

# Senate Bill 303

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senator Kate Brown for Governor Theodore R. Kulongoski)

## 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**.

Creates Office of Private Health Partnerships. Transfers functions and duties of Insurance Pool Governing Board to Office of Private Health Partnerships. Abolishes Insurance Pool Governing Board.

Permits office to establish by rule procedure for publication or release of aggregate data of applicants for enrollment and persons enrolled in Family Health Insurance Assistance Program.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to Insurance Pool Governing Board; creating new provisions; amending ORS 414.831,  
3 735.700, 735.702, 735.706, 735.710, 735.712, 735.714, 735.720, 735.722, 735.724, 735.726, 735.728,  
4 735.730, 735.731, 735.732, 735.733, 735.734, 735.736, 735.740, 735.750, 735.754 and 743.730 and  
5 sections 2b and 5, chapter 742, Oregon Laws 2003; repealing ORS 735.704 and 735.708; and de-  
6 claring an emergency.

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

8 **SECTION 1. (1) The Insurance Pool Governing Board established by ORS 735.704 is abol-**  
9 **ished. On the operative date of this section, the tenure of office of the members of the In-**  
10 **surance Pool Governing Board ceases.**

11 **(2) The duties, functions and powers of the Insurance Pool Governing Board relating to**  
12 **health insurance and health care are imposed upon, transferred to and vested in the Office**  
13 **of Private Health Partnerships.**

14 **SECTION 2. (1) The Office of Private Health Partnerships is established.**

15 **(2) The office shall carry out the duties described under ORS 414.831, 735.700 to 735.714**  
16 **and 735.720 to 735.740.**

17 **SECTION 3. (1) The Office of Private Health Partnerships is under the supervision and**  
18 **control of an administrator, who is responsible for the performance of the duties, functions**  
19 **and powers of the office.**

20 **(2) The Governor shall appoint the Administrator of the Office of Private Health Part-**  
21 **nerships, who holds office at the pleasure of the Governor.**

22 **(3) The administrator shall be paid a salary as provided by law or, if not so provided, as**  
23 **prescribed by the Governor.**

24 **(4) For purposes of administration, subject to the approval of the Governor, the admin-**  
25 **istrator may organize and reorganize the office as the administrator considers necessary to**  
26 **properly conduct the work of the office.**

27 **SECTION 4. (1) The Administrator of the Office of Private Health Partnerships shall, by**  
28 **written order filed with the Secretary of State, appoint a deputy director. The deputy direc-**

**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 tor serves at the pleasure of the administrator, has authority to act for the administrator  
2 in the absence of the administrator and is subject to the control of the administrator at all  
3 times.

4 (2) Subject to any applicable provisions of ORS chapter 240, the administrator shall ap-  
5 point all subordinate officers and employees of the Office of Private Health Partnerships,  
6 prescribe their duties and fix their compensation.

7 **SECTION 5.** In accordance with applicable provisions of ORS chapter 183, the Adminis-  
8 trator of the Office of Private Health Partnerships may adopt rules necessary for the ad-  
9 ministration of the laws that the Office of Private Health Partnerships is charged with  
10 administering.

11 **SECTION 6.** (1) The Insurance Pool Governing Board shall:

12 (a) Deliver to the Office of Private Health Partnerships all records and property within  
13 the jurisdiction of the board that relate to the duties, functions and powers transferred by  
14 section 1 of this 2005 Act; and

15 (b) Transfer to the Office of Private Health Partnerships those employees engaged pri-  
16 marily in the exercise of the duties, functions and powers transferred by section 1 of this  
17 2005 Act.

18 (2) The Administrator of the Office of Private Health Partnerships shall take possession  
19 of the records and property, and shall take charge of the employees and employ them in the  
20 exercise of the duties, functions and powers transferred by section 1 of this 2005 Act, without  
21 reduction of compensation but subject to change or termination of employment or compen-  
22 sation as provided by law.

23 (3) The Governor shall resolve any dispute between the Insurance Pool Governing Board  
24 and the Office of Private Health Partnerships relating to transfers of records, property and  
25 employees under this section, and the Governor's decision is final.

26 **SECTION 7.** (1) The unexpended balances of amounts authorized to be expended by the  
27 Insurance Pool Governing Board for the biennium beginning July 1, 2005, from revenues  
28 dedicated, continuously appropriated, appropriated or otherwise made available for the pur-  
29 pose of administering and enforcing the duties, functions and powers transferred by section  
30 1 of this 2005 Act are appropriated and transferred to and are available for expenditure by  
31 the Office of Private Health Partnerships for the biennium beginning July 1, 2005, for the  
32 purpose of administering and enforcing the duties, functions and powers transferred by sec-  
33 tion 1 of this 2005 Act.

34 (2) The expenditure classifications, if any, established by Acts authorizing or limiting  
35 expenditures by the Insurance Pool Governing Board remain applicable to expenditures by  
36 the Office of Private Health Partnerships under this section.

37 **SECTION 8.** The transfer of duties, functions and powers to the Office of Private Health  
38 Partnerships by section 1 of this 2005 Act does not affect any action, proceeding or prose-  
39 cution involving or with respect to such duties, functions and powers begun before and  
40 pending at the time of the transfer, except that the Office of Private Health Partnerships is  
41 substituted for the Insurance Pool Governing Board in the action, proceeding or prosecution.

42 **SECTION 9.** (1) Nothing in sections 1, 6, 7 and 8 of this 2005 Act relieves a person of a  
43 liability, duty or obligation accruing under or with respect to the duties, functions and pow-  
44 ers transferred by section 1 of this 2005 Act. The Office of Private Health Partnerships may  
45 undertake the collection or enforcement of any such liability, duty or obligation.

1       (2) The rights and obligations of the Insurance Pool Governing Board legally incurred  
2 under contracts, leases and business transactions executed, entered into or begun before the  
3 operative date of section 1 of this 2005 Act accruing under or with respect to the duties,  
4 functions and powers transferred by section 1 of this 2005 Act are transferred to the Office  
5 of Private Health Partnerships. For the purpose of succession to these rights and obligations,  
6 the Office of Private Health Partnerships is a continuation of the Insurance Pool Governing  
7 Board and not a new authority.

