

Senate Bill 138

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Finance and Revenue)

SUMMARY

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

Updates connection date to federal Internal Revenue Code and other provisions of federal tax law. Removes tax year of taxpayer as connection date for certain changes in Internal Revenue Code that are related to definition of "taxable income."

Expands types of expenses, in conformity with federal law, for which use of withdrawal from higher education savings network account is qualified withdrawal for purpose of tax-advantaged treatment. Conforms age limits, applicable to retirement and to commencing payment of benefits, to federal law, for purposes of Public Employees Retirement System. Applies to transactions or activities occurring on or after January 1, 2021, in tax years beginning on or after January 1, 2021.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to connection to federal tax law; creating new provisions; amending ORS 178.300, 238.395,
3 238A.005, 238A.125, 238A.150, 238A.170, 238A.230, 238A.370, 238A.400, 238A.410, 238A.415,
4 238A.430, 238A.435, 305.230, 305.494, 305.690, 305.842, 314.011, 314.306, 315.004, 316.012, 316.013,
5 316.147, 316.157, 317.010, 317.018, 317.097, 317A.100, 458.670, 657.010 and 657B.010; and prescrib-
6 ing an effective date.

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

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

9 178.300. As used in ORS 178.300 to 178.360:

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

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

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

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

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

22 (6) "Higher education institution" means an eligible education institution as defined in section
23 529(e)(5) of the Internal Revenue Code.

24 (7) "Internal Revenue Code" means the federal Internal Revenue Code as amended and in effect
25 on December 31, [2018] **2020**.

26 (8) "Member of the family" shall have the same meaning as contained in section 529(e) of the

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

1 Internal Revenue Code.

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

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

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

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

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

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

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

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

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

21 238.395. (1)(a) In addition to any other benefits under this chapter, a death benefit, provided by
22 contributions of the public employer under ORS 238.225 and, for benefits that accrue on or after July
23 1, 2020, amounts in the employee pension stability account established for the member under ORS
24 238A.353, shall be paid to the beneficiaries designated under ORS 238.390 (1) of a person who is an
25 active or inactive member of the Public Employees Retirement System and who dies as a result of
26 injuries received while employed in the service of the public employer or within 120 days after ter-
27 mination from service with a participating public employer. A member who is on a leave of absence
28 without pay from employment with a participating public employer has not terminated service with
29 that participating public employer for the purposes of this section.

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

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

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

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

43 (2)(a) If a member of the system dies while employed in the service of a participating public
44 employer or within 120 days after termination from service with a participating public employer and
45 the member's spouse is the member's beneficiary under ORS 238.390, the member's spouse may elect

1 to receive the benefit provided under this subsection in lieu of the death benefits provided under
2 ORS 238.390 and subsection (1) of this section.

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

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

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

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

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

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

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

21 238A.005. For the purposes of this chapter:

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

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

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

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

30 (a) Persons engaged as independent contractors;

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

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

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

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

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

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

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

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

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

45 (k) Any person who belongs to a class of employees who are not eligible to become members

1 of the Oregon Public Service Retirement Plan under the provisions of ORS 238A.070 (2);

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

4 (m) Judges.

5 (5) "Firefighter" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 (16) "Retired member" means a pension program member who is receiving a pension as provided

1 in ORS 238A.180 to 238A.195.

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

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

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

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

13 (C) Any amount that is contributed to a cafeteria plan or qualified transportation fringe benefit
14 plan by the employer at the election of the employee and that is not includable in the taxable in-
15 come of the employee by reason of 26 U.S.C. 125 or 132(f)(4), as in effect on December 31, [2018]
16 **2020**.

17 (D) Any amount that is contributed to a cash or deferred arrangement by the employer at the
18 election of the employee and that is not included in the taxable income of the employee by reason
19 of 26 U.S.C. 402(e)(3), as in effect on December 31, [2018] **2020**.

20 (E) Retroactive payments described in ORS 238.008.

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

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

26 (H) Wages of a deceased member paid to a surviving spouse or dependent children under ORS
27 652.190.

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

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

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

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

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

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

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

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

43 (H) The amount of an employee contribution to the individual account program that is paid by
44 the employer and is not deducted from the compensation of the employee, as provided under ORS
45 238A.335 (1) and (2)(b).

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

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

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

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

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

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

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

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

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

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

24 238A.125. (1) Upon retiring at normal retirement age, a vested pension program member shall
25 be paid an annual pension for the life of the member as follows:

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

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

31 (2) Notwithstanding any provision of ORS 238A.100 to 238A.250, the annual benefit payable to
32 a member under the pension program and under any other tax-qualified defined benefit plan main-
33 tained by the participating public employer may not exceed the applicable limitations set forth in
34 26 U.S.C. 415(b), as in effect on December 31, [2018] 2020. The Public Employees Retirement Board
35 shall adopt rules for the administration of this limitation, including adjustments in the annual dollar
36 limitation to reflect cost-of-living adjustments authorized by the Internal Revenue Service.

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

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

40 238A.150. (1) Notwithstanding any other provision of ORS 238A.100 to 238A.250, an eligible em-
41 ployee who leaves a qualifying position for the purpose of performing service in the uniformed ser-
42 vices, and who subsequently returns to employment with a participating public employer with
43 reemployment rights under federal law, is entitled to accrue retirement credit, credit toward the
44 probationary period required by ORS 238A.100 and credit toward the vesting requirements of ORS
45 238A.115 under rules adopted by the Public Employees Retirement Board pursuant to subsection (2)

1 of this section.

