

# Senate Bill 470

Sponsored by Senators KRUSE, MONNES ANDERSON

## SUMMARY

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

Requires additional information related to dispensed prescription drugs to be reported to Oregon Health Authority under prescription monitoring program.

Directs authority to disclose information received pursuant to program under specified circumstances.

Makes information reported to authority under program, information disclosed by authority under program and all information related to such disclosures exempt from public disclosure.

## A BILL FOR AN ACT

1  
2 Relating to the prescription monitoring program administered by the Oregon Health Authority;  
3 creating new provisions; and amending ORS 192.502, 431.964 and 431.966.

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

5 **SECTION 1.** ORS 431.964 is amended to read:

6 431.964. (1) Not later than one week after dispensing a prescription drug **that is** subject to the  
7 prescription monitoring program established under ORS 431.962, a pharmacy shall electronically  
8 report to the Oregon Health Authority [*the*]:

9 [*(a) Name, address and date of birth of the patient;*]

10 [*(b) Identification of the pharmacy dispensing the prescription drug;*]

11 [*(c) Identification of the practitioner who prescribed the drug;*]

12 [*(d) Identification of the prescription drug by a national drug code number;*]

13 [*(e) Date of origin of the prescription;*]

14 [*(f) Date the drug was dispensed; and*]

15 [*(g) Quantity of drug dispensed.*]

16 **(a) The name, address, date of birth and sex of the patient for whom the prescription**  
17 **drug was prescribed;**

18 **(b) The identity of the pharmacy that dispensed the prescription drug and the date on**  
19 **which the prescription drug was dispensed;**

20 **(c) The identity of the practitioner who prescribed the prescription drug and the date on**  
21 **which the prescription drug was prescribed;**

22 **(d) The national drug code number for the prescription drug;**

23 **(e) The prescription number assigned to the prescription drug;**

24 **(f) The quantity of the prescription drug dispensed;**

25 **(g) The number of days for which the prescription drug was dispensed;**

26 **(h) The number of refills of the prescription authorized by the practitioner and the**  
27 **number of the refill that the pharmacy dispensed; and**

28 **(i) The source of payment for the prescription drug.**

29 (2) Notwithstanding subsection (1) of this section, the authority may not:

**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 (a) Require the reporting of prescription drugs administered directly to a patient or dispensed  
2 pursuant to ORS 127.800 to 127.897; or

3 (b) Collect or use Social Security numbers in the prescription monitoring program.

4 (3) Upon receipt of the data reported pursuant to subsection (1) of this section, the authority  
5 shall record the data in the electronic system operated pursuant to the prescription monitoring  
6 program.

7 (4)(a) The authority may grant a pharmacy a waiver of the electronic submission requirement  
8 of subsection (1) of this section for good cause as determined by the authority. The waiver shall  
9 state the format, method and frequency of the alternate nonelectronic submissions from the phar-  
10 macy and the duration of the waiver.

11 (b) As used in this subsection, "good cause" includes financial hardship.

12 (5) This section does not apply to pharmacies in institutions as defined in ORS 179.010.

13 **SECTION 2.** ORS 431.966 is amended to read:

14 431.966. (1)(a) Except as provided under subsection (2) of this section, prescription monitoring  
15 information submitted under ORS 431.964 to the prescription monitoring program established in ORS  
16 431.962:

17 (A) Is protected health information under ORS 192.553 to 192.581.

18 (B) Is not subject to disclosure pursuant to ORS 192.410 to 192.505.

19 (b) Except as provided under subsection [(2)(a)(D)] **(2)(a)(E)** of this section, prescription moni-  
20 toring information submitted under ORS 431.964 to the prescription monitoring program may not be  
21 used to evaluate a practitioner's professional practice.

22 **(2)(a) To the extent that the law or regulation is applicable to the prescription monitoring**  
23 **program**, if a disclosure of prescription monitoring information complies with the federal Health  
24 Insurance Portability and Accountability Act of 1996 (P.L. 104-191) and regulations adopted under  
25 it, including 45 C.F.R. parts 160 and 164, federal alcohol and drug treatment confidentiality laws  
26 and regulations adopted under those laws, including 42 C.F.R. part 2, and state health and mental  
27 health confidentiality laws, including ORS 179.505, 192.517 and 192.553 to 192.581, the Oregon Health  
28 Authority shall disclose the information:

29 (A) *[To a practitioner or pharmacist who certifies]* **To a practitioner or pharmacist, or, if a**  
30 **practitioner or pharmacist authorizes the authority to disclose the information to a member**  
31 **of the practitioner's or pharmacist's staff, to a member of the practitioner's or pharmacist's**  
32 **staff. To receive information under this subparagraph, or to authorize the receipt of infor-**  
33 **mation by a staff member under this subparagraph, a practitioner or pharmacist must cer-**  
34 **tify** that the requested information is for the purpose of evaluating the need for or providing medical  
35 or pharmaceutical treatment for a patient to whom the practitioner or pharmacist anticipates pro-  
36 viding, is providing or has provided care.

37 **(B) To a practitioner in a form that catalogs all prescription drugs prescribed by the**  
38 **practitioner according to the number assigned to the practitioner by the Drug Enforcement**  
39 **Administration of the United States Department of Justice.**

40 *[(B)]* (C) To designated representatives of the authority or any vendor or contractor with whom  
41 the authority has contracted to establish or maintain the electronic system of the prescription  
42 monitoring program.

43 *[(C)]* **(D)** Pursuant to a valid court order based on probable cause and issued at the request of  
44 a federal, state or local law enforcement agency engaged in an authorized drug-related investigation  
45 involving a person to whom the requested information pertains.

1        ~~[(D)]~~ **(E)** To a health professional regulatory board that certifies in writing that the requested  
 2 information is necessary for an investigation related to licensure, renewal or disciplinary action in-  
 3 volving the applicant, licensee or registrant to whom the requested information pertains.

