

HOUSE AMENDMENTS TO HOUSE BILL 3069

By COMMITTEE ON BEHAVIORAL HEALTH

April 15

1 In line 2 of the printed bill, after “health” insert “; creating new provisions; amending ORS
2 317A.100, 403.110, 403.115, 403.135, 403.200, 403.202, 403.205, 403.210, 403.215, 403.217, 403.225,
3 403.228, 403.230, 403.235, 403.240 and 759.685; prescribing an effective date; and providing for re-
4 venue raising that requires approval by a three-fifths majority”.

5 Delete lines 4 through 12 and insert:

6 **“SECTION 1. As used in sections 1 to 3 of this 2021 Act:**

7 **“(1) ‘Coordinated care organization’ has the meaning given that term in ORS 414.025.**

8 **“(2) ‘Crisis stabilization services’ include diagnosis, stabilization, observation and
9 follow-up referral services provided to individuals in a community-based, developmentally
10 appropriate home-like environment to the extent practicable.**

11 **“(3) ‘Mobile crisis intervention team’ means a team of qualified mental health or behav-
12 ioral health professionals and peer support specialists that provide professional onsite inter-
13 ventions necessary to stabilize an individual experiencing a mental health crisis or substance
14 use disorder and provide immediate services.**

15 **“(4) ‘Peer support specialist’ has the meaning given that term in ORS 414.025.**

16 **“(5) ‘Veterans Crisis Line’ means the crisis hotline maintained by the United States De-
17 partment of Veterans Affairs and the United States Department of Health and Human Ser-
18 vices.**

19 **“SECTION 2. (1) The purpose of sections 1 to 3 of this 2021 Act is to establish a statewide
20 coordinated crisis services system:**

21 **“(a) To remove barriers to accessing quality mental health and behavioral health crisis
22 services;**

23 **“(b) To improve equity in mental health and behavioral health treatment and ensure
24 culturally and linguistically appropriate responses to individuals experiencing mental health
25 or behavioral health crises, in recognition that, historically, crisis response services placed
26 marginalized communities at disproportionate risk of poor outcomes and criminal justice
27 involvement;**

28 **“(c) To ensure that all residents of this state receive a consistent and effective level of
29 9-8-8, mental health and behavioral health crisis services no matter where they live, work
30 or travel in the state; and**

31 **“(d) To provide higher quality support for individuals experiencing mental health or be-
32 havioral health crises by investing in:**

33 **“(A) New technology for a crisis call center system to triage calls and link individuals to
34 follow-up care.**

35 **“(B) The expansion of mobile crisis intervention teams.**

1 “(C) A wide array of crisis stabilization services including:

2 “(i) Crisis stabilization centers;

3 “(ii) Short-term respite facilities;

4 “(iii) Peer-operated respite services; and

5 “(iv) Behavioral health urgent care walk-in centers that operate like hospital emergency
6 departments by accepting all walk-ins and ambulance, fire and police drop-offs, as prescribed
7 by the Oregon Health Authority by rule.

8 “(2) The authority shall establish a crisis hotline center to receive calls, texts and chats
9 from the 9-8-8 suicide prevention and behavioral health crisis hotline and to provide crisis
10 intervention services and crisis care coordination anywhere in this state 24 hours a day,
11 seven days a week. The crisis hotline center shall:

12 “(a) Have an agreement to participate in the National Suicide Prevention Lifeline net-
13 work.

14 “(b) Meet National Suicide Prevention Lifeline requirements and best practices guidelines
15 for operational and clinical standards and any additional clinical and operational standards
16 prescribed by the authority.

17 “(c) Record data, provide reports and participate in evaluations and related quality im-
18 provement activities.

19 “(d) Utilize technologies, including chat and text applications, that are interoperable be-
20 tween and across crisis and emergency response systems used throughout this state, such
21 as 9-1-1 and 2-1-1, and with other centers in the National Suicide Prevention Lifeline net-
22 work.

23 “(e) Establish policies and train staff on serving high-risk and specialized populations,
24 including but not limited to lesbian, gay, bisexual, transgender and queer youth, minorities,
25 veterans and individuals who have served in the military, rural residents and individuals with
26 co-occurring disorders. Policies and training established under this paragraph must include:

27 “(A) Policies and training on transferring calls made to the 9-8-8 suicide prevention and
28 behavioral health crisis hotline to an appropriate specialized center within or external to the
29 National Suicide Prevention Lifeline network; and

30 “(B) Training on the provision of linguistically and culturally competent care and
31 follow-up services to individuals accessing the 9-8-8 suicide prevention and behavioral health
32 crisis hotline consistent with guidance and policies established by the National Suicide Pre-
33 vention Lifeline.

34 “(3) The hotline staff shall:

35 “(a) Have access to real-time information regarding available mental health and behav-
36 ioral health crisis services including:

37 “(A) Crisis stabilization services available from coordinated care organizations, including
38 both primary care providers and mental health and behavioral health providers; and

39 “(B) Available mental and behavioral health outpatient, residential or inpatient treat-
40 ment, such as crisis stabilization services, psychiatric inpatient treatment, inpatient sub-
41 stance use disorder treatment, sobering centers, medication-assisted treatment, withdrawal
42 management and peer crisis respite services and both voluntary and involuntary residential
43 or inpatient treatment.

44 “(b) Assign and track local responses to calls to the 9-8-8 suicide prevention and behav-
45 ioral health crisis hotline.

