

Requested by Representative SMITH G

**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) ‘Commercial activity’ 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 **curring by the trade or business.**

28 **“(b) ‘Commercial activity’ 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) Proceeds received from the issuance of the taxpayer’s own
14 stock, options, warrants, puts or calls, or from the sale of the
15 taxpayer’s treasury stock;

16 “(G) Proceeds received on the account of payments from insurance
17 policies, except those proceeds received for the loss of business reve-
18 nue;

19 “(H) Gifts or charitable contributions received, membership dues
20 received by trade, professional, homeowners’ or condominium associ-
21 ations, payments received for educational courses, meetings or meals,
22 or similar payments to a trade, professional or other similar associ-
23 ation, and fundraising receipts received by any person when any excess
24 receipts are donated or used exclusively for charitable purposes;

25 “(I) Damages received as the result of litigation in excess of
26 amounts that, if received without litigation, would be treated as com-
27 mercial activity;

28 “(J) Property, money and other amounts received or acquired by
29 an agent on behalf of another in excess of the agent’s commission, fee
30 or other remuneration;

1 **“(K) Tax refunds, other tax benefit recoveries and reimbursements**
2 **for the tax imposed under sections 3 to 21 of this 2019 Act made by**
3 **entities that are part of the same unitary group as provided under**
4 **section 5 of this 2019 Act, and reimbursements made by entities that**
5 **are not members of a unitary group that are required to be made for**
6 **economic parity among multiple owners of an entity whose tax obli-**
7 **gation under sections 3 to 21 of this 2019 Act is required to be reported**
8 **and paid entirely by one owner, as provided in section 5 of this 2019**
9 **Act;**

10 **“(L) Pension reversions;**

11 **“(M) Contributions to capital;**

12 **“(N) Receipts from the sale, transfer, exchange or other disposition**
13 **of motor vehicle fuel or any other product used for the propulsion of**
14 **motor vehicles;**

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

20 **“(P) In the case of receipts from the sale of malt beverages, wine**
21 **or alcoholic liquor, all as defined in ORS 471.001, or cider, as defined**
22 **in ORS 471.023, by a person holding a license issued under ORS chapter**
23 **471, an amount equal to the federal and state excise taxes paid by any**
24 **person on or for such malt beverages, wine or alcoholic liquor under**
25 **subtitle E of the Internal Revenue Code or ORS chapter 471, and any**
26 **net amount paid to the Oregon Liquor Control Commission by a per-**
27 **son licensed to sell alcoholic liquor under ORS chapter 471 in excess**
28 **of the purchase price paid by the licensee;**

29 **“(Q) In the case of receipts from the sale of marijuana items, as**
30 **defined in ORS 475B.015, by a person holding a license issued under**

1 **ORS 475B.010 to 475B.545, an amount equal to the federal and state**
2 **excise taxes paid by any person on or for such marijuana items under**
3 **subtitle E of the Internal Revenue Code or ORS 475B.700 to 475B.760;**

4 **“(R) Receipts realized by a vehicle dealer certified under ORS 822.020**
5 **from the sale or other transfer of a motor vehicle, as defined in ORS**
6 **801.360, to another vehicle dealer for the purpose of resale by the**
7 **transferee vehicle dealer, but only if the sale or other transfer was**
8 **based upon the transferee’s need to meet a specific customer’s pref-**
9 **erence for a motor vehicle;**

10 **“(S) Registration fees or taxes collected by a vehicle dealer certified**
11 **under ORS 822.020 at the sale or other transfer of a motor vehicle, as**
12 **defined in ORS 801.360, that are owed to a third party by the purchaser**
13 **of the motor vehicle and passed to the third party by the dealer;**

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

20 **“(U) In the case of amounts retained as commissions by a holder**
21 **of a license under ORS chapter 462, an amount equal to the amounts**
22 **specified under ORS chapter 462 that must be paid to or collected by**
23 **the Department of Revenue as a tax and the amounts specified under**
24 **ORS chapter 462 to be used as purse money;**

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

29 **“(W) Dividends received;**

30 **“(X) Distributive income received from a pass-through entity;**

1 “(Y) Receipts from sales to a wholesaler in this state, if the seller
2 receives certification at the time of sale from the wholesaler that the
3 wholesaler will sell the purchased property outside this state;

4 “(Z) Rebates paid to purchasers by retailers or wholesalers;

5 “(AA) Receipts from the wholesale or retail sale of groceries;

6 “(BB) Receipts from transactions among members of a unitary
7 group;

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

14 “(DD) Moneys collected by a utility from customers for the payment
15 of loans through on-bill financing;

