

Enrolled House Bill 4092

Sponsored by Representative MARSH, Senator BEYER, Representatives OWENS, HAYDEN, KROPF, SMITH G, Senators ARMITAGE, MANNING JR; Representatives CAMPOS, DEXTER, EVANS, GOMBERG, GRAYBER, HELM, HOLVEY, HOY, HUDSON, MCLAIN, NATHANSON, NERON, PHAM, POWER, PRUSAK, REYNOLDS, RUIZ, SANCHEZ, SCHOUTEN, SMITH DB, VALDERRAMA, WILDE, WILLIAMS, WITT, WRIGHT, Senators DEMBROW, FINDLEY, FREDERICK, GOLDEN, JAMA, LAWRENCE SPENCE, LIEBER, PATTERSON, PROZANSKI, TAYLOR (Presession filed.)

CHAPTER

AN ACT

Relating to telecommunications; creating new provisions; amending ORS 192.355, 285A.154, 285A.160, 759.020 and 759.050; and declaring an emergency.

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

OREGON BROADBAND ADVISORY COUNCIL

SECTION 1. ORS 285A.154 is amended to read:

285A.154. (1) The Oregon Broadband Advisory Council is established within the Oregon Business Development Department. The council consists of [16] **13** members[, of whom] **appointed as follows:**

(a) The Governor shall appoint [14] **11** members **who, to the extent possible, represent geographically diverse regions of this state,** as follows:

(A) One member to represent the counties of this state.

(B) One member to represent the cities of this state.

(C) [Three] **Two** members to represent telecommunications service providers [and Internet service providers in this state]. At least one member must represent a service provider **that provides telecommunications services in rural Oregon with preference for appointment given to a service provider that is** headquartered in rural Oregon.

(D) One member to represent Oregon tribes.

(E) One member to represent education **or public libraries.**

(F) One member to represent **rural business or** economic development **districts.**

(G) One member to represent [public safety] **urban business or economic development districts.**

(H) One member to represent [health] **telehealth.**

(I) One member to represent the [State Chief Information Officer] **digital equity interests of historically disadvantaged communities.**

[J] *One member from the Public Utility Commission.*

[K] *One member to represent the Department of Transportation.*

[L] **(J)** One member to represent consumers and the public at large.

(b) The Speaker of the House of Representatives shall appoint one nonvoting member who is a member of the House of Representatives.

(c) The President of the Senate shall appoint one nonvoting member who is a member of the Senate.

(2) The term of office of each voting member is four years, but a voting member serves at the pleasure of the Governor. Before the term of a voting member expires, the Governor shall appoint a successor whose term begins on January 1 next following. A voting member is eligible for reappointment **for one additional term**. If there is a vacancy for any cause, the Governor shall make an appointment that becomes immediately effective for the unexpired term.

(3) The nonvoting legislative members shall serve two-year terms and are eligible for reappointment.

(4) Members of the council who are not members of the Legislative Assembly are not entitled to compensation, but voting members may be paid expenses if funding is available from contributions the Oregon Business Development Department accepts under ORS 285A.157 (2).

(5) Members of the council who are members of the Legislative Assembly are entitled to compensation and expense reimbursement as provided in ORS 171.072.

(6) The council shall select one of the council's voting members as chairperson and another voting member as vice chairperson, for *[such terms and with duties and powers necessary for performing the functions of the offices as the council determines.]* **a two-year term. The chairperson and vice chairperson may not serve for more than two consecutive terms.**

(7) A majority of the voting members of the council constitutes a quorum for transacting business.

(8) The council shall meet *[at least once]* every three months at a place, day and hour determined by the council. The council may also meet at other times and places specified by the call of the chairperson or of a majority of the members of the council.

(9) A majority of the voting members of the council must approve official action by the council. The council may recommend legislation, public policy and solutions to address the state's broadband needs and goals.

