



MEASURE 50: ARE TOBACCO TAXES THE ANSWER TO FUNDING CHILDREN'S HEALTH PROGRAMS?

by Skaidra Smith-Heisters

EXECUTIVE SUMMARY

Measure 50, a proposed constitutional amendment on Oregon's November 6, 2007 ballot, would increase the state's tobacco tax to create and expand health services, primarily for uninsured children. If Measure 50 were approved, Oregon's tobacco tax would be the third-highest in the nation. Rather than being approved by the state legislature and incorporated in to state statutes, the proposed tax would be inserted into Article IX of the Constitution of Oregon, setting a new precedent. Approval of the measure would also trigger the provisions of Senate Bill 3, which include a reworking of the current formula for the distribution of tobacco funds.

In promoting Measure 50, Gov. Ted Kulongoski has claimed that the present levels of cigarette and other tobacco taxes in Oregon "fail to reflect the costs to society from the use of tobacco products." However, the governor's plans for spending most of the revenues generated by the new tax have nothing to do with tobacco. Under Measure 50, only an estimated 8 percent of new tobacco tax revenues would support Oregon's chronically under-funded tobacco-

use prevention efforts. For the disproportionate number of smokers at or near the federal poverty line, this tax would constitute the functional equivalent of increasing by 5 to 8 percent their annual state income tax. Approval of Measure 50 would mean that some people who can least afford it would pay the bulk of a tax that expands health coverage for families with higher incomes. Consequently, tobacco consumers would have fewer resources at hand to help them quit than they do now.

At the same time, the new tax rate—roughly 2.5 times the U.S. median cigarette tax rate—would create greater incentives for Oregonians to purchase cigarettes elsewhere. While Oregon tobacco control officials currently estimate that tax evasion is small—approximately 4 percent of smokers admitted to buying cigarettes from untaxed or out-of-state sources in the last year—if Oregon matches Washington's tax rate, more tobacco-tax evasion is likely to ensue. Washington loses a staggering \$223 million in tax revenue each year through the illegal sale of untaxed cigarettes, nearly 28 percent of all cigarettes consumed annually in the state. Last year, the Oregon Department of Justice reported that "with potential increases in tobacco taxes

and corresponding profits for tax evaders, the market is at serious risk for ongoing compromise by organized crime groups.” Increased black market sales should be a concern not just because of the lost tax revenues, but because of associated criminal activities, which may include increased sales of tobacco products to minors.

Although Oregon has a very active Tobacco Tax Compliance Task Force working to prosecute black market tobacco sales in the state, legislators have shown less commitment to funding the state’s Tobacco Prevention and Education Program. Programs designed to reduce tobacco use, initiated in 1996, receive only a small fraction of the tax revenues voters approved for this purpose. Instead, as Measure 50 illustrates, tobacco tax revenues—and smokers’ pockets—have proved an easy target for lawmakers simply trying to grow the state budget.

Worst of all, Measure 50 might never generate the revenues the governor and its other proponents have promised. While tobacco tax rates increase, tobacco sales decrease, and programs whose funding is predicated on taxing Oregon’s tobacco consumers will be left stranded with budgetary needs far above the dedicated revenue stream.

There are better ways to address Oregon’s health needs.

INTRODUCTION

If adopted, Measure 50 would make Oregon’s tobacco tax the third-highest in the nation, equal to the per-pack cigarette tax levied in Washington State.¹ Cigarette taxes in Oregon were increased just five years ago, when the per-pack excise tax was nearly doubled.

Existing tobacco revenues in Oregon already partially fund the Oregon Health Plan, as well as going to the General Fund, local cities, counties and transit districts. In addition, Oregon was awarded approximately \$150 million per biennium through the year 2025 in the Master Settlement Agreement resulting from the combined lawsuits of individual states against the tobacco industry. Tobacco consumers nationwide pay for a share of the cost of the Master Settlement Agreement—in effect an indirect tobacco tax—and such consumers also pay a federal excise tax of 39 cents per pack.

In 2004 only an estimated 20 percent of Oregon adults smoked, a decrease of 15 percent since 1996.² During this same period, annual per capita cigarette sales dropped 41

percent, from 92 to 54 packs per capita.³ The prevalence of tobacco use nationwide has decreased during the same period, with Oregon somewhat ahead of the national trend.

At the same time, the number of children covered by health insurance in Oregon is also increasing. The majority of children, 64 percent, currently are covered by employer-sponsored or individual health insurance, and 25 percent are insured by government programs. The remaining 11 percent of children in Oregon are uninsured, equal to the national average.⁴

Measure 50 matches an exceptionally popular cause—children’s health coverage—with a traditionally unpopular, minority tax base—smokers. The only connection between smokers and health care for children is contrived, namely, the political convenience of compelling the disliked former to pay for the latter.