8       **SECTION 10.** (1) To aid and advise the Administrator of the Office of Private Health  
9 Partnerships in the performance of the functions of the Office of Private Health Partner-  
10 ships, the administrator may establish advisory committees that the administrator considers  
11 necessary. These committees may be continuing or temporary. The administrator shall de-  
12 termine the representation, membership, terms and organization of the committees and shall  
13 appoint their members. The administrator is an ex officio member of each committee.

14       (2) Members appointed to the committees shall represent business, labor, employers, in-  
15 surance carriers or producers and consumers.

16       (3) Members of the committees are not entitled to compensation, but at the discretion  
17 of the administrator may be reimbursed from funds available to the office for actual and  
18 necessary travel and other expenses incurred in the performance of their official duties in  
19 the manner and amount provided in ORS 292.495.

20       **SECTION 11.** Notwithstanding the transfer of duties, functions and powers by section 1  
21 of this 2005 Act, the rules of the Insurance Pool Governing Board with respect to such du-  
22 ties, functions or powers that are in effect on the operative date of section 1 of this 2005 Act  
23 continue in effect until superseded or repealed by rules of the Office of Private Health  
24 Partnerships. References in such rules of the Insurance Pool Governing Board to the In-  
25 surance Pool Governing Board or an officer or employee of the Insurance Pool Governing  
26 Board are considered to be references to the Office of Private Health Partnerships or an  
27 officer or employee of the Office of Private Health Partnerships.

28       **SECTION 12.** Whenever, in any uncodified law or resolution of the Legislative Assembly  
29 or in any rule, document, record or proceeding authorized by the Legislative Assembly, in  
30 the context of the duties, functions and powers transferred by section 1 of this 2005 Act,  
31 reference is made to the Insurance Pool Governing Board, or an officer or employee of the  
32 Insurance Pool Governing Board whose duties, functions or powers are transferred by sec-  
33 tion 1 of this 2005 Act, the reference is considered to be a reference to the Office of Private  
34 Health Partnerships or an officer or employee of the Office of Private Health Partnerships  
35 who by this 2005 Act is charged with carrying out such duties, functions and powers.

36       **SECTION 13.** (1) The Governor shall appoint the Administrator of the Office of Private  
37 Health Partnerships on or before November 1, 2005.

38       (2) The administrator may take any action before the operative date of section 1 of this  
39 2005 Act that is necessary to enable the administrator to exercise, on and after the operative  
40 date of section 1 of this 2005 Act, the duties, functions and powers of the administrator  
41 pursuant to section 1 of this 2005 Act.

42       **SECTION 14.** ORS 735.700 is amended to read:

43       735.700. As used in ORS 735.700 to [735.740] **735.714**, unless the context requires otherwise:

44       [(1) "Board" means the Insurance Pool Governing Board established under ORS 735.704.]

45       [(2)] (1) "Carrier" means an insurance company or health care service contractor holding a valid

1 certificate of authority from the Director of the Department of Consumer and Business Services, or  
 2 two or more companies or contractors acting together pursuant to a joint venture, partnership or  
 3 other joint means of operation.

4 [(3) “Class of employee” means an employee classed as either management or nonmanagement em-  
 5 ployee.]

6 [(4)] (2) “Eligible employee” means an employee of an employer who is employed by the em-  
 7 ployer for an average of at least 17.5 hours per week, sole proprietors, business partners, and limited  
 8 partners. The term does not include individuals:

9 (a) Engaged as independent contractors.

10 (b) Whose periods of employment are on an intermittent or irregular basis.

11 [(5)] (3) “Family member” means an eligible employee’s spouse, any unmarried child or stepchild  
 12 within age limits and other conditions imposed by the [board] **Office of Private Health Partner-**  
 13 **ships** with regard to unmarried children or stepchildren, or any other dependents eligible under the  
 14 terms of the health benefit plan selected by the employee’s employer.

15 [(6)] (4) “Health benefit plan” means a contract for group medical, surgical, hospital or any  
 16 other remedial care recognized by state law and related services and supplies.

17 [(7)] (5) “Premium” means the monthly or other periodic charge for a health benefit plan.

18 **SECTION 15.** ORS 735.700, as amended by section 6, chapter 742, Oregon Laws 2003, is  
 19 amended to read:

20 735.700. As used in ORS 735.700 to [735.740] **735.714**, unless the context requires otherwise:

21 [(1) “Board” means the Insurance Pool Governing Board established under ORS 735.704.]

22 [(2)] (1) “Carrier” means an insurance company or health care service contractor holding a valid  
 23 certificate of authority from the Director of the Department of Consumer and Business Services, or  
 24 two or more companies or contractors acting together pursuant to a joint venture, partnership or  
 25 other joint means of operation.

26 [(3) “Class of employee” means an employee classed as either management or nonmanagement em-  
 27 ployee.]

28 [(4)] (2) “Eligible employee” means an employee of an employer who is employed by the em-  
 29 ployer for an average of at least 17.5 hours per week who elects to participate in one of the group  
 30 benefit plans provided through [board] action **of the Office of Private Health Partnerships**, and  
 31 sole proprietors, business partners, and limited partners. The term does not include individuals:

32 (a) Engaged as independent contractors.

33 (b) Whose periods of employment are on an intermittent or irregular basis.

34 (c) Who have been employed by the employer for fewer than 90 days.

35 [(5)] (3) “Family member” means an eligible employee’s spouse and any unmarried child or  
 36 stepchild within age limits and other conditions imposed by the [board] **office** with regard to un-  
 37 married children or stepchildren.

38 [(6)] (4) “Health benefit plan” means a contract for group medical, surgical, hospital or any  
 39 other remedial care recognized by state law and related services and supplies.

40 [(7)] (5) “Premium” means the monthly or other periodic charge for a health benefit plan.

41 **SECTION 16.** ORS 735.702 is amended to read:

42 735.702. To increase access to health insurance and health care, the [Insurance Pool Governing  
 43 Board] **Office of Private Health Partnerships** shall provide:

44 (1) Information about health benefit plans and the premiums charged for those plans to self-  
 45 employed individuals and small employers in Oregon;

1 (2) Direct assistance to health insurance producers and health insurance consumers regarding  
2 health benefit plans;

3 (3) A central source for information about resources for health care and health insurance; and

4 (4) Health benefit plans for small employers.

