

**CHAPTER 1**

AN ACT HB 4059  
 [2002 Third Special Session]

Relating to a special election; appropriating money; and declaring an emergency.

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

**SECTION 1.** Except as otherwise provided in this 2002 third special session Act, ORS chapters 250, 251 and 254 apply to the election on the measure submitted under House Joint Resolution 80 (2002 third special session) and to the election on the measure submitted as House Bill 4051 (2002 third special session).

**SECTION 2.** The measures referred to in section 1 of this 2002 third special session Act and that are referred to the people by the Legislative Assembly shall be submitted to the electors for their approval or rejection at a special election held throughout this state on September 17, 2002.

**SECTION 3.** (1) Notwithstanding ORS 250.035, the ballot title for House Joint Resolution 80 (2002 third special session) shall be:

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**AMENDS CONSTITUTION: AUTHORIZES USING EDUCATION STABILITY FUND PRINCIPAL IN SPECIFIED CIRCUMSTANCES; TRANSFERS \$150 MILLION TO STATE SCHOOL FUND; CREATES SCHOOL CAPITAL MATCHING SUBACCOUNT IN STABILITY FUND.**

**RESULT OF "YES" VOTE:** "Yes" vote converts education endowment fund to stability fund; specifies conditions for using fund principal; transfers \$150 million from fund to State School Fund; creates school capital matching subaccount in stability fund.

**RESULT OF "NO" VOTE:** "No" vote rejects: converting education endowment fund to education stability fund; using fund principal under certain conditions; transferring \$150 million from fund to State School Fund; creating school capital matching subaccount in stability fund.

**SUMMARY:** Amends Constitution. Under existing law, the state deposits a portion of state lottery proceeds into the education endowment fund; fund's earnings are used for public education; principal is retained in fund. Measure converts education endowment fund to education stability fund. Measure increases percentage of net proceeds from state lottery placed in education stability fund and limits amount in fund. Measure authorizes legislature to use any por-

tion of education stability fund principal for public education if three-fifths of the members of each house of legislature approve, and either (1) legislature makes required finding as to decline in projected state revenue or in seasonally adjusted nonfarm employment, or (2) Governor declares emergency. On May 1, 2003, measure transfers \$150 million from stability fund to State School Fund to be used for kindergarten through grade 12 public education. Creates school capital matching subaccount in education stability fund.

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(2) Notwithstanding ORS 250.035, the ballot title for House Bill 4051 (2002 third special session) shall be:

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**INCREASES CIGARETTE TAX; USES REVENUE FOR HEALTH PLAN, OTHER PROGRAMS.**

**RESULT OF "YES" VOTE:** "Yes" vote increases cigarette tax; funds Oregon Health Plan and other programs.

**RESULT OF "NO" VOTE:** "No" vote keeps cigarette tax at current level; does not increase Oregon Health Plan or other program funding.

**SUMMARY:** This measure increases the tax imposed on the distribution of cigarettes by 60 cents per 20-cigarette pack. Current law imposes a cigarette tax of 68 cents per 20-cigarette pack, that is paid by wholesale distributors of cigarettes. This measure would apply the cigarette tax increase to cigarettes distributed on or after November 1, 2002, and to existing retail cigarette inventories when the tax starts. This measure requires \$2 million and an additional 0.7 percent of revenue raised by the cigarette tax increase to be spent on tobacco use reduction programs. Cities, counties and elderly and disabled transportation receive 1.4 percent of the additional tax revenue. All remaining revenue raised by the increase is to be spent on the Oregon Health Plan.

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(3) ORS 250.085 does not apply to ballot titles prepared under this section. The ballot titles prepared under this section shall be the ballot titles printed in the voters' pamphlet and as provided in section 8 of this 2002 third special session Act.

**SECTION 4.** (1) Notwithstanding ORS 250.125, 250.127 and 250.131, the estimate of financial impact for House Joint Resolution 80 (2002 third special session) to be printed in the voters' pamphlet and as provided in section 8 of this 2002 third special session Act shall be:

The education stability fund will be reduced by \$150 million in May 2003. This amount will go into the State School Fund to be distributed to school districts at that time.

Growth in the balance of the education stability fund will be increased by an estimated \$10 million per year. There is a corresponding reduction of lottery funding for other programs, mainly the State School Fund and economic development.

Distribution of earnings on the education stability fund, for debt service on education bonds and for need-based college scholarships will be reduced by about \$7 million per year.

