

A-Engrossed
House Bill 2201

Ordered by the House February 21
Including House Amendments dated February 21

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of 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.

Creates Oregon Healthy Kids Program, which includes private health option to provide health care coverage to children. Imposes duties on Department of Human Services and Office of Private Health Partnerships to carry out program.

Creates grant program in Office of Private Health Partnerships to fund outreach, enrollment and retention activities related to Oregon Healthy Kids Program.

Establishes Private Health Option Program Account. Continuously appropriates moneys in account to Office of Private Health Partnerships for purposes of administering private health option.

Establishes Healthy Oregon Kids Program Fund. Continuously appropriates moneys in fund to Department of Human Services for purposes of Oregon Healthy Kids Program.

Increases cigarette and other tobacco products taxes. Distributes tax revenues from increase to *[Private Health Option Program Account, Oregon Health Plan Fund and]* Tobacco Use Reduction Account and *[to Department of Human Services for physician and health care provider reimbursement rate increases]* **Oregon Healthy Kids Program Fund.**

Applies tax increases to cigarette and tobacco products tax reporting periods beginning on or after **later of October 1, 2007, or first day of calendar month following** effective date of Act.

Revises allocation of moneys collected by imposition of certain tax on cigarette distributors.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to health; creating new provisions; amending ORS 323.457, 323.505, 414.025, 414.839, 735.701,
3 735.710 and 735.754; appropriating money; prescribing an effective date; and providing for re-
4 venue raising that requires approval by a three-fifths majority.

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

6
7 **OREGON HEALTHY KIDS PROGRAM**

8
9 **SECTION 1. Sections 2, 3, 12, 12a and 13 of this 2007 Act are added to and made a part**
10 **of ORS chapter 414.**

11 **SECTION 2. (1) The Oregon Healthy Kids Program is created to provide health care**
12 **coverage for Oregon's children. The program is composed of:**

13 (a) **Medical assistance administered by the Department of Human Services provided to**
14 **children under the state programs funded by Title XIX of the Social Security Act, under the**
15 **Children's Health Insurance Program funded by Title XXI of the Social Security Act and**
16 **under state programs funded by the Legislative Assembly;**

17 (b) **A private health option administered by the Office of Private Health Partnerships**
18 **under sections 6 and 7 of this 2007 Act;**

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 (c) A statewide Healthy Kids Advice Line; and

2 (d) A statewide Healthy Kids Healthcare Access Line.

3 (2) A child or a person authorized to act on behalf of a child may apply to the Department
4 of Human Services for a determination of the child's eligibility for the Oregon Healthy Kids
5 Program.

6 (3) When an application is received by the department under subsection (2) of this sec-
7 tion, the department shall determine whether the child is eligible for medical assistance. The
8 department shall enroll an eligible child in an appropriate medical assistance program re-
9 ferred to in subsection (1) of this section.

10 (4) If the department determines that a child for whom application has been made under
11 subsection (2) of this section is not eligible for medical assistance but is eligible for enroll-
12 ment in the private health option, the department shall transfer the application to the Office
13 of Private Health Partnerships to complete the enrollment process.

14 (5) The Department of Human Services and the Office of Private Health Partnerships
15 shall streamline and simplify the application process for the Oregon Healthy Kids Program,
16 by means including the development and implementation of an online application process for
17 the program.

18 **SECTION 3.** (1)(a) Except as provided in subsection (2) of this section, to be eligible for
19 the private health option under sections 6 and 7 of this 2007 Act or for the Children's Health
20 Insurance Program funded by Title XXI of the Social Security Act, a child must be uninsured
21 for a minimum of 60 consecutive days immediately preceding enrollment.

22 (b) As used in this subsection, "uninsured" means that a person is not enrolled in an
23 unsubsidized or privately funded health benefit plan.

24 (2) The Department of Human Services may adopt rules specifying exceptions to the re-
25 quirement in subsection (1) of this section.

26 (3) A child is eligible for enrollment in the Children's Health Insurance Program only if
27 the household income of the child's family is no more than 200 percent of the federal poverty
28 guidelines.

29 (4) The department shall adopt rules for annually renewing enrollment in the Oregon
30 Healthy Kids Program.

31 **SECTION 4.** ORS 414.025 is amended to read:

32 414.025. As used in this chapter, unless the context or a specially applicable statutory definition
33 requires otherwise:

34 (1) "Category of aid" means assistance provided by the Oregon Supplemental Income Program,
35 temporary assistance for needy families granted under ORS 418.035 to 418.125 or federal Supple-
36 mental Security Income payments.

