

Requested by Representative SANCHEZ

**PROPOSED AMENDMENTS TO
HOUSE BILL 3069**

1 In line 2 of the printed bill, after “health” insert “creating new pro-
2 visions; amending ORS 317A.100, 403.110, 403.115, 403.135, 403.200, 403.202,
3 403.205, 403.210, 403.215, 403.217, 403.225, 403.228, 403.230, 403.235, 403.240 and
4 759.685; prescribing an effective date; and providing for revenue raising that
5 requires approval by a three-fifths majority”.

6 Delete lines 4 through 12 and insert:

7 **“SECTION 1. As used in sections 1 to 3 of this 2021 Act:**

8 **“(1) ‘Coordinated care organization’ has the meaning given that**
9 **term in ORS 414.025.**

10 **“(2) ‘Crisis stabilization services’ include diagnosis, stabilization,**
11 **observation and follow-up referral services provided to individuals in**
12 **a community-based, developmentally appropriate home-like environ-**
13 **ment to the extent practicable.**

14 **“(3) ‘Mobile crisis intervention team’ means a team of qualified**
15 **mental health or behavioral health professionals and peer support**
16 **specialists that provide professional onsite interventions necessary to**
17 **stabilize an individual experiencing a mental health crisis or substance**
18 **use disorder and provide immediate services.**

19 **“(4) ‘Peer support specialist’ has the meaning given that term in**
20 **ORS 414.025.**

21 **“(5) ‘Veterans Crisis Line’ means the crisis hotline maintained by**

1 the United States Department of Veterans Affairs and the United
2 States Department of Health and Human Services.

3 **“SECTION 2. (1) The purpose of sections 1 to 3 of this 2021 Act is**
4 **to establish a statewide coordinated crisis services system:**

5 **“(a) To remove barriers to accessing quality mental health and be-**
6 **havioral health crisis services;**

7 **“(b) To improve equity in mental health and behavioral health**
8 **treatment and ensure culturally and linguistically appropriate re-**
9 **sponses to individuals experiencing mental health or behavioral health**
10 **crises, in recognition that, historically, crisis response services placed**
11 **marginalized communities at disproportionate risk of poor outcomes**
12 **and criminal justice involvement;**

13 **“(c) To ensure that all residents of this state receive a consistent**
14 **and effective level of 9-8-8, mental health and behavioral health crisis**
15 **services no matter where they live, work or travel in the state; and**

16 **“(d) To provide higher quality support for individuals experiencing**
17 **mental health or behavioral health crises by investing in:**

18 **“(A) New technology for a crisis call center system to triage calls**
19 **and link individuals to follow-up care.**

20 **“(B) The expansion of mobile crisis intervention teams.**

21 **“(C) A wide array of crisis stabilization services including:**

22 **“(i) Crisis stabilization centers;**

23 **“(ii) Short-term respite facilities;**

24 **“(iii) Peer-operated respite services; and**

25 **“(iv) Behavioral health urgent care walk-in centers that operate**
26 **like hospital emergency departments by accepting all walk-ins and**
27 **ambulance, fire and police drop-offs, as prescribed by the Oregon**
28 **Health Authority by rule.**

29 **“(2) The authority shall establish a crisis hotline center to receive**
30 **calls, texts and chats from the 9-8-8 suicide prevention and behavioral**

1 health crisis hotline and to provide crisis intervention services and
2 crisis care coordination anywhere in this state 24 hours a day, seven
3 days a week. The crisis hotline center shall:

4 “(a) Have an agreement to participate in the National Suicide Pre-
5 vention Lifeline network.

6 “(b) Meet National Suicide Prevention Lifeline requirements and
7 best practices guidelines for operational and clinical standards and any
8 additional clinical and operational standards prescribed by the au-
9 thority.

10 “(c) Record data, provide reports and participate in evaluations and
11 related quality improvement activities.

12 “(d) Utilize technologies, including chat and text applications, that
13 are interoperable between and across crisis and emergency response
14 systems used throughout this state, such as 9-1-1 and 2-1-1, and with
15 other centers in the National Suicide Prevention Lifeline network.

16 “(e) Establish policies and train staff on serving high-risk and spe-
17 cialized populations, including but not limited to lesbian, gay,
18 bisexual, transgender and queer youth, minorities, veterans and indi-
19 viduals who have served in the military, rural residents and individ-
20 uals with co-occurring disorders. Policies and training established
21 under this paragraph must include:

22 “(A) Policies and training on transferring calls made to the 9-8-8
23 suicide prevention and behavioral health crisis hotline to an appro-
24 priate specialized center within or external to the National Suicide
25 Prevention Lifeline network; and

26 “(B) Training on the provision of linguistically and culturally com-
27 petent care and follow-up services to individuals accessing the 9-8-8
28 suicide prevention and behavioral health crisis hotline consistent with
29 guidance and policies established by the National Suicide Prevention
30 Lifeline.

1 **“(3) The hotline staff shall:**

2 **“(a) Have access to real-time information regarding available men-**
3 **tal health and behavioral health crisis services including:**

4 **“(A) Crisis stabilization services available from coordinated care**
5 **organizations, including both primary care providers and mental**
6 **health and behavioral health providers; and**

7 **“(B) Available mental and behavioral health outpatient, residential**
8 **or inpatient treatment, such as crisis stabilization services, psychiatric**
9 **inpatient treatment, inpatient substance use disorder treatment, so-**
10 **bering centers, medication-assisted treatment, withdrawal manage-**
11 **ment and peer crisis respite services and both voluntary and**
12 **involuntary residential or inpatient treatment.**

13 **“(b) Assign and track local responses to calls to the 9-8-8 suicide**
14 **prevention and behavioral health crisis hotline.**

15 **“(c) To the greatest extent practicable, arrange same-day and**
16 **next-day outpatient appointments and follow-up appointments with**
17 **geographically, culturally and linguistically appropriate primary care**
18 **or mental health or behavioral health providers within the caller’s**
19 **provider network if insured, or, if uninsured, through the local com-**
20 **munity mental health program. If a same-day or next-day outpatient**
21 **appointment is unavailable, connect the caller to community-based**
22 **mental health or behavioral health services including peer-based ser-**
23 **vices.**

24 **“(d) Ensure follow-up services to individuals accessing the 9-8-8 su-**
25 **icide prevention and behavioral health crisis hotline consistent with**
26 **policies established by the authority based upon recognized best prac-**
27 **tices.**

28 **“(e) Rapidly deploy crisis stabilization service providers, including**
29 **mobile crisis intervention teams, and coordinate access to crisis sta-**
30 **bilization services or other local resources as appropriate and consist-**

1 ent with guidelines and best practices adopted by the National Suicide
2 Prevention Lifeline.

