

House Bill 3564

Sponsored by Representative PARRISH, Senator JOHNSON

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.

A BILL FOR AN ACT

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

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

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

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

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

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

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

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

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

27 Whereas the State of Oregon cannot absorb the cost of the excise tax, which will increase

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 health care premiums, without a likely reduction to the General Fund and a reduction of services
2 across all state agencies, commissions and quasi-governmental agencies; and

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

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

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

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

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

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

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

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

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

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

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

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

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

41
42 **LEGISLATIVE INTENT**
43

44 **SECTION 1. The intent of the Legislative Assembly in sections 5 and 21 of this 2015 Act**
45 **is to implement a plan to:**

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

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

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

10
11 **FLEXIBLE BENEFITS TASK FORCE**
12

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

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

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

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

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

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

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

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

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

27 (2) The task force shall collect and synthesize information about the federal excise tax
28 on employer-sponsored health plans and flexible benefit plans. The task force shall also
29 monitor implementation of sections 5 and 21 of this 2015 Act, audit any General Fund savings
30 generated by sections 5 and 21 of this 2015 Act and make recommendations for legislative
31 changes to public employee benefit plans.

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

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

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

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

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

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

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

44 (a) An initial report and the recommendations described in subsection (2) of this section
45 no later than September 15, 2018.

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

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

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

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

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

16 SECTION 3. Section 2 of this 2015 Act is repealed on December 31, 2020.

17
18 **PUBLIC EMPLOYEES' BENEFIT BOARD**
19

20 SECTION 4. Section 5 of this 2015 Act is added to and made a part of ORS 243.105 to
21 243.285.

22 SECTION 5. (1) An employer shall allot to each eligible employee an amount equal to the
23 applicable dollar limit for self-only coverage specified in 26 U.S.C. 4980I, as adjusted by the
24 health cost adjustment percentage each year. The employee may use the allotment toward
25 the payment of premiums for any of the health benefit plans offered under ORS 243.135. The
26 employee shall pay the cost of any premiums that exceed the allotment. If the employee de-
27 clines the health benefit plans offered by the Public Employees' Benefit Board, the allotment
28 shall be available as described in subsection (2) of this section.

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

32 (a) Paid to a retirement account;

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

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

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

38 (e) Paid to the employee; or

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

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

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

44 (a) "Benefit cap" means the applicable dollar amount for self-only coverage specified in
45 26 U.S.C. 4980I, as modified by the health cost adjustment percentage and adjustments, if

1 applicable, for employers the majority of whose employees covered by a health benefit plan
 2 are engaged in a high-risk profession or employed to repair or install electrical or telecom-
 3 munications lines.

4 (b) "Composite rate" means the average annualized cost, in dollars per year per em-
 5 ployee, of health benefit plan premiums paid by a public employer, calculated for all of the
 6 employees of the public employer in 2017.

7 (c) "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 (d) "Investment amount" means the difference between the composite rate of a public
 13 employer and the benefit cap for 2018 multiplied by the total number of employees of the
 14 public employer.

15 (e) "Public employer" has the meaning given that term in ORS 238.005.

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

18 (a) One account dedicated to paying the costs of:

- 19 (A) Critical services;
- 20 (B) Actuarial liabilities owed by the public employer to the Public Employees Retirement
 21 System; or
- 22 (C) Benefits for employees of the public employer arising from a collective bargaining
 23 agreement; and

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

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

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

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

34 (5) Moneys in each of the accounts described in subsection (2) of this section may be
 35 withdrawn by a public employer and expended only for the purposes specified for that ac-
 36 count.

