

Corrected Title

House Bill 2757

Sponsored by Representatives SANCHEZ, NOSSE; Representatives EVANS, GAMBA, HARTMAN, HELM, HIEB, HOLVEY, HUDSON, MCLAIN, NELSON, OWENS, REYNOLDS, RUIZ, Senators DEMBROW, GOLDEN, JAMA, LIEBER, PATTERSON, PROZANSKI, SOLLMAN (Presession filed.)

SUMMARY

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

Expands and provides funding for coordinated crisis services system including 9-8-8 suicide prevention and behavioral health crisis hotline. Imposes unspecified tax on consumers and retail subscribers who have telecommunications service or interconnected Voice over Internet Protocol service and who have prepaid telecommunications services, to pay for crisis services system.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to crisis services; creating new provisions; amending ORS 317A.100, 403.200, 403.202,
3 403.205, 403.210, 403.215, 403.217, 403.225, 403.228, 403.230, 403.235, 403.240, 430.627, 430.628,
4 430.629 and 759.685; prescribing an effective date; and providing for revenue raising that re-
5 quires approval by a three-fifths majority.

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

7 **SECTION 1. (1) The 9-8-8 Trust Fund is established in the State Treasury, separate and**
8 **distinct from the General Fund. Interest earned by the fund shall be credited to the fund.**

9 **The 9-8-8 Trust Fund consists of:**

10 (a) **Revenues from the 9-8-8 coordinated crisis services system tax imposed under ORS**
11 **403.200 (1)(b);**

12 (b) **Appropriations made by the Legislative Assembly;**

13 (c) **Federal funds allocated to this state to implement the 9-8-8 suicide prevention and**
14 **behavioral health crisis system;**

15 (d) **Gifts, grants and donations to the fund from public and private sources; and**

16 (e) **Moneys deposited to the fund from other sources.**

17 (2) **Moneys in the 9-8-8 Trust Fund are continuously appropriated to the Oregon Health**
18 **Authority for the purposes specified in ORS 430.627 and 430.628.**

19 (3) **In accordance with 47 U.S.C. 251a, moneys in the fund shall be sequestered and may**
20 **be obligated or expended only for the purposes specified in ORS 430.627 and 430.628.**

21 (4) **Moneys in the 9-8-8 Trust Fund at the end of a biennium are retained in the fund and**
22 **do not revert to the General Fund and are not subject to transfer to any other fund or to**
23 **transfer, assignment or reassignment for any other use or purpose other than the purposes**
24 **specified in ORS 430.627 and 430.628.**

25 (5) **Moneys in the fund may not be used to displace available funding for services de-**
26 **scribed in ORS 430.627 and 430.628 by Medicaid, Medicare, federal or state-regulated health**
27 **insurance, disability insurance or local government programs or other federal, state or local**

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 **funds for suicide prevention or behavioral health crisis services.**

2 **(6) The authority shall provide an annual report of deposits to and expenditures from the**
 3 **fund to the Legislative Assembly and to the Federal Communications Commission.**

4 **SECTION 2. (1) The tax rate under ORS 403.200 (1)(b) is:**

5 **(a) For each consumer or paying retail subscriber who has telecommunications service**
 6 **or interconnected Voice over Internet Protocol service, \$0.50 per line; and**

7 **(b) For prepaid wireless telecommunications services, \$0.50 per retail transaction.**

8 **(2) The Oregon Health Authority shall provide an annual report on the revenue generated**
 9 **by the fees imposed under ORS 403.200 (1)(b) to the Legislative Assembly and the Federal**
 10 **Communications Commission.**

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

12 **SECTION 3.** ORS 430.627 is amended to read:

13 430.627. (1) The purposes of ORS 430.626 to 430.628 are to build upon and improve the statewide
 14 coordinated crisis system in this state and to:

15 (a) Remove barriers to accessing quality behavioral health crisis services;

16 (b) Improve equity in behavioral health treatment and ensure culturally, linguistically and de-
 17 velopmentally appropriate responses to individuals experiencing behavioral health crises, in recog-
 18 nition that, historically, crisis response services placed marginalized communities at
 19 disproportionate risk of poor outcomes and criminal justice involvement;

20 (c) Ensure that all residents of this state receive a consistent and effective level of behavioral
 21 health crisis services no matter where they live, work or travel in the state; and

22 (d) Provide increased access to quality community behavioral health services to prevent inter-
 23 actions with the criminal justice system and prevent hospitalizations[, *if appropriate, by investing*
 24 *in.*].

25 **(2) Moneys from the 9-8-8 Trust Fund established in section 1 of this 2023 Act shall be**
 26 **used as follows:**

27 **(a) Revenues from the 9-8-8 coordinated crisis services system tax that are deposited to**
 28 **the fund shall be used only for:**

29 (A) *[New technology for a]* **The crisis call center system [to triage calls and link individuals to**
 30 **follow-up care] and crisis hotline center described in subsections (4) and (5) of this section; and**

31 **(B) To the extent that the crisis call center system and crisis hotline center are fully**
 32 **funded, the expansion and ongoing funding of mobile crisis intervention teams[; and].**

33 **(b) Moneys other than revenues from the 9-8-8 coordinated crisis services system tax**
 34 **that are deposited to the fund shall be used for:**

35 *[(C)]* **(A) A wide array of crisis stabilization services, including services provided by:**

36 (i) Crisis stabilization centers;

37 (ii) Facilities offering short-term respite services;

38 (iii) Peer respite centers; **and**

39 (iv) Behavioral health urgent care walk-in centers; and

40 *[(v) A crisis hotline center to receive calls, texts and chats from individuals or other crisis hotlines*
 41 *to provide crisis intervention services and crisis care coordination anywhere in this state 24 hours per*
 42 *day, seven days per week, 365 days per year]*

