in January next following the election at which a member is elected to fill that office. If the vacancy occurs more than 61 days prior to the general election, and the term of the vacant office expires after the first Monday in January following the general election, a member shall be elected to serve the remainder of the term at the general election next following the appointment. A person appointed to fill a vacancy for an appointed position shall be from the same category as the Board member who is being replaced.**

**(5) Standards and criteria shall be established by the Secretary of State to:**

**(a) Prevent a person from serving as an elected member of The Oregon Comprehensive Health Care Finance Board who has a financial interest in any provider, practitioner or supplier doing business with the Board under this Plan.**

**(b) Assure that providers shall not have a financial interest in facilities to which they refer patients for tests, procedures, services or supplies.**

**(6) If the Governor is convinced, by proof, of the inability or misconduct of an appointed member, the Governor shall dismiss the member and make an appointment to fill the remainder of that member's term.**

**(7) The Board shall elect a chairperson annually from among the members of the Board.**

**(8) Until the initial Board begins to function, the Governor shall direct state agencies to prepare for Board activities.**

#### **SECTION 3a.**

**(1) Notwithstanding ORS 292.495, members of the Oregon Comprehensive Health Care Finance Board, established under section 3 of this 2002 Act, shall receive payment for expenses and an annual salary as established by the Governor within three months of the enactment of this Plan.**

#### **SECTION 4. Terms of initial elected board members.**

**Notwithstanding the term of office specified in Section 3 of this 2002 Act, of the members of the Oregon Comprehensive Health Care Finance Board initially elected from each Congressional District of this state, one shall serve for a term ending on the Sunday before the first Monday in January 2005 and one shall serve for a term ending on the Sunday before the first Monday in January 2007**

#### **SECTION 5. Duties of Board.**

**(1) The Oregon Comprehensive Health Care Finance Board is responsible for the development and implementation of the Oregon Comprehensive Health Care Finance Plan as a public, nonprofit, single purchasing authority for health services by January 1, 2005.**

**(2) The Board shall manage and have oversight of the Plan.**

**(3) The responsibilities of the Board include, but are not limited to:**

**(a) Determining Plan policies;**

**(b) Establishing a balanced budget for the Plan;**

**(c) Managing the Oregon Comprehensive Health Care Finance Fund;**

**(d) Adopting rules for the implementation and operation of the Plan;**

**(e) Evaluating health services paid for by the Plan in order to promote quality and cost effectiveness;**

**(f) Establishing incentives to ensure access to quality health services and emphasis on disease prevention and health promotion;**

**(g) Communicating with and soliciting input from the public through district advisory committees and other means, including from individuals and groups with special health service needs;**

**(h) Employing an Executive Director and other necessary employees; and**

**(i) Issuing revenue bonds.**

**(4) The Board may contract for administrative services.**

#### **SECTION 6. Oregon Comprehensive Health Care Finance Fund.**

**(1) The Oregon Comprehensive Health Care Finance Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Oregon Comprehensive Health Care Finance Fund shall be credited to the Oregon Comprehensive Health Care Finance Fund.**

**(2) Expenditures from the Fund may be made only for payment of medically necessary benefits for participants, capital costs for board approved medical facilities and related expenses and for administrative costs of the Oregon Comprehensive Health Care Finance Plan.**

**(3) After the first three years of operation of the Plan, administrative costs of the plan may not exceed five percent (5%) of the amounts collected by the Plan in the immediately preceding year. In subsequent years, that amount may not increase faster than the rate of inflation of the private sector economy as determined by the Oregon Department of Administrative Services.**

**(4) The Oregon Comprehensive Health Care Finance Board shall establish a reserve account in the State Treasury. When the amount of revenue available to the Plan in any biennium exceeds the total amount expended or obligated for that biennium, the excess revenue shall be transferred from the Fund to the reserve account. The board may expend moneys in the reserve account for any purpose on the plan.**

## **SECTION 7. Displaced workers retraining.**

**Notwithstanding Section 6 of this Act, for the first two years in which the Oregon Comprehensive Health Care Finance Plan operates, the Oregon Comprehensive Health Care Finance Board may commit an amount up to two percent of the first year's total operating budget for the retraining of workers displaced by changes in the health services system resulting from implementation of the Plan.**

## **SECTION 8. Payment to health service providers.**

**(1) A health service provider that accepts payment for health services from the Oregon Comprehensive Health Care Finance Plan may not bill participants for those services. The provider must accept as payment in full amounts received from the Plan.**

**(2) The Oregon Comprehensive Health Care Finance Board shall adopt rules establishing methods of compensation for providers.**

**(3) After negotiations with appropriate health service provider organizations, the Board shall establish compensation schedules for health care services covered by the Plan.**

