

HOUSE AMENDMENTS TO HOUSE BILL 4212

By JOINT COMMITTEE ON THE FIRST SPECIAL SESSION OF 2020

June 26

- 1 On page 2 of the printed bill, delete lines 21 through 24.
- 2 In line 25, delete “(5)” and insert “(4)”.
- 3 In line 31, delete “(6)” and insert “(5)”.
- 4 In line 34, delete “(7)” and insert “(6)”.
- 5 In line 42, delete “(8)” and insert “(7)”.
- 6 On page 3, line 1, delete “(9)” and insert “(8)”.
- 7 Delete lines 14 through 45 and delete page 4.
- 8 On page 5, delete lines 1 through 41 and insert:
- 9 **“SECTION 3.** ORS 18.784 is amended to read:
- 10 “18.784. (1) Except as provided in subsection (6) of this section, if a writ of garnishment is de-
- 11 livered to a financial institution that has an account of the debtor, the financial institution shall
- 12 conduct a garnishment account review of all accounts in the name of the debtor before taking any
- 13 other action that may affect funds in those accounts. If the financial institution determines from the
- 14 garnishment account review that one or more payments described in subsection (3) of this section
- 15 were deposited in an account of the debtor by direct deposit or electronic payment during the
- 16 lookback period described in subsection (2) of this section, an amount equal to the lesser of the sum
- 17 of those payments or the total balance in the debtor’s account is not subject to garnishment.
- 18 “(2)(a) The provisions of this section apply *[only]* to payments described in subsection (3)(a) to
- 19 (f) of this section that are deposited during the lookback period that ends on the day before the day
- 20 on which the garnishment account review is conducted and begins on:
- 21 “[a] (A) The day in the second calendar month preceding the month in which the garnishment
- 22 account review is conducted, that has the same number as the day on which the period ends; or
- 23 “[b] (B) If there is no day as described in *[paragraph (a) of this subsection,]* **subparagraph (A)**
- 24 **of this paragraph**, the last day of the second calendar month preceding the month in which the
- 25 garnishment account review is conducted.
- 26 **“(b) The provisions of this section apply to payments described in subsection (3)(g) of this**
- 27 **section that are deposited during the lookback period that ends on the day before the day**
- 28 **on which the garnishment account review is conducted and begins on March 8, 2020.**
- 29 “(3) The provisions of this section apply only to:
- 30 “(a) Federal benefit payments;
- 31 “(b) Payments from a public or private retirement plan as defined in ORS 18.358;
- 32 “(c) Public assistance or medical assistance, as defined in ORS 414.025, payments from the State
- 33 of Oregon or an agency of the State of Oregon;
- 34 “(d) Unemployment compensation payments from the State of Oregon or an agency of the State
- 35 of Oregon;

1 “(e) Black lung benefits payments from the United States Department of Labor; [and]

2 “(f) Workers’ compensation payments from a workers’ compensation carrier[.]; and

3 “(g) **Recovery rebate payments made under section 2201(a) of the Coronavirus Aid, Relief,**
4 **and Economic Security Act (P.L. 116-136) deposited in an account of the debtor at any time,**
5 **unless:**

6 “(A) **The writ of garnishment is issued to collect:**

7 “(i) **A judgment in a criminal action that requires the defendant to pay restitution; or**

8 “(ii) **A civil judgment against a person who has been convicted of a crime if the civil**
9 **judgment is based on the same underlying facts as the conviction; and**

10 “(B) **The writ of garnishment contains the following statement: ‘This Garnishment Has**
11 **Been Issued to Collect a Criminal Money Judgment that Awards Restitution or a Civil**
12 **Judgment Based on a Criminal Offense.’**

13 “(4) The provisions of this section apply only to a payment that a financial institution can
14 identify as being one of the types of payments described in subsection (3) of this section from in-
15 formation transmitted to the financial institution by the payor.

16 “(5) A financial institution shall perform a garnishment account review only one time for a
17 specific garnishment. If the same garnishment is served on a financial institution more than once,
18 the financial institution may not perform a garnishment account review or take any other action
19 relating to the garnishment based on the second and subsequent service of the garnishment.

