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City Club Report on Ballot Measure 50

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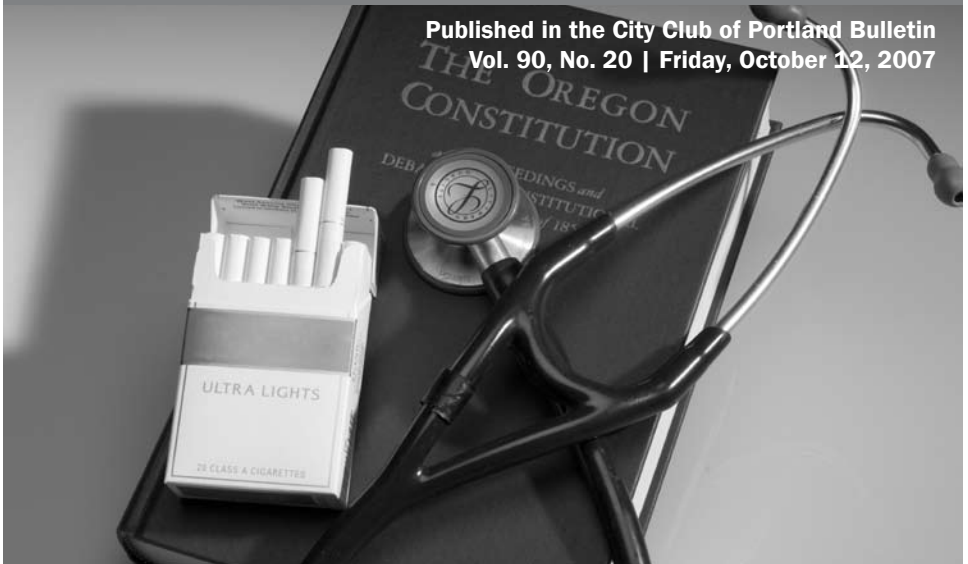
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A City Club Report on Ballot Measure 50

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STATE OF OREGON MEASURE 50:

Amends constitution: dedicates funds to provide health care for children, fund tobacco prevention, through increased tobacco tax.

Measure 50 would provide funding for the Healthy Kids Plan, a new state-run program to identify and serve an estimated 117,000 low-income Oregonians, ages 17 and younger, who currently are without health insurance. Funds raised from the tax increase would also support the Oregon Health Plan, school-based health centers, rural health clinics and the Department of Human Services' Tobacco Prevention and Education Program, which operates tobacco-cessation programs throughout the state. Funding for these programs would be generated by an increase in Oregon's tobacco tax and a reallocation of existing tobacco tax revenue.

Measure 50 is flawed in that it would embed a tax in the Oregon Constitution, a practice that is contrary to a previously adopted City Club position against placing what is properly a statutory law in the constitution. While Measure 50 is not an ideal solution to a pervasive problem, the private and public health benefits that would result are considerable. Your committee believes providing affordable health insurance for children in low-income families and reducing tobacco use outweigh the merits of maintaining a succinct constitution, particularly when Oregon's constitution has not been well preserved to date.

Additional funding for health insurance for children is consistent with a 2006 City Club recommendation that health care be guaranteed for all young children. Your committee also endorses additional state funding for tobacco-cessation programs. Since increases in the cost of cigarettes have been linked to smokers successfully quitting, and young people never starting to smoke, your committee would favor Measure 50 for that reason alone.

Your committee recommends a "YES" vote on Measure 50.

City Club members will vote on this report on Friday, October 12, 2007. Until the membership votes, City Club of Portland does not have an official position on this report. The outcome of the vote will be reported in the City Club *Bulletin* dated Friday, October 26, 2007 and online at www.pdxcityclub.org.

INTRODUCTION

Ballot Measure 50 will appear on the ballot as follows:

AMENDS CONSTITUTION: DEDICATES FUNDS TO PROVIDE HEALTH CARE FOR CHILDREN, FUND TOBACCO PREVENTION, THROUGH INCREASED TOBACCO TAX.

RESULT OF “YES” VOTE: “Yes” vote dedicates funds to provide health care for children, low-income adults and medically underserved Oregonians, and fund tobacco prevention programs, through increased tobacco tax.

RESULT OF “NO” VOTE: “No” vote rejects proposal to dedicate funding for children’s health care, other health care programs, and tobacco prevention programs; maintains tobacco tax at current level.

SUMMARY: This measure increases the tobacco tax and dedicates the new revenue to providing health care for children, low-income adults and other medically underserved Oregonians, and to funding tobacco prevention and education programs. The measure increases the tax on cigarettes by 84.5 cents per pack, and increases the tax on other tobacco products. The measure will fund the Healthy Kids Program created by the 2007 legislature to provide affordable health care for uninsured children. The measure will fund tobacco prevention programs, safety net clinics, rural health care and health care for Oregon’s lowest income families and individuals through the Oregon Health Plan. If the measure does not pass, these health care programs will not be expanded, and the Healthy Kids Program will not become law.

