2007 Regular Legislative Session
FISCAL ANALYSIS OF PROPOSED LEGISLATION
Prepared by the Oregon Legislative Fiscal Office

MEASURE NUMBER: SB 3 **STATUS:** B-Engrossed
SUBJECT: Creates Oregon Healthy Kids Program
GOVERNMENT UNIT AFFECTED: Department of Human Services, Office of Private Health Partnerships, Department of Administrative Services – Office for Oregon Health Policy Research, Department of Revenue, Department of Justice, Department of State Police, and local governments
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DATE: June 14, 2007

	2007-2009	2009-2011
EXPENDITURES:		
See comments		

REVENUES:
See Legislative Revenue Office impact statement

POSITIONS / FTE:
See comments

EFFECTIVE DATE: Effective date of constitutional amendment

GOVERNOR'S BUDGET: This bill is *partially* anticipated by select agencies in the Governor's recommended budget.

LOCAL GOVERNMENT MANDATE: This bill does not affect local governments' service levels or shared revenues sufficient to trigger Section 15, Article XI of the Oregon Constitution.

COMMENTS: This measure creates the Oregon Healthy Kids Program (OHKP). Implementation of this measure requires that Senate Joint Resolution 4 (SJR-4) be enacted into law, which would refer a ballot measure for voter approval or rejection a proposed amendment to the Oregon Constitution to establish a new tobacco tax.[1] The statewide vote would occur at a special election, the date of which is not specified. Revenues generated by the tobacco tax would be dedicated for health-related purposes including the OHKP. The measure has two operative dates, both of which are dependant upon the proposed constitutional amendment being adopted by voters. The dates are: January 1, 2008 for the proposed tobacco tax increase and July 1, 2008 for the OHKP.

The intent of this measure creating the OHKP is to provide medical insurance coverage for uninsured children in Oregon less than 19 years of age by expanding current eligibility through the state's Medicaid program or Children's Health Insurance Program (CHIP), both administered by the Department of Human Services (DHS), and by offering a commercial insurance product through the Office of Private Health Partnerships (OPHP). OPHP approved (contract) benefit packages must be comparable to that offered by the OHP and CHIP.

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[1] The administrative expenditure impact of SJR 4-A resulting from adoption by a vote of the people will need to be presented in a third companion measure (as yet unidentified) establishing the ballot title, explanatory statement and the fiscal impact statement describing expenditure and revenue effects.

The bill would make a variety of changes to current DHS and OPHP programs including: (a) the application process for Medicaid and CHIP would be simplified; (b) CHIP income eligibility would be raised from a maximum household income of 185% of the federal poverty level to 200% of the federal poverty level; (c) the household asset test would be eliminated; (d) enrollment in Medicaid for children would be extended from six months to 12 months;[2] (e) OPHP would offer premium subsidies for the purchase of a Healthy Kids commercial insurance product for children in households with incomes above 200% of the federal poverty level up to 300% of the federal poverty level; and (f) while no subsidies would be available, households with incomes above 300% would be allowed to purchase the Healthy Kids commercial insurance product. Additionally, the measure would establish a statewide OHKP Advice telephone line as well as a Healthcare Access telephone line.

Eligibility

In general, the OHKP represents a change in the eligibility requirements for both the CHIP and the OHP-Standard programs and therefore is subject to the pre-approval of the federal government's Centers for Medicare and Medicaid Services (CMS). Federal Medicaid matching funds only become available upon approval of a CMS waiver. In absence of a CMS waiver approval, costs would be paid with state General or Other Funds.

Of note, the OHKP coverage would be limited to "legal residents." According the Oregon Legislature's Legislative Counsel Office, legal residents refers to a person who is a citizen or has a lawful immigration status and who intends to maintain a principal residence in Oregon." Given this definition, children for whom United States' citizenship or legal immigration status can be verified are eligible for the Healthy Kids program. Children for whom citizenship or immigration status is not documented are not eligible. DHS would be required to adopt verification requirements of legal residency.

