

A-Engrossed Senate Bill 3

Ordered by the Senate June 12
Including Senate Amendments dated June 12

Sponsored by Senators MONNES ANDERSON, CARTER; Senators AVAKIAN, BATES, BROWN, BURDICK, COURTNEY, DECKERT, DEVLIN, GORDLY, JOHNSON, METSGER, MONROE, MORRISETTE, PROZANSKI, VERGER, WALKER, WESTLUND

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

Establishes Healthy Kids Safety Net Fund. Continuously appropriates moneys in fund to Department of Human Services for grants to community health centers and safety net clinics.

Allocates cigarette and other tobacco products taxes imposed by Oregon Constitution.

Takes effect only if Senate Joint Resolution 4 (2007) is approved by people. Takes effect on effective date of proposed constitutional amendment.

A BILL FOR AN ACT

1
2 Relating to health; creating new provisions; amending ORS 323.010, 323.015, 323.455, 323.500, 323.505,
3 323.625, 391.800, 414.025, 414.725, 414.839, 442.507, 735.701, 735.710 and 735.754; repealing ORS
4 323.457; appropriating money; and prescribing an effective date.

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

OREGON HEALTHY KIDS PROGRAM

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9 **SECTION 1. Sections 2 and 3 of this 2007 Act are added to and made a part of ORS**
10 **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 8 and 9 of this 2007 Act;**

19 (c) **A statewide Healthy Kids Advice Line; and**

20 (d) **A statewide Healthy Kids Healthcare Access Line.**

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

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

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

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

16 **(6) Notwithstanding subsection (5) of this section, the department shall adopt verification**
17 **requirements to ensure that recipients of benefits in the Oregon Healthy Kids Program are**
18 **legal residents.**

19 **SECTION 3. (1)(a) Except as provided in subsection (2) of this section, to be eligible for**
20 **the private health option under sections 8 and 9 of this 2007 Act or for the Children’s Health**
21 **Insurance Program funded by Title XXI of the Social Security Act, a child must be uninsured**
22 **for a minimum of 60 consecutive days immediately preceding enrollment.**

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

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

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

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

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

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

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

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

40 (a) Is receiving a category of aid.

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

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

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

1 of professional or technical training.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 (s) Is not otherwise categorically needy and is not eligible for care under Title XVIII of the

1 federal Social Security Act or is not a full-time student in a post-secondary education program as
2 defined by the Department of Human Services by rule, but whose family income is less than the
3 federal poverty level and whose family investments and savings equal less than the investments and
4 savings limit established by the department by rule.

5 **(3) “Health benefit plan” has the meaning given that term in ORS 735.720.**

6 [(3)] (4) “Income” has the meaning given that term in ORS 411.704.

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

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

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

17 (b) Outpatient hospital services;

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

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

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

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

24 (g) Home health care services;

25 (h) Private duty nursing services;

26 (i) Clinic services;

27 (j) Dental services;

28 (k) Physical therapy and related services;

29 (L) Prescribed drugs, including those dispensed and administered as provided under ORS chapter
30 689;

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

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

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

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

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

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

42 (s) Hospice services.

43 [(6)] (7) “Medical assistance” includes any care or services for any individual who is a patient
44 in a medical institution or any care or services for any individual who has attained 65 years of age
45 or is under 22 years of age, and who is a patient in a private or public institution for mental dis-

1 eases. “Medical assistance” includes “health services” as defined in ORS 414.705. “Medical assist-
2 ance” does not include care or services for an inmate in a nonmedical public institution.

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

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

8 **SECTION 5.** ORS 414.725 is amended to read:

9 414.725. (1)(a) Pursuant to rules adopted by the Department of Human Services, the department
10 shall execute prepaid managed care health services contracts for health services funded by the
11 Legislative Assembly. The contract must require that all services are provided to the extent and
12 scope of the Health Services Commission’s report for each service provided under the contract. The
13 contracts are not subject to ORS chapters 279A and 279B, except ORS 279A.250 to 279A.290 and
14 279B.235. Notwithstanding ORS 414.720 (8), the rules adopted by the department shall establish
15 timelines for executing the contracts described in this paragraph.

16 (b) It is the intent of ORS 414.705 to 414.750 that the state use, to the greatest extent possible,
17 prepaid managed care health services organizations to provide physical health, dental, mental health
18 and chemical dependency services under ORS 414.705 to 414.750.

19 (c) The department shall solicit qualified providers or plans to be reimbursed for providing the
20 covered services. The contracts may be with hospitals and medical organizations, health mainte-
21 nance organizations, managed health care plans and any other qualified public or private prepaid
22 managed care health services organization. The department may not discriminate against any con-
23 tractors that offer services within their providers’ lawful scopes of practice.

24 (2) The department may institute a fee-for-service case management system or a fee-for-service
25 payment system for the same physical health, dental, mental health or chemical dependency services
26 provided under the health services contracts for persons eligible for health services under ORS
27 414.705 to 414.750 in designated areas of the state in which a prepaid managed care health services
28 organization is not able to assign an enrollee to a person or entity that is primarily responsible for
29 coordinating the physical health, dental, mental health or chemical dependency services provided to
30 the enrollee. In addition, the department may make other special arrangements as necessary to in-
31 crease the interest of providers in participation in the state’s managed care system, including but
32 not limited to the provision of stop-loss insurance for providers wishing to limit the amount of risk
33 they wish to underwrite.

34 (3) As provided in subsections (1) and (2) of this section, the aggregate expenditures by the de-
35 partment for health services provided pursuant to ORS 414.705 to 414.750 may not exceed the total
36 dollars appropriated for health services under ORS 414.705 to 414.750.

37 (4) Actions taken by providers, potential providers, contractors and bidders in specific accord-
38 ance with ORS 414.705 to 414.750 in forming consortiums or in otherwise entering into contracts to
39 provide health care services shall be performed pursuant to state supervision and shall be consid-
40 ered to be conducted at the direction of this state, shall be considered to be lawful trade practices
41 and may not be considered to be the transaction of insurance for purposes of the Insurance Code.