Tobacco consumers are a relatively captive tax base from which politicians can draw funds for a variety of programs without fear of meaningful political backlash. However, the tobacco tax increase proposed under Measure 50 will have far-reaching consequences that are not fully appreciated by voters.

History of Cigarette Tax Rates in Oregon, ¢ Per Pack			
	Date	Rate Change	Tax Rate After Increase
Measure 50	2007 (proposed)	84.5	202.5
Measure 30	1/1/2004	-10.0	118.0
Measure 20	11/1/2002	60.0	128.0
Measure 44	11/5/1996	30.0	68.0

OVERVIEW OF MEASURE 50

The tobacco tax hike currently proposed under Measure 50 would increase the cigarette tax from \$1.18 to \$2.025 per pack starting January 1, 2008. Further, it would increase the tax on other tobacco products from 65 percent of the wholesale price to 95 percent. Oregon’s Legislative Revenue Office estimates that Measure 50 would generate \$152.8 million in net new revenue in 2007–09 and \$233.2 million in 2009–2011 (though it should be noted that net gains from this type of tax are notoriously difficult to predict).⁵

The explanatory statement for Measure 50 prepared by the Oregon Secretary of State states in its entirety:⁶

This measure would amend the Oregon Constitution to provide dedicated funding for children’s

health care and other health programs through an increase in the tobacco tax.

The measure would raise the cigarette tax by 84.5 cents per pack to equalize it with the cigarette tax in the State of Washington. The measure would also raise the tax on cigars and other tobacco products.

The new revenue generated by this measure would be dedicated to the following purposes:

1. Providing health care to children.
2. Providing health care to low-income adults.
3. Providing health care to other medically underserved Oregonians.
4. Preventing tobacco use.

If the measure passes, it will be implemented by Senate Bill 3, which the legislature passed earlier this year. That legislation:

1. Creates the Healthy Kids Program, which is designed to provide affordable health care to uninsured children in Oregon. The Healthy Kids Program expands eligibility for existing health insurance programs, streamlines and simplifies application procedures and creates a new children's health care pool to lower health care costs.
2. Provides affordable health care for 10,000 low-income adults through the Oregon Health Plan.
3. Expands funding for rural health care and safety net clinics.
4. Expands funding of Oregon's Tobacco Use Reduction Account [TURA].

Under Senate Bill 3, approximately 70 percent of the new tobacco tax revenue through 2011 would be allocated to the Healthy Kids Program; approximately 18 percent would be allocated to health care for low-income adults; approximately 4 percent would be allocated to rural health services and safety net clinics; and approximately 8 per-

cent would be allocated to tobacco prevention.

If this measure fails, the Healthy Kids Program and other health care expansions in Senate Bill 3 will not become law.

Measure 50 would add a new section to Article IX of the Constitution of Oregon.⁷ Approval of the measure would also trigger the provisions of Senate Bill 3, which includes a reworking of the current formula for the distribution of tobacco funds, with current and the proposed new revenue to be allocated as follows:

Tobacco Tax Fund Allocations Pending Approval of Measure 50				
\$ New Revenue	Starting 1-1-08 2007-08	2008-09	2007-09 Biennium	2009-11 Biennium
Health Plan (OHP)	\$ 7,312,952	26,802,832	34,115,784	50,704,975
TURA	\$ 6,106,296	13,401,480	19,507,776	38,964,178
Rural Health	\$ 458,878	1,681,843	2,140,722	3,181,672
Kids Safety Net	\$ 1,198,518	4,392,709	5,591,227	8,310,025
Healthy Kids Program	\$ 28,531,970	104,573,034	133,105,004	197,828,841
Total	\$43,608,614	\$150,851,898	\$194,460,512	\$298,989,691

\$ Old Revenue	Starting 1-1-08 2007-08	2008-09	2007-09 Biennium	2009-11 Biennium
State General Fund	\$ 37,760,703	63,116,462	100,877,165	127,423,832
Health Plan (OHP)	\$ 88,755,658	154,045,604	242,801,262	314,416,828
Local Government (Cities)	\$ 2,623,304	4,602,292	7,225,597	9,198,138
Local Government (Counties)	\$ 2,623,304	4,602,292	7,225,597	9,198,138
Local Government (Transit)	\$ 2,623,304	4,602,292	7,225,597	9,198,138
Total	\$134,386,274	\$230,968,943	\$365,355,217	\$469,435,073

From Oregon Legislative Revenue Office, Revenue Measures Passed by the 74th Legislature 2007, pp. 76-77.

