

(1)

House Bill 2152

House Amendments ([html](#))
A-Engrossed ([html](#))
Senate Amendments to A-Engrossed ([html](#))
B-Engrossed ([html](#))
Enrolled ([html](#))
Introduced ([html](#))

- HB 2152** **Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed. (at the request of Governor Theodore R. Kulongoski for Department of Human Services) -- Relating to taxation; appropriating money; prescribing an effective date; and providing for revenue raising that requires approval by a three-fifths majority.**
- 01/14 (H) First reading. Referred to Speaker's desk.
- 01/20 (H) Referred to Health and Human Services.
- 01/27 (H) Work Session held.
- 01/31 (H) Without recommendation as to passage and be referred to Revenue.
- 01/31 (H) Referred to Revenue by order of Speaker.
- 03/13 (H) Public Hearing held.
- 03/19 (H) Work Session held.
- 03/24 (H) Recommendation: Do pass with amendments and be printed A-Engrossed.
- 03/26 (H) Second reading.
- 03/27 (H) Third reading. Carried by Verger. Passed, having received the required three-fifths Constitutional majority. Ayes, 51; Nays, 5--Butler, Garrard, Kitts, Nelson, Zauner; Excused, 4--Barnhart, Hunt, Jenson, Merkley.
- 03/31 (S) First reading. Referred to President's desk.
- 04/03 (S) Referred to Revenue.
- 04/28 (S) Public Hearing held.
- 07/29 (S) Public Hearing held.
- 08/12 (S) Public Hearing held.
- 08/13 (S) Public Hearing held.
- 08/18 (S) Work Session held.
- 08/18 (S) Public Hearing and Work Session held.
- 08/19 (S) Recommendation: Do pass with amendments to the A-Eng. bill. (Printed B-Eng.)(Amendments Dist.)
- 08/19 (S) Made a Special Order of Business. Ayes, 26; Nays, 4--Ferrioli,

- Fisher, George, Minnis.
- 08/19 (S) Rules suspended. Second reading.
- 08/19 (S) Rules suspended. Third reading. Carried by Deckert. Passed.
Ayes, 19; Nays, 11--Atkinson, Beyer, Corcoran, Ferrioli, Fisher,
George, Hannon, Harper, Messerle, Minnis, Starr, B.
- 08/20 (H) House concurred in Senate amendments and repassed bill,
having received the required three-fifths Constitutional majority.
Ayes, 36; Nays, 22--Anderson, Brown, Butler, Close, Doyle,
Flores, Garrard, Gilman, Kitts, Knopp, Krieger, Kropf,
Krummel, Kruse, Miller, Nelson, Richardson, Scott, Smith G.,
Smith P., Smith T., Speaker Minnis; Absent, 1--Zauner.
- 08/20 (H) Vote explanation(s) filed by Ackerman, Beyer, Johnson,
Monnes Anderson, Prozanski, Tomei.
- 08/21 (H) Speaker signed.
- 08/26 (S) President signed.
- 08/27 (H) Governor signed.
- 08/27 (H) Chapter 709, (2003 Laws): November 26, 2003.

Enrolled

House Bill 2152

Ordered printed by the Speaker pursuant to House Rule 12.00A (5).
Pre-session filed (at the request of Governor Theodore R.
Kulongoski for Department of Human Services)

CHAPTER

AN ACT

Relating to taxation; creating new provisions; amending ORS
294.381, 311.392, 311.505, 311.676, 311.681, 311.780, 314.732,
316.695, 317.090, 317.267, 317.286 and 318.031 and section 3,
chapter 385, Oregon Laws 1995; appropriating money; prescribing
an effective date; and providing for revenue raising that
requires approval by a three-fifths majority.

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

{ +

CIGARETTE TAXES + }

SECTION 1. Section 3, chapter 385, Oregon Laws 1995, as amended
by section 1, chapter 589, Oregon Laws 1997, section 10, chapter
1077, Oregon Laws 1999, and section 1, chapter 982, Oregon Laws
2001, is amended to read:

{ + Sec. 3. + } (1) Notwithstanding ORS 323.030 (2) and in
addition to and not in lieu of any other tax, every distributor,
as defined in ORS 323.015, shall pay a tax upon distributions of
cigarettes at the rate of five mills for the distribution of each
cigarette in this state occurring prior to January 1,
{ - 2004 - } { + 2006 + }.

(2) Any cigarette with respect to which a tax has once been
imposed under ORS 323.005 to 323.482 and this section shall not
be subject upon a subsequent distribution to the taxes imposed by
ORS 323.005 to 323.482 and this section.

(3) The moneys received under this section shall be paid over
and credited to the General Fund and shall be used exclusively to
fund { + medical assistance under + } the Oregon Health Plan
{ - as described under ORS 414.019 - } .

{ +

POLICY + }

SECTION 2. { + (1) The intent of the Legislative Assembly in
enacting a temporary graduated income tax assessment and the
other new provisions and amendments to statutes in sections 3 to
43a of this 2003 Act is to create a temporary source of revenues

to maintain the levels of service that Oregonians expect in the areas of elementary and secondary school public education, senior services and public safety.

(2) The Legislative Assembly finds and declares that the revenues raised under the new provisions and amendments to statutes in sections 3 to 43a of this 2003 Act to be used:

(a) For kindergarten through grade 12 public education are needed to avoid teacher layoffs, to maintain an adequate number of school days in the school year and to maintain or reduce class size.

(b) For senior services and health care are needed to continue to provide prescription drug benefits on which elderly persons with fixed incomes rely, to continue Oregon Project Independence and to maintain urgent mental health care and Oregon Health Plan funding.

(c) For public safety are needed to maintain existing public safety programs.

(3) The Legislative Assembly finds and declares that the fairest way to distribute the financial responsibility for these services is to apply the financial responsibility to as broad a base of Oregonians as possible and that the new provisions and amendments to statutes in sections 3 to 43a of this 2003 Act accomplish this objective. + }

{ +

INCOME TAXES + }

{ +

(Temporary Graduated Income Tax Assessment) + }

SECTION 3. { + Sections 4 and 5 of this 2003 Act are added to and made a part of ORS chapter 316. + }

SECTION 4. { + (1) For tax years beginning on or after January 1, 2003, and before January 1, 2005, each person subject to tax under this chapter shall compute and pay an assessment. The assessment shall be a percentage of the tax liability of the taxpayer and shall be added to the tax otherwise imposed under this chapter for the tax year. The rate of the assessment is as follows:

(a) If the federal adjusted gross income of the taxpayer for the tax year is less than \$10,000, an assessment may not be imposed.

(b) If the federal adjusted gross income of the taxpayer for the tax year is \$10,000 or more, but less than \$20,000, the assessment shall equal 1 percent of the tax liability of the taxpayer.

(c) If the federal adjusted gross income of the taxpayer for the tax year is \$20,000 or more, but less than \$25,000, the assessment shall equal 2 percent of the tax liability of the taxpayer.

(d) If the federal adjusted gross income of the taxpayer for the tax year is \$25,000 or more, but less than \$30,000, the assessment shall equal 3 percent of the tax liability of the taxpayer.

(e) If the federal adjusted gross income of the taxpayer for

the tax year is \$30,000 or more, but less than \$35,000, the assessment shall equal 4 percent of the tax liability of the taxpayer.

(f) If the federal adjusted gross income of the taxpayer for the tax year is \$35,000 or more, but less than \$50,000, the assessment shall equal 5 percent of the tax liability of the taxpayer.

(g) If the federal adjusted gross income of the taxpayer for the tax year is \$50,000 or more, but less than \$70,000, the

assessment shall equal 6 percent of the tax liability of the taxpayer.

(h) If the federal adjusted gross income of the taxpayer for the tax year is \$70,000 or more, but less than \$90,000, the assessment shall equal 7 percent of the tax liability of the taxpayer.

(i) If the federal adjusted gross income of the taxpayer for the tax year is \$90,000 or more, but less than \$120,000, the assessment shall equal 8 percent of the tax liability of the taxpayer.

(j) If the federal adjusted gross income of the taxpayer for the tax year is \$120,000 or more, the assessment shall equal 9 percent of the tax liability of the taxpayer.

(2) The assessment is in addition to and not in lieu of any other tax. For all purposes of administration, collection and enforcement, the assessment imposed under this section shall be considered a tax imposed on income.

(3) For purposes of subsection (1) of this section:

(a) The amounts of the federal adjusted gross income brackets are doubled for a taxpayer who files a joint return, a return as a head of household or a return as a surviving spouse.

