

House Bill 4029

Sponsored by Representative PARRISH; Senator JOHNSON (Presession filed.)

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**.

Modifies funding mechanism for public employees' health care benefit to avoid excise tax under Patient Protection and Affordable Care Act. Requires local governments and school districts to participate in modified health care benefit plan. Permits public employees to redirect funds from health care premiums to other benefits. Dedicates portion of health care benefit costs to future health care costs and to critical services. Requires Public Employees' Benefit Board and Oregon Educators Benefit Board to assist employees in selecting benefit options. Excludes collective bargaining for specified health insurance benefits. Prohibits Public Employees' Benefit Board and Oregon Educators Benefit Board from self-insuring.

Establishes Task Force on Flexible Benefits for Public Employees to monitor implementation of new benefit plans. Sunsets task force December 31, 2020.

A BILL FOR AN ACT

1
2 Relating to public employee benefits; creating new provisions; amending ORS 243.061, 243.105,
3 243.107, 243.125, 243.129, 243.135, 243.145, 243.160, 243.163, 243.167, 243.252, 243.256, 243.285,
4 243.302, 243.650, 243.860, 243.862, 243.864, 243.866, 243.867, 243.876, 243.878, 243.879, 243.884,
5 292.051, 656.247, 741.300, 741.310, 743A.058, 743B.601 and 743B.810; and repealing ORS 243.142,
6 243.215 and 243.886.

7 Whereas the Patient Protection and Affordable Care Act (ACA) became law on March 23, 2010;
8 and

9 Whereas the provisions and requirements of the ACA have been phased in over time and will
10 continue to be phased in until 2020; and

11 Whereas one of the provisions of the ACA imposes an excise tax or "Cadillac Tax" on high-cost
12 health insurance plans beginning in 2018; and

13 Whereas the excise tax on high-cost health insurance plans will be borne by the insurance
14 companies that will in turn bill the increased costs to the policyholders; and

15 Whereas nearly every public employer health insurance plan in the State of Oregon would likely
16 be subject to the excise tax in 2018 for employee-only health insurance plans valued in excess of
17 \$10,200, and plans insuring families of state workers would be subject to the excise tax when the
18 plan is valued at \$27,500 or more; and

19 Whereas the caps on the value of health insurance plans not subject to the excise tax will be
20 indexed at regular intervals by the federal government; and

21 Whereas the increased costs borne by public employers on these insurance premiums incorpo-
22 rating the excise tax would be unfairly weighted based on the marital status of the employee,
23 causing a benefit inequity among public employees; and

24 Whereas without legislative intervention, the excise tax on high-cost health insurance plans will
25 likely be subject to collective bargaining negotiations by public employee unions before the imple-
26 mentation of the excise tax, potentially resulting in a cost increase to taxpayers or a decrease in
27 services to taxpayers; and

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 Whereas the State of Oregon cannot absorb the cost of the excise tax, which will increase
 2 health care premiums, without a likely reduction to the General Fund and a reduction of services
 3 across all state agencies, commissions and quasi-governmental agencies; and

4 Whereas local school districts and education service districts cannot absorb the cost of the ex-
 5 cise tax, reflected in increased health insurance premiums, without a loss of school days, increased
 6 class sizes, decreased academic offerings for students or teacher layoffs; and

7 Whereas public universities and community colleges cannot absorb the cost of the excise tax,
 8 reflected in increased health insurance premiums, without an offset to their budgets that would most
 9 likely include tuition increases for students; and

10 Whereas special districts cannot absorb the cost of the excise tax, reflected in increased health
 11 insurance premiums, without a likely increase in rates paid for services; and

12 Whereas public transit districts, already strapped by burgeoning health care costs, cannot ab-
 13 sorb the cost of the excise tax, reflected in increased health insurance premiums, without an in-
 14 crease in rider fares or a decrease in transportation services to commuters, which would create a
 15 financial hardship to low-income and senior transit users; and

16 Whereas police, fire or other public safety service districts cannot absorb the cost of the excise
 17 tax, reflected in increased health insurance premiums, without a potential decrease in response
 18 times, and a reduction in public safety services and the presence of first responders in the commu-
 19 nity; and

20 Whereas city, county and Metro governments cannot absorb the cost of the excise tax, reflected
 21 in increased health insurance premiums, without likely suspending key critical human services, local
 22 infrastructure investments and other necessary community functions; and

23 Whereas all public employers have the obligation of serving the needs of the citizens of Oregon
 24 first and foremost; and

25 Whereas the Legislative Assembly believes that we must balance the need to provide critical
 26 services to our constituents with a commitment to respecting those who serve the public; and

27 Whereas the excise tax to be levied in 2018 by the federal government is one of the single most
 28 expensive components of the ACA to public employers, with a direct cost that will be borne by all
 29 Oregon taxpayers at every level that the government taxes the people of Oregon; and

30 Whereas the transfer of taxpayer resources from the state government to the federal government
 31 would create a fiscal budget crisis for the State of Oregon, a potential reduction in force of public
 32 employees in order to compensate for looming budget cuts and a financial hardship and loss of ser-
 33 vices for all the citizens of Oregon; and

34 Whereas in order to ensure that all levels of state and local government can be provided relief
 35 from the coming federal excise tax, a solution must be passed into law no later than the end of the
 36 2016 regular session of the Legislative Assembly, and implemented no later than December 31, 2017;
 37 and

38 Whereas if no relief is provided to state, school district and local governments, the excise tax
 39 could drive up the cost of public employee health insurance plans by hundreds of millions of dollars
 40 in new costs each biennium; now, therefore,

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

42
 43 **LEGISLATIVE INTENT**

44
 45 **SECTION 1. The intent of the Legislative Assembly in sections 5, 6 and 24 of this 2016**

1 Act is to implement a plan to:

2 (1) Ensure that public employees have access to quality health care and increased em-
3 ployee benefit choices;

4 (2) Reduce the overall costs of health care so that any savings can be redirected to fund
5 future public employee health care costs, the Public Employees Retirement System's
6 actuarial liability, additional public employee benefit options or critical services across state
7 and local governments; and

8 (3) Promise all Oregonians, both private and public employees alike, that they will not
9 be burdened by the additional costs that a federally imposed excise tax would create for
10 public employers and taxpayers.

11
12 **FLEXIBLE BENEFITS TASK FORCE**

13
14 **SECTION 2.** (1) The Task Force on Flexible Benefits for Public Employees is established,
15 consisting of 13 members appointed as follows:

16 (a) The President of the Senate shall appoint one member from among members of the
17 Senate.

18 (b) The Speaker of the House of Representatives shall appoint one member from among
19 members of the House of Representatives.

20 (c) The Governor shall appoint 11 members consisting of:

21 (A) Three members representing public employers in this state;

22 (B) Three members representing public employees in this state;

23 (C) Three members with expertise in federal requirements concerning employer-
24 sponsored health plans, flexible benefit plans and related tax advantages and penalties;

25 (D) One member representing the Department of Consumer and Business Services; and

26 (E) One member representing an organization with a certificate of authority to transact
27 health insurance in this state.

28 (2) The task force shall collect and synthesize information about the federal excise tax
29 on employer-sponsored health plans and flexible benefit plans. The task force shall also
30 monitor implementation of sections 5, 6 and 24 of this 2016 Act, audit any General Fund
31 savings generated by sections 5 and 24 of this 2016 Act and make recommendations for leg-
32 islative changes to public employee benefit plans.

33 (3) A majority of the members of the task force constitutes a quorum for the transaction
34 of business.

35 (4) Official action by the task force requires the approval of a majority of the members
36 of the task force.

37 (5) The task force shall elect one of its members to serve as chairperson.

38 (6) If there is a vacancy for any cause, the appointing authority shall make an appoint-
39 ment to become immediately effective.

40 (7) The task force shall meet at times and places specified by the call of the chairperson
41 or of a majority of the members of the task force.

42 (8) The task force may adopt rules necessary for the operation of the task force.

43 (9) The task force shall submit to an interim committee of the Legislative Assembly re-
44 lated to health care in the manner provided by ORS 192.245:

45 (a) An initial report and the recommendations described in subsection (2) of this section

1 no later than September 15, 2018.

2 (b) A second report and the recommendations described in subsection (2) of this section
3 no later than September 15, 2019.

4 (c) A final report and the recommendations described in subsection (2) of this section no
5 later than September 15, 2020.

6 (10) The Oregon Health Authority shall provide staff support to the task force.

7 (11) Members of the task force who are not members of the Legislative Assembly are not
8 entitled to compensation, but may be reimbursed for actual and necessary travel and other
9 expenses incurred by them in the performance of their official duties in the manner and
10 amounts provided for in ORS 292.495. Claims for expenses incurred in performing functions
11 of the task force shall be paid out of funds appropriated to the Oregon Health Authority for
12 purposes of the task force.

13 (12) All agencies of state government, as defined in ORS 174.111, are directed to assist
14 the task force in the performance of its duties and, to the extent permitted by laws relating
15 to confidentiality, to furnish such information and advice as the members of the task force
16 consider necessary to perform their duties.

17 SECTION 3. Section 2 of this 2016 Act is repealed on December 31, 2020.

18
19 **PUBLIC EMPLOYEES' BENEFIT BOARD**

20
21 SECTION 4. Section 5 of this 2016 Act is added to and made a part of ORS 243.105 to
22 243.285.

23 SECTION 5. (1) A public employer shall annually allot to each eligible employee an
24 amount equal to the benefit cap for the year. The employee may use the allotment to pay
25 the premiums for any of the health benefit plans offered under ORS 243.135. The employee
26 shall pay any premium costs that exceed the allotment. If the employee declines the health
27 benefit plans offered by the Public Employees' Benefit Board, the allotment shall be available
28 as described in subsection (2) of this section.

