

HB 2391-7
(LC 1597)
6/7/17 (LHF/ps)

Requested by Representative KOTEK

**PROPOSED AMENDMENTS TO
HOUSE BILL 2391**

1 In line 2 of the printed bill, after the semicolon delete the rest of the line
2 and insert “creating new provisions; amending ORS 291.055, 731.292, 731.509
3 and 731.840 and sections 1, 2, 3, 5, 7, 9, 10, 12, 13 and 14, chapter 736, Oregon
4 Laws 2003, and section 2, chapter 26, Oregon Laws 2016; repealing section
5 15, chapter 389, Oregon Laws 2015; prescribing an effective date; and pro-
6 viding for revenue raising that requires approval by a three-fifths
7 majority.”.

8 Delete lines 4 through 13 and insert:

9

10 **“HEALTH INSURANCE PREMIUM AND**
11 **MANAGED CARE ASSESSMENT**

12

13 **“SECTION 1. Sections 2 to 8 of this 2017 Act are added to and made**
14 **a part of the Insurance Code.**

15 **“SECTION 2. (1) The Health System Fund is established in the State**
16 **Treasury, separate and distinct from the General Fund. Interest**
17 **earned by the Health System Fund shall be credited to the fund.**

18 **“(2) Amounts in the Health System Fund are continuously appro-**
19 **priated to the Department of Consumer and Business Services for the**
20 **purposes of:**

21 **“(a) Administering the Oregon Reinsurance Program established in**

*Operative
91 days*

1 section 18 of this 2017 Act; and

2 “(b) Transferring moneys to the Oregon Health Authority to:

3 “(A) Provide medical assistance and other health services under
4 ORS chapter 414.

5 “(B) Provide grants to community health centers and safety net
6 clinics under ORS 413.225.

7 “(C) Pay refunds due under section 11 of this 2017 Act.

8 “(D) Pay administrative costs incurred by the authority to admin-
9 ister the assessment described in section 9 of this 2017 Act.

10 *operative*
1-1-18 “SECTION 3. (1) As used in this section:

11 “(a) ‘Insured’ means an eligible employee or family member, as
12 defined in ORS 243.105, who is enrolled in a self-insured health benefit
13 plan under ORS 243.105 to 243.285.

14 “(b) ‘Premium equivalent’ means a claim for reimbursement of the
15 cost of a health care item or service provided to an eligible employee
16 or family member, other than a dental or vision care item or service,
17 and the administrative costs associated with the claim.

18 “(2) No later than 45 days following the end of a calendar quarter,
19 the Public Employees’ Benefit Board shall pay an assessment at the
20 rate of 1.5 percent on the gross amount of premium equivalents re-
21 ceived during the calendar quarter.

22 “(3) The assessment shall be paid to the Department of Consumer
23 and Business Services and shall be accompanied by a verified report,
24 on a form prescribed by the department, together with any informa-
25 tion required by the department.

26 “(4) The assessment imposed under this section is in addition to and
27 not in lieu of any tax, surcharge or other assessment imposed on the
28 board.

29 “(5) If the department determines that the assessment paid by the
30 board under this section is incorrect, the department shall charge or

1 credit to the board the difference between the correct amount of the
2 assessment and the amount paid by the board.

3 “(6) The board is entitled to notice and an opportunity for a con-
4 tested case hearing under ORS chapter 183 to contest an action of the
5 department taken pursuant to subsection (5) of this section.

6 “(7) Moneys received by the department under this section shall be
7 paid into the State Treasury and credited to the Health System Fund
8 established under section 2 of this 2017 Act.

9 *operative 1-1-18* “SECTION 4. Section 3 of this 2017 Act applies to premium equiv-
10 alents received by the Public Employees’ Benefit Board, or a third
11 party administrator that contracts with the board to administer a
12 self-insured health benefit plan, during the period from January 1,
13 2018, through December 31, 2019.

14 *operative 1-1-18* “SECTION 5. (1) As used in this section:

15 “(a) ‘Gross amount of premiums’ has the meaning given that term
16 in ORS 731.808.

17 “(b) ‘Health benefit plan’ has the meaning given that term in ORS
18 743B.005.

19 “(2) No later than 45 days following the end of a calendar quarter,
20 an insurer shall pay an assessment at the rate of 1.5 percent of the
21 gross amount of premiums earned by the insurer during that calendar
22 quarter that were derived from health benefit plans delivered or issued
23 for delivery in Oregon.

24 “(3) The assessment shall be paid to the Department of Consumer
25 and Business Services and shall be accompanied by a verified form
26 prescribed by the department together with any information required
27 by the department, that reports:

28 “(a) All health benefit plans issued or renewed by the insurer during
29 the calendar quarter for which the assessment is paid; and

30 “(b) The gross amount of premiums by line of insurance, derived

1 by the insurer from all health benefit plans issued or renewed by the
2 insurer during the calendar quarter for which the assessment is paid.

3 “(4) The assessment imposed under this section is in addition to and
4 not in lieu of any tax, surcharge or other assessment imposed on an
5 insurer.

6 “(5) Moneys received by the department under this section shall be
7 paid into the State Treasury and credited to the Health System Fund
8 established under section 2 of this 2017 Act.

9 *operative 1-1-18* “SECTION 6. (1) If the Public Employees’ Benefit Board or an
10 insurer fails to timely file a verified form or to pay an assessment re-
11 quired under section 3 or 5 of this 2017 Act, the Department of Con-
12 sumer and Business Services shall impose a penalty on the board or
13 insurer of up to \$500 per day of delinquency. The total amount of
14 penalties imposed under this section for a calendar quarter may not
15 exceed five percent of the assessment due for that calendar quarter.

16 “(2) Any penalty imposed under this section is in addition to and
17 not in lieu of the assessment imposed under sections 3 and 5 of this
18 2017 Act.

19 *operative 1-1-18* “SECTION 7. (1) If the Department of Consumer and Business Ser-
20 vices determines that the assessment paid by the insurer under section
21 5 of this 2017 Act is incorrect, the department shall charge or credit
22 to the insurer the difference between the correct amount of the as-
23 sessment and the amount paid by the insurer.

24 “(2) An insurer that is aggrieved by an action of the department
25 taken pursuant to subsection (1) of this section shall be entitled to
26 notice and an opportunity for a contested case hearing under ORS
27 chapter 183.

28 *operative 1-1-18* “SECTION 8. (1) Section 5 of this 2017 Act applies to premiums
29 earned by an insurer for a period of eight calendar quarters beginning
30 on the date, on or after January 1, 2018, that the policy or certificate

1 for which the premiums are paid is issued or renewed.

2 “(2) Notwithstanding any provision of contract or statute, including
3 ORS 743B.013 and 743.022, insurers may increase their premium rate
4 on policies or certificates that are subject to the assessment under
5 section 5 of this 2017 Act by 1.5 percent. If an insurer increases its
6 rates under this subsection, the insurer shall include in all billings for
7 health benefit plans a notice explaining the increase in a form pre-
8 scribed by the Department of Consumer and Business Services.

9 **Operative**
1-1-18
10 SECTION 9. (1) As used in this section and sections 10 and 11 of
11 this 2017 Act:

12 “(a) ‘Managed care organization’ means:

13 “(A) A coordinated care organization as defined in ORS 414.025; and

14 “(B) A prepaid managed care health services organization as defined
15 in ORS 414.025.

16 “(b) ‘Premium equivalent’ means the payments made to the man-
17 aged care organization by the Oregon Health Authority for providing
18 health services under ORS chapter 414.

19 “(2) No later than 45 days following the end of a calendar quarter,
20 a managed care organization shall pay an assessment at a rate of 1.5
21 percent of the gross amount of premium equivalents received during
22 that calendar quarter.

23 “(3) The assessment shall be paid to the authority in a manner and
24 form prescribed by the authority.

25 “(4) Assessments received by the authority under this section shall
26 be paid into the State Treasury and credited to the Health System
27 Fund established under section 2 of this 2017 Act.

28 “(5) The assessment imposed under this section is in addition to and
29 not in lieu of any tax, surcharge or other assessment imposed on a
30 managed care organization.

Operative
1-1-18
31 SECTION 10. (1) If a managed care organization fails to timely pay

1 an assessment under section 9 of this 2017 Act, the Oregon Health
2 Authority shall impose a penalty on the managed care organization
3 of up to \$500 per day of delinquency. The total amount of penalties
4 imposed under this section for a calendar quarter may not exceed five
5 percent of the assessment due for that calendar quarter.

6 “(2) Any penalty imposed under this section is in addition to and
7 not in lieu of the assessment imposed under section 9 of this 2017 Act.

8 “(3) Penalties received by the authority under this section shall be
9 paid into the State Treasury and credited to the Health System Fund
10 established under section 2 of this 2017 Act.

11 *operative 1-1-18* “SECTION 11. (1) A managed care organization that has paid an
12 amount that is not required under section 9 of this 2017 Act may file
13 a claim for refund with the Oregon Health Authority.

14 “(2) Any managed care organization that is aggrieved by an action
15 of the authority taken pursuant to subsection (1) of this section shall
16 be entitled to notice and an opportunity for a contested case hearing
17 under ORS chapter 183.

18 *operative 1-1-18* “SECTION 12. Sections 9, 10 and 11 of this 2017 Act apply to any
19 payments made to a managed care organization by the Oregon Health
20 Authority for the period beginning January 1, 2018, and ending De-
21 cember 31, 2019.

22 *operative 1-1-18* “SECTION 13. ORS 731.292 is amended to read:

23 “731.292. (1) Except as provided in subsections (2), [*and*] (3) **and** (4) of this
24 section, all fees, charges and other moneys received by the Department of
25 Consumer and Business Services or the Director of the Department of Con-
26 sumer and Business Services under the Insurance Code shall be deposited in
27 the fund created by ORS 705.145 and are continuously appropriated to the
28 department for the payment of the expenses of the department in carrying
29 out the Insurance Code.

30 “(2) All taxes and penalties paid pursuant to the Insurance Code shall be

1 paid to the director and after deductions of refunds shall be paid by the di-
2 rector to the State Treasurer, at the end of every calendar month or more
3 often in the director's discretion, for deposit in the General Fund to become
4 available for general governmental expenses.

5 "(3) All premium taxes received by the director pursuant to ORS 731.820
6 shall be paid by the director to the State Treasurer for deposit in the State
7 Fire Marshal Fund.

8 "(4) **Assessments received by the department under sections 3 and**
9 **5 of this 2017 Act and penalties received by the department under sec-**
10 **tion 6 of this 2017 Act shall be paid into the State Treasury and cred-**
11 **ited to the Health System Fund established under section 2 of this 2017**
12 **Act.**

13 **"SECTION 14.** ORS 731.840 is amended to read:

14 "731.840. (1) The retaliatory tax imposed upon a foreign or alien insurer
15 under ORS 731.854 and 731.859, or the corporate excise tax imposed upon a
16 foreign or alien insurer under ORS chapter 317, is in lieu of all other state
17 taxes upon premiums, taxes upon income, franchise or other taxes measured
18 by income that might otherwise be imposed upon the foreign or alien insurer
19 except the fire insurance premiums tax imposed under ORS 731.820, [and] the
20 tax imposed upon wet marine and transportation insurers under ORS 731.824
21 and 731.828 **and the assessment imposed under section 5 of this 2017**
22 **Act.** However, all real and personal property, if any, of the insurer shall be
23 listed, assessed and taxed the same as real and personal property of like
24 character of noninsurers. Nothing in this subsection shall be construed to
25 preclude the imposition of the assessments imposed under ORS 656.612 upon
26 a foreign or alien insurer.

