

HOUSE AMENDMENTS TO HOUSE BILL 2457

By COMMITTEE ON REVENUE

May 12

1 On page 1 of the printed bill, delete lines 8 through 28 and delete pages 2 through 35 and insert:

2 “**SECTION 1.** ORS 178.300 is amended to read:

3 “178.300. As used in ORS 178.300 to 178.360:

4 “(1) ‘Account’ means an individual account established in accordance with ORS 178.300 to
5 178.360.

6 “(2) ‘Account owner’ means the person who has the right to withdraw funds from the account.
7 The account owner may also be the designated beneficiary of the account.

8 “(3) ‘Board’ means the Oregon 529 Savings Board established under ORS 178.310.

9 “(4) ‘Designated beneficiary’ means, except as provided in ORS 178.350, the individual designated
10 at the time the account is opened as having the right to receive a qualified withdrawal for the
11 payment of qualified higher education expenses, or if the designated beneficiary is replaced in ac-
12 cordance with ORS 178.350, the replacement.

13 “(5) ‘Financial institution’ means a bank, a commercial bank, a national bank, a savings bank,
14 a savings and loan, a thrift institution, a credit union, an insurance company, a trust company, a
15 mutual fund, an investment firm or other similar entity authorized to do business in this state.

16 “(6) ‘Higher education institution’ means an eligible education institution as defined in section
17 529(e)(5) of the Internal Revenue Code.

18 “(7) ‘Internal Revenue Code’ means the federal Internal Revenue Code as amended and in effect
19 on [*December 31, 2018*] **April 1, 2021**.

20 “(8) ‘Member of the family’ shall have the same meaning as contained in section 529(e) of the
21 Internal Revenue Code.

22 “(9) ‘Network’ means the Oregon 529 Savings Network established under ORS 178.305.

23 “(10) ‘Nonqualified withdrawal’ means a withdrawal from an account that is not a qualified
24 withdrawal.

25 “(11) ‘Qualified higher education expenses’ means tuition and other permitted expenses as set
26 forth in section 529(e) of the Internal Revenue Code for the enrollment or attendance of a designated
27 beneficiary at a higher education institution, **expenses associated with registered apprenticeship**
28 **programs described in section 529(c)(8) of the Internal Revenue Code and amounts paid as**
29 **principal or interest on a qualified education loan to the extent allowed under section**
30 **529(c)(9) of the Internal Revenue Code.**

31 “(12) ‘Qualified withdrawal’ means a withdrawal made as prescribed under ORS 178.355 and
32 made:

33 “(a) From an account to pay the qualified higher education expenses of the designated benefi-
34 ciary;

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

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

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

5 “**SECTION 2.** ORS 238.395 is amended to read:

6 “238.395. (1)(a) In addition to any other benefits under this chapter, a death benefit, provided
7 by contributions of the public employer under ORS 238.225 and, for benefits that accrue on or after
8 July 1, 2020, amounts in the employee pension stability account established for the member under
9 ORS 238A.353, shall be paid to the beneficiaries designated under ORS 238.390 (1) of a person who
10 is an active or inactive member of the Public Employees Retirement System and who dies as a result
11 of injuries received while employed in the service of the public employer or within 120 days after
12 termination from service with a participating public employer. A member who is on a leave of ab-
13 sence without pay from employment with a participating public employer has not terminated service
14 with that participating public employer for the purposes of this section.

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

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

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

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

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

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

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

38 “(A) As of the date of death, if the member dies after the earliest retirement date for the mem-
39 ber under ORS 238.280; or

40 “(B) As if the member became an inactive member on the date of death and retired at the ear-
41 liest retirement date for the member under ORS 238.280.

42 “(d) The death benefit provided under this subsection is first effective on the first day of the
43 month following the election of the member’s spouse to receive the death benefit under this sub-
44 section. The member’s spouse may elect to delay payment of the death benefit, but payment must
45 commence no later than December 31 of the calendar year in which the deceased member would

1 have reached [70-1/2] 72 years of age.

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

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

6 “238A.005. For the purposes of this chapter:

7 “(1) ‘Active member’ means a member of the pension program or the individual account program
8 of the Oregon Public Service Retirement Plan who is actively employed in a qualifying position.

9 “(2) ‘Actuarial equivalent’ means a payment or series of payments having the same value as the
10 payment or series of payments replaced, computed on the basis of interest rate and mortality as-
11 sumptions adopted by the board.

12 “(3) ‘Board’ means the Public Employees Retirement Board.

13 “(4) ‘Eligible employee’ means a person who performs services for a participating public em-
14 ployer, including elected officials other than judges. ‘Eligible employee’ does not include:

15 “(a) Persons engaged as independent contractors;

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

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

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

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

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

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

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

26 “(i) Persons employed in positions classified as post-doctoral scholar positions by a public uni-
27 versity listed in ORS 352.002, or by the Oregon Health and Science University, under ORS 350.370;

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

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

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

34 “(m) Judges.

35 “(5) ‘Firefighter’ means:

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

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

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

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

44 “(6) ‘Fund’ means the Public Employees Retirement Fund.

45 “(7)(a) ‘Hour of service’ means:

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

3 “(B) An hour of vacation, holiday, illness, incapacity, jury duty, military duty or authorized
4 leave during which an employee does not perform duties but for which the employee is directly or
5 indirectly paid or entitled to payment by a participating public employer for services in a qualifying
6 position, as long as the hour is within the number of hours regularly scheduled for the performance
7 of duties during the period of vacation, holiday, illness, incapacity, jury duty, military duty or au-
8 thorized leave.

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

11 “(8) ‘Inactive member’ means a member of the pension program or the individual account pro-
12 gram of the Oregon Public Service Retirement Plan whose membership has not been terminated, who
13 is not a retired member and who is not employed in a qualifying position.

14 “(9) ‘Individual account program’ means the defined contribution individual account program of
15 the Oregon Public Service Retirement Plan established under ORS 238A.025.

16 “(10) ‘Institution of higher education’ means a public university listed in ORS 352.002, the
17 Oregon Health and Science University or a community college, as defined in ORS 341.005.

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

21 “(12) ‘Participating public employer’ means a public employer as defined in ORS 238.005 that
22 provides retirement benefits for employees of the public employer under the system.

23 “(13) ‘Pension program’ means the defined benefit pension program of the Oregon Public Service
24 Retirement Plan established under ORS 238A.025.

25 “(14) ‘Police officer’ means a police officer as described in ORS 238.005.

26 “(15) ‘Qualifying position’ means one or more jobs with one or more participating public em-
27 ployers in which an eligible employee performs 600 or more hours of service in a calendar year,
28 excluding any service in a job for which benefits are not provided under the Oregon Public Service
29 Retirement Plan pursuant to ORS 238A.070 (2).

30 “(16) ‘Retired member’ means a pension program member who is receiving a pension as provided
31 in ORS 238A.180 to 238A.195.

32 “(17)(a) ‘Salary’ means the remuneration paid to an active member in return for services to the
33 participating public employer, including remuneration in the form of living quarters, board or other
34 items of value, to the extent the remuneration is includable in the employee’s taxable income under
35 Oregon law. ‘Salary’ includes the additional amounts specified in paragraph (b) of this subsection,
36 but does not include the amounts specified in paragraph (c) of this subsection, regardless of whether
37 those amounts are includable in taxable income.

38 “(b) ‘Salary’ includes the following amounts:

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

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

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

1 **April 1, 2021.**

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

5 “(E) Retroactive payments described in ORS 238.008.

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

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

11 “(H) Wages of a deceased member paid to a surviving spouse or dependent children under ORS
12 652.190.

13 “(c) ‘Salary’ does not include the following amounts:

14 “(A) Travel or any other expenses incidental to employer’s business which is reimbursed by the
15 employer.

16 “(B) Payments made on account of an employee’s death.

17 “(C) Any lump sum payment for accumulated unused sick leave, vacation leave or other paid
18 leave.

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

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

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

24 “(G) Payments for instructional services rendered to public universities listed in ORS 352.002
25 or the Oregon Health and Science University when those services are in excess of full-time em-
26 ployment subject to this chapter. A person employed under a contract for less than 12 months is
27 subject to this subparagraph only for the months covered by the contract.

28 “(H) The amount of an employee contribution to the individual account program that is paid by
29 the employer and is not deducted from the compensation of the employee, as provided under ORS
30 238A.335 (1) and (2)(b).

31 “(I) Compensation described and authorized under ORS 341.556 that is not paid by the commu-
32 nity college employing the faculty member.

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

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

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

42 “(M) For years beginning on or after January 1, 2020, any amount in excess of \$195,000 for a
43 calendar year. If any period over which salary is determined is less than 12 months, the \$195,000
44 limitation for that period shall be multiplied by a fraction, the numerator of which is the number
45 of months in the determination period and the denominator of which is 12. On January 1 of each

1 year, the board shall adjust the dollar limit provided by this subparagraph to reflect any percentage
2 changes in the Consumer Price Index for All Urban Consumers, West Region (All Items), as pub-
3 lished by the Bureau of Labor Statistics of the United States Department of Labor.