29 (2) An employee who declines health benefit plan coverage described in ORS 243.135 or
30 whose premiums cost less than the amount of the employee's allotment may elect to have
31 the remainder of the allotment distributed by the public employer as follows:

32 (a) Payment to a retirement account;

33 (b) Deposit in a qualified tuition program described in 26 U.S.C. 529;

34 (c) Deposit in a cafeteria plan or qualified transportation fringe benefit plan that is not
35 includable in the taxable income of the employee by reason of 26 U.S.C. 125 or 132(f)(4);

36 (d) Contribution to a deferred compensation arrangement that is not included in the
37 taxable income of the employee by reason of 26 U.S.C. 402(e)(3);

38 (e) Payment to the employee; or

39 (f) Payment to a third party selected by the employee.

40 (3) The board shall provide assistance to eligible employees and their family members in
41 selecting health benefit plans described in ORS 243.135 and in making the elections described
42 in subsection (2) of this section.

43 (4) As used in this section:

44 (a) "Benefit cap" has the meaning given that term in section 6 of this 2016 Act.

45 (b) "Public employer" has the meaning given that term in ORS 238.005.

SECTION 6. (1) As used in this section:

(a) “Benefit cap” means the applicable dollar amount for self-only coverage specified in 26 U.S.C. 4980I, as modified by the health cost adjustment percentage and, for employers the majority of whose employees covered by a health benefit plan are engaged in a high-risk profession or employed to repair or install electrical or telecommunications lines, any adjustment under 26 U.S.C. 4980I(b)(3)(C)(iv).

(b) “Composite rate” means the average annualized cost, in dollars per year per employee, of the health benefit plan premiums paid by a public employer, calculated for all of the employees of the public employer in 2017.

(c) “Investment amount” means the difference between the composite rate of a public employer and the benefit cap for 2018 multiplied by the total number of employees of the public employer.

(d) “Paying the costs of critical services” means:

- (A) Maintaining the medical assistance program;
- (B) Maintaining the number of days in the school calendar;
- (C) Maintaining public safety; and
- (D) Preventing layoffs of public employees.

(e) “Public employer” has the meaning given that term in ORS 238.005.

(2) Each public employer shall establish two investment accounts to be held in trust for the following purposes:

(a) One account must be dedicated to:

- (A) Paying the costs of critical services;
- (B) Paying the costs of actuarial liabilities owed by the public employer to the Public Employees Retirement System; or
- (C) Paying the costs of benefits for employees of the public employer arising from a collective bargaining agreement; and

(b) One account must be dedicated to paying the increased cost, if any, of the benefit cap over the prior year resulting from the application of the health cost adjustment percentage.

(3) Interest and earnings from each account described in subsection (2) of this section shall be deposited to the account.

(4) Each calendar year, a public employer shall deposit to the account described in:

- (a) Subsection (2)(a) of this section, an amount equal to 50 percent of the investment amount; and
- (b) Subsection (2)(b) of this section, an amount equal to 50 percent of the investment amount, minus the amount paid by the public employer for the increase in the cost of the benefit cap over the prior year resulting from the health cost adjustment percentage.

(5) A public employer may withdraw and expend moneys in each account described in subsection (2) of this section only for the purposes specified for that account.

SECTION 7. ORS 243.061 is amended to read:

243.061. (1) There is created in the Oregon Health Authority the Public Employees’ Benefit Board consisting of at least *[eight]* **10** voting members and two members of the Legislative Assembly as nonvoting advisory members. Two of the voting members are ex officio members and *[six]* **eight** are appointed by the Governor. The *[voting]* **following** members shall be **voting members**:

(a) Four members representing the state as an employer and management employees, who shall be as follows:

1 (A) The Director of the Oregon Health Authority or a designee of the director;

2 (B) The Administrator of the Office for Oregon Health Policy and Research or a designee of the
3 administrator; and

4 (C) Two management employees appointed by the Governor from areas of state government
5 other than the Oregon Health Authority or the Office for Oregon Health Policy and Research[;
6 and].

7 (b) Four members appointed by the Governor and representing nonmanagement representable
8 employees, who shall be as follows:

9 (A) Two persons from the largest employee representative unit;

10 (B) One person from the second largest employee representative unit; and

11 (C) One person from representable employees not represented by employee representative units
12 described in subparagraphs (A) and (B) of this paragraph.

13 **(c) Two members appointed by the Governor, one representing local government man-**
14 **agement employees and one representing local government nonmanagement employees.**

15 (2) One member of the Senate shall be appointed by the President of the Senate and one member
16 of the House of Representatives shall be appointed by the Speaker of the House to serve as non-
17 voting advisory members.

18 *[(3)(a) If the governing body of a local government elects to participate in a benefit plan offered*
19 *by the board, in addition to the members appointed under subsections (1) and (2) of this section, the*
20 *Governor shall appoint two voting members, one of whom represents local government management and*
21 *one of whom represents local government nonmanagement employees.]*

22 *[(b)]* **(3)(a)** After the appointment of members under *[paragraph (a) of this subsection]* **subsection**
23 **(1)(c) of this section**, if the number of eligible employees of a local government or local govern-
24 ments enrolled in a benefit plan or plans offered by the board exceeds 25,000, the Governor shall
25 appoint two additional voting members, one *[of whom represents]* **representing** local government
26 management **employees** and one *[of whom represents]* **representing** local government nonmanage-
27 ment employees.

28 *[(c)]* **(b)** After the appointment of members under *[paragraphs (a) and (b)]* **paragraph (a)** of this
29 subsection, for every additional 25,000 eligible employees of a local government or local governments
30 enrolled in a benefit plan or plans offered by the board, the Governor shall appoint one additional
31 voting member representing local government management **employees** and one additional voting
32 member representing local government nonmanagement employees.

33 (4) A maximum of three members may be appointed **by the Governor under subsections (1)**
34 **and (3) of this section** to represent local government management **employees** and a maximum of
35 three members may be appointed **by the Governor** to represent local government nonmanagement
36 employees.

37 (5) The term of office of each appointed voting member is four years, but an appointed voting
38 member serves at the pleasure of the Governor. Before the expiration of the term of a voting mem-
39 ber appointed by the Governor, the Governor shall appoint a successor to take office upon the date
40 of that expiration. A member is eligible for reappointment. If there is a vacancy for any cause, the
41 Governor shall make an appointment to become immediately effective for the unexpired term.

42 (6) The appointments by the Governor of voting members of the board are subject to confirma-
43 tion by the Senate in the manner prescribed in ORS 171.562 and 171.565.

44 (7) Members of the board who are not members of the Legislative Assembly shall receive no
45 compensation for their services, but shall be paid for their necessary and actual expenses while on

1 official business in accordance with ORS 292.495. Members of the board who are members of the
 2 Legislative Assembly shall be paid compensation and expense reimbursement as provided in ORS
 3 171.072, payable from funds appropriated to the Legislative Assembly.

4 (8) As used in this section, “benefit plan” and “local government” have the meanings given those
 5 terms in ORS 243.105.

6 **SECTION 8.** ORS 243.105 is amended to read:

7 243.105. As used in ORS 243.105 to 243.285, unless the context requires otherwise:

8 (1) “Benefit plan” includes, but is not limited to:

9 (a) Contracts for insurance or other benefits, including *[medical,]* dental, vision, life, disability
 10 and *[other health]* **long term** care *[recognized by state law]*, and related services and supplies; **and**

11 (b) Comparable benefits for employees who rely on spiritual means of healing.; *and]*

12 *[(c) Self-insurance programs managed by the Public Employees’ Benefit Board.]*

13 (2) “Board” means the Public Employees’ Benefit Board.

14 (3) “Carrier” means an insurance company or health care service contractor holding a valid
 15 certificate of authority from the Director of the Department of Consumer and Business Services, or
 16 two or more companies or contractors acting together pursuant to a joint venture, partnership or
 17 other joint means of operation, or a board-approved guarantor of benefit plan coverage and com-
 18 pensation.

19 (4)(a) “Eligible employee” means an officer or employee of a state agency or local government
 20 who elects to participate in one of the *[group]* benefit plans *[described in ORS 243.135]* **offered by**
 21 **the board.** The term includes, but is not limited to, state officers and employees in the exempt, un-
 22 classified and classified service, and state officers and employees, whether or not retired, who:

23 (A) Are receiving a service retirement allowance, a disability retirement allowance or a pension
 24 under the Public Employees Retirement System or are receiving a service retirement allowance, a
 25 disability retirement allowance or a pension under any other retirement or disability benefit plan
 26 or system offered by the State of Oregon for its officers and employees;

27 (B) Are eligible to receive a service retirement allowance under the Public Employees Retire-
 28 ment System and have reached earliest retirement age under ORS chapter 238;

29 (C) Are eligible to receive a pension under ORS 238A.100 to 238A.250, and have reached earliest
 30 retirement age as described in ORS 238A.165; or

31 (D) Are eligible to receive a service retirement allowance or pension under another retirement
 32 benefit plan or system offered by the State of Oregon and have attained earliest retirement age
 33 under the plan or system.

34 (b) “Eligible employee” does not include individuals:

35 (A) Engaged as independent contractors;

36 (B) Whose periods of employment in emergency work are on an intermittent or irregular basis;

37 (C) Who are employed on less than half-time basis unless the individuals are employed in posi-
 38 tions classified as job-sharing positions, unless the individuals are defined as eligible under rules of
 39 the board;

40 (D) Appointed under ORS 240.309;

41 (E) Provided sheltered employment or make-work by the state in an employment or industries
 42 program maintained for the benefit of such individuals;

43 (F) Provided student health care services in conjunction with their enrollment as students at a
 44 public university listed in ORS 352.002; or

45 (G) Who are members of a collective bargaining unit that represents police officers or fire-

1 fighters.

2 (5) "Family member" means an eligible employee's spouse and any unmarried child or stepchild
 3 within age limits and other conditions imposed by the board with regard to unmarried children or
 4 stepchildren.