**(4) The Board shall negotiate contracts and establish budgets for payment for services provided to participants by health service facilities.**

**(5) The Board shall establish schedules for payment of prescription drugs, and durable medical equipment required by participants.**

**(6) No Oregon licensed, certified or registered health care practitioner shall be discriminated against by the Plan in offering services within his/her lawful scope of practice.**

## **SECTION 9. Funding.**

**(1) The Oregon Comprehensive Health Care Finance Board shall seek all necessary waivers, exemptions and agreements and the Legislative Assembly shall enact legislation necessary to provide that all payments for health care services provided to participants from Federal, State, county and local government sources will be paid directly to the Oregon Comprehensive Health Care Finance Fund. The Oregon Comprehensive Health Care Finance Plan shall be responsible for the payment for services previously paid for by the moneys paid to the Fund.**

**(2) The Oregon Comprehensive Health Care Financing Board shall negotiate with government officials including administrators of public health agencies regarding funding for the provision of public health services.**

**(3) The Board shall negotiate with the Federal Government to allow federal employees and their dependents residing in Oregon to participate in the plan.**

**(4) Until the Federal Government and the Board agree on a plan to allow federal employees and their dependents residing in the state to participate in the Plan the federal government and its employees will be exempt from the plan.**

**(5) The Board shall recover costs for health services provided under the Plan to a participant that are covered services under a policy of insurance, health benefit plan or other collateral source available to the participant under which the participant has a right of action for compensation. Receipt of services under the Plan shall be deemed an assignment by the participant of any right to payment for services provided by any other source. The other source shall pay to the Fund all amounts for health services it is obligated to pay on behalf of the participant. The Board may institute any action necessary to recover such amounts.**

**(6)**

**(a) The Board shall establish rules for the payment of all health services costs in compensable workers' compensation claims in Oregon. Payment for these health services costs shall be made in same manner as all other services provided under the Plan.**

**(b) Biennially the Board and the Director of the Department of Consumer and Business Services shall jointly establish the percentage that workers' compensation expenses for health services is of the total expenditures for workers' compensation costs in the state.**

**(c) Every insurer providing workers' compensation insurance in this state shall pay into the fund an amount equal to the percentage established in paragraph (b) of this subsection multiplied by the total amount of workers' compensation premiums collected by that insurer for the previous year.**

**(d) Every self-insured employer as defined by ORS 656.005 shall pay annually into the fund an amount equal to the percentage established paragraph (b) of this subsection multiplied by the amount of workers' compensation premium the self-insured employer would have paid the previous year had the employer been an insured employer. The amount of premium that would have been paid by the self-insured employer shall be established by the Director.**

**(7) Subsequent to the Federal Government granting waivers to transfer Medicare moneys to the Fund, the Fund will pay all Medicare Part B premiums for all persons in Oregon who are eligible for the Medicare program.**

**SECTION 10. Definitions. As used in Sections 1 to 10 of this 2002 Act:**

**(1) "Board" means the Oregon Comprehensive Health Care Finance Board established under Section 3 of this 2002 Act.**

**(2) " Health care practitioner" or "practitioner" means any person certified, licensed or registered to practice one or more of the healing arts in Oregon.**

**(3) "Health service facility" means a hospital, clinic, nursing facility and similar institutions licensed, registered or certified under state law.**

**(4) "Health service provider" means a health care practitioner or a health service facility.**

**(5) "Oregon Comprehensive Health Care Finance Fund" or "Fund" means the dedicated fund established in the State Treasury under Section 6 of this 2002 Act.**

**(6) "Oregon Comprehensive Health Care Finance Plan" or "Plan" means the comprehensive health care payment system established under Section 1 of this 2002 Act.**

**(7) "Participant" means a person eligible for health benefits under Sections 1 to 10 of this 2002 Act**

**(8) "Resident" means a person who has the present intent to remain within Oregon for a period of time and manifests the genuineness of that intent by establishing an ongoing physical presence within this state together with indicia that the person's presence within this state is something other than transitory in nature.**

#### **SECTION 11. Miscellaneous.**

**Section 12 of this 2002 Act is added to and made a part of ORS Chapter 316.**

#### **SECTION 12. Income tax**

**(1) In addition to and not in lieu of the tax imposed at the rates established under ORS 316.037 or 316.042, every person subject to tax under this chapter shall pay an additional tax to fund the Oregon Comprehensive Health Care Finance Plan established under section 1 of this 2002 Act.**

**(2) The tax shall be imposed at progressive rates applied to individual taxpayers taxable income to be determined annually by the Oregon Comprehensive Health Care Finance Board established under Section 3 of this 2002 Act, within the following limits:**

**(a) The total amount of taxes imposed under this Section may not exceed 3.9% of total statewide personal gross income;**