1 “(c) To the greatest extent practicable, arrange same-day and next-day outpatient ap-
2 pointments and follow-up appointments with geographically, culturally and linguistically ap-
3 propriate primary care or mental health or behavioral health providers within the caller’s
4 provider network if insured, or, if uninsured, through the local community mental health
5 program. If a same-day or next-day outpatient appointment is unavailable, connect the caller
6 to community-based mental health or behavioral health services including peer-based ser-
7 vices.

8 “(d) Ensure follow-up services to individuals accessing the 9-8-8 suicide prevention and
9 behavioral health crisis hotline consistent with polices established by the authority based
10 upon recognized best practices.

11 “(e) Rapidly deploy crisis stabilization service providers, including mobile crisis inter-
12 vention teams, and coordinate access to crisis stabilization services or other local resources
13 as appropriate and consistent with guidelines and best practices adopted by the National
14 Suicide Prevention Lifeline.

15 “(f) Actively collaborate, establishing formal agreements where appropriate, with local
16 law enforcement and first responders, 2-1-1 service providers, 9-1-1 service providers, local
17 coordinated care organizations, local community mental health programs, acute inpatient
18 psychiatric facilities, certified community behavioral health clinics, acute care hospitals,
19 physical, mental and behavioral health providers and other behavioral health programs and
20 facilities to coordinate linkages for persons contacting the 9-8-8 suicide prevention and be-
21 havioral health crisis hotline who have ongoing care needs.

22 “(g) Coordinate access to crisis stabilization services for individuals accessing the 9-8-8
23 suicide prevention and behavioral health crisis hotline through appropriate information
24 sharing regarding availability of services.

25 “(4) Crisis stabilization services provided to individuals accessing the 9-8-8 suicide pre-
26 vention and behavioral health crisis hotline shall be reimbursed by the authority if the indi-
27 vidual receiving the services is uninsured or the individual’s health insurance does not cover
28 the service. The authority shall develop appropriate coding of and payment for crisis re-
29 sponse services provided to individuals enrolled in the state medical assistance program.

30 “(5) The authority shall adopt rules to allow appropriate information sharing and com-
31 munication across all crisis service providers as necessary to carry out the requirements of
32 this section and shall work in concert with the National Suicide Prevention Lifeline and the
33 Veterans Crisis Line for the purposes of ensuring consistency of public messaging about 9-8-8
34 services.

35 “(6) The authority shall annually report to Legislative Assembly, in the manner provided
36 in ORS 192.245, on the 9-8-8 suicide prevention and behavioral health crisis hotline’s usage
37 and the services provided by the crisis hotline center. The report must include performance
38 and quality metrics and demographic information.

39 “SECTION 3. (1) The Oregon Health Authority shall, in consultation with local commu-
40 nity mental health programs or authorities, require that each community mental health
41 program or authority provide community-based rapid crisis response services for individuals
42 contacting the 9-8-8 suicide prevention and behavioral health crisis hotline who need crisis
43 stabilization services in the community by enhancing and expanding the use of mobile crisis
44 intervention teams.

45 “(2) A mobile crisis intervention team must:

1 “(a) Include mental health and behavioral health providers with minimum credentials as
2 prescribed by the authority by rule;

3 “(b) Collaborate with local law enforcement agencies;

4 “(c) Include police or emergency medical service providers as co-responders only as
5 needed to respond in high-risk situations that cannot be managed without the aid of law
6 enforcement or an emergency medical service provider;

7 “(d) Provide services:

8 “(A) That are designed in partnership with community members, including people with
9 lived experience utilizing crisis services; and

10 “(B) Staffed by personnel that reflect the demographics of the community served; and

11 “(e) Collect demographic data about individuals served, including data on race and
12 ethnicity, and performance and quality metrics, consistent with recommendations by the
13 Substance Abuse and Mental Health Services Administration of the United States Depart-
14 ment of Health and Human Services, for continuous evaluation and quality improvement.

15 “SECTION 4. (1) The 9-8-8 Fund is established in the State Treasury, separate and dis-
16 tinct from the General Fund. The 9-8-8 Fund consists of distributions under ORS 403.200
17 (1)(b), appropriations made by the Legislative Assembly and gifts, grants and donations to
18 the fund from public and private sources. Interest earned by the fund shall be credited to
19 the fund. Moneys in the fund are continuously appropriated to the Oregon Health Authority
20 for the purposes of carrying out sections 1 to 3 of this 2021 Act, and for:

21 “(a) Developing and improving the statewide coordinated crisis services system and
22 infrastructure to support seamless operation of the 9-8-8 system;

23 “(b) Ensuring the efficient and effective routing of calls made to the 9-8-8 suicide pre-
24 vention and behavioral health crisis hotline to the crisis hotline center, including staffing and
25 technological infrastructure enhancements necessary to achieve operational and clinical
26 standards and best practices set forth by the National Suicide Prevention Lifeline and pre-
27 scribed by the authority;

28 “(c) Hiring, training and employing personnel, including recruitment of personnel that
29 reflect the demographics of the communities served, to assess and serve people experiencing
30 mental health, substance use and suicidal crises, specialized training of staff to serve at-risk
31 communities, including culturally and linguistically competent services for lesbian, gay,
32 bisexual, transgender and queer communities and racially, ethnically and linguistically di-
33 verse communities;

34 “(d) Providing acute mental and behavioral health, crisis outreach and stabilization ser-
35 vices;

36 “(e) Providing data and reports and participating in evaluations and related quality im-
37 provement activities;

38 “(f) Coordinating with 9-1-1 and other systems, including service providers;

39 “(g) Developing service enhancements or targeted responses to improve outcomes and
40 address service gaps and needs;

41 “(h) Conducting campaigns to increase public awareness to ensure that residents of this
42 state are aware of the 9-8-8 service and the purpose of the 9-8-8 service and to foster the use
43 of 9-8-8 and the coordinated crisis services system; and

44 “(i) The administration and oversight of the fund.