Estimate of Financial Impact

This measure increases state revenue by an estimated \$152.7 million for the 2007-2009 budget period. Revenue is estimated to increase \$233.2 million in the following two-year period. These estimates account for a projected decline in the sale of tobacco products because of higher prices. These estimates would be reduced if further restrictions on smoking become law. The additional state revenue generated by this measure would be available to allocate to programs that provide health care for children, low-income adults and other medically vulnerable Oregonians, and to tobacco prevention programs.

(The caption, question and summary were prepared by the attorney general and certified by the secretary of state.)

City Club’s Board of Governors chartered this study to analyze Measure 50 and assist Club members and the public to better understand the implications of the measure and to recommend a “yes” or a “no” vote. The ten members of your committee were screened for conflicts of interest and public positions on the subject of the measure. The study was conducted during August and September 2007. Committee members interviewed proponents and opponents of the measure, state officials and health care experts. Your committee reviewed relevant articles, scientific research reports, past City Club reports and other material.

BACKGROUND

EXPLANATION OF MEASURE 50

Ballot Measure 50 would amend the Oregon Constitution by increasing the state tax on cigarettes by \$0.845 per pack and increasing the tax on other tobacco products by 30 percent of the wholesale price. This represents a 72 percent increase in the state cigarette tax and a 46 percent increase in the tax on other tobacco products. The new revenue from the tax increase would be constitutionally dedicated to providing health care for children, low-income adults and other medically underserved Oregonians, and to funding tobacco-prevention and -education programs.

Oregon's Legislative Revenue Office estimates that this tax on tobacco products would increase tax revenue by \$152.7 million in the remaining months of the 2007-09 biennium and \$233.2 million in the 2009-11 biennium. This is a projected 44 percent increase in tobacco tax revenue. The LRO's projections could be high if tobacco sales are reduced by (1) further legal restrictions on smoking or (2) additional tobacco taxes, such as a proposed \$0.61 increase in the federal cigarette tax.*

Measure 50 would create a funding source for what is called the Healthy Kids Plan and other health-related programs. The Healthy Kids Plan was established by statutory law passed by the Oregon Legislature in 2007; however, without funding from Measure 50, the plan will not be implemented—at least at this time. The relationship between Measure 50 and the Healthy Kids Plan is discussed more fully later in this report.

HISTORY OF MEASURE 50

The Healthy Kids Plan was a part of Gov. Ted Kulongoski's proposed budget for the 2007-09 biennium and was debated extensively during the 2007 legislative session. In broad terms, the Healthy Kids Plan is intended to expand health insurance coverage for children through public funding and public-private partnerships.

Since the enactment of Measure 25 in 1996, tax increases have required a three-fifths majority vote to pass in the Oregon Legislature. After several unsuccessful attempts to pass a statutory tax increase in the 2007 legislative session, the Legislature referred this tobacco tax increase to voters as a constitutional amendment. In Oregon, referring a constitutional amendment to voters requires only a simple majority of the Legislature, even if the amendment is a tax increase.

In June 2007, the Legislature passed three bills designed to create and fund the Healthy Kids Plan. Those bills were Senate Joint Resolution 4, House Bill 2640 and Senate Bill 3:

- Senate Joint Resolution 4 provides the text of Measure 50. If approved by voters, it would amend the Oregon Constitution as provided in Measure 50.
- House Bill 2640 referred Measure 50 to voters.
- Senate Bill 3 outlines how the revenue from the tobacco tax increase will be used if Measure 50 is approved.

* Congress has approved this tax increase, but at the time this report was published President Bush had threatened a veto. The proposed federal tax increase would expand funding for the children's health insurance plan known as SCHIP, which is described in more detail later in this report.

ALLOCATION OF MEASURE 50 REVENUE

If Measure 50 is approved, net revenue from the tobacco tax increase will be used as provided for in Senate Bill 3. The three major components of Senate Bill 3 are: (1) funding for the Healthy Kids Plan; (2) expansion of Oregon Health Plan coverage; and (3) increased funding for tobacco prevention. A small portion of the money also would be funneled into school-based health centers and rural health care clinics.

The Healthy Kids Plan

Approximately 117,000 Oregonians, age 17 and younger, are without health insurance. An estimated 80 percent of them are from families earning less than 300 percent of federal poverty level, according to the 2005 Oregon Youth Risk Behavior Survey, conducted by the Center for Health Statistics, Oregon Department of Human Services. As the 2007 federal poverty level for a family of four in the 48 contiguous states is \$20,650, children in Oregon families earning less than \$61,950 would be eligible for benefits.¹

The basic goals of the Healthy Kids Plan are (1) to increase the participation in the current state health care programs for those children who are eligible but not enrolled, and (2) to expand the scope of coverage to include children who may not be currently eligible for assistance but are nonetheless uninsured.