43 **(B) Community mental health program provision of crisis stabilization services or fund-**
 44 **ing to cities to establish and maintain one or more mobile crisis intervention teams under**
 45 **ORS 430.628.**

1 [(2)] (3) The Oregon Health Authority shall adopt by rule requirements for crisis stabilization
 2 centers that, at a minimum, require a center to:

3 (a) Be designed to prevent or ameliorate a behavioral health crisis or reduce acute symptoms
 4 of mental illness or substance use disorder, for individuals who do not require inpatient treatment,
 5 by providing continuous 24-hour observation and supervision;

6 (b) Be staffed 24 hours per day, seven days per week, 365 days per year by a multidisciplinary
 7 team capable of meeting the needs of individuals in the community experiencing all levels of crisis,
 8 that may include, but is not limited to:

9 (A) Psychiatrists or psychiatric nurse practitioners;

10 (B) Nurses;

11 (C) Licensed or credentialed clinicians in the region where the crisis stabilization center is lo-
 12 cated who are capable of completing assessments; and

13 (D) Peers with lived experiences similar to the experiences of the individuals served by the
 14 center;

15 (c) Have a policy prohibiting rejecting patients brought in or referred by first responders, and
 16 have the capacity, at least 90 percent of the time, to accept all referrals;

17 (d) Have services to address substance use crisis issues;

18 (e) Have the capacity to assess physical health needs and provide needed care and a procedure
 19 for transferring an individual, if necessary, to a setting that can meet the individual's physical
 20 health needs if the facility is unable to provide the level of care required;

21 (f) Offer walk-in and first responder drop-off options;

22 (g) Screen for suicide risk and complete comprehensive suicide risk assessments and planning
 23 when clinically indicated;

24 (h) Screen for violence risk and complete more comprehensive violence risk assessments and
 25 planning when clinically indicated; and

26 (i) Meet other requirements prescribed by the authority.

27 [(3)] (4) The authority shall *establish*:

28 (a) **Implement, maintain and improve the 9-8-8 suicide prevention and behavioral health**
 29 **crisis hotline and ensure the efficient and effective routing of calls, including staffing and**
 30 **technological infrastructure enhancements necessary to achieve operational and clinical**
 31 **standards and best practices set forth by the National Suicide Prevention Lifeline and pre-**
 32 **scribed by the authority; and**

33 (b) **Maintain** a crisis hotline center to receive calls, texts and chats from the 9-8-8 suicide pre-
 34 vention and behavioral health crisis hotline and to provide crisis intervention services and crisis
 35 care coordination anywhere in this state 24 hours per day, seven days per week. The crisis hotline
 36 center shall:

37 [(a)] (A) Have an agreement to participate in the National Suicide Prevention Lifeline network.

38 [(b)] (B) Meet National Suicide Prevention Lifeline requirements and best practices guidelines
 39 for operational and clinical standards and any additional clinical and operational standards pre-
 40 scribed by the authority.

41 [(c)] (C) Record data, provide reports and participate in evaluations and related quality im-
 42 provement activities.

43 [(d)] (D) Establish formal agreements to collaborate with other agencies to ensure safe, inte-
 44 grated care for people in crisis who reach out to the 9-8-8 suicide prevention and behavioral health
 45 crisis hotline.

1 [(e)] (E) Contact and coordinate with the local community mental health programs for rapid
2 deployment of a local mobile crisis intervention team and follow-up services as needed.

3 [(f)] (F) Utilize technologies, including chat and text applications, to provide a no-wrong-door
4 approach for individuals seeking help from the crisis hotline and ensure collaboration among crisis
5 and emergency response systems used throughout this state, such as 9-1-1 and 2-1-1, and with other
6 centers in the National Suicide Prevention Lifeline network.

7 [(g)] (G) Establish policies and train staff on serving high-risk and specialized populations, in-
8 cluding but not limited to lesbian, gay, bisexual, transgender and queer youth, minorities, veterans
9 and individuals who have served in the military, rural residents [and], individuals with co-occurring
10 disorders, **and other racially and ethnically diverse communities**. Policies and training estab-
11 lished under this [paragraph] **subparagraph** must include:

12 [(A)] (i) Policies and training on transferring calls made to the 9-8-8 suicide prevention and be-
13 havioral health crisis hotline to an appropriate specialized center within or external to the National
14 Suicide Prevention Lifeline network; and

15 [(B)] (ii) Training on providing linguistically and culturally competent care and follow-up ser-
16 vices to individuals accessing the 9-8-8 suicide prevention and behavioral health crisis hotline con-
17 sistent with guidance and policies established by the National Suicide Prevention Lifeline.

18 [(4)] (5) The staff of the crisis hotline center described in subsection [(3)] (4) of this section
19 **must include individuals who reflect the demographics of the communities served and** shall:

20 (a) Have access to the most recently reported information regarding available mental health and
21 behavioral health crisis services.

22 (b) Track and maintain data regarding responses to calls, texts and chats to the 9-8-8 suicide
23 prevention and behavioral health crisis hotline.

24 (c) Work to resolve crises with the least invasive intervention possible.

25 (d) Connect callers whose crisis is de-escalated or otherwise managed by hotline staff with ap-
26 propriate follow-on services and undertake follow-up contact with the caller when appropriate.

27 [(5)] (6) Crisis stabilization services provided to individuals accessing the 9-8-8 suicide pre-
28 vention and behavioral health crisis hotline shall be reimbursed by the authority, coordinated care
29 organizations or commercial insurance, depending on the individual's insurance status.

30 [(6)] (7) The authority shall adopt rules to allow appropriate information sharing and communi-
31 cation across all crisis service providers as necessary to carry out the requirements of this section
32 and shall work in concert with the National Suicide Prevention Lifeline and the Veterans Crisis
33 Line for the purposes of ensuring consistency of public messaging about 9-8-8 suicide prevention and
34 behavioral health crisis hotline services.

