

# House Bill 4071

Sponsored by Representatives PARRISH, HAYDEN; Representative ESQUIVEL, Senator KNOPP (Pre-session filed.)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

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

Establishes Task Force on Flexible Benefits for Public Employees to monitor implementation of new benefit plans. Sunsets task force December 31, 2022.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to public employee benefits; creating new provisions; amending ORS 243.061, 243.105,  
3 243.107, 243.125, 243.129, 243.135, 243.145, 243.160, 243.163, 243.167, 243.252, 243.256, 243.285,  
4 243.302, 243.650, 243.860, 243.862, 243.864, 243.866, 243.867, 243.876, 243.878, 243.879, 243.884,  
5 291.055, 292.051, 656.247, 731.292, 741.300 and 741.310 and section 6, chapter 538, Oregon Laws  
6 2017; repealing ORS 243.142, 243.215 and 243.886 and sections 3 and 4, chapter 538, Oregon Laws  
7 2017; and declaring an emergency.

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

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

12 Whereas one of the provisions of the ACA imposes an excise tax or "Cadillac Tax" on high-cost  
13 health insurance plans beginning in 2020; and

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

16 Whereas nearly every public employer health insurance plan in the State of Oregon may be  
17 subject to the excise tax in 2020; and

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

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

25 Whereas the State of Oregon cannot absorb the cost of the excise tax, which will increase  
26 health care premiums, without a likely reduction to the General Fund and a reduction of services

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 across all state agencies, commissions and quasi-governmental agencies; and

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

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

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

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

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

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

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

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

25 Whereas the excise tax to be levied in 2020 by the federal government is one of the single most  
 26 expensive components of the ACA to public employers, with a direct cost that will be borne by all  
 27 Oregon taxpayers at every level that the government taxes the people of Oregon; and

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

32 Whereas in order to ensure that all levels of state and local government can be provided relief  
 33 from the coming federal excise tax, a solution must be passed into law no later than the end of the  
 34 2018 regular session of the Legislative Assembly; and

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

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

39  
 40 **LEGISLATIVE INTENT**

41  
 42 **SECTION 1. The intent of the Legislative Assembly in sections 5, 6 and 28 of this 2018**  
 43 **Act is to implement a plan to:**

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



1 (c) A final report and the recommendations described in subsection (2) of this section no  
2 later than September 15, 2022.

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

4 (11) Members of the task force who are not members of the Legislative Assembly are not  
5 entitled to compensation or reimbursed for expenses and serve as volunteers on the task  
6 force.

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

11 **SECTION 3.** Section 2 of this 2018 Act is repealed on December 31, 2022.

12  
13 **PUBLIC EMPLOYEES' BENEFIT BOARD**

14  
15 **SECTION 4.** Section 5 of this 2018 Act is added to and made a part of ORS 243.105 to  
16 243.285.

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

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

26 (a) Payment to a retirement account;

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

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

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

32 (e) Payment to the employee; or

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

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

37 (4) As used in this section:

38 (a) "Benefit cap" has the meaning given that term in section 6 of this 2018 Act.

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

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

41 (a) "Benefit cap" means the applicable dollar amount for self-only coverage specified in  
42 26 U.S.C. 4980I(b)(3)(C)(i), as modified by the health cost adjustment percentage and, for  
43 employers the majority of whose employees covered by a health benefit plan are engaged in  
44 a high-risk profession or employed to repair or install electrical or telecommunications lines,  
45 any adjustment under 26 U.S.C. 4980I(b)(3)(C)(iv).

1 (b) “Composite rate” means the average annualized cost, in dollars per year per em-  
 2 ployee, of the health benefit plan premiums paid by a public employer, calculated for all of  
 3 the employees of the public employer in 2019.

4 (c) “Investment amount” means the difference between the composite rate of a public  
 5 employer and the benefit cap for 2020 multiplied by the total number of employees of the  
 6 public employer.

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

8 (A) Maintaining the medical assistance program;

9 (B) Maintaining the number of days in the school calendar;

10 (C) Maintaining public safety; and

11 (D) Preventing layoffs of public employees.

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

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

15 (a) One account must be dedicated to:

16 (A) Paying the costs of critical services;

17 (B) Paying the costs of actuarial liabilities owed by the public employer to the Public  
 18 Employees Retirement System; or

19 (C) Paying the costs of benefits for employees of the public employer arising from a col-  
 20 lective bargaining agreement; and

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

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

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

26 (a) Subsection (2)(a) of this section, an amount equal to 50 percent of the investment  
 27 amount; and

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

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

33 **SECTION 7.** ORS 243.061 is amended to read:

34 243.061. (1) There is created in the Oregon Health Authority the Public Employees’ Benefit  
 35 Board consisting of at least [eight] **10** voting members and two members of the Legislative Assembly  
 36 as nonvoting advisory members. Two of the voting members are ex officio members and [six] **eight**  
 37 are appointed by the Governor. The [voting] **following** members shall be **voting members**:

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

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

41 (B) The Director of the Health Policy and Analytics Division of the Oregon Health Authority  
 42 or the director’s designee; and

43 (C) Two management employees appointed by the Governor from areas of state government  
 44 other than the Oregon Health Authority; [and]

45 (b) Four members appointed by the Governor and representing nonmanagement representable

1 employees, who shall be as follows:

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

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

4 (C) One person from representable employees not represented by employee representative units  
5 described in subparagraphs (A) and (B) of this paragraph[.]; **and**

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

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

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

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

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

26 (4) A maximum of three members may be appointed **by the Governor under subsections (1)**  
27 **and (3) of this section** to represent local government management **employees** and a maximum of  
28 three members may be appointed **by the Governor** to represent local government nonmanagement  
29 employees.

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

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

37 (7) Members of the board who are not members of the Legislative Assembly shall receive no  
38 compensation for their services, but shall be paid for their necessary and actual expenses while on  
39 official business in accordance with ORS 292.495. Members of the board who are members of the  
40 Legislative Assembly shall be paid compensation and expense reimbursement as provided in ORS  
41 171.072, payable from funds appropriated to the Legislative Assembly.

42 (8) As used in this section, "benefit plan" and "local government" have the meanings given those  
43 terms in ORS 243.105.

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

45 243.105. As used in ORS 243.105 to 243.285, unless the context requires otherwise:

- 1 (1) “Benefit plan” includes, but is not limited to:
- 2 (a) Contracts for insurance or other benefits, including medical, dental, vision, life, disability and
- 3 **[other health] long term** care [*recognized by state law*], and related services and supplies; **and**
- 4 (b) Comparable benefits for employees who rely on spiritual means of healing[; *and*].
- 5 [*(c) Self-insurance programs managed by the Public Employees’ Benefit Board.*]
- 6 (2) “Board” means the Public Employees’ Benefit Board.
- 7 (3) “Carrier” means an insurance company or health care service contractor holding a valid
- 8 certificate of authority from the Director of the Department of Consumer and Business Services, or
- 9 two or more companies or contractors acting together pursuant to a joint venture, partnership or
- 10 other joint means of operation, or a board-approved guarantor of benefit plan coverage and com-
- 11 pensation.
- 12 (4)(a) “Eligible employee” means an officer or employee of a state agency or local government
- 13 who elects to participate in one of the [*group*] benefit plans [*described in ORS 243.135*] **offered by**
- 14 **the board**. The term includes, but is not limited to, state officers and employees in the exempt, un-
- 15 classified and classified service, and state officers and employees, whether or not retired, who:
- 16 (A) Are receiving a service retirement allowance, a disability retirement allowance or a pension
- 17 under the Public Employees Retirement System or are receiving a service retirement allowance, a
- 18 disability retirement allowance or a pension under any other retirement or disability benefit plan
- 19 or system offered by the State of Oregon for its officers and employees;
- 20 (B) Are eligible to receive a service retirement allowance under the Public Employees Retire-
- 21 ment System and have reached earliest retirement age under ORS chapter 238;
- 22 (C) Are eligible to receive a pension under ORS 238A.100 to 238A.250, and have reached earliest
- 23 retirement age as described in ORS 238A.165; or
- 24 (D) Are eligible to receive a service retirement allowance or pension under another retirement
- 25 benefit plan or system offered by the State of Oregon and have attained earliest retirement age
- 26 under the plan or system.
- 27 (b) “Eligible employee” does not include individuals:
- 28 (A) Engaged as independent contractors;
- 29 (B) Whose periods of employment in emergency work are on an intermittent or irregular basis;
- 30 (C) Who are employed on less than half-time basis unless the individuals are employed in posi-
- 31 tions classified as job-sharing positions, unless the individuals are defined as eligible under rules of
- 32 the board;
- 33 (D) Appointed under ORS 240.309;
- 34 (E) Provided sheltered employment or make-work by the state in an employment or industries
- 35 program maintained for the benefit of such individuals;
- 36 (F) Provided student health care services in conjunction with their enrollment as students at a
- 37 public university listed in ORS 352.002; or
- 38 (G) Who are members of a collective bargaining unit that represents police officers or fire-
- 39 fighters.
- 40 (5) “Family member” means an eligible employee’s spouse and any unmarried child or stepchild
- 41 within age limits and other conditions imposed by the board with regard to unmarried children or
- 42 stepchildren.
- 43 **(6) “Health benefit plan” has the meaning given that term in ORS 743B.005.**
- 44 [(6)] (7) “Local government” means any city, county or special district in this state or any
- 45 intergovernmental entity created under ORS chapter 190.