42 (5) Health care providers contracting to provide services under ORS 414.705 to 414.750 shall
43 advise a patient of any service, treatment or test that is medically necessary but not covered under
44 the contract if an ordinarily careful practitioner in the same or similar community would do so un-
45 der the same or similar circumstances.

1 (6) A prepaid managed care health services organization shall provide information on contacting
2 available providers to an enrollee in writing within 30 days of assignment to the health services
3 organization.

4 (7) Each prepaid managed care health services organization shall provide upon the request of
5 an enrollee or prospective enrollee annual summaries of the organization's aggregate data regarding:

6 (a) Grievances and appeals; and

7 (b) Availability and accessibility of services provided to enrollees.

8 (8) A prepaid managed care health services organization may not limit enrollment in a desig-
9 nated area based on the zip code of an enrollee or prospective enrollee.

10 **(9)(a) Notwithstanding subsection (2) of this section, a prepaid managed care health ser-**
11 **VICES ORGANIZATION SHALL REIMBURSE A QUALIFIED COMMUNITY HEALTH CENTER OR SAFETY NET CLINIC**
12 **FOR A CONTRACTED SERVICE PROVIDED BY THE CENTER OR CLINIC TO AN ENROLLEE OF THE ORGANIZATION**
13 **PARTICIPATING IN THE OREGON HEALTHY KIDS PROGRAM. THE DEPARTMENT BY RULE SHALL ADOPT**
14 **STANDARDS FOR QUALIFYING COMMUNITY HEALTH CENTERS AND SAFETY NET CLINICS FOR REIMBURSEMENT**
15 **UNDER THIS SUBSECTION.**

16 **(b) As used in this subsection, "community health center or safety net clinic" means a**
17 **NONPROFIT MEDICAL CLINIC THAT PROVIDES PRIMARY PHYSICAL HEALTH, VISION, DENTAL OR MENTAL**
18 **HEALTH SERVICES TO LOW-INCOME PATIENTS WITHOUT CHARGE OR USING A SLIDING FEE SCALE BASED ON**
19 **THE INCOME OF THE PATIENT. "COMMUNITY HEALTH CENTER OR SAFETY NET CLINIC" INCLUDES A**
20 **SCHOOL-BASED CLINIC.**

21 **SECTION 6.** ORS 414.839 is amended to read:

22 414.839. (1) Subject to funds available, the Department of Human Services may provide public
23 subsidies for the purchase of health insurance coverage [*provided by public programs or private in-*
24 *surance, including but not limited to*] **in** the Family Health Insurance Assistance Program, for cur-
25 rently uninsured individuals [*based on*] **whose** incomes [*up to*] **are not more than** 200 percent of
26 the federal poverty [*level*] **guidelines.** The objective is to create a transition from dependence on
27 public programs to privately financed health insurance.

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

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

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

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

36 **SECTION 7. Sections 8 to 13 of this 2007 Act are added to and made a part of ORS**
37 **chapter 735.**

38 **SECTION 8. (1) The Office of Private Health Partnerships shall administer a private**
39 **health option to expand private health care coverage for Oregon's children.**

40 **(2) The office shall contract with carriers to provide health benefit plans approved under**
41 **section 9 of this 2007 Act. The office will manage the collection and payment of premiums**
42 **for children participating in the plans.**

43 **(3) The office shall provide a subsidy for a health benefit plan provided pursuant to a**
44 **contract entered into under this section for a child whose family's household income is more**
45 **than 200 percent but no more than 300 percent of the federal poverty guidelines. The amount**

1 of the subsidy shall be determined in accordance with subsection (4) of this section and is
2 payable to the carrier in the manner specified by the contract.

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

- 5 (a) Household income;
- 6 (b) Family size; and
- 7 (c) Other factors established by the office.

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

11 (6) As used in this section and section 9 of this 2007 Act:

- 12 (a) "Carrier" has the meaning given that term in ORS 735.700.
- 13 (b) "Child" means a person under 19 years of age.
- 14 (c) "Health benefit plan" has the meaning given that term in ORS 735.720.

15 **SECTION 9.** (1) The Office of Private Health Partnerships must approve health benefit
16 plans offered through the private health option described in section 8 of this 2007 Act. To be
17 approved, health benefit plans must offer benefit packages comparable to those provided
18 under section 2 (1)(a) of this 2007 Act and must cover mental health, vision and dental ser-
19 vices.

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

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

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

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

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

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

37 (b) Assistance with the application process; and

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

40 **SECTION 11.** Notwithstanding eligibility criteria and subsidy amounts determined pur-
41 suant to section 8 of this 2007 Act, subsidies under the private health option shall be provided
42 to eligible children to the extent the Legislative Assembly appropriates funds for that pur-
43 pose or establishes expenditure limitations to provide such subsidies.

44 **SECTION 12.** There is established in the State Treasury, separate and distinct from the
45 General Fund, the Private Health Option Program Account, which shall consist of moneys

1 appropriated to the account by the Legislative Assembly and all moneys transferred as re-
2 imbursements to the account by the Department of Human Services under section 14 of this
3 2007 Act. All moneys in the Private Health Option Program Account are continuously ap-
4 propriated to the Office of Private Health Partnerships to carry out the provisions of
5 sections 8, 9 and 10 of this 2007 Act.

6 **SECTION 13.** (1) Except as otherwise provided in this section and ORS 735.710, the Office
7 of Private Health Partnerships and the Department of Human Services may not disclose in-
8 formation provided as part of an application for enrollment in the Oregon Healthy Kids
9 Program except for purposes directly connected with the administration of the program.

10 (2) The office and the department may exchange applicant information with other state
11 and federal agencies for the purposes of determining eligibility for and administering the
12 Oregon Healthy Kids Program, identifying economic trends relevant to administration of the
13 program and providing the report required by section 16 of this 2007 Act.

14 (3) In accordance with applicable state and federal law, the office or the department may
15 request that applicants provide their Social Security numbers and may use those numbers
16 in the administration of the Oregon Healthy Kids Program.