4        ~~[(E)]~~ **(F)** To a prescription monitoring program of another state if the confidentiality, security  
 5 and privacy standards of the requesting state are determined by the authority to be equivalent to  
 6 those of the authority.

7        **(G) To the State Medical Examiner or designee of the State Medical Examiner, for the**  
 8 **purpose of conducting medicolegal investigation or autopsy.**

9        (b) The authority may disclose information from the prescription monitoring program that does  
 10 not identify a patient, practitioner or drug outlet:

11        (A) For educational, research or public health purposes; *[and]*

12        **(B) To a local public health authority, as defined in ORS 431.260; or**

13        ~~[(B)]~~ **(C)** To officials of the authority who are conducting special epidemiologic morbidity and  
 14 mortality studies in accordance with ORS 432.060 and rules adopted under ORS 431.110.

15        (c) The authority shall disclose information relating to a patient maintained in the electronic  
 16 system operated pursuant to the prescription monitoring program established under ORS 431.962 to  
 17 that patient at no cost to the patient within 10 business days after the authority receives a request  
 18 from the patient for the information.

19        (d)(A) A patient may request the authority to correct any information about the patient that is  
 20 erroneous. The authority shall grant or deny a request to correct information within 10 business  
 21 days after the authority receives the request.

22        (B) If the authority denies a patient's request to correct information under this paragraph, or  
 23 fails to grant a patient's request to correct information under this paragraph within 10 business days  
 24 after the authority receives the request, the patient may appeal the denial or failure to grant the  
 25 request. Upon receipt of an appeal under this subparagraph, the authority shall conduct a contested  
 26 case hearing as provided in ORS chapter 183. Notwithstanding ORS 183.450, in the contested case  
 27 hearing, the authority has the burden of establishing that the information included in the pre-  
 28 scription monitoring program is correct.

29        (e) The information in the prescription monitoring program may not be used for any commercial  
 30 purpose.

31        (f) In accordance with ORS 192.553 to 192.581 and federal privacy regulations, any person au-  
 32 thorized to prescribe or dispense a prescription drug and who is entitled to access a patient's pre-  
 33 scription monitoring information may discuss or release the information to other health care  
 34 providers involved with the patient's care, in order to provide safe and appropriate care coordi-  
 35 nation.

36        (3)(a) The authority shall maintain records of the information disclosed through the prescription  
 37 monitoring program including, but not limited to:

38        (A) The identity of each person who requests or receives information from the program and the  
 39 organization, if any, the person represents;

40        (B) The information released to each person or organization; and

41        (C) The date and time the information was requested and the date and time the information was  
 42 provided.

43        (b) Records maintained as required by this subsection may be reviewed by the Prescription  
 44 Monitoring Program Advisory Commission.

45        (4) Information in the prescription monitoring program that identifies an individual patient must

1 be removed no later than three years from the date the information is entered into the program.

2 (5) The authority shall notify the Attorney General and each affected individual of an improper  
 3 disclosure of information from the prescription monitoring program.

4 (6)(a) If the authority or a person or entity required to report or authorized to receive or release  
 5 controlled substance prescription information under this section violates this section or ORS 431.964  
 6 or 431.968, a person injured by the violation may bring a civil action against the authority, person  
 7 or entity and may recover damages in the amount of \$1,000 or actual damages, whichever is greater.

8 (b) Notwithstanding paragraph (a) of this subsection, the authority and a person or entity re-  
 9 quired to report or authorized to receive or release controlled substance prescription information  
 10 under this section are immune from civil liability for violations of this section or ORS 431.964 or  
 11 431.968 unless the authority, person or entity acts with malice, criminal intent, gross negligence,  
 12 recklessness or willful intent.

13 (7) Nothing in ORS 431.962 to 431.978 and 431.992 requires a practitioner or pharmacist who  
 14 prescribes or dispenses a prescription drug to obtain information about a patient from the pre-  
 15 scription monitoring program. A practitioner or pharmacist who prescribes or dispenses a pre-  
 16 scription drug may not be held liable for damages in any civil action on the basis that the  
 17 practitioner or pharmacist did or did not request or obtain information from the prescription moni-  
 18 toring program.

19 **SECTION 3.** ORS 192.502, as amended by section 26, chapter 45, Oregon Laws 2012, is amended  
 20 to read:

21 192.502. The following public records are exempt from disclosure under ORS 192.410 to 192.505:

22 (1) Communications within a public body or between public bodies of an advisory nature to the  
 23 extent that they cover other than purely factual materials and are preliminary to any final agency  
 24 determination of policy or action. This exemption shall not apply unless the public body shows that  
 25 in the particular instance the public interest in encouraging frank communication between officials  
 26 and employees of public bodies clearly outweighs the public interest in disclosure.

27 (2) Information of a personal nature such as but not limited to that kept in a personal, medical  
 28 or similar file, if public disclosure would constitute an unreasonable invasion of privacy, unless the  
 29 public interest by clear and convincing evidence requires disclosure in the particular instance. The  
 30 party seeking disclosure shall have the burden of showing that public disclosure would not consti-  
 31 tute an unreasonable invasion of privacy.

32 (3) Public body employee or volunteer addresses, Social Security numbers, dates of birth and  
 33 telephone numbers contained in personnel records maintained by the public body that is the em-  
 34 ployer or the recipient of volunteer services. This exemption:

35 (a) Does not apply to the addresses, dates of birth and telephone numbers of employees or vol-  
 36 unteers who are elected officials, except that a judge or district attorney subject to election may  
 37 seek to exempt the judge's or district attorney's address or telephone number, or both, under the  
 38 terms of ORS 192.445;

39 (b) Does not apply to employees or volunteers to the extent that the party seeking disclosure  
 40 shows by clear and convincing evidence that the public interest requires disclosure in a particular  
 41 instance;

42 (c) Does not apply to a substitute teacher as defined in ORS 342.815 when requested by a pro-  
 43 fessional education association of which the substitute teacher may be a member; and

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

45 (4) Information submitted to a public body in confidence and not otherwise required by law to

1 be submitted, where such information should reasonably be considered confidential, the public body  
2 has obliged itself in good faith not to disclose the information, and when the public interest would  
3 suffer by the disclosure.