4 “(18) ‘System’ means the Public Employees Retirement System.

5 “(19) ‘Workers’ compensation benefits’ means:

6 “(a) Payments made under ORS chapter 656; or

7 “(b) Payments provided in lieu of workers’ compensation benefits under ORS 656.027 (6).

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

9 “238A.125. (1) Upon retiring at normal retirement age, a vested pension program member shall
10 be paid an annual pension for the life of the member as follows:

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

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

16 “(2) Notwithstanding any provision of ORS 238A.100 to 238A.250, the annual benefit payable to
17 a member under the pension program and under any other tax-qualified defined benefit plan main-
18 tained by the participating public employer may not exceed the applicable limitations set forth in
19 26 U.S.C. 415(b), as in effect on [December 31, 2018] **April 1, 2021**. The Public Employees Retirement
20 Board shall adopt rules for the administration of this limitation, including adjustments in the annual
21 dollar limitation to reflect cost-of-living adjustments authorized by the Internal Revenue Service.

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

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

25 “238A.150. (1) Notwithstanding any other provision of ORS 238A.100 to 238A.250, an eligible
26 employee who leaves a qualifying position for the purpose of performing service in the uniformed
27 services, and who subsequently returns to employment with a participating public employer with
28 reemployment rights under federal law, is entitled to accrue retirement credit, credit toward the
29 probationary period required by ORS 238A.100 and credit toward the vesting requirements of ORS
30 238A.115 under rules adopted by the Public Employees Retirement Board pursuant to subsection (2)
31 of this section.

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

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

40 “238A.170. (1) An active member of the pension program who is [70-1/2] **72** years of age or older
41 must retire not later than April 1 of the calendar year following the calendar year in which the
42 member terminates employment with all participating public employers. An inactive member of the
43 pension program must retire not later than April 1 of the calendar year following the calendar year
44 in which the member attains [70-1/2] **72** years of age.

45 “(2) Notwithstanding any other provision of ORS 238A.100 to 238A.250, the entire interest of a

1 member of the pension program must be distributed over a time period commencing no later than
2 the required beginning date set forth in subsection (1) of this section, and must be distributed in a
3 manner that satisfies all other minimum distribution requirements of 26 U.S.C. 401(a)(9) and regu-
4 lations implementing that section, as in effect on [December 31, 2018] **April 1, 2021**. The Public
5 Employees Retirement Board shall adopt rules implementing those minimum distribution require-
6 ments.

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

8 “238A.230. (1) If a member of the pension program who is vested dies before the member’s ef-
9 fective date of retirement, the Public Employees Retirement Board shall pay the death benefit pro-
10 vided for in this section to:

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

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

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

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

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

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

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

28 “(3) The death benefit provided under this section is first effective on the first day of the month
29 following the date of death of the member. The surviving spouse, former spouse or other person
30 entitled to the death benefit may elect to delay payment of the death benefit, but payment must
31 commence no later than December 31 of the calendar year in which the member would have reached
32 [70-1/2] **72** years of age.

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

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

38 “238A.370. Notwithstanding any other provision of ORS 238A.300 to 238A.415, the annual addi-
39 tion to the employee and employer accounts of a member of the individual account program for a
40 calendar year, together with the annual additions to the accounts of the member under any other
41 defined contribution plan maintained by the participating public employer for a calendar year, may
42 not exceed the lesser of \$40,000, or 100 percent of the member’s compensation for that calendar year.
43 For purposes of this section, ‘annual addition’ has the meaning given that term in 26 U.S.C. 415(c)(2),
44 as in effect on [December 31, 2018] **April 1, 2021**, and ‘compensation’ has the meaning given the term
45 ‘participant’s compensation’ in 26 U.S.C. 415(c)(3), as in effect on [December 31, 2018] **April 1, 2021**.

1 The Public Employees Retirement Board shall adopt rules for the administration of this limitation,
2 including adjustments in the annual dollar limitation to reflect cost-of-living adjustments authorized
3 by the Internal Revenue Service.

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

5 “238A.400. (1) Upon retirement on or after the earliest retirement date, as described in ORS
6 238A.165, a member of the individual account program shall receive in a lump sum the amounts in
7 the member’s employee account, rollover account and employer account to the extent the member
8 is vested in those accounts under ORS 238A.320.

9 “(2) In lieu of a lump sum payment under subsection (1) of this section, a member of the indi-
10 vidual account program may elect to receive the amounts in the member’s employee account and
11 employer account, to the extent the member is vested in those accounts under ORS 238A.320, in
12 substantially equal installments paid over a period of 5, 10, 15 or 20 years, or over a period that is
13 equal to the anticipated life span of the member as actuarially determined by the Public Employees
14 Retirement Board. Installments may be made on a monthly, quarterly or annual basis. In no event
15 may the period selected by the member exceed the time allowed by the minimum distribution re-
16 quirements described in subsection (5) of this section. The board shall by rule establish the manner
17 in which installments will be adjusted to reflect investment gains and losses on the unpaid balance
18 during the payout period elected by the member under this subsection. The board by rule may es-
19 tablish minimum monthly amounts payable under this subsection. The board may require that a
20 lump sum payment, or an installment schedule different than the schedules provided for in this
21 subsection, be used to pay the vested amounts in the member’s accounts if those amounts are not
22 adequate to generate the minimum monthly amounts specified by the rule.

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

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

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

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

39 “238A.410. (1)(a) If a member of the individual account program dies before retirement, the
40 amounts in the member’s employee account, rollover account and employer account, to the extent
41 the member is vested in those accounts under ORS 238A.320, shall be paid in a lump sum to the
42 beneficiary or beneficiaries designated by the member for the purposes of this section.

43 “(b) If a member of the individual account program dies before retirement, the amounts in the
44 employee pension stability account established for the member under ORS 238A.353 shall be applied
45 by the Public Employees Retirement Board to pay the costs of any benefit payable under ORS

1 238.395 or 238A.230 that accrues on or after July 1, 2020. If the amounts in the employee pension
2 stability account exceed the costs of the benefit payable under ORS 238.395 or 238A.230 that accrues
3 on or after July 1, 2020, the excess amounts shall be paid in a lump sum to the beneficiary or ben-
4 efiiciaries designated by the member for the purposes of this section.

5 “(2) If a member of the individual account program is married at the time of death, or there
6 exists at the time of death any other person who is constitutionally required to be treated in the
7 same manner as a spouse for the purpose of retirement benefits, the spouse or other person shall
8 be the beneficiary for purposes of the death benefit payable under this section unless the spouse or
9 other person consents to the designation of a different beneficiary or beneficiaries before the des-
10 ignation has been made and the consent has not been revoked by the spouse or other person as of
11 the time of the member’s death. Consent and revocation of consent must be in writing, acknowledged
12 by a notary public, and submitted to the Public Employees Retirement Board in accordance with
13 rules adopted by the board. If the member’s spouse is designated as the member’s beneficiary and
14 the marriage of the member and spouse is subsequently dissolved, the former spouse shall be treated
15 as predeceasing the member for purposes of this section, unless the member expressly designates the
16 former spouse as beneficiary after the effective date of the dissolution or the former spouse is re-
17 quired to be designated as a beneficiary under the provisions of ORS 238.465.

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

21 “(a) The member’s surviving spouse or other person who is constitutionally required to be
22 treated in the same manner as a spouse;

23 “(b) The member’s surviving children, in equal shares; or

24 “(c) The member’s estate.

25 “(4) The entire amount of a deceased member’s vested accounts must be distributed by December
26 31 of the fifth calendar year after the year in which the member died. Notwithstanding any other
27 provision of this chapter, distributions of death benefits under the individual account program must
28 comply with the minimum distribution requirements of 26 U.S.C. 401(a)(9) and the regulations im-
29 plementing that section, as in effect on [December 31, 2018] **April 1, 2021**. The Public Employees
30 Retirement Board shall adopt rules implementing those minimum distribution requirements.

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

32 “238A.415. (1) Notwithstanding any other provision of ORS 238A.300 to 238A.415, an eligible
33 employee who leaves a qualifying position for the purpose of performing service in the uniformed
34 services, and who subsequently returns to employment with a participating public employer with
35 reemployment rights under federal law, is entitled to credit toward the probationary period required
36 by ORS 238A.300, credit toward the vesting requirements of ORS 238A.320 and contributions under
37 rules adopted by the Public Employees Retirement Board pursuant to subsection (2) of this section.

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

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

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

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

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

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

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

15 “(3) The provisions of subsection (1) of this section apply to any portion of a distribution of
16 benefits under the pension program or the individual account program even though the portion
17 consists of after-tax employee contributions that are not includable in gross income. Any portion of
18 a distribution that consists of after-tax employee contributions that are not includable in gross in-
19 come may be transferred only to an individual retirement account or annuity described in 26 U.S.C.
20 408(a) or (b), or to a qualified defined contribution or defined benefit plan described in 26 U.S.C.
21 401(a) or 403(b) that agrees to account separately for amounts transferred, including accounting
22 separately for the portion of the distribution that is includable in gross income and the portion of
23 the distribution that is not includable in gross income. The amount transferred shall be treated as
24 consisting first of the portion of the distribution that is includable in gross income, determined
25 without regard to 26 U.S.C. 402(c)(1).

