

Senate Bill 26

Sponsored by Senator SCHRADER

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Establishes procedure for quarterly economic and revenue reports. Requires forecast to include midpoint and range for General Fund and lottery moneys. Requires Governor and Legislative Assembly to use midpoint for General Fund and lottery budgets.

Establishes Rainy Day Account. Requires that General Fund revenues between midpoint and top of range be deposited in Rainy Day Account.

Provides that for purpose of kicker calculation, forecast is top of range.

A BILL FOR AN ACT

1
2 Relating to state financial administration; creating new provisions; amending ORS 291.002, 291.200,
3 291.216, 291.261, 291.349, 311.662 and 314.840; and repealing ORS 291.342.

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

5 **SECTION 1. (1) Not later than two months following the end of each calendar quarter,**
6 **the Oregon Department of Administrative Services, with the assistance of the Department**
7 **of Revenue, shall produce an economic and revenue report consisting of:**

8 (a) **A statement of revenues received from the Oregon State Lottery and from General**
9 **Fund revenue sources in the prior calendar quarter;**

10 (b) **A cumulative statement of revenues received from the Oregon State Lottery and from**
11 **General Fund revenue sources in the current fiscal year and in the current biennium; and**

12 (c) **An estimate, as described in subsection (2) of this section, of the total amount of re-**
13 **venues that will be received from the Oregon State Lottery and the total amount that will**
14 **be received from General Fund revenue sources in the current fiscal year, in the current**
15 **biennium and in the two succeeding biennia.**

16 (2) **The estimate required by subsection (1)(c) of this section shall include:**

17 (a) **A projected midpoint number for each biennium for Oregon State Lottery revenues**
18 **and for revenues from General Fund sources; and**

19 (b) **A range above and below the midpoint numbers that has a confidence interval of 95**
20 **percent.**

21 (3) **The projected midpoint numbers required by subsection (2) of this section shall be**
22 **numbers that the Oregon Department of Administrative Services considers to have an equal**
23 **probability of being too high or too low, based on historical evidence and statistical tech-**
24 **niques.**

25 (4) **The department shall present the report required by this section to the Legislative**
26 **Revenue Officer and the Legislative Fiscal Officer and to the Emergency Board or, if the**
27 **Legislative Assembly is in session, to the Joint Committee on Ways and Means.**

28 (5) **In carrying out its duties under this section, the department shall issue quarterly a**
29 **statement setting forth the methodology and assumptions used in making the revenue re-**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 ports. Nothing in this subsection requires the statement to set forth procedures used or
2 methods used to determine either the methodology or the assumptions.

3 **SECTION 2.** (1) Except as provided in subsection (3) of this section, the Legislative As-
4 sembly shall base the General Fund appropriation and Oregon State Lottery allocation
5 portions of the legislatively adopted budget for a biennium on the projected midpoint num-
6 bers for that biennium given in the last scheduled economic and revenue report under sec-
7 tion 1 of this 2007 Act of the prior biennium.

8 (2) The Legislative Assembly shall identify what programs will be reduced if General Fund
9 revenues or Oregon State Lottery revenues fall below the midpoints on which the budget is
10 based.

11 (3) If a regular session of the Legislative Assembly has not been adjourned sine die prior
12 to the time the first economic and revenue report in a biennium is due under section 1 of
13 this 2007 Act, the Legislative Assembly may base the budget for that biennium on the
14 projected midpoint numbers given in that report, rather than on those given in the last re-
15 port for the prior biennium.

16 **SECTION 3.** (1) The Rainy Day Account is established as an account in the General Fund.
17 The account shall consist of moneys transferred to the account under subsection (2) of this
18 section and any other moneys transferred to the account by law.

19 (2) If the actual amount of General Fund revenues collected for a biennium, as deter-
20 mined by the Oregon Department of Administrative Services under ORS 291.349 (2), exceeds
21 the projected midpoint number for the General Fund on which the legislatively adopted
22 budget for the biennium was based, the amount by which actual General Fund revenues ex-
23 ceed the projected midpoint shall be transferred to the Rainy Day Account established in
24 subsection (1) of this section.