27 "(2) Subsection (1) of this section applies to a reciprocal insurer and its
28 attorney in its capacity as such.

29 "(3) Subsection (1) of this section applies to foreign or alien title insurers
30 and to foreign or alien wet marine and transportation insurers issuing poli-

operative
1-1-18

1 cies and subject to taxes referred to in ORS 731.824 and 731.828.

2 “(4) The State of Oregon hereby preempts the field of regulating or of
3 imposing excise, privilege, franchise, income, license, permit, registration,
4 and similar taxes, licenses and fees upon insurers and their insurance pro-
5 ducers and other representatives as such, and:

6 “(a) No county, city, district, or other political subdivision or agency in
7 this state shall so regulate, or shall levy upon insurers, or upon their in-
8 surance producers and representatives as such, any such tax, license or fee;
9 except that whenever a county, city, district or other political subdivision
10 levies or imposes generally on a nondiscriminatory basis throughout the ju-
11 risdiction of the taxing authority a payroll, excise or income tax, as other-
12 wise provided by law, such tax may be levied or imposed upon domestic
13 insurers; and

14 “(b) No county, city, district, political subdivision or agency in this state
15 shall require of any insurer, insurance producer or representative, duly au-
16 thorized or licensed as such under the Insurance Code, any additional au-
17 thorization, license, or permit of any kind for conducting therein
18 transactions otherwise lawful under the authority or license granted under
19 this code.

20 **“SECTION 15.** ORS 291.055 is amended to read:

21 “291.055. (1) Notwithstanding any other law that grants to a state agency
22 the authority to establish fees, all new state agency fees or fee increases
23 adopted during the period beginning on the date of adjournment sine die of
24 a regular session of the Legislative Assembly and ending on the date of
25 adjournment sine die of the next regular session of the Legislative Assembly:

26 “(a) Are not effective for agencies in the executive department of gov-
27 ernment unless approved in writing by the Director of the Oregon Depart-
28 ment of Administrative Services;

29 “(b) Are not effective for agencies in the judicial department of govern-
30 ment unless approved in writing by the Chief Justice of the Supreme Court;

*operational
1-1-18*

1 “(c) Are not effective for agencies in the legislative department of gov-
2 ernment unless approved in writing by the President of the Senate and the
3 Speaker of the House of Representatives;

4 “(d) Shall be reported by the state agency to the Oregon Department of
5 Administrative Services within 10 days of their adoption; and

6 “(e) Are rescinded on adjournment sine die of the next regular session of
7 the Legislative Assembly as described in this subsection, unless otherwise
8 authorized by enabling legislation setting forth the approved fees.

9 “(2) This section does not apply to:

10 “(a) Any tuition or fees charged by a public university listed in ORS
11 352.002.

12 “(b) Taxes or other payments made or collected from employers for un-
13 employment insurance required by ORS chapter 657 or premium assessments
14 required by ORS 656.612 and 656.614 or contributions and assessments cal-
15 culated by cents per hour for workers’ compensation coverage required by
16 ORS 656.506.

17 “(c) Fees or payments required for:

18 “(A) Health care services provided by the Oregon Health and Science
19 University, by the Oregon Veterans’ Homes and by other state agencies and
20 institutions pursuant to ORS 179.610 to 179.770.

21 “(B) Assessments imposed by the Oregon Medical Insurance Pool Board
22 under section 2, chapter 698, Oregon Laws 2013.

23 “(C) Copayments and premiums paid to the Oregon medical assistance
24 program.

25 **“(D) Assessments paid to the Department of Consumer and Busi-
26 ness Services under sections 3 and 5 of this 2017 Act.**

27 “(d) Fees created or authorized by statute that have no established rate
28 or amount but are calculated for each separate instance for each fee payer
29 and are based on actual cost of services provided.

30 “(e) State agency charges on employees for benefits and services.

1 “(f) Any intergovernmental charges.

2 “(g) Forest protection district assessment rates established by ORS 477.210
3 to 477.265 and the Oregon Forest Land Protection Fund fees established by
4 ORS 477.760.

5 “(h) State Department of Energy assessments required by ORS 469.421 (8)
6 and 469.681.

7 “(i) Assessments on premiums charged by the Department of Consumer
8 and Business Services pursuant to ORS 731.804 or fees charged by the Divi-
9 sion of Finance and Corporate Securities of the Department of Consumer and
10 Business Services to banks, trusts and credit unions pursuant to ORS 706.530
11 and 723.114.

12 “(j) Public Utility Commission operating assessments required by ORS
13 756.310 or charges paid to the Residential Service Protection Fund required
14 by chapter 290, Oregon Laws 1987.

15 “(k) Fees charged by the Housing and Community Services Department
16 for intellectual property pursuant to ORS 456.562.

17 “(L) New or increased fees that are anticipated in the legislative budget-
18 ing process for an agency, revenues from which are included, explicitly or
19 implicitly, in the legislatively adopted budget or the legislatively approved
20 budget for the agency.

21 “(m) Tolls approved by the Oregon Transportation Commission pursuant
22 to ORS 383.004.

23 “(n) Convenience fees as defined in ORS 182.126 and established by the
24 State Chief Information Officer under ORS 182.132 (3) and recommended by
25 the Electronic Government Portal Advisory Board.

26 “(3)(a) Fees temporarily decreased for competitive or promotional reasons
27 or because of unexpected and temporary revenue surpluses may be increased
28 to not more than their prior level without compliance with subsection (1)
29 of this section if, at the time the fee is decreased, the state agency specifies
30 the following:

1 “(A) The reason for the fee decrease; and

2 “(B) The conditions under which the fee will be increased to not more
3 than its prior level.

4 “(b) Fees that are decreased for reasons other than those described in
5 paragraph (a) of this subsection may not be subsequently increased except
6 as allowed by ORS 291.050 to 291.060 and 294.160.

*Operative
1-1-18*

7 “**SECTION 16.** ORS 291.055, as amended by section 36, chapter 698,
8 Oregon Laws 2013, section 20, chapter 70, Oregon Laws 2015, and section 44b,
9 chapter 807, Oregon Laws 2015, is amended to read:

10 “291.055. (1) Notwithstanding any other law that grants to a state agency
11 the authority to establish fees, all new state agency fees or fee increases
12 adopted during the period beginning on the date of adjournment sine die of
13 a regular session of the Legislative Assembly and ending on the date of
14 adjournment sine die of the next regular session of the Legislative Assembly:

15 “(a) Are not effective for agencies in the executive department of gov-
16 ernment unless approved in writing by the Director of the Oregon Depart-
17 ment of Administrative Services;

18 “(b) Are not effective for agencies in the judicial department of govern-
19 ment unless approved in writing by the Chief Justice of the Supreme Court;

20 “(c) Are not effective for agencies in the legislative department of gov-
21 ernment unless approved in writing by the President of the Senate and the
22 Speaker of the House of Representatives;

23 “(d) Shall be reported by the state agency to the Oregon Department of
24 Administrative Services within 10 days of their adoption; and

25 “(e) Are rescinded on adjournment sine die of the next regular session of
26 the Legislative Assembly as described in this subsection, unless otherwise
27 authorized by enabling legislation setting forth the approved fees.

28 “(2) This section does not apply to:

29 “(a) Any tuition or fees charged by a public university listed in ORS
30 352.002.

1 “(b) Taxes or other payments made or collected from employers for un-
2 employment insurance required by ORS chapter 657 or premium assessments
3 required by ORS 656.612 and 656.614 or contributions and assessments cal-
4 culated by cents per hour for workers’ compensation coverage required by
5 ORS 656.506.

6 “(c) Fees or payments required for:

7 “(A) Health care services provided by the Oregon Health and Science
8 University, by the Oregon Veterans’ Homes and by other state agencies and
9 institutions pursuant to ORS 179.610 to 179.770.

10 “(B) Copayments and premiums paid to the Oregon medical assistance
11 program.

12 **“(C) Assessments paid to the Department of Consumer and Business
13 Services under sections 3 and 5 of this 2017 Act.**

14 “(d) Fees created or authorized by statute that have no established rate
15 or amount but are calculated for each separate instance for each fee payer
16 and are based on actual cost of services provided.

17 “(e) State agency charges on employees for benefits and services.

18 “(f) Any intergovernmental charges.

19 “(g) Forest protection district assessment rates established by ORS 477.210
20 to 477.265 and the Oregon Forest Land Protection Fund fees established by
21 ORS 477.760.

22 “(h) State Department of Energy assessments required by ORS 469.421 (8)
23 and 469.681.

24 “(i) Assessments on premiums charged by the Department of Consumer
25 and Business Services pursuant to ORS 731.804 or fees charged by the Divi-
26 sion of Finance and Corporate Securities of the Department of Consumer and
27 Business Services to banks, trusts and credit unions pursuant to ORS 706.530
28 and 723.114.

29 “(j) Public Utility Commission operating assessments required by ORS
30 756.310 or charges paid to the Residential Service Protection Fund required

1 by chapter 290, Oregon Laws 1987.

2 “(k) Fees charged by the Housing and Community Services Department
3 for intellectual property pursuant to ORS 456.562.

4 “(L) New or increased fees that are anticipated in the legislative budget-
5 ing process for an agency, revenues from which are included, explicitly or
6 implicitly, in the legislatively adopted budget or the legislatively approved
7 budget for the agency.

8 “(m) Tolls approved by the Oregon Transportation Commission pursuant
9 to ORS 383.004.

10 “(n) Convenience fees as defined in ORS 182.126 and established by the
11 State Chief Information Officer under ORS 182.132 (3) and recommended by
12 the Electronic Government Portal Advisory Board.

13 “(3)(a) Fees temporarily decreased for competitive or promotional reasons
14 or because of unexpected and temporary revenue surpluses may be increased
15 to not more than their prior level without compliance with subsection (1)
16 of this section if, at the time the fee is decreased, the state agency specifies
17 the following:

18 “(A) The reason for the fee decrease; and

19 “(B) The conditions under which the fee will be increased to not more
20 than its prior level.

21 “(b) Fees that are decreased for reasons other than those described in
22 paragraph (a) of this subsection may not be subsequently increased except
23 as allowed by ORS 291.050 to 291.060 and 294.160.

24

25

“OREGON REINSURANCE PROGRAM

26

27 **“SECTION 17. Sections 18 to 21 of this 2017 Act are added to and**
28 **made a part of the Insurance Code.**

29 **“SECTION 18. The Oregon Reinsurance Program is established in**
30 **the Department of Consumer and Business Services for the purposes**

HB 2391-7 6/7/17

Proposed Amendments to HB 2391

operative later of 1/1/18 or HHS approval of 1332 waiver

Repealed 1-2-24

*operative letter of
11/1/19 or ~~2018~~ HHS
approval of 1332 waiver
Repealed 1-2-24*

1 of stabilizing the rates and premiums for individual health benefit
2 plans and providing greater financial certainty to consumers of health
3 insurance in this state.

