

House Bill 2010

Sponsored by Representative FAHEY (at the request of Governor Tina Kotek) (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**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act keeps certain provider taxes in place. (Flesch Readability Score: 71.8).

Extends the assessment on earnings from health plan premiums, the assessment on payments by the Oregon Health Authority to managed care organizations, the assessment on hospitals and the Oregon Reinsurance Program.

Takes effect on the 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to funding to improve access to health care; creating new provisions; amending ORS
3 243.135, 291.055, 317A.100, 414.871, 414.884, 415.500, 731.292, 731.509 and 731.840 and sections 12,
4 13 and 14, chapter 736, Oregon Laws 2003, and sections 4, 8 and 48, chapter 538, Oregon Laws
5 2017; repealing ORS 414.871, 414.880, 414.882, 414.884 and 414.902 and sections 2, 3, 4, 5, 6, 7 and
6 8, chapter 538, Oregon Laws 2017; and prescribing an effective date.

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

HEALTH INSURANCE PREMIUM ASSESSMENT AND OREGON REINSURANCE PROGRAM

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12 **SECTION 1.** Section 4, chapter 538, Oregon Laws 2017, as amended by section 5, chapter 2,
13 Oregon Laws 2019, is amended to read:

14 **Sec. 4.** Section 3, chapter 538, Oregon Laws 2017, applies to premium equivalents received by
15 the Public Employees' Benefit Board, or a third party administrator that contracts with the board
16 to administer a self-insured health benefit plan, during the period from January 1, 2020, through
17 December 31, [2026] **2032**.

18 **SECTION 2.** Section 8, chapter 538, Oregon Laws 2017, as amended by section 8, chapter 2,
19 Oregon Laws 2019, is amended to read:

20 **Sec. 8.** Section 5, chapter 538, Oregon Laws 2017, applies to premiums earned by an insurer for
21 the period beginning January 1, 2020, and ending December 31, [2026] **2032**.

22 **SECTION 3.** ORS 731.509 is amended to read:

23 731.509. (1) The purpose of ORS 731.509, 731.510, 731.511, 731.512 and 731.516 is to protect the
24 interests of insureds, claimants, ceding insurers, assuming insurers and the public generally. The
25 Legislative Assembly declares that the intent of the Legislative Assembly is to ensure adequate
26 regulation of insurers and reinsurers and adequate protection for those to whom insurers and re-
27 insurers owe obligations. In furtherance of that state interest, the Legislative Assembly mandates
28 that upon the insolvency of an alien insurer or reinsurer that provides security to fund the alien
29 insurer's or reinsurer's United States obligations in accordance with ORS 731.509, 731.510, 731.511,

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.

1 731.512 and 731.516, the assets representing the security must be maintained in the United States
 2 and claims must be filed with and valued by the state insurance commissioner with regulatory
 3 oversight, and the assets must be distributed in accordance with the insurance laws of the state in
 4 which the trust is domiciled that are applicable to the liquidation of domestic United States insurers.
 5 The Legislative Assembly declares that the laws contained in ORS 731.509, 731.510, 731.511, 731.512
 6 and 731.516 are fundamental to the business of insurance in accordance with 15 U.S.C. 1011 and
 7 1012.

8 (2) The Director of the Department of Consumer and Business Services may not allow credit for
 9 reinsurance to a domestic ceding insurer as either an asset or a reduction from liability on account
 10 of reinsurance ceded unless credit is allowed as provided under ORS 731.508 and unless the re-
 11 insurer meets the requirements of:

- 12 (a) Subsection (4) of this section;
- 13 (b) Subsection (5) of this section and ORS 731.511 (1);
- 14 (c) Subsection (6) of this section;
- 15 (d) Subsections (7) and (8) of this section;
- 16 (e) ORS 731.511; [*or*]
- 17 (f)(A) Subsection (9) of this section; and
- 18 (B) Additional requirements that the director specifies by rule, which may include:
 - 19 (i) The valuation of assets or reserve credits;
 - 20 (ii) The amount and forms of security that support reinsurance arrangements; and
 - 21 (iii) The circumstances under which the director will reduce or eliminate credit[.]; **or**
 - 22 **(g) Subsection (10) of this section.**

23 (3) The director shall allow credit under subsection (4), (5) or (6) of this section or under ORS
 24 731.511 only with respect to cessions of the kinds or classes of business that the assuming insurer
 25 is licensed or otherwise permitted to write or assume in the state in which the assuming insurer is
 26 domiciled or, if the assuming insurer is an alien insurer, the state in which the assuming insurer is
 27 entered and is licensed or authorized to transact insurance or reinsurance. The director may allow
 28 credit under subsection (6) or (7) of this section only if the assuming insurer satisfies applicable
 29 requirements under subsection [(10)] **(11)** of this section.

30 (4) The director shall allow credit if the reinsurance is ceded to an authorized assuming insurer
 31 that accepts reinsurance of risks and retains the risk of the reinsurance within such limits as the
 32 assuming insurer is otherwise authorized to insure in this state, as provided in ORS 731.508.

33 (5) The director shall allow credit if the reinsurance is ceded to an assuming insurer that is
 34 accredited as a reinsurer in this state as provided in ORS 731.511. The director may not allow credit
 35 to a domestic ceding insurer if the director has revoked accreditation of the assuming insurer after
 36 notice and opportunity for hearing.

37 (6) The director shall allow credit if the reinsurance is ceded to a foreign assuming insurer or
 38 a United States branch of an alien assuming insurer meeting all of the following requirements:

39 (a) The foreign assuming insurer must be domiciled in a state employing standards regarding
 40 credit for reinsurance that equal or exceed the standards applicable under this section. The United
 41 States branch of an alien assuming insurer must be entered through a state employing such stan-
 42 dards.

43 (b) The foreign assuming insurer or United States branch of an alien assuming insurer must
 44 maintain a combined capital and surplus in an amount not less than \$20,000,000. The requirement
 45 of this paragraph does not apply to reinsurance ceded and assumed pursuant to pooling arrange-

1 ments among insurers in the same holding company system.

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

5 (7) The director shall allow credit if the reinsurance is ceded to an assuming insurer that
6 maintains a trust fund meeting the requirements of this subsection and subsection (8) of this section
7 and that also complies with other requirements of this subsection and subsection (8) of this section.
8 The trust fund must be maintained in a qualified United States financial institution, as defined in
9 ORS 731.510 (1), for the payment of the valid claims of the assuming insurer's United States
10 policyholders and ceding insurers and the assigns and successors in interest of the policyholders and
11 ceding insurers. The assuming insurer must report annually to the director information that is sub-
12 stantially the same as information authorized insurers must report on the annual statement form
13 under ORS 731.574, in order to enable the director to determine the sufficiency of the trust fund.
14 The assuming insurer shall submit to the director's examination of the assuming insurer's books and
15 records and shall pay to the director the expenses of the examination.

16 (8) The following requirements apply to the following categories of assuming insurers:

17 (a)(A) For a single assuming insurer, the trust fund must consist of funds in trust in an amount
18 not less than the assuming insurer's liabilities attributable to reinsurance ceded by United States
19 ceding insurers. In addition, except as provided in subparagraph (B) of this paragraph, the assuming
20 insurer must maintain a trustee surplus of not less than \$20,000,000.

21 (B) At any time after the assuming insurer permanently discontinues underwriting, for at least
22 three full years, new business that the trust secures, the commissioner that has principal regulatory
23 oversight over the trust may authorize a reduction in the required trustee surplus, but only after
24 finding based on an assessment of the risk that the new required surplus level is adequate to protect
25 United States ceding insurers, policyholders and claimants in light of reasonably foreseeable adverse
26 loss development. The risk assessment may involve an actuarial review, including an independent
27 analysis of reserves and cash flows, and must consider all material risk factors including, if appli-
28 cable, the lines of business involved, the stability of the incurred loss estimates and the effect of the
29 surplus requirements on the assuming insurer's liquidity or solvency. The commissioner may not
30 reduce the amount of the minimum required trustee surplus below 30 percent of the assuming
31 insurer's liabilities that are attributable to reinsurance that United States ceding insurers covered
32 by the trust have ceded.