25 (3) Notwithstanding subsection (2) of this section, if actual General Fund revenues for a
26 biennium exceed the top of the range on which the legislatively adopted budget was based,
27 the amount to be transferred under subsection (2) of this section is the difference between
28 the top of the range and the midpoint.

29 **SECTION 4.** ORS 291.002 is amended to read:

30 291.002. Except as otherwise provided in ORS 291.201 and 291.230, as used in ORS 291.001 to
31 291.034, 291.201 to 291.222, 291.230 to 291.260, 291.261, 291.307 and 291.990 **and sections 2 and 3**
32 **of this 2007 Act**, unless the context requires otherwise:

33 (1) "Classification of expenditures" means the major groups or categories of expenditures for the
34 purpose of budget-making and accounting that are established as provided in ORS 291.206.

35 (2) "Department" means the Oregon Department of Administrative Services.

36 (3) "Director" means the Director of the Oregon Department of Administrative Services.

37 (4) "Dedicated fund" means a fund in the State Treasury, or a separate account or fund in the
38 General Fund in the State Treasury, that by law is dedicated, appropriated or set aside for a limited
39 object or purpose; but "dedicated fund" does not include a revolving fund or a trust fund.

40 (5) "Legislatively adopted budget" means the budget enacted by the Legislative Assembly during
41 a regular session.

42 (6) "Legislatively approved budget" means the legislatively adopted budget as modified by the
43 Emergency Board or by the Legislative Assembly meeting in special session.

44 (7) "Revolving fund" means a fund in the State Treasury, established by law, from which is paid
45 the cost of goods or services furnished to or by a state agency, and which is replenished through

1 charges made for such goods or services or through transfers from other accounts or funds; and
 2 specifically includes funds derived from receipts by the State Board of Higher Education of tuition,
 3 fees, dormitory earnings, student activity receipts and sales of products and services incident to
 4 education functions.

5 (8) "Trust fund" means a fund in the State Treasury in which designated persons or classes of
 6 persons have a vested beneficial interest or equitable ownership, or which was created or estab-
 7 lished by a gift, grant, contribution, devise or bequest that limits the use of the fund to designated
 8 objects or purposes.

9 (9) "State agency" or "agency" means every state officer, board, commission, department, insti-
 10 tution, branch or agency of the state government, whose costs are paid wholly or in part from funds
 11 held in the State Treasury, except:

12 (a) The Legislative Assembly, the courts and their officers and committees;

13 (b) The Public Defense Services Commission; and

14 (c) The Secretary of State and the State Treasurer in the performance of the duties of their
 15 constitutional offices.

16 (10) "State officer" means any elected or appointed state officer, including members of boards
 17 and commissions, except the members and officers of the Legislative Assembly, the courts, the Sec-
 18 retary of State and the State Treasurer in the performance of the duties of their constitutional of-
 19 fices and the members of the Public Defense Services Commission.

20 **SECTION 5.** ORS 291.200 is amended to read:

21 291.200. (1) *[It is the intent of the Legislative Assembly to require the Governor,]* In the prepara-
 22 tion of the **General Fund and Oregon State Lottery portions of the** biennial budget, **the Gov-**
 23 **ernor shall use the projected midpoint numbers described in section 1 of this 2007 Act from**
 24 **the most recent quarterly economic and revenue report and shall** *[to]* state as precisely as
 25 possible what programs the Governor recommends be approved for funding *[under estimated revenues*
 26 *under ORS 291.342]* **with that amount of revenue.**

27 (2) If *[estimated revenues are inadequate,]* **the Governor proposes programs that cannot be**
 28 **funded with the amount of revenue described in subsection (1) of this section,** *[the Legislative*
 29 *Assembly intends that it be advised by]* the Governor **shall advise the Legislative Assembly** as
 30 precisely as possible how the Legislative Assembly might proceed to raise the additional funds.

31 (3) *[It is also the intent of the Legislative Assembly, in the event that the additional funding is not*
 32 *possible, to be informed by]* The Governor **shall inform the Legislative Assembly** precisely what
 33 programs or portions thereof the Governor recommends be reduced *[accordingly. Finally, if the*
 34 *Governor chooses to recommend additional new programs or program enhancements, the Legislative*
 35 *Assembly intends that the Governor specify how the additional funding might be achieved]* **if revenues**
 36 **fall below the midpoints described in section 1 of this 2007 Act.**

37 (4) The Legislative Assembly believes that the state government must allocate its resources for
 38 effective and efficient delivery of public services by:

39 (a) Clearly identifying desired results;

40 (b) Setting priorities;

41 (c) Assigning accountability; and

42 (d) Measuring, reporting and evaluating outcomes to determine future allocation.