1 [(7)] (8) "Payroll disbursing officer" means the officer or official authorized to disburse moneys  
2 in payment of salaries and wages of employees of a state agency or local government.

3 [(8)] (9) "Premium" means the monthly or other periodic charge for a benefit plan.

4 [(9) "Primary care" means family medicine, general internal medicine, naturopathic medicine,  
5 obstetrics and gynecology, pediatrics or general psychiatry.]

6 (10) "State agency" means every state officer, board, commission, department or other activity  
7 of state government.

8 [(11) "Total medical expenditures" means payments to reimburse the cost of physical and mental  
9 health care provided to eligible employees or their family members, excluding prescription drugs, vision  
10 care and dental care, whether paid on a fee-for-service basis or as part of a capitated rate or other type  
11 of payment mechanism.]

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

13 243.107. A person employed by a public university listed in ORS 352.002 or the Oregon Health  
14 and Science University [may] **shall** be considered an eligible employee for participation in one of the  
15 [group] **health** benefit plans described in ORS 243.135 [if the governing board of the public university,  
16 or the Oregon Health and Science University Board of Directors for Oregon Health and Science Uni-  
17 versity employees, determines that funds are available therefor and if:] **and paid for in the manner**  
18 **prescribed in section 5 of this 2018 Act, if:**

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

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

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

25 243.125. (1) The Public Employees' Benefit Board shall prescribe rules for the conduct of its  
26 business and for carrying out ORS 243.256. The board shall study all matters connected with the  
27 providing of adequate benefit plan coverage for eligible employees on the best basis possible with  
28 relation both to the welfare of the employees and to the state and local governments. The board  
29 shall design benefits, devise specifications, analyze carrier responses to advertisements for bids and  
30 decide on the award of contracts. Contracts shall be signed by the chairperson on behalf of the  
31 board.

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

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

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

43 (b) Premium rates [established by the board for a self-insured health benefit plan and premium  
44 rates] negotiated by the board with a carrier that offers a health benefit plan to eligible employees  
45 must take into account any reduction in the cost of hospital services and supplies anticipated to



1 result from the application of ORS 243.256.

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

4 (6) The board may retain consultants, brokers or other advisory personnel when necessary and,  
5 subject to the State Personnel Relations Law, shall employ such personnel as are required to per-  
6 form the functions of the board. If the board contracts for actuarial or technical support to manage  
7 the functions of the board, the board shall, no less than every three years, solicit invitations to bid  
8 and the proposals must include all of the following:

9 (a) An explanation of how the bidder has assisted other clients in creating incentives to improve  
10 the quality of care provided to enrollees;

11 (b) An explanation of how the bidder will support the board's efforts to maximize provider effi-  
12 ciencies and achieve more organized systems of care; and

13 (c) A description of the bidder's experience in assisting other clients in structuring contracts  
14 that use risk-based networks of providers and alternative provider reimbursement methodologies.

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

16 243.129. (1) The governing body of a local government [*may elect to*] **shall** participate in a **health**  
17 benefit plan [*offered by the Public Employees' Benefit Board*] **described in ORS 243.135 that is paid**  
18 **for in the manner prescribed in section 5 of this 2018 Act.**

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

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

25 [*(a) The alternative benefit plan is offered through the health insurance exchange under ORS*  
26 *741.310 (1)(b); and]*

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

29 **SECTION 12.** ORS 243.135 is amended to read:

30 243.135. (1) Notwithstanding any other benefit plan contracted for and offered by the Public  
31 Employees' Benefit Board, the board shall contract [*for a health benefit plan or plans best designed*  
32 *to meet the needs and provide for the welfare of eligible employees, the state and the local governments.*  
33 *In considering whether to enter into a contract for a plan, the board shall place emphasis on:]* **with**  
34 **a carrier to provide a group of health benefit plans selected by the board from the plans that**  
35 **are offered by the carrier. In selecting the plans to be offered to eligible employees by the**  
36 **carrier, the board shall select health benefit plans that provide minimum essential coverage,**  
37 **as defined in 26 U.S.C. 5000A, and shall place emphasis on:**

38 (a) Employee choice among high quality plans;

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

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

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

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

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

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

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

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

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

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

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

11        (5) In developing any health benefit plan, the board may provide an option of additional cover-  
12 age for eligible employees and their family members at an additional cost or premium.

13        (6) *[Transfer of enrollment from one plan to another shall be open to all eligible employees and*  
14 *their family members under rules adopted by the board. Because of the special problems that may arise*  
15 *in individual instances under comprehensive group practice plan coverage involving acceptable*  
16 *provider-patient relations between a particular panel of providers and particular eligible employees and*  
17 *their family members,]* The board shall provide a procedure under which *[any eligible employee]* **eli-**  
18 **gible employees and their family members** may apply at any time to substitute *[a health service*  
19 *benefit plan for participation in a comprehensive group practice benefit plan]* **one health benefit plan**  
20 **for another.**

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

23        *[(8) By January 1, 2023, the board shall spend at least 12 percent of its total medical expenditures*  
24 *in self-insured health benefit plans on payments for primary care.]*

25        *[(9) No later than February 1 of each year, the board shall report to the Legislative Assembly on*  
26 *the board's progress toward achieving the target of spending at least 12 percent of total medical*  
27 *expenditures in self-insured health benefit plans on payments for primary care.]*

28        **(8) Eligible employees must have the opportunity to select health benefit plans using an**  
29 **Internet portal.**

30        **SECTION 13.** ORS 243.135, as amended by section 27, chapter 746, Oregon Laws 2017, is  
31 amended to read:

32        243.135. (1) Notwithstanding any other benefit plan contracted for and offered by the Public  
33 Employees' Benefit Board, the board shall contract *[for a health benefit plan or plans best designed*  
34 *to meet the needs and provide for the welfare of eligible employees, the state and the local governments.*  
35 *In considering whether to enter into a contract for a plan, the board shall place emphasis on:]* **with**  
36 **a carrier to provide a group of health benefit plans selected by the board from the plans that**  
37 **are offered by the carrier. In selecting the plans to be offered to eligible employees by the**  
38 **carrier, the board shall select health benefit plans that provide minimum essential coverage,**  
39 **as defined in 26 U.S.C. 5000A, and shall place emphasis on:**

40        (a) Employee choice among high quality plans;

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

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

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

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

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

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

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

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

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

8        (3) Where appropriate for a contracted and offered health benefit plan, the board shall provide  
9 options under which an eligible employee may arrange coverage for family members who are not  
10 enrolled in another health benefit plan offered by the board or the Oregon Educators Benefit Board.  
11 An eligible employee who declines coverage in a health benefit plan offered by the Public  
12 Employees' Benefit Board or the Oregon Educators Benefit Board and who is enrolled as a spouse  
13 or family member in another health benefit plan offered by the Public Employees' Benefit Board or  
14 the Oregon Educators Benefit Board may not be paid the employer contribution for the plan that  
15 was declined.

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

19        (5) In developing any health benefit plan, the board may provide an option of additional cover-  
20 age for eligible employees and their family members at an additional cost or premium.