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

38 243.061. (1) There is created in the Oregon Health Authority the Public Employees' Benefit
 39 Board consisting of at least [eight] 10 voting members and two members of the Legislative Assembly
 40 as nonvoting advisory members. Two of the voting members are ex officio members and [six] eight
 41 are appointed by the Governor. The [voting] following members shall be voting members:

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

- 44 (A) The Director of the Oregon Health Authority or a designee of the director;
- 45 (B) The Administrator of the Office for Oregon Health Policy and Research or a designee of the

1 administrator; and

2 (C) Two management employees appointed by the Governor from areas of state government
3 other than the Oregon Health Authority or the Office for Oregon Health Policy and Research; and

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

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

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

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

10 **(c) In addition to the members appointed under paragraphs (a) and (b) of this subsection,**
11 **the Governor shall appoint two voting members, one of whom represents local government**
12 **management and one of whom represents local government nonmanagement employees.**

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

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

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

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

30 (4) A maximum of three members may be appointed **by the Governor under subsections (1)**
31 **and (3) of this section** to represent local government management and a maximum of three mem-
32 bers may be appointed **by the Governor** to represent local government nonmanagement employees.

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

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

40 (7) Members of the board who are not members of the Legislative Assembly shall receive no
41 compensation for their services, but shall be paid for their necessary and actual expenses while on
42 official business in accordance with ORS 292.495. Members of the board who are members of the
43 Legislative Assembly shall be paid compensation and expense reimbursement as provided in ORS
44 171.072, payable from funds appropriated to the Legislative Assembly.

45 (8) As used in this section, "benefit plan" and "local government" have the meanings given those

1 terms in ORS 243.105.

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

3 243.105. As used in ORS 243.105 to 243.285, unless the context requires otherwise:

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

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

7 (b) Comparable benefits for employees who rely on spiritual means of healing¹; *and*

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

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

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

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

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

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

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

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

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

31 (A) Engaged as independent contractors;

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

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

36 (D) Appointed under ORS 240.309;

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

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

41 (G) Who are members of a collective bargaining unit that represents police officers or fire-
42 fighters.

43 (5) “Family member” means an eligible employee’s spouse and any unmarried child or stepchild
44 within age limits and other conditions imposed by the board with regard to unmarried children or
45 stepchildren.

1 **(6) “Health benefit plan” has the meaning given that term in ORS 743.730.**

2 [(6)] (7) “Local government” means any city, county or special district in this state.

3 [(7)] (8) “Payroll disbursing officer” means the officer or official authorized to disburse moneys
4 in payment of salaries and wages of employees of a state agency or local government.

5 [(8)] (9) “Premium” means the monthly or other periodic charge for a benefit plan.

6 [(9)] (10) “State agency” means every state officer, board, commission, department or other ac-
7 tivity of state government.

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

9 243.107. A person employed by a public university listed in ORS 352.002 or the Oregon Health
10 and Science University [*may*] **shall** be considered an eligible employee for participation in one of the
11 [*group*] **health** benefit plans described in ORS 243.135 [*if the State Board of Higher Education or the*
12 *governing board of the public university, or the Oregon Health and Science University Board of Di-*
13 *rectors for Oregon Health and Science University employees, determines that funds are available*
14 *therefor and if:*] **and paid for in the manner prescribed in section 5 of this 2015 Act, if:**

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

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

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

21 243.125. (1) The Public Employees’ Benefit Board shall prescribe rules for the conduct of its
22 business and for carrying out ORS 243.256. The board shall study all matters connected with the
23 providing of adequate benefit plan coverage for eligible employees on the best basis possible with
24 relation both to the welfare of the employees and to the state and local governments. The board
25 shall design benefits, devise specifications, analyze carrier responses to advertisements for bids and
26 decide on the award of contracts. Contracts shall be signed by the chairperson on behalf of the
27 board.

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

31 (3) Subject to ORS chapter 183, the board may make rules not inconsistent with ORS 243.105 to
32 243.285 and 292.051 to determine the terms and conditions of eligible employee participation and
33 coverage.

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

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

40 (6) The board may retain consultants, brokers or other advisory personnel when necessary and,
41 subject to the State Personnel Relations Law, shall employ such personnel as are required to per-
42 form the functions of the board.