(b) The tax liability of the taxpayer is the tax computed for the tax year under this chapter before application of this section less credits allowed for purposes of this chapter except that no reduction is made for the credit allowed under ORS 315.262. + }

SECTION 5. { + (1) This section applies only if the projected ending fund balance for the General Fund for the biennium beginning July 1, 2003, as estimated by the Office of Economic Analysis of the Oregon Department of Administrative Services in the December 2004 quarterly economic and revenue forecast, is less than four percent of the total amount of General Fund appropriations for the biennium beginning July 1, 2003.

(2) For tax years beginning on or after January 1, 2005, and before January 1, 2006, each person subject to tax under this chapter shall compute and pay an assessment. The assessment shall be a percentage of the tax liability of the taxpayer, and shall be added to the tax otherwise imposed under this chapter for the tax year. The rate of the assessment is as follows:

(a) If the federal adjusted gross income of the taxpayer for the tax year is less than \$10,000, an assessment may not be imposed.

(b) If the federal adjusted gross income of the taxpayer for the tax year is \$10,000 or more, but less than \$20,000, the assessment shall equal 1 percent of the tax liability of the

taxpayer.

(c) If the federal adjusted gross income of the taxpayer for the tax year is \$20,000 or more, but less than \$25,000, the assessment shall equal 2 percent of the tax liability of the taxpayer.

(d) If the federal adjusted gross income of the taxpayer for the tax year is \$25,000 or more, but less than \$30,000, the assessment shall equal 3 percent of the tax liability of the taxpayer.

(e) If the federal adjusted gross income of the taxpayer for the tax year is \$30,000 or more, but less than \$35,000, the assessment shall equal 4 percent of the tax liability of the taxpayer.

(f) If the federal adjusted gross income of the taxpayer for the tax year is \$35,000 or more, but less than \$50,000, the

assessment shall equal 5 percent of the tax liability of the taxpayer.

(g) If the federal adjusted gross income of the taxpayer for the tax year is \$50,000 or more, but less than \$70,000, the assessment shall equal 6 percent of the tax liability of the taxpayer.

(h) If the federal adjusted gross income of the taxpayer for the tax year is \$70,000 or more, but less than \$90,000, the assessment shall equal 7 percent of the tax liability of the taxpayer.

(i) If the federal adjusted gross income of the taxpayer for the tax year is \$90,000 or more, but less than \$120,000, the assessment shall equal 8 percent of the tax liability of the taxpayer.

(j) If the federal adjusted gross income of the taxpayer for the tax year is \$120,000 or more, the assessment shall equal 9 percent of the tax liability of the taxpayer.

(3) The assessment is in addition to and not in lieu of any other tax. For all purposes of administration, collection and enforcement, the assessment imposed under this section shall be considered a tax imposed on income.

(4) For purposes of subsection (2) of this section:

(a) The amounts of the federal adjusted gross income brackets are doubled for a taxpayer who files a joint return, a return as a head of household or a return as a surviving spouse.

(b) The tax liability of the taxpayer is the tax computed for the tax year under this chapter before application of this section less credits allowed for purposes of this chapter except that no reduction is made for the credit allowed under ORS 315.262. + }

{ +
(Medical Expense Deductions) + }

SECTION 6. ORS 316.695, as amended by section 1, chapter 8, Oregon Laws 2002 (third special session), is amended to read:

316.695. (1) In addition to the modifications to federal taxable income contained in this chapter, there shall be added to or subtracted from federal taxable income:

(a) If, in computing federal income tax for a taxable year, the taxpayer deducted itemized deductions, as defined in section 63(d) of the Internal Revenue Code, the taxpayer shall add the amount of itemized deductions deducted (the itemized deductions less an amount, if any, by which the itemized deductions are reduced under section 68 of the Internal Revenue Code).

(b) If, in computing federal income tax for a taxable year, the taxpayer deducted the standard deduction, as defined in section 63(c) of the Internal Revenue Code, the taxpayer shall add the amount of the standard deduction deducted.

(c)(A) From federal taxable income there shall be subtracted the larger of (i) the taxpayer's itemized deductions or (ii) a standard deduction. Except as provided in subsection (8) of this section, for purposes of this subparagraph, 'standard deduction' means the sum of the basic standard deduction and the additional standard deduction.

(B) For purposes of subparagraph (A) of this paragraph, the basic standard deduction is:

(i) \$3,280, in the case of joint return filers or a surviving spouse;

(ii) \$1,640, in the case of an individual who is not a married individual and is not a surviving spouse;

(iii) \$1,640, in the case of a married individual who files a separate return; or

(iv) \$2,640, in the case of a head of household.

(C)(i) For purposes of subparagraph (A) of this paragraph for tax years beginning on or after January 1, 2003, the Department of Revenue shall annually recompute the basic standard deduction for each category of return filer listed under subparagraph (B) of this paragraph. The basic standard deduction shall be computed by dividing the average U.S. City Average Consumer Price Index for the second quarter of the current calendar year by the average U.S. City Average Consumer Price Index for the second quarter of 2002, then multiplying that quotient by the amount listed under subparagraph (B) of this paragraph for each category of return filer.

(ii) If any change in the maximum household income determined under this subparagraph is not a multiple of \$5, the increase shall be rounded to the next lower multiple of \$5.

(iii) As used in this subparagraph, 'U.S. City Average Consumer Price Index' means the U.S. City Average Consumer Price Index for All Urban Consumers (All Items) as published by the Bureau of Labor Statistics of the United States Department of Labor.

(D) For purposes of subparagraph (A) of this paragraph, the additional standard deduction is the sum of each additional amount to which the taxpayer is entitled under subsection (7) of this section.

(E) As used in subparagraph (B) of this paragraph, 'surviving spouse' and 'head of household' have the meaning given those terms in section 2 of the Internal Revenue Code.

(F) In the case of the following, the standard deduction referred to in subparagraph (A) of this paragraph shall be zero:

(i) A husband or wife filing a separate return where the other

spouse has claimed itemized deductions under subparagraph (A) of this paragraph;

(ii) A nonresident alien individual;

(iii) An individual making a return for a period of less than 12 months on account of a change in his or her annual accounting period;

(iv) An estate or trust;

(v) A common trust fund; or

(vi) A partnership.

(d) For the purposes of paragraph (c)(A) of this subsection, the taxpayer's itemized deductions are the sum of:

(A) The taxpayer's itemized deductions as defined in section 63(d) of the Internal Revenue Code (reduced, if applicable, as described under section 68 of the Internal Revenue Code) minus the deduction for Oregon income tax (reduced, if applicable, by the proportion that the reduction in federal itemized deductions resulting from section 68 of the Internal Revenue Code bears to the amount of federal itemized deductions as defined for purposes of section 68 of the Internal Revenue Code); and

(B) { + (i) + } The amount that may be taken into account under section 213(a) of the Internal Revenue Code, not to exceed seven and one-half percent of the federal adjusted gross income of the taxpayer, if the taxpayer has attained the following age before the close of the taxable year, or, in the case of a joint return, if either taxpayer has attained the following age before the close of the taxable year:

Enrolled House Bill 2152 (HB 2152-B)

Page 5

{ - (i) For taxable years beginning on or after January 1, 1991, and before January 1, 1993, a taxpayer must attain 58 years of age before the close of the taxable year. - }

{ - (ii) For taxable years beginning on or after January 1, 1993, and before January 1, 1995, a taxpayer must attain 59 years of age before the close of the taxable year. - }

{ - (iii) For taxable years beginning on or after January 1, 1995, and before January 1, 1997, a taxpayer must attain 60 years of age before the close of the taxable year. - }

{ - (iv) For taxable years beginning on or after January 1, 1997, and before January 1, 1999, a taxpayer must attain 61 years of age before the close of the taxable year. - }

{ - (v) - } { + (I) + } For taxable years beginning on or after January 1, 1999, { + and before January 1, 2003, + } a taxpayer must attain 62 years of age before the close of the taxable year.

{ + (II) For taxable years beginning on or after January 1, 2003, and before January 1, 2004, a taxpayer must attain 63 years of age before the close of the taxable year.

(III) For taxable years beginning on or after January 1, 2004, and before January 1, 2005, a taxpayer must attain 64 years of age before the close of the taxable year.

(IV) For taxable years beginning on or after January 1, 2005, a taxpayer must attain 65 years of age before the close of the taxable year.

(ii) Notwithstanding the amount calculated under sub-subparagraph (i) of this subparagraph, the maximum amount

allowed for an itemized deduction under this subparagraph may not exceed the amount calculated under sub-subparagraph (i) of this subparagraph reduced by:

(I) 60 percent, if the federal adjusted gross income of the taxpayer for the tax year is \$15,000 or more and less than \$30,000.