Higher taxes are expected to reduce taxed sales of cigarettes and other tobacco products through a combination of factors: reduced consumption of tobacco products, increased out-of-state purchases (Washington and Oregon residents who currently take advantage of the substantially lower Oregon cigarette prices will buy elsewhere) and increased tobacco smuggling. (Additional reductions are anticipated as a result of expanding state-mandated

smoking restrictions in businesses.) Because of these factors, carefully defined formulas are necessary to prevent the proposed new tax from reducing revenue for programs and services already funded by existing tobacco taxes. (The actual allocation schedule is shown in the Appendix.)

Future allocation of the current and any new tobacco tax revenue streams will need to account for further decreasing revenues, both as a result of the above-cited factors, and due to the long-term nationwide trend toward lower per capita tobacco consumption.

PROBLEMS WITH MEASURE 50

Constitutional Means

The Constitution of Oregon, drafted 150 years ago this fall, is an enduring document that has changed surprisingly little through the state's history. The constitution charts the progress of the state, containing both anachronisms—such as penalties for any person who gives or accepts “a challenge to fight a duel” (Article II, §9)—while also recording some of our noblest values: “We declare that all men, when they form a social compact are equal in right: that all power is inherent in the people, and all free governments are founded on their authority, and instituted for their peace, safety, and happiness” (Article I, §1).

The constitution certainly addresses issues of taxation, but generally only to limit and define expenditures. For example, the tax rebate “kicker” law, approved in 2000, was a constitutional amendment. The proposed new tax on tobacco would be the first time that a specific product tax was inserted into the state's constitution.

Most relevant to Measure 50 is Article IV, §25(2) of the Oregon Constitution, which requires that three-fifths of all members of the state legislature must approve new taxes. This provision is intended to, and does, protect taxpayers. Measure 50 would circumvent it by amending the Oregon Constitution itself. The implications of this unprecedented constitutional tinkering for future tax decisions would be serious.

Unfair Ends

Tobacco taxes are often represented as a “user fee” levied to pay for the social costs, or externalities, of smoking on society. In promoting Measure 50, Gov. Ted Kulongoski has claimed that the present levels of cigarette and other



Tobacco taxes are one of the most regressive sources of revenue available at either a state or federal level.

tobacco taxes in Oregon “fail to reflect the costs to society from the use of tobacco products.”⁸ However, the governor's plans for spending most of the revenues generated by the new tax have nothing to do with tobacco.

Oregon's Measure 44 tobacco tax increase created the state's Tobacco Prevention and Education Program just ten years ago. When Governor Kulongoski assumed office in 2003, tobacco prevention was the only program funded by Measure 44 tobacco taxes to be entirely cut in order to address the state's budget deficit. In the Tobacco Prevention and Education Program's Oregon Statewide Tobacco Control Plan 2005–2010, the report's authors celebrate “tremendous strides” in the state's tobacco control efforts, but notably observe that, “[u]nfortunately, funding cuts threaten progress. At present, Oregon's budgets for tobacco control comprise only a small fraction of what the Centers for Disease Control and Prevention considers minimum funding for effective tobacco prevention programs.”⁹ According to the report, in the 2003–05 biennium Oregon received \$668 million from tobacco taxes and payments from tobacco companies under the Master Settlement Agreement, but allocated only \$6.9 million of that on actual tobacco prevention, far short of the \$42 million minimum recommended by the Centers for Disease Control and Prevention (CDCP), and only half of what voters approved through the 1996 tobacco tax, Measure 44.¹⁰

Under Measure 50, only an estimated 8 percent of new tobacco tax revenues would fund tobacco-use prevention efforts—fully 92 percent of the revenues would support statewide programs with little direct relationship to tobacco use.¹¹ Consequently, tobacco consumers would have fewer

resources at hand to help them quit than they do now. The state's spending on tobacco control would still fall short of the minimum recommended by the CDCP, and if the measure passes, there would be no guarantee that in a few years legislators wouldn't further reduce the revenues dedicated to actual tobacco control efforts, as they have done with voter-mandated tobacco tax allocations as recently as four years ago.