5 **SECTION 17.** ORS 735.702, as amended by section 7, chapter 742, Oregon Laws 2003, is  
6 amended to read:

7 735.702. To increase access to health insurance and health care, the [*Insurance Pool Governing*  
8 *Board*] **Office of Private Health Partnerships** shall provide:

9 (1) Information about health benefit plans and the premiums charged for those plans to self-  
10 employed individuals and small employers in Oregon;

11 (2) Direct assistance to health insurance producers and health insurance consumers regarding  
12 health benefit plans;

13 (3) A central source for information about resources for health care and health insurance; and

14 (4) Health benefit plans for small employers that have not provided a group health benefit plan  
15 for eligible employees for a period of at least one year.

16 **SECTION 18.** ORS 735.706 is amended to read:

17 735.706. The [*Insurance Pool Governing Board Account*] **Office of Private Health Partnerships**  
18 **Account** is established separate and distinct from the General Fund. All moneys received by the  
19 [*Insurance Pool Governing Board*] **Office of Private Health Partnerships**, other than appropri-  
20 ations from the General Fund and except for moneys in the account established by ORS 735.736,  
21 shall be deposited into the account and are continuously appropriated to the [*board*] **office** to carry  
22 out the duties, functions and powers of the [*board*] **office**.

23 **SECTION 19.** ORS 735.710 is amended to read:

24 735.710. (1) In carrying out its duties under ORS 735.700 to **735.714 and 735.720 to 735.740**, the  
25 [*Insurance Pool Governing Board*] **Office of Private Health Partnerships** may:

26 (a) Enter into contracts for administration of ORS 735.700 to **735.714 and 735.720 to 735.740**,  
27 including collection of premiums and paying carriers.

28 (b) Retain consultants and employ staff.

29 (c) Enter into contracts with carriers or health care providers for health benefit plans.

30 (d) Set premium rates for eligible employees and small employers.

31 (e) Perform other duties to provide low-cost health benefit plans of types likely to be purchased  
32 by small employers.

33 (f) Establish contributions to be paid by small employers toward the premiums incurred on be-  
34 half of covered eligible employees.

35 (2) Notwithstanding any other health benefit plan contracted for and offered by the [*board*] **of-**  
36 **fice**, the [*board*] **office** shall contract for a health benefit plan or plans best designed to meet the  
37 needs and provide for the welfare of eligible employees and small employers.

38 (3) The [*board*] **office** may approve more than one carrier for each type of plan contracted for  
39 and offered, but the number of carriers shall be held to a number consistent with adequate service  
40 to eligible employees and family members.

41 (4) Where appropriate for a contracted and offered health benefit plan, the [*board*] **office** shall  
42 provide options under which an eligible employee may arrange coverage for family members of the  
43 employee.

44 (5) In developing any health benefit plan, the [*board*] **office** may provide an option of additional  
45 coverage for eligible employees and family members at an additional cost or premium.

1 (6) Transfer of enrollment from one health benefit plan to another shall be open to all eligible  
2 employees and family members under rules adopted by the [board] office.

3 (7) If the [board] office requests less health care service or benefit than is otherwise required  
4 by state law, a carrier is not required to offer such service or benefit.

5 (8) The [board] office may contract for and offer health benefit plans for small employers that  
6 provide a sufficient level of benefits to be eligible for a subsidy under ORS 735.724 as well as health  
7 benefit plans for small employers that are not eligible for a subsidy under ORS 735.724.

8 (9) The [board] office may employ whatever means are reasonably necessary to carry out the  
9 purposes of ORS 735.700 to **735.714 and 735.720 to** 735.740. Such authority includes but is not lim-  
10 ited to authority to seek clarification, amendment, modification, suspension or termination of any  
11 agreement or contract [which] that in the [board's] office's judgment requires such action.

12 **SECTION 20.** ORS 735.710, as amended by section 8, chapter 742, Oregon Laws 2003, is  
13 amended to read:

14 735.710. (1) In carrying out its duties under ORS 735.700 to **735.714 and 735.720 to** 735.740, the  
15 [Insurance Pool Governing Board] Office of Private Health Partnerships shall:

16 (a) Enter into contracts for administration of ORS 735.700 to **735.714 and 735.720 to** 735.740,  
17 including collection of premiums and paying carriers.

18 (b) Retain consultants and employ staff.

19 (c) Enter into contracts with carriers or health care providers for health benefit plans, including  
20 contracts where final payment may be reduced if usage is below a level fixed in the contract.

21 (d) Set premium rates for eligible employees and small employers.

22 (e) Perform other duties to provide low-cost health benefit plans of types likely to be purchased  
23 by small employers.

24 (f) Establish contributions to be paid by small employers toward the premiums incurred on be-  
25 half of covered eligible employees.

26 (2) Notwithstanding any other health benefit plan contracted for and offered by the [board] of-  
27 fice, the [board] office shall contract for a health benefit plan or plans best designed to meet the  
28 needs and provide for the welfare of eligible employees and small employers.

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

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

35 (5) In developing any health benefit plan, the [board] office may provide an option of additional  
36 coverage for eligible employees and family members at an additional cost or premium.

37 (6) Transfer of enrollment from one health benefit plan to another shall be open to all eligible  
38 employees and family members under rules adopted by the [board] office.

39 (7) If the [board] office requests less health care service or benefit than is otherwise required  
40 by state law, a carrier is not required to offer such service or benefit.

41 (8) Health benefit plans for small employers contracted for and offered by the [board] office  
42 must provide a sufficient level of benefits to be eligible for a subsidy under ORS 735.724.

43 (9) The [board] office may employ whatever means are reasonably necessary to carry out the  
44 purposes of ORS 735.700 to **735.714 and 735.720 to** 735.740. Such authority includes but is not lim-  
45 ited to authority to seek clarification, amendment, modification, suspension or termination of any

1 agreement or contract [which] **that** in the [board's] **office's** judgment requires such action.

