

House Bill 2099

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor John A. Kitzhaber for Oregon Health Authority)

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**.

Requires Department of Revenue to make place on personal income tax return form for information about taxpayer's uninsured child and referral for health insurance coverage. Requires Department of Revenue, Oregon Health Authority and Department of Human Services to enter into data sharing agreement for purposes related to requirements under federal Patient Protection and Affordable Care Act.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to interagency data sharing for health insurance purposes; creating new provisions;
3 amending ORS 314.840; and declaring an emergency.

4 Whereas Oregon has committed to ensuring affordable health insurance for all children; and

5 Whereas federal "Express Lane" provisions in the Children's Health Insurance Program Reau-
6 thorization Act of 2009 (CHIPRA) permit states to use information gathered by other agencies to
7 verify income eligibility for health programs; and

8 Whereas the Department of Revenue receives income information from many Oregon families in
9 its normal course of business, and CHIPRA specifically allows tax return information to be used in
10 the Express Lane eligibility determinations; and

11 Whereas federal health reform legislation enacted in 2010 (the Patient Protection and Affordable
12 Care Act, or PPACA) anticipates that effective January 1, 2014, income eligibility for Medicaid, the
13 Children's Health Insurance Program or reduced-cost health insurance shall in many cases be based
14 on modified adjusted gross income, and further provides that to facilitate enrollment of individuals
15 in health and human services programs, states shall have procedures in place to allow for electronic
16 data matching with data from a variety of sources, including tax records; and

17 Whereas Oregon must begin the process of building the relationship for data transmission be-
18 tween the Department of Revenue and state health programs anticipated by PPACA in order to
19 identify and enroll children eligible for free and low-cost health insurance; now, therefore,

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

21 **SECTION 1. (1) The Department of Revenue shall provide a place on the full-year and**
22 **part-year resident personal income tax return form for:**

23 **(a) A taxpayer to choose to indicate that the taxpayer has a child who is not covered by**
24 **health insurance; and**

25 **(b) Referral to an application form for the Health Care for All Oregon Children program**
26 **or any other referrals designated by the Oregon Health Authority and the Department of**
27 **Human Services for the purpose of obtaining health insurance for children.**

28 **(2) The instructions shall make clear that any disclosure regarding a child without health**

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 insurance is voluntary.

2 **SECTION 2.** The Department of Revenue, the Oregon Health Authority and the Depart-
3 **ment of Human Services shall:**

4 (1) Enter into a data sharing agreement that meets the requirements of 42 U.S.C.
5 1396w-2, preventing the unauthorized use, disclosure or modification of such data and that
6 meets applicable federal and state requirements for safeguarding privacy and data security.

7 (2) Develop procedures for the transmission, with the assent of the taxpayer, of income
8 information necessary to determine eligibility for free or low-cost health insurance.

9 (3) In preparation for the implementation of the Patient Protection and Affordable Care
10 Act on January 1, 2014, develop a plan for the collection and transmission, subject to the
11 taxpayer's assent, and the protection, of information relating to modified adjusted gross in-
12 come for a taxpayer seeking medical assistance.

13 **SECTION 3.** ORS 314.840 is amended to read:

14 314.840. (1) The Department of Revenue may:

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

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

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

23 (d) Disclose a taxpayer's name, address, telephone number, refund amount, amount due, Social
24 Security number, employer identification number or other taxpayer identification number to the ex-
25 tent necessary in connection with collection activities or the processing and mailing of correspond-
26 ence or of forms for any report, return or claim required in the administration of ORS 310.630 to
27 310.706, any local tax under ORS 305.620, or any law imposing a tax upon or measured by net in-
28 come.

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

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

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

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

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

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

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

1 (B) For use by an officer or employee of the Oregon Department of Administrative Services duly
2 authorized or employed to prepare revenue estimates, or a person contracting with the Oregon De-
3 partment of Administrative Services to prepare revenue estimates, in the preparation of revenue
4 estimates required for the Governor's budget under ORS 291.201 to 291.226, or required for sub-
5 mission to the Emergency Board, or if the Legislative Assembly is in session, to the Joint Committee
6 on Ways and Means, and to the Legislative Revenue Officer under ORS 291.342, 291.348 and 291.445.
7 The Department of Revenue shall disclose and give access to the information described in ORS
8 314.835 for the purposes of this subparagraph only if:

9 (i) The request for information is made in writing, specifies the purposes for which the request
10 is made and is signed by an authorized representative of the Oregon Department of Administrative
11 Services. The form for request for information shall be prescribed by the Oregon Department of
12 Administrative Services and approved by the Director of the Department of Revenue.

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

16 (b) The Commissioner of Internal Revenue or authorized representative, for tax administration
17 and compliance purposes only.

18 (c) For tax administration and compliance purposes, the proper officer or authorized represen-
19 tative of any of the following entities that has or is governed by a provision of law that meets the
20 requirements of any applicable provision of the Internal Revenue Code as to confidentiality:

21 (A) A state;

22 (B) A city, county or other political subdivision of a state;

23 (C) The District of Columbia; or

24 (D) An association established exclusively to provide services to federal, state or local taxing
25 authorities.