21        (6) *[Transfer of enrollment from one plan to another shall be open to all eligible employees and*  
22 *their family members under rules adopted by the board. Because of the special problems that may arise*  
23 *in individual instances under comprehensive group practice plan coverage involving acceptable*  
24 *provider-patient relations between a particular panel of providers and particular eligible employees and*  
25 *their family members.]* The board shall provide a procedure under which *[any eligible employee]* **eli-**  
26 **gible employees and their family members** may apply at any time to substitute *[a health service*  
27 *benefit plan for participation in a comprehensive group practice benefit plan]* **one health benefit plan**  
28 **for another.**

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

31        *[(8)(a) The board shall use payment methodologies in self-insured health benefit plans offered by*  
32 *the board that are designed to limit the growth in per-member expenditures for health services to no*  
33 *more than 3.4 percent per year.]*

34        *[(b)] (8) The board shall adopt policies and practices designed to limit the annual increase in*  
35 *premium amounts paid for contracted health benefit plans to 3.4 percent.*

36        (9) A carrier *[or third party administrator]* that contracts with the board to provide *[or admin-*  
37 *ister]* a health benefit plan shall, at least once each plan year, conduct an audit of the health benefit  
38 plan enrollees' continued eligibility for coverage as spouses or dependents or any other basis that  
39 would affect the cost of the premium for the plan.

40        *[(10) By January 1, 2023, the board shall spend at least 12 percent of its total medical expenditures*  
41 *in self-insured health benefit plans on payments for primary care.]*

42        *[(11) No later than February 1 of each year, the board shall report to the Legislative Assembly on*  
43 *the board's progress toward achieving the target of spending at least 12 percent of total medical*  
44 *expenditures in self-insured health benefit plans on payments for primary care.]*

45        **(10) Eligible employees must have the opportunity to select health benefit plans using an**

1 **Internet portal.**

2 **SECTION 14.** ORS 243.135, as amended by section 16, chapter 489, Oregon Laws 2017, and  
3 section 27, chapter 746, Oregon Laws 2017, is amended to read:

4 243.135. (1) Notwithstanding any other benefit plan contracted for and offered by the Public  
5 Employees' Benefit Board, the board shall contract [*for a health benefit plan or plans best designed*  
6 *to meet the needs and provide for the welfare of eligible employees, the state and the local governments.*  
7 *In considering whether to enter into a contract for a plan, the board shall place emphasis on:)] **with**  
8 **a carrier to provide a group of health benefit plans selected by the board from the plans that**  
9 **are offered by the carrier. In selecting the plans to be offered to eligible employees by the**  
10 **carrier, the board shall select health benefit plans that provide minimum essential coverage,**  
11 **as defined in 26 U.S.C. 5000A, and shall place emphasis on:***

12 (a) Employee choice among high quality plans;

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

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

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

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

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

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

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

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

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

25 (3) Where appropriate for a contracted and offered health benefit plan, the board shall provide  
26 options under which an eligible employee may arrange coverage for family members who are not  
27 enrolled in another health benefit plan offered by the board or the Oregon Educators Benefit Board.  
28 An eligible employee who declines coverage in a health benefit plan offered by the Public  
29 Employees' Benefit Board or the Oregon Educators Benefit Board and who is enrolled as a spouse  
30 or family member in another health benefit plan offered by the Public Employees' Benefit Board or  
31 the Oregon Educators Benefit Board may not be paid the employer contribution for the plan that  
32 was declined.

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

36 (5) In developing any health benefit plan, the board may provide an option of additional cover-  
37 age for eligible employees and their family members at an additional cost or premium.

38 (6) [*Transfer of enrollment from one plan to another shall be open to all eligible employees and*  
39 *their family members under rules adopted by the board. Because of the special problems that may arise*  
40 *in individual instances under comprehensive group practice plan coverage involving acceptable*  
41 *provider-patient relations between a particular panel of providers and particular eligible employees and*  
42 *their family members,] The board shall provide a procedure under which [*any eligible employee*] **eli-**  
43 **gible employees and their family members** may apply at any time to substitute [*a health service*  
44 *benefit plan for participation in a comprehensive group practice benefit plan*] **one health benefit plan**  
45 **for another.***

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

3 *[(8)(a) The board shall use payment methodologies in self-insured health benefit plans offered by  
4 the board that are designed to limit the growth in per-member expenditures for health services to no  
5 more than 3.4 percent per year.]*

6 *[(b)]* (8) The board shall adopt policies and practices designed to limit the annual increase in  
7 premium amounts paid for contracted health benefit plans to 3.4 percent.

8 (9) A carrier *[or third party administrator]* that contracts with the board to provide *[or admin-  
9 ister]* a health benefit plan shall, at least once each plan year, conduct an audit of the health benefit  
10 plan enrollees' continued eligibility for coverage as spouses or dependents or any other basis that  
11 would affect the cost of the premium for the plan.

12 *[(10) If the board spends less than 12 percent of its total medical expenditures in self-insured health  
13 benefit plans on payments for primary care, the board shall implement a plan for increasing the per-  
14 centage of total medical expenditures spent on payments for primary care by at least one percent each  
15 year.]*

16 *[(11) No later than February 1 of each year, the board shall report to the Legislative Assembly on  
17 any plan implemented under subsection (10) of this section and on the board's progress toward  
18 achieving the target of spending at least 12 percent of total medical expenditures in self-insured health  
19 benefit plans on payments for primary care.]*

20 **(10) Eligible employees must have the opportunity to select health benefit plans using an  
21 Internet portal.**

22 **SECTION 15.** ORS 243.145 is amended to read:

23 243.145. (1) The Public Employees' Benefit Board shall have authority to employ whatever means  
24 are reasonably necessary to carry out the purposes of ORS 243.105 to 243.285 and 292.051. The  
25 board's authority includes, but is not limited to, the authority to *[self-insure and to]* seek clarifica-  
26 tion, amendment, modification, suspension or termination of any agreement or contract that in the  
27 board's judgment requires such action.

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

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

37 **SECTION 16.** ORS 243.160 is amended to read:

38 243.160. A retired state or local government officer or employee is not required to participate  
39 in one of the *[group]* **health** benefit plans described in ORS 243.135 in order to obtain dental benefit  
40 plan coverage. The Public Employees' Benefit Board shall establish by rule standards of eligibility  
41 for retired officers or employees to participate in a dental benefit plan.

42 **SECTION 17.** ORS 243.163 is amended to read:

43 243.163. A member of the Legislative Assembly who is receiving a pension or annuity under ORS  
44 238.092 (1)(a) or 238A.250 (1) shall be eligible to participate as a retired state officer in one of the  
45 *[group]* **health** benefit plans described in ORS 243.135 after the member ceases to be a member of

1 the Legislative Assembly if the member applies to the Public Employees' Benefit Board within 60  
2 days after the member ceases to be a member of the Legislative Assembly.

3 **SECTION 18.** ORS 243.167 is amended to read:

4 243.167. (1) There is created the Public Employees' Revolving Fund, separate and distinct from  
5 the General Fund. The balances of the Public Employees' Revolving Fund are continuously appro-  
6 priated to **the Public Employees' Benefit Board** to cover expenses incurred in connection with  
7 the administration of ORS 243.105 to 243.285 and 292.051. Assets of the Public Employees' Revolving  
8 Fund may be retained for limited periods of time as established by the [*Public Employees' Benefit*]  
9 board by rule. Among other purposes, the board may retain the funds to control expenditures[,] **and**  
10 stabilize benefit premium rates [*and self-insure*]. The board may establish subaccounts within the  
11 Public Employees' Revolving Fund.

12 (2) There is appropriated to the Public Employees' Revolving Fund all unused employer contri-  
13 butions for employee benefits and all refunds, dividends, unused premiums and other payments at-  
14 tributable to any employee contribution or employer contribution, **other than moneys allotted to**  
15 **employees under section 5 of this 2018 Act**, made from any carrier or contractor that has pro-  
16 vided employee benefits administered by the board, and all interest earned on such moneys.

17 **SECTION 19.** ORS 243.252 is amended to read:

18 243.252. (1) The state may pay none of the cost of making health benefit plan coverage available  
19 to a retired state employee who is an eligible employee and to family members or may agree, by  
20 collective bargaining agreement or otherwise, to pay part or all of that cost.

21 (2) Nothing in subsection (1) of this section or other law[, *except ORS 243.886,*] prohibits a col-  
22 lective bargaining unit from agreeing with an employer that is a public body, as defined in ORS  
23 174.109, to establish a retiree medical trust, voluntary employees' beneficiary association, health  
24 reimbursement arrangement or other agreement for health care expenses of employees or retirees  
25 if the provisions of the trust, association, arrangement or other agreement comply with the re-  
26 quirements of the Insurance Code.

27 **SECTION 20.** ORS 243.256 is amended to read:

28 243.256. (1) A hospital that provides services or supplies under a **health** benefit plan offered by  
29 the Public Employees' Benefit Board shall be reimbursed using the methodology prescribed by the  
30 Oregon Health Authority under ORS 442.392 and may not be reimbursed for each service or supply  
31 provided.