26 “(4) The board shall adopt rules implementing the direct rollover requirements of 26 U.S.C.
27 401(a)(31) and the regulations implementing that section, and may adopt administrative exceptions
28 to the direct rollover requirements to the extent permitted by 26 U.S.C. 401(a)(31) and the regu-
29 lations implementing that section.

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

32 “(6) For purposes of this section:

33 “(a) ‘Distributee’ means a member, a member’s surviving spouse or a member’s alternate payee
34 under ORS 238.465.

35 “(b) ‘Eligible retirement plan’ means:

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

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

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

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

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

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

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

2 “238A.435. (1) If a benefit is payable under this chapter to a beneficiary by reason of the death
3 of a member of the system, the beneficiary may elect to have all or part of the distribution of the
4 death benefit paid in an eligible rollover distribution to an individual retirement plan described in
5 26 U.S.C. 408(a), or an individual retirement annuity, other than an endowment contract, described
6 in 26 U.S.C. 408(b), if the plan or annuity is established for the purpose of receiving the eligible
7 rollover distribution on behalf of the designated beneficiary.

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

15 “(3) As used in this section, ‘eligible rollover distribution’ has the meaning given that term in
16 26 U.S.C. 402(c)(4), as in effect on [December 31, 2018] **April 1, 2021.**

17 “**SECTION 14.** ORS 305.230 is amended to read:

18 “305.230. (1) Notwithstanding ORS 9.320:

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

25 “(b) Any person who is licensed by the State Board of Tax Practitioners or who is exempt from
26 such licensing requirement as provided for and limited by ORS 673.610 may represent a taxpayer
27 before a tax court magistrate or the department in any conference or proceeding with respect to the
28 administration of any tax on or measured by net income.

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

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

39 “(e) A general partner who has been designated by members of a partnership as their tax mat-
40 ters partner under ORS 305.242 may represent those partners in any conference or proceeding with
41 respect to the administration of any tax on or measured by net income.

42 “(f) Any person authorized under rules adopted by the department may represent a taxpayer
43 before the department in any conference or proceeding with respect to any tax. Rules adopted under
44 this paragraph, to the extent feasible, shall be consistent with federal law that governs represen-
45 tation before the Internal Revenue Service, as federal law is amended and in effect on [December

1 31, 2018] **April 1, 2021.**

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

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

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

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

16 “**SECTION 15.** ORS 305.494 is amended to read:

17 “305.494. Notwithstanding ORS 9.320, any shareholder of an S corporation as defined in section
18 1361 of the Internal Revenue Code, as amended and in effect on [December 31, 2018] **April 1, 2021,**
19 may represent the corporation in any proceeding before the Oregon Tax Court in the same manner
20 as if the shareholder were a partner and the S corporation were a partnership.

21 “**SECTION 16.** ORS 305.690 is amended to read:

22 “305.690. As used in ORS 305.690 to 305.753, unless the context otherwise requires:

23 “(1) ‘Biennial years’ means the two income tax years of individual taxpayers that begin in the
24 two calendar years immediately following the calendar year in which a list is certified under ORS
25 305.715.

26 “(2) ‘Commission’ means the Oregon Charitable Checkoff Commission.

27 “(3) ‘Department’ means the Department of Revenue.

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

32 “(5) ‘Form listed’ or ‘form listing’ means being listed on the Oregon individual income tax return
33 form.

34 “(6) ‘Instruction listing’ means being listed on the Department of Revenue instructions for tax
35 return checkoff contribution.

36 “(7) ‘Internal Revenue Code’ means the federal Internal Revenue Code as amended and in effect
37 on [December 31, 2018] **April 1, 2021.**

38 “**SECTION 17.** ORS 305.842 is amended to read:

39 “305.842. (1) As used in ORS 307.130, 307.147, 308A.450, 310.140 and 310.800, ‘Internal Revenue
40 Code’ means the federal Internal Revenue Code as amended and in effect on [December 31, 2018]
41 **April 1, 2021.**

42 “(2) As used in ORS 311.666, ‘Internal Revenue Code’ means the federal Internal Revenue Code
43 as amended and in effect on [December 31, 2018] **April 1, 2021,** including amendments that take effect
44 after that date.

45 “**SECTION 18.** ORS 314.011 is amended to read:

1 “314.011. (1) As used in this chapter, unless the context requires otherwise, ‘department’ means
2 the Department of Revenue.

3 “(2) As used in this chapter:

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

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

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

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

12 “(c) With respect to ORS 314.105, 314.256 (relating to proxy tax on lobbying expenditures),
13 314.260 (1)(b), 314.302, 314.306, 314.330, 314.360, 314.362, 314.385, 314.402, 314.410, 314.412, 314.525,
14 314.767 (7), 314.771 and 314.772 and other provisions of this chapter, except those described in par-
15 agraph (b) of this subsection, any reference to the laws of the United States or to the Internal Re-
16 venue Code means the laws of the United States relating to income taxes or the Internal Revenue
17 Code as they are amended on or before [December 31, 2018] **April 1, 2021**, even when the amend-
18 ments take effect or become operative after that date, except where the Legislative Assembly has
19 specifically provided otherwise.

20 “(3) Insofar as is practicable in the administration of this chapter, the department shall apply
21 and follow the administrative and judicial interpretations of the federal income tax law. When a
22 provision of the federal income tax law is the subject of conflicting opinions by two or more federal
23 courts, the department shall follow the rule observed by the United States Commissioner of Internal
24 Revenue until the conflict is resolved. Nothing contained in this section limits the right or duty of
25 the department to audit the return of any taxpayer or to determine any fact relating to the tax li-
26 ability of any taxpayer.

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

31 “(5)(a) When portions of the Internal Revenue Code incorporated by reference as provided in
32 subsection (2) of this section are later corrected by an Act or a Title within an Act of the United
33 States Congress designated as an Act or Title making technical corrections, then notwithstanding
34 the date that the Act or Title becomes law, those portions of the Internal Revenue Code, as so
35 corrected, shall be the portions of the Internal Revenue Code incorporated by reference as provided
36 in subsection (2) of this section and shall take effect, unless otherwise indicated by the Act or Title
37 (in which case the provisions shall take effect as indicated in the Act or Title), as if originally in-
38 cluded in the provisions of the Act being technically corrected. If, on account of this subsection, any
39 adjustment is required to an Oregon return that would otherwise be prevented by operation of law
40 or rule, the adjustment shall be made, notwithstanding any law or rule to the contrary, in the
41 manner provided under ORS 314.135.

42 “(b) As used in this subsection, ‘Act or Title’ includes any subtitle, division or other part of an
43 Act or Title.

44 “**SECTION 19.** ORS 314.306 is amended to read:

45 “314.306. (1) If a taxpayer excludes an amount from federal gross income by reason of the dis-

1 charge of indebtedness of the taxpayer under section 108(a)(1)(A) of the Internal Revenue Code (re-
2 relating to discharge of indebtedness in a bankruptcy declared under U.S.C. Title 11), then, with
3 respect to that portion of the excluded amount that is apportioned to Oregon, the taxpayer shall
4 apply the rules in 11 U.S.C. 346(j), as amended and in effect on [December 31, 2018] **April 1, 2021**.

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

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

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

16 “(A) Federal net operating loss.

17 “(B) Capital loss carryover.

18 “(C) Basis of the property of the taxpayer, excluding amounts subject to the election under
19 section 108(b)(5) of the Internal Revenue Code.

20 “(D) Passive activity loss carryover.

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

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

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

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

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

33 “**SECTION 20.** ORS 315.004 is amended to read:

34 “315.004. (1) Except when the context requires otherwise, the definitions contained in ORS
35 chapters 314, 316, 317 and 318 are applicable in the construction, interpretation and application of
36 the personal and corporate income and excise tax credits contained in this chapter.

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

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

45 “(3) Insofar as is practicable in the administration of this chapter, the Department of Revenue

1 shall apply and follow the administrative and judicial interpretations of the federal income tax law.
2 When a provision of the federal income tax law is the subject of conflicting opinions by two or more
3 federal courts, the department shall follow the rule observed by the United States Commissioner of
4 Internal Revenue until the conflict is resolved. Nothing contained in this section limits the right
5 or duty of the department to audit the return of any taxpayer or to determine any fact relating to
6 the tax liability of any taxpayer.

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

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

22 “(b) As used in this subsection, ‘Act or Title’ includes any subtitle, division or other part of an
23 Act or Title.