The Healthy Kids Plan would, among other things, do the following:

- Expand eligibility for the State Children's Health Insurance Program (see the Discussion section for details regarding this and other programs). SCHIP is currently open to children in families earning from 185 percent to 200 percent of the federal poverty level.
- Increase the income-eligibility threshold for the Family Health Insurance Assistance Program-funded health insurance for adults and children from 185 percent to 200 percent of the federal poverty level. Children would receive 100 percent insurance premium assistance at this income level.
- Provide premium assistance to children from families earning 300 percent of the federal poverty level who have access to employer-sponsored insurance. This would be an increase above the current threshold for eligibility, which is 200 percent of the federal poverty level.
- Reduce the State Children's Health Insurance Program and Family Health Insurance Assistance Program eligibility waiting period (i.e., the amount of time that one must be uninsured before benefits activate) from six months to two months.
- Expand the availability of private insurance products through the Office of Private Health Partnerships.
- Provide funding for outreach programs and marketing to educate eligible adults and parents of eligible children about Oregon's health care assistance programs.

Increasing the amount of income that families can earn before being disqualified from state-sponsored health insurance would benefit many uninsured children. According to data provided by Gov. Kulongoski's administration, just enrolling families earning up to 200 percent of the federal poverty level would provide insurance for up to 68,000 children. As the table below shows, further increases in eligibility limits would result in even more children being served:

Family income as percent of federal poverty level	Number of uninsured children
Up to 200 percent	68,000
200 percent to 250 percent	15,500
250 percent to 300 percent	15,500
300 percent to 350 percent	2,500
350 percent and above	16,000
TOTAL UNINSURED CHILDREN	117,500

Source: Office of Governor Kulongoski

Insurance premiums for qualifying families would be established on a progressive, sliding scale. Families earning up to 200 percent of the federal poverty level would pay no premium and those earning 350 percent or higher would pay \$160 per month.

Expansion of Oregon Health Plan Coverage

A portion of the money from the increased tax would go toward expanding the Oregon Health Plan, which provides affordable health care for low-income Oregonians. The Legislative Fiscal Office projects the plan would increase OHP Standard (discussed later in further detail) by \$24.9 million in 2007-09; by \$54.4 million in 2009-11; and by \$62.5 million in 2011-13.

Tobacco Prevention and Other Funding

A third component of Senate Bill 3 is the funding of tobacco-prevention programs. The current level of annual funding for tobacco-prevention programs in Oregon is \$26 million *below* what the U.S. Centers for Disease Control and Prevention estimates is appropriate. Based on the current revenue projections from the increased tobacco tax, there will be an additional \$6.7 million in funding for tobacco prevention would be available in the 2007-09 biennium if Measure 50 passes and an additional \$22.5 million in the 2009-11 period.





EXISTING PUBLICLY FUNDED HEALTH PROGRAMS

A variety of federal and state government programs subsidize health care costs for children in low-income families.

Medicaid: A national health program targeted at low-income individuals and families; and administered by the state. Medicaid payments are made directly to the medical provider, not to individuals or households. While the program is aimed at low-income households, not all those with low incomes are eligible. Eligibility is determined based on a combination of income, assets and resources.

Oregon Health Plan (OHP): An Oregon public-private partnership that ensures a basic level of health care for all low-income Oregonians. This includes OHP Plus, a benefit package provided to children and adults who are eligible for traditional Medicaid programs or for the State Children's Health Insurance Program; and OHP Standard, a program that covers only a limited number of uninsured adults who are not eligible for traditional Medicaid coverage.

State Children's Health Insurance Program (SCHIP): A federal program to provide matching funds for state children's health programs. Each state determines the design of its program, eligibility groups, benefit packages, payment levels for coverage, and administrative and operating procedures. Eligibility is limited to children below 185 percent of the federal poverty level and an asset limit of \$10,000. Children must be uninsured for six months before becoming eligible.*

Family Health Insurance Assistance Program (FHIAP): A state of Oregon program that pays 50 percent to 95 percent of the premium for Oregonians who are uninsured and meet income and other eligibility guidelines. FHIAP subsidies can be used for employer-provided insurance or to buy health insurance if a plan is not available through an employer.

Other state-regulated health care programs that are administered through private insurance companies include the Oregon Medical Insurance Pool and the Small Employer Health Plan.