45 “(2) Moneys in the 9-8-8 Fund may not be used to supplant General Fund appropriations

1 for mental health or behavioral health services or for covered services to individuals enrolled
2 in state medical assistance program.

3 “(3) The authority shall provide an annual report to the Legislative Assembly, in the
4 manner provided in ORS 192.245, on the revenue generated by the 9-8-8 coordinated crisis
5 services system tax that was paid into the 9-8-8 Fund.

6 “(4) Moneys in the 9-8-8 Fund at the end of a biennium are retained in the fund and do
7 not revert to the General Fund and are not subject to transfer to any other fund or to
8 transfer, assignment or reassignment for any other use or purpose other than carrying out
9 sections 1 to 3 of this 2021 Act.

10 “**SECTION 5.** (1) The tax rate under ORS 403.200 (1)(b) for each consumer or paying retail
11 subscriber who has telecommunications service or interconnected Voice over Internet Pro-
12 tocol service is:

13 “(a) \$_____ per line from October 1, 2021, through June 30, 2023.

14 “(b) \$_____ per line from July 1, 2023, through June 30, 2025.

15 “(c) \$_____ per line beginning July 1, 2025.

16 “(2) On March 1, 2026, and March 1 of each odd year thereafter, the Oregon Health Au-
17 thority shall revise the amount of the 9-8-8 coordinated crisis services system tax imposed
18 by ORS 403.200 (1)(b) for the upcoming biennium using the fiscal growth factor. The 9-8-8
19 coordinated crisis services system tax amount established on March 1 of each odd-numbered
20 year shall be effective for the biennium beginning July 1 of that year.

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

22 “**SECTION 6.** The Oregon Health Authority may establish committees in accordance with
23 ORS 430.075 or assign tasks to existing agencies, boards or committees to accomplish the
24 planning required for implementation or ongoing oversight of sections 1 to 3 of this 2021 Act
25 in coordination with the crisis hotline center, the Office of Emergency Management, local
26 public health authorities, hospitals and health systems, telecommunication providers and the
27 National Suicide Prevention Lifeline.

28 “**SECTION 7.** ORS 403.110 is amended to read:

29 “403.110. (1) A provider, [or] a 9-1-1 jurisdiction, a **9-8-8 coordinated crisis services system**
30 or the employees or agents of a provider, [or] a 9-1-1 jurisdiction **or a 9-8-8 coordinated crisis**
31 **services system** may be held civilly liable for the installation, performance, provision or mainte-
32 nance of a 9-1-1 emergency reporting system, [or] enhanced 9-1-1 telephone service **or a 9-8-8 tele-**
33 **phone service** if the provider, [or] the 9-1-1 jurisdiction, **the 9-8-8 coordinated crisis services**
34 **system** or the employees or agents of the provider, [or] the 9-1-1 jurisdiction **or 9-8-8 coordinated**
35 **crisis services system** act with willful or wanton conduct.

36 “(2) A provider or seller is not liable for damages that result from providing or failing to provide
37 access to the emergency communications system, **the 9-8-8 coordinated crisis services system** or
38 from identifying or failing to identify the telephone number, address, location or name associated
39 with any person or device accessing or attempting to access the emergency communications system
40 **or the 9-8-8 coordinated crisis services system.**

41 “(3) This section does not affect any liability a 9-1-1 jurisdiction may have for employee
42 negligence in receiving emergency calls from the public and dispatching emergency services to the
43 public.

44 “**SECTION 8.** ORS 403.115 is amended to read:

45 “403.115. (1) The primary emergency telephone number within this state is 9-1-1, but a public

1 or private safety agency shall maintain both a separate 10-digit secondary emergency number for
2 use by a telephone operator or provider and a separate 10-digit nonemergency number.

3 “(2) Every public and private safety agency in this state shall participate in the emergency
4 communications system.

5 “(3) An emergency telephone number other than 9-1-1 may not be published on the top three-
6 quarters of the emergency listing page of a telephone book. However, an alternative nonemergency
7 telephone number for a 9-1-1 jurisdiction may be printed on the top three-quarters of the emergency
8 listing page of a telephone book. The publisher may use the remainder of the page to list the Oregon
9 Poison Center, Federal Bureau of Investigation, [*a designated mental health crises service*] **9-8-8 co-**
10 **ordinated crisis services system** and United States Coast Guard, where applicable. [*If there is*
11 *more than one mental health crises service in a jurisdiction, the local health department shall decide*
12 *which mental health crises service the publisher may list by using the criteria of a 24-hour staffed*
13 *service, nonprofit organization and non-9-1-1 participating agency.*] The publisher shall refer to the
14 community services section for other numbers.

15 “(4) The emergency communications system must provide:

16 “(a) Interconnectivity between public safety answering points and interconnectivity with pro-
17 viders of the same or similar emergency response services nationally;

18 “(b) The capability, within each primary public safety answering point, to receive all emergency
19 calls placed locally within each 9-1-1 service area; and

20 “(c) The automatic location identification accurately portraying the location from which each
21 emergency call originates.