37 (2) "Categorically needy" means, insofar as funds are available for the category, a person who
38 is a resident of this state and who:

39 (a) Is receiving a category of aid.

40 (b) Would be eligible for, but is not receiving a category of aid.

41 (c) Is in a medical facility and, if the person left such facility, would be eligible for a category
42 of aid.

43 (d) Is under the age of 21 years and would be a dependent child under the program for tempo-
44 rary assistance for needy families except for age and regular attendance in school or in a course
45 of professional or technical training.

1 (e)(A) Is a caretaker relative named in ORS 418.035 (2)(a)(C) who cares for a dependent child
2 who would be a dependent child under the program for temporary assistance for needy families ex-
3 cept for age and regular attendance in school or in a course of professional or technical training;
4 or

5 (B) Is the spouse of such caretaker relative and fulfills the requirements of ORS 418.035 (1).

6 (f) Is under the age of 21 years, is in a foster family home or licensed child-caring agency or
7 institution under a purchase of care agreement and is one for whom a public agency of this state
8 is assuming financial responsibility, in whole or in part.

9 (g) Is a spouse of an individual receiving a category of aid and who is living with the recipient
10 of a category of aid, whose needs and income are taken into account in determining the cash needs
11 of the recipient of a category of aid, and who is determined by the Department of Human Services
12 to be essential to the well-being of the recipient of a category of aid.

13 (h) Is a caretaker relative named in ORS 418.035 (2)(a)(C) who cares for a dependent child re-
14 ceiving temporary assistance for needy families or is the spouse of such caretaker relative and ful-
15 fills the requirements of ORS 418.035 (1).

16 (i) Is under the age of 21 years, is in a youth care center and is one for whom a public agency
17 of this state is assuming financial responsibility, in whole or in part.

18 (j) Is under the age of 21 years and is in an intermediate care facility which includes institutions
19 for the mentally retarded; or is under the age of 22 years and is in a psychiatric hospital.

20 (k) Is under the age of 21 years and is in an independent living situation with all or part of the
21 maintenance cost paid by the Department of Human Services.

22 (L) Is a member of a family that received temporary assistance for needy families in at least
23 three of the six months immediately preceding the month in which such family became ineligible for
24 such assistance because of increased hours of or increased income from employment. As long as the
25 member of the family is employed, such families will continue to be eligible for medical assistance
26 for a period of at least six calendar months beginning with the month in which such family became
27 ineligible for assistance because of increased hours of employment or increased earnings.

28 (m) Is an adopted person under 21 years of age for whom a public agency is assuming financial
29 responsibility in whole or in part.

30 (n) Is an individual or is a member of a group who is required by federal law to be included in
31 the state's medical assistance program in order for that program to qualify for federal funds.

32 (o) Is an individual or member of a group who, subject to the rules of the department and within
33 available funds, may optionally be included in the state's medical assistance program under federal
34 law and regulations concerning the availability of federal funds for the expenses of that individual
35 or group.

36 (p) Is a pregnant woman who would be eligible for temporary assistance for needy families in-
37 cluding such aid based on the unemployment of a parent, whether or not the woman is eligible for
38 cash assistance.

39 (q) Would be eligible for temporary assistance for needy families pursuant to 42 U.S.C. 607 based
40 upon the unemployment of a parent, whether or not the state provides cash assistance.

41 (r) Except as otherwise provided in this section and to the extent of available funds, is a preg-
42 nant woman or child for whom federal financial participation is available under Title XIX or Title
43 **XXI** of the federal Social Security Act.

44 (s) Is not otherwise categorically needy and is not eligible for care under Title XVIII of the
45 federal Social Security Act or is not a full-time student in a post-secondary education program as

1 defined by the Department of Human Services by rule, but whose family income is less than the
2 federal poverty [*level*] **guidelines** and whose family investments and savings equal less than the in-
3 vestments and savings limit established by the department by rule.

4 **(3) "Health benefit plan" has the meaning given that term in ORS 735.720.**

5 [(3)] **(4)** "Income" has the meaning given that term in ORS 411.704.

6 [(4)] **(5)** "Investments and savings" means cash, securities as defined in ORS 59.015, negotiable
7 instruments as defined in ORS 73.0104 and such similar investments or savings as the Department
8 of Human Services may establish by rule that are available to the applicant or recipient to con-
9 tribute toward meeting the needs of the applicant or recipient.

