

DRAFT

SUMMARY

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

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

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

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

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

SECTION 1. ORS 178.300 is amended to read:

178.300. As used in ORS 178.300 to 178.360:

(1) “Account” means an individual account established in accordance with ORS 178.300 to 178.360.

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

1 (3) “Board” means the Oregon 529 Savings Board established under ORS
2 178.310.

3 (4) “Designated beneficiary” means, except as provided in ORS 178.350,
4 the individual designated at the time the account is opened as having the
5 right to receive a qualified withdrawal for the payment of qualified higher
6 education expenses, or if the designated beneficiary is replaced in accordance
7 with ORS 178.350, the replacement.

8 (5) “Financial institution” means a bank, a commercial bank, a national
9 bank, a savings bank, a savings and loan, a thrift institution, a credit union,
10 an insurance company, a trust company, a mutual fund, an investment firm
11 or other similar entity authorized to do business in this state.

12 (6) “Higher education institution” means an eligible education institution
13 as defined in section 529(e)(5) of the Internal Revenue Code.

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

16 (8) “Member of the family” shall have the same meaning as contained in
17 section 529(e) of the Internal Revenue Code.

18 (9) “Network” means the Oregon 529 Savings Network established under
19 ORS 178.305.

20 (10) “Nonqualified withdrawal” means a withdrawal from an account that
21 is not a qualified withdrawal.

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

30 (12) “Qualified withdrawal” means a withdrawal made as prescribed under
31 ORS 178.355 and made:

1 (a) From an account to pay the qualified higher education expenses of the
2 designated beneficiary;

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

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

8 (d) As a rollover or change in the designated beneficiary described in ORS
9 178.350.

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

11 238.395. (1)(a) In addition to any other benefits under this chapter, a death
12 benefit, provided by contributions of the public employer under ORS 238.225
13 and, for benefits that accrue on or after July 1, 2020, amounts in the em-
14 ployee pension stability account established for the member under ORS
15 238A.353, shall be paid to the beneficiaries designated under ORS 238.390 (1)
16 of a person who is an active or inactive member of the Public Employees
17 Retirement System and who dies as a result of injuries received while em-
18 ployed in the service of the public employer or within 120 days after termi-
19 nation from service with a participating public employer. A member who is
20 on a leave of absence without pay from employment with a participating
21 public employer has not terminated service with that participating public
22 employer for the purposes of this section.

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

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

29 (d) The beneficiary designated under paragraph (a) of this subsection and
30 ORS 238.390 (1) may elect to receive the amount payable in actuarially de-
31 termined monthly payments for the life of such beneficiary as long as such

1 monthly payments, plus the monthly amount if elected under ORS 238.390 (3),
2 are at least \$200.

3 (e) Interest upon the death benefit provided by this subsection accrues
4 until the date that the benefit is distributed. The Public Employees Retire-
5 ment Board shall establish procedures for computing interest to be credited
6 on the benefit for the period between the date of death and date of distrib-
7 ution.

8 (2)(a) If a member of the system dies while employed in the service of a
9 participating public employer or within 120 days after termination from ser-
10 vice with a participating public employer and the member's spouse is the
11 member's beneficiary under ORS 238.390, the member's spouse may elect to
12 receive the benefit provided under this subsection in lieu of the death bene-
13 fits provided under ORS 238.390 and subsection (1) of this section.

14 (b) The member's spouse must notify the board in writing of an election
15 under this section no later than 60 days after the date of death of the mem-
16 ber.

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

21 (A) As of the date of death, if the member dies after the earliest retire-
22 ment date for the member under ORS 238.280; or

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

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

31 (3) Payment by the board of additional death benefits in the manner pro-

1 vided by this section completely discharges the board and system on account
2 of the death, and shall hold the board and system harmless from any claim
3 for wrongful payment.

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

5 238A.005. For the purposes of this chapter:

6 (1) "Active member" means a member of the pension program or the in-
7 dividual account program of the Oregon Public Service Retirement Plan who
8 is actively employed in a qualifying position.

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

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

13 (4) "Eligible employee" means a person who performs services for a par-
14 ticipating public employer, including elected officials other than judges.
15 "Eligible employee" does not include:

16 (a) Persons engaged as independent contractors;

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

18 (c) Persons provided sheltered employment or make-work by a public em-
19 ployer;

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

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

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

26 (g) An employee actively participating in an alternative retirement pro-
27 gram established under ORS 353.250 or an optional retirement plan estab-
28 lished under ORS 341.551;

29 (h) Employees of a public university listed in ORS 352.002 who are ac-
30 tively participating in an optional retirement plan offered under ORS 243.815;

31 (i) Persons employed in positions classified as post-doctoral scholar posi-

1 tions by a public university listed in ORS 352.002, or by the Oregon Health
2 and Science University, under ORS 350.370;

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

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

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

12 (m) Judges.

13 (5) "Firefighter" means:

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

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

18 (c) An employee of the State Forestry Department who is certified by the
19 State Forester as a professional wildland firefighter and whose primary du-
20 ties include the abatement of uncontrolled fires as described in ORS 477.064;
21 and

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

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

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

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

29 (B) An hour of vacation, holiday, illness, incapacity, jury duty, military
30 duty or authorized leave during which an employee does not perform duties
31 but for which the employee is directly or indirectly paid or entitled to pay-

1 ment by a participating public employer for services in a qualifying position,
2 as long as the hour is within the number of hours regularly scheduled for
3 the performance of duties during the period of vacation, holiday, illness, in-
4 capacity, jury duty, military duty or authorized leave.

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

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

12 (9) "Individual account program" means the defined contribution individ-
13 ual account program of the Oregon Public Service Retirement Plan estab-
14 lished under ORS 238A.025.

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

18 (11) "Member" means an eligible employee who has established member-
19 ship in the pension program or the individual account program of the Oregon
20 Public Service Retirement Plan and whose membership has not been termi-
21 nated under ORS 238A.110 or 238A.310.

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

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

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

28 (15) "Qualifying position" means one or more jobs with one or more par-
29 ticipating public employers in which an eligible employee performs 600 or
30 more hours of service in a calendar year, excluding any service in a job for
31 which benefits are not provided under the Oregon Public Service Retirement

1 Plan pursuant to ORS 238A.070 (2).

2 (16) “Retired member” means a pension program member who is receiving
3 a pension as provided in ORS 238A.180 to 238A.195.

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

12 (b) “Salary” includes the following amounts:

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

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

17 (C) Any amount that is contributed to a cafeteria plan or qualified
18 transportation fringe benefit plan by the employer at the election of the
19 employee and that is not includable in the taxable income of the employee
20 by reason of 26 U.S.C. 125 or 132(f)(4), as in effect on December 31, [2018]
21 **2020**.

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

26 (E) Retroactive payments described in ORS 238.008.

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

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

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

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

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

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

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

9 (D) Any severance payment, accelerated payment of an employment con-
10 tract for a future period or advance against future wages.

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

13 (F) Payment for a leave of absence after the date the employer and em-
14 ployee have agreed that no future services in a qualifying position will be
15 performed.

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

21 (H) The amount of an employee contribution to the individual account
22 program that is paid by the employer and is not deducted from the compen-
23 sation of the employee, as provided under ORS 238A.335 (1) and (2)(b).

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

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

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

30 (L) For years before 2020, any amount in excess of \$200,000 for a calendar
31 year. If any period over which salary is determined is less than 12 months,

1 the \$200,000 limitation for that period shall be multiplied by a fraction, the
2 numerator of which is the number of months in the determination period and
3 the denominator of which is 12. The board shall adopt rules adjusting this
4 dollar limit to incorporate cost-of-living adjustments authorized by the
5 Internal Revenue Service.

