

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; prescribing an ef-
5 fective date; and providing for revenue raising that requires approval by a
6 three-fifths majority.”.

7 Delete lines 4 through 13 and insert:
8

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

11
12 **“SECTION 1. Sections 2 to 9 of this 2017 Act are added to and made**
13 **a part of the Insurance Code.**

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

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

20 **“(a) Administering the Oregon Reinsurance Program established in**
21 **section 19 of this 2017 Act; and**

1 **“(b) Transferring moneys to the Oregon Health Authority to:**
2 **“(A) Provide medical assistance and other health services under**
3 **ORS chapter 414.**
4 **“(B) Provide grants to community health centers and safety net**
5 **clinics under ORS 413.225.**
6 **“(C) Pay refunds due under section 12 of this 2017 Act.**
7 **“(D) Pay administrative costs incurred by the authority to admin-**
8 **ister the assessment described in section 10 of this 2017 Act.**
9 **“SECTION 3. (1) As used in this section:**
10 **“(a) ‘Insured’ means an eligible employee or family member, as**
11 **defined in ORS 243.105, who is enrolled in a self-insured health benefit**
12 **plan under ORS 243.105 to 243.285.**
13 **“(b) ‘Medical claim’ means a request to a self-insured health benefit**
14 **plan to reimburse the cost of a health care item or service provided**
15 **to an insured, other than a dental or vision care item or service.**
16 **“(2) No later than 45 days following the end of a calendar quarter,**
17 **the Public Employees’ Benefit Board shall pay an assessment at the**
18 **rate of 1.5 percent on all medical claims and the administrative costs**
19 **associated with the claims received during the calendar quarter.**
20 **“(3) The assessment shall be paid to the Department of Consumer**
21 **and Business Services and shall be accompanied by a verified report,**
22 **on a form prescribed by the department, together with any informa-**
23 **tion required by the department.**
24 **“(4) The assessment imposed under this section is in addition to and**
25 **not in lieu of any tax, surcharge or other assessment imposed on the**
26 **board.**
27 **“(5) If the department determines that the assessment paid by the**
28 **board under this section is incorrect, the department shall charge or**
29 **credit to the board the difference between the correct amount of the**
30 **assessment and the amount paid by the board.**

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

4 “(7) The assessment paid by the board under this section shall be
5 considered part of the board’s administrative expenses.

6 “(8) 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 in section 2 of this 2017 Act.

9 “SECTION 4. Section 3 of this 2017 Act applies to medical claims
10 received by the Public Employees’ Benefit Board, or a person that
11 contracts with the board to pay medical claims under a self-insured
12 health benefit plan, during the period from January 1, 2018, through
13 December 31, 2019.

14 “SECTION 5. As used in section 6 of this 2017 Act:

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

17 “(2) ‘Health plan’ means health insurance and insurance provided
18 by a health care service contractor as defined in ORS 750.005, exclud-
19 ing:

20 “(a) Insurance policies covering vision only or dental only benefits;

21 “(b) Medicare Advantage plans;

22 “(c) Medicare Part D prescription drug coverage;

23 “(d) Long term care insurance;

24 “(e) Health insurance issued to federal employees that is exempt
25 from state taxes under federal law;

26 “(f) A policy of stop-loss coverage that meets the requirements of
27 ORS 742.065;

28 “(g) Insurance policies issued to supplement liability insurance
29 coverage;

30 “(h) Limited benefit coverage;

1 “(i) Automobile medical payment insurance or insurance under
2 which benefits are payable with or without regard to fault and that is
3 required by law to be contained in a liability insurance policy or
4 equivalent self-insurance;

5 “(j) Reinsurance as defined in ORS 731.126;

6 “(k) Workers compensation insurance; and

7 “(L) Disability insurance.

8 “SECTION 6. (1) No later than 45 days following the end of a cal-
9 endar quarter, an insurer shall pay an assessment at the rate of 1.5
10 percent of the gross amount of premiums earned by the insurer during
11 that calendar quarter that were derived from health plans:

12 “(a) Insuring Oregon residents; or

13 “(b) Delivered or issued for delivery in Oregon.

14 “(2) The assessment shall be paid to the Department of Consumer
15 and Business Services and shall be accompanied by a verified form
16 prescribed by the department together with any information required
17 by the department, that reports:

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

20 “(b) The gross amount of premiums by line of insurance, derived
21 by the insurer from all health plans issued or renewed by the insurer
22 during the calendar quarter for which the assessment is paid.

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

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

29 “SECTION 7. (1) If the Public Employees’ Benefit Board or an
30 insurer fails to timely file a verified form or to pay an assessment re-

1 required under section 3 or 6 of this 2017 Act, the Department of Con-
2 sumer and Business Services shall impose a penalty on the board or
3 insurer of up to \$500 per day of delinquency. The total amount of
4 penalties imposed under this section for a calendar quarter may not
5 exceed five 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 sections 3 and 6 of this
8 2017 Act.

