

House Bill 3319

Sponsored by Representative BARKER (at the request of Department of Justice)

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 deadlines by which public bodies must respond to public records requests. Provides exceptions. Delays application of deadlines to local governments until July 1, 2013. Provides exceptions.

Limits amount of fees public bodies may charge for responding to public records requests. Provides exceptions.

Establishes jurisdiction of Attorney General to hear petitions for review of public records in custody of certain elected officials by persons denied right to inspect records.

Reorganizes exemptions from disclosure of public records.

Modifies exemptions from disclosure of certain public records related to business, reports of government waste, fraud or abuse made to Secretary of State, personnel discipline records, records of Oregon Corrections Enterprises, records of State Treasurer with respect to privately placed investments, and certain enterprise zone qualification records.

Eliminates exemptions from disclosure for milk marketing records, marine accident reports, Governor disability evaluation panel records and records obtained by Attorney General through subpoena in criminal investigations.

Eliminates sunset on exemption from disclosure for personal and professional information of persons conducting certain medical research for Oregon Health and Science University.

Requires disclosure of public records to which exemption applies, in cases where public interest clearly requires disclosure in particular instance. Provides exceptions.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to public records; creating new provisions; amending ORS 21.020, 25.020, 40.270, 65.805,
3 94.974, 144.130, 146.035, 147.421, 161.336, 166.274, 176.309, 177.180, 181.548, 181.560, 181.854,
4 190.050, 192.410, 192.420, 192.423, 192.440, 192.460, 192.465, 192.480, 192.490, 192.493, 192.495,
5 192.505, 192.650, 268.357, 279B.055, 279B.060, 279C.107, 279C.410, 285C.145, 287A.350, 305.493,
6 312.030, 312.190, 358.905, 358.915, 409.225, 419C.532, 421.344, 421.347, 421.349, 421.359, 421.442,
7 426.155, 431.627, 433.009, 441.055, 442.583, 453.307, 453.332, 456.623, 465.015, 466.800, 469.030,
8 469.080, 469.410, 469.560, 476.090, 520.027, 520.097, 522.365, 526.280, 583.490, 656.702, 657.732,
9 657.734, 659A.209, 671.338, 705.137, 706.720, 723.118, 743.862, 777.795, 802.183, 802.187 and
10 830.490; repealing ORS 180.075, 192.501 and 192.502; and declaring an emergency.

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

PROCEDURES

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13
14
15 **SECTION 1.** ORS 192.410 is amended to read:

16 192.410. As used in ORS 192.410 to 192.505:

17 (1) "Custodian" means:

18 (a) The person described in ORS 7.110 for purposes of court records; or

19 (b) A public body mandated, directly or indirectly, to create, maintain, care for or control a
20 public record. "Custodian" does not include a public body that has custody of a public record as
21 an agent of another public body that is the custodian unless the public record is not otherwise

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 available.

2 **(2) “Local government” means every public body that is not a state agency.**

3 [(2)] **(3)** “Person” includes any natural person, corporation, partnership, firm, association or
4 member or committee of the Legislative Assembly.

5 [(3)] **(4)** “Public body” includes every state officer, agency, department, division, bureau, board
6 and commission; every county and city governing body, school district, special district, municipal
7 corporation, and any board, department, commission, council, or agency thereof; and any other
8 public agency of this state.

9 [(4)(a)] **(5)(a)** “Public record” includes any writing that contains information relating to the
10 conduct of the public’s business, including but not limited to court records, mortgages, and deed
11 records, prepared, owned, used or retained by a public body regardless of physical form or charac-
12 teristics.

13 (b) “Public record” does not include:

14 **(A)** Any writing that does not relate to the conduct of the public’s business and that is con-
15 tained on a privately owned computer.

16 **(B) An electronic record that has been deleted in conformity with the applicable retention**
17 **period established by the State Archivist under ORS 192.105, regardless of whether the elec-**
18 **tronic record could be recovered by the public body. This subparagraph does not authorize**
19 **a public body to delete an electronic record after receiving a request to which the electronic**
20 **record is responsive.**

21 **(C) Electronic metadata.**

22 [(5)] **(6)** “State agency” means any state officer, department, board, commission or court created
23 by the Constitution or statutes of this state but does not include the Legislative Assembly or its
24 members, committees, officers or employees insofar as they are exempt under section 9, Article IV
25 of the Oregon Constitution.

26 [(6)] **(7)** “Writing” means handwriting, typewriting, printing, photographing and every means of
27 recording, including letters, words, pictures, sounds, or symbols, or combination thereof, and all pa-
28 pers, maps, files, facsimiles or electronic recordings.

29 **SECTION 2.** ORS 192.420 is amended to read:

30 192.420. (1) Every person has a right to inspect any public record of a public body in this state,
31 except as otherwise expressly provided by [ORS 192.501 to 192.505] **sections 38 to 49 of this 2011**
32 **Act.**

33 (2)(a) If a person who is a party to a civil judicial proceeding to which a public body is a party,
34 or who has filed a notice under ORS 30.275 (5)(a), asks to inspect or to receive a copy of a public
35 record that the person knows relates to the proceeding or notice, the person must submit the re-
36 quest in writing to the custodian and, at the same time, to the attorney for the public body.

37 (b) For purposes of this subsection:

38 **(A)** The attorney for a state agency is the Attorney General in Salem.

39 **(B)** “Person” includes a representative or agent of the person.

40 **SECTION 3.** ORS 192.423 is amended to read:

41 192.423. (1) When a public record is subject to disclosure under [ORS 192.502 (9)(b)] **section 46**
42 **(4)(b)(B) of this 2011 Act**, in lieu of making the public record available for inspection by providing
43 a copy of the record, the public body may prepare and release a condensation from the record of the
44 significant facts that are not otherwise exempt from disclosure under ORS 192.410 to 192.505. The
45 release of the condensation does not waive any privilege under ORS 40.225 to 40.295.

1 (2) The person seeking to inspect or receive a copy of any public record for which a
 2 condensation of facts has been provided under this section may petition for review of the denial to
 3 inspect or receive a copy of the records under ORS 192.410 to 192.505. In such a review, the At-
 4 torney General, district attorney or court shall, in addition to reviewing the records to which access
 5 was denied, compare those records to the condensation to determine whether the condensation ad-
 6 equately describes the significant facts contained in the records.

7 **SECTION 4.** ORS 192.440 is amended to read:

8 192.440. (1) The custodian of any public record that [*a person has a right to inspect shall give the*
 9 *person*] **is not subject to exemption from disclosure under ORS 192.410 to 192.505 shall**
 10 **provide**, upon request:

11 [*(a) A copy of the public record if the public record is of a nature permitting copying; or*]

12 [*(b) (a) A reasonable opportunity to inspect or copy the public record[.]; or*

13 **(b) A copy of the public record, in the physical or electronic format requested, if the copy**
 14 **can reasonably be created using the public body’s existing resources. If an electronic copy**
 15 **is requested in a format that cannot reasonably be created using the existing resources of**
 16 **the public body, the custodian shall make the public record available in the form in which**
 17 **the custodian maintains the public record.**

18 [*(2) If a person makes a written request to inspect a public record or to receive a copy of a public*
 19 *record, the public body receiving the request shall respond as soon as practicable and without unrea-*
 20 *sonable delay. The public body may request additional information or clarification from the requester*
 21 *for the purpose of expediting the public body’s response to the request. The response of the public body*
 22 *must acknowledge receipt of the request and must include one of the following:]*

23 [*(a) A statement that the public body does not possess, or is not the custodian of, the public*
 24 *record.]*

25 [*(b) Copies of all requested public records for which the public body does not claim an exemption*
 26 *from disclosure under ORS 192.410 to 192.505.]*

27 [*(c) A statement that the public body is the custodian of at least some of the requested public re-*
 28 *records, an estimate of the time the public body requires before the public records may be inspected or*
 29 *copies of the records will be provided and an estimate of the fees that the requester must pay under*
 30 *subsection (4) of this section as a condition of receiving the public records.]*

31 [*(d) A statement that the public body is the custodian of at least some of the requested public re-*
 32 *records and that an estimate of the time and fees for disclosure of the public records will be provided*
 33 *by the public body within a reasonable time.]*

34 [*(e) A statement that the public body is uncertain whether the public body possesses the public re-*
 35 *cord and that the public body will search for the record and make an appropriate response as soon*
 36 *as practicable.]*

37 [*(f) A statement that state or federal law prohibits the public body from acknowledging whether the*
 38 *record exists or that acknowledging whether the record exists would result in the loss of federal bene-*
 39 *fits or other sanction. A statement under this paragraph must include a citation to the state or federal*
 40 *law relied upon by the public body.]*

41 [(3) *If the public record is maintained in a machine readable or electronic form, the custodian shall*
 42 *provide a copy of the public record in the form requested, if available. If the public record is not*
 43 *available in the form requested, the custodian shall make the public record available in the form in*
 44 *which the custodian maintains the public record.]*

45 [(4)(a) *The public body may establish fees reasonably calculated to reimburse the public body for*

1 *the public body's actual cost of making public records available, including costs for summarizing,*
 2 *compiling or tailoring the public records, either in organization or media, to meet the person's*
 3 *request.]*

4 *[(b) The public body may include in a fee established under paragraph (a) of this subsection the*
 5 *cost of time spent by an attorney for the public body in reviewing the public records, redacting material*
 6 *from the public records or segregating the public records into exempt and nonexempt records. The*
 7 *public body may not include in a fee established under paragraph (a) of this subsection the cost of time*
 8 *spent by an attorney for the public body in determining the application of the provisions of ORS*
 9 *192.410 to 192.505.]*

10 *[(c) The public body may not establish a fee greater than \$25 under this section unless the public*
 11 *body first provides the requestor with a written notification of the estimated amount of the fee and the*
 12 *requestor confirms that the requestor wants the public body to proceed with making the public record*
 13 *available.]*

14 *[(d) Notwithstanding paragraphs (a) to (c) of this subsection, when the public records are those*
 15 *filed with the Secretary of State under ORS chapter 79 or ORS 80.100 to 80.130, the fees for furnishing*
 16 *copies, summaries or compilations of the public records are those established by the Secretary of State*
 17 *by rule, under ORS chapter 79 or ORS 80.100 to 80.130.]*

18 *[(5) The custodian of any public record may furnish copies without charge or at a substantially*
 19 *reduced fee if the custodian determines that the waiver or reduction of fees is in the public interest*
 20 *because making the record available primarily benefits the general public.]*

21 *[(6) A person who believes that there has been an unreasonable denial of a fee waiver or fee re-*
 22 *duction may petition the Attorney General or the district attorney in the same manner as a person pe-*
 23 *titions when inspection of a public record is denied under ORS 192.410 to 192.505. The Attorney*
 24 *General, the district attorney and the court have the same authority in instances when a fee waiver or*
 25 *reduction is denied as it has when inspection of a public record is denied.]*

26 *[(7) A public body shall make available to the public a written procedure for making public record*
 27 *requests that includes:]*

28 *[(a) The name of one or more persons to whom public record requests may be sent, with addresses;*
 29 *and]*

30 *[(b) The amounts of and the manner of calculating fees that the public body charges for responding*
 31 *to requests for public records.]*

32 *[(8)] (2) This section does not apply to signatures of individuals submitted under ORS chapter*
 33 *247 for purposes of registering to vote as provided in ORS 247.973.*

34 **SECTION 5. Upon receipt of a written request to inspect or receive copies of records, a**
 35 **state agency shall:**

36 **(1) As soon as practicable, and within 10 working days of receipt of the request, provide**
 37 **an estimate of any fee over \$25 that the state agency will charge in connection with the re-**
 38 **quest. The estimate shall be calculated in a manner consistent with the requirements of**
 39 **section 22 of this 2011 Act, and shall be based on the information available to the state**
 40 **agency at the time of the estimate.**

41 **(2) Except as provided by subsection (3) of this section or by section 8 or 11 of this 2011**
 42 **Act, provide the requester with one of the following responses within 10 working days of**
 43 **receiving the request:**

44 **(a) A response that complies with section 16 of this 2011 Act; or**

45 **(b) Notice that the state agency is extending the deadline for providing a response under**

1 **paragraph (a) of this subsection for a period not to exceed an additional 10 working days,**
 2 **followed by a response that complies with section 16 of this 2011 Act within the additional**
 3 **time period stated in the notice.**

4 (3)(a) **Notwithstanding subsection (2) of this section, if a state agency determines that it**
 5 **is unable to comply with the deadlines imposed by subsection (2) of this section, the state**
 6 **agency may ask the Attorney General to authorize additional time to provide a response that**
 7 **complies with section 16 of this 2011 Act. A state agency must make this request at least two**
 8 **working days before the expiration of the applicable deadline established by subsection (2)**
 9 **of this section, including any extension noticed by the state agency.**

10 (b) **The Attorney General shall reply to the request within two working days, one of**
 11 **which shall not be counted against the deadline established by subsection (2) of this section.**
 12 **The Attorney General shall grant a request for additional time under this subsection only if**
 13 **the Attorney General is satisfied that responding to the request within the time otherwise**
 14 **permitted would place a significant burden on the state agency. If the Attorney General**
 15 **grants the request, the Attorney General shall notify the state agency and the requester in**
 16 **writing, and shall allow only such additional time as the Attorney General determines is**
 17 **reasonably necessary to respond to the request.**

18 (c) **After a request for additional time is granted, the state agency shall thereafter pro-**
 19 **vide a response that complies with section 16 of this 2011 Act within the time allowed by the**
 20 **Attorney General.**

21 **SECTION 6.** Section 5 of this 2011 Act is amended to read:

22 **Sec. 5.** Upon receipt of a written request to inspect or receive copies of records, a [*state*
 23 *agency*] **public body** shall:

24 (1) As soon as practicable, and within 10 working days of receipt of the request, provide an es-
 25 timate of any fee over \$25 that the [*state agency*] **public body** will charge in connection with the
 26 request. The estimate shall be calculated in a manner consistent with the requirements of section
 27 22 of this 2011 Act, and shall be based on the information available to the [*state agency*] **public body**
 28 at the time of the estimate.

29 (2) Except as provided by subsection (3) of this section or by section 8 or 11 of this 2011 Act,
 30 provide the requester with one of the following responses within 10 working days of receiving the
 31 request:

32 (a) A response that complies with section 16 of this 2011 Act; or

33 (b) Notice that the [*state agency*] **public body** is extending the deadline for providing a response
 34 under paragraph (a) of this subsection for a period not to exceed an additional 10 working days,
 35 followed by a response that complies with section 16 of this 2011 Act within the additional time
 36 period stated in the notice.

37 (3)(a) **Notwithstanding subsection (2) of this section, if a state agency determines that it is un-**
 38 **able to comply with the deadlines imposed by subsection (2) of this section, the state agency may**
 39 **ask the Attorney General to authorize additional time to provide a response that complies with**
 40 **section 16 of this 2011 Act. A state agency must make this request at least two working days before**
 41 **the expiration of the applicable deadline established by subsection (2) of this section, including any**
 42 **extension noticed by the state agency.**

43 (b) **The Attorney General shall reply to the request within two working days, one of which shall**
 44 **not be counted against the deadline established by subsection (2) of this section. The Attorney**
 45 **General shall grant a request for additional time under this subsection only if the Attorney General**

1 is satisfied that responding to the request within the time otherwise permitted would place a sig-
 2 nificant burden on the state agency. If the Attorney General grants the request, the Attorney Gen-
 3 eral shall notify the state agency and the requester in writing, and shall allow only such additional
 4 time as the Attorney General determines is reasonably necessary to respond to the request.

5 (c) After a request for additional time is granted, the state agency shall thereafter provide a
 6 response that complies with section 16 of this 2011 Act within the time allowed by the Attorney
 7 General.

8 **(4)(a) Notwithstanding subsection (2) of this section, if a local government determines**
 9 **that it is unable to comply with the deadlines imposed by subsection (2) of this section, the**
 10 **local government may ask the district attorney in the county where the local government**
 11 **is located to authorize additional time to provide a response that complies with section 16**
 12 **of this 2011 Act. If the local government is located in more than one county, the local gov-**
 13 **ernment may ask the district attorney in the county where the administrative offices of the**
 14 **local government are located to authorize additional time to provide a response that complies**
 15 **with section 16 of this 2011 Act.**

16 (b) A request under paragraph (a) of this subsection shall be considered by the district
 17 attorney in the same manner as the Attorney General is required to consider a request from
 18 a state agency under subsection (3) of this section, and shall have the same consequences
 19 as described in that subsection.

20 **SECTION 7.** The amendments to section 5 of this 2011 Act by section 6 of this 2011 Act
 21 become operative July 1, 2013.

22 **SECTION 8.** (1) If a public records request is made for purposes related to actual or likely
 23 litigation, and is made by or on behalf of a person who is or expects to be a party, then
 24 notwithstanding the deadlines established by section 5 (2) of this 2011 Act, a state agency
 25 may elect:

26 (a) To provide a response that complies with section 16 of this 2011 Act on a schedule
 27 consistent with the schedule for discovery established in the litigation, if the request is made
 28 at least 30 working days prior to the close of discovery; or

29 (b) To not provide a response, if the request is made less than 30 working days before the
 30 close of discovery. If the state agency elects to not provide a response, the requester may
 31 resubmit the request following the conclusion of litigation. If the request is so resubmitted,
 32 the state agency shall provide a response that complies with section 16 of this 2011 Act
 33 within an amount of time that is reasonable under the circumstances.

34 (2) Any person making a request that triggers a state agency's authority to proceed un-
 35 der this section shall inform the state agency of the purpose of the request.

36 (3) A state agency electing to proceed under this section must inform the requester of
 37 the state agency's election within 10 working days of receiving the request or within 10
 38 working days of receiving notice of the purpose of the request, whichever is later. A state
 39 agency that fails to comply with this requirement is subject to the deadlines of section 5 (2)
 40 of this 2011 Act.

41 **SECTION 9.** Section 8 of this 2011 Act is amended to read:

42 **Sec. 8.** (1) If a public records request is made for purposes related to actual or likely litigation,
 43 and is made by or on behalf of a person who is or expects to be a party, then notwithstanding the
 44 deadlines established by section 5 (2) of this 2011 Act, a [state agency] **public body** may elect:

45 (a) To provide a response that complies with section 16 of this 2011 Act on a schedule consistent

1 with the schedule for discovery established in the litigation, if the request is made at least 30
 2 working days prior to the close of discovery; or

3 (b) To not provide a response, if the request is made less than 30 working days before the close
 4 of discovery. If the *[state agency]* **public body** elects to not provide a response, the requester may
 5 resubmit the request following the conclusion of litigation. If the request is so resubmitted, the *[state*
 6 *agency]* **public body** shall provide a response that complies with section 16 of this 2011 Act within
 7 an amount of time that is reasonable under the circumstances.

8 (2) Any person making a request that triggers a *[state agency's]* **public body's** authority to pro-
 9 ceed under this section shall inform the *[state agency]* **public body** of the purpose of the request.

10 (3) A *[state agency]* **public body** electing to proceed under this section must inform the requester
 11 of the *[state agency's]* **public body's** election within 10 working days of receiving the request or
 12 within 10 working days of receiving notice of the purpose of the request, whichever is later. A *[state*
 13 *agency]* **public body** that fails to comply with this requirement is subject to the deadlines of section
 14 5 (2) of this 2011 Act.

15 **SECTION 10. The amendments to section 8 of this 2011 Act by section 9 of this 2011 Act**
 16 **become operative July 1, 2013.**

17 **SECTION 11. (1) If a public records request is made for a commercial or business purpose**
 18 **other than disseminating the information to the general public, then notwithstanding the**
 19 **deadlines established by section 5 (2) of this 2011 Act, a state agency may elect to provide a**
 20 **response that complies with section 16 of this 2011 Act within an amount of time that is**
 21 **reasonable under the circumstances.**

22 (2) Any person making a request that triggers the authority of a state agency to proceed
 23 under this section shall inform the state agency of the purpose of the request.

24 (3) A state agency electing to proceed under this section must inform the requester of
 25 the state agency's election within 10 working days of receiving the request or within 10
 26 working days of receiving notice of the purpose of the request, whichever is later. A state
 27 agency that fails to comply with this requirement is subject to the deadlines of section 5 (2)
 28 of this 2011 Act.

29 **SECTION 12. Section 11 of this 2011 Act is amended to read:**

30 **Sec. 11.** (1) If a public records request is made for a commercial or business purpose other than
 31 disseminating the information to the general public, then notwithstanding the deadlines established
 32 by section 5 (2) of this 2011 Act, a *[state agency]* **public body** may elect to provide a response that
 33 complies with section 16 of this 2011 Act within an amount of time that is reasonable under the
 34 circumstances.

35 (2) Any person making a request that triggers the authority of a *[state agency]* **public body** to
 36 proceed under this section shall inform the *[state agency]* **public body** of the purpose of the request.

37 (3) A *[state agency]* **public body** electing to proceed under this section must inform the requester
 38 of the *[state agency's]* **public body's** election within 10 working days of receiving the request or
 39 within 10 working days of receiving notice of the purpose of the request, whichever is later. A *[state*
 40 *agency]* **public body** that fails to comply with this requirement is subject to the deadlines of section
 41 5 (2) of this 2011 Act.

42 **SECTION 13. The amendments to section 11 of this 2011 Act by section 12 of this 2011**
 43 **Act become operative July 1, 2013.**

44 **SECTION 14. (1) For purposes of sections 5, 8 and 11 of this 2011 Act, a request is con-**
 45 **sidered received on the first working day following the date when it is received at the address**

1 designated by the public body under the policy required by section 28 of this 2011 Act.

2 (2) In calculating compliance with deadlines established by section 5, 8 or 11 of this 2011
3 Act, the following periods of time may not be counted:

4 (a) The time from a public body's request for clarification, beginning with and including
5 the day on which the request for clarification is delivered, through the working day after
6 which clarification is provided; and

7 (b) The time from delivery of a public body's estimate of a fee in excess of \$25, beginning
8 with and including the day on which the estimate is delivered, through the first working day
9 following the date on which:

10 (A) The fee is fully waived, either by the public body voluntarily or through a final, un-
11 appealed order requiring the public body to waive the fee;

12 (B) The requester agrees to pay the fee; or

13 (C) If the fee exceeds \$150 and the public body requires prepayment of the fee, the public
14 body receives prepayment of the fee.

15 **SECTION 15.** Within two working days of receiving a written request to inspect or re-
16 ceive copies of public records, a public body shall provide the requester with a written ac-
17 knowledgment of receipt of the request. An acknowledgment under this section must include
18 each of the following that apply under the circumstances, to the extent known by the person
19 sending the acknowledgment at the time the acknowledgment is sent:

20 (1) A statement that the public body does not possess, or is not the custodian of, a re-
21 quested record.

22 (2) A statement that the public body is the custodian of a requested record.

23 (3) A statement that the public body is uncertain whether the public body is the custo-
24 dian of a requested record.

25 (4) A statement that state or federal law prohibits the public body from acknowledging
26 whether a record exists or that acknowledging whether a record exists would result in the
27 loss of federal benefits or other sanction. A statement under this subsection must include a
28 citation to the state or federal law relied upon by the public body.

29 **SECTION 16.** A public body has responded to a request to inspect or receive a copy of a
30 public record when it has provided the requester with each of the following that applies:

31 (1) A copy of any requested public record, or information from within a public record
32 segregated in accordance with ORS 192.505, that the public body does not assert is exempt
33 from disclosure. If inspection has been requested, then in lieu of a copy, the public body shall
34 provide a statement that the public record is available for inspection beginning no later than
35 the next working day. The location for inspection shall be either:

36 (a) The location where the public body generally keeps the record or a copy of the record;
37 or

38 (b) At the option of the public body, a location that is more convenient to the requester.

39 (2) If the public body withholds any requested information or records on the basis of an
40 exemption from disclosure under ORS 192.410 to 192.505, a statement indicating that fact and
41 identifying any exemptions relied upon by the public body. A statement under this subsection
42 must include a general description of the nature and amount of the records or information
43 withheld, but need not provide a precise count of documents or pages or a detailed de-
44 scription of the material withheld.

45 (3) If the public body asserts that state or federal law prohibits the public body from

1 acknowledging whether a requested record exists, or that acknowledging whether a re-
 2 quested record exists would result in the loss of federal benefits or other sanction, a state-
 3 ment of that fact that includes a citation to the state or federal law relied upon by the public
 4 body.

5 (4) A statement that a requested record does not exist or that the public body is not the
 6 custodian of a requested record.

7 **SECTION 17.** The failure of a state agency to provide a response that complies with
 8 section 16 of this 2011 Act within the time period prescribed by section 5, 8 or 11 of this 2011
 9 Act, as applicable to the particular request, shall be deemed a denial of the request and the
 10 requester may petition for review of the denial as provided in ORS 192.450.

11 **SECTION 18.** Section 17 of this 2011 Act is amended to read:

12 **Sec. 17.** The failure of a [*state agency*] **public body** to provide a response that complies with
 13 section 16 of this 2011 Act within the time period prescribed by section 5, 8 or 11 of this 2011 Act,
 14 as applicable to the particular request, shall be deemed a denial of the request and the requester
 15 may petition for review of the denial as provided in ORS 192.450 or 192.460.

16 **SECTION 19.** The amendments to section 17 of this 2011 Act by section 18 of this 2011
 17 Act become operative July 1, 2013.

18 **SECTION 20.** A local government that receives a request to inspect or receive a copy of
 19 a public record shall provide a response that complies with section 16 of this 2011 Act within
 20 a reasonable time. The failure of an elected official in local government to deny, grant or
 21 deny in part and grant in part a request to inspect or receive a copy of a public record within
 22 seven days from the date of receipt of the request shall be treated as a denial of the request
 23 for the purpose of determining whether a person may institute proceedings for injunctive or
 24 declaratory relief under ORS 192.450 or 192.460.

25 **SECTION 21.** Section 20 of this 2011 Act is repealed on July 1, 2013.

26 **SECTION 22.** (1) Subject to subsection (2) of this section, a state agency that receives a
 27 request to inspect or receive a copy of a public record may establish fees reasonably calcu-
 28 lated to reimburse the state agency for the actual cost of staff time necessarily incurred in
 29 responding to the request and the actual costs of paper, electronic storage media or other
 30 materials requested by and provided to the requester.

31 (2) A state agency may not charge for staff time under subsection (1) of this section at
 32 a rate that would exceed three times the minimum wage in effect under ORS 653.025 at the
 33 time the request is made.

34 (3) A state agency may include in fees charged under this section the cost of time spent
 35 by an attorney for the state agency in reviewing the public records, redacting material from
 36 the public records or segregating the public records into exempt and nonexempt records. A
 37 state agency may not include in a fee established under this section the cost of time spent
 38 by an attorney for the state agency in determining the application of ORS 192.410 to 192.505.
 39 Fees under this subsection are not subject to limitation under subsection (2) of this section.

40 (4) Notwithstanding subsections (1) to (3) of this section, a state agency may charge fees
 41 reasonably calculated to recover the actual costs of responding to a public records request:

42 (a) If the request is one described in section 8 or 11 of this 2011 Act;

43 (b) If the request is made by a party to a pending contested case proceeding under ORS
 44 chapter 183 for purposes related to the proceeding; or

45 (c) If the sources of funds otherwise available to pay for the response are dedicated by

1 **trust, the Oregon Constitution or federal law to a purpose that does not include use of the**
 2 **funds for responding to a public records request.**

3 (5) **Notwithstanding any other provision of ORS 192.410 to 192.505, a state agency need**
 4 **not respond to a public records request made by a requester with an unpaid balance resulting**
 5 **from previous public records requests except to inform the requester that the state agency**
 6 **will not respond due to the unpaid balance and that the requester may resubmit the request**
 7 **once the outstanding balance is paid.**

8 (6) **Notwithstanding subsections (1) to (5) of this section, when the public records are**
 9 **those filed with the Secretary of State under ORS 80.100 to 80.130 or ORS chapter 79, the fees**
 10 **for furnishing copies, summaries or compilations of the public records are those established**
 11 **by the Secretary of State by rule under ORS 80.100 to 80.130 or ORS chapter 79.**

12 (7) **Notwithstanding subsections (1) to (5) of this section, a state agency may not include**
 13 **within fees established under this section any costs incurred by the agency in removing**
 14 **metadata from public records.**

15 **SECTION 23.** Section 22 of this 2011 Act is amended to read:

16 **Sec. 22.** (1) Subject to subsection (2) of this section, a *[state agency]* **public body** that receives
 17 a request to inspect or receive a copy of a public record may establish fees reasonably calculated
 18 to reimburse the *[state agency]* **public body** for the actual cost of staff time necessarily incurred in
 19 responding to the request and the actual costs of paper, electronic storage media or other materials
 20 requested by and provided to the requester.

21 (2) A *[state agency]* **public body** may not charge for staff time under subsection (1) of this section
 22 at a rate that would exceed three times the minimum wage in effect under ORS 653.025 at the time
 23 the request is made.

24 (3) A *[state agency]* **public body** may include in fees charged under this section the cost of time
 25 spent by an attorney for the *[state agency]* **public body** in reviewing the public records, redacting
 26 material from the public records or segregating the public records into exempt and nonexempt re-
 27 cords. A *[state agency]* **public body** may not include in a fee established under this section the cost
 28 of time spent by an attorney for the *[state agency]* **public body** in determining the application of ORS
 29 192.410 to 192.505. Fees under this subsection are not subject to the limitation of subsection (2) of
 30 this section.

31 (4) Notwithstanding subsections (1) to (3) of this section, a *[state agency]* **public body** may
 32 charge fees reasonably calculated to recover the actual costs of responding to a public records re-
 33 quest:

34 (a) If the request is one described in section 8 or 11 of this 2011 Act;

35 (b) If the request is made by a party to a pending contested case proceeding under ORS chapter
 36 **183 or other similar formal dispute resolution process** for purposes related to the proceeding;
 37 or

38 (c) If the sources of funds otherwise available to pay for the response are dedicated by trust, the
 39 Oregon Constitution or federal law to a purpose that does not include use of the funds for re-
 40 sponding to a public records request.

41 (5) Notwithstanding any other provision of ORS 192.410 to 192.505, a *[state agency]* **public body**
 42 need not respond to a public records request made by a requester with an unpaid balance resulting
 43 from previous public records requests except to inform the requester that the *[state agency]* **public**
 44 **body** will not respond due to the unpaid balance and that the requester may resubmit the request
 45 once the outstanding balance is paid.

1 (6) Notwithstanding subsections (1) to (5) of this section, when the public records are those filed
2 with the Secretary of State under ORS 80.100 to 80.130 or ORS chapter 79, the fees for furnishing
3 copies, summaries or compilations of the public records are those established by the Secretary of
4 State by rule under ORS 80.100 to 80.130 or ORS chapter 79.

5 (7) Notwithstanding subsections (1) to (5) of this section, a [state agency] **public body** may not
6 include within fees established under this section any costs incurred by the [agency] **public body** in
7 removing metadata from public records.

8 **SECTION 24.** The amendments to section 22 of this 2011 Act by section 23 of this 2011
9 Act become operative July 1, 2013.