24 “**SECTION 21.** ORS 316.012 is amended to read:

25 “316.012. Any term used in this chapter has the same meaning as when used in a comparable
26 context in the laws of the United States relating to federal income taxes, unless a different meaning
27 is clearly required or the term is specifically defined in this chapter. Except where the Legislative
28 Assembly has provided otherwise, any reference in this chapter to the laws of the United States or
29 to the Internal Revenue Code refers to the laws of the United States or to the Internal Revenue
30 Code as they are amended and in effect:

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

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

33 “**SECTION 22.** ORS 316.147 is amended to read:

34 “316.147. As used in ORS 316.147 to 316.149, unless the context requires otherwise:

35 “(1) ‘Eligible taxpayer’ includes any individual who must pay taxes otherwise imposed by this
36 chapter and:

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

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

41 “(2) ‘Household income’ means the aggregate income of the eligible taxpayer and the spouse of
42 the taxpayer who reside in the household, that was received during a calendar year. ‘Household
43 income’ includes payments received by the eligible taxpayer or the spouse of the taxpayer under the
44 federal Social Security Act for the benefit of a minor child or minor children who reside in the
45 household.

1 “(3) ‘Income’ means ‘adjusted gross income’ as defined in the federal Internal Revenue Code, as
2 amended and in effect on [December 31, 2018] **April 1, 2021**, even when the amendments take effect
3 or become operative after that date, relating to the measurement of taxable income of individuals,
4 estates and trusts, with the following modifications:

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

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

8 “(B) Child support received by the taxpayer.

9 “(C) Inheritances.

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

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

13 “(F) Life insurance proceeds.

14 “(G) Accident and health insurance proceeds, except reimbursement of incurred medical ex-
15 penses.

16 “(H) Personal injury damages.

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

18 “(J) Strike benefits excluded from federal gross income.

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

20 “(L) Military pay and benefits.

21 “(M) Veteran’s benefits.

22 “(N) Payments received under the federal Social Security Act that are excluded from federal
23 gross income.

24 “(O) Welfare payments, except as follows:

25 “(i) Payments for medical care, drugs and medical supplies, if the payments are not made di-
26 rectly to the welfare recipient;

27 “(ii) In-home services authorized and approved by the Department of Human Services; and

28 “(iii) Direct or indirect reimbursement of expenses paid or incurred for participation in work
29 or training programs.

30 “(P) Nontaxable dividends.

31 “(Q) Nontaxable interest not included in federal adjusted gross income.

32 “(R) Rental allowance paid to a minister that is excluded from federal gross income.

33 “(S) Income from sources without the United States that is excluded from federal gross income.

34 “(b) Adjusted gross income shall be increased due to the disallowance of the following de-
35 ductions:

36 “(A) The amount of the net loss, in excess of \$1,000, from all dispositions of tangible or intan-
37 gible properties.

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

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

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

43 “(E) The amount of any net operating loss carryovers or carrybacks included in federal adjusted
44 gross income.

45 “(F) The amount, in excess of \$5,000, of the combined deductions or other allowances for de-

1 preciation, amortization or depletion.

2 “(G) The amount added or subtracted, as required within the context of this section, for ad-
3 justments made under ORS 316.680 (2)(d) and 316.707 to 316.737.

4 “(c) ‘Income’ does not include the following:

5 “(A) Any governmental grant that must be used by the taxpayer for rehabilitation of the home-
6 stead of the taxpayer.

7 “(B) Any refund of Oregon personal income taxes that were imposed under this chapter.

8 “(4) ‘Qualified individual’ includes an individual at least 60 years of age on the date that the
9 expenses described in subsection (1)(a) of this section are paid or incurred by the eligible taxpayer:

10 “(a) Whose household income does not exceed \$7,500 for the calendar year in which the taxable
11 year of the taxpayer begins;

12 “(b) Who is eligible for authorized services as defined in ORS 410.410 under Oregon Project In-
13 dependence;

14 “(c) Who is certified by the Department of Human Services; and

15 “(d) Whose care or any portion thereof is not paid for under ORS chapter 414.

16 “**SECTION 23.** ORS 316.157 is amended to read:

17 “316.157. (1) In the case of an eligible individual, there shall be allowed as a credit against the
18 taxes otherwise due under this chapter for the taxable year an amount equal to the lesser of the tax
19 liability of the taxpayer or nine percent of net pension income.

20 “(2) For purposes of this section:

21 “(a) ‘Eligible individual’ means any individual who is receiving pension income and who has at-
22 tained 62 years of age before the close of the taxable year.

23 “(b) ‘Household income’ means the aggregate income of the taxpayer and the spouse of the tax-
24 payer who reside in the household, that was received during the taxable year for which a credit is
25 claimed, except that ‘household income’ does not include Social Security benefits received by the
26 taxpayer or the spouse of the taxpayer.

27 “(c) ‘Income’ means ‘adjusted gross income’ as defined in the federal Internal Revenue Code, as
28 amended and in effect on [December 31, 2018] **April 1, 2021**, even when the amendments take effect
29 or become operative after that date, relating to the measurement of taxable income of individuals,
30 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 “(i) The gross amount of any otherwise exempt pension less return of investment, if any.

34 “(ii) Child support received by the taxpayer.

35 “(iii) Inheritances.

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

37 “(v) 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 “(vi) Life insurance proceeds.

40 “(vii) Accident and health insurance proceeds, except reimbursement of incurred medical ex-
41 penses.

42 “(viii) Personal injury damages.

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

44 “(x) Strike benefits excluded from federal gross income.

45 “(xi) Worker’s compensation, except for reimbursement of medical expense.

1 “(xii) Military pay and benefits.
2 “(xiii) Veteran’s benefits.
3 “(xiv) Payments received under the federal Social Security Act that are excluded from federal
4 gross income.
5 “(xv) Welfare payments, except as follows:
6 “(I) Payments for medical care, drugs and medical supplies, if the payments are not made di-
7 rectly to the welfare recipient;
8 “(II) In-home services authorized and approved by the Department of Human Services; and
9 “(III) Direct or indirect reimbursement of expenses paid or incurred for participation in work
10 or training programs.
11 “(xvi) Nontaxable dividends.
12 “(xvii) Nontaxable interest not included in federal adjusted gross income.
13 “(xviii) Rental allowance paid to a minister that is excluded from federal gross income.
14 “(xix) Income from sources without the United States that is excluded from federal gross income.
15 “(B) Adjusted gross income shall be increased due to the disallowance of the following de-
16 ductions:
17 “(i) The amount of the net loss, in excess of \$1,000, from all dispositions of tangible or intangible
18 properties.
19 “(ii) The amount of the net loss, in excess of \$1,000, from the operation of a farm or farms.
20 “(iii) The amount of the net loss, in excess of \$1,000, from all operations of a trade or business,
21 profession or other activity entered into for the production or collection of income.
22 “(iv) The amount of the net loss, in excess of \$1,000, from tangible or intangible property held
23 for the production of rents, royalties or other income.
24 “(v) The amount of any net operating loss carryovers or carrybacks included in federal adjusted
25 gross income.
26 “(vi) The amount, in excess of \$5,000, of the combined deductions or other allowances for de-
27 preciation, amortization or depletion.
28 “(vii) The amount added or subtracted, as required within the context of this section, for ad-
29 justments made under ORS 316.680 (2)(d) and 316.707 to 316.737.
30 “(C) ‘Income’ does not include the following:
31 “(i) Any governmental grant that must be used by the taxpayer for rehabilitation of the home-
32 stead of the taxpayer.
33 “(ii) Any refund of Oregon personal income taxes that were imposed under this chapter.
34 “(d) ‘Net pension income’ means:
35 “(A) For eligible individuals filing a joint return, the lesser of the pension income of the eligible
36 individuals received during the taxable year or the excess, if any, of \$15,000 over the sum of the
37 following amounts:
38 “(i) Any Social Security benefits received by the eligible individual, or by the spouse of the in-
39 dividual, during the taxable year; and
40 “(ii) The excess, if any, of household income over \$30,000.
41 “(B) For an eligible individual filing a return other than a joint return, the lesser of the pension
42 income of the eligible individual received during the taxable year or the excess, if any, of \$7,500
43 over the sum of the following amounts:
44 “(i) Any Social Security benefits received by the eligible individual during the taxable year; and
45 “(ii) The excess, if any, of household income over \$15,000.

