

**FISCAL IMPACT OF PROPOSED LEGISLATION****Measure: SB 168**81st Oregon Legislative Assembly – 2021 Regular Session  
Legislative Fiscal Office***Only Impacts on Original or Engrossed  
Versions are Considered Official***Prepared by: Haylee Morse-Miller  
Reviewed by: Ben Ruef, Tom MacDonald  
Date: April 2, 2021**Measure Description:**

Requires health benefit plans to cover fertility and reproductive endocrinology services.

**Government Unit(s) Affected:**

Department of Consumer and Business Services (DCBS), Oregon Health Authority (OHA)

**Summary of Fiscal Impact:**

Costs related to the measure may require budgetary action - See analysis.

**Summary of Expenditure Impact:**

	<b>2021-23 Biennium</b>	<b>2023-25 Biennium</b>
Other Funds	26,626,100	44,838,252
<b>Total Funds</b>	<b>\$26,626,100</b>	<b>\$44,838,252</b>
Positions	0	0
FTE	0.00	0.00

**Analysis:**

SB 168 adds fertility and reproductive endocrinology services for men and women as required reproductive health services that health benefit plans in Oregon must cover. This requirement applies to health benefit plans issued, renewed, or extended on or after the effective date of this measure, assumed to be January 1, 2022.

This measure also exempts reproductive health coverage requirements, as specified in ORS 743A.067, from ORS 743A.001, which requires automatic repeal of certain statutes related to individual and group health insurance requirements on the sixth anniversary of their effective date.

**Oregon Health Authority**

The inclusion of fertility and reproductive endocrinology services to the list of required services that health benefit plans must cover will impact the premiums for the employee health plans offered by the Public Employees' Benefit Board (PEBB) and the Oregon Educators Benefit Board (OEBB), which are housed in the Oregon Health Authority (OHA). While costs for both Boards are budgeted as Other Funds, the corresponding revenue comes from the premiums paid by state agencies and universities for PEBB's plans and the K-12 school system for OEBB's plans. Additionally, state agencies support PEBB's premium payments from the various state and federal revenue streams available in their budgets, with General Fund comprising nearly 45% of overall state agency premium payments.

Based on input provided by PEBB's and OEBB's actuaries, OHA estimates that premiums for plans offered by both Boards will increase by an average of 1.2% under the measure. For PEBB, this increase would result in additional costs of \$19,623,511 in 2021-23, and \$26,164,681 in 2023-25. For OEBB, the premium increase would result in additional costs of \$7,002,589 in 2021-23 and \$18,673,571 in 2023-25. This potential increase in premiums would challenge PEBB's and OEBB's ability to meet the statutorily required 3.4% annual growth cap on health care premiums and expenditures. Additionally, these estimates are based on fertility utilization assumptions which, if

ultimately different, could materially change the estimated costs. The estimated costs are also based on the understanding that the measure does not place a limit on treatment options and that all treatment options are 100% covered with no life-time maximums, which deviates from the existing covered fertility services offered by PEBB and OEBS that do require forms of cost-sharing.

There are additional indeterminate costs for Medicaid and the Oregon Health Plan, as well as for costs related to reproductive health services provided to noncitizens under ORS 414.432.

**Department of the Consumer and Business Services**

The Department of Consumer and Business Services (DCBS) anticipates no fiscal impact from this measure. However, DCBS notes that the expansion of coverage for health benefit plans may be considered a new mandate under the Patient Protection and Affordable Care Act. This Act requires states to offset the cost of required benefits for plans issued through the health insurance marketplace. DCBS notes that the federal guidance does not clarify whether these offsets must be paid out of the General Fund or from other state funds such as marketplace assessment funds. If coverage of fertility and reproductive endocrinology services is considered a new mandate, the bill may have a fiscal impact for the state.