* In August 2007, the White House proposed regulatory changes that could make it difficult or impossible for Oregon to modify and expand the SCHIP program. However, Congress recently passed legislation that would increase the federal cigarette tax, expand the coverage of the SCHIP program, and override this proposed regulatory restriction. President Bush has promised to veto the bill. Because of this uncertainty, your committee did not address changes to the SCHIP program in this report, but we acknowledge that federal statutory or regulatory changes could affect how Measure 50 money is spent.

ARGUMENTS PRO AND CON

ARGUMENTS ADVANCED IN FAVOR OF MEASURE 50

Proponents of Measure 50 made the following arguments in support of the measure:

- Measure 50 would fund quality health care for the children of working families not currently covered by insurance.
- Measure 50 would strengthen programs to help smokers quit smoking.
- Measure 50 would save taxpayers millions of dollars by reducing publicly funded health care costs from direct and secondhand smoke-related illnesses and would mitigate rising health care costs.

ARGUMENTS ADVANCED AGAINST MEASURE 50

Opponents of Measure 50 made the following arguments in opposition to the measure:

- Tobacco taxes unfairly target a small segment of the population, many of whom have low incomes.
- The Healthy Kids Plan is not sustainable because tobacco tax revenue would decline every year while program costs would nearly triple in two years from \$168 million to \$521 million.
- Oregon already has sufficient programs to provide health insurance for uninsured children.
- The Healthy Kids Plan would be a “Band-Aid” and is insufficient to solve Oregon’s health care problems.
- Seventy-one percent of the money raised by Measure 50 would not be expended for the Healthy Kids Plan.
- Thirty-eight percent—\$68 million—would not be dedicated to specific health care expenditures.
- Embedding a specific tax rate in the Oregon Constitution is wrong.
- Insurance companies and health maintenance organizations would receive new business without being required to bid for that business.

DISCUSSION

EMBEDDING A TOBACCO TAX IN THE OREGON CONSTITUTION

Measure 50 would embed a tobacco tax in the Oregon Constitution. In 1996, City Club took a position opposing the inclusion of what are properly statutory matters in the constitution. Most experts believe that constitutions should be short and succinct. They should outline the powers and structures of government and the rights of citizens. Your committee does not believe Measure 50 falls within these guidelines. As a practical matter, Measure 50 would lock a specific tax rate in the constitution. Raising or lowering this tax rate or making any other changes to the tax would require another constitutional amendment. These concerns highlight why taxes are properly a statutory matter.

However, when weighing the principle of a succinct constitution—which Oregon’s is not—against decreasing tobacco use and providing health insurance for low-income children, your committee leans heavily toward the latter. In fact, Oregon’s constitution is already cluttered with many amendments that would be more appropriate as statutes. Examples include constitutional provisions that limit the amount and uses of fuel taxes and designate allowable uses of lottery revenue.

City Club’s 1996 report made the distinction between a citizen initiative and legislation referred by the Legislature to voters. The study committee noted the importance of the Legislature’s deliberative process before voters ultimately decide the outcome of a legislative referral. A deliberative process allows the Legislature to ensure that measures are thoroughly considered before being submitted to voters. For that

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reason, the Club recommended in 1996 that “Initiated amendments to the Oregon Constitution qualifying for the ballot should first be referred to the Legislative Assembly for deliberative consideration and then submitted to the people at the next general election.” Because Measure 50 was extensively debated in the Legislature before being referred to the people, your committee concludes that City Club’s position on the principle and practice of deliberative lawmaking is not inconsistent with the enactment of Measure 50.

Your committee further notes that Measure 50 is a proposed constitutional amendment because of a 1996 initiative that constitutionally mandated a supermajority, rather than a simple majority, of the Legislature to raise any tax. This rule unfortunately has contributed to the hodgepodge of laws in Oregon’s constitution. In effect, it has made it more difficult for the Legislature to raise taxes than to recommend that voters amend the constitution. Your committee finds this absurd, but it is relevant context for evaluating Measure 50.

HEALTH CARE FOR OREGONIANS AGE 17 AND YOUNGER

As mentioned earlier, an estimated 117,000 Oregonians age 17 and younger lack health insurance, and consequently lack affordable access to health care. According to testimony received by your committee, this leads to further health complications and the use of emergency rooms for primary health care needs.

Following a comprehensive City Club study of early childhood development completed in 2006, the Club adopted the position that “Access to health care and nutrition support should be guaranteed for all young children and pregnant women in Oregon.” The Healthy Kids Plan would provide access to affordable health care for uninsured children, and because the Healthy Kids Plan and other programs in Senate Bill 3 would cover preventative care, it is likely that health care expenditures generally—and expensive emergency room care specifically—would be reduced.

Ultimately, your committee believes that all U.S. citizens should have access to affordable health care. Without a federal program ensuring this happens, the state of Oregon should make certain that all its citizens have access to sufficient health care coverage. In the absence of coverage for every Oregonian, providing insurance for the state’s uninsured youths serves the long-term best interest of the state.

