

House Bill 3363

Sponsored by Representative THATCHER

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**.

Revises public records law. Revises procedures for requesting and responding to public records requests. Limits fees that may be charged for copies of public records. Modifies process for appeal following denial of public records request.

Establishes Public Records Exemptions Accountability Commission. Directs commission to review exemptions from disclosure of public records and make recommendations to Legislative Assembly on exemptions. Modifies or eliminates certain exemptions from disclosure of public records.

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, 181.548, 181.560, 181.854, 190.050, 192.410,
4 192.493, 192.495, 192.505, 192.650, 209.270, 268.357, 279B.055, 279B.060, 279C.107, 279C.410,
5 285C.145, 287A.350, 305.493, 312.030, 312.190, 339.388, 341.290, 351.065, 353.260, 358.905, 358.915,
6 409.225, 419A.015, 419A.305, 419C.532, 420.048, 421.344, 421.347, 421.349, 421.359, 421.442, 426.155,
7 431.627, 433.009, 441.055, 442.583, 453.307, 453.332, 456.623, 465.015, 466.800, 469.030, 469.080,
8 469.410, 469.560, 476.090, 520.027, 520.097, 522.365, 526.280, 646.473, 656.702, 657.732, 657.734,
9 659A.209, 671.338, 697.732, 705.137, 706.720, 723.118, 743.862, 777.795, 802.183 and 802.187; and
10 repealing ORS 192.420, 192.423, 192.440, 192.445, 192.450, 192.460, 192.465, 192.470, 192.480,
11 192.490, 192.501 and 192.502.

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

DEFINITIONS

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

17 192.410. As used in ORS 192.410 to 192.505:

18 (1) "Custodian" means:

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

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

24 (2) "Person" includes any natural person, corporation, partnership, firm, association or member
25 or committee of the Legislative Assembly.

26 (3) "Public body" [*includes every state officer, agency, department, division, bureau, board and*
27 *commission; every county and city governing body, school district, special district, municipal corpo-*
28 *ration, and any board, department, commission, council, or agency thereof; and any other public agency*
29 *of this state.*] **has the meaning given that term in ORS 174.109, except that "public body" does**

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 **not include the Legislative Assembly or its members, committees, officers or employees in-**
 2 **sofar as they are exempt under section 9, Article IV of the Oregon Constitution.**

3 (4)(a) "Public record" *[includes any writing that contains information relating to the conduct of*
 4 *the public's business, including but not limited to court records, mortgages, and deed records, prepared,*
 5 *owned, used or retained by a public body regardless of physical form or characteristics.] includes any*
 6 **writing containing information relating to the conduct of government or the performance**
 7 **of any governmental or proprietary function prepared, owned, used or retained by a public**
 8 **body regardless of physical form or characteristics.**

9 *[(b) "Public record" does not include any writing that does not relate to the conduct of the public's*
 10 *business and that is contained on a privately owned computer.]*

11 (5) "State agency" *means any state officer, department, board, commission or court created by the*
 12 *Constitution or statutes of this state but does not include the Legislative Assembly or its members,*
 13 *committees, officers or employees insofar as they are exempt under section 9, Article IV of the Oregon*
 14 *Constitution.]*

15 (6) "Writing" *[means handwriting, typewriting, printing, photographing and every means of re-*
 16 *coding, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers,*
 17 *maps, files, facsimiles or electronic recordings.] means every method of recording any form of*
 18 **communication or representation.**

19
 20 **PROCESS**

21
 22 **SECTION 2. Each public body shall adopt, publish and prominently display and make**
 23 **available for inspection and copying, for guidance of the public:**

24 (1) **Descriptions of the public body's central and field organization and the established**
 25 **places at which, the employees from whom and the methods whereby the public may obtain**
 26 **information, make submittals or requests or obtain copies of decisions by the public body;**

27 (2) **Statements of the general course and method by which the public body's operations**
 28 **are channeled and determined, including the nature and requirements of all formal and in-**
 29 **formal procedures available;**

30 (3) **Rules of procedure applicable to the public body;**

31 (4) **Substantive rules of general applicability adopted as authorized by law, and state-**
 32 **ments of general policy or interpretations of general applicability formulated and adopted by**
 33 **the public body; and**

34 (5) **Each amendment or revision to or repeal of any information required to be provided**
 35 **under this section.**

36 **SECTION 3. A public body, public official, public employee or custodian of a public record**
 37 **may not be liable, nor shall a cause of action exist, for any loss or damage based upon the**
 38 **release of a public record if the public body, public official, public employee or custodian**
 39 **acted in good faith in attempting to comply with the provisions of ORS 192.410 to 192.505.**

40 **SECTION 4. (1) Each public body shall make available for public inspection and copying**
 41 **all public records, unless the record falls within a specific exemption set forth in law that**
 42 **exempts or prohibits disclosure of specific information or records. To the extent required to**
 43 **prevent an unreasonable invasion of personal privacy interests protected under ORS 192.410**
 44 **to 192.505, a public body shall delete identifying details in a manner consistent with ORS**
 45 **192.410 to 192.505 when the public body makes available or publishes any public record. In**

1 each case in which a public body deletes identifying details under this section, the justifica-
2 tion for the deletion shall be explained fully in writing.

3 (2) Each public body shall maintain and make available for public inspection and copying
4 a current index providing identifying information as to the following records issued, adopted
5 or promulgated after the effective date of this 2011 Act:

6 (a) Final opinions, including concurring and dissenting opinions, as well as orders, made
7 in the adjudication of cases;

8 (b) Those statements of policy and interpretations of policy, statute and the Oregon
9 Constitution which have been adopted by the agency;

10 (c) Administrative staff manuals and instructions to staff that affect a member of the
11 public;

12 (d) Planning policies and goals and interim and final planning decisions;

13 (e) Factual staff reports and studies, factual consultant's reports and studies, scientific
14 reports and studies and any other factual information derived from tests, studies, reports
15 or surveys, whether conducted by public employees or others; and

16 (f) Correspondence, and materials referred to therein, relating to any regulatory, super-
17 visory or enforcement responsibilities of the agency, whereby the agency determines or
18 opines upon, or is asked to determine or opine upon, the rights of the state, the public, a
19 subdivision of state government or of any private party.

20 (3) A local government or local service district, as defined in ORS 174.116, need not
21 maintain an index described in subsection (2) of this section if to do so would be unduly
22 burdensome, but shall in that event:

23 (a) Issue and publish a formal order specifying the reasons why and the extent to which
24 compliance would unduly burden or interfere with agency operations; and

25 (b) Make available for public inspection and copying all indexes maintained for agency
26 use.

27 (4) Each public body shall establish, maintain and make available for public inspection
28 and copying a statement of the actual per page cost or other costs, if any, that the public
29 body charges for providing copies of public records and a statement of the factors and man-
30 ner used to determine the actual per page cost or other costs, if any.

31 (5)(a) In determining the actual per page cost for providing copies of public records, a
32 public body may include all costs directly incident to copying the public records, including
33 the actual cost of the paper and the per page cost for use of copying equipment. In deter-
34 mining other actual costs for providing copies of public records, a public body may include
35 all costs directly incident to shipping the public records, including the cost of postage or
36 delivery charges and the cost of any container or envelope used.

37 (b) In determining the actual per page cost or other costs for providing copies of public
38 records, a public body may not include staff salaries, benefits or other general administrative
39 or overhead charges unless those costs are directly related to the actual cost of copying the
40 public records. Staff time to copy and mail the requested public records may be included in
41 a public body's costs.

42 (6) A public body need not calculate the actual per page cost or other costs of providing
43 photocopies of public records if to do so would be unduly burdensome, but in that event the
44 public body may not charge in excess of 15 cents per page for photocopies of public records
45 or for the use of public body equipment to photocopy public records, and the actual postage

1 or delivery charge and the cost of any container or envelope used to mail the public records
 2 to the requester.

3 **SECTION 5.** (1) Public records must be available for inspection and copying, and public
 4 bodies shall, upon request for identifiable public records, make them promptly available to
 5 any person, including, if applicable, on a partial or installment basis, as records that are part
 6 of a larger set of requested records are assembled or made ready for inspection or disclosure.
 7 A public body may not deny a request for identifiable public records solely on the basis that
 8 the request is overbroad. A public body may not distinguish among persons requesting re-
 9 cords, and any person requesting records may not be required to provide information as to
 10 the purpose for the request except to establish whether inspection and copying would violate
 11 any law that exempts or prohibits disclosure of specific information or records to certain
 12 persons. Facilities shall be made available to any person for the copying of public records
 13 except when and to the extent that this would unreasonably disrupt the operations of the
 14 public body.

15 (2) Public records must be available for inspection and copying during the customary of-
 16 fice hours of the public body for a minimum of 30 hours per week, except weeks that include
 17 state legal holidays, unless the person making the request and the public body or its repre-
 18 sentative agree on a different time. Customary business hours must be posted on the public
 19 body's website and made known by other means designed to provide the public with notice.

20 (3) A state agency may adopt rules to protect public records from damage or disorgan-
 21 ization and to prevent excessive interference with other essential functions of the agency.
 22 The rules must provide for the fullest assistance to requesters and the most timely possible
 23 action on requests for information.

24 **SECTION 6.** (1) A fee may not be charged for the inspection of public records. A fee may
 25 not be charged for locating public documents and making them available for copying. A rea-
 26 sonable charge may be imposed for providing copies of public records and for the use by any
 27 person of public body equipment to copy public records.

28 (2) A charge that is allowable under this section may not exceed the amount necessary
 29 to reimburse the public body for the actual costs directly incident to the copying of public
 30 records. State agency charges for copies shall be imposed in accordance with the actual per
 31 page cost or other costs established and published by the agency. An agency may not charge
 32 a per page cost greater than the actual per page cost as established and published by the
 33 agency. To the extent the agency has not determined the actual per page cost for photoco-
 34 pies of public records, the agency may not charge in excess of 15 cents per page.

35 (3) A state agency may require a deposit in an amount not to exceed 10 percent of the
 36 estimated cost of providing copies for a request. If an agency makes a request available on
 37 a partial or installment basis, the agency may charge for each part of the request as it is
 38 provided. If an installment of a records request is not claimed or reviewed, the agency is not
 39 obligated to fulfill the balance of the request.

40 **SECTION 7.** (1) Responses to requests for public records shall be made promptly by public
 41 bodies. Within five business days of receiving a public record request, a public body must
 42 respond by:

43 (a) Providing the record;

44 (b) Providing an Internet address and link to the public body's website where the specific
 45 records requested are located, except that if the requester notifies the public body that the

1 requester cannot access the records through the Internet, then the public body must provide
 2 copies of the record or allow the requester to view copies using a public body computer;

3 (c) Acknowledging that the public body has received the request and providing a reason-
 4 able estimate of the time the public body will require to respond to the request; or

5 (d) Denying the public record request.

6 (2) Additional time required to respond to a request may be based upon the need to
 7 clarify the intent of the request, to locate and assemble the information requested, to notify
 8 third persons or agencies affected by the request or to determine whether any of the infor-
 9 mation requested is exempt and that a denial should be made as to all or part of the request.
 10 In acknowledging receipt of a public record request that is unclear, the public body may ask
 11 the requester to clarify what information the requester is seeking. If the requester fails to
 12 clarify the request, the public body need not respond to it.

13 (3) Denials of requests must be accompanied by a written statement of the specific rea-
 14 sons therefor. Public bodies shall establish mechanisms for the most prompt possible review
 15 of decisions denying inspection, and such review shall be deemed completed at the end of the
 16 second business day following the denial of inspection and shall constitute final action for the
 17 purposes of judicial review.

18 **SECTION 8.** Whenever a public body concludes that a public record is exempt from dis-
 19 closure and denies a person the opportunity to inspect or copy a public record for that rea-
 20 son, the person may request the Attorney General to review the matter. The Attorney
 21 General shall provide the person with a written opinion on whether the record is exempt.

22 **SECTION 9.** The examination of any specific public record may be enjoined if, upon mo-
 23 tion and affidavit by a public body or its representative or a person who is named in the re-
 24 cord or to whom the record specifically pertains, the circuit court for the county in which
 25 the movant resides or in which the record is maintained finds that such examination would
 26 clearly not be in the public interest and would substantially and irreparably damage any
 27 person, or would substantially and irreparably damage vital governmental functions. A public
 28 body has the option of notifying persons named in the record, or to whom a record specif-
 29 ically pertains, that release of a record has been requested. However, this option does not
 30 exist where the public body is required by law to provide such notice.

31 **SECTION 10.** (1) Upon the motion of any person having been denied an opportunity to
 32 inspect or copy a public record by a public body, the circuit court in the county in which a
 33 record is maintained may require the responsible public body to show cause as to why the
 34 public body has refused to allow inspection or copying of a specific public record or class of
 35 records. The burden of proof shall be on the public body to establish that refusal to permit
 36 public inspection and copying is in accordance with a provision of law that exempts or pro-
 37 hibits disclosure in whole or in part of specific information or records.

38 (2) Upon the motion of any person who believes that a public body has not made a rea-
 39 sonable estimate of the time that the public body requires to respond to a public record re-
 40 quest, the circuit court in the county in which a record is maintained may require the
 41 responsible public body to show that the estimate provided is reasonable. The burden of proof
 42 shall be on the public body to show that the estimate provided is reasonable.

43 (3) Judicial review of all public body actions taken or challenged shall be de novo. Courts
 44 shall take into account the policy of ORS 192.410 to 192.505 that free and open examination
 45 of public records is in the public interest, even though such examination may cause incon-

1 venience or embarrassment to public officials or others. Courts may examine any record in
 2 camera in any proceeding brought under this section. The court may conduct a hearing based
 3 solely on affidavits.

4 (4) Any person who prevails against a public body in any action in the courts seeking the
 5 right to inspect or copy any public record or the right to receive a response to a public re-
 6 cord request within a reasonable amount of time shall be awarded all costs, including rea-
 7 sonable attorney fees, incurred in connection with such legal action.

8 (5) Actions under this section must be filed within one year of the agency's claim of ex-
 9 emption or the last production of a record on a partial or installment basis.

10
 11 **PUBLIC RECORDS EXEMPTIONS ACCOUNTABILITY COMMISSION**

12
 13 **SECTION 11.** (1) The Public Records Exemptions Accountability Commission is created
 14 to review exemptions from disclosure of public records. The commission shall consist of the
 15 following 13 members:

16 (a) The Governor shall appoint six members, one of whom represents the Governor, one
 17 of whom represents local government and four members of the public, with consideration
 18 given to diversity of viewpoint and geography.

19 (b) The Attorney General shall appoint two members, one of whom represents the At-
 20 torney General and one of whom represents a statewide media association.

21 (c) The Secretary of State shall appoint one member.

22 (d) The President of the Senate shall appoint one member from the majority party of the
 23 Senate and one member from the minority party of the Senate.

24 (e) The Speaker of the House of Representatives shall appoint one member from the
 25 majority party of the House of Representatives and one member from the minority party of
 26 the House of Representatives.

27 (2) The Governor shall select the chair of the commission from among its membership.

28 (3) The term of each member of the commission shall be two years. If a member is un-
 29 able or unwilling to complete the term of the member, the appointing authority shall appoint
 30 a new member to complete the remainder of the term.

31 (4) The purpose of the commission is to review public disclosure exemptions and provide
 32 recommendations pursuant to subsection (8) of this section. The commission shall develop
 33 and publish criteria for review of public exemptions.

34 (5) Commission meetings are public meetings under ORS 192.610 to 192.690.

35 (6) The Department of Justice shall provide staff support to the commission.

36 (7) Legislative members of the commission shall be reimbursed for travel expenses in
 37 accordance with ORS 171.072. Nonlegislative members, except those representing an em-
 38 ployer or organization, are entitled to be reimbursed for travel expenses in accordance with
 39 ORS 292.495.

40 (8)(a) The commission shall develop a schedule to accomplish a review of each public
 41 disclosure exemption. The commission shall publish the schedule and publish any revisions
 42 made to the schedule.

43 (b) The commission shall meet at least once a quarter and may hold additional meetings
 44 at the call of the chair or by a majority vote of the members of the commission.

45 (c) For each public disclosure exemption, the commission shall provide a recommendation

1 to the judiciary committees of the Legislative Assembly as to whether the exemption should
 2 be continued without modification, modified, scheduled for sunset review at a future date or
 3 terminated. The commission shall make the recommendations on or before November 15 of
 4 each year.

5
 6 **EXEMPTIONS**
 7

8 **SECTION 12.** The following personal information is exempt from public inspection and
 9 copying under ORS 192.410 to 192.505:

10 (1) Personal information in any files maintained for students in public schools, patients
 11 or clients of public institutions or public health agencies or the Department of Human Ser-
 12 vices.

13 (2) Personal information in files maintained for employees, appointees or elected officials
 14 of any public body, to the extent that disclosure would violate the right to privacy of the
 15 employees, appointees or elected officials.

16 (3) Information required of any taxpayer in connection with the assessment or collection
 17 of any tax, if the disclosure of the information to other persons would:

18 (a) Be prohibited by other law; or

19 (b) Violate the taxpayer's right to privacy or result in unfair competitive disadvantage
 20 to the taxpayer.

21 (4) Credit card numbers, debit card numbers, electronic check numbers, card expiration
 22 dates or bank or other financial account numbers, except when disclosure is expressly re-
 23 quired or governed by other law.

24 (5) Documents and related materials and scanned images of documents and related ma-
 25 terials used to prove identity, age, residential address, Social Security number or other per-
 26 sonal information required to apply for a driver license or government-issued identification
 27 card.

28 **SECTION 13.** The following investigative, law enforcement and crime victim information
 29 is exempt from public inspection and copying under ORS 192.410 to 192.505:

30 (1) Specific intelligence information and specific investigative records compiled by inves-
 31 tigative, law enforcement or corrections agencies and state agencies vested with the re-
 32 sponsibility to discipline members of any profession, the nondisclosure of which is essential
 33 to effective law enforcement or for the protection of any person's right to privacy.

34 (2) Information revealing the identity of persons who are witnesses to or victims of crime
 35 or who file complaints with investigative, law enforcement or corrections agencies, if dis-
 36 closure would endanger any person's life, physical safety or property. If at the time a com-
 37 plaint is filed the complainant, victim or witness indicates a desire for disclosure or
 38 nondisclosure, such desire shall govern.

39 (3) Any records of investigative reports prepared by any state, county, municipal or other
 40 law enforcement agency pertaining to sex offenses.

41 (4) Information revealing the identity of child victims of sexual assault who are under
 42 age 18. Identifying information means the child victim's name, address, location, photograph
 43 and, in cases in which the child victim is a relative or stepchild of the alleged perpetrator,
 44 identification of the relationship between the child and the alleged perpetrator.

45 **SECTION 14.** The following employment and licensing information is exempt from public

1 inspection and copying under ORS 192.410 to 192.505:

2 (1) Test questions, scoring keys and other examination data used to administer a license,
3 employment or academic examination.

4 (2) All applications for public employment, including the names of applicants, resumes
5 and other related materials submitted with respect to an applicant.

6 (3) The residential addresses, residential telephone numbers, personal wireless telephone
7 numbers, personal electronic mail addresses, Social Security numbers and emergency con-
8 tact information of employees or volunteers of a public body, and the names, dates of birth,
9 residential addresses, residential telephone numbers, personal wireless telephone numbers,
10 personal electronic mail addresses, Social Security numbers and emergency contact infor-
11 mation of dependents of employees or volunteers of a public body that are held by any public
12 body in personnel records, public employment related records or volunteer rosters, or are
13 included in any mailing list of employees or volunteers of any public body.

14 (4) Information that identifies a person who, while an employee of a public body:

15 (a) Seeks advice, under an informal process established by the public body, in order to
16 ascertain the person's rights in connection with a possible unfair employment practice
17 against the person; and

18 (b) Requests that the person's identity or any identifying information not be disclosed.

19 (5) Investigative records compiled by an employing public body conducting an active and
20 ongoing investigation of a possible unlawful employment practice or of a possible violation
21 of other federal, state or local laws prohibiting discrimination in employment.

22 (6) Criminal history records checks for candidates for employment with public bodies.

23 (7) Photographs and month and year of birth in the personnel files of employees and
24 workers of law enforcement agencies. The news media shall have access to the photographs
25 and full date of birth.

26 **SECTION 15.** The contents of real estate appraisals made for or by any public body rel-
27 ative to the acquisition or sale of property, until the project or prospective sale is abandoned
28 or until such time as all of the property has been acquired or the property to which the sale
29 appraisal relates is sold, are exempt from disclosure under ORS 192.410 to 192.505. In no
30 event may disclosure be denied for more than three years after the appraisal.

31 **SECTION 16.** The following financial, commercial and proprietary information is exempt
32 from disclosure under ORS 192.410 to 192.505:

33 (1) Valuable formulae, designs, drawings, computer source code or object code and re-
34 search data obtained by any agency within five years of the request for disclosure when
35 disclosure would produce private gain and public loss.

36 (2) Financial information supplied by or on behalf of a person, firm or corporation for the
37 purpose of qualifying to submit a bid or proposal for highway construction or improvement.

38 (3) Financial and commercial information and records supplied by businesses or individ-
39 uals during application for loans or program services supplied by public bodies.

40 (4) Financial information, including but not limited to account numbers and values and
41 other identification numbers supplied by or on behalf of a person, firm, corporation, limited
42 liability company, partnership or other entity related to an application for a business license,
43 liquor license or lottery retail license.

44 (5) Proprietary data, trade secrets or other information that relates to:

45 (a) A vendor's unique methods of conducting business;

1 (b) Data unique to the product or services of the vendor; or

2 (c) Determining prices or rates to be charged for services, submitted by any vendor to
3 a public body.

4 (6)(a) When supplied to and in the records of the Oregon Business Development Depart-
5 ment in connection with the siting, recruitment, expansion, retention or relocation of that
6 person's business and until a siting decision is made, identifying information of any person
7 supplying information under this subsection and the locations being considered for siting,
8 relocation or expansion of a business.

9 (b) For the purposes of this subsection, "siting decision" means the decision to acquire
10 or not to acquire a site.

11 (7) Any production records, mineral assessments and trade secrets submitted by a permit
12 holder, mine operator or landowner to a public body.

13 (8) Financial, commercial, operations and technical and research information and data
14 submitted to or obtained by the Department of Human Services, the Department of Con-
15 sumer and Business Services or the Oregon Health Authority, to the extent that such in-
16 formation, if revealed, would reasonably be expected to result in private loss to providers of
17 this information.

18 (9) Financial and commercial information submitted to or obtained by the Oregon Uni-
19 versity System when the information relates to investments in private funds, to the extent
20 that such information, if revealed, would reasonably be expected to result in loss to an
21 endowment fund of the Oregon University System.