10 **SECTION 25.** (1) A local government that receives a request to inspect or receive a copy
11 of a public record may establish fees reasonably calculated to reimburse the local govern-
12 ment for the actual cost incurred by the local government in making public records available,
13 including costs for summarizing, compiling or tailoring the public records, either in organ-
14 ization or media, to meet the request.

15 (2) A local government may include in a fee established under subsection (1) of this sec-
16 tion the cost of time spent by an attorney for the local government in reviewing the public
17 records, redacting material from the public records or segregating the public records into
18 exempt and nonexempt records. The local government may not include in a fee established
19 under subsection (1) of this section the cost of time spent by an attorney for the local gov-
20 ernment in determining the application of the provisions of ORS 192.410 to 192.505.

21 (3) A local government may not establish a fee greater than \$25 under this section unless
22 the local government first provides the requester with a written notification of the estimated
23 amount of the fee and the requester confirms that the requester wants the local government
24 to proceed with making the public record available.

25 **SECTION 26.** Section 25 of this 2011 Act is repealed on July 1, 2013.

26 **SECTION 27.** (1) The custodian of any public record may furnish copies without charge
27 or at a substantially reduced fee if the custodian determines that the waiver or reduction
28 of fees is in the public interest because making the record available primarily benefits the
29 general public.

30 (2) A person that believes that there has been an unreasonable denial of a fee waiver or
31 fee reduction may petition the Attorney General or the district attorney in the same manner
32 as a person petitions when inspection of a public record is denied under ORS 192.410 to
33 192.505. The Attorney General, district attorney or court have the same authority in in-
34 stances when a fee waiver or reduction is denied as the Attorney General, district attorney
35 or court have when inspection of a public record is denied.

36 **SECTION 28.** A public body shall make available to the public a written procedure for
37 making public records requests that includes:

38 (1) The name of one or more persons to whom public records requests may be sent, with
39 addresses and electronic mail addresses if the public body routinely uses electronic mail for
40 communications; and

41 (2) Subject to the limits of ORS 192.410 to 192.505, the amounts of and the manner of
42 calculating fees that the public body charges for responding to requests for public records.

43 **SECTION 29.** (1) When a public body receives a request to inspect or receive a copy of a
44 public record under ORS 192.410 to 192.505, the public body, in order to assist the person in
45 making a focused and effective request that reasonably describes identifiable public records,

1 shall to the extent reasonable under the circumstances:

2 (a) Assist the person in identifying public records that are responsive to the request or
3 to the purpose of the request, if known by the public body; and

4 (b) Provide suggestions to the person for obtaining the information the requester is
5 seeking in the most convenient and cost-effective manner.

6 (2) This section does not apply to requests described in section 8 or 11 of this 2011 Act.

7 **SECTION 30.** (1) Except in cases where the law specifically creates a right of action based
8 on the disclosure of particular information or records, a state agency or an official, volun-
9 teer, employee or agent of a state agency may not be liable to any person as the result of a
10 disclosure made in a good faith attempt to comply with ORS 192.410 to 192.505.

11 (2) If a state agency inadvertently discloses records that are privileged under ORS 40.225
12 to 40.295, the inadvertent disclosure does not constitute a waiver of the privilege if:

13 (a) A large volume of nonprivileged records are disclosed in response to the same request
14 for disclosure; and

15 (b) Either the state agency reasonably did not expect privileged materials to be among
16 the materials disclosed, or the state agency searched for privileged materials in a manner
17 that was reasonable under the circumstances.

18 (3) Subsection (2) of this section may not be construed to prevent a state agency from
19 reviewing requested documents in a manner calculated to avoid the disclosure of privileged
20 materials.

21 **SECTION 31.** Section 30 of this 2011 Act is amended to read:

22 **Sec. 30.** (1) Except in cases where the law specifically creates a right of action based on the
23 disclosure of particular information or records, a [*state agency*] **public body** or an official, volunteer,
24 employee or agent of a [*state agency*] **public body** may not be liable to any person as the result of
25 a disclosure made in a good faith attempt to comply with ORS 192.410 to 192.505.

26 (2) If a [*state agency*] **public body** inadvertently discloses records that are privileged under ORS
27 40.225 to 40.295, the inadvertent disclosure does not constitute a waiver of the privilege if:

28 (a) A large volume of nonprivileged records are disclosed in response to the same request for
29 disclosure; and

30 (b) Either the [*state agency*] **public body** reasonably did not expect privileged materials to be
31 among the materials disclosed, or the [*state agency*] **public body** searched for privileged materials
32 in a manner that was reasonable under the circumstances.

33 (3) Subsection (2) of this section may not be construed to prevent a [*state agency*] **public body**
34 from reviewing requested documents in a manner calculated to avoid the disclosure of privileged
35 materials.

36 **SECTION 32.** The amendments to section 30 of this 2011 Act by section 31 of this 2011
37 Act become operative on July 1, 2013.

38 **SECTION 33.** The Attorney General shall develop training materials designed to generally
39 educate public employees with respect to the requirements of ORS 192.410 to 192.505, and
40 make those materials freely available on the Attorney General's website.

41 **SECTION 34.** ORS 192.460 is amended to read:

42 192.460. (1) ORS 192.450 applies to the case of a person denied the right to inspect or to receive
43 a copy of any public record of a [*public body other than a state agency*] **local government**, except
44 that:

45 (a) The district attorney of the county in which the [*public body*] **local government** is located,

1 or if it is located in more than one county, the district attorney of the county in which the admin-
 2 istrative offices of the *[public body]* **local government** are located, shall carry out the functions of
 3 the Attorney General;

4 (b) Any suit filed must be filed in the circuit court for the county described in paragraph (a) of
 5 this subsection; and

6 (c) The district attorney may not serve as counsel for the *[public body]* **local government**, in
 7 the cases permitted under ORS 192.450 (3), unless the district attorney ordinarily serves as counsel
 8 for the *[public body]* **local government**.

9 (2) Disclosure of a record to the district attorney in compliance with subsection (1) of this sec-
 10 tion does not waive any privilege or claim of privilege regarding the record or its contents.

11 (3) Disclosure of a record or part of a record as ordered by the district attorney is a compelled
 12 disclosure for purposes of ORS 40.285.

13 **SECTION 35.** ORS 192.465 is amended to read:

14 192.465. (1) The failure of the Attorney General or district attorney to issue an order under ORS
 15 192.450 or 192.460 denying, granting, or denying in part and granting in part a petition to require
 16 disclosure within *[seven]* **10 working** days from the day of receipt of the petition shall be treated
 17 as an order denying the petition for the purpose of determining whether a person may institute
 18 proceedings for injunctive or declaratory relief under ORS 192.450 or 192.460.

19 (2) The failure of *[an elected official]* **a person described in ORS 192.480 (2)** to deny, grant, or
 20 deny in part and grant in part a request to inspect or receive a copy of a public record within
 21 *[seven]* **10 working** days from the day of receipt of the request shall be treated as a denial of the
 22 request for the purpose of determining whether a person may institute proceedings for injunctive
 23 or declaratory relief under ORS 192.450 or 192.460.

24 **SECTION 36.** ORS 192.480 is amended to read:

25 192.480. (1) In any case in which a person is denied the right to inspect or to receive a copy
 26 of a public record in the custody of *[an elected official]* **a person described in subsection (2) of this**
 27 **section**, or in the custody of any other person but as to which *[an elected official]* **a person de-**
 28 **scribed in subsection (2) of this section** claims the right to withhold disclosure, no petition to
 29 require disclosure may be filed with the Attorney General or district attorney, or if a petition is
 30 filed it shall not be considered by the Attorney General or district attorney after a claim of right
 31 to withhold disclosure by *[an elected official]* **a person described in subsection (2) of this**
 32 **section**. In such case a person denied the right to inspect or to receive a copy of a public record
 33 may institute proceedings for injunctive or declaratory relief in the appropriate circuit court, as
 34 specified in ORS 192.450 or 192.460, and the Attorney General or district attorney may upon request
 35 serve or decline to serve, in the discretion of the Attorney General or district attorney, as counsel
 36 in such suit for *[an elected official for which the Attorney General or district attorney ordinarily serves*
 37 *as counsel. Nothing in this section shall preclude an elected official from requesting advice from the*
 38 *Attorney General or a district attorney as to whether a public record should be disclosed]* **a person**
 39 **described in subsection (2) of this section**.

40 (2) **This section applies to:**

41 (a) **Judges, as defined in ORS 238.500; and**

42 (b) **Members of the Legislative Assembly and statutory committees and statutory offices**
 43 **of the Legislative Assembly.**

44 **SECTION 37.** ORS 192.490 is amended to read:

45 192.490. (1) In any suit filed under ORS 192.450, 192.460, 192.470 or 192.480, the court has juris-

1 diction to enjoin the public body from withholding records and to order the production of any re-
 2 cords improperly withheld from the person seeking disclosure. The court shall determine the matter
 3 de novo and the burden is on the public body to sustain its action. The court, on its own motion,
 4 may view the documents in controversy in camera before reaching a decision. Any noncompliance
 5 with the order of the court may be punished as contempt of court.

6 (2) Except as to causes the court considers of greater importance, proceedings arising under
 7 ORS 192.450, 192.460, 192.470 or 192.480 take precedence on the docket over all other causes and
 8 shall be assigned for hearing and trial at the earliest practicable date and expedited in every way.

9 (3) If a person seeking the right to inspect or to receive a copy of a public record prevails in
 10 the suit, the person shall be awarded costs and disbursements and reasonable attorney fees at trial
 11 and on appeal. If the person prevails in part, the court may in its discretion award the person costs
 12 and disbursements and reasonable attorney fees at trial and on appeal, or an appropriate portion
 13 thereof. If the state agency failed to comply with the Attorney General's order in full and did not
 14 issue a notice of intention to institute proceedings pursuant to ORS 192.450 (2) within [seven] 10
 15 **working** days after issuance of the order, or did not institute the proceedings within [seven] 10
 16 **working** days after issuance of the notice, the petitioner shall be awarded costs of suit at the trial
 17 level and reasonable attorney fees regardless of which party instituted the suit and regardless of
 18 which party prevailed therein.

19
 20 **EXEMPTIONS**

21
 22 **(Criminal Investigations)**

23
 24 **SECTION 38. (1) The Legislative Assembly finds and declares that:**

25 **(a) The strong public interest in overseeing government's law enforcement activities**
 26 **must be balanced against the need to protect the integrity and efficiency of criminal inves-**
 27 **tigations and the prosecution of crimes and the need to preserve the right of the accused to**
 28 **receive a fair trial;**

29 **(b) These competing interests generally require nondisclosure of investigatory informa-**
 30 **tion while law enforcement proceedings are underway, but the need for confidentiality is**
 31 **significantly diminished at the conclusion of a prosecution; and**

32 **(c) The intent of the Legislative Assembly in this section is to balance these competing**
 33 **interests.**

34 **(2) Investigatory information compiled for criminal law purposes is exempt from disclo-**
 35 **sure under ORS 192.410 to 192.505 if the interests in nondisclosure outweigh the public in-**
 36 **terest in disclosure in the particular instance. The record of an arrest or the report of a**
 37 **crime shall be disclosed unless and only for so long as there is a clear need to delay disclo-**
 38 **sure in the course of a specific investigation, including the need to protect the complaining**
 39 **party or the victim. Nothing in this subsection shall limit any right constitutionally guaran-**
 40 **teed, or granted by statute, to disclosure or discovery in criminal cases. For purposes of this**
 41 **subsection, the record of an arrest or the report of a crime includes, but is not limited to:**

42 **(a) The arrested person's name, age, residence, employment, marital status and similar**
 43 **biographical information;**

44 **(b) The offense with which the arrested person is charged;**

45 **(c) The conditions of release pursuant to ORS 135.230 to 135.290;**

1 (d) The identity of and biographical information concerning both complaining party and
2 victim;

3 (e) The identity of the investigating and arresting agency and the length of the investi-
4 gation;

5 (f) The circumstances of arrest, including time, place, resistance, pursuit and weapons
6 used; and

7 (g) Such information as may be necessary to enlist public assistance in apprehending
8 fugitives from justice.

9 (3) Public records relating to criminal investigations and made confidential by a statute
10 listed in this subsection are exempt from disclosure under ORS 192.410 to 192.505 to the ex-
11 tent provided by a statute listed in this subsection:

12 (a) ORS 40.225 to 40.295 (privileged communications).

13 (b) ORS 133.723 (applications for interception of communications).

14 (c) ORS 135.155 (defendant statements and preliminary hearing records).

15 (d) ORS 137.077 (presentence reports).

16 (e) ORS 165.673 (phone numbers produced by pin registers or trap and trace devices).

17 (f) ORS 181.852 (undercover law enforcement officer information).

18 (g) ORS 419A.250 (fingerprint records of children).

19 (h) ORS 476.090 (investigatory testimony).

20 (i) ORS 807.725 (fictitious driver license or identification cards).

21
22 (Noncriminal Investigations)

23
24 **SECTION 39.** (1) The Legislative Assembly finds and declares that:

25 (a) The public interest in overseeing government's exercise of its investigative powers in
26 noncriminal contexts must be balanced against the harms to the public interest that could
27 result from disclosure;

28 (b) Potential harms to the public include alerting investigative targets to the specifics
29 of ongoing investigations, curtailing the ability of a public body to obtain information and
30 damaging the reputational interests of professionals identified by the Legislative Assembly
31 as requiring special protections; and

32 (c) The intent of the Legislative Assembly in this section is to balance these competing
33 interests.

34 (2) The following public records relating to noncriminal investigations are exempt from
35 disclosure under ORS 192.410 to 192.505 if the interests in nondisclosure outweigh the public
36 interest in disclosure in the particular instance:

37 (a) Investigatory information relating to any complaint filed under ORS 659A.820 or
38 659A.825, until such time as the complaint is resolved under ORS 659A.835, or a final order
39 is issued under ORS 659A.850.

40 (b) Investigatory information relating to any complaint or charge filed under ORS 243.676
41 and 663.180.

42 (c) Investigatory information relating to any complaint or charge filed under ORS chap-
43 ter 654, until a final administrative determination is made or, if a citation is issued, until an
44 employer receives notice of any citation.

45 (3) Public records relating to noncriminal investigations and made confidential by a

1 statute listed in this subsection are exempt from disclosure under ORS 192.410 to 192.505, to
 2 the extent provided by a statute listed in this subsection:

3 (a) ORS 1.303, 1.425 and 1.440 (judicial fitness and disability records).

4 (b) ORS 41.675 (records of peer review bodies of health care providers and health care
 5 groups).

6 (c) ORS 171.778 (Oregon Government Ethics Commission records).

7 (d) ORS 342.176 (Teacher Standards and Practices Commission records).

8 (e) ORS 423.430 and 423.440 (Corrections Ombudsman records).

9 (f) ORS 441.055 (health care facility peer review committee records).

10 (g) ORS 673.710 and 673.730 (State Board of Tax Practitioners records, including records
 11 furnished by the Department of Revenue).

12 (h) ORS 676.165 (complaints, investigatory materials and related public records of health
 13 professional regulatory boards or the Oregon Health Licensing Agency).

14 (i) ORS 676.175 and 676.177 (complaints, investigatory materials and related public records
 15 of health professional regulatory boards or the Oregon Health Licensing Agency).

16 (j) ORS 679.320 (Oregon Board of Dentistry records).

17 (k) ORS 682.220 (Oregon Health Authority records relating to ambulance services).

18 (L) ORS 685.205 (Oregon Board of Naturopathic Medicine records).

19 (m) ORS 687.490 (State Board of Direct Entry Midwifery or Oregon Health Licensing
 20 Agency records).

21 (n) ORS 703.480 (Department of Public Safety Standards and Training records related to
 22 investigations of violations of ORS 703.401 to 703.490).

23 (o) ORS 731.264 (complaints and related public records of the Department of Consumer
 24 and Business Services concerning persons regulated by the Insurance Code).

25 (p) ORS 279C.815 (records related to determinations of prevailing rate of wage for work-
 26 ers).

27 (q) ORS 441.057 (records concerning standards of care at health care facilities).

28 (r) ORS 443.355 (records concerning care or services provided by home health agencies,
 29 in-home care agencies, referral agencies or caregiver registries).

30 (s) ORS 618.506 (security seal violation records).

31 (t) ORS 646A.164 (records regarding service contracts regulated under ORS 646A.150 to
 32 646A.172).

33 (u) ORS 671.550 (State Landscape Contractors Board records).

34 (v) ORS 683.335 (Oregon Board of Optometry records).

35 (w) ORS 684.185 (records of peer review committees established by the State Board of
 36 Chiropractic Examiners).

37 (x) ORS 744.079 (records relating to the termination of an insurance business relationship
 38 in the control or possession of the Director of the Department of Consumer and Business
 39 Services).

40 (y) ORS 583.086 (milk handler audit records).

41 (z) ORS 633.077 (commercial feed test records).

42 (aa) ORS 124.085 (records of investigations of reported elder abuse maintained by the
 43 Department of Human Services).

44 (bb) ORS 244.260 (Oregon Government Ethics Commission complaints and investigatory
 45 materials).

1 (cc) ORS 654.067 (notice of Department of Consumer and Business Services inspections
2 prior to the inspection).

3 (dd) ORS 678.725 (reports of unsatisfactory conditions or prohibited conduct in nursing
4 homes).

5 (ee) ORS 646.632 (notice of unlawful trade practice).

6 (ff) ORS 688.655 (hemodialysis technician investigations).

7 (gg) ORS 676.608 (investigative communications between licensees and the Oregon Health
8 Licensing Agency).

9
10 (Personal Privacy)

11
12 **SECTION 40. (1) The Legislative Assembly finds and declares that:**

13 (a) As regulators and providers of services, public bodies often obtain information about
14 individuals that implicate privacy interests;

15 (b) The policy of transparency underlying ORS 192.410 to 192.505 is fundamentally con-
16 cerned with promoting the disclosure of information about government, not information
17 about individuals;

18 (c) There are circumstances in which the public's need to meaningfully oversee the effi-
19 ciency and integrity of government can justify public intrusion into matters that might be
20 considered private in another context; and

21 (d) The intent of the Legislative Assembly in this section is to balance these competing
22 interests.

23 (2) Except as otherwise provided by law, information of a personal nature is exempt from
24 disclosure under ORS 192.410 to 192.505 if the public disclosure of the information would
25 constitute an unreasonable invasion of privacy, unless the public interest by clear and con-
26 vincing evidence requires disclosure in the particular instance. The party seeking disclosure
27 shall have the burden of showing that public disclosure would not constitute an unreasonable
28 invasion of privacy.

29 (3) Individually identifiable health records prepared by a publicly operated health care
30 provider, or prepared by a privately operated health care provider and submitted to a public
31 body, are exempt from disclosure under ORS 192.410 to 192.505, notwithstanding any claim
32 that the public interest requires their disclosure. This subsection does not apply to individ-
33 ually identifiable health records that are:

34 (a) Submitted in evidence in open court or in a publicly accessible administrative pro-
35 ceeding; or

36 (b) Submitted to or obtained by a public body in connection with a claim that the public
37 body caused or contributed to causing an injury and is liable as a result.

38 (4) The following health-related records are exempt from disclosure under ORS 192.410
39 to 192.505, notwithstanding any claim that the public interest requires disclosure in the par-
40 ticular instance:

41 (a) Records of law enforcement, to the extent provided by ORS 146.184 (records related
42 to missing persons) and ORS 146.780 (records of injuries reported to medical examiner).

43 (b) Records of the State Trauma Advisory Board and area trauma advisory boards, to the
44 extent provided by ORS 431.627 and 431.635.

45 (c) Records of disease reporting and quarantine petitions and contagious disease outbreak

1 remediation efforts, to the extent provided by ORS 433.008 433.123 and 433.423.

2 (d) Cognitive or functional impairment reports to the Department of Transportation, to
3 the extent provided by ORS 807.710.

4 (e) Records of epidemiologic morbidity and mortality studies, to the extent provided by
5 ORS 432.060, and records of cancer diagnosis and treatment, to the extent provided by ORS
6 432.530.

7 (5) The electronic mail address of a student who attends a state institution of higher
8 education listed in ORS 352.002 or Oregon Health and Science University is exempt from
9 disclosure under ORS 192.410 to 192.505 if the interests in nondisclosure outweighs the in-
10 terests in disclosure in the particular instance.

11 (6) Public records relating to educational information and made confidential by a statute
12 listed in this subsection are exempt from disclosure under ORS 192.410 to 192.505 to the ex-
13 tent provided by a statute listed in this subsection:

14 (a) ORS 40.225 to 40.295 (privileged communications).

15 (b) ORS 326.565 and rules adopted thereunder (student records).

16 (c) ORS 326.589 (Social Security numbers of community college students).

17 (d) ORS 337.288 (Spread the Word Program records).

18 (e) ORS 339.323 and 339.326 (records relating to students charged with crimes or subject
19 to juvenile court jurisdiction).

20 (f) ORS 339.378 (school employee reports of child abuse or sexual conduct).

21 (g) ORS 341.290 and rules adopted thereunder (records of community college district
22 students and faculty).

23 (h) ORS 344.530 and 344.600 (vocational rehabilitation records).

24 (i) ORS 351.070 and rules adopted thereunder (Oregon University System student re-
25 cords).

26 (j) ORS 332.061 (records of school board meetings regarding student expulsion or medical
27 issues).

28 (7) The following public records are exempt from disclosure if the interests in
29 nondisclosure outweigh the public interest in disclosure in the particular instance:

30 (a) A medical examiner's report, autopsy report or laboratory test report ordered by a
31 medical examiner under ORS 146.117.

32 (b) Mental health program commitment records, to the extent provided by ORS 426.370.

33 (c) The home address, professional address and telephone number of a person who has
34 donated or who is interested in donating money or property to the Oregon University Sys-
35 tem, a state institution of higher education or the Oregon Health Sciences University, and
36 other personal information concerning such a person if the information is related to the
37 family of the person or personal assets of the person or is incidental information not related
38 to the donation.

39 (8) The following public records are exempt from disclosure:

40 (a) Public Safety Memorial Fund applicant records, to the extent provided by ORS 243.960.

41 (b) Personal contact information of individuals submitted to a special district to obtain
42 assistance in promoting an alternative to single occupant motor vehicle transportation, and
43 personally identifiable information about customers of a municipal electric utility or a
44 people's utility district or the names, dates of birth, driver license numbers, telephone
45 numbers or electronic mail addresses of customers who receive water, sewer or storm drain

1 services from a public body as defined in ORS 174.109.

2 (c) The Social Security number of any person.

3 (d) Claimant files of the State Accident Insurance Fund Corporation, and workers' com-
4 pensation claim records of the Department of Consumer and Business Services except in
5 accordance with rules adopted by the Director of the Department of Consumer and Business
6 Services. As used in this paragraph, "claimant files of the State Accident Insurance Fund
7 Corporation" includes, but is not limited to, all records held by the corporation pertaining
8 to a person who has made a claim, as defined in ORS 656.005, and all records pertaining to
9 such a claim.

10 (e) Records that certify or verify an individual's discharge or other separation from mil-
11 itary service, to the extent provided by ORS 408.425.

12 (9) The following public records are exempt from public disclosure, notwithstanding any
13 claim that the public interest requires their disclosure:

14 (a) Records that are privileged under ORS 40.225 to 40.295, to the extent that a private
15 person is the holder of the privilege and the privilege has not been waived.

16 (b) The records of a library, including:

17 (A) Circulation records, showing use of specific library material by a named person;

18 (B) The name of a library patron together with the address or telephone number of the
19 patron; and

20 (C) The electronic mail address of a patron.

21 (c) Family law records, to the extent provided by ORS 7.211, 25.020, 25.260, 25.792, 107.179,
22 107.767, 109.308, 109.440, 109.445, 109.503, 180.320, 107.600 and 107.785.

23 (d) Tax records, to the extent provided by ORS 118.525, 173.850, 285C.615, 285C.620, 305.192,
24 308.290, 308.411, 314.835, 319.190, 320.340, 321.682 and 673.415.

25 (e) Need-based assistance program records, to the extent provided by ORS 151.485,
26 151.495, 314.860, 410.150, 410.480, 410.535, 411.117, 411.320, 411.335, 412.074 and 412.094.

27 (f) Records of criminal proceedings and convictions, to the extent provided by ORS 3.450,
28 137.077, 137.530, 181.534, 181.548 and 181.592.

29 (g) Vital records and reports, to the extent provided by ORS 432.121, 432.408, 432.412,
30 432.420 and 432.430.

31 (h) Voter records, to the extent provided by ORS 247.965, 247.967 and 247.973.

32 (i) Commission for the Blind records, to the extent provided by ORS 346.150, 346.165 and
33 346.167.

34 (j) Child welfare and juvenile custody records, to the extent provided by ORS 409.225,
35 409.230, 417.815, 418.250, 418.642, 418.714, 418.747, 418.794, 418.795, 419A.170, 419A.255, 419A.257
36 and 419A.262.

37 (k) Department of Transportation records, to the extent provided by ORS 802.177, 802.181,
38 802.195, 802.220 and 807.115.

39 (L) No-call list participant records, to the extent provided by ORS 646.574.

40 (m) Individual records of certain licensees and applicants for licensure, to the extent
41 provided by ORS 701.426 (Construction Contractors Board), 703.473 (Department of Public
42 Safety Standards and Training), 242.722 (Civil Service Commission) and 676.410 (health pro-
43 fessional regulatory boards or healthcare workforce regulatory boards).

44 (n) Jury records, to the extent provided by ORS 10.215.

45 (o) Manufactured dwelling dispute records, to the extent provided by ORS 90.771.

1 (p) Employment Department records, to the extent provided by ORS 657.734, 660.318 and
2 660.339.

3 (q) Anatomical Donor Records, to the extent provided by ORS 97.977.

4 (r) Lawyer's Assistance Committee and Practice Management Assistance Committee re-
5 cords, to the extent provided by ORS 9.568.

6 (s) Automatic telephone number identifications received by public safety answering
7 points, to the extent provided by ORS 403.135.

8 (t) Communications between clients and regulated social workers, to the extent provided
9 by ORS 675.580.

10 (u) Death with Dignity Act records, to the extent provided by ORS 127.865.

11 (v) Records of complaints about adult foster homes, to the extent provided by ORS
12 443.765.

13 (w) Records of individual financial accounts. This paragraph does not apply to:

14 (A) Records obtained by a public body conducting an authorized investigation into un-
15 lawful conduct based on the public body's good faith belief that unlawful conduct may have
16 occurred, except:

17 (i) During the period while the conduct is being actively investigated by a public body;
18 or

19 (ii) If the interests in nondisclosure outweigh the public interest in disclosure in the
20 particular instance.

21 (B) Records provided to a public body in connection with a bid application, grant appli-
22 cation or other submission seeking to establish a business relationship with a public body
23 or seeking to obtain financial benefit from a public body, except:

24 (i) During the period before the bid or grant is awarded or before the public body makes
25 a determination to confer or not to confer the benefit sought;

26 (ii) If the only benefit sought is to establish a deposit account offered by the public body
27 or make a deposit into such an account;

28 (iii) If the financial account information is provided solely to pay a fee associated with
29 an application or other submission; or

30 (iv) If the interests in nondisclosure outweigh the public interest in disclosure in the
31 particular instance.

32
33 (Business Records)

34
35 **SECTION 41.** (1) The Legislative Assembly finds and declares that:

36 (a) In regulating and contracting with businesses, public bodies sometimes obtain infor-
37 mation about businesses the disclosure of which could implicate businesses' ability to com-
38 pete in the marketplace;

39 (b) The policy of transparency underlying ORS 192.410 to 192.505 is fundamentally con-
40 cerned with promoting the disclosure of information about government, not information
41 about businesses;

42 (c) There are circumstances in which the public's need to meaningfully oversee the effi-
43 ciency and integrity of government, particularly in connection with expenditures of govern-
44 ment funds and the allocation of public goods, requires transparency with regard to the
45 business dealings of government; and

1 (d) The intent of the Legislative Assembly in this section is to balance these competing
2 interests.

3 (2) Proprietary materials and sensitive business records of a privately operated business
4 not customarily shared with or readily discoverable by a competitor are exempt from dis-
5 closure under ORS 192.410 to 192.505 unless the public interest in disclosure outweighs the
6 interests in nondisclosure in the particular instance. This subsection does not apply to:

7 (a) Materials obtained by a public body conducting an authorized investigation into un-
8 lawful conduct based on the public body's good faith belief that unlawful conduct may have
9 occurred, except:

10 (A) During the period in which the conduct is being actively investigated by a public body;
11 or

12 (B) If the interests in nondisclosure outweigh the public interest in disclosure in the
13 particular instance.

14 (b) Materials provided to a public body in connection with a bid application, grant appli-
15 cation or other submission seeking to establish a business relationship with a public body
16 or seeking to obtain financial benefit from a public body, except:

17 (A) During the period before the bid or grant is awarded or before the public body makes
18 a determination to confer or not to confer the benefit sought; or

19 (B) If the interests in nondisclosure outweigh the public interest in disclosure in the
20 particular instance.

21 (3) Trade secrets of a privately operated business are exempt from disclosure under ORS
22 192.410 to 192.505. As used in this subsection, "trade secrets" has the meaning given that
23 term in ORS 646.461.

24 (4) Tax records of a privately operated business are exempt from disclosure under ORS
25 192.410 to 192.505, notwithstanding any claim that the public interest requires disclosure, to
26 the extent provided by ORS 118.525, 173.850, 285C.615, 285C.620, 305.192, 308.290, 308.411,
27 314.835, 319.190, 320.340, 321.682 and 673.415.

28 (5) Records that are privileged under ORS 40.225 to 40.295 are exempt from disclosure
29 under ORS 192.410 to 192.505, notwithstanding any claim that the public interest requires
30 disclosure, to the extent that a privately operated business is the holder of the privilege and
31 the privilege has not been waived.

32 (6) Nothing in this section shall be construed to exempt from disclosure the overall con-
33 sideration exchanged in a contract to which a public body is party.

34
35 (Crime Victims)

36
37 **SECTION 42.** (1) The Legislative Assembly finds and declares that the safety and privacy
38 of crime victims should be protected to the extent it is consistent with the integrity and le-
39 gitimacy of the criminal justice system. The intent of the Legislative Assembly in this sec-
40 tion is to balance these competing interests.

41 (2) Public records relating to crime victims and made confidential by a statute listed in
42 this subsection are exempt from disclosure under ORS 192.410 to 192.505 to the extent pro-
43 vided by a statute listed in this subsection:

44 (a) ORS 18.048 (criminal restitution recipient records).

45 (b) ORS 135.873 (information in sex crime cases under protective order).

1 (c) ORS 135.815 and 135.970 (certain information about victims not disclosable to defend-
2 ants)

3 (d) ORS 147.115 (crime victim compensation records).

4 (e) ORS 147.205 (confidential documents obtained by the Department of Justice in con-
5 nection with crime victim compensation).

6 (f) ORS 147.397 (identities of victims of sexual assault in records maintained by medical
7 assessment providers).

8 (g) ORS 192.844 (address confidentiality program records).

9 (h) ORS 409.273 (information about clients of sexual assault crisis centers and locations
10 of such centers if designated confidential by Director of Human Services).

11 (i) ORS 419B.035 (Department of Human Services child abuse records).

12 (j) ORS 659A.196 and 659A.280 (certain employment-related records of crime victims or
13 family members).

