

(Including Amendments to Resolve Conflicts)

B-Engrossed House Bill 2457

Ordered by the Senate June 15
Including House Amendments dated May 12 and Senate Amendments
dated June 15

Sponsored by Representative NATHANSON (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Updates connection date to federal Internal Revenue Code and other provisions of federal tax law.

Expands types of expenses, in conformity with federal law, for which use of withdrawal from higher education savings network account is qualified withdrawal for purpose of tax-advantaged treatment. Conforms age limits, applicable to retirement and to commencing payment of benefits, to federal law, for purposes of Public Employees Retirement System.

Applies to transactions or activities occurring on or after January 1, 2021, in tax years beginning on or after January 1, 2021. Ties to provisions of federal law as amended and in effect on April 1, 2021.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to connection to federal tax law; creating new provisions; amending ORS 178.300, 238.395,
3 238A.005, 238A.125, 238A.150, 238A.170, 238A.230, 238A.370, 238A.400, 238A.410, 238A.415,
4 238A.430, 238A.435, 305.230, 305.494, 305.690, 305.842, 314.011, 314.306, 315.004, 316.012, 316.147,
5 316.157, 317.010, 317.097, 317A.100, 458.670, 657.010 and 675B.010; and prescribing an effective
6 date.

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

8 **SECTION 1.** ORS 178.300 is amended to read:

9 178.300. As used in ORS 178.300 to 178.360:

10 (1) "Account" means an individual account established in accordance with ORS 178.300 to
11 178.360.

12 (2) "Account owner" means the person who has the right to withdraw funds from the account.
13 The account owner may also be the designated beneficiary of the account.

14 (3) "Board" means the Oregon 529 Savings Board established under ORS 178.310.

15 (4) "Designated beneficiary" means, except as provided in ORS 178.350, the individual designated
16 at the time the account is opened as having the right to receive a qualified withdrawal for the
17 payment of qualified higher education expenses, or if the designated beneficiary is replaced in ac-
18 cordance with ORS 178.350, the replacement.

19 (5) "Financial institution" means a bank, a commercial bank, a national bank, a savings bank,
20 a savings and loan, a thrift institution, a credit union, an insurance company, a trust company, a
21 mutual fund, an investment firm or other similar entity authorized to do business in this state.

22 (6) "Higher education institution" means an eligible education institution as defined in section

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

1 529(e)(5) of the Internal Revenue Code.

2 (7) "Internal Revenue Code" means the federal Internal Revenue Code as amended and in effect
3 on [December 31, 2018] **April 1, 2021**.

4 (8) "Member of the family" shall have the same meaning as contained in section 529(e) of the
5 Internal Revenue Code.

6 (9) "Network" means the Oregon 529 Savings Network established under ORS 178.305.

7 (10) "Nonqualified withdrawal" means a withdrawal from an account that is not a qualified
8 withdrawal.

9 (11) "Qualified higher education expenses" means tuition and other permitted expenses as set
10 forth in section 529(e) of the Internal Revenue Code for the enrollment or attendance of a designated
11 beneficiary at a higher education institution, **expenses associated with registered apprenticeship**
12 **programs described in section 529(c)(8) of the Internal Revenue Code and amounts paid as**
13 **principal or interest on a qualified education loan to the extent allowed under section**
14 **529(c)(9) of the Internal Revenue Code.**

15 (12) "Qualified withdrawal" means a withdrawal made as prescribed under ORS 178.355 and
16 made:

17 (a) From an account to pay the qualified higher education expenses of the designated benefi-
18 cary;

19 (b) As the result of the death or disability of the designated beneficiary;

20 (c) As the result of a scholarship, allowance or payment described in section 135(d)(1)(A), (B)
21 or (C) of the Internal Revenue Code that is received by the designated beneficiary, but only to the
22 extent of the amount of the scholarship, allowance or payment; or

23 (d) As a rollover or change in the designated beneficiary described in ORS 178.350.

24 **SECTION 2.** ORS 238.395 is amended to read:

25 238.395. (1)(a) In addition to any other benefits under this chapter, a death benefit, provided by
26 contributions of the public employer under ORS 238.225 and, for benefits that accrue on or after July
27 1, 2020, amounts in the employee pension stability account established for the member under ORS
28 238A.353, shall be paid to the beneficiaries designated under ORS 238.390 (1) of a person who is an
29 active or inactive member of the Public Employees Retirement System and who dies as a result of
30 injuries received while employed in the service of the public employer or within 120 days after ter-
31 mination from service with a participating public employer. A member who is on a leave of absence
32 without pay from employment with a participating public employer has not terminated service with
33 that participating public employer for the purposes of this section.

34 (b) The death benefit under this subsection is an amount equal to the amount in the member
35 account of the deceased member at the time of death.

36 (c) In the event that a beneficiary has not been named as provided in paragraph (a) of this
37 subsection and ORS 238.390 (1), the death benefit under this subsection shall be paid in the manner
38 provided for payment of money credited to the member account of the member in ORS 238.390 (2).

39 (d) The beneficiary designated under paragraph (a) of this subsection and ORS 238.390 (1) may
40 elect to receive the amount payable in actuarially determined monthly payments for the life of such
41 beneficiary as long as such monthly payments, plus the monthly amount if elected under ORS 238.390
42 (3), are at least \$200.

43 (e) Interest upon the death benefit provided by this subsection accrues until the date that the
44 benefit is distributed. The Public Employees Retirement Board shall establish procedures for com-
45 puting interest to be credited on the benefit for the period between the date of death and date of

1 distribution.

2 (2)(a) If a member of the system dies while employed in the service of a participating public
3 employer or within 120 days after termination from service with a participating public employer and
4 the member's spouse is the member's beneficiary under ORS 238.390, the member's spouse may elect
5 to receive the benefit provided under this subsection in lieu of the death benefits provided under
6 ORS 238.390 and subsection (1) of this section.

7 (b) The member's spouse must notify the board in writing of an election under this section no
8 later than 60 days after the date of death of the member.

9 (c) The death benefit to be paid under this subsection is for the life of the member's spouse and
10 is the actuarial equivalent of 50 percent of the service retirement allowance that would otherwise
11 have been paid to the deceased member, which shall be calculated:

12 (A) As of the date of death, if the member dies after the earliest retirement date for the member
13 under ORS 238.280; or

14 (B) As if the member became an inactive member on the date of death and retired at the earliest
15 retirement date for the member under ORS 238.280.

16 (d) The death benefit provided under this subsection is first effective on the first day of the
17 month following the election of the member's spouse to receive the death benefit under this sub-
18 section. The member's spouse may elect to delay payment of the death benefit, but payment must
19 commence no later than December 31 of the calendar year in which the deceased member would
20 have reached $[70-1/2]$ **72** years of age.

21 (3) Payment by the board of additional death benefits in the manner provided by this section
22 completely discharges the board and system on account of the death, and shall hold the board and
23 system harmless from any claim for wrongful payment.

24 **SECTION 3.** ORS 238A.005 is amended to read:

25 238A.005. For the purposes of this chapter:

26 (1) "Active member" means a member of the pension program or the individual account program
27 of the Oregon Public Service Retirement Plan who is actively employed in a qualifying position.

28 (2) "Actuarial equivalent" means a payment or series of payments having the same value as the
29 payment or series of payments replaced, computed on the basis of interest rate and mortality as-
30 sumptions adopted by the board.

31 (3) "Board" means the Public Employees Retirement Board.

32 (4) "Eligible employee" means a person who performs services for a participating public em-
33 ployer, including elected officials other than judges. "Eligible employee" does not include:

34 (a) Persons engaged as independent contractors;

35 (b) Aliens working under a training or educational visa;

36 (c) Persons provided sheltered employment or make-work by a public employer;

37 (d) Persons categorized by a participating public employer as student employees;

38 (e) Any person who is in custody in a state institution;

39 (f) Employees of foreign trade offices of the Oregon Business Development Department who live
40 and perform services in foreign countries under the provisions of ORS 285A.075 (1)(g);

41 (g) An employee actively participating in an alternative retirement program established under
42 ORS 353.250 or an optional retirement plan established under ORS 341.551;

43 (h) Employees of a public university listed in ORS 352.002 who are actively participating in an
44 optional retirement plan offered under ORS 243.815;

45 (i) Persons employed in positions classified as post-doctoral scholar positions by a public uni-

1 versity listed in ORS 352.002, or by the Oregon Health and Science University, under ORS 350.370;

2 (j) Any employee who belongs to a class of employees that was not eligible on August 28, 2003,
3 for membership in the system under the provisions of ORS chapter 238 or other law;

4 (k) Any person who belongs to a class of employees who are not eligible to become members
5 of the Oregon Public Service Retirement Plan under the provisions of ORS 238A.070 (2);

6 (L) Any person who is retired under ORS 238A.100 to 238A.250 or ORS chapter 238 and who
7 continues to receive retirement benefits while employed; and

8 (m) Judges.

9 (5) "Firefighter" means:

10 (a) A person employed by a local government, as defined in ORS 174.116, whose primary job
11 duties include the fighting of fires;

12 (b) The State Fire Marshal, the chief deputy state fire marshal and deputy state fire marshals;

13 (c) An employee of the State Forestry Department who is certified by the State Forester as a
14 professional wildland firefighter and whose primary duties include the abatement of uncontrolled
15 fires as described in ORS 477.064; and

16 (d) An employee of the Oregon Military Department whose primary duties include fighting
17 structural, aircraft, wildland or other fires.

18 (6) "Fund" means the Public Employees Retirement Fund.

19 (7)(a) "Hour of service" means:

20 (A) An hour for which an eligible employee is directly or indirectly paid or entitled to payment
21 by a participating public employer for performance of duties in a qualifying position; and

22 (B) An hour of vacation, holiday, illness, incapacity, jury duty, military duty or authorized leave
23 during which an employee does not perform duties but for which the employee is directly or indi-
24 rectly paid or entitled to payment by a participating public employer for services in a qualifying
25 position, as long as the hour is within the number of hours regularly scheduled for the performance
26 of duties during the period of vacation, holiday, illness, incapacity, jury duty, military duty or au-
27 thorized leave.

28 (b) "Hour of service" does not include any hour for which payment is made or due under a plan
29 maintained solely for the purpose of complying with applicable unemployment compensation laws.

30 (8) "Inactive member" means a member of the pension program or the individual account pro-
31 gram of the Oregon Public Service Retirement Plan whose membership has not been terminated, who
32 is not a retired member and who is not employed in a qualifying position.

33 (9) "Individual account program" means the defined contribution individual account program of
34 the Oregon Public Service Retirement Plan established under ORS 238A.025.

35 (10) "Institution of higher education" means a public university listed in ORS 352.002, the
36 Oregon Health and Science University or a community college, as defined in ORS 341.005.

37 (11) "Member" means an eligible employee who has established membership in the pension pro-
38 gram or the individual account program of the Oregon Public Service Retirement Plan and whose
39 membership has not been terminated under ORS 238A.110 or 238A.310.

40 (12) "Participating public employer" means a public employer as defined in ORS 238.005 that
41 provides retirement benefits for employees of the public employer under the system.

42 (13) "Pension program" means the defined benefit pension program of the Oregon Public Service
43 Retirement Plan established under ORS 238A.025.

44 (14) "Police officer" means a police officer as described in ORS 238.005.

45 (15) "Qualifying position" means one or more jobs with one or more participating public em-

1 employers in which an eligible employee performs 600 or more hours of service in a calendar year,
2 excluding any service in a job for which benefits are not provided under the Oregon Public Service
3 Retirement Plan pursuant to ORS 238A.070 (2).

4 (16) "Retired member" means a pension program member who is receiving a pension as provided
5 in ORS 238A.180 to 238A.195.

6 (17)(a) "Salary" means the remuneration paid to an active member in return for services to the
7 participating public employer, including remuneration in the form of living quarters, board or other
8 items of value, to the extent the remuneration is includable in the employee's taxable income under
9 Oregon law. "Salary" includes the additional amounts specified in paragraph (b) of this subsection,
10 but does not include the amounts specified in paragraph (c) of this subsection, regardless of whether
11 those amounts are includable in taxable income.

12 (b) "Salary" includes the following amounts:

13 (A) Payments of employee and employer money into a deferred compensation plan that are made
14 at the election of the employee.

15 (B) Contributions to a tax-sheltered or deferred annuity that are made at the election of the
16 employee.

17 (C) Any amount that is contributed to a cafeteria plan or qualified transportation fringe benefit
18 plan by the employer at the election of the employee and that is not includable in the taxable in-
19 come of the employee by reason of 26 U.S.C. 125 or 132(f)(4), as in effect on [December 31, 2018]
20 **April 1, 2021.**

21 (D) Any amount that is contributed to a cash or deferred arrangement by the employer at the
22 election of the employee and that is not included in the taxable income of the employee by reason
23 of 26 U.S.C. 402(e)(3), as in effect on [December 31, 2018] **April 1, 2021.**

24 (E) Retroactive payments described in ORS 238.008.

25 (F) The amount of an employee contribution to the individual account program that is paid by
26 the employer and deducted from the compensation of the employee, as provided under ORS 238A.335
27 (1) and (2)(a).

28 (G) The amount of an employee contribution to the individual account program that is not paid
29 by the employer under ORS 238A.335.

30 (H) Wages of a deceased member paid to a surviving spouse or dependent children under ORS
31 652.190.