2 (2) The board shall adopt rules establishing benefits and service credit for any period of service
3 in the uniformed services by an employee described in subsection (1) of this section. For the purpose
4 of adopting rules under this subsection, the board shall consider and take into account all federal
5 law relating to benefits and service credit for any period of service in the uniformed services, in-
6 cluding 26 U.S.C. 414(u), as in effect on December 31, [2018] **2020**. Benefits and service credit under
7 rules adopted by the board pursuant to this subsection may not exceed benefits and service credit
8 required under federal law for periods of service in the uniformed services.

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

10 238A.170. (1) An active member of the pension program who is [70-1/2] **72** years of age or older
11 must retire not later than April 1 of the calendar year following the calendar year in which the
12 member terminates employment with all participating public employers. An inactive member of the
13 pension program must retire not later than April 1 of the calendar year following the calendar year
14 in which the member attains [70-1/2] **72** years of age.

15 (2) Notwithstanding any other provision of ORS 238A.100 to 238A.250, the entire interest of a
16 member of the pension program must be distributed over a time period commencing no later than
17 the required beginning date set forth in subsection (1) of this section, and must be distributed in a
18 manner that satisfies all other minimum distribution requirements of 26 U.S.C. 401(a)(9) and regu-
19 lations implementing that section, as in effect on [December 31, 2018] **January 1, 2020**. The Public
20 Employees Retirement Board shall adopt rules implementing those minimum distribution require-
21 ments.

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

23 238A.230. (1) If a member of the pension program who is vested dies before the member's effec-
24 tive date of retirement, the Public Employees Retirement Board shall pay the death benefit provided
25 for in this section to:

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

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

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

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

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

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

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

42 (3) The death benefit provided under this section is first effective on the first day of the month
43 following the date of death of the member. The surviving spouse, former spouse or other person
44 entitled to the death benefit 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 member would have reached

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

2 (4) Notwithstanding any other provision of ORS 238A.100 to 238A.250, distributions of death
3 benefits under the pension program must comply with the minimum distribution requirements of 26
4 U.S.C. 401(a)(9) and the regulations implementing that section, as in effect on [December 31, 2018]
5 **January 1, 2020**. The board shall adopt rules implementing those minimum distribution require-
6 ments.

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

8 238A.370. Notwithstanding any other provision of ORS 238A.300 to 238A.415, the annual addition
9 to the employee and employer accounts of a member of the individual account program for a cal-
10 endar year, together with the annual additions to the accounts of the member under any other de-
11 fined contribution plan maintained by the participating public employer for a calendar year, may
12 not exceed the lesser of \$40,000, or 100 percent of the member's compensation for that calendar year.
13 For purposes of this section, "annual addition" has the meaning given that term in 26 U.S.C.
14 415(c)(2), as in effect on December 31, [2018] **2020**, and "compensation" has the meaning given the
15 term "participant's compensation" in 26 U.S.C. 415(c)(3), as in effect on December 31, [2018] **2020**.
16 The Public Employees Retirement Board shall adopt rules for the administration of this limitation,
17 including adjustments in the annual dollar limitation to reflect cost-of-living adjustments authorized
18 by the Internal Revenue Service.

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

20 238A.400. (1) Upon retirement on or after the earliest retirement date, as described in ORS
21 238A.165, a member of the individual account program shall receive in a lump sum the amounts in
22 the member's employee account, rollover account and employer account to the extent the member
23 is vested in those accounts under ORS 238A.320.

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

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

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

1 chapter 238.

2 (5) Notwithstanding any other provision of ORS 238A.300 to 238A.415, the entire interest of a
3 member of the individual account program must be distributed over a time period commencing no
4 later than the latest retirement date set forth in ORS 238A.170, and must be distributed in a manner
5 that satisfies all other minimum distribution requirements of 26 U.S.C. 401(a)(9) and regulations im-
6 plementing that section, as in effect on [December 31, 2018] **January 1, 2020**. The board shall adopt
7 rules implementing those minimum distribution requirements.

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

9 238A.410. (1)(a) If a member of the individual account program dies before retirement, the
10 amounts in the member's employee account, rollover account and employer account, to the extent
11 the member is vested in those accounts under ORS 238A.320, shall be paid in a lump sum to the
12 beneficiary or beneficiaries designated by the member for the purposes of this section.

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

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

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

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

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

39 (c) The member's estate.

40 (4) The entire amount of a deceased member's vested accounts must be distributed by December
41 31 of the fifth calendar year after the year in which the member died. Notwithstanding any other
42 provision of this chapter, distributions of death benefits under the individual account program must
43 comply with the minimum distribution requirements of 26 U.S.C. 401(a)(9) and the regulations im-
44 plementing that section, as in effect on [December 31, 2018] **January 1, 2020**. The Public Employees
45 Retirement Board shall adopt rules implementing those minimum distribution requirements.

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

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

8 (2) The board shall adopt rules establishing contributions and service credit for any period of
9 service in the uniformed services by an employee described in subsection (1) of this section. For the
10 purpose of adopting rules under this subsection, the board shall consider and take into account all
11 federal law relating to benefits and service credit for any period of service in the uniformed ser-
12 vices, including 26 U.S.C. 414(u), as in effect on December 31, [2018] **2020**. Contributions and service
13 credit under rules adopted by the board pursuant to this subsection may not exceed contributions
14 and service credit required under federal law for periods of service in the uniformed services.