14
15 (Whistleblower Information)

16
17 **SECTION 43.** (1) The Legislative Assembly finds and declares that:

18 (a) Limited confidentiality encourages reports of government and private sector
19 wrongdoing that might otherwise go undetected;

20 (b) The advantages of limited confidentiality must be balanced against the need for
21 transparency to ensure that government acts with integrity, efficiency and evenhandedness
22 in response to whistleblower complaints; and

23 (c) The intent of the Legislative Assembly in this section is to balance these competing
24 interests.

25 (2) Public records relating to whistleblower information and made confidential by a stat-
26 ute listed in this subsection are exempt from disclosure under ORS 192.410 to 192.505 to the
27 extent provided by a statute listed in this subsection:

28 (a) ORS 40.275 (identity of criminal investigation informants).

29 (b) ORS 124.075 and 124.090 (identities of persons making elder abuse reports or witnesses
30 and elderly persons named in elder abuse reports).

31 (c) ORS 177.170 and 177.180 (government waste, inefficiency or abuse records).

32 (d) ORS 430.763 (records of abuse of developmentally disabled individuals or individuals
33 with mental illness).

34 (e) ORS 441.057 (records of standards of care of health care facilities).

35 (f) ORS 654.062 (records of employees making complaints of safety or health laws, regu-
36 lations or standards).

37 (g) ORS 659A.218 (records of public employee disclosures of unlawful activities).

38
39 (Security and Emergency Planning)

40
41 **SECTION 44.** (1) The Legislative Assembly finds and declares that the public interest in
42 oversight of measures implemented by public bodies to ensure security and provide for ef-
43 fective response to emergencies must be considered alongside the reality that secrecy is, in
44 some cases, a vital component of such measures. The intent of the Legislative Assembly in
45 this section is to balance these competing interests.

1 **(2) The following public records relating to security and emergency planning are exempt**
2 **from disclosure under ORS 192.410 to 192.505 if the interests in nondisclosure outweigh the**
3 **public interest in disclosure in the particular instance:**

4 **(a) Specific operational plans in connection with an anticipated threat to individual or**
5 **public safety for deployment and use of personnel and equipment, prepared or used by a**
6 **public body, if public disclosure of the plans would endanger an individual's life or physical**
7 **safety or jeopardize a law enforcement activity.**

8 **(b) Records or information that, if disclosed, would allow a person to:**

9 **(A) Gain unauthorized access to buildings or other property;**

10 **(B) Identify those areas of structural or operational vulnerability that would permit un-**
11 **lawful disruption to, or interference with, services; or**

12 **(C) Disrupt, interfere with or gain unauthorized access to public funds or to information**
13 **processing, communication or telecommunication systems, including the information con-**
14 **tained in the systems, that are used or operated by a public body.**

15 **(c) Records or information that would reveal or otherwise identify security measures, or**
16 **weaknesses or potential weaknesses in security measures, taken or recommended to be**
17 **taken to protect:**

18 **(A) An individual;**

19 **(B) Buildings or other property;**

20 **(C) Information processing, communication or telecommunication systems, including the**
21 **information contained in the systems; or**

22 **(D) Those operations of the Oregon State Lottery, the security of which are subject to**
23 **study and evaluation under ORS 461.180 (6).**

24 **(3) The following public records relating to security and emergency planning are exempt**
25 **from disclosure under ORS 192.410 to 192.505:**

26 **(a) Records of the Energy Facility Siting Council concerning the review or approval of**
27 **security programs pursuant to ORS 469.530.**

28 **(b) A county elections security plan developed and filed under ORS 254.074.**

29 **(c) Information about review or approval of programs relating to the security of:**

30 **(A) Generation, storage or conveyance of:**

31 **(i) Electricity;**

32 **(ii) Gas in liquefied or gaseous form;**

33 **(iii) Hazardous substances as defined in ORS 453.005 (7)(a), (b) and (d);**

34 **(iv) Petroleum products;**

35 **(v) Sewage; or**

36 **(vi) Water.**

37 **(B) Telecommunication systems, including cellular, wireless or radio systems.**

38 **(C) Data transmissions by whatever means provided.**

39 **(4) Public records relating to security and emergency planning and made confidential by**
40 **a statute listed in this subsection are exempt from disclosure under ORS 192.410 to 192.505**
41 **to the extent provided by a statute listed in this subsection:**

42 **(a) ORS 1.180 (court security and emergency preparedness plans).**

43 **(b) ORS 176.765 (energy resource records).**

44 **(c) ORS 461.180 (Oregon State Lottery security records).**

45 **(d) ORS 824.082 (hazardous material transportation records).**

(Public Employee Privacy)

1
2
3 **SECTION 45.** (1) The Legislative Assembly finds and declares that the strong public in-
4 terest in access to information about public officials and employees competes with funda-
5 mental privacy rights of individuals who elect to work in public service. The intent of the
6 Legislative Assembly in this section is to balance these competing interests.

7 (2) The following public records relating to public employee privacy are exempt from
8 disclosure under ORS 192.410 to 192.505, if the interests in nondisclosure outweigh the public
9 interest in disclosure in the particular instance:

10 (a) The names and signatures of employees who sign authorization cards or petitions for
11 the purpose of requesting representation or decertification elections.

12 (b) A personnel discipline action, or materials or documents supporting that action. This
13 paragraph does not apply to disciplinary actions taken against managers who are ineligible
14 for collective bargaining under ORS 243.650 to 243.782 or who are not members of a collective
15 bargaining unit under those provisions.

16 (c) The name, home address, professional address or location of a person that is engaged
17 in, or that provides goods or services for, medical research at Oregon Health and Science
18 University that is conducted using animals other than rodents. This subsection does not ap-
19 ply to Oregon Health and Science University press releases, websites or other publications
20 circulated to the general public.

21 (d) If requested by a public safety officer, as defined in ORS 181.610:

22 (A) The home address and home telephone number of the public safety officer contained
23 in the voter registration records for the public safety officer.

24 (B) The home address and home telephone number of the public safety officer contained
25 in records of the Department of Public Safety Standards and Training.

26 (C) The name of the public safety officer contained in county real property assessment
27 or taxation records. This exemption:

28 (i) Applies only to the name of the public safety officer and any other owner of the
29 property in connection with a specific property identified by the officer in a request for ex-
30 emption from disclosure;

31 (ii) Applies only to records that may be made immediately available to the public upon
32 request in person, by telephone or using the Internet;

33 (iii) Applies until the public safety officer requests termination of the exemption;

34 (iv) Does not apply to disclosure of records among public bodies as defined in ORS 174.109
35 for governmental purposes; and

36 (v) May not result in liability for the county if the name of the public safety officer is
37 disclosed after a request for exemption from disclosure is made under this subsection.

38 (e) Unless the public records request is made by a financial institution, as defined in ORS
39 706.008, consumer finance company licensed under ORS chapter 725, mortgage banker or
40 mortgage broker licensed under ORS 86A.095 to 86A.198, 86A.990 and 86A.992 and ORS chap-
41 ter 59 or title company for business purposes, records described in subparagraph (A) of this
42 paragraph, if the exemption from disclosure of the records is sought by an individual de-
43 scribed in subparagraph (B) of this paragraph using the procedure described in subparagraph
44 (C) of this paragraph:

45 (A) The home address, home or cellular telephone number or personal electronic mail

1 address contained in the records of any public body that has received the request that is set
 2 forth in:

3 (i) A warranty deed, deed of trust, mortgage, lien, deed of reconveyance, release, satis-
 4 faction, substitution of trustee, easement, dog license, marriage license or military discharge
 5 record that is in the possession of the county clerk; or

6 (ii) Any public record of a public body other than the county clerk.

7 (B) The individual claiming the exemption from disclosure must be a district attorney, a
 8 deputy district attorney, the Attorney General or an assistant attorney general, the United
 9 States Attorney for the District of Oregon, an assistant United States attorney for the Dis-
 10 trict of Oregon, a city attorney who engages in the prosecution of criminal matters or a
 11 deputy city attorney who engages in the prosecution of criminal matters.

12 (C) The individual claiming the exemption from disclosure must do so by filing the claim
 13 in writing with the public body for which the exemption from disclosure is being claimed on
 14 a form prescribed by the public body. Unless the claim is filed with the county clerk, the
 15 claim form shall list the public records in the possession of the public body to which the
 16 exemption applies. The exemption applies until the individual claiming the exemption re-
 17 quests termination of the exemption or ceases to qualify for the exemption.

18 (f) Records of the Department of Public Safety Standards and Training relating to in-
 19 vestigations conducted under ORS 181.662 or 181.878 (6), until the department issues the re-
 20 port described in ORS 181.662 or 181.878.

21 (3) The following public records relating to public employee privacy are exempt from
 22 disclosure under ORS 192.410 to 192.505:

23 (a) Public body employee or volunteer addresses, Social Security numbers, dates of birth
 24 and telephone numbers contained in personnel records maintained by the public body that is
 25 the employer or the recipient of volunteer services. This exemption:

26 (A) Does not apply to the addresses, dates of birth and telephone numbers of employees
 27 or volunteers who are elected officials, except that a judge or district attorney subject to
 28 election may seek to exempt the judge's or district attorney's address or telephone number,
 29 or both, under the terms of ORS 192.445;

30 (B) Does not apply to employees or volunteers to the extent that the party seeking dis-
 31 closure shows by clear and convincing evidence that the public interest requires disclosure
 32 in a particular instance;

33 (C) Does not apply to a substitute teacher as defined in ORS 342.815 when requested by
 34 a professional education association of which the substitute teacher may be a member; and

35 (D) Does not relieve a public employer of any duty under ORS 243.650 to 243.782.

36 (b) Employee and retiree address, telephone number and other nonfinancial membership
 37 records and employee financial records maintained by the Public Employees Retirement
 38 System pursuant to ORS chapters 238 and 238A.

39 (4) Public records relating to public employee privacy and made confidential by a statute
 40 listed in this subsection are exempt from disclosure under ORS 192.410 to 192.505 to the ex-
 41 tent provided by a statute listed in this subsection:

42 (a) ORS 181.675 (public safety officer photographs and personal information records).

43 (b) ORS 181.854 (public safety employee photographs and personal information on re-
 44 cords).

45 (c) ORS 181.860 (peer support counseling records).

1 (d) ORS 342.850 (teacher evaluation and personnel file records).

2 (e) ORS 339.388 (child abuse or sexual conduct records).

3 (f) ORS 351.065 (higher education faculty personnel records).

4
5 (Government Operations)

6
7 **SECTION 46.** (1) The Legislative Assembly finds and declares that:

8 (a) In some circumstances, confidentiality can promote efficient and effective govern-
9 ment;

10 (b) Confidentiality can also create opportunities for corruption and result in a govern-
11 ment that is not sufficiently accountable to the public it serves;

12 (c) Information should not be withheld from the public merely to avoid embarrassment
13 to government or government officials;

14 (d) The best means of policing corruption is to favor transparency where the possibility
15 for corruption exists; and

16 (e) The intent of the Legislative Assembly in this section is to preserve the ability of
17 government to act confidentially in cases where transparency would not serve the public in-
18 terest.

19 (2) The following public records relating to government operations are exempt from dis-
20 closure under ORS 192.410 to 192.505 if the interests in nondisclosure outweigh the public
21 interest in disclosure:

22 (a) Records of a public body pertaining to litigation to which the public body is a party
23 if the complaint has been filed, or if the complaint has not been filed, if the public body shows
24 that such litigation is reasonably likely to occur. Nothing in this subsection shall limit any
25 right or opportunity granted by discovery or deposition statutes to a party to litigation or
26 potential litigation.

27 (b) Test questions, scoring keys and other data used to administer a licensing examina-
28 tion, employment, academic or other examination or testing procedure before the examina-
29 tion is given and if the examination is to be used again. Records establishing procedures for
30 and instructing persons administering, grading or evaluating an examination or testing pro-
31 cedure are included in this exemption, to the extent that disclosure would create a risk that
32 the result might be affected.

33 (c) Information relating to the appraisal of real estate prior to its acquisition.

34 (d) Information concerning the location of archaeological sites or objects as those terms
35 are defined in ORS 358.905, except if the governing body of an Indian tribe requests the in-
36 formation and the need for the information is related to that Indian tribe's cultural or reli-
37 gious activities. This exemption does not include information relating to a site that is all or
38 part of an existing, commonly known and publicized tourist facility or attraction.

39 (e) Information developed pursuant to ORS 496.004, 496.172 and 498.026 or ORS 496.192 and
40 564.100, regarding the habitat, location or population of any threatened species or endangered
41 species.

42 (f)(A) Writings prepared by or under the direction of faculty of public educational insti-
43 tutions, in connection with research, until publicly released, copyrighted or patented.

44 (B) Library or other research materials that are privately owned by faculty of public
45 educational institutions, regardless of whether used in research, teaching or publishing ac-

1 **tivities.**

2 **(g) Data and information provided by participants to mediation under ORS 36.256.**

3 **(h)(A) Audits or audit reports required of a telecommunications carrier. As used in this**
 4 **subparagraph, “audit or audit report” means any external or internal audit or audit report**
 5 **pertaining to a telecommunications carrier, as defined in ORS 133.721, or pertaining to a**
 6 **corporation having an affiliated interest, as defined in ORS 759.390, with a telecommuni-**
 7 **cations carrier that is intended to make the operations of the entity more efficient, accurate**
 8 **or compliant with applicable rules, procedures or standards, that may include self-criticism**
 9 **and that has been filed by the telecommunications carrier or affiliate under compulsion of**
 10 **state law. “Audit or audit report” does not mean an audit of a cost study that would be**
 11 **discoverable in a contested case proceeding and that is not subject to a protective order.**

12 **(B) Financial statements. As used in this subparagraph, “financial statement” means a**
 13 **financial statement of a nonregulated corporation having an affiliated interest, as defined in**
 14 **ORS 759.390, with a telecommunications carrier, as defined in ORS 133.721.**

15 **(i) Sensitive business records or financial or commercial information of the State Acci-**
 16 **dent Insurance Fund Corporation that is not customarily provided to business competitors.**
 17 **This exemption does not:**

18 **(A) Apply to the formulas for determining dividends to be paid to employers insured by**
 19 **the State Accident Insurance Fund Corporation;**

20 **(B) Apply to contracts for advertising, public relations or lobbying services or to docu-**
 21 **ments related to the formation of such contracts;**

22 **(C) Apply to group insurance contracts or to documents relating to the formation of such**
 23 **contracts, except that employer account records shall remain exempt from disclosure to the**
 24 **extent provided in section 41 of this 2011 Act; or**

25 **(D) Provide the basis for opposing the discovery of documents in litigation pursuant to**
 26 **the applicable rules of civil procedure.**

27 **(j) Computer programs developed by or for any public body for its own use. As used in**
 28 **this paragraph, “computer program” means a series of instructions or statements that per-**
 29 **mit the functioning of a computer system in a manner designed to provide storage, retrieval**
 30 **and manipulation of data from such computer system, and any associated documentation and**
 31 **source material that explain how to operate the computer program. “Computer program”**
 32 **does not include:**

33 **(A) The original data, including but not limited to numbers, text, voice, graphics and**
 34 **images;**

35 **(B) Analyses, compilations and other manipulated forms of the original data produced by**
 36 **use of the program; or**

37 **(C) The mathematical and statistical formulas that would be used if the manipulated**
 38 **forms of the original data were to be produced manually.**

39 **(k) Applications for competitive grants administered by a public body along with sup-**
 40 **porting materials, until the grant for which the application was made has been canceled or**
 41 **awarded by the public body.**

42 **(3) The following public records relating to government operations are exempt from dis-**
 43 **closure under ORS 192.410 to 192.505:**

44 **(a) Communications within a public body or between public bodies of an advisory nature**
 45 **to the extent that they cover other than purely factual materials and are preliminary to any**

1 final agency determination of policy or action. This exemption does not apply unless the
 2 public body shows that in the particular instance the public interest in encouraging frank
 3 communication between officials and employees of public bodies clearly outweighs the public
 4 interest in disclosure.

5 (b) Information submitted to a public body in confidence and not otherwise required by
 6 law to be submitted, where such information should reasonably be considered confidential,
 7 the public body has obliged itself in good faith not to disclose the information, and when the
 8 public interest would suffer by the disclosure.

9 (c) Information or records of the Department of Corrections, including the State Board
 10 of Parole and Post-Prison Supervision, to the extent that disclosure would interfere with the
 11 rehabilitation of a person in custody of the department or substantially prejudice or prevent
 12 the carrying out of the functions of the department, if the public interest in confidentiality
 13 clearly outweighs the public interest in disclosure.

14 (d) The work product of an attorney on behalf of a public body, showing the attorney's
 15 mental impressions, conclusions, opinions or legal theories.

16 (e) Public records or information described in sections 38 to 49 of this 2011 Act, furnished
 17 by the public body originally compiling, preparing or receiving them to any other public of-
 18 ficer or public body in connection with performance of the duties of the recipient, if the
 19 considerations originally giving rise to the confidential or exempt nature of the public re-
 20 cords or information remain applicable.

21 (f) Records of or submitted to the State Treasurer, the Oregon Investment Council or
 22 the agents of the treasurer or the council relating to active or proposed publicly traded in-
 23 vestments under ORS chapter 293, including but not limited to records regarding the acqui-
 24 sition, exchange or liquidation of the investments. For the purposes of this paragraph:

25 (A) The exemption does not apply to:

26 (i) Information in investment records solely related to the amount paid directly into an
 27 investment by, or returned from the investment directly to, the treasurer or council; or

28 (ii) The identity of the entity to which the amount was paid directly or from which the
 29 amount was received directly.

30 (B) An investment in a publicly traded investment is no longer active when acquisition,
 31 exchange or liquidation of the investment has been concluded.

32 (g)(A) Records of or submitted to the State Treasurer, the Oregon Investment Council,
 33 the Oregon Growth Account Board or the agents of the treasurer, council or board relating
 34 to actual or proposed investments under ORS chapter 293 or 348 in a privately placed in-
 35 vestment fund or a private asset, including but not limited to records regarding the solici-
 36 tation, acquisition, deployment, exchange or liquidation of the investments, including but
 37 not limited to:

38 (i) Due diligence materials that are proprietary to an investment fund, to an asset own-
 39 ership or to their respective investment vehicles.

40 (ii) Financial statements of an investment fund, an asset ownership or their respective
 41 investment vehicles.

42 (iii) Meeting materials of an investment fund, an asset ownership or their respective in-
 43 vestment vehicles.

44 (iv) Records containing information regarding the portfolio positions in which an invest-
 45 ment fund, an asset ownership or their respective investment vehicles invest.

1 (v) Capital call and distribution notices of an investment fund, an asset ownership or
2 their respective investment vehicles.

3 (vi) Investment agreements and related documents.

4 (B) The exemption under this paragraph does not apply to:

5 (i) The name, address and vintage year of each privately placed investment fund.

6 (ii) The dollar amount of the commitment made to each privately placed investment fund
7 since inception of the fund.

8 (iii) The dollar amount of cash contributions made to each privately placed investment
9 fund since inception of the fund.

10 (iv) The dollar amount, on a fiscal year-end basis, of cash distributions received by the
11 State Treasurer, the Oregon Investment Council, the Oregon Growth Account Board or the
12 agents of the treasurer, council or board from each privately placed investment fund.

13 (v) The dollar amount, on a fiscal year-end basis, of the remaining value of assets in a
14 privately placed investment fund attributable to an investment by the State Treasurer, the
15 Oregon Investment Council, the Oregon Growth Account Board or the agents of the treas-
16 urer, council or board.

17 (vi) The net internal rate of return of each privately placed investment fund since in-
18 ception of the fund.

19 (vii) The investment multiple of each privately placed investment fund since inception
20 of the fund.

21 (viii) The dollar amount of the total management fees and costs paid on an annual fiscal
22 year-end basis to each privately placed investment fund.

23 (ix) The dollar amount of cash profit received from each privately placed investment fund
24 on a fiscal year-end basis.

25 (x) Any record in the possession and control of the State Treasurer that contains infor-
26 mation about expenses incurred by or on behalf of employees of the State Treasury in con-
27 nection with actual or proposed investments under ORS chapter 293 or 348 in a privately
28 placed investment fund or private asset. Nothing in this subsubparagraph limits the appli-
29 cability of subparagraph (A) of this paragraph to other information contained in records de-
30 scribed in this paragraph.

31 (h) The monthly reports prepared and submitted under ORS 293.761 and 293.766 concern-
32 ing the Public Employees Retirement Fund and the Industrial Accident Fund may be uni-
33 formly treated as exempt from disclosure for a period of up to 90 days after the end of the
34 calendar quarter.

35 (i) Reports of unclaimed property filed by the holders of such property to the extent
36 permitted by ORS 98.352.

37 (j) Sensitive business records or financial or commercial information of the Oregon
38 Health and Science University that is not customarily provided to business competitors.

39 (k) Records of Oregon Health and Science University regarding candidates for the posi-
40 tion of president of the university.

41 (L) Trade secrets of Oregon Corrections Enterprises.

42 (m) Documents, materials or other information submitted to the Director of the De-
43 partment of Consumer and Business Services in confidence by a state, federal, foreign or
44 international regulatory or law enforcement agency or by the National Association of In-
45 surance Commissioners, its affiliates or subsidiaries under ORS 86A.095 to 86A.198, 86A.990,

1 86A.992, 697.005 to 697.095, 697.602 to 697.842, 705.137, 717.200 to 717.320, 717.900 or 717.905,
2 ORS chapter 59, 723, 725 or 726, the Bank Act or the Insurance Code when:

3 (A) The document, material or other information is received upon notice or with an
4 understanding that it is confidential or privileged under the laws of the jurisdiction that is
5 the source of the document, material or other information; and

6 (B) The director has obligated the Department of Consumer and Business Services not
7 to disclose the document, material or other information.

8 (4) Public records relating to government operations and made confidential by a statute
9 listed in this subsection are exempt from disclosure under ORS 192.410 to 192.505 to the ex-
10 tent provided by a statute listed in this subsection:

11 (a) ORS 36.220 and 36.230 (mediation records).

12 (b)(A) ORS 40.225 to 40.295 (privileged communications), where a public body is the holder
13 of the privilege.

14 (B) Subject to ORS 192.423, subparagraph (A) of this paragraph does not apply to factual
15 information compiled in a public record when:

16 (i) The basis for the claim of exemption is ORS 40.225;

17 (ii) The factual information is not prohibited from disclosure under any applicable state
18 or federal law, regulation or court order and is not otherwise exempt from disclosure under
19 ORS 192.410 to 192.505;

20 (iii) The factual information was compiled by or at the direction of an attorney as part
21 of an investigation on behalf of the public body in response to information of possible
22 wrongdoing by the public body;

23 (iv) The factual information was not compiled in preparation for litigation, arbitration
24 or an administrative proceeding that was reasonably likely to be initiated or that has been
25 initiated by or against the public body; and

26 (v) The holder of the privilege under ORS 40.225 has made or authorized a public state-
27 ment characterizing or partially disclosing the factual information compiled by or at the
28 attorney's direction.

29 (c) ORS 56.100 (electronic data processing programs and electronic media used for busi-
30 ness registry functions).

31 (d) ORS 173.230 (Legislative Counsel matters and related records).

32 (e) ORS 173.455 and 173.855 (draft measures in possession of the Legislative Fiscal Officer
33 or Legislative Revenue Officer).

34 (f) ORS 176.309 (disability evaluation panel records).

35 (g) ORS 192.650 and 192.660 (executive session minutes and related records).

36 (h) ORS 251.145 and 251.430 (voters' pamphlet records).

37 (i) ORS 291.223 (budget estimate records).

38 (j) ORS 421.213 (inmate transfer records).

39 (k) ORS 426.160 (commitment hearing records).

40 (L) ORS 657.665 (unemployment insurance records).

41 (m) ORS 657.732 (Interagency Shared Information System records).

42 (n) ORS 681.440 (State Board of Examiners for Speech-Language Pathology and Audiology
43 records).

44 (o) ORS 732.230, 734.650, 734.830 and 735.430 (insurance records).

45 (p) ORS 194.152 (journals of notarial acts).

1 (q) ORS 367.804 (Oregon Innovative Partnerships Program records).

2 (r) ORS 419A.100 and 419A.102 (local citizen review board records).

3 (s) ORS 9.080 (attorney professional liability fund claim records).

4 (t) ORS 777.793 and 777.795 (export trading corporation commercial or financial records).

5 (u) ORS 41.865 (emergency medical services records).

6 (v) ORS 367.804 (Oregon Innovative Partnership Program records).

7 (w) ORS 190.050 and 268.357 (intergovernmental group or metropolitan service district
8 information technology and geographic databases and systems).

9
10 (Federal Law)

11
12 **SECTION 47.** Any public records or information, the disclosure of which is prohibited by
13 federal law or regulations, is exempt from disclosure under ORS 192.410 to 192.505.

14
15 (Limitations on Exemptions)

16
17 **SECTION 48.** (1) Notwithstanding any provision of sections 38 to 49 of this 2011 Act or a
18 provision of law referenced in sections 38 to 49 of this 2011 Act, any exemption from disclo-
19 sure under sections 38 to 49 of this 2011 Act or referenced in sections 38 to 49 of this 2011
20 Act does not apply to any record that the public interest clearly requires to be disclosed in
21 the particular instance.

22 (2) Notwithstanding any other provision of law, the burden shall be on the person seeking
23 access under subsection (1) of this section to an otherwise exempt record to show that the
24 public interest clearly requires disclosure of the information in the particular instance.

25 (3) Subsections (1) and (2) of this section do not apply to:

26 (a) Records the public disclosure of which is prohibited by law other than sections 38, 39,
27 40, 41, 42, 43, 44, 45, 46 or 47 of this 2011 Act;

28 (b) Records that are privileged under ORS 40.225 to 40.295; or

29 (c) Information that is exempt under any provision of law containing or otherwise subject
30 to a different public interest balancing test than the public interest balancing tests set forth
31 in sections 38 to 49 of this 2011 Act.

32
33 (Effect of Parenthetical Material)

34
35 **SECTION 49.** Text set forth within parentheses in sections 38 to 49 of this 2011 Act is
36 provided for the convenience of the reader and may not operate to limit, expand or otherwise
37 alter the application of an exemption from disclosure of a public record.

38
39 **MODIFICATIONS OF EXEMPTIONS**

40
41 **SECTION 50.** ORS 176.309 is amended to read:

42 176.309. (1) As soon as possible after a disability evaluation panel is convoked, the panel shall
43 meet and examine whether the Governor is unable to discharge the duties of the office by reason
44 of a physical or mental disability. The members of the panel who are physicians, or other physicians
45 appointed by the panel, shall conduct a medical examination of the Governor if possible.

1 (2) Meetings of the disability evaluation panel are not subject to ORS 192.610 to 192.690. [*Except*
2 *for the panel's determination,*] Records of the panel are [*not*] subject to disclosure under ORS 192.410
3 to 192.505, **unless otherwise exempt from disclosure under sections 38 to 49 of this 2011 Act,**
4 **but only after the panel has made a final determination.**

5 **SECTION 51.** ORS 177.180 is amended to read:

6 177.180. (1) The Secretary of State shall designate one person employed by the Division of Audits
7 of the Office of the Secretary of State to be responsible for reports of waste, inefficiency or abuse
8 received through the Government Waste Hotline or received by the secretary through any other
9 method. The person designated under this section shall log all reports received.

10 (2) Notwithstanding any other provision of law, the identity of any person making a report under
11 ORS 177.170 is confidential. A report of waste, inefficiency or abuse received under ORS 177.170 and
12 any resulting investigation are confidential unless the Secretary of State finds that waste, ineffi-
13 ciency or abuse has occurred and reports these findings as provided under subsection (4) of this
14 section **or determines not to investigate following an initial investigation pursuant to sub-**
15 **section (3) of this section.** If the secretary [*of State*] finds that waste, inefficiency or abuse has
16 occurred, a report of waste, inefficiency or abuse and any resulting investigation are confidential
17 until the investigation described in subsection (3) of this section is complete. **A determination by**
18 **the secretary not to investigate following an initial investigation constitutes completion of**
19 **an investigation.**

20 (3) The secretary shall conduct an initial investigation of each report of waste, inefficiency or
21 abuse made under ORS 177.170. Following the initial investigation, the secretary shall determine
22 which reports shall be investigated further and assign the investigation to audit staff qualified to
23 conduct waste, inefficiency and abuse investigations. The secretary may audit any state agency if
24 it appears that officers or employees of the agency, or persons under contract with the agency, are
25 engaging in activities that constitute waste, inefficiency or abuse. Notwithstanding subsection (2)
26 of this section:

27 (a) If the secretary determines during the investigation that a violation of any provision of ORS
28 chapter 244 may be occurring or may have occurred, the secretary shall notify the Oregon Govern-
29 ment Ethics Commission of the potential violation; and

30 (b) If the secretary determines during the investigation that fraud or other criminal activity may
31 be occurring or may have occurred, the secretary shall notify the appropriate law enforcement
32 agency of the potential fraud or other criminal activity.

33 (4) Subject to the confidentiality requirements of subsection (2) of this section, upon completion
34 of an investigation under this section:

35 (a) The secretary shall determine in writing whether officers or employees of a state agency,
36 or persons under contract with a state agency, are engaging in activities that constitute waste, in-
37 efficiency or abuse. The written determination may include other information about the nature of
38 the investigation or the secretary's determination.

39 (b) If the secretary finds that waste, inefficiency or abuse has occurred, upon request of the
40 person who made the report under ORS 177.170, the secretary shall provide the person with a copy
41 of the determination and any other information included by the secretary.

42 (c) If the secretary determines that officers or employees of another state agency or public body,
43 or persons under contract with a state agency or public body, are involved in activities that con-
44 stitute waste, inefficiency or abuse, the secretary shall notify the state agency or public body of the
45 determination and deliver a copy of the secretary's findings to the agency or body.

1 (5) A written determination prepared by the secretary under this section is a public record.
 2 **Following the conclusion of the investigation or determination not to investigate beyond an**
 3 **initial investigation, all documents, information or other records related to the investigation**
 4 **are disclosable to the public under ORS 192.410 to 192.505 unless an exemption from disclo-**
 5 **sure applies, except that the identity of the person making a report under ORS 177.170 shall**
 6 **remain confidential if the interests in nondisclosure outweigh the public interest in disclo-**
 7 **sure.**

8 (6) The secretary shall prepare an annual report and submit it to each regular session of the
 9 Legislative Assembly and to appropriate interim committees of the Legislative Assembly. The report
 10 shall describe the number, nature and resolution of reports made under ORS 177.170 and shall
 11 identify savings resulting from improved efficiencies or the elimination of waste or abuse resulting
 12 from reports received and investigations conducted under this section and ORS 177.170. The report
 13 shall also list the number and nature of any positive reports received relating to state agencies,
 14 state employees or persons under contract with state agencies.

15 **SECTION 52.** ORS 285C.145 is amended to read:

16 285C.145. (1) The Legislative Assembly finds that the standard procedure for authorization in
 17 an enterprise zone inappropriately deters development or redevelopment of qualified buildings on
 18 speculation for subsequent sale or lease to eligible business firms.