10 [(5)] **(6)** "Medical assistance" means so much of the following medical and remedial care and
11 services as may be prescribed by the Department of Human Services according to the standards
12 established pursuant to ORS 414.065, including payments made for services provided under an in-
13 surance or other contractual arrangement and money paid directly to the recipient for the purchase
14 of medical care:

15 (a) Inpatient hospital services, other than services in an institution for mental diseases;

16 (b) Outpatient hospital services;

17 (c) Other laboratory and X-ray services;

18 (d) Skilled nursing facility services, other than services in an institution for mental diseases;

19 (e) Physicians' services, whether furnished in the office, the patient's home, a hospital, a skilled
20 nursing facility or elsewhere;

21 (f) Medical care, or any other type of remedial care recognized under state law, furnished by
22 licensed practitioners within the scope of their practice as defined by state law;

23 (g) Home health care services;

24 (h) Private duty nursing services;

25 (i) Clinic services;

26 (j) Dental services;

27 (k) Physical therapy and related services;

28 (L) Prescribed drugs, including those dispensed and administered as provided under ORS chapter
29 689;

30 (m) Dentures and prosthetic devices; and eyeglasses prescribed by a physician skilled in diseases
31 of the eye or by an optometrist, whichever the individual may select;

32 (n) Other diagnostic, screening, preventive and rehabilitative services;

33 (o) Inpatient hospital services, skilled nursing facility services and intermediate care facility
34 services for individuals 65 years of age or over in an institution for mental diseases;

35 (p) Any other medical care, and any other type of remedial care recognized under state law;

36 (q) Periodic screening and diagnosis of individuals under the age of 21 years to ascertain their
37 physical or mental impairments, and such health care, treatment and other measures to correct or
38 ameliorate impairments and chronic conditions discovered thereby;

39 (r) Inpatient hospital services for individuals under 22 years of age in an institution for mental
40 diseases; and

41 (s) Hospice services.

42 [(6)] **(7)** "Medical assistance" includes any care or services for any individual who is a patient
43 in a medical institution or any care or services for any individual who has attained 65 years of age
44 or is under 22 years of age, and who is a patient in a private or public institution for mental dis-
45 eases. "Medical assistance" includes "health services" as defined in ORS 414.705. "Medical assist-

1 ance” does not include care or services for an inmate in a nonmedical public institution.

2 [(7)] (8) “Medically needy” means a person who is a resident of this state and who is considered
3 eligible under federal law for medically needy assistance.

4 [(8)] (9) “Resources” has the meaning given that term in ORS 411.704. For eligibility purposes,
5 “resources” does not include charitable contributions raised by a community to assist with medical
6 expenses.

7 **SECTION 5.** Sections 6 to 11 of this 2007 Act are added to and made a part of ORS
8 chapter 735.

9 **SECTION 6.** (1) The Office of Private Health Partnerships shall administer a private
10 health option to expand private health care coverage for Oregon’s children.

11 (2) The office shall contract with carriers to provide health benefit plans approved under
12 section 7 of this 2007 Act. The office will manage the collection and payment of premiums
13 for children participating in the plans.

14 (3) The office shall provide a subsidy for a health benefit plan provided pursuant to a
15 contract entered into under this section for a child whose family’s household income is more
16 than 200 percent but no more than 300 percent of the federal poverty guidelines. The amount
17 of the subsidy shall be determined in accordance with subsection (4) of this section and is
18 payable to the carrier in the manner specified by the contract.

19 (4) The office shall adopt rules for determining the subsidies to be paid under this section
20 based upon the following factors:

- 21 (a) Household income;
- 22 (b) Family size; and
- 23 (c) Other factors established by the office.

24 (5) The office shall adopt rules under which families with household incomes that are
25 more than 300 percent of the federal poverty guidelines may purchase health benefit plans
26 offered through the private health option.

27 (6) A child who was not born in this state may qualify for health care coverage under this
28 section only if the child has lived in this state for 180 days.

29 (7) Notwithstanding subsection (6) of this section, a child may qualify for health care
30 coverage under this section to the extent required by federal law as a condition of the state
31 receiving federal funds.

32 (8) The office shall adopt verification requirements to ensure that recipients of health
33 care coverage under this section are legal residents of Oregon.

34 (9) The office shall contract with community health centers and safety net clinics to
35 provide health care services to children who are not enrolled in a health benefit plan.

36 (10) As used in this section and section 7 of this 2007 Act:

- 37 (a) “Carrier” has the meaning given that term in ORS 735.700.
- 38 (b) “Child” means a person under 19 years of age.