32 (c) "Salary" does not include the following amounts:

33 (A) Travel or any other expenses incidental to employer's business which is reimbursed by the
34 employer.

35 (B) Payments made on account of an employee's death.

36 (C) Any lump sum payment for accumulated unused sick leave, vacation leave or other paid
37 leave.

38 (D) Any severance payment, accelerated payment of an employment contract for a future period
39 or advance against future wages.

40 (E) Any retirement incentive, retirement bonus or retirement gratuitous payment.

41 (F) Payment for a leave of absence after the date the employer and employee have agreed that
42 no future services in a qualifying position will be performed.

43 (G) Payments for instructional services rendered to public universities listed in ORS 352.002 or
44 the Oregon Health and Science University when those services are in excess of full-time employment
45 subject to this chapter. A person employed under a contract for less than 12 months is subject to

1 this subparagraph only for the months covered by the contract.

2 (H) The amount of an employee contribution to the individual account program that is paid by
3 the employer and is not deducted from the compensation of the employee, as provided under ORS
4 238A.335 (1) and (2)(b).

5 (I) Compensation described and authorized under ORS 341.556 that is not paid by the community
6 college employing the faculty member.

7 (J) Compensation described and authorized under ORS 352.232 that is not paid by the public
8 university employing the officer or employee.

9 (K) Compensation described and authorized under ORS 353.270 that is not paid by Oregon
10 Health and Science University.

11 (L) For years before 2020, any amount in excess of \$200,000 for a calendar year. If any period
12 over which salary is determined is less than 12 months, the \$200,000 limitation for that period shall
13 be multiplied by a fraction, the numerator of which is the number of months in the determination
14 period and the denominator of which is 12. The board shall adopt rules adjusting this dollar limit
15 to incorporate cost-of-living adjustments authorized by the Internal Revenue Service.

16 (M) For years beginning on or after January 1, 2020, any amount in excess of \$195,000 for a
17 calendar year. If any period over which salary is determined is less than 12 months, the \$195,000
18 limitation for that period shall be multiplied by a fraction, the numerator of which is the number
19 of months in the determination period and the denominator of which is 12. On January 1 of each
20 year, the board shall adjust the dollar limit provided by this subparagraph to reflect any percentage
21 changes in the Consumer Price Index for All Urban Consumers, West Region (All Items), as pub-
22 lished by the Bureau of Labor Statistics of the United States Department of Labor.

23 (18) "System" means the Public Employees Retirement System.

24 (19) "Workers' compensation benefits" means:

25 (a) Payments made under ORS chapter 656; or

26 (b) Payments provided in lieu of workers' compensation benefits under ORS 656.027 (6).

27 **SECTION 4.** ORS 238A.125 is amended to read:

28 238A.125. (1) Upon retiring at normal retirement age, a vested pension program member shall
29 be paid an annual pension for the life of the member as follows:

30 (a) For service as a police officer or firefighter, 1.8 percent of final average salary multiplied
31 by the number of years of retirement credit attributable to service as a police officer or firefighter.

32 (b) For service as other than a police officer or firefighter, 1.5 percent of final average salary
33 multiplied by the number of years of retirement credit attributable to service as other than a police
34 officer or firefighter.

35 (2) Notwithstanding any provision of ORS 238A.100 to 238A.250, the annual benefit payable to
36 a member under the pension program and under any other tax-qualified defined benefit plan main-
37 tained by the participating public employer may not exceed the applicable limitations set forth in
38 26 U.S.C. 415(b), as in effect on [December 31, 2018] **April 1, 2021**. The Public Employees Retirement
39 Board shall adopt rules for the administration of this limitation, including adjustments in the annual
40 dollar limitation to reflect cost-of-living adjustments authorized by the Internal Revenue Service.

41 (3) The board shall make no actuarial adjustment in a member's pension calculated under this
42 section by reason of the member's retirement after normal retirement age.

43 **SECTION 5.** ORS 238A.150 is amended to read:

44 238A.150. (1) Notwithstanding any other provision of ORS 238A.100 to 238A.250, an eligible em-
45 ployee who leaves a qualifying position for the purpose of performing service in the uniformed ser-

1 vices, and who subsequently returns to employment with a participating public employer with
2 reemployment rights under federal law, is entitled to accrue retirement credit, credit toward the
3 probationary period required by ORS 238A.100 and credit toward the vesting requirements of ORS
4 238A.115 under rules adopted by the Public Employees Retirement Board pursuant to subsection (2)
5 of this section.

6 (2) The board shall adopt rules establishing benefits and service credit for any period of service
7 in the uniformed services by an employee described in subsection (1) of this section. For the purpose
8 of adopting rules under this subsection, the board shall consider and take into account all federal
9 law relating to benefits and service credit for any period of service in the uniformed services, in-
10 cluding 26 U.S.C. 414(u), as in effect on [December 31, 2018] **April 1, 2021**. Benefits and service credit
11 under rules adopted by the board pursuant to this subsection may not exceed benefits and service
12 credit required under federal law for periods of service in the uniformed services.

13 **SECTION 6.** ORS 238A.170 is amended to read:

14 238A.170. (1) An active member of the pension program who is [70-1/2] **72** years of age or older
15 must retire not later than April 1 of the calendar year following the calendar year in which the
16 member terminates employment with all participating public employers. An inactive member of the
17 pension program must retire not later than April 1 of the calendar year following the calendar year
18 in which the member attains [70-1/2] **72** years of age.

19 (2) Notwithstanding any other provision of ORS 238A.100 to 238A.250, the entire interest of a
20 member of the pension program must be distributed over a time period commencing no later than
21 the required beginning date set forth in subsection (1) of this section, and must be distributed in a
22 manner that satisfies all other minimum distribution requirements of 26 U.S.C. 401(a)(9) and regu-
23 lations implementing that section, as in effect on [December 31, 2018] **April 1, 2021**. The Public
24 Employees Retirement Board shall adopt rules implementing those minimum distribution require-
25 ments.

26 **SECTION 7.** ORS 238A.230 is amended to read:

27 238A.230. (1) If a member of the pension program who is vested dies before the member's effec-
28 tive date of retirement, the Public Employees Retirement Board shall pay the death benefit provided
29 for in this section to:

30 (a) The spouse of the member to the extent not provided to a former spouse in accordance with
31 a judgment or order under ORS 238.465;

32 (b) The former spouse of the member as provided in a judgment or order under ORS 238.465; or

33 (c) Any other person who is constitutionally required to be treated in the same manner as a
34 spouse for the purpose of retirement benefits.

35 (2)(a) The death benefit to be paid under this section shall be for the life of the spouse, former
36 spouse or other person who is constitutionally required to be treated in the same manner as a
37 spouse, and shall be the actuarial equivalent of 50 percent of the pension that would otherwise have
38 been paid to the deceased member.

39 (b) For the purpose of paragraph (a) of this subsection, the amount of the pension that would
40 otherwise have been paid to the deceased member shall be calculated:

41 (A) As of the date of death if the member dies after the earliest retirement date for the member
42 under ORS 238A.165; or

43 (B) As if the member became an inactive member on the date of death and thereafter retired
44 at the earliest retirement date if the member dies before the earliest retirement date for the member
45 under ORS 238A.165.

1 (3) The death benefit provided under this section is first effective on the first day of the month
2 following the date of death of the member. The surviving spouse, former spouse or other person
3 entitled to the death benefit may elect to delay payment of the death benefit, but payment must
4 commence no later than December 31 of the calendar year in which the member would have reached
5 [70-1/2] **72** years of age.

6 (4) Notwithstanding any other provision of ORS 238A.100 to 238A.250, distributions of death
7 benefits under the pension program must comply with the minimum distribution requirements of 26
8 U.S.C. 401(a)(9) and the regulations implementing that section, as in effect on [December 31, 2018]
9 **April 1, 2021**. The board shall adopt rules implementing those minimum distribution requirements.

10 **SECTION 8.** ORS 238A.370 is amended to read:

11 238A.370. Notwithstanding any other provision of ORS 238A.300 to 238A.415, the annual addition
12 to the employee and employer accounts of a member of the individual account program for a cal-
13 endar year, together with the annual additions to the accounts of the member under any other de-
14 fined contribution plan maintained by the participating public employer for a calendar year, may
15 not exceed the lesser of \$40,000, or 100 percent of the member's compensation for that calendar year.
16 For purposes of this section, "annual addition" has the meaning given that term in 26 U.S.C.
17 415(c)(2), as in effect on [December 31, 2018] **April 1, 2021**, and "compensation" has the meaning
18 given the term "participant's compensation" in 26 U.S.C. 415(c)(3), as in effect on [December 31,
19 2018] **April 1, 2021**. The Public Employees Retirement Board shall adopt rules for the administration
20 of this limitation, including adjustments in the annual dollar limitation to reflect cost-of-living ad-
21 justments authorized by the Internal Revenue Service.

22 **SECTION 9.** ORS 238A.400 is amended to read:

23 238A.400. (1) Upon retirement on or after the earliest retirement date, as described in ORS
24 238A.165, a member of the individual account program shall receive in a lump sum the amounts in
25 the member's employee account, rollover account and employer account to the extent the member
26 is vested in those accounts under ORS 238A.320.

27 (2) In lieu of a lump sum payment under subsection (1) of this section, a member of the individ-
28 ual account program may elect to receive the amounts in the member's employee account and em-
29 ployer account, to the extent the member is vested in those accounts under ORS 238A.320, in
30 substantially equal installments paid over a period of 5, 10, 15 or 20 years, or over a period that is
31 equal to the anticipated life span of the member as actuarially determined by the Public Employees
32 Retirement Board. Installments may be made on a monthly, quarterly or annual basis. In no event
33 may the period selected by the member exceed the time allowed by the minimum distribution re-
34 quirements described in subsection (5) of this section. The board shall by rule establish the manner
35 in which installments will be adjusted to reflect investment gains and losses on the unpaid balance
36 during the payout period elected by the member under this subsection. The board by rule may es-
37 tablish minimum monthly amounts payable under this subsection. The board may require that a
38 lump sum payment, or an installment schedule different than the schedules provided for in this
39 subsection, be used to pay the vested amounts in the member's accounts if those amounts are not
40 adequate to generate the minimum monthly amounts specified by the rule.

41 (3) A member of the individual account program electing to receive installments under sub-
42 section (2) of this section must designate a beneficiary or beneficiaries. In the event the member dies
43 before all amounts in the employee and vested employer accounts are paid, all remaining installment
44 payments shall be made to the beneficiary or beneficiaries designated by the member. A beneficiary
45 may elect to receive a lump sum distribution of the remaining amounts.

1 (4) A member who is entitled to receive retirement benefits under ORS chapter 238 may receive
2 vested amounts in the member's employee account, rollover account and employer account in the
3 manner provided by this section when the member retires for service under the provisions of ORS
4 chapter 238.

5 (5) Notwithstanding any other provision of ORS 238A.300 to 238A.415, the entire interest of a
6 member of the individual account program must be distributed over a time period commencing no
7 later than the latest retirement date set forth in ORS 238A.170, and must be distributed in a manner
8 that satisfies all other minimum distribution requirements of 26 U.S.C. 401(a)(9) and regulations im-
9 plementing that section, as in effect on [December 31, 2018] **April 1, 2021**. The board shall adopt
10 rules implementing those minimum distribution requirements.

11 **SECTION 10.** ORS 238A.410 is amended to read:

12 238A.410. (1)(a) If a member of the individual account program dies before retirement, the
13 amounts in the member's employee account, rollover account and employer account, to the extent
14 the member is vested in those accounts under ORS 238A.320, shall be paid in a lump sum to the
15 beneficiary or beneficiaries designated by the member for the purposes of this section.

16 (b) If a member of the individual account program dies before retirement, the amounts in the
17 employee pension stability account established for the member under ORS 238A.353 shall be applied
18 by the Public Employees Retirement Board to pay the costs of any benefit payable under ORS
19 238.395 or 238A.230 that accrues on or after July 1, 2020. If the amounts in the employee pension
20 stability account exceed the costs of the benefit payable under ORS 238.395 or 238A.230 that accrues
21 on or after July 1, 2020, the excess amounts shall be paid in a lump sum to the beneficiary or ben-
22 efiiciaries designated by the member for the purposes of this section.

23 (2) If a member of the individual account program is married at the time of death, or there exists
24 at the time of death any other person who is constitutionally required to be treated in the same
25 manner as a spouse for the purpose of retirement benefits, the spouse or other person shall be the
26 beneficiary for purposes of the death benefit payable under this section unless the spouse or other
27 person consents to the designation of a different beneficiary or beneficiaries before the designation
28 has been made and the consent has not been revoked by the spouse or other person as of the time
29 of the member's death. Consent and revocation of consent must be in writing, acknowledged by a
30 notary public, and submitted to the Public Employees Retirement Board in accordance with rules
31 adopted by the board. If the member's spouse is designated as the member's beneficiary and the
32 marriage of the member and spouse is subsequently dissolved, the former spouse shall be treated as
33 predeceasing the member for purposes of this section, unless the member expressly designates the
34 former spouse as beneficiary after the effective date of the dissolution or the former spouse is re-
35 quired to be designated as a beneficiary under the provisions of ORS 238.465.

