



End of session = it's (finally) a wrap up

Wow, what a legislative session. The 2023 Senate Republican walkout will go down in history as the longest walkout ever—followed by an eleven-day legislative sprint.

Oregon has an unusual legislative calendar: every-other-year the legislature meets for a six-month “long session”, so time is always valuable. And, of course, this year the legislature lost six weeks because of the Senate Republican walkout. Legislators eventually sprinted to the end, and lots of bills made it past both chambers and are now headed to Governor Kotek's desk.

This session, the Oregon Legislature introduced an impressive 2,970 measures — more than any other session in the last decade. After months (or eleven days?) of hard work, 653 of them passed — about 22% of the measures that were introduced. Typically we see a much higher rate of measures passed in a session, the extensive walk out did have an impact on what was able to make it through, both because of its timing, before the 2nd chamber deadline of May 19th, and because of the little time left to handle bills upon resumption of Senate floor activity.

But as we reflect on the session, we are left with this question: Did losing 6-weeks during the Senate Republican walkout make for better policy, worse policy, or have no impact? Did Oregonians benefit or were they harmed? A lot of that will be up for voters to decide.





Health Care 2023 Legislative Session

► Overview

On the health care front, this session was probably more productive than 2021, with legislators using 2023 to build on things started in 2021 (some left unfinished and some only partially started) such as rate changes, payment improvements, and coverage for all Oregonians. Though, this session wasn't without controversy as stakeholder groups jockeyed to move priority legislation in the final weeks of session. One of the most controversial bills centered on protecting reproductive health care and gender affirming care (HB 2002). Senate Republicans walked out for six weeks over this bill which would have allowed minors to receive abortions without parental consent. To end the walk out the bill was amended to exclude elective sterilization of minors under 15 years of age from the definition of "reproductive health care" and clarification on when parent consent is not needed for minors under 15 years of age. As the 2023 session came to a close Oregon lawmakers pushed a contentious new hospital staffing and nurse staffing laws and other key health care legislation passed the finish line while also scuttling a bill that would beef up oversight on pharmacy middleman companies. Keep reading for more information on how the 2023 legislative session where investments are being made and the big-ticket legislation in health care policy.

■ HB 5525: Oregon Health Authority Budget

Overall, the legislature did not make big investments in most state agencies during the 2023 legislative session. At the onset of session, due to a tight revenue forecast, agencies were asked to put forward budget scenarios with 2.5%, 5%, and 10% cuts. Despite a very rosy May revenue forecast most agency budgets still came in at an overall current service level (CSL) increase (which represented increases for particular program areas and cuts to others.) In part, this decision was caused by early drafting of the budgets (drafts were done prior to the May 15th forecast) and the subsequent Senate Republican walk out that caused uncertainty on passing state agency budgets at all during the regular 2023 session.

In health care, specifically, the Oregon Health Authority budget came in \$2.4 billion over the previous biennium, largely due to several big ticket items such as \$39.5m for the 9-8-8 crisis hotline, \$30m for public health modernization, and funding ways to expand access to health insurance coverage for more Oregonians. Read on for a few highlights from the OHA budget for the 2023-25 biennium.

- **Basic Health Program (BHP)** was funded at \$74,615,325 General Fund, \$632,975,926 Federal Funds expenditure limitation and 31 positions to implement the temporary expansion of Medicaid eligibility and Basic Health Program. The money will specifically help to:
 - Provide Medicaid-like coverage for Oregonians between 138 percent and 200 percent of the Federal Poverty Level;
 - Staff up at OHA to administer the program;
 - Provide an update to the legislature during the 2024 legislative session
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- ▶ **1115 Medicaid Waiver**, funded with \$922.9 million to continue enrollment for children up to 6 years of age and two-year eligibility for those 6 years and older. There are a number of other elements in the new waiver, but also of note is the inclusion of federal investment in social determinants of health.
- ▶ **Behavioral Health “Package”** (as a budget note): will provide \$83,100,000 (\$37m in general fund; \$46,000,000 in other funds, \$40m of these dollars are from the opioid settlement) to support an array of BH programs/projects, specifically:
 - ▶ \$15m for SUD facilities serving youth and adults (but no further detail)
 - ▶ \$12m for behavioral health workforce in the Healthcare Provider Incentive Program
 - ▶ \$6m for case management for patients at OSH
 - ▶ \$6m for community mental health programs (CMHPs) for civil commitment cases
 - ▶ \$3.1m advancing training opportunities for pediatricians and child psychiatry, to include fellowship positions at OHSU across the state.
- ▶ **Public Health Modernization**, \$30 million General Fund, for investments in the statewide public health system to address complex health threats and support local public health authorities.
- ▶ **REALD & SOGI data**, \$15,689,422 for ongoing work to implement the transition.

