

Monday, April 20, 2015

**Written Testimony of Rob Bovett before the
Joint Committee on Implementing Measure 91
Regarding the Dash-5 Amendments to Senate Bill 844**

Co-Chairs Burdick and Lininger, and Members of the Committee,

As you know, time ran short at last Monday's hearing on various proposed amendments to Senate Bill 844. Therefore, with regard to the Dash-5 amendments, I promised to provide my 13 comments in writing instead. With that in mind here goes:

1. Section 1 (*inconsistency clause*): This would make the inconsistency clause in Measure 91 closer to a preemption clause, but not quite. As such, AOC would oppose it for two reasons: (1) It is contrary to local control; and (2) it leaves things murky. Attached to this written testimony is alternate draft legislation. Section 1 clarifies local control.

2. Section 2 (*reasonable time, place, and manner regulations*): The first sentence seems fine, but the second sentence seems unnecessary. This section of Measure 91 should be cleaned up, but it can be done in a more simple fashion. Section 2 of the attached alternate draft legislation does that.

3. Section 3, subsection (1) (*marijuana as farm crop*): Unless and until a framework is established for the medical marijuana supply chain (such as Senate Bill 936), this should be confined to retail marijuana. As written, it might also arguably apply to medical marijuana. Section 3(1) of the attached alternate draft legislation confines its scope to retail, which can be expanded in the event that Senate Bill 936 (or something like it) passes.

4. Section 3, subsection (2) (*marijuana farm dwelling*): Some counties may want to encourage family farms and allow this at higher economic levels than provided for other farms. Section 3(2) of the attached alternate draft legislation would allow for that to occur.

5. Section 3, subsection (3) (*marijuana on EFU as farm crop*): No suggested changes. Section 3(3) of the attached alternate draft legislation retains the proposed language.

6. Section 3, subsection (4) (*home occupation permit*): This implies licensed marijuana processing in residential zones. This should be deleted, and does not appear in the attached alternate draft legislation.

7. Section 3, subsection (5) (*land use compatibility statement*): A land use compatibility statement (LUCS) is necessary to avoid land use conflicts and to assist investors and other from wasting time and money on properties that don't qualify for a particular type of license.

However, the Dash-5's place the burden of obtaining the LUCS on the commission. That should be changed to the applicant. Section 3(4) of the attached alternate draft makes that change.

8. Section 3, subsection (6) (*amending comprehensive plans*): This is not only unnecessary and time consuming, it might very well drive the federal question in federal court. I won't repeat my usual talking points on that matter. This should be deleted, and does not appear in the attached alternate draft legislation.

9. Section 4 (*local opt out by initiative*): As it stands, I suspect it will take litigation to resolve whether Section 60 of Measure 91 is the exclusive method of opting out. Section 4 of these amendments does nothing to change that. Instead, this matter should be clarified. Sections 4a and 4b of the attached alternate draft does that, working in conjunction with Section 1.

10. Section 5 (*local opt out does not affect personal allowance provisions*): No suggested changes. Section 5 of the attached alternate draft legislation retains the proposed language.

11. Section 6 (*preemption of local taxation*): Preempting local taxation before the Measure 91 taxation and distribution scheme gets adjusted is premature. As food for thought, I have provided a complete redo of the Measure 91 taxation scheme, based on a retail gross receipts tax. See Sections 8 to 21 of the attached draft legislation.

12. Section 7 (*preemption of local time, place, and manner regulation of personal allowance provisions*): I believe I understand what this section might be getting at, but it doesn't really work. For example, the prohibition on growing or sharing homegrown marijuana within 1,000 feet of a school comes from what Measure 91 left intact in the state controlled substances act. Since I'm not exactly sure what this section is designed to accomplish, this section does not appear in the attached alternate draft legislation.

13. Finally, irrespective of how the legislature resolves the scope and extent of local authority and control, the issue of the so-called "GMO bill" remains outstanding. To leave that legal argument intact potentially threatens to undermine whatever local authority and control the legislature ultimately settles upon. Section 6 of the attached alternate draft legislation fixes that issue by clarifying that the "GMO bill" does not apply to marijuana.

Thank you again for the opportunity to comment.