**(b) The maximum tax that may be imposed on any taxpayer may not exceed 8% of taxable income;**

**(c) Persons with income that is equal to or less than 150% of the federal poverty level are not subject to tax under this section.**

**(d) The maximum tax that any taxpayer will pay under this plan will not exceed \$25,000.**

**(3) The Board shall determine the rates and associated income brackets for the tax imposed under this Section at least six (6) months prior to the start of the calendar year for which those rates and income brackets apply. The rates and income brackets apply to all tax years beginning in that calendar year.**

**(4) The tax imposed under this Section shall be due and payable at the time and in the manner in which other taxes imposed under this Chapter are due and payable. The tax shall be reported on such forms as may be prescribed by the Department of Revenue.**

**(5) The tax shall be collected and administered by the Department of Revenue in the same manner in which other personal income taxes are collected and administered under this chapter.**

**SECTION 13. Applicable date.**

Section 12 of this 2002 Act applies to tax years beginning on or after January 1, 2005.

**SECTION 14. Credit for Existing Health Insurance.**

(1) A taxpayer may claim a credit against the taxes otherwise due under Section 12 of this 2002 Act for the amount of health insurance premiums paid during the tax year pursuant to a contract with a health insurance provider that was entered into prior to November 6, 2002.

(2) A taxpayer may claim a credit against the taxes otherwise due under Section 12 of this 2002 Act for the amount of money contributed by the taxpayer as an employee to an employer-sponsored health plan, pursuant to a contract entered into by the employer of the taxpayer with a health insurance provider prior to November 6, 2002.

(3)

(a) A taxpayer may claim a credit against the taxes otherwise due under Section 12 of this 2002 Act, if:

(A) The taxpayer is a retired person receiving retirement benefits from a former employer of the taxpayer, or a successor of the employer; and

(B) All or a portion of the retirement benefits consist of health care benefits arising from a contract of health insurance entered into between the employer, or successor, and a health insurance provider; and

(C) The contract was entered into prior to November 6, 2002.

(b) The amount of the credit under this subsection shall equal the amount of health insurance premiums paid by the employer, or successor, on behalf of the taxpayer during the tax year.

(4). As used in this section:

(a) "Contract" does not include a renewal of an existing contract, if the renewal occurs on or after November 6, 2002.

(b) Subsection (4)(a) of this Section notwithstanding, a retired person's tax credit for premiums paid by a former employer, as provided under Section 14, subsection 3, shall not expire upon renewal or change of a health insurance contract, but shall continue as long as the employer or successor makes payments or health care benefits on behalf of the retired person.

(c) "Health Insurance" means health care benefits provided pursuant to the provisions of ORS 750.003 to 750.065 and 750.301 to 750.341 and ORS Chapter 743.

**SECTION 15. Effect of employer undertaking to pay employee tax.**

**(1) An employer may undertake to pay all or a portion of the tax imposed under Section 12 of this 2002 Act on the wages and salary of an employee.**

**(2) The tax imposed under Section 12 of this 2002 Act shall remain a liability of the employee until paid, unless payment of the tax is an enforceable contract obligation of the employer, in which case payment of the tax is a joint and several liability of the employer and the employee.**

**(3) If an employer makes a payment of the tax imposed under Section 12 of this 2002 Act, the payment is not includable in Oregon taxable income.**

**SECTION 16. Distribution of income tax revenues.**

ORS 316.502 is amended to read:

316.502 (1)

**(a) The net revenue from the tax imposed by this Chapter and ORS Chapter 314, after deducting refunds, shall be paid over to the State Treasurer [and],**

**(b) That portion of the tax imposed by this chapter that is attributable to Oregon Comprehensive Health Care Finance Plan taxes imposed under Section 12 or 19 of this 2002 Act shall be deposited in the Oregon Comprehensive Health Care Finance Fund established in Section 6 of this 2002 Act.**

**(c) The balance remaining after deduction of the amount described in paragraph (b) of this subsection shall be held in the General Fund as miscellaneous receipts available generally to meet any expense or obligation of the State of Oregon lawfully incurred.**

**(2) A working balance of unreceipted revenue from the tax imposed by this Chapter may be retained for the payment of refunds, but such working balance shall not at the close of any fiscal year exceed the sum of \$1 million dollars.**

**(3) Moneys are continuously appropriated to the Department of Revenue to make the refunds authorized under subsection (2) of this section.**

**SECTION 17. Miscellaneous.**

**Sections 18 to 22 of this 2002 Act are added to and made a part of ORS Chapter 314.**

**SECTION 18. Payroll tax definitions.**

**As used in Sections 18 to 22 of this 2002 Act, unless the context requires otherwise:**

**(1) "Board" means the Oregon Comprehensive Health Care Finance Board established under Section 3 of this 2002 Act.**

**(2) "Employer" means:**

**(a) A person who is in such relation to another person that the person may control the work of that other person and direct the manner in which the work is to be done;**

