

# House Bill 3137

Sponsored by COMMITTEE ON HEALTH CARE

## 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 Oregon Health Authority to establish Oregon Health Insurance Exchange as public corporation to be governed by board of directors. Specifies functions and duties.

Appropriates moneys from General Fund to Oregon Health Authority for purpose of developing and implementing Oregon Health Insurance Exchange.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

Relating to Oregon Health Insurance Exchange; appropriating money; and declaring an emergency.

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

## OREGON HEALTH INSURANCE EXCHANGE

(Establishment)

**SECTION 1.** (1) By January 1, 2014, the Oregon Health Authority shall develop and establish the Oregon Health Insurance Exchange under sections 2 and 5 to 9 of this 2011 Act to ensure conformance with the requirements of the Patient Protection and Affordable Care Act, P.L. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, P.L. 111-152.

(2) The authority may apply for and accept federal grants, other federal funds and grants from nongovernment organizations for the purpose of developing and implementing the exchange. Moneys received by the authority under this subsection shall be deposited in or to the credit of the Oregon Health Insurance Exchange Fund established under section 11 of this 2011 Act and are continuously appropriated to the authority for developing and implementing the exchange.

**SECTION 2.** (1) The Oregon Health Authority shall establish the Oregon Health Insurance Exchange as a public corporation that shall exercise and carry out all powers, rights and privileges that are expressly conferred upon it, are implied by law or are incident to such powers. The exchange shall be a governmental entity performing governmental functions and exercising governmental powers. The exchange shall be an independent public corporation with statewide purposes and missions and without territorial boundaries. The exchange shall be a governmental entity but shall not be considered a unit of local or municipal government or a state agency for purposes of state statutes or constitutional provisions.

(2) **ORS 279.835 to 279.855 and ORS chapters 240, 279A, 279B, 279C, 283, 291, 292 and 293 do not apply to the exchange.**

(3) The exchange shall be governed by a board of directors consisting of three *ex officio* members and six members who are appointed by the Governor and subject to confirmation

**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 **by the Senate in the manner prescribed by ORS 171.562 and 171.565.**

2 (4) **The ex officio voting members of the board of directors are:**

3 (a) **The Director of the Oregon Health Authority;**

4 (b) **The Director of the Department of Consumer and Business Services; and**

5 (c) **The chairperson of the Oregon Health Policy Board.**

6 (5) **The term of office of each member is four years. The Governor may remove any**  
 7 **member at any time for cause after notice and hearing that shall be open to the public, but**  
 8 **the Governor may not remove more than three members within any four-year period except**  
 9 **for corrupt conduct in office. Before the expiration of the term of a member, the Governor**  
 10 **shall appoint a successor whose term begins on January 1 next following. A member is eli-**  
 11 **gible for no more than two reappointments. If there is a vacancy for any cause, the Governor**  
 12 **shall make an appointment to become immediately effective for the unexpired term.**

13 (6) **A member of the board of directors is entitled to compensation and expenses as pro-**  
 14 **vided in ORS 292.495.**

15 **SECTION 3.** Section 2 of this 2011 Act is amended to read:

16 (1) [*The Oregon Health Authority shall establish*] **The Oregon Health Insurance Exchange is es-**  
 17 **tablished** as a public corporation that shall exercise and carry out all powers, rights and privileges  
 18 that are expressly conferred upon it, are implied by law or are incident to such powers. The ex-  
 19 change shall be a governmental entity performing governmental functions and exercising govern-  
 20 mental powers. The exchange shall be an independent public corporation with statewide purposes  
 21 and missions and without territorial boundaries. The exchange shall be a governmental entity but  
 22 shall not be considered a unit of local or municipal government or a state agency for purposes of  
 23 state statutes or constitutional provisions.