33 (b) For a group that includes incorporated and individual unincorporated underwriters:

34 (A) For reinsurance ceded under reinsurance agreements with an inception, amendment or re-
35 newal date on or after August 1, 1995, the trust must consist of a trustee account in an amount
36 not less than the group's several liabilities attributable to business United States domiciled ceding
37 insurers have ceded to any member of the group.

38 (B) For reinsurance ceded under reinsurance agreements with an inception date on or before
39 July 31, 1995, and not amended or renewed after that date, notwithstanding the other provisions of
40 ORS 731.509, 731.510, 731.511, 731.512 and 731.516, the trust must consist of a trustee account in
41 an amount not less than the group's several insurance and reinsurance liabilities attributable to
42 business written in the United States.

43 (C) In addition to the trusts described in subparagraphs (A) and (B) of this paragraph, the group
44 shall maintain in trust a trustee surplus of which \$100,000,000 must be held jointly for the benefit
45 of the United States domiciled ceding insurers of any member of the group for all years of account.

1 (D) The incorporated members of the group may not engage in any business other than under-
2 writing as a member of the group and are subject to the same level of regulation and solvency
3 control by the group's domiciliary regulator as are the unincorporated members.

4 (E) Within 90 days after the group's financial statements are due to be filed with the group's
5 domiciliary regulator, the group shall provide to the director an annual certification by the group's
6 domiciliary regulator of the solvency of each underwriter member or, if certification is unavailable,
7 financial statements of each underwriter member of the group prepared by independent certified
8 public accountants.

9 (c) For the group of incorporated insurers described in this paragraph, the trust must be in an
10 amount equal to the group's several liabilities attributable to business ceded by United States ceding
11 insurers to any member of the group pursuant to reinsurance contracts issued in the name of the
12 group. This paragraph applies to a group of incorporated insurers under common administration that
13 complies with the annual reporting requirements contained in subsection (7) of this section and that
14 has continuously transacted an insurance business outside the United States for at least three years
15 immediately before applying for accreditation. Such a group must have an aggregate policyholders'
16 surplus of \$10,000,000,000 and must submit to the authority of this state to examine the group's
17 books and records and bear the expense of the examination. The group shall also maintain a joint
18 trusteed surplus of which \$100,000,000 must be held jointly for the benefit of United States ceding
19 insurers of any member of the group as additional security for any such liabilities. Each member
20 of the group shall make available to the director an annual certification of the member's solvency
21 by the member's domiciliary regulator and the member's independent certified public accountant.

22 (d) The form of the trust and any amendment to the trust must be approved by the insurance
23 commissioner of the state in which the trust is domiciled or by the insurance commissioner of an-
24 other state who, pursuant to the terms of the trust instrument, has accepted principal regulatory
25 oversight of the trust.

26 (e) The form of the trust and any trust amendments also must be filed with the insurance com-
27 missioner of every state in which the ceding insurer beneficiaries of the trust are domiciled. The
28 trust instrument must provide that contested claims are valid and enforceable upon the final order
29 of any court of competent jurisdiction in the United States. The trust must vest legal title to the
30 trust's assets in the trust's trustees for the benefit of the assuming insurer's United States ceding
31 insurers and the assigns and successors in interest of the ceding insurers. The trust and the as-
32 suming insurer are subject to examination as determined by the director. The trust must remain in
33 effect for as long as the assuming insurer has outstanding obligations due under the reinsurance
34 agreements subject to the trust.

35 (f) Not later than March 1 of each year, the trustees of each trust shall report to the director
36 in writing the balance of the trust, list the trust's investments at the preceding year end and certify
37 the date of termination of the trust, if a termination is planned, or certify that the trust will not
38 expire prior to the following December 31.

39 (9) The director shall allow credit if the reinsurance is ceded to an assuming insurer that does
40 not meet the requirements of subsection (4), (5), (6) or (7) of this section or ORS 731.511 (1) or (4),
41 but only as to the insurance of risks located in jurisdictions in which the reinsurance is required
42 by applicable law or regulation of that jurisdiction.

43 **(10) The director shall allow credit if the reinsurance is ceded to the Oregon Reinsurance**
44 **Program established in section 18, chapter 538, Oregon Laws 2017.**

45 [(10)] (11) If the assuming insurer is not licensed, accredited or certified to transact insurance

1 or reinsurance in this state, the director may not allow the credit permitted by subsections (6) and
2 (7) of this section unless the assuming insurer agrees in the reinsurance agreement to the provisions
3 stated in this subsection. This subsection does not conflict with or override the obligation of the
4 parties to a reinsurance agreement to arbitrate the parties' disputes, if such an obligation is created
5 in the agreement. The assuming insurer must agree in the reinsurance agreement:

6 (a) That if the assuming insurer fails to perform the assuming insurer's obligations under the
7 terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, shall
8 submit to the jurisdiction of any court of competent jurisdiction in any state of the United States,
9 will comply with all requirements necessary to give the court jurisdiction and will abide by the final
10 decision of the court or of any appellate court in the event of an appeal; and

11 (b) To designate the director or a designated attorney as the assuming insurer's true and lawful
12 attorney upon whom any lawful process in any action, suit or proceeding instituted by or on behalf
13 of the ceding company may be served.

14 [(11)] (12) If the assuming insurer does not meet the requirements of subsection (4), (5) or (6)
15 of this section or ORS 731.511 (1) or (4), the director may not allow the credit permitted by sub-
16 section (7) of this section unless the assuming insurer agrees in the trust agreements to the follow-
17 ing conditions:

18 (a) Notwithstanding any other provisions in the trust instrument, if the trust fund is inadequate
19 because the trust fund contains an amount less than the applicable amount required by subsection
20 (8)(a), (b) or (c) of this section, or if the grantor of the trust has been declared insolvent or placed
21 into receivership, rehabilitation, liquidation or similar proceedings under the laws of the grantor's
22 state or country of domicile, the trustee shall comply with an order of the insurance commissioner
23 with regulatory oversight over the trust or with an order of a court of competent jurisdiction di-
24 recting the trustee to transfer to the insurance commissioner with regulatory oversight all the as-
25 sets of the trust fund.

26 (b) The assets must be distributed by and claims must be filed with and valued by the insurance
27 commissioner with regulatory oversight in accordance with the laws of the state in which the trust
28 is domiciled that apply to the liquidation of domestic insurance companies.

29 (c) If the insurance commissioner with regulatory oversight determines that the assets of the
30 trust fund or any part of the assets is not necessary to satisfy the claims of the United States ceding
31 insurers of the grantor of the trust, the insurance commissioner of the state in which the trust is
32 domiciled shall return the assets or part of the assets in accordance with the laws of the state and
33 the terms of the trust agreement that are consistent with the laws of the state.

34 (d) The grantor shall waive any right otherwise available to the grantor under United States law
35 that is inconsistent with this subsection.

36 **SECTION 4.** ORS 731.509, as amended by section 3 of this 2025 Act, is amended to read:

37 731.509. (1) The purpose of ORS 731.509, 731.510, 731.511, 731.512 and 731.516 is to protect the
38 interests of insureds, claimants, ceding insurers, assuming insurers and the public generally. The
39 Legislative Assembly declares that the intent of the Legislative Assembly is to ensure adequate
40 regulation of insurers and reinsurers and adequate protection for those to whom insurers and re-
41 insurers owe obligations. In furtherance of that state interest, the Legislative Assembly mandates
42 that upon the insolvency of an alien insurer or reinsurer that provides security to fund the alien
43 insurer's or reinsurer's United States obligations in accordance with ORS 731.509, 731.510, 731.511,
44 731.512 and 731.516, the assets representing the security must be maintained in the United States
45 and claims must be filed with and valued by the state insurance commissioner with regulatory

1 oversight, and the assets must be distributed in accordance with the insurance laws of the state in
 2 which the trust is domiciled that are applicable to the liquidation of domestic United States insurers.
 3 The Legislative Assembly declares that the laws contained in ORS 731.509, 731.510, 731.511, 731.512
 4 and 731.516 are fundamental to the business of insurance in accordance with 15 U.S.C. 1011 and
 5 1012.

