

C-Engrossed
House Bill 3396

Ordered by the Senate July 6
Including House Amendments dated April 23 and June 30 and Senate
Amendments dated July 6

Sponsored by Representative NATHANSON, Senator BATES

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.

Requires Oregon Health Policy Board to study and evaluate effectiveness of existing financial incentive programs offered in this state and address new types of programs to recruit and retain health care providers to practice in rural and medically underserved areas. Requires board to report its findings to Legislative Assembly and make recommendations with respect to continuing or restructuring programs or replacing programs with new programs.

Sunset various financial incentive programs on January 2, 2018. Requires that participants in programs that sunset be allowed to complete term of service agreement or commitment. Extends sunset on rural medical provider tax credit for two years to January 1, 2018. **Modifies criteria related to tax credit for rural medical provider.**

Creates Health Care Provider Incentive Fund.

[Declares emergency, effective on passage.]

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to health care provider incentive programs; creating new provisions; amending ORS
3 315.613, 348.570 and 677.141 and section 25, chapter 913, Oregon Laws 2009; repealing ORS
4 348.303, 413.018, 413.127, 413.233, 442.535, 442.540, 442.545, 442.573, 442.574, 676.550, 676.552,
5 676.554 and 676.556; and prescribing an effective date.

6 Whereas the State of Oregon spends approximately \$30 million each year on various incentive
7 programs for health care professionals; and

8 Whereas the incentive programs are effective but it is unclear whether the programs produce
9 the best results for the tax dollars spent on the programs; and

10 Whereas taxpayers deserve to have confidence that their tax dollars are being spent in the most
11 thoughtful way possible; and

12 Whereas Oregonians and health care professionals in rural and medically underserved areas
13 need assurances that critical health care programs will not be shut down without effective programs
14 to replace them; and

15 Whereas this 2015 Act is intended to initiate a close look at how tax dollars are spent to ensure
16 that taxpayers enjoy the best value possible; and

17 Whereas this 2015 Act is not intended to allow for incentive programs to be shut down before
18 the programs can be retooled or replaced with more effective programs; now, therefore,

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

20 **SECTION 1. The Health Care Provider Incentive Fund is established in the State Treas-**
21 **ury, separate and distinct from the General Fund. Interest earned by the Health Care Pro-**
22 **vider Incentive Fund shall be credited to the fund. Moneys in the fund are continuously**

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 appropriated to the Oregon Health Authority to carry out section 2 of this 2015 Act.

2 **SECTION 2.** (1) There is created in the Oregon Health Authority a health care provider
3 incentive program for the purpose of assisting qualified health care providers who have
4 committed to serving medical assistance recipients in rural or medically underserved areas
5 of this state. The authority shall prescribe by rule:

6 (a) Participant eligibility criteria, including the types of qualified health care providers
7 who may participate in the program;

8 (b) The terms and conditions of participation in the program, including the duration of
9 the term of any service agreement;

10 (c) The types of incentives that may be provided;

11 (d) If the funds allocated to the program from the Health Care Provider Incentive Fund
12 established under section 1 of this 2015 Act are insufficient to provide assistance to all of the
13 applicants who are eligible to participate in the program, the priority for the distribution of
14 funds, based on guidance from the Health Care Workforce Committee; and

15 (e) The financial penalties imposed on an individual who fails to comply with terms and
16 conditions of participation.

17 (2) The authority may enter into contracts with one or more public or private entities
18 to administer the program or parts of the program.

19 **SECTION 3.** (1) The Oregon Health Policy Board shall study and evaluate the effective-
20 ness of financial incentives offered by the state to recruit and retain qualified health care
21 providers in rural and medically underserved areas.

22 (2) On the basis of the study, the board shall develop recommendations with respect to:

23 (a) The continuation, restructuring, consolidation or repeal of the incentives;

24 (b) The priority for distribution of incentive funds allocated to the program from the
25 Health Care Provider Incentive Fund established under section 1 of this 2015 Act to qualified
26 health care providers; and

27 (c) New financial incentive programs.