4 **“SECTION 19. (1) As used in this section:**

5 **“(a) ‘Attachment point’ means the threshold dollar amount,**
6 **adopted by the Department of Consumer and Business Services by**
7 **rule, for claims costs incurred by a reinsurance eligible health benefit**
8 **plan for an insured individual’s covered benefits in a benefit year, af-**
9 **ter which threshold the claims costs for the benefits are eligible for**
10 **reinsurance payments.**

11 **“(b) ‘Coinsurance rate’ means the rate, adopted by the department**
12 **by rule, at which the department will reimburse a reinsurance eligible**
13 **health benefit plan for claims costs incurred for an insured**
14 **individual’s covered benefits in a benefit year after the attachment**
15 **point and before the reinsurance cap.**

16 **“(c) ‘Health benefit plan’ has the meaning given that term in ORS**
17 **743B.005.**

18 **“(d) ‘Reinsurance cap’ means the threshold dollar amount, adopted**
19 **by the department by rule, for claims costs incurred by a reinsurance**
20 **eligible health benefit plan for an insured individual’s covered benefits**
21 **in a benefit year, after which threshold the claims costs for the bene-**
22 **fits are no longer eligible for state reinsurance payments.**

23 **“(e) ‘Reinsurance eligible health benefit plan’ means a health ben-**
24 **efit plan providing individual coverage that:**

25 **“(A) Is delivered or issued for delivery in this state; and**

26 **“(B) Is not a grandfathered health plan as defined in ORS 743B.005.**

27 **“(f) ‘Reinsurance eligible individual’ means an individual who is**
28 **insured in a reinsurance eligible health benefit plan on or after Janu-**
29 **ary 1, 2018.**

30 **“(2) An issuer of a reinsurance eligible health benefit plan becomes**

1 eligible for a reinsurance payment when the claims costs for a rein-
2 surance eligible individual's covered benefits in a calendar year exceed
3 the attachment point. The amount of the payment shall be the product
4 of the coinsurance rate and the issuer's claims costs for the reinsur-
5 ance eligible individual that exceed the attachment point, up to the
6 reinsurance cap.

7 “(3) After the department adopts by rule the attachment point, re-
8 insurance cap or coinsurance rate, the department may not:

9 “(a) Change the attachment point or the reinsurance cap during
10 that benefit year; or

11 “(b) Increase the coinsurance rate during the benefit year.

12 “(4) The department may adopt rules necessary to carry out the
13 provisions of this section including, but not limited to, rules prescrib-
14 ing:

15 “(a) The eligibility requirements for participation in the Oregon
16 Reinsurance Program by an issuer of a reinsurance eligible health
17 benefit plan;

18 “(b) The amount, manner and frequency of reinsurance payments;
19 and

20 “(c) Reporting requirements for issuers of reinsurance eligible
21 health benefit plans.

22 **SECTION 20. (1) As used in this section:**

23 “(a) ‘Health benefit plan’ has the meaning given that term in ORS
24 743B.005.

25 “(b) ‘Oregon Reinsurance Program’ means the program established
26 in section 18 of this 2017 Act.

27 “(c) ‘Reinsurance eligible individual’ has the meaning given that
28 term in section 19 of this 2017 Act.

29 “(2) An insurer that offers a health benefit plan must report to the
30 Department of Consumer and Business Services, in the form and

Repealed
1-2-24
|
operative later of 1/1/18
of
AH5 applic. of 1332 waiver

*operative later of
1/1/18 or HHS approval
of 1332 waiver
Repealed 1-2-24
(Sections 21 & 22
only)*

1 manner prescribed by the department by rule, information about re-
2 insurance eligible individuals insured by the health benefit plan as
3 necessary for the department to calculate reinsurance payments under
4 the Oregon Reinsurance Program.

5 **“SECTION 21.** In a rate filing under ORS 743.018, an insurer must
6 identify the impact of reinsurance payments under section 19 of this
7 2017 Act on projected claims costs and in the development of rates.

8 **“SECTION 22.** The Oregon Reinsurance Program established in
9 section 18 of this 2017 Act shall be exempt from any and all taxes as-
10 sessed by the State of Oregon.

11 **“SECTION 23.** ORS 731.509, as amended by section 35, chapter 698,
12 Oregon Laws 2013, is amended to read:

13 “731.509. (1) The purpose of ORS 731.509, 731.510, 731.511, 731.512 and
14 731.516 is to protect the interests of insureds, claimants, ceding insurers,
15 assuming insurers and the public generally. The Legislative Assembly de-
16 clares that its intent is to ensure adequate regulation of insurers and re-
17 insurers and adequate protection for those to whom they owe obligations. In
18 furtherance of that state interest, the Legislative Assembly mandates that
19 upon the insolvency of an alien insurer or reinsurer that provides security
20 to fund its United States obligations in accordance with ORS 731.509, 731.510,
21 731.511, 731.512 and 731.516, the assets representing the security shall be
22 maintained in the United States and claims shall be filed with and valued
23 by the state insurance commissioner with regulatory oversight, and the as-
24 sets shall be distributed in accordance with the insurance laws of the state
25 in which the trust is domiciled that are applicable to the liquidation of do-
26 mestic United States insurers. The Legislative Assembly declares that the
27 laws contained in ORS 731.509, 731.510, 731.511, 731.512 and 731.516 are fun-
28 damental to the business of insurance in accordance with 15 U.S.C. 1011 and
29 1012.

30 “(2) The Director of the Department of Consumer and Business Services

1 shall not allow credit for reinsurance to a domestic ceding insurer as either
2 an asset or a reduction from liability on account of reinsurance ceded unless
3 credit is allowed as provided under ORS 731.508 and unless the reinsurer
4 meets the requirements of:

5 “(a) Subsection (3) of this section;

6 “(b) Subsection (4) of this section;

7 “(c) Subsections (5) and (8) of this section;

8 “(d) Subsections (6) and (8) of this section; [or]

9 “(e) Subsection (7) of this section[.]; **or**

10 **“(f) Subsection (9) of this section.**

11 “(3) Credit shall be allowed when the reinsurance is ceded to an author-
12 ized assuming insurer that accepts reinsurance of risks, and retains risk
13 thereon within such limits, as the assuming insurer is otherwise authorized
14 to insure in this state as provided in ORS 731.508.

15 “(4) Credit shall be allowed when the reinsurance is ceded to an assuming
16 insurer that is accredited as a reinsurer in this state as provided in ORS
17 731.511. The director shall not allow credit to a domestic ceding insurer if
18 the accreditation of the assuming insurer has been revoked by the director
19 after notice and opportunity for hearing.

20 “(5) Credit shall be allowed when the reinsurance is ceded to a foreign
21 assuming insurer or a United States branch of an alien assuming insurer
22 meeting all of the following requirements:

23 “(a) The foreign assuming insurer must be domiciled in a state employing
24 standards regarding credit for reinsurance that equal or exceed the standards
25 applicable under this section. The United States branch of an alien assuming
26 insurer must be entered through a state employing such standards.

27 “(b) The foreign assuming insurer or United States branch of an alien
28 assuming insurer must maintain a combined capital and surplus in an
29 amount not less than \$20,000,000. The requirement of this paragraph does not
30 apply to reinsurance ceded and assumed pursuant to pooling arrangements

1 among insurers in the same holding company system.

2 “(c) The foreign assuming insurer or United States branch of an alien
3 assuming insurer must submit to the authority of the director to examine its
4 books and records.

5 “(6) Credit shall be allowed when the reinsurance is ceded to an assuming
6 insurer that maintains a trust fund meeting the requirements of this sub-
7 section and additionally complies with other requirements of this subsection.
8 The trust fund must be maintained in a qualified United States financial
9 institution, as defined in ORS 731.510 (1), for the payment of the valid claims
10 of its United States policyholders and ceding insurers and their assigns and
11 successors in interest. The assuming insurer must report annually to the di-
12 rector information substantially the same as that required to be reported on
13 the annual statement form by ORS 731.574 by authorized insurers, in order
14 to enable the director to determine the sufficiency of the trust fund. The
15 following requirements apply to such a trust fund:

16 “(a) In the case of a single assuming insurer, the trust fund must consist
17 of funds in trust in an amount not less than the assuming insurer’s liabilities
18 attributable to reinsurance ceded by United States ceding insurers. In addi-
19 tion, the assuming insurer must maintain a trustee surplus of not less than
20 \$20,000,000.

21 “(b) In the case of a group including incorporated and individual unin-
22 corporated underwriters:

23 “(A) For reinsurance ceded under reinsurance agreements with an incep-
24 tion, amendment or renewal date on or after August 1, 1995, the trust shall
25 consist of a trustee account in an amount not less than the group’s several
26 liabilities attributable to business ceded by United States domiciled ceding
27 insurers to any member of the group.

28 “(B) For reinsurance ceded under reinsurance agreements with an incep-
29 tion date on or before July 31, 1995, and not amended or renewed after that
30 date, notwithstanding the other provisions of ORS 731.509, 731.510, 731.511,

1 731.512 and 731.516, the trust shall consist of a trustee account in an
2 amount not less than the group's several insurance and reinsurance liabil-
3 ities attributable to business written in the United States.

4 "(C) In addition to the trusts described in subparagraphs (A) and (B) of
5 this paragraph, the group shall maintain in trust a trustee surplus of which
6 \$100,000,000 shall be held jointly for the benefit of the United States
7 domiciled ceding insurers of any member of the group for all years of ac-
8 count.

9 "(D) The incorporated members of the group shall not be engaged in any
10 business other than underwriting as a member of the group and shall be
11 subject to the same level of regulation and solvency control by the group's
12 domiciliary regulator as are the unincorporated members.

13 "(E) Within 90 days after the group's financial statements are due to be
14 filed with the group's domiciliary regulator, the group shall provide to the
15 director an annual certification by the group's domiciliary regulator of the
16 solvency of each underwriter member or, if certification is unavailable, fi-
17 nancial statements of each underwriter member of the group prepared by
18 independent certified public accountants.

19 "(c) In the case of a group of incorporated insurers described in this
20 paragraph, the trust must be in an amount equal to the group's several li-
21 abilities attributable to business ceded by United States ceding insurers to
22 any member of the group pursuant to reinsurance contracts issued in the
23 name of the group. This paragraph applies to a group of incorporated
24 insurers under common administration that complies with the annual re-
25 porting requirements contained in this subsection and that has continuously
26 transacted an insurance business outside the United States for at least three
27 years immediately prior to making application for accreditation. Such a
28 group must have an aggregate policyholders' surplus of \$10,000,000,000 and
29 must submit to the authority of this state to examine its books and records
30 and bear the expense of the examination. The group shall also maintain a

1 joint trusteed surplus of which \$100,000,000 must be held jointly for the
2 benefit of United States ceding insurers of any member of the group as ad-
3 ditional security for any such liabilities. Each member of the group shall
4 make available to the director an annual certification of the member's
5 solvency by the member's domiciliary regulator and its independent certified
6 public accountant.

7 “(d) The form of the trust and any amendment to the trust shall have been
8 approved by the insurance commissioner of the state in which the trust is
9 domiciled or by the insurance commissioner of another state who, pursuant
10 to the terms of the trust instrument, has accepted principal regulatory
11 oversight of the trust.