(10) The council shall *[champion statewide access to broadband services and shall encourage]:*

[(a) Coordination between existing organizations and sectors that can leverage broadband to their advantage;]

[(b) State agencies to encourage and facilitate broadband deployment;]

[(c) The development and support of digital inclusion and education programs to encourage broadband adoption and provide citizens with institutions to teach digital skills necessary for success in the workplace;]

[(d) Efforts to provide cost-effective quality workforce development training using telecommunications infrastructure and facilities to access distance learning opportunities;]

[(e) Schools, education service districts and local education agencies in unserved areas to promote broadband access for the surrounding community;]

[(f) Public and private entities to seek opportunities for partnership with educational institutions that will stimulate the use of broadband technologies through community projects and public education;]

[(g) The use of broadband communications technologies for telehealth and telemedicine; and]

[(h) Public and private organizations to work together in partnership to promote the use of telecommunications infrastructure and new technology.]

[(11) The Oregon Business Development Department shall provide staff or facilities to the council.]

[(12) The State Chief Information Officer, the Public Utility Commission and the Department of Education may provide staff or facilities to the council.]

(a) Advise the Oregon Broadband Office on the development and implementation of Oregon's broadband strategy.

(b) Advise the Oregon Broadband Office on the scalability, resilience and sustainability of Oregon's broadband infrastructure.

(c) Assist the Oregon Broadband Office in developing ideas to streamline deployment of broadband infrastructure and in ensuring continual progress toward achieving state goals.

(d) Review and update state goals regarding broadband service speeds in consideration of federal requirements and to ensure that Oregon residents and businesses are prepared for future needs.

(e) Advise the Oregon Broadband Office on best practices to guide the development and implementation of state grant programs, including project review, opportunities for appeal and project accountability.

(f) Support local governments, providers and stakeholders in project planning and development.

(g) Champion equitable statewide access and adoption of broadband services.

(11)(a) The council shall establish a grant application review committee for each grant cycle.

(b) Subject to grant rules, a grant application review committee shall review grant applications and submit directly to the Oregon Broadband Office recommendations.

(c) An individual may not serve on a grant application review committee if the individual is employed by or receives compensation from an entity that is under consideration for a grant through the Oregon Broadband Office.

[13] (12) All agencies of state government, as defined in ORS 174.111, shall assist the council in the performance of the council's duties and, to the extent permitted by laws relating to confidentiality, to furnish such information and advice as the members of the council consider necessary to perform the members' duties.

SECTION 2. Notwithstanding the term of office specified by ORS 285A.154 (2):

(1) The term of office of the members of the Oregon Broadband Advisory Council who are serving on the effective date of this 2022 Act expires on the operative date specified in section 12 of this 2022 Act.

(2) Of the members first appointed to the Oregon Broadband Advisory Council after the operative date specified in section 12 of this 2022 Act:

(a) Five members appointed by the Governor shall serve for an initial term ending December 31, 2023.

(b) Six members appointed by the Governor shall serve for an initial term ending December 31, 2025.

SECTION 2a. ORS 285A.160 is amended to read:

285A.160. The Oregon Broadband Advisory Council[, *in consultation with the Oregon Broadband Office,*] shall submit a report by [*November 1*] **September 15** of each [*even-numbered*] year to the Joint Legislative Committee on Information Management and Technology on the following subjects:

[(1) *The affordability and accessibility of broadband technology in all areas of this state;*]

[(2) *The extent of broadband technology use in this state in business, health care, energy management, education and government; and*]

[(3) *The role of broadband technology in local, state and regional economies and economic development.*]

(1) The status of any broadband strategies developed by the Oregon Broadband Office and any updates to those strategies in the 12 months immediately preceding the date of the report.

(2) A list of every grant and loan provided through the office and the status of each project associated with a grant or loan provided through the office.

STATEWIDE SYSTEM FRAMEWORK

SECTION 3. (1) The Oregon Broadband Office shall develop a Broadband Action Plan and a Digital Equity Plan that address the requirements of the Infrastructure Investment and Jobs Act (P.L. 117-58).