2 **SECTION 21.** ORS 735.712 is amended to read:

3 735.712. (1) The [Insurance Pool Governing Board] **Office of Private Health Partnerships** shall  
4 encourage increased health insurance coverage among small employers:

5 (a) By providing information, benefit comparisons, premium comparisons and technical assist-  
6 ance on obtaining employee benefits and on incentives including, but not limited to, information on  
7 the pretax health benefit options allowed under section 125 of the United States Internal Revenue  
8 Code; and

9 (b) By using other means necessary to market health benefit plan coverage to small employers.

10 (2) The [Insurance Pool Governing Board] **office** shall provide information about other resources  
11 for accessing health care and shall assist consumers in accessing those resources.

12 **SECTION 22.** ORS 735.714 is amended to read:

13 735.714. The [Insurance Pool Governing Board] **Office of Private Health Partnerships** may  
14 renew health benefit plans for small employers offered by the [board] **office** on or after September  
15 2, 2003, that are not eligible for a subsidy under ORS 735.724.

16 **SECTION 23.** ORS 735.720 is amended to read:

17 735.720. For purposes of ORS 735.720 to 735.740:

18 (1) **“Carrier” has the meaning given that term in ORS 735.700.**

19 [(1)] (2) “Eligible individual” means an individual who:

20 (a) Is a resident of the State of Oregon;

21 (b) Is not eligible for Medicare;

22 (c) Either has been without health benefit plan coverage for a period of time established by the  
23 [Insurance Pool Governing Board] **Office of Private Health Partnerships**, or meets exception cri-  
24 teria established by the [board] **office**;

25 (d) Except as otherwise provided by the [board] **office**, has family income less than 200 percent  
26 of the federal poverty level;

27 (e) Has investments and savings less than the limit established by the [board] **office**; and

28 (f) Meets other eligibility criteria established by the [board] **office**.

29 [(2)] (3) “Family” means:

30 (a) A single individual;

31 (b) An adult and the adult's spouse;

32 (c) An adult and the adult's spouse, all unmarried, dependent children under 23 years of age,  
33 including adopted children, children placed for adoption and children under the legal guardianship  
34 of the adult or the adult's spouse, and all dependent children of a dependent child; or

35 (d) An adult and the adult's unmarried, dependent children under 23 years of age, including  
36 adopted children, children placed for adoption and children under the legal guardianship of the  
37 adult, and all dependent children of a dependent child.

38 [(3)(a)] (4)(a) “Health benefit plan” means a policy or certificate of group or individual health  
39 insurance, as defined in ORS 731.162, providing payment or reimbursement for hospital, medical and  
40 surgical expenses. “Health benefit plan” includes a medical savings account, health care service  
41 contractor or health maintenance organization subscriber contract, the Oregon Medical Insurance  
42 Pool and any plan provided by a less than fully insured multiple employer welfare arrangement or  
43 by another benefit arrangement defined in the federal Employee Retirement Income Security Act of  
44 1974, as amended.

45 (b) “Health benefit plan” does not include coverage for accident only, specific disease or condi-

tion only, credit, disability income, coverage of Medicare services pursuant to contracts with the federal government, Medicare supplement insurance, student accident and health insurance, long term care insurance, hospital indemnity only, dental only, vision only, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical payment insurance, insurance under which the benefits are payable with or without regard to fault and that is legally required to be contained in any liability insurance policy or equivalent self-insurance or coverage obtained or provided in another state but not available in Oregon.

[(4)] (5) "Income" means gross income in cash or kind available to the applicant or recipient.

[(5)] (6) "Investment and savings" means cash, securities as defined in ORS 59.015, negotiable instruments as defined in ORS 73.0104 and such similar investments or savings as the [board] office may establish that are available to the applicant or recipient to contribute toward meeting the needs of an applicant or eligible individual.

[(6)] (7) "Medicaid" means medical assistance provided under 42 U.S.C. section 1396a (section 1902 of the Social Security Act).

[(7)] (8) "Medical savings account" means a trust that is created exclusively for the purpose of paying qualified medical expenses of the account holder and that qualifies for tax deduction under section 220 of the Internal Revenue Code. "Medical savings account" includes an associated high deductible health benefit plan.

[(8)] (9) "Resident" means an individual who [*demonstrates to the Insurance Pool Governing Board that the individual is lawfully residing in Oregon and intends to reside in Oregon*] **meets the residency requirements established by rule by the office.**

[(9)] (10) "Subsidy" means payment or reimbursement to an eligible individual toward the purchase of a health benefit plan, and may include a net billing arrangement with [*insurance*] carriers or a prospective or retrospective payment for health benefit plan premiums and eligible copayments or deductible expenses directly related to the eligible individual.

[(10)] (11) "Third-party administrator" means any insurance company or other entity licensed under the Insurance Code to administer health insurance benefit programs.

**SECTION 24.** ORS 735.722 is amended to read:

735.722. (1) There is established the Family Health Insurance Assistance Program in the [*Insurance Pool Governing Board*] **Office of Private Health Partnerships**. The purpose of the program is to remove economic barriers to health insurance coverage for residents of the State of Oregon with family income less than 200 percent of the federal poverty level, and investment and savings less than the limit established by the [board] office, while encouraging individual responsibility, promoting health benefit plan coverage of children, building on the private sector health benefit plan system and encouraging employer and employee participation in employer sponsored health benefit plan coverage.

(2) The [*Insurance Pool Governing Board*] **Office of Private Health Partnerships** shall be responsible for the implementation and operation of the Family Health Insurance Assistance Program. The Administrator of the Office for Oregon Health Policy and Research, in consultation with the Oregon Health Policy Commission, shall make recommendations to the [board] **Office of Private Health Partnerships** regarding program policy, including but not limited to eligibility requirements, assistance levels, benefit criteria and [*insurance*] carrier participation. The [board] **Office of Private Health Partnerships** shall adopt all policy recommendations made by the Administrator of the Office for Oregon Health Policy and Research pursuant to this subsection.

1 (3) The *[board]* **Office of Private Health Partnerships** may contract with one or more third-  
 2 party administrators to administer one or more components of the Family Health Insurance Assist-  
 3 ance Program. Duties of a third-party administrator may include but are not limited to:

- 4 (a) Eligibility determination;
- 5 (b) Data collection;
- 6 (c) Assistance payments;
- 7 (d) Financial tracking and reporting; and
- 8 (e) Such other services as the *[board]* **office** may deem necessary for the administration of the  
 9 program.