12 “(e) The form of the trust and any trust amendments also shall be filed
13 with the insurance commissioner of every state in which the ceding insurer
14 beneficiaries of the trust are domiciled. The trust instrument must provide
15 that contested claims shall be valid and enforceable upon the final order of
16 any court of competent jurisdiction in the United States. The trust must vest
17 legal title to its assets in its trustees for the benefit of the assuming
18 insurer's United States ceding insurers and their assigns and successors in
19 interest. The trust and the assuming insurer are subject to examination as
20 determined by the director. The trust must remain in effect for as long as
21 the assuming insurer has outstanding obligations due under the reinsurance
22 agreements subject to the trust.

23 “(f) Not later than March 1 of each year, the trustees of each trust shall
24 report to the director in writing the balance of the trust and listing the
25 trust's investments at the preceding year end, and shall certify the date of
26 termination of the trust, if so planned, or certify that the trust will not ex-
27 pire prior to the following December 31.

28 “(7) Credit shall be allowed when the reinsurance is ceded to an assuming
29 insurer not meeting the requirements of subsection (3), (4), (5) or (6) of this
30 section, but only as to the insurance of risks located in jurisdictions in

1 which the reinsurance is required by applicable law or regulation of that
2 jurisdiction.

3 “(8) If the assuming insurer is not authorized to transact insurance in this
4 state or accredited as a reinsurer in this state, the director shall not allow
5 the credit permitted by subsections (5) and (6) of this section unless the as-
6 suming insurer agrees in the reinsurance agreement to the provisions stated
7 in this subsection. This subsection is not intended to conflict with or over-
8 ride the obligation of the parties to a reinsurance agreement to arbitrate
9 their disputes, if such an obligation is created in the agreement. The as-
10 suming insurer must agree in the reinsurance agreement:

11 “(a) That in the event of the failure of the assuming insurer to perform
12 its obligations under the terms of the reinsurance agreement, the assuming
13 insurer, at the request of the ceding insurer, shall submit to the jurisdiction
14 of any court of competent jurisdiction in any state of the United States, will
15 comply with all requirements necessary to give the court jurisdiction and
16 will abide by the final decision of the court or of any appellate court in the
17 event of an appeal; and

18 “(b) To designate the director or a designated attorney as its true and
19 lawful attorney upon whom any lawful process in any action, suit or pro-
20 ceeding instituted by or on behalf of the ceding company may be served.

21 **“(9) Credit shall be allowed when the reinsurance is ceded to the**
22 **Oregon Reinsurance Program established in section 18 of this 2017 Act.**

23 “[~~(9)~~] (10) If the assuming insurer does not meet the requirements of
24 subsection (3), (4) or (5) of this section, the credit permitted by subsection
25 (6) of this section shall not be allowed unless the assuming insurer agrees
26 in the trust agreements to the following conditions:

27 “(a) Notwithstanding any other provisions in the trust instrument, if the
28 trust fund is inadequate because it contains an amount less than the appli-
29 cable amount required by subsection (6)(a), (b) or (c) of this section, or if the
30 grantor of the trust has been declared insolvent or placed into receivership,

1 rehabilitation, liquidation or similar proceedings under the laws of the
2 grantor's state or country of domicile, the trustee shall comply with an order
3 of the insurance commissioner with regulatory oversight over the trust or
4 with an order of a court of competent jurisdiction directing the trustee to
5 transfer to the insurance commissioner with regulatory oversight all the as-
6 sets of the trust fund.

7 " (b) The assets shall be distributed by and claims shall be filed with and
8 valued by the insurance commissioner with regulatory oversight in accord-
9 ance with the laws of the state in which the trust is domiciled that are ap-
10 plicable to the liquidation of domestic insurance companies.

11 " (c) If the insurance commissioner with regulatory oversight determines
12 that the assets of the trust fund or any part thereof are not necessary to
13 satisfy the claims of the United States ceding insurers of the grantor of the
14 trust, the assets or part thereof shall be returned by the insurance commis-
15 sioner according to the laws of that state and according to the terms of the
16 trust agreement not inconsistent with the laws of that state.

17 " (d) The grantor shall waive any right otherwise available to it under
18 United States law that is inconsistent with this subsection.

19 **"SECTION 24.** Section 2, chapter 26, Oregon Laws 2016, is amended to
20 read:

21 **"Sec. 2.** *[(1) Subject to subsection (2) of this section,]* The Department of
22 Consumer and Business Services shall have sole authority to apply for a
23 waiver for state innovation under 42 U.S.C. 18052. *[In developing an appli-*
24 *cation for a waiver, the department shall convene an advisory group to advise*
25 *and assist the department in identifying federal provisions subject to waiver*
26 *that are expected to improve the delivery of quality health care to residents of*
27 *this state including, but not limited to, alternative approaches for achieving*
28 *the objectives of the Basic Health Program as described in section 1 (4) of this*
29 *2016 Act]* **The department shall apply for a waiver to receive funding**
30 **to implement the Oregon Reinsurance Program described in section**

operative later of 1-1-18
or HHS approval of 1332 waiver

1 **19 of this 2017 Act.**

2 “[(2) *The department may not submit an application for a waiver to the*
3 *United States Secretary of Health and Human Services or Secretary of the*
4 *Treasury until the department has presented the proposed application for a*
5 *waiver to the committees of the Legislative Assembly related to health and to*
6 *the Legislative Assembly as specified in subsection (3) of this section.*]

7 “[(3) *Not later than March 1, 2017, the department shall report to the Leg-*
8 *islative Assembly, in the manner provided in ORS 192.245, its recommen-*
9 *dations for submitting an application for a waiver under 42 U.S.C. 18052.*]

operative
1-2-24

10 “**SECTION 25.** ORS 731.509, as amended by section 35, chapter 698,
11 Oregon Laws 2013, and section 23 of this 2017 Act, is amended to read:

12 “731.509. (1) The purpose of ORS 731.509, 731.510, 731.511, 731.512 and
13 731.516 is to protect the interests of insureds, claimants, ceding insurers,
14 assuming insurers and the public generally. The Legislative Assembly de-
15 clares that its intent is to ensure adequate regulation of insurers and re-
16 insurers and adequate protection for those to whom they owe obligations. In
17 furtherance of that state interest, the Legislative Assembly mandates that
18 upon the insolvency of an alien insurer or reinsurer that provides security
19 to fund its United States obligations in accordance with ORS 731.509, 731.510,
20 731.511, 731.512 and 731.516, the assets representing the security shall be
21 maintained in the United States and claims shall be filed with and valued
22 by the state insurance commissioner with regulatory oversight, and the as-
23 sets shall be distributed in accordance with the insurance laws of the state
24 in which the trust is domiciled that are applicable to the liquidation of do-
25 mestic United States insurers. The Legislative Assembly declares that the
26 laws contained in ORS 731.509, 731.510, 731.511, 731.512 and 731.516 are fun-
27 damental to the business of insurance in accordance with 15 U.S.C. 1011 and
28 1012.

29 “(2) The Director of the Department of Consumer and Business Services
30 shall not allow credit for reinsurance to a domestic ceding insurer as either

1 an asset or a reduction from liability on account of reinsurance ceded unless
2 credit is allowed as provided under ORS 731.508 and unless the reinsurer
3 meets the requirements of:

4 “(a) Subsection (3) of this section;

5 “(b) Subsection (4) of this section;

6 “(c) Subsections (5) and (8) of this section;

7 “(d) Subsections (6) and (8) of this section; **or**

8 “(e) Subsection (7) of this section. [*or*]

9 “[*f*] *Subsection (9) of this section.*]

10 “(3) Credit shall be allowed when the reinsurance is ceded to an author-
11 ized assuming insurer that accepts reinsurance of risks, and retains risk
12 thereon within such limits, as the assuming insurer is otherwise authorized
13 to insure in this state as provided in ORS 731.508.

14 “(4) Credit shall be allowed when the reinsurance is ceded to an assuming
15 insurer that is accredited as a reinsurer in this state as provided in ORS
16 731.511. The director shall not allow credit to a domestic ceding insurer if
17 the accreditation of the assuming insurer has been revoked by the director
18 after notice and opportunity for hearing.

19 “(5) Credit shall be allowed when the reinsurance is ceded to a foreign
20 assuming insurer or a United States branch of an alien assuming insurer
21 meeting all of the following requirements:

22 “(a) The foreign assuming insurer must be domiciled in a state employing
23 standards regarding credit for reinsurance that equal or exceed the standards
24 applicable under this section. The United States branch of an alien assuming
25 insurer must be entered through a state employing such standards.

26 “(b) The foreign assuming insurer or United States branch of an alien
27 assuming insurer must maintain a combined capital and surplus in an
28 amount not less than \$20,000,000. The requirement of this paragraph does not
29 apply to reinsurance ceded and assumed pursuant to pooling arrangements
30 among insurers in the same holding company system.

1 “(c) The foreign assuming insurer or United States branch of an alien
2 assuming insurer must submit to the authority of the director to examine its
3 books and records.

4 “(6) Credit shall be allowed when the reinsurance is ceded to an assuming
5 insurer that maintains a trust fund meeting the requirements of this sub-
6 section and additionally complies with other requirements of this subsection.
7 The trust fund must be maintained in a qualified United States financial
8 institution, as defined in ORS 731.510 (1), for the payment of the valid claims
9 of its United States policyholders and ceding insurers and their assigns and
10 successors in interest. The assuming insurer must report annually to the di-
11 rector information substantially the same as that required to be reported on
12 the annual statement form by ORS 731.574 by authorized insurers, in order
13 to enable the director to determine the sufficiency of the trust fund. The
14 following requirements apply to such a trust fund:

15 “(a) In the case of a single assuming insurer, the trust fund must consist
16 of funds in trust in an amount not less than the assuming insurer’s liabilities
17 attributable to reinsurance ceded by United States ceding insurers. In addi-
18 tion, the assuming insurer must maintain a trustee surplus of not less than
19 \$20,000,000.

20 “(b) In the case of a group including incorporated and individual unin-
21 corporated underwriters:

22 “(A) For reinsurance ceded under reinsurance agreements with an incep-
23 tion, amendment or renewal date on or after August 1, 1995, the trust shall
24 consist of a trustee account in an amount not less than the group’s several
25 liabilities attributable to business ceded by United States domiciled ceding
26 insurers to any member of the group.

27 “(B) For reinsurance ceded under reinsurance agreements with an incep-
28 tion date on or before July 31, 1995, and not amended or renewed after that
29 date, notwithstanding the other provisions of ORS 731.509, 731.510, 731.511,
30 731.512 and 731.516, the trust shall consist of a trustee account in an

1 amount not less than the group's several insurance and reinsurance liabil-
2 ities attributable to business written in the United States.

3 "(C) In addition to the trusts described in subparagraphs (A) and (B) of
4 this paragraph, the group shall maintain in trust a trustee surplus of which
5 \$100,000,000 shall be held jointly for the benefit of the United States
6 domiciled ceding insurers of any member of the group for all years of ac-
7 count.

8 "(D) The incorporated members of the group shall not be engaged in any
9 business other than underwriting as a member of the group and shall be
10 subject to the same level of regulation and solvency control by the group's
11 domiciliary regulator as are the unincorporated members.