43 *[(2)]* (5) To achieve the intentions of subsection *[(1)]* (4) of this section, it is the budget policy
 44 of this state to create and administer programs and services designed to attain societal outcomes
 45 such as the Oregon benchmarks and to promote the efficient and measured use of resources.

1 [(3)] (6) To effect the policy stated in subsection [(2)] (5) of this section, state government shall:

- 2 (a) Allocate resources to achieve desired outcomes;
- 3 (b) Express program outcomes in measurable terms;
- 4 (c) Measure progress toward desired outcomes;
- 5 (d) Encourage savings;
- 6 (e) Promote investments that reduce or avoid future costs;
- 7 (f) Plan for the short term and long term using consistent assumptions for major demographic
- 8 and other trends; and
- 9 (g) Require accountability at all levels for meeting program outcomes.

10 **SECTION 6.** ORS 291.216 is amended to read:

11 291.216. (1) Not later than November 10 of each even-numbered year the Governor shall cause
12 the budget report to be compiled and prepared for printing.

13 (2) The budget report shall include a budget message prepared by the Governor, including rec-
14 ommendations of the Governor with reference to the fiscal policy of the state government for the
15 coming biennium, describing the important features of the budget plan, embracing a general budget
16 summary setting forth the aggregate figures of the budget report so as to show a balanced relation
17 between the total proposed expenditures and the total anticipated income, with the basis and factors
18 on which the estimates are made, the amount to be borrowed, and other means of financing the es-
19 timated expenditures for the ensuing biennium, compared with the corresponding figures for at least
20 the last completed biennium and the current biennium.

21 (3) The budget plan shall be supported by explanatory schedules or statements, classifying the
22 expenditures reported therein, both past and proposed, by organization units, objects and funds, and
23 the income by organization units, sources and funds, and the proposed amount of new borrowing as
24 well as proposed new tax or revenue sources, including a single comprehensive list of all proposed
25 increases in fees, licenses and assessments assumed in the budget plan.

26 (4) The budget plan shall be submitted for all dedicated funds, as well as the state General Fund,
27 and shall include the estimated amounts of federal and other aids or grants to state agencies or
28 activities provided for any purpose whatever, together with estimated expenditures therefrom.

29 (5) The budget report shall embrace the detailed estimates of expenditures and revenues. It shall
30 include statements of the bonded indebtedness of the state government, showing the actual amount
31 of the debt service for at least the past biennium, and the estimated amount for the current
32 biennium and the ensuing biennium, the debt authorized and unissued, the condition of the sinking
33 funds and the borrowing capacity. It shall contain the Governor's recommendations concerning tax
34 expenditures identified under ORS 291.214. It shall also contain any statements relative to the fi-
35 nancial plan which the Governor may deem desirable or which may be required by the legislature.

36 (6) The budget plan *[shall use the estimated revenues under ORS 291.342 for the fiscal year in*
37 *which the plan is submitted as the basis for total anticipated income under subsection (2) of this section,*
38 *subject to such adjustment as may be necessary to reflect accurately projections for the next*
39 *biennium]* **for General Fund revenues and Oregon State Lottery revenues shall be based on**
40 **the most recent economic and revenue report given under section 1 of this 2007 Act.**

41 *[(7) As supplemental information to the budget report, the Governor shall publish an existing level*
42 *tentative budget plan for the two fiscal years for which the budget report is required. This summary*
43 *budget shall reflect only existing revenues estimated under subsection (6) of this section; subject to such*
44 *adjustment as may be necessary to reflect accurately projections for the next biennium. The supple-*
45 *mental information to the budget report shall be submitted at the same time as the budget report.]*

1 [(8)(a)] **(7)(a)** The budget report shall present information regarding the expenses of the state in
 2 the following categories:

3 (A) Personnel expenses, including compensation and benefits for state employees, but excluding
 4 costs of services contracted out and temporary service costs.