Despite Governor Kulongoski's representation of the purpose driving the tobacco tax increase, no independent state-level effort has been made to calculate and mitigate the social costs of smoking. National data suggest that most of the costs of smoking—ranging from cleaning fees on real property to insured medical expenses—are paid for privately. Recently, Duke University researchers, in a comprehensive tabulation of net externalized costs of smoking, estimated that, averaged over the smoker's lifetime, per-pack costs borne by society amount to \$1.44.¹² Smokers in Oregon already pay more than that, and Measure 50 would go even further, bringing the tobacco excise tax imposed on Oregon smokers to \$2.42 per pack—well beyond the Duke researchers' postulated cost of smokers to society. Moreover, smokers would still subsidize state programs indirectly via cigarette prices as a consequence of the Master Settlement Agreement funds, an additional 39 cents per pack.¹³

The two goals of Measure 50—reducing tobacco use and funding health programs—are completely incompatible.

Tobacco taxes are one of the most regressive sources of revenue available at either a state or federal level.¹⁴ According to the Tobacco Prevention and Education Program, the poorest people in Oregon are the most likely to smoke—27 percent of current smokers in Oregon meet the Oregon definition for economically disadvantaged, compared to only 18 percent of the general population.¹⁵ If Measure 50 succeeds in raising the revenues predicted by the Legislative Revenue Office, it would amount to approximately \$768 per smoker per year. For the disproportionate number of smokers at or near the federal poverty line, this tax would constitute the functional equivalent of increasing by 5 to 8 percent their state income tax. The effects of such a regressive tax are far-reaching. Consider, for example, that approval of Measure 50 would mean that some people who can least afford it would pay the bulk of a tax that expands health coverage for families with higher incomes, including those with incomes up to 300 percent of the federal poverty line.

It is a farce, then, to claim that Measure 50 would benefit smokers or address the social costs of smoking. The real purpose of Measure 50 is to create the Healthy Kids Program, a new, un-funded program intended to benefit all Oregonians.

Unintended Consequences

Oregon's lower cigarette prices and less restrictive smoking laws have long brought out-of-state consumers (mostly from Clark County) into the state for tobacco purchases. By matching tobacco tax rates to Washington's, a significant amount of this cross-border commerce would end. At the same time, the new tax rate—roughly 2.5 times the U.S. median cigarette tax rate—would create greater incentives for Oregonians to purchase cigarettes elsewhere. Current state law exempts out-of-state purchases of less than one carton (10 packs) from Oregon tobacco tax. If Measure 50 passes, a personal purchase of 9 packs of cigarettes in Idaho would save an Oregon smoker \$13 in tobacco taxes. The gap between the Oregon tax rate and the lowest rate in the nation, South Carolina's, would amount to \$20 per carton—enough to cover shipping and handling with change left over.

Large-scale tobacco-tax evasion and smuggling is already an industry in Oregon. The state Department of Justice reports that criminal cigarette tax evasion is being facilitated not just by out-of-state and Internet retailers, but by Mexican nationals and organized crime groups from republics in the former Soviet Union.¹⁶ In 2004, Oregon State Police apprehended drivers en route through the state in a truck loaded with \$94,000-worth of untaxed tobacco products. The Tobacco Tax Compliance Task Force prosecuted the drivers on felony smuggling charges.¹⁷ In 2005, the Task Force assisted in the prosecution of an Oregon couple suspected of importing and reselling tobacco products from Washington and New York worth an estimated \$1.2 million dollars in unpaid taxes.¹⁸ In June of this year, a Portland-area man was sentenced to 16 months in prison and required to pay more than \$800,000 to the Oregon Department of Revenue for redistributing untaxed cigarettes purchased at a Yakima, Washington Indian reservation.¹⁹ Many similar cases have been prosecuted.²⁰

In addition to dozens of investigations by the state Task Force, the federal Bureau of Alcohol, Tobacco, Firearms and Explosives last reported 452 active tobacco investigations at the national level, including multi-million dollar trafficking

schemes where groups organize cigarette shipments from low-tax states to high-tax states.²¹

While Oregon tobacco control officials currently estimate that tax evasion is small—approximately 4 percent of smokers admitted to buying cigarettes from untaxed or out-of-state sources in the last year—if Oregon matches Washington’s tax rate, more tobacco-tax evasion is likely to ensue.²² The Washington State Liquor Control Board, the agency responsible for tobacco tax enforcement in Washington, estimates that their state loses more than \$223 million in tax revenue each year through the illegal sale of untaxed cigarettes, nearly 28 percent of all cigarettes consumed annually in the state.²³ In Maine, where the per pack cigarette tax is \$2.00, tobacco tax revenues for this year have been \$800,000 lower per month than projected, leaving a budget gap of several million dollars, due at least in part to tax evasion.²⁴

The enforcement costs required to eliminate tobacco-tax evasion would be astounding, and partial enforcement of these laws unfortunately means that the most honest retailers—those obeying state law—generally suffer the greatest disadvantage in the marketplace.