(2) The Broadband Action Plan must, at a minimum, address:

- (a) Investment priorities;
- (b) Alignment of goals and needs;
- (c) Proposed plans to address needs;
- (d) Needs for technical assistance; and
- (e) The schedule for implementing plans.

(3) The Digital Equity Plan must, at a minimum, address availability and affordability of broadband services based on:

- (a) Technology;
- (b) Online accessibility;
- (c) Digital literacy;
- (d) Privacy and cybersecurity; and
- (e) Devices and support.

(4) The office may develop supplemental strategies, as necessary, to achieve availability of services and adoption of services by residents, businesses, schools and libraries throughout Oregon and to support federal planning requirements, including strategies to:

(a) Support local communities and local and regional partners with broadband project planning and implementation and technical assistance.

(b) Support project coordination between private and public entities.

(c) Pursue and leverage private and public investment opportunities.

(d) Guide development and implementation of state grant programs, including project review, procedures for appeal and project accountability and sustainability.

(e) Support ongoing development and maintenance of mapping and data and associated analytic capabilities, including consumer adoption.

(f) Evaluate existing system architecture in this state, including middle-mile infrastructure and exchange points, to ensure long term adequacy and resiliency.

(g) Support the Department of Education and State Library in implementing the purposes of the Connecting Oregon Schools Fund established in ORS 276A.424 and Connecting Oregon Libraries Fund established in section 6 of this 2022 Act.

(h) Evaluate the need and appropriateness of infrastructure redundancy.

(i) Consider the appropriateness of open access requirements for state-funded projects.

(j) Accelerate interagency engagement and collaboration to address barriers and accelerate access and adoption of services.

(k) Identify policy and procedural changes to ease construction barriers.

(L) Cost-effectively develop broadband in remote and high cost areas.

GEOSPATIAL MAPPING

SECTION 4. (1) The Oregon Broadband Office shall collect geospatial data, including data that is reported to the Federal Communications Commission, and other data as necessary from Internet service providers and entities with broadband infrastructure in this state for the purpose of assisting the state in confirming the allocation of funds to the state under the Infrastructure Investment and Jobs Act (P.L. 117-58) and determining eligibility for grants and loans issued by the office.

(2) The collected information must be in a form that can be viewed, edited and mapped.

(3)(a) The office may collect proprietary information subject to a nondisclosure agreement.

(b) Proprietary information subject to a nondisclosure agreement that is collected by the office under this section is exempt from public disclosure under ORS 192.355.

(4) The Oregon Business Development Department may prescribe rules for the office to implement the provisions of this section.

SECTION 5. ORS 192.355 is amended to read:

192.355. The following public records are exempt from disclosure under ORS 192.311 to 192.478:

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

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

(b) Images of a dead body, or parts of a dead body, that are part of a law enforcement agency investigation, if public disclosure would create an unreasonable invasion of privacy of the family of the deceased person, unless the public interest by clear and convincing evidence requires disclosure in the particular instance. The party seeking disclosure shall have the burden of showing that public disclosure would not constitute an unreasonable invasion of privacy.

(3) Upon compliance with ORS 192.363, public body employee or volunteer residential addresses, residential telephone numbers, personal cellular telephone numbers, personal electronic mail addresses, driver license numbers, employer-issued identification card numbers, emergency contact information, Social Security numbers, dates of birth and other telephone numbers contained in personnel records maintained by the public body that is the employer or the recipient of volunteer services. This exemption:

(a) Does not apply to the addresses, dates of birth and telephone numbers of employees or volunteers who are elected officials, except that a judge or district attorney subject to election may seek to exempt the judge's or district attorney's address or telephone number, or both, under the terms of ORS 192.368;

(b) Does not apply to employees or volunteers to the extent that the party seeking disclosure shows by clear and convincing evidence that the public interest requires disclosure in a particular instance pursuant to ORS 192.363;

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

(d) Does not relieve a public employer of any duty under ORS 243.650 to 243.809.