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

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

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

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

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

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

21 238A.125. (1) Upon retiring at normal retirement age, a vested pension
22 program member shall be paid an annual pension for the life of the member
23 as follows:

24 (a) For service as a police officer or firefighter, 1.8 percent of final aver-
25 age salary multiplied by the number of years of retirement credit attributable
26 to service as a police officer or firefighter.

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

30 (2) Notwithstanding any provision of ORS 238A.100 to 238A.250, the an-
31 nual benefit payable to a member under the pension program and under any

1 other tax-qualified defined benefit plan maintained by the participating pub-
2 lic employer may not exceed the applicable limitations set forth in 26 U.S.C.
3 415(b), as in effect on December 31, [2018] **2020**. The Public Employees Re-
4 tirement Board shall adopt rules for the administration of this limitation,
5 including adjustments in the annual dollar limitation to reflect cost-of-living
6 adjustments authorized by the Internal Revenue Service.

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

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

11 238A.150. (1) Notwithstanding any other provision of ORS 238A.100 to
12 238A.250, an eligible employee who leaves a qualifying position for the pur-
13 pose of performing service in the uniformed services, and who subsequently
14 returns to employment with a participating public employer with reemploy-
15 ment rights under federal law, is entitled to accrue retirement credit, credit
16 toward the probationary period required by ORS 238A.100 and credit toward
17 the vesting requirements of ORS 238A.115 under rules adopted by the Public
18 Employees Retirement Board pursuant to subsection (2) of this section.

19 (2) The board shall adopt rules establishing benefits and service credit for
20 any period of service in the uniformed services by an employee described in
21 subsection (1) of this section. For the purpose of adopting rules under this
22 subsection, the board shall consider and take into account all federal law
23 relating to benefits and service credit for any period of service in the uni-
24 formed services, including 26 U.S.C. 414(u), as in effect on December 31,
25 [2018] **2020**. Benefits and service credit under rules adopted by the board
26 pursuant to this subsection may not exceed benefits and service credit re-
27 quired under federal law for periods of service in the uniformed services.

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

29 238A.170. (1) An active member of the pension program who is [70-1/2] **72**
30 years of age or older must retire not later than April 1 of the calendar year
31 following the calendar year in which the member terminates employment

1 with all participating public employers. An inactive member of the pension
2 program must retire not later than April 1 of the calendar year following the
3 calendar year in which the member attains [70-1/2] **72** years of age.

4 (2) Notwithstanding any other provision of ORS 238A.100 to 238A.250, the
5 entire interest of a member of the pension program must be distributed over
6 a time period commencing no later than the required beginning date set forth
7 in subsection (1) of this section, and must be distributed in a manner that
8 satisfies all other minimum distribution requirements of 26 U.S.C. 401(a)(9)
9 and regulations implementing that section, as in effect on [*December 31,*
10 *2018*] **January 1, 2020**. The Public Employees Retirement Board shall adopt
11 rules implementing those minimum distribution requirements.

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

13 238A.230. (1) If a member of the pension program who is vested dies before
14 the member's effective date of retirement, the Public Employees Retirement
15 Board shall pay the death benefit provided for in this section to:

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

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

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

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

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

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

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

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

10 (4) Notwithstanding any other provision of ORS 238A.100 to 238A.250,
 11 distributions of death benefits under the pension program must comply with
 12 the minimum distribution requirements of 26 U.S.C. 401(a)(9) and the regu-
 13 lations implementing that section, as in effect on [December 31, 2018] **Janu-**
 14 **ary 1, 2020**. The board shall adopt rules implementing those minimum
 15 distribution requirements.

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

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

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

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

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

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

31 (4) A member who is entitled to receive retirement benefits under ORS

1 chapter 238 may receive vested amounts in the member's employee account,
2 rollover account and employer account in the manner provided by this sec-
3 tion when the member retires for service under the provisions of ORS chap-
4 ter 238.

5 (5) Notwithstanding any other provision of ORS 238A.300 to 238A.415, the
6 entire interest of a member of the individual account program must be dis-
7 tributed over a time period commencing no later than the latest retirement
8 date set forth in ORS 238A.170, and must be distributed in a manner that
9 satisfies all other minimum distribution requirements of 26 U.S.C. 401(a)(9)
10 and regulations implementing that section, as in effect on [*December 31,*
11 *2018*] **January 1, 2020**. The board shall adopt rules implementing those
12 minimum distribution requirements.

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

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

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

28 (2) If a member of the individual account program is married at the time
29 of death, or there exists at the time of death any other person who is con-
30 stitutionally required to be treated in the same manner as a spouse for the
31 purpose of retirement benefits, the spouse or other person shall be the ben-

1 eficiary for purposes of the death benefit payable under this section unless
2 the spouse or other person consents to the designation of a different benefi-
3 ciary or beneficiaries before the designation has been made and the consent
4 has not been revoked by the spouse or other person as of the time of the
5 member's death. Consent and revocation of consent must be in writing, ac-
6 knowledged by a notary public, and submitted to the Public Employees Re-
7 tirement Board in accordance with rules adopted by the board. If the
8 member's spouse is designated as the member's beneficiary and the marriage
9 of the member and spouse is subsequently dissolved, the former spouse shall
10 be treated as predeceasing the member for purposes of this section, unless
11 the member expressly designates the former spouse as beneficiary after the
12 effective date of the dissolution or the former spouse is required to be des-
13 ignated as a beneficiary under the provisions of ORS 238.465.

14 (3) For purposes of this section and ORS 238A.400 (3), if a member fails
15 to designate a beneficiary, or if the person or persons designated do not
16 survive the member, the death benefit provided for in this section shall be
17 paid to the following person or persons, in the following order of priority:

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

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

21 (c) The member's estate.

22 (4) The entire amount of a deceased member's vested accounts must be
23 distributed by December 31 of the fifth calendar year after the year in which
24 the member died. Notwithstanding any other provision of this chapter, dis-
25 tributions of death benefits under the individual account program must
26 comply with the minimum distribution requirements of 26 U.S.C. 401(a)(9)
27 and the regulations implementing that section, as in effect on [*December 31,*
28 *2018*] **January 1, 2020**. The Public Employees Retirement Board shall adopt
29 rules implementing those minimum distribution requirements.

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

31 238A.415. (1) Notwithstanding any other provision of ORS 238A.300 to

1 238A.415, an eligible employee who leaves a qualifying position for the pur-
2 pose of performing service in the uniformed services, and who subsequently
3 returns to employment with a participating public employer with reemploy-
4 ment rights under federal law, is entitled to credit toward the probationary
5 period required by ORS 238A.300, credit toward the vesting requirements of
6 ORS 238A.320 and contributions under rules adopted by the Public Employ-
7 ees Retirement Board pursuant to subsection (2) of this section.

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

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

19 238A.430. (1) To the extent required by law, and except as otherwise pro-
20 vided by rules adopted by the Public Employees Retirement Board under
21 subsection (4) of this section, any portion of a distribution of benefits de-
22 scribed in subsection (2) of this section shall, at the election of and in lieu
23 of distribution to the distributee, be paid directly to an eligible retirement
24 plan specified by the distributee.