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

16 238A.430. (1) To the extent required by law, and except as otherwise provided by rules adopted
17 by the Public Employees Retirement Board under subsection (4) of this section, any portion of a
18 distribution of benefits described in subsection (2) of this section shall, at the election of and in lieu
19 of distribution to the distributee, be paid directly to an eligible retirement plan specified by the
20 distributee.

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

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

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

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

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

40 (4) The board shall adopt rules implementing the direct rollover requirements of 26 U.S.C.
41 401(a)(31) and the regulations implementing that section, and may adopt administrative exceptions
42 to the direct rollover requirements to the extent permitted by 26 U.S.C. 401(a)(31) and the regu-
43 lations implementing that section.

44 (5) All references in this section to federal laws and regulations are to the laws and regulations
45 in effect on December 31, [2018] **2020**.

1 (6) For purposes of this section:

2 (a) “Distributee” means a member, a member’s surviving spouse or a member’s alternate payee
3 under ORS 238.465.

4 (b) “Eligible retirement plan” means:

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

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

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

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

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

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

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

16 238A.435. (1) If a benefit is payable under this chapter to a beneficiary by reason of the death
17 of a member of the system, the beneficiary may elect to have all or part of the distribution of the
18 death benefit paid in an eligible rollover distribution to an individual retirement plan described in
19 26 U.S.C. 408(a), or an individual retirement annuity, other than an endowment contract, described
20 in 26 U.S.C. 408(b), if the plan or annuity is established for the purpose of receiving the eligible
21 rollover distribution on behalf of the designated beneficiary.

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

29 (3) As used in this section, “eligible rollover distribution” has the meaning given that term in
30 26 U.S.C. 402(c)(4), as in effect on December 31, [2018] 2020.

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

32 305.230. (1) Notwithstanding ORS 9.320:

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

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

43 (c) Any shareholder of an S corporation, as defined in section 1361 of the Internal Revenue
44 Code, as amended and in effect on December 31, [2018] 2020, may represent the corporation in any
45 proceeding before a tax court magistrate or the department in the same manner as if the share-

1 holder were a partner and the S corporation were a partnership. The S corporation must designate
2 in writing a tax matters shareholder authorized to represent the S corporation.

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

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

11 (f) Any person authorized under rules adopted by the department may represent a taxpayer be-
12 fore the department in any conference or proceeding with respect to any tax. Rules adopted under
13 this paragraph, to the extent feasible, shall be consistent with federal law that governs represen-
14 tation before the Internal Revenue Service, as federal law is amended and in effect on December 31,
15 [2018] 2020.

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

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

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

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

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

31 305.494. Notwithstanding ORS 9.320, any shareholder of an S corporation as defined in section
32 1361 of the Internal Revenue Code, as amended and in effect on December 31, [2018] 2020, may
33 represent the corporation in any proceeding before the Oregon Tax Court in the same manner as
34 if the shareholder were a partner and the S corporation were a partnership.

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

36 305.690. As used in ORS 305.690 to 305.753, unless the context otherwise requires:

37 (1) "Biennial years" means the two income tax years of individual taxpayers that begin in the
38 two calendar years immediately following the calendar year in which a list is certified under ORS
39 305.715.

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

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

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

1 (5) “Form listed” or “form listing” means being listed on the Oregon individual income tax re-
2 turn form.

3 (6) “Instruction listing” means being listed on the Department of Revenue instructions for tax
4 return checkoff contribution.

5 (7) “Internal Revenue Code” means the federal Internal Revenue Code as amended and in effect
6 on December 31, [2018] **2020**.

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

8 305.842. (1) As used in ORS 307.130, 307.147, 308A.450, 310.140 and 310.800, “Internal Revenue
9 Code” means the federal Internal Revenue Code as amended and in effect on December 31, [2018]
10 **2020**.

11 (2) As used in ORS 311.666, “Internal Revenue Code” means the federal Internal Revenue Code
12 as amended and in effect on December 31, [2018] **2020**, including amendments that take effect after
13 that date.

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

15 314.011. (1) As used in this chapter, unless the context requires otherwise, “department” means
16 the Department of Revenue.

17 (2) As used in this chapter:

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

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

24 [(A)] on December 31, [2018; or] **2020**.

25 [(B) *If related to the definition of taxable income, as applicable to the tax year of the taxpayer.*]

26 (c) With respect to ORS 314.105, 314.256 (relating to proxy tax on lobbying expenditures), 314.260
27 (1)(b), 314.302, 314.306, 314.330, 314.360, 314.362, 314.385, 314.402, 314.410, 314.412, 314.525, 314.767
28 (7), 314.771 and 314.772 and other provisions of this chapter, except those described in paragraph (b)
29 of this subsection, any reference to the laws of the United States or to the Internal Revenue Code
30 means the laws of the United States relating to income taxes or the Internal Revenue Code as they
31 are amended on or before December 31, [2018] **2020**, even when the amendments take effect or be-
32 come operative after that date, except where the Legislative Assembly has specifically provided
33 otherwise.

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

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

45 (5)(a) When portions of the Internal Revenue Code incorporated by reference as provided in

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

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

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

14 314.306. (1) If a taxpayer excludes an amount from federal gross income by reason of the dis-
15 charge of indebtedness of the taxpayer under section 108(a)(1)(A) of the Internal Revenue Code (re-
16 lating to discharge of indebtedness in a bankruptcy declared under U.S.C. Title 11), then, with
17 respect to that portion of the excluded amount that is apportioned to Oregon, the taxpayer shall
18 apply the rules in 11 U.S.C. 346(j), as amended and in effect on December 31, [2018] **2020**.