19 (2) Notwithstanding ORS 285C.140 (1), a new building or structure or an addition to or modifi-
 20 cation of an existing building or structure may qualify for the exemption allowed under ORS
 21 285C.175 if the qualified property is leased or sold by an unrelated party to one or more authorized
 22 business firms after commencement of the construction, addition or modification but prior to use or
 23 occupancy of the qualified property.

24 (3) A business firm may not be considered authorized and is not qualified for the exemption al-
 25 lowed under ORS 285C.175 if the county assessor discovers prior to initially granting the exemption
 26 that the application for authorization was not submitted by the business firm in a timely manner in
 27 accordance with ORS 285C.140, except as allowed under subsection (2) of this section or ORS
 28 285C.140 (11) and (12).

29 (4) Records, communications or information submitted to a public body by a business firm for
 30 purposes of ORS 285C.050 to 285C.250 that [*identify a particular qualified property, that*] reveal in-
 31 vestment plans prior to authorization, that include the compensation the firm provides to firm
 32 employees[,] **or** that are described in [*ORS 192.502 (17) or that are submitted under ORS 285C.225*
 33 *or 285C.235*] **section 41 of this 2011 Act** are exempt from disclosure under ORS 192.410 to 192.505
 34 and, as appropriate, shall be shared among the county assessor, the zone sponsor, the Department
 35 of Revenue and the Oregon Business Development Department.

36 **SECTION 53.** ORS 583.490 is amended to read:

37 583.490. (1) A two-third majority vote by the producers voting in a referendum is required to
 38 pass or approve the subject matter contained in or the proposition put to the voters by the refer-
 39 endum.

40 (2) The results of any referendum held by the State Department of Agriculture shall be filed with
 41 the Secretary of State and shall not be considered to be part of its regulations. At least nine cal-
 42 endar months must elapse after the results of a referendum are filed with the Secretary of State,
 43 before another referendum can be held among producers relating to the same subject matter or
 44 proposition covered by the prior referendum.

45 (3) If the referendum is conducted by mail, the department in order to insure secret balloting,

1 shall use a double-envelope ballot system similar to the voting and referendum procedure approved
 2 and used by the Oregon State Bar Association as of June 4, 1963. Two envelopes and a ballot shall
 3 be furnished by the department to each producer authorized to vote in a referendum. A transmittal
 4 envelope shall contain only information necessary for the department to accurately determine the
 5 producer is authorized to vote. The producer shall mark a ballot and place it in a ballot envelope,
 6 both of which shall not contain or be identified in any way as to the name of the producer. Upon
 7 receipt of the transmittal envelope and after verification of the right of the producer to vote, the
 8 department shall remove the unopened sealed ballot envelope and drop it in a locked box until such
 9 time as all ballots are later counted as required by law. *[Only the final results of any referendum*
 10 *shall be a public record.]*

11 (4) No informalities or technicalities in the conduct of a referendum, or in any matters relating
 12 thereto, shall invalidate any referendum if it is fairly and reasonably conducted by the department.
 13 The provisions of ORS 583.001, 583.004, 583.021, 583.028 and 583.410 to 583.565 are intended as
 14 guideposts or standards, with the department authorized to enumerate and define persons who may
 15 sign petitions, who may vote in referendums and to establish additional procedures to carry out the
 16 provisions of ORS 583.480 to 583.490.

17 **SECTION 54.** ORS 830.490 is amended to read:

18 830.490. (1) All accident reports made to the State Marine Board shall be without prejudice to
 19 the individual reporting. *[and shall be for the confidential use of administrative and enforcement*
 20 *agencies only.]*

21 *[(2) The board upon written request, shall, if available, disclose the following information to any*
 22 *party involved in the accident, or, in the event of the party's death, to any member of the party's family,*
 23 *or to the party's personal representatives:]*

24 *[(a) The identity of the owner, operator, occupants and the identifying number of a boat involved*
 25 *in an accident;]*

26 *[(b) The names of any companies insuring the owner or operator; and]*

27 *[(c) The identity of any witnesses to the accident.]*

28 *[(3) No such report shall be used as evidence in any trial, civil or criminal, arising out of the ac-*
 29 *cident. The board shall furnish, upon demand of any person who has or claims to have made such a*
 30 *report or upon demand of any court, a certificate showing that a specified accident report has or has*
 31 *not been made to the board, solely to prove a compliance or a failure to comply with the requirement*
 32 *that such a report be made to the board.]*

33 *[(4)]* (2) The board shall compile and may analyze all accident reports and shall publish annually,
 34 or at more frequent intervals, statistical information relating to boat accidents.

35 *[(5) In response to any request duly made by an authorized official or agency of the United States,*
 36 *or in compliance with any federal requirement, the board shall transmit any information compiled or*
 37 *otherwise available to the board from the accident reports required by ORS 830.480 and 830.485.]*

38
 39 **CONFORMING AMENDMENTS**

40
 41 **SECTION 55.** ORS 21.020 is amended to read:

42 21.020. (1) The State Court Administrator shall collect a fee of \$1 for affixing the seal of the
 43 court to a document.

44 (2) The Chief Justice of the Supreme Court by order may establish or authorize fees for copies
 45 of records of the appellate courts and the administrative offices of the State Court Administrator,

1 for services relating to those records and for other services that the appellate courts or adminis-
 2 trative offices of the State Court Administrator are authorized or required to perform for which no
 3 fees are specifically provided by law. The fee established by the Chief Justice for paper copies of
 4 records may not exceed 25 cents per page, except for records for which additional services are re-
 5 quired. If additional services are required, fees for providing the records are subject to [ORS
 6 192.440] **section 22 of this 2011 Act.**

7 **SECTION 56.** ORS 25.020 is amended to read:

8 25.020. (1) Support payments for or on behalf of any person that are ordered, registered or filed
 9 under this chapter or ORS chapter 107, 108, 109, 110, 416, 419B or 419C, unless otherwise authorized
 10 by ORS 25.030, shall be made to the Department of Justice as the state disbursement unit:

11 (a) During periods for which support is assigned under ORS 412.024, 418.032, 419B.406 or
 12 419C.597;

13 (b) As provided by rules adopted under ORS 180.345, when public assistance is provided to a
 14 person who receives or has a right to receive support payments on the person's own behalf or on
 15 behalf of another person;

16 (c) After the assignment of support terminates for as long as amounts assigned remain owing;

17 (d) For any period during which support enforcement services are provided under ORS 25.080;

18 (e) When ordered by the court under ORS 419B.400;

19 (f) When a support order that is entered or modified on or after January 1, 1994, includes a
 20 provision requiring the obligor to pay support by income withholding; or

21 (g) When ordered by the court under any other applicable provision of law.

22 (2)(a) The Department of Justice shall disburse payments, after lawful deduction of fees and in
 23 accordance with applicable statutes and rules, to those persons and entities that are lawfully enti-
 24 tled to receive such payments.

25 (b) During a period for which support is assigned under ORS 412.024, for an obligee described
 26 in subsection (1)(b) of this section, the department shall disburse to the obligee, from child support
 27 collected each month, \$50 for each child up to a maximum of \$200 per family.

28 (3)(a) When the administrator is providing support enforcement services under ORS 25.080, the
 29 obligee may enter into an agreement with a collection agency, as defined in ORS 697.005, for as-
 30 sistance in collecting child support payments.

31 (b) The Department of Justice:

32 (A) Shall disburse support payments, to which the obligee is legally entitled, to the collection
 33 agency if the obligee submits the completed form referred to in paragraph (c)(A) of this subsection
 34 to the department;

35 (B) May reinstate disbursements to the obligee if:

36 (i) The obligee requests that disbursements be made directly to the obligee;

37 (ii) The collection agency violates any provision of this subsection; or

38 (iii) The Department of Consumer and Business Services notifies the Department of Justice that
 39 the collection agency is in violation of the rules adopted under ORS 697.086;

40 (C) Shall credit the obligor's account for the full amount of each support payment received by
 41 the department and disbursed to the collection agency; and

42 (D) Shall develop the form referred to in paragraph (c)(A) of this subsection, which shall include
 43 a notice to the obligee printed in type size equal to at least 12-point type that the obligee may be
 44 eligible for support enforcement services from the department or the district attorney without pay-
 45 ing the interest or fee that is typically charged by a collection agency.

- 1 (c) The obligee shall:
- 2 (A) Provide to the department, on a form approved by the department, information about the
3 agreement with the collection agency; and
- 4 (B) Promptly notify the department when the agreement is terminated.
- 5 (d) The collection agency:
- 6 (A) May provide investigative and location services to the obligee and disclose relevant infor-
7 mation from those services to the administrator for purposes of providing support enforcement ser-
8 vices under ORS 25.080;
- 9 (B) May not charge interest or a fee for its services exceeding 29 percent of each support pay-
10 ment received unless the collection agency, if allowed by the terms of the agreement between the
11 collection agency and the obligee, hires an attorney to perform legal services on behalf of the
12 obligee;
- 13 (C) May not initiate, without written authorization from the administrator, any enforcement
14 action relating to support payments on which support enforcement services are provided by the ad-
15 ministrator under ORS 25.080; and
- 16 (D) Shall include in the agreement with the obligee a notice printed in type size equal to at least
17 12-point type that provides information on the fees, penalties, termination and duration of the
18 agreement.
- 19 (e) The administrator may use information disclosed by the collection agency to provide support
20 enforcement services under ORS 25.080.
- 21 (4) The Department of Justice may immediately transmit to the obligee payments received from
22 any obligor without waiting for payment or clearance of the check or instrument received if the
23 obligor has not previously tendered any payment by a check or instrument that was not paid or was
24 dishonored.
- 25 (5) The Department of Justice shall notify each obligor and obligee by mail when support pay-
26 ments shall be made to the department and when the obligation to make payments in this manner
27 shall cease.
- 28 (6)(a) The administrator shall provide information about a child support account directly to a
29 party to the support order regardless of whether the party is represented by an attorney. As used
30 in this subsection, "information about a child support account" means the:
- 31 (A) Date of issuance of the support order.
- 32 (B) Amount of the support order.
- 33 (C) Dates and amounts of payments.
- 34 (D) Dates and amounts of disbursements.
- 35 (E) Payee of any disbursements.
- 36 (F) Amount of any arrearage.
- 37 (G) Source of any collection, to the extent allowed by federal law.
- 38 (b) Nothing in this subsection limits the information the administrator may provide by law to a
39 party who is not represented by an attorney.
- 40 (7) Any pleading for the entry or modification of a support order must contain a statement that
41 payment of support under a new or modified order will be by income withholding unless an excep-
42 tion to payment by income withholding is granted under ORS 25.396.
- 43 (8)(a) Except as provided in paragraphs (d) and (e) of this subsection, a judgment or order es-
44 tablishing paternity or including a provision concerning support must contain:
- 45 (A) The residence, mailing or contact address, Social Security number, telephone number and

1 driver license number of each party;

2 (B) The name, address and telephone number of all employers of each party;

3 (C) The names and dates of birth of the joint children of the parties; and

4 (D) Any other information required by rule adopted by the Chief Justice of the Supreme Court
5 under ORS 1.002.

6 (b) The judgment or order shall also include notice that the obligor and obligee:

7 (A) Must inform the court and the administrator in writing of any change in the information
8 required by this subsection within 10 days after the change; and

9 (B) May request that the administrator review the amount of support ordered after three years,
10 or such shorter cycle as determined by rule of the Department of Justice, or at any time upon a
11 substantial change of circumstances.

12 (c) The administrator may require of the parties any additional information that is necessary for
13 the provision of support enforcement services under ORS 25.080.

14 (d)(A) Upon a finding, which may be made ex parte, that the health, safety or liberty of a party
15 or child would unreasonably be put at risk by the disclosure of information specified in this sub-
16 section or by the disclosure of other information concerning a child or party to a paternity or sup-
17 port proceeding or if an existing order so requires, a court or administrator or administrative law
18 judge, when the proceeding is administrative, shall order that the information not be contained in
19 any document provided to another party or otherwise disclosed to a party other than the state.

20 (B) The Department of Justice shall adopt rules providing for similar confidentiality for infor-
21 mation described in subparagraph (A) of this paragraph that is maintained by an entity providing
22 support enforcement services under ORS 25.080.

23 (e) The Chief Justice of the Supreme Court may, in consultation with the Department of Justice,
24 adopt rules under ORS 1.002 to designate information specified in this subsection as confidential and
25 require that the information be submitted through an alternate procedure to ensure that the infor-
26 mation is exempt from public disclosure under [ORS 192.502] **sections 38 to 49 of this 2011 Act.**

27 (9)(a) Except as otherwise provided in paragraph (b) of this subsection, in any subsequent child
28 support enforcement action, the court or administrator, upon a showing of diligent effort made to
29 locate the obligor or obligee, may deem due process requirements to be met by mailing notice to the
30 last-known residential, mailing or employer address or contact address as provided in ORS 25.085.

31 (b) Service of an order directing an obligor to appear in a contempt proceeding is subject to
32 ORS 33.015 to 33.155.

33 (10) Subject to ORS 25.030, this section, to the extent it imposes any duty or function upon the
34 Department of Justice, shall be deemed to supersede any provisions of ORS chapters 107, 108, 109,
35 110, 416, 419A, 419B and 419C that would otherwise impose the same duties or functions upon the
36 county clerk or the Department of Human Services.

37 (11) Except as provided for in subsections (12), (13) and (14) of this section, credit may not be
38 given for payments not made to the Department of Justice as required under subsection (1) of this
39 section.

40 (12) The Department of Justice shall give credit for payments not made to the department:

41 (a) When payments are not assigned to this or another state and the obligee and obligor agree
42 in writing that specific payments were made and should be credited;

43 (b) When payments are assigned to the State of Oregon, the obligor and obligee make sworn
44 written statements that specific payments were made, canceled checks or other substantial evidence
45 is presented to corroborate their statements and the obligee has been given prior written notice of

1 any potential criminal or civil liability that may attach to an admission of the receipt of assigned
2 support;

3 (c) When payments are assigned to another state and that state verifies that payments not paid
4 to the department were received by the other state; or

5 (d) As provided by rule adopted under ORS 180.345.

6 (13) An obligor may apply to the Department of Justice for credit for payments made other than
7 to the Department of Justice. If the obligee or other state does not provide the agreement, sworn
8 statement or verification required by subsection (12) of this section, credit may be given pursuant
9 to order of an administrative law judge assigned from the Office of Administrative Hearings after
10 notice and opportunity to object and be heard are given to both obligor and obligee. Notice shall
11 be served upon the obligee as provided by ORS 25.085. Notice to the obligor may be by regular mail
12 at the address provided in the application for credit. A hearing conducted under this subsection is
13 a contested case hearing and ORS 183.413 to 183.470 apply. Any party may seek a hearing de novo
14 in the circuit court.

15 (14) Nothing in this section precludes the Department of Justice from giving credit for payments
16 not made to the department when there has been a judicially determined credit or satisfaction or
17 when there has been a satisfaction of support executed by the person to whom support is owed.

18 (15) The Department of Justice shall adopt rules that:

19 (a) Direct how support payments that are made through the department are to be applied and
20 disbursed; and

21 (b) Are consistent with federal regulations.

22 **SECTION 57.** ORS 40.270 is amended to read:

23 40.270. A public officer shall not be examined as to public records determined to be exempt from
24 disclosure under [ORS 192.501 to 192.505] **sections 38 to 49 of this 2011 Act.**

25 **SECTION 58.** ORS 65.805 is amended to read:

26 65.805. (1) The notice to the Attorney General required by ORS 65.803 must be accompanied by
27 any application fee imposed under ORS 65.813 (3) and must contain a detailed statement describing
28 the proposed transaction along with any other information the Attorney General requires by rule.

29 (2)(a) Upon a showing satisfactory to the Attorney General by a party to the proposed trans-
30 action, any material required to be submitted to the Attorney General under subsection (1) of this
31 section is a trade secret under [ORS 192.501] **section 41 (3) of this 2011 Act.** The Attorney General
32 shall classify the material as confidential and the material shall not be disclosed except as provided
33 in paragraph (b) of this subsection unless the Attorney General determines that the material is
34 necessary to the determination of an issue being considered at a public hearing as provided in ORS
35 65.807.

36 (b) To the extent that the material, or any portion thereof, would otherwise qualify as a trade
37 secret under [ORS 192.501] **section 41 (3) of this 2011 Act,** no action taken by the Attorney Gen-
38 eral, any authorized employee of the Department of Justice or any expert or consultant employed
39 pursuant to ORS 65.813 in inspecting or reviewing such information shall affect its status as a trade
40 secret.

41 **SECTION 59.** ORS 94.974 is amended to read:

42 94.974. (1) Except in a transaction exempt under ORS 94.962, any person who sells a membership
43 camping contract shall provide the prospective purchaser with those written disclosures required
44 under ORS 94.959. Disclosures shall be substantially accurate and complete and made to a prospec-
45 tive purchaser before the prospective purchaser signs a membership camping contract or gives any

1 consideration for the purchase of such contract. The person shall take a receipt from the prospective
 2 purchaser upon delivery of the disclosures. Each receipt shall be kept on file by the membership
 3 camping operator within this state subject to inspection by the Real Estate Commissioner or the
 4 commissioner's authorized representative for a period of three years from the date the receipt is
 5 taken.

6 (2) Records of the sale of membership camping contracts shall be subject to inspection by the
 7 commissioner or the commissioner's authorized representative. Any list identifying campground
 8 members obtained by the commissioner or the commissioner's authorized representative shall be
 9 exempt from disclosure, as trade secrets, to any person, public body or state agency, under [ORS
 10 192.501] **section 41 (3) of this 2011 Act.**

11 **SECTION 60.** ORS 144.130 is amended to read:

12 144.130. (1) Notwithstanding the provisions of ORS 179.495, prior to a parole hearing or other
 13 personal interview, each prisoner shall have access to the written materials which the board shall
 14 consider with respect to the release of the prisoner on parole, with the exception of materials ex-
 15 empt from disclosure under [ORS 192.502 (5)] **section 46 (3)(c) of this 2011 Act.**

16 (2) The board and the Director of the Department of Corrections shall jointly adopt procedures
 17 for a prisoner's access to written materials pursuant to this section.

18 **SECTION 61.** ORS 146.035 is amended to read:

19 146.035. (1) There shall be established within the Department of State Police the State Medical
 20 Examiner's office for the purpose of directing and supporting the state death investigation program.

21 (2) The State Medical Examiner shall manage all aspects of the State Medical Examiner's pro-
 22 gram.

23 (3) Subject to the State Personnel Relations Law, the State Medical Examiner may employ or
 24 discharge other personnel of the State Medical Examiner's office.

25 (4) The State Medical Examiner's office shall:

26 (a) File and maintain appropriate reports on all deaths requiring investigation.

27 (b) Maintain an accurate list of all active district medical examiners, assistant district medical
 28 examiners and designated pathologists.

29 (c) Transmit monthly to the Department of Transportation a report for the preceding calendar
 30 month of all information obtained under ORS 146.113.

31 (5) Notwithstanding [ORS 192.501 (36)] **section 40 (7)(a) of this 2011 Act:**

32 (a) Any parent, spouse, sibling, child or personal representative of the deceased, or any person
 33 who may be criminally or civilly liable for the death, or their authorized representatives respec-
 34 tively, may examine and obtain copies of any medical examiner's report, autopsy report or labora-
 35 tory test report ordered by a medical examiner under ORS 146.117.

36 (b) The system described in ORS 192.517 (1) shall have access to reports described in this sub-
 37 section as provided in ORS 192.517.

38 **SECTION 62.** ORS 147.421 is amended to read:

39 147.421. (1) If a public body is the custodian of any of the following information, upon the re-
 40 quest of the victim, the public body shall provide to the victim any of the following information of
 41 which it is the custodian and that is about the defendant or convicted criminal:

42 (a) The conviction and sentence;

43 (b) Criminal history;

44 (c) Imprisonment; and

45 (d) Future release from physical custody.

1 (2) A public body, in its discretion, may provide the requested information by furnishing the
 2 victim with copies of public records. The public body may charge the victim [*its actual cost*] **fees** for
 3 making public records available as provided in [*ORS 192.440 (4)*] **section 22 of this 2011 Act.**

4 (3) As used in this section:

5 (a) “Criminal history” means a description of the prior arrests, convictions and sentences of the
 6 person.

7 (b) “Future release” means the projected or scheduled date of release of the person from con-
 8 finement, the name and location of the correctional facility from which the person is to be released
 9 and the community where the person is scheduled to reside upon release.

10 (c) “Imprisonment” means the name and location of the correctional facility in which the person
 11 is confined.

12 (d) “Public body” has the meaning given that term in ORS 192.410.

13 **SECTION 63.** ORS 161.336 is amended to read:

14 161.336. (1) If the Psychiatric Security Review Board determines that the person presents a
 15 substantial danger to others but can be adequately controlled with supervision and treatment if
 16 conditionally released and that necessary supervision and treatment are available, the board may
 17 order the person conditionally released, subject to those supervisory orders of the board as are in
 18 the best interests of justice, the protection of society and the welfare of the person. The board may
 19 designate any person or state, county or local agency the board considers capable of supervising the
 20 person upon release, subject to those conditions as the board directs in the order for conditional
 21 release. Prior to the designation, the board shall notify the person or agency to whom conditional
 22 release is contemplated and provide the person or agency an opportunity to be heard before the
 23 board. After receiving an order entered under this section, the person or agency designated shall
 24 assume supervision of the person pursuant to the direction of the board.

25 (2) Conditions of release contained in orders entered under this section may be modified from
 26 time to time and conditional releases may be terminated by order of the board as provided in ORS
 27 161.351.

28 (3) For purposes of this section, a person affected by a mental disease or defect in a state of
 29 remission is considered to have a mental disease or defect requiring supervision when the disease
 30 may, with reasonable medical probability, occasionally become active and, when active, render the
 31 person a danger to others. The person may be continued on conditional release by the board as
 32 provided in this section.

33 (4)(a) As a condition of release, the board may require the person to report to any state or local
 34 mental health facility for evaluation. Whenever medical, psychiatric or psychological treatment is
 35 recommended, the board may order the person, as a condition of release, to cooperate with and ac-
 36 cept the treatment from the facility.

37 (b) The facility to which the person has been referred for evaluation shall perform the evalu-
 38 ation and submit a written report of its findings to the board. If the facility finds that treatment of
 39 the person is appropriate, it shall include its recommendations for treatment in the report to the
 40 board.

41 (c) Whenever treatment is provided by the facility, it shall furnish reports to the board on a
 42 regular basis concerning the progress of the person.

43 (d) Copies of all reports submitted to the board pursuant to this section shall be furnished to the
 44 person and the person’s counsel. The confidentiality of these reports is determined pursuant to [*ORS*
 45 *192.501 to 192.505*] **sections 38 to 49 of this 2011 Act.**

1 (e) The facility shall comply with any other conditions of release prescribed by order of the
2 board.

3 (5) If at any time while the person is under the jurisdiction of the board it appears to the board
4 or its chairperson that the person has violated the terms of the conditional release or that the
5 mental health of the individual has changed, the board or its chairperson may order the person re-
6 turned for evaluation or treatment to a state hospital designated by the Oregon Health Authority
7 if the person is at least 18 years of age, or to a secure intensive community inpatient facility des-
8 ignated by the authority if the person is under 18 years of age. A written order of the board, or its
9 chairperson on behalf of the board, is sufficient warrant for any law enforcement officer to take into
10 custody such person and transport the person accordingly. A sheriff, municipal police officer,
11 constable, parole and probation officer, prison official or other peace officer shall execute the order,
12 and the person shall be returned as soon as practicable to the custody of the authority. Within 20
13 days following the return of the person to the custody of the authority, the board shall conduct a
14 hearing. Notice of the time and place of the hearing shall be given to the person, the attorney rep-
15 representing the person and the Attorney General. The board may continue the person on conditional
16 release or, if it finds by a preponderance of the evidence that the person is affected by mental dis-
17 ease or defect and presents a substantial danger to others and cannot be adequately controlled if
18 conditional release is continued, it may order the person committed to a state hospital designated
19 by the authority if the person is at least 18 years of age, or to a secure intensive community inpa-
20 tient facility designated by the authority if the person is under 18 years of age. The state must prove
21 by a preponderance of the evidence the person's unfitness for conditional release. A person in cus-
22 tody pursuant to this subsection has the same rights as any person appearing before the board
23 pursuant to ORS 161.346.

24 (6) The community mental health program director, the director of the facility providing treat-
25 ment to a person on conditional release, any peace officer or any person responsible for the super-
26 vision of a person on conditional release may take a person on conditional release into custody or
27 request that the person be taken into custody if there is reasonable cause to believe the person is
28 a substantial danger to others because of mental disease or defect and that the person is in need
29 of immediate care, custody or treatment. Any person taken into custody pursuant to this subsection
30 shall be transported as soon as practicable to a state hospital designated by the authority if the
31 person is at least 18 years of age, or to a secure intensive community inpatient facility designated
32 by the authority if the person is under 18 years of age. A person taken into custody under this
33 subsection has the same rights as any person appearing before the board pursuant to ORS 161.346.

34 (7)(a) Any person conditionally released under this section may apply to the board for discharge
35 from or modification of an order of conditional release on the ground that the person is no longer
36 affected by mental disease or defect or, if still so affected, no longer presents a substantial danger
37 to others and no longer requires supervision, medication, care or treatment. Notice of the hearing
38 on an application for discharge or modification of an order of conditional release shall be made to
39 the Attorney General. The applicant, at the hearing pursuant to this subsection, must prove by a
40 preponderance of the evidence the applicant's fitness for discharge or modification of the order of
41 conditional release. Applications by the person for discharge or modification of conditional release
42 shall not be filed more often than once every six months.

43 (b) Upon application by any person or agency responsible for supervision or treatment pursuant
44 to an order of conditional release, the board shall conduct a hearing to determine if the conditions
45 of release shall be continued, modified or terminated. The application shall be accompanied by a

1 report setting forth the facts supporting the application.

2 (8) The total period of commitment and conditional release ordered pursuant to this section may
 3 not exceed the maximum sentence provided by statute for the crime for which the person was found
 4 guilty except for insanity.

5 (9) The board shall maintain and keep current the medical, social and criminal history of all
 6 persons committed to its jurisdiction. The confidentiality of records maintained by the board shall
 7 be determined pursuant to [ORS 192.501 to 192.505] **sections 38 to 49 of this 2011 Act.**

8 (10) In determining whether a person should be committed to a state hospital or to a secure
 9 intensive community inpatient facility, conditionally released or discharged, the board shall have as
 10 its primary concern the protection of society.

11 **SECTION 64.** ORS 166.274, as amended by section 19, chapter 826, Oregon Laws 2009, and
 12 section 2, chapter 86, Oregon Laws 2010, is amended to read:

13 166.274. (1) A person barred from possessing or purchasing a firearm may file a petition for relief
 14 from the bar in accordance with subsection (2) of this section if:

15 (a) The person is barred from possessing a firearm under ORS 166.250 (1)(c)(A) to (C) or 166.270;
 16 or

17 (b) The person is barred from purchasing a firearm under ORS 166.470 (1)(a) to (d) or (g).

18 (2) A petition for relief described in this section must be filed in the circuit court in the
 19 petitioner's county of residence.

20 (3) A person may apply once per calendar year for relief under the provisions of this section.

21 (4)(a) A person petitioning for relief under this section shall serve a copy of the petition on:

22 (A) The city chief of police if the court in which the petition is filed is located in a city; or

23 (B) The sheriff of the county in which the court is located.

24 (b) The copy of the petition shall be served on the chief of police or sheriff at the same time the
 25 petition is filed at the court.

26 (5)(a) When a petition is denied, the judge shall cause that information to be entered into the
 27 Department of State Police computerized criminal history files.

28 (b) When a petition is granted, the judge shall cause that information and a fingerprint card of
 29 the petitioner to be entered into the Department of State Police computerized criminal history files.
 30 If, after a petition is granted, the petitioner is arrested and convicted of a crime that would dis-
 31 qualify the petitioner from purchasing or possessing a firearm, the Department of State Police shall
 32 notify the court that granted relief under this section. The court shall review the order granting
 33 relief and determine whether to rescind the order. The Department of State Police may charge a
 34 reasonable fee[, *under ORS 192.440,*] for the entry and maintenance of information under this sec-
 35 tion.

36 (6) Notwithstanding the provisions of ORS 9.320, a corporation, the state or any city, county,
 37 district or other political subdivision or public corporation in this state, without appearance by at-
 38 torney, may appear as a party to an action under this section.

39 (7) If the petitioner seeks relief from the bar on possessing or purchasing a firearm, relief shall
 40 be granted when the petitioner demonstrates, by clear and convincing evidence, that the petitioner
 41 does not pose a threat to the safety of the public or the petitioner.

42 (8) A person barred from possessing or purchasing a firearm because the person, while a minor,
 43 was found to be within the jurisdiction of the juvenile court for committing an act which, if com-
 44 mitted by an adult, would have constituted a felony or a misdemeanor involving violence, is not el-
 45 igible to petition for relief under this section until more than four years have passed since the

1 person was discharged from the jurisdiction of the juvenile court.

2 (9) Petitions filed under this section shall be heard and disposed of within 15 judicial days of
 3 filing or as soon as is practicable thereafter, but not more than 30 days thereafter. The judge shall
 4 then make findings and conclusions and issue a judgment based on the findings and conclusions in
 5 accordance with the requirements of law.

6 (10) Filing fees shall be as for any civil action filed in the court.

7 (11)(a) Initial appeals of petitions shall be heard de novo.

8 (b) Any party to a judgment under this subsection may appeal to the Court of Appeals in the
 9 same manner as for any other civil action.

10 (c) If the governmental entity files an appeal under this subsection and does not prevail, it shall
 11 be ordered to pay the attorney fees for the prevailing party.

12 **SECTION 65.** ORS 166.274, as amended by sections 19 and 20, chapter 826, Oregon Laws 2009,
 13 and section 3, chapter 86, Oregon Laws 2010, is amended to read:

14 166.274. (1) A person barred from possessing a firearm under ORS 166.250 (1)(c)(A) to (E) or
 15 166.270 or barred from purchasing a firearm under ORS 166.470 (1)(a) to (g) may file a petition for
 16 relief from the bar in the circuit court in the petitioner's county of residence.

17 (2) A person may apply once per calendar year for relief under the provisions of this section.

18 (3)(a) A person petitioning for relief under this section shall serve a copy of the petition on:

19 (A) The city chief of police if the court in which the petition is filed is located in a city; or

20 (B) The sheriff of the county in which the court is located.

21 (b) The copy of the petition shall be served on the chief of police or sheriff at the same time the
 22 petition is filed at the court.

23 (4)(a) When a petition is denied, the judge shall cause that information to be entered into the
 24 Department of State Police computerized criminal history files.

25 (b) When a petition is granted, the judge shall cause that information and a fingerprint card of
 26 the petitioner to be entered into the Department of State Police computerized criminal history files.
 27 If, after a petition is granted, the petitioner is arrested and convicted of a crime that would dis-
 28 qualify the petitioner from purchasing or possessing a firearm, the Department of State Police shall
 29 notify the court that granted relief under this section. The court shall review the order granting
 30 relief and determine whether to rescind the order. The Department of State Police may charge a
 31 reasonable fee[, *under ORS 192.440,*] for the entry and maintenance of information under this sec-
 32 tion.