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

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

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

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

6 (3) The provisions of subsection (1) of this section apply to any portion
7 of a distribution of benefits under the pension program or the individual
8 account program even though the portion consists of after-tax employee
9 contributions that are not includable in gross income. Any portion of a dis-
10 tribution that consists of after-tax employee contributions that are not
11 includable in gross income may be transferred only to an individual retire-
12 ment account or annuity described in 26 U.S.C. 408(a) or (b), or to a quali-
13 fied defined contribution or defined benefit plan described in 26 U.S.C. 401(a)
14 or 403(b) that agrees to account separately for amounts transferred, including
15 accounting separately for the portion of the distribution that is includable
16 in gross income and the portion of the distribution that is not includable in
17 gross income. The amount transferred shall be treated as consisting first of
18 the portion of the distribution that is includable in gross income, determined
19 without regard to 26 U.S.C. 402(c)(1).

20 (4) The board shall adopt rules implementing the direct rollover require-
21 ments of 26 U.S.C. 401(a)(31) and the regulations implementing that section,
22 and may adopt administrative exceptions to the direct rollover requirements
23 to the extent permitted by 26 U.S.C. 401(a)(31) and the regulations imple-
24 menting that section.

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

27 (6) For purposes of this section:

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

30 (b) "Eligible retirement plan" means:

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

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

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

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

6 (E) An eligible deferred compensation plan described in 26 U.S.C. 457(b)
7 that is maintained by an eligible governmental employer described in 26
8 U.S.C. 457(e)(1)(A) and that agrees to account separately for amounts trans-
9 ferred into such plan from the distributing plan; or

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

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

12 238A.435. (1) If a benefit is payable under this chapter to a beneficiary
13 by reason of the death of a member of the system, the beneficiary may elect
14 to have all or part of the distribution of the death benefit paid in an eligible
15 rollover distribution to an individual retirement plan described in 26 U.S.C.
16 408(a), or an individual retirement annuity, other than an endowment con-
17 tract, described in 26 U.S.C. 408(b), if the plan or annuity is established for
18 the purpose of receiving the eligible rollover distribution on behalf of the
19 designated beneficiary.

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

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

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

2 305.230. (1) Notwithstanding ORS 9.320:

3 (a) Any person who is qualified to practice law or public accountancy in
4 this state, any person who has been granted active enrollment to practice
5 before the Internal Revenue Service and who is qualified to prepare tax re-
6 turns in this state or any person who is the authorized employee of a tax-
7 payer and is regularly employed by the taxpayer in tax matters may
8 represent the taxpayer before a tax court magistrate or the Department of
9 Revenue in any conference or proceeding with respect to the administration
10 of any tax.

11 (b) Any person who is licensed by the State Board of Tax Practitioners
12 or who is exempt from such licensing requirement as provided for and limited
13 by ORS 673.610 may represent a taxpayer before a tax court magistrate or
14 the department in any conference or proceeding with respect to the admin-
15 istration of any tax on or measured by net income.

16 (c) Any shareholder of an S corporation, as defined in section 1361 of the
17 Internal Revenue Code, as amended and in effect on December 31, [2018]
18 **2020**, may represent the corporation in any proceeding before a tax court
19 magistrate or the department in the same manner as if the shareholder were
20 a partner and the S corporation were a partnership. The S corporation must
21 designate in writing a tax matters shareholder authorized to represent the
22 S corporation.

23 (d) An individual who is licensed as a real estate broker or principal real
24 estate broker under ORS 696.022 or is a state certified appraiser or state li-
25 censed appraiser under ORS 674.310 or is a registered appraiser under ORS
26 308.010 may represent a taxpayer before a tax court magistrate or the de-
27 partment in any conference or proceeding with respect to the administration
28 of any ad valorem property tax.

29 (e) A general partner who has been designated by members of a partner-
30 ship as their tax matters partner under ORS 305.242 may represent those
31 partners in any conference or proceeding with respect to the administration

1 of any tax on or measured by net income.

2 (f) Any person authorized under rules adopted by the department may
3 represent a taxpayer before the department in any conference or proceeding
4 with respect to any tax. Rules adopted under this paragraph, to the extent
5 feasible, shall be consistent with federal law that governs representation
6 before the Internal Revenue Service, as federal law is amended and in effect
7 on December 31, [2018] **2020**.

8 (g) Any person authorized under rules adopted by the tax court may rep-
9 resent a taxpayer in a proceeding before a tax court magistrate.

10 (2) A person may not be recognized as representing a taxpayer pursuant
11 to this section unless there is first filed with the magistrate or department
12 a written authorization, or unless it appears to the satisfaction of the
13 magistrate or department that the representative does in fact have authority
14 to represent the taxpayer. A person recognized as an authorized represen-
15 tative under rules or procedures adopted by the tax court shall be considered
16 an authorized representative by the department.

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

21 (4) Prior to the holding of a conference or proceeding before the tax court
22 magistrate or department, written notice shall be given by the magistrate
23 or department to the taxpayer of the provisions of subsection (3) of this
24 section.

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

26 305.494. Notwithstanding ORS 9.320, any shareholder of an S corporation
27 as defined in section 1361 of the Internal Revenue Code, as amended and in
28 effect on December 31, [2018] **2020**, may represent the corporation in any
29 proceeding before the Oregon Tax Court in the same manner as if the
30 shareholder were a partner and the S corporation were a partnership.

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

1 305.690. As used in ORS 305.690 to 305.753, unless the context otherwise
2 requires:

3 (1) “Biennial years” means the two income tax years of individual tax-
4 payers that begin in the two calendar years immediately following the cal-
5 endar year in which a list is certified under ORS 305.715.

6 (2) “Commission” means the Oregon Charitable Checkoff Commission.

7 (3) “Department” means the Department of Revenue.

8 (4) “Eligibility roster” means a list, prepared under ORS 305.715 and
9 maintained by the commission in chronological order based on the date of
10 form listing or date of eligibility determination, whichever is later, of char-
11 itable and governmental entities seeking inclusion on the Oregon individual
12 income tax return forms.

13 (5) “Form listed” or “form listing” means being listed on the Oregon in-
14 dividual income tax return form.

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

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

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

20 305.842. (1) As used in ORS 307.130, 307.147, 308A.450, 310.140 and 310.800,
21 “Internal Revenue Code” means the federal Internal Revenue Code as
22 amended and in effect on December 31, [2018] **2020**.

23 (2) As used in ORS 311.666, “Internal Revenue Code” means the federal
24 Internal Revenue Code as amended and in effect on December 31, [2018]
25 **2020**, including amendments that take effect after that date.

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

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

29 (2) As used in this chapter:

30 (a) Any term has the same meaning as when used in a comparable context
31 in the laws of the United States relating to federal income taxes, unless a

1 different meaning is clearly required or the term is specifically defined in
2 this chapter.

3 (b) Except where the Legislative Assembly has provided otherwise, a ref-
4 erence to the laws of the United States or to the Internal Revenue Code re-
5 fers to the laws of the United States or to the Internal Revenue Code as they
6 are amended and in effect:

7 (A) On December 31, [2018] **2020**; or

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

10 (c) With respect to ORS 314.105, 314.256 (relating to proxy tax on lobbying
11 expenditures), 314.260 (1)(b), 314.302, 314.306, 314.330, 314.360, 314.362, 314.385,
12 314.402, 314.410, 314.412, 314.525, 314.767 (7), 314.771 and 314.772 and other
13 provisions of this chapter, except those described in paragraph (b) of this
14 subsection, any reference to the laws of the United States or to the Internal
15 Revenue Code means the laws of the United States relating to income taxes
16 or the Internal Revenue Code as they are amended on or before December
17 31, [2018] **2020**, even when the amendments take effect or become operative
18 after that date, except where the Legislative Assembly has specifically pro-
19 vided otherwise.