3 “(f) Actively collaborate, establishing formal agreements where ap-
4 propriate, with local law enforcement and first responders, 2-1-1 ser-
5 vice providers, 9-1-1 service providers, local coordinated care
6 organizations, local community mental health programs, acute inpa-
7 tient psychiatric facilities, certified community behavioral health
8 clinics, acute care hospitals, physical, mental and behavioral health
9 providers and other behavioral health programs and facilities to coor-
10 dinate linkages for persons contacting the 9-8-8 suicide prevention and
11 behavioral health crisis hotline who have ongoing care needs.

12 “(g) Coordinate access to crisis stabilization services for individuals
13 accessing the 9-8-8 suicide prevention and behavioral health crisis
14 hotline through appropriate information sharing regarding availability
15 of services.

16 “(4) Crisis stabilization services provided to individuals accessing
17 the 9-8-8 suicide prevention and behavioral health crisis hotline shall
18 be reimbursed by the authority if the individual receiving the services
19 is uninsured or the individual’s health insurance does not cover the
20 service. The authority shall develop appropriate coding of and payment
21 for crisis response services provided to individuals enrolled in the state
22 medical assistance program.

23 “(5) The authority shall adopt rules to allow appropriate informa-
24 tion sharing and communication across all crisis service providers as
25 necessary to carry out the requirements of this section and shall work
26 in concert with the National Suicide Prevention Lifeline and the Vet-
27 erans Crisis Line for the purposes of ensuring consistency of public
28 messaging about 9-8-8 services.

29 “(6) The authority shall annually report to Legislative Assembly, in
30 the manner provided in ORS 192.245, on the 9-8-8 suicide prevention

1 and behavioral health crisis hotline’s usage and the services provided
2 by the crisis hotline center. The report must include performance and
3 quality metrics and demographic information.

4 **“SECTION 3. (1) The Oregon Health Authority shall, in consultation**
5 **with local community mental health programs or authorities, require**
6 **that each community mental health program or authority provide**
7 **community-based rapid crisis response services for individuals con-**
8 **tacting the 9-8-8 suicide prevention and behavioral health crisis hotline**
9 **who need crisis stabilization services in the community by enhancing**
10 **and expanding the use of mobile crisis intervention teams.**

11 **“(2) A mobile crisis intervention team must:**

12 **“(a) Include mental health and behavioral health providers with**
13 **minimum credentials as prescribed by the authority by rule;**

14 **“(b) Collaborate with local law enforcement agencies;**

15 **“(c) Include police or emergency medical service providers as co-**
16 **responders only as needed to respond in high-risk situations that**
17 **cannot be managed without the aid of law enforcement or an emer-**
18 **gency medical service provider;**

19 **“(d) Provide services:**

20 **“(A) That are designed in partnership with community members,**
21 **including people with lived experience utilizing crisis services; and**

22 **“(B) Staffed by personnel that reflect the demographics of the**
23 **community served; and**

24 **“(e) Collect demographic data about individuals served, including**
25 **data on race and ethnicity, and performance and quality metrics,**
26 **consistent with recommendations by the Substance Abuse and Mental**
27 **Health Services Administration of the United States Department of**
28 **Health and Human Services, for continuous evaluation and quality**
29 **improvement.**

30 **“SECTION 4. (1) The 9-8-8 Fund is established in the State Treasury,**

1 separate and distinct from the General Fund. The 9-8-8 Fund consists
2 of distributions under ORS 403.200 (1)(b), appropriations made by the
3 Legislative Assembly and gifts, grants and donations to the fund from
4 public and private sources. Interest earned by the fund shall be
5 credited to the fund. Moneys in the fund are continuously appropriated
6 to the Oregon Health Authority for the purposes of carrying out
7 sections 1 to 3 of this 2021 Act, and for:

8 “(a) Developing and improving the statewide coordinated crisis
9 services system and infrastructure to support seamless operation of
10 the 9-8-8 system;

11 “(b) Ensuring the efficient and effective routing of calls made to the
12 9-8-8 suicide prevention and behavioral health crisis hotline to the
13 crisis hotline center, including staffing and technological
14 infrastructure enhancements necessary to achieve operational and
15 clinical standards and best practices set forth by the National Suicide
16 Prevention Lifeline and prescribed by the authority;

17 “(c) Hiring, training and employing personnel, including recruit-
18 ment of personnel that reflect the demographics of the communities
19 served, to assess and serve people experiencing mental health, sub-
20 stance use and suicidal crises, specialized training of staff to serve
21 at-risk communities, including culturally and linguistically competent
22 services for lesbian, gay, bisexual, transgender and queer communities
23 and racially, ethnically and linguistically diverse communities;

24 “(d) Providing acute mental and behavioral health, crisis outreach
25 and stabilization services;

26 “(e) Providing data and reports and participating in evaluations and
27 related quality improvement activities;

28 “(f) Coordinating with 9-1-1 and other systems, including service
29 providers;

30 “(g) Developing service enhancements or targeted responses to im-

1 **prove outcomes and address service gaps and needs;**

2 **“(h) Conducting campaigns to increase public awareness to ensure**
3 **that residents of this state are aware of the 9-8-8 service and the pur-**
4 **pose of the 9-8-8 service and to foster the use of 9-8-8 and the coordi-**
5 **nated crisis services system; and**

6 **“(i) The administration and oversight of the fund.**

7 **“(2) Moneys in the 9-8-8 Fund may not be used to supplant General**
8 **Fund appropriations for mental health or behavioral health services**
9 **or for covered services to individuals enrolled in state medical assist-**
10 **ance program.**

11 **“(3) The authority shall provide an annual report to the Legislative**
12 **Assembly, in the manner provided in ORS 192.245, on the revenue**
13 **generated by the 9-8-8 coordinated crisis services system tax that was**
14 **paid into the 9-8-8 Fund.**

15 **“(4) Moneys in the 9-8-8 Fund at the end of a biennium are retained**
16 **in the fund and do not revert to the General Fund and are not subject**
17 **to transfer to any other fund or to transfer, assignment or reassign-**
18 **ment for any other use or purpose other than carrying out sections 1**
19 **to 3 of this 2021 Act.**

20 **“SECTION 5. (1) The tax rate under ORS 403.200 (1)(b) for each**
21 **consumer or paying retail subscriber who has telecommunications**
22 **service or interconnected Voice over Internet Protocol service is:**

23 **“(a) \$_____ per line from October 1, 2021, through June 30, 2023.**

24 **“(b) \$_____ per line from July 1, 2023, through June 30, 2025.**

25 **“(c) \$_____ per line beginning July 1, 2025.**

26 **“(2) On March 1, 2026, and March 1 of each odd year thereafter, the**
27 **Oregon Health Authority shall revise the amount of the 9-8-8 coordi-**
28 **nated crisis services system tax imposed by ORS 403.200 (1)(b) for the**
29 **upcoming biennium using the fiscal growth factor. The 9-8-8 coordi-**
30 **nated crisis services system tax amount established on March 1 of**

1 each odd-numbered year shall be effective for the biennium beginning
2 July 1 of that year.