9 **“SECTION 8. (1) If the Department of Consumer and Business Ser-**
10 **VICES determines that the assessment paid by the insurer under section**
11 **6 of this 2017 Act is incorrect, the department shall charge or credit**
12 **to the insurer the difference between the correct amount of the as-**
13 **essment and the amount paid by the insurer.**

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

18 **“SECTION 9. (1) Section 6 of this 2017 Act applies to premiums**
19 **earned by an insurer for a period of eight calendar quarters beginning**
20 **on the date, on or after January 1, 2018, that the policy or certificate**
21 **for which the premiums are paid is issued or renewed.**

22 “(2) Notwithstanding any provision of contract or statute, including
23 ORS 743B.013 and 743.022, insurers may increase their premium rate
24 on policies or certificates that are subject to the assessment under
25 section 6 of this 2017 Act by 1.5 percent. To the extent the existing rate
26 was approved by the Department of Consumer and Business Services,
27 the resulting rate, including the additional 1.5 percent, shall be con-
28 sidered an approved rate. If an insurer increases its rates under this
29 subsection, the insurer shall include in all consumer billings a notice
30 explaining the increase in a form prescribed by the department. This

1 subsection applies to any rate approved by or filed for the
2 department's approval prior to the effective date of this 2017 Act and
3 to any contract of insurance not subject to the department's rate ap-
4 proval authority.

5 **"SECTION 10. (1) As used in this section and sections 11 and 12 of**
6 **this 2017 Act, 'managed care organization' means:**

7 **"(a) A coordinated care organization as defined in ORS 414.025; and**

8 **"(b) A prepaid managed care health services organization as defined**
9 **in ORS 414.025.**

10 **"(2) No later than 45 days following the end of a calendar quarter,**
11 **a managed care organization shall pay an assessment at a rate of 1.5**
12 **percent of the gross amount of the total payments, during that cal-**
13 **endar quarter, made to the managed care organization by the Oregon**
14 **Health Authority for providing health services under ORS chapter 414.**

15 **"(3) The assessment shall be paid to the authority in a manner and**
16 **form prescribed by the authority.**

17 **"(4) Assessments received by the authority under this section shall**
18 **be paid into the State Treasury and credited to the Health System**
19 **Fund established in section 2 of this 2017 Act.**

20 **"(5) The assessment imposed under this section is in addition to and**
21 **not in lieu of any tax, surcharge or other assessment imposed on a**
22 **managed care organization.**

23 **"SECTION 11. (1) If a managed care organization fails to timely pay**
24 **an assessment under section 10 of this 2017 Act, the Oregon Health**
25 **Authority shall impose a penalty on the managed care organization**
26 **of up to \$500 per day of delinquency. The total amount of penalties**
27 **imposed under this section for a calendar quarter may not exceed five**
28 **percent of the assessment due for that calendar quarter.**

29 **"(2) Any penalty imposed under this section is in addition to and**
30 **not in lieu of the assessment imposed under section 10 of this 2017 Act.**

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

4 **“SECTION 12. (1) A managed care organization that has paid an**
5 **amount that is not required under section 10 of this 2017 Act may file**
6 **a claim for refund with the Oregon Health Authority.**

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

11 **“SECTION 13. Sections 10, 11 and 12 of this 2017 Act apply to any**
12 **payments made to a managed care organization by the Oregon Health**
13 **Authority during the period beginning January 1, 2018, and ending**
14 **December 31, 2019.**

15 **“SECTION 14. ORS 731.292 is amended to read:**

16 **“731.292. (1) Except as provided in subsections (2), [*and*] (3) **and** (4) of this**
17 **section, all fees, charges and other moneys received by the Department of**
18 **Consumer and Business Services or the Director of the Department of Con-**
19 **sumer and Business Services under the Insurance Code shall be deposited in**
20 **the fund created by ORS 705.145 and are continuously appropriated to the**
21 **department for the payment of the expenses of the department in carrying**
22 **out the Insurance Code.**

23 **“(2) All taxes and penalties paid pursuant to the Insurance Code shall be**
24 **paid to the director and after deductions of refunds shall be paid by the di-**
25 **rector to the State Treasurer, at the end of every calendar month or more**
26 **often in the director’s discretion, for deposit in the General Fund to become**
27 **available for general governmental expenses.**

28 **“(3) All premium taxes received by the director pursuant to ORS 731.820**
29 **shall be paid by the director to the State Treasurer for deposit in the State**
30 **Fire Marshal Fund.**