12 "(E) Within 90 days after the group's financial statements are due to be
13 filed with the group's domiciliary regulator, the group shall provide to the
14 director an annual certification by the group's domiciliary regulator of the
15 solvency of each underwriter member or, if certification is unavailable, fi-
16 nancial statements of each underwriter member of the group prepared by
17 independent certified public accountants.

18 "(c) In the case of a group of incorporated insurers described in this
19 paragraph, the trust must be in an amount equal to the group's several li-
20 abilities attributable to business ceded by United States ceding insurers to
21 any member of the group pursuant to reinsurance contracts issued in the
22 name of the group. This paragraph applies to a group of incorporated
23 insurers under common administration that complies with the annual re-
24 porting requirements contained in this subsection and that has continuously
25 transacted an insurance business outside the United States for at least three
26 years immediately prior to making application for accreditation. Such a
27 group must have an aggregate policyholders' surplus of \$10,000,000,000 and
28 must submit to the authority of this state to examine its books and records
29 and bear the expense of the examination. The group shall also maintain a
30 joint trustee surplus of which \$100,000,000 must be held jointly for the

1 benefit of United States ceding insurers of any member of the group as ad-
2 ditional security for any such liabilities. Each member of the group shall
3 make available to the director an annual certification of the member's
4 solvency by the member's domiciliary regulator and its independent certified
5 public accountant.

6 “(d) The form of the trust and any amendment to the trust shall have been
7 approved by the insurance commissioner of the state in which the trust is
8 domiciled or by the insurance commissioner of another state who, pursuant
9 to the terms of the trust instrument, has accepted principal regulatory
10 oversight of the trust.

11 “(e) The form of the trust and any trust amendments also shall be filed
12 with the insurance commissioner of every state in which the ceding insurer
13 beneficiaries of the trust are domiciled. The trust instrument must provide
14 that contested claims shall be valid and enforceable upon the final order of
15 any court of competent jurisdiction in the United States. The trust must vest
16 legal title to its assets in its trustees for the benefit of the assuming
17 insurer's United States ceding insurers and their assigns and successors in
18 interest. The trust and the assuming insurer are subject to examination as
19 determined by the director. The trust must remain in effect for as long as
20 the assuming insurer has outstanding obligations due under the reinsurance
21 agreements subject to the trust.

22 “(f) Not later than March 1 of each year, the trustees of each trust shall
23 report to the director in writing the balance of the trust and listing the
24 trust's investments at the preceding year end, and shall certify the date of
25 termination of the trust, if so planned, or certify that the trust will not ex-
26 pire prior to the following December 31.

27 “(7) Credit shall be allowed when the reinsurance is ceded to an assuming
28 insurer not meeting the requirements of subsection (3), (4), (5) or (6) of this
29 section, but only as to the insurance of risks located in jurisdictions in
30 which the reinsurance is required by applicable law or regulation of that

1 jurisdiction.

2 “(8) If the assuming insurer is not authorized to transact insurance in this
3 state or accredited as a reinsurer in this state, the director shall not allow
4 the credit permitted by subsections (5) and (6) of this section unless the as-
5 suming insurer agrees in the reinsurance agreement to the provisions stated
6 in this subsection. This subsection is not intended to conflict with or over-
7 ride the obligation of the parties to a reinsurance agreement to arbitrate
8 their disputes, if such an obligation is created in the agreement. The as-
9 suming insurer must agree in the reinsurance agreement:

10 “(a) That in the event of the failure of the assuming insurer to perform
11 its obligations under the terms of the reinsurance agreement, the assuming
12 insurer, at the request of the ceding insurer, shall submit to the jurisdiction
13 of any court of competent jurisdiction in any state of the United States, will
14 comply with all requirements necessary to give the court jurisdiction and
15 will abide by the final decision of the court or of any appellate court in the
16 event of an appeal; and

17 “(b) To designate the director or a designated attorney as its true and
18 lawful attorney upon whom any lawful process in any action, suit or pro-
19 ceeding instituted by or on behalf of the ceding company may be served.

20 “[~~(9)~~ *Credit shall be allowed when the reinsurance is ceded to the Oregon*
21 *Reinsurance Program established in section 18 of this 2017 Act.*]

22 “[~~(10)~~] **(9)** If the assuming insurer does not meet the requirements of
23 subsection (3), (4) or (5) of this section, the credit permitted by subsection
24 (6) of this section shall not be allowed unless the assuming insurer agrees
25 in the trust agreements to the following conditions:

26 “(a) Notwithstanding any other provisions in the trust instrument, if the
27 trust fund is inadequate because it contains an amount less than the appli-
28 cable amount required by subsection (6)(a), (b) or (c) of this section, or if the
29 grantor of the trust has been declared insolvent or placed into receivership,
30 rehabilitation, liquidation or similar proceedings under the laws of the

1 grantor's state or country of domicile, the trustee shall comply with an order
2 of the insurance commissioner with regulatory oversight over the trust or
3 with an order of a court of competent jurisdiction directing the trustee to
4 transfer to the insurance commissioner with regulatory oversight all the as-
5 sets of the trust fund.

6 "(b) The assets shall be distributed by and claims shall be filed with and
7 valued by the insurance commissioner with regulatory oversight in accord-
8 ance with the laws of the state in which the trust is domiciled that are ap-
9 plicable to the liquidation of domestic insurance companies.

10 "(c) If the insurance commissioner with regulatory oversight determines
11 that the assets of the trust fund or any part thereof are not necessary to
12 satisfy the claims of the United States ceding insurers of the grantor of the
13 trust, the assets or part thereof shall be returned by the insurance commis-
14 sioner according to the laws of that state and according to the terms of the
15 trust agreement not inconsistent with the laws of that state.

16 "(d) The grantor shall waive any right otherwise available to it under
17 United States law that is inconsistent with this subsection.

18
19

"HOSPITAL ASSESSMENT"

20

21 "**SECTION 26.** Section 1, chapter 736, Oregon Laws 2003, as amended by
22 section 34, chapter 792, Oregon Laws 2009, is amended to read:

23 "**Sec. 1.** As used in sections 1 to 9, chapter 736, Oregon Laws 2003:

24 "(1) 'Charity care' means costs for providing inpatient or outpatient care
25 services free of charge or at a reduced charge because of the indigence or
26 lack of health insurance of the patient receiving the care services.

27 "(2) 'Contractual adjustments' means the difference between the amounts
28 charged based on the hospital's full established charges and the amount re-
29 ceived or due from the payor.

30 "(3)(a) 'Hospital' [*has the meaning given that term in ORS 442.015*] **means**

operative
later of
1/1/18
or
CMS
approval
of rural

1 a hospital licensed under ORS chapter 441.

2 “(b) ‘Hospital’ does not include:

3 “(A) Special inpatient care facilities[.];

4 “(B) Hospitals that provide only psychiatric care;

5 “(C) Hospitals providing care to children at no charge; and

6 “(D) Public hospitals other than hospitals created by health dis-
7 tricts under ORS 440.315 to 440.410.

8 “(4) ‘Net revenue’:

9 “(a) Means the total amount of charges for inpatient or outpatient care
10 provided by the hospital to patients, less charity care, bad debts and con-
11 tractual adjustments;

12 “(b) Does not include revenue derived from sources other than inpatient
13 or outpatient operations, including but not limited to interest and guest
14 meals; and

15 “(c) Does not include any revenue that is taken into account in computing
16 a long term care facility assessment under sections 15 to 22, **24 and 29**,
17 chapter 736, Oregon Laws 2003.

18 “[5] “*Waivered hospital*” means a type A or type B hospital, as described
19 in ORS 442.470, a hospital that provides only psychiatric care or a hospital
20 identified by the Department of Human Services as appropriate for inclusion
21 in the application described in section 4, chapter 736, Oregon Laws 2003.]

22 “(5) “**Type A hospital**” has the meaning given that term in ORS
23 **442.470.**

24 “(6) “**Type B hospital**” has the meaning given that term in ORS
25 **442.470.**

26 — **SECTION 27.** Section 2, chapter 736, Oregon Laws 2003, as amended by
27 section 1, chapter 780, Oregon Laws 2007, section 51, chapter 828, Oregon
28 Laws 2009, section 17, chapter 867, Oregon Laws 2009, section 2, chapter 608,
29 Oregon Laws 2013, and section 1, chapter 16, Oregon Laws 2015, is amended
30 to read:

operative
91 days

1 **“Sec. 2.** (1) An assessment is imposed on the net revenue of each hospital
2 in this state that is not a waived hospital. The assessment shall be imposed
3 at a rate determined by the Director of the Oregon Health Authority by rule
4 that is the director’s best estimate of the rate needed to fund the services
5 and costs identified in section 9, chapter 736, Oregon Laws 2003. The rate
6 of assessment shall be imposed on the net revenue of each hospital subject
7 to assessment. The director shall consult with representatives of hospitals
8 before setting the assessment.

9 **“(2) In addition to the assessment imposed by subsection (1) of this**
10 **section, an assessment of 0.7 percent is imposed on the net revenue**
11 **each hospital in this state that is not a waived hospital.**

12 **“[(2)] (3)** The assessment shall be reported on a form prescribed by the
13 Oregon Health Authority and shall contain the information required to be
14 reported by the authority. The assessment form shall be filed with the au-
15 thority on or before the 75th day following the end of the calendar quarter
16 for which the assessment is being reported. Except as provided in subsection
17 **[(6)] (7)** of this section, the hospital shall pay the assessment at the time the
18 hospital files the assessment report. The payment shall accompany the re-
19 port.

20 **“[(3)(a)] (4)(a)** To the extent permitted by federal law, *[aggregate]* assess-
21 ments imposed under **subsection (1) of this section** may not exceed the
22 **lesser of:**

23 **“(A) A rate of 5.3 percent; or**

24 **“(B) In the aggregate, the** total of the following amounts received by
25 the hospitals that are reimbursed by Medicare based on diagnostic related
26 groups:

27 **“[(A)] (i)** 30 percent of payments made to the hospitals on a fee-for-service
28 basis by the authority for inpatient hospital services;

29 **“[(B)] (ii)** 41 percent of payments made to the hospitals on a fee-for-
30 service basis by the authority for outpatient hospital services; and

1 “[(C)] (iii) Payments made to the hospitals using a payment methodology
2 established by the authority that advances the goals of the Oregon Inte-
3 grated and Coordinated Health Care Delivery System described in ORS
4 414.620 (3).

5 “(b) Notwithstanding paragraph (a) of this subsection, aggregate assess-
6 ments imposed **under subsection (1) of this section** on or after July 1, 2015,
7 may exceed the total of the amounts described in paragraph (a) of this sub-
8 section to the extent necessary to compensate for any reduction of funding
9 in the legislatively adopted budget for hospital services under ORS 414.631,
10 414.651 and 414.688 to 414.745.

11 “[(4)] (5) Notwithstanding subsection [(3)] (4) of this section, a hospital
12 is not guaranteed that any additional moneys paid to the hospital in the form
13 of payments for services shall equal or exceed the amount of the assessment
14 paid by the hospital.

15 “[(5)] (6) Hospitals operated by the United States Department of Veterans
16 Affairs and pediatric specialty hospitals providing care to children at no
17 charge are exempt from the assessment imposed under this section.