16 “(EE) Surcharges collected under ORS 757.736;

17 “(FF) Moneys passed to a utility by the Bonneville Power Adminis-
18 tration for the purpose of effectuating the Regional Power Act Ex-
19 change credits or pursuant to any settlement associated with the
20 exchange credit;

21 “(GG) Moneys collected by a utility for franchise fees, privilege
22 taxes, federal taxes, local taxes and fees payable under ORS 756.310;

23 “(HH) Charges paid to the Residential Service Protection Fund re-
24 quired by chapter 290, Oregon Laws 1987;

25 “(II) Universal service surcharge moneys collected by telecommu-
26 nications carriers and paid into the universal service fund established
27 in ORS 759.425;

28 “(JJ) Moneys collected for public purpose funding as described in
29 ORS 759.430;

30 “(KK) Moneys collected for the federal universal service fund as

1 **determined by the Federal Communications Commission;**

2 **“(LL) In the case of a seller or provider of telecommunications**
3 **services, the amount of tax imposed under ORS 403.200 for access to**
4 **the emergency communications system that is collected from sub-**
5 **scribers or consumers;**

6 **“(MM) In the case of a transient lodging tax collector, the amount**
7 **of tax imposed under ORS 320.305 and of any local transient lodging**
8 **tax imposed upon the occupancy of transit lodging;**

9 **“(NN) In the case of a seller of bicycles, the amount of tax imposed**
10 **under ORS 320.415 upon retail sales of bicycles;**

11 **“(OO) In the case of a qualified heavy equipment provider, the**
12 **amount of tax imposed under section 2, chapter 64, Oregon Laws 2018,**
13 **upon the rental price of heavy equipment; and**

14 **“(PP) Receipts representing business done with or for members of**
15 **an agricultural cooperative in this state that is a cooperative organ-**
16 **ization described in section 1381 of the Internal Revenue Code.**

17 **“(2)(a) ‘Commercial activity of a financial institution’ includes all**
18 **items of income without deduction for expenses.**

19 **“(b) If the reporting person for a financial institution is a holding**
20 **company, ‘commercial activity of a financial institution’ includes all**
21 **items of income reported on the FR Y-9 filed by the holding company.**

22 **“(c) If the reporting person for a financial institution is a bank or-**
23 **ganization, ‘commercial activity of a financial institution’ includes all**
24 **items of income reported on the call report filed by the bank organ-**
25 **ization.**

26 **“(d) If the reporting person for a financial institution is a nonbank**
27 **financial organization, ‘commercial activity of a financial institution’**
28 **includes all items of income reported in accordance with generally**
29 **accepted accounting principles.**

30 **“(3) ‘Commercial activity of an insurer’ includes all items of income**

1 without deduction for expenses and all items of income reported on the
2 statement of income accompanying the annual statement required
3 under ORS 731.574 to be filed with the Director of the Department of
4 Consumer and Business Services.

5 “(4) ‘Cost inputs’ means the cost of materials incurred in the cre-
6 ation of a good or service and the cost of purchase of items held in the
7 ordinary course of business for inventory, in accordance with section
8 471 of the Internal Revenue Code.

9 “(5) ‘Doing business’ means engaging in any activity, whether legal
10 or illegal, that is conducted for, or results in, the receipt of commer-
11 cial activity at any time during a calendar year.

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

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

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

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

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

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

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

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

30 “(h) Foreign or alien insurance companies, but only with respect

1 to the underwriting profit derived from writing wet marine and
2 transportation insurance subject to tax under ORS 731.824 and 731.828.

3 **“(i) Governmental entities.**

4 **“(j) Any person with commercial activity that does not exceed \$1**
5 **million for the calendar year, other than a person that is part of a**
6 **unitary group as provided in section 5 of this 2019 Act with commercial**
7 **activity in excess of \$1 million.**

8 **“(k) Hospitals subject to assessment under section 2, chapter 736,**
9 **Oregon Laws 2003, long term care facilities subject to assessment un-**
10 **der section 16, chapter 736, Oregon Laws 2003, or any entity subject to**
11 **assessment under section 3, 5 or 9, chapter 538, Oregon Laws 2017.**

12 **“(7) ‘Financial institution’ has the meaning given that term in ORS**
13 **314.610, except that ‘financial institution’ does not include a credit**
14 **union.**

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

18 **“(b) In the case of a holding company required to file both consol-**
19 **idated and parent-only financial statements, ‘FR Y-9’ means the con-**
20 **solidated financial statements that the holding company is required**
21 **to file.**

22 **“(9) ‘Governmental entity’ means:**

23 **“(a) The United States and any of its unincorporated agencies and**
24 **instrumentalities.**

25 **“(b) Any incorporated agency or instrumentality of the United**
26 **States wholly owned by the United States or by a corporation wholly**
27 **owned by the United States.**

28 **“(c) The State of Oregon and any of its unincorporated agencies and**
29 **instrumentalities.**

30 **“(d) Any county, city, district or other political subdivision of the**

1 state.