5 (B) Supplies, equipment and the costs of services contracted out.

6 (C) Capital construction.

7 (D) Capital outlay.

8 (E) Debt service.

9 (b) For each category described in paragraph (a) of this subsection, the report shall show actual
 10 expenditures to date.

11 (c) For each category described in paragraph (a) of this subsection, the report shall show:

12 (A) The amount of merit increases for the existing workforce.

13 (B) Increases for the cost of replacement and repair of supplies and equipment.

14 (C) Increases for the costs of new construction or major remodeling.

15 (D) Increases for the cost of inflation.

16 (d) The report shall show the total increase in the cost of salaries and benefits for all state
 17 positions.

18 [(9)] **(8)** The budget report shall include:

19 (a) The total number of positions included in the budget.

20 (b) The average vacancy rate in the present biennium.

21 (c) The number of permanent, full-time equivalent vacancies, excluding academics, as of July 1
 22 of even-numbered years.

23 [(10)] **(9)** The budget report shall include computations showing budget figures as a percentage
 24 of the total General Fund, federal fund, fee or other source category, as may be appropriate.

25 [(11)] **(10)** The budget report shall include, in a format that provides side-by-side comparison with
 26 the State Debt Policy Advisory Commission report of net debt capacity, a six-year forecast, by debt
 27 type and repayment source, of:

28 (a) That portion of the capital construction program required to be reported by ORS 291.224 that
 29 will be financed by debt issuance.

30 (b) The acquisition of equipment or technology in excess of \$500,000 that will be financed by
 31 debt issuance.

32 (c) Other state agency debt issuance for grant or loan purposes.

33 [(12)] **(11)** As supplemental information to the budget report, the Governor shall prepare an al-
 34 ternative budget plan for the two fiscal years for which the budget report is required and shall
 35 provide the alternative budget plan to the President of the Senate, the Speaker of the House of
 36 Representatives and the majority and minority leaders in the Senate and the House of Represen-
 37 tatives. The alternative budget plan shall establish funding for each state agency's programs and
 38 activities at 90 percent of the appropriations requested for the state agency in the budget report,
 39 excluding appropriations that are not made to fund recurring activities. For each state agency, the
 40 Governor shall describe the 10 percent reduction in appropriated moneys in terms of the activities
 41 or programs that the agency will not undertake. The activities or programs that are not undertaken
 42 as a result of the reductions in appropriated moneys made in the alternative budget plan shall be
 43 ranked in order of importance and priority on the basis of lowest cost for benefit obtained.

44 **SECTION 7.** ORS 291.349 is amended to read:

45 291.349. (1) As soon as practicable after adjournment sine die of the regular session of the

1 Legislative Assembly, the Oregon Department of Administrative Services shall report to the Emer-
2 gency Board the estimate as of July 1 of the first year of the biennium of General Fund and State
3 Lottery Fund revenues that will be received by the state during that biennium. The Oregon De-
4 partment of Administrative Services shall base its estimate on the **highest number in the range**
5 **described in section 1 of this 2007 Act in the** last [forecast] **economic and revenue report** given
6 to the Legislative Assembly before adjournment sine die of the regular session on which the printed,
7 adopted budget prepared in the Oregon Department of Administrative Services is based, adjusted
8 only insofar as necessary to reflect changes in laws adopted at that session. The report shall contain
9 the estimated revenues from corporate income and excise taxes separately from the estimated re-
10 venues from other General Fund sources. The Oregon Department of Administrative Services may
11 revise the estimate if necessary following adjournment sine die of any special or emergency session
12 of the Legislative Assembly but any revision does not affect the basis of the computation described
13 in subsection (3) or (4) of this section.

14 (2) As soon as practicable after the end of the biennium, the Oregon Department of Adminis-
15 trative Services shall report to the Emergency Board, or the Legislative Assembly if it is in session,
16 the amount of General Fund revenues collected as of the last June 30 of the preceding biennium.
17 The report shall contain the collections from corporate income and excise taxes separately from
18 collections from other sources.