1 “(4) Assessments received by the department under sections 3 and
2 **6 of this 2017 Act and penalties received by the department under sec-**
3 **tion 7 of this 2017 Act shall be paid into the State Treasury and cred-**
4 **ited to the Health System Fund established in section 2 of this 2017**
5 **Act.**

6 “**SECTION 15.** ORS 731.840 is amended to read:

7 “731.840. (1) The retaliatory tax imposed upon a foreign or alien insurer
8 under ORS 731.854 and 731.859, or the corporate excise tax imposed upon a
9 foreign or alien insurer under ORS chapter 317, is in lieu of all other state
10 taxes upon premiums, taxes upon income, franchise or other taxes measured
11 by income that might otherwise be imposed upon the foreign or alien insurer
12 except the fire insurance premiums tax imposed under ORS 731.820, [and] the
13 tax imposed upon wet marine and transportation insurers under ORS 731.824
14 and 731.828 **and the assessment imposed under section 6 of this 2017**
15 **Act.** However, all real and personal property, if any, of the insurer shall be
16 listed, assessed and taxed the same as real and personal property of like
17 character of noninsurers. Nothing in this subsection shall be construed to
18 preclude the imposition of the assessments imposed under ORS 656.612 upon
19 a foreign or alien insurer.

20 “(2) Subsection (1) of this section applies to a reciprocal insurer and its
21 attorney in its capacity as such.

22 “(3) Subsection (1) of this section applies to foreign or alien title insurers
23 and to foreign or alien wet marine and transportation insurers issuing poli-
24 cies and subject to taxes referred to in ORS 731.824 and 731.828.

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

29 “(a) No county, city, district, or other political subdivision or agency in
30 this state shall so regulate, or shall levy upon insurers, or upon their in-

1 surance producers and representatives as such, any such tax, license or fee;
2 except that whenever a county, city, district or other political subdivision
3 levies or imposes generally on a nondiscriminatory basis throughout the ju-
4 risdiction of the taxing authority a payroll, excise or income tax, as other-
5 wise provided by law, such tax may be levied or imposed upon domestic
6 insurers; and

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

13 **“SECTION 16.** ORS 291.055 is amended to read:

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

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

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

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

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

29 “(e) Are rescinded on adjournment sine die of the next regular session of
30 the Legislative Assembly as described in this subsection, unless otherwise

1 authorized by enabling legislation setting forth the approved fees.

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

3 “(a) Any tuition or fees charged by a public university listed in ORS
4 352.002.

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

10 “(c) Fees or payments required for:

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

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

16 “(C) Copayments and premiums paid to the Oregon medical assistance
17 program.

18 **“(D) Assessments paid to the Department of Consumer and Busi-
19 ness Services under sections 3 and 6 of this 2017 Act.**

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

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

24 “(f) Any intergovernmental charges.

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

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

30 “(i) Assessments on premiums charged by the Department of Consumer

1 and Business Services pursuant to ORS 731.804 or fees charged by the Divi-
2 sion of Finance and Corporate Securities of the Department of Consumer and
3 Business Services to banks, trusts and credit unions pursuant to ORS 706.530
4 and 723.114.

5 “(j) Public Utility Commission operating assessments required by ORS
6 756.310 or charges paid to the Residential Service Protection Fund required
7 by chapter 290, Oregon Laws 1987.

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

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

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

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

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

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

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

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

30 **SECTION 17.** ORS 291.055, as amended by section 36, chapter 698,

1 Oregon Laws 2013, section 20, chapter 70, Oregon Laws 2015, and section 44b,
2 chapter 807, Oregon Laws 2015, is amended to read:

3 “291.055. (1) Notwithstanding any other law that grants to a state agency
4 the authority to establish fees, all new state agency fees or fee increases
5 adopted during the period beginning on the date of adjournment sine die of
6 a regular session of the Legislative Assembly and ending on the date of
7 adjournment sine die of the next regular session of the Legislative Assembly:

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

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

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

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

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

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

22 “(a) Any tuition or fees charged by a public university listed in ORS
23 352.002.

24 “(b) Taxes or other payments made or collected from employers for un-
25 employment insurance required by ORS chapter 657 or premium assessments
26 required by ORS 656.612 and 656.614 or contributions and assessments cal-
27 culated by cents per hour for workers’ compensation coverage required by
28 ORS 656.506.

29 “(c) Fees or payments required for:

30 “(A) Health care services provided by the Oregon Health and Science

1 University, by the Oregon Veterans' Homes and by other state agencies and
2 institutions pursuant to ORS 179.610 to 179.770.

3 “(B) Copayments and premiums paid to the Oregon medical assistance
4 program.