20 “(6) A financial institution may not conduct a garnishment account review under this section if
21 a Notice of Right to Garnish Federal Benefits from the United States Government or from a state
22 child support enforcement agency is attached to or included in the garnishment as provided in 31
23 C.F.R. part 212. If a Notice of Right to Garnish Federal Benefits is attached to or included in the
24 garnishment, the financial institution shall proceed on the garnishment as otherwise provided in
25 ORS 18.600 to 18.850.

26 “(7) The provisions of this section do not affect the ability of a debtor to claim any exemption
27 that otherwise may be available to the debtor under law for any amounts in an account in a finan-
28 cial institution.

29 “**SECTION 4.** ORS 18.784, as amended by section 3 of this 2020 special session Act, is amended
30 to read:

31 “18.784. (1) Except as provided in subsection (6) of this section, if a writ of garnishment is de-
32 livered to a financial institution that has an account of the debtor, the financial institution shall
33 conduct a garnishment account review of all accounts in the name of the debtor before taking any
34 other action that may affect funds in those accounts. If the financial institution determines from the
35 garnishment account review that one or more payments described in subsection (3) of this section
36 were deposited in an account of the debtor by direct deposit or electronic payment during the
37 lookback period described in subsection (2) of this section, an amount equal to the lesser of the sum
38 of those payments or the total balance in the debtor’s account is not subject to garnishment.

39 “(2)[(a)] The provisions of this section apply **only** to payments described in subsection (3)[(a) to
40 (f)] of this section that are deposited during the lookback period that ends on the day before the day
41 on which the garnishment account review is conducted and begins on:

42 “[A)] (a) The day in the second calendar month preceding the month in which the garnishment
43 account review is conducted, that has the same number as the day on which the period ends; or

44 “[B)] (b) If there is no day as described in [subparagraph (A) of this paragraph,] **paragraph (a)**
45 **of this subsection,** the last day of the second calendar month preceding the month in which the

1 garnishment account review is conducted.

2 “[*(b) The provisions of this section apply to payments described in subsection (3)(g) of this section*
3 *that are deposited during the lookback period that ends on the day before the day on which the*
4 *garnishment account review is conducted and begins on March 8, 2020.*]

5 “(3) The provisions of this section apply only to:

6 “(a) Federal benefit payments;

7 “(b) Payments from a public or private retirement plan as defined in ORS 18.358;

8 “(c) Public assistance or medical assistance, as defined in ORS 414.025, payments from the State
9 of Oregon or an agency of the State of Oregon;

10 “(d) Unemployment compensation payments from the State of Oregon or an agency of the State
11 of Oregon;

12 “(e) Black lung benefits payments from the United States Department of Labor; **and**

13 “(f) Workers’ compensation payments from a workers’ compensation carrier[; *and*].

14 “[*(g) Recovery rebate payments made under section 2201(a) of the Coronavirus Aid, Relief, and*
15 *Economic Security Act (P.L. 116-136) deposited in an account of the debtor at any time, unless:*]

16 “[*(A) The writ of garnishment is issued to collect:*]

17 “[*(i) A judgment in a criminal action that requires the defendant to pay restitution; or*]

18 “[*(ii) A civil judgment against a person who has been convicted of a crime if the civil judgment is*
19 *based on the same underlying facts as the conviction; and*]

20 “[*(B) The writ of garnishment contains the following statement: ‘This Garnishment Has Been Is-*
21 *sued to Collect a Criminal Money Judgment that Awards Restitution or a Civil Judgment Based on*
22 *a Criminal Offense.’*]

23 “(4) The provisions of this section apply only to a payment that a financial institution can
24 identify as being one of the types of payments described in subsection (3) of this section from in-
25 formation transmitted to the financial institution by the payor.

26 “(5) A financial institution shall perform a garnishment account review only one time for a
27 specific garnishment. If the same garnishment is served on a financial institution more than once,
28 the financial institution may not perform a garnishment account review or take any other action
29 relating to the garnishment based on the second and subsequent service of the garnishment.