22 “**SECTION 9.** ORS 403.135 is amended to read:

23 “403.135. (1) A provider may not block delivery or forwarding to a public safety answering point
24 of location **or a 9-8-8 coordinated crisis services system** information, a call-back number or other
25 identifying information related to an emergency call.

26 “(2) Automatic number identifications received by public safety answering points **and 9-8-8 co-**
27 **ordinated crisis services system** are confidential and are not subject to public disclosure unless
28 and until an official report is written by the public or private safety agency and that agency does
29 not withhold the telephone number under ORS 192.311 to 192.478 or other state and federal laws.
30 The official report of a public safety answering point **or a 9-8-8 coordinated crisis services sys-**
31 **tem** may not include nonpublished or nonlisted telephone numbers. The official report of a public
32 or private safety agency may not include nonpublished or nonlisted telephone numbers. Nonpub-
33 lished or nonlisted telephone numbers are not otherwise subject to public disclosure without the
34 permission of the subscriber.

35 “(3) A provider is not subject to an action for civil damages for providing in good faith confi-
36 dential or nonpublic information, including nonpublished and nonlisted subscriber information, to
37 emergency **and 9-8-8** services providers who are:

38 “(a) Responding to an emergency call;

39 “(b) Responding to emergency situations that involve the risk of death or serious physical harm
40 to an individual, as provided in ORS 403.132; or

41 “(c) Notifying the public of an emergency.

42 “(4) Subsection (3) of this section does not compel a provider to provide nonpublished and non-
43 listed subscriber information directly to emergency **or 9-8-8** services providers or law enforcement
44 agencies prior to placement of an emergency call without process of law.

45 “(5) Subscriber information acquired by a 9-1-1 jurisdiction **or the 9-8-8 coordinated crisis**

1 **services system** for the purpose of providing emergency communications services under ORS
2 403.105 to 403.250 **or coordinated crisis services under sections 1 to 3 of this 2021 Act** is not
3 subject to public disclosure and may not be used by other public agencies except:

4 “(a) To respond to an emergency call;

5 “(b) To respond to an emergency situation that involves the risk of death or serious physical
6 harm to an individual, as provided in ORS 403.132; or

7 “(c) To notify the public of an emergency by utilizing an automated notification system if a
8 provider has provided subscriber information to the 9-1-1 jurisdiction or emergency services pro-
9 vider.

10 “**SECTION 10.** ORS 403.200, as amended by section 2, chapter 653, Oregon Laws 2019, is
11 amended to read:

12 “403.200. (1) There is imposed on each consumer or paying retail subscriber who has telecom-
13 munications service or interconnected Voice over Internet Protocol service, with access to the
14 emergency communications system [a]:

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

17 “(b) **A 9-8-8 coordinated crisis services system tax at the rate established in section 5 of**
18 **this 2021 Act.**

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

29 “[2] (3) The consumer or subscriber is liable for the [tax] **taxes** imposed by this section.

30 “[3] (4) The amounts of tax collected by the provider or seller are considered as payment by
31 the consumer or subscriber for that amount of tax.

32 “[4] (5) The [tax] **taxes** imposed under this section, as [it applies] **they apply** to prepaid
33 wireless telecommunications service, shall be collected by the seller from the consumer with respect
34 to each retail transaction occurring in this state. The amount of the [tax] **taxes** shall be separately
35 stated on an invoice, receipt or other similar document that the seller provides to the consumer, or
36 shall be otherwise disclosed to the consumer.

37 “[5] (6) For purposes of this section, a retail transaction:

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

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

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

1 “[(6)] (7) Any return made by the provider or seller collecting the [tax] taxes must be accepted
2 by the Department of Revenue as evidence of payments by the consumer or subscriber of amounts
3 of [tax] taxes so indicated upon the return.

4 “**SECTION 11.** ORS 403.202 is amended to read:

5 “403.202. (1) For the purpose of compensating sellers for expenses incurred in collecting the
6 [tax] taxes imposed under ORS 403.200, each seller is permitted to deduct and retain two percent
7 of the amount of taxes that are collected by the seller from all retail transactions conducted by the
8 seller in this state.

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

11 “**SECTION 12.** ORS 403.205 is amended to read:

12 “403.205. The [tax] taxes imposed by ORS 403.200 [does] do not apply to:

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

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

17 “**SECTION 13.** ORS 403.210 is amended to read:

18 “403.210. Every provider or seller responsible for the collection of the [tax] taxes imposed by
19 ORS 403.200 to 403.230 shall keep records, render statements, make returns and comply with rules
20 adopted by the Department of Revenue with respect to the [tax] taxes. Whenever in the judgment
21 of the department it is necessary, the department may require the provider, seller, consumer or
22 subscriber, by notice served upon that person by first-class mail, to make returns, render statements
23 or keep records sufficient to show whether there is tax liability under ORS 403.200 to 403.230.

24 “**SECTION 14.** ORS 403.215 is amended to read:

25 “403.215. (1) The provider or seller is responsible for collecting the [tax] taxes under ORS
26 403.200 and shall file a return with the Department of Revenue on or before the last day of the
27 month following the end of each calendar quarter, reporting the amount of tax due for access to the
28 emergency communications system **and the amount of tax due for the 9-8-8 coordinated crisis**
29 **services system tax** during the quarter. The department shall prescribe the form of the return re-
30 quired by this section and ORS 403.210. The rules of the department must require that returns be
31 made under penalties for false swearing.