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

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

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

30 (A) Federal net operating loss.

31 (B) Capital loss carryover.

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

34 (D) Passive activity loss carryover.

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

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

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

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

44 (D) The passive activity loss carryover under section 469(b) of the Internal Revenue Code from
45 the taxable year of the discharge shall be reduced by the amount of discharged indebtedness minus

1 the total amount taken into account under subparagraphs (A), (B) and (C) of this paragraph.

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

3 315.004. (1) Except when the context requires otherwise, the definitions contained in ORS
4 chapters 314, 316, 317 and 318 are applicable in the construction, interpretation and application of
5 the personal and corporate income and excise tax credits contained in this chapter.

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

10 (b) With respect to the tax credits contained in this chapter, any reference to the laws of the
11 United States or to the Internal Revenue Code means the laws of the United States relating to in-
12 come taxes or the Internal Revenue Code as they are amended on or before December 31, [2018]
13 **2020**, even when the amendments take effect or become operative after that date.

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

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

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

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

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

39 316.012. Any term used in this chapter has the same meaning as when used in a comparable
40 context in the laws of the United States relating to federal income taxes, unless a different meaning
41 is clearly required or the term is specifically defined in this chapter. Except where the Legislative
42 Assembly has provided otherwise, any reference in this chapter to the laws of the United States or
43 to the Internal Revenue Code refers to the laws of the United States or to the Internal Revenue
44 Code as they are amended and in effect[:]

45 [(1)] on December 31, [2018; or] **2020**.

1 *[(2) If related to the definition of taxable income, as applicable to the tax year of the taxpayer.]*

2 **SECTION 22.** ORS 316.013 is amended to read:

3 316.013. Unless the context requires otherwise and notwithstanding ORS 316.012, whenever, in
4 the calculation of Oregon taxable income, reference to the taxpayer's federal adjusted gross income
5 is required to be made, the taxpayer's federal adjusted gross income shall be as determined under
6 the provisions of the Internal Revenue Code as they may be in effect *[for the tax year of the*
7 *taxpayer]* **on December 31, 2020**, without any of the additions, subtractions or other modifications
8 or adjustments required under this chapter and other laws of this state applicable to personal in-
9 come taxation.

10 **SECTION 23.** ORS 316.147 is amended to read:

11 316.147. As used in ORS 316.147 to 316.149, unless the context requires otherwise:

12 (1) "Eligible taxpayer" includes any individual who must pay taxes otherwise imposed by this
13 chapter and:

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

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

18 (2) "Household income" means the aggregate income of the eligible taxpayer and the spouse of
19 the taxpayer who reside in the household, that was received during a calendar year. "Household
20 income" includes payments received by the eligible taxpayer or the spouse of the taxpayer under the
21 federal Social Security Act for the benefit of a minor child or minor children who reside in the
22 household.

23 (3) "Income" means "adjusted gross income" as defined in the federal Internal Revenue Code,
24 as amended and in effect on December 31, *[2018]* **2020**, even when the amendments take effect or
25 become operative after that date, relating to the measurement of taxable income of individuals, es-
26 tates and trusts, with the following modifications:

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

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

30 (B) Child support received by the taxpayer.

31 (C) Inheritances.

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

33 (E) Amounts received by a taxpayer or spouse of a taxpayer for support from a parent who is
34 not a member of the taxpayer's household.

35 (F) Life insurance proceeds.

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

37 (H) Personal injury damages.

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

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

40 (K) Worker's compensation, except for reimbursement of medical expense.

41 (L) Military pay and benefits.

42 (M) Veteran's benefits.

43 (N) Payments received under the federal Social Security Act that are excluded from federal
44 gross income.

45 (O) Welfare payments, except as follows:

1 (i) Payments for medical care, drugs and medical supplies, if the payments are not made directly
2 to the welfare recipient;

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

4 (iii) Direct or indirect reimbursement of expenses paid or incurred for participation in work or
5 training programs.

6 (P) Nontaxable dividends.

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

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

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

10 (b) Adjusted gross income shall be increased due to the disallowance of the following deductions:

11 (A) The amount of the net loss, in excess of \$1,000, from all dispositions of tangible or intangible
12 properties.

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

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

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

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

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

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

24 (c) "Income" does not include the following:

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

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

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

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

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

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

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

36 **SECTION 24.** ORS 316.157 is amended to read:

37 316.157. (1) In the case of an eligible individual, there shall be allowed as a credit against the
38 taxes otherwise due under this chapter for the taxable year an amount equal to the lesser of the tax
39 liability of the taxpayer or nine percent of net pension income.

40 (2) For purposes of this section:

41 (a) "Eligible individual" means any individual who is receiving pension income and who has at-
42 tained 62 years of age before the close of the taxable year.

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

1 taxpayer or the spouse of the taxpayer.

2 (c) "Income" means "adjusted gross income" as defined in the federal Internal Revenue Code,
3 as amended and in effect on December 31, [2018] **2020**, even when the amendments take effect or
4 become operative after that date, relating to the measurement of taxable income of individuals, es-
5 tates and trusts, with the following modifications:

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

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

9 (ii) Child support received by the taxpayer.

10 (iii) Inheritances.

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

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

14 (vi) Life insurance proceeds.

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

17 (viii) Personal injury damages.

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

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

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

21 (xii) Military pay and benefits.

22 (xiii) Veteran's benefits.