THE REGRESSIVE NATURE OF TOBACCO TAXES

A tax is progressive if the tax is larger as a percentage of income for those with higher incomes. Conversely, a tax is regressive if it takes a larger percentage of income from people whose income is lower. Tobacco taxes

generally are considered regressive because a higher percentage of low-income people smoke cigarettes and are subject to the tax.² Critics of Measure 50 argue that this is unfair.

In 2002, City Club adopted a position favoring progressive taxes on the grounds that people with low incomes generally are less able to bear the compulsory burden of taxes. Your committee considered the fairness of this tax proposal and concluded that voters must look not only at who would be subject to the tax but also who would benefit from it.

Under Measure 50, more Oregonians likely would quit using tobacco products and fewer Oregonians would adopt the habit. As a result, the tax would likely put more money in the hands of former and potential tobacco users through tobacco purchases not made, through improved health and lower health care costs, and through access to affordable health insurance for their children. In effect, the tax’s regressive nature is offset to some extent by the progressive nature of its expenditures.

Health care costs associated with tobacco use in general, and smoking cigarettes in particular, are in many cases borne

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by taxpayers. According to the Oregon Department of Human Services, some 42 percent of adults in the Oregon Health Plan are smokers. In contrast, the rate of smoking in the general population is about 20 percent.³ Increasing the tobacco tax would redistribute more of the actual cost of tobacco use back to tobacco consumers and off the general taxpaying public. Your committee believes that it is reasonable for the state to recover a greater portion of its tobacco-related health care expenses from tobacco users.

THE RELATIONSHIP BETWEEN TOBACCO TAXES AND TOBACCO USE

Oregon's current tobacco tax is 11th highest in the country at \$1.18 per pack. If Measure 50 is approved, Oregon will have the third highest state tobacco tax, at \$2.025 per pack, equal with the state of Washington.

The average factory price for a pack of cigarettes in Oregon is \$2.28, before taxes are included.⁴ According to Legislative Revenue Officer Paul Warner, the average price of a pack of cigarettes in Oregon

(including taxes) is \$4.31. Measure 50 would raise the per-pack price to \$5.15. At that price, state and federal taxes would account for 56 percent of the per-pack cost.

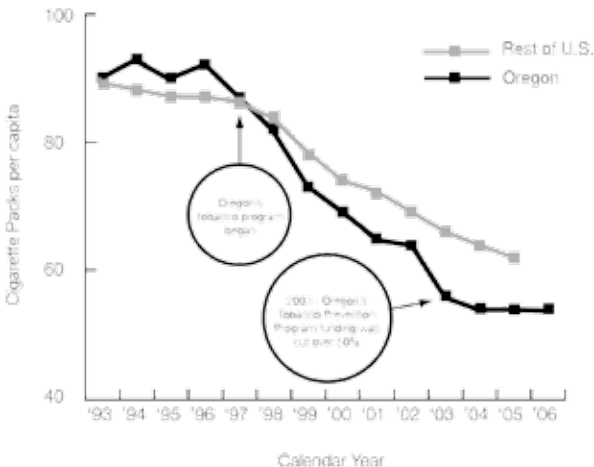
Studies conducted by the U.S. Centers for Disease Control and Prevention and the Tobacco Prevention and Education Program of the Oregon Department of Human Services have found a direct link between increasing tobacco taxes and smoking cessation. When tobacco becomes more expensive, people use less of it. Your committee heard credible testimony that every 10 percent increase in the price of cigarettes results in a decrease in cigarette consumption ranging from 4 percent to 7 percent. According to TPEP, the link between higher prices and smoking cessation tends to be stronger for the youngest tobacco users.

Oregon's TPEP efforts began in 1997, but the agency lost much of its funding in 2003. Between those years, consumption of tobacco dropped 42 percent across the state; a greater decrease than the national average. As the figure below shows, from 2003 to 2006, tobacco consumption in Oregon

leveled off, and in some cases rose slightly, after the Legislature defunded TPEP.

Your committee recognizes tobacco use as a public health concern and believes that people should be given incentives not to use tobacco products. We further

Annual Per Capita Cigarette Sales
Oregon vs. Rest of the U.S., 1993 to 2006



Source: Oregon Department of Human Services

believe that per capita demand for costly health care services will diminish along with a reduction in tobacco use. We believe making tobacco more expensive would cause more people to stop and fewer individuals, particularly children, to start using tobacco products. For these reasons alone, your committee favors an increase in the state tobacco tax.