30 “(6) A financial institution may not conduct a garnishment account review under this section if
31 a Notice of Right to Garnish Federal Benefits from the United States Government or from a state
32 child support enforcement agency is attached to or included in the garnishment as provided in 31
33 C.F.R. part 212. If a Notice of Right to Garnish Federal Benefits is attached to or included in the
34 garnishment, the financial institution shall proceed on the garnishment as otherwise provided in
35 ORS 18.600 to 18.850.

36 “(7) The provisions of this section do not affect the ability of a debtor to claim any exemption
37 that otherwise may be available to the debtor under law for any amounts in an account in a finan-
38 cial institution.

39 “**SECTION 5. (1) The amendments to ORS 18.784 by section 4 of this 2020 special session**
40 **Act become operative on September 30, 2020.**

41 “**(2) The amendments to ORS 18.784 by section 3 of this 2020 special session Act apply to**
42 **garnishments issued on or before the operative date specified in subsection (1) of this sec-**
43 **tion.”.**

44 Delete pages 6 and 7 and insert:

45 “**SECTION 6. (1)(a) Notwithstanding any other statute or rule to the contrary, during the**

1 time in which any declaration of a state of emergency issued by the Governor related to
2 COVID-19, and any extension of the declaration, is in effect, and continuing for 60 days after
3 the declaration and any extension is no longer in effect, and upon a finding of good cause,
4 the Chief Justice of the Supreme Court may extend or suspend any time period or time re-
5 quirement established by statute or rule that:

6 “(A) Applies in any case, action or proceeding after the case, action or proceeding is in-
7 itiated in any circuit court, the Oregon Tax Court, the Court of Appeals or the Supreme
8 Court;

9 “(B) Applies to the initiation of an appeal to the magistrate division of the Oregon Tax
10 Court or an appeal from the magistrate division to the regular division;

11 “(C) Applies to the initiation of an appeal or judicial review proceeding in the Court of
12 Appeals; or

13 “(D) Applies to the initiation of any type of case or proceeding in the Supreme Court.

14 “(b) The Chief Justice may extend or suspend a time period or time requirement under
15 this subsection notwithstanding the fact that the date of the time period or time requirement
16 has already passed as of the effective date of this 2020 special session Act.

17 “(2)(a) Notwithstanding ORS 133.060 (1), during the time in which any declaration of a
18 state of emergency issued by the Governor related to COVID-19, and any extension of the
19 declaration, is in effect, and continuing for 90 days after the declaration and any extension
20 is no longer in effect, the date specified in a criminal citation on which a person served with
21 the citation shall appear may be more than 30 days after the date the citation was issued.

22 “(b) During the time in which any declaration of a state of emergency issued by the
23 Governor related to COVID-19, and any extension of the declaration, is in effect, and con-
24 tinuing for 60 days after the declaration and any extension is no longer in effect, the pre-
25 siding judge of a circuit court may, upon the motion of a party or the court’s own motion,
26 and upon a finding of good cause, postpone the date of appearance described in paragraph (a)
27 of this subsection for all proceedings within the jurisdiction of the court.

28 “(3)(a) Notwithstanding ORS 136.290 and 136.295, and subject to paragraph (b) of this
29 subsection, during the time in which any declaration of a state of emergency issued by the
30 Governor related to COVID-19, and any extension of the declaration, is in effect, and con-
31 tinuing for 60 days after the declaration and any extension is no longer in effect, the pre-
32 siding judge of a circuit court may, upon the motion of a party or its own motion, and upon
33 a finding of good cause, order an extension of custody and postponement of the date of the
34 trial beyond the time limits described in ORS 136.290 and 136.295.

35 “(b) Notwithstanding paragraph (a) of this subsection, for a defendant to whom ORS
36 136.290 and 136.295 applies, the presiding judge may not extend custody and postpone the
37 defendant’s trial date if, as a result, the defendant will be held in custody before trial for
38 more than a total of 180 days, unless the court holds a hearing and proceeds as follows:

39 “(A) If the defendant is charged with a violent felony, the court may deny release upon
40 making the findings described in ORS 135.240 (4), notwithstanding the fact that a court did
41 not previously make such findings; or

42 “(B) If the defendant is charged with a person crime, the court may set a trial date that
43 results in the defendant being held in custody before trial for more than a total of 180 days,
44 but not more than a total of 240 days, if the court:

45 “(i) Determines the extension of custody is based upon good cause due to circumstances

1 caused by the COVID-19 pandemic, public health measures resulting from the COVID-19
2 pandemic or a situation described in ORS 136.295 (4)(b) caused by or related to COVID-19;
3 and

4 “(ii) Finds, by clear and convincing evidence, that there is a substantial and specific
5 danger of physical injury or sexual victimization to the victim or members of the public by
6 the defendant if the defendant is released, and that no release condition, or combination of
7 release conditions, is available that would sufficiently mitigate the danger.