39 (c) “Community health centers and safety net clinics” means nonprofit medical clinics
40 that provide primary physical health, vision, dental or mental health services to low-income
41 patients without charge or using a sliding fee scale based on the income of the patient.
42 “Community health centers and safety net clinics” includes school-based clinics.

43 (d) “Health benefit plan” has the meaning given that term in ORS 735.720.

44 **SECTION 7.** (1) The Office of Private Health Partnerships must approve health benefit
45 plans offered through the private health option described in section 6 of this 2007 Act. To be

1 approved, health benefit plans must offer benefit packages comparable to those provided
2 under section 2 (1)(a) of this 2007 Act, must cover mental health, vision and dental services
3 and must cover health care services provided by community health centers and safety net
4 clinics.

5 (2) Approved health benefit plans may impose copayments or co-insurance amounts that
6 are based upon a family's ability to pay as determined according to criteria adopted by the
7 office by rule.

8 (3) Approved health benefit plans may not exclude coverage of pre-existing conditions.

9 **SECTION 8.** (1) The Office of Private Health Partnerships is responsible for marketing
10 the Oregon Healthy Kids Program statewide, as well as coordinating, with the Department
11 of Human Services, statewide enrollment training and outreach.

12 (2) In addition to the duties described in subsection (1) of this section, to maximize the
13 enrollment and retention of eligible children in the Oregon Healthy Kids Program, the office
14 shall develop and administer a grant program to provide funding to organizations and local
15 groups for outreach and enrollment activities. The department and the office shall collab-
16 orate in developing and administering the grant program.

17 (3) The criteria for awarding grants under subsection (2) of this section shall include, but
18 are not limited to, the extent to which a grantee offers:

19 (a) Information and assistance to a diverse geographic area or a culturally diverse com-
20 munity in the state, including communities that need the information and assistance pro-
21 vided in alternative formats and in languages other than English;

22 (b) Assistance with the application process; and

23 (c) Assistance to individuals and families in enrolling and maintaining enrollment in the
24 Oregon Healthy Kids Program.

25 **SECTION 9.** Notwithstanding eligibility criteria and subsidy amounts determined pursu-
26 ant to section 6 of this 2007 Act, subsidies under the private health option shall be provided
27 to eligible children to the extent the Legislative Assembly appropriates funds for that pur-
28 pose or establishes expenditure limitations to provide such subsidies.

29 **SECTION 10.** There is established in the State Treasury, separate and distinct from the
30 General Fund, the Private Health Option Program Account, which shall consist of moneys
31 appropriated to the account by the Legislative Assembly and all moneys transferred as re-
32 imbursements to the account by the Department of Human Services under section 12 of this
33 2007 Act. All moneys in the Private Health Option Program Account are continuously ap-
34 propriated to the Office of Private Health Partnerships to carry out the provisions of
35 sections 6, 7 and 8 of this 2007 Act.

36 **SECTION 11.** (1) Except as otherwise provided in this section and ORS 735.710, the Office
37 of Private Health Partnerships and the Department of Human Services may not disclose in-
38 formation provided as part of an application for enrollment in the Oregon Healthy Kids
39 Program except for purposes directly connected with the administration of the program.

40 (2) The office and the department may exchange applicant information with other state
41 and federal agencies for the purposes of determining eligibility for and administering the
42 Oregon Healthy Kids Program, identifying economic trends relevant to administration of the
43 program and providing the report required by section 13 of this 2007 Act.

44 (3) In accordance with applicable state and federal law, the office or the department may
45 request that applicants provide their Social Security numbers and may use those numbers

1 in the administration of the Oregon Healthy Kids Program.

2 **SECTION 12.** (1) The Department of Human Services shall apply to the Centers for
3 Medicare and Medicaid Services for the waivers necessary to implement sections 2, 3, 6, 7
4 and 8 of this 2007 Act and to obtain federal financial participation for health care coverage
5 provided to children through the Oregon Healthy Kids Program.

6 (2) The department shall adopt rules implementing sections 2 and 3 of this 2007 Act as
7 soon as practicable after receipt of the necessary waivers. The Office of Private Health
8 Partnerships shall adopt rules implementing sections 6, 7 and 8 of this 2007 Act as soon as
9 practicable after receipt of the necessary waivers.

10 (3) The office and the department shall work cooperatively to obtain federal financial
11 participation under subsection (1) of this section.

12 (4) The office and the department shall develop a system for reimbursement by the de-
13 partment to the office for costs associated with administering the private health option.

14 **SECTION 12a.** (1) The Oregon Healthy Kids Program Fund is established in the State
15 Treasury, separate and distinct from the General Fund. Interest earned by the Oregon
16 Healthy Kids Program Fund shall be credited to the fund.