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

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

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

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

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

(9)(a) Public records or information the disclosure of which is prohibited or restricted or otherwise made confidential or privileged under Oregon law.

(b) Subject to ORS 192.360, paragraph (a) of this subsection does not apply to factual information compiled in a public record when:

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

(B) The factual information is not prohibited from disclosure under any applicable state or federal law, regulation or court order and is not otherwise exempt from disclosure under ORS 192.311 to 192.478;

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

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

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

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

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

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

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

(a) The exemption does not apply to:

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

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

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

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

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

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

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

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

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

- (F) Investment agreements and related documents.
- (b) The exemption under this subsection does not apply to:
 - (A) The name, address and vintage year of each privately placed investment fund.
 - (B) The dollar amount of the commitment made to each privately placed investment fund since inception of the fund.
 - (C) The dollar amount of cash contributions made to each privately placed investment fund since inception of the fund.
 - (D) The dollar amount, on a fiscal year-end basis, of cash distributions received by the State Treasurer, the Oregon Investment Council, the Oregon Growth Board or the agents of the treasurer, council or board from each privately placed investment fund.
 - (E) The dollar amount, on a fiscal year-end basis, of the remaining value of assets in a privately placed investment fund attributable to an investment by the State Treasurer, the Oregon Investment Council, the Oregon Growth Board or the agents of the treasurer, council or board.
 - (F) The net internal rate of return of each privately placed investment fund since inception of the fund.
 - (G) The investment multiple of each privately placed investment fund since inception of the fund.
 - (H) The dollar amount of the total management fees and costs paid on an annual fiscal year-end basis to each privately placed investment fund.
 - (I) The dollar amount of cash profit received from each privately placed investment fund on a fiscal year-end basis.
- (15) The monthly reports prepared and submitted under ORS 293.761 and 293.766 concerning the Public Employees Retirement Fund and the Industrial Accident Fund may be uniformly treated as exempt from disclosure for a period of up to 90 days after the end of the calendar quarter.
- (16) Reports of unclaimed property filed by the holders of such property to the extent permitted by ORS 98.352.
- (17)(a) The following records, communications and information submitted to the Oregon Business Development Commission, the Oregon Business Development Department, the State Department of Agriculture, the Oregon Growth Board, the Port of Portland or other ports as defined in ORS 777.005, or a county or city governing body and any board, department, commission, council or agency thereof, by applicants for investment funds, grants, loans, services or economic development moneys, support or assistance including, but not limited to, those described in ORS 285A.224:
 - (A) Personal financial statements.
 - (B) Financial statements of applicants.
 - (C) Customer lists.
 - (D) Information of an applicant pertaining to litigation to which the applicant is a party if the complaint has been filed, or if the complaint has not been filed, if the applicant shows that such litigation is reasonably likely to occur; this exemption does not apply to litigation which has been concluded, and nothing in this subparagraph shall limit any right or opportunity granted by discovery or deposition statutes to a party to litigation or potential litigation.
 - (E) Production, sales and cost data.
 - (F) Marketing strategy information that relates to applicant's plan to address specific markets and applicant's strategy regarding specific competitors.
- (b) The following records, communications and information submitted to the State Department of Energy by applicants for tax credits or for grants awarded under ORS 469B.256:
 - (A) Personal financial statements.
 - (B) Financial statements of applicants.
 - (C) Customer lists.
 - (D) Information of an applicant pertaining to litigation to which the applicant is a party if the complaint has been filed, or if the complaint has not been filed, if the applicant shows that such litigation is reasonably likely to occur; this exemption does not apply to litigation which has been concluded, and nothing in this subparagraph shall limit any right or opportunity granted by discovery or deposition statutes to a party to litigation or potential litigation.

(E) Production, sales and cost data.

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

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

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

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

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

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

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

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

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

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

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

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

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

(23) The records of a library, including:

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

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

(c) The electronic mail address of a patron.

