

Requested by JOINT COMMITTEE ON STUDENT SUCCESS

**PROPOSED AMENDMENTS TO
HOUSE BILL 3427**

1 In line 2 of the printed bill, after “funding” insert “; creating new pro-
2 visions; amending ORS 316.037; prescribing an effective date; and providing
3 for revenue raising that requires approval by a three-fifths majority”.

4 Delete lines 4 through 8 and insert:
5

6 **“PERSONAL INCOME TAX RATES**
7

8 **“SECTION 1.** ORS 316.037 is amended to read:

9 “316.037. (1)(a) A tax is imposed for each taxable year on the entire tax-
10 able income of every resident of this state. The amount of the tax shall be
11 determined in accordance with the following table:

12 “ _____

| 13 If taxable income is: | The tax is: |
|--------------------------|--|
| 14 | |
| 15 Not over \$2,000 | [5%] 4.75% of |
| 16 | taxable |
| 17 | income |
| 18 | |
| 19 Over \$2,000 but not | |
| 20 over \$5,000 | [\$100] \$95 plus [7%] 6.75% |
| 21 | of the excess |

1 over \$2,000
2
3 Over \$5,000 but not
4 over \$125,000 [\$310] **\$298** plus [9%] **8.75%**
5 of the excess
6 over \$5,000
7
8 Over \$125,000 [\$11,110] **\$10,798** plus 9.9%
9 of the excess
10 over \$125,000

11 “ _____

12 “(b) For tax years beginning in each calendar year, the Department of
13 Revenue shall adopt a table that shall apply in lieu of the table contained
14 in paragraph (a) of this subsection, as follows:

15 “(A) Except as provided in subparagraph (D) of this paragraph, the mini-
16 mum and maximum dollar amounts for each bracket for which a tax is im-
17 posed shall be increased by the cost-of-living adjustment for the calendar
18 year.

19 “(B) The rate applicable to any rate bracket as adjusted under subpara-
20 graph (A) of this paragraph *[shall]* **may** not be changed.

21 “(C) The amounts setting forth the tax, to the extent necessary to reflect
22 the adjustments in the rate brackets, shall be adjusted.

23 “(D) The rate brackets applicable to taxable income in excess of \$125,000
24 may not be adjusted.

25 “(c) For purposes of paragraph (b) of this subsection, the cost-of-living
26 adjustment for any calendar year is the percentage (if any) by which the
27 monthly averaged U.S. City Average Consumer Price Index for the 12 con-
28 secutive months ending August 31 of the prior calendar year exceeds the
29 monthly averaged index for the second quarter of the calendar year 1992.

30 “(d) As used in this subsection, ‘U.S. City Average Consumer Price

1 Index' means the U.S. City Average Consumer Price Index for All Urban
2 Consumers (All Items) as published by the Bureau of Labor Statistics of the
3 United States Department of Labor.

4 “(e) If any increase determined under paragraph (b) of this subsection is
5 not a multiple of \$50, the increase shall be rounded to the next lower mul-
6 tiple of \$50.

7 “(2) A tax is imposed for each taxable year upon the entire taxable income
8 of every part-year resident of this state. The amount of the tax shall be
9 computed under subsection (1) of this section as if the part-year resident
10 were a full-year resident and shall be multiplied by the ratio provided under
11 ORS 316.117 to determine the tax on income derived from sources within this
12 state.

13 “(3) A tax is imposed for each taxable year on the taxable income of every
14 full-year nonresident that is derived from sources within this state. The
15 amount of the tax shall be determined in accordance with the table set forth
16 in subsection (1) of this section.

17 **“SECTION 2. The amendments to ORS 316.037 by section 1 of this**
18 **2019 Act apply to tax years beginning on or after January 1, 2020.**

19

20 **“CORPORATE ACTIVITY TAX**

21

22 **“SECTION 3. Definitions. As used in sections 3 to 21 of this 2019**
23 **Act:**

24 **“(1)(a) ‘Business receipts’ means the total amount realized by a**
25 **person, arising from transactions and activity in the regular course**
26 **of the person’s trade or business, without deduction for expenses in-**
27 **curred by the trade or business.**

28 **“(b) ‘Business receipts’ does not include:**

29 **“(A) Interest income except interest on credit sales;**

30 **“(B) Receipts from the sale, exchange or other disposition of an**

1 asset described in section 1221 or 1231 of the Internal Revenue Code,
2 without regard to the length of time the person held the asset;