35 **SECTION 4.** ORS 430.628 is amended to read:

36 430.628. (1) In consultation with local community mental health programs, the Oregon Health
37 Authority shall[, *to the extent funding is available,*] require each community mental health program
38 to provide crisis stabilization services to individuals contacting the 9-8-8 suicide prevention and be-
39 havioral health crisis hotline who need crisis stabilization services in the community by enhancing
40 and expanding the use of mobile crisis intervention teams.

41 (2) A city may request funding from a county to establish and maintain one or more mobile crisis
42 intervention teams.

43 (3) Mobile crisis intervention teams must operate in compliance with rules adopted by the au-
44 thority.

45 **SECTION 5.** ORS 430.629 is amended to read:

1 430.629. The Oregon Health Authority *[may]* **shall** establish *[committees]* **an advisory commit-**
 2 **tee** in accordance with ORS 430.075 or assign tasks to existing agencies, boards or committees to
 3 *[accomplish the planning required for]* **provide primary oversight and direction on the** implemen-
 4 **tation** *[or ongoing oversight of]* **and operation of the statewide coordinated crisis system de-**
 5 **scribed in** ORS 430.626 to 430.628 **and to provide guidance to the authority, gather feedback**
 6 **and make recommendations regarding the planning and implementation of the 9-8-8 suicide**
 7 **prevention and behavioral health crisis hotline. The advisory committee must include but is**
 8 **not limited to** *[in coordination with]:*

9 (1) **Representatives of** the crisis hotline center established under ORS 430.627 *[(3)]* **(4) and**
 10 **9-1-1 call centers**, the Oregon Department of Emergency Management, local public health and
 11 mental health authorities, hospitals and health systems, coordinated care organizations, as defined
 12 in ORS 414.025, telecommunication providers, **law enforcement** and the National Suicide Pre-
 13 **vention Lifeline Local Mental Health Authority***[,]; and*

14 (2) Certified peer support specialists, as defined in ORS 414.025, *[9-1-1, law enforcement,]* indi-
 15 **viduals with lived experiences in mental illness or substance use disorder and their family mem-**
 16 **bers and caregivers**, consumers of behavioral health services, including youth and families, and
 17 other stakeholders identified by the authority.

18 **SECTION 6.** ORS 403.200 is amended to read:

19 403.200. (1) There is imposed on each consumer or paying retail subscriber who has telecom-
 20 **munications service or interconnected Voice over Internet Protocol service, with access to the**
 21 **emergency communications system** *[a]:*

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

24 (b) **A 9-8-8 coordinated crisis services system tax at the rates established in section 2 of**
 25 **this 2023 Act.**

26 (2) The *[tax]* **taxes** must be applied on a telecommunications circuit designated for a particular
 27 consumer or subscriber. One consumer or subscriber line must be counted for each circuit that is
 28 capable of generating usage on the line side of the switched network regardless of the quantity or
 29 ownership of customer premises equipment connected to each circuit. For providers of central office
 30 based services, the *[tax]* **taxes** must be applied to each line that has unrestricted connection to the
 31 switched network. Those central office based service lines that have restricted connection to the
 32 switched network must be charged based on software design in the central office that restricts the
 33 number of station calls to and from the network. For cellular, wireless or other common carriers,
 34 the *[tax applies]* **taxes apply** to a subscriber on a per instrument basis and only if the subscriber's
 35 place of primary use, as defined under 4 U.S.C. 124, is within this state.

36 *[(2)]* (3) The consumer or subscriber is liable for the *[tax]* **taxes** imposed by this section.

37 *[(3)]* (4) The amounts of tax collected by the provider or seller are considered as payment by the
 38 consumer or subscriber for that amount of tax.

39 *[(4)]* (5) The *[tax]* **taxes** imposed under this section, as *[it applies]* **they apply** to prepaid wireless
 40 telecommunications service, shall be collected by the seller from the consumer with respect to each
 41 retail transaction occurring in this state. The amount of the *[tax]* **taxes** shall be separately stated
 42 on an invoice, receipt or other similar document that the seller provides to the consumer, or shall
 43 be otherwise disclosed to the consumer.

44 *[(5)]* (6) For purposes of this section, a retail transaction:

45 (a) Occurs in this state if it is made in person by a consumer at a business location of the seller;

1 (b) If not made in person by a consumer at a business location of the seller, occurs in this state
 2 if the consumer's shipping address, payment instrument billing address, or other address provided
 3 by the consumer for purposes of the transaction, is in this state; or

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

7 [(6)] (7) Any return made by the provider or seller collecting the [tax] taxes must be accepted
 8 by the Department of Revenue as evidence of payments by the consumer or subscriber of amounts
 9 of tax so indicated upon the return.

10 **SECTION 7.** ORS 403.202 is amended to read:

11 403.202. (1) For the purpose of compensating sellers for expenses incurred in collecting the
 12 [tax] taxes imposed under ORS 403.200, each seller is permitted to deduct and retain two percent
 13 of the amount of taxes that are collected by the seller from all retail transactions conducted by the
 14 seller in this state.

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

17 **SECTION 8.** ORS 403.205 is amended to read:

18 403.205. The [tax] taxes imposed by ORS 403.200 [does] do not apply to:

19 (1) Services that the state is prohibited from taxing under the Constitution or laws of the United
 20 States or the Constitution or laws of the State of Oregon.

21 (2) Interconnection between telecommunications utilities and competitive access providers cer-
 22 tified pursuant to ORS 759.020, common carriers and interexchange carriers.