(II) 80 percent, if the federal adjusted gross income of the taxpayer for the tax year is \$30,000 or more and less than \$40,000.

(III) 90 percent, if the federal adjusted gross income of the taxpayer for the tax year is \$40,000 or more and less than \$50,000.

(iii) Notwithstanding the amount calculated under sub-subparagraph (i) of this subparagraph, if the federal adjusted gross income of the taxpayer is \$50,000 or more for the tax year, an itemized deduction may not be claimed under this subparagraph.

(iv) For purposes of sub-subparagraphs (ii) and (iii) of this subparagraph, the amounts of the federal adjusted gross income brackets are doubled for a taxpayer who files a joint return, a return as a head of household or a return as a surviving spouse. + }

(2)(a) There shall be subtracted from federal taxable income any portion of the distribution of a pension, profit-sharing, stock bonus or other retirement plan, representing that portion of contributions which were taxed by the State of Oregon but not taxed by the federal government under laws in effect for tax years beginning prior to January 1, 1969, or for any subsequent year in which the amount that was contributed to the plan under the Internal Revenue Code was greater than the amount allowed under this chapter.

(b) Interest or other earnings on any excess contributions of a pension, profit-sharing, stock bonus or other retirement plan not

permitted to be deducted under paragraph (a) of this subsection shall not be added to federal taxable income in the year earned by the plan and shall not be subtracted from federal taxable income in the year received by the taxpayer.

(3)(a) Except as provided in paragraph (b) of this subsection and subsection (4) of this section, there shall be added to federal taxable income the amount of any federal income taxes in excess of \$5,500, accrued by the taxpayer during the taxable year as described in ORS 316.685, less the amount of any refund of federal taxes previously accrued for which a tax benefit was received.

(b) In the case of a husband and wife filing separate tax returns, the amount added shall be in the amount of any federal income taxes in excess of \$2,750, less the amount of any refund of federal taxes previously accrued for which a tax benefit was received.

(c)(A) For a calendar year beginning on or after January 1, 2008, the Department of Revenue shall make a cost-of-living adjustment to the federal income tax threshold amount described in paragraphs (a) and (b) of this subsection.

(B) The cost-of-living adjustment for a calendar year is the

percentage by which the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31 of the prior calendar year exceeds the monthly averaged index for the period beginning September 1, 2005, and ending August 31, 2006.

(C) As used in this paragraph, 'U.S. City Average Consumer Price Index' means the U.S. City Average Consumer Price Index for All Urban Consumers (All Items) as published by the Bureau of Labor Statistics of the United States Department of Labor.

(D) If any adjustment determined under subparagraph (B) of this paragraph is not a multiple of \$50, the adjustment shall be rounded to the next lower multiple of \$50.

(E) The adjustment shall apply to all tax years beginning in the calendar year for which the adjustment is made.

(4)(a) In addition to the adjustments required by ORS 316.130, a full-year nonresident individual shall add to taxable income a proportion of any accrued federal income taxes as computed under ORS 316.685 in excess of \$5,500 in the proportion provided in ORS 316.117.

(b) In the case of a husband and wife filing separate tax returns, the amount added under this subsection shall be computed in a manner consistent with the computation of the amount to be added in the case of a husband and wife filing separate returns under subsection (3) of this section. The method of computation shall be determined by the Department of Revenue by rule.

(5) Subsections (3)(b) and (4)(b) of this section shall not apply to married individuals living apart as defined in section 7703(b) of the Internal Revenue Code.

(6)(a) For tax years beginning on or after January 1, 1981, and prior to January 1, 1983, income or loss taken into account in determining federal taxable income by a shareholder of an S corporation pursuant to sections 1373 to 1375 of the Internal Revenue Code shall be adjusted for purposes of determining Oregon taxable income, to the extent that as income or loss of the S corporation, they were required to be adjusted under the provisions of ORS chapter 317.

(b) For tax years beginning on or after January 1, 1983, items of income, loss or deduction taken into account in determining federal taxable income by a shareholder of an S corporation

pursuant to sections 1366 to 1368 of the Internal Revenue Code shall be adjusted for purposes of determining Oregon taxable income, to the extent that as items of income, loss or deduction of the shareholder the items are required to be adjusted under the provisions of this chapter.

(c) The tax years referred to in paragraphs (a) and (b) of this subsection are those of the S corporation.

(d) As used in paragraph (a) of this subsection, an S corporation refers to an electing small business corporation.

(7)(a) The taxpayer shall be entitled to an additional amount, as referred to in subsection (1)(c)(A) and (D) of this section, of \$1,000:

(A) For himself or herself if he or she has attained age 65 before the close of his or her taxable year; and

(B) For the spouse of the taxpayer if the spouse has attained

age 65 before the close of the taxable year and an additional exemption is allowable to the taxpayer for such spouse for federal income tax purposes under section 151(b) of the Internal Revenue Code.

(b) The taxpayer shall be entitled to an additional amount, as referred to in subsection (1)(c)(A) and (D) of this section, of \$1,000:

(A) For himself or herself if he or she is blind at the close of the taxable year; and

(B) For the spouse of the taxpayer if the spouse is blind as of the close of the taxable year and an additional exemption is allowable to the taxpayer for such spouse for federal income tax purposes under section 151(b) of the Internal Revenue Code. For purposes of this subparagraph, if the spouse dies during the taxable year, the determination of whether such spouse is blind shall be made immediately prior to death.

(c) In the case of an individual who is not married and is not a surviving spouse, paragraphs (a) and (b) of this subsection shall be applied by substituting '\$1,200' for '\$1,000. '

(d) For purposes of this subsection, an individual is blind only if his or her central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or if his or her visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

(8) In the case of an individual with respect to whom a deduction under section 151 of the Internal Revenue Code is allowable for federal income tax purposes to another taxpayer for a taxable year beginning in the calendar year in which the individual's taxable year begins, the basic standard deduction (referred to in subsection (1)(c)(B) of this section) applicable to such individual for such individual's taxable year shall equal the lesser of:

(a) The amount allowed to the individual under section 63(c)(5) of the Internal Revenue Code for federal income tax purposes for the tax year for which the deduction is being claimed; or

(b) The amount determined under subsection (1)(c)(B) of this section.

SECTION 7. { + The amendments to ORS 316.695 by section 6 of this 2003 Act apply to tax years beginning on or after January 1, 2003. + }

{ + NOTE: + } Sections 8 through 12 were deleted by amendment. Subsequent sections were not renumbered.

{ +
(Deduction and Depreciation of Certain Vehicles) + }

SECTION 13. { + Section 14 of this 2003 Act is added to and made a part of ORS chapter 316. + }

SECTION 14. { + (1) There shall be added to the federal taxable income of a taxpayer a positive amount that equals the entire amount the taxpayer took as an expense deduction under section 179 of the Internal Revenue Code or as a depreciation

deduction under section 168 of the Internal Revenue Code for a four-wheeled vehicle manufactured primarily for use on public streets, roads and highways if the vehicle:

- (a) Is rated between 6,001 and 14,000 pounds gross vehicle weight;
- (b) Is designed to seat nine or fewer individuals; and
- (c) Is not equipped with an open cargo area with an interior length of 72 inches or more or does not have a covered box with an interior length of 72 inches or more that is separate from the passenger compartment.

(2) For Oregon tax purposes, the adjusted basis of a vehicle subject to this section shall equal the federal adjusted basis of the vehicle.

(3) This section does not apply to a vehicle that is used predominantly:

- (a) In the business of farming, as defined in ORS 316.045;
- (b) For the purpose of transporting employees or customers of a business that is engaged in the timber or wood-products industry or cargo or equipment related to the timber or wood-products industry; or
- (c) For the purpose of transporting employees or customers of a construction business or cargo or equipment used in construction. For purposes of this paragraph, a construction business does not include real estate sales operations. + }

SECTION 15. { + Section 14 of this 2003 Act applies to property placed in service in tax years beginning on or after January 1, 2003. + }

SECTION 16. { + Section 17 of this 2003 Act is added to and made a part of ORS chapter 317. + }

SECTION 17. { + (1) There shall be added to the federal taxable income of a taxpayer a positive amount that equals the entire amount the taxpayer took as an expense deduction under section 179 of the Internal Revenue Code or as a depreciation deduction under section 168 of the Internal Revenue Code for a four-wheeled vehicle manufactured primarily for use on public streets, roads and highways if the vehicle:

- (a) Is rated between 6,001 and 14,000 pounds gross vehicle weight;
- (b) Is designed to seat nine or fewer individuals; and
- (c) Is not equipped with an open cargo area with an interior length of 72 inches or more or does not have a covered box with an interior length of 72 inches or more that is separate from the passenger compartment.