28 (3) The recommendations must address, but need not be limited to:

29 (a) Financial assistance programs for students in both the publicly funded and private
30 institutions in this state that provide post-graduate training in medical fields;

31 (b) Loans, grants or other financial incentives to hospitals and teaching health centers
32 for the purpose of establishing or expanding residency programs, including recommendations
33 for the eligibility criteria, repayment provisions, interest rates and other requirements for
34 financial incentives;

35 (c) Low-interest loans, short-term emergency funding or grants for type A, B and C
36 hospitals that are at risk of closure due to financial instability;

37 (d) Direct subsidies or bonus payments to qualified health care providers for services
38 provided in rural and medically underserved areas;

39 (e) Creation of a retirement plan to offer to licensed or certified providers as an incentive
40 to provide services in rural and medically underserved areas and to medically underserved
41 populations in this state;

42 (f) The criteria for tax credits, including adding means testing or time limits;

43 (g) Opportunities that are available to secure private or public, local or federal matching
44 funds; and

45 (h) The definitions of rural area, medically underserved area and qualified health care

1 **provider.**

2 (4) **In developing recommendations under this section, the Oregon Health Policy Board**
3 **may consult with the Graduate Medical Education Consortium, the Oregon Healthcare**
4 **Workforce Institute, the Office of Rural Health, the Oregon Center for Nursing or other**
5 **appropriate entities.**

6 (5) **The Oregon Health Policy Board may contract with a public or private entity to assist**
7 **in the development of recommendations.**

8 (6) **The Oregon Health Policy Board shall report on the progress in developing recom-**
9 **mendations under this section to the interim committees of the Legislative Assembly related**
10 **to health during the interim committee meetings in November 2015 and to the committees**
11 **of the Legislative Assembly related to health during the 2016 regular session. The board shall**
12 **report its final recommendations to the interim committees of the Legislative Assembly, in**
13 **the manner prescribed by ORS 192.245, no later than September 1, 2016.**

14 **SECTION 4. In addition to and not in lieu of any other appropriation, there is appropri-**
15 **ated to the Oregon Health Authority, for the biennium beginning July 1, 2015, out of the**
16 **General Fund, the amount of \$180,000, which may be expended for carrying out section 3 of**
17 **this 2015 Act.**

18 **SECTION 5.** ORS 348.570 is amended to read:

19 348.570. (1) There is established in the State Treasury a fund, separate and distinct from the
20 General Fund, to be known as the Oregon Student Assistance Fund for investment as provided by
21 ORS 293.701 to 293.857 and for the payment of the expenses of the Higher Education Coordinating
22 Commission in carrying out the purposes of ORS 348.210 to 348.250, 348.285, 348.505 to 348.615,
23 348.696 and 348.992. Interest earned by the fund shall be credited to the fund.

24 (2) There is established in the State Treasury a fund, separate and distinct from the General
25 Fund, to be known as the Alternative Student Loan Program Fund for investment as provided by
26 ORS 293.701 to 293.857 and for the payment of expenses of the commission in carrying out the pur-
27 poses of ORS 348.625 to 348.695. This fund, including the interest earnings on the fund, if any, is
28 continuously appropriated to the commission for those purposes for which such funds were provided
29 to, received or collected by the commission.

30 *[(3)(a) There is established in the General Fund an account to be known as the Nursing Services*
31 *Account. Funds in the account shall be used for the payment of expenses of the Nursing Services*
32 *Program created in ORS 442.540.]*

33 *[(b) The account shall consist of:]*

34 *[(A) Funds appropriated to the commission for deposit into the account;]*

35 *[(B) Collections and penalties received by the Executive Director of the Office of Student Access*
36 *and Completion under ORS 442.545; and]*

37 *[(C) Any donations or grants received by the commission for purposes of the Nursing Services*
38 *Program.]*

39 *[(c) Any funds in the account that are not expended in any biennium shall be retained in the ac-*
40 *count and may be expended in subsequent biennia.]*

41 **[(4)] (3)** There is established in the State Treasury a fund, separate and distinct from the Gen-
42 eral Fund, to be known as the Foster Youth Scholarship Fund. Moneys received from appropriations,
43 donations and grants shall be credited to the fund. Moneys in the fund are continuously appropri-
44 ated to the commission for the purposes of investment, as provided by ORS 293.701 to 293.857, and
45 for carrying out the provisions of ORS 348.270 (1)(b). Interest earned by the fund shall be credited

1 to the fund.

2 [(5)] (4) There is established in the State Treasury a fund, separate and distinct from the Gen-
3 eral Fund, to be known as the ASPIRE Program Fund. Moneys received from donations and grants
4 shall be credited to the ASPIRE Program Fund. Moneys in the fund are continuously appropriated
5 to the commission for the purposes of investment, as provided by ORS 293.701 to 293.857, and for
6 carrying out the provisions of ORS 348.500. Interest earned by the fund shall be credited to the fund.