4 (5) Information or records of the Department of Corrections, including the State Board of Parole  
5 and Post-Prison Supervision, to the extent that disclosure would interfere with the rehabilitation of  
6 a person in custody of the department or substantially prejudice or prevent the carrying out of the  
7 functions of the department, if the public interest in confidentiality clearly outweighs the public in-  
8 terest in disclosure.

9 (6) Records, reports and other information received or compiled by the Director of the Depart-  
10 ment of Consumer and Business Services in the administration of ORS chapters 723 and 725 not  
11 otherwise required by law to be made public, to the extent that the interests of lending institutions,  
12 their officers, employees and customers in preserving the confidentiality of such information out-  
13 weighs the public interest in disclosure.

14 (7) Reports made to or filed with the court under ORS 137.077 or 137.530.

15 (8) Any public records or information the disclosure of which is prohibited by federal law or  
16 regulations.

17 (9)(a) Public records or information the disclosure of which is prohibited or restricted or other-  
18 wise made confidential or privileged under Oregon law.

19 (b) Subject to ORS 192.423, paragraph (a) of this subsection does not apply to factual information  
20 compiled in a public record when:

21 (A) The basis for the claim of exemption is ORS 40.225;

22 (B) The factual information is not prohibited from disclosure under any applicable state or fed-  
23 eral law, regulation or court order and is not otherwise exempt from disclosure under ORS 192.410  
24 to 192.505;

25 (C) The factual information was compiled by or at the direction of an attorney as part of an  
26 investigation on behalf of the public body in response to information of possible wrongdoing by the  
27 public body;

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

31 (E) The holder of the privilege under ORS 40.225 has made or authorized a public statement  
32 characterizing or partially disclosing the factual information compiled by or at the attorney's di-  
33 rection.

34 (10) Public records or information described in this section, furnished by the public body ori-  
35 ginally compiling, preparing or receiving them to any other public officer or public body in con-  
36 nection with performance of the duties of the recipient, if the considerations originally giving rise  
37 to the confidential or exempt nature of the public records or information remain applicable.

38 (11) Records of the Energy Facility Siting Council concerning the review or approval of security  
39 programs pursuant to ORS 469.530.

40 (12) Employee and retiree address, telephone number and other nonfinancial membership records  
41 and employee financial records maintained by the Public Employees Retirement System pursuant to  
42 ORS chapters 238 and 238A.

43 (13) Records of or submitted to the State Treasurer, the Oregon Investment Council or the  
44 agents of the treasurer or the council relating to active or proposed publicly traded investments  
45 under ORS chapter 293, including but not limited to records regarding the acquisition, exchange or

1 liquidation of the investments. For the purposes of this subsection:

2 (a) The exemption does not apply to:

3 (A) Information in investment records solely related to the amount paid directly into an invest-  
4 ment by, or returned from the investment directly to, the treasurer or council; or

5 (B) The identity of the entity to which the amount was paid directly or from which the amount  
6 was received directly.

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

9 (14)(a) Records of or submitted to the State Treasurer, the Oregon Investment Council, the  
10 Oregon Growth Account Board or the agents of the treasurer, council or board relating to actual  
11 or proposed investments under ORS chapter 293 or 348 in a privately placed investment fund or a  
12 private asset including but not limited to records regarding the solicitation, acquisition, deployment,  
13 exchange or liquidation of the investments including but not limited to:

14 (A) Due diligence materials that are proprietary to an investment fund, to an asset ownership  
15 or to their respective investment vehicles.

16 (B) Financial statements of an investment fund, an asset ownership or their respective invest-  
17 ment vehicles.

18 (C) Meeting materials of an investment fund, an asset ownership or their respective investment  
19 vehicles.

20 (D) Records containing information regarding the portfolio positions in which an investment  
21 fund, an asset ownership or their respective investment vehicles invest.

22 (E) Capital call and distribution notices of an investment fund, an asset ownership or their re-  
23 spective investment vehicles.

24 (F) Investment agreements and related documents.

25 (b) The exemption under this subsection does not apply to:

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

27 (B) The dollar amount of the commitment made to each privately placed investment fund since  
28 inception of the fund.

29 (C) The dollar amount of cash contributions made to each privately placed investment fund since  
30 inception of the fund.

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

34 (E) The dollar amount, on a fiscal year-end basis, of the remaining value of assets in a privately  
35 placed investment fund attributable to an investment by the State Treasurer, the Oregon Investment  
36 Council, the Oregon Growth Account Board or the agents of the treasurer, council or board.

37 (F) The net internal rate of return of each privately placed investment fund since inception of  
38 the fund.

39 (G) The investment multiple of each privately placed investment fund since inception of the fund.

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

42 (I) The dollar amount of cash profit received from each privately placed investment fund on a  
43 fiscal year-end basis.

44 (15) The monthly reports prepared and submitted under ORS 293.761 and 293.766 concerning the  
45 Public Employees Retirement Fund and the Industrial Accident Fund may be uniformly treated as

1 exempt from disclosure for a period of up to 90 days after the end of the calendar quarter.

2 (16) Reports of unclaimed property filed by the holders of such property to the extent permitted  
3 by ORS 98.352.

4 (17)(a) The following records, communications and information submitted to the Oregon Business  
5 Development Commission, the Oregon Business Development Department, the State Department of  
6 Agriculture, the Oregon Growth Account Board, the Port of Portland or other ports as defined in  
7 ORS 777.005, or a county or city governing body and any board, department, commission, council  
8 or agency thereof, by applicants for investment funds, grants, loans, services or economic develop-  
9 ment moneys, support or assistance including, but not limited to, those described in ORS 285A.224:

10 (A) Personal financial statements.