5 **(6) "Health benefit plan" has the meaning given that term in ORS 743B.005.**

6 [(6)] (7) "Local government" means any city, county or special district in this state or any
 7 intergovernmental entity created under ORS chapter 190.

8 [(7)] (8) "Payroll disbursing officer" means the officer or official authorized to disburse moneys
 9 in payment of salaries and wages of employees of a state agency or local government.

10 [(8)] (9) "Premium" means the monthly or other periodic charge for a benefit plan.

11 [(9)] (10) "State agency" means every state officer, board, commission, department or other ac-
 12 tivity of state government.

13 **SECTION 9.** ORS 243.107 is amended to read:

14 243.107. A person employed by a public university listed in ORS 352.002 or the Oregon Health
 15 and Science University [*may*] **shall** be considered an eligible employee for participation in one of the
 16 [*group*] **health** benefit plans described in ORS 243.135 [*if the governing board of the public university,*
 17 *or the Oregon Health and Science University Board of Directors for Oregon Health and Science Uni-*
 18 *versity employees, determines that funds are available therefor and if:*] **and paid for in the manner**
 19 **prescribed in section 5 of this 2016 Act, if:**

20 (1) Notwithstanding ORS 243.105 (4)(b)(F), the person is a student enrolled in an institution of
 21 higher education and is employed as a graduate teaching assistant, graduate research assistant or
 22 a fellow at the institution and elects to participate; or

23 (2) Notwithstanding ORS 243.105 (4)(b)(B) or (C), the person is employed on a less than half-time
 24 basis in an unclassified instructional or research support capacity and elects to participate.

25 **SECTION 10.** ORS 243.125 is amended to read:

26 243.125. (1) The Public Employees' Benefit Board shall prescribe rules for the conduct of its
 27 business and for carrying out ORS 243.256. The board shall study all matters connected with the
 28 providing of adequate benefit plan coverage for eligible employees on the best basis possible with
 29 relation both to the welfare of the employees and to the state and local governments. The board
 30 shall design benefits, devise specifications, analyze carrier responses to advertisements for bids and
 31 decide on the award of contracts. Contracts shall be signed by the chairperson on behalf of the
 32 board.

33 (2) In carrying out its duties under subsection (1) of this section, the goal of the board shall be
 34 to provide a high quality plan of health and other benefits for employees at a cost affordable to both
 35 the employer and the employees.

36 (3) Subject to ORS chapter 183, the board may make rules not inconsistent with ORS 243.105 to
 37 243.285 and 292.051 to determine the terms and conditions of eligible employee participation and
 38 coverage.

39 (4) The board shall prepare specifications, invite bids and do acts necessary to award contracts
 40 [*for*] **to carriers to provide** health benefit [*plan*] **plans and benefit plans for long term care, vi-**
 41 **sion** and dental [*benefit plan*] coverage [*of*] **to** eligible employees. **Health benefit plan coverage**
 42 **must be** in accordance with the criteria set forth in ORS 243.135 (1).

43 (5) The executive director of the board shall report to the Director of the Oregon Health Au-
 44 thority.

45 (6) The board may retain consultants, brokers or other advisory personnel when necessary and,

1 subject to the State Personnel Relations Law, shall employ such personnel as are required to per-
2 form the functions of the board.

3 **SECTION 11.** ORS 243.129 is amended to read:

4 243.129. (1) The governing body of a local government [*may elect to*] **shall** participate in a **health**
5 benefit plan [*offered by the Public Employees' Benefit Board*] **described in ORS 243.135 that is paid**
6 **for in the manner prescribed in section 5 of this 2016 Act.**

7 (2) The decision of the governing body of a local government to participate in [*a*] benefit [*plan*]
8 **plans, other than health benefit plans**, offered by the board is in the discretion of the governing
9 body of the local government and is a permissive subject of collective bargaining.

10 [(3) *If the governing body of a local government elects to offer a benefit plan through the board,*
11 *the governing body may elect one time only to provide alternative group health and welfare insurance*
12 *benefit plans to eligible employees if:*]

13 [(a) *The alternative benefit plan is offered through the health insurance exchange under ORS*
14 *741.310 (1)(b); and*]

15 [(b) *The participation of the local government is not precluded under federal law on or after Jan-*
16 *uary 1, 2017.*]

17 **SECTION 12.** ORS 243.135, as amended by section 4, chapter 389, Oregon Laws 2015, is
18 amended to read:

19 243.135. (1) Notwithstanding any other benefit plan contracted for and offered by the Public
20 Employees' Benefit Board, the board shall contract [*for a health benefit plan or plans best designed*
21 *to meet the needs and provide for the welfare of eligible employees, the state and the local governments.*
22 *In considering whether to enter into a contract for a plan,*] **with a carrier to provide a group of**
23 **health benefit plans selected by the board from the plans that are offered by the carrier. In**
24 **selecting the plans to be offered to eligible employees by the carrier, the board shall select**
25 **health benefit plans that provide minimum essential coverage, as defined in 26 U.S.C. 5000A,**
26 **and shall place emphasis on:**

27 (a) Employee choice among high quality plans;

28 [(b) *A competitive marketplace;*]

29 [(c)] (b) Plan performance and information;

30 [(d) *Employer flexibility in plan design and contracting;*]

31 [(e)] (c) Quality customer service;

32 [(f)] (d) Creativity and innovation;

33 [(g) *Plan benefits as part of total employee compensation;*]

34 [(h)] (e) The improvement of employee health; and

35 [(i)] (f) Health outcome and quality measures, described in ORS 413.017 (4), that are reported
36 by the plan.

37 (2) The board may approve more than one carrier for [*each type of plan*] **health benefit plans**
38 contracted for and offered but the number of carriers shall be held to a number consistent with
39 adequate service to eligible employees and their family members.

40 (3) Where appropriate for a contracted and offered health benefit plan, the board shall provide
41 options under which an eligible employee may arrange coverage for family members.

42 (4) Payroll deductions for costs that are not payable by the state or a local government may be
43 made upon receipt of a signed authorization from the employee indicating an election to participate
44 in the plan or plans selected and the deduction of a certain sum from the employee's pay.

45 (5) In developing any health benefit plan, the board may provide an option of additional cover-

1 age for eligible employees and their family members at an additional cost or premium.

2 (6) Transfer of enrollment from one **health benefit** plan to another shall be open to all eligible
3 employees and their family members under rules adopted by the board. Because of the special
4 problems that may arise in individual instances under [*comprehensive group practice*] **health benefit**
5 plan coverage involving acceptable provider-patient relations between a particular panel of provid-
6 ers and particular eligible employees and their family members, the board shall provide a procedure
7 under which any eligible employee may apply at any time to substitute [*a health service benefit plan*
8 *for participation in a comprehensive group practice benefit plan*] **one health benefit plan for**
9 **another.**

10 (7) The board shall evaluate a **health** benefit plan that serves a limited geographic region of this
11 state according to the criteria described in subsection (1) of this section.

12 **(8) Employees must have the opportunity to select health benefit plans using an Internet**
13 **portal.**

14 **SECTION 13.** ORS 243.145 is amended to read:

15 243.145. (1) The Public Employees' Benefit Board shall have authority to employ whatever means
16 are reasonably necessary to carry out the purposes of ORS 243.105 to 243.285 and 292.051. The
17 board's authority includes, but is not limited to, the authority to [*self-insure and to*] seek clarifica-
18 tion, amendment, modification, suspension or termination of any agreement or contract that in the
19 board's judgment requires such action.

20 (2) Upon providing specific notice in writing to the carrier, the affected employee organization
21 or organizations, the Oregon Health Authority and affected eligible employees, and after affording
22 opportunity for a public hearing upon the issues that may be involved, the board may enter an order
23 withdrawing approval of any benefit plan. Thirty days after entry of the order, the board shall ter-
24minate all withholding authorizations of eligible employees and terminate all board-approved par-
25ticipation in the plan.

26 (3) The board by order may terminate the participation of any state agency or local government
27 if within three months the state agency or local government fails to perform any action required
28 by ORS 243.105 to 243.285 and 292.051 or by board rule.

29 **SECTION 14.** ORS 243.167 is amended to read:

30 243.167. (1) There is created the Public Employees' Revolving Fund, separate and distinct from
31 the General Fund. The balances of the Public Employees' Revolving Fund are continuously appro-
32 priated to **the Public Employees' Benefit Board** to cover expenses incurred in connection with
33 the administration of ORS 243.105 to 243.285 and 292.051. Assets of the Public Employees' Revolving
34 Fund may be retained for limited periods of time as established by the [*Public Employees' Benefit*]
35 board by rule. Among other purposes, the board may retain the funds to control expenditures[,] **and**
36 stabilize benefit premium rates [*and self-insure*]. The board may establish subaccounts within the
37 Public Employees' Revolving Fund.

38 (2) There is appropriated to the Public Employees' Revolving Fund all unused employer contri-
39 butions for employee benefits and all refunds, dividends, unused premiums and other payments at-
40 tributable to any employee contribution or employer contribution, **other than moneys allotted to**
41 **employees under section 5 of this 2016 Act**, made from any carrier or contractor that has pro-
42 vided employee benefits administered by the board, and all interest earned on such moneys.

43 **SECTION 15.** ORS 243.252 is amended to read:

44 243.252. (1) The state may pay none of the cost of making health benefit plan coverage available
45 to a retired state employee who is an eligible employee and to family members or may agree, by

1 collective bargaining agreement or otherwise, to pay part or all of that cost.

2 (2) Nothing in subsection (1) of this section or other law[, *except ORS 243.886,*] prohibits a col-
 3 lective bargaining unit from agreeing with an employer that is a public body, as defined in ORS
 4 174.109, to establish a retiree medical trust, voluntary employees' beneficiary association, health
 5 reimbursement arrangement or other agreement for health care expenses of employees or retirees
 6 if the provisions of the trust, association, arrangement or other agreement comply with the re-
 7 quirements of the Insurance Code.