33 (5) Notwithstanding the provisions of ORS 9.320, a corporation, the state or any city, county,
 34 district or other political subdivision or public corporation in this state, without appearance by at-
 35 torney, may appear as a party to an action under this section.

36 (6) If the petitioner seeks relief from the bar on possessing or purchasing a firearm, relief shall
 37 be granted when the petitioner demonstrates, by clear and convincing evidence, that the petitioner
 38 does not pose a threat to the safety of the public or the petitioner.

39 (7) A person barred from possessing or purchasing a firearm because the person, while a minor,
 40 was found to be within the jurisdiction of the juvenile court for committing an act which, if com-
 41 mitted by an adult, would have constituted a felony or a misdemeanor involving violence, is not el-
 42 igible to petition for relief under this section until more than four years have passed since the
 43 person was discharged from the jurisdiction of the juvenile court.

44 (8) Petitions filed under this section shall be heard and disposed of within 15 judicial days of
 45 filing or as soon as is practicable thereafter, but not more than 30 days thereafter. The judge shall

1 then make findings and conclusions and issue a judgment based on the findings and conclusions in
2 accordance with the requirements of law.

3 (9) Filing fees shall be as for any civil action filed in the court.

4 (10)(a) Initial appeals of petitions shall be heard de novo.

5 (b) Any party to a judgment under this subsection may appeal to the Court of Appeals in the
6 same manner as for any other civil action.

7 (c) If the governmental entity files an appeal under this subsection and does not prevail, it shall
8 be ordered to pay the attorney fees for the prevailing party.

9 **SECTION 66.** ORS 181.548 is amended to read:

10 181.548. (1) Notwithstanding the provisions of ORS 192.410 to 192.505 relating to public records
11 the fingerprints, photographs, records and reports compiled under ORS 137.225, 181.010, 181.511,
12 181.521, 181.555, 805.060 and this section are confidential and exempt from public inspection except:

13 (a) As ordered by a court;

14 (b) As provided in rules adopted by the Department of State Police under ORS chapter 183 to
15 govern access to and use of computerized criminal offender information including access by an in-
16 dividual for review or challenge of the individual's own records;

17 (c) As provided in ORS 181.555 and 181.560;

18 (d) As provided in ORS 181.525; or

19 (e) As provided in ORS 418.747 (5).

20 (2) The records of the department of crime reports to the department and of arrests made by the
21 department, however, shall not be confidential and shall be available in the same manner as the
22 records of arrest and reports of crimes of other law enforcement agencies under [*ORS 192.501 (3)*]
23 **section 38 (2) of this 2011 Act.**

24 **SECTION 67.** ORS 181.560 is amended to read:

25 181.560. (1) When a person or agency, other than a criminal justice agency or a law enforcement
26 agency, pursuant to ORS 181.555 (2), requests from the Department of State Police criminal offender
27 information regarding an individual, if the department's compiled criminal offender information on
28 the individual contains records of any conviction, or of any arrest less than one year old on which
29 there has been no acquittal or dismissal, the department shall respond to the request as follows:

30 (a) The department shall send prompt written notice of the request to the individual about whom
31 the request has been made. The department shall address the notice to the individual's last address
32 known to the department and to the individual's address, if any, supplied by the person making the
33 request. However, the department has no obligation to insure that the addresses are current. The
34 notice shall state that the department has received a request for information concerning the indi-
35 vidual and shall identify the person or agency making the request. Notice to the individual about
36 whom the request is made shall include:

37 (A) A copy of all information to be supplied to the person or agency making the request;

38 (B) Notice to the individual of the manner in which the individual may become informed of the
39 procedures adopted under ORS 181.555 (3) for challenging inaccurate criminal offender information;
40 and

41 (C) Notice to the individual of the manner in which the individual may become informed of
42 rights, if any, under Title VII of the Civil Rights Act of 1964, and notice that discrimination by an
43 employer on the basis of arrest records alone may violate federal civil rights law and that the in-
44 dividual may obtain further information by contacting the Bureau of Labor and Industries.

45 (b) Fourteen days after sending notice to the individual about whom the request is made, the

1 department shall deliver to the person or agency making the request the following information if
2 held regarding any convictions and any arrests less than one year old on which the records show
3 no acquittal or dismissal:

4 (A) Date of arrest.

5 (B) Offense for which arrest was made.

6 (C) Arresting agency.

7 (D) Court of origin.

8 (E) Disposition, including sentence imposed, date of parole if any and parole revocations if any.

9 (c) The department shall deliver only the data authorized under paragraph (b) of this subsection.

10 (d) The department shall inform the person or agency requesting the criminal offender informa-
11 tion that the department's response is being furnished only on the basis of similarity of names and
12 description and that identification is not confirmed by fingerprints.

13 (2) If the department holds no criminal offender information on an individual, or the
14 department's compiled criminal offender information on the individual consists only of nonconviction
15 data, the department shall respond to a request under this section that the individual has no crimi-
16 nal record and shall release no further information.

17 (3) The department shall keep a record of all persons and agencies making inquiries under ORS
18 181.555 (2) and shall keep a record of the names of the individuals about whom such persons or
19 agencies are inquiring, regardless of whether the department has compiled any criminal offender
20 information on the individuals. These records shall be public records and shall be available for in-
21 spection under ORS 192.410 to 192.505.

22 (4) Nothing in ORS 181.066, 181.548, 181.555 or this section is intended to prevent the depart-
23 ment from charging a reasonable fee, pursuant to [ORS 192.440] **section 22 of this 2011 Act**, for
24 responding to a criminal offender information inquiry or for making information available under ORS
25 181.555 or this section.

26 **SECTION 68.** ORS 181.854 is amended to read:

27 181.854. (1) As used in this section:

28 (a) "Public body" has the meaning given that term in ORS 192.410.

29 (b) "Public safety employee" means a certified reserve officer, corrections officer, parole and
30 probation officer, police officer or youth correction officer as those terms are defined in ORS
31 181.610.

32 (2) A public body may not disclose a photograph of a public safety employee of the public body
33 without the written consent of the employee. This subsection does not apply to the use by the public
34 body of a photograph of a public safety employee.

35 (3) A public body may not disclose information about a personnel investigation of a public safety
36 employee of the public body if the investigation does not result in discipline of the employee.

37 (4) Subsection (3) of this section does not apply:

38 (a) When the public interest requires disclosure of the information.

39 (b) When the employee consents to disclosure in writing.

40 (c) When disclosure is necessary for an investigation by the public body, the Department of
41 Public Safety Standards and Training or a citizen review body designated by the public body.

42 (d) When the public body determines that nondisclosure of the information would adversely af-
43 fect the confidence of the public in the public body.

44 (5) If an investigation of a public safety employee of a public body results from a complaint, the
45 public body may disclose to the complainant the disposition of the complaint and, to the extent the

1 public body considers necessary to explain the action of the public body on the complaint, a written
 2 summary of information obtained in the investigation.

3 (6) A public body must notify a public safety employee of the public body if the public body re-
 4 ceives a request for:

5 (a) A photograph of the employee.

6 (b) Information about the employee that is exempt from disclosure under [*ORS 192.501 or 192.502*
 7 (*2) or (3)*] **sections 38 to 49 of this 2011 Act.**

8 (c) Information about the employee that is prohibited from disclosure by subsection (3) of this
 9 section.

10 **SECTION 69.** ORS 190.050 is amended to read:

11 190.050. (1) An intergovernmental group may impose and collect reasonable fees based on market
 12 prices or competitive bids for geographic data that have commercial value and are an entire for-
 13 mula, pattern, compilation, program, device, method, technique, process, database or system devel-
 14 oped with a significant expenditure of public funds. An intergovernmental group may enter into
 15 agreements with private persons or entities to assist with marketing such products. Notwithstanding
 16 any other provision of law, intergovernmental group software product programming source codes,
 17 object codes and geographic databases or systems are confidential and exempt from public disclosure
 18 under [*ORS 192.502*] **sections 38 to 49 of this 2011 Act.** Nothing in this section authorizes an
 19 intergovernmental group to restrict access to public records through inclusion of such records in a
 20 geographic database or system.

21 (2) Fees collected under subsection (1) of this section shall be used:

22 (a) For maintenance of the formula, pattern, compilation, program, device, method, technique,
 23 process, database or system; and

24 (b) To provide services through the formula, pattern, compilation, program, device, method,
 25 technique, process, database or system to public bodies paying a service charge to the intergovern-
 26 mental group.

27 (3) As used in this section, “intergovernmental group” means two or more units of local gov-
 28 ernment that have entered into a written agreement under ORS 190.010.

29 **SECTION 70.** ORS 192.493 is amended to read:

30 192.493. A record of an agency of the executive department as defined in ORS 174.112 that
 31 contains the following information is a public record subject to inspection under ORS 192.420 and
 32 is not exempt from disclosure under [*ORS 192.501 or 192.502*] **sections 38 to 49 of this 2011 Act**
 33 except to the extent that the record discloses information about an individual’s health or is propri-
 34 etary to a person:

35 (1) The amounts determined by an independent actuary retained by the agency to cover the
 36 costs of providing each of the following health services under ORS 414.705 to 414.750 for the six
 37 months preceding the report:

- 38 (a) Inpatient hospital services;
- 39 (b) Outpatient hospital services;
- 40 (c) Laboratory and X-ray services;
- 41 (d) Physician and other licensed practitioner services;
- 42 (e) Prescription drugs;
- 43 (f) Dental services;
- 44 (g) Vision services;
- 45 (h) Mental health services;

- 1 (i) Chemical dependency services;
- 2 (j) Durable medical equipment and supplies; and
- 3 (k) Other health services provided under a prepaid managed care health services contract under
- 4 ORS 414.725;

5 (2) The amounts the agency and each contractor have paid under each prepaid managed care
 6 health services contract under ORS 414.725 for administrative costs and the provision of each of the
 7 health services described in subsection (1) of this section for the six months preceding the report;

8 (3) Any adjustments made to the amounts reported under this section to account for geographic
 9 or other differences in providing the health services; and

10 (4) The numbers of individuals served under each prepaid managed care health services con-
 11 tract, listed by category of individual.

12 **SECTION 71.** ORS 192.495 is amended to read:

13 192.495. Notwithstanding [ORS 192.501 to 192.505] **sections 38 to 49 of this 2011 Act** and except
 14 as otherwise provided in ORS 192.496, public records that are more than 25 years old shall be
 15 available for inspection.

16 **SECTION 72.** ORS 192.505 is amended to read:

17 192.505. If any public record contains material which is not exempt under [ORS 192.501 and
 18 192.502] **sections 38 to 49 of this 2011 Act**, as well as material which is exempt from disclosure,
 19 the public body shall separate the exempt and nonexempt material and make the nonexempt material
 20 available for examination.

21 **SECTION 73.** ORS 192.650 is amended to read:

22 192.650. (1) The governing body of a public body shall provide for the sound, video or digital
 23 recording or the taking of written minutes of all its meetings. Neither a full transcript nor a full
 24 recording of the meeting is required, except as otherwise provided by law, but the written minutes
 25 or recording must give a true reflection of the matters discussed at the meeting and the views of
 26 the participants. All minutes or recordings shall be available to the public within a reasonable time
 27 after the meeting, and shall include at least the following information:

- 28 (a) All members of the governing body present;
- 29 (b) All motions, proposals, resolutions, orders, ordinances and measures proposed and their dis-
 30 position;
- 31 (c) The results of all votes and, except for public bodies consisting of more than 25 members
 32 unless requested by a member of that body, the vote of each member by name;
- 33 (d) The substance of any discussion on any matter; and
- 34 (e) Subject to ORS 192.410 to 192.505 relating to public records, a reference to any document
 35 discussed at the meeting.

36 (2) Minutes of executive sessions shall be kept in accordance with subsection (1) of this section.
 37 However, the minutes of a hearing held under ORS 332.061 shall contain only the material not ex-
 38 cluded under ORS 332.061 (2). Instead of written minutes, a record of any executive session may be
 39 kept in the form of a sound or video tape or digital recording, which need not be transcribed unless
 40 otherwise provided by law. If the disclosure of certain material is inconsistent with the purpose for
 41 which a meeting under ORS 192.660 is authorized to be held, that material may be excluded from
 42 disclosure. However, excluded materials are authorized to be examined privately by a court in any
 43 legal action and the court shall determine their admissibility.

44 (3) A reference in minutes or a recording to a document discussed at a meeting of a governing
 45 body of a public body does not affect the status of the document under ORS 192.410 to 192.505.

1 (4) A public body may charge a person a fee under [ORS 192.440] **section 22 of this 2011 Act**
 2 for the preparation of a transcript from a recording.

3 **SECTION 74.** ORS 268.357 is amended to read:

4 268.357. Subject to the provisions of a district charter, a district may impose and collect rea-
 5 sonable fees based on market prices or competitive bids for geographic data that have commercial
 6 value and are an entire formula, pattern, compilation, program, device, method, technique, process,
 7 database or system developed with a significant expenditure of public funds. A district may enter
 8 into agreements with private persons or entities to assist with marketing such products.
 9 Notwithstanding any other provision of law, district software product programming source codes,
 10 object codes and geographic databases or systems are confidential and exempt from public disclosure
 11 under [ORS 192.502] **sections 38 to 49 of this 2011 Act.** Nothing in this section authorizes a district
 12 to restrict access to public records through inclusion of such records in a geographic database or
 13 system.

14 **SECTION 75.** ORS 279B.055 is amended to read:

15 279B.055. (1) A contracting agency may solicit and award a public contract for goods or ser-
 16 vices, or may award multiple public contracts for goods or services when specified in the invitation
 17 to bid, by competitive sealed bidding.

18 (2) The contracting agency shall issue an invitation to bid, which must:

19 (a) Specify a time and date by which the bids must be received and a place at which the bids
 20 must be submitted. The contracting agency, in the contracting agency's sole discretion, may receive
 21 bids by electronic means or direct or permit a bidder to submit bids by electronic means.

22 (b) Specify the name and title of the person designated to receive bids and the person the con-
 23 tracting agency designates as the contact person for the procurement, if different.

24 (c) Describe the procurement. In the description, the contracting agency shall identify the scope
 25 of work included within the procurement, outline the contractor's anticipated duties and set expect-
 26 tations for the contractor's performance. Unless the contracting agency for good cause specifies
 27 otherwise, the scope of work shall require the contractor to meet the highest standards prevalent
 28 in the industry or business most closely involved in providing the appropriate goods or services.

29 (d) Specify a time, date and place for prequalification applications, if any, to be filed and the
 30 classes of work, if any, for which bidders must be prequalified in accordance with ORS 279B.120.

31 (e) State that the contracting agency may cancel the procurement or reject any or all bids in
 32 accordance with ORS 279B.100.

33 (f) State that "Contractors shall use recyclable products to the maximum extent economically
 34 feasible in the performance of the contract work set forth in this document." if a state contracting
 35 agency issues the invitation to bid.

36 (g) Require the contractor or subcontractor to possess an asbestos abatement license, if required
 37 under ORS 468A.710.

38 (h) Include all contractual terms and conditions applicable to the procurement. The contract
 39 terms and conditions shall specify clear consequences for a contractor's failure to perform the scope
 40 of work identified in the invitation to bid or the contractor's failure to meet established performance
 41 standards. The consequences may include, but are not limited to:

42 (A) Reducing or withholding payment;

43 (B) Requiring the contractor to perform, at the contractor's expense, additional work necessary
 44 to perform the identified scope of work or meet the established performance standards; or

45 (C) Declaring a default, terminating the public contract and seeking damages and other relief

1 available under the terms of the public contract or other applicable law.

2 (3)(a) The contracting agency may require bid security if the contracting agency determines that
 3 bid security is reasonably necessary or prudent to protect the interests of the contracting agency.

4 (b) The contracting agency shall return the bid security to all bidders upon the execution of the
 5 contract.

6 (c) The contracting agency shall retain the bid security if a bidder who is awarded a contract
 7 fails to promptly and properly execute the contract. For purposes of this paragraph, prompt and
 8 proper execution of the contract includes all action by a bidder that is necessary to form a contract
 9 in accordance with the invitation to bid, including posting performance security and submitting
 10 proof of insurance when the invitation to bid requires the submission.

11 (4)(a) The contracting agency shall give public notice of an invitation to bid issued under this
 12 section. Public notice is intended to foster competition among prospective bidders. The contracting
 13 agency shall make invitations to bid available to prospective bidders.

14 (b) A public notice must be published at least once in at least one newspaper of general circu-
 15 lation in the area where the contract is to be performed and in as many additional issues and pub-
 16 lications as the contracting agency may determine.

17 (c) The Director of the Oregon Department of Administrative Services or a local contract review
 18 board may, by rule or order, authorize public notice of bids or proposals to be published electron-
 19 ically instead of in a newspaper of general circulation if the director or board determines that
 20 electronically providing public notice of bids or proposals is likely to be cost-effective.

21 (d) In addition to the modes of publication authorized by paragraphs (b) and (c) of this sub-
 22 section, the contracting agency may use any other medium reasonably calculated to reach prospec-
 23 tive bidders or proposers.

24 (e) Rules adopted under ORS 279A.065 must prescribe the requirements for providing public
 25 notice of solicitations.

26 (f) Unless otherwise specified in rules adopted under ORS 279A.065, the contracting agency shall
 27 give public notice at least seven days before the solicitation closing date.

28 (5)(a) The contracting agency shall open bids publicly at the time, date and place designated in
 29 the invitation to bid. When authorized by, and in accordance with, rules adopted under ORS
 30 279A.065, bids may be submitted, received and opened through electronic means.

31 (b) The contracting agency shall record the amount of a bid, the name of the bidder and other
 32 relevant information specified by rule adopted under ORS 279A.065. The record shall be open to
 33 public inspection.

34 (c) Notwithstanding a requirement to make bids open to public inspection after the contracting
 35 agency issues notice of intent to award a contract, a contracting agency may withhold from disclo-
 36 sure to the public trade secrets, as defined in [ORS 192.501] **section 41 (3) of this 2011 Act**, and
 37 information submitted to a public body in confidence, as described in [ORS 192.502] **section 46 (3)(b)**
 38 **of this 2011 Act**, that are contained in a bid.

39 (6)(a) The contracting agency shall evaluate all bids that are received before the time and date
 40 indicated for bid opening in the invitation to bid. The contracting agency shall evaluate the bids
 41 based on the requirements set forth in the invitation to bid. The requirements may include, in ad-
 42 dition to the information described in subsection (2) of this section, criteria to determine minimum
 43 acceptability, such as inspection, testing, quality and suitability for intended use or purpose. Criteria
 44 that will affect the bid price and will be considered in evaluation for award including, but not lim-
 45 ited to, discounts, transportation costs and total costs of ownership or operation of a product over

1 the life of the product must be objectively measurable. The invitation to bid must set forth the
2 evaluation criteria to be used. No criteria may be used in a bid evaluation that are not set forth in
3 the invitation to bid or in a qualified products list maintained under ORS 279B.115. The contracting
4 agency may not consider for award bids received after the time and date indicated for bid opening
5 in the invitation to bid. The contracting agency may retain bids or copies of bids received after the
6 bid time and date indicated in the invitation to bid.

7 (b) The contracting agency shall, for the purpose of evaluating bids, apply any applicable pref-
8 erence described in ORS 279A.120, 279A.125 or 282.210.

9 (7) Rules adopted under ORS 279A.065 must provide for and regulate the correction and with-
10 drawal of bids before and after bid opening and the cancellation of awards or contracts based on
11 bid mistakes. After bid opening, changes in bids prejudicial to the interests of the public or fair
12 competition are not permitted. A contracting agency that permits a bidder to correct or withdraw
13 a bid or that cancels an award or a contract based on bid mistakes, shall support the decision with
14 a written determination that states the reasons for the action taken.

15 (8) The cancellation of invitations to bid and the rejection of bids must be in accordance with
16 ORS 279B.100.

17 (9) The contracting agency shall, in accordance with ORS 279B.135, issue to each bidder or shall
18 post, electronically or otherwise, a notice of intent to award.

19 (10) If a contracting agency awards a contract, the contracting agency shall award the contract:

20 (a) To the lowest responsible bidder whose bid substantially complies with the requirements and
21 criteria set forth in the invitation to bid and with all prescribed public procurement procedures and
22 requirements; or

23 (b) If the invitation to bid specifies or authorizes the award of multiple contracts, to the re-
24 sponsible bidders:

25 (A) Whose bids substantially comply with the requirements and criteria set forth in the invita-
26 tion to bid and with all prescribed public procurement procedures and requirements; and

27 (B) Who qualify for the award of a public contract under the terms of the invitation to bid.

28 (11) The successful bidder shall promptly execute a contract. The successful bidder's duty to
29 promptly execute a contract includes the duty to take all action that is necessary to form a contract
30 in accordance with the invitation to bid, including posting performance security, submitting proof
31 of insurance when the invitation to bid requires the submission and agreeing to perform the scope
32 of work and meet the performance standards set forth in the invitation to bid.

33 (12) If a contracting agency determines that preparing a procurement description to support an
34 award based on price is impractical, the contracting agency may issue a multistep invitation to bid
35 that requests bidders to submit unpriced submittals, and then later issue an invitation to bid limited
36 to the bidders that the contracting agency officer has determined are eligible to submit a priced bid
37 under the criteria set forth in the initial solicitation of unpriced submittals.

38 (13) The contracting agency may issue a request for information, a request for interest or other
39 preliminary documents to obtain information useful in preparing an invitation to bid.

40 **SECTION 76.** ORS 279B.060 is amended to read:

41 279B.060. (1) A contracting agency may solicit and award a public contract for goods or ser-
42 vices, or may award multiple public contracts for goods or services when specified in the request
43 for proposals, by requesting and evaluating competitive sealed proposals.

44 (2) The request for proposals must:

45 (a) Specify a time and date by which sealed proposals must be received, and a place at which

1 the proposals must be submitted. The contracting agency, in the contracting agency’s sole dis-
 2 cretion, may receive proposals by electronic means or may direct or permit proposers to submit
 3 proposals by electronic means.

4 (b) Specify the name and title of the person designated to receive proposals and the person the
 5 contracting agency designates as the contact person for the procurement, if different.

6 (c) Describe the procurement. In the description, the contracting agency shall identify the scope
 7 of work included within the procurement, outline the contractor’s anticipated duties and set expect-
 8 ations for the contractor’s performance. Unless the contractor is providing architectural, engi-
 9 neering and land surveying services or related services, both as defined in ORS 279C.100, or unless
 10 the contracting agency for good cause specifies otherwise, the scope of work shall require the con-
 11 tractor to meet the highest standards prevalent in the industry or business most closely involved in
 12 providing the appropriate goods or services.

13 (d) Specify a time, date and place for prequalification applications, if any, to be filed and the
 14 classes of work, if any, for which proposers must be prequalified in accordance with ORS 279B.120.

15 (e) State that the contracting agency may cancel the procurement or reject any or all proposals
 16 in accordance with ORS 279B.100.

17 (f) State that “Contractors shall use recyclable products to the maximum extent economically
 18 feasible in the performance of the contract work set forth in this document.” if a state contracting
 19 agency issues the request for proposals.

20 (g) Require the contractor or subcontractor to possess an asbestos abatement license, if required
 21 under ORS 468A.710.

22 (h) Include all contractual terms and conditions applicable to the procurement. The contract
 23 terms and conditions shall specify clear consequences for a contractor’s failure to perform the scope
 24 of work identified in the request for proposals or the contractor’s failure to meet established per-
 25 formance standards. The consequences may include, but are not limited to:

26 (A) Reducing or withholding payment;

27 (B) Requiring the contractor to perform, at the contractor’s expense, additional work necessary
 28 to perform the identified scope of work or meet the established performance standards; or

29 (C) Declaring a default, terminating the public contract and seeking damages and other relief
 30 available under the terms of the public contract or other applicable law.

31 (3) The request for proposals also may:

32 (a) Identify contractual terms or conditions that the contracting agency reserves, in the request
 33 for proposals, for negotiation with proposers;

34 (b) Request that proposers propose contractual terms and conditions that relate to subject mat-
 35 ter reasonably identified in the request for proposals;

36 (c) Contain or incorporate the form and content of the contract that the contracting agency will
 37 accept, or suggest contract terms and conditions that nevertheless may be the subject of negoti-
 38 ations with proposers;

39 (d) Announce the method the contracting agency will use to select the contractor, which may
 40 include, but is not limited to, negotiating with the highest ranked proposer, competitive negotiations,
 41 a multiple-tiered competition that is designed to identify a class of proposers that fall within a
 42 competitive range or to otherwise eliminate from consideration a class of lower ranked proposers
 43 or a combination of methods, as authorized or prescribed by rules adopted under ORS 279A.065; and

44 (e) Describe the manner in which the contracting agency will evaluate proposals, identifying the
 45 relative importance of price and other factors the contracting agency will use to evaluate and rate

1 the proposals in the first tier of competition. If the contracting agency uses more than one tier of
2 competitive evaluation, the request for proposals must describe the process the contracting agency
3 will use to evaluate proposals in the subsequent tiers.

4 (4)(a) The contracting agency may require proposal security in any form the contracting agency
5 deems prudent. Proposal security shall serve the same function with respect to requests for pro-
6 posals as bid security serves with respect to invitations to bid under ORS 279B.055.

7 (b) The contracting agency shall return the proposal security to all proposers upon the exe-
8 cution of the contract.

9 (c) The contracting agency shall retain the proposal security if a proposer who is awarded a
10 contract fails to promptly and properly execute the contract. For purposes of this paragraph, prompt
11 and proper execution of the contract includes all action by a proposer that is necessary to form a
12 contract in accordance with the request for proposals, including posting performance security and
13 submitting proof of insurance when the request for proposals requires the submission. If contract
14 negotiations or competitive negotiations are conducted, the failure, prior to award, of a contracting
15 agency and a proposer to reach agreement does not constitute grounds for retaining proposal secu-
16 rity.

17 (5) Public notice of the request for proposals must be given in the same manner as provided for
18 public notice of invitations to bid in ORS 279B.055 (4).

19 (6)(a) Notwithstanding ORS 192.410 to 192.505, proposals may be opened in a manner to avoid
20 disclosing contents to competing proposers during, when applicable, the process of negotiation, but
21 the contracting agency shall record and make available the identity of all proposers as part of the
22 contracting agency's public records after the proposals are opened. Notwithstanding ORS 192.410 to
23 192.505, proposals are not required to be open for public inspection until after the notice of intent
24 to award a contract is issued. The fact that proposals are opened at a meeting, as defined in ORS
25 192.610, does not make the contents of the proposals subject to disclosure, regardless of whether the
26 public body opening the proposals fails to give notice of or provide for an executive session for the
27 purpose of opening proposals.

28 (b) Notwithstanding a requirement to make proposals open to public inspection after the con-
29 tracting agency issues notice of intent to award a contract, a contracting agency may withhold from
30 disclosure to the public materials included in a proposal that are exempt or conditionally exempt
31 from disclosure under [*ORS 192.501 or 192.502*] **sections 38 to 49 of this 2011 Act**.

32 (c) If a request for proposals is canceled under ORS 279B.100 after proposals are received or if
33 a proposal is rejected, the contracting agency may return a proposal to the proposer that made the
34 proposal. The contracting agency shall keep a list of returned proposals in the file for the sollicita-
35 tion.

36 (7) As provided in the request for proposals or in written addenda issued thereunder, the con-
37 tracting agency may conduct site tours, demonstrations, individual or group discussions and other
38 informational activities with proposers before or after the opening of proposals for the purpose of
39 clarification to ensure full understanding of, and responsiveness to, the solicitation requirements or
40 to consider and respond to requests for modifications of the proposal requirements. The contracting
41 agency shall use procedures designed to accord proposers fair and equal treatment with respect to
42 any opportunity for discussion and revision of proposals.

43 (8) For purposes of evaluation, when provided for in the request for proposals, the contracting
44 agency may employ methods of contractor selection that include, but are not limited to:

45 (a) An award or awards based solely on the ranking of proposals;

1 (b) Discussions leading to best and final offers, in which the contracting agency may not disclose
2 private discussions leading to best and final offers;

3 (c) Discussions leading to best and final offers, in which the contracting agency may not disclose
4 information derived from proposals submitted by competing proposers;

5 (d) Serial negotiations, beginning with the highest ranked proposer;

6 (e) Competitive simultaneous negotiations;

7 (f) Multiple-tiered competition designed to identify, at each level, a class of proposers that fall
8 within a competitive range or to otherwise eliminate from consideration a class of lower ranked
9 proposers;

10 (g) A multistep request for proposals requesting the submission of unpriced technical submittals,
11 and then later issuing a request for proposals limited to the proposers whose technical submittals
12 the contracting agency had determined to be qualified under the criteria set forth in the initial re-
13 quest for proposals; or

14 (h) A combination of methods described in this subsection, as authorized or prescribed by rules
15 adopted under ORS 279A.065.

16 (9) Revisions of proposals may be permitted after the submission of proposals and before award
17 for the purpose of obtaining best offers or best and final offers.

18 (10) After the opening of proposals, a contracting agency may issue or electronically post an
19 addendum to the request for proposals that modifies the criteria, rating process and procedure for
20 any tier of competition before the start of the tier to which the addendum applies. The contracting
21 agency shall send an addendum that is issued by a method other than electronic posting to all
22 proposers who are eligible to compete under the addendum. The contracting agency shall issue or
23 post the addendum at least five days before the start of the subject tier of competition or as the
24 contracting agency otherwise determines is adequate to allow eligible proposers to prepare for the
25 competition in accordance with rules adopted under ORS 279A.065.

26 (11) The cancellation of requests for proposals and the rejection of proposals must be in ac-
27 cordance with ORS 279B.100.

28 (12) In the request for proposals, the contracting agency shall describe the methods by which
29 the agency will make the results of each tier of competitive evaluation available to the proposers
30 who competed in the tier. The contracting agency shall include a description of the manner in which
31 the proposers who are eliminated from further competition may protest or otherwise object to the
32 contracting agency's decision.

33 (13) The contracting agency shall issue or electronically post the notice of intent to award de-
34 scribed in ORS 279B.135 to each proposer who was evaluated in the final competitive tier.

35 (14) If the contracting agency awards a contract, the contracting agency shall award the con-
36 tract to the responsible proposer whose proposal the contracting agency determines in writing is the
37 most advantageous to the contracting agency based on the evaluation process and evaluation factors
38 described in the request for proposals, applicable preferences described in ORS 279A.120 and
39 279A.125 and, when applicable, the outcome of any negotiations authorized by the request for pro-
40 posals. Other factors may not be used in the evaluation. When the request for proposals specifies
41 or authorizes awarding multiple public contracts, the contracting agency shall award public con-
42 tracts to the responsible proposers who qualify for the award of a contract under the terms of the
43 request for proposals.

44 (15) The contracting agency may issue a request for information, a request for interest, a re-
45 quest for qualifications or other preliminary documents to obtain information useful in preparing a

1 request for proposals.

2 (16) Before executing a contract solicited under this section, a contracting agency shall obtain
3 the proposer's agreement to perform the scope of work and meet the performance standards set forth
4 in the final negotiated scope of work.