THE COST OF TOBACCO USE IN OREGON

According to the United States Department of Health and Human Services' Centers for Disease Control and Prevention, approximately 5,000 adults die each year in Oregon as a result of tobacco use.* The CDC also reports that approximately 80 percent of adult smokers started smoking before the age of 18.⁵ The CDC further reports that there were approximately \$1.16 billion in smoking-attributable medical costs in Oregon in 2004.⁶ This means the medical costs associated with each pack of cigarette purchased in Oregon are \$5.68.⁷ Smoking also resulted in approximately \$1 billion in productivity losses in Oregon, for an additional cost per pack of \$5.48.⁸ As a result, the total societal cost of smoking cigarettes in terms of medical costs and productivity losses is more than \$11 per pack. If Measure 50 passes, Oregon would collect \$2.025 per pack in taxes.

FUNDING FOR CHILDREN ELIGIBLE FOR, BUT NOT ENROLLED IN, PUBLICLY FUNDED HEALTH CARE PROGRAMS

Opponents of Measure 50 question the need for an additional insurance program for children in light of the fact that 60,000 youths currently eligible for existing programs are not enrolled. Howard "Rocky" King, director of the Oregon Medical Insurance Pool, offered a compelling response.

According to King, the current DHS budget does not contain funding for the 60,000 children who are eligible for, but not enrolled in, state-supported health insurance programs. If some or all of the eligible but nonparticipating children registered for state-sponsored health insurance, DHS and the Legislature would have several options. DHS could rebalance its budget by shifting funds to health insurance from some other human services program. The Legislature could allocate reserve funds, if available, or adjust eligibility requirements to reduce the number of eligible children. Finally, the Legislature could cut funding to other major expenditure area such as education or law enforcement, allocating that money to children's health care. Given this testimony, your committee does not find credible the assertion that an additional 60,000 children could be served without a funding increase.

* See CDC 2006 Data Highlights, Table 1: Smoking Prevalence (Adult and Youth), Percentage of Smokers Who Tried to Quit Past Year, Smoking-Attributable Deaths, Projected Deaths. The annual average of 5,000 deaths as reported by the CDC is based on data from 1997-2001. This is generally consistent with data from the Oregon Department of Human Services, which recently reported 6,576 tobacco-related deaths in Oregon in 2004. Tobacco Consumption and Consequences in Oregon, Oregon Department of Human Services (March 23, 2007).

Common reasons for parents not registering their children include the following:

1. They perceive the process as being too complicated.
2. They do not trust government.
3. They know emergency room staff will provide care even without insurance
4. They are less likely to enroll their children in a health program, if they, themselves, are not covered.

In addition to providing funding for health insurance, Measure 50 would also allocate funds to the Healthy Kids Plan to identify and recruit eligible, but nonparticipating families. Proponents of the plan also have promised a simple, streamlined process for enrolling children.

Furthermore, unlike current health insurance programs, which are funded through the state's general fund budget, the Healthy Kids Plan would be funded by a tax on tobacco products. Your committee favors this predictable, dedicated funding mechanism because it protects the programs from the vagaries of economic downturns and shifting priorities in the Legislature. That dedicated funding source is one of the reasons that investing in the Healthy Kids Plan is better than adding more money to existing health insurance programs, which are paid for through the less-dependable general fund.

A "BAND-AID" APPROACH TO HEALTH CARE REFORM

Due in part to advances in technology, the development of new drugs and innovative treatments, and longer life expectancies, health care costs have risen dramatically in recent decades. According to the Kaiser Family Foundation, the United States spends much more per capita on health care than any other country, and it has one of the fastest growth rates in health care spending

among developed countries. Total health care expenditures per capita in the United States rose from \$1,672 in 1970 to \$5,711 in 2003 (figures adjusted for inflation).⁹

According to projections from Oregon's Legislative Fiscal Office, net revenue from the Measure 50 tobacco tax will flatten out between the 2009-11 and the 2011-13 biennia, while the cost of health care will continue to rise. Over time, the money raised by Measure 50 would buy less and less health care. This fact has given rise to contentions that the Healthy Kids Plan is merely a "Band-Aid approach" to health care reform.

Your committee does not believe that Measure 50 and the health care programs it would fund are together a panacea for all that ails Oregon's health care system. If the measure passes, it will do nothing to contain health care costs, which are rising faster than average incomes. Nonetheless, Measure 50 would finance health insurance for thousands of low-income children for several biennia—a significant improvement over the status quo. Failure to pass Measure 50 means that more than 100,000 children will continue to lack health insurance for the foreseeable future.

"Failure to pass Measure 50 means that more than 100,000 children will continue to lack health insurance for the foreseeable future."

REVENUE RESERVES AND OTHER FINANCIAL MATTERS

Oregon's Legislative Revenue Office projects budget surpluses from the Measure 50 tobacco tax to be \$64.6 million in 2007-09; \$65.5 million in 2009-11; and \$36.9 million in 2011-13. Measure 50 stipulates the allowable uses of these funds, mandating by constitutional amendment that they must be spent on health care programs for children, low-income adults and other medically underserved individuals, and on tobacco-cessation programs.

