EQUITY AND INCLUSION DIVISION
REALD & SOGI Unit
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TO: The Honorable Representative Nosse, Chair

FROM: Marjorie McGee, Director
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SUBJECT: Testimony in support of SB 216

Chair Nosse, Vice-chairs Nelson and Goodwin, and members of the committee; I am Marjorie McGee, Director of the REALD (race, ethnicity, language, disability) & SOGI (sexual orientation, gender identity) Unit of the Oregon Health Authority. I am here today to provide information and background for SB 216. This bill does two things:

1. SB 216 amends ORS 181A.161 by exempting the REALD race/ethnicity questions adopted under ORS 413.161. For context:
    - ORS 413.161, passed in 2013, which resulted in the following question: *How do you identify your race, ethnicity, tribal affiliation, country of origin, or ancestry*? codified in Oregon administrative rules (943-070-0030(1)).
    - Community partners' feedback has urged Oregon Health Authority to add country of origin to this question. To be clear, country of origin is *not* the same as an immigration status.
    - ORS 181A.823 subsection (1)(b), passed in 2021, prohibits any inquiry or collection of certain listed information by public bodies including country of birth (aka national origin).

It is difficult to make any assumptions about immigration status based on answers to the race/ethnicity question. For example, an individual who answered "Vietnam" is just as likely to be a citizen of the United States as an immigrant or non-immigrant from Vietnam.

Asking about race/ethnicity can be confusing especially for people new to the U.S. We have found that community partners who work with newcomers have especially found asking about "country of origin" to elicit a strong and reliable response, versus asking about “race”, especially when REALD is translated into non-English languages.

Eliminating “*country of origin”* from the question will require systemic changes for data systems already compliant with the REALD data collection standards (OAR Chapter 943, Division 70).

2. SB 216 also amends 413.161 by indicating that data collected under ORS 413.161 is confidential and not subject to disclosure under the Public Records Act (ORS 192.311 to 192.478).
    - ► Currently REALD & SOGI demographic data collected by the Oregon Health Authority and other public bodies is subject to public records act unless already otherwise protected in other statutes or OARs relating to specific programs or exempt from public records act (ORS 192.311 to 192.478).
    - ► We cannot guarantee that their REALD & SOGI information at an individual level is exempt from Public Records Act. One example of a setting vulnerable to Public Records Act is relating to those who serve on Oregon Health Authority commissions, committees, and boards. Sharing and or reporting individual’s responses to demographic questions, along with their name or position, in response to a public records request:
        - Increases the possibility of harm and exposure to racism, disablism, linguistic discrimination, and other systems of oppression; this information will allow bad actors to prey on those most vulnerable. For example, knowing that a committee member has a particular disability could make that person vulnerable to harm.
        - Reduces response rates which would decrease data quality. Poor data quality makes it harder for the Oregon Health Authority and the Oregon Department of Human Services to identify and address inequities in services, outcomes and in processes, including language access and ADA accessibility, and to assess if there is diverse representation in programs and activities conducted by OHA & ODHS, including boards, commissions, workgroups, rulemaking advisory committees, and in other settings with stakeholders.

I’m glad to provide any additional information. Thank you to the Committee for the opportunity to testify.