5 **“(C) Assessments paid to the Department of Consumer and Business
6 Services under sections 3 and 6 of this 2017 Act.**

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

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

11 “(f) Any intergovernmental charges.

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

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

17 “(i) Assessments on premiums charged by the Department of Consumer
18 and Business Services pursuant to ORS 731.804 or fees charged by the Divi-
19 sion of Finance and Corporate Securities of the Department of Consumer and
20 Business Services to banks, trusts and credit unions pursuant to ORS 706.530
21 and 723.114.

22 “(j) Public Utility Commission operating assessments required by ORS
23 756.310 or charges paid to the Residential Service Protection Fund required
24 by chapter 290, Oregon Laws 1987.

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

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

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

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

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

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

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

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

17

18 **“OREGON REINSURANCE PROGRAM**

19

20 **“SECTION 18. Sections 19 to 22 of this 2017 Act are added to and**
21 **made a part of the Insurance Code.**

22 **“SECTION 19. The Oregon Reinsurance Program is established in**
23 **the Department of Consumer and Business Services for the purposes**
24 **of stabilizing the rates and premiums for individual health benefit**
25 **plans and providing greater financial certainty to consumers of health**
26 **insurance in this state.**

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

28 **“(a) ‘Attachment point’ means the threshold dollar amount,**
29 **adopted by the Department of Consumer and Business Services by**
30 **rule, for claims costs incurred by a reinsurance eligible health benefit**

1 plan for an insured individual's covered benefits in a benefit year, af-
2 ter which threshold the claims costs for the benefits are eligible for
3 reinsurance payments.

4 “(b) ‘Coinsurance rate’ means the rate, adopted by the department
5 by rule, at which the department will reimburse a reinsurance eligible
6 health benefit plan for claims costs incurred for an insured
7 individual's covered benefits in a benefit year after the attachment
8 point and before the reinsurance cap.

9 “(c) ‘Health benefit plan’ has the meaning given that term in ORS
10 743B.005.

11 “(d) ‘Reinsurance cap’ means the threshold dollar amount, adopted
12 by the department by rule, for claims costs incurred by a reinsurance
13 eligible health benefit plan for an insured individual's covered benefits
14 in a benefit year, after which threshold the claims costs for the bene-
15 fits are no longer eligible for state reinsurance payments.

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

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

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

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

23 “(2) The department shall prescribe by rule the criteria for a health
24 benefit plan to qualify for reinsurance payments under the Oregon
25 Reinsurance Program. The criteria must be consistent with require-
26 ments for:

27 “(a) Premium rates under ORS 743.018;

28 “(b) Guaranteed availability under ORS 743B.126;

29 “(c) Guaranteed renewability under ORS 743B.125;

30 “(d) Coverage of essential health benefits under ORS 743B.125; and

1 “(e) Using a single risk pool under ORS 743.022.

2 “(3) An issuer of a reinsurance eligible health benefit plan becomes
3 eligible for a reinsurance payment when the claims costs for a rein-
4 surance eligible individual’s covered benefits in a calendar year exceed
5 the attachment point. The amount of the payment shall be the product
6 of the coinsurance rate and the issuer’s claims costs for the reinsur-
7 ance eligible individual’s claims costs that exceed the attachment
8 point, up to the reinsurance cap.

9 “(4) After the department adopts by rule the attachment point, re-
10 insurance cap or coinsurance rate, the department may not:

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

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

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

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

20 “(b) The amount, manner and frequency of reinsurance payments;
21 and

22 “(c) Reporting requirements for issuers of reinsurance eligible
23 health benefit plans.

24 “SECTION 21. (1) As used in this section:

25 “(a) ‘Health benefit plan’ has the meaning given that term in ORS
26 743B.005.

27 “(b) ‘Oregon Reinsurance Program’ means the program established
28 in section 19 of this 2013 Act.

29 “(c) ‘Reinsurance eligible individual’ has the meaning given that
30 term in section 20 of this 2013 Act.

1 **“(2) An insurer that offers a health benefit plan must report to the**
2 **Department of Consumer and Business Services, in the form and**
3 **manner prescribed by the department by rule, information about re-**
4 **insurance eligible individuals insured by the health benefit plan as**
5 **necessary for the department to calculate reinsurance payments under**
6 **the Oregon Reinsurance Program.**

7 **“SECTION 22. In a rate filing under ORS 743.018, an insurer must**
8 **identify the impact of reinsurance payments under section 20 of this**
9 **2017 Act on projected claims costs and in the development of rates.**

10 **“SECTION 23. The Oregon Reinsurance Program established in**
11 **section 19 of this 2017 Act shall be exempt from any and all taxes as-**
12 **essed by the State of Oregon.**

13 **“SECTION 24. ORS 731.509, as amended by section 35, chapter 698,**
14 **Oregon Laws 2013, is amended to read:**

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

1 1012.