5 **SECTION 77.** ORS 279C.107 is amended to read:

6 279C.107. (1) Notwithstanding the public records law, ORS 192.410 to 192.505, if a contracting
7 agency solicits a contract for architectural, engineering or land surveying services or related ser-
8 vices by a competitive proposal:

9 (a) Proposals may be opened so as to avoid disclosure of contents to competing proposers during,
10 when applicable, the process of negotiation.

11 (b) Proposals are not required to be open for public inspection until after the notice of intent
12 to award a contract is issued.

13 (2) Notwithstanding any requirement to make proposals open to public inspection after the
14 contracting agency's issuance of notice of intent to award a contract, a contracting agency may
15 withhold from disclosure to the public trade secrets, as defined in [ORS 192.501] **section 41 (3) of**
16 **this 2011 Act**, and information submitted to a public body in confidence, as described in [ORS
17 192.502] **section 46 (3)(b) of this 2011 Act**, that are contained in a proposal. The fact that proposals
18 are opened at a public meeting as defined in ORS 192.610 does not make their contents subject to
19 disclosure, regardless of whether the public body opening the proposals fails to give notice of or
20 provide for an executive session for the purpose of opening proposals. If a request for proposals is
21 canceled after proposals are received, the contracting agency may return a proposal to the proposer
22 that made the proposal. The contracting agency shall keep a list of returned proposals in the file
23 for the solicitation.

24 **SECTION 78.** ORS 279C.410 is amended to read:

25 279C.410. (1) Notwithstanding the public records law, ORS 192.410 to 192.505:

26 (a) Proposals may be opened so as to avoid disclosure of contents to competing proposers during,
27 when applicable, the process of negotiation.

28 (b) Proposals are not required to be open for public inspection until after the notice of intent
29 to award a contract is issued.

30 (2) For each request for proposals, the contracting agency shall prepare a list of proposals.

31 (3) Notwithstanding any requirement to make proposals open to public inspection after the
32 contracting agency's issuance of notice of intent to award a contract, a contracting agency may
33 withhold from disclosure to the public trade secrets, as defined in [ORS 192.501] **section 41 (3) of**
34 **this 2011 Act**, and information submitted to a public body in confidence, as described in [ORS
35 192.502] **section 46 (3)(b) of this 2011 Act**, that are contained in a proposal. The fact that proposals
36 are opened at a public meeting as defined in ORS 192.610 does not make their contents subject to
37 disclosure, regardless of whether the public body opening the proposals fails to give notice of or
38 provide for an executive session for the purpose of opening proposals. If a request for proposals is
39 canceled after proposals are received, the contracting agency may return a proposal to the proposer
40 that made the proposal. The contracting agency shall keep a list of returned proposals in the file
41 for the solicitation.

42 (4) As provided in the request for proposals, a contracting agency may conduct discussions with
43 proposers who submit proposals the agency has determined to be closely competitive or to have a
44 reasonable chance of being selected for award. The discussions may be conducted for the purpose
45 of clarification to ensure full understanding of, and responsiveness to, the solicitation requirements.

1 The contracting agency shall accord proposers fair and equal treatment with respect to any oppor-
 2 tunity for discussion and revision of proposals. Revisions of proposals may be permitted after the
 3 submission of proposals and before award for the purpose of obtaining best and final offers. In con-
 4 ducting discussions, the contracting agency may not disclose information derived from proposals
 5 submitted by competing proposers.

6 (5) When provided for in the request for proposals, the contracting agency may employ methods
 7 of contractor selection including but not limited to award based solely on the ranking of proposals,
 8 negotiation with the highest ranked proposer, competitive negotiations, multiple-tiered competition
 9 designed to identify a class of proposers that fall within a competitive range or to otherwise elimi-
 10 nate from consideration a class of lower ranked proposers, or any combination of methods, as au-
 11 thorized or prescribed by rules adopted under ORS 279A.065. When applicable, in any instance in
 12 which the contracting agency determines that impasse has been reached in negotiations with a
 13 highest ranked proposer, the contracting agency may terminate negotiations with that proposer and
 14 commence negotiations with the next highest ranked proposer.

15 (6) The cancellation of requests for proposals and the rejection of proposals shall be in accord-
 16 ance with ORS 279C.395.

17 (7) At least seven days before the award of a public improvement contract, unless the con-
 18 tracting agency determines that seven days is impractical under rules adopted under ORS 279A.065,
 19 the contracting agency shall issue to each proposer or post, electronically or otherwise, a notice
 20 of intent to award.

21 (8) If a public improvement contract is awarded, the contracting agency shall award a public
 22 improvement contract to the responsible proposer whose proposal is determined in writing to be the
 23 most advantageous to the contracting agency based on the evaluation factors set forth in the re-
 24 quest for proposals and, when applicable, the outcome of any negotiations authorized by the request
 25 for proposals. Other factors may not be used in the evaluation.

26 **SECTION 79.** ORS 287A.350 is amended to read:

27 287A.350. The records of registered bond ownership, whether maintained by a public body or
 28 otherwise, are not public records within the meaning of ORS 192.410 [(4)].

29 **SECTION 80.** ORS 305.493 is amended to read:

30 305.493. (1) The judge of the tax court elected or appointed under ORS 305.452 may establish a
 31 fee for comparing, or for preparing and comparing, a transcript of the record. The fee established
 32 under this subsection may not exceed the fees charged and collected by the clerks of the circuit
 33 court.

34 (2)(a) The Chief Justice of the Supreme Court by order may establish fees for copies of tax court
 35 records, for services relating to those records and for other services that the tax court, the clerk
 36 of the tax court or the State Court Administrator acting as court administrator for the tax court is
 37 authorized or required to perform.

38 (b) The Chief Justice may not establish:

39 (A) A fee for the location or inspection of court records; or

40 (B) A fee for a service under this subsection if the fee is otherwise specified by statute.

41 (3) The fee established by the Chief Justice under subsection (2) of this section for paper copies
 42 of records may not exceed 25 cents per page, except for records for which additional services are
 43 required. If additional services are required, fees for providing the records are subject to [ORS
 44 192.440] **section 22 of this 2011 Act.**

45 **SECTION 81.** ORS 312.030 is amended to read:

1 312.030. (1) Within two months after the day of delinquency of taxes of each year the tax col-
 2 lector shall prepare a list of all real properties then subject to foreclosure. The list shall be known
 3 as the foreclosure list and shall contain:

4 (a) The names of the several persons appearing in the latest tax roll as the respective owners
 5 of tax-delinquent properties. If the owner of the property is an attorney or public safety officer who
 6 has applied for an exemption under [ORS 192.501] **section 45 (2)(d) and (e) of this 2011 Act**, the
 7 list shall state that the name of the owner is suppressed by law.

8 (b) A description of each such property as it appears in the latest tax roll.

9 (c) The year or years for which taxes are delinquent on each property.

10 (d) The principal amount of the delinquent taxes of each year and the amount of accrued and
 11 accruing interest thereon to the day of publication.

12 (2) Thereafter, and until judgment is obtained pursuant to ORS 312.090, interest shall be charged
 13 and collected on each of the several amounts of taxes included in the foreclosure list at the rate
 14 provided in ORS 311.505 (2).

15 **SECTION 82.** ORS 312.190 is amended to read:

16 312.190. Subject to an exemption from disclosure that applies under [ORS 192.501] **sections 38**
 17 **to 49 of this 2011 Act:**

18 (1) Not more than 30 days nor less than 10 days prior to the expiration of the period of re-
 19 demption of any real property ordered sold to the county under a judgment under ORS 312.100, the
 20 tax collector shall publish a general notice relative to the expiration of the period of redemption.

21 (2) The notice shall contain the date of the judgment, the date of expiration of the period of
 22 redemption, and warning to the effect that all the properties ordered sold under the judgment, unless
 23 sooner redeemed, will be deeded to the county immediately on expiration of the period of redemption
 24 and that every right or interest of any person in the properties will be forfeited forever to the
 25 county.

26 (3) The notice shall be published in two weekly issues of a duly designated newspaper of general
 27 circulation in the county within the period of 20 days as specified in this section. Proof of publica-
 28 tion shall be attached to and made a part of the deed issued to the county. The published notice
 29 may be a general notice and it shall not be necessary to include therein descriptions of the several
 30 properties or the names of the respective owners.

31 **SECTION 83.** ORS 358.905 is amended to read:

32 358.905. (1) As used in ORS [192.005, 192.501 to 192.505,] 358.905 to 358.961 and 390.235:

33 (a) "Archaeological object" means an object that:

34 (A) Is at least 75 years old;

35 (B) Is part of the physical record of an indigenous or other culture found in the state or waters
 36 of the state; and

37 (C) Is material remains of past human life or activity that are of archaeological significance
 38 including, but not limited to, monuments, symbols, tools, facilities, technological by-products and
 39 dietary by-products.

40 (b) "Site of archaeological significance" means:

41 (A) Any archaeological site on, or eligible for inclusion on, the National Register of Historic
 42 Places as determined in writing by the State Historic Preservation Officer; or

43 (B) Any archaeological site that has been determined significant in writing by an Indian tribe.

44 (c)(A) "Archaeological site" means a geographic locality in Oregon, including but not limited to
 45 submerged and submersible lands and the bed of the sea within the state's jurisdiction, that contains

1 archaeological objects and the contextual associations of the archaeological objects with:

2 (i) Each other; or

3 (ii) Biotic or geological remains or deposits.

4 (B) Examples of archaeological sites described in subparagraph (A) of this paragraph include but
5 are not limited to shipwrecks, lithic quarries, house pit villages, camps, burials, lithic scatters,
6 homesteads and townsites.

7 (d) "Indian tribe" has the meaning given that term in ORS 97.740.

8 (e) "Burial" means any natural or prepared physical location whether originally below, on or
9 above the surface of the earth, into which, as a part of a death rite or death ceremony of a culture,
10 human remains were deposited.

11 (f) "Funerary objects" means any artifacts or objects that, as part of a death rite or ceremony
12 of a culture, are reasonably believed to have been placed with individual human remains either at
13 the time of death or later.

14 (g) "Human remains" means the physical remains of a human body, including, but not limited
15 to, bones, teeth, hair, ashes or mummified or otherwise preserved soft tissues of an individual.

16 (h) "Object of cultural patrimony":

17 (A) Means an object having ongoing historical, traditional or cultural importance central to the
18 native Indian group or culture itself, rather than property owned by an individual native Indian, and
19 which, therefore, cannot be alienated, appropriated or conveyed by an individual regardless of
20 whether or not the individual is a member of the Indian tribe. The object shall have been considered
21 inalienable by the native Indian group at the time the object was separated from such group.

22 (B) Does not mean unassociated arrowheads, baskets or stone tools or portions of arrowheads,
23 baskets or stone tools.

24 (i) "Police officer" has the meaning given that term in ORS 181.610.

25 (j) "Public lands" means any lands owned by the State of Oregon, a city, county, district or
26 municipal or public corporation in Oregon.

27 (k) "Sacred object" means an archaeological object or other object that:

28 (A) Is demonstrably revered by any ethnic group, religious group or Indian tribe as holy;

29 (B) Is used in connection with the religious or spiritual service or worship of a deity or spirit
30 power; or

31 (C) Was or is needed by traditional native Indian religious leaders for the practice of traditional
32 native Indian religion.

33 (L) "State police" has the meaning given that term in ORS 181.010.

34 (2) The terms set forth in subsection (1)(e), (f), (g), (h) and (k) of this section shall be interpreted
35 in the same manner as similar terms interpreted pursuant to 25 U.S.C. 3001 et seq.

36 **SECTION 84.** ORS 358.915 is amended to read:

37 358.915. The provisions of ORS [192.005, 192.501 to 192.505,] 273.990, 358.905 to 358.961 and
38 390.235 do not apply to a person who unintentionally discovers an archaeological object that has
39 been exposed by the forces of nature on public land or private property and retains the object for
40 personal use, except for sacred objects, human remains, funerary objects or objects of cultural
41 patrimony.

42 **SECTION 85.** ORS 409.225 is amended to read:

43 409.225. (1) In the interest of family privacy and for the protection of children, families and other
44 recipients of services, the Department of Human Services shall not disclose or use the contents of
45 any child welfare records, files, papers or communications that contain any information about an

1 individual child, family or other recipient of services for purposes other than those directly con-
 2 nected with the administration of child welfare laws or unless required or authorized by ORS
 3 419A.255 or 419B.035. The records, files, papers and communications are confidential and are not
 4 available for public inspection. General information, policy statements, statistical reports or similar
 5 compilations of data are not confidential unless such information is identified with an individual
 6 child, family or other recipient of services or protected by other provision of law.

7 (2) Notwithstanding subsection (1) of this section, unless exempt from disclosure under ORS
 8 chapter 192, the department shall disclose child welfare records:

9 (a) About a recipient of services, to the recipient if the recipient is 18 years of age or older or
 10 is legally emancipated, unless prohibited by court order;

11 (b) Regarding a specific individual if the individual gives written authorization to release confi-
 12 dential information;

13 (c) Concerning a child receiving services on a voluntary basis, to the child's parent or legal
 14 guardian;

15 (d) To the juvenile court in proceedings regarding the child; and

16 (e) Concerning a child who is or has been in the custody of the department, to the child's parent
 17 or legal guardian except:

18 (A) When the child objects; or

19 (B) If disclosure would be contrary to the best interests of any child or could be harmful to the
 20 person caring for the child.

21 (3) Notwithstanding subsection (1) of this section, unless exempt from disclosure under ORS
 22 chapter 192, the department shall disclose child welfare records, if in the best interests of the child,
 23 to:

24 (a) Treatment providers, foster parents, adoptive parents, school officials or other persons pro-
 25 viding services to the child or family to the extent that such disclosure is necessary to provide
 26 services to the child or family; or

27 (b) A person designated as a member of a sensitive review committee convened by the Director
 28 of Human Services when the purpose of the committee is to determine whether the department acted
 29 appropriately and to make recommendations to the department regarding policy and practice.

30 (4) Any record disclosed under subsection (1), (2) or (3) of this section shall be kept confidential
 31 by the person or entity to whom the record is disclosed and shall be used only for the purpose for
 32 which disclosure was made.

33 (5) Unless exempt from disclosure under ORS chapter 192, when an adult who is the subject of
 34 information made confidential by subsection (1) of this section publicly reveals or causes to be re-
 35 vealed any significant part of the confidential matter or information, the protections afforded by
 36 subsection (1) of this section are presumed voluntarily waived and confidential information about the
 37 person making or causing the public disclosure, not already disclosed but related to the information
 38 made public, may be disclosed if disclosure is in the best interests of the child or necessary to the
 39 administration of the child welfare laws.

40 (6) Notwithstanding subsection (1) of this section, unless exempt from disclosure under ORS
 41 chapter 192, the department shall disclose information related to the department's activities and
 42 responsibilities in a case where child abuse or neglect has resulted in a child fatality or near fatality
 43 or where an adult has been charged with a crime related to child abuse or neglect.

44 (7) Notwithstanding subsections (2), (3), (5) and (6) of this section, *[ORS 192.501 (3) shall apply]*
 45 **section 38 (2) of this 2011 Act applies** to investigatory information compiled for criminal law

1 purposes that may be in the possession of the department.

2 (8) As used in this section, "adult" means a person who is 18 years of age or older.

3 **SECTION 86.** ORS 419C.532 is amended to read:

4 419C.532. (1) The juvenile panel of the Psychiatric Security Review Board shall conduct hearings
5 on an application for discharge, conditional release, commitment or modification filed under or re-
6 quired by ORS 419C.538, 419C.540 and 419C.542, and shall make findings on the issues before the
7 juvenile panel.

8 (2) In every hearing before the juvenile panel, the juvenile panel shall determine whether the
9 young person:

10 (a) Has a serious mental condition; or

11 (b) Has a mental disease or defect other than a serious mental condition and presents a sub-
12 stantial danger to others.

13 (3) The juvenile panel shall order a young person discharged from commitment or conditional
14 release if the juvenile panel finds that the young person:

15 (a) No longer has a mental disease or defect; or

16 (b) Has a mental disease or defect other than a serious mental condition but no longer presents
17 a substantial danger to others.

18 (4) The juvenile panel shall order a young person conditionally released subject to ORS 419C.538
19 if the juvenile panel finds that:

20 (a) The young person:

21 (A) Has a serious mental condition; or

22 (B) Has a mental disease or defect other than a serious mental condition and presents a sub-
23 stantial danger to others;

24 (b) The young person can be adequately controlled with treatment services as a condition of
25 release; and

26 (c) Necessary supervision and treatment services are available.

27 (5) The juvenile panel shall order a young person committed to, or retained in, a hospital or
28 facility designated by the Department of Human Services or the Oregon Health Authority for cus-
29 tody, supervision and treatment subject to ORS 419C.540 if the juvenile panel finds that the young
30 person:

31 (a)(A) Has a serious mental condition; or

32 (B) Has a mental disease or defect other than a serious mental condition and presents a sub-
33 stantial danger to others; and

34 (b) Cannot be adequately controlled if conditionally released.

35 (6) In determining whether a young person should be committed to or retained in a hospital or
36 facility, conditionally released or discharged, the primary concern of the juvenile panel is the pro-
37 tection of society.

38 (7) In a hearing before the juvenile panel, a young person who has a mental disease or defect
39 in a state of remission is considered to have a mental disease or defect if the mental disease or
40 defect may, with reasonable medical probability, occasionally become active.

41 (8) At any time, the juvenile panel may appoint a psychiatrist certified, or eligible to be certi-
42 fied, by the Oregon Medical Board in child psychiatry or a licensed psychologist with expertise in
43 child psychology to examine the young person and submit a written report to the juvenile panel.
44 Reports filed with the juvenile panel pursuant to the examination must include, but need not be
45 limited to, an opinion as to whether the young person:

1 (a)(A) Has a serious mental condition; or
 2 (B) Has a mental disease or defect other than a serious mental condition and presents a sub-
 3 stantial danger to others; and
 4 (b) Could be adequately controlled with treatment services as a condition of release.
 5 (9) The juvenile panel may make a determination regarding discharge or conditional release
 6 based upon the written report submitted under subsection (8) of this section or ORS 419C.540 (3).
 7 If a member of the juvenile panel desires further information from the examining psychiatrist or li-
 8 censed psychologist who submitted the report, the juvenile panel shall summon the psychiatrist or
 9 psychologist to give testimony.
 10 (10) The juvenile panel shall consider all available evidence that is material, relevant and reli-
 11 able regarding the issues before the juvenile panel. Evidence may include, but is not limited to, the
 12 record of the juvenile court adjudication, information supplied by the attorney representing the state
 13 or by any other interested person, including the young person, information concerning the young
 14 person's mental condition and the entire psychiatric and juvenile court history of the young person.
 15 All evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their
 16 serious affairs is admissible at the hearings. Testimony must be taken upon oath or affirmation of
 17 the witness from whom received. The officer presiding at the hearing shall administer oaths and
 18 affirmations to witnesses.
 19 (11) The standard of proof on all issues at a hearing of the juvenile panel is by a preponderance
 20 of the evidence.
 21 (12)(a) The juvenile panel shall furnish written notice of any hearing pending under this section
 22 within a reasonable time prior to the hearing to:
 23 (A) The young person about whom the hearing is being conducted;
 24 (B) The attorney representing the young person;
 25 (C) The young person's parents or guardians, if known;
 26 (D) The person having legal custody of the young person;
 27 (E) The Attorney General or other attorney representing the state, if any; and
 28 (F) The district attorney and the court or juvenile department of the county in which the young
 29 person was adjudicated.
 30 (b) The juvenile panel shall include in the notice required by paragraph (a) of this subsection:
 31 (A) The time, place and location of the hearing;
 32 (B) The nature of the hearing, the specific action for which the hearing has been requested, the
 33 issues to be considered at the hearing and a reference to the particular sections of the statutes and
 34 rules involved;
 35 (C) A statement of the authority and jurisdiction under which the hearing is to be held; and
 36 (D) A statement of all rights under subsection (13) of this section.
 37 (13) A young person about whom a hearing is being held has the right:
 38 (a) To appear at all proceedings held under this section, except juvenile panel deliberations.
 39 (b) To cross-examine all witnesses appearing to testify at the hearing.
 40 (c) To subpoena witnesses and documents as provided in ORS 161.395.
 41 (d) To be represented by suitable legal counsel possessing skills and experience commensurate
 42 with the nature and complexity of the case, to consult with counsel prior to the hearing and, if fi-
 43 nancially eligible, to have suitable counsel appointed at state expense.
 44 (e) To examine all information, documents and reports that the juvenile panel considers and, if
 45 the information, documents and reports are available to the juvenile panel before the hearing, to

1 examine them prior to the hearing.

2 (14) Except for deliberations of the juvenile panel, the juvenile panel shall keep a record of all
3 hearings before the juvenile panel.

4 (15) Upon request of a person listed in subsection (12)(a) of this section or on its own motion,
5 the juvenile panel may continue a hearing for a reasonable period not to exceed 60 days to obtain
6 additional information or testimony or for other good cause shown.

7 (16) Within 15 days after the conclusion of the hearing, the juvenile panel shall provide written
8 notice of the juvenile panel's decision to the young person, the attorney representing the young
9 person, the young person's parents or guardians, if known, the person having legal custody of the
10 young person, the district attorney of the county in which the young person was adjudicated and
11 the Attorney General or other attorney representing the state, if any.

12 (17) The juvenile panel shall maintain and keep current the medical, social and delinquency
13 history of all young persons. The juvenile panel shall determine the confidentiality of records
14 maintained by the juvenile panel pursuant to [ORS 192.501 to 192.505] **sections 38 to 49 of this 2011**
15 **Act.**

16 **SECTION 87.** ORS 421.344 is amended to read:

17 421.344. There is established Oregon Corrections Enterprises, a semi-independent agency. The
18 Director of the Department of Corrections shall assign or appoint an administrator who shall serve
19 at the pleasure of the director. The administrator shall have authority to do all things necessary
20 and convenient to carry out ORS [192.502,] 421.305, 421.312, 421.344 to 421.367, 421.412, 421.442,
21 421.444 and 421.445.

22 **SECTION 88.** ORS 421.347 is amended to read:

23 421.347. (1) The administrator of Oregon Corrections Enterprises shall establish, by the issuance
24 of a policy directive or order, an advisory council consisting of not fewer than three members to
25 provide policy input concerning Oregon Corrections Enterprises operations and its discharge of the
26 functions and duties prescribed by section 41, Article I of the Oregon Constitution, and ORS
27 [192.502,] 421.305, 421.312, 421.344 to 421.367, 421.412, 421.442, 421.444 and 421.445. The council shall
28 select one of its members as chairperson. The council shall meet not less frequently than semian-
29 nually at the offices of Oregon Corrections Enterprises. The council shall meet at such other times
30 and places specified by the administrator. All members shall be entitled to expenses as provided in
31 ORS 292.495.

32 (2) The membership of the advisory council shall consist of at least one representative of each
33 of the following interests, as determined at the discretion of the administrator:

34 (a) At least one member shall be a person who has experience in, and can represent the interests
35 and perspective of the banking or finance industry;

36 (b) At least one member shall be a person who has experience in and can represent the interests
37 and perspective of private business in Oregon; and

38 (c) At least one member shall be a person who has experience in the field of labor relations and
39 can represent the interests and perspective of organized labor.

40 (3) Members of the advisory council must be citizens of the United States and residents of the
41 State of Oregon. No member of the council may be an employee of the Department of Corrections
42 or of Oregon Corrections Enterprises.

43 (4) The order or policy directive that establishes the advisory council may specify the terms of
44 office of members of the council and may provide for removal of members from the advisory council
45 by the administrator, either at the pleasure of the administrator or for other grounds specified in

1 the order or policy directive. Upon the expiration or termination of the term of any member ap-
2 pointed to represent an interest under subsection (2) of this section, the administrator shall appoint
3 a successor to represent that interest. A member of the advisory council shall be eligible for reap-
4 pointment.

5 **SECTION 89.** ORS 421.349 is amended to read:

6 421.349. In addition to the advisory council required by ORS 421.347, the administrator may es-
7 tablish, by the issuance of a policy directive or order, one or more advisory committees, bodies or
8 advisors to advise and assist Oregon Corrections Enterprises in discharging its functions and duties
9 as prescribed by section 41, Article I of the Oregon Constitution, and ORS [192.502,] 421.305, 421.312,
10 421.344 to 421.367, 421.412, 421.442, 421.444 and 421.445. The administrator may authorize the pay-
11 ment of expenses, as provided in ORS 292.495, to the members of any advisory committee or body
12 established under this section.

13 **SECTION 90.** ORS 421.359 is amended to read:

14 421.359. All income and revenues generated or received by Oregon Corrections Enterprises shall
15 remain within, and are continuously appropriated to, Oregon Corrections Enterprises for the pur-
16 poses of discharging the functions and duties prescribed by section 41, Article I of the Oregon
17 Constitution, and ORS [192.502,] 421.305, 421.312, 421.344 to 421.367, 421.412, 421.442, 421.444 and
18 421.445. There shall be no commingling of funds between Oregon Corrections Enterprises and the
19 Department of Corrections.

20 **SECTION 91.** ORS 421.442 is amended to read:

21 421.442. (1) The Department of Corrections may create accounts and subaccounts as reasonably
22 required to discharge the functions and duties prescribed by section 41, Article I of the Oregon
23 Constitution, including accounts and subaccounts for the deposit of income generated from prison
24 work programs. Accounts and subaccounts created under this subsection shall be maintained sepa-
25 rate and distinct from the General Fund. Moneys credited to the accounts and subaccounts are
26 continuously appropriated to the department for the purpose of implementing, maintaining and de-
27 veloping prison work programs. Moneys in the department accounts or subaccounts may be trans-
28 ferred to the inmate injury component of the Insurance Fund for the payment of expenses therefrom
29 authorized by law. Moneys in the accounts or subaccounts may be invested as provided in ORS
30 293.701 to 293.790 and as authorized by ORS 421.305. Earnings on the investment of moneys in the
31 accounts or subaccounts shall be credited to the respective account or subaccount.

32 (2) Oregon Corrections Enterprises may create accounts and subaccounts as reasonably required
33 to discharge the functions and duties prescribed by section 41, Article I of the Oregon Constitution,
34 and ORS [192.502,] 421.305, 421.312, 421.344 to 421.367, 421.412, 421.444 and 421.445 and this section,
35 including accounts and subaccounts for the deposit of income generated from prison work programs.
36 All moneys collected or received by Oregon Corrections Enterprises shall be deposited into an ac-
37 count or subaccounts established by Oregon Corrections Enterprises in a depository bank insured
38 by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund.
39 The administrator shall ensure that sufficient collateral secures any amount of funds on deposit that
40 exceeds the limits of the coverage of the Federal Deposit Insurance Corporation or the National
41 Credit Union Share Insurance Fund. All moneys in the account or subaccounts are continuously
42 appropriated to Oregon Corrections Enterprises for the purpose of implementing, maintaining and
43 developing prison work programs. Moneys in the accounts or subaccounts may be invested as pro-
44 vided in ORS 293.701 to 293.790 and as authorized by ORS 421.305. Earnings on the investment of
45 moneys in the accounts or subaccounts shall be credited to the respective account or subaccount.

1 (3) Moneys credited to or received by inmate work programs conducted by the department may
 2 not be commingled with moneys credited to or received by inmate work programs conducted by
 3 Oregon Corrections Enterprises.

4 (4) Moneys in the accounts or subaccounts are available for implementing, maintaining and de-
 5 veloping prison work and on-the-job training programs, including, but not limited to:

6 (a) The purchase of all necessary machinery and equipment for establishing, equipping and en-
 7 larging prison industries;

8 (b) The purchase of raw materials, the payment of salaries and wages and all other expenses
 9 necessary and proper in the judgment of the Director of the Department of Corrections or the ad-
 10 ministrator of Oregon Corrections Enterprises in the conduct and operation of prison industries; and

11 (c) Department transfers to the inmate injury component of the Insurance Fund from the pay-
 12 ment of expenses authorized by law.

13 (5) No part of the accounts or subaccounts may be expended for maintenance, repairs, con-
 14 struction or reconstruction, or general or special expenses of a Department of Corrections institu-
 15 tion, other than for prison work and on-the-job training programs.

16 (6) The transfers referred to in subsections (1) and (4)(c) of this section may be authorized by
 17 the Legislative Assembly, or the Emergency Board if the Legislative Assembly is not in session,
 18 whenever it appears to the Legislative Assembly or the board, as the case may be, that there are
 19 insufficient moneys in the inmate injury component of the Insurance Fund for the payment of ex-
 20 penses authorized by law.

21 **SECTION 92.** ORS 426.155 is amended to read:

22 426.155. (1) The provisions of this section apply to the release of information about a person who
 23 is held in custody either pending a commitment proceeding under ORS 426.070, 426.140, 426.228,
 24 426.232, 426.233 or 426.237 (1)(b) or while committed or recommitted under ORS 426.005 to 426.390.

25 (2) Notwithstanding the provisions of ORS 179.495, 179.505 or [192.502 (2)] **section 40 (2) of this**
 26 **2011 Act** and notwithstanding any other provision of ORS 426.005 to 426.390, a facility or nonhos-
 27 pital facility where a person is held shall establish procedures for releasing information as required
 28 under subsections (3) and (4) of this section.

29 (3)(a) If a person described in subsection (1) of this section authorizes disclosure as provided in
 30 subsection (5) of this section, upon request of a member of the family of the person, or any other
 31 person designated by the person, a facility or nonhospital facility where the person is held shall
 32 provide the family member or the designee with the following information:

33 (A) The person's diagnosis;

34 (B) The person's prognosis;

35 (C) The medications prescribed for the person and the side effects of medications prescribed, if
 36 any;

37 (D) The person's progress;

38 (E) Information about any civil commitment process, including the date, time and location of the
 39 person's commitment hearing; and

40 (F) Where and when the person may be visited.

41 (b) If a request for information is made under this subsection and the person described in sub-
 42 section (1) of this section is unable to authorize disclosure as provided in subsection (5) of this
 43 section, the person requesting information shall be provided notice of the presence of the person
 44 described in subsection (1) of this section in any facility or nonhospital facility. Information shall
 45 not be provided under this paragraph if the physician of the person described in subsection (1) of

1 this section determines that it would not be in the person's best interest to provide the information
 2 or if providing the information is prohibited by federal law.

3 (4) Upon the admission of any person to a facility or nonhospital facility under ORS 426.005 to
 4 426.390, the facility or nonhospital facility shall make reasonable attempts to notify the person's
 5 next of kin, or any other person designated by the person, of the person's admission, unless the
 6 person requests that this information not be provided. The facility or nonhospital facility shall make
 7 reasonable attempts to notify the person's next of kin, or any other person designated by the person,
 8 of the person's release, transfer, serious illness, injury or death upon request of the family member
 9 or designee, unless the person requests that this information not be provided. The person shall be
 10 advised by the facility or nonhospital facility that the person has the right to request that this in-
 11 formation not be provided.

12 (5) The person who is held in custody shall be notified by the facility or nonhospital facility that
 13 information about the person has been requested. Except as provided in subsection (3) of this sec-
 14 tion, the consent of the person who is held is required for release of information under subsections
 15 (3) and (4) of this section. If, when initially informed of the request for information, the person is
 16 unable to give voluntary and informed consent to authorize the release of information, notation of
 17 the attempt shall be made in the person's treatment record and daily efforts shall be made to secure
 18 the person's consent or refusal of authorization.