18 “[(6)(a)] (7)(a) The authority shall develop a schedule for collection of the
19 assessment for the calendar quarter ending September 30, 2019, that will re-
20 sult in the collection occurring between December 15, 2019, and the time all
21 Medicaid cost settlements are finalized for that calendar quarter.

22 “(b) The authority shall prescribe by rule criteria for late payment of
23 assessments.

operative
later of
1/1/18
or
CMS
approval
of

24 “**SECTION 28.** Section 2, chapter 736, Oregon Laws 2003, as amended by
25 section 1, chapter 780, Oregon Laws 2007, section 51, chapter 828, Oregon
26 Laws 2009, section 17, chapter 867, Oregon Laws 2009, section 2, chapter 608,
27 Oregon Laws 2013, and section 1, chapter 16, Oregon Laws 2015, and section
28 27 of this 2017 Act, is amended to read:

29 “**Sec. 2.** (1) An assessment is imposed on the net revenue of each hospital
30 in this state [*that is not a waived hospital*]. The assessment shall be im-

1 posed at a rate determined by the Director of the Oregon Health Authority
2 by rule that is the director's best estimate of the rate needed to fund the
3 services and costs identified in section 9, chapter 736, Oregon Laws 2003. The
4 rate of assessment shall be imposed on the net revenue of each hospital
5 subject to assessment. The director shall consult with representatives of
6 hospitals before setting the assessment.

7 “(2) In addition to the assessment imposed by subsection (1) of this sec-
8 tion, an assessment of 0.7 percent is imposed on the net revenue of each
9 hospital in this state that is not a [*waivered hospital*] **type A hospital or**
10 **type B hospital.**

11 “(3) [*The*] **Each** assessment shall be reported on a form prescribed by the
12 Oregon Health Authority and shall contain the information required to be
13 reported by the authority. The assessment form shall be filed with the au-
14 thority on or before the [*75th*] **45th** day following the end of the calendar
15 quarter for which the assessment is being reported. Except as provided in
16 subsection [*(7)*] **(6)** of this section, the hospital shall pay the assessment at
17 the time the hospital files the assessment report. The payment shall ac-
18 company the report.

19 “(4)(a) To the extent permitted by federal law, assessments imposed under
20 subsection (1) of this section may not exceed the lesser of:

21 “(A) A rate of 5.3 percent; or

22 “(B) In the aggregate, the total of the following amounts received by the
23 hospitals that are reimbursed by Medicare based on diagnostic related
24 groups:

25 “(i) 30 percent of payments made to the hospitals on a fee-for-service basis
26 by the authority for inpatient hospital services;

27 “(ii) 41 percent of payments made to the hospitals on a fee-for-service
28 basis by the authority for outpatient hospital services; and

29 “(iii) Payments made to the hospitals using a payment methodology es-
30 tablished by the authority that advances the goals of the Oregon Integrated

1 and Coordinated Health Care Delivery System described in ORS 414.620 (3).

2 “(b) Notwithstanding paragraph (a) of this subsection, aggregate assess-
3 ments imposed under subsection (1) of this section on or after July 1, 2015,
4 may exceed the total of the amounts described in paragraph (a) of this sub-
5 section to the extent necessary to compensate for any reduction of funding
6 in the legislatively adopted budget for hospital services under ORS 414.631,
7 414.651 and 414.688 to 414.745.

8 “(c) **The director may impose a lower rate of assessment on type A**
9 **hospitals and type B hospitals to take into account the hospitals’ fi-**
10 **nancial position.**

11 “(5) Notwithstanding subsection (4) of this section, a hospital is not
12 guaranteed that any additional moneys paid to the hospital in the form of
13 payments for services shall equal or exceed the amount of the assessment
14 paid by the hospital.

15 “[*(6) Hospitals operated by the United States Department of Veterans Af-*
16 *fairs and pediatric specialty hospitals providing care to children at no charge*
17 *are exempt from the assessment imposed under this section.*]

18 “[*(7)(a)*] **(6)(a)** The authority shall develop a schedule for collection of the
19 assessment for the calendar quarter ending September 30, [2019] **2021**, that
20 will result in the collection occurring between December 15, [2019] **2021**, and
21 the time all Medicaid cost settlements are finalized for that calendar quarter.

22 “(b) The authority shall prescribe by rule criteria for late payment of
23 assessments.

24 **“SECTION 29.** Section 2, chapter 736, Oregon Laws 2003, as amended by
25 section 1, chapter 780, Oregon Laws 2007, section 51, chapter 828, Oregon
26 Laws 2009, section 17, chapter 867, Oregon Laws 2009, section 2, chapter 608,
27 Oregon Laws 2013, and section 1, chapter 16, Oregon Laws 2015, and sections
28 27 and 28 of this 2017 Act, is amended to read:

29 “**Sec. 2.** (1) An assessment is imposed on the net revenue of each hospital
30 in this state. The assessment shall be imposed at a rate determined by the

operative
7-1-18

1 Director of the Oregon Health Authority by rule that is the director's best
2 estimate of the rate needed to fund the services and costs identified in sec-
3 tion 9, chapter 736, Oregon Laws 2003. The rate of assessment shall be im-
4 posed on the net revenue of each hospital subject to assessment. The director
5 shall consult with representatives of hospitals before setting the assessment.

6 “(2) In addition to the assessment imposed by subsection (1) of this sec-
7 tion, an assessment of 0.7 percent is imposed on the net revenue of each
8 hospital in this state that is not a type A hospital or type B hospital.

9 “(3) Each assessment shall be reported on a form prescribed by the Oregon
10 Health Authority and shall contain the information required to be reported
11 by the authority. The assessment form shall be filed with the authority on
12 or before the 45th day following the end of the calendar quarter for which
13 the assessment is being reported. Except as provided in subsection (6) of this
14 section, the hospital shall pay the assessment at the time the hospital files
15 the assessment report. The payment shall accompany the report.

16 “(4)(a) To the extent permitted by federal law, assessments imposed under
17 subsection (1) of this section may not exceed the lesser of:

18 “(A) A rate of 5.3 percent; or

19 “(B) In the aggregate, the total of the following amounts received by the
20 hospitals that are reimbursed by Medicare based on diagnostic related
21 groups:

22 “(i) 30 percent of payments made to the hospitals on a fee-for-service basis
23 by the authority for inpatient hospital services;

24 “(ii) 41 percent of payments made to the hospitals on a fee-for-service
25 basis by the authority for outpatient hospital services; and

26 “(iii) Payments made to the hospitals using a payment methodology es-
27 tablished by the authority that advances the goals of the Oregon Integrated
28 and Coordinated Health Care Delivery System described in ORS 414.620 (3).

29 “(b) Notwithstanding paragraph (a) of this subsection, aggregate assess-
30 ments imposed under subsection (1) of this section on or after July 1, 2015,

1 may exceed the total of the amounts described in paragraph (a) of this sub-
2 section to the extent necessary to compensate for any reduction of funding
3 in the legislatively adopted budget for hospital services under ORS 414.631,
4 414.651 and 414.688 to 414.745.

5 “(c) The director may impose a lower rate of assessment on type A hos-
6 pitals and type B hospitals to take into account the hospitals’ financial po-
7 sition.

8 “(5) Notwithstanding subsection (4) of this section, a hospital is not
9 guaranteed that any additional moneys paid to the hospital in the form of
10 payments for services shall equal or exceed the amount of the assessment
11 paid by the hospital.

12 “(6)(a) The authority shall develop a schedule for collection of the as-
13 sessment for the calendar quarter ending September 30, 2021, that will result
14 in the collection occurring between December 15, 2021, and the time all
15 Medicaid cost settlements are finalized for that calendar quarter.

16 “(b) The authority shall prescribe by rule criteria for late payment of
17 assessments.

18 **“SECTION 30.** Section 2, chapter 736, Oregon Laws 2003, as amended by
19 section 1, chapter 780, Oregon Laws 2007, section 51, chapter 828, Oregon
20 Laws 2009, section 17, chapter 867, Oregon Laws 2009, section 2, chapter 608,
21 Oregon Laws 2013, section 1, chapter 16, Oregon Laws 2015, and sections 27,
22 28 and 29 of this 2017 Act, is amended to read:

23 **“Sec. 2.** (1) An assessment is imposed on the net revenue of each hospital
24 in this state. The assessment shall be imposed at a rate determined by the
25 Director of the Oregon Health Authority by rule that is the director’s best
26 estimate of the rate needed to fund the services and costs identified in sec-
27 tion 9, chapter 736, Oregon Laws 2003. The rate of assessment shall be im-
28 posed on the net revenue of each hospital subject to assessment. The director
29 shall consult with representatives of hospitals before setting the assessment.

30 “[2) *In addition to the assessment imposed by subsection (1) of this section,*

operative
1-1-20

1 *an assessment of 0.7 percent is imposed on the net revenue of each hospital in*
2 *this state that is not a type A hospital or type B hospital.]*

3 “[~~(3)~~] **(2)** Each assessment shall be reported on a form prescribed by the
4 Oregon Health Authority and shall contain the information required to be
5 reported by the authority. The assessment form shall be filed with the au-
6 thority on or before the 45th day following the end of the calendar quarter
7 for which the assessment is being reported. Except as provided in subsection
8 [~~(6)~~] **(5)** of this section, the hospital shall pay the assessment at the time the
9 hospital files the assessment report. The payment shall accompany the re-
10 port.

11 “[~~(4)(a)~~] **(3)(a)** To the extent permitted by federal law, **aggregate** assess-
12 ments imposed under [*subsection (1) of*] this section may not exceed [*the*
13 *lesser of:*]

14 “[~~(A)~~] *A rate of 5.3 percent; or*

15 “[~~(B)~~] *In the aggregate,*] the total of the following amounts received by the
16 hospitals that are reimbursed by Medicare based on diagnostic related
17 groups:

18 “[~~(i)~~] **(A)** 30 percent of payments made to the hospitals on a fee-for-service
19 basis by the authority for inpatient hospital services;

20 “[~~(ii)~~] **(B)** 41 percent of payments made to the hospitals on a fee-for-
21 service basis by the authority for outpatient hospital services; and

22 “[~~(iii)~~] **(C)** Payments made to the hospitals using a payment methodology
23 established by the authority that advances the goals of the Oregon Inte-
24 grated and Coordinated Health Care Delivery System described in ORS
25 414.620 (3).

26 “(b) Notwithstanding paragraph (a) of this subsection, aggregate assess-
27 ments imposed under [*subsection (1) of*] this section on or after July 1, 2015,
28 may exceed the total of the amounts described in paragraph (a) of this sub-
29 section to the extent necessary to compensate for any reduction of funding
30 in the legislatively adopted budget for hospital services under ORS 414.631,

1 414.651 and 414.688 to 414.745.

2 “(c) The director may impose a lower rate of assessment on type A hos-
3 pitals and type B hospitals to take into account the hospitals’ financial po-
4 sition.

5 “[5] (4) Notwithstanding subsection [(4)] (3) of this section, a hospital
6 is not guaranteed that any additional moneys paid to the hospital in the form
7 of payments for services shall equal or exceed the amount of the assessment
8 paid by the hospital.

9 “[6)(a)] (5)(a) The authority shall develop a schedule for collection of the
10 assessment for the calendar quarter ending September 30, 2021, that will re-
11 sult in the collection occurring between December 15, 2021, and the time all
12 Medicaid cost settlements are finalized for that calendar quarter.