3 “(3) A local government may not impose a tax, fee or surcharge for
4 9-8-8 services.

5 “SECTION 6. The Oregon Health Authority may establish commit-
6 tees in accordance with ORS 430.075 or assign tasks to existing agen-
7 cies, boards or committees to accomplish the planning required for
8 implementation or ongoing oversight of sections 1 to 3 of this 2021 Act
9 in coordination with the crisis hotline center, the Office of Emergency
10 Management, local public health authorities, hospitals and health
11 systems, telecommunication providers and the National Suicide Pre-
12 vention Lifeline.

13 “SECTION 7. ORS 403.110 is amended to read:

14 “403.110. (1) A provider, [or] a 9-1-1 jurisdiction, a **9-8-8 coordinated**
15 **crisis services system** or the employees or agents of a provider, [or] a 9-1-1
16 jurisdiction **or a 9-8-8 coordinated crisis services system** may be held
17 civilly liable for the installation, performance, provision or maintenance of
18 a 9-1-1 emergency reporting system, [or] enhanced 9-1-1 telephone service **or**
19 **a 9-8-8 telephone service** if the provider, [or] the 9-1-1 jurisdiction, **the**
20 **9-8-8 coordinated crisis services system** or the employees or agents of the
21 provider, [or] the 9-1-1 jurisdiction **or 9-8-8 coordinated crisis services**
22 **system** act with willful or wanton conduct.

23 “(2) A provider or seller is not liable for damages that result from pro-
24 viding or failing to provide access to the emergency communications
25 system, **the 9-8-8 coordinated crisis services system** or from identifying
26 or failing to identify the telephone number, address, location or name asso-
27 ciated with any person or device accessing or attempting to access the
28 emergency communications system **or the 9-8-8 coordinated crisis services**
29 **system.**

30 “(3) This section does not affect any liability a 9-1-1 jurisdiction may have

1 for employee negligence in receiving emergency calls from the public and
2 dispatching emergency services to the public.

3 **“SECTION 8.** ORS 403.115 is amended to read:

4 “403.115. (1) The primary emergency telephone number within this state
5 is 9-1-1, but a public or private safety agency shall maintain both a separate
6 10-digit secondary emergency number for use by a telephone operator or
7 provider and a separate 10-digit nonemergency number.

8 “(2) Every public and private safety agency in this state shall participate
9 in the emergency communications system.

10 “(3) An emergency telephone number other than 9-1-1 may not be pub-
11 lished on the top three-quarters of the emergency listing page of a telephone
12 book. However, an alternative nonemergency telephone number for a 9-1-1
13 jurisdiction may be printed on the top three-quarters of the emergency listing
14 page of a telephone book. The publisher may use the remainder of the page
15 to list the Oregon Poison Center, Federal Bureau of Investigation, [*a desig-*
16 *nated mental health crises service*] **9-8-8 coordinated crisis services system**
17 and United States Coast Guard, where applicable. [*If there is more than one*
18 *mental health crises service in a jurisdiction, the local health department shall*
19 *decide which mental health crises service the publisher may list by using the*
20 *criteria of a 24-hour staffed service, nonprofit organization and non-9-1-1 par-*
21 *ticipating agency.*] The publisher shall refer to the community services sec-
22 tion for other numbers.

23 “(4) The emergency communications system must provide:

24 “(a) Interconnectivity between public safety answering points and
25 interconnectivity with providers of the same or similar emergency response
26 services nationally;

27 “(b) The capability, within each primary public safety answering point,
28 to receive all emergency calls placed locally within each 9-1-1 service area;
29 and

30 “(c) The automatic location identification accurately portraying the lo-

1 cation from which each emergency call originates.

2 **“SECTION 9.** ORS 403.135 is amended to read:

3 “403.135. (1) A provider may not block delivery or forwarding to a public
4 safety answering point of location **or a 9-8-8 coordinated crisis services**
5 **system** information, a call-back number or other identifying information
6 related to an emergency call.

7 “(2) Automatic number identifications received by public safety answering
8 points **and 9-8-8 coordinated crisis services system** are confidential and
9 are not subject to public disclosure unless and until an official report is
10 written by the public or private safety agency and that agency does not
11 withhold the telephone number under ORS 192.311 to 192.478 or other state
12 and federal laws. The official report of a public safety answering point **or**
13 **a 9-8-8 coordinated crisis services system** may not include nonpublished
14 or nonlisted telephone numbers. The official report of a public or private
15 safety agency may not include nonpublished or nonlisted telephone numbers.
16 Nonpublished or nonlisted telephone numbers are not otherwise subject to
17 public disclosure without the permission of the subscriber.

18 “(3) A provider is not subject to an action for civil damages for providing
19 in good faith confidential or nonpublic information, including nonpublished
20 and nonlisted subscriber information, to emergency **and 9-8-8** services pro-
21 viders who are:

22 “(a) Responding to an emergency call;

23 “(b) Responding to emergency situations that involve the risk of death
24 or serious physical harm to an individual, as provided in ORS 403.132; or

25 “(c) Notifying the public of an emergency.

26 “(4) Subsection (3) of this section does not compel a provider to provide
27 nonpublished and nonlisted subscriber information directly to emergency **or**
28 **9-8-8** services providers or law enforcement agencies prior to placement of
29 an emergency call without process of law.

30 “(5) Subscriber information acquired by a 9-1-1 jurisdiction **or the 9-8-8**

1 **coordinated crisis services system** for the purpose of providing emergency
2 communications services under ORS 403.105 to 403.250 **or coordinated crisis**
3 **services under sections 1 to 3 of this 2021 Act** is not subject to public
4 disclosure and may not be used by other public agencies except:

5 “(a) To respond to an emergency call;

6 “(b) To respond to an emergency situation that involves the risk of death
7 or serious physical harm to an individual, as provided in ORS 403.132; or

8 “(c) To notify the public of an emergency by utilizing an automated no-
9 tification system if a provider has provided subscriber information to the
10 9-1-1 jurisdiction or emergency services provider.