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

44 243.129. (1) The governing body of a local government [*may elect to*] **shall** participate in a **health**
45 benefit plan [*offered by the Public Employees’ Benefit Board*] **described in ORS 243.135 that is paid**

1 **for in the manner prescribed in section 5 of this 2015 Act.**

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

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

8 [(a) *The alternative benefit plan is offered through the health insurance exchange under ORS*
 9 *741.310 (1)(b); and]*

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

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

13 243.135. (1) Notwithstanding any other benefit plan contracted for and offered by the Public
 14 Employees' Benefit Board, the board shall contract [*for a health benefit plan or plans best designed*
 15 *to meet the needs and provide for the welfare of eligible employees, the state and the local governments.*
 16 *In considering whether to enter into a contract for a plan,]* **with a carrier to provide a group of**
 17 **health benefit plans selected by the board from the plans that are offered by the carrier. In**
 18 **selecting the plans to be offered to eligible employees by the carrier, the board shall select**
 19 **health benefit plans that provide minimum essential coverage, as defined in 26 U.S.C. 5000A,**
 20 **and shall** place emphasis on:

21 (a) Employee choice among high quality plans;

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

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

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

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

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

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

28 [(h)] **(e)** The improvement of employee health.

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

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

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

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

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

1 **another.**

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

4 **(8) Employees must have the opportunity to select health benefit plans from an Internet**
 5 **portal.**

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

7 243.145. (1) The Public Employees' Benefit Board shall have authority to employ whatever means
 8 are reasonably necessary to carry out the purposes of ORS 243.105 to 243.285 and 292.051. The
 9 board's authority includes, but is not limited to, the authority to [*self-insure and to*] seek clarifica-
 10 tion, amendment, modification, suspension or termination of any agreement or contract that in the
 11 board's judgment requires such action.

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

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

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

22 243.167. (1) There is created the Public Employees' Revolving Fund, separate and distinct from
 23 the General Fund. The balances of the Public Employees' Revolving Fund are continuously appro-
 24 priated to **the Public Employees' Benefit Board** to cover expenses incurred in connection with
 25 the administration of ORS 243.105 to 243.285 and 292.051. Assets of the Public Employees' Revolving
 26 Fund may be retained for limited periods of time as established by the [*Public Employees' Benefit*]
 27 board by rule. Among other purposes, the board may retain the funds to control expenditures[,] **and**
 28 stabilize benefit premium rates [*and self-insure*]. The board may establish subaccounts within the
 29 Public Employees' Revolving Fund.

30 (2) There is appropriated to the Public Employees' Revolving Fund all unused employer contri-
 31 butions for employee benefits and all refunds, dividends, unused premiums and other payments at-
 32 tributable to any employee contribution or employer contribution made from any carrier or
 33 contractor that has provided employee benefits administered by the board, and all interest earned
 34 on such moneys.

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

36 243.252. (1) The state may pay none of the cost of making health benefit plan coverage available
 37 to a retired state employee who is an eligible employee and to family members or may agree, by
 38 collective bargaining agreement or otherwise, to pay part or all of that cost.

39 (2) Nothing in subsection (1) of this section or other law[, *except ORS 243.886,*] prohibits a col-
 40 lective bargaining unit from agreeing with an employer that is a public body, as defined in ORS
 41 174.109, to establish a retiree medical trust, voluntary employees' beneficiary association, health
 42 reimbursement arrangement or other agreement for health care expenses of employees or retirees
 43 if the provisions of the trust, association, arrangement or other agreement comply with the re-
 44 quirements of the Insurance Code.

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

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

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

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

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

12 243.285. (1) Upon receipt of the request in writing of an eligible employee so to do, the payroll
 13 disbursing officer authorized to disburse funds in payment of the salary or wages of the eligible
 14 employee may deduct from the salary or wages of the employee, **or from the employee's allotment
 15 described in section 5 of this 2015 Act**, an amount of money indicated in the request for payment
 16 of the applicable amount set forth in benefit plans selected by the employee or selected on the
 17 employee's behalf for:

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

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

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

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

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

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

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

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

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

35 243.302. The Public Employees' Benefit Board may group retired state employees and state em-
 36 ployees who are not retired for the purpose of entering into contracts [*for*] **with one or more
 37 carriers to provide health benefit plan and other** insurance coverage.