1 “(e) ‘Pension income’ means income included in Oregon taxable income from:
2 “(A) Distributions from or pursuant to an employee pension benefit plan, as defined in section
3 3(2) of the Employee Retirement Income Security Act of 1974, which satisfies the requirements of
4 section 401 of the Internal Revenue Code;
5 “(B) Distributions from or pursuant to a public retirement system of this state or a political
6 subdivision of this state, or a public retirement system created by an Act of this state or a political
7 subdivision of this state, or the public retirement system of any other state or local government;
8 “(C) Distributions from or pursuant to a federal retirement system created by the federal gov-
9 ernment for any officer or employee of the United States, including any person retired from service
10 in the United States Civil Service, the Armed Forces of the United States or any agency or subdi-
11 vision thereof;
12 “(D) Distributions or withdrawals from or pursuant to an eligible deferred compensation plan
13 which satisfies the requirements of section 457 of the Internal Revenue Code;
14 “(E) Distributions or withdrawals from or pursuant to an individual retirement account, annuity
15 or trust or simplified employee pension which satisfies the requirements of section 408 of the Inter-
16 nal Revenue Code; and
17 “(F) Distributions or withdrawals from or pursuant to an employee annuity, including custodial
18 accounts treated as annuities, subject to section 403 (a) or (b) of the Internal Revenue Code.
19 “(f) ‘Social Security benefits’ means Social Security benefits, as defined in section 86 of the
20 Internal Revenue Code (Title II Social Security or tier 1 railroad retirement benefits).
21 “(3) If a change in the taxable year of the eligible individual occurs as described in ORS 314.085,
22 or if the Department of Revenue terminates the tax year of the eligible individual under ORS
23 314.440, the credit allowed by this section shall be prorated or computed in a manner consistent with
24 ORS 314.085.
25 “(4) If a change in the status of the eligible individual from resident to nonresident or from
26 nonresident to resident occurs, the credit allowed by this section shall be determined in a manner
27 consistent with subsection (1) of this section.
28 “**SECTION 24.** ORS 317.010 is amended to read:
29 “317.010. As used in this chapter, unless the context requires otherwise:
30 “(1) ‘Centrally assessed corporation’ means every corporation the property of which is assessed
31 by the Department of Revenue under ORS 308.505 to 308.674.
32 “(2) ‘Department’ means the Department of Revenue.
33 “(3)(a) ‘Consolidated federal return’ means the return permitted or required to be filed by a
34 group of affiliated corporations under section 1501 of the Internal Revenue Code.
35 “(b) ‘Consolidated state return’ means the return required to be filed under ORS 317.710 (5).
36 “(4) ‘Doing business’ means any transaction or transactions in the course of its activities con-
37 ducted within the state by a national banking association, or any other corporation; provided, how-
38 ever, that a foreign corporation whose activities in this state are confined to purchases of personal
39 property, and the storage thereof incident to shipment outside the state, shall not be deemed to be
40 doing business unless such foreign corporation is an affiliate of another foreign or domestic corpo-
41 ration which is doing business in Oregon. Whether or not corporations are affiliated shall be de-
42 termined as provided in section 1504 of the Internal Revenue Code.
43 “(5) ‘Excise tax’ means a tax measured by or according to net income imposed upon national
44 banking associations, all other banks, and financial, centrally assessed, mercantile, manufacturing
45 and business corporations for the privilege of carrying on or doing business in this state.

1 “(6) ‘Financial institution’ has the meaning given that term in ORS 314.610 except that it does
2 not include a credit union as defined in ORS 723.006, an interstate credit union as defined in ORS
3 723.001 or a federal credit union.

4 “(7) ‘Internal Revenue Code,’ except where the Legislative Assembly has provided otherwise,
5 refers to the laws of the United States or to the Internal Revenue Code as they are amended and
6 in effect:

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

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

9 “(8) ‘Oregon taxable income’ means taxable income, less the deduction allowed under ORS
10 317.476, except as otherwise provided with respect to insurers in subsection (11) of this section and
11 ORS 317.650 to 317.665.

12 “(9) ‘Oregon net loss’ means taxable loss, except as otherwise provided with respect to insurers
13 in subsection (11) of this section and ORS 317.650 to 317.665.

14 “(10) ‘Taxable income or loss’ means the taxable income or loss determined, or in the case of a
15 corporation for which no federal taxable income or loss is determined, as would be determined, un-
16 der chapter 1, Subtitle A of the Internal Revenue Code and any other laws of the United States
17 relating to the determination of taxable income or loss of corporate taxpayers, with the additions,
18 subtractions, adjustments and other modifications as are specifically prescribed by this chapter ex-
19 cept that in determining taxable income or loss for any year, no deduction under ORS 317.476 or
20 317.478 and section 45b, chapter 293, Oregon Laws 1987, shall be allowed. If the corporation is a
21 corporation to which ORS 314.280 or 314.605 to 314.675 (requiring or permitting apportionment of
22 income from transactions or activities carried on both within and without the state) applies, to
23 derive taxable income or loss, the following shall occur:

24 “(a) From the amount otherwise determined under this subsection, subtract nonapportionable
25 income, or add nonapportionable loss, whichever is applicable.

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

29 “(c) To the amount determined as Oregon apportioned income or loss under paragraph (b) of this
30 subsection, add nonapportionable income allocable entirely to Oregon under ORS 314.280 or 314.625
31 to 314.645, or subtract nonapportionable loss allocable entirely to Oregon under ORS 314.280 or
32 314.625 to 314.645. The resulting figure is ‘taxable income or loss’ for those corporations carrying
33 on taxable transactions or activities both within and without Oregon.

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

40 “**SECTION 25.** ORS 317.097 is amended to read:

41 “317.097. (1) As used in this section:

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

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

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

4 “(d) ‘Manufactured dwelling park’ has the meaning given that term in ORS 446.003.

5 “(e) ‘Nonprofit corporation’ means a corporation that is exempt from income taxes under section
6 501(c)(3) or (4) of the Internal Revenue Code as amended and in effect on [December 31, 2018] **April**
7 **1, 2021.**

8 “(f) ‘Preservation project’ means housing that was previously developed as affordable housing
9 with a contract for rent assistance from the United States Department of Housing and Urban De-
10 velopment or the United States Department of Agriculture and that is being acquired by a spon-
11 soring entity.

12 “(g) ‘Qualified assignee’ means any investor participating in the secondary market for real estate
13 loans.

14 “(h) ‘Qualified borrower’ means any borrower that is a sponsoring entity that has a controlling
15 interest in the real property that is financed by a qualified loan. A controlling interest includes a
16 controlling interest in the general partner of a limited partnership that owns the real property.

17 “(i) ‘Qualified loan’ means:

18 “(A) A loan that meets the criteria stated in subsection (5) of this section or that is made to
19 refinance a loan that meets the criteria described in subsection (5) of this section; or

20 “(B) The purchase by a lending institution of bonds, as defined in ORS 286A.001, issued on behalf
21 of the Housing and Community Services Department, the proceeds of which are used to finance or
22 refinance a loan that meets the criteria described in subsection (5) of this section.

23 “(j) ‘Sponsoring entity’ means a nonprofit corporation, nonprofit cooperative, state governmental
24 entity, local unit of government as defined in ORS 466.706, housing authority or any other person,
25 provided that the person has agreed to restrictive covenants imposed by a nonprofit corporation,
26 nonprofit cooperative, state governmental entity, local unit of government or housing authority.

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

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

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

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

42 “(4) Any tax credit allowed under this section that is not used by the taxpayer in a particular
43 year may be carried forward and offset against the taxpayer’s tax liability for the next succeeding
44 tax year. Any credit remaining unused in the next succeeding tax year may be carried forward and
45 used in the second succeeding tax year, and likewise, any credit not used in that second succeeding

1 tax year may be carried forward and used in the third succeeding tax year, and any credit not used
2 in that third succeeding tax year may be carried forward and used in the fourth succeeding tax year,
3 and any credit not used in that fourth succeeding tax year may be carried forward and used in the
4 fifth succeeding tax year, but may not be carried forward for any tax year thereafter.

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

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

12 “(b) A qualified borrower who:

13 “(A) Uses the loan proceeds to finance construction, development, acquisition or rehabilitation
14 of housing; and

15 “(B) Provides a written certification executed by the Housing and Community Services Depart-
16 ment that the:

17 “(i) Housing created by the loan is or will be occupied by households earning less than 80 per-
18 cent of the area median income; and

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

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

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

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

27 “(d) A qualified borrower who:

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

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

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

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

37 “(6) A loan made to refinance a loan that meets the criteria stated in subsection (5) of this
38 section must be treated the same as a loan that meets the criteria stated in subsection (5) of this
39 section.

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

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

45 “(b) States that the qualified loan is within the limitation imposed by subsection (8) of this sec-

1 tion.

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

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

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

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

14 “(10) For a qualified loan defined in subsection (1)(i)(B) of this section financed through the
15 purchase of bonds, the interest of which is exempt from federal taxation under section 103 of the
16 Internal Revenue Code, the amount of finance charge that would have been charged under sub-
17 section (2)(b) of this section is determined by reference to the finance charge that would have been
18 charged if the federally tax exempt bonds had been issued and the tax credit under this section did
19 not apply.

20 “(11) A lending institution may sell a qualified loan for which a certification has been executed
21 to a qualified assignee whether or not the lending institution retains servicing of the qualified loan
22 so long as a designated lending institution maintains records, annually verified by a loan servicer,
23 that establish the amount of tax credit earned by the taxpayer throughout each year of eligibility.

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

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

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

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

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

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

44 “(16) The Housing and Community Services Department shall provide information to the De-
45 partment of Revenue about all certifications executed under this section, if required by ORS 315.058.