6 (2) The Director of the Department of Consumer and Business Services may not allow credit for
 7 reinsurance to a domestic ceding insurer as either an asset or a reduction from liability on account
 8 of reinsurance ceded unless credit is allowed as provided under ORS 731.508 and unless the re-
 9 insurer meets the requirements of:

- 10 (a) Subsection (4) of this section;
- 11 (b) Subsection (5) of this section and ORS 731.511 (1);
- 12 (c) Subsection (6) of this section;
- 13 (d) Subsections (7) and (8) of this section;
- 14 (e) ORS 731.511; **or**
- 15 (f)(A) Subsection (9) of this section; and
- 16 (B) Additional requirements that the director specifies by rule, which may include:
 - 17 (i) The valuation of assets or reserve credits;
 - 18 (ii) The amount and forms of security that support reinsurance arrangements; and
 - 19 (iii) The circumstances under which the director will reduce or eliminate credit[; *or*]
 - 20 [(g) Subsection (10) of this section].

21 (3) The director shall allow credit under subsection (4), (5) or (6) of this section or under ORS
 22 731.511 only with respect to cessions of the kinds or classes of business that the assuming insurer
 23 is licensed or otherwise permitted to write or assume in the state in which the assuming insurer is
 24 domiciled or, if the assuming insurer is an alien insurer, the state in which the assuming insurer is
 25 entered and is licensed or authorized to transact insurance or reinsurance. The director may allow
 26 credit under subsection (6) or (7) of this section only if the assuming insurer satisfies applicable
 27 requirements under subsection [(11)] **(10)** of this section.

28 (4) The director shall allow credit if the reinsurance is ceded to an authorized assuming insurer
 29 that accepts reinsurance of risks and retains the risk of the reinsurance within such limits as the
 30 assuming insurer is otherwise authorized to insure in this state, as provided in ORS 731.508.

31 (5) The director shall allow credit if the reinsurance is ceded to an assuming insurer that is
 32 accredited as a reinsurer in this state as provided in ORS 731.511. The director may not allow credit
 33 to a domestic ceding insurer if the director has revoked accreditation of the assuming insurer after
 34 notice and opportunity for hearing.

35 (6) The director shall allow credit if the reinsurance is ceded to a foreign assuming insurer or
 36 a United States branch of an alien assuming insurer meeting all of the following requirements:

37 (a) The foreign assuming insurer must be domiciled in a state employing standards regarding
 38 credit for reinsurance that equal or exceed the standards applicable under this section. The United
 39 States branch of an alien assuming insurer must be entered through a state employing such stan-
 40 dards.

41 (b) The foreign assuming insurer or United States branch of an alien assuming insurer must
 42 maintain a combined capital and surplus in an amount not less than \$20,000,000. The requirement
 43 of this paragraph does not apply to reinsurance ceded and assumed pursuant to pooling arrange-
 44 ments among insurers in the same holding company system.

45 (c) The foreign assuming insurer or United States branch of an alien assuming insurer must

1 submit to the authority of the director to examine the foreign assuming insurer's or the alien as-
 2 suming insurer's books and records.

3 (7) The director shall allow credit if the reinsurance is ceded to an assuming insurer that
 4 maintains a trust fund meeting the requirements of this subsection and subsection (8) of this section
 5 and that also complies with other requirements of this subsection and subsection (8) of this section.
 6 The trust fund must be maintained in a qualified United States financial institution, as defined in
 7 ORS 731.510 (1), for the payment of the valid claims of the assuming insurer's United States
 8 policyholders and ceding insurers and the assigns and successors in interest of the policyholders and
 9 ceding insurers. The assuming insurer must report annually to the director information that is sub-
 10 stantially the same as information authorized insurers must report on the annual statement form
 11 under ORS 731.574, in order to enable the director to determine the sufficiency of the trust fund.
 12 The assuming insurer shall submit to the director's examination of the assuming insurer's books and
 13 records and shall pay to the director the expenses of the examination.

14 (8) The following requirements apply to the following categories of assuming insurers:

15 (a)(A) For a single assuming insurer, the trust fund must consist of funds in trust in an amount
 16 not less than the assuming insurer's liabilities attributable to reinsurance ceded by United States
 17 ceding insurers. In addition, except as provided in subparagraph (B) of this paragraph, the assuming
 18 insurer must maintain a trustee surplus of not less than \$20,000,000.

19 (B) At any time after the assuming insurer permanently discontinues underwriting, for at least
 20 three full years, new business that the trust secures, the commissioner that has principal regulatory
 21 oversight over the trust may authorize a reduction in the required trustee surplus, but only after
 22 finding based on an assessment of the risk that the new required surplus level is adequate to protect
 23 United States ceding insurers, policyholders and claimants in light of reasonably foreseeable adverse
 24 loss development. The risk assessment may involve an actuarial review, including an independent
 25 analysis of reserves and cash flows, and must consider all material risk factors including, if appli-
 26 cable, the lines of business involved, the stability of the incurred loss estimates and the effect of the
 27 surplus requirements on the assuming insurer's liquidity or solvency. The commissioner may not
 28 reduce the amount of the minimum required trustee surplus below 30 percent of the assuming
 29 insurer's liabilities that are attributable to reinsurance that United States ceding insurers covered
 30 by the trust have ceded.

31 (b) For a group that includes incorporated and individual unincorporated underwriters:

32 (A) For reinsurance ceded under reinsurance agreements with an inception, amendment or re-
 33 newal date on or after August 1, 1995, the trust must consist of a trustee account in an amount
 34 not less than the group's several liabilities attributable to business United States domiciled ceding
 35 insurers have ceded to any member of the group.

36 (B) For reinsurance ceded under reinsurance agreements with an inception date on or before
 37 July 31, 1995, and not amended or renewed after that date, notwithstanding the other provisions of
 38 ORS 731.509, 731.510, 731.511, 731.512 and 731.516, the trust must consist of a trustee account in
 39 an amount not less than the group's several insurance and reinsurance liabilities attributable to
 40 business written in the United States.

41 (C) In addition to the trusts described in subparagraphs (A) and (B) of this paragraph, the group
 42 shall maintain in trust a trustee surplus of which \$100,000,000 must be held jointly for the benefit
 43 of the United States domiciled ceding insurers of any member of the group for all years of account.

44 (D) The incorporated members of the group may not engage in any business other than under-
 45 writing as a member of the group and are subject to the same level of regulation and solvency

1 control by the group's domiciliary regulator as are the unincorporated members.

2 (E) Within 90 days after the group's financial statements are due to be filed with the group's
3 domiciliary regulator, the group shall provide to the director an annual certification by the group's
4 domiciliary regulator of the solvency of each underwriter member or, if certification is unavailable,
5 financial statements of each underwriter member of the group prepared by independent certified
6 public accountants.

7 (c) For the group of incorporated insurers described in this paragraph, the trust must be in an
8 amount equal to the group's several liabilities attributable to business ceded by United States ceding
9 insurers to any member of the group pursuant to reinsurance contracts issued in the name of the
10 group. This paragraph applies to a group of incorporated insurers under common administration that
11 complies with the annual reporting requirements contained in subsection (7) of this section and that
12 has continuously transacted an insurance business outside the United States for at least three years
13 immediately before applying for accreditation. Such a group must have an aggregate policyholders'
14 surplus of \$10,000,000,000 and must submit to the authority of this state to examine the group's
15 books and records and bear the expense of the examination. The group shall also maintain a joint
16 trusteed surplus of which \$100,000,000 must be held jointly for the benefit of United States ceding
17 insurers of any member of the group as additional security for any such liabilities. Each member
18 of the group shall make available to the director an annual certification of the member's solvency
19 by the member's domiciliary regulator and the member's independent certified public accountant.

20 (d) The form of the trust and any amendment to the trust must be approved by the insurance
21 commissioner of the state in which the trust is domiciled or by the insurance commissioner of an-
22 other state who, pursuant to the terms of the trust instrument, has accepted principal regulatory
23 oversight of the trust.