22 SECTION 17. Preliminary drafts, notes, recommendations and intra-agency memoran-
23 dum in which opinions are expressed or policies formulated or recommended are exempt
24 under ORS 192.410 to 192.505, except that a specific record is not exempt when publicly cited
25 by an agency in connection with any agency action.

26 SECTION 18. Records that are relevant to a controversy to which a public body is a
27 party, but that would not be available to another party under the rules of pretrial discovery
28 for civil actions in this state, are exempt from disclosure under ORS 192.410 to 192.505.

29 SECTION 19. Records, maps or other information identifying the location of
30 archaeological sites in order to avoid the looting or depredation of such sites are exempt
31 from disclosure under ORS 192.410 to 192.505.

32 SECTION 20. Any library record, the primary purpose of which is to maintain control of
33 library materials, or to gain access to information, that discloses or could be used to disclose
34 the identity of a library user is exempt from disclosure under ORS 192.410 to 192.505.

35 SECTION 21. The following educational information is exempt from disclosure under ORS
36 192.410 to 192.505:

37 (1) Financial disclosures filed by private vocational schools.

38 (2) Individually identifiable information received by the Department of Community Col-
39 leges and Workforce Development for research or evaluation purposes.

40 (3) Any records or documents obtained by the Oregon University System, Oregon Health
41 and Science University or a library or archive through or concerning any gift, grant,
42 conveyance, bequest or devise, the terms of which restrict or regulate public access to those
43 records or documents.

44 SECTION 22. (1) The Social Security numbers of individuals maintained in the files of a
45 public body are exempt from disclosure under ORS 192.410 to 192.505. The exemption in this

1 section does not apply to requests made directly to a public body from federal, state and local
2 agencies of government, and federal and state licensing, credentialing, investigatory, disci-
3 plinary, and examination organizations.

4 (2) The current residential address and current residential telephone number of a health
5 care provider maintained in the files of a public body are exempt from disclosure under ORS
6 192.410 to 192.505, if the provider requests that this information be withheld from public in-
7 spection and copying, and provides to the public body an accurate alternate or business ad-
8 dress and business telephone number.

9 **SECTION 23.** Client records maintained by a public body that operates or regulates a
10 domestic violence program or a rape crisis center are exempt from disclosure under ORS
11 192.410 to 192.505.

12 **SECTION 24.** The following information relating to security is exempt from disclosure
13 under ORS 192.410 to 192.505:

14 (1) Those portions of records assembled, prepared or maintained to prevent, mitigate or
15 respond to criminal terrorist acts, which are acts that significantly disrupt the conduct of
16 government or of the general civilian population of this state or the United States and that
17 manifest an extreme indifference to human life, the public disclosure of which would have a
18 substantial likelihood of threatening public safety, consisting of:

19 (a) Specific and unique vulnerability assessments or specific and unique response or de-
20 ployment plans, including compiled underlying data collected in preparation of or essential
21 to the assessments, or to the response or deployment plans; and

22 (b) Records not subject to public disclosure under federal law that are shared by federal
23 or international agencies, and information prepared from national security briefings provided
24 to state or local government officials related to domestic preparedness for acts of terrorism.

25 (2) Those portions of records containing specific and unique vulnerability assessments
26 or specific and unique emergency and escape response plans at a city, county or state adult
27 or juvenile correctional facility, the public disclosure of which would have a substantial
28 likelihood of threatening the security of a city, county or state adult or juvenile correctional
29 facility.

30 (3) Information compiled by school districts or schools in the development of compre-
31 hensive safe school plans, to the extent that they identify specific vulnerabilities of school
32 districts and each individual school.

33 (4) Information regarding the infrastructure and security of computer and telecommu-
34 nications networks, including security passwords, security access codes and programs, ac-
35 cess codes for secure software applications, security and service recovery plans, security risk
36 assessments and security test results, to the extent that they identify specific system vul-
37 nerabilities.

38 (5) The security section of transportation system safety and security program plans.

39
40 **CONFORMING AMENDMENTS**

41
42 **SECTION 25.** ORS 21.020 is amended to read:

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

45 (2) The Chief Justice of the Supreme Court by order may establish or authorize fees for copies

1 of records of the appellate courts and the administrative offices of the State Court Administrator,
 2 for services relating to those records and for other services that the appellate courts or adminis-
 3 trative offices of the State Court Administrator are authorized or required to perform for which no
 4 fees are specifically provided by law. The fee established by the Chief Justice for paper copies of
 5 records may not exceed 25 cents per page, except for records for which additional services are re-
 6 quired. *[If additional services are required, fees for providing the records are subject to ORS*
 7 *192.440.]*

8 **SECTION 26.** ORS 25.020 is amended to read:

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

12 (a) During periods for which support is assigned under ORS 412.024, 418.032, 419B.406 or
 13 419C.597;

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

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

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

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

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

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

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

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

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

32 (b) The Department of Justice:

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

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

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

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

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

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

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

1 ing the interest or fee that is typically charged by a collection agency.

2 (c) The obligee shall:

3 (A) Provide to the department, on a form approved by the department, information about the
4 agreement with the collection agency; and

5 (B) Promptly notify the department when the agreement is terminated.

6 (d) The collection agency:

7 (A) May provide investigative and location services to the obligee and disclose relevant infor-
8 mation from those services to the administrator for purposes of providing support enforcement ser-
9 vices under ORS 25.080;

10 (B) May not charge interest or a fee for its services exceeding 29 percent of each support pay-
11 ment received unless the collection agency, if allowed by the terms of the agreement between the
12 collection agency and the obligee, hires an attorney to perform legal services on behalf of the
13 obligee;

14 (C) May not initiate, without written authorization from the administrator, any enforcement
15 action relating to support payments on which support enforcement services are provided by the ad-
16 ministrator under ORS 25.080; and

17 (D) Shall include in the agreement with the obligee a notice printed in type size equal to at least
18 12-point type that provides information on the fees, penalties, termination and duration of the
19 agreement.

20 (e) The administrator may use information disclosed by the collection agency to provide support
21 enforcement services under ORS 25.080.

22 (4) The Department of Justice may immediately transmit to the obligee payments received from
23 any obligor without waiting for payment or clearance of the check or instrument received if the
24 obligor has not previously tendered any payment by a check or instrument that was not paid or was
25 dishonored.

26 (5) The Department of Justice shall notify each obligor and obligee by mail when support pay-
27 ments shall be made to the department and when the obligation to make payments in this manner
28 shall cease.

29 (6)(a) The administrator shall provide information about a child support account directly to a
30 party to the support order regardless of whether the party is represented by an attorney. As used
31 in this subsection, "information about a child support account" means the:

32 (A) Date of issuance of the support order.

33 (B) Amount of the support order.

34 (C) Dates and amounts of payments.

35 (D) Dates and amounts of disbursements.

36 (E) Payee of any disbursements.

37 (F) Amount of any arrearage.

38 (G) Source of any collection, to the extent allowed by federal law.

39 (b) Nothing in this subsection limits the information the administrator may provide by law to a
40 party who is not represented by an attorney.

41 (7) Any pleading for the entry or modification of a support order must contain a statement that
42 payment of support under a new or modified order will be by income withholding unless an excep-
43 tion to payment by income withholding is granted under ORS 25.396.

44 (8)(a) Except as provided in paragraphs (d) and (e) of this subsection, a judgment or order es-
45 tablishing paternity or including a provision concerning support must contain:

1 (A) The residence, mailing or contact address, Social Security number, telephone number and
 2 driver license number of each party;

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

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

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

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

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

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

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

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

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

24 (e) The Chief Justice of the Supreme Court may, in consultation with the Department of Justice,
 25 adopt rules under ORS 1.002 to designate information specified in this subsection as confidential and
 26 require that the information be submitted through an alternate procedure to ensure that the infor-
 27 mation is exempt from public disclosure under [ORS 192.502] **sections 12 to 24 of this 2011 Act.**

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

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

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

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

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

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

44 (b) When payments are assigned to the State of Oregon, the obligor and obligee make sworn
 45 written statements that specific payments were made, canceled checks or other substantial evidence

1 is presented to corroborate their statements and the obligee has been given prior written notice of
 2 any potential criminal or civil liability that may attach to an admission of the receipt of assigned
 3 support;

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

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

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

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

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

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

22 (b) Are consistent with federal regulations.

23 **SECTION 27.** ORS 40.270 is amended to read:

24 40.270. A public officer shall not be examined as to public records determined to be exempt from
 25 disclosure under [ORS 192.501 to 192.505] **sections 12 to 24 of this 2011 Act.**

26 **SECTION 28.** ORS 65.805 is amended to read:

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

30 (2)(a) Upon a showing satisfactory to the Attorney General by a party to the proposed trans-
 31 action, any material required to be submitted to the Attorney General under subsection (1) of this
 32 section is a trade secret under [ORS 192.501] **section 16 of this 2011 Act.** The Attorney General
 33 shall classify the material as confidential and the material shall not be disclosed except as provided
 34 in paragraph (b) of this subsection unless the Attorney General determines that the material is
 35 necessary to the determination of an issue being considered at a public hearing as provided in ORS
 36 65.807.

37 (b) To the extent that the material, or any portion thereof, would otherwise qualify as a trade
 38 secret under [ORS 192.501] **section 16 of this 2011 Act,** no action taken by the Attorney General,
 39 any authorized employee of the Department of Justice or any expert or consultant employed pursu-
 40 ant to ORS 65.813 in inspecting or reviewing such information shall affect its status as a trade se-
 41 cret.

42 **SECTION 29.** ORS 94.974 is amended to read:

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

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

7 (2) Records of the sale of membership camping contracts shall be subject to inspection by the
 8 commissioner or the commissioner's authorized representative. Any list identifying campground
 9 members obtained by the commissioner or the commissioner's authorized representative shall be
 10 exempt from disclosure, as trade secrets, to any person, public body or state agency, under [ORS
 11 192.501] **section 16 of this 2011 Act.**

12 **SECTION 30.** ORS 144.130 is amended to read:

13 144.130. (1) Notwithstanding the provisions of ORS 179.495, prior to a parole hearing or other
 14 personal interview, each prisoner shall have access to the written materials which the board shall
 15 consider with respect to the release of the prisoner on parole, with the exception of materials ex-
 16 empt from disclosure under [ORS 192.502 (5)] **sections 12 to 24 of this 2011 Act.**

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

19 **SECTION 31.** ORS 146.035 is amended to read:

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

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

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

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

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

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

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

32 (5) Notwithstanding [ORS 192.501 (36)] **ORS 192.410 to 192.505:**

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

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

39 **SECTION 32.** ORS 147.421 is amended to read:

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

43 (a) The conviction and sentence;

44 (b) Criminal history;

45 (c) Imprisonment; and

1 (d) Future release from physical custody.

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

5 (3) As used in this section:

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

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

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

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

14 **SECTION 33.** ORS 161.336 is amended to read:

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

26 (2) Conditions of release contained in orders entered under this section may be modified from
 27 time to time and conditional releases may be terminated by order of the board as provided in ORS
 28 161.351.

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

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

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

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

44 (d) Copies of all reports submitted to the board pursuant to this section shall be furnished to the
 45 person and the person’s counsel. The confidentiality of these reports is determined pursuant to [ORS

1 192.501 to 192.505] **ORS 192.410 to 192.505.**

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

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

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

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

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

1 of release shall be continued, modified or terminated. The application shall be accompanied by a
 2 report setting forth the facts supporting the application.

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

6 (9) The board shall maintain and keep current the medical, social and criminal history of all
 7 persons committed to its jurisdiction. The confidentiality of records maintained by the board shall
 8 be determined pursuant to [ORS 192.501 to 192.505] **ORS 192.410 to 192.505**.

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

12 **SECTION 34.** ORS 166.274, as amended by section 19, chapter 826, Oregon Laws 2009, and
 13 section 2, chapter 86, Oregon Laws 2010, is amended to read:

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

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

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

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

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

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

- 23 (A) The city chief of police if the court in which the petition is filed is located in a city; or
- 24 (B) The sheriff of the county in which the court is located.

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

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

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

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 35.** 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 section.]*

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

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

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

43 (8) Petitions filed under this section shall be heard and disposed of within 15 judicial days of
 44 filing or as soon as is practicable thereafter, but not more than 30 days thereafter. The judge shall
 45 then make findings and conclusions and issue a judgment based on the findings and conclusions in

1 accordance with the requirements of law.

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

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

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

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

8 **SECTION 36.** ORS 181.548 is amended to read:

9 181.548. (1) Notwithstanding the provisions of ORS 192.410 to 192.505 relating to public records
10 the fingerprints, photographs, records and reports compiled under ORS 137.225, 181.010, 181.511,
11 181.521, 181.555, 805.060 and this section are confidential and exempt from public inspection except:

12 (a) As ordered by a court;

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

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

17 (d) As provided in ORS 181.525; or

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

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

22 **ORS 192.410 to 192.505.**

23 **SECTION 37.** ORS 181.560 is amended to read:

24 181.560. (1) When a person or agency, other than a criminal justice agency or a law enforcement
25 agency, pursuant to ORS 181.555 (2), requests from the Department of State Police criminal offender
26 information regarding an individual, if the department's compiled criminal offender information on
27 the individual contains records of any conviction, or of any arrest less than one year old on which
28 there has been no acquittal or dismissal, the department shall respond to the request as follows:

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

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

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

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

44 (b) Fourteen days after sending notice to the individual about whom the request is made, the
45 department shall deliver to the person or agency making the request the following information if

1 held regarding any convictions and any arrests less than one year old on which the records show
 2 no acquittal or dismissal:

3 (A) Date of arrest.

4 (B) Offense for which arrest was made.

5 (C) Arresting agency.

6 (D) Court of origin.

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

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

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

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

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

21 *[(4) Nothing in ORS 181.066, 181.548, 181.555 or this section is intended to prevent the department*
 22 *from charging a reasonable fee, pursuant to ORS 192.440, for responding to a criminal offender infor-*
 23 *mation inquiry or for making information available under ORS 181.555 or this section.]*

24 **SECTION 38.** ORS 181.854 is amended to read:

25 181.854. (1) As used in this section:

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

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

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

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

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

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

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

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

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

42 (5) If an investigation of a public safety employee of a public body results from a complaint, the
 43 public body may disclose to the complainant the disposition of the complaint and, to the extent the
 44 public body considers necessary to explain the action of the public body on the complaint, a written
 45 summary of information obtained in the investigation.

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

3 (a) A photograph of the employee.

4 (b) Information about the employee that is exempt from disclosure under [ORS 192.501 or 192.502
 5 (2) or (3)] **sections 12 to 24 of this 2011 Act.**

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

8 **SECTION 39.** ORS 190.050 is amended to read:

9 190.050. (1) An intergovernmental group may impose and collect reasonable fees based on market
 10 prices or competitive bids for geographic data that have commercial value and are an entire for-
 11 mula, pattern, compilation, program, device, method, technique, process, database or system devel-
 12 oped with a significant expenditure of public funds. An intergovernmental group may enter into
 13 agreements with private persons or entities to assist with marketing such products. Notwithstanding
 14 any other provision of law, intergovernmental group software product programming source codes,
 15 object codes and geographic databases or systems are confidential and exempt from public disclosure
 16 under [ORS 192.502] **sections 12 to 24 of this 2011 Act.** Nothing in this section authorizes an
 17 intergovernmental group to restrict access to public records through inclusion of such records in a
 18 geographic database or system.

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

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

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

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

27 **SECTION 40.** ORS 192.493 is amended to read:

28 192.493. A record of an agency of the executive department as defined in ORS 174.112 that
 29 contains the following information is a public record subject to inspection under [ORS 192.420] **ORS**
 30 **192.410 to 192.505** and is not exempt from disclosure under [ORS 192.501 or 192.502] **sections 12**
 31 **to 24 of this 2011 Act** except to the extent that the record discloses information about an
 32 individual’s health or is proprietary to a person:

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

- 36 (a) Inpatient hospital services;
- 37 (b) Outpatient hospital services;
- 38 (c) Laboratory and X-ray services;
- 39 (d) Physician and other licensed practitioner services;
- 40 (e) Prescription drugs;
- 41 (f) Dental services;
- 42 (g) Vision services;
- 43 (h) Mental health services;
- 44 (i) Chemical dependency services;
- 45 (j) Durable medical equipment and supplies; and

1 (k) Other health services provided under a prepaid managed care health services contract under
2 ORS 414.725;

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

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

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

10 **SECTION 41.** ORS 192.495 is amended to read:

11 192.495. Notwithstanding [ORS 192.501 to 192.505] **sections 12 to 24 of this 2011 Act** and except
12 as otherwise provided in ORS 192.496, public records that are more than 25 years old shall be
13 available for inspection.

14 **SECTION 42.** ORS 192.505 is amended to read:

15 192.505. If any public record contains material which is not exempt under [ORS 192.501 and
16 192.502] **sections 12 to 24 of this 2011 Act**, as well as material which is exempt from disclosure,
17 the public body shall separate the exempt and nonexempt material and make the nonexempt material
18 available for examination.

19 **SECTION 43.** ORS 192.650 is amended to read:

20 192.650. (1) The governing body of a public body shall provide for the sound, video or digital
21 recording or the taking of written minutes of all its meetings. Neither a full transcript nor a full
22 recording of the meeting is required, except as otherwise provided by law, but the written minutes
23 or recording must give a true reflection of the matters discussed at the meeting and the views of
24 the participants. All minutes or recordings shall be available to the public within a reasonable time
25 after the meeting, and shall include at least the following information:

26 (a) All members of the governing body present;

27 (b) All motions, proposals, resolutions, orders, ordinances and measures proposed and their dis-
28 position;

29 (c) The results of all votes and, except for public bodies consisting of more than 25 members
30 unless requested by a member of that body, the vote of each member by name;

31 (d) The substance of any discussion on any matter; and

32 (e) Subject to ORS 192.410 to 192.505 relating to public records, a reference to any document
33 discussed at the meeting.

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

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

44 [(4) A public body may charge a person a fee under ORS 192.440 for the preparation of a transcript
45 from a recording.]

SECTION 44. ORS 209.270 is amended to read:

209.270. (1) The records of the county surveyor shall be located in county facilities designated by the county governing body.

(2) The county surveyor shall be provided reasonable facilities for the proper filing, indexing, copying, public inspection and examination and protection of public records [*as required under ORS 192.430 and 192.440*].

SECTION 45. ORS 268.357 is amended to read:

268.357. Subject to the provisions of a district charter, a district may impose and collect reasonable fees based on market prices or competitive bids for geographic data that have commercial value and are an entire formula, pattern, compilation, program, device, method, technique, process, database or system developed with a significant expenditure of public funds. A district may enter into agreements with private persons or entities to assist with marketing such products. Notwithstanding any other provision of law, district software product programming source codes, object codes and geographic databases or systems are confidential and exempt from public disclosure under [*ORS 192.502*] **sections 12 to 24 of this 2011 Act**. Nothing in this section authorizes a district to restrict access to public records through inclusion of such records in a geographic database or system.

SECTION 46. ORS 279B.055 is amended to read:

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

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

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

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

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

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

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

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

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

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

- 1 (A) Reducing or withholding payment;
- 2 (B) Requiring the contractor to perform, at the contractor's expense, additional work necessary
3 to perform the identified scope of work or meet the established performance standards; or
- 4 (C) Declaring a default, terminating the public contract and seeking damages and other relief
5 available under the terms of the public contract or other applicable law.
- 6 (3)(a) The contracting agency may require bid security if the contracting agency determines that
7 bid security is reasonably necessary or prudent to protect the interests of the contracting agency.
- 8 (b) The contracting agency shall return the bid security to all bidders upon the execution of the
9 contract.
- 10 (c) The contracting agency shall retain the bid security if a bidder who is awarded a contract
11 fails to promptly and properly execute the contract. For purposes of this paragraph, prompt and
12 proper execution of the contract includes all action by a bidder that is necessary to form a contract
13 in accordance with the invitation to bid, including posting performance security and submitting
14 proof of insurance when the invitation to bid requires the submission.
- 15 (4)(a) The contracting agency shall give public notice of an invitation to bid issued under this
16 section. Public notice is intended to foster competition among prospective bidders. The contracting
17 agency shall make invitations to bid available to prospective bidders.
- 18 (b) A public notice must be published at least once in at least one newspaper of general circu-
19 lation in the area where the contract is to be performed and in as many additional issues and pub-
20 lications as the contracting agency may determine.
- 21 (c) The Director of the Oregon Department of Administrative Services or a local contract review
22 board may, by rule or order, authorize public notice of bids or proposals to be published electron-
23 ically instead of in a newspaper of general circulation if the director or board determines that
24 electronically providing public notice of bids or proposals is likely to be cost-effective.
- 25 (d) In addition to the modes of publication authorized by paragraphs (b) and (c) of this sub-
26 section, the contracting agency may use any other medium reasonably calculated to reach prospec-
27 tive bidders or proposers.
- 28 (e) Rules adopted under ORS 279A.065 must prescribe the requirements for providing public
29 notice of solicitations.
- 30 (f) Unless otherwise specified in rules adopted under ORS 279A.065, the contracting agency shall
31 give public notice at least seven days before the solicitation closing date.
- 32 (5)(a) The contracting agency shall open bids publicly at the time, date and place designated in
33 the invitation to bid. When authorized by, and in accordance with, rules adopted under ORS
34 279A.065, bids may be submitted, received and opened through electronic means.
- 35 (b) The contracting agency shall record the amount of a bid, the name of the bidder and other
36 relevant information specified by rule adopted under ORS 279A.065. The record shall be open to
37 public inspection.
- 38 (c) Notwithstanding a requirement to make bids open to public inspection after the contracting
39 agency issues notice of intent to award a contract, a contracting agency may withhold from disclo-
40 sure to the public trade secrets[, *as defined in ORS 192.501, and*] **or other** information [*submitted*
41 *to a public body in confidence, as described in ORS 192.502, that are*] **that is** contained in a bid
42 **submitted to a public body and exempt from disclosure under sections 12 to 24 of this 2011**
43 **Act.**
- 44 (6)(a) The contracting agency shall evaluate all bids that are received before the time and date
45 indicated for bid opening in the invitation to bid. The contracting agency shall evaluate the bids

1 based on the requirements set forth in the invitation to bid. The requirements may include, in ad-
2 dition to the information described in subsection (2) of this section, criteria to determine minimum
3 acceptability, such as inspection, testing, quality and suitability for intended use or purpose. Criteria
4 that will affect the bid price and will be considered in evaluation for award including, but not lim-
5 ited to, discounts, transportation costs and total costs of ownership or operation of a product over
6 the life of the product must be objectively measurable. The invitation to bid must set forth the
7 evaluation criteria to be used. No criteria may be used in a bid evaluation that are not set forth in
8 the invitation to bid or in a qualified products list maintained under ORS 279B.115. The contracting
9 agency may not consider for award bids received after the time and date indicated for bid opening
10 in the invitation to bid. The contracting agency may retain bids or copies of bids received after the
11 bid time and date indicated in the invitation to bid.