(Alternate Provision to SB 844 Dash-4)

SECTION 1. Section 58, chapter 1, Oregon Laws 2015, is amended to read:

Sec 58. *[Sections 3 to 70 of this Act, designed to operate uniformly throughout the state, shall be paramount and superior to and shall fully replace and supersede any and all municipal charter enactments or local ordinances inconsistent with it. Such charters and ordinances hereby are repealed.]*

(1)(a) A city governing body may enact an ordinance prohibiting the operation of any one or more classes of marijuana businesses within the city.

(b) A city enacting an ordinance as described in paragraph (a) of this subsection shall forward a copy of that ordinance to the commission. The commission shall not issue a license for premises within that city for any class of marijuana business prohibited by the ordinance.

(2)(a) A county governing body may enact an ordinance prohibiting the operation of any one or more classes of marijuana businesses within unincorporated areas of the county.

(b) A county enacting an ordinance as described in paragraph (a) of this subsection shall forward a copy of that ordinance to the commission. The commission shall not issue a license for premises within unincorporated areas of that county for any class of marijuana business prohibited by the ordinance.

SECTION 2. Section 59, chapter 1, Oregon Laws 2015, is amended to read:

Sec 59. *[(1)]* Cities and counties may adopt reasonable time, place and manner regulations *[of the nuisance aspects of establishments that sell marijuana to consumers if the city or county makes specific findings that the establishment would cause adverse effects to occur]* **relating to marijuana businesses licensed by the commission.**

[(2) The authority granted to cities and counties by this section is in addition to, and not in lieu of, the authority granted to a city or county under its charter and the statutes and Constitution of this state.]

SECTION 3. (1) Notwithstanding any other provision of ORS chapters 197, 215 and 227, marijuana produced by a licensee of the commission is a crop for the purposes of ‘farm use’ as defined in ORS 215.203.

(2)(a) A primary dwelling in conjunction with a marijuana crop located on exclusive farm use land is not a permitted use under ORS 215.213 or 215.283.

(b) Notwithstanding paragraph (a) of this subsection, a primary dwelling in conjunction with a marijuana crop located on exclusive farm use land is a permitted use ORS 215.213 or 215.283 if the county in which it is located has adopted an ordinance making it a permitted use, and establishing the criteria, which shall be at least as rigorous as the criteria for other primary dwellings on exclusive farm use land.

(3) The processing of marijuana leaves or flowers on a premises that is located on exclusive farm use land and for which a license has been issued under section 20, chapter 1, Oregon Laws 2015, is permissible to the extent that is provided for other crops under ORS 215.213(2) or 215.283(2).

(4) Prior to the issuance of any license authorized under sections 3 to 70, chapter 1, Oregon Laws 2015, the applicant shall provide the commission with a land use compatibility statement from the city or county land use planning commission that authorizes the land use. The land use compatibility statement must demonstrate that the requested license is for a land use that is allowable as a permitted or conditional use within the given zoning designation where the land is located. The commission may not issue a license if the land use compatibility statement shows that the proposed land use is prohibited in the applicable zone.

SECTION 4a. Section 60, chapter 1, Oregon Laws 2015, is amended to read:

Sec 60. (1) The governing body of a city or a county, when a petition is filed as provided in this section, shall order an election on the question whether the operation of **one or more classes of** licensed premises shall be prohibited in the city or **unincorporated areas of the** county.

(2) Except as provided in subsections (3), (4) and (5) of this section, the requirements for preparing, circulating and filing a petition under this section:

(a) In the case of a city, shall be as provided for an initiative petition under ORS 250.265 to 250.346.

(b) In the case of a county, shall be as provided for an initiative petition under ORS 250.165 to 250.235.

(3) A petition under subsection (2) of this section:

(a) Must be filed not less than 60 days before the day of the election; and
(b) Must be signed by not less than 10 percent of the electors registered in the city or county.

(4) If ORS 250.155 makes ORS 250.165 to 250.235 inapplicable to a county or if ORS 250.255 makes ORS 250.265 to 250.346 inapplicable to a city, the requirements for preparing, circulating and filing a petition under this section shall be as provided for an initiative petition under the county or city charter or an ordinance adopted under the county or city charter.

(5) No signature is valid unless signed within 180 days before the petition is filed.

(6) An election under this section shall be held at the time of the next statewide general election.

(7) An election under this section shall be conducted under ORS chapters 246 to 260.

(8) The election official shall send a certified copy of the election results to the commission. The commission shall not issue a license for premises within a city or unincorporated area of a county for any class of marijuana business prohibited by the local ballot measure.