13 “(b) The authority shall prescribe by rule criteria for late payment of
14 assessments.

15 **“SECTION 31.** Section 3, chapter 736, Oregon Laws 2003, as amended by
16 section 3, chapter 608, Oregon Laws 2013, is amended to read:

17 **“Sec. 3.** [(1)] Notwithstanding section 2, chapter 736, Oregon Laws 2003,
18 the Director of the Oregon Health Authority shall reduce the rate of as-
19 sessment imposed under section 2 (1), chapter 736, Oregon Laws 2003, to the
20 maximum rate allowed under federal law if the reduction is required to
21 comply with federal law.

22 “[2) *If federal law requires a reduction in the rate of assessments, the di-*
23 *rector shall, after consulting with representatives of the hospitals that are*
24 *subject to the assessments, first reduce the distribution of moneys described in*
25 *section 9 (2)(d), chapter 736, Oregon Laws 2003, by a corresponding amount.]*

26 **“SECTION 32.** Section 5, chapter 736, Oregon Laws 2003, as amended by
27 section 52, chapter 828, Oregon Laws 2009, and section 18, chapter 867,
28 Oregon Laws 2009, is amended to read:

29 **“Sec. 5.** (1) A hospital that fails to file a report or pay an assessment
30 under section 2, chapter 736, Oregon Laws 2003, by the date the report or

operative
7-1-18

operative
91 days

1 payment is due shall be subject to a penalty of up to \$500 per day of delin-
2 quency. The total amount of penalties imposed under this section for each
3 reporting period may not exceed five percent of the assessment for the re-
4 porting period for which penalties are being imposed.

5 “(2) Penalties imposed under this section shall be collected by the Oregon
6 Health Authority and deposited in the Oregon Health Authority Fund es-
7 tablished under [section 18, chapter 595, Oregon Laws 2009] **ORS 413.101**.

8 “(3) Penalties paid under this section are in addition to and not in lieu
9 of [the] **any** assessment imposed under section 2, chapter 736, Oregon Laws
10 2003.

operative
7-1-18

11 — **“SECTION 33.** Section 7, chapter 736, Oregon Laws 2003, as amended by
12 section 5, chapter 608, Oregon Laws 2013, is amended to read:

13 “**Sec. 7.** The Oregon Health Authority may audit the records of any hos-
14 pital in this state to determine compliance with sections 1 to 9, chapter 736,
15 Oregon Laws 2003[, and section 1 of this 2013 Act]. The authority may audit
16 records at any time for a period of five years following the date an assess-
17 ment is due to be reported and paid under section 2, chapter 736, Oregon
18 Laws 2003.

operative
91 days

19 — **“SECTION 34.** Section 9, chapter 736, Oregon Laws 2003, as amended by
20 section 2, chapter 757, Oregon Laws 2005, section 2, chapter 780, Oregon
21 Laws 2007, section 53, chapter 828, Oregon Laws 2009, section 19, chapter 867,
22 Oregon Laws 2009, section 59, chapter 602, Oregon Laws 2011, and section
23 7, chapter 608, Oregon Laws 2013, is amended to read:

24 “**Sec. 9.** (1) The Hospital Quality Assurance Fund is established in the
25 State Treasury, separate and distinct from the General Fund. Interest earned
26 by the Hospital Quality Assurance Fund shall be credited to the Hospital
27 Quality Assurance Fund.

28 “(2) Amounts in the Hospital Quality Assurance Fund are continuously
29 appropriated to the Oregon Health Authority for the purpose of:

30 “(a) Paying refunds due under section 6, chapter 736, Oregon Laws 2003;

1 “(b) Funding services under ORS 414.631, 414.651 and 414.688 to [414.750]
2 **414.745**, including but not limited to increasing reimbursement rates for in-
3 patient and outpatient hospital services under ORS 414.631, 414.651 and
4 414.688 to [414.750] **414.745**;

5 “(c) Making payments described in section 2 [(3)(a)(C)] **(4)(a)(B)(iii)**,
6 chapter 736, Oregon Laws 2003;

7 “(d) Making distributions, as described in section 1 (4) [of this 2013 Act],
8 **chapter 608, Oregon Laws 2013**, of an amount of moneys equal to the fed-
9 eral financial participation received from one percentage point of the rate
10 assessed under section 2 (1), chapter 736, Oregon Laws 2003; and

11 “(e) Paying administrative costs incurred by the authority to administer
12 section 1 [of this 2013 Act], **chapter 608, Oregon Laws 2013**, and the as-
13 sessments imposed under section 2, chapter 736, Oregon Laws 2003.

14 “(3) Except for assessments imposed pursuant to section 2 [(3)(b)] **(4)(b)**,
15 chapter 736, Oregon Laws 2003, the authority may not use moneys from the
16 Hospital Quality Assurance Fund to supplant, directly or indirectly, other
17 moneys made available to fund services described in subsection (2) of this
18 section.

operative
later
of
1/1/18
or
CMS
approval
of
rural5

19 — **“SECTION 35.** Section 9, chapter 736, Oregon Laws 2003, as amended by
20 section 2, chapter 757, Oregon Laws 2005, section 2, chapter 780, Oregon
21 Laws 2007, section 53, chapter 828, Oregon Laws 2009, section 19, chapter 867,
22 Oregon Laws 2009, section 59, chapter 602, Oregon Laws 2011, and section
23 7, chapter 608, Oregon Laws 2013, and section 34 of this 2017 Act, is amended
24 to read:

25 **“Sec. 9.** (1) The Hospital Quality Assurance Fund is established in the
26 State Treasury, separate and distinct from the General Fund. Interest earned
27 by the Hospital Quality Assurance Fund shall be credited to the Hospital
28 Quality Assurance Fund.

29 “(2) Amounts in the Hospital Quality Assurance Fund are continuously
30 appropriated to the Oregon Health Authority for the purpose of:

1 “(a) Paying refunds due under section 6, chapter 736, Oregon Laws 2003;

2 “(b) Funding services under ORS 414.631, 414.651 and 414.688 to 414.745,
3 including but not limited to increasing reimbursement rates for inpatient and
4 outpatient hospital services under ORS 414.631, 414.651 and 414.688 to
5 414.745;

6 “(c) Making payments described in section 2 (4)(a)(B)(iii), chapter 736,
7 Oregon Laws 2003;

8 “(d) Making distributions, as described in section 1 (4), chapter 608,
9 Oregon Laws 2013, of an amount of moneys equal to the federal financial
10 participation received from one percentage point of the rate assessed under
11 section 2 (1), chapter 736, Oregon Laws 2003; [and]

12 “(e) **Making payments to coordinated care organizations to be used**
13 **to provide additional reimbursement to type A hospitals and type B**
14 **hospitals to improve and expand access to services for medical assist-**
15 **ance recipients, to the extent permitted by federal requirements; and**

16 “[e] (f) Paying administrative costs incurred by the authority to admin-
17 ister section 1, chapter 608, Oregon Laws 2013, and the assessments imposed
18 under section 2, chapter 736, Oregon Laws 2003.

19 “(3) Except for assessments imposed pursuant to section 2 (4)(b), chapter
20 736, Oregon Laws 2003, the authority may not use moneys from the Hospital
21 Quality Assurance Fund to supplant, directly or indirectly, other moneys
22 made available to fund services described in subsection (2) of this section.

23 **“SECTION 36.** Section 9, chapter 736, Oregon Laws 2003, as amended by
24 section 2, chapter 757, Oregon Laws 2005, section 2, chapter 780, Oregon
25 Laws 2007, section 53, chapter 828, Oregon Laws 2009, section 19, chapter 867,
26 Oregon Laws 2009, section 59, chapter 602, Oregon Laws 2011, and section
27 7, chapter 608, Oregon Laws 2013, and sections 34 and 35 of this 2017 Act,
28 is amended to read:

29 “**Sec. 9.** (1) The Hospital Quality Assurance Fund is established in the
30 State Treasury, separate and distinct from the General Fund. Interest earned

Operative
7-1-18

1 by the Hospital Quality Assurance Fund shall be credited to the Hospital
2 Quality Assurance Fund.

3 “(2) Amounts in the Hospital Quality Assurance Fund are continuously
4 appropriated to the Oregon Health Authority for the purpose of:

5 “(a) Paying refunds due under section 6, chapter 736, Oregon Laws 2003;

6 “(b) Funding services under ORS 414.631, 414.651 and 414.688 to 414.745 ,
7 including but not limited to increasing reimbursement rates for inpatient and
8 outpatient hospital services under ORS 414.631, 414.651 and 414.688 to
9 414.745;

10 “(c) Making payments described in section 2 (4)(a)(B)(iii), chapter 736,
11 Oregon Laws 2003;

12 “[*(d) Making distributions, as described in section 1 (4), chapter 608,*
13 *Oregon Laws 2013, of an amount of moneys equal to the federal financial*
14 *participation received from one percentage point of the rate assessed under*
15 *section 2 (1), chapter 736, Oregon Laws 2003;*]

16 “[*(e)*] **(d)** Making payments to coordinated care organizations to be used
17 to provide additional reimbursement to type A hospitals and type B hospitals
18 to improve and expand access to services for medical assistance recipients,
19 to the extent permitted by federal requirements; and

20 “[*(f)*] **(e)** Paying administrative costs incurred by the authority to admin-
21 ister [*section 1, chapter 608, Oregon Laws 2013, and*] the assessments imposed
22 under section 2, chapter 736, Oregon Laws 2003.

23 “(3) Except for assessments imposed pursuant to section 2 (4)(b), chapter
24 736, Oregon Laws 2003, the authority may not use moneys from the Hospital
25 Quality Assurance Fund to supplant, directly or indirectly, other moneys
26 made available to fund services described in subsection (2) of this section.

27 **“SECTION 36a.** Section 9, chapter 736, Oregon Laws 2003, as amended
28 by section 2, chapter 757, Oregon Laws 2005, section 2, chapter 780, Oregon
29 Laws 2007, section 53, chapter 828, Oregon Laws 2009, section 19, chapter 867,
30 Oregon Laws 2009, section 59, chapter 602, Oregon Laws 2011, and section

operative
1-1-20

1 7, chapter 608, Oregon Laws 2013, and sections 34, 35 and 36 of this 2017 Act,
2 is amended to read:

3 “**Sec. 9.** (1) The Hospital Quality Assurance Fund is established in the
4 State Treasury, separate and distinct from the General Fund. Interest earned
5 by the Hospital Quality Assurance Fund shall be credited to the Hospital
6 Quality Assurance Fund.

7 “(2) Amounts in the Hospital Quality Assurance Fund are continuously
8 appropriated to the Oregon Health Authority for the purpose of:

9 “(a) Paying refunds due under section 6, chapter 736, Oregon Laws 2003;

10 “(b) Funding services under ORS 414.631, 414.651 and 414.688 to 414.745 ,
11 including but not limited to increasing reimbursement rates for inpatient and
12 outpatient hospital services under ORS 414.631, 414.651 and 414.688 to
13 414.745;

14 “(c) Making payments described in section 2 [(4)(a)(B)(iii)] **(3)(a)(C)**,
15 chapter 736, Oregon Laws 2003;

16 “(d) Making payments to coordinated care organizations to be used to
17 provide additional reimbursement to type A hospitals and type B hospitals
18 to improve and expand access to services for medical assistance recipients,
19 to the extent permitted by federal requirements; and

20 “(e) Paying administrative costs incurred by the authority to administer
21 the assessments imposed under section 2, chapter 736, Oregon Laws 2003.