17 **SECTION 14.** (1) The Department of Human Services shall apply to the Centers for
18 Medicare and Medicaid Services for the waivers necessary to implement sections 2, 3, 8, 9
19 and 10 of this 2007 Act and to obtain federal financial participation for health care coverage
20 provided to children through the Oregon Healthy Kids Program.

21 (2) The department shall adopt rules implementing sections 2 and 3 of this 2007 Act as
22 soon as practicable after receipt of the necessary waivers. The Office of Private Health
23 Partnerships shall adopt rules implementing sections 8, 9 and 10 of this 2007 Act as soon as
24 practicable after receipt of the necessary waivers.

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

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

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

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

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

40 **SECTION 16.** The Office for Oregon Health Policy and Research shall analyze and evalu-
41 ate the implementation of the Oregon Healthy Kids Program and report its findings to the
42 Legislative Assembly every two years in the manner provided by ORS 192.245. The report
43 shall include at least the following information for the preceding two-year period:

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

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

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

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

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

9 **SECTION 17.** 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, 8, 9 and 10 of this 2007 Act.**

13 **SECTION 18.** ORS 735.710 is amended to read:

14 735.710. (1) In carrying out its duties under ORS 735.700 to 735.714 and 735.720 to 735.740 **and**
15 **sections 2, 8, 9 and 10 of this 2007 Act,** the Office of Private Health Partnerships may:

16 (a) Enter into contracts for administration of ORS 735.700 to 735.714 and 735.720 to 735.740 **and**
17 **sections 2, 8, 9 and 10 of this 2007 Act,** including collection of premiums and paying carriers.

18 (b) Retain consultants and employ staff.

19 (c) Enter into contracts with carriers or health care providers for health benefit plans.

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

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

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

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

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

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

29 (C) Other programs operated by the office.

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

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

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

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

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

42 (7) If the office requests less health care service or benefit than is otherwise required by state
43 law, a carrier is not required to offer such service or benefit.

44 (8) The office may contract for and offer health benefit plans for small employers that provide
45 a sufficient level of benefits to be eligible for a subsidy under ORS 735.724 as well as health benefit

1 plans for small employers that are not eligible for a subsidy under ORS 735.724.

2 (9) The office may employ whatever means are reasonably necessary to carry out the purposes
3 of ORS 735.700 to 735.714 and 735.720 to 735.740 **and sections 2, 8, 9 and 10 of this 2007 Act**. Such
4 authority includes but is not limited to authority to seek clarification, amendment, modification,
5 suspension or termination of any agreement or contract that in the office's judgment requires such
6 action.

7 **SECTION 19.** ORS 735.710, as amended by section 8, chapter 742, Oregon Laws 2003, section
8 4, chapter 238, Oregon Laws 2005, section 4, chapter 262, Oregon Laws 2005, section 4, chapter 727,
9 Oregon Laws 2005, and section 20, chapter 744, Oregon Laws 2005, is amended to read:

10 735.710. (1) In carrying out its duties under ORS 735.700 to 735.714 and 735.720 to 735.740 **and**
11 **sections 2, 8, 9 and 10 of this 2007 Act**, the Office of Private Health Partnerships shall:

12 (a) Enter into contracts for administration of ORS 735.700 to 735.714 and 735.720 to 735.740 **and**
13 **sections 2, 8, 9 and 10 of this 2007 Act**, including collection of premiums and paying carriers.

14 (b) Retain consultants and employ staff.

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

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

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

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

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

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

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

26 (C) Other programs operated by the office.

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

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

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

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

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

39 (7) If the office requests less health care service or benefit than is otherwise required by state
40 law, a carrier is not required to offer such service or benefit.

41 (8) Health benefit plans for small employers contracted for and offered by the office must pro-
42 vide a sufficient level of benefits to be eligible for a subsidy under ORS 735.724.

43 (9) The office may employ whatever means are reasonably necessary to carry out the purposes
44 of ORS 735.700 to 735.714 and 735.720 to 735.740 **and sections 2, 8, 9 and 10 of this 2007 Act**. Such
45 authority includes but is not limited to authority to seek clarification, amendment, modification,

1 suspension or termination of any agreement or contract that in the office's judgment requires such
2 action.

3 **SECTION 20.** ORS 735.754 is amended to read:

4 735.754. (1) In order to increase public subsidies for the purchase of health insurance coverage
5 provided by public programs or private insurance described by ORS 414.839 **and sections 8, 9 and**
6 **10 of this 2007 Act**, the Office of Private Health Partnerships, the Oregon Medical Insurance Pool
7 Board and the Department of Human Services shall work cooperatively to obtain federal matching
8 dollars. The office, the Oregon Medical Insurance Pool Board and the department shall develop a
9 system for payment or reimbursement of other costs and subsidies provided to subsidized members.

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

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

12 (b) The amount of other costs.

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

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

19 **SECTION 21.** (1) **The Healthy Kids Safety Net Fund is established in the State Treasury,**
20 **separate and distinct from the General Fund. Interest earned by the Healthy Kids Safety Net**
21 **Fund shall be credited to the fund. The Healthy Kids Safety Net Fund shall consist of moneys**
22 **transferred to the fund under section 23 of this 2007 Act and moneys received by the De-**
23 **partment of Human Services in the form of gifts, grants, bequests, endowments or donations.**

24 (2) **Moneys in the Healthy Kids Safety Net Fund are continuously appropriated to the**
25 **Department of Human Services for the purpose of carrying out the provisions of section 22**
26 **of this 2007 Act.**

27 **SECTION 22.** (1) **The Department of Human Services shall award grants to community**
28 **health centers and safety net clinics to ensure the capacity of each grantee to provide health**
29 **care services to underserved or vulnerable populations.**

30 (2) **The department shall by rule adopt criteria for awarding grants under this section.**

31 (3) **As used in this section, "community health centers and safety net clinics" means**
32 **nonprofit medical clinics that provide primary physical health, vision, dental or mental**
33 **health services to low-income patients without charge or using a sliding fee scale based on**
34 **the income of the patient. "Community health centers and safety net clinics" includes**
35 **school-based clinics.**