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

3 “**SECTION 26.** ORS 317A.100, as amended by section 1, chapter 2, Oregon Laws 2020 (first
4 special session), is amended to read:

5 “317A.100. As used in ORS 317A.100 to 317A.158:

6 “(1)(a) ‘Commercial activity’ means:

7 “(A) The total amount realized by a person, arising from transactions and activity in the regular
8 course of the person’s trade or business, without deduction for expenses incurred by the trade or
9 business;

10 “(B) If received by a financial institution:

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

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

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

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

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

23 “(b) ‘Commercial activity’ does not include:

24 “(A) Interest income except:

25 “(i) Interest on credit sales; or

26 “(ii) Interest income, including service charges, received by financial institutions;

27 “(B) Receipts from the sale, exchange or other disposition of an asset described in section 1221
28 or 1231 of the Internal Revenue Code, without regard to the length of time the person held the asset;

29 “(C) If received by an insurer, federally reinsured premiums or income from transactions be-
30 tween a reciprocal insurer and its attorney in fact operating under ORS 731.142;

31 “(D) Receipts from hedging transactions, to the extent that the transactions are entered into
32 primarily to protect a financial position, including transactions intended to manage the risk of ex-
33 posure to foreign currency fluctuations that affect assets, liabilities, profits, losses, equity or in-
34 vestments in foreign operations, risk of exposure to interest rate fluctuations or risk of commodity
35 price fluctuations;

36 “(E) Proceeds received attributable to the repayment, maturity or redemption of the principal
37 of a loan, bond, mutual fund, certificate of deposit or marketable instrument;

38 “(F) The principal amount received under a repurchase agreement or on account of any trans-
39 action properly characterized as a loan to the person;

40 “(G) Contributions received by a trust, plan or other arrangement, any of which is described in
41 section 501(a) of the Internal Revenue Code, or to which title 26, subtitle A, chapter 1, subchapter
42 (D) of the Internal Revenue Code applies;

43 “(H) Compensation, whether current or deferred, and whether in cash or in kind, received or to
44 be received by an employee, a former employee or the employee’s legal successor for services ren-
45 dered to or for an employer, including reimbursements received by or for an individual for medical

1 or education expenses, health insurance premiums or employee expenses or on account of a de-
2 pendent care spending account, legal services plan, any cafeteria plan described in section 125 of
3 the Internal Revenue Code or any similar employee reimbursement;

4 “(I) Proceeds received from the issuance of the taxpayer’s own stock, options, warrants, puts or
5 calls, or from the sale of the taxpayer’s treasury stock;

6 “(J) Proceeds received on the account of payments from insurance policies, including crop in-
7 surance policies, owned by the taxpayer, except those proceeds received for the loss of commercial
8 activity;

9 “(K) Gifts or charitable contributions received, membership dues received by trade, professional,
10 homeowners’ or condominium associations, payments received for educational courses, meetings or
11 meals, or similar payments to a trade, professional or other similar association, and fundraising re-
12 cepts received by any person when any excess receipts are donated or used exclusively for chari-
13 table purposes;

14 “(L) Damages received as the result of litigation in excess of amounts that, if received without
15 litigation, would be treated as commercial activity;

16 “(M) Property, money and other amounts received or acquired by an agent on behalf of another
17 in excess of the agent’s commission, fee or other remuneration;

18 “(N) Tax refunds from any tax program, other tax benefit recoveries and reimbursements for the
19 tax imposed under ORS 317A.100 to 317A.158 made by entities that are part of the same unitary
20 group as provided under ORS 317A.106, and reimbursements made by entities that are not members
21 of a unitary group that are required to be made for economic parity among multiple owners of an
22 entity whose tax obligation under ORS 317A.100 to 317A.158 is required to be reported and paid
23 entirely by one owner, as provided in ORS 317A.106;

24 “(O) Pension reversions;

25 “(P) Contributions to capital;

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

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

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

38 “(T) In the case of receipts from the sale of marijuana items, as defined in ORS 475B.015, by a
39 person holding a license issued under ORS 475B.010 to 475B.545, an amount equal to the federal and
40 state excise taxes paid by any person on or for such marijuana items under subtitle E of the Internal
41 Revenue Code or ORS 475B.700 to 475B.760 and any local retail taxes authorized under ORS
42 475B.491;

43 “(U) Local taxes collected by a restaurant or other food establishment on sales of meals, pre-
44 pared food or beverages;

45 “(V) Tips or gratuities collected by a restaurant or other food establishment and passed on to

1 employees;

2 “(W) Receipts realized by a vehicle dealer certified under ORS 822.020 or a person described in
3 ORS 320.400 (8)(a)(B) from the sale or other transfer of a motor vehicle, as defined in ORS 801.360,
4 to another vehicle dealer for the purpose of resale by the transferee vehicle dealer, but only if the
5 sale or other transfer was based upon the transferee’s need to meet a specific customer’s preference
6 for a motor vehicle;

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

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

16 “(Z) In the case of amounts retained as commissions by a holder of a license under ORS chapter
17 462, an amount equal to the amounts specified under ORS chapter 462 that must be paid to or col-
18 lected by the Department of Revenue as a tax and the amounts specified under ORS chapter 462 to
19 be used as purse money;

20 “(AA) Net revenue of residential care facilities as defined in ORS 443.400 or in-home care
21 agencies as defined in ORS 443.305, to the extent that the revenue is derived from or received as
22 compensation for providing services to a medical assistance or Medicare recipient;

23 “(BB) Dividends received;

24 “(CC) Distributive income received from a pass-through entity;

25 “(DD) Receipts from sales to a wholesaler in this state, if the seller receives certification at the
26 time of sale from the wholesaler that the wholesaler will sell the purchased property outside this
27 state;

28 “(EE) Receipts from the wholesale or retail sale of groceries;

29 “(FF) Receipts from transactions among members of a unitary group;

30 “(GG) Moneys, including public purpose charge moneys collected under ORS 757.612 and costs
31 of funding or implementing cost-effective energy conservation measures collected under ORS 757.689,
32 that are collected from customers, passed to a utility and approved by the Public Utility Commission
33 and that support energy conservation, renewable resource acquisition and low-income assistance
34 programs;

35 “(HH) Moneys collected by a utility from customers for the payment of loans through on-bill fi-
36 nancing;

37 “(II) Surcharges collected under ORS 757.736;

38 “(JJ) Moneys passed to a utility by the Bonneville Power Administration for the purpose of
39 effectuating the Regional Power Act Exchange credits or pursuant to any settlement associated with
40 the exchange credit;

41 “(KK) Moneys collected or recovered, by entities listed in ORS 756.310, cable operators as de-
42 fined in 47 U.S.C. 522(5), telecommunications carriers as defined in 47 U.S.C. 153(51) and providers
43 of information services as defined in 47 U.S.C. 153(24), for fees payable under ORS 756.310, right-of-
44 way fees, franchise fees, privilege taxes, federal taxes and local taxes;

45 “(LL) Charges paid to the Residential Service Protection Fund required by chapter 290, Oregon

1 Laws 1987;

2 “(MM) Universal service surcharge moneys collected or recovered and paid into the universal
3 service fund established in ORS 759.425;

4 “(NN) Moneys collected for public purpose funding as described in ORS 759.430;

5 “(OO) Moneys collected or recovered and paid into the federal universal service fund as deter-
6 mined by the Federal Communications Commission;

7 “(PP) In the case of a seller or provider of telecommunications services, the amount of tax im-
8 posed under ORS 403.200 for access to the emergency communications system that is collected from
9 subscribers or consumers;

10 “(QQ) In the case of a transient lodging tax collector, the amount of tax imposed under ORS
11 320.305 and of any local transient lodging tax imposed upon the occupancy of transit lodging;

12 “(RR) In the case of a seller of bicycles, the amount of tax imposed under ORS 320.415 upon
13 retail sales of bicycles;

14 “(SS) In the case of a qualified heavy equipment provider, the amount of tax imposed under ORS
15 307.872 upon the rental price of heavy equipment;

16 “(TT) Farmer sales to an agricultural cooperative in this state that is a cooperative organization
17 described in section 1381 of the Internal Revenue Code;

18 “(UU) Revenue received by a business entity that is mandated by contract or subcontract to be
19 distributed to another person or entity if the revenue constitutes sales commissions that are paid
20 to a person who is not an employee of the business entity, including, without limitation, a split-fee
21 real estate commission; and

22 “(VV) Receipts from the sale of fluid milk by dairy farmers that are not members of an agri-
23 cultural cooperative.

24 “(2) ‘Cost inputs’ means:

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

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

30 “(3) ‘Doing business’ means engaging in any activity, whether legal or illegal, that is conducted
31 for, or results in, the receipt of commercial activity at any time during a calendar year.

32 “(4) ‘Excluded person’ means any of the following:

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

36 “(b) Organizations described in section 501(d) of the Internal Revenue Code, unless the ex-
37emption is denied under section 502 or 503 of the Internal Revenue Code.

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

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

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

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

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

43 “(h) Foreign or alien insurance companies, but only with respect to the underwriting profit de-
44 rived from writing wet marine and transportation insurance subject to tax under ORS 731.824 and
45 731.828.

1 “(i) Governmental entities.

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

5 “(k) Hospitals subject to assessment under ORS 414.855, long term care facilities subject to as-
6 sessment under ORS 409.801 or any entity subject to assessment under ORS 414.880 or section 3 or
7 5, chapter 538, Oregon Laws 2017.

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

9 “(5) ‘Financial institution’ has the meaning given that term in ORS 314.610, except that ‘financial
10 institution’ does not include a credit union.