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

25 (xv) Welfare payments, except as follows:

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

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

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

31 (xvi) Nontaxable dividends.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (d) "Net pension income" means:

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

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

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

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

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

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

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

22 (A) Distributions from or pursuant to an employee pension benefit plan, as defined in section
23 3(2) of the Employee Retirement Income Security Act of 1974, which satisfies the requirements of
24 section 401 of the Internal Revenue Code;

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

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

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

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

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

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

41 (3) If a change in the taxable year of the eligible individual occurs as described in ORS 314.085,
42 or if the Department of Revenue terminates the tax year of the eligible individual under ORS
43 314.440, the credit allowed by this section shall be prorated or computed in a manner consistent with
44 ORS 314.085.

45 (4) If a change in the status of the eligible individual from resident to nonresident or from

1 nonresident to resident occurs, the credit allowed by this section shall be determined in a manner
2 consistent with subsection (1) of this section.

3 **SECTION 25.** ORS 317.010 is amended to read:

4 317.010. As used in this chapter, unless the context requires otherwise:

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

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

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

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

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

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

21 (6) "Financial institution" has the meaning given that term in ORS 314.610 except that it does
22 not include a credit union as defined in ORS 723.006, an interstate credit union as defined in ORS
23 723.001 or a federal credit union.

24 (7) "Internal Revenue Code," except where the Legislative Assembly has provided otherwise,
25 refers to the laws of the United States or to the Internal Revenue Code as they are amended and
26 in effect[:]

27 [(a)] on December 31, [2018; or] **2020**.

28 [(b) *If related to the definition of taxable income, as applicable to the tax year of the taxpayer.*]

29 (8) "Oregon taxable income" means taxable income, less the deduction allowed under ORS
30 317.476, except as otherwise provided with respect to insurers in subsection (11) of this section and
31 ORS 317.650 to 317.665.

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

34 (10) "Taxable income or loss" means the taxable income or loss determined, or in the case of a
35 corporation for which no federal taxable income or loss is determined, as would be determined, un-
36 der chapter 1, Subtitle A of the Internal Revenue Code and any other laws of the United States
37 relating to the determination of taxable income or loss of corporate taxpayers, with the additions,
38 subtractions, adjustments and other modifications as are specifically prescribed by this chapter ex-
39 cept that in determining taxable income or loss for any year, no deduction under ORS 317.476 or
40 317.478 and section 45b, chapter 293, Oregon Laws 1987, shall be allowed. If the corporation is a
41 corporation to which ORS 314.280 or 314.605 to 314.675 (requiring or permitting apportionment of
42 income from transactions or activities carried on both within and without the state) applies, to
43 derive taxable income or loss, the following shall occur:

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

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

4 (c) To the amount determined as Oregon apportioned income or loss under paragraph (b) of this
 5 subsection, add nonapportionable income allocable entirely to Oregon under ORS 314.280 or 314.625
 6 to 314.645, or subtract nonapportionable loss allocable entirely to Oregon under ORS 314.280 or
 7 314.625 to 314.645. The resulting figure is “taxable income or loss” for those corporations carrying
 8 on taxable transactions or activities both within and without Oregon.

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

15 **SECTION 26.** ORS 317.018 is amended to read:

16 317.018. It is the intent of the Legislative Assembly:

17 (1) To make the Oregon corporate excise tax law, insofar as it relates to the measurement of
 18 taxable income, identical to the provisions of the federal Internal Revenue Code, as in effect and
 19 applicable [*for the tax year of the taxpayer*] **on December 31, 2020**, to the end that taxable income
 20 of a corporation for Oregon purposes is the same as it is for federal income tax purposes, subject
 21 to Oregon’s jurisdiction to tax, and subject to the additions, subtractions, adjustments and modifi-
 22 cations contained in this chapter.

23 (2) To achieve the results desired under subsection (1) of this section by application of the var-
 24 ious provisions of the federal Internal Revenue Code relating to the definitions for corporations, of
 25 income, deductions, accounting methods, accounting periods, taxation of corporations, basis and
 26 other pertinent provisions relating to gross income. It is not the intent of the Legislative Assembly
 27 to adopt federal Internal Revenue Code provisions dealing with the computation of tax, tax credits
 28 or any other provisions designed to mitigate the amount of tax due.

29 (3) To impose on each corporation doing business within this state an excise tax for the privi-
 30 lege of carrying on or doing that business measured by its federal taxable income as adjusted in this
 31 chapter.

32 **SECTION 27.** ORS 317.097 is amended to read:

33 317.097. (1) As used in this section:

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

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

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

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

42 (e) “Nonprofit corporation” means a corporation that is exempt from income taxes under section
 43 501(c)(3) or (4) of the Internal Revenue Code as amended and in effect on December 31, [2018]
 44 **2020**.

45 (f) “Preservation project” means housing that was previously developed as affordable housing

1 with a contract for rent assistance from the United States Department of Housing and Urban De-
2 velopment or the United States Department of Agriculture and that is being acquired by a spon-
3 soring entity.

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

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

9 (i) “Qualified loan” means:

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

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

15 (j) “Sponsoring entity” means a nonprofit corporation, nonprofit cooperative, state governmental
16 entity, local unit of government as defined in ORS 466.706, housing authority or any other person,
17 provided that the person has agreed to restrictive covenants imposed by a nonprofit corporation,
18 nonprofit cooperative, state governmental entity, local unit of government or housing authority.