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

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

(b) Credit reports.

(c) Project appraisals, excluding appraisals obtained in the course of transactions involving an interest in real estate that is acquired, leased, rented, exchanged, transferred or otherwise disposed of as part of the project, but only after the transactions have closed and are concluded.

(d) Market studies and analyses.

(e) Articles of incorporation, partnership agreements and operating agreements.

(f) Commitment letters.

(g) Project pro forma statements.

(h) Project cost certifications and cost data.

(i) Audits.

- (j) Project tenant correspondence.
- (k) Personal information about a tenant.
- (L) Housing assistance payments.

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

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

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

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

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

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

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

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

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

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

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

- (a) Generation, storage or conveyance of:
 - (A) Electricity;

- (B) Gas in liquefied or gaseous form;
- (C) Hazardous substances as defined in ORS 453.005 (7)(a), (b) and (d);
- (D) Petroleum products;
- (E) Sewage; or
- (F) Water.

- (b) Telecommunication systems, including cellular, wireless or radio systems.
- (c) Data transmissions by whatever means provided.

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

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

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

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

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

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

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

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

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

(39) Information reported to the Oregon Health Authority under ORS 431A.860, except as provided in ORS 431A.865 (3)(b), information disclosed by the authority under ORS 431A.865 and any information related to disclosures made by the authority under ORS 431A.865, including information identifying the recipient of the information.

(40)(a) Electronic mail addresses in the possession or custody of an agency or subdivision of the executive department, as defined in ORS 174.112, the legislative department, as defined in ORS 174.114, a local government or local service district, as defined in ORS 174.116, or a special government body, as defined in ORS 174.117.

(b) This subsection does not apply to electronic mail addresses assigned by a public body to public employees for use by the employees in the ordinary course of their employment.

(c) This subsection and ORS 244.040 do not prohibit the campaign office of the current officeholder or current candidates who have filed to run for that elective office from receiving upon request the electronic mail addresses used by the current officeholder’s legislative office for newsletter distribution, except that a campaign office that receives electronic mail addresses under this paragraph may not make a further disclosure of those electronic mail addresses to any other person.

(41) Residential addresses, residential telephone numbers, personal cellular telephone numbers, personal electronic mail addresses, driver license numbers, emergency contact information, Social

Security numbers, dates of birth and other telephone numbers of individuals currently or previously certified or licensed by the Department of Public Safety Standards and Training contained in the records maintained by the department.

(42) Personally identifiable information and contact information of veterans as defined in ORS 408.225 and of persons serving on active duty or as reserve members with the Armed Forces of the United States, National Guard or other reserve component that was obtained by the Department of Veterans' Affairs in the course of performing its duties and functions, including but not limited to names, residential and employment addresses, dates of birth, driver license numbers, telephone numbers, electronic mail addresses, Social Security numbers, marital status, dependents, the character of discharge from military service, military rating or rank, that the person is a veteran or has provided military service, information relating to an application for or receipt of federal or state benefits, information relating to the basis for receipt or denial of federal or state benefits and information relating to a home loan or grant application, including but not limited to financial information provided in connection with the application.

(43) Business, commercial, financial, operational and research data and information, including but not limited to pricing, intellectual property and customer records, furnished to, developed by or generated in connection with the ownership and operation of an unmanned aerial system test range, if disclosure of the information would cause a competitive disadvantage to the test range or its users.

(44) Personally identifiable information about a child under the age of 16 years that is submitted to the State Fish and Wildlife Commission or an agent of the commission to obtain a license, tag or permit under the wildlife laws.

(45) Proprietary information subject to a nondisclosure agreement that is provided to the Oregon Broadband Office pursuant to section 4 of this 2022 Act.

CONNECTING OREGON LIBRARIES FUND

SECTION 6. (1) The Connecting Oregon Libraries Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Connecting Oregon Libraries Fund shall be credited to the fund.