(2) For Oregon tax purposes, the adjusted basis of a vehicle subject to this section shall equal the federal adjusted basis of the vehicle.

(3) This section does not apply to a vehicle that is used predominantly:

- (a) In the business of farming, as defined in ORS 316.045;
- (b) For the purpose of transporting employees or customers of a business that is engaged in the timber or wood-products industry

or cargo or equipment related to the timber or wood-products industry; or

- (c) For the purpose of transporting employees or customers of a

construction business or cargo or equipment used in construction. For purposes of this paragraph, a construction business does not include real estate sales operations. + }

SECTION 18. ORS 318.031 is amended to read:

318.031. It being the intention of the Legislative Assembly that this chapter and the Corporation Excise Tax Law of 1929 shall be administered as uniformly as possible (allowance being made for the difference in imposition of the taxes and the operative date of this chapter), ORS 305.140 and 305.150, ORS chapter 314 and the following sections are incorporated into and made a part of this chapter: ORS 315.104, 315.134, 315.156, 315.204, 315.208, 315.213, 315.234, 315.254, 315.304, 315.504, 315.511 and 315.604 (all only to the extent applicable for a corporation) and ORS 285B.773, 315.507, 317.010, 317.013, 317.018 to 317.022, 317.030, 317.035, 317.038, 317.080, 317.124 to 317.131, 317.152 to 317.154, 317.259 to 317.303, 317.310 to 317.386, 317.476 to 317.485, 317.488, 317.510 to 317.635 and 317.705 to 317.725 { + and section 17 of this 2003 Act + }.

SECTION 19. { + Section 17 of this 2003 Act and the amendments to ORS 318.031 by section 18 of this 2003 Act apply to property placed in service in tax years beginning on or after January 1, 2003. + }

{ +
(Extraterritorial Income Exclusion) + }

SECTION 20. ORS 317.286 is amended to read:

317.286. (1) To derive Oregon taxable income, federal taxable income shall be modified to the extent necessary to not recognize for Oregon tax purposes any transaction between the taxpayer and a related foreign sales corporation. The taxpayer shall be considered to have entered directly into any transactions with third parties that are treated for federal income tax purposes as having been entered into by a related foreign sales corporation. To satisfy the requirements of this section:

(a) No deduction shall be allowed to a taxpayer for any payment to a related foreign sales corporation; { - and - }

(b) No income or expense that would be attributed to a taxpayer but for the provisions of sections 921 to 927 of the Internal Revenue Code shall be treated as attributable to a related foreign sales corporation { + ; and

(c) No extraterritorial income exclusion related to a foreign sales corporation under section 114 of the Internal Revenue Code shall be allowed to a taxpayer + }.

(2) As used in this section, 'foreign sales corporation ' means a foreign sales corporation as defined in section 922 of the Internal Revenue Code { + , as amended and in effect on the day prior to the repeal of section 922 of the Internal Revenue Code by section 2 of the FSC Repeal and Extraterritorial Income Exclusion Act of 2000 (P.L. 106-519) + }.

SECTION 21. { + The amendments to ORS 317.286 by section 20 of this 2003 Act apply to tax years beginning on or after January 1, 2003. + }

{ +
(Corporate Credits) + }

SECTION 22. { + Section 23 of this 2003 Act is added to and made a part of ORS chapter 317. + }

SECTION 23. { + (1) Notwithstanding any other provision of law, for a tax year beginning on or after January 1, 2003, and before January 1, 2006:

(a) Any credit allowable against the tax imposed under this chapter shall be reduced by 20 percent; and

(b) The amount of reduction caused by this section may not be carried forward to a succeeding tax year.

(2) Notwithstanding subsection (1) of this section, the reduction caused by this section may be carried forward to a succeeding tax year that begins on or after January 1, 2006, and may be offset against the taxpayer's tax liability for that tax year, if that tax year is not more than three years after the date of the last tax year for which the credit could otherwise be claimed, including any carryforward of that credit otherwise allowed by law.

(3) This section does not apply to any credit claimed under ORS 315.164, 315.169, 317.097 or 317.147. + }

SECTION 24. { + Section 25 of this 2003 Act is added to and made a part of ORS chapter 318. + }

SECTION 25. { + (1) Notwithstanding any other provision of law, for a tax year beginning on or after January 1, 2003, and before January 1, 2006:

(a) Any credit allowable against the tax imposed under this chapter shall be reduced by 20 percent; and

(b) The amount of reduction caused by this section may not be carried forward to a succeeding tax year.

(2) Notwithstanding subsection (1) of this section, the reduction caused by this section may be carried forward to a succeeding tax year that begins on or after January 1, 2006, and may be offset against the taxpayer's tax liability for that tax year, if that tax year is not more than three years after the date of the last tax year for which the credit could otherwise be claimed, including any carryforward of that credit otherwise allowed by law.

(3) This section does not apply to any credit claimed under ORS 315.164, 315.169, 317.097 or 317.147. + }

{ + NOTE: + } Section 26 was deleted by amendment. Subsequent sections were not renumbered.

{ +

(Corporate Minimum Tax) + }

SECTION 27. ORS 317.090 is amended to read:

317.090. { + (1) + } Each taxpayer named in ORS 317.056 or 317.070 shall pay annually to the state, for the privilege of carrying on or doing business by it within this state, a minimum tax { - of \$10. - } { + as follows:

(a) If the corporation has Oregon sales for the tax year of less than \$20,000, \$250.

(b) If the corporation has Oregon sales for the tax year of \$20,000 or more but less than \$100,000, \$500.

(c) If the corporation has Oregon sales for the tax year of \$100,000 or more but less than \$2 million, \$1,000.

(d) If the corporation has Oregon sales for the tax year of \$2 million or more but less than \$5 million, \$2,000.

(e) If the corporation has Oregon sales for the tax year of \$5 million or more but less than \$15 million, \$3,000.

(f) If the corporation has Oregon sales for the tax year of \$15 million or more but less than \$25 million, \$4,000.

(g) If the corporation has Oregon sales for the tax year of \$25 million or more, \$5,000.

(2) For the purposes of subsection (1) of this section, ' Oregon sales' means:

(a) If the corporation apportions business income under ORS 314.650 to 314.665 for Oregon tax purposes, the total sales of the taxpayer during the tax year, as determined for purposes of ORS 314.665;

(b) If the corporation does not apportion business income for Oregon tax purposes, the total sales the taxpayer would have had, as determined for purposes of ORS 314.665, if the taxpayer were required to apportion business income for Oregon tax purposes; or

(c) If the corporation apportions income using a method different than that prescribed by ORS 314.650 to 314.665, Oregon sales as defined by the Department of Revenue by rule. + }

{ + (3) + } The minimum tax shall not be apportionable (except in the case of a change of accounting periods), but shall be payable in full for any part of the year during which a corporation is subject to tax.

SECTION 28. { + The amendments to ORS 317.090 by section 27 of this 2003 Act apply to tax years beginning on or after January 1, 2003. + }

{ +
(S Corporation Minimum Tax) + }

SECTION 29. ORS 314.732 is amended to read:

314.732. (1) Except as otherwise provided in ORS 314.740 { - , - } { + and + } 314.742 and { - 317.090 - } { + section 31 of this 2003 Act + }, an S corporation { - shall not be - } { + is not + } subject to the taxes imposed by ORS chapter 316, 317 or 318.

(2)(a) Subject to paragraphs (b) to (d) of this subsection, the taxable income of an S corporation shall be computed pursuant to section 1363(b) of the Internal Revenue Code, with the modifications, additions and subtractions provided in this chapter and ORS chapter 316.

(b) Except as otherwise provided under this chapter and ORS chapter 316, 317 or 318, and except as inconsistent with ORS 314.730 to 314.752, subchapter C, chapter 1, Internal Revenue Code, shall apply to an S corporation and its shareholders for Oregon tax purposes. For Oregon tax purposes, the provisions of section 1371 of the Internal Revenue Code shall apply, subject to the modifications, additions and subtractions under this chapter or ORS chapter 316, 317 or 318 and any provisions to the contrary in this chapter or ORS chapter 316, 317 or 318.