36 (3) For purposes of this section and ORS 238A.400 (3), if a member fails to designate a benefi-
37 ciary, or if the person or persons designated do not survive the member, the death benefit provided
38 for in this section shall be paid to the following person or persons, in the following order of priority:

39 (a) The member's surviving spouse or other person who is constitutionally required to be treated
40 in the same manner as a spouse;

41 (b) The member's surviving children, in equal shares; or

42 (c) The member's estate.

43 (4) The entire amount of a deceased member's vested accounts must be distributed by December
44 31 of the fifth calendar year after the year in which the member died. Notwithstanding any other
45 provision of this chapter, distributions of death benefits under the individual account program must

1 comply with the minimum distribution requirements of 26 U.S.C. 401(a)(9) and the regulations im-
2 plementing that section, as in effect on [December 31, 2018] **April 1, 2021**. The Public Employees
3 Retirement Board shall adopt rules implementing those minimum distribution requirements.

4 **SECTION 11.** ORS 238A.415 is amended to read:

5 238A.415. (1) Notwithstanding any other provision of ORS 238A.300 to 238A.415, an eligible em-
6 ployee who leaves a qualifying position for the purpose of performing service in the uniformed ser-
7 vices, and who subsequently returns to employment with a participating public employer with
8 reemployment rights under federal law, is entitled to credit toward the probationary period required
9 by ORS 238A.300, credit toward the vesting requirements of ORS 238A.320 and contributions under
10 rules adopted by the Public Employees Retirement Board pursuant to subsection (2) of this section.

11 (2) The board shall adopt rules establishing contributions and service credit for any period of
12 service in the uniformed services by an employee described in subsection (1) of this section. For the
13 purpose of adopting rules under this subsection, the board shall consider and take into account all
14 federal law relating to benefits and service credit for any period of service in the uniformed ser-
15 vices, including 26 U.S.C. 414(u), as in effect on [December 31, 2018] **April 1, 2021**. Contributions and
16 service credit under rules adopted by the board pursuant to this subsection may not exceed contri-
17 butions and service credit required under federal law for periods of service in the uniformed ser-
18 vices.

19 **SECTION 12.** ORS 238A.430 is amended to read:

20 238A.430. (1) To the extent required by law, and except as otherwise provided by rules adopted
21 by the Public Employees Retirement Board under subsection (4) of this section, any portion of a
22 distribution of benefits described in subsection (2) of this section shall, at the election of and in lieu
23 of distribution to the distributee, be paid directly to an eligible retirement plan specified by the
24 distributee.

25 (2) The provisions of subsection (1) of this section apply to a distribution of any benefit under
26 the pension program or the individual account program except:

27 (a) A distribution that is one of a series of substantially equal periodic payments made at least
28 annually for the life or life expectancy of the distributee, or for the joint lives or life expectancies
29 of the distributee and a designated beneficiary;

30 (b) A distribution that is one of a series of substantially equal periodic payments made at least
31 annually for a specified period of 10 years or more; and

32 (c) A distribution to the extent that the distribution is required under 26 U.S.C. 401(a)(9).

33 (3) The provisions of subsection (1) of this section apply to any portion of a distribution of
34 benefits under the pension program or the individual account program even though the portion
35 consists of after-tax employee contributions that are not includable in gross income. Any portion of
36 a distribution that consists of after-tax employee contributions that are not includable in gross in-
37 come may be transferred only to an individual retirement account or annuity described in 26 U.S.C.
38 408(a) or (b), or to a qualified defined contribution or defined benefit plan described in 26 U.S.C.
39 401(a) or 403(b) that agrees to account separately for amounts transferred, including accounting
40 separately for the portion of the distribution that is includable in gross income and the portion of
41 the distribution that is not includable in gross income. The amount transferred shall be treated as
42 consisting first of the portion of the distribution that is includable in gross income, determined
43 without regard to 26 U.S.C. 402(c)(1).

44 (4) The board shall adopt rules implementing the direct rollover requirements of 26 U.S.C.
45 401(a)(31) and the regulations implementing that section, and may adopt administrative exceptions

1 to the direct rollover requirements to the extent permitted by 26 U.S.C. 401(a)(31) and the regu-
2 lations implementing that section.

3 (5) All references in this section to federal laws and regulations are to the laws and regulations
4 in effect on [December 31, 2018] **April 1, 2021**.

5 (6) For purposes of this section:

6 (a) "Distributee" means a member, a member's surviving spouse or a member's alternate payee
7 under ORS 238.465.

8 (b) "Eligible retirement plan" means:

9 (A) An individual retirement account described in 26 U.S.C. 408(a);

10 (B) An individual retirement annuity described in 26 U.S.C. 408(b), other than an endowment
11 contract;

12 (C) A qualified trust under 26 U.S.C. 401(a), that is a defined contribution or defined benefit plan
13 and permits the acceptance of rollover contributions;

14 (D) An annuity plan described in 26 U.S.C. 403(a);

15 (E) An eligible deferred compensation plan described in 26 U.S.C. 457(b) that is maintained by
16 an eligible governmental employer described in 26 U.S.C. 457(e)(1)(A) and that agrees to account
17 separately for amounts transferred into such plan from the distributing plan; or

18 (F) An annuity contract described in 26 U.S.C. 403(b).

19 **SECTION 13.** ORS 238A.435 is amended to read:

20 238A.435. (1) If a benefit is payable under this chapter to a beneficiary by reason of the death
21 of a member of the system, the beneficiary may elect to have all or part of the distribution of the
22 death benefit paid in an eligible rollover distribution to an individual retirement plan described in
23 26 U.S.C. 408(a), or an individual retirement annuity, other than an endowment contract, described
24 in 26 U.S.C. 408(b), if the plan or annuity is established for the purpose of receiving the eligible
25 rollover distribution on behalf of the designated beneficiary.

26 (2) Subsection (1) of this section applies to an eligible rollover distribution of death benefits to
27 a beneficiary who is not treated as the spouse of the decedent for federal tax purposes and who is
28 the decedent's designated beneficiary for the purposes of the minimum required distribution re-
29 quirements of 26 U.S.C. 401(a)(9). To the extent provided by rules of the Public Employees Retire-
30 ment Board, a trust maintained for the benefit of one or more beneficiaries must be treated by the
31 board in the same manner as a trust that is designated as a beneficiary for the purposes of the
32 minimum required distribution requirements of 26 U.S.C. 401(a)(9).

33 (3) As used in this section, "eligible rollover distribution" has the meaning given that term in
34 26 U.S.C. 402(c)(4), as in effect on [December 31, 2018] **April 1, 2021**.

35 **SECTION 14.** ORS 305.230 is amended to read:

36 305.230. (1) Notwithstanding ORS 9.320:

37 (a) Any person who is qualified to practice law or public accountancy in this state, any person
38 who has been granted active enrollment to practice before the Internal Revenue Service and who
39 is qualified to prepare tax returns in this state or any person who is the authorized employee of a
40 taxpayer and is regularly employed by the taxpayer in tax matters may represent the taxpayer be-
41 fore a tax court magistrate or the Department of Revenue in any conference or proceeding with
42 respect to the administration of any tax.

43 (b) Any person who is licensed by the State Board of Tax Practitioners or who is exempt from
44 such licensing requirement as provided for and limited by ORS 673.610 may represent a taxpayer
45 before a tax court magistrate or the department in any conference or proceeding with respect to the

1 administration of any tax on or measured by net income.

2 (c) Any shareholder of an S corporation, as defined in section 1361 of the Internal Revenue
3 Code, as amended and in effect on [December 31, 2018] **April 1, 2021**, may represent the corporation
4 in any proceeding before a tax court magistrate or the department in the same manner as if the
5 shareholder were a partner and the S corporation were a partnership. The S corporation must des-
6 ignate in writing a tax matters shareholder authorized to represent the S corporation.

7 (d) An individual who is licensed as a real estate broker or principal real estate broker under
8 ORS 696.022 or is a state certified appraiser or state licensed appraiser under ORS 674.310 or is a
9 registered appraiser under ORS 308.010 may represent a taxpayer before a tax court magistrate or
10 the department in any conference or proceeding with respect to the administration of any ad
11 valorem property tax.

12 (e) A general partner who has been designated by members of a partnership as their tax matters
13 partner under ORS 305.242 may represent those partners in any conference or proceeding with re-
14 spect to the administration of any tax on or measured by net income.

15 (f) Any person authorized under rules adopted by the department may represent a taxpayer be-
16 fore the department in any conference or proceeding with respect to any tax. Rules adopted under
17 this paragraph, to the extent feasible, shall be consistent with federal law that governs represen-
18 tation before the Internal Revenue Service, as federal law is amended and in effect on [December
19 31, 2018] **April 1, 2021**.

20 (g) Any person authorized under rules adopted by the tax court may represent a taxpayer in a
21 proceeding before a tax court magistrate.

22 (2) A person may not be recognized as representing a taxpayer pursuant to this section unless
23 there is first filed with the magistrate or department a written authorization, or unless it appears
24 to the satisfaction of the magistrate or department that the representative does in fact have au-
25 thority to represent the taxpayer. A person recognized as an authorized representative under rules
26 or procedures adopted by the tax court shall be considered an authorized representative by the de-
27 partment.

28 (3) A taxpayer represented by someone other than an attorney is bound by all things done by
29 the authorized representative, and may not thereafter claim any proceeding was legally defective
30 because the taxpayer was not represented by an attorney.

31 (4) Prior to the holding of a conference or proceeding before the tax court magistrate or de-
32 partment, written notice shall be given by the magistrate or department to the taxpayer of the
33 provisions of subsection (3) of this section.

34 **SECTION 15.** ORS 305.494 is amended to read:

35 305.494. Notwithstanding ORS 9.320, any shareholder of an S corporation as defined in section
36 1361 of the Internal Revenue Code, as amended and in effect on [December 31, 2018] **April 1, 2021**,
37 may represent the corporation in any proceeding before the Oregon Tax Court in the same manner
38 as if the shareholder were a partner and the S corporation were a partnership.

39 **SECTION 16.** ORS 305.690 is amended to read:

40 305.690. As used in ORS 305.690 to 305.753, unless the context otherwise requires:

41 (1) "Biennial years" means the two income tax years of individual taxpayers that begin in the
42 two calendar years immediately following the calendar year in which a list is certified under ORS
43 305.715.

44 (2) "Commission" means the Oregon Charitable Checkoff Commission.

45 (3) "Department" means the Department of Revenue.

1 (4) "Eligibility roster" means a list, prepared under ORS 305.715 and maintained by the com-
2 mission in chronological order based on the date of form listing or date of eligibility determination,
3 whichever is later, of charitable and governmental entities seeking inclusion on the Oregon indi-
4 vidual income tax return forms.

5 (5) "Form listed" or "form listing" means being listed on the Oregon individual income tax re-
6 turn form.

7 (6) "Instruction listing" means being listed on the Department of Revenue instructions for tax
8 return checkoff contribution.

9 (7) "Internal Revenue Code" means the federal Internal Revenue Code as amended and in effect
10 on [December 31, 2018] **April 1, 2021**.

11 **SECTION 16a. If House Bill 2129 becomes law, section 16 of this 2021 Act (amending ORS**
12 **305.690) is repealed and ORS 305.690, as amended by section 1, chapter 8, Oregon Laws 2021**
13 **(Enrolled House Bill 2129), is amended to read:**

14 305.690. As used in ORS 305.690 to 305.753, unless the context otherwise requires:

15 (1) "Commission" means the Oregon Charitable Checkoff Commission.

16 (2) "Department" means the Department of Revenue.

17 (3) "Internal Revenue Code" means the federal Internal Revenue Code as amended and in effect
18 on [December 31, 2020] **April 1, 2021**.

19 **SECTION 17.** ORS 305.842 is amended to read:

20 305.842. (1) As used in ORS 307.130, 307.147, 308A.450, 310.140 and 310.800, "Internal Revenue
21 Code" means the federal Internal Revenue Code as amended and in effect on [December 31, 2018]
22 **April 1, 2021**.

23 (2) As used in ORS 311.666, "Internal Revenue Code" means the federal Internal Revenue Code
24 as amended and in effect on [December 31, 2018] **April 1, 2021**, including amendments that take effect
25 after that date.

26 **SECTION 18.** ORS 314.011 is amended to read:

27 314.011. (1) As used in this chapter, unless the context requires otherwise, "department" means
28 the Department of Revenue.

29 (2) As used in this chapter:

30 (a) Any term has the same meaning as when used in a comparable context in the laws of the
31 United States relating to federal income taxes, unless a different meaning is clearly required or the
32 term is specifically defined in this chapter.

33 (b) Except where the Legislative Assembly has provided otherwise, a reference to the laws of
34 the United States or to the Internal Revenue Code refers to the laws of the United States or to the
35 Internal Revenue Code as they are amended and in effect:

36 (A) On [December 31, 2018] **April 1, 2021**; or

37 (B) If related to the definition of taxable income, as applicable to the tax year of the taxpayer.

38 (c) With respect to ORS 314.105, 314.256 (relating to proxy tax on lobbying expenditures), 314.260
39 (1)(b), 314.302, 314.306, 314.330, 314.360, 314.362, 314.385, 314.402, 314.410, 314.412, 314.525, 314.767
40 (7), 314.771 and 314.772 and other provisions of this chapter, except those described in paragraph (b)
41 of this subsection, any reference to the laws of the United States or to the Internal Revenue Code
42 means the laws of the United States relating to income taxes or the Internal Revenue Code as they
43 are amended on or before [December 31, 2018] **April 1, 2021**, even when the amendments take effect
44 or become operative after that date, except where the Legislative Assembly has specifically provided
45 otherwise.