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

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

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

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

34 (4) Any tax credit allowed under this section that is not used by the taxpayer in a particular
35 year may be carried forward and offset against the taxpayer’s tax liability for the next succeeding
36 tax year. Any credit remaining unused in the next succeeding tax year may be carried forward and
37 used in the second succeeding tax year, and likewise, any credit not used in that second succeeding
38 tax year may be carried forward and used in the third succeeding tax year, and any credit not used
39 in that third succeeding tax year may be carried forward and used in the fourth succeeding tax year,
40 and any credit not used in that fourth succeeding tax year may be carried forward and used in the
41 fifth succeeding tax year, but may not be carried forward for any tax year thereafter.

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

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

4 (b) A qualified borrower who:

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

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

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

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

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

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

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

19 (d) A qualified borrower who:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 **SECTION 28.** ORS 317A.100, as amended by section 1, chapter 2, Oregon Laws 2020 (first spe-
40 cial session), is amended to read:

41 317A.100. As used in ORS 317A.100 to 317A.158:

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

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

- 1 (B) If received by a financial institution:
- 2 (i) If the reporting person for a financial institution is a holding company, all items of income
3 reported on the FR Y-9 filed by the holding company;
- 4 (ii) If the reporting person for a financial institution is a bank organization, all items of income
5 reported on the call report filed by the bank organization; and
- 6 (iii) If the reporting person for a financial institution is a nonbank financial organization, all
7 items of income reported in accordance with generally accepted accounting principles; and
- 8 (C)(i) If received by an insurer, as reported on the statement of premiums accompanying the
9 annual statement required under ORS 731.574 to be filed with the Director of the Department of
10 Consumer and Business Services, all gross direct life insurance premiums, gross direct accident and
11 health insurance premiums and gross direct property and casualty insurance premiums; and
- 12 (ii) The gross amount of surplus lines premiums received on Oregon home state risks as shown
13 in the report required by ORS 735.465.
- 14 (b) "Commercial activity" does not include:
- 15 (A) Interest income except:
- 16 (i) Interest on credit sales; or
- 17 (ii) Interest income, including service charges, received by financial institutions;
- 18 (B) Receipts from the sale, exchange or other disposition of an asset described in section 1221
19 or 1231 of the Internal Revenue Code, without regard to the length of time the person held the asset;
- 20 (C) If received by an insurer, federally reinsured premiums or income from transactions between
21 a reciprocal insurer and its attorney in fact operating under ORS 731.142;
- 22 (D) Receipts from hedging transactions, to the extent that the transactions are entered into
23 primarily to protect a financial position, including transactions intended to manage the risk of ex-
24 posure to foreign currency fluctuations that affect assets, liabilities, profits, losses, equity or in-
25 vestments in foreign operations, risk of exposure to interest rate fluctuations or risk of commodity
26 price fluctuations;
- 27 (E) Proceeds received attributable to the repayment, maturity or redemption of the principal of
28 a loan, bond, mutual fund, certificate of deposit or marketable instrument;
- 29 (F) The principal amount received under a repurchase agreement or on account of any trans-
30 action properly characterized as a loan to the person;
- 31 (G) Contributions received by a trust, plan or other arrangement, any of which is described in
32 section 501(a) of the Internal Revenue Code, or to which title 26, subtitle A, chapter 1, subchapter
33 (D) of the Internal Revenue Code applies;
- 34 (H) Compensation, whether current or deferred, and whether in cash or in kind, received or to
35 be received by an employee, a former employee or the employee's legal successor for services ren-
36 dered to or for an employer, including reimbursements received by or for an individual for medical
37 or education expenses, health insurance premiums or employee expenses or on account of a de-
38 pendent care spending account, legal services plan, any cafeteria plan described in section 125 of
39 the Internal Revenue Code or any similar employee reimbursement;
- 40 (I) Proceeds received from the issuance of the taxpayer's own stock, options, warrants, puts or
41 calls, or from the sale of the taxpayer's treasury stock;
- 42 (J) Proceeds received on the account of payments from insurance policies, including crop in-
43 surance policies, owned by the taxpayer, except those proceeds received for the loss of commercial
44 activity;
- 45 (K) Gifts or charitable contributions received, membership dues received by trade, professional,

1 homeowners' or condominium associations, payments received for educational courses, meetings or
2 meals, or similar payments to a trade, professional or other similar association, and fundraising re-
3 cepts received by any person when any excess receipts are donated or used exclusively for chari-
4 table purposes;

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

7 (M) Property, money and other amounts received or acquired by an agent on behalf of another
8 in excess of the agent's commission, fee or other remuneration;

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

15 (O) Pension reversions;

16 (P) Contributions to capital;

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

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

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

29 (T) In the case of receipts from the sale of marijuana items, as defined in ORS 475B.015, by a
30 person holding a license issued under ORS 475B.010 to 475B.545, an amount equal to the federal and
31 state excise taxes paid by any person on or for such marijuana items under subtitle E of the Internal
32 Revenue Code or ORS 475B.700 to 475B.760 and any local retail taxes authorized under ORS
33 475B.491;

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

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

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

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

1 the third party by the dealer;

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

7 (Z) In the case of amounts retained as commissions by a holder of a license under ORS chapter
8 462, an amount equal to the amounts specified under ORS chapter 462 that must be paid to or col-
9 lected by the Department of Revenue as a tax and the amounts specified under ORS chapter 462 to
10 be used as purse money;

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

14 (BB) Dividends received;

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

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

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

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

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

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

28 (II) Surcharges collected under ORS 757.736;

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

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

36 (LL) Charges paid to the Residential Service Protection Fund required by chapter 290, Oregon
37 Laws 1987;

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

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

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

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

1 (QQ) In the case of a transient lodging tax collector, the amount of tax imposed under ORS
2 320.305 and of any local transient lodging tax imposed upon the occupancy of transit lodging;

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

5 (SS) In the case of a qualified heavy equipment provider, the amount of tax imposed under ORS
6 307.872 upon the rental price of heavy equipment;

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

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

13 (VV) Receipts from the sale of fluid milk by dairy farmers that are not members of an agricul-
14 tural cooperative.