8 “(c) The result of a hearing held pursuant to this subsection does not affect the ability
9 of a party to request a modification of the release decision under ORS 135.285.

10 “(d) This subsection does not authorize a defendant to be held in custody before trial for
11 a period longer than the maximum term of imprisonment the defendant could receive as a
12 sentence under ORS 161.605 and 161.615.

13 “(e) If the court proceeds under paragraph (b)(B) of this subsection, the defendant shall
14 continue to be eligible for security release and the court may maintain, lower or raise the
15 security amount at the hearing.

16 “(f) As used in this subsection:

17 “(A) ‘Good cause’ means situations described in ORS 136.295 (4)(b), circumstances caused
18 by the COVID-19 pandemic or public health measures resulting from the COVID-19 pandemic.

19 “(B) ‘Person crime’ means a person felony or person Class A misdemeanor, as those
20 terms are defined in the rules of the Oregon Criminal Justice Commission.

21 “(C) ‘Release decision’ has the meaning given that term in ORS 135.230.

22 “(4)(a) Notwithstanding any other statute or rule to the contrary, during the time in
23 which any declaration of a state of emergency issued by the Governor related to COVID-19,
24 and any extension of the declaration, is in effect, and continuing for 90 days after the dec-
25 laration and any extension is no longer in effect, the Chief Justice may direct or permit any
26 appearance before a court or magistrate to be by telephone, other two-way electronic com-
27 munication device or simultaneous electronic transmission.

28 “(b) If an appearance is set to occur by electronic means as described in paragraph (a)
29 of this subsection, a presiding judge may instead order that the appearance be in person if,
30 upon the request of a party, the presiding judge determines that there is a particular need
31 for an in-person hearing or that a party has a constitutional right to an in-person hearing.

32 “(5) The Chief Justice may delegate the exercise of any of the powers described in this
33 section to the presiding judge of a court.

34 “(6) Nothing in this section affects the rights of a defendant under the Oregon and United
35 States Constitutions.”.

36 On page 8, delete lines 41 through 45.

37 On page 9, delete lines 1 through 37 and insert:

38 “**SECTION 11.** (1) A local government shall approve an application for the development
39 or use of land for an emergency shelter on any property, notwithstanding ORS chapter 195,
40 197, 215 or 227 or ORS 197A.300 to 197A.325, 197A.405 to 197A.409 or 197A.500 to 197A.521 or
41 any statewide land use planning goal, rule of the Land Conservation and Development Com-
42 mission, local land use regulation, zoning ordinance, regional framework plan, functional plan
43 or comprehensive plan, if the emergency shelter:

44 “(a) Includes sleeping and restroom facilities for clients;

45 “(b) Will comply with applicable building codes;

1 “(c) Is located inside an urban growth boundary or in an area zoned for rural residential
2 use as defined in ORS 215.501;

3 “(d) Will not result in the development of a new building that is sited within an area
4 designated under a statewide land use planning goal relating to natural disasters and haz-
5 ards, including floodplains or mapped environmental health hazards, unless the development
6 complies with regulations directly related to the hazard;

7 “(e) Has adequate transportation access to commercial and medical services; and

8 “(f) Will not pose any unreasonable risk to public health or safety.

9 “(2) An emergency shelter allowed under this section must be operated by:

10 “(a) A local government as defined in ORS 174.116;

11 “(b) An organization with at least two years’ experience operating an emergency shelter
12 using best practices that is:

13 “(A) A local housing authority as defined in ORS 456.375;

14 “(B) A religious corporation as defined in ORS 65.001; or

15 “(C) A public benefit corporation, as defined in ORS 65.001, whose charitable purpose in-
16 cludes the support of homeless individuals and that has been recognized as exempt from in-
17 come tax under section 501(a) of the Internal Revenue Code on or before January 1, 2017; or

18 “(c) A nonprofit corporation partnering with any other entity described in this sub-
19 section.

