

Preliminary Impact of Ballot Measure 110 (2020) on Recreational Marijuana Tax Resources and Distributions

House Interim Committee on Economic Development
December 17, 2020

Presented by the Legislative Fiscal Office

Presentation

Provide a brief overview of the estimated financial impact of Measure 110 (2020) on recreational marijuana resources, distributions, and allocations for the 2019-21 and the 2021-23 Biennia.

Recreational Marijuana Tax (ORS 475B)

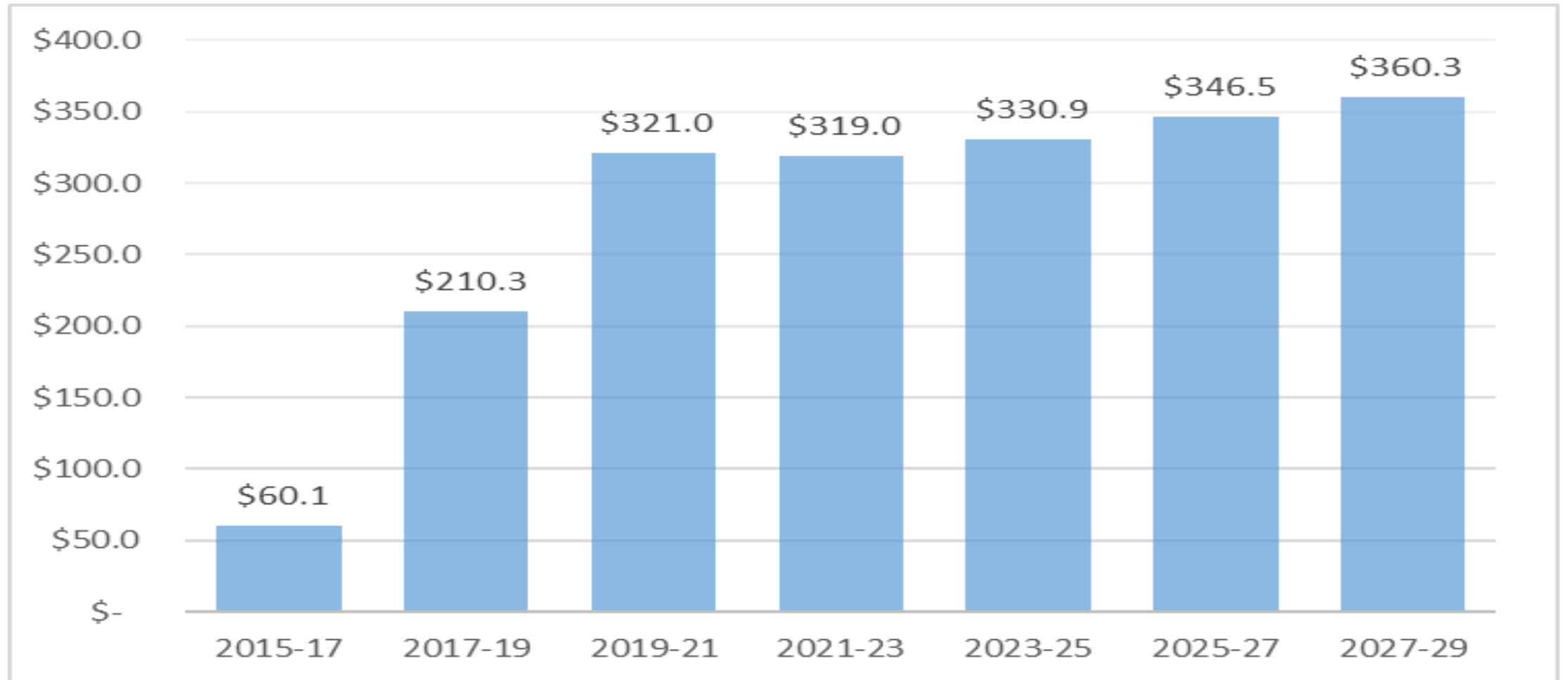
- Ballot Measure 91, the Marijuana legalization initiative, was passed by voters in November 2014. The measure did not include any constitutional provisions.
- The Legislature in 2015 passed a series of bills to implement Ballot Measure 91 to provide for the sale of recreational marijuana, subject to the approval of local jurisdictions. The Legislature has made subsequent changes to the program beginning with the Legislative Session in 2016.
- An early start program allowed for marijuana to be sold and taxed during the 2016 calendar year by medical dispensaries with a 25% tax rate.
- Since June 2016, the marijuana tax rate is 17 percent on various categories of marijuana items, including marijuana leaves, marijuana flowers, immature marijuana plants, cannabinoid edibles, cannabinoid concentrates, cannabinoid extracts, cannabinoid products.