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

29 (4) When portions of the Internal Revenue Code incorporated by reference
30 as provided in subsection (2) of this section refer to rules or regulations
31 prescribed by the Secretary of the Treasury, then such rules or regulations

1 shall be regarded as rules adopted by the department under and in accord-
2 ance with the provisions of this chapter, whenever they are prescribed or
3 amended.

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

18 (b) As used in this subsection, "Act or Title" includes any subtitle, divi-
19 sion or other part of an Act or Title.

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

21 314.306. (1) If a taxpayer excludes an amount from federal gross income
22 by reason of the discharge of indebtedness of the taxpayer under section
23 108(a)(1)(A) of the Internal Revenue Code (relating to discharge of indebt-
24 edness in a bankruptcy declared under U.S.C. Title 11), then, with respect
25 to that portion of the excluded amount that is apportioned to Oregon, the
26 taxpayer shall apply the rules in 11 U.S.C. 346(j), as amended and in effect
27 on December 31, [2018] **2020**.

28 (2) If a taxpayer excludes an amount from federal gross income by reason
29 of the discharge of indebtedness of the taxpayer under section 108(a)(1)(B)
30 or (C) of the Internal Revenue Code (relating to discharge of indebtedness
31 in insolvency or discharge of qualified farm indebtedness), then, with respect

1 to that portion of the excluded amount that is apportioned to Oregon, the
2 following paragraphs shall apply, in the following order:

3 (a) If the taxpayer has made the election under section 108(b)(5) of the
4 Internal Revenue Code to first reduce the basis of the depreciable property
5 of the taxpayer, the election shall also be effective for Oregon tax purposes.
6 A corresponding reduction in the basis of the depreciable property of the
7 taxpayer shall be made for Oregon tax purposes.

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

11 (A) Federal net operating loss.

12 (B) Capital loss carryover.

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

15 (D) Passive activity loss carryover.

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

18 (A) Any Oregon net operating loss of an individual or corporate taxpayer,
19 including a net operating loss carryover to the taxpayer, shall be reduced
20 by the amount of discharged indebtedness.

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

25 (C) The basis of the property of the taxpayer shall be reduced by the
26 amount of discharged indebtedness minus the total amount taken into ac-
27 count under subparagraphs (A) and (B) of this paragraph.

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

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

2 315.004. (1) Except when the context requires otherwise, the definitions
3 contained in ORS chapters 314, 316, 317 and 318 are applicable in the con-
4 struction, interpretation and application of the personal and corporate in-
5 come and excise tax credits contained in this chapter.

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

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

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

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

31 (5)(a) When portions of the Internal Revenue Code incorporated by refer-

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

14 (b) As used in this subsection, “Act or Title” includes any subtitle, divi-
15 sion or other part of an Act or Title.

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

17 316.012. Any term used in this chapter has the same meaning as when
18 used in a comparable context in the laws of the United States relating to
19 federal income taxes, unless a different meaning is clearly required or the
20 term is specifically defined in this chapter. Except where the Legislative
21 Assembly has provided otherwise, any reference in this chapter to the laws
22 of the United States or to the Internal Revenue Code refers to the laws of
23 the United States or to the Internal Revenue Code as they are amended and
24 in effect:

25 (1) On December 31, [2018] **2020**; or

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

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

29 316.147. As used in ORS 316.147 to 316.149, unless the context requires
30 otherwise:

31 (1) “Eligible taxpayer” includes any individual who must pay taxes oth-

1 otherwise imposed by this chapter and:

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

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

8 (2) "Household income" means the aggregate income of the eligible tax-
9 payer and the spouse of the taxpayer who reside in the household, that was
10 received during a calendar year. "Household income" includes payments re-
11 ceived by the eligible taxpayer or the spouse of the taxpayer under the fed-
12 eral Social Security Act for the benefit of a minor child or minor children
13 who reside in the household.

14 (3) "Income" means "adjusted gross income" as defined in the federal
15 Internal Revenue Code, as amended and in effect on December 31, [2018]
16 **2020**, even when the amendments take effect or become operative after that
17 date, relating to the measurement of taxable income of individuals, estates
18 and trusts, with the following modifications:

19 (a) There shall be added to adjusted gross income the following items of
20 otherwise exempt income:

21 (A) The gross amount of any otherwise exempt pension less return of in-
22 vestment, if any.

23 (B) Child support received by the taxpayer.

24 (C) Inheritances.

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

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

28 (F) Life insurance proceeds.

29 (G) Accident and health insurance proceeds, except reimbursement of in-
30 curred medical expenses.

31 (H) Personal injury damages.

- 1 (I) Sick pay that is not included in federal adjusted gross income.
- 2 (J) Strike benefits excluded from federal gross income.
- 3 (K) Worker's compensation, except for reimbursement of medical expense.
- 4 (L) Military pay and benefits.
- 5 (M) Veteran's benefits.
- 6 (N) Payments received under the federal Social Security Act that are ex-
7 cluded from federal gross income.
- 8 (O) Welfare payments, except as follows:
- 9 (i) Payments for medical care, drugs and medical supplies, if the payments
10 are not made directly to the welfare recipient;
- 11 (ii) In-home services authorized and approved by the Department of Hu-
12 man Services; and
- 13 (iii) Direct or indirect reimbursement of expenses paid or incurred for
14 participation in work or training programs.
- 15 (P) Nontaxable dividends.
- 16 (Q) Nontaxable interest not included in federal adjusted gross income.
- 17 (R) Rental allowance paid to a minister that is excluded from federal
18 gross income.
- 19 (S) Income from sources without the United States that is excluded from
20 federal gross income.
- 21 (b) Adjusted gross income shall be increased due to the disallowance of
22 the following deductions:
- 23 (A) The amount of the net loss, in excess of \$1,000, from all dispositions
24 of tangible or intangible properties.
- 25 (B) The amount of the net loss, in excess of \$1,000, from the operation of
26 a farm or farms.
- 27 (C) The amount of the net loss, in excess of \$1,000, from all operations
28 of a trade or business, profession or other activity entered into for the pro-
29 duction or collection of income.
- 30 (D) The amount of the net loss, in excess of \$1,000, from tangible or in-
31 tangible property held for the production of rents, royalties or other income.

1 (E) The amount of any net operating loss carryovers or carrybacks in-
2 cluded in federal adjusted gross income.

3 (F) The amount, in excess of \$5,000, of the combined deductions or other
4 allowances for depreciation, amortization or depletion.

5 (G) The amount added or subtracted, as required within the context of
6 this section, for adjustments made under ORS 316.680 (2)(d) and 316.707 to
7 316.737.

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

9 (A) Any governmental grant that must be used by the taxpayer for reha-
10 bilitation of the homestead of the taxpayer.

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

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

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

18 (b) Who is eligible for authorized services as defined in ORS 410.410 under
19 Oregon Project Independence;

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

21 (d) Whose care or any portion thereof is not paid for under ORS chapter
22 414.

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

24 316.157. (1) In the case of an eligible individual, there shall be allowed
25 as a credit against the taxes otherwise due under this chapter for the taxable
26 year an amount equal to the lesser of the tax liability of the taxpayer or nine
27 percent of net pension income.

28 (2) For purposes of this section:

29 (a) "Eligible individual" means any individual who is receiving pension
30 income and who has attained 62 years of age before the close of the taxable
31 year.