23 **SECTION 9.** ORS 403.210 is amended to read:

24 403.210. Every provider or seller responsible for the collection of the [tax] taxes imposed by
 25 ORS 403.200 to 403.230 shall keep records, render statements, make returns and comply with rules
 26 adopted by the Department of Revenue with respect to the [tax] taxes. Whenever in the judgment
 27 of the department it is necessary, the department may require the provider, seller, consumer or
 28 subscriber, by notice served upon that person by first-class mail, to make returns, render statements
 29 or keep records sufficient to show whether there is tax liability under ORS 403.200 to 403.230.

30 **SECTION 10.** ORS 403.215 is amended to read:

31 403.215. (1) The provider or seller is responsible for collecting the [tax] taxes under ORS 403.200
 32 and shall file a return with the Department of Revenue on or before the last day of the month fol-
 33 lowing the end of each calendar quarter, reporting the amount of tax due for access to the emer-
 34 gency communications system **and the amount of tax due for the 9-8-8 coordinated crisis**
 35 **services system tax** during the quarter. The department shall prescribe the form of the return re-
 36 quired by this section and ORS 403.210. The rules of the department must require that returns be
 37 made under penalties for false swearing.

38 (2) When a return of [the] a tax is required under ORS 403.210 or subsection (1) of this section,
 39 the provider or seller required to make the return shall remit the tax due to the department at the
 40 time fixed for filing the return.

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

43 (a) The amount of tax actually collected during the quarter; or

44 (b) The net amount of tax billed during the quarter. The net amount billed equals the gross
 45 amount of tax billed less adjustments for uncollectible accounts, refunds, incorrect billings and other

1 appropriate adjustments.

2 (4) Once a provider or seller has made an election under subsection (3) of this section, the pro-
3 vider or seller may not change the method of payment and reporting unless the provider or seller
4 first obtains the permission of the department.

5 **SECTION 11.** ORS 403.217 is amended to read:

6 403.217. Any consumer subject to the [*tax*] **taxes** imposed under ORS 403.200 and from whom the
7 [*tax has*] **taxes have** not been collected shall, on or before the 20th day of the month following the
8 close of the calendar year in which the [*tax is*] **taxes are** due, file with the Department of Revenue
9 a report of the amount of tax due from the consumer in the preceding tax year in the detail and form
10 as prescribed by the department, submitting with the report the amount of tax due.

11 **SECTION 12.** ORS 403.225 is amended to read:

12 403.225. (1) Every provider or seller required to collect the [*tax*] **taxes** imposed by ORS 403.200
13 to 403.230 is deemed to hold the same in trust for the State of Oregon and for the payment thereof
14 to the Department of Revenue in the manner and at the time provided by ORS 403.215.

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

21 (3)(a) In the case of a provider or seller that is assessed pursuant to the provisions of ORS
22 305.265 (12) and 314.407 (1), the department may issue a notice of liability to any officer, employee
23 or member of the provider or seller within three years from the time of assessment. Within 30 days
24 from the date the notice of liability is mailed to the officer, employee or member, the officer, em-
25 ployee or member shall pay the assessment, plus penalties and interest, or advise the department in
26 writing of objections to the liability and, if desired, request a conference. Any conference shall be
27 governed by the provisions of ORS 305.265 pertaining to a conference requested from a notice of
28 deficiency.

29 (b) After a conference or, if no conference is requested, a determination of the issues considering
30 the written objections, the department shall mail the officer, employee or member a conference let-
31 ter affirming, canceling or adjusting the notice of liability. Within 90 days from the date the con-
32 ference letter is mailed to the officer, employee or member, the officer, employee or member shall
33 pay the assessment, plus penalties and interest, or appeal to the tax court in the manner provided
34 for an appeal from a notice of assessment.

35 (c) If neither payment nor written objection to the notice of liability is received by the depart-
36 ment within 30 days after the notice of liability has been mailed, the notice of liability becomes final.
37 In this event, the officer, employee or member may appeal the notice of liability to the tax court
38 within 90 days after it became final in the manner provided for an appeal from a notice of assess-
39 ment.

40 (4)(a) In the case of a failure to file a return on the due date, governed by the provisions of ORS
41 305.265 (10) and 314.400, the department, in addition to the provisions of ORS 305.265 (10) and
42 314.400, may send notices of determination and assessment to any officer, employee or member any
43 time within three years after the assessment. The time of assessment against the officer, employee
44 or member shall be 30 days after the date the notice of determination and assessment is mailed.
45 Within 30 days from the date the notice of determination and assessment is mailed to the officer,

1 employee or member, the officer, employee or member shall pay the assessment, plus penalties and
2 interest, or advise the department in writing of objections to the assessment and, if desired, request
3 a conference. Any conference shall be governed by the provisions of ORS 305.265 pertaining to a
4 conference requested from a notice of deficiency.

5 (b) After a conference or, if no conference is requested, a determination of the issues considering
6 the written objections, the department shall mail the officer, employee or member a conference let-
7 ter affirming, canceling or adjusting the notice of determination and assessment. Within 90 days
8 from the date the conference letter is mailed to the officer, employee or member, the officer, em-
9 ployee or member shall pay the assessment, plus penalties and interest, or appeal in the manner
10 provided for an appeal from a notice of assessment.

11 (c) If neither payment nor written objection to the notice of determination and assessment is
12 received by the department within 30 days after the notice of determination and assessment has
13 been mailed, the notice of determination and assessment becomes final. In this event, the officer,
14 employee or member may appeal the notice of determination and assessment to the tax court within
15 90 days after it became final in the manner provided for an appeal from a notice of assessment.

16 (5)(a) More than one officer, employee or member of a provider or seller may be held jointly and
17 severally liable for payment of taxes.