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

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

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

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

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

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

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

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

32 (B) Who qualify for the award of a public contract under the terms of the invitation to bid.

33 (11) The successful bidder shall promptly execute a contract. The successful bidder's duty to
34 promptly execute a contract includes the duty to take all action that is necessary to form a contract
35 in accordance with the invitation to bid, including posting performance security, submitting proof
36 of insurance when the invitation to bid requires the submission and agreeing to perform the scope
37 of work and meet the performance standards set forth in the invitation to bid.

38 (12) If a contracting agency determines that preparing a procurement description to support an
39 award based on price is impractical, the contracting agency may issue a multistep invitation to bid
40 that requests bidders to submit unpriced submittals, and then later issue an invitation to bid limited
41 to the bidders that the contracting agency officer has determined are eligible to submit a priced bid
42 under the criteria set forth in the initial solicitation of unpriced submittals.

43 (13) The contracting agency may issue a request for information, a request for interest or other
44 preliminary documents to obtain information useful in preparing an invitation to bid.

45 **SECTION 47.** ORS 279B.060 is amended to read:

1 279B.060. (1) A contracting agency may solicit and award a public contract for goods or ser-
 2 vices, or may award multiple public contracts for goods or services when specified in the request
 3 for proposals, by requesting and evaluating competitive sealed proposals.

4 (2) The request for proposals must:

5 (a) Specify a time and date by which sealed proposals must be received, and a place at which
 6 the proposals must be submitted. The contracting agency, in the contracting agency's sole dis-
 7 cretion, may receive proposals by electronic means or may direct or permit proposers to submit
 8 proposals by electronic means.

9 (b) Specify the name and title of the person designated to receive proposals and the person the
 10 contracting agency designates as the contact person for the procurement, if different.

11 (c) Describe the procurement. In the description, the contracting agency shall identify the scope
 12 of work included within the procurement, outline the contractor's anticipated duties and set expec-
 13 tations for the contractor's performance. Unless the contractor is providing architectural, engi-
 14 neering and land surveying services or related services, both as defined in ORS 279C.100, or unless
 15 the contracting agency for good cause specifies otherwise, the scope of work shall require the con-
 16 tractor to meet the highest standards prevalent in the industry or business most closely involved in
 17 providing the appropriate goods or services.

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

20 (e) State that the contracting agency may cancel the procurement or reject any or all proposals
 21 in accordance with ORS 279B.100.

22 (f) State that "Contractors shall use recyclable products to the maximum extent economically
 23 feasible in the performance of the contract work set forth in this document." if a state contracting
 24 agency issues the request for proposals.

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

27 (h) Include all contractual terms and conditions applicable to the procurement. The contract
 28 terms and conditions shall specify clear consequences for a contractor's failure to perform the scope
 29 of work identified in the request for proposals or the contractor's failure to meet established per-
 30 formance standards. The consequences may include, but are not limited to:

31 (A) Reducing or withholding payment;

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

34 (C) Declaring a default, terminating the public contract and seeking damages and other relief
 35 available under the terms of the public contract or other applicable law.

36 (3) The request for proposals also may:

37 (a) Identify contractual terms or conditions that the contracting agency reserves, in the request
 38 for proposals, for negotiation with proposers;

39 (b) Request that proposers propose contractual terms and conditions that relate to subject mat-
 40 ter reasonably identified in the request for proposals;

41 (c) Contain or incorporate the form and content of the contract that the contracting agency will
 42 accept, or suggest contract terms and conditions that nevertheless may be the subject of negoti-
 43 ations with proposers;

44 (d) Announce the method the contracting agency will use to select the contractor, which may
 45 include, but is not limited to, negotiating with the highest ranked proposer, competitive negotiations,

1 a multiple-tiered competition that is designed to identify a class of proposers that fall within a
 2 competitive range or to otherwise eliminate from consideration a class of lower ranked proposers
 3 or a combination of methods, as authorized or prescribed by rules adopted under ORS 279A.065; and

4 (e) Describe the manner in which the contracting agency will evaluate proposals, identifying the
 5 relative importance of price and other factors the contracting agency will use to evaluate and rate
 6 the proposals in the first tier of competition. If the contracting agency uses more than one tier of
 7 competitive evaluation, the request for proposals must describe the process the contracting agency
 8 will use to evaluate proposals in the subsequent tiers.

9 (4)(a) The contracting agency may require proposal security in any form the contracting agency
 10 deems prudent. Proposal security shall serve the same function with respect to requests for pro-
 11 posals as bid security serves with respect to invitations to bid under ORS 279B.055.

12 (b) The contracting agency shall return the proposal security to all proposers upon the exe-
 13 cution of the contract.

14 (c) The contracting agency shall retain the proposal security if a proposer who is awarded a
 15 contract fails to promptly and properly execute the contract. For purposes of this paragraph, prompt
 16 and proper execution of the contract includes all action by a proposer that is necessary to form a
 17 contract in accordance with the request for proposals, including posting performance security and
 18 submitting proof of insurance when the request for proposals requires the submission. If contract
 19 negotiations or competitive negotiations are conducted, the failure, prior to award, of a contracting
 20 agency and a proposer to reach agreement does not constitute grounds for retaining proposal secu-
 21 rity.

22 (5) Public notice of the request for proposals must be given in the same manner as provided for
 23 public notice of invitations to bid in ORS 279B.055 (4).

24 (6)(a) Notwithstanding ORS 192.410 to 192.505, proposals may be opened in a manner to avoid
 25 disclosing contents to competing proposers during, when applicable, the process of negotiation, but
 26 the contracting agency shall record and make available the identity of all proposers as part of the
 27 contracting agency's public records after the proposals are opened. Notwithstanding ORS 192.410 to
 28 192.505, proposals are not required to be open for public inspection until after the notice of intent
 29 to award a contract is issued. The fact that proposals are opened at a meeting, as defined in ORS
 30 192.610, does not make the contents of the proposals subject to disclosure, regardless of whether the
 31 public body opening the proposals fails to give notice of or provide for an executive session for the
 32 purpose of opening proposals.

33 (b) Notwithstanding a requirement to make proposals open to public inspection after the con-
 34 tracting agency issues notice of intent to award a contract, a contracting agency may withhold from
 35 disclosure to the public materials included in a proposal that are exempt or conditionally exempt
 36 from disclosure under *[ORS 192.501 or 192.502]* **sections 12 to 24 of this 2011 Act.**

37 (c) If a request for proposals is canceled under ORS 279B.100 after proposals are received or if
 38 a proposal is rejected, the contracting agency may return a proposal to the proposer that made the
 39 proposal. The contracting agency shall keep a list of returned proposals in the file for the solici-
 40 tation.

41 (7) As provided in the request for proposals or in written addenda issued thereunder, the con-
 42 tracting agency may conduct site tours, demonstrations, individual or group discussions and other
 43 informational activities with proposers before or after the opening of proposals for the purpose of
 44 clarification to ensure full understanding of, and responsiveness to, the solicitation requirements or
 45 to consider and respond to requests for modifications of the proposal requirements. The contracting

1 agency shall use procedures designed to accord proposers fair and equal treatment with respect to
2 any opportunity for discussion and revision of proposals.

3 (8) For purposes of evaluation, when provided for in the request for proposals, the contracting
4 agency may employ methods of contractor selection that include, but are not limited to:

5 (a) An award or awards based solely on the ranking of proposals;

6 (b) Discussions leading to best and final offers, in which the contracting agency may not disclose
7 private discussions leading to best and final offers;

8 (c) Discussions leading to best and final offers, in which the contracting agency may not disclose
9 information derived from proposals submitted by competing proposers;

10 (d) Serial negotiations, beginning with the highest ranked proposer;

11 (e) Competitive simultaneous negotiations;

12 (f) Multiple-tiered competition designed to identify, at each level, a class of proposers that fall
13 within a competitive range or to otherwise eliminate from consideration a class of lower ranked
14 proposers;

15 (g) A multistep request for proposals requesting the submission of unpriced technical submittals,
16 and then later issuing a request for proposals limited to the proposers whose technical submittals
17 the contracting agency had determined to be qualified under the criteria set forth in the initial re-
18 quest for proposals; or

19 (h) A combination of methods described in this subsection, as authorized or prescribed by rules
20 adopted under ORS 279A.065.

21 (9) Revisions of proposals may be permitted after the submission of proposals and before award
22 for the purpose of obtaining best offers or best and final offers.

23 (10) After the opening of proposals, a contracting agency may issue or electronically post an
24 addendum to the request for proposals that modifies the criteria, rating process and procedure for
25 any tier of competition before the start of the tier to which the addendum applies. The contracting
26 agency shall send an addendum that is issued by a method other than electronic posting to all
27 proposers who are eligible to compete under the addendum. The contracting agency shall issue or
28 post the addendum at least five days before the start of the subject tier of competition or as the
29 contracting agency otherwise determines is adequate to allow eligible proposers to prepare for the
30 competition in accordance with rules adopted under ORS 279A.065.

31 (11) The cancellation of requests for proposals and the rejection of proposals must be in ac-
32 cordance with ORS 279B.100.

33 (12) In the request for proposals, the contracting agency shall describe the methods by which
34 the agency will make the results of each tier of competitive evaluation available to the proposers
35 who competed in the tier. The contracting agency shall include a description of the manner in which
36 the proposers who are eliminated from further competition may protest or otherwise object to the
37 contracting agency's decision.

38 (13) The contracting agency shall issue or electronically post the notice of intent to award de-
39 scribed in ORS 279B.135 to each proposer who was evaluated in the final competitive tier.

40 (14) If the contracting agency awards a contract, the contracting agency shall award the con-
41 tract to the responsible proposer whose proposal the contracting agency determines in writing is the
42 most advantageous to the contracting agency based on the evaluation process and evaluation factors
43 described in the request for proposals, applicable preferences described in ORS 279A.120 and
44 279A.125 and, when applicable, the outcome of any negotiations authorized by the request for pro-
45 posals. Other factors may not be used in the evaluation. When the request for proposals specifies

1 or authorizes awarding multiple public contracts, the contracting agency shall award public con-
2 tracts to the responsible proposers who qualify for the award of a contract under the terms of the
3 request for proposals.

4 (15) The contracting agency may issue a request for information, a request for interest, a re-
5 quest for qualifications or other preliminary documents to obtain information useful in preparing a
6 request for proposals.

7 (16) Before executing a contract solicited under this section, a contracting agency shall obtain
8 the proposer's agreement to perform the scope of work and meet the performance standards set forth
9 in the final negotiated scope of work.

10 **SECTION 48.** ORS 279C.107 is amended to read:

11 279C.107. (1) Notwithstanding the public records law, ORS 192.410 to 192.505, if a contracting
12 agency solicits a contract for architectural, engineering or land surveying services or related ser-
13 vices by a competitive proposal:

14 (a) Proposals may be opened so as to avoid disclosure of contents to competing proposers during,
15 when applicable, the process of negotiation.

16 (b) Proposals are not required to be open for public inspection until after the notice of intent
17 to award a contract is issued.

18 (2) Notwithstanding any requirement to make proposals open to public inspection after the
19 contracting agency's issuance of notice of intent to award a contract, a contracting agency may
20 withhold from disclosure to the public trade secrets[, *as defined in ORS 192.501, and information*
21 *submitted to a public body in confidence, as described in ORS 192.502, that are*] **or other information**
22 **that is** contained in a proposal **submitted to a public body and exempt from disclosure under**
23 **sections 12 to 24 of this 2011 Act.** The fact that proposals are opened at a public meeting as de-
24 fined in ORS 192.610 does not make their contents subject to disclosure, regardless of whether the
25 public body opening the proposals fails to give notice of or provide for an executive session for the
26 purpose of opening proposals. If a request for proposals is canceled after proposals are received, the
27 contracting agency may return a proposal to the proposer that made the proposal. The contracting
28 agency shall keep a list of returned proposals in the file for the solicitation.

29 **SECTION 49.** ORS 279C.410 is amended to read:

30 279C.410. (1) Notwithstanding the public records law, ORS 192.410 to 192.505:

31 (a) Proposals may be opened so as to avoid disclosure of contents to competing proposers during,
32 when applicable, the process of negotiation.

33 (b) Proposals are not required to be open for public inspection until after the notice of intent
34 to award a contract is issued.

35 (2) For each request for proposals, the contracting agency shall prepare a list of proposals.

36 (3) Notwithstanding any requirement to make proposals open to public inspection after the
37 contracting agency's issuance of notice of intent to award a contract, a contracting agency may
38 withhold from disclosure to the public trade secrets[, *as defined in ORS 192.501, and information*
39 *submitted to a public body in confidence, as described in ORS 192.502, that are*] **or other information**
40 **that is** contained in a proposal **submitted to a public body and exempt from disclosure under**
41 **sections 12 to 24 of this 2011 Act.** The fact that proposals are opened at a public meeting as de-
42 fined in ORS 192.610 does not make their contents subject to disclosure, regardless of whether the
43 public body opening the proposals fails to give notice of or provide for an executive session for the
44 purpose of opening proposals. If a request for proposals is canceled after proposals are received, the
45 contracting agency may return a proposal to the proposer that made the proposal. The contracting

1 agency shall keep a list of returned proposals in the file for the solicitation.

2 (4) As provided in the request for proposals, a contracting agency may conduct discussions with
 3 proposers who submit proposals the agency has determined to be closely competitive or to have a
 4 reasonable chance of being selected for award. The discussions may be conducted for the purpose
 5 of clarification to ensure full understanding of, and responsiveness to, the solicitation requirements.
 6 The contracting agency shall accord proposers fair and equal treatment with respect to any oppor-
 7 tunity for discussion and revision of proposals. Revisions of proposals may be permitted after the
 8 submission of proposals and before award for the purpose of obtaining best and final offers. In con-
 9 ducting discussions, the contracting agency may not disclose information derived from proposals
 10 submitted by competing proposers.

11 (5) When provided for in the request for proposals, the contracting agency may employ methods
 12 of contractor selection including but not limited to award based solely on the ranking of proposals,
 13 negotiation with the highest ranked proposer, competitive negotiations, multiple-tiered competition
 14 designed to identify a class of proposers that fall within a competitive range or to otherwise elimi-
 15 nate from consideration a class of lower ranked proposers, or any combination of methods, as au-
 16 thorized or prescribed by rules adopted under ORS 279A.065. When applicable, in any instance in
 17 which the contracting agency determines that impasse has been reached in negotiations with a
 18 highest ranked proposer, the contracting agency may terminate negotiations with that proposer and
 19 commence negotiations with the next highest ranked proposer.

20 (6) The cancellation of requests for proposals and the rejection of proposals shall be in accord-
 21 ance with ORS 279C.395.

22 (7) At least seven days before the award of a public improvement contract, unless the con-
 23 tracting agency determines that seven days is impractical under rules adopted under ORS 279A.065,
 24 the contracting agency shall issue to each proposer or post, electronically or otherwise, a notice
 25 of intent to award.

26 (8) If a public improvement contract is awarded, the contracting agency shall award a public
 27 improvement contract to the responsible proposer whose proposal is determined in writing to be the
 28 most advantageous to the contracting agency based on the evaluation factors set forth in the re-
 29 quest for proposals and, when applicable, the outcome of any negotiations authorized by the request
 30 for proposals. Other factors may not be used in the evaluation.

31 **SECTION 50.** ORS 285C.145 is amended to read:

32 285C.145. (1) The Legislative Assembly finds that the standard procedure for authorization in
 33 an enterprise zone inappropriately deters development or redevelopment of qualified buildings on
 34 speculation for subsequent sale or lease to eligible business firms.

35 (2) Notwithstanding ORS 285C.140 (1), a new building or structure or an addition to or modifi-
 36 cation of an existing building or structure may qualify for the exemption allowed under ORS
 37 285C.175 if the qualified property is leased or sold by an unrelated party to one or more authorized
 38 business firms after commencement of the construction, addition or modification but prior to use or
 39 occupancy of the qualified property.

40 (3) A business firm may not be considered authorized and is not qualified for the exemption al-
 41 lowed under ORS 285C.175 if the county assessor discovers prior to initially granting the exemption
 42 that the application for authorization was not submitted by the business firm in a timely manner in
 43 accordance with ORS 285C.140, except as allowed under subsection (2) of this section or ORS
 44 285C.140 (11) and (12).

45 (4) Records, communications or information submitted to a public body by a business firm for

1 purposes of ORS 285C.050 to 285C.250 that identify a particular qualified property, that reveal in-
 2 vestment plans prior to authorization, that include the compensation the firm provides to firm
 3 employees[, *that are described in ORS 192.502 (17)*] or that are submitted under ORS 285C.225 or
 4 285C.235 are exempt from disclosure under ORS 192.410 to 192.505 and, as appropriate, shall be
 5 shared among the county assessor, the zone sponsor, the Department of Revenue and the Oregon
 6 Business Development Department.

7 **SECTION 51.** ORS 287A.350 is amended to read:

8 287A.350. The records of registered bond ownership, whether maintained by a public body or
 9 otherwise, are not public records within the meaning of ORS 192.410 [(4)].

10 **SECTION 52.** ORS 305.493 is amended to read:

11 305.493. (1) The judge of the tax court elected or appointed under ORS 305.452 may establish a
 12 fee for comparing, or for preparing and comparing, a transcript of the record. The fee established
 13 under this subsection may not exceed the fees charged and collected by the clerks of the circuit
 14 court.

15 (2)(a) The Chief Justice of the Supreme Court by order may establish fees for copies of tax court
 16 records, for services relating to those records and for other services that the tax court, the clerk
 17 of the tax court or the State Court Administrator acting as court administrator for the tax court is
 18 authorized or required to perform.

19 (b) The Chief Justice may not establish:

20 (A) A fee for the location or inspection of court records; or

21 (B) A fee for a service under this subsection if the fee is otherwise specified by statute.

22 (3) The fee established by the Chief Justice under subsection (2) of this section for paper copies
 23 of records may not exceed 25 cents per page, except for records for which additional services are
 24 required. [*If additional services are required, fees for providing the records are subject to ORS*
 25 *192.440.*]

26 **SECTION 53.** ORS 312.030 is amended to read:

27 312.030. (1) Within two months after the day of delinquency of taxes of each year the tax col-
 28 lector shall prepare a list of all real properties then subject to foreclosure. The list shall be known
 29 as the foreclosure list and shall contain:

30 (a) The names of the several persons appearing in the latest tax roll as the respective owners
 31 of tax-delinquent properties. [*If the owner of the property is an attorney or public safety officer who*
 32 *has applied for an exemption under ORS 192.501, the list shall state that the name of the owner is*
 33 *suppressed by law.*]

34 (b) A description of each such property as it appears in the latest tax roll.

35 (c) The year or years for which taxes are delinquent on each property.

36 (d) The principal amount of the delinquent taxes of each year and the amount of accrued and
 37 accruing interest thereon to the day of publication.

38 (2) Thereafter, and until judgment is obtained pursuant to ORS 312.090, interest shall be charged
 39 and collected on each of the several amounts of taxes included in the foreclosure list at the rate
 40 provided in ORS 311.505 (2).

41 **SECTION 54.** ORS 312.190 is amended to read:

42 312.190. Subject to an exemption from disclosure that applies under [*ORS 192.501*] **sections 12**
 43 **to 24 of this 2011 Act:**

44 (1) Not more than 30 days nor less than 10 days prior to the expiration of the period of re-
 45 demption of any real property ordered sold to the county under a judgment under ORS 312.100, the

1 tax collector shall publish a general notice relative to the expiration of the period of redemption.

2 (2) The notice shall contain the date of the judgment, the date of expiration of the period of
 3 redemption, and warning to the effect that all the properties ordered sold under the judgment, unless
 4 sooner redeemed, will be deeded to the county immediately on expiration of the period of redemption
 5 and that every right or interest of any person in the properties will be forfeited forever to the
 6 county.

7 (3) The notice shall be published in two weekly issues of a duly designated newspaper of general
 8 circulation in the county within the period of 20 days as specified in this section. Proof of publica-
 9 tion shall be attached to and made a part of the deed issued to the county. The published notice
 10 may be a general notice and it shall not be necessary to include therein descriptions of the several
 11 properties or the names of the respective owners.

12 **SECTION 55.** ORS 339.388 is amended to read:

13 339.388. (1)(a) A school employee having reasonable cause to believe that a child with whom the
 14 employee comes in contact has suffered abuse by another school employee, or that another school
 15 employee with whom the employee comes in contact has abused a child, shall immediately report the
 16 information to:

17 (A) A supervisor or other person designated by the school board; and

18 (B) A law enforcement agency, the Department of Human Services or a designee of the depart-
 19 ment as required by ORS 419B.010 and 419B.015.

20 (b) A school employee having reasonable cause to believe that a student with whom the em-
 21 ployee comes in contact has been subjected to sexual conduct by another school employee, or that
 22 another school employee with whom the employee comes in contact has engaged in sexual conduct,
 23 shall immediately report the information to a supervisor or other person designated by the school
 24 board.

25 (2) A supervisor or other person designated by the school board who receives a report under
 26 subsection (1) of this section, shall follow the procedures required by the policy adopted by the
 27 school board under ORS 339.372.

28 (3)(a) Except as provided in subsection (4) of this section, when an education provider receives
 29 a report of suspected child abuse or sexual conduct by one of its employees, and the education
 30 provider's designee determines that there is reasonable cause to support the report, the education
 31 provider:

32 (A) In the case of suspected child abuse, shall place the school employee on paid administrative
 33 leave; or

34 (B) In the case of suspected sexual conduct, may place the school employee on paid adminis-
 35 trative leave or in a position that does not involve direct, unsupervised contact with children.

36 (b) A school employee who is placed on paid administrative leave under paragraph (a)(A) of this
 37 subsection shall remain on administrative leave until:

38 (A) The Department of Human Services or a law enforcement agency determines that the report
 39 cannot be substantiated or that the report will not be pursued; or

40 (B) The Department of Human Services or a law enforcement agency determines that the report
 41 is substantiated and the education provider takes the appropriate disciplinary action against the
 42 school employee.

43 (4) An education provider may reinstate a school employee placed on paid administrative leave
 44 for suspected child abuse as provided under subsection (3) of this section or may take the appro-
 45 priate disciplinary action against the employee if the Department of Human Services or a law

1 enforcement agency is unable to determine, based on a report of suspected child abuse, whether
 2 child abuse occurred.

3 (5) If, following an investigation, an education provider determines that the report of suspected
 4 child abuse or sexual conduct is a substantiated report, the education provider shall:

5 (a) Inform the school employee that the education provider has determined that the report has
 6 been substantiated.