1 (3) Insofar as is practicable in the administration of this chapter, the department shall apply and
2 follow the administrative and judicial interpretations of the federal income tax law. When a pro-
3 vision of the federal income tax law is the subject of conflicting opinions by two or more federal
4 courts, the department shall follow the rule observed by the United States Commissioner of Internal
5 Revenue until the conflict is resolved. Nothing contained in this section limits the right or duty of
6 the department to audit the return of any taxpayer or to determine any fact relating to the tax li-
7 ability of any taxpayer.

8 (4) When portions of the Internal Revenue Code incorporated by reference as provided in sub-
9 section (2) of this section refer to rules or regulations prescribed by the Secretary of the Treasury,
10 then such rules or regulations shall be regarded as rules adopted by the department under and in
11 accordance with the provisions of this chapter, whenever they are prescribed or amended.

12 (5)(a) When portions of the Internal Revenue Code incorporated by reference as provided in
13 subsection (2) of this section are later corrected by an Act or a Title within an Act of the United
14 States Congress designated as an Act or Title making technical corrections, then notwithstanding
15 the date that the Act or Title becomes law, those portions of the Internal Revenue Code, as so
16 corrected, shall be the portions of the Internal Revenue Code incorporated by reference as provided
17 in subsection (2) of this section and shall take effect, unless otherwise indicated by the Act or Title
18 (in which case the provisions shall take effect as indicated in the Act or Title), as if originally in-
19 cluded in the provisions of the Act being technically corrected. If, on account of this subsection, any
20 adjustment is required to an Oregon return that would otherwise be prevented by operation of law
21 or rule, the adjustment shall be made, notwithstanding any law or rule to the contrary, in the
22 manner provided under ORS 314.135.

23 (b) As used in this subsection, "Act or Title" includes any subtitle, division or other part of an
24 Act or Title.

25 **SECTION 19.** ORS 314.306 is amended to read:

26 314.306. (1) If a taxpayer excludes an amount from federal gross income by reason of the dis-
27 charge of indebtedness of the taxpayer under section 108(a)(1)(A) of the Internal Revenue Code (re-
28 lating to discharge of indebtedness in a bankruptcy declared under U.S.C. Title 11), then, with
29 respect to that portion of the excluded amount that is apportioned to Oregon, the taxpayer shall
30 apply the rules in 11 U.S.C. 346(j), as amended and in effect on [December 31, 2018] **April 1, 2021.**

31 (2) If a taxpayer excludes an amount from federal gross income by reason of the discharge of
32 indebtedness of the taxpayer under section 108(a)(1)(B) or (C) of the Internal Revenue Code (relating
33 to discharge of indebtedness in insolvency or discharge of qualified farm indebtedness), then, with
34 respect to that portion of the excluded amount that is apportioned to Oregon, the following para-
35 graphs shall apply, in the following order:

36 (a) If the taxpayer has made the election under section 108(b)(5) of the Internal Revenue Code
37 to first reduce the basis of the depreciable property of the taxpayer, the election shall also be ef-
38 fective for Oregon tax purposes. A corresponding reduction in the basis of the depreciable property
39 of the taxpayer shall be made for Oregon tax purposes.

40 (b) The amount, if any, by which the following attributes are reduced under section 108(b)(1) of
41 the Internal Revenue Code for federal tax purposes shall be added back for Oregon tax purposes:

42 (A) Federal net operating loss.

43 (B) Capital loss carryover.

44 (C) Basis of the property of the taxpayer, excluding amounts subject to the election under sec-
45 tion 108(b)(5) of the Internal Revenue Code.

1 (D) Passive activity loss carryover.

2 (c) Excluding amounts subject to the election in section 108(b)(5) of the Internal Revenue Code:

3 (A) Any Oregon net operating loss of an individual or corporate taxpayer, including a net op-
4 erating loss carryover to the taxpayer, shall be reduced by the amount of discharged indebtedness.

5 (B) Any net capital loss for the taxable year of the discharge, and any capital loss carryover to
6 the taxable year, shall be reduced by the amount of discharged indebtedness minus the total amount
7 taken into account under subparagraph (A) of this paragraph.

8 (C) The basis of the property of the taxpayer shall be reduced by the amount of discharged
9 indebtedness minus the total amount taken into account under subparagraphs (A) and (B) of this
10 paragraph.

11 (D) The passive activity loss carryover under section 469(b) of the Internal Revenue Code from
12 the taxable year of the discharge shall be reduced by the amount of discharged indebtedness minus
13 the total amount taken into account under subparagraphs (A), (B) and (C) of this paragraph.

14 **SECTION 20.** ORS 315.004 is amended to read:

15 315.004. (1) Except when the context requires otherwise, the definitions contained in ORS
16 chapters 314, 316, 317 and 318 are applicable in the construction, interpretation and application of
17 the personal and corporate income and excise tax credits contained in this chapter.

18 (2)(a) For purposes of the tax credits contained in this chapter, any term has the same meaning
19 as when used in a comparable context in the laws of the United States relating to federal income
20 taxes, unless a different meaning is clearly required or the term is specifically defined for purposes
21 of construing, interpreting and applying the credit.

22 (b) With respect to the tax credits contained in this chapter, any reference to the laws of the
23 United States or to the Internal Revenue Code means the laws of the United States relating to in-
24 come taxes or the Internal Revenue Code as they are amended on or before [December 31, 2018]
25 **April 1, 2021**, even when the amendments take effect or become operative after that date.

26 (3) Insofar as is practicable in the administration of this chapter, the Department of Revenue
27 shall apply and follow the administrative and judicial interpretations of the federal income tax law.
28 When a provision of the federal income tax law is the subject of conflicting opinions by two or more
29 federal courts, the department shall follow the rule observed by the United States Commissioner of
30 Internal Revenue until the conflict is resolved. Nothing contained in this section limits the right
31 or duty of the department to audit the return of any taxpayer or to determine any fact relating to
32 the tax liability of any taxpayer.

33 (4) When portions of the Internal Revenue Code incorporated by reference as provided in sub-
34 section (2) of this section refer to rules or regulations prescribed by the Secretary of the Treasury,
35 then such rules or regulations shall be regarded as rules adopted by the department under and in
36 accordance with the provisions of this chapter, whenever they are prescribed or amended.

37 (5)(a) When portions of the Internal Revenue Code incorporated by reference as provided in
38 subsection (2) of this section are later corrected by an Act or a Title within an Act of the United
39 States Congress designated as an Act or Title making technical corrections, then notwithstanding
40 the date that the Act or Title becomes law, those portions of the Internal Revenue Code, as so
41 corrected, shall be the portions of the Internal Revenue Code incorporated by reference as provided
42 in subsection (2) of this section and shall take effect, unless otherwise indicated by the Act or Title
43 (in which case the provisions shall take effect as indicated in the Act or Title), as if originally in-
44 cluded in the provisions of the Act being technically corrected. If, on account of this subsection, any
45 adjustment is required to an Oregon return that would otherwise be prevented by operation of law

1 or rule, the adjustment shall be made, notwithstanding any law or rule to the contrary, in the
2 manner provided under ORS 314.135.

3 (b) As used in this subsection, “Act or Title” includes any subtitle, division or other part of an
4 Act or Title.

5 **SECTION 21.** ORS 316.012 is amended to read:

6 316.012. Any term used in this chapter has the same meaning as when used in a comparable
7 context in the laws of the United States relating to federal income taxes, unless a different meaning
8 is clearly required or the term is specifically defined in this chapter. Except where the Legislative
9 Assembly has provided otherwise, any reference in this chapter to the laws of the United States or
10 to the Internal Revenue Code refers to the laws of the United States or to the Internal Revenue
11 Code as they are amended and in effect:

12 (1) On [December 31, 2018] **April 1, 2021**; or

13 (2) If related to the definition of taxable income, as applicable to the tax year of the taxpayer.

14 **SECTION 22.** ORS 316.147 is amended to read:

15 316.147. As used in ORS 316.147 to 316.149, unless the context requires otherwise:

16 (1) “Eligible taxpayer” includes any individual who must pay taxes otherwise imposed by this
17 chapter and:

18 (a) Who pays or incurs expenses for the care of a qualified individual, through a payment
19 method determined by rule of the Department of Revenue; and

20 (b) Who has a household income, for the taxable year, not to exceed the maximum amount of
21 household income allowed in ORS 310.640 (1989 Edition) for a homeowner or renter refund.

22 (2) “Household income” means the aggregate income of the eligible taxpayer and the spouse of
23 the taxpayer who reside in the household, that was received during a calendar year. “Household
24 income” includes payments received by the eligible taxpayer or the spouse of the taxpayer under the
25 federal Social Security Act for the benefit of a minor child or minor children who reside in the
26 household.

27 (3) “Income” means “adjusted gross income” as defined in the federal Internal Revenue Code,
28 as amended and in effect on [December 31, 2018] **April 1, 2021**, even when the amendments take ef-
29 fect or become operative after that date, relating to the measurement of taxable income of individ-
30 uals, estates and trusts, with the following modifications:

31 (a) There shall be added to adjusted gross income the following items of otherwise exempt in-
32 come:

33 (A) The gross amount of any otherwise exempt pension less return of investment, if any.

34 (B) Child support received by the taxpayer.

35 (C) Inheritances.

36 (D) Gifts and grants, the sum of which are in excess of \$500 per year.

37 (E) Amounts received by a taxpayer or spouse of a taxpayer for support from a parent who is
38 not a member of the taxpayer’s household.

39 (F) Life insurance proceeds.

40 (G) Accident and health insurance proceeds, except reimbursement of incurred medical expenses.

41 (H) Personal injury damages.

42 (I) Sick pay that is not included in federal adjusted gross income.

43 (J) Strike benefits excluded from federal gross income.

44 (K) Worker’s compensation, except for reimbursement of medical expense.

45 (L) Military pay and benefits.

- 1 (M) Veteran's benefits.
- 2 (N) Payments received under the federal Social Security Act that are excluded from federal
3 gross income.
- 4 (O) Welfare payments, except as follows:
- 5 (i) Payments for medical care, drugs and medical supplies, if the payments are not made directly
6 to the welfare recipient;
- 7 (ii) In-home services authorized and approved by the Department of Human Services; and
- 8 (iii) Direct or indirect reimbursement of expenses paid or incurred for participation in work or
9 training programs.
- 10 (P) Nontaxable dividends.
- 11 (Q) Nontaxable interest not included in federal adjusted gross income.
- 12 (R) Rental allowance paid to a minister that is excluded from federal gross income.
- 13 (S) Income from sources without the United States that is excluded from federal gross income.
- 14 (b) Adjusted gross income shall be increased due to the disallowance of the following deductions:
- 15 (A) The amount of the net loss, in excess of \$1,000, from all dispositions of tangible or intangible
16 properties.
- 17 (B) The amount of the net loss, in excess of \$1,000, from the operation of a farm or farms.
- 18 (C) The amount of the net loss, in excess of \$1,000, from all operations of a trade or business,
19 profession or other activity entered into for the production or collection of income.
- 20 (D) The amount of the net loss, in excess of \$1,000, from tangible or intangible property held for
21 the production of rents, royalties or other income.
- 22 (E) The amount of any net operating loss carryovers or carrybacks included in federal adjusted
23 gross income.
- 24 (F) The amount, in excess of \$5,000, of the combined deductions or other allowances for depre-
25 ciation, amortization or depletion.
- 26 (G) The amount added or subtracted, as required within the context of this section, for adjust-
27 ments made under ORS 316.680 (2)(d) and 316.707 to 316.737.
- 28 (c) "Income" does not include the following:
- 29 (A) Any governmental grant that must be used by the taxpayer for rehabilitation of the home-
30 stead of the taxpayer.
- 31 (B) Any refund of Oregon personal income taxes that were imposed under this chapter.
- 32 (4) "Qualified individual" includes an individual at least 60 years of age on the date that the
33 expenses described in subsection (1)(a) of this section are paid or incurred by the eligible taxpayer:
- 34 (a) Whose household income does not exceed \$7,500 for the calendar year in which the taxable
35 year of the taxpayer begins;
- 36 (b) Who is eligible for authorized services as defined in ORS 410.410 under Oregon Project In-
37 dependence;
- 38 (c) Who is certified by the Department of Human Services; and
- 39 (d) Whose care or any portion thereof is not paid for under ORS chapter 414.
- 40 **SECTION 23.** ORS 316.157 is amended to read:
- 41 316.157. (1) In the case of an eligible individual, there shall be allowed as a credit against the
42 taxes otherwise due under this chapter for the taxable year an amount equal to the lesser of the tax
43 liability of the taxpayer or nine percent of net pension income.
- 44 (2) For purposes of this section:
- 45 (a) "Eligible individual" means any individual who is receiving pension income and who has at-

1 tained 62 years of age before the close of the taxable year.

2 (b) "Household income" means the aggregate income of the taxpayer and the spouse of the tax-
3 payer who reside in the household, that was received during the taxable year for which a credit is
4 claimed, except that "household income" does not include Social Security benefits received by the
5 taxpayer or the spouse of the taxpayer.