24 (e) The form of the trust and any trust amendments also must be filed with the insurance com-
25 missioner of every state in which the ceding insurer beneficiaries of the trust are domiciled. The
26 trust instrument must provide that contested claims are valid and enforceable upon the final order
27 of any court of competent jurisdiction in the United States. The trust must vest legal title to the
28 trust's assets in the trust's trustees for the benefit of the assuming insurer's United States ceding
29 insurers and the assigns and successors in interest of the ceding insurers. The trust and the as-
30 suming insurer are subject to examination as determined by the director. The trust must remain in
31 effect for as long as the assuming insurer has outstanding obligations due under the reinsurance
32 agreements subject to the trust.

33 (f) Not later than March 1 of each year, the trustees of each trust shall report to the director
34 in writing the balance of the trust, list the trust's investments at the preceding year end and certify
35 the date of termination of the trust, if a termination is planned, or certify that the trust will not
36 expire prior to the following December 31.

37 (9) The director shall allow credit if the reinsurance is ceded to an assuming insurer that does
38 not meet the requirements of subsection (4), (5), (6) or (7) of this section or ORS 731.511 (1) or (4),
39 but only as to the insurance of risks located in jurisdictions in which the reinsurance is required
40 by applicable law or regulation of that jurisdiction.

41 *[(10) The director shall allow credit if the reinsurance is ceded to the Oregon Reinsurance Program*
42 *established in section 18, chapter 538, Oregon Laws 2017.]*

43 *[(11)]* (10) If the assuming insurer is not licensed, accredited or certified to transact insurance
44 or reinsurance in this state, the director may not allow the credit permitted by subsections (6) and
45 (7) of this section unless the assuming insurer agrees in the reinsurance agreement to the provisions

1 stated in this subsection. This subsection does not conflict with or override the obligation of the
2 parties to a reinsurance agreement to arbitrate the parties' disputes, if such an obligation is created
3 in the agreement. The assuming insurer must agree in the reinsurance agreement:

4 (a) That if the assuming insurer fails to perform the assuming insurer's obligations under the
5 terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, shall
6 submit to the jurisdiction of any court of competent jurisdiction in any state of the United States,
7 will comply with all requirements necessary to give the court jurisdiction and will abide by the final
8 decision of the court or of any appellate court in the event of an appeal; and

9 (b) To designate the director or a designated attorney as the assuming insurer's true and lawful
10 attorney upon whom any lawful process in any action, suit or proceeding instituted by or on behalf
11 of the ceding company may be served.

12 [(12)] (11) If the assuming insurer does not meet the requirements of subsection (4), (5) or (6)
13 of this section or ORS 731.511 (1) or (4), the director may not allow the credit permitted by sub-
14 section (7) of this section unless the assuming insurer agrees in the trust agreements to the follow-
15 ing conditions:

16 (a) Notwithstanding any other provisions in the trust instrument, if the trust fund is inadequate
17 because the trust fund contains an amount less than the applicable amount required by subsection
18 (8)(a), (b) or (c) of this section, or if the grantor of the trust has been declared insolvent or placed
19 into receivership, rehabilitation, liquidation or similar proceedings under the laws of the grantor's
20 state or country of domicile, the trustee shall comply with an order of the insurance commissioner
21 with regulatory oversight over the trust or with an order of a court of competent jurisdiction di-
22 recting the trustee to transfer to the insurance commissioner with regulatory oversight all the as-
23 sets of the trust fund.

24 (b) The assets must be distributed by and claims must be filed with and valued by the insurance
25 commissioner with regulatory oversight in accordance with the laws of the state in which the trust
26 is domiciled that apply to the liquidation of domestic insurance companies.

27 (c) If the insurance commissioner with regulatory oversight determines that the assets of the
28 trust fund or any part of the assets is not necessary to satisfy the claims of the United States ceding
29 insurers of the grantor of the trust, the insurance commissioner of the state in which the trust is
30 domiciled shall return the assets or part of the assets in accordance with the laws of the state and
31 the terms of the trust agreement that are consistent with the laws of the state.

32 (d) The grantor shall waive any right otherwise available to the grantor under United States law
33 that is inconsistent with this subsection.

34 **SECTION 5.** Section 48, chapter 538, Oregon Laws 2017, as amended by section 3, chapter 2,
35 Oregon Laws 2019, is amended to read:

36 **Sec. 48.** Sections 18 to 22, chapter 538, Oregon Laws 2017, are repealed on January 2, [2028]
37 **2038.**

38 **SECTION 6.** (1) **Section 2, chapter 538, Oregon Laws 2017, is repealed on January 2, 2038.**

39 **(2) Section 3, chapter 538, Oregon Laws 2017, as amended by section 4, chapter 2, Oregon**
40 **Laws 2019, is repealed on January 2, 2038.**

41 **(3) Section 4, chapter 538, Oregon Laws 2017, as amended by section 5, chapter 2, Oregon**
42 **Laws 2019, is repealed on January 2, 2038.**

43 **(4) Section 5, chapter 538, Oregon Laws 2017, as amended by section 6, chapter 2, Oregon**
44 **Laws 2019, is repealed on January 2, 2038.**

45 **(5) Section 6, chapter 538, Oregon Laws 2017, as amended by section 7, chapter 2, Oregon**

1 **Laws 2019, is repealed on January 2, 2038.**

2 **(6) Section 7, chapter 538, Oregon Laws 2017, is repealed on January 2, 2038.**

3 **(7) Section 8, chapter 538, Oregon Laws 2017, as amended by section 8, chapter 2, Oregon**
 4 **Laws 2019, is repealed on January 2, 2038.**

5 **SECTION 7. Nothing in the repeal of sections 2 to 8, chapter 538, Oregon Laws 2017, by**
 6 **section 6 of this 2025 Act affects the imposition and collection of a health insurance premium**
 7 **assessment under section 3 or 5, chapter 538, Oregon Laws 2017, for a calendar quarter**
 8 **ending on or before December 31, 2032.**

9 **SECTION 8. Any moneys remaining in the Health System Fund established by section 2,**
 10 **chapter 538, Oregon Laws 2017, on December 31, 2038, are transferred to the General Fund.**

11
 12 **MANAGED CARE ORGANIZATION ASSESSMENT**

13
 14 **SECTION 9. ORS 414.884 is amended to read:**

15 414.884. ORS 414.880, 414.882 and 414.902 apply to any payments made to a managed care or-
 16 ganization by the Oregon Health Authority for the period beginning January 1, 2020, and ending
 17 December 31, [2026] **2032.**

18 **SECTION 10. ORS 414.880, 414.882, 414.884 and 414.902 are repealed on January 2, 2038.**

19 **SECTION 11. Nothing in the repeal of ORS 414.880, 414.882, 414.884 and 414.902 by section**
 20 **10 of this 2025 Act affects the imposition and collection of a managed care organization as-**
 21 **essment under ORS 414.880 for a calendar quarter ending on or before December 31, 2032.**

22
 23 **HOSPITAL ASSESSMENT**

24
 25 **SECTION 12. Section 12, chapter 736, Oregon Laws 2003, as amended by section 4, chapter 780,**
 26 **Oregon Laws 2007, section 21, chapter 867, Oregon Laws 2009, section 9, chapter 608, Oregon Laws**
 27 **2013, section 3, chapter 16, Oregon Laws 2015, section 38, chapter 538, Oregon Laws 2017, and sec-**
 28 **tion 14, chapter 2, Oregon Laws 2019, is amended to read:**

29 **Sec. 12. (1) [Sections 1 to 9, chapter 736, Oregon Laws 2003,] ORS 414.853, 414.855, 414.857,**
 30 **414.863, 414.865, 414.867, 414.869 and 414.900 and section 4, chapter 736, Oregon Laws 2003, are**
 31 **repealed on January 2, [2031] 2038.**

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

33 **SECTION 13. ORS 414.871 is repealed on January 2, 2038.**

34 **SECTION 14. Section 13, chapter 736, Oregon Laws 2003, as amended by section 5, chapter 780,**
 35 **Oregon Laws 2007, section 22, chapter 867, Oregon Laws 2009, section 10, chapter 608, Oregon Laws**
 36 **2013, section 4, chapter 16, Oregon Laws 2015, section 39, chapter 538, Oregon Laws 2017, and sec-**
 37 **tion 15, chapter 2, Oregon Laws 2019, is amended to read:**