7 [(6)(a)] (5)(a) There is established in the State Treasury the Nursing Faculty Loan Repayment
8 Fund, separate and distinct from the General Fund. Interest earned on the Nursing Faculty Loan
9 Repayment Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to
10 the commission for carrying out ORS 348.440 to 348.448. The Nursing Faculty Loan Repayment Fund
11 consists of:

12 (A) Moneys appropriated to the commission for the Nursing Faculty Loan Repayment Program
13 created in ORS 348.444; and

14 (B) Grants, gifts or donations received by the commission for the program.

15 (b) Any unexpended funds in the fund at the end of a biennium shall be retained in the fund and
16 may be expended in subsequent biennia.

17 **SECTION 6.** ORS 677.141 is amended to read:

18 677.141. (1) A physician issued a license under ORS 677.139 is subject to all the provisions of
19 this chapter and to all the rules of the Oregon Medical Board. A physician issued a license under
20 ORS 677.139 has the same duties and responsibilities and is subject to the same penalties and
21 sanctions as any other physician licensed under this chapter.

22 (2) A physician issued a license under ORS 677.139 may not:

23 (a) Act as a dispensing physician as defined in ORS 677.010;

24 (b) Administer controlled substances for the treatment of intractable pain to a person located
25 within this state;

26 (c) Employ a physician assistant as defined in ORS 677.495 to treat a person located within this
27 state; **or**

28 [(d) *Participate in the primary care provider loan repayment program created in ORS 413.233;*
29 *or*]

30 [(e)] (d) Assert a lien for services under ORS 87.555.

31 (3) A physician licensed under ORS 677.139 shall comply with all patient confidentiality re-
32 quirements of this state, except as those requirements are expressly prohibited by the law of any
33 other state of the United States where a person's medical records are maintained.

34 **SECTION 7.** Section 25, chapter 913, Oregon Laws 2009, as amended by section 10, chapter 750,
35 Oregon Laws 2013, is amended to read:

36 **Sec. 25.** (1) Except as provided in subsection (2) of this section, a credit may not be claimed
37 under ORS 315.613 for tax years beginning on or after January 1, [2016] **2018**.

38 (2) A taxpayer who meets the eligibility requirements in ORS 315.613 for the tax year beginning
39 on or after January 1, [2013] **2017**, and before January 1, [2014] **2018**, shall be allowed the credit
40 under ORS 315.613 for any tax year:

41 (a) That begins on or before January 1, [2023] **2027**; and

42 (b) For which the taxpayer meets the eligibility requirements of ORS 315.613.

43 **SECTION 7a.** ORS 315.613, as amended by section 19, chapter ____, Oregon Laws 2015 (Enrolled
44 House Bill 2171), is amended to read:

45 315.613. (1) A resident or nonresident individual certified as eligible under ORS 442.563, licensed

1 under ORS chapter 677, who is engaged in the practice of medicine, and who is engaged for at least
2 20 hours per week, averaged over the month, during the tax year in a rural practice, shall be al-
3 lowed an annual credit against taxes otherwise due under ORS chapter 316.

4 (2) The amount of credit allowed shall be based on the distance, in highway miles, from a major
5 population center in a **qualified** metropolitan statistical area at which the taxpayer maintains a
6 practice or hospital membership:

7 (a) If at least 10 miles but fewer than 20 miles, \$3,000.

8 (b) If at least 20 miles but fewer than 50 miles, \$4,000.

9 (c) If 50 or more miles, \$5,000.

10 (3) The credit shall be allowed during the time in which the individual retains such practice and
11 membership if the individual is actively practicing in and is a member of the medical staff of one
12 of the following hospitals:

13 (a) A type A hospital designated as such by the Office of Rural Health;

14 (b) A type B hospital designated as such by the Office of Rural Health if the hospital is:

15 (A) Not within the boundaries of a metropolitan statistical area;

16 **(B) Located 30 or more highway miles from the closest hospital within the major popu-**
17 **lation center in a metropolitan statistical area; or**

18 *[(B)]* (C) Located in a county with a population of less than 75,000;

19 (c) A type C rural hospital, if the Office of Rural Health makes the findings required by ORS
20 315.619;

21 (d) A rural hospital that was designated a rural referral center by the federal government before
22 January 1, 1989, and that serves a community with a population of at least 14,000 but not more than
23 19,000; or

24 (e) A rural critical access hospital.