11 **“SECTION 10.** ORS 403.200, as amended by section 2, chapter 653, Oregon
12 Laws 2019, is amended to read:

13 “403.200. (1) There is imposed on each consumer or paying retail sub-
14 scriber who has telecommunications service or interconnected Voice over
15 Internet Protocol service, with access to the emergency communications
16 system [a]:

17 **“(a) An emergency communications system** tax equal to \$1.25 per
18 month or, for prepaid wireless telecommunications service, \$1.25 per retail
19 transaction; **and**

20 **“(b) A 9-8-8 coordinated crisis services system tax at the rate es-**
21 **tablished in section 5 of this 2021 Act.**

22 **“(2)** The [tax] **taxes** must be applied on a telecommunications circuit
23 designated for a particular consumer or subscriber. One consumer or sub-
24 scriber line must be counted for each circuit that is capable of generating
25 usage on the line side of the switched network regardless of the quantity or
26 ownership of customer premises equipment connected to each circuit. For
27 providers of central office based services, the [tax] **taxes** must be applied to
28 each line that has unrestricted connection to the switched network. Those
29 central office based service lines that have restricted connection to the
30 switched network must be charged based on software design in the central

1 office that restricts the number of station calls to and from the network. For
2 cellular, wireless or other common carriers, the *[tax applies]* **taxes apply** to
3 a subscriber on a per instrument basis and only if the subscriber's place of
4 primary use, as defined under 4 U.S.C. 124, is within this state.

5 “[2] (3) The consumer or subscriber is liable for the *[tax]* **taxes** imposed
6 by this section.

7 “[3] (4) The amounts of tax collected by the provider or seller are con-
8 sidered as payment by the consumer or subscriber for that amount of tax.

9 “[4] (5) The *[tax]* **taxes** imposed under this section, as *[it applies]* **they**
10 **apply** to prepaid wireless telecommunications service, shall be collected by
11 the seller from the consumer with respect to each retail transaction occur-
12 ring in this state. The amount of the *[tax]* **taxes** shall be separately stated
13 on an invoice, receipt or other similar document that the seller provides to
14 the consumer, or shall be otherwise disclosed to the consumer.

15 “[5] (6) For purposes of this section, a retail transaction:

16 “(a) Occurs in this state if it is made in person by a consumer at a busi-
17 ness location of the seller;

18 “(b) If not made in person by a consumer at a business location of the
19 seller, occurs in this state if the consumer's shipping address, payment in-
20 strument billing address, or other address provided by the consumer for
21 purposes of the transaction, is in this state; or

22 “(c) If insufficient information exists to determine whether paragraph (a)
23 or (b) of this subsection is accurate, occurs in this state if the consumer's
24 prepaid wireless telephone number is associated with an Oregon location.

25 “[6] (7) Any return made by the provider or seller collecting the *[tax]*
26 **taxes** must be accepted by the Department of Revenue as evidence of pay-
27 ments by the consumer or subscriber of amounts of *[tax]* **taxes** so indicated
28 upon the return.

29 **“SECTION 11.** ORS 403.202 is amended to read:

30 “403.202. (1) For the purpose of compensating sellers for expenses incurred

1 in collecting the [*tax*] **taxes** imposed under ORS 403.200, each seller is per-
2 mitted to deduct and retain two percent of the amount of taxes that are
3 collected by the seller from all retail transactions conducted by the seller in
4 this state.

5 “(2) Subsection (1) of this section applies to retail transactions made on
6 or after October 1, 2015, and before January 1, 2022.

7 **“SECTION 12.** ORS 403.205 is amended to read:

8 “403.205. The [*tax*] **taxes** imposed by ORS 403.200 [*does*] **do** not apply to:

9 “(1) Services that the state is prohibited from taxing under the Constitu-
10 tion or laws of the United States or the Constitution or laws of the State
11 of Oregon.

12 “(2) Interconnection between telecommunications utilities and competitive
13 access providers certified pursuant to ORS 759.020, common carriers and
14 interexchange carriers.

15 **“SECTION 13.** ORS 403.210 is amended to read:

16 “403.210. Every provider or seller responsible for the collection of the
17 [*tax*] **taxes** imposed by ORS 403.200 to 403.230 shall keep records, render
18 statements, make returns and comply with rules adopted by the Department
19 of Revenue with respect to the [*tax*] **taxes**. Whenever in the judgment of the
20 department it is necessary, the department may require the provider, seller,
21 consumer or subscriber, by notice served upon that person by first-class mail,
22 to make returns, render statements or keep records sufficient to show
23 whether there is tax liability under ORS 403.200 to 403.230.

24 **“SECTION 14.** ORS 403.215 is amended to read:

25 “403.215. (1) The provider or seller is responsible for collecting the [*tax*]
26 **taxes** under ORS 403.200 and shall file a return with the Department of
27 Revenue on or before the last day of the month following the end of each
28 calendar quarter, reporting the amount of tax due for access to the emer-
29 gency communications system **and the amount of tax due for the 9-8-8**
30 **coordinated crisis services system tax** during the quarter. The department

1 shall prescribe the form of the return required by this section and ORS
2 403.210. The rules of the department must require that returns be made under
3 penalties for false swearing.

4 **“(2) A provider or seller may elect to combine in one return the**
5 **taxes described in subsection (1) of this section that the provider or**
6 **seller collects from a subscriber or consumer. If the taxes are com-**
7 **bined:**

8 **“(a) The provider or seller shall identify the tax as the ‘State 911/988**
9 **Tax’ on the subscriber’s bill, consumer invoice, receipt or similar**
10 **document provided to the subscriber or consumer; and**

11 **“(b) Report to the department the respective amounts of each tax**
12 **collected.**

13 **“[(2)] (3) When a return of [the] a tax is required under ORS 403.210 or**
14 **subsection (1) of this section, the provider or seller required to make the**
15 **return shall remit the tax due to the department at the time fixed for filing**
16 **the return.**

17 **“[(3)] (4) A provider or seller described in subsection (1) of this section**
18 **may elect to pay the [tax] taxes based on either of the following:**

19 **“(a) The amount of tax actually collected during the quarter; or**

20 **“(b) The net amount of tax billed during the quarter. The net amount**
21 **billed equals the gross amount of tax billed less adjustments for uncollectible**
22 **accounts, refunds, incorrect billings and other appropriate adjustments.**

23 **“[(4)] (5) Once a provider or seller has made an election under subsection**
24 **[(3)] (4) of this section, the provider or seller may not change the method**
25 **of payment and reporting unless the provider or seller first obtains the per-**
26 **mission of the department.**

27 **“SECTION 15. ORS 403.217 is amended to read:**

28 **“403.217. Any consumer subject to the [tax] taxes imposed under ORS**
29 **403.200 and from whom the [tax has] taxes have not been collected shall,**
30 **on or before the 20th day of the month following the close of the calendar**

1 year in which the [*tax is*] **taxes are** due, file with the Department of Reve-
2 nue a report of the amount of tax due from the consumer in the preceding
3 tax year in the detail and form as prescribed by the department, submitting
4 with the report the amount of tax due.