2 “(2) The Director of the Department of Consumer and Business Services
3 shall not allow credit for reinsurance to a domestic ceding insurer as either
4 an asset or a reduction from liability on account of reinsurance ceded unless
5 credit is allowed as provided under ORS 731.508 and unless the reinsurer
6 meets the requirements of:

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

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

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

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

11 “(e) Subsection (7) of this section; **or**

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

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

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

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

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

29 “(b) The foreign assuming insurer or United States branch of an alien
30 assuming insurer must maintain a combined capital and surplus in an

1 amount not less than \$20,000,000. The requirement of this paragraph does not
2 apply to reinsurance ceded and assumed pursuant to pooling arrangements
3 among insurers in the same holding company system.

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

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

18 “(a) In the case of a single assuming insurer, the trust fund must consist
19 of funds in trust in an amount not less than the assuming insurer’s liabilities
20 attributable to reinsurance ceded by United States ceding insurers. In addi-
21 tion, the assuming insurer must maintain a trusteed surplus of not less than
22 \$20,000,000.

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

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

30 “(B) For reinsurance ceded under reinsurance agreements with an incep-

1 tion date on or before July 31, 1995, and not amended or renewed after that
2 date, notwithstanding the other provisions of ORS 731.509, 731.510, 731.511,
3 731.512 and 731.516, the trust shall consist of a trusteed account in an
4 amount not less than the group's several insurance and reinsurance liabil-
5 ities attributable to business written in the United States.

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

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

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

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

1 must submit to the authority of this state to examine its books and records
2 and bear the expense of the examination. The group shall also maintain a
3 joint trusteed surplus of which \$100,000,000 must be held jointly for the
4 benefit of United States ceding insurers of any member of the group as ad-
5 ditional security for any such liabilities. Each member of the group shall
6 make available to the director an annual certification of the member's
7 solvency by the member's domiciliary regulator and its independent certified
8 public accountant.

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

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

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

30 “(7) Credit shall be allowed when the reinsurance is ceded to an assuming

1 insurer not meeting the requirements of subsection (3), (4), (5) or (6) of this
2 section, but only as to the insurance of risks located in jurisdictions in
3 which the reinsurance is required by applicable law or regulation of that
4 jurisdiction.

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

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

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

23 “(9) **Credit shall be allowed when the reinsurance is ceded to the**
24 **Oregon Reinsurance Program established in section 19 of this 2017 Act.**

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

29 “(a) Notwithstanding any other provisions in the trust instrument, if the
30 trust fund is inadequate because it contains an amount less than the appli-

1 cable amount required by subsection (6)(a), (b) or (c) of this section, or if the
2 grantor of the trust has been declared insolvent or placed into receivership,
3 rehabilitation, liquidation or similar proceedings under the laws of the
4 grantor's state or country of domicile, the trustee shall comply with an order
5 of the insurance commissioner with regulatory oversight over the trust or
6 with an order of a court of competent jurisdiction directing the trustee to
7 transfer to the insurance commissioner with regulatory oversight all the as-
8 sets of the trust fund.

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

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

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

21 **“SECTION 25.** Section 2, chapter 26, Oregon Laws 2016, is amended to
22 read:

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

1 *of this 2016 Act]* **implementing the Oregon Reinsurance Program de-**
2 **scribed in section 20 of this 2017 Act.**

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

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

11 **“SECTION 26.** ORS 731.509, as amended by section 35, chapter 698,
12 Oregon Laws 2013, and section 24 of this 2017 Act, 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 trusteed 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 trusteed 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 trusteed 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 trusteed 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 Oregon*
22 *Reinsurance Program established in section 19 of this 2017 Act.*]

23 “[~~(10)~~] **(9)** 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

20 HOSPITAL ASSESSMENT

21

22 “**SECTION 27.** Section 1, chapter 736, Oregon Laws 2003, as amended by
23 section 34, chapter 792, Oregon Laws 2009, is amended to read:

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

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

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

1 “(3) ‘Hospital’ [*has the meaning given that term in ORS 442.015*] **means**
2 **a hospital licensed under ORS chapter 441.**

3 “(b) ‘Hospital’ does not include:

4 “(A) Special inpatient care facilities;

5 “(B) **Hospitals that provide only psychiatric care;**

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

7 “(D) **Teaching hospitals.**

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 28.** 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:

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 im-
3 posed at a rate determined by the Director of the Oregon Health Authority
4 by rule that is the director’s best estimate of the rate needed to fund the
5 services and costs identified in section 9, chapter 736, Oregon Laws 2003. The
6 rate of assessment shall be imposed on the net revenue of each hospital
7 subject to assessment. The director shall consult with representatives of
8 hospitals 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 **of hospitals other than type A hospitals or type B hospitals.**