(c) Notwithstanding ORS 317.476, 317.478 or 317.479, no carryforward, arising for a taxable year for which a corporation is a C corporation, may be carried to a taxable year for which

such corporation is an S corporation.

(d) Notwithstanding ORS 317.476 or other law, no carryforward, and no carryback, shall arise at the corporate level for a taxable year for which a corporation is an S corporation.

SECTION 30. { + Section 31 of this 2003 Act is added to and made a part of ORS chapter 314. + }

SECTION 31. { + (1) Every S corporation doing business in this state shall pay annually to the state, for the privilege of

Enrolled House Bill 2152 (HB 2152-B)

Page 12

carrying on or doing business within this state, a minimum tax as follows:

(a) If the S corporation has Oregon sales for the tax year of less than \$1 million, \$250.

(b) If the S corporation has Oregon sales for the tax year of \$1 million or more, \$500.

(2) The minimum tax is not apportionable, except in the case of a change of accounting periods. The minimum tax is payable in full for any part of a year during which an S corporation conducts business in this state.

(3) The minimum tax shall be due and payable on or before the 15th day of the month following the close of the tax year, and shall be reported and paid in the manner prescribed by the Department of Revenue by rule.

(4) The minimum tax shall be considered a tax imposed on taxable income for all purposes of collection and enforcement.

(5) As used in this section, 'Oregon sales' means:

(a) If the S corporation apportions business income under ORS 314.650 to 314.665 for Oregon tax purposes, the total sales of the taxpayer during the tax year, as determined for purposes of ORS 314.665;

(b) If the S corporation does not apportion business income for Oregon tax purposes, the total sales the taxpayer would have had, as determined for purposes of ORS 314.665, if the taxpayer were required to apportion business income for Oregon tax purposes; or

(c) If the S corporation apportions income using a method different than that prescribed by ORS 314.650 to 314.665, Oregon sales as defined by the Department of Revenue by rule. + }

SECTION 32. { + Section 31 of this 2003 Act and the amendments to ORS 314.732 by section 29 of this 2003 Act apply to tax years beginning on or after January 1, 2003. + }

{ +

(Dividends Received by Corporations) + }

SECTION 33. ORS 317.267 is amended to read:

317.267. (1) To derive Oregon taxable income, there shall be added to federal taxable income amounts received as dividends from corporations deducted for federal purposes pursuant to section 243 or 245, except 245(c), amounts paid as dividends by a public utility or telecommunications utility and deducted for federal purposes pursuant to section 247 of the Internal Revenue Code or dividends eliminated under Treasury Regulations adopted under section 1502 of the Internal Revenue Code that are paid by members of an affiliated group that are eliminated from a

consolidated federal return pursuant to ORS 317.715 (2).

(2) To derive Oregon taxable income, after the modification prescribed under subsection (1) of this section, there shall be subtracted from federal taxable income an amount equal to { - 70 - } { + 35 + } percent of dividends (determined without regard to section 78 of the Internal Revenue Code) received or deemed received from corporations if such dividends are included in federal taxable income. However:

(a) In the case of any dividend on debt-financed portfolio stock as described in section 246A of the Internal Revenue Code, the subtraction allowed under this subsection shall be reduced under the same conditions and in same amount as the dividends received deduction otherwise allowable for federal income tax purposes is reduced under section 246A of the Internal Revenue Code.

Enrolled House Bill 2152 (HB 2152-B)

Page 13

(b) { - No subtraction shall be - } { + A subtraction is not + } allowed under this subsection if the dividends received or deemed received are from the Oregon Capital Corporation established pursuant to ORS 284.750 to 284.770.

(c) In the case of any dividend received from a 20 percent owned corporation, as defined in section 243(c) of the Internal Revenue Code, this subsection shall be applied by substituting { - ' 80 percent' for '70 percent.' - } { + '40 percent' for '35 percent.' + }

(3) There shall be excluded from the sales factor of any apportionment formula employed to attribute income to this state any amount subtracted from federal taxable income under subsection (2) of this section.

SECTION 34. { + The amendments to ORS 317.267 by section 33 of this 2003 Act apply to tax years beginning on or after January 1, 2003. + }

SECTION 35. ORS 317.267, as amended by section 33 of this 2003 Act, is amended to read:

317.267. (1) To derive Oregon taxable income, there shall be added to federal taxable income amounts received as dividends from corporations deducted for federal purposes pursuant to section 243 or 245, except 245(c), amounts paid as dividends by a public utility or telecommunications utility and deducted for federal purposes pursuant to section 247 of the Internal Revenue Code or dividends eliminated under Treasury Regulations adopted under section 1502 of the Internal Revenue Code that are paid by members of an affiliated group that are eliminated from a consolidated federal return pursuant to ORS 317.715 (2).

(2) To derive Oregon taxable income, after the modification prescribed under subsection (1) of this section, there shall be subtracted from federal taxable income an amount equal to { - 35 - } { + 70 + } percent of dividends (determined without regard to section 78 of the Internal Revenue Code) received or deemed received from corporations if such dividends are included in federal taxable income. However:

(a) In the case of any dividend on debt-financed portfolio stock as described in section 246A of the Internal Revenue Code, the subtraction allowed under this subsection shall be reduced under the same conditions and in same amount as the dividends

received deduction otherwise allowable for federal income tax purposes is reduced under section 246A of the Internal Revenue Code.

(b) A subtraction is not allowed under this subsection if the dividends received or deemed received are from the Oregon Capital Corporation established pursuant to ORS 284.750 to 284.770.

(c) In the case of any dividend received from a 20 percent owned corporation, as defined in section 243(c) of the Internal Revenue Code, this subsection shall be applied by substituting { - ' 40 percent' for '35 percent.' - } { + '80 percent' for '70 percent.' + }

(3) There shall be excluded from the sales factor of any apportionment formula employed to attribute income to this state any amount subtracted from federal taxable income under subsection (2) of this section.

SECTION 36. { + The amendments to ORS 317.267 by section 35 of this 2003 Act apply to tax years beginning on or after January 1, 2006. + }

{ +
(Temporary Limitation on Withholding Adjustments + }

Enrolled House Bill 2152 (HB 2152-B)

Page 14

{ +
and Penalties) + }

SECTION 37. { + (1) Notwithstanding ORS 316.162 to 316.212, the Department of Revenue may not adjust withholding tables for tax years beginning on or after January 1, 2003, and before January 1, 2004, to take into account the new provisions and amendments to statutes in sections 4 to 36 of this 2003 Act.

(2) Notwithstanding ORS 316.557 to 316.589, for tax years beginning on or after January 1, 2003, and before January 1, 2004, interest resulting from the underpayment of estimated taxes may not be imposed if the sum of estimated taxes paid by the taxpayer would not have constituted an underpayment of estimated tax prior to enactment of the new provisions and amendments to statutes in sections 4 to 36 of this 2003 Act.

(3) Notwithstanding ORS 314.505 to 314.525, for tax years beginning on or after January 1, 2003, and before January 1, 2004, interest resulting from the underpayment of estimated tax may not be imposed if the sum of estimated taxes paid by a corporation would not have constituted an underpayment of estimated taxes prior to enactment of the new provisions and amendments to statutes in sections 4 to 36 of this 2003 Act. + }

{ +
PROPERTY TAX DISCOUNTS + }

SECTION 38. ORS 311.505 is amended to read:

311.505. (1) Except as provided in subsection (6) of this section, the first one-third of all taxes and other charges due from the taxpayer or property, levied or imposed and charged on the latest tax roll, shall be paid on or before November 15, the second one-third on or before February 15, and the remaining one-third on or before May 15 next following.

(2) Interest shall be charged and collected on any taxes on property, other charges, and on any additional taxes or penalty imposed for disqualification of property for special assessment or exemption, or installment thereof not paid when due, at the rate of one and one-third percent per month, or fraction of a month until paid.

(3) { - Discounts - } { + A 1.5 percent discount + } shall be allowed on

{ - partial or - } full payments of { - such - } { + all + } taxes, made on or before November 15 { + . + } { - as follows: - }

{ - (a) Two percent on two-thirds of such taxes so paid. - }

{ - (b) Three percent where all of such taxes are so paid. - }

(4) For purposes of this section, 'taxes' includes all taxes on property as defined in ORS 310.140 and certified to the assessor under ORS 310.060 except taxes assessed on any other property which have by any means become a lien against the property for which the payment was made.

(5) All interest collected and all discounts allowed shall be prorated to the several municipal corporations, taxing districts and governmental agencies sharing in the taxes or assessments.

(6) If the total property tax is less than \$40, { - no - } { + an + } installment payment of taxes { - shall be - } { + is not + } allowed.