38 **Sec. 13. Nothing in the repeal of [sections 1 to 9, chapter 736, Oregon Laws 2003,] ORS 414.853,**
 39 **414.855, 414.857, 414.863, 414.865, 414.867, 414.869 and 414.900 and section 4, chapter 736, Oregon**
 40 **Laws 2003, and section 1, chapter 608, Oregon Laws 2013, by section 12, chapter 736, Oregon Laws**
 41 **2003, affects the imposition and collection of a hospital assessment under [sections 1 to 9, chapter**
 42 **736, Oregon Laws 2003,] ORS 414.853, 414.855, 414.857, 414.863, 414.865, 414.867, 414.869 and**
 43 **414.900 and section 4, chapter 736, Oregon Laws 2003, for a calendar quarter [beginning before**
 44 **September 30, 2025] ending on or before December 31, 2032.**

45 **SECTION 15. Section 14, chapter 736, Oregon Laws 2003, as amended by section 6, chapter 780,**

1 Oregon Laws 2007, section 23, chapter 867, Oregon Laws 2009, section 5, chapter 16, Oregon Laws
 2 2015, section 40, chapter 538, Oregon Laws 2017, and section 16, chapter 2, Oregon Laws 2019, is
 3 amended to read:

4 **Sec. 14.** Any moneys remaining in the Hospital Quality Assurance Fund on December 31,
 5 [2031] **2038**, are transferred to the General Fund.

6
 7 **CONFORMING AMENDMENTS**

8
 9 **SECTION 16.** ORS 731.292 is amended to read:

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

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

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

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

25 **SECTION 17.** ORS 731.840 is amended to read:

26 731.840. (1) The retaliatory tax imposed upon a foreign or alien insurer under ORS 731.854 and
 27 731.859, or the corporate excise tax imposed upon a foreign or alien insurer under ORS chapter 317,
 28 is in lieu of all other state taxes upon premiums, taxes upon income, franchise or other taxes
 29 measured by income that might otherwise be imposed upon the foreign or alien insurer except the
 30 fire insurance premiums tax imposed under ORS 731.820[,] **and** the tax imposed upon wet marine and
 31 transportation insurers under ORS 731.824 and 731.828 [*and the assessment imposed under section 5,*
 32 *chapter 538, Oregon Laws 2017*]. However, all real and personal property, if any, of the insurer shall
 33 be listed, assessed and taxed the same as real and personal property of like character of noninsur-
 34 ers. Nothing in this subsection shall be construed to preclude the imposition of the assessments
 35 imposed under ORS 656.612 upon a foreign or alien insurer.

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

38 (3) Subsection (1) of this section applies to foreign or alien title insurers and to foreign or alien
 39 wet marine and transportation insurers issuing policies and subject to taxes referred to in ORS
 40 731.824 and 731.828.

41 (4) The State of Oregon hereby preempts the field of regulating or of imposing excise, privilege,
 42 franchise, income, license, permit, registration, and similar taxes, licenses and fees upon insurers
 43 and their insurance producers and other representatives as such, and:

44 (a) No county, city, district, or other political subdivision or agency in this state shall so regu-
 45 late, or shall levy upon insurers, or upon their insurance producers and representatives as such, any

1 such tax, license or fee; except that whenever a county, city, district or other political subdivision
 2 levies or imposes generally on a nondiscriminatory basis throughout the jurisdiction of the taxing
 3 authority a payroll, excise or income tax, as otherwise provided by law, such tax may be levied or
 4 imposed upon domestic insurers; and

5 (b) No county, city, district, political subdivision or agency in this state shall require of any
 6 insurer, insurance producer or representative, duly authorized or licensed as such under the Insur-
 7 ance Code, any additional authorization, license, or permit of any kind for conducting therein
 8 transactions otherwise lawful under the authority or license granted under this code.

9 **SECTION 18.** ORS 291.055 is amended to read:

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

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

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

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

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

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

25 (2) This section does not apply to:

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

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

31 (c) Fees or payments required for:

32 (A) Health care services provided by the Oregon Health and Science University, by the Oregon
 33 Veterans' Homes pursuant to ORS 408.362 and 408.365 to 408.385 and by other state agencies and
 34 institutions pursuant to ORS 179.610 to 179.770.

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

36 *[(C) Assessments paid to the Department of Consumer and Business Services under sections 3 and*
 37 *5, chapter 538, Oregon Laws 2017.]*

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

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

42 (f) Any intergovernmental charges.

43 (g) Forest protection district assessment rates established by ORS 477.210 to 477.265 and the
 44 Oregon Forest Land Protection Fund fees established by ORS 477.760.

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

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

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

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

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

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

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

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

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

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

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

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

25 **SECTION 19.** ORS 243.135 is amended to read:

26 243.135. (1) Notwithstanding any other benefit plan contracted for and offered by the Public
 27 Employees' Benefit Board, the board shall contract for a health benefit plan or plans best designed
 28 to meet the needs and provide for the welfare of eligible employees, the state and the local gov-
 29 ernments. In considering whether to enter into a contract for a plan, the board shall place emphasis
 30 on:

31 (a) Employee choice among high quality plans;

32 (b) A competitive marketplace;

33 (c) Plan performance and information;

34 (d) Employer flexibility in plan design and contracting;

35 (e) Quality customer service;

36 (f) Creativity and innovation;

37 (g) Plan benefits as part of total employee compensation;

38 (h) The improvement of employee health; and

39 (i) Health outcome and quality measures, described in ORS 413.017 (4), that are reported by the
 40 plan.

41 (2) The board may approve more than one carrier for each type of plan contracted for and of-
 42 fered but the number of carriers shall be held to a number consistent with adequate service to eli-
 43 gible employees and their family members.

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

1 impose a surcharge in an amount determined by the board on an eligible employee who arranges
 2 coverage for the employee's spouse or dependent under this subsection if the spouse or dependent
 3 has access to medical coverage as an employee in another health benefit plan offered by the board
 4 or the Oregon Educators Benefit Board.

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

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

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

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

19 (8)(a) The board shall use payment methodologies in self-insured health benefit plans offered by
 20 the board that are designed to limit the growth in per-member expenditures for health services to
 21 no more than 3.4 percent per year. *[The assessment paid in accordance with section 3, chapter 538,*
 22 *Oregon Laws 2017, shall be excluded in determining the 3.4 percent annual increase in per-member*
 23 *expenditures for health services.]*

24 (b) The board shall adopt policies and practices designed to limit the annual increase in pre-
 25 mium amounts paid for contracted health benefit plans to 3.4 percent.

26 (9) As frequently as is recommended as a commercial best practice by consultants engaged by
 27 the board, the board shall conduct an audit of the health benefit plan enrollees' continued eligibility
 28 for coverage as spouses or dependents or any other basis that would affect the cost of the premium
 29 for the plan.

30 (10) If the board spends less than 12 percent of its total medical expenditures in self-insured
 31 health benefit plans on payments for primary care, the board shall implement a plan for increasing
 32 the percentage of total medical expenditures spent on payments for primary care by at least one
 33 percent each year.

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

38 **SECTION 20.** ORS 317A.100, as amended by section 26, chapter 75, Oregon Laws 2024, is
 39 amended to read:

40 317A.100. As used in ORS 317A.100 to 317A.158:

41 (1)(a) "Commercial activity" means:

42 (A) The total amount realized by a person, arising from transactions and activity in the regular
 43 course of the person's trade or business, without deduction for expenses incurred by the trade or
 44 business;

45 (B) If received by a financial institution:

1 (i) If the reporting person for a financial institution is a holding company, all items of income
2 reported on the FR Y-9 filed by the holding company;

3 (ii) If the reporting person for a financial institution is a bank organization, all items of income
4 reported on the call report filed by the bank organization; and

5 (iii) If the reporting person for a financial institution is a nonbank financial organization, all
6 items of income reported in accordance with generally accepted accounting principles; and

7 (C)(i) If received by an insurer, as reported on the statement of premiums accompanying the
8 annual statement required under ORS 731.574 to be filed with the Director of the Department of
9 Consumer and Business Services, all gross direct life insurance premiums, gross direct accident and
10 health insurance premiums and gross direct property and casualty insurance premiums; and

11 (ii) The gross amount of surplus lines premiums received on Oregon home state risks as shown
12 in the report required by ORS 735.465.