7 (b) Provide the school employee with information about the appropriate appeal process for the
 8 determination made by the education provider. The appeal process may be the process provided by
 9 a collective bargaining agreement or a process administered by a neutral third party and paid for
 10 by the school district.

11 (c) Following notice of a school employee's decision not to appeal the determination or following
 12 the determination of an appeal that sustained the substantiated report, create a record of the sub-
 13 substantiated report and place the record in the personnel file of the school employee. Records created
 14 pursuant to this paragraph are confidential and are not public records as defined in ORS 192.410.
 15 An education provider may use the record as a basis for providing the information required to be
 16 disclosed under ORS 339.378.

17 (d) Inform the school employee that information about substantiated reports may be disclosed
 18 to a potential employer as provided by subsection (7) of this section and ORS 339.378.

19 (6) Upon request from a law enforcement agency, the Department of Human Services or the
 20 Teacher Standards and Practices Commission, a school district shall provide the records of investi-
 21 gations of suspected child abuse by a school employee or former school employee.

22 (7)(a) The disciplinary records of a school employee or former school employee convicted of a
 23 crime listed in ORS 342.143 are not exempt from disclosure under [ORS 192.501 or 192.502] **sections**
 24 **12 to 24 of this 2011 Act.**

25 (b) If a school employee is convicted of a crime listed in ORS 342.143, the education provider
 26 that is the employer of the employee shall disclose the disciplinary records of the employee to any
 27 person upon request.

28 (c) If a former school employee is convicted of a crime listed in ORS 342.143, the education
 29 provider that was the employer of the former employee when the crime was committed shall disclose
 30 the disciplinary records of the former employee to any person upon request.

31 (8) Prior to disclosure of a disciplinary record under subsection (7) of this section, an education
 32 provider shall remove any personally identifiable information from the record that would disclose
 33 the identity of a child, a crime victim or a school employee or former school employee who is not
 34 the subject of the disciplinary record.

35 **SECTION 56.** ORS 341.290 is amended to read:

36 341.290. The board of education of a community college district shall be responsible for the
 37 general supervision and control of any and all community colleges operated by the district. Con-
 38 sistent with any applicable rules of the State Board of Education, the board may:

39 (1) Subject to ORS chapters 238 and 238A, employ administrative officers, professional personnel
 40 and other employees, define their duties, terms and conditions of employment and prescribe com-
 41 pensation therefor, pursuant to ORS 243.650 to 243.782.

42 (2) Enact rules for the government of the community college, including professional personnel
 43 and other employees thereof and students therein.

44 (3) Prescribe the educational program.

45 (4) Control use of and access to the grounds, buildings, books, equipment and other property of

1 the district.

2 (5) Acquire, receive, hold, control, convey, sell, manage, operate, lease, lease-purchase, lend, in-
 3 vest, improve and develop any and all property of whatever nature given to or appropriated for the
 4 use, support or benefit of any activity under the control of the board, according to the terms and
 5 conditions of such gift or appropriation.

6 (6) Purchase real property upon a contractual basis when the period of time allowed for payment
 7 under the contract does not exceed 30 years.

8 (7) Fix standards of admission to the community college, prescribe and collect tuition for ad-
 9 mission to the community college, including fixing different tuition rates for students who reside in
 10 the district, students who do not reside in the district but are residents of the state and students
 11 who do not reside in the state.

12 (8) Prescribe and collect fees and expend funds so raised for special programs and services for
 13 the students and for programs for the cultural and physical development of the students.

14 (9) Provide and disseminate to the public information relating to the program, operation and fi-
 15 nances of the community college.

16 (10) Establish or contract for advisory and consultant services.

17 (11) Take, hold and dispose of mortgages on real and personal property acquired by way of gift
 18 or arising out of transactions entered into in accordance with the powers, duties and authority of
 19 the board and institute, maintain and participate in suits and actions and other judicial proceedings
 20 in the name of the district for the foreclosure of such mortgages.

21 (12) Maintain programs, services and facilities, and, in connection therewith, cooperate and en-
 22 ter into agreements with any person or public or private agency.

23 (13) Provide student services including health, guidance, counseling and placement services, and
 24 contract therefor.

25 (14) Join appropriate associations and pay any required dues therefor from resources of the
 26 district.

27 (15) Apply for federal funds and accept and enter into any contracts or agreements for the re-
 28 ceipt of such funds from the federal government or its agencies for educational purposes.

29 (16) Exercise any other power, duty or responsibility necessary to carry out the functions under
 30 this section or required by law.

31 (17) Prescribe rules for the use and access to public records of the district that are consistent
 32 with ORS [192.420] **192.410 to 192.505**, and education records of students under applicable state and
 33 federal law and rules of the State Board of Education. Whenever a student has attained 18 years
 34 of age or is attending an institution of post-secondary education, the permission or consent required
 35 of and the rights accorded to a parent of the student regarding education records shall thereafter
 36 be required of and accorded to only the student. However, faculty records relating to matters such
 37 as conduct, personal and academic evaluations, disciplinary actions, if any, and other personal
 38 matters shall not be made available to public inspection for any purpose except with the consent
 39 of the person who is the subject of the record or upon order of a court of competent jurisdiction.

40 (18) Enter into contracts for the receipt of cash or property, or both, and establish charitable
 41 gift annuities pursuant to ORS 731.038; and, commit, appropriate, authorize and budget for the pay-
 42 ment of or other disposition of general funds to pay, in whole or in part, sums due under an agree-
 43 ment for a charitable gift annuity, and to provide the necessary funding for reserves or other trust
 44 funds pursuant to ORS 731.038.

45 (19) Encourage gifts to the district by faithfully devoting the proceeds of such gifts to the dis-

1 trict purposes for which intended.

2 (20) Build, furnish, equip, repair, lease, purchase and raze facilities; and locate, buy and acquire
3 lands for all district purposes. Financing may be by any prudent method including but not limited
4 to loans, contract purchase or lease. Leases authorized by this section include lease-purchase
5 agreements under which the district may acquire ownership of the leased property at a nominal
6 price. Such financing agreements may be for a term of up to 30 years except for lease arrangements
7 which may be for a term of up to 50 years.

8 (21) Participate in an educational consortium with public and private institutions that offer up-
9 per division and graduate instruction. Community colleges engaged in such consortiums may expend
10 money, provide facilities and assign staff to assist those institutions offering upper division and
11 graduate instruction.

12 (22) Enter into contracts of insurance or medical and hospital service contracts or may operate
13 a self-insurance program as provided in ORS 341.312.

14 **SECTION 57.** ORS 351.065 is amended to read:

15 351.065. (1) The State Board of Higher Education may, for each institution, division and de-
16 partment under its control adopt rules and specific orders by or through the institutional executive
17 of each institution governing access to personnel records of the institution, division or department,
18 which are less than 25 years old.

19 (2) Rules adopted under subsection (1) of this section shall require that personnel records be
20 subjected to restrictions on access unless upon a finding by the institutional executive that the
21 public interest in maintaining individual rights to privacy in an adequate educational environment
22 would not suffer by disclosure of such records. Access to such records may be limited to designated
23 classes of information or persons, or to stated times and conditions, or to both, but cannot be limited
24 for records more than 25 years old.

25 (3) No rule or order promulgated pursuant to this section shall deny to a faculty member full
26 access to the member's personnel file or records kept by the board or its institutions, schools or
27 departments, except as provided in paragraphs (d) and (e) of this subsection.

28 (a) The number of files relating to the evaluation of a faculty member shall be limited to three,
29 to be kept in designated, available locations.

30 (b) Any evaluation received by telephone shall be documented in each of the faculty member's
31 files by means of a written summary of the conversation with the names of the conversants identi-
32 fied.

33 (c) A faculty member shall be entitled to submit, for placement in the three files, evidence re-
34 butting, correcting, amplifying or explaining any document contained therein and other material
35 which the member believes might be of assistance in the evaluation process.

36 (d) Letters and other information submitted in confidence to the board or its institutions, schools
37 or departments prior to July 1, 1975, shall be maintained in the files designated. However, if a
38 faculty member requests access to those files, the anonymity of the contributor of letters and other
39 information obtained prior to July 1, 1975, shall be protected. The full text shall be made available
40 except that portions of the text which would serve to identify the contributor shall be excised by
41 a faculty committee. Only the names of the contributors and the excised portions of the documents
42 may be kept in a file other than the three prescribed by paragraph (a) of this subsection.

43 (e) Confidential letters and other information submitted to or solicited after July 1, 1975, by the
44 board or its institutions, schools or departments prior to the employment of a prospective faculty
45 member are exempt from the provisions of this section. However, if the member is employed by the

1 board or its institutions, schools or departments, the confidential preemployment materials shall be
 2 placed in the three authorized files. If a faculty member requests access to the member's files, the
 3 anonymity of the contributor of confidential preemployment letters and other preemployment infor-
 4 mation shall be protected. The full text shall be made available, except that portions of the text
 5 which would serve to identify the contributor shall be excised and retained in a file other than the
 6 three designated in paragraph (a) of this subsection.

7 (f) Classroom survey evaluation by students of a faculty member's classroom or laboratory per-
 8 formance shall be anonymous. The record of tabulated reports shall be placed in at least one of the
 9 files designated in paragraph (a) of this subsection. All survey instruments used to obtain evaluation
 10 data shall be returned to the faculty member.

11 (g) After July 1, 1975, the board, its institutions, schools or departments when evaluating its
 12 employed faculty members shall not solicit nor accept letters, documents or other materials, given
 13 orally or in written form, from individuals or groups who wish their identity kept anonymous or the
 14 information they provide kept confidential.

15 (4) No rule or order promulgated pursuant to this section limits the authority of the institution,
 16 division or department to prepare, without identification of individual persons who have not con-
 17 sented thereto, statistical or demographic reports from personnel records.

18 (5) Any category of personnel records specifically designated as confidential pursuant to valid
 19 rules or orders pursuant to this section shall not be deemed a public record [*for the purposes of ORS*
 20 *192.420*] **under 192.410 to 192.505.**

21 (6) As used in this section, "personnel records" means records containing information kept by
 22 the institution, division or department concerning a faculty member and furnished by the faculty
 23 member or by others about the faculty member at the member's or at the institution, division or
 24 department's request, including, but not limited to, information concerning discipline, membership
 25 activity, employment performance or other personal records of individual persons.

26 **SECTION 58.** ORS 353.260 is amended to read:

27 353.260. (1) Oregon Health and Science University may adopt policies governing access to uni-
 28 versity personnel records that are less than 25 years old.

29 (2) Policies adopted under subsection (1) of this section shall require that personnel records be
 30 subjected to restrictions on access unless the president of the university finds that the public in-
 31 terest in maintaining individual rights to privacy in an adequate educational environment would not
 32 suffer by disclosure of such records. Access to such records may be limited to designated classes
 33 of information or persons, or to stated times and conditions, or to both, but cannot be limited for
 34 records more than 25 years old.

35 (3) No rule or order adopted pursuant to this section shall deny to a faculty member full access
 36 to the member's personnel file or records kept by the university, except as provided in subsection
 37 (4)(d) and (e) of this section.

38 (4)(a) The files relating to the evaluation of a faculty member shall be kept in designated,
 39 available locations.

40 (b) Any evaluation received by telephone shall be documented in each of the faculty member's
 41 files by means of a written summary of the conversation with the names of the conversants identi-
 42 fied.

43 (c) A faculty member shall be entitled to submit, for placement in the files, evidence rebutting,
 44 correcting, amplifying or explaining any document contained therein and other material that the
 45 member believes might be of assistance in the evaluation process.

1 (d) Letters and other information for a faculty member of the university submitted in confidence
 2 to the State Board of Higher Education or its institutions, schools or departments prior to July 1,
 3 1975, shall be maintained in the files designated by paragraph (a) of this subsection. However, if a
 4 faculty member requests access to those files, the anonymity of the contributor of letters and other
 5 information obtained prior to July 1, 1975, shall be protected. The full text shall be made available,
 6 except that portions of the text that would serve to identify the contributor shall be excised by a
 7 faculty committee. Only the names of the contributors and the excised portions of the documents
 8 may be kept in a file other than the files designated by paragraph (a) of this subsection.

9 (e) Confidential letters and other information submitted to or solicited by the university after
 10 July 1, 1995, and prior to the employment of a prospective faculty member are exempt from the
 11 provisions of this paragraph. However, if the member is employed by the university, the confidential
 12 preemployment materials shall be placed in the files designated by paragraph (a) of this subsection.
 13 If a faculty member requests access to the member's files, the anonymity of the contributor of con-
 14 fidential preemployment letters and other preemployment information shall be protected. The full
 15 text shall be made available, except that portions of the text that would serve to identify the con-
 16 tributor shall be excised and retained in a file other than the files designated by paragraph (a) of
 17 this subsection.

18 (f) Classroom survey evaluations by students of a faculty member's classroom or laboratory
 19 performance shall be anonymous. The record of tabulated reports shall be placed in at least one
 20 of the files designated by paragraph (a) of this subsection. All survey instruments used to obtain
 21 evaluation data shall be returned to the faculty member.

22 (g) The university, when evaluating its employed faculty members, shall not solicit or accept
 23 letters, documents or other materials, given orally or in written form, from individuals or groups
 24 who wish their identity kept anonymous or the information they provide kept confidential.

25 (5) No policy or order adopted pursuant to this section limits the authority of the university to
 26 prepare, without identification of individual persons who have not consented thereto, statistical or
 27 demographic reports from personnel records.

28 (6) Any category of personnel records specifically designated as confidential pursuant to valid
 29 policies or orders as provided in this section shall not be deemed a public record *[for the purposes*
 30 *of ORS 192.420] under ORS 192.410 to 192.505.*

31 (7) As used in this section, "personnel records" means records containing information kept by
 32 the university concerning a faculty member and furnished by the faculty member or by others about
 33 the faculty member at the member's or at the university's request, including but not limited to in-
 34 formation concerning discipline, membership activity, employment performance or other personal
 35 records of individual persons.

36 **SECTION 59.** ORS 358.905 is amended to read:

37 358.905. (1) As used in ORS [192.005, 192.501 to 192.505,] 358.905 to 358.961 and 390.235:

38 (a) "Archaeological object" means an object that:

39 (A) Is at least 75 years old;

40 (B) Is part of the physical record of an indigenous or other culture found in the state or waters
 41 of the state; and

42 (C) Is material remains of past human life or activity that are of archaeological significance
 43 including, but not limited to, monuments, symbols, tools, facilities, technological by-products and
 44 dietary by-products.

45 (b) "Site of archaeological significance" means:

1 (A) Any archaeological site on, or eligible for inclusion on, the National Register of Historic
2 Places as determined in writing by the State Historic Preservation Officer; or

3 (B) Any archaeological site that has been determined significant in writing by an Indian tribe.

4 (c)(A) "Archaeological site" means a geographic locality in Oregon, including but not limited to
5 submerged and submersible lands and the bed of the sea within the state's jurisdiction, that contains
6 archaeological objects and the contextual associations of the archaeological objects with:

7 (i) Each other; or

8 (ii) Biotic or geological remains or deposits.

9 (B) Examples of archaeological sites described in subparagraph (A) of this paragraph include but
10 are not limited to shipwrecks, lithic quarries, house pit villages, camps, burials, lithic scatters,
11 homesteads and townsites.

12 (d) "Indian tribe" has the meaning given that term in ORS 97.740.

13 (e) "Burial" means any natural or prepared physical location whether originally below, on or
14 above the surface of the earth, into which, as a part of a death rite or death ceremony of a culture,
15 human remains were deposited.

16 (f) "Funerary objects" means any artifacts or objects that, as part of a death rite or ceremony
17 of a culture, are reasonably believed to have been placed with individual human remains either at
18 the time of death or later.

19 (g) "Human remains" means the physical remains of a human body, including, but not limited
20 to, bones, teeth, hair, ashes or mummified or otherwise preserved soft tissues of an individual.

21 (h) "Object of cultural patrimony":

22 (A) Means an object having ongoing historical, traditional or cultural importance central to the
23 native Indian group or culture itself, rather than property owned by an individual native Indian, and
24 which, therefore, cannot be alienated, appropriated or conveyed by an individual regardless of
25 whether or not the individual is a member of the Indian tribe. The object shall have been considered
26 inalienable by the native Indian group at the time the object was separated from such group.

27 (B) Does not mean unassociated arrowheads, baskets or stone tools or portions of arrowheads,
28 baskets or stone tools.

29 (i) "Police officer" has the meaning given that term in ORS 181.610.

30 (j) "Public lands" means any lands owned by the State of Oregon, a city, county, district or
31 municipal or public corporation in Oregon.

32 (k) "Sacred object" means an archaeological object or other object that:

33 (A) Is demonstrably revered by any ethnic group, religious group or Indian tribe as holy;

34 (B) Is used in connection with the religious or spiritual service or worship of a deity or spirit
35 power; or

36 (C) Was or is needed by traditional native Indian religious leaders for the practice of traditional
37 native Indian religion.

38 (L) "State police" has the meaning given that term in ORS 181.010.

39 (2) The terms set forth in subsection (1)(e), (f), (g), (h) and (k) of this section shall be interpreted
40 in the same manner as similar terms interpreted pursuant to 25 U.S.C. 3001 et seq.

41 **SECTION 60.** ORS 358.915 is amended to read:

42 358.915. The provisions of ORS [192.005, 192.501 to 192.505,] 273.990, 358.905 to 358.961 and
43 390.235 do not apply to a person who unintentionally discovers an archaeological object that has
44 been exposed by the forces of nature on public land or private property and retains the object for
45 personal use, except for sacred objects, human remains, funerary objects or objects of cultural

1 patrimony.

2 **SECTION 61.** ORS 409.225 is amended to read:

3 409.225. (1) In the interest of family privacy and for the protection of children, families and other
4 recipients of services, the Department of Human Services shall not disclose or use the contents of
5 any child welfare records, files, papers or communications that contain any information about an
6 individual child, family or other recipient of services for purposes other than those directly con-
7 nected with the administration of child welfare laws or unless required or authorized by ORS
8 419A.255 or 419B.035. The records, files, papers and communications are confidential and are not
9 available for public inspection. General information, policy statements, statistical reports or similar
10 compilations of data are not confidential unless such information is identified with an individual
11 child, family or other recipient of services or protected by other provision of law.

12 (2) Notwithstanding subsection (1) of this section, unless exempt from disclosure under ORS
13 chapter 192, the department shall disclose child welfare records:

14 (a) About a recipient of services, to the recipient if the recipient is 18 years of age or older or
15 is legally emancipated, unless prohibited by court order;

16 (b) Regarding a specific individual if the individual gives written authorization to release confi-
17 dential information;

18 (c) Concerning a child receiving services on a voluntary basis, to the child's parent or legal
19 guardian;

20 (d) To the juvenile court in proceedings regarding the child; and

21 (e) Concerning a child who is or has been in the custody of the department, to the child's parent
22 or legal guardian except:

23 (A) When the child objects; or

24 (B) If disclosure would be contrary to the best interests of any child or could be harmful to the
25 person caring for the child.

26 (3) Notwithstanding subsection (1) of this section, unless exempt from disclosure under ORS
27 chapter 192, the department shall disclose child welfare records, if in the best interests of the child,
28 to:

29 (a) Treatment providers, foster parents, adoptive parents, school officials or other persons pro-
30 viding services to the child or family to the extent that such disclosure is necessary to provide
31 services to the child or family; or

32 (b) A person designated as a member of a sensitive review committee convened by the Director
33 of Human Services when the purpose of the committee is to determine whether the department acted
34 appropriately and to make recommendations to the department regarding policy and practice.

35 (4) Any record disclosed under subsection (1), (2) or (3) of this section shall be kept confidential
36 by the person or entity to whom the record is disclosed and shall be used only for the purpose for
37 which disclosure was made.

38 (5) Unless exempt from disclosure under ORS chapter 192, when an adult who is the subject of
39 information made confidential by subsection (1) of this section publicly reveals or causes to be re-
40 vealed any significant part of the confidential matter or information, the protections afforded by
41 subsection (1) of this section are presumed voluntarily waived and confidential information about the
42 person making or causing the public disclosure, not already disclosed but related to the information
43 made public, may be disclosed if disclosure is in the best interests of the child or necessary to the
44 administration of the child welfare laws.

45 (6) Notwithstanding subsection (1) of this section, unless exempt from disclosure under ORS

1 chapter 192, the department shall disclose information related to the department’s activities and
 2 responsibilities in a case where child abuse or neglect has resulted in a child fatality or near fatality
 3 or where an adult has been charged with a crime related to child abuse or neglect.

4 (7) Notwithstanding subsections (2), (3), (5) and (6) of this section, [*ORS 192.501 (3) shall apply*]
 5 **section 13 of this 2011 Act applies** to investigatory information compiled for criminal law purposes
 6 that may be in the possession of the department.

7 (8) As used in this section, “adult” means a person who is 18 years of age or older.

8 **SECTION 62.** ORS 419A.015 is amended to read:

9 419A.015. (1)(a) Once each month, a county juvenile department shall provide to school admin-
 10 istrators of schools or of school districts in the county a list of all youth offenders enrolled in a
 11 school in the county who are on probation by order of the juvenile court in the county. The de-
 12 partment shall include in the list the name and business telephone number of the juvenile counselor
 13 assigned to each case.

14 (b) When a youth offender who is on probation transfers from one school or school district to
 15 a different school or school district, the juvenile counselor assigned to the case shall notify the
 16 school administrator of the school or of the school district to which the youth offender has trans-
 17 ferred of the youth offender’s probation status. The juvenile counselor shall make the notification
 18 no later than 72 hours after the juvenile counselor knows of the transfer.

19 (2) Upon request by the school administrator, the juvenile department shall provide additional
 20 information, including the offense that brought the youth offender within the jurisdiction of the ju-
 21 venile court and such other information that is subject to disclosure under ORS 419A.255 (5).

22 (3) In addition to the general notification required by subsection (1) of this section, the juvenile
 23 department shall notify the school administrator of the specific offense if the act bringing the youth
 24 offender within the jurisdiction of the juvenile court involved a firearm or delivery of a controlled
 25 substance.

26 (4) When a school administrator receives any notice under this section, the school administrator
 27 may disclose the information only to school personnel, as defined in ORS 339.326, who the school
 28 administrator determines need the information in order to safeguard the safety and security of the
 29 school, students and staff. A person to whom personally identifiable information is disclosed under
 30 this subsection may not disclose the information to another person except to carry out the pro-
 31 visions of this subsection.

32 (5) [*Except as otherwise provided in ORS 192.490,*] A juvenile department, school district or
 33 school administrator, or anyone employed or acting on behalf of a juvenile department, school dis-
 34 trict or school administrator, who sends or receives records under this section is not civilly or
 35 criminally liable for failing to disclose the information under this section.

