

# Opinion

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## GUEST EDITORIAL

# Healthcare savings that didn't really save money

Editorial from The (Bend) Bulletin:

The genius of Oregon's shift six years ago to delivering Medicaid through coordinated care organizations was supposed to be a Holy Grail squared: improved health for patients and cost savings. The Oregon Health Authority has claimed that it achieved both. It says it saved \$2.2 billion since 2012. But did it?

A report by Nick Budnick in the Portland Tribune casts doubt that Oregon saved any money. The cost of providing Medicaid in Oregon actually grew at about the same rate as Medicaid increases across the country. That is not savings.

Six years ago Oregon had a projected \$1.9 billion Medicaid hole in the budget. Then-Gov. John Kitzhaber came up with a deal with the federal government. Give Oregon the \$1.9 billion and give Oregon some freedom in how it delivers Medicaid. In return, the state will improve care and hold down costs. The teeth in the deal was that if Oregon didn't meet the cost savings, the federal government will come looking for its money.

The details are where things get interesting. The baseline of Medicaid cost growth used was 5.4 percent. Oregon was supposed to reduce costs by 2 percent below that baseline at 3.4 percent after a first year of cost savings at 4.4 percent.

Oregon did it.

But as Budnick pointed out, the real Medicaid cost growth was not 5.4 percent over those years. Medicaid figures put it at 2 percent nationwide between 2013 and 2017. Other estimates for "acute care," which may more accurately represent Oregon's Medicaid population, was about 3.5 percent. Oregon's Medicaid experiment arguably didn't save much of anything.

If that doesn't bother you, Budnick obtained emails showing officials at the Oregon Health Authority actively suppressed that some of Oregon's CCOs made profits during that time "more than tenfold the normal Medicaid profit margin" of 2 percent.

There's nothing wrong with making money, however, the state shouldn't work to hide those high profits off of a state program. Remember, this is the same Oregon Health Authority that hatched a scheme to plant stories in the news media to hurt the credibility of a Portland nonprofit. How much can Oregonians trust the OHA?

We read through the Oregon Constitution again. It doesn't say state government only should strive to tell the public the truth "as long as it's good news." But state officials have shown time and again they are eager to mislead.

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Editorial from The St. Louis Post-Dispatch:

As the Trump administration does all it can to ignore the real danger of climate change, it is threatening to exacerbate the problem by eliminating a tax credit designed to bolster electric-car sales.

This idea is as shortsighted as the rest of the White House's climate stance. Members of Congress who care about the planet's future should put the brakes on it. In fact, the tax credit, set to phase out over the next few years, should be extended to encourage the public as much as possible to switch from vehicles that contribute inordinately to global warming.

The facts on climate change are clear: Global temperatures are rising at an alarming rate, as greenhouse gases like carbon

dioxide increase. Overwhelming majorities of scientists warn that severe weather, coastal flooding, crop failures and other consequences are inevitable without a reduction in greenhouse gases.

Those gases are produced mostly by burning fossil fuels, and automobiles are a major culprit. According to the Environmental Protection Agency, more than 28 percent of U.S. greenhouse gas emissions come from transportation, with passenger vehicles making up the majority of them.

Electric cars aren't quite a silver bullet because the batteries have to be charged with electricity, which is produced in large part by fossil fuels. But electric cars are a positive step, because electricity increasingly is also produced by wind farms, solar power and

other sustainable methods. The more of those non-emission methods that come on line, the more sense electric cars will make.

That's why it's good to incentivize consumers now and bolster that young market. Since electric cars are generally more expensive than gas-burning vehicles, the federal government offers a tax credit for electric-car buyers of up to \$7,500 per vehicle.

Count on the Trump administration to thumb its nose at such foresight. General Motors, the nation's largest automaker, is planning to close several U.S. factories, in part to restructure for more focus on electric cars. The White House is threatening to cut off the electric-car tax credit in retaliation.

The layoffs are distressing, but making it more difficult to sell electric cars isn't the

solution — especially when it would also impede progress toward lower emissions.

It's unclear whether the administration can carry out this threat because the tax credit was created by law, and Democrats are about to take over the House. The credits are set to phase out eventually anyway, because of a provision in the law ending them for each manufacturer that crosses the 200,000-vehicle sales threshold.