13 (b) "Commercial activity" does not include:

14 (A) Interest income except:

15 (i) Interest on credit sales; or

16 (ii) Interest income, including service charges, received by financial institutions;

17 (B) Receipts from the sale, exchange or other disposition of an asset described in section 1221
18 or 1231 of the Internal Revenue Code, without regard to the length of time the person held the asset;

19 (C) If received by an insurer, federally reinsured premiums or income from transactions between
20 a reciprocal insurer and its attorney in fact operating under ORS 731.142;

21 (D) Receipts from hedging transactions, to the extent that the transactions are entered into
22 primarily to protect a financial position, including transactions intended to manage the risk of ex-
23 posure to foreign currency fluctuations that affect assets, liabilities, profits, losses, equity or in-
24 vestments in foreign operations, risk of exposure to interest rate fluctuations or risk of commodity
25 price fluctuations;

26 (E) Proceeds received attributable to the repayment, maturity or redemption of the principal of
27 a loan, bond, mutual fund, certificate of deposit or marketable instrument;

28 (F) The principal amount received under a repurchase agreement or on account of any trans-
29 action properly characterized as a loan to the person;

30 (G) Contributions received by a trust, plan or other arrangement, any of which is described in
31 section 501(a) of the Internal Revenue Code, or to which title 26, subtitle A, chapter 1, subchapter
32 (D) of the Internal Revenue Code applies;

33 (H) Compensation, whether current or deferred, and whether in cash or in kind, received or to
34 be received by an employee, a former employee or the employee's legal successor for services ren-
35 dered to or for an employer, including reimbursements received by or for an individual for medical
36 or education expenses, health insurance premiums or employee expenses or on account of a de-
37 pendent care spending account, legal services plan, any cafeteria plan described in section 125 of
38 the Internal Revenue Code or any similar employee reimbursement;

39 (I) Proceeds received from the issuance of the taxpayer's own stock, options, warrants, puts or
40 calls, or from the sale of the taxpayer's treasury stock;

41 (J) Proceeds received on the account of payments from insurance policies, including crop in-
42 surance policies, owned by the taxpayer, except those proceeds received for the loss of commercial
43 activity;

44 (K) Gifts or charitable contributions received, membership dues received by trade, professional,
45 homeowners' or condominium associations, payments received for educational courses, meetings or

1 meals, or similar payments to a trade, professional or other similar association, and fundraising re-
 2 cepts received by any person when any excess receipts are donated or used exclusively for chari-
 3 table purposes;

4 (L) Damages received as the result of litigation in excess of amounts that, if received without
 5 litigation, would be treated as commercial activity;

6 (M) Property, money and other amounts received or acquired by an agent on behalf of another
 7 in excess of the agent's commission, fee or other remuneration;

8 (N) Tax refunds from any tax program, other tax benefit recoveries and reimbursements for the
 9 tax imposed under ORS 317A.100 to 317A.158 made by entities that are part of the same unitary
 10 group as provided under ORS 317A.106, and reimbursements made by entities that are not members
 11 of a unitary group that are required to be made for economic parity among multiple owners of an
 12 entity whose tax obligation under ORS 317A.100 to 317A.158 is required to be reported and paid
 13 entirely by one owner, as provided in ORS 317A.106;

14 (O) Pension reversions;

15 (P) Contributions to capital;

16 (Q) Receipts from the sale, transfer, exchange or other disposition of motor vehicle fuel or any
 17 other product used for the propulsion of motor vehicles;

18 (R) In the case of receipts from the sale of cigarettes or tobacco products by a wholesale dealer,
 19 retail dealer, distributor, manufacturer or seller, an amount equal to the federal and state excise
 20 taxes paid by any person on or for such cigarettes or tobacco products under subtitle E of the
 21 Internal Revenue Code or ORS chapter 323;

22 (S) In the case of receipts from the sale of malt beverages or wine, as defined in ORS 471.001,
 23 cider, as defined in ORS 471.023 or distilled liquor, as defined in ORS 471.001, by a person holding
 24 a license issued under ORS chapter 471, an amount equal to the federal and state excise taxes paid
 25 by any person on or for such malt beverages, wine or distilled liquor under subtitle E of the Internal
 26 Revenue Code or ORS chapter 471 or 473, and any amount paid to the Oregon Liquor and Cannabis
 27 Commission for sales of distilled spirits by an agent appointed under ORS 471.750;

28 (T) In the case of receipts from the sale of marijuana items, as defined in ORS 475C.009, by a
 29 person holding a license issued under ORS 475C.005 to 475C.525, an amount equal to the federal and
 30 state excise taxes paid by any person on or for such marijuana items under subtitle E of the Internal
 31 Revenue Code or ORS 475C.670 to 475C.734 and any local retail taxes authorized under ORS
 32 475C.453;

33 (U) Local taxes collected by a restaurant or other food establishment on sales of meals, prepared
 34 food or beverages;

35 (V) Tips or gratuities collected by a restaurant or other food establishment and passed on to
 36 employees;

37 (W) Receipts realized by a vehicle dealer certified under ORS 822.020 or a person described in
 38 ORS 320.400 (8)(a)(B) from the sale or other transfer of a motor vehicle, as defined in ORS 801.360,
 39 to another vehicle dealer for the purpose of resale by the transferee vehicle dealer, but only if the
 40 sale or other transfer was based upon the transferee's need to meet a specific customer's preference
 41 for a motor vehicle or is an exchange of new vehicles between franchised motor vehicle dealerships;

42 (X) Registration fees or taxes collected by a vehicle dealer certified under ORS 822.020 or a
 43 person described in ORS 320.400 (8)(a)(B) at the sale or other transfer of a motor vehicle, as defined
 44 in ORS 801.360, that are owed to a third party by the purchaser of the motor vehicle and passed to
 45 the third party by the dealer;

1 (Y) Receipts from a financial institution for services provided to the financial institution in
2 connection with the issuance, processing, servicing and management of loans or credit accounts, if
3 the financial institution and the recipient of the receipts have at least 50 percent of their ownership
4 interests owned or controlled, directly or constructively through related interests, by common own-
5 ers;

6 (Z) In the case of amounts retained as commissions by a holder of a license under ORS chapter
7 462, an amount equal to the amounts specified under ORS chapter 462 that must be paid to or col-
8 lected by the Department of Revenue as a tax and the amounts specified under ORS chapter 462 to
9 be used as purse money;

10 (AA) Receipts of residential care facilities as defined in ORS 443.400 or in-home care agencies
11 as defined in ORS 443.305, to the extent that the receipts are derived from or received as compen-
12 sation for providing services to a medical assistance or Medicare recipient;

13 (BB) Dividends received;

14 (CC) Distributive income received from a pass-through entity;

15 (DD) Receipts from sales to a wholesaler in this state, if the seller receives certification at the
16 time of sale from the wholesaler that the wholesaler will sell the purchased property outside this
17 state;

18 (EE) Receipts from the wholesale or retail sale of groceries, including receipts of a person that
19 owns groceries at the time of sale and compensation of any consignee engaged in effecting the sale
20 of groceries on behalf the owner of the groceries, but only to the extent that the compensation re-
21 lates to grocery sales;

22 (FF) Receipts from transactions among members of a unitary group;

23 (GG) Moneys, including public purpose charge moneys collected under ORS 757.612 and moneys
24 collected to plan for and pursue cost-effective energy efficiency resources under ORS 757.054, that
25 are collected from customers, passed to a utility and approved by the Public Utility Commission and
26 that support energy conservation, renewable resource acquisition and low-income assistance pro-
27 grams;

28 (HH) Moneys collected by a utility from customers for the payment of loans through on-bill fi-
29 nancing;