32 “(2) **A provider or seller may elect to combine in one return the taxes described in sub-**
33 **section (1) of this section that the provider or seller collects from a subscriber or consumer.**
34 **If the taxes are combined:**

35 “(a) **The provider or seller shall identify the tax as the ‘State 911/988 Tax’ on the**
36 **subscriber’s bill, consumer invoice, receipt or similar document provided to the subscriber**
37 **or consumer; and**

38 “(b) **Report to the department the respective amounts of each tax collected.**

39 “[(2)] (3) When a return of [the] a tax is required under ORS 403.210 or subsection (1) of this
40 section, the provider or seller required to make the return shall remit the tax due to the department
41 at the time fixed for filing the return.

42 “[(3)] (4) A provider or seller described in subsection (1) of this section may elect to pay the
43 [tax] taxes based on either of the following:

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

45 “(b) The net amount of tax billed during the quarter. The net amount billed equals the gross

1 amount of tax billed less adjustments for uncollectible accounts, refunds, incorrect billings and other
2 appropriate adjustments.

3 “[4] (5) Once a provider or seller has made an election under subsection [(3)] (4) of this section,
4 the provider or seller may not change the method of payment and reporting unless the provider or
5 seller first obtains the permission of the department.

6 “**SECTION 15.** ORS 403.217 is amended to read:

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

12 “**SECTION 16.** ORS 403.225 is amended to read:

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

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

22 “**SECTION 17.** ORS 403.228 is amended to read:

23 “403.228. The Department of Revenue shall establish by rule policies and procedures for the
24 administration of the provisions of ORS 403.200 to 403.230, including policies and procedures for the
25 collection of the [tax] **taxes** imposed under ORS 403.200 by providers required to collect the [tax]
26 **taxes** imposed on interconnected Voice over Internet Protocol service.

27 “**SECTION 18.** ORS 403.230 is amended to read:

28 “403.230. (1) Unless the context requires otherwise, the provisions of ORS chapters 305, 314 and
29 316 as to the audit and examination of reports and returns, determination of deficiencies, assess-
30 ments, claims for refunds, penalties, interest, jeopardy assessments, warrants, conferences and ap-
31 peals to the Oregon Tax Court, and procedures relating thereto, apply to ORS 403.200 to 403.230 the
32 same as if the [tax were a tax] **taxes were** imposed upon or measured by net income. The provisions
33 apply to the consumer or subscriber liable for the [tax] **taxes** and to the provider or seller required
34 to collect the [tax] **taxes**. As to any amount collected and required to be remitted to the Department
35 of Revenue, the [tax is] **taxes are** considered [a tax] **taxes** upon the provider or seller required to
36 collect the [tax] **taxes** and that provider or seller is considered a taxpayer.

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

40 “(3) The Public Utility Commission may disclose information obtained pursuant to chapter 290,
41 Oregon Laws 1987, to the Department of Revenue to administer the [tax] **taxes** imposed under ORS
42 403.200 to 403.230.

43 “**SECTION 19.** ORS 403.235 is amended to read:

44 “403.235. (1) The Emergency Communications Account is established separate and distinct from
45 the General Fund in the State Treasury. All moneys received by the Department of Revenue pursu-

1 ant to ORS 403.200 to 403.230 and interest thereon must be paid to the State Treasurer to be held
2 in a suspense account established under ORS 293.445. After payment of refunds **and withholding**
3 **of moneys necessary to reimburse the department for the actual costs incurred by the de-**
4 **partment in administering the 9-8-8 coordinated crisis services system tax**, the balance of the
5 moneys received must be paid into the State Treasury and credited to the:

6 “(a) Emergency Communications Account **with respect to taxes paid under ORS 403.200**
7 **(1)(a); and**

8 “(b) **The 9-8-8 Fund established in section 4 of this 2021 Act with respect to taxes paid**
9 **under ORS 403.200 (1)(b).**

10 “(2) Interest earned by the **Emergency Communications** Account must be credited to the 9-1-1
11 Subaccount established under subsection [(2)] (3) of this section. All moneys in the Emergency
12 Communications Account are continuously appropriated to the Office of Emergency Management
13 and must be used for the purposes described in ORS 403.240.

14 “[2)] (3) The 9-1-1 Subaccount is established as a subaccount of the Emergency Communications
15 Account. Thirty-five percent of the amount in the Emergency Communications Account on the date
16 of distribution must be credited to the 9-1-1 Subaccount. Interest earned by the subaccount must
17 be credited to the subaccount. All moneys in the subaccount are continuously appropriated to the
18 Office of Emergency Management and must be used for the purposes described in ORS 403.240 (3),
19 (4) and (5).