2 “(e) Any public corporation.

3 “(f) A federally recognized Indian tribe.

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

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

6 “(12) ‘Internal Revenue Code,’ except where the Legislative Assem-
7 bly has provided otherwise, refers to the laws of the United States or
8 to the Internal Revenue Code as they are amended and in effect on
9 December 31, 2018.

10 “(13) ‘Labor costs’ means total compensation of all employees, not
11 to include compensation paid to any single employee in excess of
12 \$500,000.

13 “(14)(a) ‘Motor vehicle fuel or any other product used for the pro-
14 pulsion 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
17 under ORS 319.530.

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

20 “(A) Electricity; or

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

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

1 **entities.**

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

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

6 **“(b) Incorporation by the purchaser of the property in the course**
7 **of regular business as an ingredient or component of real or personal**
8 **property; or**

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

11 **“(17) ‘Taxable commercial activity’ means commercial activity**
12 **sourced to this state under section 11 of this 2019 Act, less any sub-**
13 **traction pursuant to section 9 of this 2019 Act.**

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

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

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

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

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

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

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

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

29 **“(B) Constitute steps in a vertically integrated process, such as the**
30 **steps involved in the production of natural resources, which might**

1 include exploration, mining, refining and marketing.

2 “(20) ‘Unitary group’ means a group of persons with at least 50
3 percent common ownership, either direct or indirect, that is engaged
4 in business activities that constitute a unitary business.

5 “(21) ‘Wholesaler’ means a person primarily doing business by
6 merchant distribution of tangible personal property to retailers or to
7 other wholesalers.

8 **“SECTION 4. Accounting methods.** A taxpayer’s method of ac-
9 counting for commercial activity, cost inputs and labor costs for a tax
10 year shall be the same as the taxpayer’s method of accounting for
11 federal income tax purposes for the taxpayer’s federal tax year that
12 includes the tax year. If a taxpayer’s method of accounting for federal
13 income tax purposes changes, the taxpayer’s method of accounting for
14 commercial activity under sections 3 to 21 of this 2019 Act shall be
15 changed accordingly.

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

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

27 “(a) A person shall include as taxable commercial activity the value
28 of property the person transfers into this state for the person’s own
29 use in the course of a trade or business within one year after the
30 person receives the property outside this state; and

1 “(b) In the case of a unitary group, the taxpayer shall include as
2 taxable commercial activity the value of property that any of the
3 taxpayer’s members transferred into this state for the use in the
4 course of a trade or business by any of the taxpayer’s members within
5 one year after the taxpayer receives the property outside this state.

6 “(2) Property brought into this state within one year after it is re-
7 ceived outside this state by a person or unitary group described in
8 subsection (1) of this section may not be included as taxable commer-
9 cial activity as required under subsection (1) of this section if the De-
10 partment of Revenue ascertains that the property’s receipt outside this
11 state by the person or unitary group followed by its transfer into this
12 state within one year was not intended in whole or in part to avoid in
13 whole or in part the tax imposed under sections 3 to 21 of this 2019
14 Act.

15 “(3) The department may adopt rules necessary to administer this
16 section.

17 “SECTION 7. Joint and several liability. All members of a unitary
18 group during the tax year or periods for which additional tax, penalty
19 or interest is owed are jointly and severally liable for such amounts.
20 Although the reporting person shall be assessed for the liability,
21 amounts due may be collected by assessment against any member of
22 the unitary group or pursued against any member of the unitary
23 group.

24 “SECTION 8. Corporate activity tax imposed on commercial activ-
25 ity. (1) A corporate activity tax is imposed on each person with taxable
26 commercial activity for the privilege of doing business in this state.
27 The tax is imposed upon persons with substantial nexus with this
28 state. The tax imposed under this section is not a transactional tax
29 and is not subject to the Interstate Income Act of 1959 (P.L. 86-272).
30 The tax imposed under this section is in addition to any other taxes

1 or fees imposed under the tax laws of this state. The tax imposed un-
2 der this section is imposed on the person receiving the commercial
3 activity and is not a tax imposed directly on a purchaser. The tax
4 imposed by this section is an annual privilege tax for the calendar year
5 and shall be remitted quarterly to the Department of Revenue. A tax-
6 payer is subject to the annual corporate activity tax for doing business
7 during any portion of such calendar year.