**(b) An officer or employee of a corporation, including an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code, or a member or employee of a partnership who, as such officer, employee or member is under a duty to perform the acts required of employers by ORS 316.162 to 316.212; or**

**(c) The State of Oregon or any political subdivision in this State.**

**(3) "Individual" means any natural person.**

**(4) "Wages" includes:**

**(a) Remuneration for services performed by an employee for the employer, including the cash value of all remuneration paid in any medium other than cash; and**

**(b) Any amount included in the definition of "wages" under Section 3121 of the Internal Revenue Code, as defined in ORS 316.012, by reason of the provisions of Section 3121(a)(5)(C), 3121(a)(5)(D), 3121(a)(5)(E), 3121(a)(5)(H), 3121(v)(1)(A), 3121(v)(1)(B) or 3121(v)(3)(A) of the Internal Revenue Code, or any amount deferred under a nonqualified deferred compensation plan.**

**(5) Wages which are exempt from taxation under this 2002 Act are:**

**(a) For services performed in the employ of the United States of America.**

**(b) For domestic service in a private home if the total amount paid to such employee is less than \$1,000 per year.**

**(c) For casual labor not in the course of the employer's trade or business.**

**(d) For services performed wholly outside of this state.**

**(e) To individuals employed in labor at sea who also are exempt from garnishment, attachment or execution under title 46, United States Code.**

**(f) To individuals temporarily employed as emergency firefighters**

**(g) If the remuneration is not subject to withholding under ORS chapter 316**

**(h) To employees' trusts exempt from taxation under section 401 of the Internal Revenue Code.**

**(i) Net earnings from self-employment as defined in Internal Revenue Code 1402a.**

**(j) For the first \$50,000 in wages paid to the principals of S -Corporations.**

**SECTION 19. Employer payroll tax on wages.**

**(1) In addition to and not in lieu of any other tax to which an employer may be subject, each employer shall pay an additional tax to fund the Oregon Comprehensive Health Care Finance Plan established under section 1 of this 2002 Act.**

**(2) The tax shall be imposed at a progressive rate, based on the total wages paid by the employer, to be determined annually by the Oregon Comprehensive Health Care Finance Board established under Section 3 of this 2002 Act, within the following limits:**

**(a) The minimum rate of tax imposed on wages shall be 3%;**

**(b) The maximum rate of tax imposed on wages 11.5%; and**

**(c) The total amount of taxes imposed under this Section may not exceed 9.5% of total statewide wages.**

**(3) The Board shall determine the rates and associated wage brackets for the tax imposed under this Section at least six months prior to the start of the calendar year for which those rates and wage brackets apply. The rates and wage brackets shall apply to all tax reporting periods beginning in that calendar year.**

**(4) An employer may not reduce the wages of an employee to pay all or any portion of a tax imposed under this Section.**

**(5) Taxes imposed under this Section shall be paid and reported as provided in ORS 316.168.**

**(6) The Department of Revenue shall administer taxes imposed under this section. .**

**(7) Unless the context requires otherwise, the provisions of this chapter and ORS chapters 305 and 316 as to the audit and examination of returns, determination of deficiencies, assessments, claims for refunds, penalties, interest, jeopardy assessments, warrants, conferences and appeals to the Oregon Tax Court, and procedures relating thereto, shall apply to Sections 18 to 22 of this 2002 Act the same as if the tax were a tax imposed upon or measured by net income.**

**SECTION 20. Temporary payroll tax rate for start-up costs of the Oregon Comprehensive Health Care Finance Plan.**

**Notwithstanding Section 19(2) of this 2002 Act, for tax reporting periods beginning on or after January 1, 2003, and before January 1, 2005, the tax imposed under Section 19 of this 2002 Act shall be computed at a rate of one percent (1%) of wages.**

**SECTION 21. Wages subject to tax only once.**

**Any amount that is once taken into account as wages under Sections 18 to 22 of this 2002 Act may not afterwards be treated as wages for purposes of the tax imposed under Section 19 of this 2002 Act.**

**SECTION 22. Credit for existing health insurance.**

**(1) An employer may claim a credit against taxes otherwise due under Section 19 of this 2002 Act for the amount of health insurance premiums paid during the tax year pursuant to a contract with a health insurance provider that was entered into prior to November 6, 2002.**

**(2) As used in this Section:**

**(a) "Contract" does not include a renewal of an existing contract, if the renewal occurs on or after November 6, 2002.**