Last year, the Oregon Department of Justice reported that “with potential increases in tobacco taxes and corresponding profits for tax evaders, the market is at serious risk for ongoing compromise by organized crime groups.”²⁵

Increased black market sales should be a concern not just because of the lost tax revenues, but because of associated criminal activities, which may include increased sales of tobacco products to minors.

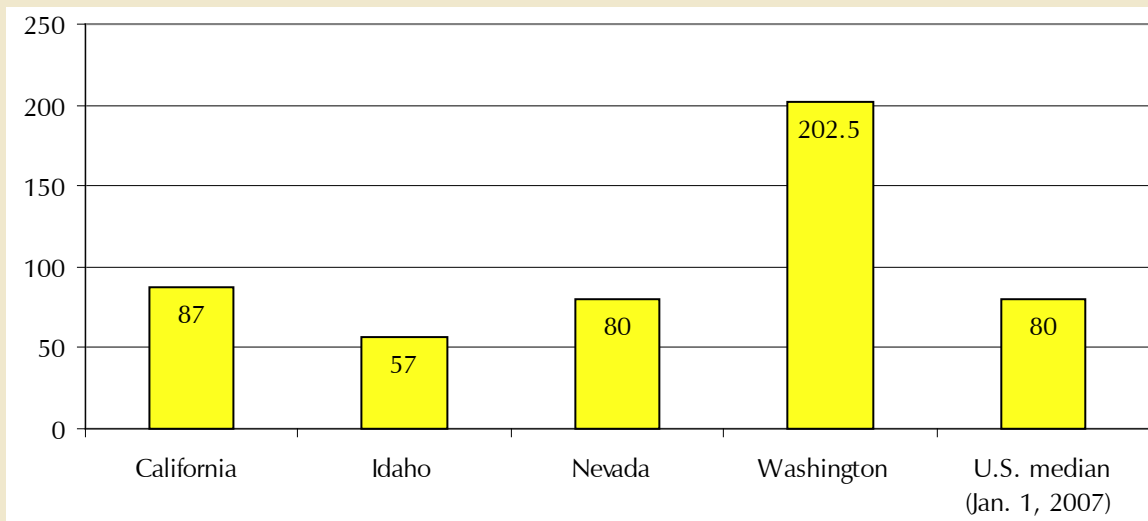
Measure 50 will increase incentives for tax evasion and the costs associated with black market tobacco sales.

Unsustainable Funding

In the end, Measure 50 might never generate the revenues the governor and its other proponents have promised. Accurate revenue projections from state tobacco taxes are complicated not just by legitimate decrease in demand and tax evasion, but also by the fact that the federal government may change the cost of cigarettes at any time, either through raising the federal per pack excise tax, or through increased regulation of the tobacco industry. That’s bad news for programs that currently depend on tobacco taxes.

Tobacco tax funding doesn’t bode well for the future of new state obligations, either. Measure 50 expands state services and creates an entirely new program, Healthy Kids, completely dependent on a shrinking, minority tax base. If the measure passes, families with incomes up to 300 percent of the federal poverty level would qualify for taxpayer-funded or partially subsidized children’s health coverage. While tobacco tax rates increase, tobacco sales decrease,

COMPARISON OF TAX RATES IN NEIGHBORING STATES AND U.S. MEDIAN, ¢ PER PACK



From Federation of Tax Administrators, State Excise Tax Rates on Cigarettes, www.taxadmin.org/fta/rate/cigarette.html, January 1, 2007. These rates only represent state tobacco excise taxes, not including federal tobacco excise taxes or applicable state and local sales taxes.

and programs whose funding is predicated on taxing Oregon’s tobacco consumers will be left stranded with budgetary needs far above the dedicated revenue stream. It is fiscally irresponsible to create long-term programs without a long-term revenue source.

BETTER APPROACHES TO TOBACCO AND HEALTH ISSUES

Increasing cigarette prices alone is not an effective strategy to reduce smoking. Teenagers are thought to be the most price-sensitive cohort, but teen smoking is higher in western Europe than in the United States, despite generally higher tobacco prices there, and in June the United States Congressional Research Service reported that “recent studies raise some questions about the effectiveness of tax increases on teenage smoking.” Overall, tobacco prices were found to have a weak or insignificant affect on teen smoking, and the report concluded that “stricter regulations on sales to teenagers, counseling, education, and assistance with smoking cessation might be more effective.”²⁶ Minors in Oregon already purchase their tobacco products illegally, and as discussed earlier, there’s good reason to believe that unregulated black market sales will increase under the proposed tax.