36 **SECTION 23.** **All moneys received by the Department of Revenue from the taxes imposed**
37 **under section 15 (1)(a), Article IX of the Oregon Constitution, shall be paid over to the State**
38 **Treasurer to be held in a suspense account established under ORS 293.445. After the payment**
39 **of refunds:**

40 (1) **4.918 percent shall be credited to the Tobacco Use Reduction Account established**
41 **under ORS 431.832 to fund cigarette and tobacco use prevention and education programs re-**
42 **commended in the Best Practices for Comprehensive Tobacco Control Programs published**
43 **by the United States Department of Health and Human Services, Centers for Disease Control**
44 **and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Of-**
45 **fice on Smoking and Health, August 1999.**

1 **(2) 72.34 percent shall be credited to the Oregon Healthy Kids Program Fund established**
2 **by section 15 of this 2007 Act.**

3 **(3) 18.54 percent shall be credited to the Oregon Health Plan Fund established by ORS**
4 **414.109.**

5 **(4) 3.04 percent shall be transferred to the Healthy Kids Safety Net Fund established by**
6 **section 21 of this 2007 Act.**

7 **(5) 1.16 percent shall be transferred to the Rural Health Care Revolving Account estab-**
8 **lished by ORS 442.480 for the purposes described in section 34 of this 2007 Act.**

9 **SECTION 24.** Section 23 of this 2007 Act is amended to read:

10 **Sec. 23.** All moneys received by the Department of Revenue from the taxes imposed under sec-
11 tion 15 (1)(a), Article IX of the Oregon Constitution, shall be paid over to the State Treasurer to
12 be held in a suspense account established under ORS 293.445. After the payment of refunds:

13 (1) [4.918] **10** percent shall be credited to the Tobacco Use Reduction Account established under
14 ORS 431.832 to fund cigarette and tobacco use prevention and education programs recommended in
15 the Best Practices for Comprehensive Tobacco Control Programs published by the United States
16 Department of Health and Human Services, Centers for Disease Control and Prevention, National
17 Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, August
18 1999.

19 (2) [72.34] **68.47** percent shall be credited to the Oregon Healthy Kids Program Fund established
20 by section 15 of this 2007 Act.

21 (3) [18.54] **17.55** percent shall be credited to the Oregon Health Plan Fund established by ORS
22 414.109.

23 (4) [3.04] **2.88** percent shall be transferred to the Healthy Kids Safety Net Fund established by
24 section 21 of this 2007 Act.

25 (5) [1.16] **1.10** percent shall be transferred to the Rural Health Care Revolving Account estab-
26 lished by ORS 442.480 for the purposes described in section 34 of this 2007 Act.

27 **SECTION 25.** **The amendments to section 23 of this 2007 Act by section 24 of this 2007**
28 **Act become operative on July 1, 2009.**

29 **SECTION 26.** **Section 23 of this 2007 Act applies to tobacco products distributions occur-**
30 **ring on or after the first day of the calendar month following the effective date of this 2007**
31 **Act.**

32 **SECTION 27.** ORS 323.455, as amended by section 27b, chapter 804, Oregon Laws 2003, is
33 amended to read:

34 323.455. (1) All moneys received by the Department of Revenue from the tax imposed by ORS
35 323.030 (1) **and 323.031 (1)** shall be paid over to the State Treasurer to be held in a suspense ac-
36 count established under ORS 293.445. After the payment of refunds[, 89.65]:

37 **(a) 21.69** percent shall be credited to the General Fund[.];

38 **(b) [3.45] 2.3** percent is appropriated to the cities of this state[.];

39 **(c) [3.45] 2.3** percent is appropriated to the counties of this state; and

40 **(d) [3.45] 2.3** percent is continuously appropriated to the Department of Transportation for the
41 purpose of financing and improving transportation services for elderly and disabled individuals as
42 provided in ORS 391.800 to 391.830.

43 **(2) After the appropriation and crediting of moneys to the General Fund, cities, counties**
44 **and the Department of Transportation under subsection (1) of this section, of the balance**
45 **of the moneys in the suspense account, 71.41 percent shall be credited to the Oregon Health**

1 **Plan Fund established by ORS 414.109 for the purpose of funding the maintenance and ex-**
 2 **pansion of the number of persons eligible for medical assistance under the Oregon Health**
 3 **Plan or for funding the maintenance of the benefits available under the Oregon Health Plan,**
 4 **or both.**

5 [(2)] (3) The moneys so appropriated to cities and counties shall be paid on a monthly basis
 6 within 35 days after the end of the month for which a distribution is made. Each city shall receive
 7 such share of the money appropriated to all cities as its population, as determined under ORS
 8 190.510 to 190.590 last preceding such apportionment, bears to the total population of the cities of
 9 the state, and each county shall receive such share of the money as its population, determined under
 10 ORS 190.510 to 190.590 last preceding such apportionment, bears to the total population of the state.

11 [(3)] (4) The moneys appropriated to the Department of Transportation under subsection (1) of
 12 this section shall be distributed and transferred to the Elderly and Disabled Special Transportation
 13 Fund established by ORS 391.800 at the same time as the cigarette tax moneys are distributed to
 14 cities and counties under this section.

15 [(4) *Of the moneys credited to the General Fund under this section 51.92 percent shall be dedicated*
 16 *to funding the maintenance and expansion of the number of persons eligible for medical assistance*
 17 *under the Oregon Health Plan, or to funding the maintenance of the benefits available under the*
 18 *Oregon Health Plan, or both, and 5.77 percent shall be credited to the Tobacco Use Reduction Account*
 19 *established under ORS 431.832.]*

20 **SECTION 28. The unexpended balances of amounts in the suspense account described in**
 21 **ORS 323.457 on December 31, 2007, are transferred to the suspense account described in ORS**
 22 **323.455 for distribution as prescribed in ORS 323.455.**

23 **SECTION 29.** ORS 323.505 is amended to read:

24 323.505. (1)(a) A tax is hereby imposed upon the distribution of all tobacco products in this
 25 state.