19 (3) If the revenues received from the corporate income and excise taxes during the biennium
20 exceed the amounts estimated to be received from such taxes for the biennium, as estimated after
21 adjournment sine die of the regular session, by two percent or more, the total amount of that excess
22 shall be credited to corporate income and excise taxpayers in a percentage amount of corporate
23 excise and income tax liability as determined under subsection (5) of this section. However, no credit
24 shall be allowed against tax liability imposed by ORS 317.090.

25 (4) If the revenues received from General Fund revenue sources, exclusive of those described in
26 subsection (3) of this section, during the biennium exceed the amounts estimated to be received from
27 such sources for the biennium, as estimated after adjournment sine die of the regular session, by two
28 percent or more, there shall be refunded from personal income tax revenues an amount equal to the
29 total amount of that excess, reduced by the cost certified by the Department of Revenue under ORS
30 291.351 as being allocable to payments described under this subsection. The excess amount to be
31 refunded shall be paid to personal income taxpayers in a percentage amount of prior year personal
32 income tax liability as determined under subsection (6) of this section.

33 (5) If there is an excess to be credited under subsection (3) of this section, on or before October
34 1, following the end of each biennium, the Oregon Department of Administrative Services shall de-
35 termine and certify to the Department of Revenue the percentage amount of credit for purposes of
36 subsection (3) of this section. The percentage amount determined shall be a percentage amount to
37 the nearest one-tenth of a percent that will distribute the excess to be credited to corporate excise
38 and income taxpayers for taxable years beginning in the calendar year during which the excess is
39 determined. The credit shall be computed after the allowance of any other credit or offset against
40 tax liability allowed or allowable under any provision of law of this state, and before the application
41 of estimated tax payments, withholding or other advance tax payments.

42 (6)(a) If there is an excess to be refunded under subsection (4) of this section, on or before
43 September 15, following the end of each biennium, the Oregon Department of Administrative Ser-
44 vices shall determine and certify to the Department of Revenue the percentage amount of refund
45 payment for purposes of subsection (4) of this section. The percentage amount so determined shall

1 be a percentage amount to the nearest one-hundredth of a percent that will distribute the excess to
 2 be refunded to personal income taxpayers under subsection (4) of this section. The percentage
 3 amount shall equal the amount distributed under subsection (4) of this section divided by the esti-
 4 mated total personal income tax liability for all personal income taxpayers for tax years beginning
 5 in the calendar year immediately preceding the calendar year in which the excess is determined.

6 (b) The Department of Revenue shall multiply the percentage amount determined under para-
 7 graph (a) of this subsection by the total amount of a personal income taxpayer's tax liability for the
 8 tax year beginning in the calendar year immediately preceding the calendar year in which the ex-
 9 cess is determined in order to calculate the amount of the refund to be made to the taxpayer.

10 (c) The refund described under this subsection shall be subject to the rules allowing setoff of
 11 refunds or sums due debtors of this state under ORS 293.250.

12 (d) The refund described under this subsection shall be mailed by the Department of Revenue
 13 to personal income taxpayers eligible for the payment on or before December 1 following the end
 14 of the biennium for which the payment described under this subsection is being made.

15 (e) Notwithstanding paragraph (d) of this subsection, the Department of Revenue shall mail the
 16 refund at the earliest date of practicable convenience in the case of a return:

17 (A) For a tax year beginning in the calendar year immediately preceding the calendar year in
 18 which the excess is determined for which refund is being made; and

19 (B) That is first filed on or after August 15 after the end of the biennium.

20 (7) No refund shall be made to a taxpayer if, after making the calculation described under sub-
 21 section (6) of this section, the amount calculated is less than \$1.

22 **SECTION 8.** ORS 291.261 is amended to read:

23 291.261. (1) Notwithstanding the legislative policy and intent declared in ORS 291.232, if the
 24 Oregon Department of Administrative Services declares at any time during a biennium that there
 25 is a projected deficit in that biennium, the department may, with the approval of the Governor and
 26 in order to prevent the deficit, reduce the amount allotted to state agencies under ORS 291.234 to
 27 291.260 from the General Fund in the manner provided in subsection (2) of this section.