(2) Notwithstanding ORS 250.125, 250.127 and 250.131, the estimate of financial impact for House Bill 4051 (2002 third special session) to be printed in the voters' pamphlet and as provided in section 8 of this 2002 third special session Act shall be:

This measure increases cigarette tax revenues by \$70.7 million for the 2001-2003 biennium and will raise \$113.9 million in cigarette tax revenues for each year thereafter. Because higher cigarette prices will cause a reduction in consumption, the measure will reduce General Fund revenues by \$3.1 million for the 2001-2003 biennium and by \$6.2 million annually thereafter.

The net expenditures required by this measure are estimated to be as follows:

Expenditure	2001-2003 biennium	Annually after July 1, 2003
Oregon Health Plan .....	\$67.3 million	\$111.65 million
Tobacco Use		
Reduction .....	\$2.5 million	\$750,000
Cities, Counties and Elderly Disabled		
Transportation .....	\$945,000	\$1.5 million

(3) ORS 250.131 does not apply to the financial estimates prepared under this section. The financial estimates prepared under this section shall be the financial estimates printed in the voters' pamphlet and as provided in section 8 of this 2002 third special session Act.

**SECTION 5.** (1) Notwithstanding ORS 251.205, 251.215, 251.225, 251.230 and 251.235, the explanatory statement to be printed in the voters' pamphlet for House Joint Resolution 80 (2002 third special session) shall be:

Ballot Measure 19 (House Joint Resolution 80) amends provisions of the Oregon Constitution relating to education.

The measure converts the education endowment fund into an education stability fund by changing the name of the fund and specifying conditions under which moneys may be appropriated from the principal of the fund.

Currently 15 percent of the net proceeds of the state lottery are deposited into the education endowment fund. The principal of the fund is invested as provided by law. The legislature may not expend the principal of the fund. Earnings on moneys in the fund may be expended on public education. Laws enacted by the legislature provide that the earnings shall be expended on repayment of bonds to finance kindergarten through grade 12 public education, on need-based scholarships for higher education students and on other public education purposes.

The measure directs that starting July 1, 2003, 18 percent of net proceeds of the state lottery will be placed in the education stability fund. The measure limits the amount in the fund to five percent of the state's General Fund.

The measure allows the legislature to expend the principal of the fund for public education if there is an economic downturn and the expenditure is approved by three-fifths of the members in each house of the legislature. The measure also allows the legislature to expend the principal of the fund for public education if the Governor declares an emergency and the expenditure is approved by three-fifths of the members serving in each house of the legislature.

The measure provides for a transfer on May 1, 2003, of \$150 million from the education stability fund to the State School Fund to be used for kindergarten through grade 12 public education.

The measure creates a school capital matching subaccount in the education stability fund. If education stability fund limitation is met, the measure directs 15 percent of net proceeds of state lottery revenues to school capital matching subaccount. Measure allows legislature to use moneys in subaccount to provide matching funds to school districts for capital costs incurred by the school districts.

(2) Notwithstanding ORS 251.205, 251.215, 251.225, 251.230 and 251.235, the explanatory statement to be printed in the voters' pamphlet for House Bill 4051 (2002 third special session) shall be:

This measure increases cigarette taxes by 60 cents per 20-cigarette pack. The measure requires revenues raised by the cigarette tax in-

crease to be spent primarily on the Oregon Health Plan.

Under current law, cigarette wholesale distributors pay a tax of 68 cents per 20-cigarette pack. The tax is paid by a wholesale distributor and is imposed when cigarettes are distributed by the wholesale distributor.

The cigarette tax in this measure is imposed on the distribution of cigarettes by wholesale distributors. The measure imposes the tax both on cigarettes distributed on or after November 1, 2002, and on retail inventories of cigarettes on the date the tax starts, to ensure that all cigarettes are equally taxed.

This measure requires \$2 million and an additional 0.7 percent of revenue raised by the cigarette tax increase to be used to fund prevention and education programs designed to reduce cigarette and tobacco use. Cities, counties and elderly and disabled transportation receive 1.4 percent of the additional tax revenue. The measure requires all other moneys raised by the cigarette tax increase to be used to maintain and expand the number of persons covered by the Oregon Health Plan, a health insurance program for low-income Oregonians.

(3) ORS 251.235 does not apply to the explanatory statements prepared under this section. The explanatory statements prepared under this section shall be the explanatory statements printed in the voters' pamphlet.