**(b) "Health insurance" means benefits provided pursuant to the provisions of ORS 750.003, 750.005, 750.025, 750.045, and 750.301 to 750.341 and ORS Chapter 743.**

**SECTION 23. Applicable dates.**

**(1) Sections 18 to 22 of this 2002 Act apply to tax reporting periods beginning on or after January 1, 2003.**

**(2) Section 22 of this 2002 Act applies to tax years beginning on or after January 1, 2005.**

**SECTION 24. Employer required to file combined quarterly tax Report.**

ORS 316.168 is amended to read:

"316.168. (1) Except as otherwise provided by law, every employer subject to the provisions of ORS 316.162 to 316.212[,] and 656.506 and ORS Chapter 657, [or] **and every employer subject to a payroll-based tax imposed by a mass transit district and administered by the Department of Revenue under ORS 305.620 or the Oregon Comprehensive Health Care Finance Plan payroll tax imposed under Sections 18 to 22 of this 2002 Act**, shall make and file a combined quarterly tax and assessment report upon a form prescribed by the department.

(2) The report shall be filed with the Department of Revenue on or before the last day of the month following the quarter to which the report relates and shall be deemed received on the date of mailing, as provided in ORS 305.820.

(a) The report shall be accompanied by payment of any tax or assessment due and a combined tax and assessment payment coupon prescribed by the department. The employer shall indicate on the coupon the amount of the total payment and the portions of the payment to be paid to each of the tax or assessment programs.

(b) The Department of Revenue shall credit the payment to the tax or assessment programs in the amounts indicated by the employer on the coupon and shall promptly remit the payments to the appropriate taxing or assessing body.

(c) If the employer fails to allocate the payment on the coupon, the Department shall allocate the payment to the proper tax or assessment programs on the basis of the percentage the payment bears to the total amount due.

(d) The Department of Revenue shall distribute copies of the combined quarterly tax and assessment report and the necessary tax or assessment payment information to each of the agencies charged with the administration of a tax or assessment covered by the report.

(e) The Department of Revenue, the Employment Department and the Department of Consumer and Business Services shall develop a system of account numbers and assign to each employer a single account number representing all of the tax and assessment programs included in the combined quarterly tax and assessment report."

#### **SECTION 25. Applicable date.**

The amendments to ORS 316.168 by Section 24 of this 2002 Act apply to tax reporting periods beginning on or after January 1, 2003.

#### **SECTION 26. Special election.**

(1) Notwithstanding any provision of ORS Chapter 249 or this 2002 Act, candidates for the first elected members of the Oregon Comprehensive Health Care Finance Board established under Section 3 of this 2002 Act shall be elected at a special election to be held throughout this state on May 20, 2003. Notwithstanding ORS 249.088, in each Congressional District, the two candidates receiving the votes of a majority of the voters shall be elected. In the event that two candidates do not receive the vote of a majority of the voters, a runoff election will be held. If one position has been filled, the runoff will be between the two candidates, not elected, who received the greatest number of votes. If no candidate receives the vote of a majority of the voters, then the runoff will be held between the four candidates having the greatest number of votes. In subsequent elections, Board members must be elected by a majority of the voters in their respective congressional districts.

(2) The Secretary of State shall adopt rules establishing procedures for conducting the election of the first elected Board members referred to in Subsection (1) of this Section. The rules shall specify deadlines for filing of a nominating petition or declaration of candidacy, deadlines for withdrawal of candidacy and any other provisions as may be necessary to implement this 2002 Act or conduct the election referred to in Subsection (1) of this Section.

(3) Notwithstanding ORS 254.465(2), the election of members of the Board established under Section 3 of this 2002 Act shall be conducted by mail in all counties as provided under ORS 254.470.

(4) The Secretary of State shall prepare and deliver to each county clerk by the most expeditious means practicable a statement of the state offices to be filled and information concerning all candidates for the positions. The Secretary of State shall keep a copy of the statement.

(5) Notwithstanding any provision of ORS Chapter 251:

(a) The Secretary of State shall cause to be printed in a voters' pamphlet prepared for the election described in subsection (1) of this section any portrait and statement described in ORS 251.065, 251.075, 251.085 and 251.087 and filed by a candidate for election to the Board referred to in Subsection (1) of this Section. The portrait and statement filed by a candidate under this Subsection shall comply with ORS 251.065, 251.075, 251.085, 251.087 and 251.095, except that the Secretary of State by rule shall set deadlines for filing portraits and statements.

(b) Not later than the 10th day before the election, the Secretary of State shall cause the voters' pamphlet to be mailed to each post office mailing address in Oregon and may use any additional means of distribution necessary to make the pamphlet available to electors.

(c) In preparing the voters' pamphlet required under this section, the Secretary of State is not required to comply with ORS 279.011, 279.015 and 279.063 relating to competitive bidding.