20 “(3) An emergency shelter approved under this section:

21 “(a) May provide on-site for its clients and at no cost to the clients:

22 “(A) Showering or bathing;

23 “(B) Storage for personal property;

24 “(C) Laundry facilities;

25 “(D) Service of food prepared on-site or off-site;

26 “(E) Recreation areas for children and pets;

27 “(F) Case management services for housing, financial, vocational, educational or physical
28 or behavioral health care services; or

29 “(G) Any other services incidental to shelter.

30 “(b) May include youth shelters, veterans’ shelters, winter or warming shelters, day
31 shelters and family violence shelter homes as defined in ORS 409.290.

32 “(4) An emergency shelter approved under this section may also provide additional ser-
33 vices not described in subsection (3) of this section to individuals who are transitioning from
34 unsheltered homeless status. An organization providing services under this subsection may
35 charge a fee of no more than \$300 per month per client and only to clients who are financially
36 able to pay the fee and who request the services.

37 “(5) The approval of an emergency shelter under this section is not a land use decision
38 and is subject to review only under ORS 34.010 to 34.100.

39 “SECTION 12. Sections 10 and 11 of this 2020 special session Act are repealed 90 days
40 after the effective date of this 2020 special session Act.

41 “SECTION 12a. The repeal of sections 10 and 11 of this 2020 special session Act by section
42 12 of this 2020 special session Act does not affect an application for the development of land
43 for an emergency shelter that was completed and submitted before the date of the repeal.”.

44 On page 10, line 13, delete “shall” and insert “may”.

45 Delete lines 22 through 45 and insert:

1 “**NOTE:** Section 18 was deleted by amendment. Subsequent sections were not renumbered.”
2 On page 11, delete lines 1 and 2.
3 On page 16, delete lines 17 through 45 and insert:
4 “**NOTE:** Section 33 was deleted by amendment. Subsequent sections were not renumbered.”
5 On page 17, delete lines 1 through 17.
6 Delete lines 39 through 45 and delete pages 18 and 19.
7 On page 20, delete lines 1 and 2 and insert:
8 “**SECTION 36.** ORS 458.685 is amended to read:
9 “458.685. (1) A person may establish an individual development account only for a purpose ap-
10 proved by a fiduciary organization. Purposes that the fiduciary organization may approve are:
11 “(a) The acquisition of post-secondary education or job training.
12 “(b) If the account holder has established the account for the benefit of a household member
13 who is under the age of 18 years, the payment of extracurricular nontuition expenses designed to
14 prepare the member for post-secondary education or job training.
15 “(c) If the account holder has established a savings network account for higher education under
16 ORS 178.300 to 178.360 on behalf of a designated beneficiary, the funding of qualified higher educa-
17 tion expenses as defined in ORS 178.300 by one or more deposits into a savings network account for
18 higher education on behalf of the same designated beneficiary.
19 “(d) The purchase of a primary residence. In addition to payment on the purchase price of the
20 residence, account moneys may be used to pay any usual or reasonable settlement, financing or
21 other closing costs. The account holder must not have owned or held any interest in a residence
22 during the three years prior to making the purchase. However, this three-year period shall not apply
23 to displaced homemakers, individuals who have lost home ownership as a result of divorce or owners
24 of manufactured homes.
25 “(e) The rental of a primary residence when housing stability is essential to achieve state policy
26 goals. Account moneys may be used for security deposits, first and last months’ rent, application fees
27 and other expenses necessary to move into the primary residence, as specified in the account
28 holder’s personal development plan for increasing the independence of the person.
29 “(f) The capitalization of a small business. Account moneys may be used for capital, plant,
30 equipment and inventory expenses and to hire employees upon capitalization of the small business,
31 or for working capital pursuant to a business plan. The business plan must have been developed by
32 a financial institution, nonprofit microenterprise program or other qualified agent demonstrating
33 business expertise and have been approved by the fiduciary organization. The business plan must
34 include a description of the services or goods to be sold, a marketing plan and projected financial
35 statements.
36 “(g) Improvements, repairs or modifications necessary to make or keep the account holder’s
37 primary dwelling habitable, accessible or visitable for the account holder or a household member.
38 This paragraph does not apply to improvements, repairs or modifications made to a rented primary
39 dwelling to achieve or maintain a habitable condition for which ORS 90.320 (1) places responsibility
40 on the landlord. As used in this paragraph, ‘accessible’ and ‘visitable’ have the meanings given those
41 terms in ORS 456.508.
42 “(h) The purchase of equipment, technology or specialized training required to become compet-
43 itive in obtaining or maintaining employment or to start or maintain a business, as specified in the
44 account holder’s personal development plan for increasing the independence of the person.
45 “(i) The purchase or repair of a vehicle, as specified in the account holder’s personal develop-