19 (6) Notwithstanding any other provision of this section, an individual eligible to receive infor-
 20 mation under subsection (3) of this section may not receive information unless the individual first
 21 agrees to make no further disclosure of the information. The agreement may be made orally.

22 (7) A facility or nonhospital facility that releases information under subsection (3) or (4) of this
 23 section shall:

24 (a) Notify the person who is held to whom, when and what information was released; and

25 (b) Note in the medical record of the person who is held:

26 (A) The basis for finding that the person gave voluntary and informed consent;

27 (B) The oral or written consent of the person who is held;

28 (C) To whom, when and what information was released;

29 (D) The agreement to the requirements of subsection (6) of this section by the person who re-
 30 quested information; and

31 (E) Any determination made by the person's physician under subsection (3)(b) of this section
 32 regarding the provision of notice of the presence of the person in any facility or nonhospital facility.

33 (8) A facility or nonhospital facility, including the staff of such facilities and nonhospital facili-
 34 ties, that releases information under this section or rules adopted under ORS 426.236 may not be
 35 held civilly or criminally liable for damages caused or alleged to be caused by the release of infor-
 36 mation or the failure to release information as long as the release was done in good faith and in
 37 compliance with subsections (3) and (4) of this section or rules adopted under ORS 426.236.

38 (9) The provisions of subsections (3) and (4) of this section do not limit the ability or obligation
 39 of facilities, nonhospital facilities, physicians, mental health care providers or licensed mental health
 40 professionals to provide information as otherwise allowed or required by law.

41 **SECTION 93.** ORS 431.627 is amended to read:

42 431.627. (1) In addition to and not in lieu of ORS 431.607 to 431.617, the Oregon Health Au-
 43 thority shall designate trauma centers in areas that are within the jurisdiction of trauma advisory
 44 boards other than in the area within the jurisdiction of area trauma advisory board 1.

45 (2) The authority shall enter into contracts with designated trauma centers and monitor and

1 assure quality of care and appropriate costs for trauma patients meeting trauma system entry cri-
 2 teria.

3 (3) All findings and conclusions, interviews, reports, studies, communications and statements
 4 procured by or furnished to the authority, the State Trauma Advisory Board or an area trauma ad-
 5 visory board in connection with obtaining the data necessary to perform patient care quality as-
 6 surance functions shall be confidential pursuant to [ORS 192.501 to 192.505] **sections 38 to 49 of**
 7 **this 2011 Act.**

8 (4)(a) All data received or compiled by the State Trauma Advisory Board or any area trauma
 9 advisory board in conjunction with authority monitoring and assuring quality of trauma patient care
 10 shall be confidential and privileged, nondiscoverable and inadmissible in any proceeding. No person
 11 serving on or communicating information to the State Trauma Advisory Board or an area trauma
 12 advisory board shall be examined as to any such communications or to the findings or recommen-
 13 dations of such board. A person serving on or communicating information to the State Trauma Ad-
 14 visory Board or an area trauma advisory board shall not be subject to an action for civil damages
 15 for actions taken or statements made in good faith. Nothing in this section affects the admissibility
 16 in evidence of a party's medical records not otherwise confidential or privileged dealing with the
 17 party's medical care. The confidentiality provisions of ORS 41.675 and 41.685 shall also apply to the
 18 monitoring and quality assurance activities of the State Trauma Advisory Board, area trauma advi-
 19 sory boards and the authority.

20 (b) As used in this section, "data" includes but is not limited to written reports, notes, records
 21 and recommendations.

22 (5) Final reports by the authority, the State Trauma Advisory Board and area trauma advisory
 23 boards shall be available to the public.

24 (6) The authority shall publish a biennial report of the Emergency Medical Services and Trauma
 25 Systems Program and trauma systems activities.

26 **SECTION 94.** ORS 433.009 is amended to read:

27 433.009. (1) Notwithstanding ORS [192.501 (3), 192.502 (2) and] 433.045 **and sections 38 (2) and**
 28 **40 (2) of this 2011 Act**, if, during the course of a criminal investigation, a law enforcement unit
 29 acquires information that the person who is charged with a crime or sentenced for a crime has a
 30 reportable disease, the law enforcement unit shall disclose that information to the public health
 31 authorities who shall confirm the diagnosis and notify any police officer, corrections officer or
 32 emergency medical technician who had significant exposure to the person.

33 (2) As used in this section:

34 (a) "Emergency medical technician" has the meaning given that term in ORS 682.025.

35 (b) "Law enforcement unit," "police officer" and "corrections officer" have the meanings given
 36 those terms in ORS 181.610.

37 (c) "Reportable disease" means a disease or condition, the reporting of which enables a public
 38 health authority to take action to protect or to benefit the public health.

39 **SECTION 95.** ORS 441.055 is amended to read:

40 441.055. (1) The governing body of each health care facility shall be responsible for the operation
 41 of the facility, the selection of the medical staff and the quality of care rendered in the facility. The
 42 governing body shall:

43 (a) Ensure that all health care personnel for whom state licenses, registrations or certificates
 44 are required are currently licensed, registered or certified;

45 (b) Ensure that physicians admitted to practice in the facility are granted privileges consistent

1 with their individual training, experience and other qualifications;

2 (c) Ensure that procedures for granting, restricting and terminating privileges exist and that
3 such procedures are regularly reviewed to ensure their conformity to applicable law;

4 (d) Ensure that physicians admitted to practice in the facility are organized into a medical staff
5 in such a manner as to effectively review the professional practices of the facility for the purposes
6 of reducing morbidity and mortality and for the improvement of patient care; and

7 (e) Ensure that a physician is not denied medical staff membership or privileges at the facility
8 solely on the basis that the physician holds medical staff membership or privileges at another health
9 care facility.

10 (2) The physicians organized into a medical staff pursuant to subsection (1) of this section shall
11 propose medical staff bylaws to govern the medical staff. The bylaws shall include, but not be limited
12 to the following:

13 (a) Procedures for physicians admitted to practice in the facility to organize into a medical staff
14 pursuant to subsection (1) of this section;

15 (b) Procedures for ensuring that physicians admitted to practice in the facility are granted
16 privileges consistent with their individual training, experience and other qualifications;

17 (c) Provisions establishing a framework for the medical staff to nominate, elect, appoint or re-
18 move officers and other persons to carry out medical staff activities with accountability to the
19 governing body;

20 (d) Procedures for ensuring that physicians admitted to practice in the facility are currently li-
21 censed by the Oregon Medical Board;

22 (e) Procedures for ensuring that the facility's procedures for granting, restricting and terminat-
23 ing privileges are followed and that such procedures are regularly reviewed to assure their con-
24 formity to applicable law; and

25 (f) Procedures for ensuring that physicians provide services within the scope of the privileges
26 granted by the governing body.

27 (3) Amendments to medical staff bylaws shall be accomplished through a cooperative process
28 involving both the medical staff and the governing body. Medical staff bylaws shall be adopted, re-
29 pealed or amended when approved by the medical staff and the governing body. Approval shall not
30 be unreasonably withheld by either. Neither the medical staff nor the governing body shall withhold
31 approval if such repeal, amendment or adoption is mandated by law, statute or regulation or is
32 necessary to obtain or maintain accreditation or to comply with fiduciary responsibilities or if the
33 failure to approve would subvert the stated moral or ethical purposes of the institution.

34 (4) The Oregon Medical Board may appoint one or more physicians to conduct peer review for
35 a health care facility upon request of such review by all of the following:

36 (a) The physician whose practice is being reviewed.

37 (b) The executive committee of the health care facility's medical staff.

38 (c) The governing body of the health care facility.

39 (5) The physicians appointed pursuant to subsection (4) of this section shall be deemed agents
40 of the Oregon Medical Board, subject to the provisions of ORS 30.310 to 30.400 and shall conduct
41 peer review. Peer review shall be conducted pursuant to the bylaws of the requesting health care
42 facility.

43 (6) Any person serving on or communicating information to a peer review committee shall not
44 be subject to an action for damages for action or communications or statements made in good faith.

45 (7) All findings and conclusions, interviews, reports, studies, communications and statements

1 procured by or furnished to the peer review committee in connection with a peer review are confi-
2 dential pursuant to [ORS 192.501 to 192.505] **sections 38 to 49 of this 2011 Act** and 192.690 and all
3 data is privileged pursuant to ORS 41.675.

4 (8) Notwithstanding subsection (7) of this section, a written report of the findings and conclu-
5 sions of the peer review shall be provided to the governing body of the health care facility who shall
6 abide by the privileged and confidential provisions set forth in subsection (7) of this section.

7 (9) Procedures for peer review established by subsections (4) to (8) of this section are exempt
8 from ORS chapter 183.

9 (10) The Oregon Health Authority shall adopt by rule standards for rural hospitals, as defined
10 in ORS 442.470, that specifically address the provision of care to postpartum and newborn patients
11 so long as patient care is not adversely affected.

12 (11) For purposes of this section, "physician" has the meaning given the term in ORS 677.010.

13 **SECTION 96.** ORS 442.583 is amended to read:

14 442.583. (1)(a) The Health Resources Commission shall develop a medical technology assessment
15 program that addresses the introduction, diffusion and utilization of medical technologies and their
16 associated services and shall make recommendations regarding the program's implementation.

17 (b) The assessment program developed pursuant to paragraph (a) of this subsection shall include
18 the results of at least two medical technology assessments to be selected by the commission. The
19 commission shall select one new and emerging medical technology and one established medical
20 technology to be assessed.

21 (c) The program shall include criteria for selection of the medical technologies to be assessed.

22 (d) The commission shall appoint and work with an advisory committee whose members shall
23 have the appropriate expertise to develop a medical technology assessment program. The advisory
24 committee shall present its recommendations to the commission at a public hearing. The commission
25 shall conduct public hearings to solicit testimony and information from health care consumers prior
26 to making the report described in subsection (2) of this section. The commission shall give strong
27 consideration to the recommendations of the advisory committee and public testimony in developing
28 its report.

29 (2)(a) The commission shall present its findings and recommendations in a report to the Gover-
30 nor and the appropriate interim legislative committees on or before April 1, 1994. The report shall
31 include, in addition to at least two medical technology assessments, a determination of the supply
32 and distribution of medical technology and associated services that are required to meet the need
33 for medical technology in the five years following the completion of the assessment.

34 (b) The report also shall identify strategies and contain recommendations:

35 (A) Regarding the program's implementation, including which agency should implement the
36 program;

37 (B) To promote compliance with the program regarding the introduction, diffusion and utilization
38 of those medical technologies assessed;

39 (C) Regarding whether the state should have a regulatory function and, if so, which agency
40 should carry out that function; and

41 (D) Regarding the collection, storage and dissemination of data required for a technology as-
42 sessment program.

43 (3) To insure that confidentiality is maintained, no identification of a patient or a person li-
44 censed to provide health services shall be included with the data submitted under this section, and
45 the commission shall release such data only in aggregate statistical form. All findings and conclu-

1 sions, interviews, reports, studies, communications and statements procured by or furnished to the
 2 commission in connection with obtaining the data necessary to perform its functions shall be confi-
 3 dential pursuant to [ORS 192.501 to 192.505] **sections 38 to 49 of this 2011 Act.**

4 (4) All data and information collected, analyzed and summarized by professional and trade as-
 5 sociations conducting quality assurance and improvement programs shall be considered confidential
 6 and shall not be admissible in any legal proceeding or used to create a legal standard of care.
 7 However, such data and information may be submitted to the commission on request and shall re-
 8 main confidential and inadmissible.

9 **SECTION 97.** ORS 453.307 is amended to read:

10 453.307. As used in ORS 453.307 to 453.414:

11 (1) "Community right to know regulatory program" or "local program" means any law, rule,
 12 ordinance, regulation or charter amendment established, enforced or enacted by a local government
 13 that requires an employer to collect or report information relating to the use, storage, release,
 14 possession or composition of hazardous substances and toxic substances if a primary intent of the
 15 law, rule, ordinance, regulation or charter amendment is the public distribution of the information.

16 (2) "Emergency service personnel" includes those entities providing emergency services as de-
 17 fined in ORS 401.025.

18 (3) "Employer" means:

19 (a) Any person operating a facility that is included in one or more of the 21 standard industrial
 20 classification categories in Appendix B of the Natural Resources Defense Council v. Train Consent
 21 Decree of June 8, 1976 (8 E.R.C. 2120); or

22 (b) Any person operating a facility designated by the State Fire Marshal.

23 (4) "Fire district" means any agency having responsibility for providing fire protection services.

24 (5) "Hazardous substance" means:

25 (a) Any substance designated as hazardous by the Director of the Department of Consumer and
 26 Business Services or by the State Fire Marshal;

27 (b) Any substance for which a material safety data sheet is required by the Director of the De-
 28 partment of Consumer and Business Services under ORS 654.035 and which appears on the list of
 29 Threshold Limit Values for Chemical Substances and Physical Agents in the Work Environment by
 30 the American Conference of Governmental Industrial Hygienists; or

31 (c) Radioactive waste and material as defined in ORS 469.300 and radioactive substance as de-
 32 fined in ORS 453.005.

33 (6) "Health professional" means a physician as defined in ORS 677.010, registered nurse, indus-
 34 trial hygienist, toxicologist, epidemiologist or emergency medical technician.

35 (7) "Law enforcement agency" has the meaning given that term in ORS 181.010.

36 (8) "Local government" means a city, town, county, regional authority or other political subdivi-
 37 sion of this state.

38 (9) "Person" includes individuals, corporations, associations, firms, partnerships, joint stock
 39 companies, public and municipal corporations, political subdivisions, the state and any agency
 40 thereof, and the federal government and any agency thereof.

41 (10) "Trade secret" has the meaning given that term in [ORS 192.501 (2)] **section 41 (3) of this**
 42 **2011 Act.**

43 **SECTION 98.** ORS 453.332 is amended to read:

44 453.332. (1) An employer responding to a request under ORS 453.317 may withhold the specific
 45 hazardous substance identity, including the chemical name and any other specific identification of

1 a hazardous substance, if:

2 (a) Upon a showing satisfactory to the State Fire Marshal, the records, reports or information,
3 or particular parts thereof, if made public, would divulge product identities, methods or processes
4 and are entitled to protection as a trade secret under [ORS 192.501] **section 41 (3) of this 2011**
5 **Act**; and

6 (b) Other information provided by the employer describes the properties, quantities stored and
7 used and effects of the hazardous substance.

8 (2) Under no circumstances shall this section be construed to require the disclosure of infor-
9 mation about a process or percentage of mixture that is a trade secret.

10 (3) A claim of trade secret by the employer, if the claim is substantiated by the Department of
11 Consumer and Business Services or any other agency, may be recognized by the State Fire Marshal
12 as sufficient for purposes of trade secret protection under ORS 453.307 to 453.414 and 476.030.

13 (4) Site specific information regarding the exact amount and location of a hazardous substance
14 provided to or obtained by the State Fire Marshal or by an agency identified in ORS 453.322 shall
15 be treated by the State Fire Marshal or the agency as confidential.

16 (5) Any claim of trade secret by an employer pursuant to this section must be made at the time
17 the employer provides the information to the State Fire Marshal.

18 **SECTION 99.** ORS 456.623 is amended to read:

19 456.623. (1) The Housing and Community Services Department shall establish a registry system
20 for persons requesting to be notified when department-proposed funding awards are contemplated for
21 multifamily housing projects.

22 (2) Any person may register with the department to receive the notification described in sub-
23 section (1) of this section. A person may request notification for multifamily housing projects on a
24 statewide basis or may limit the request to projects within specific areas of the state as identified
25 by the department. The department may charge a reasonable fee for the registration.

26 (3) If the department proposes funding for a multifamily housing project, the department shall
27 send written notice of the funding proposal to all persons who are at that time registered to receive
28 the notice under this section. The department may send notice to persons the department believes
29 may be interested but who are not registered to receive notice. The department shall not proceed
30 with awarding funding for a multifamily housing project prior to the 30th day after the sending of
31 notice to all persons entitled under this subsection to notice of the funding proposal.

32 (4) Notice sent under this section shall be limited to stating the deadline for filing comments
33 and the type of housing, number of units, sponsor and location of the proposed project. The notice
34 shall not include any information made exempt from public disclosure under [ORS 192.502 (24)]
35 **section 41 of this 2011 Act**.

36 (5) During the period after the department proposes funding for a multifamily housing project
37 and prior to the department proceeding with awarding the funding, any interested person may file
38 comments regarding the project with the department.

39 (6) At the discretion of the Director of the Housing and Community Services Department, the
40 department may conduct a market study or take other actions in response to comments filed in re-
41 gard to multifamily housing projects proposed for funding.

42 (7) Subsections (3), (5) and (6) of this section apply only to multifamily housing project funding
43 for construction, acquisition or rehabilitation loans, grants or tax program awards that otherwise
44 do not include an independently prepared, project-specific market study as part of the department
45 review, approval or underwriting process.

(8) As used in this section, “housing project” has the meaning given that term in ORS 456.065.

SECTION 100. ORS 465.015 is amended to read:

465.015. (1) Except as provided in subsection (2) of this section, a person shall, within 120 days after notification in writing by the Department of Environmental Quality that the person meets the definition of a toxics user, complete a toxics use reduction and hazardous waste reduction plan. At a minimum, a plan shall include:

(a) A written policy articulating organizational support for the toxics use reduction and hazardous waste reduction plan and a commitment by the organization to implement plan goals.

(b) A description of its scope and objectives, including the evaluation of technologies, procedures and personnel training programs to ensure unnecessary toxic substances are not used and unnecessary waste is not generated.

(c) Internal analysis and periodic assessment of individual processes for toxics use and hazardous waste generation.

(d) Identification of opportunities to reduce or eliminate toxics use and hazardous waste generation.

(e) Employee awareness and training programs that involve employees in toxics use reduction and hazardous waste reduction planning and implementation.

(f) Institutionalization of the plan by incorporating the plan into management practices and procedures.

(2) A person is not required to complete a plan if the person has implemented an environmental management system, as defined in ORS 468.172.

(3) A toxics user shall incorporate into the plan and associated decision-making process, the costs of using toxic substances and generating hazardous waste. The costs may represent, among other things, the costs of management, liability insurance, regulatory compliance and oversight.

(4) As part of each plan, a toxics user shall evaluate technically and economically practicable toxics use reduction and hazardous waste reduction opportunities for:

(a) Any toxic substance for which the toxics user reports as a large user; and

(b) Any hazardous waste representing 10 percent or more by weight of the cumulative hazardous waste stream generated per year.

(5) A toxics user shall explain the rationale for each toxics use reduction and waste reduction opportunity specified in the plan, including any impediments, such as technical or economic barriers, to toxics use reduction and hazardous waste reduction.

(6) A toxics use reduction and hazardous waste reduction plan developed under this section or the documentation for an environmental management system shall be retained at the facility. To the extent that a plan or system may be considered a public record under ORS 192.410, the information contained in the plan or system is confidential and is exempt from public disclosure pursuant to [ORS 192.502] **sections 38 to 49 of this 2011 Act.**

(7) It is the policy of this state that plans developed under this section be kept current and that the plans reflect changes in toxics use over time. In furtherance of this policy, a toxics user may update its plan or modify its environmental management system to reflect any changes.

SECTION 101. ORS 466.800 is amended to read:

466.800. (1) Except as provided in subsection (2) of this section, any records, reports or information obtained from any persons under ORS 466.765 and 466.805 shall be made available for public inspection and copying during the regular office hours of the Department of Environmental Quality at the expense of any person requesting copies.

1 (2) Unless classified by the director as confidential, any records, reports or information obtained
2 under ORS 466.706 to 466.882 and 466.994 shall be available to the public. Upon a showing satis-
3 factory to the director by any person that records, reports or information, or particular parts
4 thereof, if made public, would divulge methods, processes or information entitled to protection as
5 trade secrets under [ORS 192.501 to 192.505] **section 41 (3) of this 2011 Act**, the director shall
6 classify as confidential such record, report or information, or particular part thereof. However, such
7 record, report or information may be disclosed to any other officer, medical or public safety em-
8 ployee or authorized representative of the state concerned with carrying out ORS 466.706 to 466.882
9 and 466.994 or when relevant in any proceeding under ORS 466.706 to 466.882 and 466.994.

10 (3) Any record, report or information obtained or used by the department or the Environmental
11 Quality Commission in administering the statewide underground storage tank program under ORS
12 466.706 to 466.882 and 466.994 shall be available to the United States Environmental Protection
13 Agency upon request. If the record, report or information has been submitted to the state under a
14 claim of confidentiality, the state shall make that claim of confidentiality to the Environmental
15 Protection Agency for the requested record, report or information. The federal agency shall treat
16 the record, report or information subject to the confidentiality claim as confidential in accordance
17 with applicable federal law.

18 **SECTION 102.** ORS 469.030 is amended to read:

19 469.030. (1) There is created the State Department of Energy.

20 (2) The State Department of Energy shall:

21 (a) Be the central repository within the state government for the collection of data on energy
22 resources;

23 (b) Endeavor to utilize all public and private sources to inform and educate the public about
24 energy problems and ways in which the public can conserve energy resources;

25 (c) Engage in research, but whenever possible, contract with appropriate public or private
26 agencies and dispense funds for research projects and other services related to energy resources,
27 except that the State Department of Energy shall endeavor to avoid duplication of research whether
28 completed or in progress;

29 (d) Qualify for, accept and disburse or utilize any private or federal moneys or services available
30 for the administration of ORS 176.820, [192.501 to 192.505,] 192.690, 469.010 to 469.225, 469.300 to
31 469.563, 469.990, 757.710 and 757.720;

32 (e) Administer federal and state energy allocation and conservation programs and energy re-
33 search and development programs and apply for and receive available funds therefor;

34 (f) Be a clearinghouse for energy research to which all agencies shall send information on all
35 energy related research;

36 (g) Prepare contingent energy programs to include all forms of energy not otherwise provided
37 pursuant to ORS 757.710 and 757.720;

38 (h) Maintain an inventory of energy research projects in Oregon and the results thereof;

39 (i) Collect, compile and analyze energy statistics, data and information;

40 (j) Contract with public and private agencies for energy activities consistent with ORS 469.010
41 and this section; and

42 (k) Upon request of the governing body of any affected jurisdiction, coordinate a public review
43 of a proposed transmission line according to the provisions of ORS 469.442.

44 **SECTION 103.** ORS 469.080 is amended to read:

45 469.080. (1) The Director of the State Department of Energy may obtain all necessary informa-

1 tion from producers, suppliers and consumers of energy resources within Oregon, and from political
 2 subdivisions in this state, as necessary to carry out ORS 176.820, [192.501 to 192.505,] 192.690,
 3 469.010 to 469.225, 469.300 to 469.563, 469.990, 469.992, 757.710 and 757.720. Such information may
 4 include, but not be limited to:

- 5 (a) Sales volume;
- 6 (b) Forecasts of energy resource requirements;
- 7 (c) Inventory of energy resources; and
- 8 (d) Local distribution patterns of information under paragraphs (a) to (c) of this subsection.

9 (2) In obtaining information under subsection (1) of this section, the director, with the written
 10 consent of the Governor, may subpoena witnesses, material and relevant books, papers, accounts,
 11 records and memoranda, administer oaths, and may cause the depositions of persons residing within
 12 or without Oregon to be taken in the manner prescribed for depositions in civil actions in circuit
 13 courts, to obtain information relevant to energy resources.

14 (3) In obtaining information under this section, the director:

15 (a) Shall avoid eliciting information already furnished by a person or political subdivision in this
 16 state to a federal, state or local regulatory authority that is available to the director for such study;
 17 and

18 (b) Shall cause reporting procedures, including forms, to conform to existing requirements of
 19 federal, state and local regulatory authorities.

20 (4) Any person who is served with a subpoena to give testimony orally or in writing or to
 21 produce books, papers, correspondence, memoranda, agreements or the documents or records as
 22 provided in ORS 176.820, [192.501 to 192.505] **sections 38 to 49 of this 2011 Act**, 192.690, 469.010
 23 to 469.225, 469.300 to 469.563, 469.990, 469.992, 757.710 and 757.720, may apply to any circuit court
 24 in Oregon for protection against abuse or hardship in the manner provided in ORCP 36 C.

25 **SECTION 104.** ORS 469.410 is amended to read:

26 469.410. (1) Any applicant for a site certificate for an energy facility shall be deemed to have
 27 met all the requirements of ORS 176.820, [192.501 to 192.505,] 192.690, 469.010 to 469.225, 469.300 to
 28 469.563, 469.990, 757.710 and 757.720 relating to eligibility for a site certificate and a site certificate
 29 shall be issued by the Energy Facility Siting Council for:

30 (a) Any transmission lines for which application has been filed with the federal government and
 31 the Public Utility Commission of Oregon prior to July 2, 1975; and

32 (b) Any energy facility under construction on July 2, 1975.

33 (2) Each applicant for a site certificate under this section shall pay the fees required by ORS
 34 469.421 (2) to (9), if applicable, and shall execute a site certificate in which the applicant agrees:

35 (a) To abide by the conditions of all licenses, permits and certificates required by the State of
 36 Oregon or any subdivision in the state to operate the energy facility and issued prior to July 2, 1975;
 37 and

38 (b) On and after July 2, 1975, to abide by the rules of the Director of the State Department of
 39 Energy adopted pursuant to ORS 469.040 (1)(d) and rules of the council adopted pursuant to ORS
 40 469.300 to 469.563, 469.590 to 469.619 and 469.930.

41 (3) The council has continuing authority over the site for which the site certificate is issued and
 42 may inspect, or direct the State Department of Energy to inspect, or request another state agency
 43 or local government to inspect, the site at any time in order to ensure that the facility is being
 44 operated consistently with the terms and conditions of the site certificate and any applicable health
 45 or safety standards.

1 (4) The council shall establish programs for monitoring the environmental and ecological effects
 2 of the operation and the decommissioning of energy facilities subject to site certificates issued prior
 3 to July 2, 1975, to ensure continued compliance with the terms and conditions of the site certificate
 4 and any applicable health or safety standards.

5 (5) Site certificates executed by the Governor under ORS 469.400 (1991 Edition) prior to July
 6 2, 1975, shall bind successor agencies created hereunder in accordance with the terms of such site
 7 certificates. Any holder of a site certificate issued prior to July 2, 1975, shall abide by the rules of
 8 the director adopted pursuant to ORS 469.040 (1)(d) and rules of the council adopted pursuant to
 9 ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and 469.992.

10 **SECTION 105.** ORS 469.560 is amended to read:

11 469.560. (1) Except as provided in subsection (2) of this section and [*ORS 192.501 to 192.505*]
 12 **sections 38 to 49 of this 2011 Act**, any information filed or submitted pursuant to ORS 469.300 to
 13 469.563, 469.590 to 469.619, 469.930 and 469.992 shall be made available for public inspection and
 14 copying during regular office hours of the State Department of Energy at the expense of any person
 15 requesting copies.

16 (2) Any information, other than that relating to the public safety, relating to secret process,
 17 device, or method of manufacturing or production obtained in the course of inspection, investigation
 18 or activities under ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and 469.992 shall be kept
 19 confidential and shall not be made a part of public record of any hearing.

20 **SECTION 106.** ORS 476.090 is amended to read:

21 476.090. (1) The State Fire Marshal shall keep a record of all fires occurring in this state and
 22 of all facts concerning the same, including statistics as to the extent of such fires and the damage
 23 caused, whether such losses were covered by insurance, and if so, in what amount. All such records
 24 shall be public, except any testimony, information or other evidence taken in an investigation under
 25 ORS 476.010 to 476.090, 476.155 to 476.170, 476.210 to 476.270 and 479.180, which shall be considered
 26 investigatory information as described in [*ORS 192.501*] **sections 38 and 39 of this 2011 Act**.

27 (2) This section [*shall*] **does** not apply to forestlands under the jurisdiction of the State Forester.

28 **SECTION 107.** ORS 520.027 is amended to read:

29 520.027. (1) A person may not drill an information hole or a hole drilled as part of a seismic
 30 program without first applying for approval from the State Department of Geology and Mineral In-
 31 dustries and paying the fee established in ORS 520.017. The application must be submitted on a form
 32 provided by the department and must include all information requested by the department.

33 (2) A person issued an approval under this section shall comply with all terms of the
 34 department's approval and any other applicable law or rule. The department may not require the
 35 person receiving approval under this section to provide information from seismic programs. The de-
 36 partment may require the submittal of information from information holes, but the information is a
 37 trade secret under [*ORS 192.501*] **section 41 (3) of this 2011 Act** and is not subject to public dis-
 38 closure under ORS 192.410 to 192.505.

39 **SECTION 108.** ORS 520.097 is amended to read:

40 520.097. (1) For a period of two years from the date of abandonment or completion of a well, all
 41 well logs and records and well reports submitted to the State Department of Geology and Mineral
 42 Industries are trade secrets under [*ORS 192.501*] **section 41 (3) of this 2011 Act** and are not subject
 43 to public disclosure under ORS 192.410 to 192.505, and all drill cuttings and cores may not be dis-
 44 closed to the public unless such protection is waived by the permittee or disclosure is required by
 45 a court order.

1 (2) The department may extend the period under subsection (1) of this section up to an addi-
2 tional five years on the request of the permittee or the permittee's successor in interest.

3 **SECTION 109.** ORS 522.365 is amended to read:

4 522.365. (1) Each operator of any geothermal well or the designated agent of the operator shall
5 file with the State Department of Geology and Mineral Industries a copy of the log, history and core
6 record, or any portion thereof, promptly upon completion, or upon the written request of the de-
7 partment at any time after the commencement of the work of drilling any geothermal well, and upon
8 plugging and decommissioning or upon suspension of operations for a period of at least six months.

9 (2) For a period of four years after the receipt of any log, history, core record, or any portion
10 thereof, such record shall be exempt from disclosure as a trade secret [*pursuant to ORS 192.501*]
11 **under section 41 (3) of this 2011 Act** unless the operator gives approval to release the data.

12 **SECTION 110.** ORS 526.280 is amended to read:

13 526.280. In furtherance of the policy established in ORS 526.277, the State Forester shall:

14 (1) Establish a policy of active and inclusive communication with the federal government, public
15 bodies as defined in ORS 174.109, residents of Oregon and interested parties regarding the utilization
16 of woody biomass produced through forest health restoration. The State Forester shall actively uti-
17 lize the statutory provisions of the National Forest Management Act of 1976, the Forest and
18 Rangeland Renewable Resources Planning Act of 1974, the National Environmental Policy Act of
19 1969, the Federal Land Policy and Management Act of 1976 and the Healthy Forests Restoration
20 Act of 2003 that allow the state to participate in federal policy development in a manner that ex-
21 presses the policy established in ORS 526.277.

22 (2) Promote public involvement in the identification of the areas of interface between urban
23 lands and forestlands that pose the highest potential to threaten lives and private property.

24 (3) Solicit public comment on the location of biomass-based energy projects and conversion fa-
25 cilities.