Rising tobacco taxes are increasingly ineffective at curbing adult tobacco use.

Rising tobacco taxes are increasingly ineffective at curbing adult tobacco use as well. Nationwide, people in the lowest income brackets smoke at the highest rates—despite regressive taxes such as the one proposed for Oregon. This fall, researchers at the University of California at Davis reported that national data on cigarette prices and smoking rates indicate that the minority of adults who continue to smoke are effectively insensitive to price increases, possibly because of addiction, and they do not respond to higher cigarette taxes with a lower prevalence of smoking. Even after taking into consideration the statistical bias created by cigarette tax evasion and avoidance behaviors—such as switching from brand-name to generic cigarettes, purchasing cigarettes in low-tax states, on American Indian reservations, from the Internet, or on the black market—the researchers concluded that the recent dramatic drop in price responsiveness suggests that “tobacco control measures other than increases in cigarette taxes, such as programs

aimed at lessening barriers to quitting faced by low-income smokers should be emphasized.”²⁷

Although Oregon has a very active Tobacco Tax Compliance Task Force working to prosecute black market tobacco sales in the state, legislators have shown less commitment to funding the state’s Tobacco Prevention and Education Program. Programs designed to reduce tobacco use, initiated in 1996, receive only a small fraction of the tax revenues voters approved for this purpose. Instead, as Measure 50 illustrates, tobacco tax revenues—and smokers’ pockets—have proved an easy target for lawmakers simply trying to grow the state budget.

There are better ways to address Oregon’s health needs.

- **Recognize that expanding services requires growing revenue sources.** If Oregonians want to expand health coverage and other statewide services, the state legislature should seek revenue sources that are balanced and sustainable.
- **Increase opportunities for private health coverage.** It is possible to increase health coverage without expanding state services. Health Savings Accounts (HSAs) are an option that would do just that. Simply defined, HSAs incorporate a tax-free savings account with a high-deductible health insurance plan.
- **Make health services and insurance coverage more affordable.** A major goal of HSAs is to give enrollees incentives use their health dollars wisely and force health service providers to compete for those dollars. The current situation—including employer mandates, ever-expanding government subsidies and the limited number of insurance providers—does just the opposite, by reducing competition. It also fails to ensure that smokers don’t pass the costs of their habits on to others. Those who are concerned about the effects of pooling smokers’ and non-smokers’ health care costs in programs such as Medicaid and group life insurance should examine the regulatory changes needed to end any hidden subsidies.
- **Support smokers who want to quit.** Oregonians who smoke pay enough in tobacco taxes to provide state-of-the-art tobacco cessation services to everyone who wants to quit, but unfortunately most of that tax money is spent on unrelated services. Tobacco taxes should be directly connected to tobacco prevention, education and control programs.

- **Minimize incentives for black market sales of cigarettes.** A sudden, large price increase and huge disparities between Oregon’s tax rate and surrounding states will only exacerbate existing problems with black market tobacco sales. By moderating Oregon’s tobacco tax rate, sales of tobacco won’t be forced into an unregulated underground.
- **Protect the Oregon Constitution.** The constitution is meant to guard the rights of Oregon citizens. State legislators and interest groups should follow the provisions of the current constitution whenever they seek to approve new taxes.

Measure 50 takes the unprecedented step of inserting a new tax into the Constitution of Oregon.

CONCLUSION

Measure 50 aims to create revenue for a wide variety of health programs through heavy taxation of a small minority. Further, the measure takes the unprecedented step of inserting a new tax into the Constitution of Oregon—circumventing the constitutional provision that requires a three-fifths vote of the state legislature to author new taxes. This dramatic tax increase would likely still be incorporated into the Oregon Constitution long after the revenue it generates is no longer sufficient to sustain the new and expanded programs the measure is intended to fund.

In the mid- to long-term, the two goals of Measure 50—reducing tobacco use and funding health programs—are completely incompatible. If the tax succeeded in reducing tobacco use, the funding for dependent health programs would also be diminished. On the other hand, if Measure 50 did not substantially reduce tobacco use—because the fraction of revenue dedicated to tobacco control, prevention, and cessation is too small, because consumers adjust their buying habits instead of their smoking habits, or other factors—additional health subsidies might be needed. At the same time, Measure 50 will increase incentives for tax evasion and the costs associated with black market tobacco sales.

The good news is that Oregonians are smoking less and health coverage is improving. There are plenty of sensible options that don’t include re-writing the constitution to make sure Oregon’s progress on these issues continues into the future.