18 (b) Notwithstanding the provisions of ORS 314.835, 314.840 or 314.991, if more than one officer,
19 employee or member of a provider or seller may be held jointly and severally liable for payment of
20 taxes, the department may require any or all of the officers, employees or members who may be held
21 liable to appear before the department for a joint determination of liability. The department shall
22 notify each officer, employee or member of the time and place set for the determination of liability.

23 (c) Each person notified of a joint determination under this subsection shall appear and present
24 any information as is necessary to establish that person's liability or nonliability for payment of
25 taxes to the department. If any person notified fails to appear, the department shall make its de-
26 termination on the basis of all the information and evidence presented. The department's determi-
27 nation shall be binding on all persons notified and required to appear under this subsection.

28 (d)(A) If an appeal is taken to the Oregon Tax Court pursuant to ORS 305.404 to 305.560 by any
29 person determined to be liable for unpaid taxes under this subsection, each person required to ap-
30 pear before the department under this subsection shall be impleaded by the plaintiff. The department
31 may implead any officer, employee or member who may be held jointly and severally liable for the
32 payment of taxes. Each person impleaded under this paragraph shall be made a party to the action
33 before the tax court and shall make available to the tax court any information as was presented
34 before the department, as well as any other information as may be presented to the court.

35 (B) The court may determine that one or more persons impleaded under this paragraph are lia-
36 ble for unpaid taxes without regard to any earlier determination by the department that an
37 impleaded person was not liable for unpaid taxes.

38 (C) If any person required to appear before the court under this subsection fails or refuses to
39 appear or bring such information in part or in whole, or is outside the jurisdiction of the tax court,
40 the court shall make its determination on the basis of all the evidence introduced. All such evidence
41 shall constitute a public record and shall be available to the parties and the court notwithstanding
42 ORS 314.835, 314.840 or 314.991. The determination of the tax court shall be binding on all persons
43 made parties to the action under this subsection.

44 (e) This section may not be construed to preclude a determination by the department or the
45 Oregon Tax Court that more than one officer, employee or member are jointly and severally liable

1 for unpaid taxes.

2 **SECTION 13.** ORS 403.228 is amended to read:

3 403.228. The Department of Revenue shall establish by rule policies and procedures for the ad-
 4 ministration of the provisions of ORS 403.200 to 403.230, including policies and procedures for the
 5 collection of the [tax] **taxes** imposed under ORS 403.200 by providers required to collect the [tax]
 6 **taxes** imposed on interconnected Voice over Internet Protocol service.

7 **SECTION 14.** ORS 403.230 is amended to read:

8 403.230. (1) Unless the context requires otherwise, the provisions of ORS chapters 305, 314 and
 9 316 as to the audit and examination of reports and returns, determination of deficiencies, assess-
 10 ments, claims for refunds, penalties, interest, jeopardy assessments, warrants, conferences and ap-
 11 peals to the Oregon Tax Court, and procedures relating thereto, apply to ORS 403.200 to 403.230 the
 12 same as if the [tax were a tax] **taxes were** imposed upon or measured by net income. The provisions
 13 apply to the consumer or subscriber liable for the [tax] **taxes** and to the provider or seller required
 14 to collect the [tax] **taxes**. As to any amount collected and required to be remitted to the Department
 15 of Revenue, the [tax is] **taxes are** considered [a tax] **taxes** upon the provider or seller required to
 16 collect the [tax] **taxes** and that provider or seller is considered a taxpayer.

17 (2) Notwithstanding ORS 314.835 and 314.840, the Department of Revenue may disclose infor-
 18 mation received under ORS 403.200 to 403.230 to the Public Utility Commission to carry out the
 19 provisions of chapter 290, Oregon Laws 1987.

20 (3) The Public Utility Commission may disclose information obtained pursuant to chapter 290,
 21 Oregon Laws 1987, to the Department of Revenue to administer the [tax] **taxes** imposed under ORS
 22 403.200 to 403.230.

23 **SECTION 15.** ORS 403.235 is amended to read:

24 403.235. (1) The Emergency Communications Account is established in the State Treasury, sep-
 25 arate and distinct from the General Fund. All moneys received by the Department of Revenue pur-
 26 suant to ORS 403.200 to 403.230 and interest thereon must be paid to the State Treasurer to be held
 27 in a suspense account established under ORS 293.445. After payment of refunds, the balance of the
 28 moneys received must be paid into the State Treasury and credited to the:

29 (a) Emergency Communications Account **with respect to taxes paid under ORS 403.200 (1)(a);**
 30 **and**

31 (b) **The 9-8-8 Trust Fund established in section 1 of this 2023 Act with respect to taxes**
 32 **paid under ORS 403.200 (1)(b).**

33 (2) Interest earned by the **Emergency Communications** Account must be credited to the 9-1-1
 34 Subaccount established under subsection [(2)] (3) of this section. All moneys in the Emergency
 35 Communications Account are continuously appropriated to the Oregon Department of Emergency
 36 Management and must be used for the purposes described in ORS 403.240.

37 [(2)] (3) The 9-1-1 Subaccount is established as a subaccount of the Emergency Communications
 38 Account. Thirty-five percent of the amount in the Emergency Communications Account on the date
 39 of distribution must be credited to the 9-1-1 Subaccount. Interest earned by the subaccount must be
 40 credited to the subaccount. All moneys in the subaccount are continuously appropriated to the
 41 Oregon Department of Emergency Management and must be used for the purposes described in ORS
 42 403.240 (3), (4) and (5).

43 **SECTION 16.** ORS 403.240 is amended to read:

44 403.240. (1) The Oregon Department of Emergency Management shall distribute quarterly the
 45 entire amount of the moneys in the Emergency Communications Account. The department shall pay

1 the following amounts from the account:

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

6 (b) Administrative costs to be incurred during the calendar quarter by the Oregon Department
7 of Emergency Management in carrying out its duties under ORS 305.823 and 403.105 to 403.250. The
8 amount to be paid under this paragraph may not exceed 2.4 percent of the amount in the account
9 on the date of distribution, and, on or before the next date of distribution, the department shall re-
10 pay to the account any amount received under this paragraph that exceeds the actual expenses in-
11 curred by the department in the quarter.