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

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

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

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

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

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

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

23 “(b) Has during the calendar year payroll in this state of at least
24 \$50,000. Payroll in this state includes the following:

25 “(A) Any amount subject to withholding by the person under ORS
26 316.167 and 316.172;

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

30 “(C) Any amount the person pays for services performed in this

1 state on the person's behalf by another.

2 “(c) Has during the calendar year commercial activity, sourced to
3 this state under section 11 of this 2019 Act, of at least \$750,000.

4 “(d) Has at any time during the calendar year within this state at
5 least 25 percent of the person's total property, total payroll or total
6 commercial activity.

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

9 **“SECTION 9. Subtraction.** (1) A taxpayer shall subtract from com-
10 mercial activity sourced to this state 25 percent of the greater of the
11 following amounts paid or incurred by the taxpayer in the tax year:

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

13 “(b) The taxpayer's labor costs.

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

17 “(3) Notwithstanding subsection (1) of this section, the subtraction
18 under this section may not exceed 95 percent of the taxpayer's com-
19 mercial activity in this state.

20 **“SECTION 10. Rate of taxation.** (1) The corporate activity tax im-
21 posed under section 8 of this 2019 Act for each calendar year shall
22 equal \$250 plus the product of the taxpayer's taxable commercial ac-
23 tivity in excess of \$1 million for the calendar year multiplied by 0.49
24 percent.

25 “(2) A tax is not owed under this section if the person's taxable
26 commercial activity do not exceed \$1 million.

27 **“SECTION 11. Sourcing of commercial activity.** (1) For purposes of
28 sections 3 to 21 of this 2019 Act, commercial activity other than com-
29 mercial activity of financial institutions or insurers shall be sourced
30 to this state as follows:

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

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

5 “(c) In the case of the sale of tangible personal property, if and to
6 the extent the property is delivered to a purchaser in this state.

7 “(d) In the case of the sale of a service, if and to the extent the
8 service is delivered to a location in this state.

9 “(e) In the case of the sale, rental, lease or license of intangible
10 property, if and to the extent the property is used in this state. If the
11 receipts are not based on the amount of use of the property, but rather
12 on the right to use the property, and the payor has the right to use
13 the property in this state, the receipts shall be sourced to this state
14 to the extent the receipts are based on the right to use the property
15 in this state.

16 “(2) If the sourcing provisions of subsection (1) of this section do
17 not fairly represent the extent of a person’s commercial activity at-
18 tributable to this state, the person may request, or the Department
19 of Revenue may require or permit, an alternative method. A request
20 under this subsection by a person must be made within the statute of
21 limitations applicable to sections 3 to 21 of this 2019 Act.

22 “(3) The department may adopt rules to provide additional guidance
23 to the application of this section, and to provide alternative methods
24 of sourcing commercial activity that apply to financial institutions
25 and to insurers, and to any other persons, or a subset of persons, that
26 are engaged in similar business or trade activities.

27

28

“LOCAL TAX PREEMPTION

29

30 “SECTION 12. Local taxes preempted. (1) Except as expressly au-

1 **thorized by this section, the authority to impose, in this state, a tax**
2 **upon the commercial activity of an entity is vested solely in the Leg-**
3 **islative Assembly. A city, county, district or other political subdivision**
4 **or municipal corporation of this state may not impose, by ordinance**
5 **or other law, a tax upon commercial activity.**

6 **“(2) Subsection (1) of this section does not apply to any tax, or to**
7 **the subsequent amendment of the provisions of any tax, if the ordi-**
8 **nance or other law imposing the tax is in effect and operative on**
9 **March 1, 2019.**

10
11 **“REGISTRATION PROCEDURES**

12
13 **“SECTION 13. Registration. (1) Any person or unitary group with**
14 **commercial activity in excess of \$750,000 in the tax year shall register**
15 **with the Department of Revenue.**

16 **“(2) The department by rule may establish the information per-**
17 **taining to the person or unitary group that must be submitted to the**
18 **department accompanying the registration and the time and manner**
19 **for issuance of registrations under this section.**

20 **“(3) The department may impose a penalty for failing to register**
21 **as required under this section, not to exceed \$100 per month that a**
22 **person or unitary group has failed to register or a total of \$1,000 in a**
23 **calendar year. The penalty under this subsection may be imposed not**
24 **earlier than 30 days after the date on which the commercial activity**
25 **of the person or unitary group exceeds \$750,000 for the tax year.**

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

1 "COLLECTION

2
3 **"SECTION 17. Rules, uniformity.** The Department of Revenue is
4 authorized to and shall adopt rules requiring uniformity in application,
5 reporting and collection and otherwise carrying out the purposes of
6 sections 3 to 21 of this 2019 Act.