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

6 (c) "Income" means "adjusted gross income" as defined in the federal
7 Internal Revenue Code, as amended and in effect on December 31, [2018]
8 2020, even when the amendments take effect or become operative after that
9 date, relating to the measurement of taxable income of individuals, estates
10 and trusts, with the following modifications:

11 (A) There shall be added to adjusted gross income the following items of
12 otherwise exempt income:

13 (i) The gross amount of any otherwise exempt pension less return of in-
14 vestment, if any.

15 (ii) Child support received by the taxpayer.

16 (iii) Inheritances.

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

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

20 (vi) Life insurance proceeds.

21 (vii) Accident and health insurance proceeds, except reimbursement of
22 incurred medical expenses.

23 (viii) Personal injury damages.

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

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

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

27 (xii) Military pay and benefits.

28 (xiii) Veteran's benefits.

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

31 (xv) Welfare payments, except as follows:

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

3 (II) In-home services authorized and approved by the Department of Hu-
4 man Services; and

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

7 (xvi) Nontaxable dividends.

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

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

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

13 (B) Adjusted gross income shall be increased due to the disallowance of
14 the following deductions:

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

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

19 (iii) The amount of the net loss, in excess of \$1,000, from all operations
20 of a trade or business, profession or other activity entered into for the pro-
21 duction or collection of income.

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

24 (v) The amount of any net operating loss carryovers or carrybacks in-
25 cluded in federal adjusted gross income.

26 (vi) The amount, in excess of \$5,000, of the combined deductions or other
27 allowances for depreciation, amortization or depletion.

28 (vii) The amount added or subtracted, as required within the context of
29 this section, for adjustments made under ORS 316.680 (2)(d) and 316.707 to
30 316.737.

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

1 (i) Any governmental grant that must be used by the taxpayer for reha-
2 bilitation of the homestead of the taxpayer.

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

5 (d) "Net pension income" means:

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

9 (i) Any Social Security benefits received by the eligible individual, or by
10 the spouse of the individual, during the taxable year; and

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

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

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

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

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

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

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

29 (C) Distributions from or pursuant to a federal retirement system created
30 by the federal government for any officer or employee of the United States,
31 including any person retired from service in the United States Civil Service,

1 the Armed Forces of the United States or any agency or subdivision thereof;

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

5 (E) Distributions or withdrawals from or pursuant to an individual re-
6 tirement account, annuity or trust or simplified employee pension which
7 satisfies the requirements of section 408 of the Internal Revenue Code; and

8 (F) Distributions or withdrawals from or pursuant to an employee annu-
9 ity, including custodial accounts treated as annuities, subject to section 403
10 (a) or (b) of the Internal Revenue Code.

11 (f) "Social Security benefits" means Social Security benefits, as defined
12 in section 86 of the Internal Revenue Code (Title II Social Security or tier
13 1 railroad retirement benefits).

14 (3) If a change in the taxable year of the eligible individual occurs as
15 described in ORS 314.085, or if the Department of Revenue terminates the tax
16 year of the eligible individual under ORS 314.440, the credit allowed by this
17 section shall be prorated or computed in a manner consistent with ORS
18 314.085.

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

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

24 317.010. As used in this chapter, unless the context requires otherwise:

25 (1) "Centrally assessed corporation" means every corporation the property
26 of which is assessed by the Department of Revenue under ORS 308.505 to
27 308.674.

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

29 (3)(a) "Consolidated federal return" means the return permitted or re-
30 quired to be filed by a group of affiliated corporations under section 1501 of
31 the Internal Revenue Code.

1 (b) “Consolidated state return” means the return required to be filed un-
2 der ORS 317.710 (5).

3 (4) “Doing business” means any transaction or transactions in the course
4 of its activities conducted within the state by a national banking association,
5 or any other corporation; provided, however, that a foreign corporation
6 whose activities in this state are confined to purchases of personal property,
7 and the storage thereof incident to shipment outside the state, shall not be
8 deemed to be doing business unless such foreign corporation is an affiliate
9 of another foreign or domestic corporation which is doing business in
10 Oregon. Whether or not corporations are affiliated shall be determined as
11 provided in section 1504 of the Internal Revenue Code.

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

16 (6) “Financial institution” has the meaning given that term in ORS
17 314.610 except that it does not include a credit union as defined in ORS
18 723.006, an interstate credit union as defined in ORS 723.001 or a federal
19 credit union.

20 (7) “Internal Revenue Code,” except where the Legislative Assembly has
21 provided otherwise, refers to the laws of the United States or to the Internal
22 Revenue Code as they are amended and in effect:

23 (a) On December 31, [2018] **2020**; or

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

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

29 (9) “Oregon net loss” means taxable loss, except as otherwise provided
30 with respect to insurers in subsection (11) of this section and ORS 317.650
31 to 317.665.

1 (10) “Taxable income or loss” means the taxable income or loss deter-
2 mined, or in the case of a corporation for which no federal taxable income
3 or loss is determined, as would be determined, under chapter 1, Subtitle A
4 of the Internal Revenue Code and any other laws of the United States re-
5 lating to the determination of taxable income or loss of corporate taxpayers,
6 with the additions, subtractions, adjustments and other modifications as are
7 specifically prescribed by this chapter except that in determining taxable
8 income or loss for any year, no deduction under ORS 317.476 or 317.478 and
9 section 45b, chapter 293, Oregon Laws 1987, shall be allowed. If the corpo-
10 ration is a corporation to which ORS 314.280 or 314.605 to 314.675 (requiring
11 or permitting apportionment of income from transactions or activities carried
12 on both within and without the state) applies, to derive taxable income or
13 loss, the following shall occur:

14 (a) From the amount otherwise determined under this subsection, subtract
15 nonapportionable income, or add nonapportionable loss, whichever is appli-
16 cable.

17 (b) Multiply the amount determined under paragraph (a) of this sub-
18 section by the Oregon apportionment percentage defined under ORS 314.280,
19 314.650 or 314.667, whichever is applicable. The resulting product shall be
20 Oregon apportioned income or loss.

21 (c) To the amount determined as Oregon apportioned income or loss under
22 paragraph (b) of this subsection, add nonapportionable income allocable en-
23 tirely to Oregon under ORS 314.280 or 314.625 to 314.645, or subtract
24 nonapportionable loss allocable entirely to Oregon under ORS 314.280 or
25 314.625 to 314.645. The resulting figure is “taxable income or loss” for those
26 corporations carrying on taxable transactions or activities both within and
27 without Oregon.

28 (11) As used in ORS 317.122 and 317.650 to 317.665, “insurer” means any
29 domestic, foreign or alien insurer as defined in ORS 731.082 and any inter-
30 insurance and reciprocal exchange and its attorney in fact with respect to
31 its attorney in fact net income as a corporate attorney in fact acting as at-

1 torney in compliance with ORS 731.458, 731.462, 731.466 and 731.470 for the
2 reciprocal or interinsurance exchange. However, “insurer” does not include
3 title insurers or health care service contractors operating pursuant to ORS
4 750.005 to 750.095.

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

6 317.097. (1) As used in this section:

7 (a) “Annual rate” means the yearly interest rate specified on the note,
8 and not the annual percentage rate, if any, disclosed to the applicant to
9 comply with the federal Truth in Lending Act.

10 (b) “Finance charge” means the total of all interest, loan fees, interest
11 on any loan fees financed by the lending institution, and other charges re-
12 lated to the cost of obtaining credit.