SECTION 39. { + The amendments to ORS 311.505 by section 38 of this 2003 Act apply to tax years beginning on or after July 1, 2004. + }

SECTION 40. { + (1) As soon as practicable after January 1, 2005, and before March 15, 2005, each county tax collector shall compute a positive amount equal to the difference between the amount of discount that would have been allowed if the rate of discount under ORS 311.505 were three percent and the amount of discount that was actually allowed under ORS 311.505 for the 2004-2005 tax year. The tax collector shall certify the computed amount to the county treasurer.

(2) The county treasurer shall transfer the amount certified under subsection (1) of this section from the unsegregated tax collections account, or from a reserve account established by the county for the purpose of making the transfer, to the State Treasurer. The State Treasurer shall deposit:

(a) One-third of the amount received from the county treasurer in the State School Fund established under ORS 327.008; and

(b) Two-thirds of the amount received from the county treasurer in the General Fund. + }

SECTION 41. ORS 294.381 is amended to read:

294.381. (1) Each municipal corporation that has the power to levy an ad valorem property tax shall estimate, in the manner provided in this section, the amount of revenues that will be received in the ensuing year or ensuing budget period through the imposition of taxes upon the taxable property within the municipal corporation.

(2) Subject to the additional adjustments required under subsection (3) of this section, the estimated ad valorem taxes that will be received in the ensuing year or ensuing budget period is the sum of the following:

(a) The amount derived by multiplying the estimated assessed value for the ensuing year or each fiscal year of the ensuing budget period of the taxable property within the municipal corporation, after boundary changes have been filed in final approved form with the county assessor and the Department of Revenue as provided in ORS 308.225, by whichever of the following is applicable to the municipal corporation:

(A) The municipal corporation's permanent rate limit on operating taxes, as defined in ORS 310.202 (8), or such lesser rate as the municipal corporation may determine to use for purposes of levying such ad valorem taxes; or

(B) The municipal corporation's statutory rate limit on operating taxes, as defined in ORS 310.202 (10), or such lesser rate as the municipal corporation may determine to use for purposes of levying such ad valorem taxes.

(b) If the municipal corporation is authorized to levy a local option tax that was authorized by the electors as a dollar amount, the dollar amount of such local option tax that is authorized to be levied in the ensuing year or ensuing budget period.

(c) If the municipal corporation is authorized to levy a local option tax that was authorized by the electors as a tax rate, the amount derived by multiplying the authorized rate of such local option tax for the ensuing year or ensuing budget period by the estimated assessed value for the ensuing year or each fiscal year of the ensuing budget period of the taxable property within the municipal corporation.

(d) An amount equal to the principal and interest on all bonded indebtedness of the municipal corporation that is due and payable

in the ensuing year or ensuing budget period, divided by the annual average percentage of taxes collected in the county in which the taxable property of the municipal corporation is located.

(3) The sum of the amounts determined under subsection (2)(a), (b) and (c) of this section shall be reduced by an amount equal to the estimated amount of such taxes that will not be collected as a result of:

(a) The { - discounts - } { + discount + } allowed under ORS 311.505;

(b) The limits imposed under ORS 310.150 (3); and

(c) The failure of taxpayers to pay such taxes in the year for which they are levied.

(4) The estimated ad valorem taxes determined in accordance with subsections (2) and (3) of this section shall be used by the municipal corporation for purposes of complying with the requirements of ORS 310.060 (1).

SECTION 42. ORS 311.676 is amended to read:

311.676. (1) Upon determining the amount of deferred taxes on tax-deferred property for the tax year, the Department of Revenue shall pay to the respective county tax collectors an amount

equivalent to the deferred taxes less { - three percent thereof - } { + the amount of discount allowed under ORS 311.505 + }. Payment shall be made from the revolving account established under ORS 311.701.

(2) The department shall maintain accounts for each deferred property and shall accrue interest only on the actual amount of taxes advanced to the county.

(3)(a) If only a portion of taxes are deferred under ORS 311.689, the department shall pay the portion that is eligible for deferral to the tax collector and shall provide a separate notice to the county assessor stating the amount of property taxes that the department is paying.

(b) The notice stating the amount of property taxes paid by the department and any other county records indicating those amounts are not subject to the prohibitions against disclosure set forth in ORS 314.835.

SECTION 42a. ORS 311.681 is amended to read:

311.681. (1) Notwithstanding ORS 311.668, if an individual (or two or more individuals jointly) who has elected to defer homestead property taxes in a prior tax year has not filed a timely claim for deferral for one or more tax years succeeding the year in which property taxes were initially deferred under ORS 311.666 to 311.701, then the individual may request that the Director of the Department of Revenue grant a retroactive deferral of property taxes on the property. A spouse who is eligible to make the election under ORS 311.688 may also request a grant of retroactive deferral under this section.

(2) The director may, in the discretion of the director, grant or deny the retroactive deferral of property taxes. No appeal from a decision of the director under this section may be made.

(3) The director shall not grant a retroactive deferral of property taxes if, in any intervening year between the year in which deferral was last granted to the property and the last year for which retroactive deferral is being requested, the property would not have been eligible for deferral had the claim for deferral been timely filed.

(4) If the director grants a retroactive deferral of property taxes under this section, the department shall pay to the county tax collector an amount equal to the deferred taxes for each

year, less { - three percent - } { + the amount of discount allowed under ORS 311.505 + }. Interest shall accrue on the actual amount of taxes advanced to the county.

(5) The department shall have a lien against the tax-deferred property for amounts deferred under this section as provided in ORS 311.673. The lien shall attach as of July 1 of the tax year for which the payment relates. In the case of a payment representing more than one year's property taxes, the department shall have a lien in the amount of that portion of a payment related to a particular tax year, which shall attach as of July 1 of that tax year.

SECTION 43. ORS 311.780 is amended to read:

311.780. (1) Upon receipt of the notification from the Department of Revenue of the amount deferred on tax deferred property under ORS 311.740 to 311.780, the State Treasurer shall

pay to the respective county tax collectors an amount equivalent to the full amount of tax listed by the department less { - three percent thereof - } { + the amount of discount allowed under ORS 311.505 + }.

(2) The department shall maintain accounts for each deferred property and shall accrue interest on the gross amount of taxes advanced.

(3) The funds provided for the payment made pursuant to subsection (1) of this section shall be made as investments from the excess funds mentioned in ORS 293.701 (2) (o).

SECTION 43a. ORS 311.392 is amended to read:

311.392. (1) If, in the discretion of the county court, it is more economical to advance to those municipalities from the general fund of the county the total amount of taxes, assessments or other charges levied against property in the county, the county court may advance from the general fund of the county the full amount of the taxes, assessments and charges levied by those subdivisions and the county court may order the county tax collector to revise the tax distribution schedule provided by ORS 311.390 so that all taxes, assessments and charges advanced by the county will be allocated to the county. If the county makes the payments provided in this section, it shall have no recourse against the political subdivision for recovery of the shrinkage in collections from that anticipated at the time the payment was made.

(2) If the county advances taxes under this subsection, before December 1 of each year, it may deduct from the levy the { - three percent - } discount { - which - } { + that + } would have been given by the district had all of the taxes been paid by November 15 and turned over to the district on or before December 1 of each year. If the payment is made after December 1, no discount shall be taken by the county.

{ + NOTE: + } Sections 44 to 71 were deleted by amendment. Subsequent sections were not renumbered.

{ +
LONG TERM CARE FACILITY TAXES + }

SECTION 72. { + Sections 73 to 80 and 82 of this 2003 Act are added to and made a part of ORS chapter 441. + }

SECTION 73. { + As used in sections 73 to 80 of this 2003 Act:

(1) 'Assessment rate' means the rate established by the Director of Human Services under section 75 of this 2003 Act.

(2) 'Gross revenue':

(a) Means the revenue paid to a long term care facility for patient care, room, board and services, less contractual adjustments; and

(b) Does not include revenue derived from sources other than operations, including but not limited to interest and guest meals.

(3) 'Long term care facility' has the meaning given that term in ORS 442.015, but does not include an intermediate care facility for the mentally retarded.

(4) 'Patient days' means the total number of patients occupying beds in a long term care facility, determined as of 12:01 a.m. of each day, for all days in the calendar period for which an assessment is being reported and paid. For purposes of this subsection, if a long term care facility patient is admitted and discharged on the same day, the patient shall be deemed present on 12:01 a.m. of that day. + }

SECTION 74. { + (1) A long term care facility assessment is imposed on each long term care facility in this state.