■ **HB 5506: “Christmas Tree” spending bill**

While the OHA budget was well funded it was slim pickin's for healthcare investments in HB 5506, the catch-all end of session spending bill, which provides direct appropriations to specific programs, entities. The few programs that did receive funding are:

- ▶ Additional \$20m for public health modernization work
- ▶ \$2m to supplement health care interpreter services in the Central Services Division
- ▶ \$1.5m for the Prescription Drug Monitoring Program (PDMP) integration with provider electronic health records systems. (The PDMP integrates information collected by the Public Health Division and makes it available at the point of care by physicians to ensure that patients are not receiving unnecessary prescriptions for opioids and other narcotics.)

▶ **Legislative Workgroups, Task Forces, Etc.**

HB 2925: In 2022, the legislature passed HB 4052 creating affinity group task forces under the Oregon Advocacy Commission to research the specific needs of the communities they represent and develop recommendations on the resources needed to address those needs and the health inequities faced by the communities. *HB 2925 would extend the deadlines for the Oregon Advocacy Commissions Office affinity group task forces and the Oregon Health Authority to submit the recommendations required by HB 4052 (2022) to the legislature.*

The Big Ones

These are the most talked about pieces of legislation, possibly those that are most impactful, and/or most controversial pieces of legislation to pass or fail in the 2023 legislative session.

...That Passed

HB 2002 ensures the abortion rights available under Roe v Wade are protected in Oregon and protects gender affirming care access. It prohibits health benefit plan exclusion of medically necessary gender-affirming treatments and requires inclusion of gender-affirming treatment in OHP. After much debate the bill clarifies that the definition of “reproductive health care” excludes elective sterilization of a minor under 15 years of age and clarifies when a minor under 15 years of age could obtain an abortion without parental consent (ie. if the minor fears for their safety). Clarifies circumstances permitting a minor under the age of 15 to obtain an abortion to include professional judgment that notification or consent may result in harm to the minor or not be in their best interests. Finally, it creates the crime of interfering with a healthcare facility punishable by a maximum of 364 days' imprisonment, \$6,250 fine, or both. The crime of interfering with a healthcare facility does not restrict rights of free expression or lawful picketing, protesting, or peaceful assembly.

HB 2697 mandates hospitals to establish committees and staffing plans, following specific criteria. Psychiatric units also must create a subcommittee for staffing plans and nurse-to-patient and certified nursing assistant-to-patient ratios are defined. The bill also creates a process for reporting violations to OHA or the Bureau of Labor and Industries (BOLI).

HB 3396 allocated \$27 million to increase training for nurses and health care workers. It also pays for the Oregon Health Authority to staff a new task force that will look at challenges hospitals face with patients who no longer require acute care but can't be discharged because of the lack of beds in skilled nursing and other facilities.

HB 2045 creates a blanket exemption to the target in the form of certain labor expenses from providers. Health care entities would not have to count their payroll outlays for a significant number of workers when determining whether they meet the state-mandated target, under the health care cost growth target program.

HB 2395, Makes the overdose reversal drug naloxone more widely available in a variety of public settings, including schools, grocery stores and restaurants. Under a compromise with Republicans, the measure no longer allows children under 15 to receive addiction treatment without parental consent.

SB 972, Requires OHA to procure and administer a state-based health insurance exchange website by Nov. 1, 2026.

SB 1089, designates the Universal Health Plan Governance Board to design recommendations on a Universal Health Coverage plan for Oregon and provide a report to the Legislative Assembly by December 1st, 2024 and present a comprehensive plan for Universal Health Plan implementation to the Legislative Assembly and the Governor by September 15, 2026.