5 **“SECTION 16.** ORS 403.225 is amended to read:

6 “403.225. (1) Every provider or seller required to collect the [*tax*] **taxes**
7 imposed by ORS 403.200 to 403.230 is deemed to hold the same in trust for
8 the State of Oregon and for the payment thereof to the Department of Rev-
9 enue in the manner and at the time provided by ORS 403.215.

10 “(2) If the provider or seller required to collect the [*tax*] **taxes** fails to
11 remit any amount deemed to be held in trust for the State of Oregon or if
12 the consumer or subscriber fails to pay the [*tax*] **taxes**, the department may
13 enforce collection by the issuance of a distraint warrant for the collection
14 of the delinquent amount and all penalties, interest and collection charges
15 accrued thereon. The warrant is issued and proceeded upon in the same
16 manner and has the same force and effect as is prescribed with respect to
17 warrants for the collection of delinquent income taxes.

18 **“SECTION 17.** ORS 403.228 is amended to read:

19 “403.228. The Department of Revenue shall establish by rule policies and
20 procedures for the administration of the provisions of ORS 403.200 to 403.230,
21 including policies and procedures for the collection of the [*tax*] **taxes** im-
22 posed under ORS 403.200 by providers required to collect the [*tax*] **taxes**
23 imposed on interconnected Voice over Internet Protocol service.

24 **“SECTION 18.** ORS 403.230 is amended to read:

25 “403.230. (1) Unless the context requires otherwise, the provisions of ORS
26 chapters 305, 314 and 316 as to the audit and examination of reports and
27 returns, determination of deficiencies, assessments, claims for refunds, pen-
28 alties, interest, jeopardy assessments, warrants, conferences and appeals to
29 the Oregon Tax Court, and procedures relating thereto, apply to ORS 403.200
30 to 403.230 the same as if the [*tax were a tax*] **taxes were** imposed upon or

1 measured by net income. The provisions apply to the consumer or subscriber
2 liable for the [tax] **taxes** and to the provider or seller required to collect the
3 [tax] **taxes**. As to any amount collected and required to be remitted to the
4 Department of Revenue, the [tax is] **taxes are** considered [a tax] **taxes** upon
5 the provider or seller required to collect the [tax] **taxes** and that provider
6 or seller is considered a taxpayer.

7 “(2) Notwithstanding ORS 314.835 and 314.840, the Department of Revenue
8 may disclose information received under ORS 403.200 to 403.230 to the Public
9 Utility Commission to carry out the provisions of chapter 290, Oregon Laws
10 1987.

11 “(3) The Public Utility Commission may disclose information obtained
12 pursuant to chapter 290, Oregon Laws 1987, to the Department of Revenue
13 to administer the [tax] **taxes** imposed under ORS 403.200 to 403.230.

14 **“SECTION 19.** ORS 403.235 is amended to read:

15 “403.235. (1) The Emergency Communications Account is established sep-
16 arate and distinct from the General Fund in the State Treasury. All moneys
17 received by the Department of Revenue pursuant to ORS 403.200 to 403.230
18 and interest thereon must be paid to the State Treasurer to be held in a
19 suspense account established under ORS 293.445. After payment of refunds
20 **and withholding of moneys necessary to reimburse the department for**
21 **the actual costs incurred by the department in administering the 9-8-8**
22 **coordinated crisis services system tax**, the balance of the moneys received
23 must be paid into the State Treasury and credited to the:

24 **“(a) Emergency Communications Account with respect to taxes paid**
25 **under ORS 403.200 (1)(a); and**

26 **“(b) The 9-8-8 Fund established in section 4 of this 2021 Act with**
27 **respect to taxes paid under ORS 403.200 (1)(b).**

28 **“(2) Interest earned by the Emergency Communications Account must**
29 **be credited to the 9-1-1 Subaccount established under subsection [(2)] (3) of**
30 **this section. All moneys in the Emergency Communications Account are**

1 continuously appropriated to the Office of Emergency Management and must
2 be used for the purposes described in ORS 403.240.

3 “[2] (3) The 9-1-1 Subaccount is established as a subaccount of the
4 Emergency Communications Account. Thirty-five percent of the amount in
5 the Emergency Communications Account on the date of distribution must be
6 credited to the 9-1-1 Subaccount. Interest earned by the subaccount must be
7 credited to the subaccount. All moneys in the subaccount are continuously
8 appropriated to the Office of Emergency Management and must be used for
9 the purposes described in ORS 403.240 (3), (4) and (5).

10 **“SECTION 20.** ORS 317A.100, as amended by section 1, chapter 2, Oregon
11 Laws 2020 (first special session), is amended to read:

12 “317A.100. As used in ORS 317A.100 to 317A.158:

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

14 “(A) The total amount realized by a person, arising from transactions and
15 activity in the regular course of the person’s trade or business, without de-
16 duction for expenses incurred by the trade or business;

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

18 “(i) If the reporting person for a financial institution is a holding com-
19 pany, all items of income reported on the FR Y-9 filed by the holding com-
20 pany;

21 “(ii) If the reporting person for a financial institution is a bank organ-
22 ization, all items of income reported on the call report filed by the bank or-
23 ganization; and

24 “(iii) If the reporting person for a financial institution is a nonbank fi-
25 nancial organization, all items of income reported in accordance with gen-
26 erally accepted accounting principles; and

27 “(C)(i) If received by an insurer, as reported on the statement of premiums
28 accompanying the annual statement required under ORS 731.574 to be filed
29 with the Director of the Department of Consumer and Business Services, all
30 gross direct life insurance premiums, gross direct accident and health insur-

1 ance premiums and gross direct property and casualty insurance premiums;
2 and

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

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

6 “(A) Interest income except:

7 “(i) Interest on credit sales; or

8 “(ii) Interest income, including service charges, received by financial in-
9 stitutions;

10 “(B) Receipts from the sale, exchange or other disposition of an asset
11 described in section 1221 or 1231 of the Internal Revenue Code, without re-
12 gard to the length of time the person held the asset;

13 “(C) If received by an insurer, federally reinsured premiums or income
14 from transactions between a reciprocal insurer and its attorney in fact op-
15 erating under ORS 731.142;

16 “(D) Receipts from hedging transactions, to the extent that the trans-
17 actions are entered into primarily to protect a financial position, including
18 transactions intended to manage the risk of exposure to foreign currency
19 fluctuations that affect assets, liabilities, profits, losses, equity or invest-
20 ments in foreign operations, risk of exposure to interest rate fluctuations or
21 risk of commodity price fluctuations;