10 (4) If the *[board]* **office** decides to enter into a contract with a third-party administrator pursu-  
 11 ant to subsection (3) of this section, the *[board]* **office** shall engage in competitive bidding. The  
 12 *[board]* **office** shall evaluate bids according to criteria established by the *[board]* **office**, including  
 13 but not limited to:

- 14 (a) The applicant’s proven ability to administer a program of the size of the Family Health In-  
 15 surance Assistance Program;
- 16 (b) The efficiency of the applicant’s payment procedures;
- 17 (c) The estimate provided of the total charges necessary to administer the program; and
- 18 (d) The applicant’s ability to operate the program in a cost-effective manner.

19 **SECTION 25.** ORS 735.724 is amended to read:

20 735.724. (1) To enroll in the Family Health Insurance Assistance Program established in ORS  
 21 735.720 to 735.740, an applicant shall submit a written application to the *[Insurance Pool Governing*  
 22 *Board]* **Office of Private Health Partnerships** or to the third-party administrator contracted by  
 23 the *[board]* **office** to administer the program pursuant to ORS 735.722 in the form and manner pre-  
 24 scribed by the *[board]* **office**. Except as provided in ORS 735.728, if the applicant qualifies as an  
 25 eligible individual, the applicant shall either be enrolled in the program or placed on a waiting list  
 26 for enrollment.

27 (2) After an eligible individual has enrolled in the program, the individual shall remain eligible  
 28 for enrollment for the period of time established by the *[board]* **office**.

29 (3) After an eligible individual has enrolled in the program, the *[board]* **office** or third-party  
 30 administrator shall issue subsidies in an amount determined pursuant to ORS 735.726 to either the  
 31 eligible individual or to the *[health insurance]* carrier designated by the eligible individual, subject  
 32 to the following restrictions:

33 (a) Subsidies may not be issued to an eligible individual unless all children, if any, in the eligible  
 34 individual’s family are covered under a health benefit plan or Medicaid.

35 (b) Subsidies may not be used to subsidize premiums on a health benefit plan whose premiums  
 36 are wholly paid by the eligible individual’s employer without contribution from the employee.

37 (c) Such other restrictions as the *[board]* **office** may adopt.

38 (4) The *[board]* **office** may issue subsidies to an eligible individual in advance of a purchase of  
 39 a health benefit plan.

40 (5) To remain eligible for a subsidy, an eligible individual must enroll in a group health benefit  
 41 plan if a plan is available to the eligible individual through the individual’s employment and the  
 42 employer makes a monetary contribution toward the cost of the plan, unless the *[board]* **office** im-  
 43 plements specific cost or benefit structure criteria that make enrollment in an individual health in-  
 44 surance plan more advantageous for the eligible individual.

45 (6) Notwithstanding ORS 735.720 [(3)] (4)(b), if an eligible individual is enrolled in a group health

1 benefit plan available to the eligible individual through the individual's employment and the em-  
 2 ployer requires enrollment in both a health benefit plan and a dental plan, the individual is eligible  
 3 for a subsidy for both the health benefit plan and the dental plan.

4 **SECTION 26.** ORS 735.726 is amended to read:

5 735.726. (1) The [*Insurance Pool Governing Board*] **Office of Private Health Partnerships** shall  
 6 determine the level of assistance to be granted under ORS 735.724 based on a sliding scale that  
 7 considers:

8 (a) Family size;

9 (b) Family income;

10 (c) The number of members of a family who will receive health benefit plan coverage subsidized  
 11 through the Family Health Insurance Assistance Program; and

12 (d) Such other factors as the [*board*] **office** may establish.

13 (2) Notwithstanding the sliding scale established in subsection (1) of this section, the [*board*]  
 14 **office** may establish different assistance levels for otherwise similarly situated eligible individuals  
 15 based on factors including but not limited to whether the individual is enrolled in an employer-  
 16 sponsored group health benefit plan or an individual health benefit plan.

17 **SECTION 27.** ORS 735.728 is amended to read:

18 735.728. (1) Notwithstanding eligibility criteria and subsidy amounts established pursuant to ORS  
 19 735.720 to 735.740, subsidies shall be provided only to the extent the Legislative Assembly specif-  
 20 ically appropriates funds to provide such assistance.

21 (2) The [*Insurance Pool Governing Board*] **Office of Private Health Partnerships** shall prohibit  
 22 or limit enrollment in the Family Health Insurance Assistance Program to ensure that program  
 23 expenditures are within legislatively appropriated amounts. Prohibitions or limitations allowed un-  
 24 der this section may include but are not limited to:

25 (a) Lowering the allowable income level necessary to qualify as an eligible individual; and

26 (b) Establishing a waiting list of eligible individuals who shall receive subsidies only when suf-  
 27 ficient funds are available.

28 **SECTION 28.** ORS 735.730 is amended to read:

29 735.730. The [*Insurance Pool Governing Board*] **Office of Private Health Partnerships** may,  
 30 based on the recommendation of the Administrator of the Office for Oregon Health Policy and Re-  
 31 search, establish minimum benefit requirements for individual health benefit plans subject to subsidy  
 32 pursuant to the Family Health Insurance Assistance Program, including but not limited to the type  
 33 of services covered and the amount of cost-sharing to be allowed.

34 **SECTION 29.** ORS 735.731 is amended to read:

35 735.731. (1) The Family Health Insurance Assistance Program shall provide coverage of age-  
 36 appropriate immunizations or other health care services when an eligible individual is enrolled in  
 37 a health benefit plan that does not provide coverage of age-appropriate immunizations or other  
 38 health care services required by the state medical assistance program and the eligible individual is  
 39 receiving a subsidy described in ORS 414.839.

40 (2) The [*Insurance Pool Governing Board*] **Office of Private Health Partnerships** shall adopt  
 41 rules implementing subsection (1) of this section.