Enrollment

The estimated net caseload impact from the OHKP is detailed in the following table:

Table-A

	Federal Poverty Level (FPL)	**Department of Human Services**		**Office of Private Health Partnerships**		**Estimated Total Number of Children Enrollees**	
		2007-09	***2009-11***	***2007-09***	***2009-11***	***2007-09***	***2009-11***
A	<200%	21,714	57,733	543	2,260	22,257	59,993
B	200% to 250%	--	--	2,240	9,215	2,240	9,215
C	251% to 300%	--	--	2,204	9,137	2,204	9,137
D	301% to 350%	--	--	577	2,401	577	2,401
E	>350%	--	--	2,475	11,009	2,475	11,009
F	Total	**21,714**	**57,733**	**8,039**	**34,022**	**29,753**	**91,755**

The Office of Health Policy and Research estimates that there are approximately 117,000 uninsured children in Oregon. A majority of these children are already eligible for OHP/CHIP benefits, but are not enrolled in either program. Because the number of uninsured children would drop through the implementation of the OHKP, the Department of Human Services and the Office of Private Health Partnerships, estimate that 95% of all Oregon's children will be insured within a three year period. The OHKP would insure an estimated 78% of Oregon's uninsured children by July 2010.

[2] Enrollment for CHIP is already for 12 months.

Revenue Impact

As noted previously, Senate Joint Resolution 4 (SJR-4) would refer for voter approval or rejection at a special election, the date of which is not specified, a proposed amendment to the Oregon Constitution to establish a tobacco tax. Revenues generated by the tax would be dedicated for health-related purposes including the OHKP. The measure provides for a single standardized distribution formula for the State's tobacco taxes imposed under the Oregon Constitution. This distribution formula includes the new tobacco taxes generated under this measure. These funds would be constitutionally dedicated funds unavailable for alternative use.

The measure would raise the cigarette tax from $1.18/pack of cigarettes to $2.025/pack or $0.845 cents, and the other tobacco products' tax from 65% of the wholesale sales price to 95% of the wholesale sales price.

According to the Legislative Revenue Office, these higher taxes are expected to generate a net $194.5 million (for the 2007-09 biennium) and $299 million (in the 2009-11 biennium) of revenue, if these tax increases (along with a floor tax on cigarettes) are implemented by January 1, 2008.

These higher taxes, however, are expected to reduce overall consumption and revenue under existing statutes. This measure would redistribute a portion of new tobacco tax proceeds in order to maintain the current revenue allocation to the State's General Fund, Oregon Health Plan, local cities, counties, and transit districts.

The new distribution would now include the Rural Health Revolving Account as well as a distribution to DHS for Safety Net Clinics. These amounts would be $2.1 million and $5.6 million respectively for the 2007-09 biennium and $3.2 million and $8.3 million for the 2009-11 biennium.

The DHS Tobacco Use Reduction Account (TURA) would be allocated $19.5 million and the OHKP $133.1 million for the 2007-09 biennium and then $39.0 million and $197.8 million respectively for the 2009-11 biennium. Of note is that on July 1, 2009 this distribution formula changes and allocates 10% to TURA and 90% to OHKP.

After all distributions have been made the Healthy Kids Program Fund would retain an unexpended balance of approximately $68 million. Budgetarily, this reserve would help safeguard the program from variations in caseloads, medical inflation, and modest declines in tobacco revenue. The measure, however, does allow for these fund "…to be used, in amounts established by the Legislative Assembly, to fund other health services provided by the department [DHS]."

Cumulative Fiscal Impact

The cumulative fiscal impact estimate of this measure is outlined in the below table and is based upon a January 1, 2008 implementation or operational date and receipt of a Center for Medicaid and Medicare Services (CMS) waiver approval prior to that date. Federal matching funds would be available to support approximately 61% of expenditures. The amounts in the chart below include both tobacco tax and Federal Funds.