Recreational Marijuana Tax (ORS 475B)

- Point-of-sale tax by consumers to licensed marijuana retailers.
- Tax is remitted to the Department of Revenue at least quarterly.
- Net revenues, after administrative and other costs, are deposited into the Oregon Marijuana Account.
- Limited banking opportunities means that the marijuana revenue can be a cash-based system or a “cash fraction” system.
- Apart from the state tax, there may be a three percent optional tax for local governments that started in 2017. DOR is currently under contract with 86 municipalities to administer their local option marijuana taxes.

Recreational Marijuana Tax - Available Forecasted Revenues

(Source: DAS-Office of Economic Analysis)



Administrative Agencies

- Oregon Liquor Control Commission* - licensing of growers, producers, and retail establishments.
- Department of Revenue* – tax administration and distribution of revenues.
- Department of Agriculture - testing of marijuana items.
- Oregon Criminal Justice Commission* – Illegal Marijuana Market Enforcement Grant program.
- Department of Administrative Services – revenue forecasting and transferring funds to eligible cities and counties.
- State Treasury – cash management and banking services.

*funded from gross marijuana tax revenues.

Statutory Distributions and Legislative Allocations Pre-Ballot Measure 110 (2020)

Distribution of Resources

- 10% cities (\$29.2M)
- 10% counties (\$29.2M)
- 20% total (\$58.4M)

2019-21 biennium Forecasted Revenue

Distributions/Allocations = \$265.9 million

Ending balance reserve - \$55 million

Biennial net revenue = \$320.9 million

Allocation of Resources*

- 40% State School Fund (\$103.8M)
- 20% Oregon Health Authority (mental health, alcoholism, drug services) (\$51.9M)
- 15% Oregon State Police (\$38.9M)
- 5% Oregon Health Authority (alcohol and drug abuse prevention) (\$13M)
- 80% total (\$207.5M)

**Actual revenues in excess of allocations accrue to the ending balance [e.g., HB 5029 (2019)].*

Ballot Measure 110 (2020)

- Ballot Measure 110 was passed by voters on November 3, 2020 and became law 30 days afterwards for a December 3, 2020 operative date.
- The ballot measure is statutory-based on three categories of provisions:
 1. Expanding treatment and services
 2. Funding
 3. Removing drug penalties

Major Funding Provisions – Treatment/Services

- Establishes a Drug Treatment and Recovery Services Fund for the Oregon Health Authority to provide grants to addiction recovery centers. Administrative cost for OHA may not exceed four percent.
- Beginning December 3, 2020, the first \$11.25 million of recreational marijuana tax collections per quarter is distributed per the current statutory list of recipients (\$90 million per biennium maximum).
- Revenues above \$11.25 million per quarterly are directed to the Drug Treatment & Recovery Fund, which must receive at least \$57 million in revenue the first year and is then tied to the consumer price index in subsequent years.
- “[...]grants] to the maximum extent consistent with law, be in addition to and not in replacement of any existing allocation or appropriations...”

Funding Provisions – Decriminalization

- Revenues (i.e., cost savings) from the decriminalization of certain drug offenses are to be estimated biennially by the Office of Economic Analysis and transferred from the General Fund into the Drug Treatment and Recovery Services Fund on or before the end of the fiscal year in which the estimate was made.
- According to the Estimate of Financial Impact, the largest savings to the state will accrue in the Department of Corrections, which will see fewer drug offenders on community supervision. Savings are estimated at \$0.3 million in 2019-21 biennium and \$24.5 million in 2021-23 biennium.
- The savings estimated for the Department of Corrections will reduce the agency's General Fund budget and will reduce pass-through payments to counties for community corrections.