#### **SECTION 26a Appropriation for special election.**

(1) In addition to and not in lieu of any other appropriations or moneys made available by law or from other sources, there is appropriated out of the General Fund to the Secretary of State, for the biennium ending June 30, 2003, the sum of \$1,000,000 for the payment of direct expenses of this state incurred in conducting a special election held throughout this state on May 20, 2003.

(2) Any part of the appropriation under this Section that is unexpended and unobligated on June 30, 2003, shall revert to the General Fund.

#### **SECTION 27.** ORS 249.002 is amended to read:

"249.002. As used in this Chapter:

(1) "Candidate" means an individual whose name is printed or is expected to be printed on the official ballot.

(2) "County clerk" means the county clerk or the county official in charge of elections.

(3) "Elector" means an individual qualified to vote under Section 2, Article II, Oregon Constitution.

(4) "Judge" means the judge of the Supreme Court, Court of Appeals, Circuit Court or the Oregon Tax Court.

(5) "Member" means an individual who is registered as being affiliated with the political party.

(6) "Minor political party" means a political party that has qualified as a minor political party under ORS 248.008.

(7) "Nonpartisan office" means the office of judge, Superintendent of Public Instruction, Commissioner of the Bureau of Labor and Industries, **member of the Oregon Comprehensive Health Care Finance Board**, any elected office of a metropolitan service district under ORS Chapter 268, justice of the peace, county clerk, county assessor, county surveyor, county treasurer, sheriff, district attorney or any office designated nonpartisan by a home rule charter.

(8) "Prospective petition" means the information, except signatures and other identification of petition signers, required to be contained in a completed petition.

(9) "Public office" means any national, state, county, city or district office or position, except a political party office, filled by the electors.

(10) "State office" means Governor, Secretary of State, State Treasurer, Attorney General, Commissioner of the Bureau of Labor and Industries, Superintendent of Public Instruction, **member of the Oregon Comprehensive Health Care Finance Board**, judge, state Senator, state Representative or district attorney.

**SECTION 28.** ORS 249.056 is amended to read:

"249.056. (1) At the time of filing a declaration of candidacy, a candidate for the following offices shall pay to the officer with whom the declaration is filed the following fee:

(a) United States Senator, \$150.

(b) Governor, Secretary of State, State Treasurer, Attorney General, Commissioner of the Bureau of Labor and Industries, Superintendent of Public Instruction, **member of the Oregon Comprehensive Health Care Finance Board**, Representative in Congress, judge of the Supreme Court, Court of Appeals or Oregon Tax Court, or executive officer or auditor of a metropolitan service district, \$100.

(c) County office, district attorney or circuit court judge, \$50.

(d) State Senator or Representative or councilor of a metropolitan service district under ORS Chapter 268, \$25

(2) No filing fee shall be required of persons filing a declaration of candidacy for precinct committee person or justice of the peace."

**SECTION 29.** ORS 254.005 is amended to read:

254.005. As used in this chapter:

(1) "Ballot" means any material on which votes may be cast for candidates or measures. In the case of a recall election, "ballot" includes material posted in a voting compartment or delivered to an elector by mail.

(2) "Ballot label" means the material containing the names of candidates or the measurers to be voted on.

(3) "Chief elections officer" means the:

(a) Secretary of State, regarding a candidate for a state office or an office to be voted on in the state at large or in a congressional district, or a measure to be voted on in the state at large.

- (b) County clerk, regarding a candidate for a county office, or a measure to be voted on in a county only.
- (c) City clerk, auditor or recorder, regarding a candidate for a city office, or a measure to be voted on in a city only.
- (4) "County clerk" means the county clerk or the county official in charge of elections.
- (5) "Elector" means an individual qualified to vote under Section 2, Article II, Oregon Constitution.
- (6) "Major political party" means a political party that has qualified as a major political party under ORS 248.006.
- (7) "Measure" includes any of the following submitted to the people for their approval or rejection at an election:
- (a) A proposed law.
  - (b) An Act or part of an Act of the Legislative Assembly.
  - (c) A revision of or amendment to the Oregon Constitution.
  - (d) Local, special or municipal legislation.
  - (e) A proposition or question.
- (8) "Minor political party" means a political party that has qualified as a minor political party under ORS 248.008.
- (9) "Nonpartisan office" means the office of judge of the Supreme Court, Court of Appeals, circuit court or the Oregon Tax Court, Superintendent of Public Instruction, Commissioner of the Bureau of Labor and Industries, member of the Oregon Comprehensive Health Care Finance Board, any elected office of a metropolitan service district under ORS Chapter 268, justice of the peace, county clerk, county assessor, county surveyor, county treasurer, sheriff, district attorney or any office designated nonpartisan by a home rule charter.
- (10) "Prospective petition:" means the information, except signatures and other identification of petition signers, required to be contained in a completed petition.
- (11) "Regular district election" means the election held each year for the purpose of electing members of a district board as defined in ORS 255.005 (2).
- (12) "Voting machine" means:
- (a) Any device which will record every vote cast on candidates and measurers and which will either internally or externally total all votes cast on that device.