20 “**SECTION 20.** ORS 317A.100, as amended by section 1, chapter 2, Oregon Laws 2020 (first
21 special session), is amended to read:

22 “317A.100. As used in ORS 317A.100 to 317A.158:

23 “(1)(a) ‘Commercial activity’ means:

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

27 “(B) If received by a financial institution:

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

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

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

34 “(C)(i) If received by an insurer, as reported on the statement of premiums accompanying the
35 annual statement required under ORS 731.574 to be filed with the Director of the Department of
36 Consumer and Business Services, all gross direct life insurance premiums, gross direct accident and
37 health insurance premiums and gross direct property and casualty insurance premiums; and

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

40 “(b) ‘Commercial activity’ does not include:

41 “(A) Interest income except:

42 “(i) Interest on credit sales; or

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

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

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

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

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

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

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

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

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

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

26 “(K) Gifts or charitable contributions received, membership dues received by trade, professional,
27 homeowners’ or condominium associations, payments received for educational courses, meetings or
28 meals, or similar payments to a trade, professional or other similar association, and fundraising re-
29 ceipts received by any person when any excess receipts are donated or used exclusively for chari-
30 table purposes;

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

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

35 “(N) Tax refunds from any tax program, other tax benefit recoveries and reimbursements for the
36 tax imposed under ORS 317A.100 to 317A.158 made by entities that are part of the same unitary
37 group as provided under ORS 317A.106, and reimbursements made by entities that are not members
38 of a unitary group that are required to be made for economic parity among multiple owners of an
39 entity whose tax obligation under ORS 317A.100 to 317A.158 is required to be reported and paid
40 entirely by one owner, as provided in ORS 317A.106;

41 “(O) Pension reversions;

42 “(P) Contributions to capital;

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

45 “(R) In the case of receipts from the sale of cigarettes or tobacco products by a wholesale

1 dealer, retail dealer, distributor, manufacturer or seller, an amount equal to the federal and state
2 excise taxes paid by any person on or for such cigarettes or tobacco products under subtitle E of
3 the Internal Revenue Code or ORS chapter 323;

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

10 “(T) In the case of receipts from the sale of marijuana items, as defined in ORS 475B.015, by a
11 person holding a license issued under ORS 475B.010 to 475B.545, an amount equal to the federal and
12 state excise taxes paid by any person on or for such marijuana items under subtitle E of the Internal
13 Revenue Code or ORS 475B.700 to 475B.760 and any local retail taxes authorized under ORS
14 475B.491;

15 “(U) Local taxes collected by a restaurant or other food establishment on sales of meals, pre-
16 pared food or beverages;

17 “(V) Tips or gratuities collected by a restaurant or other food establishment and passed on to
18 employees;

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

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

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

33 “(Z) In the case of amounts retained as commissions by a holder of a license under ORS chapter
34 462, an amount equal to the amounts specified under ORS chapter 462 that must be paid to or col-
35 lected by the Department of Revenue as a tax and the amounts specified under ORS chapter 462 to
36 be used as purse money;

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

40 “(BB) Dividends received;

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

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

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

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

2 “(GG) Moneys, including public purpose charge moneys collected under ORS 757.612 and costs
3 of funding or implementing cost-effective energy conservation measures collected under ORS 757.689,
4 that are collected from customers, passed to a utility and approved by the Public Utility Commission
5 and that support energy conservation, renewable resource acquisition and low-income assistance
6 programs;

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

9 “(II) Surcharges collected under ORS 757.736;

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

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

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

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

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

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

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

27 “(QQ) In the case of a transient lodging tax collector, the amount of tax imposed under ORS
28 320.305 and of any local transient lodging tax imposed upon the occupancy of transit lodging;

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

31 “(SS) In the case of a qualified heavy equipment provider, the amount of tax imposed under ORS
32 307.872 upon the rental price of heavy equipment;

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

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

39 “(VV) Receipts from the sale of fluid milk by dairy farmers that are not members of an agri-
40 cultural cooperative.

41 “(2) ‘Cost inputs’ means:

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

44 “(b) In the case of a taxpayer that is engaged in a farming operation, as defined in section 6,
45 chapter 2, Oregon Laws 2020 (first special session), and that does not report cost of goods sold for

1 federal tax purposes, the taxpayer's operating expenses excluding labor costs.

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

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

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

8 “(b) Organizations described in section 501(d) of the Internal Revenue Code, unless the ex-
9 emption is denied under section 502 or 503 of the Internal Revenue Code.

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

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

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

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

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

15 “(h) Foreign or alien insurance companies, but only with respect to the underwriting profit de-
16 rived from writing wet marine and transportation insurance subject to tax under ORS 731.824 and
17 731.828.

18 “(i) Governmental entities.

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

22 “(k) Hospitals subject to assessment under ORS 414.855, long term care facilities subject to as-
23 sessment under ORS 409.801 or any entity subject to assessment under ORS 414.880 or section 3 or
24 5, chapter 538, Oregon Laws 2017.

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

26 “(5) ‘Financial institution’ has the meaning given that term in ORS 314.610, except that ‘financial
27 institution’ does not include a credit union.

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

30 “(b) In the case of a holding company required to file both consolidated and parent-only financial
31 statements, ‘FR Y-9’ means the consolidated financial statements that the holding company is re-
32 quired to file.

33 “(7) ‘Governmental entity’ means:

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

35 “(b) Any incorporated agency or instrumentality of the United States wholly owned by the
36 United States or by a corporation wholly owned by the United States.

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

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

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

40 “(f) A federally recognized Indian tribe.

41 “(8) ‘Groceries’ means food as defined in 7 U.S.C. 2012(k), but does not include cannabinoid
42 edibles or marijuana seeds.

43 “(9)(a) ‘Hedging transaction’ means a hedging transaction as defined in section 1221 of the
44 Internal Revenue Code or a transaction accorded hedge accounting treatment under Financial Ac-
45 counting Standards Board Statement No. 133.

1 “(b) ‘Hedging transaction’ does not include a transaction in which an actual transfer of title of
2 real or tangible property to another entity occurs.