Table-B

Agency		**Total Funds**	
		2007-09	**2009-11**
A	DHS- OHKP	$83.8 M	$284.7 M
B	DHS - Oregon Health Plan Expansion	$71.1	$142.1
C	Office of Private Health Partnerships	$28.7M	$91.9M

D	Department of Revenue	$1.5M	$1.4M
E	Department of Administrative Services – OHPR	$0.7M	$0.7M
F	Department of Justice	$0.3M	$0.6M
G	**Total**	**$186.1M**	**$521.4M**

*Amounts exclude interagency transfer amounts between agencies (DHS, OPHP and DAS).

Agency fiscal impacts are as follows and differ from what is detailed in the 2007-09 Governor's recommended budget:

Department of Human Services (DHS)

The Department of Human Services (DHS) fiscal impact has two distinct components: (a) the OHKP and then (b) a 10,000 client expansion of the Oregon Health Plan Standard Program population.

DHS estimates its OHKP fiscal impact at $83.8 million Total Funds (18.69 FTE) for the last 15 months of the 2007-09 biennium and $284.7 million Total Funds (48.89 FTE) for the 2009-11 biennium. Of this amount, tobacco tax would fund approximately 52% of the expenses with a Federal Funds match providing the remaining 48%. These expenditures fall across all the Department's program areas, including the Medical Assistance Program ($67.6 million), Children, Adults, and Families ($1.0 million), Seniors and People with Disabilities ($0.2 million), Public Health ($13.1 million), as well as its Administrative Services Division ($1.9 million). These amounts do not include $13.0 million of expenditure limitation that the Department needs to be able to transfer tobacco tax to the Office of Private Health Partnerships nor does it include $15.8 million of Federal Funds DHS transfers to the OPHP as Other Funds. The cited figures are for the 2007-09 biennium.

CHIP Federal Funds represent a capped allotment to each state. DHS has indicated that the terms and conditions of the Department's federal Medicaid waiver will allow it to use Title XIX funds (Medicaid) to match CHIP tobacco tax expenditures if the federal Title XXI allotment for CHIP is exhausted. The DHS fiscal impact assumes the SCHIP allotment is unavailable for the OHKP because the Department assumes those Federal Funds are committed to support the existing SCHIP program. SCHIP matching funds could, however, be available depending upon the federal allotment and SCHIP expenditure.

The weighted-average costs of coverage, on a per-member, per-month (PMPM) basis, would be $160, with the weighting factor being based on the specific cost and number of children estimated for each age category and client group.

Department of Human Services (DHS) – Oregon Health Plan Standard Population Expansion

DHS' second impact relates to an expansion of the Oregon Health Plan's (OHP) Standard Program population by 10,000 new clients. This expansion is not directed by the measure, but as noted previously is an allowable expense. The Legislative Fiscal Office understands that this expansion would be funded by DHS under this measure. DHS estimates the cost of this expansion at $71.1 million Total Funds (9.80 FTE) for the last 12 months of the 2007-09 biennium and $142.1 million Total Funds (21.35 FTE) for the 2009-11 biennium. Of this amount, the revenue sources would be the following: (1) tobacco tax ($24.9 million); (2) provider taxes ($2.8 million); (3) client premiums ($0.3 million); and (4) Federal Funds ($43.1 million). The cited figures are for the 2007-09 biennium.

Office of Private Health Partnerships

The Office of Private Health Partnerships (OPHP) estimates its fiscal impact at $28.7 million Total Funds (39.70 FTE) for the last 18 months of the 2007-09 biennium and $91.9 million Total Funds (50.00 FTE) for the 2009-11 biennium. Of this amount, tobacco tax from a newly established Private Health Option Account would fund 45% of the expense with a Federal as Other Funds match providing the remaining

55%. OPHP administrative expenses for Federal Poverty Levels (FPL) levels in excess of 300% would funded exclusively with tobacco tax and be ineligible for matching Federal as Other Funds. Co-payments would be paid directly to service providers by clients.