38 **SECTION 18a.** ORS 243.160 is amended to read:

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

43 **SECTION 18b.** ORS 243.163 is amended to read:

44 243.163. A member of the Legislative Assembly who is receiving a pension or annuity under ORS
 45 238.092 (1)(a) or 238A.250 (1) shall be eligible to participate as a retired state officer in one of the

1 [group] health benefit plans described in ORS 243.135 after the member ceases to be a member of
 2 the Legislative Assembly if the member applies to the Public Employees' Benefit Board within 60
 3 days after the member ceases to be a member of the Legislative Assembly.

4 **SECTION 18c.** ORS 292.051 is amended to read:

5 292.051. (1) Except as authority over contracts for health benefit plans described in ORS 243.135
 6 is vested in the Public Employees' Benefit Board, upon receipt of the request in writing of an officer
 7 or employee so to do, the state official authorized to disburse funds in payment of the salary or
 8 wages of the officer or employee may deduct from the salary or wages of the officer or employee
 9 an amount of money indicated in the request for payment of the applicable amount set forth in
 10 benefit plans selected by the officers or employees or in their behalf for:

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

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

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

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

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

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

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

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

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

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

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

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

38
 39 **COLLECTIVE BARGAINING**

40
 41 **SECTION 19.** ORS 243.650, as amended by section 1, chapter 15, Oregon Laws 2014, is amended
 42 to read:

43 243.650. As used in ORS 243.650 to 243.782, unless the context requires otherwise:

44 (1) "Appropriate bargaining unit" means the unit designated by the Employment Relations Board
 45 or voluntarily recognized by the public employer to be appropriate for collective bargaining. How-

1 ever, an appropriate bargaining unit may not include both academically licensed and unlicensed or
 2 nonacademically licensed school employees. Academically licensed units may include but are not
 3 limited to teachers, nurses, counselors, therapists, psychologists, child development specialists and
 4 similar positions. This limitation does not apply to any bargaining unit certified or recognized prior
 5 to June 6, 1995, or to any school district with fewer than 50 employees.

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

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

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

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

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

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

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

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

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

36 (e) "**Employment relations**":

37 **(A) Does not include health benefit plan coverage as described in sections 5 and 21 of this**
 38 **2015 Act.**

39 **(B) Does include health insurance coverage for retired employees as provided in ORS**
 40 **238.410, 238.415, 238.420, 243.252 and 243.303.**

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

42 [(e)] (f) For school district bargaining, "employment relations" excludes class size, the school
 43 or educational calendar, standards of performance or criteria for evaluation of teachers, the school
 44 curriculum, reasonable dress, grooming and at-work personal conduct requirements respecting
 45 smoking, gum chewing and similar matters of personal conduct, the standards and procedures for

1 student discipline, the time between student classes, the selection, agendas and decisions of 21st
2 Century Schools Councils established under ORS 329.704, requirements for expressing milk under
3 ORS 653.077, and any other subject proposed that is permissive under paragraphs (b), (c) and (d) of
4 this subsection.

5 [(f)] (g) For employee bargaining involving employees covered by ORS 243.736, “employment re-
6 lations” includes safety issues that have an impact on the on-the-job safety of the employees or
7 staffing levels that have a significant impact on the on-the-job safety of the employees.

8 [(g)] (h) For all other employee bargaining except school district bargaining and except as pro-
9 vided in paragraph [(f)] (g) of this subsection, “employment relations” excludes staffing levels and
10 safety issues (except those staffing levels and safety issues that have a direct and substantial effect
11 on the on-the-job safety of public employees), scheduling of services provided to the public, deter-
12 mination of the minimum qualifications necessary for any position, criteria for evaluation or per-
13 formance appraisal, assignment of duties, workload when the effect on duties is insubstantial,
14 reasonable dress, grooming, and at-work personal conduct requirements respecting smoking, gum
15 chewing, and similar matters of personal conduct at work, and any other subject proposed that is
16 permissive under paragraphs (b), (c) and (d) of this subsection.