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SB 490 \$1.5 million appropriation to Oregon Academy of Family Physicians (OAFP) for supporting the Oregon Residency Collaborative Alliance (ORCA), a program that supports family medicine residency programs and residents across Oregon.

SB 3008 Allows health insurance provider to impose a copayment of not more than \$5 for a primary care visit if necessary to comply with federal laws. Creates an exemption to the requirement (OAFP bill HB 4083 from 2022) that at least three primary care visits be covered by health insurance plans without requiring copay, coinsurance, or deductible. Created to address federal behavioral health payment parity issues flagged by CMS.

SB 323 related to telehealth services, clarifies the permitted practice of medicine over state lines by further defining the circumstances allowing out-of-state physicians and physician assistants to provide care to patients located in Oregon and specifying that the practice of medicine using telemedicine occurs where the patient is physically located.

...That Failed

HB 3013 would have given state regulators more resources and authority to regulate pharmacy benefit managers, controversial companies that negotiate drug prices between insurers and manufacturers.

HB 2538, would have required health insurers cover legally mandated health care interpretation services.

HB 2878, came out of the work done with HB 2010 (in 2021), which required the Oregon Health Authority to submit recommendations to the Legislature for a regional (multi-payer) global budget health care delivery pilot that aligns with the state's health care transformation goals ("Aligning for Health model"). This bill would have established the pilot using the recommendations from the HB 2010 work.

HB 2886, this bill did not get a strong start but would've been quite a change to practices on determining scope of practice for health care professionals. Specifically, the bill would have taken authority away from the legislature, and given it to OHA, to receive and review health care profession scope of practice requests and make recommendations/determinations.





Behavioral Health 2023 Legislative Session

► Overview

At the start of session behavioral health was set up to receive key investments, largely a continuation of the investments made in 2021 and 2022, through SB 1044 (a priority bill for Gov. Kotek) which would have dedicated \$80M to various areas of behavioral health. However, budget co-chairs Rep. Sanchez and Sen. Steiner, with legislative leadership, preferred to parse out some of those investments into other budget bills and leave others for discussion in another legislative session (see below for more detail). A hot topic, unsurprisingly, was Measure 110, with significant work done on an implementation fixes bill (HB 2513) related to OHA's work on funding services. We also saw a lot of negative commentary on both the Senate and House floor from legislators who continue to oppose the decriminalization of possession aspect of Measure 110. A wireless tax to fund the 9-8-8 crisis line looked to be left in the dust but Democratic leadership included it, as a demand, in negotiations with Senate Republicans on their "return to work" with the 9-8-8 bill getting a passing vote at the last minute.

Keep reading for more information on how the 2023 legislative session shook out, where investments are being made and the key behavioral health policies that passed.

► Budgets & Funding

■ SB 5525: Oregon Health Authority Budget

- ▶ **9-8-8 crisis line funding:** within the OHA budget \$39.6 million General Fund is provided to increase capacity for the crisis line. (Though funding is also being sought by HB 2757, which puts in place a 40 cent tax on wireless carriers for this purpose.)
- ▶ **Behavioral Health "Package"** (as a budget note which has a two year limit): will provide \$83,100,000 (\$37m in general fund; \$46m in other funds, \$40m of these dollars are from the opioid settlement) to support an array of BH programs/projects, specifically:
 - ▶ \$15m for SUD facilities serving youth and adults. OHA must submit a report on investments made to increase behavioral health facility capacity in Oregon during the 2021-23 and 2023-25 biennia no later than Feb. 2025. The report must include the number and types of beds (provided or anticipated), how investments are balanced between supporting the new capacity on an on-going basis, building additional beds, and data demonstrating how the medical and mental health system outcomes are impacted by the investments. *Specific projects are not yet identified.*
 - ▶ \$12m for behavioral health workforce in the Healthcare Provider Incentive Program
 - ▶ \$6m for case management for patients at OSH
 - ▶ \$6m for community mental health programs (CMHPs) for civil commitment cases



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- ▶ **The Certified Community Behavioral Health Clinic (CCBHC)** demonstration program was extended with a report due to the legislature in February 2025.
- ▶ **Measure 110:**
 - ▶ A dashboard is to be developed by OHA with information related to the Behavioral Health Resource Networks (BHRNs).
 - ▶ Marijuana tax revenue that supports Behavioral Health Resource Networks (Measure 110) decreased by \$46.6 million based on the May 2023 revenue forecast. This decrease is not offset by the General Fund. The program carried over funds totaling \$17.5 million from the 2021-23 biennium, so the net decrease is \$29.1 million in total funds.
- ▶ **IMPACTS grants funding** (Improving People's Access to Community-based Treatment, Supports, and Services) passed through to the Criminal Justice Commission and is continued (amount unknown).