11 (B) Financial statements of applicants.

12 (C) Customer lists.

13 (D) Information of an applicant pertaining to litigation to which the applicant is a party if the  
14 complaint has been filed, or if the complaint has not been filed, if the applicant shows that such  
15 litigation is reasonably likely to occur; this exemption does not apply to litigation which has been  
16 concluded, and nothing in this subparagraph shall limit any right or opportunity granted by discov-  
17 ery or deposition statutes to a party to litigation or potential litigation.

18 (E) Production, sales and cost data.

19 (F) Marketing strategy information that relates to applicant's plan to address specific markets  
20 and applicant's strategy regarding specific competitors.

21 (b) The following records, communications and information submitted to the State Department  
22 of Energy by applicants for tax credits or for grants awarded under ORS 469B.256:

23 (A) Personal financial statements.

24 (B) Financial statements of applicants.

25 (C) Customer lists.

26 (D) Information of an applicant pertaining to litigation to which the applicant is a party if the  
27 complaint has been filed, or if the complaint has not been filed, if the applicant shows that such  
28 litigation is reasonably likely to occur; this exemption does not apply to litigation which has been  
29 concluded, and nothing in this subparagraph shall limit any right or opportunity granted by discov-  
30 ery or deposition statutes to a party to litigation or potential litigation.

31 (E) Production, sales and cost data.

32 (F) Marketing strategy information that relates to applicant's plan to address specific markets  
33 and applicant's strategy regarding specific competitors.

34 (18) Records, reports or returns submitted by private concerns or enterprises required by law  
35 to be submitted to or inspected by a governmental body to allow it to determine the amount of any  
36 transient lodging tax payable and the amounts of such tax payable or paid, to the extent that such  
37 information is in a form which would permit identification of the individual concern or enterprise.  
38 Nothing in this subsection shall limit the use which can be made of such information for regulatory  
39 purposes or its admissibility in any enforcement proceedings. The public body shall notify the tax-  
40 payer of the delinquency immediately by certified mail. However, in the event that the payment or  
41 delivery of transient lodging taxes otherwise due to a public body is delinquent by over 60 days, the  
42 public body shall disclose, upon the request of any person, the following information:

43 (a) The identity of the individual concern or enterprise that is delinquent over 60 days in the  
44 payment or delivery of the taxes.

45 (b) The period for which the taxes are delinquent.

- 1 (c) The actual, or estimated, amount of the delinquency.
- 2 (19) All information supplied by a person under ORS 151.485 for the purpose of requesting ap-  
 3 pointed counsel, and all information supplied to the court from whatever source for the purpose of  
 4 verifying the financial eligibility of a person pursuant to ORS 151.485.
- 5 (20) Workers' compensation claim records of the Department of Consumer and Business Services,  
 6 except in accordance with rules adopted by the Director of the Department of Consumer and Busi-  
 7 ness Services, in any of the following circumstances:
- 8 (a) When necessary for insurers, self-insured employers and third party claim administrators to  
 9 process workers' compensation claims.
- 10 (b) When necessary for the director, other governmental agencies of this state or the United  
 11 States to carry out their duties, functions or powers.
- 12 (c) When the disclosure is made in such a manner that the disclosed information cannot be used  
 13 to identify any worker who is the subject of a claim.
- 14 (d) When a worker or the worker's representative requests review of the worker's claim record.
- 15 (21) Sensitive business records or financial or commercial information of the Oregon Health and  
 16 Science University that is not customarily provided to business competitors.
- 17 (22) Records of Oregon Health and Science University regarding candidates for the position of  
 18 president of the university.
- 19 (23) The records of a library, including:
- 20 (a) Circulation records, showing use of specific library material by a named person;
- 21 (b) The name of a library patron together with the address or telephone number of the patron;  
 22 and
- 23 (c) The electronic mail address of a patron.
- 24 (24) The following records, communications and information obtained by the Housing and Com-  
 25 munity Services Department in connection with the department's monitoring or administration of  
 26 financial assistance or of housing or other developments:
- 27 (a) Personal and corporate financial statements and information, including tax returns.
- 28 (b) Credit reports.
- 29 (c) Project appraisals.
- 30 (d) Market studies and analyses.
- 31 (e) Articles of incorporation, partnership agreements and operating agreements.
- 32 (f) Commitment letters.
- 33 (g) Project pro forma statements.
- 34 (h) Project cost certifications and cost data.
- 35 (i) Audits.
- 36 (j) Project tenant correspondence.
- 37 (k) Personal information about a tenant.
- 38 (L) Housing assistance payments.
- 39 (25) Raster geographic information system (GIS) digital databases, provided by private forestland  
 40 owners or their representatives, voluntarily and in confidence to the State Forestry Department,  
 41 that is not otherwise required by law to be submitted.
- 42 (26) Sensitive business, commercial or financial information furnished to or developed by a  
 43 public body engaged in the business of providing electricity or electricity services, if the information  
 44 is directly related to a transaction described in ORS 261.348, or if the information is directly related  
 45 to a bid, proposal or negotiations for the sale or purchase of electricity or electricity services, and



1 disclosure of the information would cause a competitive disadvantage for the public body or its re-  
 2 tail electricity customers. This subsection does not apply to cost-of-service studies used in the de-  
 3 velopment or review of generally applicable rate schedules.

4 (27) Sensitive business, commercial or financial information furnished to or developed by the  
 5 City of Klamath Falls, acting solely in connection with the ownership and operation of the Klamath  
 6 Cogeneration Project, if the information is directly related to a transaction described in ORS 225.085  
 7 and disclosure of the information would cause a competitive disadvantage for the Klamath  
 8 Cogeneration Project. This subsection does not apply to cost-of-service studies used in the develop-  
 9 ment or review of generally applicable rate schedules.