12 (2) The department may:

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

17 (b) Prescribe the manner in which funding is provided to the Oregon Emergency Response Sys-
18 tem under this subsection.

19 (3) The department shall use funds in the 9-1-1 Subaccount to pay for costs incurred during the
20 preceding calendar quarter for emergency communications services provided by a 9-1-1 jurisdiction
21 under ORS 403.105 to 403.250. The department may not disburse funds in the 9-1-1 Subaccount to a
22 9-1-1 jurisdiction that does not have an approved 9-1-1 jurisdiction plan under ORS 403.130. The
23 department shall make payments for costs of the emergency communications system on behalf of a
24 9-1-1 jurisdiction, or make reimbursement to the 9-1-1 jurisdiction for such costs, only after a re-
25 imbursement or payment request has been submitted to the department in the manner prescribed
26 by the department. Reimbursement or payment requests for recurring and nonrecurring charges
27 necessary to enable the 9-1-1 jurisdiction to comply with ORS 403.105 to 403.250 must be submitted
28 directly to the department. The costs reimbursable or payable under this subsection are only those
29 costs incurred for:

30 (a) Modification of network routers or servers, central office switching and trunking equipment
31 or other transport equipment;

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

33 (c) Database development, operation and maintenance;

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

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

36 (f) Collection of the **emergency communications system** tax imposed by ORS [403.200 to
37 403.230] **403.200 (1)(a)**;

38 (g) Addressing if the reimbursement or payment request is consistent with rules adopted by the
39 department; and

40 (h) An employee of a 9-1-1 jurisdiction obtaining certification as a telecommunicator or emer-
41 gency medical dispatcher from the Department of Public Safety Standards and Training under ORS
42 181A.560.

43 (4) Subject to availability of funds, the Oregon Department of Emergency Management shall
44 provide funding to 9-1-1 jurisdictions based on cost information provided in their final plan under
45 ORS 403.130. The department shall approve 9-1-1 jurisdiction plans that meet the requirements set

1 forth in ORS 403.115 (2) and (4). The department shall limit funding for costs incurred prior to the
 2 preceding calendar quarter to charges associated with database development, network and on-
 3 premises equipment that satisfies the requirements of ORS 403.115 (2) and (4). The department shall
 4 prescribe the manner in which funding is provided under this subsection.

5 (5) 9-1-1 jurisdictions may use funds distributed to the jurisdiction from an account or subac-
 6 count established in ORS 403.235 to repay loans from the Special Public Works Fund if the loans
 7 were used for purposes that are allowable under ORS 403.105 to 403.250.

8 (6) The department shall retain amounts remaining in the 9-1-1 Subaccount and may distribute
 9 the amounts in a subsequent quarter for those purposes set forth in subsections (3), (4) and (5) of
 10 this section.

11 (7) The department shall review reimbursement or payment requests for costs identified in sub-
 12 section (3) of this section, necessary to comply with ORS 403.105 to 403.250, for the appropriateness
 13 of the costs claimed. The department shall approve or reject the reimbursement or payment requests.

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

20 (9) 9-1-1 jurisdictions shall submit an accounting report to the department annually. The report
 21 must be provided in the manner prescribed by the department and must include but not be limited
 22 to:

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

25 (b) Local funds received and expended for the purposes of fulfilling the requirements of ORS
 26 403.115; and

27 (c) Local funds received and expended for the purposes of providing emergency communications
 28 services.

29 **SECTION 17.** ORS 317A.100, as amended by section 5, chapter 82, Oregon Laws 2022, and sec-
 30 tion 26, chapter 83, Oregon Laws 2022, is amended to read:

31 317A.100. As used in ORS 317A.100 to 317A.158:

32 (1)(a) “Commercial activity” means:

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

36 (B) If received by a financial institution:

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

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

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

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

1 health insurance premiums and gross direct property and casualty insurance premiums; and

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

4 (b) "Commercial activity" does not include:

5 (A) Interest income except:

6 (i) Interest on credit sales; or

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

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

10 (C) If received by an insurer, federally reinsured premiums or income from transactions between
11 a reciprocal insurer and its attorney in fact operating under ORS 731.142;

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

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

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

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

24 (H) Compensation, whether current or deferred, and whether in cash or in kind, received or to
25 be received by an employee, a former employee or the employee's legal successor for services ren-
26 dered to or for an employer, including reimbursements received by or for an individual for medical
27 or education expenses, health insurance premiums or employee expenses or on account of a de-
28 pendent care spending account, legal services plan, any cafeteria plan described in section 125 of
29 the Internal Revenue Code or any similar employee reimbursement;

30 (I) Proceeds received from the issuance of the taxpayer's own stock, options, warrants, puts or
31 calls, or from the sale of the taxpayer's treasury stock;

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

35 (K) Gifts or charitable contributions received, membership dues received by trade, professional,
36 homeowners' or condominium associations, payments received for educational courses, meetings or
37 meals, or similar payments to a trade, professional or other similar association, and fundraising re-
38 cepts received by any person when any excess receipts are donated or used exclusively for chari-
39 table purposes;

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

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

44 (N) Tax refunds from any tax program, other tax benefit recoveries and reimbursements for the
45 tax imposed under ORS 317A.100 to 317A.158 made by entities that are part of the same unitary

1 group as provided under ORS 317A.106, and reimbursements made by entities that are not members
2 of a unitary group that are required to be made for economic parity among multiple owners of an
3 entity whose tax obligation under ORS 317A.100 to 317A.158 is required to be reported and paid
4 entirely by one owner, as provided in ORS 317A.106;