■ **HB 5506: “Christmas Tree” spending bill**

Unlike recent years, and despite a very rosy budget situation, not many big investments were made in behavioral health in HB 5506, the catch-all end of session spending bill. Programs that did receive direct appropriations in this year's bill are:

- ▶ Lane County for the Behavioral Health Stabilization Center: \$5,058,410
- ▶ Washington County for the Center for Addictions Triage and Treatment (CATT): \$5,060,949
- ▶ Justice involved mental health or substance abuse disorders (IMPACTS): \$20m

▶ **The Big Ones**

These are the most talked about pieces of legislation, possibly those that are most impactful, and/or most controversial pieces of legislation to pass or fail in the 2023 legislative session.

... That Passed

HB 2757: Establishes a 9-8-8 trust fund to maintain and improve the suicide prevention and behavioral health crisis hotline and partially fund mobile response teams. The funding comes from a \$.40 tax on cell phones adding up to \$4.80 a year per line (sunsets Jan. 1st, 2030).

HB 2513: Address the challenges of implementing M 110 through the following

- ▶ Requires local planning committee for alcohol and drug prevention and treatment services to work with BHRNs.
 - ▶ Removes cap on Drug Treatment and Recovery Services Fund distributions for administrative costs.
 - ▶ Clarifies OAC and OHA roles in issuing and terminating BHRN grants.
 - ▶ Allows BHRNs to rely on the statewide hotline during business hours.
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- ▶ Clarifies minimum BHRN staffing.
- ▶ Transfers creation of rules for grants and funding from OAC to OHA.
- ▶ Requires OHA and OAC to create an advisory committee for adopting or amending rules.
- ▶ Allows for an education campaign led by OHA.

HB 2395: Makes various changes regarding naloxone/short-acting opioid antagonists.

- ▶ School districts are required to provide specified information to parents/legal guardians and to notify parents/legal guardians immediately if a short-acting opioid antagonist is administered.
- ▶ Clarifies that immunity from liability provided to school staff who administer a short-acting opioid antagonist does not cover cases of gross negligence.
- ▶ Clarifies that the provision of drug testing tools to minors is limited to distribution by a health care provider as part of minor's substance use disorder treatment.
- ▶ Allows owners of public buildings or facilities to store short-acting opioid antagonist kits in locations easily accessible to members of the public and requires OHA to share the locations of these buildings.

SB 1043: Requires hospitals, detoxification facilities, and residential treatment facilities to provide two doses of opioid overdose reversal medication to patients who are treated for opioid use disorder and who are discharged to an unlicensed setting (does not apply if against medical advice). OHA is responsible for providing the medication.

HB 529: Allows DOC to treat SUDs with a range of professional treatment Services including; recovery activities, engagement with peer mentors, educational and vocational services and self-help groups. The goal is to address individuals' needs instead of treating everyone the same.

HB 2767: Provides funding for up to nine recovery schools through the following allocations.

- ▶ Grants ODE \$2,601,745 for staffing at ODE.
- ▶ Provides \$3.2 million, from various funds, for grants to open recovery schools.

HB 2235: Requires OHA to convene a work group on major barriers to workforce recruitment and retention in the state's publicly financed behavioral health system.