10 (28) Personally identifiable information about customers of a municipal electric utility or a  
 11 people's utility district or the names, dates of birth, driver license numbers, telephone numbers,  
 12 electronic mail addresses or Social Security numbers of customers who receive water, sewer or  
 13 storm drain services from a public body as defined in ORS 174.109. The utility or district may re-  
 14 lease personally identifiable information about a customer, and a public body providing water, sewer  
 15 or storm drain services may release the name, date of birth, driver license number, telephone num-  
 16 ber, electronic mail address or Social Security number of a customer, if the customer consents in  
 17 writing or electronically, if the disclosure is necessary for the utility, district or other public body  
 18 to render services to the customer, if the disclosure is required pursuant to a court order or if the  
 19 disclosure is otherwise required by federal or state law. The utility, district or other public body  
 20 may charge as appropriate for the costs of providing such information. The utility, district or other  
 21 public body may make customer records available to third party credit agencies on a regular basis  
 22 in connection with the establishment and management of customer accounts or in the event such  
 23 accounts are delinquent.

24 (29) A record of the street and number of an employee's address submitted to a special district  
 25 to obtain assistance in promoting an alternative to single occupant motor vehicle transportation.

26 (30) Sensitive business records, capital development plans or financial or commercial information  
 27 of Oregon Corrections Enterprises that is not customarily provided to business competitors.

28 (31) Documents, materials or other information submitted to the Director of the Department of  
 29 Consumer and Business Services in confidence by a state, federal, foreign or international regulatory  
 30 or law enforcement agency or by the National Association of Insurance Commissioners, its affiliates  
 31 or subsidiaries under ORS 86A.095 to 86A.198, 697.005 to 697.095, 697.602 to 697.842, 705.137, 717.200  
 32 to 717.320, 717.900 or 717.905, ORS chapter 59, 723, 725 or 726, the Bank Act or the Insurance Code  
 33 when:

34 (a) The document, material or other information is received upon notice or with an under-  
 35 standing that it is confidential or privileged under the laws of the jurisdiction that is the source of  
 36 the document, material or other information; and

37 (b) The director has obligated the Department of Consumer and Business Services not to dis-  
 38 close the document, material or other information.

39 (32) A county elections security plan developed and filed under ORS 254.074.

40 (33) Information about review or approval of programs relating to the security of:

41 (a) Generation, storage or conveyance of:

42 (A) Electricity;

43 (B) Gas in liquefied or gaseous form;

44 (C) Hazardous substances as defined in ORS 453.005 (7)(a), (b) and (d);

45 (D) Petroleum products;

1 (E) Sewage; or

2 (F) Water.

3 (b) Telecommunication systems, including cellular, wireless or radio systems.

4 (c) Data transmissions by whatever means provided.

5 (34) The information specified in ORS 25.020 (8) if the Chief Justice of the Supreme Court des-  
6 ignates the information as confidential by rule under ORS 1.002.

7 (35)(a) Employer account records of the State Accident Insurance Fund Corporation.

8 (b) As used in this subsection, “employer account records” means all records maintained in any  
9 form that are specifically related to the account of any employer insured, previously insured or un-  
10 der consideration to be insured by the State Accident Insurance Fund Corporation and any infor-  
11 mation obtained or developed by the corporation in connection with providing, offering to provide  
12 or declining to provide insurance to a specific employer. “Employer account records” includes, but  
13 is not limited to, an employer’s payroll records, premium payment history, payroll classifications,  
14 employee names and identification information, experience modification factors, loss experience and  
15 dividend payment history.

16 (c) The exemption provided by this subsection may not serve as the basis for opposition to the  
17 discovery documents in litigation pursuant to applicable rules of civil procedure.

18 (36)(a) Claimant files of the State Accident Insurance Fund Corporation.

19 (b) As used in this subsection, “claimant files” includes, but is not limited to, all records held  
20 by the corporation pertaining to a person who has made a claim, as defined in ORS 656.005, and all  
21 records pertaining to such a claim.

22 (c) The exemption provided by this subsection may not serve as the basis for opposition to the  
23 discovery documents in litigation pursuant to applicable rules of civil procedure.

24 (37) Except as authorized by ORS 408.425, records that certify or verify an individual’s discharge  
25 or other separation from military service.

26 (38) Records of or submitted to a domestic violence service or resource center that relate to the  
27 name or personal information of an individual who visits a center for service, including the date of  
28 service, the type of service received, referrals or contact information or personal information of a  
29 family member of the individual. As used in this subsection, “domestic violence service or resource  
30 center” means an entity, the primary purpose of which is to assist persons affected by domestic or  
31 sexual violence by providing referrals, resource information or other assistance specifically of ben-  
32 efit to domestic or sexual violence victims.

33 **(39) Information reported to the Oregon Health Authority under ORS 431.964, information**  
34 **disclosed by the authority under ORS 431.966 and any information related to disclosures**  
35 **made by the authority under ORS 431.966, including information identifying the recipient of**  
36 **the information.**

37 **SECTION 4.** ORS 192.502, as amended by section 26, chapter 45, Oregon Laws 2012, and  
38 sections 19 and 30, chapter 90, Oregon Laws 2012, is amended to read:

39 192.502. The following public records are exempt from disclosure under ORS 192.410 to 192.505:

40 (1) Communications within a public body or between public bodies of an advisory nature to the  
41 extent that they cover other than purely factual materials and are preliminary to any final agency  
42 determination of policy or action. This exemption shall not apply unless the public body shows that  
43 in the particular instance the public interest in encouraging frank communication between officials  
44 and employees of public bodies clearly outweighs the public interest in disclosure.

45 (2) Information of a personal nature such as but not limited to that kept in a personal, medical

1 or similar file, if public disclosure would constitute an unreasonable invasion of privacy, unless the  
2 public interest by clear and convincing evidence requires disclosure in the particular instance. The  
3 party seeking disclosure shall have the burden of showing that public disclosure would not consti-  
4 tute an unreasonable invasion of privacy.