5 (O) Pension reversions;

6 (P) Contributions to capital;

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

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

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

19 (T) In the case of receipts from the sale of marijuana items, as defined in ORS 475C.009, by a
20 person holding a license issued under ORS 475C.005 to 475C.525, an amount equal to the federal and
21 state excise taxes paid by any person on or for such marijuana items under subtitle E of the Internal
22 Revenue Code or ORS 475C.670 to 475C.734 and any local retail taxes authorized under ORS
23 475C.453;

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

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

28 (W) Receipts realized by a vehicle dealer certified under ORS 822.020 or a person described in
29 ORS 320.400 (8)(a)(B) from the sale or other transfer of a motor vehicle, as defined in ORS 801.360,
30 to another vehicle dealer for the purpose of resale by the transferee vehicle dealer, but only if the
31 sale or other transfer was based upon the transferee's need to meet a specific customer's preference
32 for a motor vehicle or is an exchange of new vehicles between franchised motor vehicle dealerships;

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

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

42 (Z) In the case of amounts retained as commissions by a holder of a license under ORS chapter
43 462, an amount equal to the amounts specified under ORS chapter 462 that must be paid to or col-
44 lected by the Department of Revenue as a tax and the amounts specified under ORS chapter 462 to
45 be used as purse money;

1 (AA) Receipts of residential care facilities as defined in ORS 443.400 or in-home care agencies
2 as defined in ORS 443.305, to the extent that the receipts are derived from or received as compen-
3 sation for providing services to a medical assistance or Medicare recipient;

4 (BB) Dividends received;

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

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

9 (EE) Receipts from the wholesale or retail sale of groceries, including receipts of a person that
10 owns groceries at the time of sale and compensation of any consignee engaged in effecting the sale
11 of groceries on behalf the owner of the groceries, but only to the extent that the compensation re-
12 lates to grocery sales;

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

14 (GG) Moneys, including public purpose charge moneys collected under ORS 757.612 and moneys
15 collected to plan for and pursue cost-effective energy efficiency resources under ORS 757.054, that
16 are collected from customers, passed to a utility and approved by the Public Utility Commission and
17 that support energy conservation, renewable resource acquisition and low-income assistance pro-
18 grams;

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

21 (II) Surcharges collected under ORS 757.736;

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

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

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

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

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

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

36 (PP) In the case of a seller or provider of telecommunications services, the [*amount of tax*]
37 **amounts of taxes** imposed under ORS 403.200 for access to the emergency communications system
38 **and the coordinated crisis services system** that [*is*] **are** collected from subscribers or consumers;

39 (QQ) In the case of a transient lodging tax collector, the amount of tax imposed under ORS
40 320.305 and of any local transient lodging tax imposed upon the occupancy of transit lodging;

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

43 (SS) In the case of a qualified heavy equipment provider, the amount of tax imposed under ORS
44 307.872 upon the rental price of heavy equipment;

45 (TT) Farmer sales to an agricultural cooperative in this state that is a cooperative organization

1 described in section 1381 of the Internal Revenue Code;

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

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

8 (2) “Cost inputs” means:

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

11 (b) In the case of a taxpayer that is engaged in a farming operation, as defined in ORS 317A.102,
 12 and that does not report cost of goods sold for federal tax purposes, the taxpayer’s operating ex-
 13 penses excluding labor costs.

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

16 (4) “Excluded person” means any of the following:

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

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

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

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

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

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

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

27 (h) Foreign or alien insurance companies, but only with respect to the underwriting profit de-
 28 rived from writing wet marine and transportation insurance subject to tax under ORS 731.824 and
 29 731.828 or if an insurance company is subject to the retaliatory tax under ORS 731.854 and 731.859.

30 (i) Governmental entities.

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

34 (k) Hospitals subject to assessment under ORS 414.855, long term care facilities subject to as-
 35 sessment under ORS 409.801 or any entity subject to assessment under ORS 414.880 or section 3 or
 36 5, chapter 538, Oregon Laws 2017.

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

38 (5) “Financial institution” has the meaning given that term in ORS 314.610, except that “finan-
 39 cial institution” does not include a credit union.

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

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

45 (7) “Governmental entity” means:

- 1 (a) The United States and any of its unincorporated agencies and instrumentalities.
- 2 (b) Any incorporated agency or instrumentality of the United States wholly owned by the United
3 States or by a corporation wholly owned by the United States.
- 4 (c) The State of Oregon and any of its unincorporated agencies and instrumentalities.
- 5 (d) Any county, city, district or other political subdivision of the state.
- 6 (e) A special government body as defined in ORS 174.117.
- 7 (f) A federally recognized Indian tribe.
- 8 (8) "Groceries" means food as defined in 7 U.S.C. 2012(k), but does not include cannabinoid
9 edibles or marijuana seeds.
- 10 (9)(a) "Hedging transaction" means a hedging transaction as defined in section 1221 of the
11 Internal Revenue Code or a transaction accorded hedge accounting treatment under Financial Ac-
12 counting Standards Board Statement No. 133.
- 13 (b) "Hedging transaction" does not include a transaction in which an actual transfer of title of
14 real or tangible property to another entity occurs.
- 15 (10) "Insurer" has the meaning given that term in ORS 317.010.
- 16 (11) "Internal Revenue Code," except where the Legislative Assembly has provided otherwise,
17 refers to the laws of the United States or to the Internal Revenue Code as they are amended and
18 in effect on December 31, 2021.
- 19 (12) "Labor costs" means total compensation of all employees, not to include compensation paid
20 to any single employee in excess of \$500,000.
- 21 (13)(a) "Motor vehicle fuel or any other product used for the propulsion of motor vehicles"
22 means:
- 23 (A) Motor vehicle fuel as defined in ORS 319.010; and
- 24 (B) Fuel the use of which in a motor vehicle is subject to taxation under ORS 319.530.
- 25 (b) "Motor vehicle fuel or any other product used for the propulsion of motor vehicles" does not
26 mean:
- 27 (A) Electricity; or
- 28 (B) Electric batteries or any other mechanical or physical component or accessory of a motor
29 vehicle.
- 30 (14) "Person" includes individuals, combinations of individuals of any form, receivers, assignees,
31 trustees in bankruptcy, firms, companies, joint-stock companies, business trusts, estates, partner-
32 ships, limited liability partnerships, limited liability companies, associations, joint ventures, clubs,
33 societies, entities organized as for-profit corporations under ORS chapter 60, C corporations, S cor-
34 porations, qualified subchapter S subsidiaries, qualified subchapter S trusts, trusts, entities that are
35 disregarded for federal income tax purposes and any other entities.
- 36 (15) "Retailer" means a person doing business by selling tangible personal property to a pur-
37 chaser for a purpose other than:
- 38 (a) Resale by the purchaser of the property as tangible personal property in the regular course
39 of business;
- 40 (b) Incorporation by the purchaser of the property in the course of regular business as an in-
41 gredient or component of real or personal property; or
- 42 (c) Consumption by the purchaser of the property in the production for sale of a new article of
43 tangible personal property.
- 44 (16) "Taxable commercial activity" means commercial activity sourced to this state under ORS
45 317A.128, less any subtraction pursuant to ORS 317A.119.