3 “(C) Proceeds received attributable to the repayment, maturity or
4 redemption of the principal of a loan, bond, mutual fund, certificate
5 of deposit or marketable instrument;

6 “(D) The principal amount received under a repurchase agreement
7 or on account of any transaction properly characterized as a loan to
8 the person;

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

13 “(F) Compensation, whether current or deferred, and whether in
14 cash or in kind, received or to be received by an employee, a former
15 employee or the employee’s legal successor for services rendered to
16 or for an employer, including reimbursements received by or for an
17 individual for medical or education expenses, health insurance premi-
18 ums or employee expenses, or on account of a dependent care spending
19 account, legal services plan, any cafeteria plan described in section 125
20 of the Internal Revenue Code or any similar employee reimbursement;

21 “(G) Proceeds received from the issuance of the taxpayer’s own
22 stock, options, warrants, puts or calls, or from the sale of the
23 taxpayer’s treasury stock;

24 “(H) Proceeds received on the account of payments from insurance
25 policies, except those proceeds received for the loss of business reve-
26 nue;

27 “(I) Gifts or charitable contributions received, membership dues
28 received by trade, professional, homeowners’ or condominium associ-
29 ations, payments received for educational courses, meetings or meals,
30 or similar payments to a trade, professional or other similar associ-

1 **ation, and fundraising receipts received by any person when any excess**
2 **receipts are donated or used exclusively for charitable purposes;**

3 **“(J) Damages received as the result of litigation in excess of**
4 **amounts that, if received without litigation, would be business re-**
5 **ceipts;**

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

9 **“(L) Tax refunds, other tax benefit recoveries and reimbursements**
10 **for the tax imposed under sections 3 to 21 of this 2019 Act made by**
11 **entities that are part of the same unitary group as provided under**
12 **section 5 of this 2019 Act, and reimbursements made by entities that**
13 **are not members of a unitary group that are required to be made for**
14 **economic parity among multiple owners of an entity whose tax obli-**
15 **gation under sections 3 to 21 of this 2019 Act is required to be reported**
16 **and paid entirely by one owner, as provided in section 5 of this 2019**
17 **Act;**

18 **“(M) Pension reversions;**

19 **“(N) Contributions to capital;**

20 **“(O) Receipts from the sale, transfer, exchange or other disposition**
21 **of motor vehicle fuel or any other product used for the propulsion of**
22 **motor vehicles;**

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

28 **“(Q) In the case of receipts from the sale of malt beverages, wine**
29 **or alcoholic liquor, all as defined in ORS 471.001, or cider, as defined**
30 **in ORS 471.023, by a person holding a license issued under ORS chapter**

1 471, an amount equal to the federal and state excise taxes paid by any
2 person on or for such malt beverages, wine or alcoholic liquor under
3 subtitle E of the Internal Revenue Code or ORS chapter 471, and any
4 net amount paid to the Oregon Liquor Control Commission by a per-
5 son licensed to sell alcoholic liquor under ORS chapter 471 in excess
6 of the purchase price paid by the licensee;

7 “(R) In the case of receipts from the sale of marijuana items, as
8 defined in ORS 475B.015, by a person holding a license issued under
9 ORS 475B.010 to 475B.545, an amount equal to the federal and state
10 excise taxes paid by any person on or for such marijuana items under
11 subtitle E of the Internal Revenue Code or ORS 475B.700 to 475B.760;

12 “(S) Receipts realized by a vehicle dealer certified under ORS 822.020
13 from the sale or other transfer of a motor vehicle, as defined in ORS
14 801.360, to another vehicle dealer for the purpose of resale by the
15 transferee vehicle dealer, but only if the sale or other transfer was
16 based upon the transferee’s need to meet a specific customer’s pref-
17 erence for a motor vehicle;

18 “(T) Registration fees or taxes collected by a vehicle dealer certified
19 under ORS 822.020 at the sale or other transfer of a motor vehicle, as
20 defined in ORS 801.360, that are owed to a third party by the purchaser
21 of the motor vehicle and passed to the third party by the dealer;

22 “(U) Receipts from a financial institution for services provided to
23 the financial institution in connection with the issuance, processing,
24 servicing and management of loans or credit accounts, if the financial
25 institution and the recipient of the receipts have at least 50 percent
26 of their ownership interests owned or controlled, directly or con-
27 structively through related interests, by common owners;