26 **(b) In addition, for purposes of administration and collection, the taxes imposed under**
 27 **section 15 (1)(a) and (b), Article IX of the Oregon Constitution, are hereby combined with the**
 28 **tax imposed under paragraph (a) of this subsection. The combined statutory and constitu-**
 29 **tional tax** [*The tax imposed by this section*] is intended to be a direct tax on the consumer, for which
 30 payment upon distribution is required to achieve convenience and facility in the collection and ad-
 31 ministration of the tax. The tax shall be imposed on a distributor at the time the distributor dis-
 32 tributes tobacco products.

33 (2) The **combined statutory and constitutional tax** [*imposed under this section*] shall be im-
 34 posed at the rate of:

35 (a) [*Sixty-five*] **Ninety-five** percent of the wholesale sales price of cigars, but not to exceed 50
 36 cents per cigar; or

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

39 (3) If the **combined statutory and constitutional tax** [*imposed under this section*] does not
 40 equal an amount calculable to a whole cent, the tax shall be equal to the next higher whole cent.
 41 However, the amount remitted to the Department of Revenue by the taxpayer for each quarter shall
 42 be equal only to 98.5 percent of the total taxes due and payable by the taxpayer for the quarter.

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

45 **(5) Solely for purposes of administration and collection, the taxes imposed under section**

1 **15, Article IX of the Oregon Constitution, shall be considered taxes imposed under ORS**
2 **323.500 to 323.645.**

3 **SECTION 30. The amendments to ORS 323.505 by section 29 of this 2007 Act apply to to-**
4 **bacco products tax reporting periods beginning on or after the first day of the calendar**
5 **month following the effective date of this 2007 Act.**

6 **SECTION 31. All moneys received by the Department of Revenue under section 15 (1)(b)**
7 **and (c), Article IX of the Oregon Constitution, shall be deposited in the State Treasury and**
8 **credited to a suspense account established under ORS 293.445. After payment of refunds or**
9 **credits arising from erroneous overpayments, the balance of the moneys shall be credited to**
10 **the General Fund. Of the amount credited to the General Fund under this section:**

11 (1) **44.6 percent shall be dedicated to funding the maintenance and expansion of the**
12 **number of persons eligible for medical assistance under the Oregon Health Plan or to funding**
13 **the maintenance of the benefits available under the Oregon Health Plan, or both; and**

14 (2) **55.4 percent shall be credited to the Tobacco Use Reduction Account established under**
15 **ORS 431.832.**

16 **SECTION 32. Section 31 of this 2007 Act is amended to read:**

17 **Sec. 32.** All moneys received by the Department of Revenue under section 15 (1)(b) and (c),
18 Article IX of the Oregon Constitution, shall be deposited in the State Treasury and credited to a
19 suspense account established under ORS 293.445. After payment of refunds or credits arising from
20 erroneous overpayments, the balance of the moneys shall be credited to the General Fund. Of the
21 amount credited to the General Fund under this section:

22 (1) ~~[44.6]~~ **57** percent shall be dedicated to funding the maintenance and expansion of the number
23 of persons eligible for medical assistance under the Oregon Health Plan or to funding the mainte-
24 nance of the benefits available under the Oregon Health Plan, or both; and

25 (2) ~~[55.4]~~ **43** percent shall be credited to the Tobacco Use Reduction Account established under
26 ORS 431.832.

27 **SECTION 33. ORS 323.010 is amended to read:**

28 **323.010.** As used in ORS 323.005 to 323.482, unless the context requires otherwise:

29 (1) "Cigarette" means any product that contains nicotine, is intended to be burned or heated
30 under ordinary conditions of use and consists of or contains:

31 (a) Any roll of tobacco wrapped in paper or in any substance not containing tobacco;

32 (b) Tobacco, in any form, that is functional in the product and that, because of its appearance,
33 the type of tobacco used in the filler or its packaging and labeling, is likely to be offered to, or
34 purchased by, consumers as a cigarette; or

35 (c) Any roll of tobacco that is wrapped in any substance containing tobacco and that, because
36 of its appearance, the type of tobacco used in the filler or its packaging and labeling, is likely to
37 be offered to, or purchased by, consumers as a cigarette described in paragraph (a) of this sub-
38 section.

39 (2) "Cigarette activity in this state":

40 (a) Means importing, storing or manufacturing cigarettes in this state, or exporting cigarettes
41 out of this state, in order to sell the cigarettes either within or outside this state.

42 (b) Does not include importing, storing, manufacturing or exporting of cigarettes that are to be
43 consumed by the person doing the importing, storing, manufacturing or exporting.

44 (3) "Contraband cigarettes" means cigarettes or packages of cigarettes:

45 (a) That do not comply with the requirements of ORS 323.005 to 323.482 or 323.856 or the ciga-

1 rette tax laws of another state or the federal government;

2 (b) That bear trademarks that are counterfeit under ORS 647.135 or other state or federal
3 trademark laws; or

4 (c) That have been sold, offered for sale or possessed for sale in this state in violation of ORS
5 180.440.

6 (4) "Department" means the Department of Revenue.

7 (5) "Dealer" includes every person, other than a manufacturer or a person holding a distribu-
8 tor's license, who engages in this state in the sale of cigarettes.

9 (6) "Exporting" means the act of carrying or conveying goods from a point of manufacture or
10 storage in this state to a location outside this state and may be further defined by the department
11 by rule.

12 (7) "Importing" means the act of bringing goods to a point of storage in this state from a lo-
13 cation outside this state and may be further defined by the department by rule.

14 (8) "In this state" means within the exterior limits of the State of Oregon and includes all ter-
15 ritory within these limits owned by or ceded to the United States of America.

16 (9) "Manufacturer" means any person who makes, manufactures or fabricates cigarettes for sale.

17 (10) "Package" means the individual package, box or other container in which retail sales or
18 gifts of cigarettes are normally made or intended to be made.

19 (11) "Person" includes any individual, firm, copartnership, joint venture, association, social club,
20 fraternal organization, corporation, estate, trust, receiver, trustee, syndicate, this state, any county,
21 municipality, district or other political subdivision of the state, or any other group or combination
22 acting as a unit.