(2) The amount of the assessment equals the assessment rate times the number of patient days at the long term care facility for a calendar quarter.

(3) The assessment shall be reported on a form prescribed by the Department of Human Services and shall contain the information required to be reported by the department. The assessment form shall be filed with the department on or before the 30th day of the month following the end of the calendar quarter for which the assessment is being reported. The long term care facility shall pay the assessment at the time the facility files the assessment report. The payment shall accompany the report.

(4) A long term care facility is not guaranteed that any additional moneys paid to the facility in the form of reimbursements calculated according to the methodology described in section 82 (4) of this 2003 Act shall equal or exceed the amount of the long term care facility assessment paid by the facility. + }

SECTION 75. { + (1) The Director of Human Services shall establish an annual assessment rate for long term care facilities that applies for a 12-month period beginning July 1. The assessment rate shall be a rate that will raise an amount equal to six percent of the annual gross revenue of all long term care facilities in this state, excluding the annual gross revenue of long term care facilities that are exempt from the assessment under section 76 of this 2003 Act, for the 12-month period beginning July 1 preceding the 12-month period for which the assessment is being imposed.

(2) At the time the annual assessment rate is established, the director may adjust the assessment rate determined under subsection (1) of this section to account for overages and underages in the aggregate amount actually collected during previous assessment periods.

(3) The director shall establish the assessment rate on or before June 15th preceding the 12-month period for which the rate applies. + }

SECTION 76. { + The Oregon Veterans' Home is exempt from the assessment imposed under section 74 of this 2003 Act. + }

SECTION 77. { + (1) A long term care facility that fails to file a report or pay an assessment under section 74 of this 2003 Act by the date the report or payment is due shall be subject to a penalty of \$500 per day of delinquency. The total amount of

penalties imposed under this section for each reporting period may not exceed five percent of the assessment for the reporting period for which penalties are being imposed.

(2) Penalties imposed under this section shall be collected by the Department of Human Services and deposited in the Department of Human Services Account established under ORS 409.060.

(3) Penalties paid under this section are in addition to and not in lieu of the assessment imposed under section 74 of this 2003 Act. + }

SECTION 78. { + (1) A long term care facility that has paid an amount that is not required under sections 73 to 80 of this 2003 Act may file a claim for refund with the Department of Human Services.

(2) Any long term care facility aggrieved by an action of the Department of Human Services or by an action of the Director of Human Services taken under sections 73 to 80 of this 2003 Act shall be entitled to notice and an opportunity for a contested case hearing under ORS 183.310 to 183.550. + }

SECTION 79. { + (1) Each long term care facility subject to assessment under section 74 of this 2003 Act shall maintain records sufficient to determine the amount of the assessment under section 74 of this 2003 Act.

(2) Unless otherwise exempt, a long term care facility shall report the payment of the assessment as an allowable cost for Medicaid reimbursement purposes.

(3) The Department of Human Services may audit the records of any long term care facility in this state to determine compliance with sections 73 to 80 of this 2003 Act. The department may audit records at any time for a period of three years following the date an assessment is due to be reported and paid under section 74 of this 2003 Act. + }

SECTION 80. { + Amounts collected by the Department of Human Services from the assessment under section 74 of this 2003 Act shall be deposited in a suspense account established under ORS 293.445. Amounts necessary to pay refunds are continuously appropriated to the department from the suspense account. After the payment of refunds, the net amount of revenue shall be transferred to the Long Term Care Facility Quality Assurance Fund established under section 82 of this 2003 Act. + }

SECTION 81. { + Sections 73 to 80 of this 2003 Act apply to long term care facility assessments imposed in calendar quarters beginning on or after the effective date of this 2003 Act and before July 1, 2007. + }

SECTION 82. { + (1) The Long Term Care Facility Quality Assurance Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Long Term Care Facility Quality Assurance Fund shall be credited to the fund.

(2) Amounts in the Long Term Care Facility Quality Assurance Fund are continuously appropriated to the Department of Human Services for the purposes of funding long term care facilities, as defined in section 73 of this 2003 Act, that are a part of the Oregon Medicaid reimbursement system.

(3) Funds in the Long Term Care Facility Quality Assurance Fund and the matching federal financial participation under Title XIX of the Social Security Act may be used to fund Medicaid-certified long term care facilities using only the reimbursement methodology described in subsection (4) of this section to achieve a rate of reimbursement greater than the rate in effect on July 1, 2003.

(4) The reimbursement methodology used to make additional payments to Medicaid-certified long term care facilities includes but is not limited to:

(a) Rebasing biennially, beginning on July 1 of each odd-numbered year;

(b) Adjusting for inflation in the nonrebasing year;

(c) Continuing the use of the pediatric rate;

(d) Continuing the use of the complex medical needs additional payment;

(e) Discontinuing the use of the relationship percentage, except when calculating the pediatric rate in paragraph (c) of this subsection; and

(f) Requiring the Department of Human Services to reimburse costs at a rate not lower than the 63rd percentile ceiling of allowable costs for the 2003-2005 biennium and the 70th percentile ceiling of allowable costs for the 2005-2007 biennium. + }

SECTION 83. { + Notwithstanding section 82 of this 2003 Act:

(1) On or before March 15, 2004, \$6.25 million shall be transferred from the Long Term Care Facility Quality Assurance Fund to the General Fund; and

(2) On or before March 15, 2005, \$6.25 million shall be transferred from the Long Term Care Facility Quality Assurance Fund to the General Fund. + }

SECTION 84. { + Notwithstanding ORS 410.555, during the 2003-2005 biennium and the 2005-2007 biennium, the Department of Human Services shall periodically adjust reimbursement rates to reflect the increase between the long term care facility caseload approved and funded in the legislatively adopted budget for the department for the 2003-2005 biennium and the long term care facility caseload at the time of the adjustment. + }

SECTION 85. { + (1) Notwithstanding section 75 (1) of this 2003 Act and ORS 410.555, the assessment under section 74 of this 2003 Act for calendar quarters beginning on or after the effective date of this 2003 Act and before July 1, 2004, shall be determined using an assessment rate of \$8.25.

(2) An assessment in a calendar quarter may be adjusted as provided in section 75 (2) of this 2003 Act to take into account overages or underages raised under the assessment rate set under subsection (1) of this section, including but not limited to overages and underages caused by an approval or denial by the Centers for Medicare and Medicaid Services of an application to request a waiver made pursuant to section 91 of this 2003 Act. An adjustment under this subsection may be made at any time. + }

SECTION 86. { + (1) Notwithstanding section 81 of this 2003 Act and ORS 410.555, a long term care facility assessment is imposed on long term care facilities for patient days on or after July 1, 2003, and before the first day of the calendar quarter that begins on or after the effective date of this 2003 Act.

(2) The assessment rate for the period described in subsection (1) of this section is \$8.25.

(3) The assessment shall be computed and reported as described in section 74 of this 2003 Act and shall be paid to the Department of Human Services on or before the 30th day of the first month of the calendar quarter that begins on or after the effective date of this 2003 Act.

(4) The department shall deposit assessments collected under

this section, and penalties associated with those assessments, in the suspense account described in section 80 of this 2003 Act.

(5) Unless the context requires otherwise, sections 73 to 80 of this 2003 Act apply to the assessments imposed under this section. + }

SECTION 87. { + Notwithstanding sections 73 to 80 of this 2003 Act, an assessment under sections 73 to 80 of this 2003 Act may be imposed only in a calendar quarter for which the long term care facility reimbursement rate that is part of the Oregon Medicaid reimbursement system was calculated according to the methodology described in section 82 (4) of this 2003 Act. The department may make retroactive increases in payments for the first six months the assessment is imposed. + }

SECTION 88. { + Notwithstanding ORS 410.555 and section 86 of this 2003 Act, an assessment under section 86 of this 2003 Act may be imposed only in a calendar quarter for which the long term care facility reimbursement rate that is part of the Oregon Medicaid reimbursement system was calculated according to the methodology described in section 82 (4) of this 2003 Act. + }

SECTION 89. { + Sections 73 to 80 and 82 of this 2003 Act are repealed on January 2, 2008. + }

SECTION 90. { + (1) Nothing in the repeal of sections 73 to 80 and 82 of this 2003 Act by section 89 of this 2003 Act affects the imposition and collection of a long term care facility assessment under sections 73 to 80 of this 2003 Act for a calendar quarter beginning before July 1, 2007.