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

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

38 **SECTION 21.** ORS 243.256, as amended by section 29, chapter 746, Oregon Laws 2017, is  
39 amended to read:

40 243.256. (1) A carrier that contracts with the Public Employees' Benefit Board to provide to el-  
41 igible employees and their dependents a **health** benefit plan that reimburses the cost of inpatient  
42 or outpatient hospital services or supplies shall reimburse a claim for the cost of a hospital service  
43 or supply that is covered by, or is similar to a service or supply that is covered by, the Medicare  
44 program in an amount that does not exceed:

45 (a) For claims submitted by in-network hospitals, 200 percent of the amount paid by Medicare

1 for the service or supply; or

2 (b) For claims submitted by out-of-network hospitals, 185 percent of the amount paid by Medi-  
 3 care for the service or supply.

4 [(2) *A self-insurance program administered by a third party administrator that is offered by the*  
 5 *board to eligible employees and their dependents and that reimburses the cost of inpatient or outpatient*  
 6 *hospital services or supplies shall reimburse a claim for the cost of a hospital service or supply that*  
 7 *is covered by, or is similar to a service or supply that is covered by, the Medicare program in an*  
 8 *amount that does not exceed:]*

9 [(a) *For claims submitted by in-network hospitals, 200 percent of the amount paid by Medicare for*  
 10 *the service or supply; or]*

11 [(b) *For claims submitted by out-of-network hospitals, 185 percent of the amount paid by Medicare*  
 12 *for the service or supply.*]

13 [(3)] (2) A provider who is reimbursed in accordance with subsection (1) [or (2)] of this section  
 14 may not charge to or collect from the patient or a person who is financially responsible for the  
 15 patient an amount in addition to the reimbursement paid under subsection (1) [or (2)] of this section  
 16 other than cost sharing amounts authorized by the terms of the health benefit plan.

17 [(4)] (3) If a carrier [or *third party administrator*] does not reimburse claims on a fee-for-service  
 18 basis, the payment method used must take into account the limits specified in [subsections (1) and  
 19 (2)] **subsection (1)** of this section. Such payment methods include, but are not limited to:

- 20 (a) Value-based payments;
- 21 (b) Capitation payments; and
- 22 (c) Bundled payments.

23 [(5)] (4) This section does not apply to reimbursements paid by a carrier [or *third party admin-*  
 24 *istrator*] to:

- 25 (a) A type A or type B hospital as described in ORS 442.470;
- 26 (b) A rural critical access hospital as defined in ORS 315.613; or
- 27 (c) A hospital:
  - 28 (A) Located in a county with a population of less than 70,000 on August 15, 2017;
  - 29 (B) Classified as a sole community hospital by the Centers for Medicare and Medicaid Services;

30 and

31 (C) With Medicare payments composing at least 40 percent of the hospital's total annual patient  
 32 revenue.

33 [(6)] (5) This section does not require a health benefit plan offered by the board to reimburse  
 34 claims using a fee-for-service payment method.

35 **SECTION 22.** ORS 243.285 is amended to read:

36 243.285. (1) Upon receipt of the request in writing of an eligible employee [*so to do,*] the payroll  
 37 disbursing officer authorized to disburse funds in payment of the salary or wages of the eligible  
 38 employee may deduct from the salary or wages of the employee, **or from the employee's allotment**  
 39 **described in section 5 of this 2018 Act**, an amount of money indicated in the request for payment  
 40 of the applicable amount set forth in benefit plans selected by the employee or selected on the  
 41 employee's behalf for:

- 42 (a) Group health and related services and supplies, including such insurance for family members  
 43 of the eligible employee.
- 44 (b) Group life insurance, including life insurance for family members of the eligible employee.
- 45 (c) Group dental and related services and supplies, or any other remedial care recognized by

1 state law and related services and supplies, recognized under state law, including such insurance for  
2 family members of the eligible employee.

3 (d) Group indemnity insurance for accidental death and dismemberment and for loss of income  
4 due to accident, sickness or other disability, including such insurance for family members of the el-  
5 igible employee.

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

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

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

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

13 **SECTION 23.** ORS 243.302 is amended to read:

14 243.302. The Public Employees' Benefit Board may group retired state employees and state em-  
15 ployees who are not retired for the purpose of entering into contracts [for] **with one or more**  
16 **carriers to provide health benefit plans and other** insurance coverage.

17 **SECTION 24.** ORS 292.051 is amended to read:

18 292.051. (1) [*Except as authority over contracts for health benefit plans described in ORS 243.135*  
19 *is vested in the Public Employees' Benefit Board,*] Upon receipt of the request in writing of an officer  
20 or employee so to do, the state official authorized to disburse funds in payment of the salary or  
21 wages of the officer or employee may deduct from the salary or wages of the officer or employee,  
22 **or from the officer's or employee's allotment described in section 5 of this 2018 Act,** an  
23 amount of money indicated in the request for payment of the applicable amount set forth in benefit  
24 plans selected by the officers or employees or in their behalf for:

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

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

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

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

35 (e) Legal insurance under a monthly payroll deduction program endorsed or offered by an em-  
36 ployee organization representing 500 or more state employees.

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

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

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

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

45 [(a)] to the insurance companies, agencies or hospital associations, or persons responsible for



1 payment of premiums to the companies, agencies or associations, in accordance with the terms of  
 2 the contracts made by the officers or employees or in their behalf; *or*]

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

5 (5) As used in this section, "officer or employee" means all persons who receive salaries or  
 6 wages disbursed by any state official.

7 **SECTION 25.** Section 6, chapter 538, Oregon Laws 2017, is amended to read:

8 **Sec. 6.** (1) If *[the Public Employees' Benefit Board or]* an insurer fails to timely file a verified  
 9 form or to pay an assessment required under section *[3 or] 5, [of this 2017 Act]* **chapter 538, Oregon**  
 10 **Laws 2017**, the Department of Consumer and Business Services shall impose a penalty on the board  
 11 or insurer of up to \$500 per day of delinquency. The total amount of penalties imposed under this  
 12 section for a calendar quarter may not exceed five percent of the assessment due for that calendar  
 13 quarter.

14 (2) Any penalty imposed under this section is in addition to and not in lieu of the assessment  
 15 imposed under *[sections 3 and]* **section 5, [of this 2017 Act]** **chapter 538, Oregon Laws 2017.**

16  
 17 **COLLECTIVE BARGAINING**

18  
 19 **SECTION 26.** ORS 243.650 is amended to read:

20 243.650. As used in ORS 243.650 to 243.782, unless the context requires otherwise:

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

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

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

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

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

45 (6) "Confidential employee" means one who assists and acts in a confidential capacity to a per-

1 son who formulates, determines and effectuates management policies in the area of collective bar-  
2 gaining.

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

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

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

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

13 (e) For school district bargaining, "employment relations" excludes class size, the school or ed-  
14 ucational calendar, standards of performance or criteria for evaluation of teachers, the school cur-  
15 riculum, reasonable dress, grooming and at-work personal conduct requirements respecting smoking,  
16 gum chewing and similar matters of personal conduct, the standards and procedures for student  
17 discipline, the time between student classes, the selection, agendas and decisions of 21st Century  
18 Schools Councils established under ORS 329.704, requirements for expressing milk under ORS  
19 653.077, and any other subject proposed that is permissive under paragraphs (b), (c) and (d) of this  
20 subsection.

21 (f) For employee bargaining involving employees covered by ORS 243.736 and employees of the  
22 Department of Corrections who have direct contact with inmates, "employment relations" includes  
23 safety issues that have an impact on the on-the-job safety of the employees or staffing levels that  
24 have a significant impact on the on-the-job safety of the employees.

25 **(g) "Employment relations":**

26 **(A) Does not include health benefit plan coverage as described in sections 5 and 28 of this**  
27 **2018 Act.**

28 **(B) Does include health insurance coverage for retired employees as provided in ORS**  
29 **238.410, 238.415, 238.420, 243.252 and 243.303.**

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

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

40 (8) "Exclusive representative" means the labor organization that, as a result of certification by  
41 the board or recognition by the employer, has the right to be the collective bargaining agent of all  
42 employees in an appropriate bargaining unit.