8 **SECTION 16.** ORS 243.256 is amended to read:

9 243.256. (1) A hospital that provides services or supplies under a **health** benefit plan offered by
 10 the Public Employees' Benefit Board shall be reimbursed using the methodology prescribed by the
 11 Oregon Health Authority under ORS 442.392 and may not be reimbursed for each service or supply
 12 provided.

13 (2) This section applies to hospital payments made by a carrier under a contract with the board
 14 [*and to hospital payments made under a self-insurance program administered by a third party admin-*
 15 *istrator on behalf of the board*] **under ORS 243.135.**

16 (3) This section does not apply to reimbursements paid by a carrier [*or third party*
 17 *administrator*] to a hospital that is not subject to the methodology prescribed by the authority under
 18 ORS 442.392.

19 **SECTION 17.** ORS 243.285 is amended to read:

20 243.285. (1) Upon receipt of the request in writing of an eligible employee, [*so to do,*] the payroll
 21 disbursing officer authorized to disburse funds in payment of the salary or wages of the eligible
 22 employee may deduct from the salary or wages of the employee, **or from the employee's allotment**
 23 **described in section 5 of this 2016 Act,** an amount of money indicated in the request for payment
 24 of the applicable amount set forth in benefit plans selected by the employee or selected on the
 25 employee's behalf for:

26 (a) Group health and related services and supplies, including such insurance for family members
 27 of the eligible employee.

28 (b) Group life insurance, including life insurance for family members of the eligible employee.

29 (c) Group dental and related services and supplies, or any other remedial care recognized by
 30 state law and related services and supplies, recognized under state law, including such insurance for
 31 family members of the eligible employee.

32 (d) Group indemnity insurance for accidental death and dismemberment and for loss of income
 33 due to accident, sickness or other disability, including such insurance for family members of the el-
 34 ible employee.

35 (e) Other benefits[, *including self-insurance programs,*] that are approved and provided by the
 36 Public Employees' Benefit Board.

37 (2) Moneys deducted under subsection (1) of this section shall be paid over promptly[:]

38 [(a)] to the carriers or persons responsible for payment of premiums to carriers, in accordance
 39 with the terms of the contracts made by the eligible employees or on their behalf.[: or]

40 [(b) *With respect to self-insurance benefits, in accordance with rules, procedures and directions of*
 41 *the Public Employees' Benefit Board.*]

42 **SECTION 18.** ORS 243.302 is amended to read:

43 243.302. The Public Employees' Benefit Board may group retired state employees and state em-
 44 ployees who are not retired for the purpose of entering into contracts [*for*] **with one or more**
 45 **carriers to provide health benefit plan and other** insurance coverage.

SECTION 19. ORS 243.160 is amended to read:

243.160. A retired state or local government officer or employee is not required to participate in one of the *[group]* **health** benefit plans described in ORS 243.135 in order to obtain dental benefit plan coverage. The Public Employees' Benefit Board shall establish by rule standards of eligibility for retired officers or employees to participate in a dental benefit plan.

SECTION 20. ORS 243.163 is amended to read:

243.163. A member of the Legislative Assembly who is receiving a pension or annuity under ORS 238.092 (1)(a) or 238A.250 (1) shall be eligible to participate as a retired state officer in one of the *[group]* **health** benefit plans described in ORS 243.135 after the member ceases to be a member of the Legislative Assembly if the member applies to the Public Employees' Benefit Board within 60 days after the member ceases to be a member of the Legislative Assembly.

SECTION 21. ORS 292.051 is amended to read:

292.051. (1) *[Except as authority over contracts for health benefit plans described in ORS 243.135 is vested in the Public Employees' Benefit Board,]* Upon receipt of the request in writing of an officer or employee, *[so to do,]* the state official authorized to disburse funds in payment of the salary or wages of the officer or employee may deduct from the salary or wages of the officer or employee, **or from the officer's or employee's allotment described in section 5 of this 2016 Act**, an amount of money indicated in the request for payment of the applicable amount set forth in benefit plans selected by the officers or employees or in their behalf for:

(a) Group life insurance, including life insurance for dependents of officers or employees.

(b) Group dental and related services and supplies, or any other remedial care recognized by state law and related services and supplies, other than medical, surgical or hospital care, recognized under state law, including such insurance for dependents of state officers or employees.

(c) Group indemnity insurance for accidental death and dismemberment and for loss of income due to accident, sickness or other disability, including such insurance for dependents of state officers or employees.

(d) Automobile casualty insurance under a monthly payroll deduction program endorsed or offered by an employee organization representing 500 or more state employees. Membership in the employee organization is not a requirement for participation in this program.

(e) Legal insurance under a monthly payroll deduction program endorsed or offered by an employee organization representing 500 or more state employees.

[(f) Self-insurance programs that are approved and provided by the Public Employees' Benefit Board.]

(2) The Oregon Health Authority may establish and collect a fee to cover costs of administering this section.

(3) No state official authorized to disburse funds in payment of salaries or wages is required to make deductions as authorized by subsection (1) of this section for more than one benefit plan of the type referred to in each of the paragraphs in subsection (1) of this section per eligible employee.

(4) Moneys deducted under subsection (1) of this section shall be paid over promptly[:]

[(a)] to the insurance companies, agencies or hospital associations, or persons responsible for payment of premiums to the companies, agencies or associations, in accordance with the terms of the contracts made by the officers or employees or in their behalf.[: *or]*

[(b) With respect to self-insurance benefits, in accordance with rules, procedures and directions of the Public Employees' Benefit Board.]

(5) As used in this section, "officer or employee" means all persons who receive salaries or

1 wages disbursed by any state official.

2
3 **COLLECTIVE BARGAINING**

4
5 **SECTION 22.** ORS 243.650 is amended to read:

6 243.650. As used in ORS 243.650 to 243.782, unless the context requires otherwise:

7 (1) "Appropriate bargaining unit" means the unit designated by the Employment Relations Board
8 or voluntarily recognized by the public employer to be appropriate for collective bargaining. How-
9 ever, an appropriate bargaining unit may not include both academically licensed and unlicensed or
10 nonacademically licensed school employees. Academically licensed units may include but are not
11 limited to teachers, nurses, counselors, therapists, psychologists, child development specialists and
12 similar positions. This limitation does not apply to any bargaining unit certified or recognized prior
13 to June 6, 1995, or to any school district with fewer than 50 employees.

14 (2) "Board" means the Employment Relations Board.

15 (3) "Certification" means official recognition by the board that a labor organization is the ex-
16 clusive representative for all of the employees in the appropriate bargaining unit.

17 (4) "Collective bargaining" means the performance of the mutual obligation of a public employer
18 and the representative of its employees to meet at reasonable times and confer in good faith with
19 respect to employment relations for the purpose of negotiations concerning mandatory subjects of
20 bargaining, to meet and confer in good faith in accordance with law with respect to any dispute
21 concerning the interpretation or application of a collective bargaining agreement, and to execute
22 written contracts incorporating agreements that have been reached on behalf of the public employer
23 and the employees in the bargaining unit covered by such negotiations. The obligation to meet and
24 negotiate does not compel either party to agree to a proposal or require the making of a concession.
25 This subsection may not be construed to prohibit a public employer and a certified or recognized
26 representative of its employees from discussing or executing written agreements regarding matters
27 other than mandatory subjects of bargaining that are not prohibited by law as long as there is mu-
28 tual agreement of the parties to discuss these matters, which are permissive subjects of bargaining.

29 (5) "Compulsory arbitration" means the procedure whereby parties involved in a labor dispute
30 are required by law to submit their differences to a third party for a final and binding decision.

31 (6) "Confidential employee" means one who assists and acts in a confidential capacity to a per-
32 son who formulates, determines and effectuates management policies in the area of collective bar-
33 gaining.

34 (7)(a) "Employment relations" includes, but is not limited to, matters concerning direct or indi-
35 rect monetary benefits, hours, vacations, sick leave, grievance procedures and other conditions of
36 employment.

37 (b) "Employment relations" does not include subjects determined to be permissive, nonmanda-
38 tory subjects of bargaining by the Employment Relations Board prior to June 6, 1995.

39 (c) After June 6, 1995, "employment relations" does not include subjects that the Employment
40 Relations Board determines to have a greater impact on management's prerogative than on employee
41 wages, hours, or other terms and conditions of employment.

42 (d) "Employment relations" does not include subjects that have an insubstantial or de minimis
43 effect on public employee wages, hours, and other terms and conditions of employment.

44 (e) For school district bargaining, "employment relations" excludes class size, the school or ed-
45 ucational calendar, standards of performance or criteria for evaluation of teachers, the school cur-

1 rriculum, reasonable dress, grooming and at-work personal conduct requirements respecting smoking,
2 gum chewing and similar matters of personal conduct, the standards and procedures for student
3 discipline, the time between student classes, the selection, agendas and decisions of 21st Century
4 Schools Councils established under ORS 329.704, requirements for expressing milk under ORS
5 653.077, and any other subject proposed that is permissive under paragraphs (b), (c) and (d) of this
6 subsection.

7 (f) For employee bargaining involving employees covered by ORS 243.736 and employees of the
8 Department of Corrections who have direct contact with inmates, “employment relations” includes
9 safety issues that have an impact on the on-the-job safety of the employees or staffing levels that
10 have a significant impact on the on-the-job safety of the employees.