36 (6) As used in this section, “school administrator” has the meaning given that term in ORS
 37 419A.305.

38 **SECTION 63.** ORS 419A.305 is amended to read:

39 419A.305. (1) As used in this section:

40 (a) “Principal” means a person having general administrative control and supervision of a
 41 school.

42 (b) “School administrator” means:

43 (A) The superintendent of the school district in which a youth attends school, or the designee
 44 of the superintendent, if the youth attends a public school that is not a public charter school;

45 (B) The principal of a public charter school, if the youth attends a public charter school;

1 (C) The principal of a private school that provides education to one or more instructional levels
 2 from kindergarten through grade 12 or equivalent instructional levels, if the youth attends a private
 3 school;

4 (D) The superintendent of the school district in which the youth resides, or the designee of the
 5 superintendent, if the school that the youth attends is not known by the person giving notice;

6 (E) The director of the Oregon School for the Blind;

7 (F) The director of the Oregon School for the Deaf; or

8 (G) The Superintendent of Public Instruction if the youth is in an educational program under the
 9 Youth Corrections Education Program.

10 (c) "School district" has the meaning given that term in ORS 332.002.

11 (2) Notice shall be given to a school administrator when:

12 (a) A youth makes a first appearance before the juvenile court on a petition described in sub-
 13 section (7) of this section alleging that the youth is within the jurisdiction of the juvenile court
 14 under ORS 419C.005.

15 (b) A youth admits to being within the jurisdiction of the juvenile court as provided in ORS
 16 419C.005 on a petition described in subsection (7) of this section or is adjudicated by a juvenile court
 17 to be within its jurisdiction on a petition described in subsection (7) of this section.

18 (c) A youth is found responsible except for insanity under ORS 419C.411.

19 (d) Notice had been given as provided by paragraph (a) or (b) of this subsection and the juvenile
 20 court:

21 (A) Sets aside or dismisses the petition as provided in ORS 419C.261; or

22 (B) Determines that the youth is not within the jurisdiction of the juvenile court after a hearing
 23 on the merits of the petition.

24 (3) A notice required by subsection (2) of this section shall be given by:

25 (a) The district attorney;

26 (b) In the case of a petition filed under ORS 419C.250, the person who filed the petition;

27 (c) In the case of a person prosecuting a case who is not the district attorney, the person who
 28 is prosecuting the case; or

29 (d) In the case of a juvenile department that has agreed to be responsible for providing the no-
 30 tices required under this section, the juvenile department.

31 (4) A notice required under subsection (2) of this section may be communicated by mail or other
 32 means of delivery, including but not limited to electronic transmission. A notice must include:

33 (a) The name and date of birth of the youth;

34 (b) The names and addresses of the youth's parents or guardians;

35 (c) The alleged basis for the juvenile court's jurisdiction over the youth;

36 (d) The act alleged in the petition that, if committed by an adult, would constitute a crime;

37 (e) The name and contact information of the attorney for the youth, if known;

38 (f) The name and contact information of the individual to contact for further information about
 39 the notice;

40 (g) If applicable, the portion of the juvenile court order providing for the legal disposition of the
 41 youth;

42 (h) Any conditions of release or terms of probation; and

43 (i) Any other conditions required by the court.

44 (5) In addition to the information required by subsection (4) of this section:

45 (a) A notice required by subsection (2)(a) of this section shall contain substantially the following

1 statement: "This notice is to inform you that a student who attends your school may come under the
 2 jurisdiction of the juvenile court as the result of a petition filed with the juvenile court. The student
 3 has not yet been determined to be within the jurisdiction of the juvenile court nor to have commit-
 4 ted any violations of law. The allegation pending before the juvenile court must not be discussed
 5 with the student."

6 (b) A notice required by subsection (2)(b) of this section shall contain substantially the following
 7 statement: "This notice is to inform you that a student who attends your school has come under the
 8 jurisdiction of the juvenile court as the result of a petition filed with the juvenile court. There may
 9 be pending juvenile court hearings or proceedings, and a disposition order may not yet have been
 10 entered by the court. The allegation pending before the juvenile court must not be discussed with
 11 the student."

12 (c) A notice required by subsection (2)(c) of this section shall contain substantially the following
 13 statement: "This notice is to inform you that a disposition order has been entered in a case involv-
 14 ing a student who attends your school about whom a previous notice was sent. The disposition order
 15 finds the student to be responsible except for insanity under ORS 419C.411 for the act alleged in the
 16 petition filed with the juvenile court. The case should not be discussed with the student."

17 (d) A notice required by subsection (2)(d) of this section shall contain substantially the following
 18 statement: "This notice is to inform you that a petition involving a student who attends your school
 19 about whom a previous notice was sent has been set aside or dismissed or the juvenile court has
 20 determined the student is not within its jurisdiction. The notice and any documents or information
 21 related to the notice in the student's education records should be removed and destroyed upon re-
 22 ceipt of this notice. The case should not be discussed with the student."

23 (6) A notice required under subsection (2) of this section must be given within 15 days after:

24 (a) The youth makes a first appearance before the juvenile court on a petition;

25 (b) The youth admits to being within the jurisdiction of the juvenile court;

26 (c) The youth is adjudicated by a juvenile court to be within the jurisdiction of the court;

27 (d) The petition is dismissed or set aside;

28 (e) The juvenile court determines that the youth is not within the jurisdiction of the juvenile
 29 court after a hearing on the merits of the petition; or

30 (f) The juvenile court enters a disposition order finding the youth responsible except for insanity
 31 under ORS 419C.411.

32 (7) This section applies to petitions filed alleging that the youth engaged in:

33 (a) Conduct that, if committed by an adult, would constitute a crime that:

34 (A) Involves serious physical injury or threatened serious physical injury to another person, in-
 35 cluding criminal homicide, felony assault or any attempt to cause serious physical injury to another
 36 person;

37 (B) Involves the sexual assault of an animal or animal abuse in any degree;

38 (C) Is a felony sex offense listed in ORS 181.594, except for rape in the third degree under ORS
 39 163.355 or incest under ORS 163.525;

40 (D) Involves a weapon, as defined in ORS 166.360, or the threatened use of a weapon;

41 (E) Involves the possession or manufacture of a destructive device, as defined in ORS 166.382,
 42 or possession of a hoax destructive device, as defined in ORS 166.385; or

43 (F) Involves an offense in which an element of the crime is:

44 (i) Manufacture of a controlled substance;

45 (ii) Delivery of a controlled substance in conjunction with conduct described in subparagraph

1 (A) of this paragraph; or

2 (iii) Delivery of a controlled substance to a person under 18 years of age; or

3 (b) Conduct that is of such a nature that the court determines notice is necessary to safeguard
4 the safety and security of the school, students and staff. The person or entity responsible for giving
5 notice under subsection (3) of this section shall request that the court make the determination under
6 this paragraph when the person or entity believes notice is necessary to safeguard the safety and
7 security of the school, students and staff and the conduct involves an offense under ORS 163.160.

8 (8) [*Except as otherwise provided in ORS 192.490,*] A person who sends or receives notice under
9 this section is not civilly or criminally liable for failing to disclose the information under this sec-
10 tion.

11 **SECTION 64.** ORS 419C.532 is amended to read:

12 419C.532. (1) The juvenile panel of the Psychiatric Security Review Board shall conduct hearings
13 on an application for discharge, conditional release, commitment or modification filed under or re-
14 quired by ORS 419C.538, 419C.540 and 419C.542, and shall make findings on the issues before the
15 juvenile panel.

16 (2) In every hearing before the juvenile panel, the juvenile panel shall determine whether the
17 young person:

18 (a) Has a serious mental condition; or

19 (b) Has a mental disease or defect other than a serious mental condition and presents a sub-
20 stantial danger to others.

21 (3) The juvenile panel shall order a young person discharged from commitment or conditional
22 release if the juvenile panel finds that the young person:

23 (a) No longer has a mental disease or defect; or

24 (b) Has a mental disease or defect other than a serious mental condition but no longer presents
25 a substantial danger to others.

26 (4) The juvenile panel shall order a young person conditionally released subject to ORS 419C.538
27 if the juvenile panel finds that:

28 (a) The young person:

29 (A) Has a serious mental condition; or

30 (B) Has a mental disease or defect other than a serious mental condition and presents a sub-
31 stantial danger to others;

32 (b) The young person can be adequately controlled with treatment services as a condition of
33 release; and

34 (c) Necessary supervision and treatment services are available.

35 (5) The juvenile panel shall order a young person committed to, or retained in, a hospital or
36 facility designated by the Department of Human Services or the Oregon Health Authority for cus-
37 tody, supervision and treatment subject to ORS 419C.540 if the juvenile panel finds that the young
38 person:

39 (a)(A) Has a serious mental condition; or

40 (B) Has a mental disease or defect other than a serious mental condition and presents a sub-
41 stantial danger to others; and

42 (b) Cannot be adequately controlled if conditionally released.

43 (6) In determining whether a young person should be committed to or retained in a hospital or
44 facility, conditionally released or discharged, the primary concern of the juvenile panel is the pro-
45 tection of society.

1 (7) In a hearing before the juvenile panel, a young person who has a mental disease or defect
 2 in a state of remission is considered to have a mental disease or defect if the mental disease or
 3 defect may, with reasonable medical probability, occasionally become active.

4 (8) At any time, the juvenile panel may appoint a psychiatrist certified, or eligible to be certi-
 5 fied, by the Oregon Medical Board in child psychiatry or a licensed psychologist with expertise in
 6 child psychology to examine the young person and submit a written report to the juvenile panel.
 7 Reports filed with the juvenile panel pursuant to the examination must include, but need not be
 8 limited to, an opinion as to whether the young person:

9 (a)(A) Has a serious mental condition; or

10 (B) Has a mental disease or defect other than a serious mental condition and presents a sub-
 11 stantial danger to others; and

12 (b) Could be adequately controlled with treatment services as a condition of release.

13 (9) The juvenile panel may make a determination regarding discharge or conditional release
 14 based upon the written report submitted under subsection (8) of this section or ORS 419C.540 (3).
 15 If a member of the juvenile panel desires further information from the examining psychiatrist or li-
 16 censed psychologist who submitted the report, the juvenile panel shall summon the psychiatrist or
 17 psychologist to give testimony.

18 (10) The juvenile panel shall consider all available evidence that is material, relevant and reli-
 19 able regarding the issues before the juvenile panel. Evidence may include, but is not limited to, the
 20 record of the juvenile court adjudication, information supplied by the attorney representing the state
 21 or by any other interested person, including the young person, information concerning the young
 22 person's mental condition and the entire psychiatric and juvenile court history of the young person.
 23 All evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their
 24 serious affairs is admissible at the hearings. Testimony must be taken upon oath or affirmation of
 25 the witness from whom received. The officer presiding at the hearing shall administer oaths and
 26 affirmations to witnesses.

27 (11) The standard of proof on all issues at a hearing of the juvenile panel is by a preponderance
 28 of the evidence.

29 (12)(a) The juvenile panel shall furnish written notice of any hearing pending under this section
 30 within a reasonable time prior to the hearing to:

31 (A) The young person about whom the hearing is being conducted;

32 (B) The attorney representing the young person;

33 (C) The young person's parents or guardians, if known;

34 (D) The person having legal custody of the young person;

35 (E) The Attorney General or other attorney representing the state, if any; and

36 (F) The district attorney and the court or juvenile department of the county in which the young
 37 person was adjudicated.

38 (b) The juvenile panel shall include in the notice required by paragraph (a) of this subsection:

39 (A) The time, place and location of the hearing;

40 (B) The nature of the hearing, the specific action for which the hearing has been requested, the
 41 issues to be considered at the hearing and a reference to the particular sections of the statutes and
 42 rules involved;

43 (C) A statement of the authority and jurisdiction under which the hearing is to be held; and

44 (D) A statement of all rights under subsection (13) of this section.

45 (13) A young person about whom a hearing is being held has the right:

1 (a) To appear at all proceedings held under this section, except juvenile panel deliberations.

2 (b) To cross-examine all witnesses appearing to testify at the hearing.

3 (c) To subpoena witnesses and documents as provided in ORS 161.395.

4 (d) To be represented by suitable legal counsel possessing skills and experience commensurate
5 with the nature and complexity of the case, to consult with counsel prior to the hearing and, if fi-
6 nancially eligible, to have suitable counsel appointed at state expense.

7 (e) To examine all information, documents and reports that the juvenile panel considers and, if
8 the information, documents and reports are available to the juvenile panel before the hearing, to
9 examine them prior to the hearing.

10 (14) Except for deliberations of the juvenile panel, the juvenile panel shall keep a record of all
11 hearings before the juvenile panel.

12 (15) Upon request of a person listed in subsection (12)(a) of this section or on its own motion,
13 the juvenile panel may continue a hearing for a reasonable period not to exceed 60 days to obtain
14 additional information or testimony or for other good cause shown.

15 (16) Within 15 days after the conclusion of the hearing, the juvenile panel shall provide written
16 notice of the juvenile panel's decision to the young person, the attorney representing the young
17 person, the young person's parents or guardians, if known, the person having legal custody of the
18 young person, the district attorney of the county in which the young person was adjudicated and
19 the Attorney General or other attorney representing the state, if any.

20 (17) The juvenile panel shall maintain and keep current the medical, social and delinquency
21 history of all young persons. The juvenile panel shall determine the confidentiality of records
22 maintained by the juvenile panel pursuant to [ORS 192.501 to 192.505] **ORS 192.410 to 192.505**.

23 **SECTION 65.** ORS 420.048 is amended to read:

24 420.048. (1)(a) When a youth offender who is in the legal custody of the Oregon Youth Authority
25 transfers from one school or school district to a different school or school district, the person re-
26 sponsible for supervising the youth offender shall notify the school administrator of the school or
27 of the school district to which the youth offender has transferred of the youth offender's status as
28 a youth offender. The person shall make the notification no later than 72 hours after the person
29 knows of the transfer.

30 (b) When a school administrator receives notification under this section, the school administra-
31 tor may request the Oregon Youth Authority to provide additional information about the youth
32 offender. The youth authority shall provide additional information, including the offense that
33 brought the youth offender within the jurisdiction of the juvenile court and such other information
34 that is subject to disclosure under ORS 419A.255 (5).

35 (2) The youth authority shall include in the notice the following:

36 (a) The name and date of birth of the youth offender;

37 (b) The names and addresses of the youth offender's parents or guardians;

38 (c) The name and contact information of the attorney for the youth offender, if known;

39 (d) The name and contact information of the person giving notice under subsection (1) of this
40 section or the person's designated representative to contact for further information about the notice;

41 (e) The specific offense that brought the youth offender within the jurisdiction of the juvenile
42 court and whether it involved a firearm or the delivery of a controlled substance, a violation of ORS
43 163.355 to 163.445 or 163.465 or any other offense if the youth authority or juvenile court believes
44 the youth offender represents a risk to other students or school staff; and

45 (f) Any terms of probation.

1 (3) *[Except as otherwise provided in ORS 192.490,]* The youth authority, a school district or a
 2 school administrator, or anyone employed or acting on behalf of the youth authority, school district
 3 or school administrator, who sends or receives records under this section is not liable civilly or
 4 criminally for failing to disclose the information under this section.

5 (4) As used in this section:

6 (a) "School administrator" has the meaning given that term in ORS 419A.305.

7 (b) "School district" has the meaning given that term in ORS 332.002.

8 **SECTION 66.** ORS 421.344 is amended to read:

9 421.344. There is established Oregon Corrections Enterprises, a semi-independent agency. The
 10 Director of the Department of Corrections shall assign or appoint an administrator who shall serve
 11 at the pleasure of the director. The administrator shall have authority to do all things necessary
 12 and convenient to carry out ORS *[192.502,]* 421.305, 421.312, 421.344 to 421.367, 421.412, 421.442,
 13 421.444 and 421.445.

14 **SECTION 67.** ORS 421.347 is amended to read:

15 421.347. (1) The administrator of Oregon Corrections Enterprises shall establish, by the issuance
 16 of a policy directive or order, an advisory council consisting of not fewer than three members to
 17 provide policy input concerning Oregon Corrections Enterprises operations and its discharge of the
 18 functions and duties prescribed by section 41, Article I of the Oregon Constitution, and ORS
 19 *[192.502,]* 421.305, 421.312, 421.344 to 421.367, 421.412, 421.442, 421.444 and 421.445. The council shall
 20 select one of its members as chairperson. The council shall meet not less frequently than semian-
 21 nually at the offices of Oregon Corrections Enterprises. The council shall meet at such other times
 22 and places specified by the administrator. All members shall be entitled to expenses as provided in
 23 ORS 292.495.

24 (2) The membership of the advisory council shall consist of at least one representative of each
 25 of the following interests, as determined at the discretion of the administrator:

26 (a) At least one member shall be a person who has experience in, and can represent the interests
 27 and perspective of the banking or finance industry;

28 (b) At least one member shall be a person who has experience in and can represent the interests
 29 and perspective of private business in Oregon; and

30 (c) At least one member shall be a person who has experience in the field of labor relations and
 31 can represent the interests and perspective of organized labor.

32 (3) Members of the advisory council must be citizens of the United States and residents of the
 33 State of Oregon. No member of the council may be an employee of the Department of Corrections
 34 or of Oregon Corrections Enterprises.

35 (4) The order or policy directive that establishes the advisory council may specify the terms of
 36 office of members of the council and may provide for removal of members from the advisory council
 37 by the administrator, either at the pleasure of the administrator or for other grounds specified in
 38 the order or policy directive. Upon the expiration or termination of the term of any member ap-
 39 pointed to represent an interest under subsection (2) of this section, the administrator shall appoint
 40 a successor to represent that interest. A member of the advisory council shall be eligible for reap-
 41 pointment.

42 **SECTION 68.** ORS 421.349 is amended to read:

43 421.349. In addition to the advisory council required by ORS 421.347, the administrator may es-
 44 tablish, by the issuance of a policy directive or order, one or more advisory committees, bodies or
 45 advisors to advise and assist Oregon Corrections Enterprises in discharging its functions and duties

1 as prescribed by section 41, Article I of the Oregon Constitution, and ORS [192.502,] 421.305, 421.312,
 2 421.344 to 421.367, 421.412, 421.442, 421.444 and 421.445. The administrator may authorize the pay-
 3 ment of expenses, as provided in ORS 292.495, to the members of any advisory committee or body
 4 established under this section.

5 **SECTION 69.** ORS 421.359 is amended to read:

6 421.359. All income and revenues generated or received by Oregon Corrections Enterprises shall
 7 remain within, and are continuously appropriated to, Oregon Corrections Enterprises for the pur-
 8 poses of discharging the functions and duties prescribed by section 41, Article I of the Oregon
 9 Constitution, and ORS [192.502,] 421.305, 421.312, 421.344 to 421.367, 421.412, 421.442, 421.444 and
 10 421.445. There shall be no commingling of funds between Oregon Corrections Enterprises and the
 11 Department of Corrections.

12 **SECTION 70.** ORS 421.442 is amended to read:

13 421.442. (1) The Department of Corrections may create accounts and subaccounts as reasonably
 14 required to discharge the functions and duties prescribed by section 41, Article I of the Oregon
 15 Constitution, including accounts and subaccounts for the deposit of income generated from prison
 16 work programs. Accounts and subaccounts created under this subsection shall be maintained sepa-
 17 rate and distinct from the General Fund. Moneys credited to the accounts and subaccounts are
 18 continuously appropriated to the department for the purpose of implementing, maintaining and de-
 19 veloping prison work programs. Moneys in the department accounts or subaccounts may be trans-
 20 ferred to the inmate injury component of the Insurance Fund for the payment of expenses therefrom
 21 authorized by law. Moneys in the accounts or subaccounts may be invested as provided in ORS
 22 293.701 to 293.790 and as authorized by ORS 421.305. Earnings on the investment of moneys in the
 23 accounts or subaccounts shall be credited to the respective account or subaccount.

24 (2) Oregon Corrections Enterprises may create accounts and subaccounts as reasonably required
 25 to discharge the functions and duties prescribed by section 41, Article I of the Oregon Constitution,
 26 and ORS [192.502,] 421.305, 421.312, 421.344 to 421.367, 421.412, 421.444 and 421.445 and this section,
 27 including accounts and subaccounts for the deposit of income generated from prison work programs.
 28 All moneys collected or received by Oregon Corrections Enterprises shall be deposited into an ac-
 29 count or subaccounts established by Oregon Corrections Enterprises in a depository bank insured
 30 by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund.
 31 The administrator shall ensure that sufficient collateral secures any amount of funds on deposit that
 32 exceeds the limits of the coverage of the Federal Deposit Insurance Corporation or the National
 33 Credit Union Share Insurance Fund. All moneys in the account or subaccounts are continuously
 34 appropriated to Oregon Corrections Enterprises for the purpose of implementing, maintaining and
 35 developing prison work programs. Moneys in the accounts or subaccounts may be invested as pro-
 36 vided in ORS 293.701 to 293.790 and as authorized by ORS 421.305. Earnings on the investment of
 37 moneys in the accounts or subaccounts shall be credited to the respective account or subaccount.

38 (3) Moneys credited to or received by inmate work programs conducted by the department may
 39 not be commingled with moneys credited to or received by inmate work programs conducted by
 40 Oregon Corrections Enterprises.

41 (4) Moneys in the accounts or subaccounts are available for implementing, maintaining and de-
 42 veloping prison work and on-the-job training programs, including, but not limited to:

43 (a) The purchase of all necessary machinery and equipment for establishing, equipping and en-
 44 larging prison industries;

45 (b) The purchase of raw materials, the payment of salaries and wages and all other expenses

1 necessary and proper in the judgment of the Director of the Department of Corrections or the ad-
 2 ministrator of Oregon Corrections Enterprises in the conduct and operation of prison industries; and

3 (c) Department transfers to the inmate injury component of the Insurance Fund from the pay-
 4 ment of expenses authorized by law.

5 (5) No part of the accounts or subaccounts may be expended for maintenance, repairs, con-
 6 struction or reconstruction, or general or special expenses of a Department of Corrections institu-
 7 tion, other than for prison work and on-the-job training programs.

8 (6) The transfers referred to in subsections (1) and (4)(c) of this section may be authorized by
 9 the Legislative Assembly, or the Emergency Board if the Legislative Assembly is not in session,
 10 whenever it appears to the Legislative Assembly or the board, as the case may be, that there are
 11 insufficient moneys in the inmate injury component of the Insurance Fund for the payment of ex-
 12 penses authorized by law.

13 **SECTION 71.** ORS 426.155 is amended to read:

14 426.155. (1) The provisions of this section apply to the release of information about a person who
 15 is held in custody either pending a commitment proceeding under ORS 426.070, 426.140, 426.228,
 16 426.232, 426.233 or 426.237 (1)(b) or while committed or recommitted under ORS 426.005 to 426.390.