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

13 “(b) In the case of a holding company required to file both consolidated and parent-only financial
14 statements, ‘FR Y-9’ means the consolidated financial statements that the holding company is re-
15 quired to file.

16 “(7) ‘Governmental entity’ means:

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

18 “(b) Any incorporated agency or instrumentality of the United States wholly owned by the
19 United States or by a corporation wholly owned by the United States.

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

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

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

23 “(f) A federally recognized Indian tribe.

24 “(8) ‘Groceries’ means food as defined in 7 U.S.C. 2012(k), but does not include cannabinoid
25 edibles or marijuana seeds.

26 “(9)(a) ‘Hedging transaction’ means a hedging transaction as defined in section 1221 of the
27 Internal Revenue Code or a transaction accorded hedge accounting treatment under Financial Ac-
28 counting Standards Board Statement No. 133.

29 “(b) ‘Hedging transaction’ does not include a transaction in which an actual transfer of title of
30 real or tangible property to another entity occurs.

31 “(10) ‘Insurer’ has the meaning given that term in ORS 317.010.

32 “(11) ‘Internal Revenue Code,’ except where the Legislative Assembly has provided otherwise,
33 refers to the laws of the United States or to the Internal Revenue Code as they are amended and
34 in effect on [December 31, 2018] **April 1, 2021**.

35 “(12) ‘Labor costs’ means total compensation of all employees, not to include compensation paid
36 to any single employee in excess of \$500,000.

37 “(13)(a) ‘Motor vehicle fuel or any other product used for the propulsion of motor vehicles’
38 means:

39 “(A) Motor vehicle fuel as defined in ORS 319.010; and

40 “(B) Fuel the use of which in a motor vehicle is subject to taxation under ORS 319.530.

41 “(b) ‘Motor vehicle fuel or any other product used for the propulsion of motor vehicles’ does not
42 mean:

43 “(A) Electricity; or

44 “(B) Electric batteries or any other mechanical or physical component or accessory of a motor
45 vehicle.

1 “(14) ‘Person’ includes individuals, combinations of individuals of any form, receivers, assignees,
2 trustees in bankruptcy, firms, companies, joint-stock companies, business trusts, estates, partner-
3 ships, limited liability partnerships, limited liability companies, associations, joint ventures, clubs,
4 societies, entities organized as for-profit corporations under ORS chapter 60, C corporations, S cor-
5 porations, qualified subchapter S subsidiaries, qualified subchapter S trusts, trusts, entities that are
6 disregarded for federal income tax purposes and any other entities.

7 “(15) ‘Retailer’ means a person doing business by selling tangible personal property to a pur-
8 chaser for a purpose other than:

9 “(a) Resale by the purchaser of the property as tangible personal property in the regular course
10 of business;

11 “(b) Incorporation by the purchaser of the property in the course of regular business as an in-
12 gredient or component of real or personal property; or

13 “(c) Consumption by the purchaser of the property in the production for sale of a new article
14 of tangible personal property.

15 “(16) ‘Taxable commercial activity’ means commercial activity sourced to this state under ORS
16 317A.128, less any subtraction pursuant to ORS 317A.119.

17 “(17)(a) ‘Taxpayer’ means any person or unitary group required to register, file or pay tax under
18 ORS 317A.100 to 317A.158.

19 “(b) ‘Taxpayer’ does not include excluded persons, except to the extent that a tax-exempt entity
20 has unrelated business income as described in the Internal Revenue Code.

21 “(18)(a) ‘Unitary business’ means a business enterprise in which there exists directly or indi-
22 rectly between the members or parts of the enterprise a sharing or exchange of value as demon-
23 strated by:

24 “(A) Centralized management or a common executive force;

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

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

27 “(b) ‘Unitary business’ may include a business enterprise the activities of which:

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

29 or

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

32 “(19) ‘Unitary group’ means a group of persons with more than 50 percent common ownership,
33 either direct or indirect, that is engaged in business activities that constitute a unitary business.

34 “(20) ‘Wholesaler’ means a person primarily doing business by merchant distribution of tangible
35 personal property to retailers or to other wholesalers.

36 “**SECTION 27.** ORS 458.670 is amended to read:

37 “458.670. As used in this section and ORS 458.675 to 458.700, unless the context requires other-
38 wise:

39 “(1) ‘Account holder’ means a resident of this state who:

40 “(a) Is 12 years of age or older;

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

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

43 “(2) ‘Fiduciary organization’ means an organization selected under ORS 458.695 to administer
44 state moneys directed to individual development accounts and that is:

45 “(a) A nonprofit, fund raising organization that is exempt from taxation under section 501(c)(3)

1 of the Internal Revenue Code as amended and in effect on [December 31, 2018] **April 1, 2021**; or

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

4 “(3) ‘Financial institution’ means:

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

6 “(b) In the case of individual development accounts established for the purpose described in ORS
7 458.685 (1)(c), a financial institution as defined in ORS 178.300.

8 “(4) ‘Individual development account’ means a contract between an account holder and a
9 fiduciary organization, for the deposit of funds into a financial institution by the account holder, and
10 the deposit of matching funds into the financial institution by the fiduciary organization, to allow
11 the account holder to accumulate assets for use toward achieving a specific purpose approved by
12 the fiduciary organization.

13 “(5) ‘Lower income household’ means a household having an income equal to or less than the
14 greater of the following:

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

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

23 “(6) ‘Resident of this state’ has the meaning given that term in ORS 316.027.

24 “**SECTION 28.** ORS 657.010 is amended to read:

25 “657.010. As used in this chapter, unless the context requires otherwise:

26 “(1) ‘Base year’ means the first four of the last five completed calendar quarters preceding the
27 benefit year.

28 “(2) ‘Benefits’ means the money allowances payable to unemployed persons under this chapter.

29 “(3) ‘Benefit year’ means a period of 52 consecutive weeks commencing with the first week with
30 respect to which an individual files an initial valid claim for benefits, and thereafter the 52 consec-
31 utive weeks period beginning with the first week with respect to which the individual next files an
32 initial valid claim after the termination of the individual’s last preceding benefit year except that
33 the benefit year shall be 53 weeks if the filing of an initial valid claim would result in overlapping
34 any quarter of the base year of a previously filed initial valid claim.

35 “(4) ‘Calendar quarter’ means the period of three consecutive calendar months ending on March
36 31, June 30, September 30 or December 31, or the approximate equivalent thereof, as the Director
37 of the Employment Department may, by regulation, prescribe.

38 “(5) ‘Contribution’ or ‘contributions’ means the taxes, as defined in subsection (13) of this sec-
39 tion, that are the money payments required by this chapter, or voluntary payments permitted, to be
40 made to the Unemployment Compensation Trust Fund.

41 “(6) ‘Educational institution,’ including an institution of higher education as defined in sub-
42 section (9) of this section, means an institution:

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

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

4 “(c) In which the course or courses of study or training that it offers may be academic, techni-
5 cal, trade or preparation for gainful employment in a recognized occupation; and

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

8 “(7) ‘Employment office’ means a free public employment office or branch thereof, operated by
9 this state or maintained as a part of a state-controlled system of public employment offices.

10 “(8) ‘Hospital’ means an organization that has been licensed, certified or approved by the Oregon
11 Health Authority as a hospital.

12 “(9) ‘Institution of higher education’ means an educational institution that:

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

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

16 “(c) Provides an educational program for which it awards a bachelor’s or higher degree, or
17 provides a program that is acceptable for full credit toward such a degree, a program of post-
18 graduate or post-doctoral studies, or a program of training to prepare students for gainful employ-
19 ment in a recognized occupation; and

20 “(d) Is a public or other nonprofit institution.

21 “(10) ‘Internal Revenue Code’ means the federal Internal Revenue Code, as amended and in ef-
22 fect on [December 31, 2018] **April 1, 2021**.

23 “(11) ‘Nonprofit employing unit’ means an organization, or group of organizations, described in
24 section 501(c)(3) of the Internal Revenue Code that is exempt from income tax under section 501(a)
25 of the Internal Revenue Code.

26 “(12) ‘State’ includes, in addition to the states of the United States of America, the District of
27 Columbia and Puerto Rico. However, for all purposes of this chapter the Virgin Islands shall be
28 considered a state on and after the day on which the United States Secretary of Labor first approves
29 the Virgin Islands’ law under section 3304(a) of the Federal Unemployment Tax Act as amended by
30 Public Law 94-566.

31 “(13) ‘Taxes’ means the money payments to the Unemployment Compensation Trust Fund re-
32 quired, or voluntary payments permitted, by this chapter.

33 “(14) ‘Valid claim’ means any claim for benefits made in accordance with ORS 657.260 if the
34 individual meets the wages-paid-for-employment requirements of ORS 657.150.

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

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

39 “657B.010. As used in this chapter:

40 “(1) ‘Alternate base year’ means the last four completed calendar quarters preceding the benefit
41 year.

42 “(2) ‘Average weekly wage’ means the amount calculated by the Employment Department as the
43 state average weekly covered wage under ORS 657.150 (4)(d) as determined not more than once per
44 year.

45 “(3) ‘Base year’ means the first four of the last five completed calendar quarters preceding the

1 benefit year.