11 **(g) “Employment relations”:**

12 **(A) Does not include health benefit plan coverage as described in sections 5 and 24 of this**
13 **2016 Act.**

14 **(B) Does include health insurance coverage for retired employees as provided in ORS**
15 **238.410, 238.415, 238.420, 243.252 and 243.303.**

16 **(C) Does include dental only, vision only and long term care insurance.**

17 [(g)] (h) For all other employee bargaining except school district bargaining and except as pro-
18 vided in paragraph (f) of this subsection, “employment relations” excludes staffing levels and safety
19 issues (except those staffing levels and safety issues that have a direct and substantial effect on the
20 on-the-job safety of public employees), scheduling of services provided to the public, determination
21 of the minimum qualifications necessary for any position, criteria for evaluation or performance
22 appraisal, assignment of duties, workload when the effect on duties is insubstantial, reasonable
23 dress, grooming, and at-work personal conduct requirements respecting smoking, gum chewing, and
24 similar matters of personal conduct at work, and any other subject proposed that is permissive un-
25 der paragraphs (b), (c) and (d) of this subsection.

26 (8) “Exclusive representative” means the labor organization that, as a result of certification by
27 the board or recognition by the employer, has the right to be the collective bargaining agent of all
28 employees in an appropriate bargaining unit.

29 (9) “Fact-finding” means identification of the major issues in a particular labor dispute by one
30 or more impartial individuals who review the positions of the parties, resolve factual differences and
31 make recommendations for settlement of the dispute.

32 (10) “Fair-share agreement” means an agreement between the public employer and the recog-
33 nized or certified bargaining representative of public employees whereby employees who are not
34 members of the employee organization are required to make an in-lieu-of-dues payment to an em-
35 ployee organization except as provided in ORS 243.666. Upon the filing with the board of a petition
36 by 30 percent or more of the employees in an appropriate bargaining unit covered by such union
37 security agreement declaring they desire that the agreement be rescinded, the board shall take a
38 secret ballot of the employees in the unit and certify the results thereof to the recognized or certi-
39 fied bargaining representative and to the public employer. Unless a majority of the votes cast in an
40 election favor the union security agreement, the board shall certify deauthorization of the agree-
41 ment. A petition for deauthorization of a union security agreement must be filed not more than 90
42 calendar days after the collective bargaining agreement is executed. Only one such election may be
43 conducted in any appropriate bargaining unit during the term of a collective bargaining agreement
44 between a public employer and the recognized or certified bargaining representative.

45 (11) “Final offer” means the proposed contract language and cost summary submitted to the

1 mediator within seven days of the declaration of impasse.

2 (12) "Labor dispute" means any controversy concerning employment relations or concerning the
3 association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to
4 arrange terms or conditions of employment relations, regardless of whether the disputants stand in
5 the proximate relation of employer and employee.

6 (13) "Labor organization" means any organization that has as one of its purposes representing
7 employees in their employment relations with public employers.

8 (14) "Last best offer package" means the offer exchanged by parties not less than 14 days prior
9 to the date scheduled for an interest arbitration hearing.

10 (15) "Legislative body" means the Legislative Assembly, the city council, the county commission
11 and any other board or commission empowered to levy taxes.

12 (16) "Managerial employee" means an employee of the State of Oregon or a public university
13 listed in ORS 352.002 who possesses authority to formulate and carry out management decisions or
14 who represents management's interest by taking or effectively recommending discretionary actions
15 that control or implement employer policy, and who has discretion in the performance of these
16 management responsibilities beyond the routine discharge of duties. A "managerial employee" need
17 not act in a supervisory capacity in relation to other employees. Notwithstanding this subsection,
18 "managerial employee" does not include faculty members at a community college, college or uni-
19 versity.

20 (17) "Mediation" means assistance by an impartial third party in reconciling a labor dispute
21 between the public employer and the exclusive representative regarding employment relations.

22 (18) "Payment-in-lieu-of-dues" means an assessment to defray the cost for services by the exclu-
23 sive representative in negotiations and contract administration of all persons in an appropriate
24 bargaining unit who are not members of the organization serving as exclusive representative of the
25 employees. The payment must be equivalent to regular union dues and assessments, if any, or must
26 be an amount agreed upon by the public employer and the exclusive representative of the employees.

27 (19) "Public employee" means an employee of a public employer but does not include elected
28 officials, persons appointed to serve on boards or commissions, incarcerated persons working under
29 [section 41,] Article I, **section 41**, of the Oregon Constitution, or persons who are confidential em-
30 ployees, supervisory employees or managerial employees.

31 (20) "Public employer" means the State of Oregon, and the following political subdivisions:
32 Cities, counties, community colleges, school districts, special districts, mass transit districts, metro-
33 politan service districts, public service corporations or municipal corporations and public and
34 quasi-public corporations.

35 (21) "Public employer representative" includes any individual or individuals specifically desig-
36 nated by the public employer to act in its interests in all matters dealing with employee represen-
37 tation, collective bargaining and related issues.

38 (22) "Strike" means a public employee's refusal in concerted action with others to report for
39 duty, or his or her willful absence from his or her position, or his or her stoppage of work, or his
40 or her absence in whole or in part from the full, faithful or proper performance of his or her duties
41 of employment, for the purpose of inducing, influencing or coercing a change in the conditions,
42 compensation, rights, privileges or obligations of public employment; however, nothing shall limit
43 or impair the right of any public employee to lawfully express or communicate a complaint or
44 opinion on any matter related to the conditions of employment.

45 (23) "Supervisory employee" means any individual having authority in the interest of the em-

1 ployer to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline
 2 other employees, or responsibly to direct them, or to adjust their grievances, or effectively to re-
 3 commend such action, if in connection therewith, the exercise of the authority is not of a merely
 4 routine or clerical nature but requires the use of independent judgment. Failure to assert supervi-
 5 sory status in any Employment Relations Board proceeding or in negotiations for any collective
 6 bargaining agreement does not thereafter prevent assertion of supervisory status in any subsequent
 7 board proceeding or contract negotiation. Notwithstanding the provisions of this subsection, “su-
 8 pervisory employee” does not include:

9 (a) A nurse, charge nurse or nurse holding a similar position if that position has not tradi-
 10 tionally been classified as supervisory; or

11 (b) A firefighter prohibited from striking by ORS 243.736 who assigns, transfers or directs the
 12 work of other employees but does not have the authority to hire, discharge or impose economic
 13 discipline on those employees.

14 (24) “Unfair labor practice” means the commission of an act designated an unfair labor practice
 15 in ORS 243.672.

16 (25) “Voluntary arbitration” means the procedure whereby parties involved in a labor dispute
 17 mutually agree to submit their differences to a third party for a final and binding decision.

18
 19 **OREGON EDUCATORS BENEFIT BOARD**

20
 21 **SECTION 23.** Section 24 of this 2016 Act is added to and made a part of ORS 243.860 to
 22 **243.886.**

23 **SECTION 24.** (1) A public employer shall annually allot to each eligible employee an
 24 amount equal to the benefit cap for the year. The employee may use the allotment to pay
 25 the premiums for any of the health benefit plans offered under ORS 243.866. The employee
 26 shall pay any premium costs that exceed the allotment. If the employee declines the health
 27 benefit plans offered by the Oregon Educators Benefit Board, the allotment shall be available
 28 as described in subsection (2) of this section.

29 (2) An employee who declines health benefit plan coverage described in ORS 243.866 or
 30 whose premiums cost less than the amount of the employee’s allotment may elect to have
 31 the remainder of the allotment distributed by the public employer as follows:

32 (a) Payment to a retirement account;

33 (b) Deposit in an qualified tuition program described in 26 U.S.C. 529;

34 (c) Deposit in a cafeteria plan or qualified transportation fringe benefit plan that is not
 35 includable in the taxable income of the employee by reason of 26 U.S.C. 125 or 132(f)(4);

36 (d) Contribution to a deferred compensation arrangement that is not included in the
 37 taxable income of the employee by reason of 26 U.S.C. 402(e)(3);

38 (e) Payment to the employee; or

39 (f) Payment to a third party selected by the employee.

40 (3) The board shall provide assistance to eligible employees and their family members in
 41 selecting health benefit plans described in ORS 243.866 and in making the elections described
 42 in subsection (2) of this section.

43 (4) As used in this section:

44 (a) “Benefit cap” has the meaning given that term in section 6 of this 2016 Act.

45 (b) “Public employer” has the meaning given that term in ORS 238.005.

1 **SECTION 25.** ORS 243.860 is amended to read:
2 243.860. As used in ORS 243.860 to 243.886, unless the context requires otherwise:
3 (1) “Benefit plan” includes but is not limited to:
4 (a) Contracts for insurance or other benefits, including *[medical,]* dental, vision, life, disability
5 and *[other health]* **long term** care *[recognized by state law]*, and related services and supplies; **and**
6 *[(b) Self-insurance programs managed by the Oregon Educators Benefit Board; and]*
7 *[(c)]* **(b)** Comparable benefits for employees who rely on spiritual means of healing.
8 (2) “Carrier” means an insurance company or health care service contractor holding a valid
9 certificate of authority from the Director of the Department of Consumer and Business Services, or
10 two or more companies or contractors acting together pursuant to a joint venture, partnership or
11 other joint means of operation, or a *[board-approved]* provider or guarantor of benefit plan coverage
12 and compensation **that is approved by the Oregon Educators Benefit Board.**
13 (3) “District” means a common school district, a union high school district, an education service
14 district, as defined in ORS 334.003, or a community college district, as defined in ORS 341.005.
15 (4)(a) “Eligible employee” includes:
16 (A) An officer or employee of a district or a local government who elects to participate in one
17 of the benefit plans described in ORS 243.864 to 243.874; and
18 (B) An officer or employee of a district or a local government, whether or not retired, who:
19 (i) Is receiving a service retirement allowance, a disability retirement allowance or a pension
20 under the Public Employees Retirement System or is receiving a service retirement allowance, a
21 disability retirement allowance or a pension under any other retirement or disability benefit plan
22 or system offered by the district or local government for its officers and employees;
23 (ii) Is eligible to receive a service retirement allowance under the Public Employees Retirement
24 System and has reached earliest service retirement age under ORS chapter 238;
25 (iii) Is eligible to receive a pension under ORS 238A.100 to 238A.250 and has reached earliest
26 retirement age as described in ORS 238A.165; or
27 (iv) Is eligible to receive a service retirement allowance or pension under any other retirement
28 benefit plan or system offered by the district or local government and has attained earliest retire-
29 ment age under the plan or system.
30 (b) Except as provided in paragraph (a)(B) of this subsection, “eligible employee” does not in-
31 clude an individual:
32 (A) Engaged as an independent contractor;
33 (B) Whose periods of employment in emergency work are on an intermittent or irregular basis;
34 or
35 (C) Who is employed on less than a half-time basis unless the individual is employed in a posi-
36 tion classified as a job-sharing position or unless the individual is defined as eligible under rules of
37 the Oregon Educators Benefit Board or under a collective bargaining agreement.
38 (5) “Family member” means an eligible employee’s spouse or domestic partner and any unmar-
39 ried child or stepchild of an eligible employee within age limits and other conditions imposed by the
40 Oregon Educators Benefit Board with regard to unmarried children or stepchildren.
41 **(6) “Health benefit plan” has the meaning given that term in ORS 743B.005.**
42 *[(6)]* **(7)** “Local government” means any city, county or special district in this state.
43 *[(7)]* **(8)** “Payroll disbursing officer” means the officer or official authorized to disburse moneys
44 in payment of salaries and wages of officers and employees of a district or a local government.
45 *[(8)]* **(9)** “Premium” means the monthly or other periodic charge, including administrative fees