30 (II) Surcharges collected under ORS 757.736;

31 (JJ) Moneys passed to a utility by the Bonneville Power Administration for the purpose of
32 effectuating the Regional Power Act Exchange credits or pursuant to any settlement associated with
33 the exchange credit;

34 (KK) Moneys collected or recovered, by entities listed in ORS 756.310, cable operators as de-
35 fined in 47 U.S.C. 522(5), telecommunications carriers as defined in 47 U.S.C. 153(51) and providers
36 of information services as defined in 47 U.S.C. 153(24), for fees payable under ORS 756.310, right-of-
37 way fees, franchise fees, privilege taxes, federal taxes and local taxes;

38 (LL) Charges paid to the Residential Service Protection Fund required by chapter 290, Oregon
39 Laws 1987;

40 (MM) Universal service surcharge moneys collected or recovered and paid into the universal
41 service fund established in ORS 759.425;

42 (NN) Moneys collected for public purpose funding as described in ORS 759.430;

43 (OO) Moneys collected or recovered and paid into the federal universal service fund as deter-
44 mined by the Federal Communications Commission;

45 (PP) In the case of a seller or provider of telecommunications services, the amount of tax im-

1 posed under ORS 403.200 for access to the emergency communications system that is collected from
 2 subscribers or consumers;

3 (QQ) In the case of a transient lodging tax collector, the amount of tax imposed under ORS
 4 320.305 and of any local transient lodging tax imposed upon the occupancy of transit lodging;

5 (RR) In the case of a seller of bicycles, the amount of tax imposed under ORS 320.415 upon retail
 6 sales of bicycles;

7 (SS) In the case of a qualified heavy equipment provider, the amount of tax imposed under ORS
 8 307.872 upon the rental price of heavy equipment;

9 (TT) Farmer sales to an agricultural cooperative in this state that is a cooperative organization
 10 described in section 1381 of the Internal Revenue Code;

11 (UU) Revenue received by a business entity that is mandated by contract or subcontract to be
 12 distributed to another person or entity if the revenue constitutes sales commissions that are paid
 13 to a person who is not an employee of the business entity, including, without limitation, a split-fee
 14 real estate commission;

15 (VV) Receipts from the sale of fluid milk by dairy farmers that are not members of an agricul-
 16 tural cooperative; and

17 (WW)(i) Cost paid by a dealer for items of precious metal.

18 (ii) As used in this subparagraph, "item of precious metal" means an item of gold, silver,
 19 platinum, rhodium or palladium that has been put through a process of smelting or refining and that
 20 is in a state or condition that its value depends on its contents and not its form.

21 (2) "Cost inputs" means:

22 (a) The cost of goods sold as calculated in arriving at federal taxable income under the Internal
 23 Revenue Code; or

24 (b) In the case of a taxpayer that is engaged in a farming operation, as defined in ORS 317A.102,
 25 and that does not report cost of goods sold for federal tax purposes, the taxpayer's operating ex-
 26 penses excluding labor costs.

27 (3) "Doing business" means engaging in any activity, whether legal or illegal, that is conducted
 28 for, or results in, the receipt of commercial activity at any time during a calendar year.

29 (4) "Excluded person" means any of the following:

30 (a) Organizations described in sections 501(c) and 501(j) of the Internal Revenue Code, unless the
 31 exemption is denied under section 501(h), (i) or (m) or under section 502, 503 or 505 of the Internal
 32 Revenue Code.

33 (b) Organizations described in section 501(d) of the Internal Revenue Code, unless the exemption
 34 is denied under section 502 or 503 of the Internal Revenue Code.

35 (c) Organizations described in section 501(e) of the Internal Revenue Code.

36 (d) Organizations described in section 501(f) of the Internal Revenue Code.

37 (e) Charitable risk pools described in section 501(n) of the Internal Revenue Code.

38 (f) Organizations described in section 521 of the Internal Revenue Code.

39 (g) Qualified state tuition programs described in section 529 of the Internal Revenue Code.

40 (h) Foreign or alien insurance companies, but only with respect to the underwriting profit de-
 41 rived from writing wet marine and transportation insurance subject to tax under ORS 731.824 and
 42 731.828 or if an insurance company is subject to the retaliatory tax under ORS 731.854 and 731.859.

43 (i) Governmental entities.

44 (j) Any person with commercial activity that does not exceed \$750,000 for the tax year, other
 45 than a person that is part of a unitary group as provided in ORS 317A.106 with commercial activity

1 in excess of \$750,000.

2 (k) *[Hospitals subject to assessment under ORS 414.855,]* Long term care facilities subject to as-
 3 sessment under ORS 409.801 *[or any entity subject to assessment under ORS 414.880 or section 3 or*
 4 *5, chapter 538, Oregon Laws 2017].*

5 (L) Manufactured dwelling park nonprofit cooperatives organized under ORS chapter 62.

6 (5) “Financial institution” has the meaning given that term in ORS 314.610, except that “finan-
 7 cial institution” does not include a credit union.

8 (6)(a) “FR Y-9” means the consolidated or parent-only financial statements that a holding com-
 9 pany is required to file with the Federal Reserve Board pursuant to 12 U.S.C. 1844.

10 (b) In the case of a holding company required to file both consolidated and parent-only financial
 11 statements, “FR Y-9” means the consolidated financial statements that the holding company is re-
 12 quired to file.

13 (7) “Governmental entity” means:

14 (a) The United States and any of its unincorporated agencies and instrumentalities.

15 (b) Any incorporated agency or instrumentality of the United States wholly owned by the United
 16 States or by a corporation wholly owned by the United States.

17 (c) The State of Oregon and any of its unincorporated agencies and instrumentalities.

18 (d) Any county, city, district or other political subdivision of the state.

19 (e) A special government body as defined in ORS 174.117.

20 (f) A federally recognized Indian tribe.

21 (8) “Groceries” means food as defined in 7 U.S.C. 2012(k), but does not include cannabinoid
 22 edibles or marijuana seeds.

23 (9)(a) “Hedging transaction” means a hedging transaction as defined in section 1221 of the
 24 Internal Revenue Code or a transaction accorded hedge accounting treatment under Financial Ac-
 25 counting Standards Board Statement No. 133.

26 (b) “Hedging transaction” does not include a transaction in which an actual transfer of title of
 27 real or tangible property to another entity occurs.

28 (10) “Insurer” has the meaning given that term in ORS 317.010.

29 (11) “Internal Revenue Code,” except where the Legislative Assembly has provided otherwise,
 30 refers to the laws of the United States or to the Internal Revenue Code as they are amended and
 31 in effect on December 31, 2023.

32 (12) “Labor costs” means total compensation of all employees, not to include compensation paid
 33 to any single employee in excess of \$500,000.

34 (13)(a) “Motor vehicle fuel or any other product used for the propulsion of motor vehicles”
 35 means:

36 (A) Motor vehicle fuel as defined in ORS 319.010; and

37 (B) Fuel the use of which in a motor vehicle is subject to taxation under ORS 319.530.

38 (b) “Motor vehicle fuel or any other product used for the propulsion of motor vehicles” does not
 39 mean:

40 (A) Electricity; or

41 (B) Electric batteries or any other mechanical or physical component or accessory of a motor
 42 vehicle.

43 (14) “Person” includes individuals, combinations of individuals of any form, receivers, assignees,
 44 trustees in bankruptcy, firms, companies, joint-stock companies, business trusts, estates, partner-
 45 ships, limited liability partnerships, limited liability companies, associations, joint ventures, clubs,

1 societies, entities organized as for-profit corporations under ORS chapter 60, C corporations, S cor-
 2 porations, qualified subchapter S subsidiaries, qualified subchapter S trusts, trusts, entities that are
 3 disregarded for federal income tax purposes and any other entities.

4 (15) “Retailer” means a person doing business by selling tangible personal property to a pur-
 5 chaser for a purpose other than:

6 (a) Resale by the purchaser of the property as tangible personal property in the regular course
 7 of business;

8 (b) Incorporation by the purchaser of the property in the course of regular business as an in-
 9 gredient or component of real or personal property; or

10 (c) Consumption by the purchaser of the property in the production for sale of a new article of
 11 tangible personal property.