28 “(V) In the case of amounts retained as commissions by a holder
29 of a license under ORS chapter 462, an amount equal to the amounts
30 specified under ORS chapter 462 that must be paid to or collected by

1 the Department of Revenue as a tax and the amounts specified under
2 ORS chapter 462 to be used as purse money;

3 “(W) Net revenue of residential care facilities as defined in ORS
4 443.400 or in-home care agencies as defined in ORS 443.305, to the ex-
5 tent that the revenue is derived from or received as compensation for
6 providing services to a medical assistance or Medicare recipient;

7 “(X) Dividends received;

8 “(Y) Distributive income received from a pass-through entity;

9 “(Z) Receipts from sales to a wholesaler in this state or to an agri-
10 cultural cooperative in this state that is a cooperative organization
11 described in section 1381 of the Internal Revenue Code, if the seller
12 receives certification at the time of sale from the wholesaler or coop-
13 erative that the wholesaler or cooperative will sell the purchased
14 property outside this state;

15 “(AA) Forgiven or transferred debts;

16 “(BB) Rebates paid to purchasers by retailers or wholesalers;

17 “(CC) Receipts from the wholesale or retail sale of groceries;

18 “(DD) Receipts from transactions among members of a unitary
19 group;

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

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

28 “(GG) Surcharges collected under ORS 757.736;

29 “(HH) Moneys passed to a utility by the Bonneville Power Admin-
30 istration for the purpose of effectuating the Regional Power Act Ex-

1 **change credits or pursuant to any settlement associated with the**
2 **exchange credit;**

3 **“(II) Moneys collected by a utility for franchise fees, privilege taxes,**
4 **federal taxes, local taxes and fees payable under ORS 756.310;**

5 **“(JJ) Charges paid to the Residential Service Protection Fund re-**
6 **quired by chapter 290, Oregon Laws 1987;**

7 **“(KK) Universal service surcharge moneys collected by telecommu-**
8 **nications carriers and paid into the universal service fund established**
9 **in ORS 759.425;**

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

12 **“(MM) Moneys collected for the federal universal service fund as**
13 **determined by the Federal Communications Commission;**

14 **“(NN) In the case of a seller or provider of telecommunications**
15 **services, the amount of tax imposed under ORS 403.200 for access to**
16 **the emergency communications system that is collected from sub-**
17 **scribers or consumers;**

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

21 **“(PP) In the case of a seller of bicycles, the amount of tax imposed**
22 **under ORS 320.415 upon retail sales of bicycles; and**

23 **“(QQ) In the case of a qualified heavy equipment provider, the**
24 **amount of tax imposed under section 2, chapter 64, Oregon Laws 2018,**
25 **upon the rental price of heavy equipment.**

26 **“(2)(a) ‘Business receipts of a financial institution’ includes all**
27 **items of income without deduction for expenses.**

28 **“(b) If the reporting person for a financial institution is a holding**
29 **company, ‘business receipts of a financial institution’ includes all**
30 **items of income reported on the FR Y-9 filed by the holding company.**

1 “(c) If the reporting person for a financial institution is a bank or-
2 ganization, ‘business receipts of a financial institution’ includes all
3 items of income reported on the call report filed by the bank organ-
4 ization.

5 “(d) If the reporting person for a financial institution is a nonbank
6 financial organization, ‘business receipts of a financial institution’ in-
7 cludes all items of income reported in accordance with generally ac-
8 cepted accounting principles.

9 “(3) ‘Business receipts of an insurer’ includes all items of income
10 without deduction for expenses and all items of income reported on the
11 statement of income accompanying the annual statement required
12 under ORS 731.574 to be filed with the Director of the Department of
13 Consumer and Business Services.

14 “(4) ‘Cost inputs’ means the cost of materials incurred in the cre-
15 ation of a good or service and the cost of purchase of items held in the
16 ordinary course of business for inventory, in accordance with section
17 471 of the Internal Revenue Code.

18 “(5) ‘Doing business’ means engaging in any activity, whether legal
19 or illegal, that is conducted for, or results in, the receipt of business
20 receipts at any time during a calendar year.

21 “(6) ‘Excluded person’ means any of the following:

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

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

29 “(c) Organizations described in section 501(e) of the Internal Reve-
30 nue Code.

1 “(d) Organizations described in section 501(f) of the Internal Reve-
2 nue Code.