22 “(3) Except for assessments imposed pursuant to section 2 [(4)(b)] **(3)(b)**,
23 chapter 736, Oregon Laws 2003, the authority may not use moneys from the
24 Hospital Quality Assurance Fund to supplant, directly or indirectly, other
25 moneys made available to fund services described in subsection (2) of this
26 section.

27 **“SECTION 37.** Section 9, chapter 736, Oregon Laws 2003, as amended by
28 section 2, chapter 757, Oregon Laws 2005, section 2, chapter 780, Oregon
29 Laws 2007, section 53, chapter 828, Oregon Laws 2009, section 19, chapter 867,
30 Oregon Laws 2009, section 59, chapter 602, Oregon Laws 2011, and section

*Operative
7-1-18
if
CMS
does
not
approve
URALS
& OHSU
Programs*

1 7, chapter 608, Oregon Laws 2013, and section 34 of this 2017 Act, is amended
2 to read:

3 “**Sec. 9.** (1) The Hospital Quality Assurance Fund is established in the
4 State Treasury, separate and distinct from the General Fund. Interest earned
5 by the Hospital Quality Assurance Fund shall be credited to the Hospital
6 Quality Assurance Fund.

7 “(2) Amounts in the Hospital Quality Assurance Fund are continuously
8 appropriated to the Oregon Health Authority for the purpose of:

9 “(a) Paying refunds due under section 6, chapter 736, Oregon Laws 2003;

10 “(b) Funding services under ORS 414.631, 414.651 and 414.688 to 414.745,
11 including but not limited to increasing reimbursement rates for inpatient and
12 outpatient hospital services under ORS 414.631, 414.651 and 414.688 to
13 414.745; **and**

14 “(c) Making payments described in section 2 (4)(a)(B)(iii), chapter 736,
15 Oregon Laws 2003;

16 “[*(d) Making distributions, as described in section 1 (4), chapter 608,*
17 *Oregon Laws 2013, of an amount of moneys equal to the federal financial*
18 *participation received from one percentage point of the rate assessed under*
19 *section 2 (1), chapter 736, Oregon Laws 2003; and]*

20 “[*(e)*] **(d)** Paying administrative costs incurred by the authority to ad-
21 minister [*section 1, chapter 608, Oregon Laws 2013, and*] the assessments im-
22 posed under section 2, chapter 736, Oregon Laws 2003.

23 “(3) Except for assessments imposed pursuant to section 2 (4)(b), chapter
24 736, Oregon Laws 2003, the authority may not use moneys from the Hospital
25 Quality Assurance Fund to supplant, directly or indirectly, other moneys
26 made available to fund services described in subsection (2) of this section.

27 **“SECTION 37a.** Section 10, chapter 736, Oregon Laws 2003, as amended
28 by section 3, chapter 780, Oregon Laws 2007, section 20, chapter 867, Oregon
29 Laws 2009, section 8, chapter 608, Oregon Laws 2013, and section 6, chapter
30 16, Oregon Laws 2015, is amended to read:

*operative
91 days*

1 “**Sec. 10.** Sections 1 to 9, chapter 736, Oregon Laws 2003, apply to net
2 revenues earned by hospitals during a period beginning October 1, 2015, and
3 ending the earlier of September 30, [2019] **2021**, or the date on which the
4 assessment no longer qualifies for federal financial participation under Title
5 XIX or XXI of the Social Security Act.

6 “**SECTION 38.** Section 12, chapter 736, Oregon Laws 2003, as amended
7 by section 4, chapter 780, Oregon Laws 2007, section 21, chapter 867, Oregon
8 Laws 2009, section 9, chapter 608, Oregon Laws 2013, and section 3, chapter
9 16, Oregon Laws 2015, is amended to read:

10 “**Sec. 12. (1)** Sections 1 to 9, chapter 736, Oregon Laws 2003, [and section
11 1, chapter 608, Oregon Laws 2013,] are repealed on January 2, [2024] **2026**.

12 “**(2) Section 1, chapter 608, Oregon Laws 2013, is repealed on July**
13 **1, 2018.**

14 “**SECTION 39.** Section 13, chapter 736, Oregon Laws 2003, as amended
15 by section 5, chapter 780, Oregon Laws 2007, section 22, chapter 867, Oregon
16 Laws 2009, section 10, chapter 608, Oregon Laws 2013, and section 4, chapter
17 16, Oregon Laws 2015, is amended to read:

18 “**Sec. 13.** Nothing in the repeal of sections 1 to 9, chapter 736, Oregon
19 Laws 2003, and section 1, chapter 608, Oregon Laws 2013, by section 12,
20 chapter 736, Oregon Laws 2003, affects the imposition and collection of a
21 hospital assessment under sections 1 to 9, chapter 736, Oregon Laws 2003, for
22 a calendar quarter beginning before September 30, [2019] **2021**.

23 “**SECTION 40.** Section 14, chapter 736, Oregon Laws 2003, as amended
24 by section 6, chapter 780, Oregon Laws 2007, section 23, chapter 867, Oregon
25 Laws 2009, and section 5, chapter 16, Oregon Laws 2015, is amended to read:

26 “**Sec. 14.** Any moneys remaining in the Hospital Quality Assurance Fund
27 on December 31, [2023] **2025**, are transferred to the General Fund.

28 “**SECTION 41.** **The Oregon Health Authority shall ensure that the**
29 **Oregon Health and Science University receives net reimbursement of**
30 **at least 84 percent but no more than 100 percent of the university’s**

operative
91 days

operative
91 days

operative
91 days

operative
1-1-18
or
CMS
approval

1 net costs that are paid for, in whole or in part, with Medicaid funds.
2 Net reimbursement means all Medicaid payments less any amount
3 that is transferred by the university to the authority.

4
5 "FUNDING

6
7 *operative
91 days* "SECTION 42. (1) An amount is transferred to the Health System
8 Fund established under section 2 of this 2017 Act from the unexpended
9 balance of the Health Insurance Exchange Fund established under
10 ORS 741.102, that equals the difference between the balance in the
11 Health Insurance Exchange Fund and the projected expenditures from
12 the Health Insurance Exchange Fund during the next six months.

13 "(2) Any unexpended balance of the Oregon Medical Insurance Pool
14 Account established in ORS 735.612 remaining of the effective date of
15 this 2017 Act is transferred to the Health System Fund established
16 under section 2 of this 2017 Act.

17 "(3) The transfers described in subsections (1) and (2) of this section
18 shall be made from moneys maintained, on the effective date of this
19 2017 Act, in the Health Insurance Exchange Fund and the Oregon
20 Medical Insurance Pool Account.

21
22 "OPERATIVE DATES, EFFECTIVE DATES, REPEALS
23 AND TECHNICAL ADJUSTMENTS

24
25 "SECTION 43. Sections 3 to 12 of this 2017 Act and the amendments
26 to ORS 291.055, 731.292 and 731.840 by sections 13 to 16 of this 2017 Act
27 become operative on January 1, 2018.

28 "SECTION 44. (1) If the Centers for Medicare and Medicaid Services
29 permits the state to impose the assessment under section 2, chapter
30 736, Oregon Laws 2003, on type A hospitals and type B hospitals and

1 to exclude from the assessment public hospitals other than health
2 district hospitals:

3 “(a) Section 41 of this 2017 Act and the amendments to sections 1,
4 2 and 9, chapter 736, Oregon Laws 2003, by sections 26, 28 and 35 of this
5 2017 Act become operative on the later of:

6 “(A) January 1, 2018; or

7 “(B) The date of the approval by the Centers for Medicare and
8 Medicaid Services.

9 “(b) The amendments to sections 2, 3, 7 and 9, chapter 736, Oregon
10 Laws 2003, by sections 29, 31, 33 and 36 of this 2017 Act become opera-
11 tive on July 1, 2018.

12 “(c) The amendments to sections 2 and 9, chapter 736, Oregon Laws
13 2003, by sections 30 and 36a of this 2017 Act become operative on Jan-
14 uary 1, 2020.

15 “(2) If the Centers for Medicare and Medicare Services denies ap-
16 proval for the state to impose the assessment under section 2, chapter
17 736, Oregon Laws 2003, on type A hospitals and type B hospitals and
18 to exclude from the assessment public hospitals other than health
19 district hospitals, the amendments to section 9, chapter 736, Oregon
20 Laws 2003, by section 37 of this 2017 Act become operative on July 1,
21 2018.

22 “(3) The Director of the Oregon Health Authority shall notify the
23 Legislative Counsel upon receipt of an approval or denial by the Cen-
24 ters for Medicare and Medicaid Services of permission to impose the
25 assessment under section 2, chapter 736, Oregon Laws 2003, on type A
26 hospitals and type B hospitals and to exclude from the assessment
27 public hospitals other than health district hospitals.

28 “SECTION 45. (1) Sections 18 to 22 of this 2017 Act and the amend-
29 ments to ORS 731.509 and section 2, chapter 26, Oregon Laws 2016, by
30 sections 23 and 24 of this 2017 Act become operative on the later of:

1 “(a) The date the United States Department of Health and Human
2 Services approves a waiver for state innovation under 42 U.S.C. 18052
3 in accordance with section 2, chapter 26, Oregon Laws 2016, as
4 amended by section 24 of this 2017 Act; or

5 “(b) January 1, 2018.

6 “(2) The Director of the Department of Consumer and Business
7 Services shall notify the Legislative Counsel upon receipt of the ap-
8 proval or denial of funding for the Oregon Reinsurance Program under
9 42 U.S.C. 18052.

10 “SECTION 46. The amendments to ORS 731.509 by section 25 of this
11 2017 Act become operative on January 2, 2024.

12 “SECTION 47. Section 15, chapter 389, Oregon Laws 2015, is re-
13 pealed.

14 “SECTION 48. Sections 18 to 22 of this 2017 Act are repealed on
15 January 2, 2024.

16 “SECTION 49. The Department of Consumer and Business Services
17 may take any action before the operative date specified in sections 43
18 and 45 of this 2017 Act for sections 2 to 12 and 18 to 22 of this 2017 Act
19 and the amendments to ORS 291.055, 731.292, 731.509 and 731.840 and
20 section 2, chapter 26, Oregon Laws 2016, by sections 13 to 16, 23 and
21 24 of this 2017 Act that is necessary for the department to carry out
22 sections 2 to 12 and 18 to 22 of this 2017 Act and the amendments to
23 ORS 291.055, 731.292, 731.509 and 731.840 and section 2, chapter 26,
24 Oregon Laws 2016, by sections 13 to 16, 23 and 24 of this 2017 Act on
25 the operative date specified in sections 43 and 45 of this 2017 Act.

26 “SECTION 50. The unit captions used in this 2017 Act are provided
27 only for the convenience of the reader and do not become part of the
28 statutory law of this state or express any legislative intent in the
29 enactment of this 2017 Act.

30 “SECTION 51. This 2017 Act takes effect on the 91st day after the

1 date on which the 2017 regular session of the Seventy-ninth Legislative
2 Assembly adjourns sine die.”

3 _____