13 (c) “Lending institution” means any insured institution, as that term is
14 defined in ORS 706.008, any mortgage banking company that maintains an
15 office in this state or any community development corporation that is or-
16 ganized under the Oregon Nonprofit Corporation Law.

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

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

22 (f) “Preservation project” means housing that was previously developed
23 as affordable housing with a contract for rent assistance from the United
24 States Department of Housing and Urban Development or the United States
25 Department of Agriculture and that is being acquired by a sponsoring entity.

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

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

1 (i) “Qualified loan” means:

2 (A) A loan that meets the criteria stated in subsection (5) of this section
3 or that is made to refinance a loan that meets the criteria described in sub-
4 section (5) of this section; or

5 (B) The purchase by a lending institution of bonds, as defined in ORS
6 286A.001, issued on behalf of the Housing and Community Services Depart-
7 ment, the proceeds of which are used to finance or refinance a loan that
8 meets the criteria described in subsection (5) of this section.

9 (j) “Sponsoring entity” means a nonprofit corporation, nonprofit cooper-
10 ative, state governmental entity, local unit of government as defined in ORS
11 466.706, housing authority or any other person, provided that the person has
12 agreed to restrictive covenants imposed by a nonprofit corporation, nonprofit
13 cooperative, state governmental entity, local unit of government or housing
14 authority.

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

20 (a) The amount of finance charge charged by the lending institution dur-
21 ing the tax year at an annual rate less than the market rate for a qualified
22 loan that is made before January 1, 2026, that complies with the require-
23 ments of this section; and

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

30 (3) The maximum amount of credit for the difference between the amounts
31 described in subsection (2)(a) and (b) of this section may not exceed four

1 percent of the average unpaid balance of the qualified loan during the tax
2 year for which the credit is claimed.

3 (4) Any tax credit allowed under this section that is not used by the
4 taxpayer in a particular year may be carried forward and offset against the
5 taxpayer's tax liability for the next succeeding tax year. Any credit remain-
6 ing unused in the next succeeding tax year may be carried forward and used
7 in the second succeeding tax year, and likewise, any credit not used in that
8 second succeeding tax year may be carried forward and used in the third
9 succeeding tax year, and any credit not used in that third succeeding tax
10 year may be carried forward and used in the fourth succeeding tax year, and
11 any credit not used in that fourth succeeding tax year may be carried for-
12 ward and used in the fifth succeeding tax year, but may not be carried for-
13 ward for any tax year thereafter.

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

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

24 (b) A qualified borrower who:

25 (A) Uses the loan proceeds to finance construction, development, acqui-
26 sition or rehabilitation of housing; and

27 (B) Provides a written certification executed by the Housing and Com-
28 munity Services Department that the:

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

31 (ii) Full amount of savings from the reduced interest rate provided by the

1 lending institution is or will be passed on to the tenants in the form of re-
2 duced housing payments;

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

4 (A) Uses the loan proceeds to finance construction, development, acqui-
5 sition or rehabilitation of housing consisting of a manufactured dwelling
6 park; and

7 (B) Provides a written certification executed by the Housing and Com-
8 munity Services Department that the housing will continue to be operated
9 as a manufactured dwelling park during the period for which the tax credit
10 is allowed; or

11 (d) A qualified borrower who:

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

14 (B) Provides a written certification executed by the Housing and Com-
15 munity Services Department that the housing preserved by the loan:

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

18 (ii) Is the subject of a rent assistance contract with the United States
19 Department of Housing and Urban Development or the United States De-
20 partment of Agriculture that will be maintained by the qualified borrower.

21 (6) A loan made to refinance a loan that meets the criteria stated in
22 subsection (5) of this section must be treated the same as a loan that meets
23 the criteria stated in subsection (5) of this section.

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

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

30 (b) States that the qualified loan is within the limitation imposed by
31 subsection (8) of this section.

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

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

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

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

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

24 (11) A lending institution may sell a qualified loan for which a certifica-
25 tion has been executed to a qualified assignee whether or not the lending
26 institution retains servicing of the qualified loan so long as a designated
27 lending institution maintains records, annually verified by a loan servicer,
28 that establish the amount of tax credit earned by the taxpayer throughout
29 each year of eligibility.

30 (12) Notwithstanding any other provision of law, a lending institution
31 that is a community development corporation organized under the Oregon

1 Nonprofit Corporation Law may transfer all or part of a tax credit allowed
2 under this section to one or more other lending institutions that are stock-
3 holders or members of the community development corporation or that oth-
4 erwise participate through the community development corporation in the
5 making of one or more qualified loans for which the tax credit under this
6 section is allowed.

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

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

15 (a) A nonprofit corporation, manufactured dwelling park nonprofit coop-
16 erative, state governmental entity, local unit of government as defined in
17 ORS 466.706 or housing authority; or

18 (b) A nonprofit corporation or housing authority that has a controlling
19 interest in the real property that is financed by a qualified loan. A control-
20 ling interest includes a controlling interest in the general partner of a lim-
21 ited partnership that owns the real property.

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

26 (16) The Housing and Community Services Department shall provide in-
27 formation to the Department of Revenue about all certifications executed
28 under this section, if required by ORS 315.058.

29 (17) The Housing and Community Services Department and the Depart-
30 ment of Revenue may adopt rules to carry out the provisions of this section.

31 **SECTION 26.** ORS 317A.100, as amended by section 1, chapter 2, Oregon

1 Laws 2020 (first special session), is amended to read:

2 317A.100. As used in ORS 317A.100 to 317A.158:

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

4 (A) The total amount realized by a person, arising from transactions and
5 activity in the regular course of the person's trade or business, without de-
6 duction for expenses incurred by the trade or business;

7 (B) If received by a financial institution:

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

10 (ii) If the reporting person for a financial institution is a bank organiza-
11 tion, all items of income reported on the call report filed by the bank or-
12 ganization; and

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

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

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

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

25 (A) Interest income except:

26 (i) Interest on credit sales; or

27 (ii) Interest income, including service charges, received by financial in-
28 stitutions;

29 (B) Receipts from the sale, exchange or other disposition of an asset de-
30 scribed in section 1221 or 1231 of the Internal Revenue Code, without regard
31 to the length of time the person held the asset;

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

4 (D) Receipts from hedging transactions, to the extent that the trans-
5 actions are entered into primarily to protect a financial position, including
6 transactions intended to manage the risk of exposure to foreign currency
7 fluctuations that affect assets, liabilities, profits, losses, equity or invest-
8 ments in foreign operations, risk of exposure to interest rate fluctuations or
9 risk of commodity price fluctuations;

10 (E) Proceeds received attributable to the repayment, maturity or redemp-
11 tion of the principal of a loan, bond, mutual fund, certificate of deposit or
12 marketable instrument;

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

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

19 (H) Compensation, whether current or deferred, and whether in cash or
20 in kind, received or to be received by an employee, a former employee or the
21 employee's legal successor for services rendered to or for an employer, in-
22 cluding reimbursements received by or for an individual for medical or edu-
23 cation expenses, health insurance premiums or employee expenses or on
24 account of a dependent care spending account, legal services plan, any cafe-
25 teria plan described in section 125 of the Internal Revenue Code or any
26 similar employee reimbursement;

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

30 (J) Proceeds received on the account of payments from insurance policies,
31 including crop insurance policies, owned by the taxpayer, except those pro-

1 ceeds received for the loss of commercial activity;