1 of the Oregon Educators Benefit Board, for a benefit plan.

2 **SECTION 26.** ORS 243.862 is amended to read:

3 243.862. (1) There is established in the Oregon Health Authority an Oregon Educators Benefit
4 Board consisting of at least [10] **12** members appointed by the Governor, including:

5 (a) Two members representing district boards;

6 (b) Two members representing district management;

7 (c) Two members representing nonmanagement district employees from the largest labor organ-
8 ization representing district employees;

9 (d) One member representing nonmanagement district employees from the second largest labor
10 organization representing district employees;

11 (e) One member representing nonmanagement district employees who are not represented by
12 labor organizations described in paragraphs (c) and (d) of this subsection; [and]

13 (f) Two members with expertise in health policy or risk management[.]; **and**

14 **(g) Two members, one representing local government management employees and one**
15 **representing local government nonmanagement employees.**

16 [(2)(a) *If the governing body of a local government elects to participate in a benefit plan offered*
17 *by the board, in addition to the members appointed under subsection (1) of this section, the Governor*
18 *shall appoint two members, one of whom represents local government management and one of whom*
19 *represents local government nonmanagement employees.*]

20 [(b)] **(2)(a)** After the appointment of members under [paragraph (a) of this subsection] **subsection**
21 **(1)(g) of this section**, if the number of eligible employees of a local government or local govern-
22 ments enrolled in a benefit plan or plans offered by the board exceeds 25,000, the Governor shall
23 appoint two additional members, one [of whom represents] **representing** local government manage-
24 ment **employees** and one [of whom represents] **representing** local government nonmanagement em-
25 ployees.

26 [(c)] **(b)** After the appointment of members under [paragraphs (a) and (b)] **paragraph (a)** of this
27 subsection, for every additional 25,000 eligible employees of a local government or local governments
28 enrolled in a benefit plan or plans offered by the board, the Governor shall appoint one additional
29 member representing local government management **employees** and one additional member repre-
30 senting local government nonmanagement employees.

31 (3) A maximum of three members may be appointed **by the Governor** to represent local gov-
32 ernment management **under subsections (1) and (2) of this section** and a maximum of three
33 members may be appointed **by the Governor** to represent local government nonmanagement em-
34 ployees.

35 (4) The term of office of each member is four years, but a member serves at the pleasure of the
36 Governor. Before the expiration of the term of a member, the Governor shall appoint a successor
37 to take office upon the date of that expiration. A member is eligible for reappointment. If there is
38 a vacancy for any cause, the Governor shall make an appointment to become immediately effective
39 for the unexpired term.

40 (5) A member of the board is not entitled to compensation, but may be reimbursed from funds
41 available to the board for actual and necessary travel and other expenses incurred by the member
42 in the performance of the member's official duties in the manner and amount provided in ORS
43 292.495.

44 (6) The board shall select one of its members as chairperson and another as vice chairperson,
45 for such terms and with duties and powers necessary for the performance of the functions of such

1 offices as the board determines.

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

3 (8) The board shall meet at times and places specified by the call of the chairperson or of a
4 majority of the members of the board.

5 (9) Appointments of members to the board by the Governor are subject to confirmation by the
6 Senate in the manner prescribed in ORS 171.562 and 171.565.

7 **SECTION 27.** ORS 243.864 is amended to read:

8 243.864. (1) The Oregon Educators Benefit Board:

9 (a) Shall adopt rules for the conduct of its business and for carrying out ORS 243.879; and

10 (b) May adopt rules not inconsistent with ORS 243.860 to 243.886 to determine the terms and
11 conditions of eligible employee participation in and coverage under benefit plans.

12 (2) The board shall study all matters connected with the provision of adequate benefit plan
13 coverage for eligible employees on the best basis possible with regard to the welfare of the em-
14 ployees and affordability for the districts and local governments. The board shall design benefits,
15 prepare specifications, analyze carrier responses to advertisements for bids and award contracts.
16 Contracts shall be signed by the chairperson on behalf of the board.

17 (3) In carrying out its duties under subsections (1) and (2) of this section, the goal of the board
18 is to provide high-quality health, dental and other benefit plans for eligible employees at a cost af-
19 fordable to the districts and local governments, the employees and the taxpayers of Oregon.

20 (4) The board shall prepare specifications, invite bids and take actions necessary to award con-
21 tracts *[for]* **to carriers to provide health benefit plans and benefit plans for dental** *[benefit*
22 *plan], long term care and vision coverage [of] to eligible employees. Health benefit plan cover-*
23 **age must be** in accordance with the criteria set forth in ORS 243.866 (1). The Public Contracting
24 Code does not apply to contracts for benefit plans provided under ORS 243.860 to 243.886. The board
25 may not exclude from competition to contract for a benefit plan an Oregon carrier solely because
26 the carrier does not serve all counties in Oregon.

27 (5) The board may retain consultants, brokers or other advisory personnel when necessary and
28 shall employ such personnel as are required to perform the functions of the board.

29 **SECTION 28.** ORS 243.866, as amended by section 5, chapter 389, Oregon Laws 2015, is
30 amended to read:

31 243.866. (1) **Notwithstanding any other benefit plan contracted for and offered by the**
32 **Oregon Educators Benefit Board, the board** shall contract *[for benefit plans best designed to meet*
33 *the needs and provide for the welfare of eligible employees, the districts and local governments. In*
34 *considering whether to enter into a contract for a benefit plan,]* **with a carrier to provide a group**
35 **of health benefit plans selected by the board from the plans that are offered by the carrier.**
36 **In selecting the plans to be offered to eligible employees by the carrier, the board shall select**
37 **health benefit plans that provide minimum essential coverage, as defined in 26 U.S.C. 5000A,**
38 **and shall** place emphasis on:

39 (a) Employee choice among high-quality plans;

40 *[(b) Encouragement of a competitive marketplace;]*

41 *[(c)]* **(b)** Plan performance and information;

42 *[(d) District and local government flexibility in plan design and contracting;]*

43 *[(e)]* **(c)** Quality customer service;

44 *[(f)]* **(d)** Creativity and innovation;

45 *[(g) Plan benefits as part of total employee compensation;]*

1 *[(h)]* (e) Improvement of employee health; and

2 *[(i)]* (f) Health outcome and quality measures, described in ORS 413.017 (4), that are reported
3 by the plan.

4 (2) The board may approve more than one carrier for *[each type of benefit plan]* **health benefit**
5 **plans** offered, but the board shall limit the number of carriers to a number consistent with adequate
6 service to eligible employees and family members.

7 (3) When appropriate, the board shall provide options under which an eligible employee may
8 arrange coverage for family members under a **health** benefit plan.

9 (4) A district or a local government shall provide that payroll deductions for **health** benefit plan
10 costs that are not payable by the district or local government may be made upon receipt of a signed
11 authorization from the employee indicating an election to participate in the **health** benefit plan or
12 plans selected and allowing the deduction of those costs from the employee's pay.

13 (5) In developing any **health** benefit plan, the board may provide an option of additional cover-
14 age for eligible employees and family members at an additional premium.

15 (6) The board shall adopt rules providing that transfer of enrollment from one **health** benefit
16 plan to another is open to all eligible employees and family members. Because of the special prob-
17 lems that may arise involving acceptable provider-patient relations between a particular panel of
18 providers and a particular eligible employee or family member under a *[comprehensive group*
19 *practice]* **health** benefit plan, the board shall provide a procedure under which any eligible employee
20 may apply at any time to substitute *[another benefit plan for participation in a comprehensive group*
21 *practice benefit plan]* **one health benefit plan for another.**

22 (7) An eligible employee who is retired is not required to participate in a health benefit plan
23 offered under this section in order to obtain dental benefit plan coverage. The board shall establish
24 by rule standards of eligibility for retired employees to participate in a dental benefit plan.

25 (8) The board shall evaluate a **health** benefit plan that serves a limited geographic region of this
26 state according to the criteria described in subsection (1) of this section.

27 **(9) Employees must have the opportunity to select health benefit plans using an Internet**
28 **portal.**

29 **SECTION 29.** ORS 243.867 is amended to read:

30 243.867. (1) The governing body of a local government *[may elect to]* **shall** participate in a **health**
31 benefit plan *[offered by the Oregon Educators Benefit Board]* **described in ORS 243.866 that is paid**
32 **for in the manner prescribed in section 24 of this 2016 Act.**

33 (2) The decision of the governing body of a local government to participate in a benefit plan
34 offered by the board **other than a health benefit plan described in ORS 243.866** is in the dis-
35 cretion of the governing body of the local government and is a permissive subject of collective
36 bargaining.