5 (3) Public body employee or volunteer addresses, Social Security numbers, dates of birth and  
6 telephone numbers contained in personnel records maintained by the public body that is the em-  
7 ployer or the recipient of volunteer services. This exemption:

8 (a) Does not apply to the addresses, dates of birth and telephone numbers of employees or vol-  
9 unteers who are elected officials, except that a judge or district attorney subject to election may  
10 seek to exempt the judge's or district attorney's address or telephone number, or both, under the  
11 terms of ORS 192.445;

12 (b) Does not apply to employees or volunteers to the extent that the party seeking disclosure  
13 shows by clear and convincing evidence that the public interest requires disclosure in a particular  
14 instance;

15 (c) Does not apply to a substitute teacher as defined in ORS 342.815 when requested by a pro-  
16 fessional education association of which the substitute teacher may be a member; and

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

18 (4) Information submitted to a public body in confidence and not otherwise required by law to  
19 be submitted, where such information should reasonably be considered confidential, the public body  
20 has obliged itself in good faith not to disclose the information, and when the public interest would  
21 suffer by the disclosure.

22 (5) Information or records of the Department of Corrections, including the State Board of Parole  
23 and Post-Prison Supervision, to the extent that disclosure would interfere with the rehabilitation of  
24 a person in custody of the department or substantially prejudice or prevent the carrying out of the  
25 functions of the department, if the public interest in confidentiality clearly outweighs the public in-  
26 terest in disclosure.

27 (6) Records, reports and other information received or compiled by the Director of the Depart-  
28 ment of Consumer and Business Services in the administration of ORS chapters 723 and 725 not  
29 otherwise required by law to be made public, to the extent that the interests of lending institutions,  
30 their officers, employees and customers in preserving the confidentiality of such information out-  
31 weighs the public interest in disclosure.

32 (7) Reports made to or filed with the court under ORS 137.077 or 137.530.

33 (8) Any public records or information the disclosure of which is prohibited by federal law or  
34 regulations.

35 (9)(a) Public records or information the disclosure of which is prohibited or restricted or other-  
36 wise made confidential or privileged under Oregon law.

37 (b) Subject to ORS 192.423, paragraph (a) of this subsection does not apply to factual information  
38 compiled in a public record when:

39 (A) The basis for the claim of exemption is ORS 40.225;

40 (B) The factual information is not prohibited from disclosure under any applicable state or fed-  
41 eral law, regulation or court order and is not otherwise exempt from disclosure under ORS 192.410  
42 to 192.505;

43 (C) The factual information was compiled by or at the direction of an attorney as part of an  
44 investigation on behalf of the public body in response to information of possible wrongdoing by the  
45 public body;

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

4 (E) The holder of the privilege under ORS 40.225 has made or authorized a public statement  
5 characterizing or partially disclosing the factual information compiled by or at the attorney's di-  
6 rection.

7 (10) Public records or information described in this section, furnished by the public body ori-  
8 ginally compiling, preparing or receiving them to any other public officer or public body in con-  
9 nection with performance of the duties of the recipient, if the considerations originally giving rise  
10 to the confidential or exempt nature of the public records or information remain applicable.

11 (11) Records of the Energy Facility Siting Council concerning the review or approval of security  
12 programs pursuant to ORS 469.530.

13 (12) Employee and retiree address, telephone number and other nonfinancial membership records  
14 and employee financial records maintained by the Public Employees Retirement System pursuant to  
15 ORS chapters 238 and 238A.

16 (13) Records of or submitted to the State Treasurer, the Oregon Investment Council or the  
17 agents of the treasurer or the council relating to active or proposed publicly traded investments  
18 under ORS chapter 293, including but not limited to records regarding the acquisition, exchange or  
19 liquidation of the investments. For the purposes of this subsection:

20 (a) The exemption does not apply to:

21 (A) Information in investment records solely related to the amount paid directly into an invest-  
22 ment by, or returned from the investment directly to, the treasurer or council; or

23 (B) The identity of the entity to which the amount was paid directly or from which the amount  
24 was received directly.

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

27 (14)(a) Records of or submitted to the State Treasurer, the Oregon Investment Council, the  
28 Oregon Growth Account Board or the agents of the treasurer, council or board relating to actual  
29 or proposed investments under ORS chapter 293 or 348 in a privately placed investment fund or a  
30 private asset including but not limited to records regarding the solicitation, acquisition, deployment,  
31 exchange or liquidation of the investments including but not limited to:

32 (A) Due diligence materials that are proprietary to an investment fund, to an asset ownership  
33 or to their respective investment vehicles.

34 (B) Financial statements of an investment fund, an asset ownership or their respective invest-  
35 ment vehicles.

36 (C) Meeting materials of an investment fund, an asset ownership or their respective investment  
37 vehicles.

38 (D) Records containing information regarding the portfolio positions in which an investment  
39 fund, an asset ownership or their respective investment vehicles invest.

40 (E) Capital call and distribution notices of an investment fund, an asset ownership or their re-  
41 spective investment vehicles.

42 (F) Investment agreements and related documents.

43 (b) The exemption under this subsection does not apply to:

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

45 (B) The dollar amount of the commitment made to each privately placed investment fund since

1 inception of the fund.

2 (C) The dollar amount of cash contributions made to each privately placed investment fund since  
3 inception of the fund.

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

7 (E) The dollar amount, on a fiscal year-end basis, of the remaining value of assets in a privately  
8 placed investment fund attributable to an investment by the State Treasurer, the Oregon Investment  
9 Council, the Oregon Growth Account Board or the agents of the treasurer, council or board.

10 (F) The net internal rate of return of each privately placed investment fund since inception of  
11 the fund.

12 (G) The investment multiple of each privately placed investment fund since inception of the fund.