24 (2) **ORS 279.835 to 279.855 and ORS chapters 240, 279A, 279B, 279C, 283, 291, 292 and 293 do**  
 25 **not apply to the exchange.**

26 (3) **The exchange shall be governed by a board of directors consisting of three ex officio mem-**  
 27 **bers and six members who are appointed by the Governor and subject to confirmation by the Senate**  
 28 **in the manner prescribed by ORS 171.562 and 171.565.**

29 (4) **The ex officio voting members of the board of directors are:**

30 (a) **The Director of the Oregon Health Authority;**

31 (b) **The Director of the Department of Consumer and Business Services; and**

32 (c) **The chairperson of the Oregon Health Policy Board.**

33 (5) **The term of office of each member is four years. The Governor may remove any member at**  
 34 **any time for cause after notice and hearing that shall be open to the public, but the Governor may**  
 35 **not remove more than three members within any four-year period except for corrupt conduct in of-**  
 36 **fice. Before the expiration of the term of a member, the Governor shall appoint a successor whose**  
 37 **term begins on January 1 next following. A member is eligible for no more than two reappointments.**  
 38 **If there is a vacancy for any cause, the Governor shall make an appointment to become immediately**  
 39 **effective for the unexpired term.**

40 (6) **A member of the board of directors is entitled to compensation and expenses as provided in**  
 41 **ORS 292.495.**

42 **SECTION 4. Notwithstanding the term of office specified by section 2 of this 2011 Act,**  
 43 **of the members first appointed to the Oregon Health Insurance Exchange board of directors:**

44 (1) **Two shall serve for terms ending December 31, 2013.**

45 (2) **Two shall serve for terms ending December 31, 2014.**

1 (3) Two shall serve for terms ending on the earlier of four years after appointment or  
2 December 31, 2015.

3  
4 (Functions)

5  
6 **SECTION 5.** The functions of the Oregon Health Insurance Exchange are to:

7 (1) Provide uniform information to consumers of health care on costs, benefits, provider  
8 networks and other information to assist individuals and small businesses in making in-  
9 formed health care decisions. At a minimum, the exchange shall provide:

10 (a) Information on:

11 (A) The average costs of licensing, regulatory fees and other payments required by the  
12 exchange;

13 (B) Exchange administrative costs; and

14 (C) Costs attributable to waste, fraud and abuse.

15 (b) An electronic calculator that allows individuals to determine the cost of coverage af-  
16 ter deducting any applicable tax credit or cost-sharing reduction.

17 (2) Screen, certify and recertify health plans as qualified to participate in the exchange  
18 according to federal guidelines and to ensure that qualified health plans provide meaningful  
19 coverage choices.

20 (3) Decertify plans to preclude further participation in the exchange by plans that fail to  
21 meet federal standards.

22 (4) Ensure fair competition of carriers in and outside the exchange by establishing:

23 (a) Standardized health benefit plan options; and

24 (b) An Internet-based clearinghouse and a toll-free telephone hotline for information  
25 about plans in and outside the exchange, including standardized comparisons of plan cover-  
26 age and costs.

27 (5) Make qualified health plans available to individuals and employers and assist individ-  
28 ual and group enrollment in qualified health plans.

29 (6) Facilitate community-based assistance with enrollment in qualified health plans, cer-  
30 tify entities to be navigators as described in 42 U.S.C. 18031(i) and fund navigators to provide  
31 education and perform eligibility determination and enrollment functions.

32 (7) Provide employers with the names of any of their employees who end coverage under  
33 a qualified health plan during a plan year.

34 (8) Grade health plans in accordance with criteria established by the Secretary of the  
35 United States Department of Health and Human Services and distribute the information  
36 through the Internet-based clearinghouse and toll-free telephone hotline.

37 (9) Certify that an individual meets the criteria for an exemption from the individual re-  
38 sponsibility requirement of section 5000A of the Internal Revenue Code.

39 (10) Establish open, special and monthly enrollment periods for Native American indi-  
40 viduals.

41 (11) Provide information to individuals and employers regarding the eligibility require-  
42 ments for all publicly funded programs providing medical assistance and assist individuals in  
43 applying for the programs.

44 (12) Provide information to the federal government necessary for enrollees to receive tax  
45 credits and reduced cost-sharing.