(b) Any device into which a ballot may be inserted and which is so designed and constructed that the vote for any candidate or measure may be indicated by punching or marking the ballot.

(13) "Vote tally system" means one or more pieces of equipment necessary to examine and tally automatically the marked or punched ballots."

SECTION 30. ORS 260.005 is amended to read:

260.005. As used in this chapter:

(1)

(a) "Candidate" means:

(A) An individual whose name is printed on a ballot, for whom a declaration of candidacy, nominating petition or certificate of nomination to public office has been filed or whose name is expected to be or has been presented, with the individual's consent, for nomination or election to public office;

(B) An individual who has solicited or received and accepted a contribution, made an expenditure, or given consent to an individual, organization, political party or political committee to solicit or receive and accept a contribution or make an expenditure on the individual's behalf to secure nomination or election to any public office at any time, whether or not the office for which the individual will seek nomination or election is known when the solicitation is made, the contribution is received and retained or the expenditure is made, and whether or not the name of the individual is printed on a ballot; or

(C) A public office holder against whom a recall petition has been completed and filed.

(b) For purposes of this section and ORS 260.035 to 260.156, "candidate" does not include a candidate for the office of precinct committeeperson.

(2) "Committee director" means any person who directly and substantially participates in decision-making on behalf of a political committee concerning the solicitation or expenditure of funds and the support of or opposition to candidates or measures. The officers of a political party shall be considered the directors of any political party committee of that party, unless otherwise provided in the party's bylaws.

(3)

(a) Except as provided in ORS 260.007, "contribute" or "contribution" includes:

(A) The payment, loan, gift, forgiving of indebtedness, or furnishing without equivalent compensation or consideration, of money, services other than personal services for which no compensation is asked or given, supplies, equipment or any other thing of value:

(i) For the purpose of influencing an election for public office or an election on a measure, or of reducing the debt of a candidate for nomination or election to public office or the debt of a political committee; or

(ii) To or on behalf of a candidate, political committee or measure; and

(B) Any unfulfilled pledge, subscription, agreement or promise, whether or not legally enforceable, to make a contribution.

(b) Regarding a contribution made for compensation or consideration of less than equivalent value, only the excess value of it shall be considered a contribution.

(4) "County clerk" means the county clerk or the county official in charge of elections.

"Elector" means an individual qualified to vote under section 2, Article II of the Oregon Constitution.

(6) Except as provided in ORS 260.007, "expend" or "expenditure" includes the payment or furnishing of money or anything of value or the incurring or repayment of indebtedness or obligation by or on behalf of a candidate, political committee or person in consideration for any services, supplies, equipment or other thing of value performed or furnished for any reason, including support of or opposition to a candidate, political committee or measure, or for reducing the debt of a candidate for nomination or election to public office. "Expenditure" also includes contributions made by a candidate or political committee to or on behalf of any other candidate or political committee.

(7) "Filing officer" means:

(a) The Secretary of State, regarding a candidate, for any state office or any office to be voted for in the state at large or in a congressional district or regarding a measure to be voted on in the state at large.

(b) The county clerk, regarding a candidate for any county office or any district or Precinct office within the county, or regarding a measure to be voted for in one county or in a district situated wholly within one county.

(c) The chief city elections officer, regarding a candidate for any city office, or a measure to be voted for in a city only.

(d) The county clerk of the county in which the office of the chief administrative officer or administrative board is located regarding a candidate for office for any district or regarding a measure to be voted on in a district, when the district is situated in more than one county.

(e) In the case of an irrigation district formed under ORS chapter 545:

(A) The county clerk, regarding any candidate for office or any measure at an irrigation district formation election where the proposed district is situated wholly in one county;

(B) The county clerk of the county in which the office of the secretary of the proposed irrigation district will be located, regarding any candidate for office or any measure at an irrigation district formation election where the proposed district is situated in more than one county; or

(C) The secretary of the irrigation district for any election other than an irrigation district formation election.

(8) "Independent expenditure" means an expenditure by a person for a communication expressly advocating the election or defeat of a clearly identified candidate that is not made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or any agent or authorized committee of the candidate. As used in this subsection:

(a) "Agent" means any person who has:

(A) Actual oral or written authority, either express or implied, to make or to authorize the making of expenditures on behalf of a candidate; or

(B) Been placed in a position within the campaign organization where it would reasonably appear that in the ordinary course of campaign-related activities the person may authorize expenditures.