25 (4) In order to claim the credit allowed under this section, the individual must remain willing
26 during the tax year to serve patients with Medicare coverage and patients receiving medical as-
27 sistance in at least the same proportion to the individual's total number of patients as the Medicare
28 and medical assistance populations represent of the total number of persons determined by the Of-
29 fice of Rural Health to be in need of care in the county served by the practice, not to exceed 20
30 percent Medicare patients or 15 percent medical assistance patients.

31 (5) A nonresident individual shall be allowed the credit under this section in the proportion
32 provided in ORS 316.117. If a change in the status of a taxpayer from resident to nonresident or from
33 nonresident to resident occurs, the credit allowed by this section shall be determined in a manner
34 consistent with ORS 316.117.

35 (6) For purposes of this section, an "individual's practice" shall be determined on the basis of
36 actual time spent in practice each week in hours or days, whichever is considered by the Office of
37 Rural Health to be more appropriate. In the case of a shareholder of a corporation or a member of
38 a partnership, only the time of the individual shareholder or partner shall be considered and the full
39 amount of the credit shall be allowed to each shareholder or partner who qualifies in an individual
40 capacity.

41 (7) As used in this section:

42 *[(a) "Type A hospital," "type B hospital" and "type C hospital" have the meaning for those terms*
43 *provided in ORS 442.470.]*

44 **(a) "Qualified metropolitan statistical area" means only those counties of a metropolitan**
45 **statistical area that are located in Oregon if the largest city within the metropolitan statis-**

1 **tical area is located in Oregon.**

2 (b) "Rural critical access hospital" means a facility that meets the criteria set forth in 42 U.S.C.
3 1395i-4 (c)(2)(B) and that has been designated a critical access hospital by the Office of Rural Health
4 and the Oregon Health Authority.

5 (c) "Type A hospital," "type B hospital" and "type C hospital" have the meaning for those
6 terms provided in ORS 442.470.

7 **SECTION 7b.** The amendments to ORS 315.613 by section 7a of this 2015 Act apply to tax
8 years beginning on or after January 1, 2016.

9 **SECTION 8.** ORS 413.018, 442.535, 442.540 and 442.545 are repealed.

10 **SECTION 9.** ORS 348.303, 413.127, 413.233, 442.573, 442.574, 676.550, 676.552, 676.554 and
11 676.556 are repealed.

12 **SECTION 10.** Section 3 of this 2015 Act is repealed on January 2, 2017.

13 **SECTION 11.** Sections 1, 2 and 13 of this 2015 Act and the amendments to ORS 677.141
14 by section 6 of this 2015 Act become operative on January 1, 2018.

15 **SECTION 12.** The repeal of ORS 348.303, 413.127, 413.233, 442.573, 442.574, 676.550, 676.552,
16 676.554 and 676.556 by section 9 of this 2015 Act becomes operative January 2, 2018.

17 **SECTION 13.** (1) Service agreements under ORS 442.574 and 348.303 that are in effect on
18 the operative date of this section shall remain in effect for the term specified in the agree-
19 ment.

20 (2) Individuals participating in the primary care provider loan repayment program on the
21 operative date of this section shall continue to participate for the duration of the term of the
22 individual's commitment made pursuant to ORS 413.233.

23 (3) Nothing in the repeal of ORS 348.303, 413.233 and 442.574 relieves a person of a liabil-
24 ity, duty or obligation accruing under or with respect to ORS 348.303, 413.233 and 442.574.
25 Payments made by participants to discharge an obligation arising under ORS 348.303 (6) or
26 (7), 413.233 (2)(e) or 442.574 shall be deposited to the Health Care Provider Incentive Fund
27 established in section 1 of this 2015 Act.

28 (4) The duties, rights and obligations of the Office of Rural Health under ORS 442.574 are
29 transferred to the Oregon Health Authority.

30 (5) Any unexpended balances of moneys in the Primary Health Care Loan Forgiveness
31 Program Fund are transferred to the Health Care Provider Incentive Fund established under
32 section 1 of this 2015 Act and shall be used by the Oregon Health Authority to carry out
33 section 2 of this 2015 Act and to administer the service agreements entered into pursuant
34 to ORS 442.574 that remain in effect under subsection (1) of this section.

35 **SECTION 14.** The Office of Rural Health and the Oregon Health Authority shall take any
36 actions before January 1, 2018, that are necessary in order to carry out the provisions of
37 section 13 of this 2015 Act on and after January 1, 2018.

38 **SECTION 15.** This 2015 Act takes effect on the 91st day after the date on which the 2015
39 regular session of the Seventy-eighth Legislative Assembly adjourns sine die.

40