**SECTION 6.** Arguments relating to the measures referred to in section 1 of this 2002 third special session Act may be filed with the Secretary of State under ORS 251.245 and 251.255, except that an argument shall be filed not later than the date set by the Secretary of State by rule. Notwithstanding ORS 192.410 to 192.505 relating to public records, an argument filed under this section is exempt from public inspection until the fourth business day after the deadline for filing the argument.

**SECTION 7.** (1) The Secretary of State shall cause to be printed in a voters' pamphlet the number, ballot title and text of each measure referred to in section 1 of this 2002 third special session Act and the financial estimate, explanatory statement and arguments relating to each measure. The Secretary of State shall also print in the voters' pamphlet any other material required by law. Notwithstanding ORS 251.026, the Secretary of State shall include in the voters' pamphlet the information or statements described in ORS 251.026 that the Secretary of State considers applicable to the election on the measures referred to in section 1 of this 2002 third special session Act. Notwithstanding ORS 251.285, the measures referred to in section 1 of this 2002 third special session Act shall be the

only measures included in the voters' pamphlet prepared under this section.

(2) 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.

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

(4) Notwithstanding ORS 250.115, the Secretary of State shall number the measure submitted under House Joint Resolution 80 (2002 third special session) as measure number "19" and the measure submitted as House Bill 4051 (2002 third special session) as measure number "20."

**SECTION 8.** (1) The Secretary of State shall prepare and deliver to each county clerk by the most expeditious means practicable a certified statement of the measures referred to in section 1 of this 2002 third special session Act. The Secretary of State shall include with the statement the number, financial estimate and full ballot title of each measure, and any other information required by law. The Secretary of State shall keep a copy of the statement.

(2) The county clerks shall print on the ballot the number, financial estimate and full ballot title of each measure, along with any other material required by law. In lieu of printing the financial estimate, the summary portion of the ballot title or other material required by law on the ballot, a county clerk may include with the ballot the complete text of the ballot title, the financial estimate and any other material required by law.

**SECTION 9.** (1) The Secretary of State may adopt rules governing the procedures for conducting the election on the measures referred to in section 1 of this 2002 third special session Act as may be necessary to implement sections 1 to 10 of this 2002 third special session Act.

(2) Notwithstanding ORS 254.465, the election on the measures referred to in section 1 of this 2002 third special session Act shall be conducted by mail in all counties in this state as provided under ORS 254.470.

**SECTION 10.** (1) In addition to and not in lieu of any other appropriation, there is appropriated to the Emergency Board, the amount of \$1.5 million out of the General Fund, for the payment of direct expenses of this state incurred in submitting, by action of the Legislative Assembly, any measure to the people at a special election held throughout this state on September 17, 2002.

(2) If all such moneys are not allocated by the Emergency Board prior to January 1, 2003,

such unallocated moneys on that date become available for any other purpose for which the Emergency Board lawfully may allocate funds.

**SECTION 11.** If House Bill 4054 (2002 third special session) is referred to the people by petition under section 1 (3)(b), Article IV of the Oregon Constitution, the Act that is referred shall be submitted to the people for their approval or rejection at a special election held throughout this state on January 14, 2003.

**SECTION 12.** Except as otherwise provided in this 2002 third special session Act, ORS chapters 250, 251 and 254 apply to the election on the measure described in section 11 of this 2002 third special session Act.

**SECTION 13.** If a special election is held as provided in section 11 of this 2002 third special session Act:

(1) ORS 250.065 applies to a ballot title prepared for the measure described in section 11 of this 2002 third special session Act, except that the Attorney General shall provide a draft ballot title for the state measure to be referred not later than the fifth business day after receiving the copies of the prospective petition.

(2) ORS 250.067 applies to the ballot title prepared for the measure described in section 11 of this 2002 third special session Act, except that the Secretary of State by rule shall:

(a) Establish a deadline for submitting written comments concerning the draft ballot title; and

(b) Establish a deadline for the Attorney General to certify to the Secretary of State either the draft ballot title or a revised ballot title.

(3) ORS 250.085 does not apply to the ballot title prepared under this section. The ballot title prepared under this section shall be the ballot title printed in the voters' pamphlet and as provided in section 18 of this 2002 third special session Act.