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

4 “(11) ‘Internal Revenue Code,’ except where the Legislative Assembly has provided otherwise,
5 refers to the laws of the United States or to the Internal Revenue Code as they are amended and
6 in effect on December 31, 2018.

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

9 “(13)(a) ‘Motor vehicle fuel or any other product used for the propulsion of motor vehicles’
10 means:

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

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

13 “(b) ‘Motor vehicle fuel or any other product used for the propulsion of motor vehicles’ does not
14 mean:

15 “(A) Electricity; or

16 “(B) Electric batteries or any other mechanical or physical component or accessory of a motor
17 vehicle.

18 “(14) ‘Person’ includes individuals, combinations of individuals of any form, receivers, assignees,
19 trustees in bankruptcy, firms, companies, joint-stock companies, business trusts, estates, partner-
20 ships, limited liability partnerships, limited liability companies, associations, joint ventures, clubs,
21 societies, entities organized as for-profit corporations under ORS chapter 60, C corporations, S cor-
22 porations, qualified subchapter S subsidiaries, qualified subchapter S trusts, trusts, entities that are
23 disregarded for federal income tax purposes and any other entities.

24 “(15) ‘Retailer’ means a person doing business by selling tangible personal property to a pur-
25 chaser for a purpose other than:

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

28 “(b) Incorporation by the purchaser of the property in the course of regular business as an in-
29 gredient or component of real or personal property; or

30 “(c) Consumption by the purchaser of the property in the production for sale of a new article
31 of tangible personal property.

32 “(16) ‘Taxable commercial activity’ means commercial activity sourced to this state under ORS
33 317A.128, less any subtraction pursuant to ORS 317A.119.

34 “(17)(a) ‘Taxpayer’ means any person or unitary group required to register, file or pay tax under
35 ORS 317A.100 to 317A.158.

36 “(b) ‘Taxpayer’ does not include excluded persons, except to the extent that a tax-exempt entity
37 has unrelated business income as described in the Internal Revenue Code.

38 “(18)(a) ‘Unitary business’ means a business enterprise in which there exists directly or indi-
39 rectly between the members or parts of the enterprise a sharing or exchange of value as demon-
40 strated by:

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

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

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

44 “(b) ‘Unitary business’ may include a business enterprise the activities of which:

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

1 or

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

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

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

8 “**SECTION 21.** ORS 403.240, as amended by section 4, chapter 653, Oregon Laws 2019, is
9 amended to read:

10 “403.240. (1) The Office of Emergency Management shall distribute quarterly the entire amount
11 of the moneys in the Emergency Communications Account. The office shall pay the following
12 amounts from the account:

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

17 “(b) Administrative costs to be incurred during the calendar quarter by the Office of Emergency
18 Management in carrying out its duties under ORS 305.823 and 403.105 to 403.250. The amount to be
19 paid under this paragraph may not exceed 2.4 percent of the amount in the account on the date of
20 distribution, and, on or before the next date of distribution, the office shall repay to the account any
21 amount received under this paragraph that exceeds the actual expenses incurred by the office in the
22 quarter.

23 “(2) The office may:

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

28 “(b) Prescribe the manner in which funding is provided to the Oregon Emergency Response
29 System under this subsection.

30 “(3) The office shall use funds in the 9-1-1 Subaccount to pay for costs incurred during the pre-
31 ceding calendar quarter for emergency communications services provided by a 9-1-1 jurisdiction un-
32 der ORS 403.105 to 403.250. The office may not disburse funds in the 9-1-1 Subaccount to a 9-1-1
33 jurisdiction that does not have an approved 9-1-1 jurisdiction plan under ORS 403.130. The office
34 shall make payments for costs of the emergency communications system on behalf of a 9-1-1 juris-
35 diction, or make reimbursement to the 9-1-1 jurisdiction for such costs, only after a reimbursement
36 or payment request has been submitted to the office in the manner prescribed by the office. Re-
37 imbursement or payment requests for recurring and nonrecurring charges necessary to enable the
38 9-1-1 jurisdiction to comply with ORS 403.105 to 403.250 must be submitted directly to the office. The
39 costs reimbursable or payable under this subsection are only those costs incurred for:

40 “(a) Modification of network routers or servers, central office switching and trunking equipment
41 or other transport equipment;

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

43 “(c) Database development, operation and maintenance;

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

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

1 “(f) Collection of the **emergency communications system** tax imposed by ORS [403.200 to
2 403.230] **403.200 (1)(a)**;

3 “(g) Addressing if the reimbursement or payment request is consistent with rules adopted by the
4 office; and

5 “(h) An employee of a 9-1-1 jurisdiction obtaining certification as a telecommunicator or emer-
6 gency medical dispatcher from the Department of Public Safety Standards and Training under ORS
7 181A.560.

8 “(4) Subject to availability of funds, the office shall provide funding to 9-1-1 jurisdictions based
9 on cost information provided in their final plan under ORS 403.130. The office shall approve 9-1-1
10 jurisdiction plans that meet the requirements set forth in ORS 403.115 (2) and (4). The office shall
11 limit funding for costs incurred prior to the preceding calendar quarter to charges associated with
12 database development, network and on-premises equipment that satisfies the requirements of ORS
13 403.115 (2) and (4). The office shall prescribe the manner in which funding is provided under this
14 subsection.

15 “(5) 9-1-1 jurisdictions may use funds distributed to the jurisdiction from an account or subac-
16 count established in ORS 403.235 to repay loans from the Special Public Works Fund if the loans
17 were used for purposes that are allowable under ORS 403.105 to 403.250.