SECTION 4b. Section 62, chapter 1, Oregon Laws 2015, is amended to read:

Sec 62. In each county or city that returns a majority vote for or against prohibition of **any one or more classes of marijuana businesses**, the law shall take effect on January 1 following the day of election.

SECTION 5. Section 61, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 61. Section 60, **chapter 1, Oregon Laws 2015, does** [*of this Act shall*] not prevent any person residing in the county or city from having, for personal use, marijuana items purchased from marijuana retailers duly licensed under **sections 3 to 70, chapter 1, Oregon Laws 2015** [*this Act*].

SECTION 6. **ORS 633.738 does not apply to marijuana.**

SECTION 7. **Section 3 of this 2015 Act are added to and made a part of sections 3 to 70, chapter 1, Oregon Laws 2015.**

(Retail Gross Receipts Tax Provisions)

SECTION 8. Section 31, chapter 1, Oregon Laws 2015, is amended to read:

Sec 31. The Oregon Liquor Control Commission shall administer sections 31 to 44 of *[this Act]* **chapter 1, Oregon Laws 2015**, and shall prescribe forms and make such rules and regulations as it deems necessary to enforce sections 31 to 44 of *[this Act]* **chapter 1, Oregon Laws 2015**.

SECTION 9. Section 32, chapter 1, Oregon Laws 2015, is amended to read:

Sec 32. *[(1)]* As used in sections 31 to 44 of *[this Act]* **chapter 1, Oregon Laws 2015**, “sale” or “sold” means any transfer, exchange or barter, in any manner or by any means, for a consideration, and includes and means all sales made by any person. It includes a gift by a person engaged in the business of selling marijuana, for advertising, as a means of evading sections 31 to 44 of *[this Act]* **chapter 1, Oregon Laws 2015**, or for any other purpose.

(2) If a marijuana producer also holds one or more *[processor]* **additional marijuana licenses from the commission**, *[one or more wholesale licenses, or one or more retail licenses,]* a sale of marijuana flowers, marijuana leaves, or immature marijuana plants will be deemed to occur if and when the marijuana producer processes or takes any other action with respect to such marijuana flowers, marijuana leaves, or immature marijuana plants for which a processor license, wholesale license, or retail license is required, regardless of whether the marijuana producer continues to own or possess the marijuana flowers, marijuana leaves, or immature marijuana plants.

SECTION 10. Section 33, chapter 1, Oregon Laws 2015, is amended to read:

Sec 33. (1) A **gross receipts** tax is imposed upon the privilege of engaging **in the retail sale of marijuana items** *[business as a marijuana producer at the rate of:*

[(a) \$35 per ounce on all marijuana flowers;

[(b) \$10 per ounce on all marijuana leaves; and

[(c) \$5 per immature marijuana plant].

(2) *[The rates of tax imposed by this section upon marijuana flowers and marijuana leaves apply proportionately to quantities of less than one ounce.]* **The rate of tax imposed under this section is 25 percent of all gross receipts derived from the retail sale of marijuana items.**

[(3) The tax imposed by this section shall be measured by the quantities of marijuana flowers, marijuana leaves, and immature marijuana plants produced and sold by any marijuana producer. The taxes specified in this section shall be levied and assessed to the marijuana producer at the time of the first sale of the marijuana flowers, marijuana leaves, and immature marijuana plants by the marijuana producer.]

[(4) For reporting periods beginning on or after July 1, 2017, the rates of tax under subsection (1) of this section shall be adjusted for each biennium according to the cost-of-living adjustment for the calendar year. The Oregon Liquor Control Commission shall recompute the rates for each biennium by adding to each rate in subsection (1) of this section the product obtained by multiplying the rate by a factor that is equal to 0.25 multiplied by the percentage (if any) by which the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31 of the prior calendar year exceeds the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31, 2015.]

[(5) The commission shall regularly review the rates of tax under subsection (1) of this section and make recommendations to the Legislative Assembly regarding appropriate adjustments to the rates that will further the purposes of:

[(a) Maximizing net revenue;

[(b) Minimizing the illegal marijuana industry under Oregon law; and

[(c) Discouraging the use of marijuana by minors under 21 years of age.]