1 ment plan for increasing the independence of the person.

2 “(j) The saving of funds for retirement, as specified in the account holder’s personal development
3 plan for increasing the independence of the person.

4 “(k) The payment of debts owed for educational or medical purposes when the account holder
5 is saving for another allowable purpose, as specified in the account holder’s personal development
6 plan for increasing the independence of the person.

7 “(L) The creation or improvement of a credit score by obtaining a secured loan or a financial
8 product that is designed to improve credit, as specified in the account holder’s personal development
9 plan for increasing the independence of the person.

10 “(m) The replacement of a primary residence when replacement offers significant opportunity to
11 improve habitability or energy efficiency.

12 “(n) **The establishment of savings for emergency expenses to promote financial stability
13 and to protect existing assets. As used in this paragraph, ‘emergency expenses’ includes ex-
14 penses for extraordinary medical costs or other unexpected and substantial personal ex-
15 penses that would significantly impact the account holder’s noncash assets, health, housing
16 or standard of living if not promptly addressed.**

17 “(2)(a) [*If an emergency occurs,*] An account holder may withdraw all or part of the account
18 holder’s deposits to an individual development account for [*a purpose not described in subsection (1)*
19 *of this section. As used in this paragraph, ‘emergency’ includes making payments for necessary medical*
20 *expenses, to avoid eviction of the account holder from the account holder’s residence and for necessary*
21 *living expenses following a loss of employment.*] **emergency expenses as defined in subsection**
22 **(1)(n) of this section, without regard to whether the account was established for emergency**
23 **savings.**

24 “(b) The account holder must reimburse [*the account*] **an account established for a purpose**
25 **listed under subsection (1)(a) to (m) of this section** for the amount withdrawn under this sub-
26 section [*within 12 months after the date of the withdrawal. Failure of an account holder to make a*
27 *timely reimbursement to the account is grounds for removing the account holder from the individual*
28 *development account program*]. Until the reimbursement has been made in full, an account holder
29 may not withdraw any matching deposits or accrued interest on matching deposits from the account
30 **except under this subsection.**

31 “(3) If an account holder withdraws moneys from an individual development account for other
32 than an approved purpose, the fiduciary organization may remove the account holder from the pro-
33 gram.

34 “(4)(a) If the account holder of an account established for the purpose set forth in subsection
35 (1)(c) or (j) of this section has achieved the account’s approved purpose in accordance with the
36 personal development plan developed by the account holder under ORS 458.680, the account holder
37 may withdraw, or authorize the withdrawal of, the remaining amount of all deposits, including
38 matching deposits, and interest in the account as follows:

39 “(A) For an account established for the purpose set forth in subsection (1)(c) of this section, by
40 rolling over the entire withdrawal amount, not to exceed the limit established pursuant to ORS
41 178.335, into one or more of the savings network accounts for higher education under ORS 178.300
42 to 178.360, the establishment of which is the purpose of the individual development account; or

43 “(B) For an account established for the purpose set forth in subsection (1)(j) of this section, by
44 rolling over the entire withdrawal amount into an individual retirement account, a retirement plan
45 or a similar account or plan established under the Internal Revenue Code.

1 “(b) Upon withdrawal of all moneys in the individual development account as provided in para-
2 graph (a) of this subsection, the account relationship shall terminate.