22 “(E) Proceeds received attributable to the repayment, maturity or re-
23 demption of the principal of a loan, bond, mutual fund, certificate of deposit
24 or marketable instrument;

25 “(F) The principal amount received under a repurchase agreement or on
26 account of any transaction properly characterized as a loan to the person;

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

1 “(H) Compensation, whether current or deferred, and whether in cash or
2 in kind, received or to be received by an employee, a former employee or the
3 employee’s legal successor for services rendered to or for an employer, in-
4 cluding reimbursements received by or for an individual for medical or edu-
5 cation expenses, health insurance premiums or employee expenses or on
6 account of a dependent care spending account, legal services plan, any cafe-
7 teria plan described in section 125 of the Internal Revenue Code or any
8 similar employee reimbursement;

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

12 “(J) Proceeds received on the account of payments from insurance poli-
13 cies, including crop insurance policies, owned by the taxpayer, except those
14 proceeds received for the loss of commercial activity;

15 “(K) Gifts or charitable contributions received, membership dues received
16 by trade, professional, homeowners’ or condominium associations, payments
17 received for educational courses, meetings or meals, or similar payments to
18 a trade, professional or other similar association, and fundraising receipts
19 received by any person when any excess receipts are donated or used exclu-
20 sively for charitable purposes;

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

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

26 “(N) Tax refunds from any tax program, other tax benefit recoveries and
27 reimbursements for the tax imposed under ORS 317A.100 to 317A.158 made
28 by entities that are part of the same unitary group as provided under ORS
29 317A.106, and reimbursements made by entities that are not members of a
30 unitary group that are required to be made for economic parity among mul-

1 tiple owners of an entity whose tax obligation under ORS 317A.100 to
2 317A.158 is required to be reported and paid entirely by one owner, as pro-
3 vided in ORS 317A.106;

4 “(O) Pension reversions;

5 “(P) Contributions to capital;

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

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

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

22 “(T) In the case of receipts from the sale of marijuana items, as defined
23 in ORS 475B.015, by a person holding a license issued under ORS 475B.010
24 to 475B.545, an amount equal to the federal and state excise taxes paid by
25 any person on or for such marijuana items under subtitle E of the Internal
26 Revenue Code or ORS 475B.700 to 475B.760 and any local retail taxes au-
27 thorized under ORS 475B.491;

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

30 “(V) Tips or gratuities collected by a restaurant or other food establish-

1 ment and passed on to employees;

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

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

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

19 “(Z) In the case of amounts retained as commissions by a holder of a li-
20 cense under ORS chapter 462, an amount equal to the amounts specified un-
21 der ORS chapter 462 that must be paid to or collected by the Department of
22 Revenue as a tax and the amounts specified under ORS chapter 462 to be
23 used as purse money;

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

28 “(BB) Dividends received;

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

30 “(DD) Receipts from sales to a wholesaler in this state, if the seller re-

1 ceives certification at the time of sale from the wholesaler that the whole-
2 saler will sell the purchased property outside this state;

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

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

5 “(GG) Moneys, including public purpose charge moneys collected under
6 ORS 757.612 and costs of funding or implementing cost-effective energy con-
7 servation measures collected under ORS 757.689, that are collected from
8 customers, passed to a utility and approved by the Public Utility Commission
9 and that support energy conservation, renewable resource acquisition and
10 low-income assistance programs;

11 “(HH) Moneys collected by a utility from customers for the payment of
12 loans through on-bill financing;

13 “(II) Surcharges collected under ORS 757.736;

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

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

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

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

26 “(NN) Moneys collected for public purpose funding as described in ORS
27 759.430;

28 “(OO) Moneys collected or recovered and paid into the federal universal
29 service fund as determined by the Federal Communications Commission;

30 “(PP) In the case of a seller or provider of telecommunications services,

1 the [*amount of tax*] **amounts of taxes** imposed under ORS 403.200 for access
2 to the emergency communications system **and the coordinated crisis ser-**
3 **vices system** that [*is*] **are** collected from subscribers or consumers;

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

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

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

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

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

19 “(VV) Receipts from the sale of fluid milk by dairy farmers that are not
20 members of an agricultural cooperative.

21 “(2) ‘Cost inputs’ means:

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

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

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

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

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

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

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

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

12 “(e) Charitable risk pools described in section 501(n) of the Internal Rev-
13 enue Code.

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

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

17 “(h) Foreign or alien insurance companies, but only with respect to the
18 underwriting profit derived from writing wet marine and transportation in-
19 surance subject to tax under ORS 731.824 and 731.828.

20 “(i) Governmental entities.

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

24 “(k) Hospitals subject to assessment under ORS 414.855, long term care
25 facilities subject to assessment under ORS 409.801 or any entity subject to
26 assessment under ORS 414.880 or section 3 or 5, chapter 538, Oregon Laws
27 2017.

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

30 “(5) ‘Financial institution’ has the meaning given that term in ORS

1 314.610, except that ‘financial institution’ does not include a credit union.

2 “(6)(a) ‘FR Y-9’ means the consolidated or parent-only financial state-
3 ments that a holding company is required to file with the Federal Reserve
4 Board pursuant to 12 U.S.C. 1844.

5 “(b) In the case of a holding company required to file both consolidated
6 and parent-only financial statements, ‘FR Y-9’ means the consolidated finan-
7 cial statements that the holding company is required to file.

8 “(7) ‘Governmental entity’ means:

9 “(a) The United States and any of its unincorporated agencies and in-
10 strumentalities.

11 “(b) Any incorporated agency or instrumentality of the United States
12 wholly owned by the United States or by a corporation wholly owned by the
13 United States.

14 “(c) The State of Oregon and any of its unincorporated agencies and in-
15 strumentalities.

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

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

18 “(f) A federally recognized Indian tribe.

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

21 “(9)(a) ‘Hedging transaction’ means a hedging transaction as defined in
22 section 1221 of the Internal Revenue Code or a transaction accorded hedge
23 accounting treatment under Financial Accounting Standards Board State-
24 ment No. 133.

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

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

28 “(11) ‘Internal Revenue Code,’ except where the Legislative Assembly has
29 provided otherwise, refers to the laws of the United States or to the Internal
30 Revenue Code as they are amended and in effect on December 31, 2018.

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

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

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

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

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

10 “(A) Electricity; or

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

13 “(14) ‘Person’ includes individuals, combinations of individuals of any
14 form, receivers, assignees, trustees in bankruptcy, firms, companies, joint-
15 stock companies, business trusts, estates, partnerships, limited liability
16 partnerships, limited liability companies, associations, joint ventures, clubs,
17 societies, entities organized as for-profit corporations under ORS chapter 60,
18 C corporations, S corporations, qualified subchapter S subsidiaries, qualified
19 subchapter S trusts, trusts, entities that are disregarded for federal income
20 tax purposes and any other entities.