ABOUT THE AUTHOR

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APPENDIX: ALLOCATION SCHEDULE FOR OREGON TOBACCO TAXES UNDER MEASURE 50

Constitutional Tax increase 84.5 cents dedicated to:

■ Healthy Kids	(72.34% for 07–09)	(68.47% for 09–11).
■ Kids Safety Net	(3.04% for 07–09)	(2.88% for 09–11).
■ Rural Health	(1.16% for 07–09)	(1.10% for 09–11).
■ TURA	(4.918% for 07–09)	(10% for 09–11).
■ Heath Plan (OHP)	(18.54% for 07–09)	(17.55% for 09–11).

Other Tobacco Products (OTP) increase (30% of wholesale price) dedicated to:

■ TURA	(55.4% for 07–09)	(43.0% for 09–11).
■ Heath Plan (OHP)	(44.6% for 07–09)	(57% for 09–11).

The current tax in two pieces 58 cents and 60 cents, combined as \$1.18 tax and distributed as:

■ First (hold harmless) General Fund (GF)	21.69%
■ Cities	2.3 %
■ Counties	2.3 %
■ ODOT (Senior and Disabled Transportation)	2.3 %
■ What is left (after hold harmless) then goes to OHP	(71.41%)

OTP the original 65% of wholesale price to fill gaps:

■ General Fund	(78.7%)
■ Oregon Heath Plan	(21.3%)

(From Oregon Legislative Revenue Office, *Revenue Measures Passed by the 74th Legislature 2007*, p. 77.)

ENDNOTES

1. Federation of Tax Administrators, *State Excise Tax Rates on Cigarettes*, www.taxadmin.org/fta/rate/cigarette.html, January 1, 2007.
2. Mike Dahlin and Stacey Schubert, Oregon Department of Human Services, Health Services, Tobacco Prevention and Education Program, *Oregon Tobacco Facts*, www.oregon.gov/DHS/ph/tobacco/docs/facts05.pdf, June 2006, p. 8.
3. Mike Dahlin and Stacey Schubert, *Oregon Tobacco Facts*, p. 2.
4. Urban Institute and Kaiser Commission on Medicaid and the Uninsured, *Oregon: Health Insurance Coverage of Children 0-18, states (2004-2005), U.S. (2005)*, www.statehealthfacts.org/profileind.jsp?ind=127&cat=3&rgn=39. Most of those who are currently uninsured already qualify for existing programs according to the Healthy Kids Plan, governor.oregon.gov/Gov/sos2006/kids.pdf
5. Oregon Legislative Revenue Office, *Revenue Measures Passed by the 74th Legislature 2007* (Salem, OR, September 2007), pp. 75–77.
6. Oregon Secretary of State, Elections Division, *November 6, 2007, Special Election, Measure 50; Explanatory Statement*, www.sos.state.or.us/elections/nov62007/military_vp/m50_es.pdf, July 12, 2007.
7. Oregon Secretary of State, Elections Division, *74th Oregon Legislative Assembly—2007 Regular Session*, Senate Joint Resolution 4, www.sos.state.or.us/elections/nov62007/military_vp/m50_text.pdf.
8. Governor Ted Kulongoski, *The Governor's Hope and Opportunity Budget 2007–2009* (Salem, OR), p. 4.
9. Oregon Department of Human Services, Health Services, Tobacco Prevention and Education Program, Oregon Statewide Tobacco Control Plan 2005–2010, www.oregon.gov/DHS/ph/tobacco/docs/stateplan05-10.pdf, p. 5.
10. Oregon Department of Human Services, Health Services, Tobacco Prevention and Education Program, *2003–2005 Tobacco Prevention & Education Program Report*, www.oregon.gov/DHS/ph/tobacco/ar03-05.shtml, February 2005. Measure 44 promised to allocate 10 percent of taxes generated, or \$8 million per year, for programs designed to reduce cigarette and tobacco use, but the Tobacco Prevention and Education Program received only \$3.45 million per year in the 2003–05 biennium.
11. If taken as a percentage of total state tobacco revenues, including estimated Master Settlement Agreement payments, the projected funding for the Tobacco Use Reduction Account (TURA) appears to be closer to 3 or 4 percent of tobacco revenues.
12. Frank A. Sloan et al., *The Price of Smoking* (Cambridge, MA: MIT Press, 2004). See also W. Kip Viscusi, “Tobacco Taxes,” in *The Encyclopedia of Taxation and Tax Policy*, ed. Joseph J. Cordes, Robert D. Ebel, and Jane G. Gravelle (Washington, D.C.: Urban Institute, 2005).
13. Jane G. Gravelle, U.S. Congressional Research Service, *The Cigarette Tax Increase to Finance SCHIP* (Washington D.C., June 19, 2007), p. 2.
14. For a more in-depth discussion of this, see Tax Foundation, “Options for Funding SCHIP Expansion: Cigarette Taxes Least Defensible Alternative,” *Fiscal Facts*, www.tax-foundation.org/publications/show/22476.html, July 13, 2007.
15. Oregon Department of Human Services, Health Services, Tobacco Prevention and Education Program, *Economically Disadvantaged Fact Sheet—2007*, www.oregon.gov/DHS/ph/tobacco/2007_Pop_Fact_Sheets/EconomicallyDisadvantaged.pdf, p. 1.
16. Oregon Department of Justice, Criminal Justice Division, *Organized Crime in Oregon* (Salem OR, August 2006), pp. 21, 28.
17. Stephanie Soden, Oregon Department of Justice, “Oregon Tobacco Tax Compliance Task Force Secures 2 Convictions,” www.doj.state.or.us/releases/2006/rel103006.shtml, October 27, 2006.
18. Kevin Neely, Oregon Department of Justice, “Tobacco Task Force Arrest Owners of Sunrise Wholesale For Tobacco Tax Evasion,” www.oregon.gov/OSP/NEWSRL/news/05_05_2005_sunrisewholesale.shtml, May 5, 2005.
19. Stephanie Soden, Oregon Department of Justice, “Tobacco Tax Violator Sentenced to Prison,” www.doj.state.or.us/releases/2007/relo62907c.shtml, June 29, 2007.
20. See, for example, Oregon Department of Justice, “Farzad Larki Convicted of Tobacco Tax Law Violations,” May 8, 2007; “Tobacco Tax Evader Nguyen Convicted,” April 23, 2007; “13 Indicted for Smuggling & Distribution of Untaxed Tobacco Products,” March 1, 2007; “Ex-Mayor of Mill City Bill Downer Convicted of Violations of State Tobacco Tax Laws,” July 15, 2005.