26 (d) The Multistate Tax Commission or its authorized representatives, for tax administration and
27 compliance purposes only. The Multistate Tax Commission may make the information available to
28 the Commissioner of Internal Revenue or the proper officer or authorized representative of any
29 governmental entity described in and meeting the qualifications of paragraph (c) of this subsection.

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

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

39 (g) Other persons, partnerships, corporations and other legal entities, and their employees, to
40 the extent the department deems disclosure or access necessary for the performance of such others'
41 duties under contracts or agreements between the department and such legal entities, in the
42 department's administration of the tax laws.

43 (h) The Legislative Revenue Officer or authorized representatives upon compliance with ORS
44 173.850. Such officer or representative shall not remove from the premises of the department any
45 materials that would reveal the identity of any taxpayer or any other person.

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

5 (j) Any agency of the State of Oregon, or any person, or any officer or employee of such agency
 6 or person to whom disclosure or access is given by state law and not otherwise referred to in this
 7 section, including but not limited to the Secretary of State as Auditor of Public Accounts under
 8 section 2, Article VI of the Oregon Constitution; the Department of Human Services pursuant to
 9 ORS 314.860 and 412.094 **and section 2 of this 2011 Act; the Oregon Health Authority pursuant**
 10 **to section 2 of this 2011 Act;** the Division of Child Support of the Department of Justice and dis-
 11 trict attorney regarding cases for which they are providing support enforcement services under ORS
 12 25.080; the State Board of Tax Practitioners, pursuant to ORS 673.710; and the Oregon Board of
 13 Accountancy, pursuant to ORS 673.415.

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

- 17 (A) Identification numbers.
- 18 (B) Names and addresses.
- 19 (C) Inception date as employer.
- 20 (D) Nature of business.
- 21 (E) Entity changes.
- 22 (F) Date of last payroll.

23 (L) The Director of Human Services to determine that a person has the ability to pay for care
 24 that includes services provided by the Eastern Oregon Training Center or the Department of Human
 25 Services to collect any unpaid cost of care as provided by ORS chapter 179.

26 (m) The Director of the Oregon Health Authority to determine that a person has the ability to
 27 pay for care that includes services provided by the Blue Mountain Recovery Center or the Oregon
 28 State Hospital or the Oregon Health Authority to collect any unpaid cost of care as provided by
 29 ORS chapter 179.

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

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

36 (p) Employees of the Department of State Lands for the purposes of identifying, locating and
 37 publishing lists of taxpayers entitled to unclaimed refunds as required by the provisions of chapter
 38 694, Oregon Laws 1993. The information shall be limited to the taxpayer's name, address and the
 39 refund amount.

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

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

45 (B) The counterfeiting, forging or altering of a check submitted by a taxpayer to the Department

1 of Revenue or issued by the Department of Revenue to a taxpayer, in which case the information
2 that may be disclosed shall be limited to the counterfeit, forged or altered document, the name, ad-
3 dress and taxpayer identification number of the payee, the amount of the check, the date printed
4 on the check and the altered name and address.

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

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

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

16 (s) The United States Financial Management Service, for purposes of facilitating the reciprocal
17 offsets described in ORS 305.612.

18 (t) A municipal corporation of this state for purposes of assisting the municipal corporation in
19 the administration of a tax of the municipal corporation that is imposed on or measured by income,
20 wages or net earnings from self-employment. Any disclosure under this paragraph may be made only
21 pursuant to a written agreement between the Department of Revenue and the municipal corporation
22 that ensures the confidentiality of the information disclosed.

23 (u) A consumer reporting agency, to the extent necessary to carry out the purposes of ORS
24 314.843.

25 (3)(a) Each officer or employee of the department and each person described or referred to in
26 subsection (2)(a), (e) to (k) or (n) to (q) of this section to whom disclosure or access to the tax in-
27 formation is given under subsection (2) of this section or any other provision of state law, prior to
28 beginning employment or the performance of duties involving such disclosure or access, shall be
29 advised in writing of the provisions of ORS 314.835 and 314.991, relating to penalties for the vio-
30 lation of ORS 314.835, and shall as a condition of employment or performance of duties execute a
31 certificate for the department, in a form prescribed by the department, stating in substance that the
32 person has read these provisions of law, that the person has had them explained and that the person
33 is aware of the penalties for the violation of ORS 314.835.

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

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

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

44 (C) The United States Postal Inspection Service or the federal law enforcement agency shall
45 give notice to the Department of Revenue of any request received under the federal Freedom of In-

1 formation Act, 5 U.S.C. 552, or other federal law relating to the disclosure of information.

2 (4) The Department of Revenue may recover the costs of furnishing the information described
3 in subsection (2)(k) to (m) and (o) to (q) of this section from the respective agencies.

4 **SECTION 4. Section 1 of this 2011 Act applies to tax years beginning on or after January**
5 **1, 2011.**

6 **SECTION 5. This 2011 Act being necessary for the immediate preservation of the public**
7 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**
8 **on its passage.**

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