2 (K) Gifts or charitable contributions received, membership dues received
3 by trade, professional, homeowners' or condominium associations, payments
4 received for educational courses, meetings or meals, or similar payments to
5 a trade, professional or other similar association, and fundraising receipts
6 received by any person when any excess receipts are donated or used exclu-
7 sively for charitable purposes;

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

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

13 (N) Tax refunds from any tax program, other tax benefit recoveries and
14 reimbursements for the tax imposed under ORS 317A.100 to 317A.158 made
15 by entities that are part of the same unitary group as provided under ORS
16 317A.106, and reimbursements made by entities that are not members of a
17 unitary group that are required to be made for economic parity among mul-
18 tiple owners of an entity whose tax obligation under ORS 317A.100 to
19 317A.158 is required to be reported and paid entirely by one owner, as pro-
20 vided in ORS 317A.106;

21 (O) Pension reversions;

22 (P) Contributions to capital;

23 (Q) Receipts from the sale, transfer, exchange or other disposition of mo-
24 tor vehicle fuel or any other product used for the propulsion of motor vehi-
25 cles;

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

31 (S) In the case of receipts from the sale of malt beverages or wine, as

1 defined in ORS 471.001, cider, as defined in ORS 471.023 or distilled liquor,
2 as defined in ORS 471.001, by a person holding a license issued under ORS
3 chapter 471, an amount equal to the federal and state excise taxes paid by
4 any person on or for such malt beverages, wine or distilled liquor under
5 subtitle E of the Internal Revenue Code or ORS chapter 471 or 473, and any
6 amount paid to the Oregon Liquor Control Commission for sales of distilled
7 spirits by an agent appointed under ORS 471.750;

8 (T) In the case of receipts from the sale of marijuana items, as defined in
9 ORS 475B.015, by a person holding a license issued under ORS 475B.010 to
10 475B.545, an amount equal to the federal and state excise taxes paid by any
11 person on or for such marijuana items under subtitle E of the Internal Rev-
12 enue Code or ORS 475B.700 to 475B.760 and any local retail taxes authorized
13 under ORS 475B.491;

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

16 (V) Tips or gratuities collected by a restaurant or other food establish-
17 ment and passed on to employees;

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

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

29 (Y) Receipts from a financial institution for services provided to the fi-
30 nancial institution in connection with the issuance, processing, servicing and
31 management of loans or credit accounts, if the financial institution and the

1 recipient of the receipts have at least 50 percent of their ownership interests
2 owned or controlled, directly or constructively through related interests, by
3 common owners;

4 (Z) In the case of amounts retained as commissions by a holder of a li-
5 cense under ORS chapter 462, an amount equal to the amounts specified un-
6 der ORS chapter 462 that must be paid to or collected by the Department of
7 Revenue as a tax and the amounts specified under ORS chapter 462 to be
8 used as purse money;

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

13 (BB) Dividends received;

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

15 (DD) Receipts from sales to a wholesaler in this state, if the seller re-
16 ceives certification at the time of sale from the wholesaler that the whole-
17 saler will sell the purchased property outside this state;

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

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

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

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

28 (II) Surcharges collected under ORS 757.736;

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

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

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

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

10 (NN) Moneys collected for public purpose funding as described in ORS
11 759.430;

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

14 (PP) In the case of a seller or provider of telecommunications services,
15 the amount of tax imposed under ORS 403.200 for access to the emergency
16 communications system that is collected from subscribers or consumers;

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

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

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

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

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

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

3 (2) "Cost inputs" means:

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

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

10 (3) "Doing business" means engaging in any activity, whether legal or il-
11 legal, that is conducted for, or results in, the receipt of commercial activity
12 at any time during a calendar year.

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

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

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

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

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

23 (e) Charitable risk pools described in section 501(n) of the Internal Reve-
24 nue 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 Inter-
27 nal Revenue Code.

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

31 (i) Governmental entities.

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

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

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

10 (5) “Financial institution” has the meaning given that term in ORS
11 314.610, except that “financial institution” does not include a credit union.

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

15 (b) In the case of a holding company required to file both consolidated
16 and parent-only financial statements, “FR Y-9” means the consolidated fi-
17 nancial statements that the holding company is required to file.

18 (7) “Governmental entity” means:

19 (a) The United States and any of its unincorporated agencies and instru-
20 mentalities.

21 (b) Any incorporated agency or instrumentality of the United States
22 wholly owned by the United States or by a corporation wholly owned by the
23 United States.

24 (c) The State of Oregon and any of its unincorporated agencies and in-
25 strumentalities.

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

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

28 (f) A federally recognized Indian tribe.

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

31 (9)(a) “Hedging transaction” means a hedging transaction as defined in

1 section 1221 of the Internal Revenue Code or a transaction accorded hedge
2 accounting treatment under Financial Accounting Standards Board State-
3 ment No. 133.

4 (b) "Hedging transaction" does not include a transaction in which an ac-
5 tual transfer of title of real or tangible property to another entity occurs.

6 (10) "Insurer" has the meaning given that term in ORS 317.010.

7 (11) "Internal Revenue Code," except where the Legislative Assembly has
8 provided otherwise, refers to the laws of the United States or to the Internal
9 Revenue Code as they are amended and in effect on December 31, [2018]
10 **2020**.

11 (12) "Labor costs" means total compensation of all employees, not to in-
12 clude compensation paid to any single employee in excess of \$500,000.

13 (13)(a) "Motor vehicle fuel or any other product used for the propulsion
14 of motor vehicles" means:

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

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

18 (b) "Motor vehicle fuel or any other product used for the propulsion of
19 motor vehicles" does not mean:

20 (A) Electricity; or

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

23 (14) "Person" includes individuals, combinations of individuals of any
24 form, receivers, assignees, trustees in bankruptcy, firms, companies, joint-
25 stock companies, business trusts, estates, partnerships, limited liability
26 partnerships, limited liability companies, associations, joint ventures, clubs,
27 societies, entities organized as for-profit corporations under ORS chapter 60,
28 C corporations, S corporations, qualified subchapter S subsidiaries, qualified
29 subchapter S trusts, trusts, entities that are disregarded for federal income
30 tax purposes and any other entities.

31 (15) "Retailer" means a person doing business by selling tangible personal

1 property to a purchaser for a purpose other than:

2 (a) Resale by the purchaser of the property as tangible personal property
3 in the regular course of business;

4 (b) Incorporation by the purchaser of the property in the course of regular
5 business as an ingredient or component of real or personal property; or

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

8 (16) "Taxable commercial activity" means commercial activity sourced to
9 this state under ORS 317A.128, less any subtraction pursuant to ORS
10 317A.119.

11 (17)(a) "Taxpayer" means any person or unitary group required to regis-
12 ter, file or pay tax under ORS 317A.100 to 317A.158.

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

16 (18)(a) "Unitary business" means a business enterprise in which there
17 exists directly or indirectly between the members or parts of the enterprise
18 a sharing or exchange of value as demonstrated by:

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

20 (B) Centralized administrative services or functions resulting in econo-
21 mies of scale; or

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

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

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

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

31 (19) "Unitary group" means a group of persons with more than 50 percent

1 common ownership, either direct or indirect, that is engaged in business ac-
2 tivities that constitute a unitary business.

3 (20) “Wholesaler” means a person primarily doing business by merchant
4 distribution of tangible personal property to retailers or to other whole-
5 salers.

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

7 458.670. As used in this section and ORS 458.675 to 458.700, unless the
8 context requires otherwise:

9 (1) “Account holder” means a resident of this state who:

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

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

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

14 (2) “Fiduciary organization” means an organization selected under ORS
15 458.695 to administer state moneys directed to individual development ac-
16 counts and that is:

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

20 (b) A federally recognized Oregon Indian tribe that is located, to a sig-
21 nificant degree, within the boundaries of this state.