21. U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives, *2005 Annual Report*, www.atf.gov/pub/gen_pub/2005annual_report.pdf, p. 32.

22. Oregon Department of Human Services, Center for Health Statistics, *2006 Behavioral Risk Factor Surveillance System Survey: Tobacco Use*, www.dhs.state.or.us/dhs/ph/chs/brfs/06/tobacco.pdf, pp. 26–28.

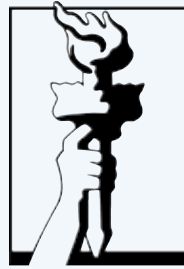
23. Washington State Liquor Control Board, “Tobacco Tax Enforcement in Washington State,” www.liq.wa.gov/tobacco/tobacco.asp. The Web site states, “[l]oss of revenue occurs through illegal purchases of tobacco. Sixty percent of revenue loss is believed to be from Indian smoke shops. Twenty percent of the revenue loss is from military sales and another 20% percent from casual smugglers who bring in cigarettes from out of state.” Annual questionnaires by the Washington State Department of Health as part of the Behavioral Risk Factor Surveillance System corroborate these figures, with a quarter of smokers commonly reporting having purchased non-taxed tobacco products within the last 30 days. See also Stephen D. Smith and Van Huynh, Washington State Department of Revenue, *Washington State Cigarette Consumption Revisited*, dor.wa.gov/docs/reports/CigStudyJan11_2007.pdf, January 2007.

24. Victoria Wallack, “Cigarette taxes lag, sending revenues up in smoke,” *The Times Record*, September 19, 2007. Additionally, in the Behavioral Risk Factor Surveillance System (BRFSS) survey for 2006, 17 percent of respondents admitted to having bought cigarettes out of state, on a military base or Indian reservation in the past month. Data for Internet purchases was not available. Kip Neale, Maine BRFSS Coordinator, Augusta, Maine, personal communication, September 21, 2007.

25. Oregon Department of Justice, *Organized Crime in Oregon*, p. 28.

26. Jane G. Gravelle, U.S. Congressional Research Service, p. 5. At the same time, the Campaign for Tobacco-Free Kids reports that Oregon ranks 33rd in the nation in spending on tobacco prevention, spending only 1.1 percent of state tobacco revenue on tobacco prevention programs (Campaign for Tobacco-Free Kids, *State Tobacco-Prevention Spending vs. State Tobacco Revenues*, tobaccofreekids.org/reports/settlements/2007/spendingrevenues.pdf, December 2006.)

27. Peter Franks et al., “Cigarette Prices, Smoking, and the Poor: Implications of Recent Trends,” *American Journal of Public Health*, vol. 97, no. 10 (October 2007), pp. 1–5.



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