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

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

5 (18) "Tax year" means, except as otherwise provided in ORS 317A.103, a taxpayer's annual ac-
6 counting period used for federal income tax purposes under section 441 of the Internal Revenue
7 Code.

8 (19)(a) "Unitary business" means a business enterprise in which there exists directly or indi-
9 rectly between the members or parts of the enterprise a sharing or exchange of value as demon-
10 strated by:

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

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

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

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

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

16 or

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

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

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

23 **SECTION 18.** ORS 759.685 is amended to read:

24 759.685. (1)(a) In order to fund the programs provided in sections 2 to 6, chapter 290, Oregon
25 Laws 1987, and ORS 759.693 to 759.698, the Public Utility Commission shall develop and implement
26 a system for assessing a surcharge in an amount not to exceed 35 cents per month against each
27 paying retail subscriber who has telecommunications service, or who has interconnected voice over
28 internet protocol service, with access to a telecommunications relay service. The commission shall
29 apply the surcharge on a telecommunications circuit designated for a particular subscriber. One
30 subscriber line must be counted for each circuit that is capable of generating usage on the line side
31 of the switched network regardless of the quantity of customer premises equipment connected to
32 each circuit. For providers of central office based services, the surcharge must be applied to each
33 line that has unrestricted connection to the telecommunications relay service or, for lines that have
34 restricted access to the telecommunications relay service, on the basis of software design. For cel-
35 lular, wireless or other radio common carriers, the surcharge must be applied on a per instrument
36 basis and only to subscribers whose place of primary use, as defined and determined under 4 U.S.C.
37 116 to 126, is within this state.

38 (b) For purposes of this subsection, the commission shall adopt by rule the definition for
39 "interconnected voice over internet protocol service." The rule defining "interconnected voice over
40 internet protocol service" must be consistent with the definition for "interconnected VoIP service"
41 in 47 C.F.R. 9.3.

42 (2) The surcharge imposed by subsection (1) of this section does not apply to:

43 (a) Services upon which the state is prohibited from imposing the surcharge by the Constitution
44 or laws of the United States or the Constitution or laws of the State of Oregon.

45 (b) Interconnection between telecommunications utilities, telecommunications cooperatives,

1 competitive telecommunications services providers certified under ORS 759.020, radio common car-
 2 riers and interexchange carriers.

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

7 (4) Moneys collected pursuant to the surcharge may not be considered in any proceeding to es-
 8 tablish rates for telecommunication service.

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

11 (6) Notwithstanding ORS 314.835 and 314.840, the Department of Revenue may disclose infor-
 12 mation received under ORS 403.200 to 403.230 to the commission to carry out the provisions of
 13 chapter 290, Oregon Laws 1987.

14 (7) The commission may disclose information obtained pursuant to chapter 290, Oregon Laws
 15 1987, to the department to administer the *[tax]* **taxes** imposed under ORS 403.200 to 403.230.

16 **SECTION 19.** ORS 759.685, as amended by section 3, chapter 434, Oregon Laws 2017, is
 17 amended to read:

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

31 (b) For purposes of this subsection, the commission shall adopt by rule the definition for
 32 “interconnected voice over internet protocol service.” The rule defining “interconnected voice over
 33 internet protocol service” must be consistent with the definition for “interconnected VoIP service”
 34 in 47 C.F.R. 9.3.

35 (2) The surcharge imposed by subsection (1) of this section does not apply to:

36 (a) Services upon which the state is prohibited from imposing the surcharge by the Constitution
 37 or laws of the United States or the Constitution or laws of the State of Oregon.

38 (b) Interconnection between telecommunications utilities, telecommunications cooperatives,
 39 competitive telecommunications services providers certified under ORS 759.020, radio common car-
 40 riers and interexchange carriers.

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

45 (4) Moneys collected pursuant to the surcharge may not be considered in any proceeding to es-

1 tablish rates for telecommunication service.

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

4 (6) Notwithstanding ORS 314.835 and 314.840, the Department of Revenue may disclose infor-
5 mation received under ORS 403.200 to 403.230 to the commission to carry out the provisions of ORS
6 759.693 to 759.698.

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

9 **SECTION 20. This 2023 Act takes effect on the 91st day after the date on which the 2023**
10 **regular session of the Eighty-second Legislative Assembly adjourns sine die.**

11