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

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

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

9 “(h) Foreign or alien insurance companies, but only with respect
10 to the underwriting profit derived from writing wet marine and
11 transportation insurance subject to tax under ORS 731.824 and 731.828.

12 “(i) People’s utility districts established under ORS chapter 261.

13 “(j) Governmental entities.

14 “(k) Any person that has business receipts that do not exceed \$1
15 million for the calendar year, other than a person that is part of a
16 unitary group as provided in section 5 of this 2019 Act that has busi-
17 ness receipts in excess of \$1 million.

18 “(L) Hospitals subject to assessment under section 2, chapter 736,
19 Oregon Laws 2003, long term care facilities subject to assessment un-
20 der section 16, chapter 736, Oregon Laws 2003, or any entity subject to
21 assessment under section 3, 5 or 9, chapter 538, Oregon Laws 2017.

22 “(7) ‘Financial institution’ has the meaning given that term in ORS
23 314.610, except that ‘financial institution’ does not include a credit
24 union.

25 “(8)(a) ‘Forgiven or transferred debts’ means debts owed a taxpayer
26 on the basis of which tax was paid by the taxpayer in a prior tax year,
27 that have become worthless or uncollectible during the current tax
28 year, that have been uncollected for at least six months and that may
29 be claimed as a deduction under section 166 of the Internal Revenue
30 Code or that could be claimed as such if the taxpayer kept accounts

1 on the accrual basis.

2 “(b) ‘Forgiven or transferred debts’ does not include repossessed
3 property, uncollectible amounts on property that remains in the pos-
4 session of the taxpayer until the full purchase price is paid or expenses
5 incurred by the taxpayer in attempting to collect any amount receiv-
6 able or for any portion of the debt recovered.

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

10 “(b) In the case of a holding company required to file both consol-
11 idated and parent-only financial statements, ‘FR Y-9’ means the con-
12 solidated financial statements that the holding company is required
13 to file.

14 “(10) ‘Governmental entity’ means:

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

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

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

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

24 “(e) Any public corporation.

25 “(f) A federally recognized Indian tribe.

26 “(11) ‘Groceries’ means food as defined in 7 U.S.C. 2012(k).

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

28 “(13) ‘Internal Revenue Code,’ except where the Legislative Assem-
29 bly has provided otherwise, refers to the laws of the United States or
30 to the Internal Revenue Code as they are amended and in effect on

1 **December 31, 2018.**

2 **“(14)(a) ‘Labor costs’ means salary and wages paid directly to an**
3 **employee of the taxpayer and benefits paid on behalf of the employee.**

4 **“(b) ‘Labor costs’ does not include remuneration paid to officers of**
5 **a corporation, bonuses, or any amount of annual salary or wages paid**
6 **to a single employee in excess of \$1 million.**

7 **“(15)(a) ‘Motor vehicle fuel or any other product used for the pro-**
8 **pulsion of motor vehicles’ means:**

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

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

12 **“(b) ‘Motor vehicle fuel or any other product used for the propul-**
13 **sion of motor vehicles’ does not mean:**

14 **“(A) Electricity; or**

15 **“(B) Electric batteries or any other mechanical or physical compo-**
16 **nent or accessory of a motor vehicle.**

17 **“(16) ‘Person’ includes individuals, combinations of individuals of**
18 **any form, receivers, assignees, trustees in bankruptcy, firms, compa-**
19 **nies, joint-stock companies, business trusts, estates, partnerships,**
20 **limited liability partnerships, limited liability companies, associations,**
21 **joint ventures, clubs, societies, for-profit corporations, S corporations,**
22 **qualified subchapter S subsidiaries, qualified subchapter S trusts,**
23 **trusts, entities that are disregarded for federal income tax purposes**
24 **and any other entities.**

25 **“(17) ‘Retailer’ means a person doing business by selling tangible**
26 **personal property to a purchaser for a purpose other than:**

27 **“(a) Resale by the purchaser of the property as tangible personal**
28 **property in the regular course of business;**

29 **“(b) Incorporation by the purchaser of the property in the course**
30 **of regular business as an ingredient or component of real or personal**

1 **property; or**

2 **“(c) Consumption by the purchaser of the property in the pro-**
3 **duction for sale of a new article of tangible personal property.**

4 **“(18) ‘Taxable business receipts’ means business receipts sourced to**
5 **this state under section 11 of this 2019 Act, less any subtraction pur-**
6 **suant to section 9 of this 2019 Act.**