[(4) For reporting periods beginning on or after July 1, 2017, the rates of tax under subsection (1) of this section shall be adjusted for each biennium according to the cost-of-living adjustment for the calendar year. The Oregon Liquor Control Commission shall recompute the rates for each biennium by adding to each rate in subsection (1) of this section the product obtained by multiplying the rate by a factor that is equal to 0.25 multiplied by the percentage (if any) by which the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31 of the prior calendar year exceeds the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31, 2015.]

[(5) The commission shall regularly review the rates of tax under subsection (1) of this section and make recommendations to the Legislative Assembly regarding appropriate adjustments to the rates that will further the purposes of:

[(a) Maximizing net revenue;

[(b) Minimizing the illegal marijuana industry under Oregon law; and

[(c) Discouraging the use of marijuana by minors under 21 years of age.]

SECTION 11. Section 34, chapter 1, Oregon Laws 2015, is amended to read:

Sec 34. (1) The *[privilege]* **gross receipts** tax imposed by section 33 of *[this Act]* **chapter 1, Oregon Laws 2015**, shall be paid to the Oregon Liquor Control Commission. The taxes covering the periods for which statements are required to be rendered by section 35 of this Act shall be paid before the time for filing such statements expires. If not so paid, a penalty of 10 percent and interest at the rate of one percent a month or fraction of a month shall be added and collected. The commission may refund any tax payment imposed upon or paid in error by any licensee.

(2) The commission may waive any interest or penalty assessed to a marijuana producer subject to the tax imposed under section 33 of *[this Act]* **chapter 1, Oregon Laws 2015**, if the commission, in its discretion, determines that the marijuana *[producer]* **retailer** has made a good faith attempt to comply with the requirements of sections 31 to 44 of *[this Act]* **chapter 1, Oregon Laws 2015**.

(3) Except in the case of fraud, the commission may not assess any interest or penalty on any tax due under section 33 of *[this Act]* **chapter 1, Oregon Laws 2015**, following the expiration of 36 months from the date on which was filed the statement required under section 35 of *[this Act]* **chapter 1, Oregon Laws 2015**, reporting the *[quantities of marijuana flowers, marijuana leaves, and immature marijuana plants]* **amount of gross receipts from the sale of marijuana items** upon which the tax is due.

(4) A marijuana producer may appeal a tax imposed under section 33 of *[this Act]* **chapter 1, Oregon Laws 2015**, in the manner of a contested case under ORS chapter 183.

SECTION 12. Section 35, chapter 1, Oregon Laws 2015, is amended to read:

Sec 35. On or before the 20th day *[of each month]* **after the end of each calendar quarter**, every marijuana *[producer]* **retailer** shall file with the Oregon Liquor Control Commission a statement of the *[quantities of marijuana flowers, marijuana leaves, and immature marijuana plants sold by the marijuana producer]* **total amount of gross receipts from the sale of marijuana items by the retailer** during the preceding calendar *[month]* **quarter**.

SECTION 13. Section 36, chapter 1, Oregon Laws 2015, is amended to read:

Sec 36. If any marijuana *[producer]* **retailer** fails, neglects or refuses to file a statement required by section 35 of *[this Act]* **chapter 1, Oregon Laws 2015**, or files a false statement, the *[Oregon Liquor Control Commission]* **commission** shall estimate the *[quantities of marijuana flowers, marijuana leaves, and immature marijuana plants sold by the marijuana producer]* **total amount of gross receipts from the sale of marijuana items by the retailer during the preceding calendar quarter** and assess the privilege taxes thereon. The marijuana *[producer]* **retailer** shall be estopped from complaining of the *[quantities]* **amounts** so estimated.

SECTION 14. Section 37 chapter 1, Oregon Laws 2015, is amended to read:

Sec 37. The privilege tax required to be paid by section 33 of *[this Act]* **chapter 1, Oregon Laws 2015**, constitutes a lien upon, and has the effect of an execution duly levied against, any and all property of the marijuana *[producer]* **retailer**, attaching at the time the marijuana *[flowers, marijuana leaves, and immature marijuana plants]* **items** subject to the tax were sold, and remaining until the tax is paid. The lien created by this section is paramount to all private liens or encumbrances.

SECTION 15. Section 38, chapter 1, Oregon Laws 2015, is amended to read:

Sec 38. **(1)** Every marijuana producer shall keep a complete and accurate record of all sales of marijuana flowers, marijuana leaves, and immature marijuana plants, and a complete and accurate record of the number of ounces of marijuana flowers produced, the number of ounces of marijuana leaves produced, the number of immature marijuana plants produced, and the dates of production. The records shall be in such form and contain such other information as the *[Oregon Liquor Control Commission]* **commission** may prescribe.