(2) The Connecting Oregon Libraries Fund consists of any moneys deposited in the fund from whatever source and may include moneys appropriated, allocated, deposited or transferred to the fund by the Legislative Assembly or otherwise and interest earned on moneys in the fund.

(3) The moneys in the fund are continuously appropriated to the State Library for the purpose of providing matching funds for federal moneys received by the State Library, the State Library Board, public libraries established in accordance with ORS 357.410, school libraries, tribal libraries as defined in ORS 357.206 or academic libraries in Oregon for the purpose of providing broadband access to eligible library facilities in this state.

(4) A public, school, tribal or academic library is eligible to receive matching funds under this section if the library:

- (a) Receives federal moneys for the purpose of providing broadband access to the library;**
- (b) Takes steps to determine whether existing broadband infrastructure, including fiber-based broadband, may be integrated into the proposed broadband access project; and**
- (c) Meets any other eligibility requirements established by the State Library Board by rule.**

(5)(a) Before the State Library may distribute any state moneys under this section, the board shall adopt rules to implement the provisions of this section, including rules setting criteria that govern the distribution of the moneys to eligible libraries.

(b) Rules adopted under this section must take into consideration any eligibility requirements established by the federal program awarding federal moneys.

STUDY OF OREGON TELEPHONE ASSISTANCE PROGRAM

SECTION 7. (1) The Public Utility Commission, in consultation with the Oregon Broadband Office, the Oregon Broadband Advisory Council and the Oregon Telephone Assistance Program Advisory Committee, shall investigate and make recommendations on the feasibility of:

(a) Expanding or increasing the plan of assistance established under section 6, chapter 290, Oregon Laws 1987, to support adequate and reasonable access to broadband Internet access service or other telecommunications services by residential customers with low incomes in this state, including allowing participation with providers that are not designated as eligible telecommunications carriers; and

(b) Applying the surcharge assessed under ORS 759.685 to support expanded access to broadband Internet access service or other telecommunications services.

(2) As part of the investigation required under subsection (1) of this section, the commission shall consider barriers faced by residential customers with low incomes to obtaining broadband Internet access service or other telecommunications services that include but are not limited to:

(a) Equipment and related services needed to obtain and utilize broadband Internet access service or other telecommunications services;

(b) Legal and regulatory incentives and limitations that may affect the state's ability to expand or increase the plan of assistance or the associated surcharge to support expanded access to broadband Internet access service or other telecommunications services; and

(c) The availability of other forms of federal, state or local support for broadband Internet access service or other telecommunications services.

(3) The commission shall, no later than June 1, 2023:

(a) Submit a report on its findings to an appropriate regular or interim committee of the Legislative Assembly.

(b) Provide a copy of the report on its findings to the Oregon Broadband Office for the office to consider in its planning efforts.

SECTION 8. Section 7 of this 2022 Act is repealed on January 2, 2024.

NOTICE AND REPORTING BY PUBLIC UTILITY COMMISSION

SECTION 9. ORS 759.020 is amended to read:

759.020. (1) [No] A person, corporation, company[,] or association of individuals or their lessees, trustees[,] or receivers [shall] **may not** provide intrastate telecommunications service on a for-hire basis without a certificate of authority issued by the Public Utility Commission under this section.

(2) Applications for certificates of authority [shall] **must** be in a form prescribed by the commission and [shall] **must** describe the telecommunications services the applicant proposes to provide. [Notice of all applications shall, within 30 days of filing, be served by the commission upon all persons holding authority to provide telecommunications service issued under this section or providing local exchange telecommunications service.]

(3)(a) Except as provided in ORS 759.050, [no] a certificate [shall] **may not** authorize any person to provide local exchange telecommunications service within the local exchange telecommunications service area of a telecommunications utility unless [such] **the** utility consents, is unable to provide the service[,] or fails to protest an application.

(b) **Paragraph (a)** of this subsection [shall] **does** not apply to any application for a certificate by a provider of shared telecommunications services.