2 “(4) ‘Benefits’ means family and medical leave insurance benefits.

3 “(5) ‘Benefit year’ means the 12-month period as determined by the Director of the Employment
4 Department by rule under ORS 657B.340.

5 “(6) ‘Child’ means:

6 “(a) A biological child, adopted child, stepchild or foster child of a covered individual or of the
7 covered individual’s spouse or domestic partner;

8 “(b) A person who is or was a legal ward of a covered individual or of the covered individual’s
9 spouse or domestic partner; or

10 “(c) A person who is or was in a relationship of in loco parentis with a covered individual or
11 with the covered individual’s spouse or domestic partner.

12 “(7) ‘Contribution’ or ‘contributions’ means the money payments made by any of the following
13 under ORS 657B.150:

14 “(a) An employer;

15 “(b) An eligible employee;

16 “(c) A self-employed individual;

17 “(d) A tribal government; or

18 “(e) An employee of a tribal government.

19 “(8) ‘Covered individual’ means any one of the following who qualifies to receive family and
20 medical leave insurance benefits:

21 “(a) An eligible employee;

22 “(b) A self-employed individual; or

23 “(c) An employee of a tribal government.

24 “(9) ‘Domestic partner’ means an individual joined in a domestic partnership.

25 “(10) ‘Domestic partnership’ has the meaning given that term in ORS 106.310.

26 “(11) ‘Eligible employee’ means:

27 “(a)(A) An employee who has earned at least \$1,000 in wages during the base year; or

28 “(B) If an employee has not earned at least \$1,000 in wages during the base year, an employee
29 who has earned at least \$1,000 in wages during the alternate base year; and

30 “(b) Who may apply for paid family and medical leave insurance benefits under ORS 657B.015.

31 “(12) ‘Eligible employee’s average weekly wage’ means an amount calculated by the Director of
32 the Employment Department by dividing the total wages earned by an eligible employee during the
33 base year by the number of weeks in the base year.

34 “(13)(a) ‘Employee’ means:

35 “(A) An individual performing services for an employer for remuneration or under any contract
36 of hire, written or oral, express or implied.

37 “(B) A home care worker as defined in ORS 410.600.

38 “(b) ‘Employee’ does not include:

39 “(A) An independent contractor as defined in ORS 670.600.

40 “(B) A participant in a work training program administered under a state or federal assistance
41 program.

42 “(C) A participant in a work-study program that provides students in secondary or
43 postsecondary educational institutions with employment opportunities for financial assistance or
44 vocational training.

45 “(D) A railroad worker exempted under the federal Railroad Unemployment Insurance Act.

1 “(E) A volunteer.

2 “(14)(a) ‘Employer’ means any person that employs one or more employees working anywhere in
3 this state or any agent or employee of such person to whom the duties of the person under this
4 chapter have been delegated.

5 “(b) ‘Employer’ includes:

6 “(A) A political subdivision of this state or any county, city, district, authority or public corpo-
7 ration, or any instrumentality of a county, city, district, authority or public corporation, organized
8 and existing under law or charter;

9 “(B) An individual;

10 “(C) Any type of organization, corporation, partnership, limited liability company, association,
11 trust, estate, joint stock company or insurance company;

12 “(D) Any successor in interest to an entity described in subparagraph (C) of this paragraph;

13 “(E) A trustee, trustee in bankruptcy or receiver; or

14 “(F) A trustee or legal representative of a deceased person.

15 “(c) ‘Employer’ does not include the federal government or a tribal government.

16 “(15) ‘Employment agency’ has the meaning given that term in ORS 658.005.

17 “(16) ‘Family and medical leave insurance benefits’ means the wage replacement benefits that
18 are available to a covered individual under ORS 657B.050 or under the terms of an employer plan
19 approved under ORS 657B.210, for family leave, medical leave or safe leave.

20 “(17)(a) ‘Family leave’ means leave from work taken by a covered individual:

21 “(A) To care for and bond with a child during the first year after the child’s birth or during the
22 first year after the placement of the child through foster care or adoption; or

23 “(B) To care for a family member with a serious health condition.

24 “(b) ‘Family leave’ does not mean:

25 “(A) Leave described in ORS 659A.159 (1)(d);

26 “(B) Leave described in ORS 659A.159 (1)(e); or

27 “(C) Leave authorized under ORS 659A.093.

28 “(18) ‘Family member’ means:

29 “(a) The spouse of a covered individual;

30 “(b) A child of a covered individual or the child’s spouse or domestic partner;

31 “(c) A parent of a covered individual or the parent’s spouse or domestic partner;

32 “(d) A sibling or stepsibling of a covered individual or the sibling’s or stepsibling’s spouse or
33 domestic partner;

34 “(e) A grandparent of a covered individual or the grandparent’s spouse or domestic partner;

35 “(f) A grandchild of a covered individual or the grandchild’s spouse or domestic partner;

36 “(g) The domestic partner of a covered individual; or

37 “(h) Any individual related by blood or affinity whose close association with a covered individ-
38 ual is the equivalent of a family relationship.

39 “(19) ‘Medical leave’ means leave from work taken by a covered individual that is made neces-
40 sary by the individual’s own serious health condition.

41 “(20) ‘Parent’ means:

42 “(a) A biological parent, adoptive parent, stepparent or foster parent of a covered individual;

43 “(b) A person who was a foster parent of a covered individual when the covered individual was
44 a minor;

45 “(c) A person designated as the legal guardian of a covered individual at the time the covered

1 individual was a minor or required a legal guardian;

2 “(d) A person with whom a covered individual was or is in a relationship of in loco parentis;
3 or

4 “(e) A parent of a covered individual’s spouse or domestic partner who meets a description un-
5 der paragraphs (a) to (d) of this subsection.

6 “(21) ‘Safe leave’ means leave taken for any purpose described in 659A.272.

7 “(22) ‘Self-employed individual’ means:

8 “(a) An individual who has self-employment income as defined in section 1402(b) of the Internal
9 Revenue Code as amended and in effect on [December 31, 2018] **April 1, 2021**; or

10 “(b) An independent contractor as defined in ORS 670.600.

11 “(23) ‘Serious health condition’ has the meaning given that term in ORS 659A.150.

12 “(24) ‘Third party administrator’ means a third party that enters into an agreement with the
13 Director of the Employment Department to implement and administer the paid family and medical
14 leave program established under this chapter.

15 “(25) ‘Tribal government’ has the meaning given that term in ORS 181A.680.

16 “(26) ‘Wages’ has the meaning given that term in ORS 657.105.

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

20 **“(2) The effective and applicable dates, and the exceptions, special rules and coordination**
21 **with the Internal Revenue Code, as amended, relative to those dates, contained in federal law**
22 **amending the Internal Revenue Code and enacted before January 1, 2021, apply for Oregon**
23 **personal income and corporate excise and income tax purposes, to the extent they can be**
24 **made applicable, in the same manner as they are applied under the Internal Revenue Code**
25 **and related federal law.**

26 **“(3)(a) If a deficiency is assessed against any taxpayer for a tax year beginning before**
27 **January 1, 2021, and the deficiency or any portion thereof is attributable to any retroactive**
28 **treatment under the amendments to ORS 178.300, 305.230, 305.494, 305.690, 305.842, 314.011,**
29 **314.306, 315.004, 316.012, 316.147, 316.157, 317.010, 317.097 and 317A.100 by sections 1 and 14 to**
30 **26 of this 2021 Act, then any interest or penalty assessed under ORS chapter 305, 314, 315,**
31 **316, 317 or 318 with respect to the deficiency or portion thereof shall be canceled.**

32 **“(b) If a refund is due any taxpayer for a tax year beginning before January 1, 2021, and**
33 **the refund or any portion thereof is due the taxpayer on account of any retroactive treat-**
34 **ment under the amendments to ORS 178.300, 305.230, 305.494, 305.690, 305.842, 314.011, 314.306,**
35 **315.004, 316.012, 316.147, 316.157, 317.010, 317.097 and 317A.100 by sections 1 and 14 to 26 of this**
36 **2021 Act, for a tax year beginning before January 1, 2021, then notwithstanding ORS 305.270**
37 **or 314.415 or any other law, the refund or portion thereof shall be paid without interest.**

38 **“(c) Any changes required because of the amendments to ORS 178.300, 305.230, 305.494,**
39 **305.690, 305.842, 314.011, 314.306, 315.004, 316.012, 316.147, 316.157, 317.010, 317.097 and 317A.100**
40 **by sections 1 and 14 to 26 of this 2021 Act, for a tax year beginning before January 1, 2021,**
41 **shall be made by filing an amended return within the time prescribed by law.**

42 **“(d) If a taxpayer fails to file an amended return under paragraph (c) of this subsection,**
43 **the Department of Revenue shall make any changes under paragraph (c) of this subsection**
44 **on the return to which the changes relate within the period specified for issuing a notice of**
45 **deficiency or claiming a refund as otherwise provided by law with respect to that return, or**

1 within one year after a return for a tax year beginning on or after January 1, 2021, and be-
2 fore January 1, 2022, is filed, whichever period expires later.

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

5