17 (2) Notwithstanding the provisions of ORS 179.495, 179.505 or [192.502 (2)] **ORS 192.410 to**
 18 **192.505** and notwithstanding any other provision of ORS 426.005 to 426.390, a facility or nonhospital
 19 facility where a person is held shall establish procedures for releasing information as required under
 20 subsections (3) and (4) of this section.

21 (3)(a) If a person described in subsection (1) of this section authorizes disclosure as provided in
 22 subsection (5) of this section, upon request of a member of the family of the person, or any other
 23 person designated by the person, a facility or nonhospital facility where the person is held shall
 24 provide the family member or the designee with the following information:

25 (A) The person's diagnosis;

26 (B) The person's prognosis;

27 (C) The medications prescribed for the person and the side effects of medications prescribed, if
 28 any;

29 (D) The person's progress;

30 (E) Information about any civil commitment process, including the date, time and location of the
 31 person's commitment hearing; and

32 (F) Where and when the person may be visited.

33 (b) If a request for information is made under this subsection and the person described in sub-
 34 section (1) of this section is unable to authorize disclosure as provided in subsection (5) of this
 35 section, the person requesting information shall be provided notice of the presence of the person
 36 described in subsection (1) of this section in any facility or nonhospital facility. Information shall
 37 not be provided under this paragraph if the physician of the person described in subsection (1) of
 38 this section determines that it would not be in the person's best interest to provide the information
 39 or if providing the information is prohibited by federal law.

40 (4) Upon the admission of any person to a facility or nonhospital facility under ORS 426.005 to
 41 426.390, the facility or nonhospital facility shall make reasonable attempts to notify the person's
 42 next of kin, or any other person designated by the person, of the person's admission, unless the
 43 person requests that this information not be provided. The facility or nonhospital facility shall make
 44 reasonable attempts to notify the person's next of kin, or any other person designated by the person,
 45 of the person's release, transfer, serious illness, injury or death upon request of the family member

1 or designee, unless the person requests that this information not be provided. The person shall be
 2 advised by the facility or nonhospital facility that the person has the right to request that this in-
 3 formation not be provided.

4 (5) The person who is held in custody shall be notified by the facility or nonhospital facility that
 5 information about the person has been requested. Except as provided in subsection (3) of this sec-
 6 tion, the consent of the person who is held is required for release of information under subsections
 7 (3) and (4) of this section. If, when initially informed of the request for information, the person is
 8 unable to give voluntary and informed consent to authorize the release of information, notation of
 9 the attempt shall be made in the person's treatment record and daily efforts shall be made to secure
 10 the person's consent or refusal of authorization.

11 (6) Notwithstanding any other provision of this section, an individual eligible to receive infor-
 12 mation under subsection (3) of this section may not receive information unless the individual first
 13 agrees to make no further disclosure of the information. The agreement may be made orally.

14 (7) A facility or nonhospital facility that releases information under subsection (3) or (4) of this
 15 section shall:

16 (a) Notify the person who is held to whom, when and what information was released; and

17 (b) Note in the medical record of the person who is held:

18 (A) The basis for finding that the person gave voluntary and informed consent;

19 (B) The oral or written consent of the person who is held;

20 (C) To whom, when and what information was released;

21 (D) The agreement to the requirements of subsection (6) of this section by the person who re-
 22 quested information; and

23 (E) Any determination made by the person's physician under subsection (3)(b) of this section
 24 regarding the provision of notice of the presence of the person in any facility or nonhospital facility.

25 (8) A facility or nonhospital facility, including the staff of such facilities and nonhospital facili-
 26 ties, that releases information under this section or rules adopted under ORS 426.236 may not be
 27 held civilly or criminally liable for damages caused or alleged to be caused by the release of infor-
 28 mation or the failure to release information as long as the release was done in good faith and in
 29 compliance with subsections (3) and (4) of this section or rules adopted under ORS 426.236.

30 (9) The provisions of subsections (3) and (4) of this section do not limit the ability or obligation
 31 of facilities, nonhospital facilities, physicians, mental health care providers or licensed mental health
 32 professionals to provide information as otherwise allowed or required by law.

33 **SECTION 72.** ORS 431.627 is amended to read:

34 431.627. (1) In addition to and not in lieu of ORS 431.607 to 431.617, the Oregon Health Au-
 35 thority shall designate trauma centers in areas that are within the jurisdiction of trauma advisory
 36 boards other than in the area within the jurisdiction of area trauma advisory board 1.

37 (2) The authority shall enter into contracts with designated trauma centers and monitor and
 38 assure quality of care and appropriate costs for trauma patients meeting trauma system entry cri-
 39 teria.

40 (3) All findings and conclusions, interviews, reports, studies, communications and statements
 41 procured by or furnished to the authority, the State Trauma Advisory Board or an area trauma ad-
 42 visory board in connection with obtaining the data necessary to perform patient care quality as-
 43 surance functions shall be confidential pursuant to [ORS 192.501 to 192.505] **ORS 192.410 to**
 44 **192.505.**

45 (4)(a) All data received or compiled by the State Trauma Advisory Board or any area trauma

1 advisory board in conjunction with authority monitoring and assuring quality of trauma patient care
2 shall be confidential and privileged, nondiscoverable and inadmissible in any proceeding. No person
3 serving on or communicating information to the State Trauma Advisory Board or an area trauma
4 advisory board shall be examined as to any such communications or to the findings or recommen-
5 dations of such board. A person serving on or communicating information to the State Trauma Ad-
6 visory Board or an area trauma advisory board shall not be subject to an action for civil damages
7 for actions taken or statements made in good faith. Nothing in this section affects the admissibility
8 in evidence of a party's medical records not otherwise confidential or privileged dealing with the
9 party's medical care. The confidentiality provisions of ORS 41.675 and 41.685 shall also apply to the
10 monitoring and quality assurance activities of the State Trauma Advisory Board, area trauma advi-
11 sory boards and the authority.

12 (b) As used in this section, "data" includes but is not limited to written reports, notes, records
13 and recommendations.

14 (5) Final reports by the authority, the State Trauma Advisory Board and area trauma advisory
15 boards shall be available to the public.

16 (6) The authority shall publish a biennial report of the Emergency Medical Services and Trauma
17 Systems Program and trauma systems activities.

18 **SECTION 73.** ORS 433.009 is amended to read:

19 433.009. (1) Notwithstanding ORS [192.501 (3), 192.502 (2) and] 433.045 **and sections 12 to 24**
20 **of this 2011 Act**, if, during the course of a criminal investigation, a law enforcement unit acquires
21 information that the person who is charged with a crime or sentenced for a crime has a reportable
22 disease, the law enforcement unit shall disclose that information to the public health authorities
23 who shall confirm the diagnosis and notify any police officer, corrections officer or emergency
24 medical technician who had significant exposure to the person.

25 (2) As used in this section:

26 (a) "Emergency medical technician" has the meaning given that term in ORS 682.025.

27 (b) "Law enforcement unit," "police officer" and "corrections officer" have the meanings given
28 those terms in ORS 181.610.

29 (c) "Reportable disease" means a disease or condition, the reporting of which enables a public
30 health authority to take action to protect or to benefit the public health.

31 **SECTION 74.** ORS 441.055 is amended to read:

32 441.055. (1) The governing body of each health care facility shall be responsible for the operation
33 of the facility, the selection of the medical staff and the quality of care rendered in the facility. The
34 governing body shall:

35 (a) Ensure that all health care personnel for whom state licenses, registrations or certificates
36 are required are currently licensed, registered or certified;

37 (b) Ensure that physicians admitted to practice in the facility are granted privileges consistent
38 with their individual training, experience and other qualifications;

39 (c) Ensure that procedures for granting, restricting and terminating privileges exist and that
40 such procedures are regularly reviewed to ensure their conformity to applicable law;

41 (d) Ensure that physicians admitted to practice in the facility are organized into a medical staff
42 in such a manner as to effectively review the professional practices of the facility for the purposes
43 of reducing morbidity and mortality and for the improvement of patient care; and

44 (e) Ensure that a physician is not denied medical staff membership or privileges at the facility
45 solely on the basis that the physician holds medical staff membership or privileges at another health

1 care facility.

2 (2) The physicians organized into a medical staff pursuant to subsection (1) of this section shall
3 propose medical staff bylaws to govern the medical staff. The bylaws shall include, but not be limited
4 to the following:

5 (a) Procedures for physicians admitted to practice in the facility to organize into a medical staff
6 pursuant to subsection (1) of this section;

7 (b) Procedures for ensuring that physicians admitted to practice in the facility are granted
8 privileges consistent with their individual training, experience and other qualifications;

9 (c) Provisions establishing a framework for the medical staff to nominate, elect, appoint or re-
10 move officers and other persons to carry out medical staff activities with accountability to the
11 governing body;

12 (d) Procedures for ensuring that physicians admitted to practice in the facility are currently li-
13 censed by the Oregon Medical Board;

14 (e) Procedures for ensuring that the facility's procedures for granting, restricting and terminat-
15 ing privileges are followed and that such procedures are regularly reviewed to assure their con-
16 formity to applicable law; and

17 (f) Procedures for ensuring that physicians provide services within the scope of the privileges
18 granted by the governing body.

19 (3) Amendments to medical staff bylaws shall be accomplished through a cooperative process
20 involving both the medical staff and the governing body. Medical staff bylaws shall be adopted, re-
21 pealed or amended when approved by the medical staff and the governing body. Approval shall not
22 be unreasonably withheld by either. Neither the medical staff nor the governing body shall withhold
23 approval if such repeal, amendment or adoption is mandated by law, statute or regulation or is
24 necessary to obtain or maintain accreditation or to comply with fiduciary responsibilities or if the
25 failure to approve would subvert the stated moral or ethical purposes of the institution.

26 (4) The Oregon Medical Board may appoint one or more physicians to conduct peer review for
27 a health care facility upon request of such review by all of the following:

28 (a) The physician whose practice is being reviewed.

29 (b) The executive committee of the health care facility's medical staff.

30 (c) The governing body of the health care facility.

31 (5) The physicians appointed pursuant to subsection (4) of this section shall be deemed agents
32 of the Oregon Medical Board, subject to the provisions of ORS 30.310 to 30.400 and shall conduct
33 peer review. Peer review shall be conducted pursuant to the bylaws of the requesting health care
34 facility.

35 (6) Any person serving on or communicating information to a peer review committee shall not
36 be subject to an action for damages for action or communications or statements made in good faith.

37 (7) **Notwithstanding ORS 192.410 to 192.505**, all findings and conclusions, interviews, reports,
38 studies, communications and statements procured by or furnished to the peer review committee in
39 connection with a peer review are confidential [*pursuant to ORS 192.501 to 192.505 and 192.690*] and
40 all data is privileged pursuant to ORS 41.675.

41 (8) Notwithstanding subsection (7) of this section, a written report of the findings and conclu-
42 sions of the peer review shall be provided to the governing body of the health care facility who shall
43 abide by the privileged and confidential provisions set forth in subsection (7) of this section.

44 (9) Procedures for peer review established by subsections (4) to (8) of this section are exempt
45 from ORS chapter 183.

1 (10) The Oregon Health Authority shall adopt by rule standards for rural hospitals, as defined
 2 in ORS 442.470, that specifically address the provision of care to postpartum and newborn patients
 3 so long as patient care is not adversely affected.

4 (11) For purposes of this section, "physician" has the meaning given the term in ORS 677.010.

5 **SECTION 75.** ORS 442.583 is amended to read:

6 442.583. (1)(a) The Health Resources Commission shall develop a medical technology assessment
 7 program that addresses the introduction, diffusion and utilization of medical technologies and their
 8 associated services and shall make recommendations regarding the program's implementation.

9 (b) The assessment program developed pursuant to paragraph (a) of this subsection shall include
 10 the results of at least two medical technology assessments to be selected by the commission. The
 11 commission shall select one new and emerging medical technology and one established medical
 12 technology to be assessed.

13 (c) The program shall include criteria for selection of the medical technologies to be assessed.

14 (d) The commission shall appoint and work with an advisory committee whose members shall
 15 have the appropriate expertise to develop a medical technology assessment program. The advisory
 16 committee shall present its recommendations to the commission at a public hearing. The commission
 17 shall conduct public hearings to solicit testimony and information from health care consumers prior
 18 to making the report described in subsection (2) of this section. The commission shall give strong
 19 consideration to the recommendations of the advisory committee and public testimony in developing
 20 its report.

21 (2)(a) The commission shall present its findings and recommendations in a report to the Gover-
 22 nor and the appropriate interim legislative committees on or before April 1, 1994. The report shall
 23 include, in addition to at least two medical technology assessments, a determination of the supply
 24 and distribution of medical technology and associated services that are required to meet the need
 25 for medical technology in the five years following the completion of the assessment.

26 (b) The report also shall identify strategies and contain recommendations:

27 (A) Regarding the program's implementation, including which agency should implement the
 28 program;

29 (B) To promote compliance with the program regarding the introduction, diffusion and utilization
 30 of those medical technologies assessed;

31 (C) Regarding whether the state should have a regulatory function and, if so, which agency
 32 should carry out that function; and

33 (D) Regarding the collection, storage and dissemination of data required for a technology as-
 34 sessment program.

35 (3) To insure that confidentiality is maintained, no identification of a patient or a person li-
 36 censed to provide health services shall be included with the data submitted under this section, and
 37 the commission shall release such data only in aggregate statistical form. All findings and conclu-
 38 sions, interviews, reports, studies, communications and statements procured by or furnished to the
 39 commission in connection with obtaining the data necessary to perform its functions shall be confi-
 40 dential [pursuant to ORS 192.501 to 192.505].

41 (4) All data and information collected, analyzed and summarized by professional and trade as-
 42 sociations conducting quality assurance and improvement programs shall be considered confidential
 43 and shall not be admissible in any legal proceeding or used to create a legal standard of care.
 44 However, such data and information may be submitted to the commission on request and shall re-
 45 main confidential and inadmissible.

SECTION 76. ORS 453.307 is amended to read:

453.307. As used in ORS 453.307 to 453.414:

(1) “Community right to know regulatory program” or “local program” means any law, rule, ordinance, regulation or charter amendment established, enforced or enacted by a local government that requires an employer to collect or report information relating to the use, storage, release, possession or composition of hazardous substances and toxic substances if a primary intent of the law, rule, ordinance, regulation or charter amendment is the public distribution of the information.

(2) “Emergency service personnel” includes those entities providing emergency services as defined in ORS 401.025.

(3) “Employer” means:

(a) Any person operating a facility that is included in one or more of the 21 standard industrial classification categories in Appendix B of the Natural Resources Defense Council v. Train Consent Decree of June 8, 1976 (8 E.R.C. 2120); or

(b) Any person operating a facility designated by the State Fire Marshal.

(4) “Fire district” means any agency having responsibility for providing fire protection services.

(5) “Hazardous substance” means:

(a) Any substance designated as hazardous by the Director of the Department of Consumer and Business Services or by the State Fire Marshal;

(b) Any substance for which a material safety data sheet is required by the Director of the Department of Consumer and Business Services under ORS 654.035 and which appears on the list of Threshold Limit Values for Chemical Substances and Physical Agents in the Work Environment by the American Conference of Governmental Industrial Hygienists; or

(c) Radioactive waste and material as defined in ORS 469.300 and radioactive substance as defined in ORS 453.005.

(6) “Health professional” means a physician as defined in ORS 677.010, registered nurse, industrial hygienist, toxicologist, epidemiologist or emergency medical technician.

(7) “Law enforcement agency” has the meaning given that term in ORS 181.010.

(8) “Local government” means a city, town, county, regional authority or other political subdivision of this state.

(9) “Person” includes individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, the state and any agency thereof, and the federal government and any agency thereof.

(10) “Trade secret” has the meaning given that term in [ORS 192.501 (2)] **ORS 646.461**.

SECTION 77. ORS 453.332 is amended to read:

453.332. (1) An employer responding to a request under ORS 453.317 may withhold the specific hazardous substance identity, including the chemical name and any other specific identification of a hazardous substance, if:

(a) Upon a showing satisfactory to the State Fire Marshal, the records, reports or information, or particular parts thereof, if made public, would divulge product identities, methods or processes and are entitled to protection as a trade secret under [ORS 192.501] **section 16 of this 2011 Act**; and

(b) Other information provided by the employer describes the properties, quantities stored and used and effects of the hazardous substance.

(2) Under no circumstances shall this section be construed to require the disclosure of information about a process or percentage of mixture that is a trade secret.

1 (3) A claim of trade secret by the employer, if the claim is substantiated by the Department of
2 Consumer and Business Services or any other agency, may be recognized by the State Fire Marshal
3 as sufficient for purposes of trade secret protection under ORS 453.307 to 453.414 and 476.030.

4 (4) Site specific information regarding the exact amount and location of a hazardous substance
5 provided to or obtained by the State Fire Marshal or by an agency identified in ORS 453.322 shall
6 be treated by the State Fire Marshal or the agency as confidential.

7 (5) Any claim of trade secret by an employer pursuant to this section must be made at the time
8 the employer provides the information to the State Fire Marshal.

9 **SECTION 78.** ORS 456.623 is amended to read:

10 456.623. (1) The Housing and Community Services Department shall establish a registry system
11 for persons requesting to be notified when department-proposed funding awards are contemplated for
12 multifamily housing projects.

13 (2) Any person may register with the department to receive the notification described in sub-
14 section (1) of this section. A person may request notification for multifamily housing projects on a
15 statewide basis or may limit the request to projects within specific areas of the state as identified
16 by the department. The department may charge a reasonable fee for the registration.

17 (3) If the department proposes funding for a multifamily housing project, the department shall
18 send written notice of the funding proposal to all persons who are at that time registered to receive
19 the notice under this section. The department may send notice to persons the department believes
20 may be interested but who are not registered to receive notice. The department shall not proceed
21 with awarding funding for a multifamily housing project prior to the 30th day after the sending of
22 notice to all persons entitled under this subsection to notice of the funding proposal.

23 (4) Notice sent under this section shall be limited to stating the deadline for filing comments
24 and the type of housing, number of units, sponsor and location of the proposed project. The notice
25 shall not include any information made exempt from public disclosure under [ORS 192.502 (24)]
26 **sections 12 to 24 of this 2011 Act.**

27 (5) During the period after the department proposes funding for a multifamily housing project
28 and prior to the department proceeding with awarding the funding, any interested person may file
29 comments regarding the project with the department.

30 (6) At the discretion of the Director of the Housing and Community Services Department, the
31 department may conduct a market study or take other actions in response to comments filed in re-
32 gard to multifamily housing projects proposed for funding.

33 (7) Subsections (3), (5) and (6) of this section apply only to multifamily housing project funding
34 for construction, acquisition or rehabilitation loans, grants or tax program awards that otherwise
35 do not include an independently prepared, project-specific market study as part of the department
36 review, approval or underwriting process.

37 (8) As used in this section, "housing project" has the meaning given that term in ORS 456.065.

38 **SECTION 79.** ORS 465.015 is amended to read:

39 465.015. (1) Except as provided in subsection (2) of this section, a person shall, within 120 days
40 after notification in writing by the Department of Environmental Quality that the person meets the
41 definition of a toxics user, complete a toxics use reduction and hazardous waste reduction plan. At
42 a minimum, a plan shall include:

43 (a) A written policy articulating organizational support for the toxics use reduction and haz-
44 ardous waste reduction plan and a commitment by the organization to implement plan goals.

45 (b) A description of its scope and objectives, including the evaluation of technologies, procedures

1 and personnel training programs to ensure unnecessary toxic substances are not used and unneces-
 2 sary waste is not generated.

3 (c) Internal analysis and periodic assessment of individual processes for toxics use and hazard-
 4 ous waste generation.

5 (d) Identification of opportunities to reduce or eliminate toxics use and hazardous waste gener-
 6 ation.

7 (e) Employee awareness and training programs that involve employees in toxics use reduction
 8 and hazardous waste reduction planning and implementation.

9 (f) Institutionalization of the plan by incorporating the plan into management practices and
 10 procedures.

11 (2) A person is not required to complete a plan if the person has implemented an environmental
 12 management system, as defined in ORS 468.172.

13 (3) A toxics user shall incorporate into the plan and associated decision-making process, the
 14 costs of using toxic substances and generating hazardous waste. The costs may represent, among
 15 other things, the costs of management, liability insurance, regulatory compliance and oversight.

16 (4) As part of each plan, a toxics user shall evaluate technically and economically practicable
 17 toxics use reduction and hazardous waste reduction opportunities for:

18 (a) Any toxic substance for which the toxics user reports as a large user; and

19 (b) Any hazardous waste representing 10 percent or more by weight of the cumulative hazardous
 20 waste stream generated per year.

21 (5) A toxics user shall explain the rationale for each toxics use reduction and waste reduction
 22 opportunity specified in the plan, including any impediments, such as technical or economic barriers,
 23 to toxics use reduction and hazardous waste reduction.

24 (6) A toxics use reduction and hazardous waste reduction plan developed under this section or
 25 the documentation for an environmental management system shall be retained at the facility. To
 26 the extent that a plan or system may be considered a public record under ORS 192.410, the infor-
 27 mation contained in the plan or system is confidential and is exempt from public disclosure pursuant
 28 to [ORS 192.502] **sections 12 to 24 of this 2011 Act.**

29 (7) It is the policy of this state that plans developed under this section be kept current and that
 30 the plans reflect changes in toxics use over time. In furtherance of this policy, a toxics user may
 31 update its plan or modify its environmental management system to reflect any changes.

32 **SECTION 80.** ORS 466.800 is amended to read:

33 466.800. (1) Except as provided in subsection (2) of this section, any records, reports or infor-
 34 mation obtained from any persons under ORS 466.765 and 466.805 shall be made available for public
 35 inspection and copying during the regular office hours of the Department of Environmental Quality
 36 at the expense of any person requesting copies.

37 (2) Unless classified by the director as confidential, any records, reports or information obtained
 38 under ORS 466.706 to 466.882 and 466.994 shall be available to the public. Upon a showing satis-
 39 factory to the director by any person that records, reports or information, or particular parts
 40 thereof, if made public, would divulge methods, processes or information entitled to protection as
 41 trade secrets under [ORS 192.501 to 192.505] **section 16 of this 2011 Act**, the director shall classify
 42 as confidential such record, report or information, or particular part thereof. However, such record,
 43 report or information may be disclosed to any other officer, medical or public safety employee or
 44 authorized representative of the state concerned with carrying out ORS 466.706 to 466.882 and
 45 466.994 or when relevant in any proceeding under ORS 466.706 to 466.882 and 466.994.