23 (12) "Sale" includes any transfer of title or possession for a consideration, exchange or barter,
24 in any manner or by any means whatsoever, but does not include the sale of cigarettes by a man-
25 ufacturer to a distributor.

26 (13) "Taxpayer" means a distributor or other person required to pay a tax under ORS 323.005
27 to 323.482 **or under section 15, Article IX of the Oregon Constitution**, and includes a distributor
28 required to prepay a tax under ORS 323.068.

29 (14) "Transporter" means any person importing or transporting into this state, or transporting
30 in this state, cigarettes obtained from a source located outside this state, or from any person not
31 licensed as a distributor under ORS 323.005 to 323.482. It does not include a licensed distributor, a
32 common carrier to whom is issued a certificate or permit by the United States Surface Transporta-
33 tion Board to carry commodities in interstate commerce, or to a carrier of federal tax-free cigarettes
34 in bond, or any person transporting no more than 199 cigarettes at any one time.

35 (15) "Untaxed cigarette" means any cigarette that has not yet been distributed in such manner
36 as to result in a tax liability under ORS 323.005 to 323.482 **or under section 15, Article IX of the**
37 **Oregon Constitution**.

38 (16) "Use or consumption" includes the exercise of any right or power over cigarettes incident
39 to the ownership thereof, other than the sale of the cigarettes or the keeping or retention thereof
40 for the purpose of sale.

41 (17) "Wholesaler" means any dealer who engages in the sale of cigarettes to any other dealer
42 for purposes other than use or consumption.

43 **SECTION 34.** ORS 323.015 is amended to read:

44 323.015. As used in ORS 323.005 to [323.482] **323.645**, unless the context requires otherwise:

45 (1) "Distribution" includes:

1 (a) The sale in this state of untaxed cigarettes.

2 (b) The use or consumption in this state of untaxed cigarettes.

3 (c) The receipt or retention in this state of untaxed cigarettes at a place of business where
4 cigarettes are customarily sold or offered for sale to consumers.

5 (d) The placing of cigarettes in vending machines in this state.

6 (e) The use or consumption by the first person in possession in this state of untaxed cigarettes
7 transported to the state in quantities of more than 199 in a single shipment.

8 (f) Donations of sample cigarettes or gift cartons by the manufacturers of the cigarettes, except
9 sample packages containing not more than five cigarettes and labeled as "sample," "not for sale"
10 or with similar wording.

11 (g) The possession in this state of untaxed cigarettes that were transported to this state in
12 quantities of more than 199, unless the person in possession of the untaxed cigarettes is in pos-
13 session of the untaxed cigarettes in order to transport the cigarettes to a location outside this state.

14 (2) "Distributor" includes:

15 (a) Any person who distributes cigarettes.

16 (b) Any person who sells or accepts orders for cigarettes that are to be transported from a point
17 outside this state to a consumer within this state.

18 (c) Notwithstanding the provisions of ORS 323.010 (5), any dealer who serves as the dealer's own
19 distributor or who buys directly from a manufacturer for resale in this state shall be deemed to be
20 both a distributor and a dealer under ORS 323.005 to 323.482 **or under section 15, Article IX of**
21 **the Oregon Constitution.**

22 (3) "Distributor engaged in business in this state" includes any of the following:

23 (a) Any distributor maintaining, occupying or using, permanently or temporarily, directly or in-
24 directly, or through a subsidiary or agent, by whatever name called, an office, place of distribution,
25 sales or sample room or place, warehouse or storage place or any other place of business.

26 (b) A distributor having a representative, agent, salesperson, canvasser or solicitor operating in
27 this state under the authority of the distributor or its subsidiary for the purpose of selling, deliver-
28 ing, or the taking of orders for cigarettes.

29 **SECTION 35.** ORS 323.500 is amended to read:

30 323.500. As used in ORS 323.500 to 323.645, unless the context otherwise requires:

31 (1) "Business" means any trade, occupation, activity or enterprise engaged in for the purpose
32 of selling or distributing tobacco products in this state.

33 (2) "Cigar" means a roll for smoking that is of any size or shape and that is made wholly or in
34 part of tobacco, irrespective of whether the tobacco is pure or flavored, adulterated or mixed with
35 any other ingredient, if the roll has a wrapper made wholly or in greater part of tobacco and if 1,000
36 of these rolls collectively weigh more than three pounds. "Cigar" does not include a cigarette, as
37 defined in ORS 323.010.

38 (3) "Consumer" means any person who purchases tobacco products in this state for the person's
39 use or consumption or for any purpose other than for reselling the tobacco products to another
40 person.

41 (4) "Contraband tobacco products" means tobacco products or packages containing tobacco
42 products:

43 (a) That do not comply with the requirements of ORS 323.500 to 323.645;

44 (b) That do not comply with the requirements of the tobacco products tax laws of the federal
45 government or of other states; or

1 (c) That bear trademarks that are counterfeit under ORS 647.135 or other state or federal
2 trademark laws.

3 (5) "Department" means the Department of Revenue.

4 (6) "Distribute" means:

5 (a) Bringing, or causing to be brought, into this state from without this state tobacco products
6 for sale, storage, use or consumption;

7 (b) Making, manufacturing or fabricating tobacco products in this state for sale, storage, use or
8 consumption in this state;

9 (c) Shipping or transporting tobacco products to retail dealers in this state, to be sold, stored,
10 used or consumed by those retail dealers;

11 (d) Storing untaxed tobacco products in this state that are intended to be for sale, use or con-
12 sumption in this state;

13 (e) Selling untaxed tobacco products in this state; or

14 (f) As a consumer, being in possession of untaxed tobacco products in this state.

15 (7) "Distributor" means:

16 (a) Any person engaged in the business of selling tobacco products in this state who brings, or
17 causes to be brought, into this state from without the state any tobacco products for sale;

18 (b) Any person who makes, manufactures or fabricates tobacco products in this state for sale in
19 this state;

20 (c) Any person engaged in the business of selling tobacco products without this state who ships
21 or transports tobacco products to retail dealers in this state, to be sold by those retail dealers;

22 (d) Any person, including a retail dealer, who sells untaxed tobacco products in this state; or

23 (e) A consumer in possession of untaxed tobacco products in this state.