28 (2)(a) In reducing allotments under this section, the department and the Governor shall follow
 29 legislative funding priorities as expressed in statutes and in the legislatively adopted or approved
 30 budget for the biennium. Unless statutes or the legislatively adopted or approved budget indicate
 31 otherwise, the department and the Governor shall assume that all General Fund appropriations have
 32 the same priority and shall reduce allotments of General Fund moneys for each state agency re-
 33 ceiving General Fund moneys by the same percentage.

34 (b) The department and the Governor may not reduce allotments under this section by a total
 35 amount that exceeds the amount necessary to bring the total estimated General Fund ending balance
 36 to zero.

37 (3) For purposes of this section, the department may declare that there is a projected deficit if
 38 a quarterly estimate made as provided in [ORS 291.342] **section 1 of this 2007 Act** indicates that
 39 the projected balance in the General Fund at the end of the biennium will be less than zero.

40 **SECTION 9.** ORS 311.662 is amended to read:

41 311.662. The validity of any certification, levy, apportionment or collection made pursuant to
 42 ORS [291.342,] 291.445, 311.375, 311.657 or 311.658 shall not be dependent upon nor be affected by
 43 the validity or regularity of any proceeding or procedural activity relating thereto. Any certification
 44 required by ORS 291.445 and any transcript pursuant to ORS 311.657 shall contain recitals that they
 45 are issued pursuant to ORS [291.342,] 291.445, 311.375, 311.657 and 311.658 and such recitals shall

1 be conclusive evidence of their validity and of the regularity of their issuance.

2 **SECTION 10.** ORS 314.840 is amended to read:

3 314.840. (1) The Department of Revenue may:

4 (a) Furnish any taxpayer, representative authorized to represent the taxpayer under ORS 305.230
5 or person designated by the taxpayer under ORS 305.193, upon request of the taxpayer, represen-
6 tative or designee, with a copy of the taxpayer's income tax return filed with the department for
7 any year, or with a copy of any report filed by the taxpayer in connection with the return, or with
8 any other information the department considers necessary.

9 (b) Publish lists of taxpayers who are entitled to unclaimed tax refunds.

10 (c) Publish statistics so classified as to prevent the identification of income or any particulars
11 contained in any report or return.

12 (d) Disclose a taxpayer's name, address, telephone number, refund amount, amount due, Social
13 Security number, employer identification number or other taxpayer identification number to the ex-
14 tent necessary in connection with collection activities or the processing and mailing of correspond-
15 ence or of forms for any report, return or claim required in the administration of ORS 310.630 to
16 310.706, any local tax under ORS 305.620, or any law imposing a tax upon or measured by net in-
17 come.

18 (2) The department also may disclose and give access to information described in ORS 314.835
19 to:

20 (a) The Governor of the State of Oregon or the authorized representative of the Governor:

21 (A) With respect to an individual who is designated as being under consideration for appoint-
22 ment or reappointment to an office or for employment in the office of the Governor. The information
23 disclosed shall be confined to whether the individual:

24 (i) Has filed returns with respect to the taxes imposed by ORS chapter 316 for those of not more
25 than the three immediately preceding years for which the individual was required to file an Oregon
26 individual income tax return.

27 (ii) Has failed to pay any tax within 30 days from the date of mailing of a deficiency notice or
28 otherwise respond to a deficiency notice within 30 days of its mailing.

29 (iii) Has been assessed any penalty under the Oregon personal income tax laws and the nature
30 of the penalty.

31 (iv) Has been or is under investigation for possible criminal offenses under the Oregon personal
32 income tax laws. Information disclosed pursuant to this paragraph shall be used only for the purpose
33 of making the appointment, reappointment or decision to employ or not to employ the individual in
34 the office of the Governor.

35 (B) For use by an officer or employee of the Oregon Department of Administrative Services duly
36 authorized or employed to prepare revenue estimates, or a person contracting with the Oregon De-
37 partment of Administrative Services to prepare revenue estimates, in the preparation of revenue
38 estimates required for the Governor's budget under ORS 291.201 to 291.226, or required for sub-
39 mission to the Emergency Board, or if the Legislative Assembly is in session, to the Joint Committee
40 on Ways and Means, and to the Legislative Revenue Officer under ORS [291.342,] 291.348 and
41 291.445 **and section 1 of this 2007 Act.** The Department of Revenue shall disclose and give access
42 to the information described in ORS 314.835 for the purposes of this subparagraph only if:

43 (i) The request for information is made in writing, specifies the purposes for which the request
44 is made and is signed by an authorized representative of the Oregon Department of Administrative
45 Services. The form for request for information shall be prescribed by the Oregon Department of

1 Administrative Services and approved by the Director of the Department of Revenue.

2 (ii) The officer, employee or person receiving the information does not remove from the premises
3 of the Department of Revenue any materials that would reveal the identity of a personal or corpo-
4 rate taxpayer.