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

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

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

1 **“(4) A successor is not liable for any tax due from the person from**
2 **whom the successor has acquired a business or stock of goods if the**
3 **successor gives written notice to the department of the acquisition and**
4 **the department does not assess a deficiency against the seller or**
5 **transferor within 18 months of receipt of the notice of acquisition and**
6 **mail or deliver a copy of the assessment to the successor.**

7
8 **“APPLICABILITY OF TAX LAWS**

9
10 **“SECTION 19. Except as otherwise provided in sections 3 to 21 of**
11 **this 2019 Act or where the context requires otherwise:**

12 **“(1) The provisions of ORS chapters 305 and 314 as to the audit and**
13 **examination of returns, periods of limitation, determination of and**
14 **notices of deficiencies, assessments, collections, liens, delinquencies,**
15 **claims for refund and refunds, conferences, appeals to the Oregon Tax**
16 **Court, stays of collection pending appeal, confidentiality of returns**
17 **and the penalties relative thereto, and the procedures relating thereto,**
18 **apply to the determinations of taxes, penalties and interest under**
19 **sections 3 to 21 of this 2019 Act.**

20 **“(2) Any term that is not defined in section 3 of this 2019 Act shall**
21 **have the meaning given that term for the purposes of ORS chapter 314**
22 **or 317.**

23
24 **“DISPOSITION OF PROCEEDS**

25
26 **“SECTION 20. Payments to Department of Revenue. For purposes**
27 **of sections 3 to 21 of this 2019 Act, and except as otherwise provided**
28 **by law, all taxes, interest and penalties imposed and all amounts of**
29 **corporate activity tax collected or required to be paid to the state shall**
30 **be paid to the Department of Revenue and upon receipt by the de-**

1 department shall be turned over to the State Treasurer, to be disbursed
2 as provided in section 21 of this 2019 Act.

3 **“SECTION 21. Suspense account, other disposition.** (1) Except as
4 otherwise provided by law, all moneys received by the Department of
5 Revenue under sections 3 to 21 of this 2019 Act shall be deposited in
6 the State Treasury and credited to a suspense account established
7 under ORS 293.445 separate and distinct from the General Fund. Re-
8 funds, including refunds of erroneous overpayments or refunds of
9 other moneys received in which the department has no legal interest,
10 shall be paid out of the suspense account.

11 **“(2)** After payment of refunds, the net revenue shall be transferred
12 to the Fund for Student Success established under section 24 of this
13 2019 Act. A working balance of unreceipted revenue from the tax im-
14 posed by sections 3 to 21 of this 2019 Act may be retained by the de-
15 partment for the payment of refunds, but such working balance may
16 not at the close of any fiscal year exceed the amount of \$500,000.

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

21

22 **“UNDERPAYMENT OR UNDERREPORTING**

23

24 **“SECTION 22. Interest and penalties.** (1) The Department of Reve-
25 nue may not impose any interest or penalty that would otherwise ap-
26 ply to taxes due if the interest or penalty is based on underpayment
27 or underreporting that results solely from the operation of sections 3
28 to 21 of this 2019 Act.

29 **“(2)** A taxpayer shall pay at least 80 percent of the balance due for
30 the previous quarter or the department may impose a penalty as pro-

1 vided in ORS 314.400 (3).

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

5

6 **“FUND FOR STUDENT SUCCESS**

7

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

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

13 **“(3)** The moneys in the fund shall be used solely for the purpose of
14 funding early learning programs and prekindergarten through grade
15 12 level education.

16

17 **“APPLICABILITY**

18

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

21

22 **“PARTS NOT SEVERABLE**

23

24 **“SECTION 26.** It is the intent of the Legislative Assembly that each
25 part of this 2019 Act be considered as essentially and inseparably con-
26 nected with and dependent upon every other part. The Legislative
27 Assembly does not intend that any part of this 2019 Act be the law if
28 any other part does not become law.

29

30 **“CAPTIONS**

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

5

6

“EFFECTIVE DATE

7

8 **“SECTION 28. This 2019 Act takes effect on the 91st day after the**
9 **date on which the 2019 regular session of the Eightieth Legislative**
10 **Assembly adjourns sine die.”.**

11