6 (c) "Income" means "adjusted gross income" as defined in the federal Internal Revenue Code,
7 as amended and in effect on [December 31, 2018] **April 1, 2021**, even when the amendments take ef-
8 fect or become operative after that date, relating to the measurement of taxable income of individ-
9 uals, estates and trusts, with the following modifications:

10 (A) There shall be added to adjusted gross income the following items of otherwise exempt in-
11 come:

12 (i) The gross amount of any otherwise exempt pension less return of investment, if any.

13 (ii) Child support received by the taxpayer.

14 (iii) Inheritances.

15 (iv) Gifts and grants, the sum of which are in excess of \$500 per year.

16 (v) Amounts received by a taxpayer or spouse of a taxpayer for support from a parent who is
17 not a member of the taxpayer's household.

18 (vi) Life insurance proceeds.

19 (vii) Accident and health insurance proceeds, except reimbursement of incurred medical ex-
20 penses.

21 (viii) Personal injury damages.

22 (ix) Sick pay that is not included in federal adjusted gross income.

23 (x) Strike benefits excluded from federal gross income.

24 (xi) Worker's compensation, except for reimbursement of medical expense.

25 (xii) Military pay and benefits.

26 (xiii) Veteran's benefits.

27 (xiv) Payments received under the federal Social Security Act that are excluded from federal
28 gross income.

29 (xv) Welfare payments, except as follows:

30 (I) Payments for medical care, drugs and medical supplies, if the payments are not made directly
31 to the welfare recipient;

32 (II) In-home services authorized and approved by the Department of Human Services; and

33 (III) Direct or indirect reimbursement of expenses paid or incurred for participation in work or
34 training programs.

35 (xvi) Nontaxable dividends.

36 (xvii) Nontaxable interest not included in federal adjusted gross income.

37 (xviii) Rental allowance paid to a minister that is excluded from federal gross income.

38 (xix) Income from sources without the United States that is excluded from federal gross income.

39 (B) Adjusted gross income shall be increased due to the disallowance of the following de-
40 ductions:

41 (i) The amount of the net loss, in excess of \$1,000, from all dispositions of tangible or intangible
42 properties.

43 (ii) The amount of the net loss, in excess of \$1,000, from the operation of a farm or farms.

44 (iii) The amount of the net loss, in excess of \$1,000, from all operations of a trade or business,
45 profession or other activity entered into for the production or collection of income.

1 (iv) The amount of the net loss, in excess of \$1,000, from tangible or intangible property held for
2 the production of rents, royalties or other income.

3 (v) The amount of any net operating loss carryovers or carrybacks included in federal adjusted
4 gross income.

5 (vi) The amount, in excess of \$5,000, of the combined deductions or other allowances for depre-
6 ciation, amortization or depletion.

7 (vii) The amount added or subtracted, as required within the context of this section, for adjust-
8 ments made under ORS 316.680 (2)(d) and 316.707 to 316.737.

9 (C) "Income" does not include the following:

10 (i) Any governmental grant that must be used by the taxpayer for rehabilitation of the home-
11 stead of the taxpayer.

12 (ii) Any refund of Oregon personal income taxes that were imposed under this chapter.

13 (d) "Net pension income" means:

14 (A) For eligible individuals filing a joint return, the lesser of the pension income of the eligible
15 individuals received during the taxable year or the excess, if any, of \$15,000 over the sum of the
16 following amounts:

17 (i) Any Social Security benefits received by the eligible individual, or by the spouse of the in-
18 dividual, during the taxable year; and

19 (ii) The excess, if any, of household income over \$30,000.

20 (B) For an eligible individual filing a return other than a joint return, the lesser of the pension
21 income of the eligible individual received during the taxable year or the excess, if any, of \$7,500
22 over the sum of the following amounts:

23 (i) Any Social Security benefits received by the eligible individual during the taxable year; and

24 (ii) The excess, if any, of household income over \$15,000.

25 (e) "Pension income" means income included in Oregon taxable income from:

26 (A) Distributions from or pursuant to an employee pension benefit plan, as defined in section
27 3(2) of the Employee Retirement Income Security Act of 1974, which satisfies the requirements of
28 section 401 of the Internal Revenue Code;

29 (B) Distributions from or pursuant to a public retirement system of this state or a political
30 subdivision of this state, or a public retirement system created by an Act of this state or a political
31 subdivision of this state, or the public retirement system of any other state or local government;

32 (C) Distributions from or pursuant to a federal retirement system created by the federal gov-
33 ernment for any officer or employee of the United States, including any person retired from service
34 in the United States Civil Service, the Armed Forces of the United States or any agency or subdi-
35 vision thereof;

36 (D) Distributions or withdrawals from or pursuant to an eligible deferred compensation plan
37 which satisfies the requirements of section 457 of the Internal Revenue Code;

38 (E) Distributions or withdrawals from or pursuant to an individual retirement account, annuity
39 or trust or simplified employee pension which satisfies the requirements of section 408 of the Inter-
40 nal Revenue Code; and

41 (F) Distributions or withdrawals from or pursuant to an employee annuity, including custodial
42 accounts treated as annuities, subject to section 403 (a) or (b) of the Internal Revenue Code.

43 (f) "Social Security benefits" means Social Security benefits, as defined in section 86 of the
44 Internal Revenue Code (Title II Social Security or tier 1 railroad retirement benefits).

45 (3) If a change in the taxable year of the eligible individual occurs as described in ORS 314.085,

1 or if the Department of Revenue terminates the tax year of the eligible individual under ORS
2 314.440, the credit allowed by this section shall be prorated or computed in a manner consistent with
3 ORS 314.085.

4 (4) If a change in the status of the eligible individual from resident to nonresident or from
5 nonresident to resident occurs, the credit allowed by this section shall be determined in a manner
6 consistent with subsection (1) of this section.

7 **SECTION 24.** ORS 317.010 is amended to read:

8 317.010. As used in this chapter, unless the context requires otherwise:

9 (1) "Centrally assessed corporation" means every corporation the property of which is assessed
10 by the Department of Revenue under ORS 308.505 to 308.674.

11 (2) "Department" means the Department of Revenue.

12 (3)(a) "Consolidated federal return" means the return permitted or required to be filed by a
13 group of affiliated corporations under section 1501 of the Internal Revenue Code.

14 (b) "Consolidated state return" means the return required to be filed under ORS 317.710 (5).

15 (4) "Doing business" means any transaction or transactions in the course of its activities con-
16 ducted within the state by a national banking association, or any other corporation; provided, how-
17 ever, that a foreign corporation whose activities in this state are confined to purchases of personal
18 property, and the storage thereof incident to shipment outside the state, shall not be deemed to be
19 doing business unless such foreign corporation is an affiliate of another foreign or domestic corpo-
20 ration which is doing business in Oregon. Whether or not corporations are affiliated shall be de-
21 termined as provided in section 1504 of the Internal Revenue Code.

22 (5) "Excise tax" means a tax measured by or according to net income imposed upon national
23 banking associations, all other banks, and financial, centrally assessed, mercantile, manufacturing
24 and business corporations for the privilege of carrying on or doing business in this state.

25 (6) "Financial institution" has the meaning given that term in ORS 314.610 except that it does
26 not include a credit union as defined in ORS 723.006, an interstate credit union as defined in ORS
27 723.001 or a federal credit union.

28 (7) "Internal Revenue Code," except where the Legislative Assembly has provided otherwise,
29 refers to the laws of the United States or to the Internal Revenue Code as they are amended and
30 in effect:

31 (a) On [December 31, 2018] **April 1, 2021**; or

32 (b) If related to the definition of taxable income, as applicable to the tax year of the taxpayer.

33 (8) "Oregon taxable income" means taxable income, less the deduction allowed under ORS
34 317.476, except as otherwise provided with respect to insurers in subsection (11) of this section and
35 ORS 317.650 to 317.665.

36 (9) "Oregon net loss" means taxable loss, except as otherwise provided with respect to insurers
37 in subsection (11) of this section and ORS 317.650 to 317.665.

38 (10) "Taxable income or loss" means the taxable income or loss determined, or in the case of a
39 corporation for which no federal taxable income or loss is determined, as would be determined, un-
40 der chapter 1, Subtitle A of the Internal Revenue Code and any other laws of the United States
41 relating to the determination of taxable income or loss of corporate taxpayers, with the additions,
42 subtractions, adjustments and other modifications as are specifically prescribed by this chapter ex-
43 cept that in determining taxable income or loss for any year, no deduction under ORS 317.476 or
44 317.478 and section 45b, chapter 293, Oregon Laws 1987, shall be allowed. If the corporation is a
45 corporation to which ORS 314.280 or 314.605 to 314.675 (requiring or permitting apportionment of

1 income from transactions or activities carried on both within and without the state) applies, to
2 derive taxable income or loss, the following shall occur:

3 (a) From the amount otherwise determined under this subsection, subtract nonapportionable in-
4 come, or add nonapportionable loss, whichever is applicable.

5 (b) Multiply the amount determined under paragraph (a) of this subsection by the Oregon ap-
6 portionment percentage defined under ORS 314.280, 314.650 or 314.667, whichever is applicable. The
7 resulting product shall be Oregon apportioned income or loss.

8 (c) To the amount determined as Oregon apportioned income or loss under paragraph (b) of this
9 subsection, add nonapportionable income allocable entirely to Oregon under ORS 314.280 or 314.625
10 to 314.645, or subtract nonapportionable loss allocable entirely to Oregon under ORS 314.280 or
11 314.625 to 314.645. The resulting figure is “taxable income or loss” for those corporations carrying
12 on taxable transactions or activities both within and without Oregon.

13 (11) As used in ORS 317.122 and 317.650 to 317.665, “insurer” means any domestic, foreign or
14 alien insurer as defined in ORS 731.082 and any interinsurance and reciprocal exchange and its at-
15 torney in fact with respect to its attorney in fact net income as a corporate attorney in fact acting
16 as attorney in compliance with ORS 731.458, 731.462, 731.466 and 731.470 for the reciprocal or
17 interinsurance exchange. However, “insurer” does not include title insurers or health care service
18 contractors operating pursuant to ORS 750.005 to 750.095.

19 **SECTION 25.** ORS 317.097 is amended to read:

20 317.097. (1) As used in this section:

21 (a) “Annual rate” means the yearly interest rate specified on the note, and not the annual per-
22 centage rate, if any, disclosed to the applicant to comply with the federal Truth in Lending Act.

23 (b) “Finance charge” means the total of all interest, loan fees, interest on any loan fees financed
24 by the lending institution, and other charges related to the cost of obtaining credit.

25 (c) “Lending institution” means any insured institution, as that term is defined in ORS 706.008,
26 any mortgage banking company that maintains an office in this state or any community development
27 corporation that is organized under the Oregon Nonprofit Corporation Law.

28 (d) “Manufactured dwelling park” has the meaning given that term in ORS 446.003.

29 (e) “Nonprofit corporation” means a corporation that is exempt from income taxes under section
30 501(c)(3) or (4) of the Internal Revenue Code as amended and in effect on [December 31, 2018] **April**
31 **1, 2021.**

32 (f) “Preservation project” means housing that was previously developed as affordable housing
33 with a contract for rent assistance from the United States Department of Housing and Urban De-
34 velopment or the United States Department of Agriculture and that is being acquired by a spon-
35 soring entity.

36 (g) “Qualified assignee” means any investor participating in the secondary market for real estate
37 loans.

38 (h) “Qualified borrower” means any borrower that is a sponsoring entity that has a controlling
39 interest in the real property that is financed by a qualified loan. A controlling interest includes a
40 controlling interest in the general partner of a limited partnership that owns the real property.

41 (i) “Qualified loan” means:

42 (A) A loan that meets the criteria stated in subsection (5) of this section or that is made to re-
43 finance a loan that meets the criteria described in subsection (5) of this section; or

44 (B) The purchase by a lending institution of bonds, as defined in ORS 286A.001, issued on behalf
45 of the Housing and Community Services Department, the proceeds of which are used to finance or

1 refinance a loan that meets the criteria described in subsection (5) of this section.

2 (j) "Sponsoring entity" means a nonprofit corporation, nonprofit cooperative, state governmental
3 entity, local unit of government as defined in ORS 466.706, housing authority or any other person,
4 provided that the person has agreed to restrictive covenants imposed by a nonprofit corporation,
5 nonprofit cooperative, state governmental entity, local unit of government or housing authority.

6 (2) The Department of Revenue shall allow a credit against taxes otherwise due under this
7 chapter for the tax year to a lending institution that makes a qualified loan certified by the Housing
8 and Community Services Department as provided in subsection (7) of this section. The amount of the
9 credit is equal to the difference between:

10 (a) The amount of finance charge charged by the lending institution during the tax year at an
11 annual rate less than the market rate for a qualified loan that is made before January 1, 2026, that
12 complies with the requirements of this section; and

13 (b) The amount of finance charge that would have been charged during the tax year by the
14 lending institution for the qualified loan for housing construction, development, acquisition or re-
15 habilitation measured at the annual rate charged by the lending institution for nonsubsidized loans
16 made under like terms and conditions at the time the qualified loan for housing construction, de-
17 velopment, acquisition or rehabilitation is made.

18 (3) The maximum amount of credit for the difference between the amounts described in sub-
19 section (2)(a) and (b) of this section may not exceed four percent of the average unpaid balance of
20 the qualified loan during the tax year for which the credit is claimed.