17 (2) Moneys in the Oregon Healthy Kids Program Fund are continuously appropriated to
18 the Department of Human Services for purposes of the Oregon Healthy Kids Program cre-
19 ated by section 2 of this 2007 Act.

20 (3) Notwithstanding subsection (2) of this section, if and to the extent that the Legislative
21 Assembly determines that the Oregon Healthy Kids Program is fully funded, moneys in the
22 Oregon Healthy Kids Program Fund established by this section may be used, in amounts
23 determined by the Legislative Assembly, to fund other health services provided by the de-
24 partment.

25 **SECTION 13.** The Office for Oregon Health Policy and Research shall analyze and evalu-
26 ate the implementation of the Oregon Healthy Kids Program and report its findings to the
27 Legislative Assembly every two years. The report shall include at least the following infor-
28 mation for the preceding two-year period:

29 (1) An estimate of the number of children who are eligible for but not enrolled in the
30 program;

31 (2) The number of children enrolled in the program;

32 (3) The number of children disenrolled from the program and the reasons for disenroll-
33 ment;

34 (4) A description of any identified barriers to enrolling or maintaining enrollment of
35 children in the program and a description of the plans developed by the office and the De-
36 partment of Human Services to overcome the barriers; and

37 (5) An estimate of the number of families who have voluntarily discontinued employer-
38 sponsored dependent health coverage and enrolled their children in the program.

39 **SECTION 14.** ORS 414.839 is amended to read:

40 414.839. (1) Subject to funds available, the Department of Human Services may provide public
41 subsidies for the purchase of health insurance coverage [*provided by public programs or private in-*
42 *surance, including but not limited to*] in the Family Health Insurance Assistance Program, for cur-
43 rently uninsured individuals [*based on*] whose incomes [*up to*] are not more than 200 percent of
44 the federal poverty [*level*] guidelines. The objective is to create a transition from dependence on
45 public programs to privately financed health insurance.

1 (2) Public subsidies shall apply only to health benefit plans that meet or exceed the basic
2 benchmark health benefit plan or plans established under ORS 735.733.

3 (3) Cost-sharing shall be permitted and structured in such a manner to encourage appropriate
4 use of preventive care and avoidance of unnecessary services.

5 (4) Cost-sharing shall be based on an individual's ability to pay and may not exceed the cost of
6 purchasing a plan.

7 (5) The state may pay a portion of the cost of the subsidy, based on the individual's income and
8 other resources.

9 **SECTION 15.** ORS 735.701 is amended to read:

10 735.701. (1) The Office of Private Health Partnerships is established.

11 (2) The office shall carry out the duties described under ORS 414.831, 735.700 to 735.714 and
12 735.720 to 735.740 **and sections 2, 6, 7 and 8 of this 2007 Act.**

13 **SECTION 16.** ORS 735.710, as amended by section 8, chapter 742, Oregon Laws 2003, section
14 4, chapter 238, Oregon Laws 2005, section 4, chapter 262, Oregon Laws 2005, section 4, chapter 727,
15 Oregon Laws 2005, and section 20, chapter 744, Oregon Laws 2005, is amended to read:

16 735.710. (1) In carrying out its duties under ORS 735.700 to 735.714 and 735.720 to 735.740 **and**
17 **sections 2, 6, 7 and 8 of this 2007 Act**, the Office of Private Health Partnerships shall:

18 (a) Enter into contracts for administration of ORS 735.700 to 735.714 and 735.720 to 735.740 **and**
19 **sections 2, 6, 7 and 8 of this 2007 Act**, including collection of premiums and paying carriers.

20 (b) Retain consultants and employ staff.

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

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

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

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

28 (g) Establish procedures by rule for the publication or release of aggregate data relating to:

29 (A) Applicants for enrollment and persons enrolled in the Family Health Insurance Assistance
30 Program;

31 (B) Health benefit plans for small employers offered by the office; and

32 (C) Other programs operated by the office.

33 (2) Notwithstanding any other health benefit plan contracted for and offered by the office, the
34 office shall contract for a health benefit plan or plans best designed to meet the needs and provide
35 for the welfare of eligible employees and small employers.

36 (3) The office may approve more than one carrier for each type of plan contracted for and of-
37 fered, but the number of carriers shall be held to a number consistent with adequate service to eli-
38 gible employees and family members.

39 (4) Where appropriate for a contracted and offered health benefit plan, the office shall provide
40 options under which an eligible employee may arrange coverage for family members of the employee.