42 **SECTION 30.** ORS 735.732 is amended to read:

43 735.732. (1) Except as otherwise provided in this section, **the Office of Private Health Part-**  
 44 **nerships may not disclose** information provided to the [*Insurance Pool Governing Board*] **office**  
 45 as part of an application for enrollment in the Family Health Insurance Assistance Program [*shall*

1 *remain confidential*].

2 (2) The [board] **office** may exchange information provided to the [board] **office** with other state  
3 and federal agencies for the purposes of verifying eligibility for the program, improving provision  
4 of services and identifying economic trends relevant to administration of the program.

5 (3) In accordance with applicable state and federal law, the [board] **office** may require appli-  
6 cants to provide their Social Security numbers and use those numbers in the administration of the  
7 program.

8 (4) **The office may establish by rule a procedure for publication or release of aggregate**  
9 **data that relates to applicants for enrollment and persons enrolled in the Family Health In-**  
10 **urance Assistance Program.**

11 **SECTION 31.** ORS 735.733 is amended to read:

12 735.733. The [Insurance Pool Governing Board] **Office of Private Health Partnerships** shall  
13 establish at least one basic benchmark health benefit plan that qualifies for a subsidy described by  
14 ORS 414.839. In establishing a basic benchmark plan, the [board] **office** shall consider employer-  
15 sponsored health benefit plans offered to employees and dependents of employees in Oregon.

16 **SECTION 32.** ORS 735.734 is amended to read:

17 735.734. The [Insurance Pool Governing Board] **Office of Private Health Partnerships**, in  
18 consultation with the Administrator of the Office for Oregon Health Policy and Research **and the**  
19 **Department of Human Services**, shall adopt all rules necessary for the implementation and oper-  
20 ation of the Family Health Insurance Assistance Program.

21 **SECTION 33.** ORS 735.736 is amended to read:

22 735.736. There is established in the State Treasury the Family Health Insurance Assistance  
23 Program Account, which shall consist of moneys appropriated to the account by the Legislative  
24 Assembly and interest earnings from the investment of moneys in the account. All moneys in the  
25 Family Health Insurance Assistance Program Account are continuously appropriated to the [Insur-  
26 ance Pool Governing Board] **Office of Private Health Partnerships** to carry out the provisions of  
27 ORS 735.720 to 735.740.

28 **SECTION 34.** ORS 735.740 is amended to read:

29 735.740. (1) The [Insurance Pool Governing Board] **Office of Private Health Partnerships** may  
30 impose sanctions against an individual who violates any provision of ORS 735.720 to 735.740 or rules  
31 adopted thereto, including but not limited to suspension or termination from the Family Health In-  
32 surance Assistance Program and repayment of any subsidy amounts paid due to the omission or  
33 misrepresentation of an applicant or enrolled individual. Sanctions allowed under this subsection  
34 shall be imposed in the manner prescribed in ORS chapter 183.

35 (2) In addition to the sanctions available pursuant to subsection (1) of this section, the [board]  
36 **office** may impose a civil penalty not to exceed \$1,000 against any individual who violates any  
37 provision of ORS 735.720 to 735.740 or rules adopted pursuant thereto. Civil penalties imposed pur-  
38 suant to this section shall be imposed pursuant to ORS 183.745.

39 **SECTION 35.** ORS 735.750 is amended to read:

40 735.750. As used in ORS 735.750 to 735.756:

41 (1) "Benefits plan" has the meaning given that term in ORS 735.605.

42 (2) "Other costs" means costs incurred by the Oregon Medical Insurance Pool that are not  
43 covered by the premiums received by the pool for a subsidized member.

44 (3) "Premium" has the meaning given that term in ORS 735.700.

45 (4) "Subsidized member" means a medical assistance program client who is enrolled in a benefits

1 plan and who is receiving a subsidy from the Family Health Insurance Assistance Program [*of the*  
2 *Insurance Pool Governing Board*] established in ORS 735.720 to 735.740.

3 (5) “Subsidy” has the meaning given that term in ORS 735.720.

4 **SECTION 36.** ORS 735.754 is amended to read:

5 735.754. (1) In order to increase public subsidies for the purchase of health insurance coverage  
6 provided by public programs or private insurance described by ORS 414.839, the [*Insurance Pool*  
7 *Governing Board*] **Office of Private Health Partnerships**, the Oregon Medical Insurance Pool  
8 Board and the Department of Human Services shall work cooperatively to obtain federal matching  
9 dollars. The [*Insurance Pool Governing Board*] **office**, the Oregon Medical Insurance Pool Board and  
10 the department shall develop a system for payment or reimbursement of other costs and subsidies  
11 provided to subsidized members.

12 (2) For each subsidized member, the Oregon Medical Insurance Pool Board shall determine:

13 (a) The full cost of administering the benefits plan of the subsidized member; and

14 (b) The amount of other costs.

15 (3) The Oregon Medical Insurance Pool Board shall bill the Family Health Insurance Assistance  
16 Program for the total amount of the premium received by the Oregon Medical Insurance Pool Board  
17 and for the amount of other costs. The program shall forward the bill to the department.

18 (4) The department shall pay the program an amount equal to the portion of the premium that  
19 is a subsidy and for other costs. The program shall forward the payment to the Oregon Medical  
20 Insurance Pool Board.

21 **SECTION 37.** ORS 414.831 is amended to read:

22 414.831. The [*Insurance Pool Governing Board*] **Office of Private Health Partnerships** shall  
23 focus on expanding group coverage provided by the Family Health Insurance Assistance Program.

24 **SECTION 38.** ORS 743.730 is amended to read:

25 743.730. As used in ORS 743.730 to 743.773:

26 (1) “Actuarial certification” means a written statement by a member of the American Academy  
27 of Actuaries or other individual acceptable to the Director of the Department of Consumer and  
28 Business Services that a carrier is in compliance with the provisions of ORS 743.736, 743.760 or  
29 743.761, based upon the person’s examination, including a review of the appropriate records and of  
30 the actuarial assumptions and methods used by the carrier in establishing premium rates for small  
31 employer and portability health benefit plans.

32 (2) “Affiliate” of, or person “affiliated” with, a specified person means any carrier who, directly  
33 or indirectly through one or more intermediaries, controls or is controlled by or is under common  
34 control with a specified person. For purposes of this definition, “control” has the meaning given that  
35 term in ORS 732.548.