7 **“(19)(a) ‘Taxpayer’ means any person or unitary group required to**
8 **register, file or pay tax under sections 3 to 21 of this 2019 Act.**

9 **“(b) ‘Taxpayer’ does not include excluded persons.**

10 **“(20)(a) ‘Unitary business’ means a business enterprise in which**
11 **there exists directly or indirectly between the members or parts of the**
12 **enterprise a sharing or exchange of value as demonstrated by:**

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

14 **“(B) Centralized administrative services or functions resulting in**
15 **economies of scale; or**

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

18 **“(b) ‘Unitary business’ may include a business enterprise the ac-**
19 **tivities of which:**

20 **“(A) Are in the same general line of business, such as manufac-**
21 **turing, wholesaling or retailing; or**

22 **“(B) Constitute steps in a vertically integrated process, such as the**
23 **steps involved in the production of natural resources, which might**
24 **include exploration, mining, refining and marketing.**

25 **“(21) ‘Unitary group’ means a group of persons with at least 50**
26 **percent common ownership that is engaged in business activities that**
27 **constitute a unitary business.**

28 **“(22) ‘Wholesaler’ means a person primarily doing business by**
29 **merchant distribution of tangible personal property to retailers or to**
30 **other wholesalers.**

1 **“SECTION 4. Accounting methods.** A taxpayer’s method of ac-
2 counting for business receipts, cost inputs and labor costs for a tax
3 year shall be the same as the taxpayer’s method of accounting for
4 federal income tax purposes for the taxpayer’s federal tax year that
5 includes the tax year. If a taxpayer’s method of accounting for federal
6 income tax purposes changes, the taxpayer’s method of accounting for
7 business receipts under sections 3 to 21 of this 2019 Act shall be
8 changed accordingly.

9 **“SECTION 5. Unitary groups.** A unitary group shall register, file
10 and pay taxes under sections 3 to 21 of this 2019 Act as a single tax-
11 payer and may exclude receipts from transactions among its members.
12 The unitary group shall file under the name of the entity with the
13 greatest amount of business receipts in Oregon for the tax year. The
14 Department of Revenue may collect identifying information about all
15 members of a unitary group and may require disclosure to the de-
16 partment, for each member, of the business receipts in Oregon and in
17 the United States.

18 **“SECTION 6. Taxation of property transferred into state.** (1) Except
19 as provided in subsection (2) of this section:

20 **“(a)** A person shall include as taxable business receipts the value
21 of property the person transfers into this state for the person’s own
22 use in the course of a trade or business within one year after the
23 person receives the property outside this state; and

24 **“(b)** In the case of a unitary group, the taxpayer shall include as
25 taxable business receipts the value of property that any of the
26 taxpayer’s members transferred into this state for the use in the
27 course of a trade or business by any of the taxpayer’s members within
28 one year after the taxpayer receives the property outside this state.

29 **“(2)** Property brought into this state within one year after it is re-
30 ceived outside this state by a person or unitary group described in

1 subsection (1) of this section may not be included as taxable business
2 receipts as required under subsection (1) of this section if the Depart-
3 ment of Revenue ascertains that the property's receipt outside this
4 state by the person or unitary group followed by its transfer into this
5 state within one year was not intended in whole or in part to avoid in
6 whole or in part the tax imposed under sections 3 to 21 of this 2019
7 Act.

8 “(3) The department may adopt rules necessary to administer this
9 section.

10 “SECTION 7. Joint and several liability. All members of a unitary
11 group during the tax year or periods for which additional tax, penalty
12 or interest is owed are jointly and severally liable for such amounts.
13 Although the reporting person shall be assessed for the liability,
14 amounts due may be collected by assessment against any member of
15 the unitary group or pursued against any member of the unitary
16 group.

17 “SECTION 8. Corporate activity tax imposed on business receipts.

18 (1) A corporate activity tax is imposed on each person with taxable
19 business receipts for the privilege of doing business in this state. The
20 tax is imposed upon persons with substantial nexus with this state.
21 The tax imposed under this section is not a transactional tax and is
22 not subject to the Interstate Income Act of 1959 (P.L. 86-272). The tax
23 imposed under this section is in addition to any other taxes or fees
24 imposed under the tax laws of this state. The tax imposed under this
25 section is imposed on the person receiving the business receipts and
26 is not a tax imposed directly on a purchaser. The tax imposed by this
27 section is an annual privilege tax for the calendar year that, in the
28 case of calendar year taxpayers, is the annual tax period and, in the
29 case of calendar quarter taxpayers, contains all quarterly tax periods
30 in the calendar year. A taxpayer is subject to the annual corporate

1 activity tax for doing business during any portion of such calendar
2 year.