(b) "Clearly identified" means:

(A) The name of the candidate involved appears;

(B) A photograph or drawing of the candidate appears; or

(C) The identity of the candidate is apparent by unambiguous reference.

(c) "Expressly advocating" means any communication containing a message advocating election or defeat, including but not limited to the name of the candidate, or expressions such as "vote for," "elect," "support," "cast your ballot for," "vote against," "defeat" or "reject."

(d) "Made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or any agent or authorized committee of the candidate":

(A) Means any arrangement, coordination or direction by the candidate or the candidate's agent prior to the publication, distribution, display or broadcast of the communication. An expenditure shall be presumed to be so made when it is:

(i) Based on information about the candidate's plans, projects or needs provided to the expending person by the candidate or by the candidate's agent, with a view towards having an expenditure made; or

(ii) Made by or through any person who is or has been authorized to raise or expend funds, who is or has been an officer of a political committee authorized by the candidate or who is or has been receiving any form of compensation or reimbursement from the candidate, the candidate's principal campaign committee or agent; and

(B) Does not include providing to the expending person upon request a copy of this chapter or any rules adopted by the Secretary of State relating to independent expenditures

(9) "Initiative petition" means a petition to initiate a measure for which a prospective petition has been filed but that is not yet a measure.

(10) "Judge" means judge of the Supreme Court, Court of Appeals, circuit court or the Oregon Tax Court.

(11) "Mass mailing" means more than 200 substantially similar pieces of mail, but does not include a form letter or other mail that is sent in response to an unsolicited request, letter or other inquiry.

(12) "Measure includes any of the following submitted to the people for their approval or rejection at an election:

(a) A proposed law.

(b) An Act or part of an Act of the Legislative Assembly.

(c) A revision of or an amendment to the Oregon Constitution

(d) Local, special or municipal legislation.

(e) A proposition or question.

(13) "Occupation" means the nature of an individual's principal business or, if the individual is employed by another person, the nature of the individual's principal business or the business name and address of the employer.

(14) "Person" means an individual, corporation, limited liability company, labor organization, association, firm, partnership, joint stock company, club, organization or other combination of individuals having collective capacity.

(15)

(a) "Political committee" means a combination of two or more individuals, or a person other than an individual, that has:

(A) Received a contribution for the purpose of supporting or opposing a candidate, measure or political party; or

(B) Made an expenditure for the purpose of supporting or opposing a candidate, measure or political party.

(b) For purposes of paragraph (a)(B) of this subsection, an expenditure shall not include:

(A) A contribution to a candidate or political committee that is required to report the contribution on a statement filed under ORS 260.058, 260.063, 260.068, 260.073 or 260.102 or a certificate filed under ORS 260.112; or

(B) An independent expenditure for which a statement is required to be filed by a person under ORS 260.044 (1).

(16) "Public office" means any national, state, county, district, city office or position, except a political party office, that is filled by the electors.

(17) "Recall petition" means a petition to recall a public officer for which a prospective petition has been filed but that is not yet a measure.

(18) "Referendum petition" means a petition to refer a measure for which a prospective petition has been filed but that is not yet a measure.

(19) "Slate mailer" means a mass mailing that supports or opposes a total of three or more candidates or measures.

(20)

(a) "Slate mailer organization" means, except as provided in paragraph (b) of this subsection, any person who directly or indirectly:

(A) Is involved in the production of one or more slate mailers and exercises control over the selection of the candidates and measures to be supported or opposed in the slate mailers; and

(B) Receives or is promised payment for producing one or more slate mailers or for endorsing or opposing, or refraining from endorsing or opposing, a candidate or measure in one or more slate mailers.

(b) Notwithstanding paragraph (a) of this subsection, "slate mailer organization" does not include:

(A) A political committee organized by a political party; or

(B) A political committee organized by the caucus or either Senate or the House of Representatives of the Legislative Assembly.

(21) "State office" means the office of Governor, Secretary of State, State Treasurer, Attorney General, Commissioner of the Bureau of Labor and Industries, Superintendent of Public Instruction, **member of the Oregon Comprehensive Health Care Finance Board**, state Senator, state Representative, judge or district attorney.

#### **SECTION 31. Severability**

**" If any portion (sentence, paragraph, or section ) of this initiative is held to be invalid, that invalidity shall not affect other portions of this initiative that can be given effect without the invalid portion, and to this end the portions of this initiative are savable. Any invalid portion shall be severed from the remainder of the initiative to preserve the remaining portions."**

**SECTION 32. Section captions. The section captions and leadlines used in this 2002 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any intent of the people in the enactment of this 2002 Act.**

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