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

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

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

36 (11) “Final offer” means the proposed contract language and cost summary submitted to the
37 mediator within seven days of the declaration of impasse.

38 (12) “Labor dispute” means any controversy concerning employment relations or concerning the
39 association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to
40 arrange terms or conditions of employment relations, regardless of whether the disputants stand in
41 the proximate relation of employer and employee.

42 (13) “Labor organization” means any organization that has as one of its purposes representing
43 employees in their employment relations with public employers.

44 (14) “Last best offer package” means the offer exchanged by parties not less than 14 days prior
45 to the date scheduled for an interest arbitration hearing.

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

3 (16) "Managerial employee" means an employee of the State of Oregon or the Oregon University
 4 System who possesses authority to formulate and carry out management decisions or who represents
 5 management's interest by taking or effectively recommending discretionary actions that control or
 6 implement employer policy, and who has discretion in the performance of these management re-
 7 sponsibilities beyond the routine discharge of duties. A "managerial employee" need not act in a
 8 supervisory capacity in relation to other employees. Notwithstanding this subsection, "managerial
 9 employee" does not include faculty members at a community college, college or university.

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

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

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

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

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

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

35 (23) "Supervisory employee" means any individual having authority in the interest of the em-
 36 ployer to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline
 37 other employees, or responsibly to direct them, or to adjust their grievances, or effectively to re-
 38 commend such action, if in connection therewith, the exercise of the authority is not of a merely
 39 routine or clerical nature but requires the use of independent judgment. Failure to assert supervi-
 40 sory status in any Employment Relations Board proceeding or in negotiations for any collective
 41 bargaining agreement does not thereafter prevent assertion of supervisory status in any subsequent
 42 board proceeding or contract negotiation. Notwithstanding the provisions of this subsection, "su-
 43 pervisory employee" does not include:

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

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

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

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

8
9 **OREGON EDUCATORS BENEFIT BOARD**

10
11 **SECTION 20. Section 21 of this 2015 Act is added to and made a part of ORS 243.860 to**
12 **243.886.**

13 **SECTION 21. (1) An employer shall allot to each eligible employee an amount equal to the**
14 **applicable dollar limit for self-only coverage specified in 26 U.S.C. 4980I, as adjusted by the**
15 **health cost adjustment percentage each year. The employee may use the allotment toward**
16 **the payment of premiums for any of the health benefit plans offered under ORS 243.866. The**
17 **employee shall pay the cost of any premiums that exceed the allotment. If the employee de-**
18 **clines the health benefit plans offered by the Oregon Educators Benefit Board, the allotment**
19 **shall be available as described in subsection (2) of this section.**

20 (2) An employee who declines health benefit plan coverage described in ORS 243.866 or
21 whose premiums are less than the amount of the employee's allotment, may elect to have
22 the remainder of the allotment distributed by the employer as follows:

23 (a) Paid to a retirement account;

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

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

27 (d) Contributed to a deferred compensation arrangement that is not included in the tax-
28 able income of the employee by reason of 26 U.S.C. 402(e)(3);

29 (e) Paid to the employee; or

30 (f) Paid to a third party selected by the employee.

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

34 **SECTION 22. ORS 243.860 is amended to read:**

35 243.860. As used in ORS 243.860 to 243.886, unless the context requires otherwise:

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

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

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

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

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

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

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

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

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

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

11 (ii) Is eligible to receive a service retirement allowance under the Public Employees Retirement
 12 System and has reached earliest service retirement age under ORS chapter 238;

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

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

18 (b) Except as provided in paragraph (a)(B) of this subsection, "eligible employee" does not in-
 19 clude an individual:

20 (A) Engaged as an independent contractor;

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

22 or

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

26 (5) "Family member" means an eligible employee's spouse or domestic partner and any unmar-
 27 ried child or stepchild of an eligible employee within age limits and other conditions imposed by the
 28 Oregon Educators Benefit Board with regard to unmarried children or stepchildren.