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

15 (I) The dollar amount of cash profit received from each privately placed investment fund on a  
16 fiscal year-end basis.

17 (15) The monthly reports prepared and submitted under ORS 293.761 and 293.766 concerning the  
18 Public Employees Retirement Fund and the Industrial Accident Fund may be uniformly treated as  
19 exempt from disclosure for a period of up to 90 days after the end of the calendar quarter.

20 (16) Reports of unclaimed property filed by the holders of such property to the extent permitted  
21 by ORS 98.352.

22 (17)(a) The following records, communications and information submitted to the Oregon Business  
23 Development Commission, the Oregon Business Development Department, the State Department of  
24 Agriculture, the Oregon Growth Account Board, the Port of Portland or other ports as defined in  
25 ORS 777.005, or a county or city governing body and any board, department, commission, council  
26 or agency thereof, by applicants for investment funds, grants, loans, services or economic develop-  
27 ment moneys, support or assistance including, but not limited to, those described in ORS 285A.224:

28 (A) Personal financial statements.

29 (B) Financial statements of applicants.

30 (C) Customer lists.

31 (D) Information of an applicant pertaining to litigation to which the applicant is a party if the  
32 complaint has been filed, or if the complaint has not been filed, if the applicant shows that such  
33 litigation is reasonably likely to occur; this exemption does not apply to litigation which has been  
34 concluded, and nothing in this subparagraph shall limit any right or opportunity granted by discov-  
35 ery or deposition statutes to a party to litigation or potential litigation.

36 (E) Production, sales and cost data.

37 (F) Marketing strategy information that relates to applicant's plan to address specific markets  
38 and applicant's strategy regarding specific competitors.

39 (b) The following records, communications and information submitted to the State Department  
40 of Energy by applicants for tax credits or for grants awarded under ORS 469B.256:

41 (A) Personal financial statements.

42 (B) Financial statements of applicants.

43 (C) Customer lists.

44 (D) Information of an applicant pertaining to litigation to which the applicant is a party if the  
45 complaint has been filed, or if the complaint has not been filed, if the applicant shows that such

1 litigation is reasonably likely to occur; this exemption does not apply to litigation which has been  
2 concluded, and nothing in this subparagraph shall limit any right or opportunity granted by discov-  
3 ery or deposition statutes to a party to litigation or potential litigation.

4 (E) Production, sales and cost data.

5 (F) Marketing strategy information that relates to applicant's plan to address specific markets  
6 and applicant's strategy regarding specific competitors.

7 (18) Records, reports or returns submitted by private concerns or enterprises required by law  
8 to be submitted to or inspected by a governmental body to allow it to determine the amount of any  
9 transient lodging tax payable and the amounts of such tax payable or paid, to the extent that such  
10 information is in a form which would permit identification of the individual concern or enterprise.  
11 Nothing in this subsection shall limit the use which can be made of such information for regulatory  
12 purposes or its admissibility in any enforcement proceedings. The public body shall notify the tax-  
13 payer of the delinquency immediately by certified mail. However, in the event that the payment or  
14 delivery of transient lodging taxes otherwise due to a public body is delinquent by over 60 days, the  
15 public body shall disclose, upon the request of any person, the following information:

16 (a) The identity of the individual concern or enterprise that is delinquent over 60 days in the  
17 payment or delivery of the taxes.

18 (b) The period for which the taxes are delinquent.

19 (c) The actual, or estimated, amount of the delinquency.

20 (19) All information supplied by a person under ORS 151.485 for the purpose of requesting ap-  
21 pointed counsel, and all information supplied to the court from whatever source for the purpose of  
22 verifying the financial eligibility of a person pursuant to ORS 151.485.

23 (20) Workers' compensation claim records of the Department of Consumer and Business Services,  
24 except in accordance with rules adopted by the Director of the Department of Consumer and Busi-  
25 ness Services, in any of the following circumstances:

26 (a) When necessary for insurers, self-insured employers and third party claim administrators to  
27 process workers' compensation claims.

28 (b) When necessary for the director, other governmental agencies of this state or the United  
29 States to carry out their duties, functions or powers.

30 (c) When the disclosure is made in such a manner that the disclosed information cannot be used  
31 to identify any worker who is the subject of a claim.

32 (d) When a worker or the worker's representative requests review of the worker's claim record.

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

35 (22) Records of Oregon Health and Science University regarding candidates for the position of  
36 president of the university.

37 (23) The records of a library, including:

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

39 (b) The name of a library patron together with the address or telephone number of the patron;  
40 and

41 (c) The electronic mail address of a patron.

42 (24) The following records, communications and information obtained by the Housing and Com-  
43 munity Services Department in connection with the department's monitoring or administration of  
44 financial assistance or of housing or other developments:

45 (a) Personal and corporate financial statements and information, including tax returns.

- 1 (b) Credit reports.
- 2 (c) Project appraisals.
- 3 (d) Market studies and analyses.
- 4 (e) Articles of incorporation, partnership agreements and operating agreements.
- 5 (f) Commitment letters.
- 6 (g) Project pro forma statements.
- 7 (h) Project cost certifications and cost data.
- 8 (i) Audits.
- 9 (j) Project tenant correspondence.
- 10 (k) Personal information about a tenant.
- 11 (L) Housing assistance payments.

12 (25) Raster geographic information system (GIS) digital databases, provided by private forestland  
13 owners or their representatives, voluntarily and in confidence to the State Forestry Department,  
14 that is not otherwise required by law to be submitted.

15 (26) Sensitive business, commercial or financial information furnished to or developed by a  
16 public body engaged in the business of providing electricity or electricity services, if the information  
17 is directly related to a transaction described in ORS 261.348, or if the information is directly related  
18 to a bid, proposal or negotiations for the sale or purchase of electricity or electricity services, and  
19 disclosure of the information would cause a competitive disadvantage for the public body or its re-  
20 tail electricity customers. This subsection does not apply to cost-of-service studies used in the de-  
21 velopment or review of generally applicable rate schedules.