37 *[(3) If the governing body of a local government elects to offer a benefit plan through the board,*
38 *the governing body may elect one time only to provide alternative group health and welfare insurance*
39 *benefit plans to eligible employees if:]*

40 *[(a) The alternative benefit plan is offered through the health insurance exchange under ORS*
41 *741.310 (1)(b); and]*

42 *[(b) The participation of the local government is not precluded under federal law on or after Jan-*
43 *uary 1, 2017.]*

44 **SECTION 30.** ORS 243.876 is amended to read:

45 243.876. (1) Upon receipt of a request in writing from an eligible employee, the payroll disburs-

1 ing officer may deduct from the salary or wages of the employee, **or from the employee's allot-**
 2 **ment described in section 24 of this 2016 Act**, an amount of money indicated in the request for
 3 payment of the amount set forth in benefit plans selected by the employee for the employee and
 4 family members.

5 (2) Amounts deducted under subsection (1) of this section shall be paid over promptly[:]

6 [(a)] to the Oregon Educators Benefit Board, the carriers or the persons responsible for payment
 7 of premiums to carriers in accordance with the terms of contracts for benefit plans.[: or]

8 [(b) *With respect to self-insurance benefits, in accordance with rules and procedures adopted by the*
 9 *board.*]

10 (3) The payroll disbursing officer shall submit reports to the board regarding claims experience
 11 and benefit plan coverage for eligible employees as the board considers desirable.

12 **SECTION 31.** ORS 243.878 is amended to read:

13 243.878. (1) The Oregon Educators Benefit Board may employ whatever means are reasonably
 14 necessary to carry out the purposes of ORS 243.860 to 243.886. This authority includes, but is not
 15 limited to, authority to [*self-insure and to*] seek clarification, amendment, modification, suspension
 16 or termination of any agreement or contract.

17 (2) Upon providing specific notice in writing to the carrier, the affected labor organization or
 18 organizations, the districts, the local governments, the Oregon Health Authority and the affected
 19 eligible employees, and after affording opportunity for a public hearing on the issues that may be
 20 involved, the board may enter an order withdrawing approval of a benefit plan. Thirty days after
 21 entry of the order, the board shall terminate all withholding authorizations of eligible employees and
 22 terminate all board-approved participation in the plan.

23 (3) The board by order may terminate the participation of a district or a local government in a
 24 benefit plan if, within three months, the district or local government fails to perform an action re-
 25 quired by ORS 243.860 to 243.886 or by board rule.

26 **SECTION 32.** ORS 243.879 is amended to read:

27 243.879. (1) A hospital that provides services or supplies under a **health** benefit plan offered by
 28 the Oregon Educators Benefit Board shall be reimbursed using the methodology prescribed by the
 29 Oregon Health Authority under ORS 442.392 and may not be reimbursed for each service or supply
 30 provided.

31 (2) This section applies to hospital payments made by a carrier under a contract with the board
 32 [*and to hospital payments made under a self-insurance program administered by a third party admin-*
 33 *istrator on behalf of the board*] **under ORS 243.866.**

34 (3) This section does not apply to reimbursements paid by a carrier [*or third party*
 35 *administrator*] to a hospital that is not subject to the methodology prescribed by the authority under
 36 ORS 442.392.

37 **SECTION 33.** ORS 243.884 is amended to read:

38 243.884. (1) There is created the Oregon Educators Revolving Fund, separate and distinct from
 39 the General Fund. Moneys in the Oregon Educators Revolving Fund are continuously appropriated
 40 to the Oregon Educators Benefit Board to cover the board's expenses incurred in connection with
 41 the administration of ORS 243.860 to 243.886. Moneys in the Oregon Educators Revolving Fund may
 42 be retained for limited periods of time as established by the board by rule. Among other purposes,
 43 the board may retain the funds to pay premiums, control expenditures[,] **and** stabilize premiums [*and*
 44 *self-insure*]. The board may establish subaccounts within the Oregon Educators Revolving Fund.

45 (2) **Except for moneys that are allotted to employees under section 24 of this 2016 Act,**

1 the following moneys shall be paid into the Oregon Educators Revolving Fund:

2 (a) All unused employer contributions for benefit plans;

3 (b) All refunds, dividends, unused premiums and other payments attributable to an employee
4 contribution or employer contribution made from a carrier that has provided benefit plans adminis-
5 tered by the board; and

6 (c) All interest earned on the moneys in the fund.

7 **SECTION 34.** ORS 741.310 is amended to read:

8 741.310. (1)(a) Individuals and families may purchase qualified health plans through the health
9 insurance exchange.

10 *[(b) The following groups may purchase qualified health plans through the Small Business Health
11 Options Program:]*

12 *[(A)]* **(b)** Employers with no more than 100 employees **may purchase qualified health plans**
13 **through the Small Business Health Options Program.;** *and]*

14 *[(B) Districts and eligible employees of districts that are subject to ORS 243.886, unless their par-
15 ticipation is precluded by federal law.]*

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

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

21 (3) Only an insurer that has a certificate of authority to transact insurance in this state and
22 that meets applicable federal requirements for participating in the exchange may offer a qualified
23 health plan through the exchange. Any qualified health plan must be certified under ORS 741.002.
24 Coordinated care organizations that do not have a certificate of authority to transact insurance may
25 serve only medical assistance recipients through the exchange and may not offer qualified health
26 plans.

27 (4)(a) The Department of Consumer and Business Services shall adopt by rule uniform require-
28 ments, standards and criteria for the certification of qualified health plans, including requirements
29 that a qualified health plan provide, at a minimum, essential health benefits and have acceptable
30 consumer and provider satisfaction ratings.

31 (b) The department may limit the number of qualified health plans that may be offered through
32 the exchange as long as the same limit applies to all insurers.

33 (5) The department shall certify as qualified a dental only health plan as permitted by federal
34 law.

35 (6) The department, in collaboration with the Oregon Health Authority and the Department of
36 Human Services, shall coordinate the application and enrollment processes for the exchange and the
37 state medical assistance program.

38 (7) The Department of Consumer and Business Services may establish risk mediation programs
39 within the exchange.

40 (8) The department shall establish by rule a process for certifying insurance producers to facil-
41 itate the transaction of insurance through the exchange, in accordance with federal standards and
42 policies.

43 (9) The department shall ensure that an insurer charges the same premiums for plans sold
44 through the exchange as for identical plans sold outside of the exchange.

45 (10) The department is authorized to enter into contracts for the performance of the

1 department's duties, functions or operations with respect to the exchange, including but not limited
 2 to contracting with:

3 (a) Insurers that meet the requirements of subsections (3) and (4) of this section, to offer quali-
 4 fied health plans through the exchange; and

5 (b) Navigators, in-person assisters and application counselors certified by the department under
 6 ORS 741.002.

7 *[(11)(a) The department shall consult with stakeholders, including but not limited to representatives
 8 of school administrators, school board members, school employees and the Oregon Educators Benefit
 9 Board, regarding the plans that may be offered through the exchange to districts and eligible employees
 10 of districts under subsection (1)(b)(B) of this section and the insurers that may offer the plans.]*

11 *[(b) The board and the department shall each adopt rules to ensure that:]*

12 *[(A) Any plan offered under subsection (1)(b)(B) of this section is underwritten by an insurer using
 13 a single risk pool composed of all eligible employees who are enrolled or who will be enrolled in the
 14 plan both through the exchange and by the board; and]*

15 *[(B) In every plan offered under subsection (1)(b)(B) of this section, the coverage is comparable to
 16 plans offered by the board.]*

17 *[(12)]* (11) The department is authorized to apply for and accept federal grants, other federal
 18 funds and grants from nongovernmental organizations for purposes of developing, implementing and
 19 administering the exchange. Moneys received under this subsection shall be deposited in the Health
 20 Insurance Exchange Fund.

21
 22 **CONFORMING AMENDMENTS**
 23

24 **SECTION 35.** ORS 656.247 is amended to read:

25 656.247. (1) Except for medical services provided to workers subject to ORS 656.245 (4)(b)(B),
 26 payment for medical services provided to a subject worker in response to an initial claim for a
 27 work-related injury or occupational disease from the date of the employer's notice or knowledge of
 28 the claim until the date the claim is accepted or denied shall be payable in accordance with sub-
 29 section (4) of this section.

30 (2) Notwithstanding subsection (1) of this section, no payment shall be due from the insurer or
 31 self-insured employer if the insurer or self-insured employer denies the claim within 14 days of the
 32 date of the employer's notice or knowledge of the claim.

33 (3)(a) Disputes about whether the medical services provided to treat the claimed work-related
 34 injury or occupational disease under subsection (1) of this section are excessive, inappropriate or
 35 ineffectual or are consistent with the criteria in subsection (1) of this section shall be resolved by
 36 the Director of the Department of Consumer and Business Services. The director may order a med-
 37 ical review by a physician or panel of physicians pursuant to ORS 656.327 (3) to aid in the review
 38 of such services. If a party is dissatisfied with the order of the director, the dissatisfied party may
 39 request review under ORS 656.704 within 60 days of the date of the director's order. The order of
 40 the director may be modified only if it is not supported by substantial evidence in the record or if
 41 it reflects an error of law.

42 (b) Disputes about the amount of the fee or nonpayment of bills for medical treatment and ser-
 43 vices pursuant to this section shall be resolved pursuant to ORS 656.248.

44 (c) Except as provided in subsection (2) of this section, when a claim is settled pursuant to ORS
 45 656.289 (4), all medical services payable under subsection (1) of this section that are provided on or

1 before the date of denial shall be paid in accordance with subsection (4) of this section. The insurer
 2 or self-insured employer shall notify each affected service provider of the results of the settlement.