15 (2) "Cost inputs" means:

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

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

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

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

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

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

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

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

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

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

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

34 (h) Foreign or alien insurance companies, but only with respect to the underwriting profit de-
35 rived from writing wet marine and transportation insurance subject to tax under ORS 731.824 and
36 731.828.

37 (i) Governmental entities.

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

41 (k) Hospitals subject to assessment under ORS 414.855, long term care facilities subject to as-
42 sessment under ORS 409.801 or any entity subject to assessment under ORS 414.880 or section 3 or
43 5, chapter 538, Oregon Laws 2017.

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

45 (5) "Financial institution" has the meaning given that term in ORS 314.610, except that "finan-

1 cial institution” does not include a credit union.

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

4 (b) In the case of a holding company required to file both consolidated and parent-only financial
5 statements, “FR Y-9” means the consolidated financial statements that the holding company is re-
6 quired to file.

7 (7) “Governmental entity” means:

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

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

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

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

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

14 (f) A federally recognized Indian tribe.

15 (8) “Groceries” means food as defined in 7 U.S.C. 2012(k), but does not include cannabinoid
16 edibles or marijuana seeds.

17 (9)(a) “Hedging transaction” means a hedging transaction as defined in section 1221 of the
18 Internal Revenue Code or a transaction accorded hedge accounting treatment under Financial Ac-
19 counting Standards Board Statement No. 133.

20 (b) “Hedging transaction” does not include a transaction in which an actual transfer of title of
21 real or tangible property to another entity occurs.

22 (10) “Insurer” has the meaning given that term in ORS 317.010.

23 (11) “Internal Revenue Code,” except where the Legislative Assembly has provided otherwise,
24 refers to the laws of the United States or to the Internal Revenue Code as they are amended and
25 in effect on December 31, [2018] **2020**.

26 (12) “Labor costs” means total compensation of all employees, not to include compensation paid
27 to any single employee in excess of \$500,000.

28 (13)(a) “Motor vehicle fuel or any other product used for the propulsion of motor vehicles”
29 means:

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

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

32 (b) “Motor vehicle fuel or any other product used for the propulsion of motor vehicles” does not
33 mean:

34 (A) Electricity; or

35 (B) Electric batteries or any other mechanical or physical component or accessory of a motor
36 vehicle.

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

43 (15) “Retailer” means a person doing business by selling tangible personal property to a pur-
44 chaser for a purpose other than:

45 (a) Resale by the purchaser of the property as tangible personal property in the regular course

1 of business;

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

4 (c) Consumption by the purchaser of the property in the production for sale of a new article of
5 tangible personal property.

6 (16) "Taxable commercial activity" means commercial activity sourced to this state under ORS
7 317A.128, less any subtraction pursuant to ORS 317A.119.

8 (17)(a) "Taxpayer" means any person or unitary group required to register, file or pay tax under
9 ORS 317A.100 to 317A.158.

10 (b) "Taxpayer" does not include excluded persons, except to the extent that a tax-exempt entity
11 has unrelated business income as described in the Internal Revenue Code.

12 (18)(a) "Unitary business" means a business enterprise in which there exists directly or indi-
13 rectly between the members or parts of the enterprise a sharing or exchange of value as demon-
14 strated by:

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

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

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

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

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

20 or

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

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

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

27 **SECTION 29.** ORS 458.670 is amended to read:

28 458.670. As used in this section and ORS 458.675 to 458.700, unless the context requires other-
29 wise:

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

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

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

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

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

36 (a) A nonprofit, fund raising organization that is exempt from taxation under section 501(c)(3)
37 of the Internal Revenue Code as amended and in effect on December 31, [2018] **2020**; or

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

40 (3) "Financial institution" means:

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

42 (b) In the case of individual development accounts established for the purpose described in ORS
43 458.685 (1)(c), a financial institution as defined in ORS 178.300.

44 (4) "Individual development account" means a contract between an account holder and a
45 fiduciary organization, for the deposit of funds into a financial institution by the account holder, and

1 the deposit of matching funds into the financial institution by the fiduciary organization, to allow
 2 the account holder to accumulate assets for use toward achieving a specific purpose approved by
 3 the fiduciary organization.

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

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

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

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

15 **SECTION 30.** ORS 657.010 is amended to read:

16 657.010. As used in this chapter, unless the context requires otherwise:

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

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

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

26 (4) "Calendar quarter" means the period of three consecutive calendar months ending on March
 27 31, June 30, September 30 or December 31, or the approximate equivalent thereof, as the Director
 28 of the Employment Department may, by regulation, prescribe.

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (10) "Internal Revenue Code" means the federal Internal Revenue Code, as amended and in ef-
13 fect on December 31, [2018] **2020**.

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

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

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

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

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

29 **SECTION 31.** ORS 657B.010 is amended to read:

30 657B.010. As used in this chapter:

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

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

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

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

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

41 (6) "Child" means:

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

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

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

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

- 5 (a) An employer;
- 6 (b) An eligible employee;
- 7 (c) A self-employed individual;
- 8 (d) A tribal government; or
- 9 (e) An employee of a tribal government.