5 (b) The Commissioner of Internal Revenue or authorized representative, for tax purposes only.

6 (c) The proper officer of any state or the District of Columbia, or their authorized represen-
7 tatives, for tax purposes only, if such state or district has a provision of law which meets the re-
8 quirements of any applicable provision of the Internal Revenue Code as to confidentiality.

9 (d) The Multistate Tax Commission or its authorized representatives, for tax purposes only.
10 However, the Multistate Tax Commission may make such information available to the Commissioner
11 of Internal Revenue or the proper officer of any state or the District of Columbia, or their author-
12 ized representatives, for tax purposes only, if the state or district has a provision of law which meets
13 the requirements of any applicable provision of the Internal Revenue Code as to confidentiality.

14 (e) The Attorney General, assistants and employees in the Department of Justice, or other legal
15 representative of the State of Oregon, to the extent the department deems disclosure or access
16 necessary for the performance of the duties of advising or representing the department pursuant to
17 ORS 180.010 to 180.240 and the tax laws of this state.

18 (f) Employees of the State of Oregon, other than of the Department of Revenue or Department
19 of Justice, to the extent the department deems disclosure or access necessary for such employees
20 to perform their duties under contracts or agreements between the department and any other de-
21 partment, agency or subdivision of the State of Oregon, in the department's administration of the
22 tax laws.

23 (g) Other persons, partnerships, corporations and other legal entities, and their employees, to
24 the extent the department deems disclosure or access necessary for the performance of such others'
25 duties under contracts or agreements between the department and such legal entities, in the de-
26 partment's administration of the tax laws.

27 (h) The Legislative Revenue Officer or authorized representatives upon compliance with ORS
28 173.850. Such officer or representative shall not remove from the premises of the department any
29 materials that would reveal the identity of any taxpayer or any other person.

30 (i) The Department of Consumer and Business Services, to the extent the department requires
31 such information to determine whether it is appropriate to adjust those workers' compensation
32 benefits the amount of which is based pursuant to ORS chapter 656 on the amount of wages or
33 earned income received by an individual.

34 (j) Any agency of the State of Oregon, or any person, or any officer or employee of such agency
35 or person to whom disclosure or access is given by state law and not otherwise referred to in this
36 section, including but not limited to the Secretary of State as Auditor of Public Accounts under
37 section 2, Article VI of the Oregon Constitution; the Department of Human Services pursuant to
38 ORS 314.860 and 418.135; the Division of Child Support of the Department of Justice and district
39 attorney regarding cases for which they are providing support enforcement services under ORS
40 25.080; the State Board of Tax Practitioners, pursuant to ORS 673.710; and the Oregon Board of
41 Accountancy, pursuant to ORS 673.415.

42 (k) The Director of the Department of Consumer and Business Services to determine that a
43 person complies with ORS chapter 656 and the Director of the Employment Department to determine
44 that a person complies with ORS chapter 657, the following employer information:

45 (A) Identification numbers.

1 (B) Names and addresses.

2 (C) Inception date as employer.

3 (D) Nature of business.

4 (E) Entity changes.

5 (F) Date of last payroll.

6 (L) The Director of Human Services to determine that a person has the ability to pay for care
7 that includes services provided by the state institutions as described in ORS 179.321 or the Depart-
8 ment of Human Services or to collect any unpaid cost of care as provided by ORS chapter 179.

9 (m) Employees of the Employment Department to the extent the Department of Revenue deems
10 disclosure or access to information on a combined tax report filed under ORS 316.168 is necessary
11 to performance of their duties in administering the tax imposed by ORS chapter 657.