A significant portion of the OPHP expenditures are in the form of payment subsidies to insurance providers (91% for 2009-11 biennium) and associated administrative costs of the Office. Under this measure, OPHP is responsible for marketing of the OHKP. Marketing and outreach expenditures are estimated at $6.1 million for the 2007-09 biennium and $5.8 million for the 2009-11 biennium and are included in the administrative cost. Included within marketing and outreach costs are finder fee payments totaling $374,668 per biennium.

OPHP impact includes one-time startup cost such as additional facility rental costs, computers, and office equipment.

The weighted-average costs of subsidy coverage, on a per-member, per-month (PMPM) basis, would be $140 for the 2007-09 biennium and $160 for the 2009-11 biennia, with the weighting factor being based on the specific cost and number of children estimated for each subsidy category.

Department of Revenue
The DOR fiscal impact estimates to be $1.5 million Other Funds (4.5 FTE) for the 24 months of the 2007-09 biennium and $1.4 million Other Funds (6.00 FTE) for the 2009-11 biennium. The source of the Other Funds is tobacco tax. The six new positions would be used to increase tobacco tax compliance and deter tobacco stamp counterfeiting, and increase the auditing of distributors and retailers. The DOR fiscal impact does not anticipate any civil penalty revenue, which according to the Department goes into Treasury fund and is to be used for the administration and enforcement.

Department of Administrative Services – Office for Oregon Health Policy Research
The Department of Administrative Services (DAS), Office for Oregon Health Policy Research (OHPR) would be required to analyze and evaluate the implementation of the OHKP and report biennially to the Legislature. The fiscal impact is estimated to be $650,000 Other Funds (3.00 FTE) for the 2007-09 biennium and $636,560 Other Funds (3.00 FTE) for the 2009-11 biennium. The source of the Other Funds would be from transfers from DHS and the OPHP.

DAS would also have a fiscal impact associated with passing-through $2.1 million Tobacco Tax Other Funds to the Office of Rural Health at the Oregon Health Science University during the 2007-09 biennium. The pass-through is estimated to be $3.2 million during the 2009-11 biennium.

Department of Justice
The Department of Justice (DOJ), Division of Child Support maintains according to federal law a Qualified State Child Support Plan. This plan is used to provide child support services to qualified families at federally-mandated performance levels. DOJ believes that as OHP/CHIP caseloads increase due to the OHKP, DOJ would be required to provide child support services to approximately 3,100 to 5,900 cases out of the total number of new clients added under the OHKP. DOJ assumes that the majority of OHKP clients would already be receiving Division of Child Support Services.

The fiscal impact is estimated to be $331,254 Total Funds (2.20 FTE) for the 2007-09 biennium and $595,820 million Total Funds (4.00 FTE) for the 2009-11 biennium. The source of funding would be $112,626 General Fund and $218,628 Federal Funds for the 2007-09 biennium and $202,579 General Fund and $393,241 Federal Funds for the 2009-11 biennium.

Local Governmental Entities
As noted previously, local governments that receive a tax distribution are not anticipated to have a fiscal impact other than what is anticipated to be slight increase in the amount of revenue distributed.

The Legislative Fiscal Office Comments
As with any new program initiative, there is uncertainty surrounding the assumptions used to price the program and how the program will be executed. The OHKP is no different. The Legislative Fiscal Office (LFO) notes that the implementation of the OHKP will have its challenges. These could include: successfully implementing the marketing and outreach efforts; addressing possible primary care service capacity constraints; or accommodating the possible "woodwork" effect on other DHS caseloads. LFO believes that by increasing OHP Standard's population could have a greater impact reaching uninsured children than OHKP marketing efforts (i.e., insured parents are more likely to seek insurance for their children than uninsured parents).

Lastly, the multi-agency Tobacco Compliance Taskforce, comprised of the Department of Revenue, the Oregon State Police, and the Department of Justice have stated that this measure does not have a fiscal impact to the Taskforce. LFO recognizes that a tobacco tax increase of this amount could lead to the need for more criminal enforcement activities.

The 2007 Legislature is considering measures similar to SB 3, and those are HB 2201B and HB 2967A.