Opponents of Measure 50 dubbed these reserves "blank checks" and speculate that the Legislature might not use the money for health care purposes.

Voters should understand that the Healthy Kids Plan is distinct from Measure 50. The measure simply provides a revenue source that is dedicated for, among other things, providing health care for children. It is up to the Legislature to decide how to ultimately use the revenue for programs that fall within the broad purposes specified in Measure 50. As it currently stands, if Measure 50 is approved, the Legislature has already allocated the new revenue from the tax increase to the Healthy Kids Plan and other programs specified in Senate Bill 3. However, the Legislature is authorized to use the revenue for any of the purposes stated in Measure 50. The Legislature could decide at some point to stop funding the Healthy Kids Plan and use the funds for other health care or tobacco-cessation programs.

Initial budget surpluses are held in reserve to defray the rising cost of health care and to lessen the impact of economic downturns. Also, because not every eligible child would enroll in the Healthy Kids Plan during its first fiscal year, collecting tobacco taxes and holding them until enrollment is

"...your committee concludes that retaining surplus revenue in a reserve fund is not a "blank check," but rather a prudent savings plan."

higher makes sense to your committee. For these reasons, your committee concludes that retaining surplus revenue in a reserve fund is not a "blank check," but rather a prudent savings plan.

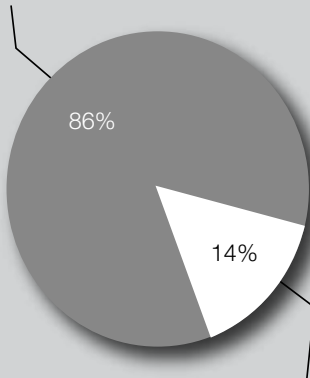
The revenue reserves also have given rise to claims that 71 percent of Measure 50 funds will not go to kids. Your committee finds this assertion disingenuous. As mentioned above, the Legislative Revenue Office's projections hold significant portions of the surpluses in reserve for the anticipated expenditures the Healthy Kids Plan will face in the future. To argue that these surpluses are not "going to kids" is akin to arguing that a savings plan for college tuition must be fully spent during a student's freshman year in order to be spent on college. Money held in reserve to spend on foreseeable children's health care expenses is, in your committee's opinion, a legitimate use of Measure 50 funds.

The pie chart on page 14 illustrates how the net proceeds of the reallocated existing tobacco tax and the new revenue from Measure 50 would be spent during the current and the next biennia combined.

Distribution of net increase in tobacco tax revenue for 2007-09 and 2009-11 biennia combined

Healthy Kids Program Fund

\$330.9 million



All other distributions

State General Fund	\$8.5 million
Oregon Health Plan	-\$3.7 million
Cities	\$.6 million
Counties	\$.6 million
Local Transit	\$.6 million
Tobacco Prevention	\$29.1 million
Rural Health	\$5.3 million
Healthy Kids Safety Net Fund	\$13.9 million

Note: Projected revenue does not include any impact from Senate Bill 571 or any possible federal tobacco tax increase.

Note: Expenditure increases for 2009-11 do not include medical inflation or utilization changes. The increases reflect enrollment increases and the fact that 2007-09 amounts are for one year only.

Source:

Data provided by Legislative Fiscal Office.

Opponents of Measure 50 have claimed that money spent on smoking cessation programs would make the revenue for the Healthy Kids Plan unpredictable. Your committee is willing to rely on testimony from the Legislative Fiscal Office that the effects of tobacco-cessation efforts are accounted for in the revenue forecasts.

Measure 50's opponents also claim that health insurance providers would unfairly benefit through no-bid contracts to serve the newly enrolled children. In response to this concern, Jim Edge, assistant director of the state Medical Assistance Programs, explained that children served through the Healthy Kids Plan would enter through one of three conduits:

1. Those who enter through Medicaid (or the Oregon Health Plan) will be added to the existing Medicaid managed care plans, which are overseen and regulated by the Department of Human Services. While it is true that no additional bidding would take place, these providers already entered the OHP system through a competitive bidding process.
2. Children who enter through FHIAP will be served by a commercial insurance provider overseen by the state Department of Consumer and Business Services. These insurance providers also previously bid to be involved in FHIAP and will not be required to submit new bids.
3. Other children would be served by a new, private insurance program—not yet in place. Insurance providers would be required to make competitive bids to be part of this process.

Thus, to the extent any private insurers participate in the new Healthy Kids Plan, those insurers would be subject to a competitive bidding process.