36 (3) “Affiliation period” means, under the terms of a group health benefit plan issued by a health  
37 care service contractor, a period:

38 (a) That is applied uniformly and without regard to any health status related factors to an  
39 enrollee or late enrollee in lieu of a preexisting conditions provision;

40 (b) That must expire before any coverage becomes effective under the plan for the enrollee or  
41 late enrollee;

42 (c) During which no premium shall be charged to the enrollee or late enrollee; and

43 (d) That begins on the enrollee’s or late enrollee’s first date of eligibility for coverage and runs  
44 concurrently with any eligibility waiting period under the plan.

45 (4) “Basic health benefit plan” means a health benefit plan for small employers that is required

1 to be offered by all small employer carriers and approved by the Director of the Department of  
2 Consumer and Business Services in accordance with ORS 743.736.

3 (5) "Bona fide association" means an association that meets the requirements of 42 U.S.C.  
4 300gg-11 as amended and in effect on July 1, 1997.

5 (6) "Carrier" means any person who provides health benefit plans in this state, including a li-  
6 censed insurance company, a health care service contractor, a health maintenance organization, an  
7 association or group of employers that provides benefits by means of a multiple employer welfare  
8 arrangement or any other person or corporation responsible for the payment of benefits or provision  
9 of services.

10 (7) "Committee" means the Health Insurance Reform Advisory Committee created under ORS  
11 743.745.

12 (8) "Creditable coverage" means prior health care coverage as defined in 42 U.S.C. 300gg as  
13 amended and in effect on July 1, 1997, and includes coverage remaining in force at the time the  
14 enrollee obtains new coverage.

15 (9) "Department" means the Department of Consumer and Business Services.

16 (10) "Dependent" means the spouse or child of an eligible employee, subject to applicable terms  
17 of the health benefit plan covering the employee.

18 (11) "Director" means the Director of the Department of Consumer and Business Services.

19 (12) "Eligible employee" means an employee of a small employer who works on a regularly  
20 scheduled basis, with a normal work week of 17.5 or more hours. The employer may determine hours  
21 worked for eligibility between 17.5 and 40 hours per week subject to rules of the carrier. "Eligible  
22 employee" includes sole proprietors, partners of a partnership, leased workers as defined in ORS  
23 743.522 or independent contractors if they are included as employees under a health benefit plan of  
24 a small employer but does not include employees who work on a temporary, seasonal or substitute  
25 basis. Employees who have been employed by the small employer for fewer than 90 days are not  
26 eligible employees unless the small employer so allows.

27 (13) "Enrollee" means an employee, dependent of the employee or an individual otherwise eligi-  
28 ble for a group, individual or portability health benefit plan who has enrolled for coverage under the  
29 terms of the plan.

30 (14) "Exclusion period" means a period during which specified treatments or services are ex-  
31 cluded from coverage.

32 (15) "Financially impaired" means a member that is not insolvent and is:

33 (a) Considered by the Director of the Department of Consumer and Business Services to be po-  
34 tentially unable to fulfill its contractual obligations; or

35 (b) Placed under an order of rehabilitation or conservation by a court of competent jurisdiction.

36 (16)(a) "Geographic average rate" means the arithmetical average of the lowest premium and the  
37 corresponding highest premium to be charged by a carrier in a geographic area established by the  
38 director for the carrier's:

39 (A) Small employer group health benefit plans;

40 (B) Individual health benefit plans; or

41 (C) Portability health benefit plans.

42 (b) "Geographic average rate" does not include premium differences that are due to differences  
43 in benefit design or family composition.

44 (17) "Group eligibility waiting period" means, with respect to a group health benefit plan, the  
45 period of employment or membership with the group that a prospective enrollee must complete be-

1 fore plan coverage begins.

2 (18)(a) "Health benefit plan" means any hospital expense, medical expense or hospital or medical  
3 expense policy or certificate, health care service contractor or health maintenance organization  
4 subscriber contract, any plan provided by a multiple employer welfare arrangement or by another  
5 benefit arrangement defined in the federal Employee Retirement Income Security Act of 1974, as  
6 amended.

7 (b) "Health benefit plan" does not include coverage for accident only, specific disease or condi-  
8 tion only, credit, disability income, coverage of Medicare services pursuant to contracts with the  
9 federal government, Medicare supplement insurance policies, coverage of CHAMPUS services pur-  
10 suant to contracts with the federal government, benefits delivered through a flexible spending ar-  
11 rangement established pursuant to section 125 of the Internal Revenue Code of 1986, as amended,  
12 when the benefits are provided in addition to a group health benefit plan, long term care insurance,  
13 hospital indemnity only, short term health insurance policies (the duration of which does not exceed  
14 six months including renewals), student accident and health insurance policies, dental only, vision  
15 only, a policy of stop-loss coverage that meets the requirements of ORS 742.065, coverage issued as  
16 a supplement to liability insurance, insurance arising out of a workers' compensation or similar law,  
17 automobile medical payment insurance or insurance under which benefits are payable with or  
18 without regard to fault and that is statutorily required to be contained in any liability insurance  
19 policy or equivalent self-insurance.

20 (c) Nothing in this subsection shall be construed to regulate any employee welfare benefit plan  
21 that is exempt from state regulation because of the federal Employee Retirement Income Security  
22 Act of 1974, as amended.

23 (19) "Health statement" means any information that is intended to inform the carrier or insur-  
24 ance producer of the health status of an enrollee or prospective enrollee in a health benefit plan.  
25 "Health statement" includes the standard health statement developed by the Health Insurance Re-  
26 form Advisory Committee.

27 (20) "Implementation of chapter 836, Oregon Laws 1989" means that the Health Services Com-  
28 mission has prepared a priority list, the Legislative Assembly has enacted funding of the list and  
29 all necessary federal approval, including waivers, has been obtained.

30 (21) "Individual coverage waiting period" means a period in an individual health benefit plan  
31 during which no premiums may be collected and health benefit plan coverage issued is not effective.

32 (22) "Initial enrollment period" means a period of at least 30 days following commencement of  
33 the first eligibility period for an individual.

34 [(23) "Insurance Pool Governing Board" means the Insurance Pool Governing Board established  
35 by ORS 735.704.]