12 (16) “Taxable commercial activity” means commercial activity sourced to this state under ORS
 13 317A.128, less any subtraction pursuant to ORS 317A.119.

14 (17)(a) “Taxpayer” means any person or unitary group required to register, file or pay tax under
 15 ORS 317A.100 to 317A.158.

16 (b) “Taxpayer” does not include excluded persons, except to the extent that a tax-exempt entity
 17 has unrelated business income as described in the Internal Revenue Code.

18 (18) “Tax year” means, except as otherwise provided in ORS 317A.103, a taxpayer’s annual ac-
 19 counting period used for federal income tax purposes under section 441 of the Internal Revenue
 20 Code.

21 (19)(a) “Unitary business” means a business enterprise in which there exists directly or indi-
 22 rectly between the members or parts of the enterprise a sharing or exchange of value as demon-
 23 strated by:

24 (A) Centralized management or a common executive force;

25 (B) Centralized administrative services or functions resulting in economies of scale; or

26 (C) Flow of goods, capital resources or services demonstrating functional integration.

27 (b) “Unitary business” may include a business enterprise the activities of which:

28 (A) Are in the same general line of business, such as manufacturing, wholesaling or retailing;

29 or

30 (B) Constitute steps in a vertically integrated process, such as the steps involved in the pro-
 31 duction of natural resources, which might include exploration, mining, refining and marketing.

32 (20) “Unitary group” means a group of persons with more than 50 percent common ownership,
 33 either direct or indirect, that is engaged in business activities that constitute a unitary business.

34 (21) “Wholesaler” means a person primarily doing business by merchant distribution of tangible
 35 personal property to retailers or to other wholesalers.

36 **SECTION 21.** ORS 415.500 is amended to read:

37 415.500. As used in this section and ORS 415.501 and 415.505:

38 (1) “Corporate affiliation” has the meaning prescribed by the Oregon Health Authority by rule,
 39 including:

40 (a) Any relationship between two organizations that reflects, directly or indirectly, a partial or
 41 complete controlling interest or partial or complete corporate control; and

42 (b) Transactions that merge tax identification numbers or corporate governance.

43 (2) “Essential services” means:

44 (a) Services that are funded on the prioritized list described in ORS 414.690; and

45 (b) Services that are essential to achieve health equity.

- 1 (3) "Health benefit plan" has the meaning given that term in ORS 743B.005.
- 2 (4)(a) "Health care entity" includes:
- 3 (A) An individual health professional licensed or certified in this state;
- 4 (B) A hospital, as defined in ORS 442.015, or hospital system, as defined by the authority by rule;
- 5 (C) A carrier, as defined in ORS 743B.005, that offers a health benefit plan in this state;
- 6 (D) A Medicare Advantage plan;
- 7 (E) A coordinated care organization or a prepaid managed care health services organization, as
- 8 both terms are defined in ORS 414.025; and
- 9 (F) Any other entity that has as a primary function the provision of health care items or ser-
- 10 vices or that is a parent organization of, or is an entity closely related to, an entity that has as a
- 11 primary function the provision of health care items or services.
- 12 (b) "Health care entity" does not include:
- 13 (A) Long term care facilities, as defined in ORS 442.015.
- 14 (B) Facilities licensed and operated under ORS 443.400 to 443.455.
- 15 (5) "Health equity" has the meaning prescribed by the Oregon Health Policy Board and adopted
- 16 by the authority by rule.
- 17 (6)(a) "Material change transaction" means:
- 18 (A) A transaction in which at least one party had average revenue of \$25 million or more in the
- 19 preceding three fiscal years and another party:
- 20 (i) Had an average revenue of at least \$10 million in the preceding three fiscal years; or
- 21 (ii) In the case of a new entity, is projected to have at least \$10 million in revenue in the first
- 22 full year of operation at normal levels of utilization or operation as prescribed by the authority by
- 23 rule.
- 24 (B) If a transaction involves a health care entity in this state and an out-of-state entity, a
- 25 transaction that otherwise qualifies as a material change transaction under this paragraph that may
- 26 result in increases in the price of health care or limit access to health care services in this state.
- 27 (b) "Material change transaction" does not include:
- 28 (A) A clinical affiliation of health care entities formed for the purpose of collaborating on clin-
- 29 ical trials or graduate medical education programs.
- 30 (B) A medical services contract or an extension of a medical services contract.
- 31 (C) An affiliation that:
- 32 (i) Does not impact the corporate leadership, governance or control of an entity; and
- 33 (ii) Is necessary, as prescribed by the authority by rule, to adopt advanced value-based payment
- 34 methodologies to meet the health care cost growth targets under ORS 442.386.
- 35 (D) Contracts under which one health care entity, for and on behalf of a second health care
- 36 entity, provides patient care and services or provides administrative services relating to, supporting
- 37 or facilitating the provision of patient care and services, if the second health care entity:
- 38 (i) Maintains responsibility, oversight and control over the patient care and services; and
- 39 (ii) Bills and receives reimbursement for the patient care and services.
- 40 (E) Transactions in which a participant that is a health center as defined in 42 U.S.C. 254b,
- 41 while meeting all of the participant's obligations, acquires, affiliates with, partners with or enters
- 42 into any agreement with another entity unless the transaction would result in the participant no
- 43 longer qualifying as a health center under 42 U.S.C. 254b.
- 44 (7)(a) "Medical services contract" means a contract to provide medical or mental health services
- 45 entered into by:

1 (A) A carrier and an independent practice association;

2 (B) A carrier, coordinated care organization, independent practice association or network of
3 providers and one or more providers, as defined in ORS 743B.001;

4 (C) An independent practice association and an individual health professional or an organization
5 of health care providers;

6 (D) Medical, dental, vision or mental health clinics; or

7 (E) A medical, dental, vision or mental health clinic and an individual health professional to
8 provide medical, dental, vision or mental health services.

9 (b) "Medical services contract" does not include a contract of employment or a contract creat-
10 ing a legal entity and ownership of the legal entity that is authorized under ORS chapter 58, 60 or
11 70 or under any other law authorizing the creation of a professional organization similar to those
12 authorized by ORS chapter 58, 60 or 70, as may be prescribed by the authority by rule.

13 (8) "Net patient revenue" means the total amount of revenue, after allowance for contractual
14 amounts, charity care and bad debt, received for patient care and services, including:

15 (a) Value-based payments;

16 (b) Incentive payments; **and**

17 (c) Capitation payments or payments under any similar contractual arrangement for the pre-
18 payment or reimbursement of patient care and services[; *and*]

19 [*(d) Any payment received by a hospital to reimburse a hospital assessment under ORS 414.855*].

20 (9) "Revenue" means:

21 (a) Net patient revenue; or

22 (b) The gross amount of premiums received by a health care entity that are derived from health
23 benefit plans.

24 (10) "Transaction" means:

25 (a) A merger of a health care entity with another entity;

26 (b) An acquisition of one or more health care entities by another entity;

27 (c) New contracts, new clinical affiliations and new contracting affiliations that will eliminate
28 or significantly reduce, as defined by the authority by rule, essential services;

29 (d) A corporate affiliation involving at least one health care entity; or

30 (e) Transactions to form a new partnership, joint venture, accountable care organization, parent
31 organization or management services organization, as prescribed by the authority by rule.

32
33 **CAPTIONS**

34
35 **SECTION 22. The unit captions used in this 2025 Act are provided only for the conven-**
36 **ience of the reader and do not become part of the statutory law of this state or express any**
37 **legislative intent in the enactment of this 2025 Act.**

38
39 **OPERATIVE DATE AND EFFECTIVE DATE**

40
41 **SECTION 23. The amendments to ORS 243.135, 291.055, 317A.100, 415.500, 731.292, 731.509**
42 **and 731.840 by sections 4 and 17 to 22 of this 2025 Act become operative on January 2, 2038.**

43 **SECTION 24. This 2025 Act takes effect on the 91st day after the date on which the 2025**
44 **regular session of the Eighty-third Legislative Assembly adjourns sine die.**