(2) Every marijuana retailer shall keep a complete and accurate record of all sales of marijuana items, and the dates of sale. The records shall be in such form and contain such other information as the commission may prescribe.

SECTION 16. Section 39, chapter 1, Oregon Laws 2015, is amended to read:

Sec 39. **(1)** The Oregon Liquor Control Commission may, at any time, examine the books and records of any marijuana producer **or retailer**, and may appoint auditors, investigators and other employees that the commission considers necessary to enforce its powers and perform its duties under sections 31 to 44 of *[this Act]* **chapter 1, Oregon Laws 2015**,

(2) Every marijuana producer **and retailer** shall maintain and keep for two years all records, books and accounts required by sections 31 to 44 of *[this Act]* **chapter 1, Oregon Laws**

2015, and shall provide copies of those records, books and accounts to the commission when requested by the commission.

SECTION 17. Section 40, chapter 1, Oregon Laws 2015, is amended to read:

Sec 40. (1) No marijuana [*producer*] **retailer** shall:

(a) Fail to pay the privilege tax prescribed in section 33 of this Act when it is due; or

(b) Falsify the statement required by section 35 of this Act.

(2) No person shall:

(a) Refuse to permit the [*Oregon Liquor Control Commission*] **commission** or any of its representatives to make an inspection of the books and records authorized by sections 38 and 39 of [*this Act*] **chapter 1, Oregon Laws 2015;**

(b) Fail to keep books of account prescribed by the commission or required by sections 31 to 44 of [*this Act*] **chapter 1, Oregon Laws 2015;**

(c) Fail to preserve the books for two years for inspection of the commission; or

(d) Alter, cancel or obliterate entries in the books of account for the purpose of falsifying any record required by sections 31 to 44 of [*this Act*] **chapter 1, Oregon Laws 2015**, to be made, maintained or preserved.

SECTION 18. Section 41, chapter 1, Oregon Laws 2015, is amended to read:

Sec 41. Sections 31 to 44 of this Act do not apply to commerce with foreign nations or commerce with the several states, except [*in so far as the same may be*] **to the extent** permitted under the Constitution and laws of the United States.

SECTION 19. Section 42, chapter 1, Oregon Laws 2015, is amended to read:

Sec 42. [*No county or city of this state shall impose any fee or tax, including occupation taxes, privilege taxes and inspection fees, in connection with the purchase, sale, production, processing, transportation, and delivery of marijuana items.*]

(1) Except as provided in subsection (3) of this section, no county or city may enact, collect, or enforce a local law or measure to impose any tax on the purchase, sale, production, processing, transportation, and delivery of marijuana items.

(2) This section applies to all local laws and measures, whether enacted before, on, or after, the effective date of this 2015 Act.

(3)(a) A city council, by ordinance, may impose a gross receipts tax upon the privilege of engaging in the retail sale of marijuana items in the city.

(b) A county governing body, by ordinance, may impose a gross receipts tax upon the privilege of engaging in the retail sale of marijuana items in unincorporated areas of the county.

(c) The rate of tax imposed by a city or county under this subsection may not exceed 10 percent of all gross receipts derived from the retail sale of marijuana items.

SECTION 20. Section 43, chapter 1, Oregon Laws 2015, is amended to read:

Sec 43. (1) All money collected by the Oregon Liquor Control Commission under sections 3 to 70 of *[this Act]* **chapter 1, Oregon Laws 2015**, shall be remitted to the *[State Treasurer who shall credit it to a suspense account of the commission. Whenever the commission determines that moneys have been received by it in excess of the amount legally due and payable to the commission or that it has received money to which it has no legal interest, or that any license fee or deposit is properly refundable, the commission is authorized and directed to refund such money by check drawn upon the State Treasurer and charged to the suspense account of the commission. After withholding refundable license fees and such sum, not to exceed \$250,000, as it considers necessary as a revolving fund for a working cash balance for the purpose of paying travel expenses, advances, other miscellaneous bills and extraordinary items which are payable in cash immediately upon presentation, the commission shall direct the State Treasurer to transfer the money remaining in the suspense account to the]* Oregon Marijuana Account established under section 44 of *[this Act]* **chapter 1, Oregon Laws 2015**. Moneys in the Oregon Marijuana Account are continuously appropriated to the commission to be distributed and used as required or allowed by Oregon law.