3 “(c) The rollover of moneys into a savings network account for higher education under this
4 subsection may not cause the amount in the savings network account for higher education to exceed
5 the limit on total contributions established pursuant to ORS 178.335.

6 “(d) Any amount of the rollover that has been subtracted on the taxpayer’s federal return pur-
7 suant to section 219 of the Internal Revenue Code shall be added back in the determination of tax-
8 able income.

9 “(5) If an account holder moves from the area where the program is conducted or is otherwise
10 unable to continue in the program, the fiduciary organization may remove the account holder from
11 the program.

12 “(6) If an account holder is removed from the program under subsection [(2),] (3) or (5) of this
13 section, all matching deposits in the account and all interest earned on matching deposits shall re-
14 vert to the fiduciary organization. The fiduciary organization shall use the reverted funds as a
15 source of matching deposits for other accounts.”.

16 Delete lines 4 through 45 and insert:

17 “**NOTE:** Sections 37 through 39 were deleted by amendment. Subsequent sections were not re-
18 numbered.”.

19 On page 21, delete lines 1 through 26.

20 Delete lines 31 through 45 and delete page 22.

21 On page 23, delete line 1 and insert:

22 “**SECTION 40. (1) As used in this section:**

23 “(a) ‘**COVID-19**’ means a disease caused by the severe acute respiratory syndrome
24 coronavirus 2 (SARS-CoV-2).

25 “(b) ‘**Encounter**’ means an interaction between a patient, or the patient’s legal repre-
26 sentative, and a health care provider, whether that interaction is in person or through tele-
27 medicine, for the purpose of providing health care services related to COVID-19, including
28 but not limited to ordering or performing a COVID-19 test.

29 “(c) ‘**Health care provider**’ means:

30 “(A) An individual licensed or certified by the:

31 “(i) State Board of Examiners for Speech-Language Pathology and Audiology;

32 “(ii) State Board of Chiropractic Examiners;

33 “(iii) State Board of Licensed Social Workers;

34 “(iv) Oregon Board of Licensed Professional Counselors and Therapists;

35 “(v) Oregon Board of Dentistry;

36 “(vi) State Board of Massage Therapists;

37 “(vii) Oregon Board of Naturopathic Medicine;

38 “(viii) Oregon State Board of Nursing;

39 “(ix) Oregon Board of Optometry;

40 “(x) State Board of Pharmacy;

41 “(xi) Oregon Medical Board;

42 “(xii) Occupational Therapy Licensing Board;

43 “(xiii) Oregon Board of Physical Therapy;

44 “(xiv) Oregon Board of Psychology; or

45 “(xv) Board of Medical Imaging;

1 “(B) An emergency medical services provider licensed by the Oregon Health Authority
2 under ORS 682.216;

3 “(C) A clinical laboratory licensed under ORS 438.110; and

4 “(D) A health care facility as defined in ORS 442.015.

5 “(d) ‘Telemedicine’ means the delivery of a health service through a two-way communi-
6 cation medium, including but not limited to telephone, Voice over Internet Protocol, trans-
7 mission of telemetry or any Internet or electronic platform that allows a provider to interact
8 in real time with a patient, a parent or guardian of a patient or another provider acting on
9 a patient’s behalf.

10 “(2) The authority shall adopt rules:

11 “(a) Requiring a health provider to:

12 “(A) Collect encounter data on race, ethnicity, preferred spoken and written language,
13 English proficiency, interpreter needs and disability status in accordance with the standards
14 adopted by the authority under ORS 413.161; and

15 “(B) Report the data in accordance with rules adopted under ORS 433.004 for the re-
16 porting of diseases.

17 “(b) Prescribing the manner of reporting.

18 “(c) Ensuring, to the extent practicable, that the data collected and reported under this
19 section by health care providers is not duplicative.

20 “(d) Establishing phased in deadlines for the collection of data under this section, begin-
21 ning no later than October 1, 2020.

22 “(3) The authority may provide incentives to health care providers and facilities to help
23 defer the costs of making changes to electronic health records or similar systems.

24 “(4) Data collected by health care providers under this section is confidential and subject
25 to disclosure only in accordance with the federal Health Insurance Portability and Account-
26 ability Act privacy regulations, 45 C.F.R. parts 160 and 164, ORS 192.553 to 192.581 or other
27 state or federal laws limiting the disclosure of health information.