3 “(2) A person has substantial nexus with this state if any of the
4 following applies. The person:

5 “(a) Owns or uses a part or all of its capital in this state.

6 “(b) Holds a certificate of existence or authorization issued by the
7 Secretary of State authorizing the person to do business in this state.

8 “(c) Has bright-line presence in this state.

9 “(d) Otherwise has nexus with this state to an extent that the per-
10 son can be required to remit the tax imposed under sections 3 to 21
11 of this 2019 Act under the United States Constitution.

12 “(3) A person has bright-line presence in this state for the calendar
13 year if any of the following applies. The person:

14 “(a) Owns at any time during the calendar year property in this
15 state with an aggregate value of at least \$50,000. For purposes of this
16 paragraph, owned property is valued at original cost and rented prop-
17 erty is valued at eight times the net annual rental charge.

18 “(b) Has during the calendar year payroll in this state of at least
19 \$50,000. Payroll in this state includes the following:

20 “(A) Any amount subject to withholding by the person under ORS
21 316.167 and 316.172;

22 “(B) Any other amount the person pays as compensation to an in-
23 dividual under the supervision or control of the person for work done
24 in this state; and

25 “(C) Any amount the person pays for services performed in this
26 state on the person’s behalf by another.

27 “(c) Has during the calendar year taxable business receipts of at
28 least \$500,000.

29 “(d) Has at any time during the calendar year within this state at
30 least 25 percent of the person’s total property, total payroll or total

1 **business receipts.**

2 **“(e) Is a resident of this state or is domiciled in this state for cor-**
3 **porate, commercial or other business purposes.**

4 **“(4) The tax imposed by this section is a tax on the taxpayer and**
5 **may not be billed or invoiced to another person.**

6 **“SECTION 9. Subtraction. (1) A taxpayer shall subtract from busi-**
7 **ness receipts sourced to this state 25 percent of the greater of the**
8 **following amounts paid or incurred by the taxpayer in the tax year:**

9 **“(a) The amount of cost inputs paid to other businesses; or**

10 **“(b) The taxpayer’s labor costs.**

11 **“(2) The amounts in subsection (1)(a) or (b) of this section shall be**
12 **apportioned to this state in the manner required for apportionment**
13 **of income under ORS 314.605 to 314.675.**

14 **“(3) Notwithstanding subsection (1) of this section, the subtraction**
15 **under this section may not exceed 95 percent of the taxpayer’s busi-**
16 **ness receipts in this state.**

17 **“SECTION 10. Rate of taxation. (1) The corporate activity tax im-**
18 **posed under section 8 of this 2019 Act for each calendar year shall**
19 **equal \$250 plus the product of the taxpayer’s taxable business receipts**
20 **in excess of \$1 million for the calendar year multiplied by 0.49 percent.**

21 **“(2) A tax is not owed under this section if the person’s taxable**
22 **business receipts do not exceed \$1 million.**

23 **“SECTION 11. Sourcing of business receipts. (1) For purposes of**
24 **sections 3 to 21 of this 2019 Act, business receipts other than business**
25 **receipts of financial institutions or insurers shall be sourced to this**
26 **state as follows:**

27 **“(a) In the case of the sale, rental, lease or license of real property,**
28 **if and to the extent the property is located in this state.**

29 **“(b) In the case of the rental, lease or license of tangible personal**
30 **property, if and to the extent the property is located in this state.**

1 “(2) Subsection (1) of this section does not apply to any tax if the
2 ordinance or other law imposing the tax is in effect and operative on
3 March 1, 2019.

4
5 **“REGISTRATION PROCEDURES**

6
7 **“SECTION 13. Registration.** (1) Any person or unitary group with
8 business receipts in excess of \$500,000 in the tax year shall register
9 with the Department of Revenue.

10 “(2) The registration shall contain the names of the persons who
11 have an interest in the business, their addresses, the address of the
12 principal or main place of business and of any other business location
13 and other information as reasonably required by the department.

14 “(3) The department by rule may establish the time and manner for
15 applications for registration under this section and may establish
16 reasonable fees for processing of applications and issuance of regis-
17 trations.