CONCLUSIONS

- A constitution should be succinct. It should outline the powers and structures of government and the rights of citizens. Ideally, statutory matters—such as a tobacco tax—should not be embedded in a constitution because, for example, making what amount to policy adjustments would require more constitutional amendments to be approved by voters.
- Measure 50 presents Oregon voters with a difficult choice, in large part because a 1996 initiative that constitutionally mandates a legislative supermajority to raise any tax makes it more difficult for the Legislature to enact or refer to voters a statute to raise revenue than to refer a constitutional amendment to accomplish the same outcome.
- In the absence of genuine constitutional reform, the greater good of smoking-cessation programs and health insurance for children in low-income families outweighs the benefits of a succinct constitution.
- Funding health insurance for 117,000 currently uninsured children is socially just and in the long-term best interest of the state.
- Regressive taxes are unfair because they have a disproportionately negative effect on low-income taxpayers. Measure 50 would enact a regressive tax, but the benefits of the tax would also be concentrated among low-income families.
- Increasing the price of tobacco products leads to reductions in the use of tobacco products. Programs that reduce tobacco use improve the health of tobacco users, as well as nonsmokers who are at risk of disease caused by second-hand smoke.
- An expanded effort is needed to provide health insurance to children not currently served by existing programs. The Healthy Kids Plan would allocate much needed funds to identify eligible families and promote the plan to them.
- The Department of Human Services currently does not have the funds to assist the 60,000 children eligible but not enrolled in existing state-assisted health insurance programs. To serve them, the Legislature would likely be required to divert funds from other state services. The Healthy Kids Plan would allow the state to absorb those 60,000 children—plus many thousands more—without de-funding other essential state services.
- A dedicated revenue source, such as Measure 50's tobacco tax, would be more reliable than state general funds or federal funds.
- In some circumstances, Measure 50 would create new business for private health insurers without requiring a competitive bidding process, but these providers have previously submitted competitive bids to participate in state health care programs.
- The Healthy Kids Plan is not a “cure” for the health care problems in Oregon. It is a stopgap measure that would address one critical need for several biennia.
- The Healthy Kids Plan wisely establishes a health care reserve fund to defray rising health care costs and buffer against economic downturns.

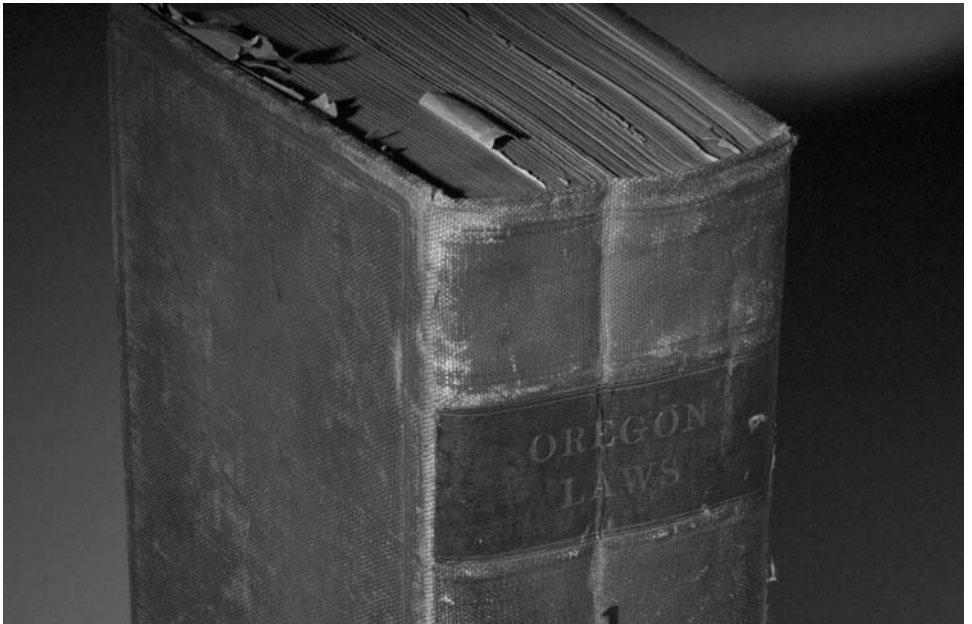
RECOMMENDATION

Your committee recommends a “YES” vote on Measure 50.

Respectfully submitted,

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WITNESSES

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CITATIONS

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- ⁴ Campaign for Tobacco-free Kids.
- ⁵ 2003 National Survey on Drug Use and Health, Office of Applied Studies in the U.S. Department of Health and Human Services.
- ⁶ CDC 2006 *Data Highlights*, Table 4: Smoking-Attributable Costs (2004).
- ⁷ *Ibid.*
- ⁸ *Ibid.*
- ⁹ Kaiser Family Foundation Snapshots: Health Care Costs, January 2007.

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NOTES

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