22 (3) “Financial institution” means:

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

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

27 (4) “Individual development account” means a contract between an ac-
28 count holder and a fiduciary organization, for the deposit of funds into a fi-
29 nancial institution by the account holder, and the deposit of matching funds
30 into the financial institution by the fiduciary organization, to allow the ac-
31 count holder to accumulate assets for use toward achieving a specific pur-

1 pose approved by the fiduciary organization.

2 (5) “Lower income household” means a household having an income equal
3 to or less than the greater of the following:

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

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

15 (6) “Resident of this state” has the meaning given that term in ORS
16 316.027.

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

18 657.010. As used in this chapter, unless the context requires otherwise:

19 (1) “Base year” means the first four of the last five completed calendar
20 quarters preceding the benefit year.

21 (2) “Benefits” means the money allowances payable to unemployed per-
22 sons under this chapter.

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

31 (4) “Calendar quarter” means the period of three consecutive calendar

1 months ending on March 31, June 30, September 30 or December 31, or the
2 approximate equivalent thereof, as the Director of the Employment Depart-
3 ment may, by regulation, prescribe.

4 (5) "Contribution" or "contributions" means the taxes, as defined in sub-
5 section (13) of this section, that are the money payments required by this
6 chapter, or voluntary payments permitted, to be made to the Unemployment
7 Compensation Trust Fund.

8 (6) "Educational institution," including an institution of higher education
9 as defined in subsection (9) of this section, means an institution:

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

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

18 (c) In which the course or courses of study or training that it offers may
19 be academic, technical, trade or preparation for gainful employment in a re-
20 cognized occupation; and

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

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

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

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

30 (a) Admits as regular students only individuals having a certificate of
31 graduation from a high school, or the recognized equivalent of such a cer-

1 tificate;

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

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

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

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

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

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

21 (13) "Taxes" means the money payments to the Unemployment Compensa-
22 tion Trust Fund required, or voluntary payments permitted, by this chap-
23 ter.

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

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

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

1 657B.010. As used in this chapter:

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

4 (2) "Average weekly wage" means the amount calculated by the Employ-
5 ment Department as the state average weekly covered wage under ORS
6 657.150 (4)(d) as determined not more than once per year.

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

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

10 (5) "Benefit year" means the 12-month period as determined by the Di-
11 rector of the Employment Department by rule under ORS 657B.340.

12 (6) "Child" means:

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

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

17 (c) A person who is or was in a relationship of in loco parentis with a
18 covered individual or with the covered individual's spouse or domestic part-
19 ner.

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

22 (a) An employer;

23 (b) An eligible employee;

24 (c) A self-employed individual;

25 (d) A tribal government; or

26 (e) An employee of a tribal government.

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

29 (a) An eligible employee;

30 (b) A self-employed individual; or

31 (c) An employee of a tribal government.

1 (9) "Domestic partner" means an individual joined in a domestic partner-
2 ship.

3 (10) "Domestic partnership" has the meaning given that term in ORS
4 106.310.

5 (11) "Eligible employee" means:

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

8 (B) If an employee has not earned at least \$1,000 in wages during the base
9 year, an employee who has earned at least \$1,000 in wages during the alter-
10 nate base year; and

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

13 (12) "Eligible employee's average weekly wage" means an amount calcu-
14 lated by the Director of the Employment Department by dividing the total
15 wages earned by an eligible employee during the base year by the number
16 of weeks in the base year.

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

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

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

21 (b) "Employee" does not include:

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

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

25 (C) A participant in a work-study program that provides students in sec-
26 ondary or postsecondary educational institutions with employment opportu-
27 nities for financial assistance or vocational training.

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

30 (E) A volunteer.

31 (14)(a) "Employer" means any person that employs one or more employees

1 working anywhere in this state or any agent or employee of such person to
2 whom the duties of the person under this chapter have been delegated.

3 (b) "Employer" includes:

4 (A) A political subdivision of this state or any county, city, district, au-
5 thority or public corporation, or any instrumentality of a county, city, dis-
6 trict, authority or public corporation, organized and existing under law or
7 charter;

8 (B) An individual;

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

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

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

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

16 (c) "Employer" does not include the federal government or a tribal gov-
17 ernment.

18 (15) "Employment agency" has the meaning given that term in ORS
19 658.005.

20 (16) "Family and medical leave insurance benefits" means the wage re-
21 placement benefits that are available to a covered individual under ORS
22 657B.050 or under the terms of an employer plan approved under ORS
23 657B.210, for family leave, medical leave or safe leave.

24 (17)(a) "Family leave" means leave from work taken by a covered indi-
25 vidual:

26 (A) To care for and bond with a child during the first year after the
27 child's birth or during the first year after the placement of the child through
28 foster care or adoption; or

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

30 (b) "Family leave" does not mean:

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

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

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

3 (18) "Family member" means:

4 (a) The spouse of a covered individual;

5 (b) A child of a covered individual or the child's spouse or domestic
6 partner;

7 (c) A parent of a covered individual or the parent's spouse or domestic
8 partner;

9 (d) A sibling or stepsibling of a covered individual or the sibling's or
10 stepsibling's spouse or domestic partner;

11 (e) A grandparent of a covered individual or the grandparent's spouse or
12 domestic partner;

13 (f) A grandchild of a covered individual or the grandchild's spouse or
14 domestic partner;

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

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

18 (19) "Medical leave" means leave from work taken by a covered individual
19 that is made necessary by the individual's own serious health condition.

20 (20) "Parent" means:

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

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

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

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

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

31 (21) "Safe leave" means leave taken for any purpose described in 659A.272.

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

2 (a) An individual who has self-employment income as defined in section
3 1402(b) of the Internal Revenue Code as amended and in effect on December
4 31, [2018] **2020**; or

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

6 (23) “Serious health condition” has the meaning given that term in ORS
7 659A.150.

8 (24) “Third party administrator” means a third party that enters into an
9 agreement with the Director of the Employment Department to implement
10 and administer the paid family and medical leave program established under
11 this chapter.

12 (25) “Tribal government” has the meaning given that term in ORS
13 181A.680.

14 (26) “Wages” has the meaning given that term in ORS 657.105.

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

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

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

1 under ORS chapter 305, 314, 315, 316, 317 or 318 with respect to the de-
2 ficiency or portion thereof shall be canceled.

3 (b) If a refund is due any taxpayer for a tax year beginning before
4 January 1, 2021, and the refund or any portion thereof is due the tax-
5 payer on account of any retroactive treatment under the amendments
6 to ORS 178.300, 305.230, 305.494, 305.690, 305.842, 314.011, 314.306, 315.004,
7 316.012, 316.147, 316.157, 317.010, 317.097 and 317A.100 by sections 1 and
8 14 to 26 of this 2021 Act, for a tax year beginning before January 1,
9 2021, then notwithstanding ORS 305.270 or 314.415 or any other law, the
10 refund or portion thereof shall be paid without interest.

11 (c) Any changes required because of the amendments to ORS
12 178.300, 305.230, 305.494, 305.690, 305.842, 314.011, 314.306, 315.004, 316.012,
13 316.147, 316.157, 317.010, 317.097 and 317A.100 by sections 1 and 14 to 26
14 of this 2021 Act, for a tax year beginning before January 1, 2021, shall
15 be made by filing an amended return within the time prescribed by
16 law.

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

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

28