(4) [After notice,] A hearing need not be held prior to issuance of a certificate of authority except upon the commission's own motion or unless the application is to authorize a person to provide local exchange telecommunications service in the local exchange telecommunications service area of a telecommunications utility and [such] **the** utility protests. After hearing, the commission shall

issue the certificate only upon a showing that the proposed service is required by the public interest.

(5) The commission may classify a successful applicant for a certificate as a telecommunications utility or as a competitive telecommunications services provider. If the commission finds that a successful applicant for a certificate has demonstrated that services it offers are subject to competition or that its customers or those proposed to become customers have reasonably available alternatives, the commission shall classify the applicant as a competitive telecommunications services provider. The commission shall conduct the initial classification and any subsequent review of the classification in accordance with *[such]* procedures *[as]* the commission may establish by rule, after hearings. The commission may attach reasonable conditions to *[such]* **the** classification and may amend or revoke any *[such]* order as provided in ORS 756.568. For purposes of this section, in determining whether telecommunications services are subject to competition or whether there are reasonably available alternatives, the commission shall consider:

(a) The extent to which services are available from alternative providers in the relevant market.

(b) The extent to which the services of alternative providers are functionally equivalent or substitutable at comparable rates, terms and conditions.

(c) Existing economic or regulatory barriers to entry.

(d) Any other factors deemed relevant by the commission.

(6) Any provider of intrastate toll service must inform customers of the service level furnished by that provider, according to rules of the commission. The commission, by rule, shall determine the level of intrastate toll service that is standard. Any provider of intrastate toll service must identify the service level the provider plans to furnish in an annual report to the commission. The commission shall revoke the certification of any provider that does not consistently furnish the service level identified in the provider's annual report.

SECTION 10. ORS 759.050 is amended to read:

759.050. (1) As used in this section:

(a) "Competitive zone" means a telecommunications service area within all or part of a local exchange, described both by service and territory, that has been designated a competitive zone by the Public Utility Commission under subsection (2) or (4) of this section.

(b) "Competitive zone service" means a local exchange telecommunications service that the commission has authorized to be provided within a competitive zone.

(c) "Essential function" means a functional component of a competitive zone service necessary to the provision of the service by a telecommunications provider for which there is no adequate alternative in terms of quality, quantity and price to the incumbent telecommunications utility.

(d) "Telecommunications utility" and "competitive provider" mean those entities that are classified as such by the commission under ORS 759.020. "Telecommunications provider" includes both telecommunications utilities and competitive providers.

(2)(a) Notwithstanding the provisions of ORS 759.020 (3), the commission may certify one or more persons, including another telecommunications utility, to provide local exchange telecommunications service within the local exchange telecommunications service area of a certificated telecommunications utility if the commission determines that the authorization would be in the public interest. For the purpose of determining whether the authorization would be in the public interest, the commission shall consider:

(A) The effect on rates for local exchange telecommunications service customers both within and outside the competitive zone.

(B) The effect on competition in the local exchange telecommunications service area.

(C) The effect on access by customers to high quality, innovative telecommunications service in the local exchange telecommunications service area.

(D) Any other facts the commission considers relevant.

(b) Upon certification of a telecommunications provider under paragraph (a) of this subsection, the commission shall establish a competitive zone defined by the services to be provided by the telecommunications provider and the geographic area to be served by the telecommunications pro-

vider. Price and service competition within the meaning of ORS 759.052 may not be deemed to exist by virtue of the establishment of a competitive zone.

(c) At the time of certification of a telecommunications provider, or thereafter, the commission may impose reasonable conditions upon the authority of the telecommunications provider to provide competitive zone service within the competitive zone. Reasonable conditions include, but are not limited to, conditions:

(A) Designed to promote fair competition, such as interconnection; and

(B) Requiring contributions of the type required of a telecommunications utility on account of the provision of local exchange service, including those to the Residential Service Protection Fund or the Telecommunication Devices Access Program.