21 (4) Any tax credit allowed under this section that is not used by the taxpayer in a particular
22 year may be carried forward and offset against the taxpayer's tax liability for the next succeeding
23 tax year. Any credit remaining unused in the next succeeding tax year may be carried forward and
24 used in the second succeeding tax year, and likewise, any credit not used in that second succeeding
25 tax year may be carried forward and used in the third succeeding tax year, and any credit not used
26 in that third succeeding tax year may be carried forward and used in the fourth succeeding tax year,
27 and any credit not used in that fourth succeeding tax year may be carried forward and used in the
28 fifth succeeding tax year, but may not be carried forward for any tax year thereafter.

29 (5) To be eligible for the tax credit allowable under this section, a lending institution must make
30 a qualified loan by either purchasing bonds, as defined in ORS 286A.001, issued on behalf of the
31 Housing and Community Services Department, the proceeds of which are used to finance or refi-
32 nance a loan that meets the criteria stated in this subsection, or by making a loan directly to:

33 (a) An individual or individuals who own a dwelling, participate in an owner-occupied commu-
34 nity rehabilitation program and are certified by the local government or its designated agent as
35 having an income level when the loan is made of less than 80 percent of the area median income;

36 (b) A qualified borrower who:

37 (A) Uses the loan proceeds to finance construction, development, acquisition or rehabilitation
38 of housing; and

39 (B) Provides a written certification executed by the Housing and Community Services Depart-
40 ment that the:

41 (i) Housing created by the loan is or will be occupied by households earning less than 80 percent
42 of the area median income; and

43 (ii) Full amount of savings from the reduced interest rate provided by the lending institution is
44 or will be passed on to the tenants in the form of reduced housing payments;

45 (c) Subject to subsection (14) of this section, a qualified borrower who:

1 (A) Uses the loan proceeds to finance construction, development, acquisition or rehabilitation
2 of housing consisting of a manufactured dwelling park; and

3 (B) Provides a written certification executed by the Housing and Community Services Depart-
4 ment that the housing will continue to be operated as a manufactured dwelling park during the pe-
5 riod for which the tax credit is allowed; or

6 (d) A qualified borrower who:

7 (A) Uses the loan proceeds to finance acquisition or rehabilitation of housing consisting of a
8 preservation project; and

9 (B) Provides a written certification executed by the Housing and Community Services Depart-
10 ment that the housing preserved by the loan:

11 (i) Is or will be occupied by households earning less than 80 percent of the area median income;
12 and

13 (ii) Is the subject of a rent assistance contract with the United States Department of Housing
14 and Urban Development or the United States Department of Agriculture that will be maintained by
15 the qualified borrower.

16 (6) A loan made to refinance a loan that meets the criteria stated in subsection (5) of this sec-
17 tion must be treated the same as a loan that meets the criteria stated in subsection (5) of this sec-
18 tion.

19 (7) For a qualified loan to be eligible for the tax credit allowable under this section, the Housing
20 and Community Services Department must execute a written certification for the qualified loan that:

21 (a) Specifies the period, not to exceed 20 years, as determined by the Housing and Community
22 Services Department, during which the tax credit is allowed for the qualified loan; and

23 (b) States that the qualified loan is within the limitation imposed by subsection (8) of this sec-
24 tion.

25 (8) The Housing and Community Services Department may certify qualified loans that are eligi-
26 ble under subsection (5) of this section if the total credits attributable to all qualified loans eligible
27 for credits under this section and then outstanding do not exceed \$25 million for any fiscal year. In
28 making loan certifications under subsection (7) of this section, the Housing and Community Services
29 Department shall attempt to distribute the tax credits statewide, but shall concentrate the tax
30 credits in those areas of the state that are determined by the Oregon Housing Stability Council to
31 have the greatest need for affordable housing.

32 (9) The tax credit provided for in this section may be taken whether or not:

33 (a) The financial institution is eligible to take a federal income tax credit under section 42 of
34 the Internal Revenue Code with respect to the project financed by the qualified loan; or

35 (b) The project receives financing from bonds, the interest on which is exempt from federal
36 taxation under section 103 of the Internal Revenue Code.

37 (10) For a qualified loan defined in subsection (1)(i)(B) of this section financed through the pur-
38 chase of bonds, the interest of which is exempt from federal taxation under section 103 of the
39 Internal Revenue Code, the amount of finance charge that would have been charged under sub-
40 section (2)(b) of this section is determined by reference to the finance charge that would have been
41 charged if the federally tax exempt bonds had been issued and the tax credit under this section did
42 not apply.

43 (11) A lending institution may sell a qualified loan for which a certification has been executed
44 to a qualified assignee whether or not the lending institution retains servicing of the qualified loan
45 so long as a designated lending institution maintains records, annually verified by a loan servicer,

1 that establish the amount of tax credit earned by the taxpayer throughout each year of eligibility.

2 (12) Notwithstanding any other provision of law, a lending institution that is a community de-
3 velopment corporation organized under the Oregon Nonprofit Corporation Law may transfer all or
4 part of a tax credit allowed under this section to one or more other lending institutions that are
5 stockholders or members of the community development corporation or that otherwise participate
6 through the community development corporation in the making of one or more qualified loans for
7 which the tax credit under this section is allowed.

8 (13) The lending institution shall file an annual statement with the Housing and Community
9 Services Department, specifying that it has conformed with all requirements imposed by law to
10 qualify for a tax credit under this section.

11 (14) Notwithstanding subsection (1)(h) and (j) of this section, a qualified borrower on a loan to
12 finance the construction, development, acquisition or rehabilitation of a manufactured dwelling park
13 under subsection (5)(c) of this section must be:

14 (a) A nonprofit corporation, manufactured dwelling park nonprofit cooperative, state govern-
15 mental entity, local unit of government as defined in ORS 466.706 or housing authority; or

16 (b) A nonprofit corporation or housing authority that has a controlling interest in the real
17 property that is financed by a qualified loan. A controlling interest includes a controlling interest
18 in the general partner of a limited partnership that owns the real property.

19 (15) The Department of Revenue may require that a lending institution that has earned the
20 credit and a lending institution that intends to claim the credit jointly file a notice, as prescribed
21 by the Department of Revenue. The notice must comply with ORS 315.056 (2) or 315.058 (2).

22 (16) The Housing and Community Services Department shall provide information to the Depart-
23 ment of Revenue about all certifications executed under this section, if required by ORS 315.058.

24 (17) The Housing and Community Services Department and the Department of Revenue may
25 adopt rules to carry out the provisions of this section.

26 **SECTION 26.** ORS 317A.100, as amended by section 1, chapter 2, Oregon Laws 2020 (first spe-
27 cial session), is amended to read:

28 317A.100. As used in ORS 317A.100 to 317A.158:

29 (1)(a) "Commercial activity" means:

30 (A) The total amount realized by a person, arising from transactions and activity in the regular
31 course of the person's trade or business, without deduction for expenses incurred by the trade or
32 business;

33 (B) If received by a financial institution:

34 (i) If the reporting person for a financial institution is a holding company, all items of income
35 reported on the FR Y-9 filed by the holding company;

36 (ii) If the reporting person for a financial institution is a bank organization, all items of income
37 reported on the call report filed by the bank organization; and

38 (iii) If the reporting person for a financial institution is a nonbank financial organization, all
39 items of income reported in accordance with generally accepted accounting principles; and

40 (C)(i) If received by an insurer, as reported on the statement of premiums accompanying the
41 annual statement required under ORS 731.574 to be filed with the Director of the Department of
42 Consumer and Business Services, all gross direct life insurance premiums, gross direct accident and
43 health insurance premiums and gross direct property and casualty insurance premiums; and

44 (ii) The gross amount of surplus lines premiums received on Oregon home state risks as shown
45 in the report required by ORS 735.465.

- 1 (b) "Commercial activity" does not include:
- 2 (A) Interest income except:
- 3 (i) Interest on credit sales; or
- 4 (ii) Interest income, including service charges, received by financial institutions;
- 5 (B) Receipts from the sale, exchange or other disposition of an asset described in section 1221
- 6 or 1231 of the Internal Revenue Code, without regard to the length of time the person held the asset;
- 7 (C) If received by an insurer, federally reinsured premiums or income from transactions between
- 8 a reciprocal insurer and its attorney in fact operating under ORS 731.142;
- 9 (D) Receipts from hedging transactions, to the extent that the transactions are entered into
- 10 primarily to protect a financial position, including transactions intended to manage the risk of ex-
- 11 posure to foreign currency fluctuations that affect assets, liabilities, profits, losses, equity or in-
- 12 vestments in foreign operations, risk of exposure to interest rate fluctuations or risk of commodity
- 13 price fluctuations;
- 14 (E) Proceeds received attributable to the repayment, maturity or redemption of the principal of
- 15 a loan, bond, mutual fund, certificate of deposit or marketable instrument;
- 16 (F) The principal amount received under a repurchase agreement or on account of any trans-
- 17 action properly characterized as a loan to the person;
- 18 (G) Contributions received by a trust, plan or other arrangement, any of which is described in
- 19 section 501(a) of the Internal Revenue Code, or to which title 26, subtitle A, chapter 1, subchapter
- 20 (D) of the Internal Revenue Code applies;
- 21 (H) Compensation, whether current or deferred, and whether in cash or in kind, received or to
- 22 be received by an employee, a former employee or the employee's legal successor for services ren-
- 23 dered to or for an employer, including reimbursements received by or for an individual for medical
- 24 or education expenses, health insurance premiums or employee expenses or on account of a de-
- 25 pendent care spending account, legal services plan, any cafeteria plan described in section 125 of
- 26 the Internal Revenue Code or any similar employee reimbursement;
- 27 (I) Proceeds received from the issuance of the taxpayer's own stock, options, warrants, puts or
- 28 calls, or from the sale of the taxpayer's treasury stock;
- 29 (J) Proceeds received on the account of payments from insurance policies, including crop in-
- 30 surance policies, owned by the taxpayer, except those proceeds received for the loss of commercial
- 31 activity;
- 32 (K) Gifts or charitable contributions received, membership dues received by trade, professional,
- 33 homeowners' or condominium associations, payments received for educational courses, meetings or
- 34 meals, or similar payments to a trade, professional or other similar association, and fundraising re-
- 35 cepts received by any person when any excess receipts are donated or used exclusively for chari-
- 36 table purposes;
- 37 (L) Damages received as the result of litigation in excess of amounts that, if received without
- 38 litigation, would be treated as commercial activity;
- 39 (M) Property, money and other amounts received or acquired by an agent on behalf of another
- 40 in excess of the agent's commission, fee or other remuneration;
- 41 (N) Tax refunds from any tax program, other tax benefit recoveries and reimbursements for the
- 42 tax imposed under ORS 317A.100 to 317A.158 made by entities that are part of the same unitary
- 43 group as provided under ORS 317A.106, and reimbursements made by entities that are not members
- 44 of a unitary group that are required to be made for economic parity among multiple owners of an
- 45 entity whose tax obligation under ORS 317A.100 to 317A.158 is required to be reported and paid

1 entirely by one owner, as provided in ORS 317A.106;

2 (O) Pension reversions;

3 (P) Contributions to capital;

4 (Q) Receipts from the sale, transfer, exchange or other disposition of motor vehicle fuel or any
5 other product used for the propulsion of motor vehicles;

6 (R) In the case of receipts from the sale of cigarettes or tobacco products by a wholesale dealer,
7 retail dealer, distributor, manufacturer or seller, an amount equal to the federal and state excise
8 taxes paid by any person on or for such cigarettes or tobacco products under subtitle E of the
9 Internal Revenue Code or ORS chapter 323;

10 (S) In the case of receipts from the sale of malt beverages or wine, as defined in ORS 471.001,
11 cider, as defined in ORS 471.023 or distilled liquor, as defined in ORS 471.001, by a person holding
12 a license issued under ORS chapter 471, an amount equal to the federal and state excise taxes paid
13 by any person on or for such malt beverages, wine or distilled liquor under subtitle E of the Internal
14 Revenue Code or ORS chapter 471 or 473, and any amount paid to the Oregon Liquor Control
15 Commission for sales of distilled spirits by an agent appointed under ORS 471.750;

16 (T) In the case of receipts from the sale of marijuana items, as defined in ORS 475B.015, by a
17 person holding a license issued under ORS 475B.010 to 475B.545, an amount equal to the federal and
18 state excise taxes paid by any person on or for such marijuana items under subtitle E of the Internal
19 Revenue Code or ORS 475B.700 to 475B.760 and any local retail taxes authorized under ORS
20 475B.491;

21 (U) Local taxes collected by a restaurant or other food establishment on sales of meals, prepared
22 food or beverages;

23 (V) Tips or gratuities collected by a restaurant or other food establishment and passed on to
24 employees;

25 (W) Receipts realized by a vehicle dealer certified under ORS 822.020 or a person described in
26 ORS 320.400 (8)(a)(B) from the sale or other transfer of a motor vehicle, as defined in ORS 801.360,
27 to another vehicle dealer for the purpose of resale by the transferee vehicle dealer, but only if the
28 sale or other transfer was based upon the transferee's need to meet a specific customer's preference
29 for a motor vehicle;

30 (X) Registration fees or taxes collected by a vehicle dealer certified under ORS 822.020 or a
31 person described in ORS 320.400 (8)(a)(B) at the sale or other transfer of a motor vehicle, as defined
32 in ORS 801.360, that are owed to a third party by the purchaser of the motor vehicle and passed to
33 the third party by the dealer;