21 “(15) ‘Retailer’ means a person doing business by selling tangible personal
22 property to a purchaser for a purpose other than:

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

25 “(b) Incorporation by the purchaser of the property in the course of reg-
26 ular business as an ingredient or component of real or personal property; or

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

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

1 317A.119.

2 “(17)(a) ‘Taxpayer’ means any person or unitary group required to regis-
3 ter, file or pay tax under ORS 317A.100 to 317A.158.

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

7 “(18)(a) ‘Unitary business’ means a business enterprise in which there
8 exists directly or indirectly between the members or parts of the enterprise
9 a sharing or exchange of value as demonstrated by:

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

11 “(B) Centralized administrative services or functions resulting in econo-
12 mies of scale; or

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

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

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

19 “(B) Constitute steps in a vertically integrated process, such as the steps
20 involved in the production of natural resources, which might include explo-
21 ration, mining, refining and marketing.

22 “(19) ‘Unitary group’ means a group of persons with more than 50 percent
23 common ownership, either direct or indirect, that is engaged in business ac-
24 tivities that constitute a unitary business.

25 “(20) ‘Wholesaler’ means a person primarily doing business by merchant
26 distribution of tangible personal property to retailers or to other whole-
27 salers.

28 **“SECTION 21.** ORS 403.240, as amended by section 4, chapter 653, Oregon
29 Laws 2019, is amended to read:

30 “403.240. (1) The Office of Emergency Management shall distribute quar-

1 terly the entire amount of the moneys in the Emergency Communications
2 Account. The office shall pay the following amounts from the account:

3 “(a) Administrative costs incurred during the preceding calendar quarter
4 by the Department of Revenue in carrying out ORS 403.200 to 403.230 in an
5 amount that does not exceed six-tenths of one percent of the amount in the
6 account on the date of distribution, or actual expenses incurred by the de-
7 partment, whichever is less.

8 “(b) Administrative costs to be incurred during the calendar quarter by
9 the Office of Emergency Management in carrying out its duties under ORS
10 305.823 and 403.105 to 403.250. The amount to be paid under this paragraph
11 may not exceed 2.4 percent of the amount in the account on the date of dis-
12 tribution, and, on or before the next date of distribution, the office shall
13 repay to the account any amount received under this paragraph that exceeds
14 the actual expenses incurred by the office in the quarter.

15 “(2) The office may:

16 “(a) Provide funding for the Oregon Emergency Response System in an
17 amount that does not exceed 15 percent of the legislatively approved budget
18 for the Oregon Emergency Response System subject to availability of funds
19 within the limit for administrative costs in subsection (1)(b) of this section.

20 “(b) Prescribe the manner in which funding is provided to the Oregon
21 Emergency Response System under this subsection.

22 “(3) The office shall use funds in the 9-1-1 Subaccount to pay for costs
23 incurred during the preceding calendar quarter for emergency communi-
24 cations services provided by a 9-1-1 jurisdiction under ORS 403.105 to 403.250.
25 The office may not disburse funds in the 9-1-1 Subaccount to a 9-1-1 juris-
26 diction that does not have an approved 9-1-1 jurisdiction plan under ORS
27 403.130. The office shall make payments for costs of the emergency commu-
28 nications system on behalf of a 9-1-1 jurisdiction, or make reimbursement to
29 the 9-1-1 jurisdiction for such costs, only after a reimbursement or payment
30 request has been submitted to the office in the manner prescribed by the of-

1 fice. Reimbursement or payment requests for recurring and nonrecurring
2 charges necessary to enable the 9-1-1 jurisdiction to comply with ORS 403.105
3 to 403.250 must be submitted directly to the office. The costs reimbursable
4 or payable under this subsection are only those costs incurred for:

5 “(a) Modification of network routers or servers, central office switching
6 and trunking equipment or other transport equipment;

7 “(b) Network development, hosting services, operation and maintenance;

8 “(c) Database development, operation and maintenance;

9 “(d) On-premises equipment procurement, maintenance and replacement;

10 “(e) Conversion of pay station telephones required by ORS 403.140;

11 “(f) Collection of the **emergency communications system** tax imposed
12 by ORS [403.200 to 403.230] **403.200 (1)(a)**;

13 “(g) Addressing if the reimbursement or payment request is consistent
14 with rules adopted by the office; and

15 “(h) An employee of a 9-1-1 jurisdiction obtaining certification as a tele-
16 communicator or emergency medical dispatcher from the Department of
17 Public Safety Standards and Training under ORS 181A.560.

18 “(4) Subject to availability of funds, the office shall provide funding to
19 9-1-1 jurisdictions based on cost information provided in their final plan un-
20 der ORS 403.130. The office shall approve 9-1-1 jurisdiction plans that meet
21 the requirements set forth in ORS 403.115 (2) and (4). The office shall limit
22 funding for costs incurred prior to the preceding calendar quarter to charges
23 associated with database development, network and on-premises equipment
24 that satisfies the requirements of ORS 403.115 (2) and (4). The office shall
25 prescribe the manner in which funding is provided under this subsection.

26 “(5) 9-1-1 jurisdictions may use funds distributed to the jurisdiction from
27 an account or subaccount established in ORS 403.235 to repay loans from the
28 Special Public Works Fund if the loans were used for purposes that are al-
29 lowable under ORS 403.105 to 403.250.

30 “(6) The office shall retain amounts remaining in the 9-1-1 Subaccount and

1 may distribute the amounts in a subsequent quarter for those purposes set
2 forth in subsections (3), (4) and (5) of this section.

3 “(7) The office shall review reimbursement or payment requests for costs
4 identified in subsection (3) of this section, necessary to comply with ORS
5 403.105 to 403.250, for the appropriateness of the costs claimed. The office
6 shall approve or reject the reimbursement or payment requests.

7 “(8) After all amounts under subsections (1) and (2) of this section and
8 ORS 403.235 [(2)] (3) have been paid, the office shall allocate the balance of
9 the Emergency Communications Account to cities on a per capita basis and
10 to counties on a per capita basis of each county’s unincorporated area for
11 distribution directly to 9-1-1 jurisdictions as directed by the city or county.
12 However, each county must be credited a minimum of one percent of the
13 balance of the account after the amounts under subsections (1) and (2) of this
14 section and ORS 403.235 [(2)] (3) have been paid.