18 “(4) The department may impose a penalty for failing to register
19 as required under this section, not to exceed \$100 per month that a
20 person or unitary group has failed to register or a total of \$1,000 in a
21 calendar year.

22 **“SECTION 14. Records.** Every person doing business in this state
23 shall keep records, receipts, invoices and other pertinent papers re-
24 lated to the corporate activity tax imposed under section 8 of this 2019
25 Act in a form required by the Department of Revenue.

26
27 **“RETURNS AND PAYMENTS**

28
29 **“SECTION 15. Returns, payment.** (1) For purposes of the corporate
30 activity tax imposed under section 8 of this 2019 Act, every person

1 doing business in this state with business receipts for the tax year in
2 excess of \$1 million shall file an annual return.

3 “(2) The corporate activity tax imposed under section 8 of this 2019
4 Act is due and payable to the Department of Revenue on or before the
5 last day of January, April, July and October of each year for the pre-
6 vious calendar quarter. A taxpayer shall pay at least 80 percent of the
7 balance due for the previous quarter or the department may impose a
8 penalty as provided in ORS 314.400 (3). The return must be filed with
9 the department in a form prescribed by the department.

10 “(3) The department may by rule extend the time for making any
11 return for good cause. If the time for filing a return is extended at the
12 request of a taxpayer, interest on any unpaid tax at the rate estab-
13 lished under ORS 305.220 from the time the return was originally re-
14 quired to be filed to the time of payment, shall be added and paid.

15 “SECTION 16. Accounting, installment payment. (1) Subject to
16 rules adopted by the Department of Revenue, the corporate activity
17 tax imposed under section 8 of this 2019 Act becomes payable in ac-
18 cordance with the system of accounting regularly employed by the
19 taxpayer.

20 “(2) In the case of a lease, contract, sale or arrangement described
21 in section 4216(c) of the Internal Revenue Code, rules similar to the
22 rules of section 4217(e)(2) of the Internal Revenue Code shall apply for
23 purposes of the corporate activity tax.

24 “(3) A person is entitled to a credit or refund for taxes previously
25 paid on debts that are deductible under section 166 of the Internal
26 Revenue Code.

27

28

“COLLECTION

29

30 “SECTION 17. Rules, uniformity. The Department of Revenue is

1 authorized to and shall adopt rules requiring uniformity in application,
2 reporting and collection and otherwise carrying out the purposes of
3 sections 3 to 21 of this 2019 Act.

4 **“SECTION 18. Quitting business, successor.** (1) For purposes of
5 sections 3 to 21 of this 2019 Act, ‘successor’ means any person to whom
6 another person quitting, selling out, exchanging or disposing of a
7 business sells or otherwise conveys, directly or indirectly, in bulk and
8 not in the ordinary course of business, a major part of the materials,
9 supplies, merchandise, inventory, fixtures or equipment of the person.
10 Any person obligated to fulfill the terms of a contract shall be con-
11 sidered a successor to any contractor defaulting in the performance
12 of any contract as to which the person is a surety or guarantor.

13 **“(2)** If any person quits business or sells out, exchanges or other-
14 wise disposes of a business or stock of goods, any corporate activity
15 tax imposed under section 8 of this 2019 Act shall become immediately
16 due and payable. The person shall, within 45 days after the sale, ex-
17 change or disposition, make a return and pay the tax due.

18 **“(3)** Notwithstanding ORS 314.835, the successor is liable for the full
19 amount of the tax and may withhold from the purchase price a sum
20 sufficient to pay any tax due until a receipt or evidence from the De-
21 partment of Revenue showing payment in full of any tax due is pre-
22 sented to the successor. If a receipt or other evidence is not presented
23 to the successor within 45 days, the successor may pay the tax and the
24 amount paid shall, to the extent paid, be considered a payment of the
25 purchase price. If the tax paid by the successor is greater than the
26 purchase price, the amount of the difference is a debt due to the suc-
27 cessor from the seller or transferor.

28 **“(4)** A successor is not liable for any tax due from the person from
29 whom the successor has acquired a business or stock of goods if the
30 successor gives written notice to the department of the acquisition and

1 the department does not assess a deficiency against the seller or
2 transferor within 18 months of receipt of the notice of acquisition and
3 mail or deliver a copy of the assessment to the successor.