1 (3) Any record, report or information obtained or used by the department or the Environmental
 2 Quality Commission in administering the statewide underground storage tank program under ORS
 3 466.706 to 466.882 and 466.994 shall be available to the United States Environmental Protection
 4 Agency upon request. If the record, report or information has been submitted to the state under a
 5 claim of confidentiality, the state shall make that claim of confidentiality to the Environmental
 6 Protection Agency for the requested record, report or information. The federal agency shall treat
 7 the record, report or information subject to the confidentiality claim as confidential in accordance
 8 with applicable federal law.

9 **SECTION 81.** ORS 469.030 is amended to read:

10 469.030. (1) There is created the State Department of Energy.

11 (2) The State Department of Energy shall:

12 (a) Be the central repository within the state government for the collection of data on energy
 13 resources;

14 (b) Endeavor to utilize all public and private sources to inform and educate the public about
 15 energy problems and ways in which the public can conserve energy resources;

16 (c) Engage in research, but whenever possible, contract with appropriate public or private
 17 agencies and dispense funds for research projects and other services related to energy resources,
 18 except that the State Department of Energy shall endeavor to avoid duplication of research whether
 19 completed or in progress;

20 (d) Qualify for, accept and disburse or utilize any private or federal moneys or services available
 21 for the administration of ORS 176.820, [192.501 to 192.505,] 192.690, 469.010 to 469.225, 469.300 to
 22 469.563, 469.990, 757.710 and 757.720;

23 (e) Administer federal and state energy allocation and conservation programs and energy re-
 24 search and development programs and apply for and receive available funds therefor;

25 (f) Be a clearinghouse for energy research to which all agencies shall send information on all
 26 energy related research;

27 (g) Prepare contingent energy programs to include all forms of energy not otherwise provided
 28 pursuant to ORS 757.710 and 757.720;

29 (h) Maintain an inventory of energy research projects in Oregon and the results thereof;

30 (i) Collect, compile and analyze energy statistics, data and information;

31 (j) Contract with public and private agencies for energy activities consistent with ORS 469.010
 32 and this section; and

33 (k) Upon request of the governing body of any affected jurisdiction, coordinate a public review
 34 of a proposed transmission line according to the provisions of ORS 469.442.

35 **SECTION 82.** ORS 469.080 is amended to read:

36 469.080. (1) The Director of the State Department of Energy may obtain all necessary informa-
 37 tion from producers, suppliers and consumers of energy resources within Oregon, and from political
 38 subdivisions in this state, as necessary to carry out ORS 176.820, [192.501 to 192.505,] 192.690,
 39 469.010 to 469.225, 469.300 to 469.563, 469.990, 469.992, 757.710 and 757.720. Such information may
 40 include, but not be limited to:

41 (a) Sales volume;

42 (b) Forecasts of energy resource requirements;

43 (c) Inventory of energy resources; and

44 (d) Local distribution patterns of information under paragraphs (a) to (c) of this subsection.

45 (2) In obtaining information under subsection (1) of this section, the director, with the written

1 consent of the Governor, may subpoena witnesses, material and relevant books, papers, accounts,
 2 records and memoranda, administer oaths, and may cause the depositions of persons residing within
 3 or without Oregon to be taken in the manner prescribed for depositions in civil actions in circuit
 4 courts, to obtain information relevant to energy resources.

5 (3) In obtaining information under this section, the director:

6 (a) Shall avoid eliciting information already furnished by a person or political subdivision in this
 7 state to a federal, state or local regulatory authority that is available to the director for such study;
 8 and

9 (b) Shall cause reporting procedures, including forms, to conform to existing requirements of
 10 federal, state and local regulatory authorities.

11 (4) Any person who is served with a subpoena to give testimony orally or in writing or to
 12 produce books, papers, correspondence, memoranda, agreements or the documents or records as
 13 provided in ORS 176.820, [192.501 to 192.505], 192.690, 469.010 to 469.225, 469.300 to 469.563, 469.990,
 14 469.992, 757.710 and 757.720, may apply to any circuit court in Oregon for protection against abuse
 15 or hardship in the manner provided in ORCP 36 C.

16 **SECTION 83.** ORS 469.410 is amended to read:

17 469.410. (1) Any applicant for a site certificate for an energy facility shall be deemed to have
 18 met all the requirements of ORS 176.820, [192.501 to 192.505,] 192.690, 469.010 to 469.225, 469.300 to
 19 469.563, 469.990, 757.710 and 757.720 relating to eligibility for a site certificate and a site certificate
 20 shall be issued by the Energy Facility Siting Council for:

21 (a) Any transmission lines for which application has been filed with the federal government and
 22 the Public Utility Commission of Oregon prior to July 2, 1975; and

23 (b) Any energy facility under construction on July 2, 1975.

24 (2) Each applicant for a site certificate under this section shall pay the fees required by ORS
 25 469.421 (2) to (9), if applicable, and shall execute a site certificate in which the applicant agrees:

26 (a) To abide by the conditions of all licenses, permits and certificates required by the State of
 27 Oregon or any subdivision in the state to operate the energy facility and issued prior to July 2, 1975;
 28 and

29 (b) On and after July 2, 1975, to abide by the rules of the Director of the State Department of
 30 Energy adopted pursuant to ORS 469.040 (1)(d) and rules of the council adopted pursuant to ORS
 31 469.300 to 469.563, 469.590 to 469.619 and 469.930.

32 (3) The council has continuing authority over the site for which the site certificate is issued and
 33 may inspect, or direct the State Department of Energy to inspect, or request another state agency
 34 or local government to inspect, the site at any time in order to ensure that the facility is being
 35 operated consistently with the terms and conditions of the site certificate and any applicable health
 36 or safety standards.

37 (4) The council shall establish programs for monitoring the environmental and ecological effects
 38 of the operation and the decommissioning of energy facilities subject to site certificates issued prior
 39 to July 2, 1975, to ensure continued compliance with the terms and conditions of the site certificate
 40 and any applicable health or safety standards.

41 (5) Site certificates executed by the Governor under ORS 469.400 (1991 Edition) prior to July
 42 2, 1975, shall bind successor agencies created hereunder in accordance with the terms of such site
 43 certificates. Any holder of a site certificate issued prior to July 2, 1975, shall abide by the rules of
 44 the director adopted pursuant to ORS 469.040 (1)(d) and rules of the council adopted pursuant to
 45 ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and 469.992.

1 **SECTION 84.** ORS 469.560 is amended to read:

2 469.560. (1) Except as provided in subsection (2) of this section and [*ORS 192.501 to 192.505*]
3 **sections 12 to 24 of this 2011 Act**, any information filed or submitted pursuant to ORS 469.300 to
4 469.563, 469.590 to 469.619, 469.930 and 469.992 shall be made available for public inspection and
5 copying during regular office hours of the State Department of Energy at the expense of any person
6 requesting copies.

7 (2) Any information, other than that relating to the public safety, relating to secret process,
8 device, or method of manufacturing or production obtained in the course of inspection, investigation
9 or activities under ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and 469.992 shall be kept
10 confidential and shall not be made a part of public record of any hearing.

11 **SECTION 85.** ORS 476.090 is amended to read:

12 476.090. (1) The State Fire Marshal shall keep a record of all fires occurring in this state and
13 of all facts concerning the same, including statistics as to the extent of such fires and the damage
14 caused, whether such losses were covered by insurance, and if so, in what amount. All such records
15 shall be public, except any testimony, information or other evidence taken in an investigation under
16 ORS 476.010 to 476.090, 476.155 to 476.170, 476.210 to 476.270 and 479.180, which shall be considered
17 investigatory information as described in [*ORS 192.501*] **section 13 of this 2011 Act**.

18 (2) This section [*shall*] **does** not apply to forestlands under the jurisdiction of the State Forester.

19 **SECTION 86.** ORS 520.027 is amended to read:

20 520.027. (1) A person may not drill an information hole or a hole drilled as part of a seismic
21 program without first applying for approval from the State Department of Geology and Mineral In-
22 dustries and paying the fee established in ORS 520.017. The application must be submitted on a form
23 provided by the department and must include all information requested by the department.

24 (2) A person issued an approval under this section shall comply with all terms of the
25 department's approval and any other applicable law or rule. The department may not require the
26 person receiving approval under this section to provide information from seismic programs. The de-
27 partment may require the submittal of information from information holes, but the information is a
28 trade secret under [*ORS 192.501*] **section 16 of this 2011 Act** and is not subject to public disclosure
29 under ORS 192.410 to 192.505.

30 **SECTION 87.** ORS 520.097 is amended to read:

31 520.097. (1) For a period of two years from the date of abandonment or completion of a well, all
32 well logs and records and well reports submitted to the State Department of Geology and Mineral
33 Industries are trade secrets under [*ORS 192.501*] **section 16 of this 2011 Act** and are not subject
34 to public disclosure under ORS 192.410 to 192.505, and all drill cuttings and cores may not be dis-
35 closed to the public unless such protection is waived by the permittee or disclosure is required by
36 a court order.

37 (2) The department may extend the period under subsection (1) of this section up to an addi-
38 tional five years on the request of the permittee or the permittee's successor in interest.

39 **SECTION 88.** ORS 522.365 is amended to read:

40 522.365. (1) Each operator of any geothermal well or the designated agent of the operator shall
41 file with the State Department of Geology and Mineral Industries a copy of the log, history and core
42 record, or any portion thereof, promptly upon completion, or upon the written request of the de-
43 partment at any time after the commencement of the work of drilling any geothermal well, and upon
44 plugging and decommissioning or upon suspension of operations for a period of at least six months.

45 (2) For a period of four years after the receipt of any log, history, core record, or any portion

1 thereof, such record shall be exempt from disclosure as a trade secret [*pursuant to ORS 192.501*]
2 **under section 16 of this 2011 Act** unless the operator gives approval to release the data.

3 **SECTION 89.** ORS 526.280 is amended to read:

4 526.280. In furtherance of the policy established in ORS 526.277, the State Forester shall:

5 (1) Establish a policy of active and inclusive communication with the federal government, public
6 bodies as defined in ORS 174.109, residents of Oregon and interested parties regarding the utilization
7 of woody biomass produced through forest health restoration. The State Forester shall actively uti-
8 lize the statutory provisions of the National Forest Management Act of 1976, the Forest and
9 Rangeland Renewable Resources Planning Act of 1974, the National Environmental Policy Act of
10 1969, the Federal Land Policy and Management Act of 1976 and the Healthy Forests Restoration
11 Act of 2003 that allow the state to participate in federal policy development in a manner that ex-
12 presses the policy established in ORS 526.277.

13 (2) Promote public involvement in the identification of the areas of interface between urban
14 lands and forestlands that pose the highest potential to threaten lives and private property.

15 (3) Solicit public comment on the location of biomass-based energy projects and conversion fa-
16 cilities.

17 (4) Promote public understanding, through education and outreach, of forest conditions, forest
18 management options, the potential benefits and potential consequences of woody biomass utilization,
19 the quality and quantity of woody biomass on federal lands and the potential for woody biomass
20 utilization to assist in reducing wildfire risk and in enhancing forest health, diversity and resilience.
21 The State Forestry Department may coordinate with the State Department of Energy, the Oregon
22 Business Development Department, Oregon State University, the State Department of Fish and
23 Wildlife, the Department of Environmental Quality and other entities in any education and outreach
24 performed pursuant to this subsection.

25 (5) Allow the State Forestry Department to conduct inventories of the types of woody biomass
26 available and to serve as an information resource for persons seeking to utilize woody biomass for
27 energy development. Notwithstanding [*ORS 192.501*] **sections 12 to 24 of this 2011 Act**, reports on
28 any inventories of biomass conducted by the department shall be made available for public in-
29 spection.

30 (6) Promote public understanding that woody biomass utilization may be an effective tool for
31 restoration of forest health and for economic development in rural communities.

32 (7) Develop and apply, with advice from the forestry program at Oregon State University, the
33 State Department of Fish and Wildlife, the Department of Environmental Quality and other sources,
34 the best available scientific knowledge and technologies pertaining to forest and wildlife habitat
35 restoration and woody biomass utilization when developing rules under ORS 527.630.

36 (8) Seek opportunities to provide a source of woody biomass from federal, tribal, state and pri-
37 vate forests.

38 (9) Prepare a report every three years utilizing, to the greatest extent practicable, data collected
39 from state and federal sources that specify the effect of woody biomass collection and conversion
40 on the plant and wildlife resources and on the air and water quality of this state. The report shall
41 identify any changes that the State Forester determines are necessary to encourage woody biomass
42 collection and conversion and to avoid negative effects on the environment from woody biomass
43 collection and conversion. The State Forester shall submit the report to the Governor and to an
44 appropriate legislative interim committee with jurisdiction over forestry issues.

45 **SECTION 90.** ORS 646.473 is amended to read:

1 646.473. (1) Except as provided in subsection (2) of this section, ORS 646.461 to 646.475 supersede
2 conflicting tort, restitution or other law of Oregon providing civil remedies for misappropriation of
3 a trade secret.

4 (2) ORS 646.461 to 646.475 shall not affect:

5 (a) Contractual remedies, whether or not based upon misappropriation of a trade secret;

6 (b) Other civil remedies that are not based upon misappropriation of a trade secret;

7 (c) Criminal remedies, whether or not based upon misappropriation of a trade secret; or

8 (d) Any defense, immunity or limitation of liability afforded public bodies, their officers, em-
9 ployees or agents under ORS 30.260 to 30.300.

10 (3) Notwithstanding any other provision in ORS 646.461 to 646.475, public bodies and their offi-
11 cers, employees and agents are immune from any claim or action for misappropriation of a trade
12 secret that is based on the disclosure or release of information in obedience to or in good faith re-
13 liance on any order of disclosure issued pursuant to ORS 192.410 [*to 192.490*] **to 192.505** or on the
14 advice of an attorney authorized to advise the public body, its officers, employees or agents.

15 **SECTION 91.** ORS 656.702 is amended to read:

16 656.702. (1)(a) The records of the State Accident Insurance Fund Corporation are subject to ORS
17 192.410 to 192.505.

18 (b) Notwithstanding [*ORS 192.502*] **sections 12 to 24 of this 2011 Act**, the State Accident In-
19 surance Fund Corporation shall make the accident experience records of the corporation available
20 to a bona fide rating organization to assist in making workers' compensation rates. Costs involved
21 in making the records available shall be borne by the rating organization. Accident experience re-
22 cords of carrier-insured employers shall also be available on the same terms to assist in making such
23 rates.

24 (2) [*Disclosure of*] Workers' compensation claim records of the Department of Consumer and
25 Business Services [*is governed by ORS 192.502 (20)*] **are exempt from disclosure under ORS**
26 **192.410 to 192.505.**

27 **SECTION 92.** ORS 657.732 is amended to read:

28 657.732. (1) As used in this section, "participating state agency or organization" means:

29 (a) The Employment Department;

30 (b) Divisions and offices within the Department of Human Services that have been approved by
31 the Director of the Employment Department, in consultation with the Education and Workforce
32 Policy Advisor, to participate in the Interagency Shared Information System;

33 (c) The Department of Education;

34 (d) The Oregon University System;

35 (e) The Department of Community Colleges and Workforce Development; and

36 (f) Other state agencies, other governmental entities or private organizations that have applied
37 to be participating state agencies or organizations and have been approved by the Director of the
38 Employment Department, in consultation with the Education and Workforce Policy Advisor, to par-
39 ticipate in the Interagency Shared Information System.

40 (2) There is established the Interagency Shared Information System. The purpose of the system
41 is to collect, analyze and share information for the development of statistical and demographic data
42 to facilitate the creation of strategies for the purpose of improving the education, training and em-
43 ployment programs related to enhancing Oregon's workforce system. The system shall share aggre-
44 gate information with a participating state agency or organization to allow the agency or
45 organization to develop policy, evaluate policy and plan and measure performance for the purpose

1 of improving the education, training and employment programs related to enhancing Oregon's
2 workforce system.

3 (3) The Director of the Employment Department shall administer and, in consultation with the
4 Education and Workforce Policy Advisor, shall oversee the development of the Interagency Shared
5 Information System. Participating state agencies or organizations shall enter into an interagency or
6 other applicable agreement with the Director of the Employment Department, as administrator of
7 the system, that:

8 (a) Establishes protocols for the collection and sharing of data in the system;

9 (b) Establishes safeguards for protecting the confidentiality of data in the system;

10 (c) Includes provisions regarding informed consent for sharing information obtained from indi-
11 viduals; and

12 (d) Provides for the sharing of costs for designing and maintaining the system.

13 (4) Every participating state agency or organization shall provide information to the Interagency
14 Shared Information System. Information shall be provided in a format that encodes identifying data,
15 including the client's Social Security number, using a formula unique to the participating state
16 agency or organization that shall not be disclosed to the system.

17 (5) In disclosing Social Security numbers to the Interagency Shared Information System under
18 subsection (4) of this section, every participating state agency or organization shall comply with any
19 state and federal laws that govern the collection and use of Social Security numbers by a partic-
20 ipating state agency or organization and any additional requirements specified by the director, in
21 consultation with the Education and Workforce Policy Advisor, that are included in the agreement
22 entered into under subsection (3) of this section.

23 (6) The information in the Interagency Shared Information System is not a public record for
24 purposes of ORS 192.410 to 192.505. For purposes of ORS 192.410 to 192.505, the information sub-
25 mitted to the system and the information received from the system is a public record, and the
26 custodian of such information is the participating state agency or organization that submits or re-
27 ceives the information. If the participating state agency or organization receiving the information
28 is not a public body, as defined in ORS 192.410, the Employment Department shall keep a copy of
29 the system information sent to that entity and shall be the custodian of that copy for purposes of
30 ORS 192.410 to 192.505. As custodian, the Employment Department shall limit the disclosure of, or
31 refuse to disclose, aggregate or summary level information when a small number of aggregated re-
32 cords or some other factor creates a reasonable risk that the identity of individuals may be discov-
33 ered or disclosed. The department shall refer all other requests for disclosure of system information
34 to the public body that is the custodian of the information.

35 (7) The Employment Department may **not** charge a [*reasonable fee pursuant to ORS 192.440*] **fee**
36 for the disclosure of reports to individuals or state agencies, governmental entities or private or-
37 ganizations that submit data to the system and are not participating state agencies or
38 organizations, **except as provided in ORS 192.410 to 192.505.**

39 (8) If a participating state agency or organization prepares or acquires a record that is confi-
40 dential under federal or state law, [*including ORS 192.502 (2),*] the participating state agency or
41 organization does not violate state confidentiality laws by providing the information described in
42 this section to the Interagency Shared Information System. Notwithstanding the provisions of ORS
43 279C.815 (4), 279C.850 (3), 657.665 and 660.339, the Bureau of Labor and Industries, the Department
44 of Community Colleges and Workforce Development and the Employment Department are authorized
45 to provide information to the Interagency Shared Information System.

1 (9) Notwithstanding the provisions of ORS 192.410 to 192.505, a participating state agency or
 2 organization [shall] **may** not allow public access to information received from the Interagency
 3 Shared Information System that identifies a particular individual unless required by law. Any par-
 4 ticipating state agency or organization shall limit the disclosure of, or refuse to disclose, aggregate
 5 or summary level information when a small number of aggregated records or some other factor
 6 creates a reasonable risk that the identity of individuals may be discovered or disclosed.

7 (10) Any individual who, without proper authority, discloses confidential information under this
 8 section may be disqualified from holding any appointment or employment with the State of Oregon.
 9 The Employment Department shall adopt by rule procedures to prevent disclosure of confidential
 10 information submitted to the Interagency Shared Information System.

11 (11) Notwithstanding subsection (4) of this section, participating state agencies or organizations
 12 may not provide new information to the Interagency Shared Information System after December 31,
 13 2003. Information in the system on and after January 1, 2004, may be accessed by participating state
 14 agencies or organizations in accordance with this section, applicable rules adopted by the Director
 15 of the Employment Department and any agreements entered into under subsection (3) of this section.

16 **SECTION 93.** ORS 657.734 is amended to read:

17 657.734. (1) As used in this section:

18 (a) "Public body" has the meaning given that term in ORS [192.410] **174.109.**

19 (b) "System participant" means:

20 (A) Mandatory partners under the federal Workforce Investment Act of 1998 (enacted as P.L.
 21 105-220 and codified as 29 U.S.C. 2801 et seq.) and other one-stop system partners, which may in-
 22 clude public bodies and private organizations; and

23 (B) Public bodies and private organizations that have been approved by the Director of the
 24 Employment Department, in consultation with the Education and Workforce Policy Advisor, to par-
 25 ticipate in the Performance Reporting Information System.

26 (2) There is established the Performance Reporting Information System for the purpose of col-
 27 lecting, analyzing and sharing statistical and demographic data for the development and reporting
 28 of workforce system performance measures.

29 (3) The Performance Reporting Information System is intended to share the data described in
 30 subsection (2) of this section, by agreement, with all system participants. The Performance Reporting
 31 Information System may not contain data submitted exclusively for use in the Interagency Shared
 32 Information System.

33 (4) The Director of the Employment Department shall administer and, in consultation with the
 34 Education and Workforce Policy Advisor, oversee the development of the Performance Reporting
 35 Information System. System participants shall be designated as participants in the system by rule
 36 of the Employment Department, in consultation with the Education and Workforce Policy Advisor.
 37 A system participant shall enter into an interagency or other applicable agreement with the director
 38 that:

39 (a) Establishes protocols for the collection and sharing of data in the system;

40 (b) Establishes safeguards for protecting the confidentiality of data in the system;

41 (c) Includes provisions regarding informed consent for sharing information obtained from indi-
 42 viduals; and

43 (d) Provides for the sharing of costs for developing and maintaining the system.

44 (5)(a) All individual record information in the Performance Reporting Information System is
 45 confidential and may not be disclosed as a public record under the provisions of ORS 192.410 to

1 192.505. As administrator of the system, the director may view all data or individual record infor-
 2 mation in the system. System participants may not allow public access to information received from
 3 the system that identifies a particular individual unless required by law. System participants shall
 4 limit the disclosure of, or refuse to disclose, aggregate or summary level information when a small
 5 number of aggregated records or some other factor creates a reasonable risk that the identity of
 6 individuals may be discovered or disclosed.

7 (b) System participants shall provide information in a format that encodes identifying data, in-
 8 cluding the client's Social Security number, using a formula unique to the system participant. In
 9 disclosing Social Security numbers to the system, system participants shall comply with any state
 10 and federal laws that govern the collection and use of Social Security numbers by the system par-
 11 ticipant and any additional requirements specified by the director, in consultation with the Educa-
 12 tion and Workforce Policy Advisor, that are included in the agreement entered into under subsection
 13 (4) of this section.