12 “[(2)] (3) [*The*] **Each** assessment shall be reported on a form prescribed
13 by the Oregon Health Authority and shall contain the information required
14 to be reported by the authority. The assessment form shall be filed with the
15 authority 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) 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 “(c) **The director may impose a lower rate of assessment on type A**
12 **hospitals or type B hospitals to take into account the hospitals’ fi-**
13 **nancial position.**

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

18 “[5] *Hospitals operated by the United States Department of Veterans Af-*
19 *fairs and pediatric specialty hospitals providing care to children at no charge*
20 *are exempt from the assessment imposed under this section.]*

21 “(6)(a) The authority shall develop a schedule for collection of the as-
22 sessment for the calendar quarter ending September 30, [2019] **2021**, that will
23 result in the collection occurring between December 15, [2019] **2021**, and the
24 time all Medicaid cost settlements are finalized for that calendar quarter.

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

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

1 of this 2017 Act, is amended to read:

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

9 “[2] *In addition to the assessment imposed by subsection (1) of this section,*
10 *an assessment of 0.7 percent is imposed on the net revenue of hospitals other*
11 *than type A or type B hospitals.]*

12 “[3] (2) Each 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) 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 “[4(a)] (3) 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 the
25 hospitals that are reimbursed by Medicare based on diagnostic related
26 groups:

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

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

1 “[(iii)] (C) 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 “(c) The director may impose a lower rate of assessment on type A hos-
12 pitals or type B hospitals to take into account the hospitals’ financial posi-
13 tion.

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

18 “[(6)(a)] (5)(a) The authority shall develop a schedule for collection of the
19 assessment for the calendar quarter ending September 30, 2021, that will re-
20 sult in the collection occurring between December 15, 2021, 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.

24 “**SECTION 30.** Section 3, chapter 736, Oregon Laws 2003, as amended by
25 section 3, chapter 608, Oregon Laws 2013, is amended to read:

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

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

5 “**SECTION 31.** Section 5, chapter 736, Oregon Laws 2003, as amended by
6 section 52, chapter 828, Oregon Laws 2009, and section 18, chapter 867,
7 Oregon Laws 2009, is amended to read:

8 “**Sec. 5.** (1) A hospital that fails to file a report or pay an assessment
9 under section 2, chapter 736, Oregon Laws 2003, by the date the report or
10 payment is due shall be subject to a penalty of up to \$500 per day of delin-
11 quency. The total amount of penalties imposed under this section for each
12 reporting period may not exceed five percent of the assessment for the re-
13 porting period for which penalties are being imposed.

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

17 “(3) Penalties paid under this section are in addition to and not in lieu
18 of [*the*] **any** assessment imposed under section 2, chapter 736, Oregon Laws
19 2003.

20 “**SECTION 32.** Section 7, chapter 736, Oregon Laws 2003, as amended by
21 section 5, chapter 608, Oregon Laws 2013, is amended to read:

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

28 “**SECTION 33.** Section 9, chapter 736, Oregon Laws 2003, as amended by
29 section 2, chapter 757, Oregon Laws 2005, section 2, chapter 780, Oregon
30 Laws 2007, section 53, chapter 828, Oregon Laws 2009, section 19, chapter 867,

1 Oregon Laws 2009, section 59, chapter 602, Oregon Laws 2011, and section
2 7, chapter 608, Oregon Laws 2013, 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 [414.750]
11 **414.745**, including but not limited to increasing reimbursement rates for in-
12 patient and outpatient hospital services under ORS 414.631, 414.651 and
13 414.688 to [414.750] **414.745**;

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

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

20 “(e) **Making qualified directed payments to coordinated care organ-**
21 **izations to be used to provide additional reimbursement to type A**
22 **hospitals and type B hospitals that:**

23 “(A) **Is based on the utilization and delivery of services;**

24 “(B) **Is expended equally, using the same terms of performance for**
25 **all type A hospitals and type B hospitals;**

26 “(C) **Is expected to advance at least one of the goals of the state’s**
27 **quality strategy;**

28 “(D) **Is evaluated on the degree to which the payments advance at**
29 **least one of the goals of the state’s quality strategy;**

30 “(E) **Does not require a hospital to enter into an intergovernmental**

1 **transfer agreement; and**

2 **“(F) Is not renewed automatically; and**

3 **“[(e)] (f) Paying administrative costs incurred by the authority to admin-**
4 **ister section 1 [of this 2013 Act], chapter 608, Oregon Laws 2013, and the**
5 **assessments imposed under section 2, chapter 736, Oregon Laws 2003.**