(3) Upon demand, a competitive provider of competitive zone services shall make available to the commission any information relating to competitive zone services that the commission requests. Information provided to the commission by a competitive provider under this subsection shall be confidential and may not be disclosed by the commission, except for regulatory purposes in the context of a proceeding before the commission.

(4) Upon application by a telecommunications utility and a showing of competition within its local exchange, whether or not from certificated providers, the commission may designate all or part of the local exchange a competitive zone.

(5)(a) Except with respect to telecommunications utilities that are exempt from the provisions of ORS 759.180 to 759.190, unless the commission determines that it is not in the public interest at the time a competitive zone is created, upon designation of a competitive zone, price changes, service variations and modifications of competitive zone services offered by a telecommunications utility in the zone are not subject to ORS 759.180 to 759.190 and, at the telecommunication utility's discretion, may be made effective upon filing with the commission.

(b) The price and terms of service offered by a telecommunications utility for a competitive zone service within a competitive zone may differ from that outside of the zone. However, the price for a competitive zone service within the zone may not be lower than the total service long run incremental cost, for nonessential functions, of providing the service within the zone and the charges for essential functions used in providing the service, but the commission may establish rates for residential local exchange telecommunications service at any level necessary to achieve the commission's universal service objectives. Within the zone, the price of a competitive zone service, or any essential function used in providing the competitive zone service, may not be higher than those prices in effect when the competitive zone was established, unless authorized by the commission.

(c) The commission may revoke the exemption of a telecommunications utility from ORS 759.180 to 759.190 if the commission finds that the utility has violated statutes, rules or conditions of the commission applicable to competitive zone services or that there has been a substantial change in the circumstances that prevailed at the time the competitive zone was first established.

(d) On the motion of a telecommunications provider or on its own motion, the commission may order a telecommunications utility to disaggregate and offer essential functions of the telecommunications utility's local exchange network.

(6) A decision of the commission, with respect to the terms and conditions under which competitive zone services may be offered within a competitive zone by a telecommunications utility, to authorize a competitor to provide service within the local exchange service area of a telecommunications utility or to otherwise designate a competitive zone shall be subject to judicial review, but may not be stayed other than by order of the commission, except upon a showing by clear and convincing evidence that failure to stay the decision will result in irreparable harm to the aggrieved party.

(7) The exclusive remedy of a telecommunications provider aggrieved by the prices, terms of service or practices of another provider with respect to competitive zone services within a competitive zone is to file a complaint with the commission under ORS 756.500. The commission, either upon complaint or its own motion, may permanently suspend a filing made by a provider with re-

spect to a competitive zone service or take such other action as the commission deems appropriate, except an award for damages. A claim for damages arising from a commission decision in favor of the provider on a matter alleged in the complaint shall be brought as a separate action at law.

(8) Nothing in this section shall serve to shield any telecommunications provider of local exchange telecommunications service from state or federal antitrust laws.

[(9) The commission shall report annually to the Legislative Assembly:]

[(a) The number of competitive zones created under ORS 759.020 and 759.050;]

[(b) The number of competitive providers authorized under ORS 759.020 and 759.050;]

[(c) The number and types of competitive services made available to consumers; and]

[(d) Consumer comments on competitive telecommunications services.]

UNIT CAPTIONS

SECTION 11. The unit captions used in this 2022 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2022 Act.

OPERATIVE AND EFFECTIVE DATES

SECTION 12. Sections 4, 6, 7 and 8 of this 2022 Act and the amendments to ORS 192.355, 285A.154, 285A.160, 759.020 and 759.050 by sections 1, 2a, 5, 9 and 10 of this 2022 Act become operative 91 days after the effective date of this 2022 Act.

SECTION 13. This 2022 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2022 Act takes effect on its passage.

Passed by House March 2, 2022

.....
Timothy G. Sekerak, Chief Clerk of House

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Dan Rayfield, Speaker of House

Passed by Senate March 3, 2022

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Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2022

Approved:

.....M.,....., 2022

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2022

.....
Shemia Fagan, Secretary of State