1 (13) Provide information to the federal government regarding:

2 (a) Individuals determined to be exempt from the individual responsibility requirement  
3 of section 5000A of the Internal Revenue Code;

4 (b) Employees who have reported a change in employer; and

5 (c) Individuals who have ended coverage during a plan year.

6 (14) Enter into contracts to carry out the functions of and to provide the services offered  
7 by the exchange.

8  
9 (Officers of Board of Directors; Quorum; Meetings)

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11 **SECTION 6.** (1) The Oregon Health Insurance Exchange board of directors shall select  
12 one of its members as chairperson and another as vice chairperson, for such terms and with  
13 duties and powers necessary for the performance of the functions of such offices as the  
14 board determines.

15 (2) A majority of the members of the board of directors constitutes a quorum for the  
16 transaction of business.

17 (3) The board of directors shall meet at least once every three months at a place, day  
18 and hour determined by the board. The board may also meet at other times and places  
19 specified by the call of the chairperson or of a majority of the members of the board.

20  
21 (Employees)

22  
23 **SECTION 7.** (1) The Oregon Health Insurance Exchange board of directors shall appoint  
24 an executive director to serve at the pleasure of the board.

25 (2) The designation of the executive director must be by written order, filed with the  
26 Secretary of State.

27 (3) The executive director shall appoint all subordinate officers and employees of the  
28 Oregon Health Insurance Exchange, prescribe their duties and fix their compensation.

29 (4) The executive director shall appoint and consult with:

30 (a) An advisory group consisting of no fewer than five consumers of health care;

31 (b) An advisory group consisting of no fewer than five small business owners; and

32 (c) An advisory group consisting of representatives of five carriers participating in the  
33 Oregon Health Insurance Exchange.

34 (5) Members of the advisory groups are not entitled to compensation, but at the dis-  
35 cretion of the executive director may be reimbursed from funds available to the executive  
36 director for actual and necessary travel and other expenses incurred by them in the per-  
37 formance of their official duties.

38  
39 (Authority to Adopt Rules and Collect Assessments)

40  
41 **SECTION 8.** (1) In accordance with applicable provisions of ORS chapter 183, the Oregon  
42 Health Insurance Exchange may:

43 (a) Adopt rules necessary for the administration of the exchange; and

44 (b) Establish, impose and collect assessments on insurance carriers as permitted or re-  
45 quired by federal law for the operation of the exchange.

1 (2) All assessments received by or to the credit of the exchange shall be deposited in the  
2 Oregon Health Insurance Exchange Fund established under section 11 of this 2011 Act.

3  
4 (Operation)

5  
6 **SECTION 9.** (1) The following individuals and groups may purchase qualified health plans  
7 through the Oregon Health Insurance Exchange:

8 (a) Beginning January 1, 2014, individuals and employers with no more than 50 employees.

9 (b) Beginning January 1, 2016, employers with 51 to 100 employees.

10 (c) Groups meeting additional criteria established by the exchange for qualified purchas-  
11 ers.

12 (2)(a) Only individuals who purchase health plans through the exchange may be eligible  
13 to receive premium tax credits under section 36B of the Internal Revenue Code and reduced  
14 cost-sharing under 42 U.S.C. 18071.

15 (b) Only employers that purchase health plans through the exchange may be eligible to  
16 receive small employer health insurance credits under section 45R of the Internal Revenue  
17 Code.

18 (3) The exchange shall certify a health plan as qualified if:

19 (a) The plan provides coverage on terms established by the exchange by rule that, at a  
20 minimum, includes the essential health benefits established by the United States Secretary  
21 of Health and Human Services pursuant to 42 U.S.C. 18022; and

22 (b) The exchange determines that making the health plan available through the exchange  
23 is in the interests of individuals and employers in this state.

24 (4) The exchange is authorized to limit the number of qualified health plans available in  
25 each level of coverage described in 42 U.S.C. 18022(d) as bronze, silver, gold and platinum.

26 (5) The exchange shall establish a streamlined and seamless application and enrollment  
27 process for both the exchange and the state medical assistance program.