28 “SECTION 41. Section 40 of this 2020 special session Act may be enforced by any means
29 permitted under the law by:

30 “(1) A health professional regulatory board specified in section 40 of this 2020 special
31 session Act with respect to a provider under the jurisdiction the board.

32 “(2) The Oregon Health Authority or the Department of Human Services with regard to
33 health care facilities under each agency’s respective jurisdiction.

34 “(3) The authority with regard to emergency medical services providers licensed under
35 ORS 682.216 and clinical laboratories licensed under ORS 438.110.

36 “SECTION 41a. Section 40 of this 2020 special session Act is amended to read:

37 “Sec. 40. (1) As used in this section:

38 “(a) ‘COVID-19’ means a disease caused by the severe acute respiratory syndrome coronavirus
39 2 (SARS-CoV-2).

40 “(b) ‘Encounter’ means an interaction between a patient, or the patient’s legal representative,
41 and a health care provider, whether that interaction is in person or through telemedicine, for the
42 purpose of providing health care services related to COVID-19, including but not limited to ordering
43 or performing a COVID-19 test.

44 “(c) ‘Health care provider’ means:

45 “(A) An individual licensed or certified by the:

1 “(i) State Board of Examiners for Speech-Language Pathology and Audiology;
2 “(ii) State Board of Chiropractic Examiners;
3 “(iii) State Board of Licensed Social Workers;
4 “(iv) Oregon Board of Licensed Professional Counselors and Therapists;
5 “(v) Oregon Board of Dentistry;
6 “(vi) State Board of Massage Therapists;
7 “(vii) Oregon Board of Naturopathic Medicine;
8 “(viii) Oregon State Board of Nursing;
9 “(ix) Oregon Board of Optometry;
10 “(x) State Board of Pharmacy;
11 “(xi) Oregon Medical Board;
12 “(xii) Occupational Therapy Licensing Board;
13 “(xiii) Oregon Board of Physical Therapy;
14 “(xiv) Oregon Board of Psychology; or
15 “(xv) Board of Medical Imaging;
16 “(B) An emergency medical services provider licensed by the Oregon Health Authority under
17 ORS 682.216;
18 “(C) A clinical laboratory licensed under ORS 438.110; and
19 “(D) A health care facility as defined in ORS 442.015.
20 “(d) ‘Telemedicine’ means the delivery of a health service through a two-way communication
21 medium, including but not limited to telephone, Voice over Internet Protocol, transmission of
22 telemetry or any Internet or electronic platform that allows a provider to interact in real time with
23 a patient, a parent or guardian of a patient or another provider acting on a patient’s behalf.
24 “(2) The authority shall adopt rules:
25 “(a) Requiring a health provider to:
26 “(A) Collect encounter data on race, ethnicity, preferred spoken and written language, English
27 proficiency, interpreter needs and disability status in accordance with the standards adopted by the
28 authority under ORS 413.161; and
29 “(B) Report the data in accordance with rules adopted under ORS 433.004 for the reporting of
30 diseases.
31 “(b) Prescribing the manner of reporting.
32 “(c) Ensuring, to the extent practicable, that the data collected and reported under this section
33 by health care providers is not duplicative.
34 “[*(d) Establishing phased in deadlines for the collection of data under this section, beginning no*
35 *later than October 1, 2020.*]
36 “(3) The authority may provide incentives to health care providers and facilities to help defer
37 the costs of making changes to electronic health records or similar systems.
38 “(4) Data collected by health care providers under this section is confidential and subject to
39 disclosure only in accordance with the federal Health Insurance Portability and Accountability Act
40 privacy regulations, 45 C.F.R. parts 160 and 164, ORS 192.553 to 192.581 or other state or federal
41 laws limiting the disclosure of health information.
42 “**SECTION 41b. (1) Section 41 of this 2020 special session Act becomes operative on De-**
43 **cember 31, 2020.**
44 **(2) The amendments to section 40 of this 2020 special session Act by section 41a of this**
45 **2020 special session Act become operative on December 31, 2021.**