...That Failed

SB 1044: This was the Governor's \$74.2 million investment in behavioral health which never made it out of the Senate. While this bill did not move forward some of the investments below were included in OHA's budget legislation as "budget notes" (extra funding provided outside of the agency roll-up) bill and those are in **bold** below. Other investments that did not make it are in plain text:

- ▶ \$20 million for a program aimed at recruiting and retaining providers in underserved areas, such as communities of color and rural areas, through incentives such as student loan repayments and stipends
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- ▶ **\$15 million for addiction treatment facilities and recovery centers. (included in HB 5525, OHA budget)**
- ▶ \$10 million for community mental health programs to provide outreach and treatment for people who face civil commitments. The money also would help them after the civil commitment has ended. **(\$6million included in HB 5525, OHA budget)**
- ▶ \$8.3 million to expand access to behavioral health rehabilitation services for adults and youth.
- ▶ \$7.7 million to expand child and adult suicide prevention programs.
- ▶ **\$6 million to help people who are discharged from Oregon State Hospital and face the risk of homelessness. (included in HB 5525, OHA budget)**
- ▶ \$4.9 million for community mental health programs to expand jail diversion services that prevent people entering jail.
- ▶ \$2.3 million to expand children's psychiatric residential treatment capacity.
- ▶ \$1.5 million to Oregon Health & Science University to coordinate the availability of behavioral health residential beds statewide
- ▶ The Oregon Department of Human Services would get \$4 million for behavioral health specialty care in long-term care facilities.

HB 2544: The bill would have appropriated funds to OHA to increase capacity of residential SUD treatment facilities.

HB 2651: Authorizes appropriation for OHA to continue behavioral health investments made in HB 4004 (behavioral health workforce stability grants - 2022).

▶ Legislative Workgroups, Task Forces, Etc.

Most legislative sessions include legislation directing a particular state agency or the legislature itself to convene workgroups, task forces or advisory groups to study and make recommendations on various issues. This year, given the break in action in the Senate, we saw far fewer of these types of bills become law. Below are a few of most relevance to our work and that we'll follow in the coming years.

HB 3610: Establishes a 20 member task force made up of 4 legislators (non-voting) and 16 voting members appointed by the governor. The goal is to study alcohol addiction and alcohol addiction prevention, distribution of resources for alcohol addiction treatment, current overall funding for alcohol addiction treatment programs, cost of alcohol addiction to state, benefits and drawbacks of imposing taxes on malt beverages and wine, and additional funding options for alcohol addiction treatment.

Task force Members:

- ▶ 2 state representatives
- ▶ 2 state senators
- ▶ Representative of malt beverages
- ▶ Representative of the Wine industry



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- ▶ Representative of the Cider industry
- ▶ Alcohol addiction advocacy community
- ▶ Community care organizations
- ▶ OHA
- ▶ Alcohol and Drug Policy Commission
- ▶ Association representing malt beverages and wine distributors
- ▶ Association of Oregon Counties
- ▶ League of Oregon Cities
- ▶ Hospitals
- ▶ Community providers of alcohol addiction services.

SB 606: Creates the 15-member Task Force on Modernizing Grant Funding and Contracting with the goal to examine how the state's granting and public procurement practices limit the wages of employees of non-profit organizations.

Task force Members:

- ▶ A Senator - appointed by Senate President
- ▶ A Representative - appointed by House Speaker
- ▶ Representative for the Governor's office
- ▶ Representative for the Department of Administrative Services
- ▶ One member that represents a public or private foundation within the state
- ▶ A representative for the Department of Justice.
- ▶ Nine members who represent non-profit organizations that have received grants from or entered into public contracts with a state agency, municipality or another nonprofit since Jan. 1st, 2020.

HB 2235: Requires OHA to convene a work group on major barriers to workforce recruitment and retention in the state's publicly financed behavioral health system.

Task force Members:

- ▶ One non management peer mentor
 - ▶ One non management clinical social worker licensed under ORS 675.530
 - ▶ One non management certified alcohol and drug counselor
 - ▶ One non management qualified mental health associate
 - ▶ One non management qualified mental health professional
 - ▶ Two members who carry caseloads and supervise other employees who are working to achieve hours for certification or licensure as a behavioral health providers
 - ▶ Directors or the directors' designees from
 - ▶ Four community mental health programs
 - ▶ Four behavioral health providers that are not community mental health programs
 - ▶ One representative of an association of behavioral health provider employees
 - ▶ One representative of an association of behavioral health provider organizations
 - ▶ At least one representative or designee of a mental health consumer organization
 - ▶ At least one representative or designee of a substance use disorder consumer organization
 - ▶ Two representatives of coordinated care organizations
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HB 2757: Directs OHA to create an advisory committee that provides oversight to the 988 suicide prevention and behavioral health crisis hotline