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

21 “(7) The office shall review reimbursement or payment requests for costs identified in subsection
22 (3) of this section, necessary to comply with ORS 403.105 to 403.250, for the appropriateness of the
23 costs claimed. The office shall approve or reject the reimbursement or payment requests.

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

30 “(9) 9-1-1 jurisdictions shall submit an accounting report to the office annually. The report must
31 be provided in the manner prescribed by the office and must include but not be limited to:

32 “(a) Funds received and expended under subsection (8) of this section for the purposes of ful-
33 filling the requirements of ORS 403.115;

34 “(b) Local funds received and expended for the purposes of fulfilling the requirements of ORS
35 403.115; and

36 “(c) Local funds received and expended for the purposes of providing emergency communications
37 services.

38 “**SECTION 22.** ORS 759.685 is amended to read:

39 “759.685. (1)(a) In order to fund the programs provided in sections 2 to 6, chapter 290, Oregon
40 Laws 1987, and ORS 759.693 to 759.698, the Public Utility Commission shall develop and implement
41 a system for assessing a surcharge in an amount not to exceed 35 cents per month against each
42 paying retail subscriber who has telecommunications service, or who has interconnected voice over
43 internet protocol service, with access to a telecommunications relay service. The commission shall
44 apply the surcharge on a telecommunications circuit designated for a particular subscriber. One
45 subscriber line must be counted for each circuit that is capable of generating usage on the line side

1 of the switched network regardless of the quantity of customer premises equipment connected to
2 each circuit. For providers of central office based services, the surcharge must be applied to each
3 line that has unrestricted connection to the telecommunications relay service or, for lines that have
4 restricted access to the telecommunications relay service, on the basis of software design. For
5 cellular, wireless or other radio common carriers, the surcharge must be applied on a per instrument
6 basis and only to subscribers whose place of primary use, as defined and determined under 4 U.S.C.
7 116 to 126, is within this state.

8 “(b) For purposes of this subsection, the commission shall adopt by rule the definition for
9 ‘interconnected voice over internet protocol service.’ The rule defining ‘interconnected voice over
10 internet protocol service’ must be consistent with the definition for ‘interconnected VoIP service’ in
11 47 C.F.R. 9.3.

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

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

15 “(b) Interconnection between telecommunications utilities, telecommunications cooperatives,
16 competitive telecommunications services providers certified under ORS 759.020, radio common car-
17 riers and interexchange carriers.

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

22 “(4) Moneys collected pursuant to the surcharge may not be considered in any proceeding to
23 establish rates for telecommunication service.

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

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

29 “(7) The commission may disclose information obtained pursuant to chapter 290, Oregon Laws
30 1987, to the department to administer the [tax] **taxes** imposed under ORS 403.200 to 403.230.

31 “**SECTION 23.** ORS 759.685, as amended by section 3, chapter 434, Oregon Laws 2017, is
32 amended to read:

33 “759.685. (1)(a) In order to fund the program described in ORS 759.693 to 759.698, the Public
34 Utility Commission shall develop and implement a system for assessing a surcharge in an amount
35 not to exceed 35 cents per month against each paying retail subscriber who has telecommunications
36 service, or who has interconnected voice over internet protocol service, with access to a telecom-
37 munications relay service. The commission shall apply the surcharge on a telecommunications cir-
38 cuit designated for a particular subscriber. One subscriber line must be counted for each circuit that
39 is capable of generating usage on the line side of the switched network regardless of the quantity
40 of customer premises equipment connected to each circuit. For providers of central office based
41 services, the surcharge must be applied to each line that has unrestricted connection to the tele-
42 communications relay service or, for lines that have restricted access to the telecommunications
43 relay service, on the basis of software design. For cellular, wireless or other radio common carriers,
44 the surcharge must be applied on a per instrument basis and only to subscribers whose place of
45 primary use, as defined and determined under 4 U.S.C. 116 to 126, is within this state.

1 “(b) For purposes of this subsection, the commission shall adopt by rule the definition for
2 ‘interconnected voice over internet protocol service.’ The rule defining ‘interconnected voice over
3 internet protocol service’ must be consistent with the definition for ‘interconnected VoIP service’ in
4 47 C.F.R. 9.3.

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

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

8 “(b) Interconnection between telecommunications utilities, telecommunications cooperatives,
9 competitive telecommunications services providers certified under ORS 759.020, radio common car-
10 riers and interexchange carriers.

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

15 “(4) Moneys collected pursuant to the surcharge may not be considered in any proceeding to
16 establish rates for telecommunication service.

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

19 “(6) Notwithstanding ORS 314.835 and 314.840, the Department of Revenue may disclose infor-
20 mation received under ORS 403.200 to 403.230 to the commission to carry out the provisions of ORS
21 759.693 to 759.698.

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

24 “**SECTION 24.** (1) Sections 1 to 3 of this 2021 Act become operative on July 16, 2022.

25 “(2) **The Oregon Health Authority shall take all steps necessary before the operative date**
26 **specified in subsection (1) of this section to enable the authority to carry out, on and after**
27 **the operative date specified in subsection (1) of this section, the provisions of sections 1 to**
28 **3 of this 2021 Act.**

29 “**SECTION 25.** This 2021 Act takes effect on the 91st day after the date on which the 2021
30 regular session of the Eighty-first Legislative Assembly adjourns sine die.”.

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