(2) Any moneys remaining in the Long Term Care Facility Quality Assurance Fund on January 1, 2008, are transferred to the General Fund. + }

SECTION 91. { + (1) As used in this section, 'waivered long term care facilities' means continuing care retirement communities, as defined in ORS 101.020, long term care facilities that have been identified by the Department of Human Services as having a Medicaid recipient census that exceeds the census level established by the department and the Oregon Veterans' Home.

(2) On or before the effective date of this 2003 Act, the department shall submit an application to the Centers for Medicare and Medicaid Services to request a waiver of the broad-based tax requirement pursuant to 42 C.F.R. 433.68(e) to exempt waivered long term care facilities from the long term care facility assessment imposed under section 74 of this 2003 Act. The department shall ensure that the application requesting a waiver meets the requirements of 42 C.F.R. 433.68(e)(1).

(3) The department shall notify waivered long term care facilities that the department has submitted the application to the Centers for Medicare and Medicaid Services to request a waiver of the broad-based tax requirement pursuant to 42 C.F.R. 433.68(e) to exempt waivered long term care facilities from the long term care facility assessment imposed under section 74 of this 2003 Act. While a decision on an application to request a waiver is pending, the department may extend the period in which a waivered long term care facility is required to file a return and pay a long term care facility assessment. The period of

extension may not continue beyond a date that is 90 days following the date of the denial of a waiver by the Centers for Medicare and Medicaid Services.

(4) If an application to the Centers for Medicare and Medicaid Services for a waiver of the broad-based tax requirement pursuant to 42 C.F.R. 433.68(e) is denied, the Director of Human Services may:

(a) Resubmit the application with appropriate changes to receive a waiver of the broad-based tax requirements; or

Enrolled House Bill 2152 (HB 2152-B)

Page 22

(b) Submit an application to the Centers for Medicare and Medicaid Services for a waiver of uniform tax requirements pursuant to 42 C.F.R. 433.68(e). + }

SECTION 92. Section 76 of this 2003 Act is amended to read:

{ + Sec. 76. + } { + (1) + } The Oregon Veterans' Home is exempt from the assessment imposed under section 74 of this 2003 Act.

{ + (2) A waived long term care facility, as defined in section 91 of this 2003 Act, is exempt from the long term care facility assessment imposed under section 74 of this 2003 Act. + }

SECTION 93. { + (1) The amendments to section 76 of this 2003 Act by section 92 of this 2003 Act become operative on the day after the date of receipt of the approval by the Centers for Medicare and Medicaid Services of the waiver of the broad-based tax requirement pursuant to 42 C.F.R. 433.68(e).

(2) The Director of Human Services shall notify the Legislative Counsel upon receipt of the waiver or denial of the waiver request. + }

SECTION 94. { + Section 91 of this 2003 Act is repealed on January 2, 2008. + }

{ +
MEDICAID MANAGED CARE TAXES + }

SECTION 95. { + Sections 96 to 103 of this 2003 Act are added to and made a part of ORS chapter 441. + }

SECTION 96. { + As used in sections 96 to 103 of this 2003 Act:

(1) 'Managed care premiums' means premium payments paid to a prepaid managed care health services organization, but does not include Medicare premiums.

(2) 'Prepaid managed care health services organization' or 'organization' means a managed health, dental, mental health or chemical dependency organization that contracts with the Department of Human Services on a prepaid capitated basis under ORS 414.725. A prepaid managed care health services organization may be a dental care organization, fully capitated health plan, physician care organization, mental health organization or chemical dependency organization. A prepaid managed care health services organization may also include a program offering long term care services and medical, dental, mental health and social services to persons 55 years of age and older on a capitated basis that features a comprehensive service delivery system and integrated Medicare and Medicaid financing. + }

SECTION 97. { + (1) An assessment is imposed on each prepaid managed care health services organization in this state. The assessment shall be imposed at a rate set by the Director of Human Services. The rate may not exceed six percent of managed care premiums paid to an organization.

(2) The assessment shall be reported on a form prescribed by the Department of Human Services and shall contain the information required to be reported by the department. The assessment form shall be filed with the department on or before the 30th day of the month following the end of the calendar quarter for which the assessment is being reported. The organization shall pay the assessment at the time the organization files the assessment report. The payment shall accompany the report.

(3) A prepaid managed care health services organization is not guaranteed that any additional moneys paid to the organization shall equal or exceed the amount of the assessment paid by the organization. + }

SECTION 98. { + Notwithstanding section 97 of this 2003 Act, the Director of Human Services may reduce the rate of assessment imposed under section 97 of this 2003 Act to the maximum rate allowed under federal law if the reduction is required to comply with federal law. + }

SECTION 99. { + (1) A prepaid managed care health services organization that fails to file a report or pay an assessment under section 97 of this 2003 Act by the date the report or payment is due shall be subject to a penalty of \$500 per day of delinquency. The total amount of penalties imposed under this section for each reporting period may not exceed five percent of the assessment for the reporting period for which penalties are being imposed.

(2) Penalties imposed under this section shall be collected by the Department of Human Services and deposited in the Department of Human Services Account established under ORS 409.060.

(3) Penalties paid under this section are in addition or and not in lieu of the assessment imposed under section 97 of this 2003 Act. + }

SECTION 100. { + (1) A prepaid managed care health services organization that has paid an amount that is not required under sections 96 to 103 of this 2003 Act may file a claim for refund with the Department of Human Services.

(2) Any organization that is aggrieved by an action of the Department of Human Services or by an action of the Director of Human Services taken pursuant to subsection (1) of this section shall be entitled to notice and an opportunity for a contested case hearing under ORS 183.310 to 183.550. + }

SECTION 101. { + The Department of Human Services may audit the records of any organization in this state to determine compliance with sections 96 to 103 of this 2003 Act. The department may audit the records at any time for a period of three years following the date an assessment is due to be reported and paid under section 97 of this 2003 Act. + }

SECTION 102. { + Amounts collected by the Department of Human

Services from the assessments under section 97 of this 2003 Act shall be deposited in a suspense account established under ORS 293.445. Amounts necessary to pay refunds are continuously appropriated to the department from the suspense account. After the payment of refunds, the net amount of revenue shall be transferred to the Medical Care Quality Assurance Fund established under section 103 of this 2003 Act. + }

SECTION 103. { + (1) The Medical Care Quality Assurance Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Medical Care Quality Assurance Fund shall be credited to the Medical Care Quality Assurance Fund.

(2) Amounts in the Medical Care Quality Assurance Fund are continuously appropriated to the Department of Human Services for the purpose of funding the state medical assistance program. + }

SECTION 104. { + Sections 96 to 103 of this 2003 Act apply to managed care premiums received by prepaid managed care health services organizations on or after January 1, 2004, and before January 1, 2008. + }

SECTION 105. { + (1) Section 97 of this 2003 Act becomes operative on the day after the date of receipt of all necessary

federal approvals by the Centers for Medicare and Medicaid Services.

(2) The Director of Human Services shall notify the Legislative Counsel upon receipt of the necessary federal approvals or denial of the federal approvals. + }

SECTION 106. { + Notwithstanding section 97 of this 2003 Act, an assessment under section 97 of this 2003 Act need not be reported and paid until 30 days after the date section 97 of this 2003 Act becomes operative under section 105 of this 2003 Act or the date on which an assessment report and payment is due under section 97 of this 2003 Act, whichever is later. + }

SECTION 107. { + Sections 96 to 103 of this 2003 Act are repealed on January 2, 2010. + }

SECTION 108. { + Nothing in the repeal of sections 96 to 103 of this 2003 Act by section 107 of this 2003 Act affects the imposition and collection of a prepaid managed care health services organization assessment under sections 96 to 103 of this 2003 Act for a calendar quarter beginning before January 1, 2008. + }

SECTION 109. { + Any moneys remaining in the Medical Care Quality Assurance Fund on December 31, 2009, are transferred to the General Fund. + }

{ +

CAPTIONS + }

SECTION 110. { + The unit captions used in this 2003 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2003 Act. + }

{ +

EFFECTIVE DATE + }

SECTION 111. { + This 2003 Act takes effect on the 91st day after the date on which the regular session of the Seventy-second Legislative Assembly adjourns sine die. + }

Passed by House March 27, 2003

Repassed by House August 20, 2003

.....
Chief Clerk of House

.....
Speaker of House

Passed by Senate August 19, 2003

.....
President of Senate

Enrolled House Bill 2152 (HB 2152-B)

Page 25

Received by Governor:

.....M.,....., 2003

Approved:

.....M.,....., 2003

.....
Governor

Filed in Office of Secretary of State:

.....M.,....., 2003

.....
Secretary of State