15 “(9) 9-1-1 jurisdictions shall submit an accounting report to the office
16 annually. The report must be provided in the manner prescribed by the office
17 and must include but not be limited to:

18 “(a) Funds received and expended under subsection (8) of this section for
19 the purposes of fulfilling the requirements of ORS 403.115;

20 “(b) Local funds received and expended for the purposes of fulfilling the
21 requirements of ORS 403.115; and

22 “(c) Local funds received and expended for the purposes of providing
23 emergency communications services.

24 “**SECTION 22.** ORS 759.685 is amended to read:

25 “759.685. (1)(a) In order to fund the programs provided in sections 2 to 6,
26 chapter 290, Oregon Laws 1987, and ORS 759.693 to 759.698, the Public Utility
27 Commission shall develop and implement a system for assessing a surcharge
28 in an amount not to exceed 35 cents per month against each paying retail
29 subscriber who has telecommunications service, or who has interconnected
30 voice over internet protocol service, with access to a telecommunications

1 relay service. The commission shall apply the surcharge on a telecommuni-
2 cations circuit designated for a particular subscriber. One subscriber line
3 must be counted for each circuit that is capable of generating usage on the
4 line side of the switched network regardless of the quantity of customer
5 premises equipment connected to each circuit. For providers of central office
6 based services, the surcharge must be applied to each line that has unre-
7 stricted connection to the telecommunications relay service or, for lines that
8 have restricted access to the telecommunications relay service, on the basis
9 of software design. For cellular, wireless or other radio common carriers,
10 the surcharge must be applied on a per instrument basis and only to sub-
11 scribers whose place of primary use, as defined and determined under 4
12 U.S.C. 116 to 126, is within this state.

13 “(b) For purposes of this subsection, the commission shall adopt by rule
14 the definition for ‘interconnected voice over internet protocol service.’ The
15 rule defining ‘interconnected voice over internet protocol service’ must be
16 consistent with the definition for ‘interconnected VoIP service’ in 47 C.F.R.
17 9.3.

18 “(2) The surcharge imposed by subsection (1) of this section does not ap-
19 ply to:

20 “(a) Services upon which the state is prohibited from imposing the sur-
21 charge by the Constitution or laws of the United States or the Constitution
22 or laws of the State of Oregon.

23 “(b) Interconnection between telecommunications utilities, telecommuni-
24 cations cooperatives, competitive telecommunications services providers cer-
25 tified under ORS 759.020, radio common carriers and interexchange carriers.

26 “(3) The commission annually shall review the surcharge and the balance
27 in the Residential Service Protection Fund established under ORS 759.687
28 and may make adjustments to the amount of the surcharge to ensure that the
29 fund has adequate resources, provided that the fund balance does not exceed
30 six months of projected expenses.

1 “(4) Moneys collected pursuant to the surcharge may not be considered
2 in any proceeding to establish rates for telecommunication service.

3 “(5) The commission shall direct telecommunications public utilities to
4 identify separately in bills to customers for service the surcharge imposed
5 under this section.

6 “(6) Notwithstanding ORS 314.835 and 314.840, the Department of Revenue
7 may disclose information received under ORS 403.200 to 403.230 to the com-
8 mission to carry out the provisions of chapter 290, Oregon Laws 1987.

9 “(7) The commission may disclose information obtained pursuant to
10 chapter 290, Oregon Laws 1987, to the department to administer the [tax]
11 **taxes** imposed under ORS 403.200 to 403.230.

12 “**SECTION 23.** ORS 759.685, as amended by section 3, chapter 434, Oregon
13 Laws 2017, is amended to read:

14 “759.685. (1)(a) In order to fund the program described in ORS 759.693 to
15 759.698, the Public Utility Commission shall develop and implement a system
16 for assessing a surcharge in an amount not to exceed 35 cents per month
17 against each paying retail subscriber who has telecommunications service,
18 or who has interconnected voice over internet protocol service, with access
19 to a telecommunications relay service. The commission shall apply the sur-
20 charge on a telecommunications circuit designated for a particular sub-
21 scriber. One subscriber line must be counted for each circuit that is capable
22 of generating usage on the line side of the switched network regardless of
23 the quantity of customer premises equipment connected to each circuit. For
24 providers of central office based services, the surcharge must be applied to
25 each line that has unrestricted connection to the telecommunications relay
26 service or, for lines that have restricted access to the telecommunications
27 relay service, on the basis of software design. For cellular, wireless or other
28 radio common carriers, the surcharge must be applied on a per instrument
29 basis and only to subscribers whose place of primary use, as defined and
30 determined under 4 U.S.C. 116 to 126, is within this state.

1 “(b) For purposes of this subsection, the commission shall adopt by rule
2 the definition for ‘interconnected voice over internet protocol service.’ The
3 rule defining ‘interconnected voice over internet protocol service’ must be
4 consistent with the definition for ‘interconnected VoIP service’ in 47 C.F.R.
5 9.3.

6 “(2) The surcharge imposed by subsection (1) of this section does not ap-
7 ply to:

8 “(a) Services upon which the state is prohibited from imposing the sur-
9 charge by the Constitution or laws of the United States or the Constitution
10 or laws of the State of Oregon.

11 “(b) Interconnection between telecommunications utilities, telecommuni-
12 cations cooperatives, competitive telecommunications services providers cer-
13 tified under ORS 759.020, radio common carriers and interexchange carriers.

14 “(3) The commission annually shall review the surcharge and the balance
15 in the Residential Service Protection Fund established under ORS 759.687
16 and may make adjustments to the amount of the surcharge to ensure that the
17 fund has adequate resources, provided that the fund balance does not exceed
18 six months of projected expenses.

19 “(4) Moneys collected pursuant to the surcharge may not be considered
20 in any proceeding to establish rates for telecommunication service.

21 “(5) The commission shall direct telecommunications public utilities to
22 identify separately in bills to customers for service the surcharge imposed
23 under this section.

24 “(6) Notwithstanding ORS 314.835 and 314.840, the Department of Revenue
25 may disclose information received under ORS 403.200 to 403.230 to the com-
26 mission to carry out the provisions of ORS 759.693 to 759.698.

27 “(7) The commission may disclose information obtained pursuant to ORS
28 759.693 to 759.698 to the department to administer the [tax] taxes imposed
29 under ORS 403.200 to 403.230.

30 **“SECTION 24. (1) Sections 1 to 3 of this 2021 Act become operative**

1 on July 16, 2022.

2 “(2) The Oregon Health Authority shall take all steps necessary
3 before the operative date specified in subsection (1) of this section to
4 enable the authority to carry out, on and after the operative date
5 specified in subsection (1) of this section, the provisions of sections 1
6 to 3 of this 2021 Act.

7 “SECTION 25. This 2021 Act takes effect on the 91st day after the
8 date on which the 2021 regular session of the Eighty-first Legislative
9 Assembly adjourns sine die.”.

10 _____