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

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

45 (7) If the office requests less health care service or benefit than is otherwise required by state

1 law, a carrier is not required to offer such service or benefit.

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

4 (9) The office may employ whatever means are reasonably necessary to carry out the purposes
5 of ORS 735.700 to 735.714 and 735.720 to 735.740 **and sections 2, 6, 7 and 8 of this 2007 Act**. Such
6 authority includes but is not limited to authority to seek clarification, amendment, modification,
7 suspension or termination of any agreement or contract that in the office's judgment requires such
8 action.

9 **SECTION 17.** ORS 735.754 is amended to read:

10 735.754. (1) In order to increase public subsidies for the purchase of health insurance coverage
11 provided by public programs or private insurance described by ORS 414.839 **and sections 6, 7 and**
12 **8 of this 2007 Act**, the Office of Private Health Partnerships, the Oregon Medical Insurance Pool
13 Board and the Department of Human Services shall work cooperatively to obtain federal matching
14 dollars. The office, the Oregon Medical Insurance Pool Board and the department shall develop a
15 system for payment or reimbursement of other costs and subsidies provided to subsidized members.

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

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

18 (b) The amount of other costs.

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

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

25
26 **CIGARETTE TAX**

27
28 **(Permanent Tax)**

29
30 **SECTION 18.** Sections 19, 20 and 22 to 25 of this 2007 Act are added to and made a part
31 of ORS 323.005 to 323.482.

32 **SECTION 19.** (1) Notwithstanding ORS 323.030 (2) and in addition to and not in lieu of any
33 other tax, every distributor shall pay a tax upon distributions of cigarettes at the rate of
34 42.25 mills for the distribution of each cigarette in this state.

35 (2) Any cigarette for which a tax has once been imposed under ORS 323.005 to 323.482
36 may not be subject upon a subsequent distribution to the taxes imposed by ORS 323.005 to
37 323.482.

38 **SECTION 20.** All moneys received by the Department of Revenue from the tax imposed
39 under section 19 of this 2007 Act shall be paid over to the State Treasurer to be held in a
40 suspense account established under ORS 293.445. After the payment of refunds:

41 (1) 6.5 percent shall be credited to the suspense account created pursuant to ORS 323.455
42 (1) and is appropriated and credited in the same manner as moneys received from the tax
43 imposed by ORS 323.030 (1);

44 (2) 13 percent shall be credited to the suspense account created pursuant to ORS 323.457
45 (1) and is appropriated and credited in the same manner as moneys received from the tax

1 imposed by ORS 323.031 (1); and

2 (3) After the amounts described in subsections (1) and (2) of this section are credited, the
3 balance of the moneys in the account shall be appropriated and credited as follows:

4 (a) 10 percent shall be credited to the Tobacco Use Reduction Account established under
5 ORS 431.832 to fund cigarette and tobacco use prevention and education programs recom-
6 mended in the Best Practices for Comprehensive Tobacco Control Programs published by the
7 United States Department of Health and Human Services, Centers for Disease Control and
8 Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office
9 on Smoking and Health, August 1999; and

10 (b) 90 percent shall be credited to the Oregon Healthy Kids Program Fund established
11 by section 12a of this 2007 Act.

12 SECTION 21. Sections 19 and 20 of this 2007 Act apply to cigarette distributions occurring
13 on or after the later of October 1, 2007, or the first day of the calendar month following the
14 effective date of this 2007 Act.

15
16 (Existing Inventory Temporary Floor Tax)

17
18 SECTION 22. (1) Notwithstanding ORS 323.030 (3) and in addition to and not in lieu of any
19 other tax, for the privilege of holding or storing cigarettes for sale, use or consumption, a
20 floor tax is imposed upon every dealer at the rate of 42.25 mills for each cigarette in the
21 possession of or under the control of the dealer in this state at 12:01 a.m. on the later of
22 October 1, 2007, or the first day of the calendar month following the effective date of this
23 2007 Act.

24 (2) The tax imposed by this section is due and payable on or before 20 days after the later
25 of October 1, 2007, or the first day of the calendar month following the effective date of this
26 2007 Act. Any amount of tax that is not paid within the time required shall bear interest at
27 the rate established under ORS 305.220 per month, or fraction of a month, from the date on
28 which the tax is due to be paid, until paid.

29 (3) On or before 20 days after the later of October 1, 2007, or the first day of the calendar
30 month following the effective date of this 2007 Act, every dealer must file a report with the
31 Department of Revenue in such form as the department may prescribe. The report must
32 state the number of cigarettes in the possession of or under the control of the dealer in this
33 state at 12:01 a.m. on the later of October 1, 2007, or the first day of the calendar month
34 following the effective date of this 2007 Act and the amount of tax due. Each report must
35 be accompanied by a remittance payable to the department for the amount of tax due.