12 (n) The State Fire Marshal to assist the State Fire Marshal in carrying out duties, functions and
13 powers under ORS 453.307 to 453.414, the employer or agent name, address, telephone number and
14 standard industrial classification, if available.

15 (o) Employees of the Department of State Lands for the purposes of identifying, locating and
16 publishing lists of taxpayers entitled to unclaimed refunds as required by the provisions of chapter
17 694, Oregon Laws 1993. The information shall be limited to the taxpayer's name, address and the
18 refund amount.

19 (p) In addition to the disclosure allowed under ORS 305.225, state or local law enforcement
20 agencies to assist in the investigation or prosecution of the following criminal activities:

21 (A) Mail theft of a check, in which case the information that may be disclosed shall be limited
22 to the stolen document, the name, address and taxpayer identification number of the payee, the
23 amount of the check and the date printed on the check.

24 (B) The counterfeiting, forging or altering of a check submitted by a taxpayer to the Department
25 of Revenue or issued by the Department of Revenue to a taxpayer, in which case the information
26 that may be disclosed shall be limited to the counterfeit, forged or altered document, the name, ad-
27 dress and taxpayer identification number of the payee, the amount of the check, the date printed
28 on the check and the altered name and address.

29 (q) The United States Postal Inspection Service or a federal law enforcement agency, including
30 but not limited to the United States Department of Justice, to assist in the investigation of the fol-
31 lowing criminal activities:

32 (A) Mail theft of a check, in which case the information that may be disclosed shall be limited
33 to the stolen document, the name, address and taxpayer identification number of the payee, the
34 amount of the check and the date printed on the check.

35 (B) The counterfeiting, forging or altering of a check submitted by a taxpayer to the Department
36 of Revenue or issued by the Department of Revenue to a taxpayer, in which case the information
37 that may be disclosed shall be limited to the counterfeit, forged or altered document, the name, ad-
38 dress and taxpayer identification number of the payee, the amount of the check, the date printed
39 on the check and the altered name and address.

40 (r) The United States Financial Management Service, for purposes of facilitating the reciprocal
41 offsets described in ORS 305.612.

42 (s) A municipal corporation of this state for purposes of assisting the municipal corporation in
43 the administration of a tax of the municipal corporation that is imposed on or measured by income,
44 wages or net earnings from self-employment. Any disclosure under this paragraph may be made only
45 pursuant to a written agreement between the Department of Revenue and the municipal corporation

1 that ensures the confidentiality of the information disclosed.

2 (3)(a) Each officer or employee of the department and each person described or referred to in
3 subsection (2)(a), (e) to (k) or (m) to (p) of this section to whom disclosure or access to the tax in-
4 formation is given under subsection (2) of this section or any other provision of state law, prior to
5 beginning employment or the performance of duties involving such disclosure or access, shall be
6 advised in writing of the provisions of ORS 314.835 and 314.991, relating to penalties for the vio-
7 lation of ORS 314.835, and shall as a condition of employment or performance of duties execute a
8 certificate for the department, in a form prescribed by the department, stating in substance that the
9 person has read these provisions of law, that the person has had them explained and that the person
10 is aware of the penalties for the violation of ORS 314.835.

11 (b) The disclosure authorized in subsection (2)(q) of this section shall be made only after a
12 written agreement has been entered into between the Department of Revenue and the person de-
13 scribed in subsection (2)(q) of this section to whom disclosure or access to the tax information is
14 given, providing that:

15 (A) Any information described in ORS 314.835 that is received by the person pursuant to sub-
16 section (2)(q) of this section is confidential information that may not be disclosed, except to the ex-
17 tent necessary to investigate or prosecute the criminal activities described in subsection (2)(q) of
18 this section;

19 (B) The information shall be protected as confidential under applicable federal and state laws;
20 and

21 (C) The United States Postal Inspection Service or the federal law enforcement agency shall
22 give notice to the Department of Revenue of any request received under the federal Freedom of In-
23 formation Act, 5 U.S.C. 552, or other federal law relating to the disclosure of information.

24 (4) The Department of Revenue may recover the costs of furnishing the information described
25 in subsection (2)(k), (L) and (n) to (p) of this section from the respective agencies.

26 **SECTION 11. ORS 291.342 is repealed.**

27