3 (4)(a) If the claim in which medical services are provided under subsection (1) of this section
 4 has not been accepted or denied and a health benefit plan provides benefits to the worker, the
 5 health benefit plan shall expedite preauthorizations and guarantee payment of expenses for medical
 6 services provided prior to acceptance or denial of the claim according to the terms, conditions and
 7 benefits of the plan.

8 (b) If the claim for which medical services are provided under subsection (1) of this section is
 9 accepted, after the claim has been accepted the insurer or self-insured employer shall pay for the
 10 medical services provided for accepted conditions, including reimbursements for medical expenses,
 11 copayments and deductibles paid by the injured worker or the health benefit plan. Payments made
 12 under this subsection are subject to the fee schedules, limitations and conditions of this chapter.

13 (c) If the claim for which medical services are provided under subsection (1) of this section is
 14 denied and a health benefit plan provides benefits to the worker, after the claim is denied the health
 15 benefit plan shall pay for medical services provided according to the terms, conditions and benefits
 16 of the plan.

17 (d) As used in this subsection, “health benefit plan” has the meaning given that term in ORS
 18 743B.005 and also means [*self-insured benefit plans and*] health benefit plans offered by the Oregon
 19 Educators Benefit Board and the Public Employees’ Benefit Board.

20 **SECTION 36.** ORS 741.300 is amended to read:

21 741.300. As used in ORS 741.001 to 741.540:

22 (1) “Coordinated care organization” has the meaning given that term in ORS 414.025.

23 (2) “Essential health benefits” has the meaning given that term in ORS 731.097.

24 (3) “Health benefit plan” has the meaning given that term in ORS 743B.005.

25 (4) “Health care service contractor” has the meaning given that term in ORS 750.005.

26 (5) “Health insurance” has the meaning given that term in ORS 731.162, excluding disability
 27 income insurance.

28 (6) “Health insurance exchange” or “exchange” means an American Health Benefit Exchange
 29 as described in 42 U.S.C. 18031, 18032, 18033 and 18041.

30 (7) “Health plan” means health insurance, a health benefit plan or health care coverage offered
 31 by an insurer.

32 (8) “Insurer” means an insurer as defined in ORS 731.106 that offers health insurance, a health
 33 care service contractor, a prepaid managed care health services organization or a coordinated care
 34 organization.

35 (9) “Insurance producer” has the meaning given that term in ORS 731.104.

36 (10) “Prepaid managed care health services organization” has the meaning given that term in
 37 ORS 414.025.

38 (11) “State program” means a program providing medical assistance, as defined in ORS 414.025,
 39 and any [*self-insured health benefit plan or*] health plan offered to employees by the Public
 40 Employees’ Benefit Board or the Oregon Educators Benefit Board.

41 (12) “Qualified health plan” means a health benefit plan available for purchase through the
 42 health insurance exchange.

43 (13) “Small Business Health Options Program” or “SHOP” means a health insurance exchange
 44 for small employers as described in 42 U.S.C. 18031.

45 **SECTION 37.** ORS 743A.058 is amended to read:

1 743A.058. (1) As used in this section:

2 (a) “Health benefit plan” includes[:]

3 [(A)] a health benefit plan as defined in ORS 743B.005[; and].

4 [(B) A self-insured health plan offered through the Public Employees’ Benefit Board or the Oregon
5 Educators Benefit Board.]

6 (b) “Health professional” means a person licensed, certified or registered in this state to provide
7 health care services or supplies.

8 (c) “Originating site” means the physical location of the patient.

9 (2) A health benefit plan must provide coverage of a health service that is provided using syn-
10 chronous two-way interactive video conferencing if:

11 (a) The plan provides coverage of the health service when provided in person by a health pro-
12 fessional;

13 (b) The health service is medically necessary;

14 (c) The health service is determined to be safely and effectively provided using synchronous
15 two-way interactive video conferencing according to generally accepted health care practices and
16 standards; and

17 (d) The application and technology used to provide the health service meet all standards re-
18 quired by state and federal laws governing the privacy and security of protected health information.

19 (3) A health benefit plan may not distinguish between rural and urban originating sites in pro-
20 viding coverage under subsection (2) of this section.

21 (4) The coverage under subsection (2) of this section is subject to:

22 (a) The terms and conditions of the health benefit plan; and

23 (b) The reimbursement specified in the contract between the plan and the health professional.

24 (5) This section does not require a health benefit plan to reimburse a health professional:

25 (a) For a health service that is not a covered benefit under the plan; or

26 (b) Who has not contracted with the plan.

27 **SECTION 38.** ORS 743B.601, as amended by section 1, chapter 800, Oregon Laws 2015, is
28 amended to read:

29 743B.601. (1) As used in this section:

30 (a) “Health plan” means:

31 (A) A “health benefit plan” as defined in ORS 743B.005; and

32 (B) A self-insured health plan offered by [*the Public Employees’ Benefit Board, the Oregon Edu-
33 cators Benefit Board or*] the Oregon Health and Science University.

34 (b) “Synchronization policy” means a procedure for aligning the refill dates of a patient’s pre-
35 scription drugs so that drugs that are refilled at the same frequency may be refilled concurrently.

36 (2) A health plan that includes prescription drug coverage shall implement a synchronization
37 policy for the dispensing of prescription drugs to the plan’s enrollees.

38 (3) A health plan shall reimburse the cost of prescription drugs dispensed in accordance with
39 the plan’s synchronization policy.

40 (4) If a drug is dispensed in less than a 30-day supply for the purpose of synchronizing a patient’s
41 prescription drug refills, a health plan shall:

42 (a) Prorate the copayment; or

43 (b) Adjust the copayment using a method approved by the Department of Consumer and Business
44 Services.

45 (5) A health plan shall fully reimburse the dispensing fee for partially filled or refilled pre-

1 prescription drugs.

2 (6) This section does not apply to prescription drugs that:

3 (a) Are in unit-of-use packaging for which synchronization is not possible;

4 (b) Are controlled substances; or

5 (c) Have been identified by the United States Drug Enforcement Administration as having a high
6 risk of diversion.

7 (7) The coverage required by this section may be limited by formulary restrictions applied to a
8 prescription drug by a health plan.

9 (8)(a) This section does not apply to a prepaid group practice health plan with at least 200,000
10 enrollees in this state.

11 (b) As used in this subsection, "prepaid group practice health plan" means a health care service
12 contractor that provides physician services to its enrollees through an integrated health care de-
13 livery system using, primarily, a single group of physicians contracted on a prepaid, capitated basis.

14 **SECTION 39.** ORS 743B.810 is amended to read:

15 743B.810. (1) A health benefit plan may not exclude, and shall expedite preauthorizations re-
16 quired for, work-related injuries or occupational diseases if:

17 (a) The injured worker is covered by workers' compensation insurance and the health benefit
18 plan; and

19 (b) The injured worker has submitted a workers' compensation claim for the work-related injury
20 or occupational disease that has not been accepted or denied by the workers' compensation carrier.

21 (2) A health benefit plan subject to this section shall guarantee payment for preauthorized
22 medical services to the provider of those medical services according to the terms, conditions and
23 benefits of the plan if the claim is found not to be a compensable workers' compensation claim.

24 (3) As used in this section, "health benefit plan" has the meaning given that term in ORS
25 743B.005 and also means [*self-insured benefit plans and*] health benefit plans provided by the Oregon
26 Educators Benefit Board and the Public Employees' Benefit Board.

27 (4) The provisions of ORS 743A.001 do not apply to this section.

28
29 **REPEALS**

30
31 **SECTION 40.** ORS 243.142, 243.215 and 243.886 are repealed.

32
33 **APPLICABILITY AND OPERATIVE DATES**

34
35 **SECTION 41.** The amendments to ORS 243.650 by section 22 of this 2016 Act apply to
36 collective bargaining agreements entered into on or after the effective date of this 2016 Act.

37 **SECTION 42.** Sections 1, 4 to 6, 23 and 24 of this 2016 Act, the amendments to ORS
38 243.105, 243.107, 243.125, 243.129, 243.135, 243.145, 243.160, 243.163, 243.167, 243.252, 243.256,
39 243.285, 243.302, 243.650, 243.860, 243.864, 243.866, 243.867, 243.876, 243.878, 243.879, 243.884,
40 292.051, 656.247, 741.300, 741.310, 743A.058, 743B.601 and 743B.810 by sections 8 to 22, 25 and
41 27 to 39 of this 2016 Act and the repeal of ORS 243.142, 243.215 and 243.886 by section 40 of
42 this 2016 Act become operative on January 1, 2018.

43 **SECTION 43.** The Public Employees' Benefit Board and the Oregon Educators Benefit
44 Board may take any action before the operative date specified in section 42 of this 2016 Act
45 that is necessary for the Public Employees' Benefit Board or the Oregon Educators Benefit

1 **Board to exercise, on and after the operative date specified in section 42 of this 2016 Act, all**
2 **of the duties, functions and powers conferred on the Public Employees' Benefit Board or the**
3 **Oregon Educators Benefit Board by sections 1, 5 and 24 of this 2016 Act and the amendments**
4 **to ORS 243.105, 243.107, 243.125, 243.129, 243.135, 243.145, 243.160, 243.163, 243.167, 243.252,**
5 **243.256, 243.285, 243.302, 243.650, 243.860, 243.864, 243.866, 243.867, 243.876, 243.878, 243.879,**
6 **243.884, 292.051, 656.247, 741.300, 741.310, 743A.058, 743B.601 and 743B.810 by sections 8 to 22,**
7 **25 and 27 to 39 of this 2016 Act.**

8
9 **CAPTIONS**

10
11 **SECTION 44. The unit captions used in this 2016 Act are provided only for the conven-**
12 **ience of the reader and do not become part of the statutory law of this state or express any**
13 **legislative intent in the enactment of this 2016 Act.**