36 [(24)] (23) "Late enrollee" means an individual who enrolls in a group health benefit plan sub-  
37 sequent to the initial enrollment period during which the individual was eligible for coverage but  
38 declined to enroll. However, an eligible individual shall not be considered a late enrollee if:

39 (a) The individual qualifies for a special enrollment period in accordance with 42 U.S.C. 300gg  
40 as amended and in effect on July 1, 1997;

41 (b) The individual applies for coverage during an open enrollment period;

42 (c) A court has ordered that coverage be provided for a spouse or minor child under a covered  
43 employee's health benefit plan and request for enrollment is made within 30 days after issuance of  
44 the court order;

45 (d) The individual is employed by an employer who offers multiple health benefit plans and the

1 individual elects a different health benefit plan during an open enrollment period; or

2 (e) The individual's coverage under Medicaid, Medicare, CHAMPUS, Indian Health Service or  
3 a publicly sponsored or subsidized health plan, including but not limited to the Oregon Health Plan,  
4 has been involuntarily terminated within 63 days of applying for coverage in a group health benefit  
5 plan.

6 [(25)] (24) "Multiple employer welfare arrangement" means a multiple employer welfare ar-  
7 rangement as defined in section 3 of the federal Employee Retirement Income Security Act of 1974,  
8 as amended, 29 U.S.C. 1002, that is subject to ORS 750.301 to 750.341.

9 [(26)] (25) "Oregon Medical Insurance Pool" means the pool created under ORS 735.610.

10 [(27)] (26) "Preexisting conditions provision" means a health benefit plan provision applicable  
11 to an enrollee or late enrollee that excludes coverage for services, charges or expenses incurred  
12 during a specified period immediately following enrollment for a condition for which medical advice,  
13 diagnosis, care or treatment was recommended or received during a specified period immediately  
14 preceding enrollment. For purposes of ORS 743.730 to 743.773:

15 (a) Pregnancy does not constitute a preexisting condition except as provided in ORS 743.766;

16 (b) Genetic information does not constitute a preexisting condition in the absence of a diagnosis  
17 of the condition related to such information; and

18 (c) A preexisting conditions provision shall not be applied to a newborn child or adopted child  
19 who obtains coverage in accordance with ORS 743.707.

20 [(28)] (27) "Premium" includes insurance premiums or other fees charged for a health benefit  
21 plan, including the costs of benefits paid or reimbursements made to or on behalf of enrollees cov-  
22 ered by the plan.

23 [(29)] (28) "Rating period" means the 12-month calendar period for which premium rates estab-  
24 lished by a carrier are in effect, as determined by the carrier.

25 [(30)] (29) "Small employer" means any person, firm, corporation, partnership or association ac-  
26 tively engaged in business that, on at least 50 percent of its working days during the preceding year,  
27 employed no more than 25 eligible employees and no fewer than two eligible employees, the majority  
28 of whom are employed within this state, and in which a bona fide partnership, independent con-  
29 tractor or employer-employee relationship exists. "Small employer" includes companies that are el-  
30 igible to file a consolidated tax return pursuant to ORS 317.715.

31 [(31)] (30) "Small employer carrier" means any carrier that offers health benefit plans covering  
32 eligible employees of one or more small employers. A fully insured multiple employer welfare ar-  
33 rangement otherwise exempt under ORS 750.303 (4) may elect to be a small employer carrier gov-  
34 erned by the provisions of ORS 743.733 to 743.737.

35 **SECTION 39.** Section 5, chapter 742, Oregon Laws 2003, is amended to read:

36 **Sec. 5.** (1) The [*Insurance Pool Governing Board*] **Office of Private Health Partnerships** shall  
37 submit to the Director of the Department of Consumer and Business Services any information re-  
38 quested by the director for the purpose of assessing the impact of the amendments to ORS 735.700,  
39 735.702 and 735.710 by sections 1, 2 and 3, **chapter 742, Oregon Laws 2003** [*of this 2003 Act*].

40 (2) The [*board*] **office** shall report the results of the assessment conducted under subsection (1)  
41 of this section to the Seventy-fourth Legislative Assembly. The report shall include, but not be lim-  
42 ited to:

43 (a) The demographics of small employers obtaining health benefit plans from the [*board*] **office**;

44 (b) The carriers with whom the [*board*] **office** has contracts to offer health benefit plans for  
45 small employers; and

1 (c) The premiums charged for health benefit plans for small employers.

2 **SECTION 40.** Section 2b, chapter 742, Oregon Laws 2003, is amended to read:

3 **Sec. 2b.** Health benefit plans for small employers offered by the [*Insurance Pool Governing*  
4 *Board*] **Office of Private Health Partnerships** under ORS 735.710 (8) that are not eligible for a  
5 subsidy under ORS 735.724 may be offered only to small employers that did not provide a health  
6 benefit plan for eligible employees on July 1, 2003, and to small employers that begin business op-  
7 erations on or after [*the effective date of this 2003 Act*] **September 2, 2003.**

8 **SECTION 41. ORS 735.704 and 735.708 are repealed.**

9 **SECTION 42. ORS 735.700, 735.702, 735.706, 735.710 and 735.714 are added to and made a**  
10 **part of ORS 735.700 to 735.714.**

11 **SECTION 43. Sections 1, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 of this 2005 Act, the amendments**  
12 **to ORS 414.831, 735.700, 735.702, 735.706, 735.710, 735.712, 735.714, 735.720, 735.722, 735.724,**  
13 **735.726, 735.728, 735.730, 735.731, 735.732, 735.733, 735.734, 735.736, 735.740, 735.750, 735.754 and**  
14 **743.730 and sections 2b and 5, chapter 742, Oregon Laws 2003, by sections 14, 16, 18, 19, 21,**  
15 **22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39 and 40 of this 2005 Act and the**  
16 **repeal of ORS 735.704 and 735.708 by section 41 of this 2005 Act become operative on January**  
17 **1, 2006.**

18 **SECTION 44. This 2005 Act being necessary for the immediate preservation of the public**  
19 **peace, health and safety, an emergency is declared to exist, and this 2005 Act takes effect**  
20 **on its passage.**

21 \_\_\_\_\_