29 **(6) "Health benefit plan" has the meaning given that term in ORS 743.730.**

30 [(6)] (7) "Local government" means any city, county or special district in this state.

31 [(7)] (8) "Payroll disbursing officer" means the officer or official authorized to disburse moneys
 32 in payment of salaries and wages of officers and employees of a district or a local government.

33 [(8)] (9) "Premium" means the monthly or other periodic charge, including administrative fees
 34 of the Oregon Educators Benefit Board, for a benefit plan.

35 **SECTION 23.** ORS 243.862 is amended to read:

36 243.862. (1) There is established in the Oregon Health Authority an Oregon Educators Benefit
 37 Board consisting of at least [10] 12 members appointed by the Governor, including:

38 (a) Two members representing district boards;

39 (b) Two members representing district management;

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

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

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

1 (f) Two members with expertise in health policy or risk management.

2 **(g) Two members, one of whom represents local government management and one of**
 3 **whom represents local government nonmanagement employees.**

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

8 [(b) **(2)(a)** After the appointment of members under [paragraph (a) of this subsection] **subsection**
 9 **(1)(g) of this section**, if the number of eligible employees of a local government or local govern-
 10 ments enrolled in a benefit plan or plans offered by the board exceeds 25,000, the Governor shall
 11 appoint two additional members, one of whom represents local government management and one of
 12 whom represents local government nonmanagement employees.

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

18 (3) A maximum of three members may be appointed **by the Governor** to represent local gov-
 19 ernment management **under subsections (1) and (3) of this section** and a maximum of three
 20 members may be appointed **by the Governor** to represent local government nonmanagement em-
 21 ployees.

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

27 (5) A member of the board is not entitled to compensation, but may be reimbursed from funds
 28 available to the board for actual and necessary travel and other expenses incurred by the member
 29 in the performance of the member's official duties in the manner and amount provided in ORS
 30 292.495.

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

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

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

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

39 **SECTION 24.** ORS 243.864 is amended to read:

40 243.864. (1) The Oregon Educators Benefit Board:

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

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

44 (2) The board shall study all matters connected with the provision of adequate benefit plan
 45 coverage for eligible employees on the best basis possible with regard to the welfare of the em-

1 ployees and affordability for the districts and local governments. The board shall design benefits,
 2 prepare specifications, analyze carrier responses to advertisements for bids and award contracts.
 3 Contracts shall be signed by the chairperson on behalf of the board.

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

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

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

16 **SECTION 25.** ORS 243.866 is amended to read:

17 243.866. (1) **Notwithstanding any other benefit plan contracted for and offered by the**
 18 **Oregon Educators Benefit Board, the board** shall contract *[for benefit plans best designed to meet*
 19 *the needs and provide for the welfare of eligible employees, the districts and local governments. In*
 20 *considering whether to enter into a contract for a benefit plan,]* **with a carrier to provide a group**
 21 **of health benefit plans selected by the board from the plans that are offered by the carrier.**
 22 **In selecting the plans to be offered to eligible employees by the carrier, the board shall select**
 23 **health benefit plans that provide minimum essential coverage, as defined in 26 U.S.C. 5000A,**
 24 **and shall** place emphasis on:

- 25 (a) Employee choice among high-quality plans;
- 26 *[(b) Encouragement of a competitive marketplace;]*
- 27 *[(c)]* **(b)** Plan performance and information;
- 28 *[(d) District and local government flexibility in plan design and contracting;]*
- 29 *[(e)]* **(c)** Quality customer service;
- 30 *[(f)]* **(d)** Creativity and innovation; **and**
- 31 *[(g) Plan benefits as part of total employee compensation; and]*
- 32 *[(h)]* **(e)** Improvement of employee health.