2019-21 *Preliminary* Budgetary Impact of BM 110

(Source: Legislative Fiscal Office)

Legislative Approved Budget (December 3, 2020 operative date)						
		2019-21 Biennium				
Estimate of Financial Impact		Pre-BM 110	BM 110		\$ Chg.	% Chg.
Drug Treatment & Recovery Fund		\$ -	\$ 68.4		\$ 68.4	100%
Cities		\$ 29.2	\$ 22.5		\$ (6.7)	-23%
Counties		\$ 29.2	\$ 22.5		\$ (6.7)	-23%
State School Fund		\$ 103.8	\$ 103.8		\$ -	0%
Mental Health, Alcoholism, & Drug Services		\$ 51.9	\$ 51.9		\$ -	0%
State Police		\$ 38.9	\$ 38.9		\$ -	0%
Alcohol & Abuse Prevention, Intervention, & Treatment		\$ 13.0	\$ 13.0		\$ -	0%
Ending balance reserve		\$ 55.0	\$ -		\$ (55.0)	-100%
Total		\$ 321.0	\$ 321.0		\$ 0.0	0%

2021-23 *Preliminary* Budgetary Impact of BM 110

(Source: Legislative Fiscal Office)

Tentative Budget (December 3, 2020 operative date)						
		2021-23 Biennium				
Estimate of Financial Impact		Pre-BM 110	BM 110		\$ Chg.	% Chg.
Drug Treatment & Recovery Fund		\$ -	\$ 229.0		\$ 229.0	100%
Cities		\$ 31.9	\$ 9.0		\$ (22.9)	-72%
Counties		\$ 31.9	\$ 9.0		\$ (22.9)	-72%
State School Fund		\$ 155.1	\$ 36.0		\$ (119.1)	-77%
Mental Health, Alcoholism, & Drug Services		\$ 77.5	\$ 18.0		\$ (59.5)	-77%
State Police		\$ 58.2	\$ 13.5		\$ (44.7)	-77%
Alcohol & Abuse Prevention, Intervention, & Treatment		\$ 19.4	\$ 4.5		\$ (14.9)	-77%
Ending balance reserve		\$ -	\$ -		\$ -	0%
Total		\$ 374.0	\$ 319.0		\$ (55.0)	-15%

Governor's Recommendation

- Seeks to delay, by legislative action, the implementation date **of the financial provisions** of BM 110 from December 3, 2020 to July 1, 2022; however, there appears to be no associated legislative concept submitted for this change.
- The effect of such a delay would eliminate the marijuana tax revenue shortfall for cities and counties in the 2019-21 biennium and reduce the revenue shortfall to state agencies and cities and counties in the 2021-23 biennium.
- The Governor's budget includes adjustments in various state agency budgets based on a delayed implementation date of July 1, 2022, which includes backfilling the revenue reduction with General Fund for some agencies.
- The Governor's budget sets aside \$22.5 million General Fund in a special purpose appropriation to mitigate of the impact of BM 110 on cities and counties.

Legislative Session

The legislative budgetary review process will operate under the regular order of business for developing a balanced budget, including:

- Under current law, there no adjustments anticipated to the 2019-21 legislatively approved budget other than potentially providing for the cost of implementation of the ballot measure (yet to be determined).
- Adjustments may be required for the 2021-23 biennium, including legislative decisions on addressing revenue shortfalls and establishing new allocations and associated Other Funds expenditure limitations for state agencies.
- Budgetary decisions will be based on the May 2021 revenue forecast.
- The budget will also incorporate any enacted substantive or policy legislation with a budgetary impact that pertains to the recreational marijuana program.

Preliminary Conclusions

- Ballot Measure 110 modifies the current recreational marijuana tax revenue distributions and allocations, but not the tax rate or the revenue stream.
- For the 2019-21 biennium, current law allocations to state agencies are expected to be fully funded; however, there are reductions to local government distributions and eliminating the ending balance reserve for a combined total of \$55 million as those funds are shifted to the Drug Treatment and Recovery Services Fund.
- For the 2021-23 biennium, there will be a \$229 million shift from allocations to state agencies/distributions to cities and counties to the Drug Treatment and Recovery Services Fund.
- The Legislature will have an opportunity to address the substantive and budgetary implications of implementing Ballot Measure 110 during the upcoming Legislative Session in 2021.

Questions or Comments?

Thank You.