24 (8) "Manufacturer" means a person who manufactures tobacco products for sale.

25 (9) "Place of business" means any place where tobacco products are sold or where tobacco
26 products are manufactured, stored or kept for the purpose of sale or consumption, including any
27 vessel, vehicle, airplane, train or vending machine.

28 (10) "Retail dealer" means any person who is engaged in the business of selling or otherwise
29 dispensing tobacco products to consumers. The term also includes the operators of or recipients of
30 revenue from all places such as smoke shops, cigar stores and vending machines, where tobacco
31 products are made or stored for ultimate sale to consumers.

32 (11) "Sale" means any transfer, exchange or barter, in any manner or by any means, for a con-
33 sideration, and includes and means all sales made by any person. It includes a gift by a person en-
34 gaged in the business of selling tobacco products, for advertising, as a means of evading the
35 provisions of ORS 323.500 to 323.645, or for any other purpose.

36 (12) "Taxpayer" includes a distributor or other person required to pay a tax imposed under ORS
37 323.500 to 323.645 **or under section 15, Article IX of the Oregon Constitution.**

38 (13) "Tobacco products" means cigars, cheroots, stogies, periques, granulated, plug cut, crimp
39 cut, ready rubbed and other smoking tobacco, snuff, snuff flour, cavendish, plug and twist tobacco,
40 fine-cut and other chewing tobaccos, shorts, refuse scraps, clippings, cuttings and sweepings of to-
41 bacco and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing
42 or smoking in a pipe or otherwise, or both for chewing and smoking, but shall not include cigarettes
43 as defined in ORS 323.010.

44 (14) "Untaxed tobacco products" means tobacco products for which the tax required under ORS
45 323.500 to 323.645 **or under section 15, Article IX of the Oregon Constitution,** has not been paid.

1 (15) "Wholesale sales price" means the price paid for untaxed tobacco products to or on behalf
2 of a seller by a purchaser of the untaxed tobacco products.

3 **SECTION 36.** ORS 323.625, as amended by section 53a, chapter 804, Oregon Laws 2003, is
4 amended to read:

5 323.625. All moneys received by the Department of Revenue under ORS 323.500 to 323.645 shall
6 be deposited in the State Treasury and credited to a suspense account established under ORS
7 293.445. After payment of refunds or credits arising from erroneous overpayments, the balance of the
8 money shall be credited to the General Fund. Of the amount credited to the General Fund under this
9 section [41.54] **21.3** percent shall be dedicated to funding the maintenance and expansion of the
10 number of persons eligible for medical assistance under the Oregon Health Plan, or to funding the
11 maintenance of the benefits available under the Oregon Health Plan, or both[, and 4.62 percent shall
12 be credited to the Tobacco Use Reduction Account established under ORS 431.832].

13 **SECTION 36a.** ORS 391.800 is amended to read:

14 391.800. (1) There is established in the State Treasury, separate and distinct from the General
15 Fund, the Elderly and Disabled Special Transportation Fund. All moneys in the Elderly and Disabled
16 Special Transportation Fund are appropriated continuously to the Department of Transportation for
17 payment of the department's administrative costs of the program and payment to mass transit dis-
18 tricts, transportation districts, Indian tribes and counties as provided in ORS 391.810.

19 (2) The Elderly and Disabled Special Transportation Fund shall consist of:

20 (a) Moneys transferred to the fund under ORS 184.642 and 323.455 [(3)] (4);

21 (b) Other moneys appropriated to the fund by the Legislative Assembly; and

22 (c) Moneys obtained from interest earned on the investment of moneys in the fund.

23 (3) Moneys in the Elderly and Disabled Special Transportation Fund, with the approval of the
24 State Treasurer, may be invested as provided by ORS 293.701 to 293.820, and the earnings from the
25 investments shall be credited to the Elderly and Disabled Special Transportation Fund.

26 **SECTION 37.** Section 38 of this 2007 Act is added to and made a part of ORS 323.005 to
27 **323.482.**

28 **SECTION 38.** (1) **The taxes imposed on the distribution of cigarettes under section 15,**
29 **Article IX of the Oregon Constitution, are subject to administration, collection and enforce-**
30 **ment as are taxes imposed or made due under ORS 323.005 to 323.482.**

31 (2) **The taxes imposed on the distribution of cigarettes under section 15, Article IX of the**
32 **Oregon Constitution, shall not apply to the distribution of cigarettes in any instance in which**
33 **cigarettes are made exempt from taxes imposed or made due under ORS 323.005 to 323.482**
34 **as of the effective date of section 15, Article IX of the Oregon Constitution.**

35 **SECTION 39.** Section 40 of this 2007 Act is added to and made a part of ORS 323.500 to
36 **323.645.**

37 **SECTION 40.** (1) **The taxes imposed on the distribution of cigars and other tobacco pro-**
38 **ducts under section 15, Article IX of the Oregon Constitution, are subject to administration,**
39 **collection and enforcement as are taxes imposed or made due under ORS 323.500 to 323.645.**

40 (2) **The taxes imposed on the distribution of cigars and other tobacco products under**
41 **section 15, Article IX of the Oregon Constitution shall not apply to the distribution of cigars**
42 **and other tobacco products in any instance in which cigars and other tobacco products are**
43 **made exempt from taxes imposed or made due under ORS 323.500 to 323.645 as of the effec-**
44 **tive date of section 15, Article IX of the Oregon Constitution.**

45 **SECTION 41.** (1) **Notwithstanding ORS 323.030 (3) and in addition to and not in lieu of any**

1 other tax, the tax imposed by section 15 (1)(a), Article IX of the Oregon Constitution, as
2 applied in section 15 (6)(b), Article IX of the Oregon Constitution, on cigarettes that are in
3 this state and in the possession of a distributor as of January 1, 2008, shall be determined
4 and collected as provided in this section and section 42 of this 2007 Act.