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

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

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

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

44 (6) The board shall adopt rules providing that transfer of enrollment from one **health** benefit
 45 plan to another is open to all eligible employees and family members. Because of the special prob-

1 lems that may arise involving acceptable physician-patient relations between a particular panel of
 2 physicians and a particular eligible employee or family member under a [*comprehensive group prac-*
 3 *tice*] **health** benefit plan, the board shall provide a procedure under which any eligible employee
 4 may apply at any time to substitute [*another benefit plan for participation in a comprehensive group*
 5 *practice benefit plan*] **one health benefit plan for another.**

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

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

11 **(9) Employees must have the opportunity to select health benefit plans from an Internet**
 12 **portal.**

13 **SECTION 26.** ORS 243.867 is amended to read:

14 243.867. (1) The governing body of a local government [*may elect to*] **shall** participate in a **health**
 15 benefit plan [*offered by the Oregon Educators Benefit Board*] **described in ORS 243.866 that is paid**
 16 **for in the manner prescribed in section 21 of this 2015 Act.**

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

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

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

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

28 **SECTION 27.** ORS 243.876 is amended to read:

29 243.876. (1) Upon receipt of a request in writing from an eligible employee, the payroll disburs-
 30 ing officer may deduct from the salary or wages of the employee, **or from the employee's allot-**
 31 **ment described in section 21 of this 2015 Act,** an amount of money indicated in the request for
 32 payment of the amount set forth in benefit plans selected by the employee for the employee and
 33 family members.

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

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

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

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

41 **SECTION 28.** ORS 243.878 is amended to read:

42 243.878. (1) The Oregon Educators Benefit Board may employ whatever means are reasonably
 43 necessary to carry out the purposes of ORS 243.860 to 243.886. This authority includes, but is not
 44 limited to, authority to [*self-insure and to*] seek clarification, amendment, modification, suspension
 45 or termination of any agreement or contract.

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

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

10 **SECTION 29.** ORS 243.879 is amended to read:

11 243.879. (1) A hospital that provides services or supplies under a benefit plan offered by the
 12 Oregon Educators Benefit Board shall be reimbursed using the methodology prescribed by the
 13 Oregon Health Authority under ORS 442.392 and may not be reimbursed for each service or supply
 14 provided.

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

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

21 **SECTION 30.** ORS 243.884 is amended to read:

22 243.884. (1) There is created the Oregon Educators Revolving Fund, separate and distinct from
 23 the General Fund. Moneys in the Oregon Educators Revolving Fund are continuously appropriated
 24 to the Oregon Educators Benefit Board to cover the board's expenses incurred in connection with
 25 the administration of ORS 243.860 to 243.886. Moneys in the Oregon Educators Revolving Fund may
 26 be retained for limited periods of time as established by the board by rule. Among other purposes,
 27 the board may retain the funds to pay premiums, control expenditures[,] **and** stabilize premiums [*and
 28 self-insure*]. The board may establish subaccounts within the Oregon Educators Revolving Fund.

29 (2) The following moneys **that are not allotted to an employee under section 21 of this 2015
 30 Act** shall be paid into the Oregon Educators Revolving Fund:

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

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

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

36 **SECTION 31.** ORS 741.310, as amended by section 12, chapter 415, Oregon Laws 2011, section
 37 11, chapter 38, Oregon Laws 2012, section 97, chapter 107, Oregon Laws 2012, section 2, chapter 421,
 38 Oregon Laws 2013, and section 25, chapter 3, Oregon Laws 2015 (Enrolled Senate Bill 1), is amended
 39 to read:

40 741.310. (1)(a) Individuals and families may purchase qualified health plans through the health
 41 insurance exchange.

42 (b) [*The following groups*] **Employers with no more than 100 employees** may purchase quali-
 43 fied health plans through the Small Business Health Options Program.[.]

44 [(A) *Employers with no more than 100 employees; and*]

45 [(B) *Districts and eligible employees of districts that are subject to ORS 243.886, unless their par-*

1 *ticipation is precluded by federal law.]*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