36 SECTION 23. Notwithstanding ORS 323.030 (3) and in addition to and not in lieu of any
37 other tax, for the privilege of distributing cigarettes as a distributor and for holding or
38 storing cigarettes for sale, use or consumption, a floor tax and cigarette adjustment indicia
39 tax is imposed upon every distributor in the amount of \$1.05625 for each Oregon cigarette
40 tax stamp bearing the designation "25," in the amount of 84.5 cents for each Oregon cigarette
41 tax stamp bearing the designation "20," in the amount of 42.25 cents for each Oregon ciga-
42 rette tax stamp bearing the designation "10" and in the amount of 4.225 cents for each
43 Oregon cigarette tax stamp bearing the designation "1" that is affixed to any package of
44 cigarettes in the possession of or under the control of the distributor at 12:01 a.m. on the
45 later of October 1, 2007, or the first day of the calendar month following the effective date

1 of this 2007 Act.

2 **SECTION 24.** (1) Every distributor must take an inventory as of 12:01 a.m. on the later
3 of October 1, 2007, or the first day of the calendar month following the effective date of this
4 2007 Act of all packages of cigarettes to which are affixed Oregon cigarette tax stamps and
5 of all unaffixed Oregon cigarette tax stamps in the possession of or under the control of the
6 distributor.

7 (2) Every distributor must file a report with the Department of Revenue on or before 20
8 days after the later of October 1, 2007, or the first day of the calendar month following the
9 effective date of this 2007 Act in such form as the department may prescribe, showing:

10 (a) The number of Oregon cigarette tax stamps, with the designations of the stamps, that
11 were affixed to packages of cigarettes in the possession of or under the control of the dis-
12 tributor at 12:01 a.m. on the later of October 1, 2007, or the first day of the calendar month
13 following the effective date of this 2007 Act; and

14 (b) The number of unaffixed Oregon cigarette tax stamps, with the designations of the
15 stamps, that were in the possession of or under the control of the distributor at 12:01 a.m.
16 on the later of October 1, 2007, or the first day of the calendar month following the effective
17 date of this 2007 Act.

18 (3) The amount of tax required to be paid with respect to the affixed Oregon cigarette
19 tax stamps shall be computed pursuant to section 23 of this 2007 Act and remitted with the
20 distributor's report. Any amount of tax not paid within the time specified for the filing of
21 the report shall bear interest at the rate established under ORS 305.220 per month, or frac-
22 tion of a month, from the due date of the report until paid.

23 (4) Notwithstanding ORS 323.320, the department may establish a date after which the
24 value of stamps sold prior to the effective date of this 2007 Act will not be refunded or
25 credited to a distributor.

26 **SECTION 25.** All moneys received by the Department of Revenue from the taxes imposed
27 by sections 22 and 23 of this 2007 Act shall be paid over to the State Treasurer to be held in
28 a suspense account established under ORS 293.445. After the payment of refunds, the net
29 amount of revenues remaining shall be distributed as prescribed in section 20 of this 2007
30 Act.

31 **SECTION 25a.** Amounts necessary to pay the expenses incurred by the Department of
32 Revenue and to reimburse the Oregon State Police and the Department of Justice for the
33 administration and enforcement of ORS 323.005 to 323.482 are continuously appropriated to
34 the Department of Revenue from the suspense accounts described in sections 20 and 25 of
35 this 2007 Act.

36 **SECTION 25b.** Section 25a of this 2007 Act is repealed January 1, 2008.

37 **SECTION 25c.** ORS 323.457 is amended to read:

38 323.457. (1) Moneys received under ORS 323.031 shall be paid over to the State Treasurer to be
39 held in a suspense account established under ORS 293.445. Amounts necessary to pay the expenses
40 incurred by the Department of Revenue and to reimburse the Oregon State Police and the Depart-
41 ment of Justice for the administration and enforcement of this section and ORS 323.031 are contin-
42 uously appropriated to the Department of Revenue from the suspense account. After the payment
43 of administrative and enforcement expenses and refunds:

44 (a) [29.37/30] 47/50 of the moneys shall be credited to the Oregon Health Plan Fund established
45 under ORS 414.109;

1 (b) [0.14/30] **1/50** of the moneys are continuously appropriated to the Oregon Department of
2 Administrative Services for distribution to the cities of this state;

3 (c) [0.14/30] **1/50** of the moneys are continuously appropriated to the Oregon Department of
4 Administrative Services for distribution to the counties of this state; **and**

5 (d) [0.14/30] **1/50** of the moneys are continuously appropriated to the Department of Transpor-
6 tation to be distributed and transferred to the Elderly and Disabled Special Transportation Fund
7 established under ORS 391.800[; and].