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

1 (10) "Fair-share agreement" means an agreement between the public employer and the recog-  
2 nized or certified bargaining representative of public employees whereby employees who are not  
3 members of the employee organization are required to make an in-lieu-of-dues payment to an em-  
4 ployee organization except as provided in ORS 243.666. Upon the filing with the board of a petition  
5 by 30 percent or more of the employees in an appropriate bargaining unit covered by such union  
6 security agreement declaring they desire that the agreement be rescinded, the board shall take a  
7 secret ballot of the employees in the unit and certify the results thereof to the recognized or certi-  
8 fied bargaining representative and to the public employer. Unless a majority of the votes cast in an  
9 election favor the union security agreement, the board shall certify deauthorization of the agree-  
10 ment. A petition for deauthorization of a union security agreement must be filed not more than 90  
11 calendar days after the collective bargaining agreement is executed. Only one such election may be  
12 conducted in any appropriate bargaining unit during the term of a collective bargaining agreement  
13 between a public employer and the recognized or certified bargaining representative.

14 (11) "Final offer" means the proposed contract language and cost summary submitted to the  
15 mediator within seven days of the declaration of impasse.

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

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

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

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

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

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

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

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

45 (20) "Public employer" means the State of Oregon, and the following political subdivisions:

1 Cities, counties, community colleges, school districts, special districts, mass transit districts, metro-  
 2 politan service districts, public service corporations or municipal corporations and public and  
 3 quasi-public corporations.

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

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

14 (23)(a) "Supervisory employee" means any individual having authority in the interest of the  
 15 employer to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline  
 16 other employees, or responsibly to direct them, or to adjust their grievances, or effectively to re-  
 17 commend such action, if in connection therewith, the exercise of the authority is not of a merely  
 18 routine or clerical nature but requires the use of independent judgment. Failure to assert supervi-  
 19 sory status in any Employment Relations Board proceeding or in negotiations for any collective  
 20 bargaining agreement does not thereafter prevent assertion of supervisory status in any subsequent  
 21 board proceeding or contract negotiation.

22 (b) "Supervisory employee" includes a faculty member of a public university listed in ORS  
 23 352.002 or the Oregon Health and Science University who:

24 (A) Is employed as a president, vice president, provost, vice provost, dean, associate dean, as-  
 25 sistant dean, head or equivalent position; or

26 (B) Is employed in an administrative position without a reasonable expectation of teaching, re-  
 27 search or other scholarly accomplishments.

28 (c) "Supervisory employee" does not include:

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

31 (B) A firefighter prohibited from striking by ORS 243.736 who assigns, transfers or directs the  
 32 work of other employees but does not have the authority to hire, discharge or impose economic  
 33 discipline on those employees; or

34 (C) A faculty member of a public university listed in ORS 352.002 or the Oregon Health and  
 35 Science University who is not a faculty member described in paragraph (b) of this subsection.

36 (24) "Unfair labor practice" means the commission of an act designated an unfair labor practice  
 37 in ORS 243.672.

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

40  
 41 **OREGON EDUCATORS BENEFIT BOARD**

42  
 43 **SECTION 27. Section 28 of this 2018 Act is added to and made a part of ORS 243.860 to**  
 44 **243.886.**

45 **SECTION 28. (1) A public employer shall annually allot to each eligible employee an**

1 amount equal to the benefit cap for the year. The employee may use the allotment to pay  
 2 the premiums for any of the health benefit plans offered under ORS 243.866. The employee  
 3 shall pay any premium costs that exceed the allotment. If the employee declines the health  
 4 benefit plans offered by the Oregon Educators Benefit Board, the allotment shall be available  
 5 as described in subsection (2) of this section.

6 (2) An employee who declines health benefit plan coverage described in ORS 243.866 or  
 7 whose premiums cost less than the amount of the employee's allotment may elect to have  
 8 the remainder of the allotment distributed by the public employer by:

9 (a) Payment to a retirement account;

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

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

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

15 (e) Payment to the employee; or

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

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

20 (4) As used in this section:

21 (a) "Benefit cap" has the meaning given that term in section 6 of this 2018 Act.

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

23 **SECTION 29.** ORS 243.860 is amended to read:

24 243.860. As used in ORS 243.860 to 243.886, unless the context requires otherwise:

25 (1) "Benefit plan" includes but is not limited to:

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

28 [*(b) Self-insurance programs managed by the Oregon Educators Benefit Board; and*]

29 [*(c)*] (b) Comparable benefits for employees who rely on spiritual means of healing.

30 (2) "Carrier" means an insurance company or health care service contractor holding a valid  
 31 certificate of authority from the Director of the Department of Consumer and Business Services, or  
 32 two or more companies or contractors acting together pursuant to a joint venture, partnership or  
 33 other joint means of operation, or a [*board-approved*] provider or guarantor of benefit plan coverage  
 34 and compensation **that is approved by the Oregon Educators Benefit Board.**

35 (3) "District" means a common school district, a union high school district, an education service  
 36 district, as defined in ORS 334.003, or a community college district, as defined in ORS 341.005.

37 (4)(a) "Eligible employee" includes:

38 (A) An officer or employee of a district or a local government who elects to participate in one  
 39 of the benefit plans described in ORS 243.864 to 243.874; and

40 (B) An officer or employee of a district or a local government, whether or not retired, who:

41 (i) Is receiving a service retirement allowance, a disability retirement allowance or a pension  
 42 under the Public Employees Retirement System or is receiving a service retirement allowance, a  
 43 disability retirement allowance or a pension under any other retirement or disability benefit plan  
 44 or system offered by the district or local government for its officers and employees;

45 (ii) Is eligible to receive a service retirement allowance under the Public Employees Retirement

1 System and has reached earliest service retirement age under ORS chapter 238;

2 (iii) Is eligible to receive a pension under ORS 238A.100 to 238A.250 and has reached earliest  
3 retirement age as described in ORS 238A.165; or

4 (iv) Is eligible to receive a service retirement allowance or pension under any other retirement  
5 benefit plan or system offered by the district or local government and has attained earliest retire-  
6 ment age under the plan or system.

7 (b) Except as provided in paragraph (a)(B) of this subsection, “eligible employee” does not in-  
8 clude an individual:

9 (A) Engaged as an independent contractor;

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

12 (C) Who is employed on less than a half-time basis unless the individual is employed in a posi-  
13 tion classified as a job-sharing position or unless the individual is defined as eligible under rules of  
14 the Oregon Educators Benefit Board or under a collective bargaining agreement.

15 (5) “Family member” means an eligible employee’s spouse or domestic partner and any unmar-  
16 ried child or stepchild of an eligible employee within age limits and other conditions imposed by the  
17 Oregon Educators Benefit Board with regard to unmarried children or stepchildren.

18 **(6) “Health benefit plan” has the meaning given that term in ORS 743B.005.**

19 [(6)] (7) “Local government” means any city, county or special district in this state.

20 [(7)] (8) “Payroll disbursing officer” means the officer or official authorized to disburse moneys  
21 in payment of salaries and wages of officers and employees of a district or a local government.

22 [(8)] (9) “Premium” means the monthly or other periodic charge, including administrative fees  
23 of the Oregon Educators Benefit Board, for a benefit plan.

24 [(9)] *“Primary care” means family medicine, general internal medicine, naturopathic medicine,*  
25 *obstetrics and gynecology, pediatrics or general psychiatry.]*

26 [(10)] *“Total medical expenditures” means payments to reimburse the cost of physical and mental*  
27 *health care provided to eligible employees or their family members, excluding prescription drugs, vision*  
28 *care and dental care, whether paid on a fee-for-service basis or as part of a capitated rate or other type*  
29 *of payment mechanism.]*

30 **SECTION 30.** ORS 243.862 is amended to read:

31 243.862. (1) There is established in the Oregon Health Authority an Oregon Educators Benefit  
32 Board consisting of at least [10] **12** members appointed by the Governor, including:

33 (a) Two members representing district boards;

34 (b) Two members representing district management;

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

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

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

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

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

44 [(2)(a)] *If the governing body of a local government elects to participate in a benefit plan offered*  
45 *by the board, in addition to the members appointed under subsection (1) of this section, the Governor*

1 *shall appoint two members, one of whom represents local government management and one of whom*  
 2 *represents local government nonmanagement employees.]*

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

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

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

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

22 (5) A member of the board is not entitled to compensation, but may be reimbursed from funds  
 23 available to the board for actual and necessary travel and other expenses incurred by the member  
 24 in the performance of the member's official duties in the manner and amount provided in ORS  
 25 292.495.

26 (6) The board shall select one of its members as chairperson and another as vice chairperson,  
 27 for such terms and with duties and powers necessary for the performance of the functions of such  
 28 offices as the board determines.

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

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

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

34 **SECTION 31.** ORS 243.864 is amended to read:

35 243.864. (1) The Oregon Educators Benefit Board:

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

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

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

44 (3) In carrying out its duties under subsections (1) and (2) of this section, the goal of the board  
 45 is to provide high-quality health, dental and other benefit plans for eligible employees at a cost af-

1 fordable to the districts and local governments, the employees and the taxpayers of Oregon.