4
5 **“APPLICABILITY OF TAX LAWS**

6
7 **“SECTION 19. Except as otherwise provided in sections 3 to 21 of**
8 **this 2019 Act or where the context requires otherwise, the provisions**
9 **of ORS chapters 305 and 314 as to the audit and examination of re-**
10 **turns, periods of limitation, determination of and notices of deficien-**
11 **cies, assessments, collections, liens, delinquencies, claims for refund**
12 **and refunds, conferences, appeals to the Oregon Tax Court, stays of**
13 **collection pending appeal, confidentiality of returns and the penalties**
14 **relative thereto, and the procedures relating thereto, apply to the de-**
15 **terminations of taxes, penalties and interest under sections 3 to 21 of**
16 **this 2019 Act.**

17
18 **“DISPOSITION OF PROCEEDS**

19
20 **“SECTION 20. Payments to Department of Revenue. For purposes**
21 **of sections 3 to 21 of this 2019 Act, and except as otherwise provided**
22 **by law, all taxes, interest and penalties imposed and all amounts of**
23 **corporate activity tax collected or required to be paid to the state shall**
24 **be paid to the Department of Revenue and upon receipt by the de-**
25 **partment shall be turned over to the State Treasurer, to be disbursed**
26 **as provided in section 21 of this 2019 Act.**

27 **“SECTION 21. Suspense account, other disposition. (1) Except as**
28 **otherwise provided by law, all moneys received by the Department of**
29 **Revenue under sections 3 to 21 of this 2019 Act shall be deposited in**
30 **the State Treasury and credited to a suspense account established**

1 under ORS 293.445 separate and distinct from the General Fund. Re-
2 funds, including refunds of erroneous overpayments or refunds of
3 other moneys received in which the department has no legal interest,
4 shall be paid out of the suspense account.

5 “(2) After payment of refunds, the net revenue shall be transferred
6 to the Fund for Student Success established under section 24 of this
7 2019 Act. A working balance of unreceipted revenue from the tax im-
8 posed by sections 3 to 21 of this 2019 Act may be retained by the de-
9 partment for the payment of refunds, but such working balance may
10 not at the close of any fiscal year exceed the amount of \$500,000.

11 “(3) There are continuously appropriated to the department
12 amounts necessary to pay the administrative expenses of the depart-
13 ment in administering, collecting and enforcing the corporate activity
14 tax imposed under section 8 of this 2019 Act.

15

16 “UNDERPAYMENT OR UNDERREPORTING

17

18 “SECTION 22. Interest and penalties. The Department of Revenue
19 may not impose any interest or penalty that would otherwise apply to
20 taxes due if the interest or penalty is based on underpayment or
21 underreporting that results solely from the operation of sections 3 to
22 21 of this 2019 Act.

23 “SECTION 23. Section 22 of this 2019 Act applies to tax years be-
24 ginning on or after January 1, 2020, and before January 1, 2021, and
25 to returns filed on or before April 15, 2021.

26

27 “FUND FOR STUDENT SUCCESS

28

29 “SECTION 24. (1) The Fund for Student Success is established in
30 the State Treasury, separate and distinct from the General Fund.

1 **“(2) The fund shall consist of moneys appropriated or transferred**
2 **to the fund and moneys received by the fund from the tax imposed by**
3 **sections 3 to 21 of this 2019 Act.**

4 **“(3) The moneys in the fund shall be used solely for the purpose of**
5 **funding early learning programs and prekindergarten through grade**
6 **12 level education.**

7
8 **“APPLICABILITY**

9
10 **“SECTION 25. Sections 3 to 21 of this 2019 Act apply to tax years**
11 **beginning on or after January 1, 2020.**

12
13 **“PARTS NOT SEVERABLE**

14
15 **“SECTION 26. It is the intent of the Legislative Assembly that each**
16 **part of this 2019 Act be considered as essentially and inseparably con-**
17 **ected with and dependent upon every other part. The Legislative**
18 **Assembly does not intend that any part of this 2019 Act be the law if**
19 **any other part does not become law.**

20
21 **“CAPTIONS**

22
23 **“SECTION 27. The unit and section captions used in this 2019 Act**
24 **are provided only for the convenience of the reader and do not become**
25 **part of the statutory law of this state or express any legislative intent**
26 **in the enactment of this 2019 Act.**

27
28 **“EFFECTIVE DATE**

29
30 **“SECTION 28. This 2019 Act takes effect on the 91st day after the**

1 **date on which the 2019 regular session of the Eightieth Legislative**
2 **Assembly adjourns sine die.”**

3 _____