34 (Y) Receipts from a financial institution for services provided to the financial institution in
35 connection with the issuance, processing, servicing and management of loans or credit accounts, if
36 the financial institution and the recipient of the receipts have at least 50 percent of their ownership
37 interests owned or controlled, directly or constructively through related interests, by common own-
38 ers;

39 (Z) In the case of amounts retained as commissions by a holder of a license under ORS chapter
40 462, an amount equal to the amounts specified under ORS chapter 462 that must be paid to or col-
41 lected by the Department of Revenue as a tax and the amounts specified under ORS chapter 462 to
42 be used as purse money;

43 (AA) Net revenue of residential care facilities as defined in ORS 443.400 or in-home care agen-
44 cies as defined in ORS 443.305, to the extent that the revenue is derived from or received as com-
45 pensation for providing services to a medical assistance or Medicare recipient;

- 1 (BB) Dividends received;
- 2 (CC) Distributive income received from a pass-through entity;
- 3 (DD) Receipts from sales to a wholesaler in this state, if the seller receives certification at the
4 time of sale from the wholesaler that the wholesaler will sell the purchased property outside this
5 state;
- 6 (EE) Receipts from the wholesale or retail sale of groceries;
- 7 (FF) Receipts from transactions among members of a unitary group;
- 8 (GG) Moneys, including public purpose charge moneys collected under ORS 757.612 and costs
9 of funding or implementing cost-effective energy conservation measures collected under ORS 757.689,
10 that are collected from customers, passed to a utility and approved by the Public Utility Commission
11 and that support energy conservation, renewable resource acquisition and low-income assistance
12 programs;
- 13 (HH) Moneys collected by a utility from customers for the payment of loans through on-bill fi-
14 nancing;
- 15 (II) Surcharges collected under ORS 757.736;
- 16 (JJ) Moneys passed to a utility by the Bonneville Power Administration for the purpose of
17 effectuating the Regional Power Act Exchange credits or pursuant to any settlement associated with
18 the exchange credit;
- 19 (KK) Moneys collected or recovered, by entities listed in ORS 756.310, cable operators as de-
20 fined in 47 U.S.C. 522(5), telecommunications carriers as defined in 47 U.S.C. 153(51) and providers
21 of information services as defined in 47 U.S.C. 153(24), for fees payable under ORS 756.310, right-of-
22 way fees, franchise fees, privilege taxes, federal taxes and local taxes;
- 23 (LL) Charges paid to the Residential Service Protection Fund required by chapter 290, Oregon
24 Laws 1987;
- 25 (MM) Universal service surcharge moneys collected or recovered and paid into the universal
26 service fund established in ORS 759.425;
- 27 (NN) Moneys collected for public purpose funding as described in ORS 759.430;
- 28 (OO) Moneys collected or recovered and paid into the federal universal service fund as deter-
29 mined by the Federal Communications Commission;
- 30 (PP) In the case of a seller or provider of telecommunications services, the amount of tax im-
31 posed under ORS 403.200 for access to the emergency communications system that is collected from
32 subscribers or consumers;
- 33 (QQ) In the case of a transient lodging tax collector, the amount of tax imposed under ORS
34 320.305 and of any local transient lodging tax imposed upon the occupancy of transit lodging;
- 35 (RR) In the case of a seller of bicycles, the amount of tax imposed under ORS 320.415 upon retail
36 sales of bicycles;
- 37 (SS) In the case of a qualified heavy equipment provider, the amount of tax imposed under ORS
38 307.872 upon the rental price of heavy equipment;
- 39 (TT) Farmer sales to an agricultural cooperative in this state that is a cooperative organization
40 described in section 1381 of the Internal Revenue Code;
- 41 (UU) Revenue received by a business entity that is mandated by contract or subcontract to be
42 distributed to another person or entity if the revenue constitutes sales commissions that are paid
43 to a person who is not an employee of the business entity, including, without limitation, a split-fee
44 real estate commission; and
- 45 (VV) Receipts from the sale of fluid milk by dairy farmers that are not members of an agricul-

1 tural cooperative.

2 (2) "Cost inputs" means:

3 (a) The cost of goods sold as calculated in arriving at federal taxable income under the Internal
4 Revenue Code; or

5 (b) In the case of a taxpayer that is engaged in a farming operation, as defined in section 6,
6 chapter 2, Oregon Laws 2020 (first special session), and that does not report cost of goods sold for
7 federal tax purposes, the taxpayer's operating expenses excluding labor costs.

8 (3) "Doing business" means engaging in any activity, whether legal or illegal, that is conducted
9 for, or results in, the receipt of commercial activity at any time during a calendar year.

10 (4) "Excluded person" means any of the following:

11 (a) Organizations described in sections 501(c) and 501(j) of the Internal Revenue Code, unless the
12 exemption is denied under section 501(h), (i) or (m) or under section 502, 503 or 505 of the Internal
13 Revenue Code.

14 (b) Organizations described in section 501(d) of the Internal Revenue Code, unless the exemption
15 is denied under section 502 or 503 of the Internal Revenue Code.

16 (c) Organizations described in section 501(e) of the Internal Revenue Code.

17 (d) Organizations described in section 501(f) of the Internal Revenue Code.

18 (e) Charitable risk pools described in section 501(n) of the Internal Revenue Code.

19 (f) Organizations described in section 521 of the Internal Revenue Code.

20 (g) Qualified state tuition programs described in section 529 of the Internal Revenue Code.

21 (h) Foreign or alien insurance companies, but only with respect to the underwriting profit de-
22 rived from writing wet marine and transportation insurance subject to tax under ORS 731.824 and
23 731.828.

24 (i) Governmental entities.

25 (j) Any person with commercial activity that does not exceed \$750,000 for the calendar year,
26 other than a person that is part of a unitary group as provided in ORS 317A.106 with commercial
27 activity in excess of \$750,000.

28 (k) Hospitals subject to assessment under ORS 414.855, long term care facilities subject to as-
29 sessment under ORS 409.801 or any entity subject to assessment under ORS 414.880 or section 3 or
30 5, chapter 538, Oregon Laws 2017.

31 (L) Manufactured dwelling park nonprofit cooperatives organized under ORS chapter 62.

32 (5) "Financial institution" has the meaning given that term in ORS 314.610, except that "finan-
33 cial institution" does not include a credit union.

34 (6)(a) "FR Y-9" means the consolidated or parent-only financial statements that a holding com-
35 pany is required to file with the Federal Reserve Board pursuant to 12 U.S.C. 1844.

36 (b) In the case of a holding company required to file both consolidated and parent-only financial
37 statements, "FR Y-9" means the consolidated financial statements that the holding company is re-
38 quired to file.

39 (7) "Governmental entity" means:

40 (a) The United States and any of its unincorporated agencies and instrumentalities.

41 (b) Any incorporated agency or instrumentality of the United States wholly owned by the United
42 States or by a corporation wholly owned by the United States.

43 (c) The State of Oregon and any of its unincorporated agencies and instrumentalities.

44 (d) Any county, city, district or other political subdivision of the state.

45 (e) A special government body as defined in ORS 174.117.

- 1 (f) A federally recognized Indian tribe.
- 2 (8) “Groceries” means food as defined in 7 U.S.C. 2012(k), but does not include cannabinoid
3 edibles or marijuana seeds.
- 4 (9)(a) “Hedging transaction” means a hedging transaction as defined in section 1221 of the
5 Internal Revenue Code or a transaction accorded hedge accounting treatment under Financial Ac-
6 counting Standards Board Statement No. 133.
- 7 (b) “Hedging transaction” does not include a transaction in which an actual transfer of title of
8 real or tangible property to another entity occurs.
- 9 (10) “Insurer” has the meaning given that term in ORS 317.010.
- 10 (11) “Internal Revenue Code,” except where the Legislative Assembly has provided otherwise,
11 refers to the laws of the United States or to the Internal Revenue Code as they are amended and
12 in effect on [December 31, 2018] **April 1, 2021**.
- 13 (12) “Labor costs” means total compensation of all employees, not to include compensation paid
14 to any single employee in excess of \$500,000.
- 15 (13)(a) “Motor vehicle fuel or any other product used for the propulsion of motor vehicles”
16 means:
- 17 (A) Motor vehicle fuel as defined in ORS 319.010; and
18 (B) Fuel the use of which in a motor vehicle is subject to taxation under ORS 319.530.
- 19 (b) “Motor vehicle fuel or any other product used for the propulsion of motor vehicles” does not
20 mean:
- 21 (A) Electricity; or
22 (B) Electric batteries or any other mechanical or physical component or accessory of a motor
23 vehicle.
- 24 (14) “Person” includes individuals, combinations of individuals of any form, receivers, assignees,
25 trustees in bankruptcy, firms, companies, joint-stock companies, business trusts, estates, partner-
26 ships, limited liability partnerships, limited liability companies, associations, joint ventures, clubs,
27 societies, entities organized as for-profit corporations under ORS chapter 60, C corporations, S cor-
28 porations, qualified subchapter S subsidiaries, qualified subchapter S trusts, trusts, entities that are
29 disregarded for federal income tax purposes and any other entities.
- 30 (15) “Retailer” means a person doing business by selling tangible personal property to a pur-
31 chaser for a purpose other than:
- 32 (a) Resale by the purchaser of the property as tangible personal property in the regular course
33 of business;
- 34 (b) Incorporation by the purchaser of the property in the course of regular business as an in-
35 gredient or component of real or personal property; or
- 36 (c) Consumption by the purchaser of the property in the production for sale of a new article of
37 tangible personal property.
- 38 (16) “Taxable commercial activity” means commercial activity sourced to this state under ORS
39 317A.128, less any subtraction pursuant to ORS 317A.119.
- 40 (17)(a) “Taxpayer” means any person or unitary group required to register, file or pay tax under
41 ORS 317A.100 to 317A.158.
- 42 (b) “Taxpayer” does not include excluded persons, except to the extent that a tax-exempt entity
43 has unrelated business income as described in the Internal Revenue Code.
- 44 (18)(a) “Unitary business” means a business enterprise in which there exists directly or indi-
45 rectly between the members or parts of the enterprise a sharing or exchange of value as demon-

1 strated by:

2 (A) Centralized management or a common executive force;

3 (B) Centralized administrative services or functions resulting in economies of scale; or

4 (C) Flow of goods, capital resources or services demonstrating functional integration.

5 (b) "Unitary business" may include a business enterprise the activities of which:

6 (A) Are in the same general line of business, such as manufacturing, wholesaling or retailing;

7 or

8 (B) Constitute steps in a vertically integrated process, such as the steps involved in the pro-
9 duction of natural resources, which might include exploration, mining, refining and marketing.

10 (19) "Unitary group" means a group of persons with more than 50 percent common ownership,
11 either direct or indirect, that is engaged in business activities that constitute a unitary business.

12 (20) "Wholesaler" means a person primarily doing business by merchant distribution of tangible
13 personal property to retailers or to other wholesalers.

14 **SECTION 27.** ORS 458.670 is amended to read:

15 458.670. As used in this section and ORS 458.675 to 458.700, unless the context requires other-
16 wise:

17 (1) "Account holder" means a resident of this state who:

18 (a) Is 12 years of age or older;

19 (b) Is a member of a lower income household; and

20 (c) Has established an individual development account with a fiduciary organization.

21 (2) "Fiduciary organization" means an organization selected under ORS 458.695 to administer
22 state moneys directed to individual development accounts and that is:

23 (a) A nonprofit, fund raising organization that is exempt from taxation under section 501(c)(3)
24 of the Internal Revenue Code as amended and in effect on [December 31, 2018] **April 1, 2021**; or

25 (b) A federally recognized Oregon Indian tribe that is located, to a significant degree, within the
26 boundaries of this state.

27 (3) "Financial institution" means:

28 (a) An organization regulated under ORS chapters 706 to 716 or 723; or

29 (b) In the case of individual development accounts established for the purpose described in ORS
30 458.685 (1)(c), a financial institution as defined in ORS 178.300.

31 (4) "Individual development account" means a contract between an account holder and a
32 fiduciary organization, for the deposit of funds into a financial institution by the account holder, and
33 the deposit of matching funds into the financial institution by the fiduciary organization, to allow
34 the account holder to accumulate assets for use toward achieving a specific purpose approved by
35 the fiduciary organization.

36 (5) "Lower income household" means a household having an income equal to or less than the
37 greater of the following:

38 (a) 80 percent of the median household income for the area as determined by the Housing and
39 Community Services Department. In making the determination, the department shall give consider-
40 ation to any data on area household income published by the United States Department of Housing
41 and Urban Development.

42 (b) 200 percent of the poverty guidelines as determined by the Housing and Community Services
43 Department. In making the determination, the department shall give consideration to poverty
44 guidelines published by the United States Department of Health and Human Services and may con-
45 sider other income data periodically published by other federal or Oregon agencies.

1 (6) "Resident of this state" has the meaning given that term in ORS 316.027.

2 **SECTION 28.** ORS 657.010 is amended to read:

3 657.010. As used in this chapter, unless the context requires otherwise:

4 (1) "Base year" means the first four of the last five completed calendar quarters preceding the
5 benefit year.

6 (2) "Benefits" means the money allowances payable to unemployed persons under this chapter.