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

- 12 (a) An eligible employee;
- 13 (b) A self-employed individual; or
- 14 (c) An employee of a tribal government.

15 (9) "Domestic partner" means an individual joined in a domestic partnership.

16 (10) "Domestic partnership" has the meaning given that term in ORS 106.310.

17 (11) "Eligible employee" means:

- 18 (a)(A) An employee who has earned at least \$1,000 in wages during the base year; or
- 19 (B) If an employee has not earned at least \$1,000 in wages during the base year, an employee
 20 who has earned at least \$1,000 in wages during the alternate base year; and

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

22 (12) "Eligible employee's average weekly wage" means an amount calculated by the Director of
 23 the Employment Department by dividing the total wages earned by an eligible employee during the
 24 base year by the number of weeks in the base year.

25 (13)(a) "Employee" means:

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

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

29 (b) "Employee" does not include:

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

31 (B) A participant in a work training program administered under a state or federal assistance
 32 program.

33 (C) A participant in a work-study program that provides students in secondary or postsecondary
 34 educational institutions with employment opportunities for financial assistance or vocational train-
 35 ing.

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

37 (E) A volunteer.

38 (14)(a) "Employer" means any person that employs one or more employees working anywhere in
 39 this state or any agent or employee of such person to whom the duties of the person under this
 40 chapter have been delegated.

41 (b) "Employer" includes:

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

45 (B) An individual;

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

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

4 (E) A trustee, trustee in bankruptcy or receiver; or

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

6 (c) “Employer” does not include the federal government or a tribal government.

7 (15) “Employment agency” has the meaning given that term in ORS 658.005.

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

11 (17)(a) “Family leave” means leave from work taken by a covered individual:

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

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

15 (b) “Family leave” does not mean:

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

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

18 (C) Leave authorized under ORS 659A.093.

19 (18) “Family member” means:

20 (a) The spouse of a covered individual;

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

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

23 (d) A sibling or stepsibling of a covered individual or the sibling’s or stepsibling’s spouse or
24 domestic partner;

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

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

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

28 (h) Any individual related by blood or affinity whose close association with a covered individual
29 is the equivalent of a family relationship.

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

32 (20) “Parent” means:

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

34 (b) A person who was a foster parent of a covered individual when the covered individual was
35 a minor;

36 (c) A person designated as the legal guardian of a covered individual at the time the covered
37 individual was a minor or required a legal guardian;

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

39 (e) A parent of a covered individual’s spouse or domestic partner who meets a description under
40 paragraphs (a) to (d) of this subsection.

41 (21) “Safe leave” means leave taken for any purpose described in 659A.272.

42 (22) “Self-employed individual” means:

43 (a) An individual who has self-employment income as defined in section 1402(b) of the Internal
44 Revenue Code as amended and in effect on December 31, [2018] 2020; or

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

1 (23) "Serious health condition" has the meaning given that term in ORS 659A.150.

2 (24) "Third party administrator" means a third party that enters into an agreement with the
3 Director of the Employment Department to implement and administer the paid family and medical
4 leave program established under this chapter.

5 (25) "Tribal government" has the meaning given that term in ORS 181A.680.

6 (26) "Wages" has the meaning given that term in ORS 657.105.

7 **SECTION 32. (1) Except as provided in subsections (2) and (3) of this section, the**
8 **amendments to statutes by sections 1 to 31 of this 2021 Act apply to transactions or activities**
9 **occurring on or after January 1, 2021, in tax years beginning on or after January 1, 2021.**

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

16 (3)(a) **If a deficiency is assessed against any taxpayer for a tax year beginning before**
17 **January 1, 2021, and the deficiency or any portion thereof is attributable to any retroactive**
18 **treatment under the amendments to ORS 178.300, 305.230, 305.494, 305.690, 305.842, 314.011,**
19 **314.306, 315.004, 316.012, 316.013, 316.147, 316.157, 317.010, 317.018, 317.097 and 317A.100 by**
20 **sections 1 and 14 to 28 of this 2021 Act, then any interest or penalty assessed under ORS**
21 **chapter 305, 314, 315, 316, 317, 317A or 318 with respect to the deficiency or portion thereof**
22 **shall be canceled.**

23 (b) **If a refund is due any taxpayer for a tax year beginning before January 1, 2021, and**
24 **the refund or any portion thereof is due the taxpayer on account of any retroactive treat-**
25 **ment under the amendments to ORS 178.300, 305.230, 305.494, 305.690, 305.842, 314.011, 314.306,**
26 **315.004, 316.012, 316.013, 316.147, 316.157, 317.010, 317.018, 317.097 and 317A.100 by sections 1**
27 **and 14 to 28 of this 2021 Act, for a tax year beginning before January 1, 2021, then**
28 **notwithstanding ORS 305.270 or 314.415 or any other law, the refund or portion thereof shall**
29 **be paid without interest.**

30 (c) **Any changes required because of the amendments to ORS 178.300, 305.230, 305.494,**
31 **305.690, 305.842, 314.011, 314.306, 315.004, 316.012, 316.013, 316.147, 316.157, 317.010, 317.018,**
32 **317.097 and 317A.100 by sections 1 and 14 to 28 of this 2021 Act, for a tax year beginning be-**
33 **fore January 1, 2021, shall be made by filing an amended return within the time prescribed**
34 **by law.**

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

41 **SECTION 33. This 2021 Act takes effect on the 91st day after the date on which the 2021**
42 **regular session of the Eighty-first Legislative Assembly adjourns sine die.**

43