5 (2) The tax is due and payable on or before 20 days after the first day of the calendar
6 month following the effective date of section 15, Article IX of the Oregon Constitution. Any
7 amount of tax that is not paid within the time required shall bear interest at the rate es-
8 tablished under ORS 305.220 per month, or fraction of a month, from the date on which the
9 tax is due to be paid, until paid.

10 (3) On or before 20 days after the first day of the calendar month following the effective
11 date of section 15, Article IX of the Oregon Constitution, every dealer must file a report with
12 the Department of Revenue in such form as the department may prescribe. The report must
13 state the number of cigarettes in the possession of or under the control of the dealer in this
14 state at 12:01 a.m. on the first day of the calendar month following the effective date of
15 section 15, Article IX of the Oregon Constitution, and the amount of tax due. Each report
16 must be accompanied by a remittance payable to the department for the amount of tax due.

17 SECTION 42. (1) Every distributor must take an inventory as of 12:01 a.m. on the first
18 day of the calendar month following the effective date of section 15, Article IX of the Oregon
19 Constitution, of all packages of cigarettes to which are affixed Oregon cigarette tax stamps
20 and of all unaffixed Oregon cigarette tax stamps in the possession of or under the control
21 of the distributor.

22 (2) Every distributor must file a report with the Department of Revenue on or before 20
23 days after the first day of the calendar month following the effective date of section 15, Ar-
24 ticle IX of the Oregon Constitution, in such form as the department may prescribe, showing:

25 (a) The number of Oregon cigarette tax stamps, with the designations of the stamps, that
26 were affixed to packages of cigarettes in the possession of or under the control of the dis-
27 tributor at 12:01 a.m. on the first day of the calendar month following the effective date of
28 section 15, Article IX of the Oregon Constitution.

29 (b) The number of unaffixed Oregon cigarette tax stamps, with the designations of the
30 stamps, that were in the possession of or under the control of the distributor at 12:01 a.m.
31 on the first day of the calendar month following the effective date of section 15, Article IX
32 of the Oregon Constitution.

33 (3) The amount of tax required to be paid with respect to the affixed Oregon cigarette
34 tax stamps shall be determined in accordance with section 15 (1)(a), Article IX of the Oregon
35 Constitution, as applied by section 15 (6)(b), Article IX of the Oregon Constitution, and
36 remitted with the distributor's report. Any amount of tax not paid within the time specified
37 for the filing of the report shall bear interest at the rate established under ORS 305.220 per
38 month, or fraction of a month, from the due date of the report until paid.

39 (4) Notwithstanding ORS 323.320, the department may establish a date after which the
40 value of stamps sold prior to the effective date of section 15, Article IX of the Oregon Con-
41 stitution, will not be refunded or credited to a distributor.

42 SECTION 43. Section 44 of this 2007 Act is added to and made a part of ORS 442.470 to
43 442.507.

44 SECTION 44. The Office of Rural Health may award to rural health care providers grants
45 that promote any of the following goals:

1 (1) **Replacement or renovation of aging rural hospitals.**

2 (2) **Modernization of capital equipment.**

3 (3) **Preservation of access to local health services in rural areas through short-term**
4 **support of vulnerable rural health care providers.**

5 (4) **Expansion of community health educational opportunities.**

6 (5) **Providing incentives for the development of long-term, sustainable approaches to**
7 **providing improved health care services and increased access to quality health care in rural**
8 **areas.**

9 (6) **Development of collaborative approaches that sustain access to quality rural health**
10 **care.**

11 (7) **Expanding or sustaining health care for financially and physically vulnerable rural**
12 **populations.**

13 (8) **Providing operational support for rural health centers that are not federally qualified**
14 **health centers.**

15 **SECTION 45.** ORS 442.507 is amended to read:

16 442.507. (1) [*With the moneys transferred to the Office of Rural Health by ORS 442.625,*] The Of-
17 fice **of Rural Health** shall establish a dedicated grant program for the purpose of providing assist-
18 ance to rural communities to enhance emergency medical service systems.

19 (2) Communities, as well as nonprofit or governmental agencies serving those communities, may
20 apply to the office for grants on forms developed by the office.

21 (3) The office shall make the final decision concerning which entities receive grants, but the
22 office may seek advice from the Rural Health Coordinating Council, the State Emergency Medical
23 Service Committee and other appropriate individuals experienced with emergency medical services.

24 (4) The office may make grants to entities for the purchase of equipment, the establishment of
25 new rural emergency medical service systems or the improvement of existing rural emergency med-
26 ical service systems.

27 (5) With the exception of printing and mailing expenses associated with the grant program, the
28 Office of Rural Health shall pay for administrative costs of the program with funds other than those
29 transferred under ORS 442.625.

30 **SECTION 46.** Sections 2, 3, 8, 9, 10, 11, 13, 16 and 22 of this 2007 Act and the amendments
31 to ORS 414.025, 414.725, 414.839, 735.701, 735.710 and 735.754 by sections 4, 5, 6, 17, 18, 19 and
32 20 of this 2007 Act become operative on July 1, 2008.

33 **SECTION 47.** The amendments to ORS 323.455 and 323.625 by sections 27 and 36 of this
34 2007 Act becomes operative on January 1, 2008.

35 **SECTION 48.** Section 32 of this 2007 Act becomes operative on July 1, 2009.

36 **SECTION 49.** ORS 323.457 is repealed on January 1, 2008.

37
38 **CAPTIONS**

39
40 **SECTION 50.** The unit captions used in this 2007 Act are provided only for the conven-
41 ience of the reader and do not become part of the statutory law of this state or express any
42 legislative intent in the enactment of this 2007 Act.

43
44 **EFFECTIVE DATE**

1 **SECTION 51. This 2007 Act does not take effect unless the amendment to the Oregon**
2 **Constitution proposed by Senate Joint Resolution 4 (2007) is approved by the people. This 2007**
3 **Act takes effect on the effective date of that constitutional amendment.**

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