28 (6) The exchange, in collaboration with the department, shall coordinate federal and state  
29 risk mediation programs including:

30 (a) The reinsurance program established pursuant to 42 U.S.C. 18061;

31 (b) The federal program of risk corridors established pursuant to 42 U.S.C. 18062; and

32 (c) The state risk adjustment program administered pursuant to 42 U.S.C. 18063.

33 (7) The exchange shall define the role of insurance agents and brokers within the opera-  
34 tion of the exchange in accordance with federal guidelines and policies adopted by the ex-  
35 change by rule.

36 (8) The exchange shall ensure parity in premiums for plans sold within and outside the  
37 exchange.

38 (9) The exchange is authorized to combine risk pools as permitted by federal law to best  
39 serve the interests of individuals and small employers in this state.

40 (10) The exchange is authorized to enter into contracts for the performance of duties and  
41 functions of the exchange including, but not limited to, contracting with:

42 (a) Insurance carriers to offer coverage through the exchange; and

43 (b) Navigators certified by the exchange under section 5 of this 2011 Act.

44 (11) The exchange is authorized to apply for and accept federal grants, other federal  
45 funds and grants from nongovernment organizations for the purpose of developing, imple-

1 **menting or administering the exchange. Moneys received by the exchange under this sub-**  
 2 **section shall be deposited in or to the credit of the Oregon Health Insurance Exchange Fund**  
 3 **established under section 11 of this 2011 Act and are continuously appropriated to the ex-**  
 4 **change for developing, implementing or administering the exchange.**

5 **(12) The exchange, in coordination with the Oregon Health Authority and the Department**  
 6 **of Consumer and Business Services, shall plan and coordinate the phasing out of the Oregon**  
 7 **Medical Insurance Pool by January 1, 2014.**

8 **SECTION 10.** Section 9 of this 2011 Act is amended to read:

9 **Sec. 9.** (1) The following individuals and groups may purchase qualified health plans through the  
 10 Oregon Health Insurance Exchange:

11 *[(a) Beginning January 1, 2014, individuals and employers with no more than 50 employees.]*

12 *[(b)]* **(a) [Beginning January 1, 2016, employers with 51 to] Individuals and employers with no**  
 13 **more than 100 employees.**

14 *[(c)]* **(b)** Groups meeting additional criteria established by the exchange for qualified purchasers.

15 (2)(a) Only individuals who purchase health plans through the exchange may be eligible to re-  
 16 ceive premium tax credits under section 36B of the Internal Revenue Code and reduced cost-sharing  
 17 under 42 U.S.C. 18071.

18 (b) Only employers that purchase health plans through the exchange may be eligible to receive  
 19 small employer health insurance credits under section 45R of the Internal Revenue Code.

20 (3) The exchange shall certify a health plan as qualified if:

21 (a) The plan provides coverage on terms established by the exchange by rule that, at a minimum,  
 22 includes the essential health benefits established by the United States Secretary of Health and Hu-  
 23 man Services pursuant to 42 U.S.C. 18022; and

24 (b) The exchange determines that making the health plan available through the exchange is in  
 25 the interests of individuals and employers in this state.

26 (4) The exchange is authorized to limit the number of qualified health plans available in each  
 27 level of coverage described in 42 U.S.C. 18022(d) as bronze, silver, gold and platinum.

28 (5) The exchange shall establish a streamlined and seamless application and enrollment process  
 29 for both the exchange and the state medical assistance program.

30 (6) The exchange, in collaboration with the department, shall coordinate federal and state risk  
 31 mediation programs including:

32 (a) The reinsurance program established pursuant to 42 U.S.C. 18061;

33 (b) The federal program of risk corridors established pursuant to 42 U.S.C. 18062; and

34 (c) The state risk adjustment program administered pursuant to 42 U.S.C. 18063.

35 (7) The exchange shall define the role of insurance agents and brokers within the operation of  
 36 the exchange in accordance with federal guidelines and policies adopted by the exchange by rule.