22 (27) Sensitive business, commercial or financial information furnished to or developed by the  
23 City of Klamath Falls, acting solely in connection with the ownership and operation of the Klamath  
24 Cogeneration Project, if the information is directly related to a transaction described in ORS 225.085  
25 and disclosure of the information would cause a competitive disadvantage for the Klamath  
26 Cogeneration Project. This subsection does not apply to cost-of-service studies used in the develop-  
27 ment or review of generally applicable rate schedules.

28 (28) Personally identifiable information about customers of a municipal electric utility or a  
29 people's utility district or the names, dates of birth, driver license numbers, telephone numbers,  
30 electronic mail addresses or Social Security numbers of customers who receive water, sewer or  
31 storm drain services from a public body as defined in ORS 174.109. The utility or district may re-  
32 lease personally identifiable information about a customer, and a public body providing water, sewer  
33 or storm drain services may release the name, date of birth, driver license number, telephone num-  
34 ber, electronic mail address or Social Security number of a customer, if the customer consents in  
35 writing or electronically, if the disclosure is necessary for the utility, district or other public body  
36 to render services to the customer, if the disclosure is required pursuant to a court order or if the  
37 disclosure is otherwise required by federal or state law. The utility, district or other public body  
38 may charge as appropriate for the costs of providing such information. The utility, district or other  
39 public body may make customer records available to third party credit agencies on a regular basis  
40 in connection with the establishment and management of customer accounts or in the event such  
41 accounts are delinquent.

42 (29) A record of the street and number of an employee's address submitted to a special district  
43 to obtain assistance in promoting an alternative to single occupant motor vehicle transportation.

44 (30) Sensitive business records, capital development plans or financial or commercial information  
45 of Oregon Corrections Enterprises that is not customarily provided to business competitors.

1 (31) Documents, materials or other information submitted to the Director of the Department of  
2 Consumer and Business Services in confidence by a state, federal, foreign or international regulatory  
3 or law enforcement agency or by the National Association of Insurance Commissioners, its affiliates  
4 or subsidiaries under ORS 86A.095 to 86A.198, 697.005 to 697.095, 697.602 to 697.842, 705.137, 717.200  
5 to 717.320, 717.900 or 717.905, ORS chapter 59, 723, 725 or 726, the Bank Act or the Insurance Code  
6 when:

7 (a) The document, material or other information is received upon notice or with an under-  
8 standing that it is confidential or privileged under the laws of the jurisdiction that is the source of  
9 the document, material or other information; and

10 (b) The director has obligated the Department of Consumer and Business Services not to dis-  
11 close the document, material or other information.

12 (32) A county elections security plan developed and filed under ORS 254.074.

13 (33) Information about review or approval of programs relating to the security of:

14 (a) Generation, storage or conveyance of:

15 (A) Electricity;

16 (B) Gas in liquefied or gaseous form;

17 (C) Hazardous substances as defined in ORS 453.005 (7)(a), (b) and (d);

18 (D) Petroleum products;

19 (E) Sewage; or

20 (F) Water.

21 (b) Telecommunication systems, including cellular, wireless or radio systems.

22 (c) Data transmissions by whatever means provided.

23 (34) The information specified in ORS 25.020 (8) if the Chief Justice of the Supreme Court des-  
24 ignates the information as confidential by rule under ORS 1.002.

25 (35)(a) Employer account records of the State Accident Insurance Fund Corporation.

26 (b) As used in this subsection, "employer account records" means all records maintained in any  
27 form that are specifically related to the account of any employer insured, previously insured or un-  
28 der consideration to be insured by the State Accident Insurance Fund Corporation and any infor-  
29 mation obtained or developed by the corporation in connection with providing, offering to provide  
30 or declining to provide insurance to a specific employer. "Employer account records" includes, but  
31 is not limited to, an employer's payroll records, premium payment history, payroll classifications,  
32 employee names and identification information, experience modification factors, loss experience and  
33 dividend payment history.

34 (c) The exemption provided by this subsection may not serve as the basis for opposition to the  
35 discovery documents in litigation pursuant to applicable rules of civil procedure.

36 (36)(a) Claimant files of the State Accident Insurance Fund Corporation.

37 (b) As used in this subsection, "claimant files" includes, but is not limited to, all records held  
38 by the corporation pertaining to a person who has made a claim, as defined in ORS 656.005, and all  
39 records pertaining to such a claim.

40 (c) The exemption provided by this subsection may not serve as the basis for opposition to the  
41 discovery documents in litigation pursuant to applicable rules of civil procedure.

42 (37) Except as authorized by ORS 408.425, records that certify or verify an individual's discharge  
43 or other separation from military service.

44 (38) Records of or submitted to a domestic violence service or resource center that relate to the  
45 name or personal information of an individual who visits a center for service, including the date of



1 service, the type of service received, referrals or contact information or personal information of a  
2 family member of the individual. As used in this subsection, “domestic violence service or resource  
3 center” means an entity, the primary purpose of which is to assist persons affected by domestic or  
4 sexual violence by providing referrals, resource information or other assistance specifically of ben-  
5 efit to domestic or sexual violence victims.

6 **(39) Information reported to the Oregon Health Authority under ORS 431.964, information**  
7 **disclosed by the authority under ORS 431.966 and any information related to disclosures**  
8 **made by the authority under ORS 431.966, including information identifying the recipient of**  
9 **the information.**

10 **SECTION 5. (1) The amendments to ORS 431.964 by section 1 of this 2013 Act apply to**  
11 **prescription drugs dispensed on or after the effective date of this 2013 Act.**

12 **(2) The amendments to ORS 192.502 and 431.966 by sections 2 to 4 of this 2013 Act apply**  
13 **to information related to prescription drugs dispensed before, on or after the effective date**  
14 **of this 2013 Act.**