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

11 **“SECTION 34.** Section 9, chapter 736, Oregon Laws 2003, as amended by
12 section 2, chapter 757, Oregon Laws 2005, section 2, chapter 780, Oregon
13 Laws 2007, section 53, chapter 828, Oregon Laws 2009, section 19, chapter 867,
14 Oregon Laws 2009, section 59, chapter 602, Oregon Laws 2011, section 7,
15 chapter 608, Oregon Laws 2013, and section 33 of this 2017 Act, is amended
16 to read:

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

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

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

24 **“(b) Funding services under ORS 414.631, 414.651 and 414.688 to 414.745,**
25 **including but not limited to increasing reimbursement rates for inpatient and**
26 **outpatient hospital services under ORS 414.631, 414.651 and 414.688 to**
27 **414.745;**

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

30 **“[(d) Making distributions, as described in section 1 (4), chapter 608,**

1 *Oregon Laws 2013, of an amount of moneys equal to the federal financial*
2 *participation received from one percentage point of the rate assessed under*
3 *section 2 (1), chapter 736, Oregon Laws 2003;]*

4 “[*(e)*] **(d)** Making qualified directed payments to coordinated care organ-
5 izations to be used to provide additional reimbursement, to type A hospitals
6 and type B hospitals, that:

7 “(A) Is based on the utilization and delivery of services;

8 “(B) Is expended equally, using the same terms of performance for all type
9 A hospitals and type B hospitals;

10 “(C) Is expected to advance at least one of the goals of the state’s quality
11 strategy;

12 “(D) Is evaluated on the degree to which the payments advance at least
13 one of the goals of the state’s quality strategy;

14 “(E) Does not require a hospital to enter into an intergovernmental
15 transfer agreement; and

16 “(F) Is not renewed automatically; and

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

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

25 “**SECTION 35.** Section 9, chapter 736, Oregon Laws 2003, as amended by
26 section 2, chapter 757, Oregon Laws 2005, section 2, chapter 780, Oregon
27 Laws 2007, section 53, chapter 828, Oregon Laws 2009, section 19, chapter 867,
28 Oregon Laws 2009, section 59, chapter 602, Oregon Laws 2011, and section
29 7, chapter 608, Oregon Laws 2013, is amended to read:

30 **Sec. 9.** (1) The Hospital Quality Assurance Fund is established in the

1 State Treasury, separate and distinct from the General Fund. Interest earned
2 by the Hospital Quality Assurance Fund shall be credited to the Hospital
3 Quality Assurance Fund.

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

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

7 (b) Funding services under ORS 414.631, 414.651 and 414.688 to [414.750]
8 **414.745**, including but not limited to increasing reimbursement rates for in-
9 patient and outpatient hospital services under ORS 414.631, 414.651 and
10 414.688 to [414.750] **414.745**;

11 (c) Making payments described in section 2 (3)(a)(C), chapter 736, Oregon
12 Laws 2003; **and**

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

17 [(e)] **(d)** Paying administrative costs incurred by the authority to admin-
18 ister section 1 [of this 2013 Act], **chapter 608, Oregon Laws 2013**, and the
19 assessments imposed under section 2, chapter 736, Oregon Laws 2003.

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

24 **“SECTION 36.** Section 10, chapter 736, Oregon Laws 2003, as amended
25 by section 3, chapter 780, Oregon Laws 2007, section 20, chapter 867, Oregon
26 Laws 2009, section 8, chapter 608, Oregon Laws 2013, and section 6, chapter
27 16, Oregon Laws 2015, is amended to read:

28 **“Sec. 10.** Sections 1 to 9, chapter 736, Oregon Laws 2003, apply to net
29 revenues earned by hospitals during a period beginning October 1, 2015, and
30 ending the earlier of September 30, [2019] **2021**, or the date on which the

1 assessment no longer qualifies for federal financial participation under Title
2 XIX or XXI of the Social Security Act.

3 **“SECTION 37.** Section 12, chapter 736, Oregon Laws 2003, as amended
4 by section 4, chapter 780, Oregon Laws 2007, section 21, chapter 867, Oregon
5 Laws 2009, section 9, chapter 608, Oregon Laws 2013, and section 3, chapter
6 16, Oregon Laws 2015, is amended to read:

7 **“Sec. 12. (1)** Sections 1 to 9, chapter 736, Oregon Laws 2003, [*and section*
8 *1, chapter 608, Oregon Laws 2013,*] are repealed on January 2, [2024] **2026.**

9 **“(2) Section 1, chapter 608, Oregon Laws 2013, is repealed on July**
10 **1, 2018.**