8 *[(e) 0.21/30 of the moneys shall be credited to the Tobacco Use Reduction Account established un-
9 der ORS 431.832.]*

10 (2)(a) Moneys distributed to cities and counties under this section shall be distributed to each
11 city or county using the proportions used for distributions made under ORS 323.455.

12 (b) Moneys shall be distributed to cities, counties and the Elderly and Disabled Special Trans-
13 portation Fund at the same time moneys are distributed to cities, counties and the Elderly and
14 Disabled Special Transportation Fund under ORS 323.455.

15 **SECTION 25d.** ORS 323.457, as amended by section 5e, chapter 804, Oregon Laws 2003, and
16 section 110, chapter 94, Oregon Laws 2005, is amended to read:

17 323.457. (1) Moneys received under ORS 323.031 shall be paid over to the State Treasurer to be
18 held in a suspense account established under ORS 293.445. After the payment of refunds:

19 (a) [29.37/30] **47/50** of the moneys shall be credited to the Oregon Health Plan Fund established
20 under ORS 414.109;

21 (b) [0.14/30] **1/50** of the moneys are continuously appropriated to the Oregon Department of
22 Administrative Services for distribution to the cities of this state;

23 (c) [0.14/30] **1/50** of the moneys are continuously appropriated to the Oregon Department of
24 Administrative Services for distribution to the counties of this state; **and**

25 (d) [0.14/30] **1/50** of the moneys are continuously appropriated to the Department of Transpor-
26 tation to be distributed and transferred to the Elderly and Disabled Special Transportation Fund
27 established under ORS 391.800[; and].

28 *[(e) 0.21/30 of the moneys shall be credited to the Tobacco Use Reduction Account established un-
29 der ORS 431.832.]*

30 (2)(a) Moneys distributed to cities and counties under this section shall be distributed to each
31 city or county using the proportions used for distributions made under ORS 323.455.

32 (b) Moneys shall be distributed to cities, counties and the Elderly and Disabled Special Trans-
33 portation Fund at the same time moneys are distributed to cities, counties and the Elderly and
34 Disabled Special Transportation Fund under ORS 323.455.

35
36 **TOBACCO PRODUCTS TAX**

37
38 **SECTION 26.** ORS 323.505 is amended to read:

39 323.505. (1) A tax is hereby imposed upon the distribution of all tobacco products in this state.
40 The tax imposed by this section is intended to be a direct tax on the consumer, for which payment
41 upon distribution is required to achieve convenience and facility in the collection and administration
42 of the tax. The tax shall be imposed on a distributor at the time the distributor distributes tobacco
43 products.

44 (2) The tax imposed under this section shall be imposed at the rate of:

45 (a) [Sixty-five] **Ninety-five** percent of the wholesale sales price of cigars, but not to exceed 50

1 cents per cigar; or

2 (b) [*Sixty-five*] **Ninety-five** percent of the wholesale sales price of all tobacco products that are
3 not cigars.

4 (3) If the tax imposed under this section does not equal an amount calculable to a whole cent,
5 the tax shall be equal to the next higher whole cent. However, the amount remitted to the Depart-
6 ment of Revenue by the taxpayer for each quarter shall be equal only to 98.5 percent of the total
7 taxes due and payable by the taxpayer for the quarter.

8 (4) No tobacco product shall be subject to the tax if the base product or other intermediate form
9 thereof has previously been taxed under this section.

10 **SECTION 27. The amendments to ORS 323.505 by section 26 of this 2007 Act apply to to-**
11 **bacco products tax reporting periods beginning on or after the later of October 1, 2007, or**
12 **the first day of the calendar month following the effective date of this 2007 Act.**

13
14 **CAPTIONS**

15
16 **SECTION 28. The unit captions used in this 2007 Act are provided only for the conven-**
17 **ience of the reader and do not become part of the statutory law of this state or express any**
18 **legislative intent in the enactment of this 2007 Act.**

19
20 **EFFECTIVE DATE**

21
22 **SECTION 29. This 2007 Act takes effect on the 91st day after the date on which the**
23 **regular session of the Seventy-fourth Legislative Assembly adjourns sine die.**

24