14 (6) The information in the Performance Reporting Information System is not a public record for
 15 purposes of ORS 192.410 to 192.505. For purposes of ORS 192.410 to 192.505, the information sub-
 16 mitted to the system and the information received from the system is a public record, and the
 17 custodian of such information is the system participant that submits or receives the information. If
 18 the system participant receiving the information is not a public body, the department shall keep a
 19 copy of the system information sent to that system participant and shall be the custodian of that
 20 copy for purposes of ORS 192.410 to 192.505. As custodian, the department shall limit the disclosure
 21 of, or refuse to disclose, aggregate or summary level information when a small number of aggregated
 22 records or some other factor creates a reasonable risk that the identity of individuals may be dis-
 23 covered or disclosed. The department shall refer all other requests for disclosure of system infor-
 24 mation to the public body that is the custodian of the information.

25 (7) The department may **not** charge a [*reasonable fee under ORS 192.440*] **fee** for the disclosure
 26 of reports containing only aggregate data to individuals, public bodies or private organizations,
 27 **except as provided in ORS 192.410 to 192.505.**

28 (8) If a system participant prepares or acquires a record that is confidential under federal or
 29 state law, [*including ORS 192.502 (2),*] the system participant does not violate state confidentiality
 30 laws by providing the information described in this section to the Performance Reporting Informa-
 31 tion System. Notwithstanding the provisions of ORS 279C.815 (4), 279C.850 (3), 657.665 and 660.339,
 32 the Bureau of Labor and Industries, the Department of Community Colleges and Workforce Devel-
 33 opment and the Employment Department are authorized to provide information to the system.

34 (9) Any individual who, without proper authority, discloses confidential information under this
 35 section may be disqualified from holding any appointment or employment with the State of Oregon.
 36 The department shall adopt by rule procedures to prevent disclosure of confidential information
 37 submitted to the Performance Reporting Information System.

38 **SECTION 94.** ORS 659A.209 is amended to read:

39 659A.209. ORS 659A.200 to 659A.224 are not intended to:

40 (1) Allow disclosure of records exempt from disclosure except as provided in [*ORS 192.501 to*
 41 *192.505*] **sections 12 to 24 of this 2011 Act.**

42 (2) Prevent public employers from prohibiting employee disclosure of information of an advisory
 43 nature to the extent that it covers other than purely factual materials and is preliminary to any
 44 final agency determination of policy or action.

45 **SECTION 95.** ORS 671.338 is amended to read:

1 671.338. [(1) Notwithstanding ORS 192.420:]

2 (1)(a) In addition to any exemption from disclosure provided under [ORS 192.501 (4)] **section**
 3 **12 to 24 of this 2011 Act**, State Landscape Architect Board examination materials, file records of
 4 examination grading and performance, transcripts from educational institutions, letters of inquiry,
 5 letters of reference and board inquiry forms concerning applicants or registrants are confidential
 6 and may not be disclosed except as provided in paragraph (b) of this subsection or subsection (2)
 7 of this section.

8 (b) Investigatory information developed or obtained by the board is confidential and not subject
 9 to disclosure by the board unless a notice is issued for a contested case hearing or the matter in-
 10 vestigated is finally resolved by board action or a consent order. The board shall notify the regis-
 11 trant of the investigation. The public may obtain information confirming that an investigation is
 12 being conducted and describing the general nature of the matter being investigated.

13 (2) The board may appoint an advisory committee to conduct an investigation described under
 14 subsection (1)(b) of this section on behalf of the board. Investigatory information developed or ob-
 15 tained by an advisory committee is confidential unless a notice is issued for a contested case hearing
 16 or the matter investigated is finally resolved by board action or a consent order. The board may
 17 discuss in open session matters that are being reviewed by an advisory committee, but may not
 18 disclose confidential information into the public record.

19 (3) Notwithstanding any confidentiality established under subsection (1) or (2) of this section, if
 20 the board or an advisory committee meets in executive session to discuss an investigation, the board
 21 or committee may permit other public officials and members of the press to attend the executive
 22 session. Notwithstanding ORS 192.610 to 192.690, the public officials and members of the press at-
 23 tending the executive session may not disclose information discussed by the board or committee
 24 during the session until the information ceases to be confidential under subsection (1) or (2) of this
 25 section.

26 **SECTION 96.** ORS 697.732 is amended to read:

27 697.732. (1) To enforce the provisions of ORS 697.612 and 697.642 to 697.702, the Director of the
 28 Department of Consumer and Business Services may:

29 (a) Examine a debt management service provider or a person required to obtain a registration
 30 as a debt management service provider under ORS 697.612 and the debt management service
 31 provider's or the person's accounts for the purpose of investigating a violation of ORS 697.642 to
 32 697.702.

33 (b) Undertake an investigation, including an investigation outside this state, that the director
 34 considers necessary to:

35 (A) Determine whether a debt management service provider or a person required to obtain a
 36 registration as a debt management service provider under ORS 697.612 violated, is violating or is
 37 about to violate ORS 697.612 or 697.642 to 697.702 or a rule the director adopted under ORS 697.632;
 38 or

39 (B) Aid in enforcing the provisions of ORS 697.612 and 697.642 to 697.702 and in formulating
 40 rules for adoption under ORS 697.632.

41 (c) Require a debt management service provider or a person required to obtain a registration
 42 as a debt management service provider under ORS 697.612 to file a written statement, under oath
 43 or otherwise, that addresses a matter the director is investigating.

44 (d) Administer oaths and affirmations, subpoena witnesses, compel the witnesses to attend, take
 45 evidence and require a person that the director is investigating to produce books, papers, corre-

1 spondence, memoranda, agreements or other documents or records that the director deems relevant
 2 or material to the investigation. A witness who appears before the director under a subpoena shall
 3 receive the fees and mileage described in ORS 44.415 (2).

4 (e) Charge and require a debt management service provider or a person required to obtain a
 5 registration as a debt management service provider under ORS 697.612 to pay for the reasonable
 6 cost of an examination or investigation conducted under this section in an amount the director
 7 specifies.

8 (2) If a person does not comply with a subpoena that the director issues under this section, a
 9 circuit court in this state upon the director's application shall begin contempt proceedings to compel
 10 compliance in the same manner in which the court would compel compliance with a subpoena in a
 11 civil action.

12 (3) A debt management service provider or a person required to obtain a registration as a debt
 13 management service provider under ORS 697.612 shall provide the director for the purpose of in-
 14 vestigating a violation of ORS 697.612 or 697.642 to 697.702 with free access to the debt management
 15 service provider's or the person's offices, places of business, books, accounts, records, papers, files,
 16 safes and vaults.

17 (4)(a) The director shall maintain for public inspection a record of any order the director issued
 18 that:

19 (A) Suspended, revoked or refused to renew a person's registration as a debt management ser-
 20 vice provider; or

21 (B) Imposed a civil penalty under ORS 697.832.

22 (b) The record that the director maintains of the director's order shall show:

23 (A) The form of the order that the director issued;

24 (B) The name of the person that is the subject of the order; and

25 (C) The grounds for the action that the director took in the order.

26 (c) The director shall maintain as a public record any notice or other information that indicates
 27 that a collection on a deposit or on the bond required under ORS 697.642 has occurred.

28 (d) Except as provided in this subsection, records, reports and other information that the direc-
 29 tor receives or compiles as a result of an investigation conducted under this section are exempt from
 30 the disclosure required under ORS [192.420] **192.410 to 192.505**.

31 **SECTION 97.** ORS 705.137 is amended to read:

32 705.137. (1) Except as provided in subsection (3) of this section, a document, material or other
 33 information that is in the possession or control of the Department of Consumer and Business Ser-
 34 vices for the purpose of administering ORS 86A.095 to 86A.198, 86A.990, 86A.992, 697.005 to 697.095,
 35 697.602 to 697.842, 717.200 to 717.320, 717.900 and 717.905 and ORS chapters 59, 723, 725 and 726,
 36 the Bank Act and the Insurance Code and that is described in statute as confidential or as not
 37 subject to disclosure is not subject to disclosure under ORS 192.410 to 192.505, is not subject to
 38 subpoena and is not subject to discovery or admissible in evidence in a private civil action. The
 39 Director of the Department of Consumer and Business Services may use a confidential document,
 40 material or other information in administering ORS 86A.095 to 86A.198, 86A.990, 86A.992, 697.005
 41 to 697.095, 697.602 to 697.842, 717.200 to 717.320, 717.900 and 717.905 and ORS chapters 59, 723, 725
 42 and 726, the Bank Act and the Insurance Code and in furthering a regulatory or legal action
 43 brought as a part of the director's duties.

44 (2) A document, material or other information to which subsection (1) of this section applies is
 45 subject to the public officer privilege described in ORS 40.270.

(3) In order to assist in the performance of the director's duties, the director may:

(a) Authorize sharing a confidential document, material or other information that is subject to subsection (1) of this section as appropriate among the administrative divisions and staff offices of the department created under ORS 705.115 for the purpose of administering and enforcing the statutes identified in subsection (1) of this section, in order to enable the administrative divisions and staff offices to carry out the functions and responsibilities of the administrative divisions and staff offices.

(b) Share a document, material or other information, including a confidential document, material or other information that is subject to subsection (1) of this section or that is otherwise confidential under [ORS 192.501 or 192.502] **sections 12 to 24 of this 2011 Act**, with other state, federal, foreign and international regulatory and law enforcement agencies and with the National Association of Insurance Commissioners and affiliates or subsidiaries of the National Association of Insurance Commissioners, if the recipient agrees to maintain the confidentiality of the document, material or other information.

(c) Receive a document, material or other information, including an otherwise confidential document, material or other information, from state, federal, foreign and international regulatory and law enforcement agencies and from the National Association of Insurance Commissioners and affiliates or subsidiaries of the National Association of Insurance Commissioners. As provided in this section, the director shall maintain the confidentiality of documents, materials or other information received upon notice or with an understanding that the document, material or other information is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or other information.

(4) Disclosing a document, material or other information to the director under this section or sharing a document, material or other information as authorized in subsection (3) of this section does not waive an applicable privilege or claim of confidentiality in the document, material or other information.

(5) This section does not prohibit the director from releasing a final, adjudicated action, including a suspension or revocation of a certificate of authority or a license if the action is otherwise open to public inspection, to a database or other clearinghouse service maintained by the National Association of Insurance Commissioners or affiliates or subsidiaries of the National Association of Insurance Commissioners.

SECTION 98. ORS 706.720 is amended to read:

706.720. (1) The Director of the Department of Consumer and Business Services shall receive and file in the Department of Consumer and Business Services all reports required by the Bank Act.

(2) Except as provided in subsection (3) of this section and ORS 706.730, the records of the Department of Consumer and Business Services pertaining to the administration of the Bank Act are available for public inspection unless the director determines in a particular instance that an Oregon operating institution or the directors, stockholders, officers, employees and customers of the Oregon operating institution have an interest in keeping the records confidential that outweighs the public interest in disclosing the records, or that the records are exempt from disclosure under [ORS 192.501 to 192.505] **sections 12 to 24 of this 2011 Act**. A determination by the director under this subsection is subject to review under ORS 192.410 to 192.505.

(3) Except as provided in subsections (4) and (5) of this section, the following records of the department are exempt from disclosure or production and shall be treated as confidential as provided in ORS 705.137:

1 (a) Examination reports and work papers, directives, orders and correspondence that relate to
 2 examination reports.

3 (b) Financial statements of and investigatory information concerning persons subject to investi-
 4 gation by the director under ORS 707.070, 707.080, 707.110, 707.140, 707.145, 707.155 or 707.705.

5 (c) Proprietary information.

6 (d) Reviews of financial statements submitted to the director.

7 (e) Reports filed under ORS 706.655.

8 (f) Stockholder lists.

9 (g) Correspondence, reports or other information obtained from or provided to the Financial
 10 Crimes Enforcement Network established by order of the United States Secretary of the Treasury.

11 (4) Notwithstanding subsection (3) of this section, the director may disclose a record that is
 12 specified in this subsection and that pertains to an Oregon operating institution that has been liq-
 13 uidated under ORS 711.400 to 711.615 if the director determines in a particular instance that the
 14 public interest in disclosure of the record outweighs the interests of the Oregon operating institu-
 15 tion or of the directors, stockholders, officers, employees or customers of the Oregon operating in-
 16 stitution in keeping the record confidential. The director may not in any circumstances, however,
 17 disclose a record or a portion of a record that contains proprietary information or information that
 18 relates to an individual's financial activities or affairs unless the director concludes that the activ-
 19 ities or affairs were a direct and substantial contributing factor in the failure of the Oregon oper-
 20 ating institution. This subsection applies to the following records of the department:

21 (a) Examination reports and work papers, directives, orders and correspondence relating to ex-
 22 amination reports;

23 (b) Investigatory information concerning persons subject to investigation by the director under
 24 ORS 707.070, 707.080, 707.110, 707.140, 707.145, 707.155 or 707.705;

25 (c) Reviews of financial statements; and

26 (d) Reports filed under ORS 706.655.

27 (5) Notwithstanding ORS 40.270, an officer of the department may be examined concerning re-
 28 cords that are exempt from disclosure under subsection (2) or (3) of this section and ORS 706.730.
 29 The records are subject to production if the court before which a civil or criminal action is pending
 30 finds that the examination and production is essential for establishing a claim or defense. In making
 31 a finding under this subsection, if the court views the records, the court shall do so in camera.

32 (6) A civil penalty imposed by the director under the Bank Act shall become subject to public
 33 inspection after the 20th day after the director imposes the civil penalty.

34 (7) All records of the department pertaining to the condition of Oregon operating institutions
 35 may be furnished to:

36 (a) The Federal Reserve Bank and examiners from the Federal Reserve Bank.

37 (b) The Comptroller of the Currency of the United States and national bank examiners.

38 (c) The Federal Deposit Insurance Corporation and examiners from the Federal Deposit Insur-
 39 ance Corporation.

40 (d) The Federal Home Loan Bank of which the operating institution is a member or to which
 41 the operating institution has applied for membership.

42 (e) The State Treasurer if the Oregon operating institution is or has applied to become a de-
 43 pository of public fund deposits.

44 (f) A supervisory authority that regulates financial institutions, financial holding companies or
 45 bank holding companies.

1 (g) The respective Oregon operating institution, or the financial holding company or bank hold-
2 ing company that controls an Oregon operating institution.

3 (8) The director shall prescribe and furnish to interested persons the forms for all reports re-
4 quired by the Bank Act.

5 (9) If the director is requested to disclose any record subject to this section and the record
6 contains both material that is exempt from disclosure under this section or any other provision of
7 law and material that is not exempt from disclosure, the director shall separate the exempt and
8 nonexempt material and shall disclose only the nonexempt material.

9 **SECTION 99.** ORS 723.118 is amended to read:

10 723.118. (1) The Director of the Department of Consumer and Business Services shall receive
11 and file in the Department of Consumer and Business Services all reports required under this
12 chapter.

13 (2) Except as provided in subsection (3) of this section, the records of the department pertaining
14 to the administration of this chapter are available for public inspection unless the director deter-
15 mines in a particular instance that the credit union or the directors, members, officers or employees
16 of the credit union have an interest in keeping the records confidential that outweighs the public
17 interest in disclosing the records, or that the records are exempt from disclosure under [ORS
18 192.501 to 192.505] **sections 12 to 24 of this 2011 Act**. A determination by the director under this
19 subsection is subject to review under ORS 192.410 to 192.505.

20 (3) Except as provided in subsections (4) and (5) of this section, the following records of the
21 department are exempt from disclosure or production and shall be treated as confidential as pro-
22 vided in ORS 705.137:

23 (a) Examination reports and work papers, directives, orders and correspondence that relate to
24 examination reports.

25 (b) Financial statements of and investigatory information concerning persons subject to investi-
26 gation by the director under ORS 723.014 or 723.132.

27 (c) Proprietary information.

28 (d) Reviews of financial statements submitted to the director.

29 (e) The name of a member or borrower and the amount of shares, deposits or debts of a member
30 or borrower.

31 (f) Correspondence, reports or other information obtained from or provided to the Financial
32 Crimes Enforcement Network established by order of the United States Secretary of the Treasury.

33 (4) Notwithstanding subsection (3) of this section and except as otherwise provided in this sub-
34 section, the director may disclose a record that is specified in this subsection and that pertains to
35 a credit union that has been liquidated under ORS 723.676 if the director determines in a particular
36 instance that the public interest in disclosing the record outweighs the interests of the credit union
37 or of the directors, members, officers or employees of the credit union in keeping the record confi-
38 dential. The director may not disclose a record or portion of a record that contains proprietary in-
39 formation or information that relates to an individual's financial activities or affairs unless the
40 director concludes that the activities or affairs were a direct and substantial contributing factor in
41 the failure of the credit union. This subsection applies to the following records of the department:

42 (a) Examination reports and work papers, directives, orders and correspondence that relate to
43 examination reports.

44 (b) Investigatory information concerning persons subject to investigation by the director under
45 ORS 723.014 or 723.132.

1 (c) Reviews of financial statements.

2 (d) Reports filed under ORS 723.106.

3 (5) Notwithstanding ORS 40.270, an officer of the department may be examined concerning re-
 4 cords that are exempt from disclosure under subsection (2) or (3) of this section. The records are
 5 subject to production if the court before which a civil or criminal action is pending finds that the
 6 examination and production is essential for establishing a claim or defense. In making a finding
 7 under this subsection, if the court views the records, the court shall do so in camera.

8 (6) All records of the department pertaining to the condition of credit unions may be furnished
 9 to:

10 (a) The National Credit Union Administration.

11 (b) The Federal Home Loan Bank of which the credit union is a member or to which the credit
 12 union has applied for membership.

13 (c) The State Treasurer if the credit union is a depository of public fund deposits.

14 (d) The respective credit union.

15 (7) If the director is requested to disclose a record subject to this section and the record con-
 16 tains both material that is exempt from disclosure under this section or any other provision of law
 17 and material that is not exempt from disclosure, the director shall separate the exempt and nonex-
 18 empt material and may disclose only the nonexempt material.

19 **SECTION 100.** ORS 743.862 is amended to read:

20 743.862. (1) An independent review organization shall perform the following duties when ap-
 21 pointed under ORS 743.857 to review a dispute under a health benefit plan between an insurer and
 22 an enrollee:

23 (a) Decide whether the dispute is covered by the conditions established in ORS 743.857 for ex-
 24 ternal review and notify the enrollee and insurer in writing of the decision. If the decision is against
 25 the enrollee, the independent review organization shall notify the enrollee of the right to file a
 26 complaint with or seek other assistance from the Director of the Department of Consumer and
 27 Business Services and the availability of other assistance as specified by the director.

28 (b) Appoint a reviewer or reviewers as determined appropriate by the independent review or-
 29 ganization.

30 (c) Notify the enrollee of information that the enrollee is required to provide and any additional
 31 information the enrollee may provide, and when the information must be submitted.

32 (d) Notify the insurer of additional information the independent review organization requires and
 33 when the information must be submitted.

34 (e) Decide the dispute relating to the adverse decision of the insurer under ORS 743.857 (1) and
 35 issue the decision in writing.

36 (2) A decision by an independent review organization shall be based on expert medical judgment
 37 after consideration of the enrollee's medical record, the recommendations of each of the enrollee's
 38 providers, relevant medical, scientific and cost-effectiveness evidence and standards of medical
 39 practice in the United States. An independent review organization must make its decision in ac-
 40 cordance with the coverage described in the health benefit plan, except that the independent review
 41 organization may override the insurer's standards for medically necessary or experimental or
 42 investigational treatment if the independent review organization determines that the standards of
 43 the insurer are unreasonable or are inconsistent with sound medical practice.

44 (3) When review is expedited, the independent review organization shall issue a decision not
 45 later than the third day after the date on which the enrollee applies to the insurer for an expedited

1 review.

2 (4) When a review is not expedited, the independent review organization shall issue a decision
3 not later than the 30th day after the enrollee applies to the insurer for a review.

4 (5) An independent review organization shall file synopses of its decisions with the director ac-
5 cording to the format and other requirements established by the director. The synopses shall exclude
6 information that is confidential, that is otherwise exempt from disclosure under [ORS 192.501 and
7 192.502] **sections 12 to 24 of this 2011 Act** or that may otherwise allow identification of an
8 enrollee. The director shall make the synopses public.

9 **SECTION 101.** ORS 777.795 is amended to read:

10 777.795. (1) Except as provided in subsection (2) of this section, the written records of an export
11 trading corporation shall be public records available for inspection under ORS 192.410 to 192.505.

12 (2) In addition to the exemptions set forth in [ORS 192.501 to 192.505] **sections 12 to 24 of this**
13 **2011 Act**, the following public records of an export trading corporation are exempt from disclosure:

14 (a) Information consisting of financial, commercial, sales, production, cost or similar business
15 records of a private concern or enterprise which is not otherwise required to be disclosed by state
16 or federal law.

17 (b) Trade secrets, as defined in [ORS 192.501 (2)] **ORS 646.461**.

18 **SECTION 102.** ORS 802.183 is amended to read:

19 802.183. (1) The Department of Transportation may establish fees reasonably calculated to re-
20 imburse it for its actual cost in making personal information available to a person or government
21 agency authorized under ORS 802.179 to obtain the information. Fees established under this sub-
22 section are subject to the provisions of [ORS 192.440 (4) to (6)] **ORS 192.410 to 192.505**.

23 (2) The department may adopt rules specifying conditions that must be met by a person or gov-
24 ernment agency requesting personal information under ORS 802.179. Such conditions may include
25 but need not be limited to:

26 (a) Providing reasonable assurance of the identity of the requester;

27 (b) Providing reasonable assurance of the uses to which the personal information will be put, if
28 applicable;

29 (c) Showing that the individual whose personal information is to be disclosed has given permis-
30 sion for the disclosure, if permission is required; and

31 (d) Submitting a written request for the personal information in a form prescribed by the de-
32 partment.

33 **SECTION 103.** ORS 802.187 is amended to read:

34 802.187. (1) Nothing in ORS 802.175 to 802.187 authorizes disclosure by the Department of
35 Transportation of personal information that is barred from disclosure by the provisions of [ORS
36 192.445 or 192.502 (2)] **sections 12 to 24 of this 2011 Act**.

37 (2) Nothing in ORS 802.175 to 802.187 prohibits an individual from having access to personal
38 information about the individual that is contained in motor vehicle records.

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REPEALS

42 **SECTION 104.** ORS 192.420, 192.423, 192.440, 192.445, 192.450, 192.460, 192.465, 192.470,
43 192.480, 192.490, 192.501 and 192.502 are repealed.

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MISCELLANEOUS

1 **SECTION 105.** (1) ORS 192.493, 192.496 and 192.505 are added to and made a part of
2 sections 12 to 24 of this 2011 Act.

3 (2) Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 to 24 are added to and made a part of ORS
4 192.410 to 192.505.

5 **SECTION 106.** The unit captions used in this 2011 Act are provided only for the conven-
6 ience of the reader and do not become part of the statutory law of this state or express any
7 legislative intent in the enactment of this 2011 Act.

8