11 **“SECTION 38.** Section 13, chapter 736, Oregon Laws 2003, as amended
12 by section 5, chapter 780, Oregon Laws 2007, section 22, chapter 867, Oregon
13 Laws 2009, section 10, chapter 608, Oregon Laws 2013, and section 4, chapter
14 16, Oregon Laws 2015, is amended to read:

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

20 **“SECTION 39.** Section 14, chapter 736, Oregon Laws 2003, as amended
21 by section 6, chapter 780, Oregon Laws 2007, section 23, chapter 867, Oregon
22 Laws 2009, and section 5, chapter 16, Oregon Laws 2015, is amended to read:

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

25

26

“FUNDING

27

28 **“SECTION 40. (1) From the unexpended balance of the Health In-**
29 **surance Exchange Fund established in ORS 741.102, \$7 million is**
30 **transferred to the Health System Fund established in section 2 of this**

1 **2017 Act.**

2 **“(2) From the unexpended balance of the Oregon Medical Insurance**
3 **Pool Account established in ORS 735.612, \$50 million is transferred to**
4 **the Health System Fund established in section 2 of this 2017 Act.**

5 **“(3) The transfers described in subsections (1) and (2) of this section**
6 **shall be made from moneys maintained, on the effective date of this**
7 **2017 Act, in the Health Insurance Exchange Fund and the Oregon**
8 **Medical Insurance Pool Account.**

9

10 **“OPERATIVE DATES, EFFECTIVE DATES, REPEALS**
11 **AND TECHNICAL ADJUSTMENTS**

12

13 **“SECTION 41. Sections 2 to 13 of this 2017 Act and the amendments**
14 **to ORS 291.055, 731.292 and 731.840 by sections 14 to 17 of this 2017 Act**
15 **become operative on January 1, 2018.**

16 **“SECTION 42. (1) If the Centers for Medicare and Medicaid Services**
17 **permits the state to impose the assessment under section 2, chapter**
18 **736, Oregon Laws 2003, on type A hospitals and type B hospitals:**

19 **“(a) The amendments to sections 1, 2 and 9, chapter 736, Oregon**
20 **Laws 2003, by sections 27, 28 and 33 become operative on the later of:**

21 **“(A) January 1, 2018; or**

22 **“(B) The date of the approval by the Centers for Medicare and**
23 **Medicaid Services.**

24 **“(b) The amendments to section 2 and 9, chapter 736, Oregon Laws**
25 **2003, by sections 29 and 34 of this 2017 Act become operative on July**
26 **1, 2018.**

27 **“(2) If the Centers for Medicare and Medicare Services denies ap-**
28 **proval for the state to impose the assessment under section 2, chapter**
29 **736, Oregon Laws 2003, on type A hospitals and type B hospitals, the**
30 **amendments to section 9, chapter 736, Oregon Laws 2003, by section**

1 **35 become operative on July 1, 2018.**

2 **“(3) The amendments to sections 3 and 7, chapter 736, Oregon Laws**
3 **2003, by sections 30 and 32 of this 2017 Act become operative on July**
4 **1, 2018.**

5 **“(4) The Director of the Oregon Health Authority shall notify the**
6 **Legislative Counsel upon receipt of an approval or denial by the Cen-**
7 **ters for Medicare and Medicaid Services of permission to impose the**
8 **assessment under section 2, chapter 736, Oregon Laws 2003, on type A**
9 **hospitals and type B hospitals.**

10 **“SECTION 43. (1) Sections 19 to 23 of this 2017 Act and the amend-**
11 **ments to ORS 731.509 and section 2, chapter 26, Oregon Laws 2016, by**
12 **sections 24 and 25 of this 2017 Act become operative on the later of:**

13 **“(a) The date the United States Department of Health and Human**
14 **Services approves a waiver for state innovation under 42 U.S.C. 18052**
15 **in accordance with section 2, chapter 26, Oregon Laws 2016, as**
16 **amended by section 25 of this 2017 Act; and**

17 **“(b) January 1, 2018.**

18 **“(2) The Director of the Department of Consumer and Business**
19 **Services shall notify the Legislative Counsel upon receipt of the ap-**
20 **proval or denial of funding for the Oregon Reinsurance Program under**
21 **42 U.S.C. 18052.**

22 **“SECTION 44. The amendments to ORS 731.509 by section 26 of this**
23 **2017 Act become operative on January 2, 2024.**

24 **“SECTION 45. Section 15, chapter 389, Oregon Laws 2015, is re-**
25 **pealed.**

26 **“SECTION 46. Sections 19 to 23 of this 2017 Act are repealed on**
27 **January 2, 2024.**

28 **“SECTION 47. This 2017 Act takes effect on the 91st day after the**
29 **date on which the 2017 regular session of the Seventy-ninth Legislative**
30 **Assembly adjourns sine die.”.**