7 (3) "Benefit year" means a period of 52 consecutive weeks commencing with the first week with
8 respect to which an individual files an initial valid claim for benefits, and thereafter the 52 consec-
9 utive weeks period beginning with the first week with respect to which the individual next files an
10 initial valid claim after the termination of the individual's last preceding benefit year except that
11 the benefit year shall be 53 weeks if the filing of an initial valid claim would result in overlapping
12 any quarter of the base year of a previously filed initial valid claim.

13 (4) "Calendar quarter" means the period of three consecutive calendar months ending on March
14 31, June 30, September 30 or December 31, or the approximate equivalent thereof, as the Director
15 of the Employment Department may, by regulation, prescribe.

16 (5) "Contribution" or "contributions" means the taxes, as defined in subsection (13) of this sec-
17 tion, that are the money payments required by this chapter, or voluntary payments permitted, to be
18 made to the Unemployment Compensation Trust Fund.

19 (6) "Educational institution," including an institution of higher education as defined in sub-
20 section (9) of this section, means an institution:

21 (a) In which participants, trainees or students are offered an organized course of study or
22 training designed to transfer to them knowledge, skills, information, doctrines, attitudes or abilities
23 from, by or under the guidance of an instructor or teacher;

24 (b) That is accredited, registered, approved, licensed or issued a permit to operate as a school
25 by the Department of Education or other government agency, or that offers courses for credit that
26 are transferable to an approved, registered or accredited school;

27 (c) In which the course or courses of study or training that it offers may be academic, technical,
28 trade or preparation for gainful employment in a recognized occupation; and

29 (d) In which the course or courses of study or training are offered on a regular and continuing
30 basis.

31 (7) "Employment office" means a free public employment office or branch thereof, operated by
32 this state or maintained as a part of a state-controlled system of public employment offices.

33 (8) "Hospital" means an organization that has been licensed, certified or approved by the Oregon
34 Health Authority as a hospital.

35 (9) "Institution of higher education" means an educational institution that:

36 (a) Admits as regular students only individuals having a certificate of graduation from a high
37 school, or the recognized equivalent of such a certificate;

38 (b) Is legally authorized in this state to provide a program of education beyond high school;

39 (c) Provides an educational program for which it awards a bachelor's or higher degree, or pro-
40 vides a program that is acceptable for full credit toward such a degree, a program of post-graduate
41 or post-doctoral studies, or a program of training to prepare students for gainful employment in a
42 recognized occupation; and

43 (d) Is a public or other nonprofit institution.

44 (10) "Internal Revenue Code" means the federal Internal Revenue Code, as amended and in ef-
45 fect on [December 31, 2018] **April 1, 2021.**

1 (11) "Nonprofit employing unit" means an organization, or group of organizations, described in
2 section 501(c)(3) of the Internal Revenue Code that is exempt from income tax under section 501(a)
3 of the Internal Revenue Code.

4 (12) "State" includes, in addition to the states of the United States of America, the District of
5 Columbia and Puerto Rico. However, for all purposes of this chapter the Virgin Islands shall be
6 considered a state on and after the day on which the United States Secretary of Labor first approves
7 the Virgin Islands' law under section 3304(a) of the Federal Unemployment Tax Act as amended by
8 Public Law 94-566.

9 (13) "Taxes" means the money payments to the Unemployment Compensation Trust Fund re-
10 quired, or voluntary payments permitted, by this chapter.

11 (14) "Valid claim" means any claim for benefits made in accordance with ORS 657.260 if the
12 individual meets the wages-paid-for-employment requirements of ORS 657.150.

13 (15) "Week" means any period of seven consecutive calendar days ending at midnight, as the
14 director may, by regulation, prescribe. The director may by regulation prescribe that a "week" shall
15 be "in," "within," or "during" the calendar quarter that includes the greater part of such week.

16 **SECTION 29.** ORS 657B.010 is amended to read:

17 657B.010. As used in this chapter:

18 (1) "Alternate base year" means the last four completed calendar quarters preceding the benefit
19 year.

20 (2) "Average weekly wage" means the amount calculated by the Employment Department as the
21 state average weekly covered wage under ORS 657.150 (4)(d) as determined not more than once per
22 year.

23 (3) "Base year" means the first four of the last five completed calendar quarters preceding the
24 benefit year.

25 (4) "Benefits" means family and medical leave insurance benefits.

26 (5) "Benefit year" means the 12-month period as determined by the Director of the Employment
27 Department by rule under ORS 657B.340.

28 (6) "Child" means:

29 (a) A biological child, adopted child, stepchild or foster child of a covered individual or of the
30 covered individual's spouse or domestic partner;

31 (b) A person who is or was a legal ward of a covered individual or of the covered individual's
32 spouse or domestic partner; or

33 (c) A person who is or was in a relationship of in loco parentis with a covered individual or
34 with the covered individual's spouse or domestic partner.

35 (7) "Contribution" or "contributions" means the money payments made by any of the following
36 under ORS 657B.150:

37 (a) An employer;

38 (b) An eligible employee;

39 (c) A self-employed individual;

40 (d) A tribal government; or

41 (e) An employee of a tribal government.

42 (8) "Covered individual" means any one of the following who qualifies to receive family and
43 medical leave insurance benefits:

44 (a) An eligible employee;

45 (b) A self-employed individual; or

- 1 (c) An employee of a tribal government.
- 2 (9) “Domestic partner” means an individual joined in a domestic partnership.
- 3 (10) “Domestic partnership” has the meaning given that term in ORS 106.310.
- 4 (11) “Eligible employee” means:
- 5 (a)(A) An employee who has earned at least \$1,000 in wages during the base year; or
- 6 (B) If an employee has not earned at least \$1,000 in wages during the base year, an employee
- 7 who has earned at least \$1,000 in wages during the alternate base year; and
- 8 (b) Who may apply for paid family and medical leave insurance benefits under ORS 657B.015.
- 9 (12) “Eligible employee’s average weekly wage” means an amount calculated by the Director of
- 10 the Employment Department by dividing the total wages earned by an eligible employee during the
- 11 base year by the number of weeks in the base year.
- 12 (13)(a) “Employee” means:
- 13 (A) An individual performing services for an employer for remuneration or under any contract
- 14 of hire, written or oral, express or implied.
- 15 (B) A home care worker as defined in ORS 410.600.
- 16 (b) “Employee” does not include:
- 17 (A) An independent contractor as defined in ORS 670.600.
- 18 (B) A participant in a work training program administered under a state or federal assistance
- 19 program.
- 20 (C) A participant in a work-study program that provides students in secondary or postsecondary
- 21 educational institutions with employment opportunities for financial assistance or vocational train-
- 22 ing.
- 23 (D) A railroad worker exempted under the federal Railroad Unemployment Insurance Act.
- 24 (E) A volunteer.
- 25 (14)(a) “Employer” means any person that employs one or more employees working anywhere in
- 26 this state or any agent or employee of such person to whom the duties of the person under this
- 27 chapter have been delegated.
- 28 (b) “Employer” includes:
- 29 (A) A political subdivision of this state or any county, city, district, authority or public corpo-
- 30 ration, or any instrumentality of a county, city, district, authority or public corporation, organized
- 31 and existing under law or charter;
- 32 (B) An individual;
- 33 (C) Any type of organization, corporation, partnership, limited liability company, association,
- 34 trust, estate, joint stock company or insurance company;
- 35 (D) Any successor in interest to an entity described in subparagraph (C) of this paragraph;
- 36 (E) A trustee, trustee in bankruptcy or receiver; or
- 37 (F) A trustee or legal representative of a deceased person.
- 38 (c) “Employer” does not include the federal government or a tribal government.
- 39 (15) “Employment agency” has the meaning given that term in ORS 658.005.
- 40 (16) “Family and medical leave insurance benefits” means the wage replacement benefits that
- 41 are available to a covered individual under ORS 657B.050 or under the terms of an employer plan
- 42 approved under ORS 657B.210, for family leave, medical leave or safe leave.
- 43 (17)(a) “Family leave” means leave from work taken by a covered individual:
- 44 (A) To care for and bond with a child during the first year after the child’s birth or during the
- 45 first year after the placement of the child through foster care or adoption; or

- 1 (B) To care for a family member with a serious health condition.
2 (b) “Family leave” does not mean:
3 (A) Leave described in ORS 659A.159 (1)(d);
4 (B) Leave described in ORS 659A.159 (1)(e); or
5 (C) Leave authorized under ORS 659A.093.
6 (18) “Family member” means:
7 (a) The spouse of a covered individual;
8 (b) A child of a covered individual or the child’s spouse or domestic partner;
9 (c) A parent of a covered individual or the parent’s spouse or domestic partner;
10 (d) A sibling or stepsibling of a covered individual or the sibling’s or stepsibling’s spouse or
11 domestic partner;
12 (e) A grandparent of a covered individual or the grandparent’s spouse or domestic partner;
13 (f) A grandchild of a covered individual or the grandchild’s spouse or domestic partner;
14 (g) The domestic partner of a covered individual; or
15 (h) Any individual related by blood or affinity whose close association with a covered individual
16 is the equivalent of a family relationship.
17 (19) “Medical leave” means leave from work taken by a covered individual that is made neces-
18 sary by the individual’s own serious health condition.
19 (20) “Parent” means:
20 (a) A biological parent, adoptive parent, stepparent or foster parent of a covered individual;
21 (b) A person who was a foster parent of a covered individual when the covered individual was
22 a minor;
23 (c) A person designated as the legal guardian of a covered individual at the time the covered
24 individual was a minor or required a legal guardian;
25 (d) A person with whom a covered individual was or is in a relationship of in loco parentis; or
26 (e) A parent of a covered individual’s spouse or domestic partner who meets a description under
27 paragraphs (a) to (d) of this subsection.
28 (21) “Safe leave” means leave taken for any purpose described in 659A.272.
29 (22) “Self-employed individual” means:
30 (a) An individual who has self-employment income as defined in section 1402(b) of the Internal
31 Revenue Code as amended and in effect on [December 31, 2018] **April 1, 2021**; or
32 (b) An independent contractor as defined in ORS 670.600.
33 (23) “Serious health condition” has the meaning given that term in ORS 659A.150.
34 (24) “Third party administrator” means a third party that enters into an agreement with the
35 Director of the Employment Department to implement and administer the paid family and medical
36 leave program established under this chapter.
37 (25) “Tribal government” has the meaning given that term in ORS 181A.680.
38 (26) “Wages” has the meaning given that term in ORS 657.105.

39 **SECTION 30. (1) Except as provided in subsections (2) and (3) of this section, the**
40 **amendments to statutes by sections 1 to 29 of this 2021 Act apply to transactions or activities**
41 **occurring on or after January 1, 2021, in tax years beginning on or after January 1, 2021.**

42 **(2) The effective and applicable dates, and the exceptions, special rules and coordination**
43 **with the Internal Revenue Code, as amended, relative to those dates, contained in federal law**
44 **amending the Internal Revenue Code and enacted before January 1, 2021, apply for Oregon**
45 **personal income and corporate excise and income tax purposes, to the extent they can be**

1 made applicable, in the same manner as they are applied under the Internal Revenue Code
2 and related federal law.

3 (3)(a) If a deficiency is assessed against any taxpayer for a tax year beginning before
4 January 1, 2021, and the deficiency or any portion thereof is attributable to any retroactive
5 treatment under the amendments to ORS 178.300, 305.230, 305.494, 305.690, 305.842, 314.011,
6 314.306, 315.004, 316.012, 316.147, 316.157, 317.010, 317.097 and 317A.100 by sections 1 and 14 to
7 26 of this 2021 Act, then any interest or penalty assessed under ORS chapter 305, 314, 315,
8 316, 317 or 318 with respect to the deficiency or portion thereof shall be canceled.

9 (b) If a refund is due any taxpayer for a tax year beginning before January 1, 2021, and
10 the refund or any portion thereof is due the taxpayer on account of any retroactive treat-
11 ment under the amendments to ORS 178.300, 305.230, 305.494, 305.690, 305.842, 314.011, 314.306,
12 315.004, 316.012, 316.147, 316.157, 317.010, 317.097 and 317A.100 by sections 1 and 14 to 26 of this
13 2021 Act, for a tax year beginning before January 1, 2021, then notwithstanding ORS 305.270
14 or 314.415 or any other law, the refund or portion thereof shall be paid without interest.

15 (c) Any changes required because of the amendments to ORS 178.300, 305.230, 305.494,
16 305.690, 305.842, 314.011, 314.306, 315.004, 316.012, 316.147, 316.157, 317.010, 317.097 and 317A.100
17 by sections 1 and 14 to 26 of this 2021 Act, for a tax year beginning before January 1, 2021,
18 shall be made by filing an amended return within the time prescribed by law.

19 (d) If a taxpayer fails to file an amended return under paragraph (c) of this subsection,
20 the Department of Revenue shall make any changes under paragraph (c) of this subsection
21 on the return to which the changes relate within the period specified for issuing a notice of
22 deficiency or claiming a refund as otherwise provided by law with respect to that return, or
23 within one year after a return for a tax year beginning on or after January 1, 2021, and be-
24 fore January 1, 2022, is filed, whichever period expires later.

25 SECTION 31. This 2021 Act takes effect on the 91st day after the date on which the 2021
26 regular session of the Eighty-first Legislative Assembly adjourns sine die.

27