2 (4)(a) The board shall prepare specifications, invite bids and take actions necessary to award  
 3 contracts *[for health and dental benefit plan coverage of]* **to carriers to provide health benefit**  
 4 **plans and benefit plans for dental, long term care and vision coverage to** eligible employees.  
 5 **Health benefit plan coverage must be** in accordance with the criteria set forth in ORS 243.866 (1).

6 (b) Premium rates *[established by the board for a self-insured health benefit plan and premium*  
 7 *rates]* negotiated by the board with a carrier that offers a health benefit plan to eligible employees  
 8 must take into account any reduction in the cost of hospital services and supplies anticipated to  
 9 result from the application of ORS 243.879.

10 (c) The Public Contracting Code does not apply to contracts for benefit plans provided under  
 11 ORS 243.860 to 243.886. The board may not exclude from competition to contract for a benefit plan  
 12 an Oregon carrier solely because the carrier does not serve all counties in Oregon.

13 (5) The board may retain consultants, brokers or other advisory personnel when necessary and  
 14 shall employ such personnel as are required to perform the functions of the board. If the board  
 15 contracts for actuarial or technical support to manage the functions of the board, the board shall,  
 16 no less than every three years, solicit invitations to bid and the proposals must include all of the  
 17 following:

18 (a) An explanation of how the bidder has assisted other clients in creating incentives to improve  
 19 the quality of care provided to enrollees;

20 (b) An explanation of how the bidder will support the board’s efforts to maximize provider effi-  
 21 ciencies and achieve more organized systems of care; and

22 (c) A description of the bidder’s experience in assisting other clients in structuring contracts  
 23 that use risk-based networks of providers and alternative provider reimbursement methodologies.

24 **SECTION 32.** ORS 243.866 is amended to read:

25 243.866. (1) **Notwithstanding any other benefit plan contracted for and offered by the**  
 26 **Oregon Educators Benefit Board, the board** shall contract *[for benefit plans best designed to meet*  
 27 *the needs and provide for the welfare of eligible employees, the districts and local governments. In*  
 28 *considering whether to enter into a contract for a benefit plan, the board shall place emphasis on:]*  
 29 **with a carrier to provide a group of health benefit plans selected by the board from the plans**  
 30 **that are offered by the carrier. In selecting the plans to be offered to eligible employees by**  
 31 **the carrier, the board shall select health benefit plans that provide minimum essential cov-**  
 32 **erage, as defined in 26 U.S.C. 5000A, and shall place emphasis on:**

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

21 *[(9) By January 1, 2023, the board shall spend at least 12 percent of its total medical expenditures*  
 22 *in self-insured health benefit plans on payments for primary care.]*

23 *[(10) No later than February 1 of each year, the board shall report to the Legislative Assembly on*  
 24 *the board's progress toward achieving the target of spending at least 12 percent of total medical*  
 25 *expenditures on payments for primary care.]*

26 **(9) Eligible employees must have the opportunity to select health benefit plans using an**  
 27 **Internet portal.**

28 **SECTION 33.** ORS 243.866, as amended by section 28, chapter 746, Oregon Laws 2017, is  
 29 amended to read:

30 243.866. (1) **Notwithstanding any other benefit plan contracted for and offered by the**  
 31 **Oregon Educators Benefit Board, the board** shall contract *[for benefit plans best designed to meet*  
 32 *the needs and provide for the welfare of eligible employees, the districts and local governments. In*  
 33 *considering whether to enter into a contract for a benefit plan, the board shall place emphasis on:]*  
 34 **with a carrier to provide a group of health benefit plans selected by the board from the plans**  
 35 **that are offered by the carrier. In selecting the plans to be offered to eligible employees by**  
 36 **the carrier, the board shall select health benefit plans that provide minimum essential cov-**  
 37 **erage, as defined in 26 U.S.C. 5000A, and shall place emphasis on:**

- 38 (a) Employee choice among high-quality plans;
- 39 *[(b) Encouragement of a competitive marketplace;]*
- 40 *[(c)]* (b) Plan performance and information;
- 41 *[(d) District and local government flexibility in plan design and contracting;]*
- 42 *[(e)]* (c) Quality customer service;
- 43 *[(f)]* (d) Creativity and innovation;
- 44 *[(g) Plan benefits as part of total employee compensation;]*
- 45 *[(h)]* (e) Improvement of employee health; and

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

3        (2) The board may approve more than one carrier for *[each type of benefit plan]* **health benefit**  
 4 **plans** offered, but the board shall limit the number of carriers to a number consistent with adequate  
 5 service to eligible employees and family members who are not enrolled in another health benefit  
 6 plan offered by the board or the Public Employees' Benefit Board. An eligible employee who declines  
 7 coverage in a health benefit plan offered by the Oregon Educators Benefit Board or the Public  
 8 Employees' Benefit Board and who is enrolled as a spouse or family member in another health  
 9 benefit plan offered by the Oregon Educators Benefit Board or the Public Employees' Benefit Board  
 10 may not be paid the employer contribution for the plan that was declined.

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

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

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

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

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

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

31        *[(9)(a) The board shall use payment methodologies in self-insured health benefit plans offered by*  
 32 *the board that are designed to limit the growth in per-member expenditures for health services to no*  
 33 *more than 3.4 percent per year.]*

34        *[(b)]* **(9)** The board shall adopt policies and practices designed to limit the annual increase in  
 35 premium amounts paid for contracted health benefit plans to 3.4 percent.

36        (10) A carrier *[or third party administrator]* that contracts with the board to provide *[or admin-*  
 37 *ister]* a health benefit plan shall, at least once each plan year, conduct an audit of the health benefit  
 38 plan enrollees' continued eligibility for coverage as spouses or dependents or any other basis that  
 39 would affect the cost of the premium for the plan.

40        *[(11) By January 1, 2023, the board shall spend at least 12 percent of its total medical expenditures*  
 41 *in self-insured health benefit plans on payments for primary care.]*

42        *[(12) No later than February 1 of each year, the board shall report to the Legislative Assembly on*  
 43 *the board's progress toward achieving the target of spending at least 12 percent of total medical*  
 44 *expenditures on payments for primary care.]*

45        **(11) Eligible employees must have the opportunity to select health benefit plans using an**

1 **Internet portal.**

2 **SECTION 34.** ORS 243.866, as amended by section 17, chapter 489, Oregon Laws 2017, and  
3 section 28, chapter 746, Oregon Laws 2017, is amended to read:

4 243.866. (1) **Notwithstanding any other benefit plan contracted for and offered by the**  
5 **Oregon Educators Benefit Board, the board shall contract** *[for benefit plans best designed to meet*  
6 *the needs and provide for the welfare of eligible employees, the districts and local governments. In*  
7 *considering whether to enter into a contract for a benefit plan, the board shall place emphasis on:]*  
8 **with a carrier to provide a group of health benefit plans selected by the board from the plans**  
9 **that are offered by the carrier. In selecting the plans to be offered to eligible employees by**  
10 **the carrier, the board shall select health benefit plans that provide minimum essential cov-**  
11 **erage, as defined in 26 U.S.C. 5000A, and shall place emphasis on:**

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

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

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

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

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

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

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

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

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

22 (2) The board may approve more than one carrier for *[each type of benefit plan]* **health benefit**  
23 **plans** offered, but the board shall limit the number of carriers to a number consistent with adequate  
24 service to eligible employees and family members who are not enrolled in another health benefit  
25 plan offered by the board or the Public Employees' Benefit Board. An eligible employee who declines  
26 coverage in a health benefit plan offered by the Oregon Educators Benefit Board or the Public  
27 Employees' Benefit Board and who is enrolled as a spouse or family member in another health  
28 benefit plan offered by the Oregon Educators Benefit Board or the Public Employees' Benefit Board  
29 may not be paid the employer contribution for the plan that was declined.

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

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

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

38 (6) *[The board shall adopt rules providing that transfer of enrollment from one benefit plan to*  
39 *another is open to all eligible employees and family members. Because of the special problems that may*  
40 *arise involving acceptable provider-patient relations between a particular panel of providers and a*  
41 *particular eligible employee or family member under a comprehensive group practice benefit plan,]* The  
42 board shall provide a procedure under which *[any eligible employee]* **eligible employees and their**  
43 **family members** may apply at any time to substitute *[another benefit plan for participation in a*  
44 *comprehensive group practice benefit plan]* **one health benefit plan for another.**

45 (7) An eligible employee who is retired is not required to participate in a health benefit plan

1 offered under this section in order to obtain dental benefit plan coverage. The board shall establish  
2 by rule standards of eligibility for retired employees to participate in a dental benefit plan.