37 (8) The exchange shall ensure parity in premiums for plans sold within and outside the ex-  
 38 change.

39 (9) The exchange is authorized to combine risk pools as permitted by federal law to best serve  
 40 the interests of individuals and small employers in this state.

41 (10) The exchange is authorized to enter into contracts for the performance of duties and func-  
 42 tions of the exchange including, but not limited to, contracting with:

43 (a) Insurance carriers to offer coverage through the exchange; and

44 (b) Navigators certified by the exchange under section 5 of this 2011 Act.

45 (11) The exchange is authorized to apply for and accept federal grants, other federal funds and

1 grants from nongovernment organizations for the purpose of developing, implementing or adminis-  
 2 tering the exchange. Moneys received by the exchange under this subsection shall be deposited in  
 3 or to the credit of the Oregon Health Insurance Exchange Fund established under section 11 of this  
 4 2011 Act and are continuously appropriated to the exchange for developing, implementing or ad-  
 5 ministering the exchange.

6 *[(12) The exchange, in coordination with the Oregon Health Authority and the Department of*  
 7 *Consumer and Business Services, shall plan and coordinate the phasing out of the Oregon Medical*  
 8 *Insurance Pool by January 1, 2014.]*

9  
 10 **OREGON HEALTH INSURANCE EXCHANGE FUND**

11  
 12 **SECTION 11. The Oregon Health Insurance Exchange Fund is established in the State**  
 13 **Treasury, separate and distinct from the General Fund. The Oregon Health Insurance Ex-**  
 14 **change Fund consists of moneys received by the Oregon Health Authority as grants under**  
 15 **section 1 of this 2011 Act, moneys received by the Oregon Health Insurance Exchange**  
 16 **through the imposition of assessments under section 8 of this 2011 Act and moneys received**  
 17 **as gifts or grants under section 9 (11) of this 2011 Act. Moneys in the fund are continuously**  
 18 **appropriated to the Oregon Health Authority for carrying out the purposes of sections 1, 2**  
 19 **and 5 to 9 of this 2011 Act.**

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

21 **Sec. 11.** The Oregon Health Insurance Exchange Fund is established in the State Treasury,  
 22 separate and distinct from the General Fund. The Oregon Health Insurance Exchange Fund consists  
 23 of *[moneys received by the Oregon Health Authority as grants under section 1 of this 2011 Act,]* mon-  
 24 eys received by the Oregon Health Insurance Exchange through the imposition of assessments under  
 25 section 8 of this 2011 Act and moneys received as gifts or grants under section 9 (11) of this 2011  
 26 Act. Moneys in the fund are continuously appropriated to the Oregon Health *[Authority]* **Insurance**  
 27 **Exchange** for carrying out the purposes of sections *[1,]* 2 and 5 to 9 of this 2011 Act.

28 **SECTION 13. There is appropriated to the Oregon Health Authority, for the biennium**  
 29 **beginning July 1, 2011, out of the General Fund, the amount of \$\_\_\_\_\_ for the purpose of**  
 30 **developing and implementing the Oregon Health Insurance Exchange in accordance with**  
 31 **sections 1, 2 and 5 to 9 of this 2011 Act.**

32  
 33 **DELAYED OPERATIVE DATES AND REPEAL**

34  
 35 **SECTION 14. (1) The amendments to sections 2 and 11 of this 2011 Act by sections 3 and**  
 36 **12 of this 2011 Act become operative January 2, 2014.**

37 **(2) Section 1 of this 2011 Act is repealed January 2, 2014.**

38 **(3) The amendments to section 9 of this 2011 Act by section 10 of this 2011 Act become**  
 39 **operative January 1, 2016.**

40  
 41 **CAPTIONS**

42  
 43 **SECTION 15. The unit captions used in this 2011 Act are provided only for the conven-**  
 44 **ience of the reader and do not become part of the statutory law of this state or express any**  
 45 **legislative intent in the enactment of this 2011 Act.**

**EMERGENCY CLAUSE**

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**SECTION 16. This 2011 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect on its passage.**

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