Incoming Democrats should take the lead in raising that threshold to keep the subsidies in place for this still-struggling market. And if President Donald Trump really wants to defend American workers, he should recognize the job-growth potential in sustainable technologies instead of trying to kill them.



# Solidifying the Supreme Court

The Supreme Court has taken some serious hits to its reputation for independence and impartiality in these polarized times.

Since the death of Justice Antonin Scalia, the Senate confirmation process has produced a series of power plays that have led ordinary Americans to wonder whether the justices can function as legitimate arbiters in our system of checks and balances. Without fundamental reform, each new contested nomination to the court will generate yet another wave of alienation.

At the same time, the court has significantly reduced the number of its judgments on the merits. In 1970, it decided 250 cases; in 2016, 75. The reason is straightforward. The court has been overwhelmed by the problem of docket management. Over nearly 50 years, the number of petitions for review has almost doubled, from 4,000 to 7,500.

The justices and their clerks are investing a huge amount of time identifying the cases that deserve full consideration. This means they cannot review many lower-court judgments even when different appellate panels disagree on major issues of constitutional or statutory interpretation. Your fundamental rights may depend on whether you live in New England's 1st Circuit or the South's 5th Circuit or the West's 9th Circuit.

Systematic reform is required if the court is to function as a modern and effective guardian of uniform law for Americans in the 21st century.

First, we need more justices, with more focus. One proven solution comes from Germany. Its highest court is composed of two chambers of seven members each, with the two chambers reviewing appeals in different subject areas. In the American context, it would make the most sense for one chamber to address questions of statutory interpretation; the other, constitutional issues.

In the case of major crises, both chambers would join to speak with one voice.

Two seven-justice chambers would mean that more cases could be heard and decided. More intensive Supreme Court scrutiny would deter courts of appeals from advancing competing, significant departures from "settled law"; they'd know they stood a good chance of a reversal. This would cut down on regional disparities that betray our commitment to equal protection under the law.

The two-chamber solution would require the president and Senate to appoint five new justices. The next challenge is to prevent the president and Senate from abusing this power.

One simple safeguard would be to return the Senate to its old "advice and consent" rules by insisting on 60 votes for confirmation of nominees. This number was reduced to only 51 votes to smooth the path for Justice Neil M. Gorsuch's ascent to the court. Returning to a supermajority would force the president to nominate justices who can win the support of centrists of both parties; otherwise, he or she could not hope to fill the new positions or vacancies as they open up over time.

Restoring the 60-vote standard would reshape the politics of judicial selection. So would the last reform I'm going to suggest: term limits.

Justices could be appointed for life, but their service on the high court would be limited to 14 years, and then they would move to the courts of appeals. Term limits eliminate the temptation to stack the court with younger and younger justices, thereby extending for decades the impact of the presidents and senators who first got them appointed. A fixed term would instead encourage the selection of mature jurists who have already marked themselves out by decades of distinguished service to their country.

None of these reforms requires a constitutional amendment. They are all within Congress's power to implement.

The two-chamber initiative respects the Constitution's requirement that there shall be "one supreme court" because it would explicitly authorize all 14 justices to convene in joint sessions to rule on matters of the highest importance.

While the Constitution guarantees justices tenure for life, it nowhere states that they must serve their entire term on the Supreme Court. Nothing prevents Congress from limiting the justices' service to 14 years and then providing them with a position on an appellate court for the rest of their lives. Justice Sandra Day O'Connor followed this path when she resigned from the court in 2006; her service shows how effective such a design can be.

The Constitution, however, does impose a fundamental limit on the scope of reform. The 14-year term limit would apply only to future nominations. All current members were appointed for life and the Constitution allows their removal solely for lack of "good behavior."

As to requiring 60 votes for confirmation, the Senate reduced this requirement just a year ago; it can change it back again. This time around, the new rule should expressly state that only a super-supermajority — three-quarters of the Senate — can lower the barrier in the future.

President Donald Trump won't take the need for court reform seriously, but the incoming Congress can and must. Otherwise, there will be no stopping the escalating political partisanship that will predictably destroy the court's legitimacy in the coming decade.

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