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

5 *[(9)(a) The board shall use payment methodologies in self-insured health benefit plans offered by  
6 the board that are designed to limit the growth in per-member expenditures for health services to no  
7 more than 3.4 percent per year.]*

8 *[(b)]* (9) The board shall adopt policies and practices designed to limit the annual increase in  
9 premium amounts paid for contracted health benefit plans to 3.4 percent.

10 (10) A carrier *[or third party administrator]* that contracts with the board to provide *[or admin-  
11 ister]* a health benefit plan shall, at least once each plan year, conduct an audit of the health benefit  
12 plan enrollees' continued eligibility for coverage as spouses or dependents or any other basis that  
13 would affect the cost of the premium for the plan.

14 *[(11) If the board spends less than 12 percent of its total medical expenditures in self-insured health  
15 benefit plans on payments for primary care, the board shall implement a plan for increasing the per-  
16 centage of total medical expenditures spent on payments for primary care by at least one percent each  
17 year.]*

18 *[(12) No later than February 1 of each year, the board shall report to the Legislative Assembly on  
19 any plan implemented under subsection (11) of this section and on the board's progress toward  
20 achieving the target of spending at least 12 percent of total medical expenditures on payments for pri-  
21 mary care.]*

22 (11) **Eligible employees must have the opportunity to select health benefit plans using an  
23 Internet portal.**

24 **SECTION 35.** ORS 243.867 is amended to read:

25 243.867. (1) The governing body of a local government *[may elect to]* **shall** participate in a benefit  
26 plan *[offered by the Oregon Educators Benefit Board]* **described in ORS 243.866 that is paid for in  
27 the manner prescribed in section 28 of this 2018 Act.**

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

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

35 *[(a) The alternative benefit plan is offered through the health insurance exchange under ORS  
36 741.310 (1)(b); and]*

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

39 **SECTION 36.** ORS 243.876 is amended to read:

40 243.876. (1) Upon receipt of a request in writing from an eligible employee, the payroll disburs-  
41 ing officer may deduct from the salary or wages of the employee, **or from the employee's allot-**  
42 **ment described in section 28 of this 2018 Act**, an amount of money indicated in the request for  
43 payment of the amount set forth in benefit plans selected by the employee for the employee and  
44 family members.

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

1        [(a)] to the Oregon Educators Benefit Board, the carriers or the persons responsible for payment  
 2 of premiums to carriers in accordance with the terms of contracts for benefit plans[; or]

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

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

7        **SECTION 37.** ORS 243.878 is amended to read:

8        243.878. (1) The Oregon Educators Benefit Board may employ whatever means are reasonably  
 9 necessary to carry out the purposes of ORS 243.860 to 243.886. This authority includes, but is not  
 10 limited to, authority to [*self-insure and to*] seek clarification, amendment, modification, suspension  
 11 or termination of any agreement or contract.

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

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

21        **SECTION 38.** ORS 243.879 is amended to read:

22        243.879. (1) A hospital that provides services or supplies under a **health** benefit plan offered by  
 23 the Oregon Educators Benefit Board shall be reimbursed using the methodology prescribed by the  
 24 Oregon Health Authority under ORS 442.392 and may not be reimbursed for each service or supply  
 25 provided.

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

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

32        **SECTION 39.** ORS 243.879, as amended by section 31, chapter 746, Oregon Laws 2017, is  
 33 amended to read:

34        243.879. (1) A carrier that contracts with the Oregon Educators Benefit Board to provide to el-  
 35 igible employees and their dependents a **health** benefit plan that reimburses the cost of inpatient  
 36 or outpatient hospital services or supplies shall reimburse a claim for the cost of a hospital service  
 37 or supply that is covered by, or is similar to a service or supply that is covered by, the Medicare  
 38 program in an amount that does not exceed:

39        (a) For claims submitted by in-network hospitals, 200 percent of the amount paid by Medicare  
 40 for the service or supply; or

41        (b) For claims submitted by out-of-network hospitals, 185 percent of the amount paid by Medi-  
 42 care for the service or supply.

43        [(2) *A self-insurance program administered by a third party administrator that is offered by the*  
 44 *board to eligible employees and their dependents and that reimburses the cost of inpatient or outpatient*  
 45 *hospital services or supplies shall reimburse a claim for the cost of a hospital service or supply that*

1 *is covered by, or is similar to a service or supply that is covered by, the Medicare program in an*  
 2 *amount that does not exceed:]*

3 *[(a) For claims submitted by in-network hospitals, 200 percent of the amount paid by Medicare for*  
 4 *the service or supply; or]*

5 *[(b) For claims submitted by out-of-network hospitals, 185 percent of the amount paid by Medicare*  
 6 *for the service or supply.]*

7 [(3)] (2) A provider who is reimbursed in accordance with subsection (1) [or (2)] of this section  
 8 may not charge to or collect from the patient or a person who is financially responsible for the  
 9 patient an amount in addition to the reimbursement paid under subsection (1) [or (2)] of this section  
 10 other than cost sharing amounts authorized by the terms of the health benefit plan.

11 [(4)] (3) If a carrier [or third party administrator] does not reimburse claims on a fee-for-service  
 12 basis, the payment method used must take into account the limits specified in [subsections (1) and  
 13 (2)] **subsection (1)** of this section. Such payment methods include, but are not limited to:

- 14 (a) Value-based payments;
- 15 (b) Capitation payments; and
- 16 (c) Bundled payments.

17 [(5)] (4) This section does not apply to reimbursements paid by a carrier [or third party admin-  
 18 *istrator]* to:

- 19 (a) A type A or type B hospital as described in ORS 442.470;
- 20 (b) A rural critical access hospital as defined in ORS 315.613; or
- 21 (c) A hospital:
  - 22 (A) Located in a county with a population of less than 70,000 on August 15, 2017;
  - 23 (B) Classified as a sole community hospital by the Centers for Medicare and Medicaid Services;
  - 24 and
  - 25 (C) With Medicare payments composing at least 40 percent of the hospital's total annual patient  
 26 revenue.

27 [(6)] (5) This section does not require a health benefit plan offered by the board to reimburse  
 28 claims using a fee-for-service payment method.

29 **SECTION 40.** ORS 243.884 is amended to read:

30 243.884. (1) There is created the Oregon Educators Revolving Fund, separate and distinct from  
 31 the General Fund. Moneys in the Oregon Educators Revolving Fund are continuously appropriated  
 32 to the Oregon Educators Benefit Board to cover the board's expenses incurred in connection with  
 33 the administration of ORS 243.860 to 243.886. Moneys in the Oregon Educators Revolving Fund may  
 34 be retained for limited periods of time as established by the board by rule. Among other purposes,  
 35 the board may retain the funds to pay premiums, control expenditures[,] **and** stabilize premiums [*and*  
 36 *self-insure*]. The board may establish subaccounts within the Oregon Educators Revolving Fund.

37 (2) **Except for moneys that are allotted to employees under section 28 of this 2018 Act,**  
 38 the following moneys shall be paid into the Oregon Educators Revolving Fund:

- 39 (a) All unused employer contributions for benefit plans;
- 40 (b) All refunds, dividends, unused premiums and other payments attributable to an employee  
 41 contribution or employer contribution made from a carrier that has provided benefit plans adminis-  
 42 tered by the board; and
- 43 (c) All interest earned on the moneys in the fund.

44 **SECTION 41.** ORS 741.310 is amended to read:

45 741.310. (1)(a) Individuals and families may purchase qualified health plans through the health

1 insurance exchange.

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (10) The department is authorized to enter into contracts for the performance of the  
38 department's duties, functions or operations with respect to the exchange, including but not limited  
39 to contracting with:

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

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

44 *[(11)(a) The department shall consult with stakeholders, including but not limited to representatives*  
45 *of school administrators, school board members, school employees and the Oregon Educators Benefit*

1 Board, regarding the plans that may be offered through the exchange to districts and eligible employees  
 2 of districts under subsection (1)(b)(B) of this section and the insurers that may offer the plans.]

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

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

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

9 [(12)] (11) The department is authorized to apply for and accept federal grants, other federal  
 10 funds and grants from nongovernmental organizations for purposes of developing, implementing and  
 11 administering the exchange. Moneys received under this subsection shall be deposited in the Health  
 12 Insurance Exchange Fund.