**SECTION 14.** If a special election is held as provided in section 11 of this 2002 third special session Act:

(1) ORS 250.125 and 250.127 apply to the preparation of the financial estimate for the measure described in section 11 of this 2002 third special session Act, except that the Secretary of State by rule shall:

(a) Establish a deadline for filing the estimate described in ORS 250.125;

(b) Provide for a public hearing on the estimate;

(c) Establish a deadline for filing any revised estimate;

(d) Establish a deadline for certification of the estimate; and

(e) Establish a deadline for preparation, filing and certification of an estimate by the Secretary of State if two or more of the officials named in ORS 250.125 do not approve the estimate.

(2) ORS 250.131 does not apply to the financial estimate prepared under this section. The financial estimate prepared under this section shall be the financial estimate printed in the voters' pamphlet and as provided in section 18 of this 2002 third special session Act.

**SECTION 15.** If a special election is held as provided in section 11 of this 2002 third special session Act:

(1) ORS 251.205 and 251.215 apply to the preparation of the explanatory statement for the measure described in section 11 of this 2002 third special session Act, except that the Secretary of State by rule shall establish a deadline for selection of a committee to prepare the explanatory statement, provide for a public hearing on the statement and establish deadlines for filing the statement and any revised statement. The members of the committee shall be selected in the manner provided in ORS 251.205.

(2) Notwithstanding ORS 251.225, if an explanatory statement is not filed by a committee under ORS 251.215, the Legislative Counsel shall prepare an impartial, simple and understandable statement of not more than 500 words explaining the measure. The statement of the Legislative Counsel shall be the explanatory statement of the measure. The Secretary of State by rule shall establish a deadline for filing a statement under this subsection.

(3) ORS 250.235 does not apply to the explanatory statement prepared under this section. The explanatory statement prepared under this section shall be the explanatory statement printed in the voters' pamphlet.

(4) For purposes of this section, the election referred to in ORS 251.205, 251.215 and 251.295 shall be the special election held on the date specified in section 11 of this 2002 third special session Act.

**SECTION 16.** If a special election is held as provided in section 11 of this 2002 third special session Act:

(1) Arguments relating to the measure described in section 11 of this 2002 third special session Act may be filed with the Secretary of State under ORS 251.245 and 251.255, except that an argument shall be filed not later than the date set by the Secretary of State by rule.

(2) Notwithstanding ORS 192.410 to 192.505 relating to public records, an argument filed under this section is exempt from public inspection until the fourth business day after the deadline for filing the argument.

**SECTION 17.** If a special election is held as provided in section 11 of this 2002 third special session Act:

(1) The Secretary of State shall cause to be printed in a voters' pamphlet the number, ballot title and text of the measure described in section 11 of this 2002 third special session Act and the financial estimate, explanatory statement and arguments relating to the measure. The Secretary of State shall also print in the voters' pamphlet any other material required by law. Notwithstanding ORS 251.026, the Secretary of State shall include in the voters' pamphlet the information or statements described in ORS 251.026 that the Secretary of State considers applicable to the election on the measure described in section 11 of this 2002 third special session Act. Notwithstanding ORS 251.285, the measure described in section 11 of this 2002 third special session Act shall be the only measure included in the voters' pamphlet prepared under this section.

(2) 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.

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

**SECTION 18.** If a special election is held as provided in section 11 of this 2002 third special session Act:

(1) The Secretary of State shall prepare and deliver to each county clerk by the most expeditious means practicable a certified statement of the measure described in section 11 of this

2002 third special session Act. The Secretary of State shall include with the statement the number, financial estimate and full ballot title of the measure, and any other information required by law. The Secretary of State shall keep a copy of the statement.

(2) The county clerks shall print on the ballot the number, financial estimate and full ballot title of the measure described in section 11 of this 2002 third special session Act, along with any other material required by law. In lieu of printing the financial estimate, the summary portion of the ballot title or other material required by law on the ballot, a county clerk may include with the ballot the complete text of the ballot title, the financial estimate and any other material required by law.

**SECTION 19.** (1) The Secretary of State may adopt rules governing the procedures for conducting the election on the measure described in section 11 of this 2002 third special session Act as may be necessary to implement sections 11 to 19 of this 2002 third special session Act.

(2) Notwithstanding ORS 254.465, an election on the measure described in section 11 of this 2002 third special session Act shall be conducted by mail in all counties in this state as provided under ORS 254.470.

**SECTION 20.** This 2002 third special session Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2002 third special session Act takes effect on its passage.

Approved by the Governor July 3, 2002  
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