26 (4) Promote public understanding, through education and outreach, of forest conditions, forest
27 management options, the potential benefits and potential consequences of woody biomass utilization,
28 the quality and quantity of woody biomass on federal lands and the potential for woody biomass
29 utilization to assist in reducing wildfire risk and in enhancing forest health, diversity and resilience.
30 The State Forestry Department may coordinate with the State Department of Energy, the Oregon
31 Business Development Department, Oregon State University, the State Department of Fish and
32 Wildlife, the Department of Environmental Quality and other entities in any education and outreach
33 performed pursuant to this subsection.

34 (5) Allow the State Forestry Department to conduct inventories of the types of woody biomass
35 available and to serve as an information resource for persons seeking to utilize woody biomass for
36 energy development. Notwithstanding [*ORS 192.501*] **sections 38 to 49 of this 2011 Act**, reports on
37 any inventories of biomass conducted by the department shall be made available for public in-
38 spection.

39 (6) Promote public understanding that woody biomass utilization may be an effective tool for
40 restoration of forest health and for economic development in rural communities.

41 (7) Develop and apply, with advice from the forestry program at Oregon State University, the
42 State Department of Fish and Wildlife, the Department of Environmental Quality and other sources,
43 the best available scientific knowledge and technologies pertaining to forest and wildlife habitat
44 restoration and woody biomass utilization when developing rules under ORS 527.630.

45 (8) Seek opportunities to provide a source of woody biomass from federal, tribal, state and pri-

1 vate forests.

2 (9) Prepare a report every three years utilizing, to the greatest extent practicable, data collected
3 from state and federal sources that specify the effect of woody biomass collection and conversion
4 on the plant and wildlife resources and on the air and water quality of this state. The report shall
5 identify any changes that the State Forester determines are necessary to encourage woody biomass
6 collection and conversion and to avoid negative effects on the environment from woody biomass
7 collection and conversion. The State Forester shall submit the report to the Governor and to an
8 appropriate legislative interim committee with jurisdiction over forestry issues.

9 **SECTION 111.** ORS 656.702 is amended to read:

10 656.702. (1)(a) The records of the State Accident Insurance Fund Corporation are subject to ORS
11 192.410 to 192.505.

12 (b) Notwithstanding [ORS 192.502] **sections 38 to 49 of this 2011 Act**, the State Accident In-
13 surance Fund Corporation shall make the accident experience records of the corporation available
14 to a bona fide rating organization to assist in making workers' compensation rates. Costs involved
15 in making the records available shall be borne by the rating organization. Accident experience re-
16 cords of carrier-insured employers shall also be available on the same terms to assist in making such
17 rates.

18 (2) Disclosure of workers' compensation claim records of the Department of Consumer and
19 Business Services is governed by ORS [192.502 (20)] **section 40 (8)(d) of this 2011 Act**.

20 **SECTION 112.** ORS 657.732 is amended to read:

21 657.732. (1) As used in this section, "participating state agency or organization" means:

22 (a) The Employment Department;

23 (b) Divisions and offices within the Department of Human Services that have been approved by
24 the Director of the Employment Department, in consultation with the Education and Workforce
25 Policy Advisor, to participate in the Interagency Shared Information System;

26 (c) The Department of Education;

27 (d) The Oregon University System;

28 (e) The Department of Community Colleges and Workforce Development; and

29 (f) Other state agencies, other governmental entities or private organizations that have applied
30 to be participating state agencies or organizations and have been approved by the Director of the
31 Employment Department, in consultation with the Education and Workforce Policy Advisor, to par-
32 ticipate in the Interagency Shared Information System.

33 (2) There is established the Interagency Shared Information System. The purpose of the system
34 is to collect, analyze and share information for the development of statistical and demographic data
35 to facilitate the creation of strategies for the purpose of improving the education, training and em-
36 ployment programs related to enhancing Oregon's workforce system. The system shall share aggre-
37 gate information with a participating state agency or organization to allow the agency or
38 organization to develop policy, evaluate policy and plan and measure performance for the purpose
39 of improving the education, training and employment programs related to enhancing Oregon's
40 workforce system.

41 (3) The Director of the Employment Department shall administer and, in consultation with the
42 Education and Workforce Policy Advisor, shall oversee the development of the Interagency Shared
43 Information System. Participating state agencies or organizations shall enter into an interagency or
44 other applicable agreement with the Director of the Employment Department, as administrator of
45 the system, that:

- 1 (a) Establishes protocols for the collection and sharing of data in the system;
- 2 (b) Establishes safeguards for protecting the confidentiality of data in the system;
- 3 (c) Includes provisions regarding informed consent for sharing information obtained from indi-
4 viduals; and
- 5 (d) Provides for the sharing of costs for designing and maintaining the system.
- 6 (4) Every participating state agency or organization shall provide information to the Interagency
7 Shared Information System. Information shall be provided in a format that encodes identifying data,
8 including the client's Social Security number, using a formula unique to the participating state
9 agency or organization that shall not be disclosed to the system.
- 10 (5) In disclosing Social Security numbers to the Interagency Shared Information System under
11 subsection (4) of this section, every participating state agency or organization shall comply with any
12 state and federal laws that govern the collection and use of Social Security numbers by a partic-
13 ipating state agency or organization and any additional requirements specified by the director, in
14 consultation with the Education and Workforce Policy Advisor, that are included in the agreement
15 entered into under subsection (3) of this section.
- 16 (6) The information in the Interagency Shared Information System is not a public record for
17 purposes of ORS 192.410 to 192.505. For purposes of ORS 192.410 to 192.505, the information sub-
18 mitted to the system and the information received from the system is a public record, and the
19 custodian of such information is the participating state agency or organization that submits or re-
20 ceives the information. If the participating state agency or organization receiving the information
21 is not a public body, as defined in ORS 192.410, the Employment Department shall keep a copy of
22 the system information sent to that entity and shall be the custodian of that copy for purposes of
23 ORS 192.410 to 192.505. As custodian, the Employment Department shall limit the disclosure of, or
24 refuse to disclose, aggregate or summary level information when a small number of aggregated re-
25 cords or some other factor creates a reasonable risk that the identity of individuals may be discov-
26 ered or disclosed. The department shall refer all other requests for disclosure of system information
27 to the public body that is the custodian of the information.
- 28 (7) The Employment Department may charge a reasonable fee pursuant to [ORS 192.440] **section**
29 **22 of this 2011 Act** for the disclosure of reports to individuals or state agencies, governmental en-
30 tities or private organizations that submit data to the system and are not participating state agen-
31 cies or organizations.
- 32 (8) If a participating state agency or organization prepares or acquires a record that is confi-
33 dential under federal or state law, including [ORS 192.502 (2)] **section 40 (2) of this 2011 Act**, the
34 participating state agency or organization does not violate state confidentiality laws by providing
35 the information described in this section to the Interagency Shared Information System. Notwithstanding the provisions of ORS 279C.815 (4), 279C.850 (3), 657.665 and 660.339, the Bureau
36 of Labor and Industries, the Department of Community Colleges and Workforce Development and
37 the Employment Department are authorized to provide information to the Interagency Shared In-
38 formation System.
- 39 (9) Notwithstanding the provisions of ORS 192.410 to 192.505, a participating state agency or
40 organization shall not allow public access to information received from the Interagency Shared In-
41 formation System that identifies a particular individual unless required by law. Any participating
42 state agency or organization shall limit the disclosure of, or refuse to disclose, aggregate or sum-
43 mary level information when a small number of aggregated records or some other factor creates a
44 reasonable risk that the identity of individuals may be discovered or disclosed.
- 45

1 (10) Any individual who, without proper authority, discloses confidential information under this
 2 section may be disqualified from holding any appointment or employment with the State of Oregon.
 3 The Employment Department shall adopt by rule procedures to prevent disclosure of confidential
 4 information submitted to the Interagency Shared Information System.

5 (11) Notwithstanding subsection (4) of this section, participating state agencies or organizations
 6 may not provide new information to the Interagency Shared Information System after December 31,
 7 2003. Information in the system on and after January 1, 2004, may be accessed by participating state
 8 agencies or organizations in accordance with this section, applicable rules adopted by the Director
 9 of the Employment Department and any agreements entered into under subsection (3) of this section.

10 **SECTION 113.** ORS 657.734 is amended to read:

11 657.734. (1) As used in this section:

12 (a) "Public body" has the meaning given that term in ORS 192.410.

13 (b) "System participant" means:

14 (A) Mandatory partners under the federal Workforce Investment Act of 1998 (enacted as P.L.
 15 105-220 and codified as 29 U.S.C. 2801 et seq.) and other one-stop system partners, which may in-
 16 clude public bodies and private organizations; and

17 (B) Public bodies and private organizations that have been approved by the Director of the
 18 Employment Department, in consultation with the Education and Workforce Policy Advisor, to par-
 19 ticipate in the Performance Reporting Information System.

20 (2) There is established the Performance Reporting Information System for the purpose of col-
 21 lecting, analyzing and sharing statistical and demographic data for the development and reporting
 22 of workforce system performance measures.

23 (3) The Performance Reporting Information System is intended to share the data described in
 24 subsection (2) of this section, by agreement, with all system participants. The Performance Reporting
 25 Information System may not contain data submitted exclusively for use in the Interagency Shared
 26 Information System.

27 (4) The Director of the Employment Department shall administer and, in consultation with the
 28 Education and Workforce Policy Advisor, oversee the development of the Performance Reporting
 29 Information System. System participants shall be designated as participants in the system by rule
 30 of the Employment Department, in consultation with the Education and Workforce Policy Advisor.
 31 A system participant shall enter into an interagency or other applicable agreement with the director
 32 that:

33 (a) Establishes protocols for the collection and sharing of data in the system;

34 (b) Establishes safeguards for protecting the confidentiality of data in the system;

35 (c) Includes provisions regarding informed consent for sharing information obtained from indi-
 36 viduals; and

37 (d) Provides for the sharing of costs for developing and maintaining the system.

38 (5)(a) All individual record information in the Performance Reporting Information System is
 39 confidential and may not be disclosed as a public record under the provisions of ORS 192.410 to
 40 192.505. As administrator of the system, the director may view all data or individual record infor-
 41 mation in the system. System participants may not allow public access to information received from
 42 the system that identifies a particular individual unless required by law. System participants shall
 43 limit the disclosure of, or refuse to disclose, aggregate or summary level information when a small
 44 number of aggregated records or some other factor creates a reasonable risk that the identity of
 45 individuals may be discovered or disclosed.

1 (b) System participants shall provide information in a format that encodes identifying data, in-
 2 cluding the client's Social Security number, using a formula unique to the system participant. In
 3 disclosing Social Security numbers to the system, system participants shall comply with any state
 4 and federal laws that govern the collection and use of Social Security numbers by the system par-
 5 ticipant and any additional requirements specified by the director, in consultation with the Educa-
 6 tion and Workforce Policy Advisor, that are included in the agreement entered into under subsection
 7 (4) of this section.

8 (6) The information in the Performance Reporting Information System is not a public record for
 9 purposes of ORS 192.410 to 192.505. For purposes of ORS 192.410 to 192.505, the information sub-
 10 mitted to the system and the information received from the system is a public record, and the
 11 custodian of such information is the system participant that submits or receives the information. If
 12 the system participant receiving the information is not a public body, the department shall keep a
 13 copy of the system information sent to that system participant and shall be the custodian of that
 14 copy for purposes of ORS 192.410 to 192.505. As custodian, the department shall limit the disclosure
 15 of, or refuse to disclose, aggregate or summary level information when a small number of aggregated
 16 records or some other factor creates a reasonable risk that the identity of individuals may be dis-
 17 covered or disclosed. The department shall refer all other requests for disclosure of system infor-
 18 mation to the public body that is the custodian of the information.

19 (7) The department may charge a reasonable fee under [ORS 192.440] **section 22 of this 2011**
 20 **Act** for the disclosure of reports containing only aggregate data to individuals, public bodies or
 21 private organizations.

22 (8) If a system participant prepares or acquires a record that is confidential under federal or
 23 state law, including [ORS 192.502 (2)] **section 40 (2) of this 2011 Act**, the system participant does
 24 not violate state confidentiality laws by providing the information described in this section to the
 25 Performance Reporting Information System. Notwithstanding the provisions of ORS 279C.815 (4),
 26 279C.850 (3), 657.665 and 660.339, the Bureau of Labor and Industries, the Department of Community
 27 Colleges and Workforce Development and the Employment Department are authorized to provide
 28 information to the system.

29 (9) Any individual who, without proper authority, discloses confidential information under this
 30 section may be disqualified from holding any appointment or employment with the State of Oregon.
 31 The department shall adopt by rule procedures to prevent disclosure of confidential information
 32 submitted to the Performance Reporting Information System.

33 **SECTION 114.** ORS 659A.209 is amended to read:

34 659A.209. ORS 659A.200 to 659A.224 are not intended to:

35 (1) Allow disclosure of records exempt from disclosure except as provided in [ORS 192.501 to
 36 192.505] **sections 38 to 49 of this 2011 Act**.

37 (2) Prevent public employers from prohibiting employee disclosure of information of an advisory
 38 nature to the extent that it covers other than purely factual materials and is preliminary to any
 39 final agency determination of policy or action.

40 **SECTION 115.** ORS 671.338 is amended to read:

41 671.338. (1) Notwithstanding ORS 192.420:

42 (a) In addition to any exemption from disclosure provided under [ORS 192.501 (4)] **section 46**
 43 **(2)(b) of this 2011 Act**, State Landscape Architect Board examination materials, file records of ex-
 44 amination grading and performance, transcripts from educational institutions, letters of inquiry,
 45 letters of reference and board inquiry forms concerning applicants or registrants are confidential

1 and may not be disclosed except as provided in paragraph (b) of this subsection or subsection (2)
 2 of this section.

3 (b) Investigatory information developed or obtained by the board is confidential and not subject
 4 to disclosure by the board unless a notice is issued for a contested case hearing or the matter in-
 5 vestigated is finally resolved by board action or a consent order. The board shall notify the regis-
 6 trant of the investigation. The public may obtain information confirming that an investigation is
 7 being conducted and describing the general nature of the matter being investigated.

8 (2) The board may appoint an advisory committee to conduct an investigation described under
 9 subsection (1)(b) of this section on behalf of the board. Investigatory information developed or ob-
 10 tained by an advisory committee is confidential unless a notice is issued for a contested case hearing
 11 or the matter investigated is finally resolved by board action or a consent order. The board may
 12 discuss in open session matters that are being reviewed by an advisory committee, but may not
 13 disclose confidential information into the public record.

14 (3) Notwithstanding any confidentiality established under subsection (1) or (2) of this section, if
 15 the board or an advisory committee meets in executive session to discuss an investigation, the board
 16 or committee may permit other public officials and members of the press to attend the executive
 17 session. Notwithstanding ORS 192.610 to 192.690, the public officials and members of the press at-
 18 tending the executive session may not disclose information discussed by the board or committee
 19 during the session until the information ceases to be confidential under subsection (1) or (2) of this
 20 section.

21 **SECTION 116.** ORS 705.137 is amended to read:

22 705.137. (1) Except as provided in subsection (3) of this section, a document, material or other
 23 information that is in the possession or control of the Department of Consumer and Business Ser-
 24 vices for the purpose of administering ORS 86A.095 to 86A.198, 86A.990, 86A.992, 697.005 to 697.095,
 25 697.602 to 697.842, 717.200 to 717.320, 717.900 and 717.905 and ORS chapters 59, 723, 725 and 726,
 26 the Bank Act and the Insurance Code and that is described in statute as confidential or as not
 27 subject to disclosure is not subject to disclosure under ORS 192.410 to 192.505, is not subject to
 28 subpoena and is not subject to discovery or admissible in evidence in a private civil action. The
 29 Director of the Department of Consumer and Business Services may use a confidential document,
 30 material or other information in administering ORS 86A.095 to 86A.198, 86A.990, 86A.992, 697.005
 31 to 697.095, 697.602 to 697.842, 717.200 to 717.320, 717.900 and 717.905 and ORS chapters 59, 723, 725
 32 and 726, the Bank Act and the Insurance Code and in furthering a regulatory or legal action
 33 brought as a part of the director's duties.

34 (2) A document, material or other information to which subsection (1) of this section applies is
 35 subject to the public officer privilege described in ORS 40.270.

36 (3) In order to assist in the performance of the director's duties, the director may:

37 (a) Authorize sharing a confidential document, material or other information that is subject to
 38 subsection (1) of this section as appropriate among the administrative divisions and staff offices of
 39 the department created under ORS 705.115 for the purpose of administering and enforcing the stat-
 40 utes identified in subsection (1) of this section, in order to enable the administrative divisions and
 41 staff offices to carry out the functions and responsibilities of the administrative divisions and staff
 42 offices.

43 (b) Share a document, material or other information, including a confidential document, material
 44 or other information that is subject to subsection (1) of this section or that is otherwise confidential
 45 under [ORS 192.501 or 192.502] **sections 38 to 49 of this 2011 Act**, with other state, federal, foreign

1 and international regulatory and law enforcement agencies and with the National Association of
 2 Insurance Commissioners and affiliates or subsidiaries of the National Association of Insurance
 3 Commissioners, if the recipient agrees to maintain the confidentiality of the document, material or
 4 other information.

5 (c) Receive a document, material or other information, including an otherwise confidential doc-
 6 ument, material or other information, from state, federal, foreign and international regulatory and
 7 law enforcement agencies and from the National Association of Insurance Commissioners and affil-
 8 iates or subsidiaries of the National Association of Insurance Commissioners. As provided in this
 9 section, the director shall maintain the confidentiality of documents, materials or other information
 10 received upon notice or with an understanding that the document, material or other information is
 11 confidential or privileged under the laws of the jurisdiction that is the source of the document,
 12 material or other information.

13 (4) Disclosing a document, material or other information to the director under this section or
 14 sharing a document, material or other information as authorized in subsection (3) of this section
 15 does not waive an applicable privilege or claim of confidentiality in the document, material or other
 16 information.

17 (5) This section does not prohibit the director from releasing a final, adjudicated action, in-
 18 cluding a suspension or revocation of a certificate of authority or a license if the action is otherwise
 19 open to public inspection, to a database or other clearinghouse service maintained by the National
 20 Association of Insurance Commissioners or affiliates or subsidiaries of the National Association of
 21 Insurance Commissioners.

22 **SECTION 117.** ORS 706.720 is amended to read:

23 706.720. (1) The Director of the Department of Consumer and Business Services shall receive
 24 and file in the Department of Consumer and Business Services all reports required by the Bank Act.

25 (2) Except as provided in subsection (3) of this section and ORS 706.730, the records of the De-
 26 partment of Consumer and Business Services pertaining to the administration of the Bank Act are
 27 available for public inspection unless the director determines in a particular instance that an
 28 Oregon operating institution or the directors, stockholders, officers, employees and customers of the
 29 Oregon operating institution have an interest in keeping the records confidential that outweighs the
 30 public interest in disclosing the records, or that the records are exempt from disclosure under [ORS
 31 192.501 to 192.505] **sections 38 to 49 of this 2011 Act.** A determination by the director under this
 32 subsection is subject to review under ORS 192.410 to 192.505.

33 (3) Except as provided in subsections (4) and (5) of this section, the following records of the
 34 department are exempt from disclosure or production and shall be treated as confidential as pro-
 35 vided in ORS 705.137:

36 (a) Examination reports and work papers, directives, orders and correspondence that relate to
 37 examination reports.

38 (b) Financial statements of and investigatory information concerning persons subject to investi-
 39 gation by the director under ORS 707.070, 707.080, 707.110, 707.140, 707.145, 707.155 or 707.705.

40 (c) Proprietary information.

41 (d) Reviews of financial statements submitted to the director.

42 (e) Reports filed under ORS 706.655.

43 (f) Stockholder lists.

44 (g) Correspondence, reports or other information obtained from or provided to the Financial
 45 Crimes Enforcement Network established by order of the United States Secretary of the Treasury.

1 (4) Notwithstanding subsection (3) of this section, the director may disclose a record that is
 2 specified in this subsection and that pertains to an Oregon operating institution that has been liq-
 3 uidated under ORS 711.400 to 711.615 if the director determines in a particular instance that the
 4 public interest in disclosure of the record outweighs the interests of the Oregon operating institu-
 5 tion or of the directors, stockholders, officers, employees or customers of the Oregon operating in-
 6 stitution in keeping the record confidential. The director may not in any circumstances, however,
 7 disclose a record or a portion of a record that contains proprietary information or information that
 8 relates to an individual's financial activities or affairs unless the director concludes that the activ-
 9 ities or affairs were a direct and substantial contributing factor in the failure of the Oregon oper-
 10 ating institution. This subsection applies to the following records of the department:

11 (a) Examination reports and work papers, directives, orders and correspondence relating to ex-
 12 amination reports;

13 (b) Investigatory information concerning persons subject to investigation by the director under
 14 ORS 707.070, 707.080, 707.110, 707.140, 707.145, 707.155 or 707.705;

15 (c) Reviews of financial statements; and

16 (d) Reports filed under ORS 706.655.

17 (5) Notwithstanding ORS 40.270, an officer of the department may be examined concerning re-
 18 cords that are exempt from disclosure under subsection (2) or (3) of this section and ORS 706.730.
 19 The records are subject to production if the court before which a civil or criminal action is pending
 20 finds that the examination and production is essential for establishing a claim or defense. In making
 21 a finding under this subsection, if the court views the records, the court shall do so in camera.

22 (6) A civil penalty imposed by the director under the Bank Act shall become subject to public
 23 inspection after the 20th day after the director imposes the civil penalty.

24 (7) All records of the department pertaining to the condition of Oregon operating institutions
 25 may be furnished to:

26 (a) The Federal Reserve Bank and examiners from the Federal Reserve Bank.

27 (b) The Comptroller of the Currency of the United States and national bank examiners.

28 (c) The Federal Deposit Insurance Corporation and examiners from the Federal Deposit Insur-
 29 ance Corporation.

30 (d) The Federal Home Loan Bank of which the operating institution is a member or to which
 31 the operating institution has applied for membership.

32 (e) The State Treasurer if the Oregon operating institution is or has applied to become a de-
 33 pository of public fund deposits.

34 (f) A supervisory authority that regulates financial institutions, financial holding companies or
 35 bank holding companies.

36 (g) The respective Oregon operating institution, or the financial holding company or bank hold-
 37 ing company that controls an Oregon operating institution.

38 (8) The director shall prescribe and furnish to interested persons the forms for all reports re-
 39 quired by the Bank Act.

40 (9) If the director is requested to disclose any record subject to this section and the record
 41 contains both material that is exempt from disclosure under this section or any other provision of
 42 law and material that is not exempt from disclosure, the director shall separate the exempt and
 43 nonexempt material and shall disclose only the nonexempt material.

44 **SECTION 118.** ORS 723.118 is amended to read:

45 723.118. (1) The Director of the Department of Consumer and Business Services shall receive

1 and file in the Department of Consumer and Business Services all reports required under this
 2 chapter.

3 (2) Except as provided in subsection (3) of this section, the records of the department pertaining
 4 to the administration of this chapter are available for public inspection unless the director deter-
 5 mines in a particular instance that the credit union or the directors, members, officers or employees
 6 of the credit union have an interest in keeping the records confidential that outweighs the public
 7 interest in disclosing the records, or that the records are exempt from disclosure under [ORS
 8 192.501 to 192.505] **sections 38 to 49 of this 2011 Act**. A determination by the director under this
 9 subsection is subject to review under ORS 192.410 to 192.505.

10 (3) Except as provided in subsections (4) and (5) of this section, the following records of the
 11 department are exempt from disclosure or production and shall be treated as confidential as pro-
 12 vided in ORS 705.137:

13 (a) Examination reports and work papers, directives, orders and correspondence that relate to
 14 examination reports.

15 (b) Financial statements of and investigatory information concerning persons subject to investi-
 16 gation by the director under ORS 723.014 or 723.132.

17 (c) Proprietary information.

18 (d) Reviews of financial statements submitted to the director.

19 (e) The name of a member or borrower and the amount of shares, deposits or debts of a member
 20 or borrower.

21 (f) Correspondence, reports or other information obtained from or provided to the Financial
 22 Crimes Enforcement Network established by order of the United States Secretary of the Treasury.

23 (4) Notwithstanding subsection (3) of this section and except as otherwise provided in this sub-
 24 section, the director may disclose a record that is specified in this subsection and that pertains to
 25 a credit union that has been liquidated under ORS 723.676 if the director determines in a particular
 26 instance that the public interest in disclosing the record outweighs the interests of the credit union
 27 or of the directors, members, officers or employees of the credit union in keeping the record confi-
 28 dential. The director may not disclose a record or portion of a record that contains proprietary in-
 29 formation or information that relates to an individual's financial activities or affairs unless the
 30 director concludes that the activities or affairs were a direct and substantial contributing factor in
 31 the failure of the credit union. This subsection applies to the following records of the department:

32 (a) Examination reports and work papers, directives, orders and correspondence that relate to
 33 examination reports.

34 (b) Investigatory information concerning persons subject to investigation by the director under
 35 ORS 723.014 or 723.132.

36 (c) Reviews of financial statements.

37 (d) Reports filed under ORS 723.106.

38 (5) Notwithstanding ORS 40.270, an officer of the department may be examined concerning re-
 39 cords that are exempt from disclosure under subsection (2) or (3) of this section. The records are
 40 subject to production if the court before which a civil or criminal action is pending finds that the
 41 examination and production is essential for establishing a claim or defense. In making a finding
 42 under this subsection, if the court views the records, the court shall do so in camera.

43 (6) All records of the department pertaining to the condition of credit unions may be furnished
 44 to:

45 (a) The National Credit Union Administration.

1 (b) The Federal Home Loan Bank of which the credit union is a member or to which the credit
2 union has applied for membership.

3 (c) The State Treasurer if the credit union is a depository of public fund deposits.

4 (d) The respective credit union.

5 (7) If the director is requested to disclose a record subject to this section and the record con-
6 tains both material that is exempt from disclosure under this section or any other provision of law
7 and material that is not exempt from disclosure, the director shall separate the exempt and nonex-
8 empt material and may disclose only the nonexempt material.

9 **SECTION 119.** ORS 743.862 is amended to read:

10 743.862. (1) An independent review organization shall perform the following duties when ap-
11 pointed under ORS 743.857 to review a dispute under a health benefit plan between an insurer and
12 an enrollee:

13 (a) Decide whether the dispute is covered by the conditions established in ORS 743.857 for ex-
14 ternal review and notify the enrollee and insurer in writing of the decision. If the decision is against
15 the enrollee, the independent review organization shall notify the enrollee of the right to file a
16 complaint with or seek other assistance from the Director of the Department of Consumer and
17 Business Services and the availability of other assistance as specified by the director.

18 (b) Appoint a reviewer or reviewers as determined appropriate by the independent review or-
19 ganization.

20 (c) Notify the enrollee of information that the enrollee is required to provide and any additional
21 information the enrollee may provide, and when the information must be submitted.

22 (d) Notify the insurer of additional information the independent review organization requires and
23 when the information must be submitted.

24 (e) Decide the dispute relating to the adverse decision of the insurer under ORS 743.857 (1) and
25 issue the decision in writing.

26 (2) A decision by an independent review organization shall be based on expert medical judgment
27 after consideration of the enrollee's medical record, the recommendations of each of the enrollee's
28 providers, relevant medical, scientific and cost-effectiveness evidence and standards of medical
29 practice in the United States. An independent review organization must make its decision in ac-
30 cordance with the coverage described in the health benefit plan, except that the independent review
31 organization may override the insurer's standards for medically necessary or experimental or
32 investigational treatment if the independent review organization determines that the standards of
33 the insurer are unreasonable or are inconsistent with sound medical practice.

34 (3) When review is expedited, the independent review organization shall issue a decision not
35 later than the third day after the date on which the enrollee applies to the insurer for an expedited
36 review.

37 (4) When a review is not expedited, the independent review organization shall issue a decision
38 not later than the 30th day after the enrollee applies to the insurer for a review.

39 (5) An independent review organization shall file synopses of its decisions with the director ac-
40 cording to the format and other requirements established by the director. The synopses shall exclude
41 information that is confidential, that is otherwise exempt from disclosure under [ORS 192.501 and
42 192.502] **sections 38 to 49 of this 2011 Act** or that may otherwise allow identification of an
43 enrollee. The director shall make the synopses public.

44 **SECTION 120.** ORS 777.795 is amended to read:

45 777.795. (1) Except as provided in subsection (2) of this section, the written records of an export

1 trading corporation shall be public records available for inspection under ORS 192.410 to 192.505.

2 (2) In addition to the exemptions set forth in [ORS 192.501 to 192.505] **sections 38 to 49 of this**
3 **2011 Act**, the following public records of an export trading corporation are exempt from disclosure:

4 (a) Information consisting of financial, commercial, sales, production, cost or similar business
5 records of a private concern or enterprise which is not otherwise required to be disclosed by state
6 or federal law.

7 (b) Trade secrets, as defined in [ORS 192.501 (2)] **section 41 (3) of this 2011 Act**.

8 **SECTION 121.** ORS 802.183 is amended to read:

9 802.183. (1) The Department of Transportation may establish fees reasonably calculated to re-
10 imburse it for its actual cost in making personal information available to a person or government
11 agency authorized under ORS 802.179 to obtain the information. Fees established under this sub-
12 section are subject to the provisions of [ORS 192.440 (4) to (6)] **section 22 of this 2011 Act**.

13 (2) The department may adopt rules specifying conditions that must be met by a person or gov-
14 ernment agency requesting personal information under ORS 802.179. Such conditions may include
15 but need not be limited to:

16 (a) Providing reasonable assurance of the identity of the requester;

17 (b) Providing reasonable assurance of the uses to which the personal information will be put, if
18 applicable;

19 (c) Showing that the individual whose personal information is to be disclosed has given permis-
20 sion for the disclosure, if permission is required; and

21 (d) Submitting a written request for the personal information in a form prescribed by the de-
22 partment.

23 **SECTION 122.** ORS 802.187 is amended to read:

24 802.187. (1) Nothing in ORS 802.175 to 802.187 authorizes disclosure by the Department of
25 Transportation of personal information that is barred from disclosure by the provisions of ORS
26 192.445 or [192.502 (2)] **section 40 (2) of this 2011 Act**.

27 (2) Nothing in ORS 802.175 to 802.187 prohibits an individual from having access to personal
28 information about the individual that is contained in motor vehicle records.

29
30 **REPEALS**

31
32 **SECTION 123.** ORS 180.075, 192.501 and 192.502 are repealed.

33
34 **MISCELLANEOUS**

35
36 **SECTION 124.** (1) ORS 192.505 is added to and made a part of sections 38 to 49 of this 2011
37 **Act**.

38 (2) Sections 5, 8, 11, 14 to 17, 20, 22, 25, 27 to 30, 33 and 38 to 49 of this 2011 Act and ORS
39 192.447 and 192.493 are added to and made a part of ORS 192.410 to 192.505.

40 **SECTION 125.** The unit captions used in this 2011 Act are provided only for the conven-
41 ience of the reader and do not become part of the statutory law of this state or express any
42 legislative intent in the enactment of this 2011 Act.

43
44 **EMERGENCY CLAUSE**

1 **SECTION 126.** This 2011 Act being necessary for the immediate preservation of the public
2 peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect
3 on its passage.

4