(2) All necessary expenditures of the commission incurred in carrying out sections 3 to 70 of *[this Act]* **chapter 1, Oregon Laws 2015**, *[including such sums necessary to reimburse the \$250,000 revolving fund,]* shall be paid from the Oregon Marijuana Account.

SECTION 21. Section 44, chapter 1, Oregon Laws 2015, is amended to read:

Sec 44. (1) There is established the Oregon Marijuana Account, separate and distinct from the General Fund.

(2) At the end of each *[month]* **calendar quarter**, the Oregon Liquor Control Commission shall certify the amount of moneys available for distribution in the Oregon Marijuana Account and, after withholding such moneys as it may deem necessary to carry out its obligations under sections 3 to 70 of *[this Act]* **chapter 1, Oregon Laws 2015**, shall within 35

days of the *[month]* **end of each calendar quarter** for which a distribution is made distribute the moneys as follows:

[(a) Forty percent shall be transferred to the Common School Fund;]

[(b)] (a) Twenty **five** percent shall be transferred to the Mental Health Alcoholism and Drug Services Account established under ORS 430.380, ;

[(c)] (b) Fifteen percent shall be transferred to the State Police Account established under ORS 181.175;

[(d)] (c) [To assist local law enforcement in performing its duties under this Act, ten] **25** percent shall be transferred to the cities of the state in the following shares:

(A) [For all distributions made from the Oregon Marijuana Account before July 1, 2017,] **Fifty percent of such 25 percent** in such shares as the population of each city bears to the population of the cities of the state, as determined by the State Board of Higher Education last preceding such apportionment, under ORS 190.510 to 190.610; and

[(B) For all distributions made from the Oregon Marijuana Account on or after July 1, 2017:]

[(i) Fifty] **(B) Twenty five** percent of such *[ten]* **25** percent shall be transferred in such shares as the *[number of licenses issued by the commission under sections 19 to 21 of this Act]* **total gross sales of marijuana produced by licensed producers** during the calendar year preceding the date of the distribution for premises located in each city bears to the number of *[such licenses issued by the commission]* **total gross sales of marijuana produced by licensed producers** during such calendar year for all **licensed producer premises located within cities** in the state; and

[(ii) Fifty] **(C) Twenty five** percent of such *[ten]* **25** percent shall be transferred in such shares as the number of licenses issued by the commission under section 22 of this Act during the calendar year preceding the date of the distribution for premises located in each city bears to the number of such licenses issued by the commission during such calendar year for all premises **located within cities** in the state;

[(e)] (d) [To assist local law enforcement in performing its duties under this Act, ten] **25** percent shall be transferred to counties in the following shares:

(A) [For all distributions made from the Oregon Marijuana Account before July 1, 2017,] **Twenty five percent of such 25 percent** in such shares as their respective populations

bear to the total population of the state, as estimated from time to time by the State Board of Higher Education; and

[(B) For all distributions made from the Oregon Marijuana Account on or after July 1, 2017:]

[(i) (B) Fifty percent of such [ten] 25 percent shall be transferred in such shares as the [number of licenses issued by the commission under sections 19 to 21 of this Act] total gross sales of marijuana produced by licensed producers during the calendar year preceding the date of the distribution for premises located in each county bears to the number of [such licenses issued by the commission] total gross sales of marijuana produced by licensed producers during such calendar year for all licensed producer premises located in unincorporated areas of the state; and

[(ii) Fifty] (C) Twenty five percent of such [ten] 25 percent shall be transferred in such shares as the number of licenses issued by the commission under section 22 of this Act during the calendar year preceding the date of the distribution for premises located in the unincorporated area of each county bears to the number of such licenses issued by the commission during such calendar year for all premises located in unincorporated areas of the state; and

(f) [Five] Ten percent shall be transferred to the Oregon Health Authority to be used for the establishment, operation, and maintenance of [alcohol and drug] evidence-based marijuana abuse prevention [, early intervention and treatment] services focused primarily on preventing persons under 21 years of age from using marijuana items.

(3) It is the intent of this section that the moneys distributed from the Oregon Marijuana Account to the distributees in subsection (2) of this section are in addition to any other available moneys to such distributees and do not supplant moneys available from any other source.