13  
 14 **CONFORMING AMENDMENTS**

15  
 16 **SECTION 42.** ORS 656.247 is amended to read:

17 656.247. (1) Except for medical services provided to workers subject to ORS 656.245 (4)(b)(B),  
 18 payment for medical services provided to a subject worker in response to an initial claim for a  
 19 work-related injury or occupational disease from the date of the employer's notice or knowledge of  
 20 the claim until the date the claim is accepted or denied shall be payable in accordance with sub-  
 21 section (4) of this section.

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

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

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

36 (c) Except as provided in subsection (2) of this section, when a claim is settled pursuant to ORS  
 37 656.289 (4), all medical services payable under subsection (1) of this section that are provided on or  
 38 before the date of denial shall be paid in accordance with subsection (4) of this section. The insurer  
 39 or self-insured employer shall notify each affected service provider of the results of the settlement.

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

45 (b) If the claim for which medical services are provided under subsection (1) of this section is



1 accepted, after the claim has been accepted the insurer or self-insured employer shall pay for the  
 2 medical services provided for accepted conditions, including reimbursements for medical expenses,  
 3 copayments and deductibles paid by the injured worker or the health benefit plan. Payments made  
 4 under this subsection are subject to the fee schedules, limitations and conditions of this chapter.

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

9 (d) As used in this subsection, “health benefit plan” has the meaning given that term in ORS  
 10 743B.005 and also means [*self-insured benefit plans and*] health benefit plans offered by the Oregon  
 11 Educators Benefit Board and the Public Employees’ Benefit Board.

12 **SECTION 43.** ORS 741.300 is amended to read:

13 741.300. As used in ORS 741.001 to 741.540:

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

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

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

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

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

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

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

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

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

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

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

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

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

37 **SECTION 44.** ORS 291.055 is amended to read:

38 291.055. (1) Notwithstanding any other law that grants to a state agency the authority to es-  
 39 tablish fees, all new state agency fees or fee increases adopted during the period beginning on the  
 40 date of adjournment sine die of a regular session of the Legislative Assembly and ending on the date  
 41 of adjournment sine die of the next regular session of the Legislative Assembly:

42 (a) Are not effective for agencies in the executive department of government unless approved  
 43 in writing by the Director of the Oregon Department of Administrative Services;

44 (b) Are not effective for agencies in the judicial department of government unless approved in  
 45 writing by the Chief Justice of the Supreme Court;

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

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

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

8 (2) This section does not apply to:

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

10 (b) Taxes or other payments made or collected from employers for unemployment insurance re-  
 11 quired by ORS chapter 657 or premium assessments required by ORS 656.612 and 656.614 or contri-  
 12 butions and assessments calculated by cents per hour for workers' compensation coverage required  
 13 by ORS 656.506.

14 (c) Fees or payments required for:

15 (A) Health care services provided by the Oregon Health and Science University, by the Oregon  
 16 Veterans' Homes and by other state agencies and institutions pursuant to ORS 179.610 to 179.770.

17 (B) Copayments and premiums paid to the Oregon medical assistance program.

18 (C) Assessments paid to the Department of Consumer and Business Services under [*sections 3*  
 19 *and*] **section 5**, chapter 538, Oregon Laws 2017.

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

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 to 477.265 and the  
 26 Oregon Forest Land Protection Fund fees established by ORS 477.760.

27 (h) State Department of Energy assessments required by ORS 456.595 and 469.421 (8).

28 (i) Assessments on premiums charged by the Director of the Department of Consumer and  
 29 Business Services pursuant to ORS 731.804 or fees charged by the director to banks, trusts and  
 30 credit unions pursuant to ORS 706.530 and 723.114.

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

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

35 (L) New or increased fees that are anticipated in the legislative budgeting process for an  
 36 agency, revenues from which are included, explicitly or implicitly, in the legislatively adopted  
 37 budget or the legislatively approved budget for the agency.

38 (m) Tolls approved by the Oregon Transportation Commission pursuant to ORS 383.004.

39 (n) Portal provider fees as defined in ORS 276A.270 and established by the State Chief Infor-  
 40 mation Officer under ORS 276A.276 (3) and recommended by the Electronic Government Portal Ad-  
 41 visory Board.

42 (o) Fees set by the State Parks and Recreation Director and approved by the State Parks and  
 43 Recreation Commission under ORS 390.124 (2)(b).

44 (3)(a) Fees temporarily decreased for competitive or promotional reasons or because of unex-  
 45 pected and temporary revenue surpluses may be increased to not more than their prior level without

1 compliance with subsection (1) of this section if, at the time the fee is decreased, the state agency  
 2 specifies the following:

3 (A) The reason for the fee decrease; and

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

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

7 **SECTION 45.** ORS 731.292 is amended to read:

8 731.292. (1) Except as provided in subsections (2), (3) and (4) of this section, all fees, charges and  
 9 other moneys received by the Department of Consumer and Business Services or the Director of the  
 10 Department of Consumer and Business Services under the Insurance Code shall be deposited in the  
 11 fund created by ORS 705.145 and are continuously appropriated to the department for the payment  
 12 of the expenses of the department in carrying out the Insurance Code.

13 (2) All taxes and penalties paid pursuant to the Insurance Code shall be paid to the director and  
 14 after deductions of refunds shall be paid by the director to the State Treasurer, at the end of every  
 15 calendar month or more often in the director's discretion, for deposit in the General Fund to become  
 16 available for general governmental expenses.

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

19 (4) Assessments received by the department under [sections 3 and] **section 5**, chapter 538,  
 20 Oregon Laws 2017, and penalties received by the department under section 6, chapter 538, Oregon  
 21 Laws 2017, shall be paid into the State Treasury and credited to the Health System Fund established  
 22 under section 2, chapter 538, Oregon Laws 2017.

23  
 24 **REPEALS**

25  
 26 **SECTION 46.** ORS 243.142, 243.215 and 243.886 and sections 3 and 4, chapter 538, Oregon  
 27 Laws 2017, are repealed.

28  
 29 **APPLICABILITY AND OPERATIVE DATES**

30  
 31 **SECTION 47.** The amendments to ORS 243.650 by section 26 of this 2018 Act apply to  
 32 collective bargaining agreements entered into on or after the effective date of this 2018 Act.

33 **SECTION 48.** Sections 1, 5, 6 and 28 of this 2018 Act, the amendments to ORS 243.105,  
 34 243.107, 243.125, 243.129, 243.135, 243.145, 243.160, 243.163, 243.167, 243.252, 243.256, 243.285,  
 35 243.302, 243.650, 243.860, 243.864, 243.866, 243.867, 243.876, 243.878, 243.879, 243.884, 291.055,  
 36 292.051, 656.247, 731.292, 741.300 and 741.310 and section 6, chapter 538, Oregon Laws 2017, by  
 37 sections 8 to 26, 29 and 31 to 45 of this 2018 Act and the repeal of ORS 243.142, 243.215 and  
 38 243.886 and sections 3 and 4, chapter 538, Oregon Laws 2017, by section 46 of this 2018 Act  
 39 become operative on January 1, 2019.

40 **SECTION 49.** The Public Employees' Benefit Board and the Oregon Educators Benefit  
 41 Board may take any action before the operative date specified in section 48 of this 2018 Act  
 42 that is necessary for the Public Employees' Benefit Board or the Oregon Educators Benefit  
 43 Board to exercise, on and after the operative date specified in section 48 of this 2018 Act, all  
 44 of the duties, functions and powers conferred on the Public Employees' Benefit Board or the  
 45 Oregon Educators Benefit Board by sections 1, 5, 6 and 28 of this 2018 Act and the amend-

1 ments to ORS 243.105, 243.107, 243.125, 243.129, 243.135, 243.145, 243.160, 243.163, 243.167,  
2 243.252, 243.256, 243.285, 243.302, 243.650, 243.860, 243.864, 243.866, 243.867, 243.876, 243.878,  
3 243.879, 243.884, 291.055, 292.051, 656.247, 731.292, 741.300 and 741.310 and section 6, chapter 538,  
4 Oregon Laws 2017, by sections 8 to 26, 29 and 31 to 45 of this 2018 Act.

5  
6 **CAPTIONS**

7  
8 **SECTION 50.** The unit captions used in this 2018 Act are provided only for the conven-  
9 ience of the reader and do not become part of the statutory law of this state or express any  
10 legislative intent in the enactment of this 2018 Act.

11  
12 **EMERGENCY CLAUSE**

13  
14 **SECTION 51.** This 2018 Act being necessary for the immediate preservation of the public  
15 peace, health and safety, an emergency is declared to exist, and this 2018 Act takes effect  
16 on its passage.

17 \_\_\_\_\_