

D R A F T

SUMMARY

Directs Department of Revenue to transfer specified amount of moneys from Oregon Marijuana Account to cities and counties in this state and to State Police Account.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to marijuana revenue; creating new provisions; amending ORS 327.008 and 475C.726; and prescribing an effective date.

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

SECTION 1. ORS 475C.726, as amended by section 1, chapter 15, Oregon Laws 2022, is amended to read:

475C.726. (1) As used in this section, “U.S. City Average Consumer Price Index” means the U.S. City Average Consumer Price Index for All Urban Consumers (All Items) as published by the Bureau of Labor Statistics of the United States Department of Labor.

(2) There is established the Oregon Marijuana Account, separate and distinct from the General Fund. The account consists of moneys transferred to the account under ORS 475C.734.

(3)(a) The Department of Revenue shall certify quarterly the amount of moneys available in the Oregon Marijuana Account.

(b)(A) **After setting aside sufficient funds to reimburse the department for costs incurred in the administration of the account and before making other transfers of moneys required by this section, the department shall transfer to the cities and counties of this state, in addition to the moneys described in paragraph (c) of this subsection,**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 **11 percent of the moneys in the account in the manner described in**
 2 **paragraph (c) of this subsection.**

3 **(B) After making the transfer described in subparagraph (A) of this**
 4 **paragraph and** before making **any** other transfers of moneys required by
 5 this section, the department shall transfer quarterly to the Drug Treatment
 6 and Recovery Services Fund all moneys in the Oregon Marijuana Account
 7 in excess of \$11,250,000.

8 ~~[(B)]~~ **(C)** The department shall annually adjust the limitation in subpar-
 9 agraph ~~[(A)]~~ **(B)** of this paragraph. The department shall multiply \$11,250,000
 10 by the percentage, if any, by which the monthly averaged U.S. City Average
 11 Consumer Price Index for the 12 consecutive months ending August 31 of the
 12 prior calendar year exceeds the monthly index for the fourth quarter of the
 13 calendar year 2020, and shall add that product to \$11,250,000. Any increase
 14 in the limitation shall apply beginning with transfers made in July of each
 15 year, based upon receipts in the second calendar quarter of each year.

16 (c) Subject to subsection (4) of this section, and after making the transfer
 17 of moneys required by paragraph (b) of this subsection, the department shall
 18 transfer quarterly ~~[20]~~ **60** percent of the moneys in the Oregon Marijuana
 19 Account as follows:

20 (A) ~~[Ten]~~ **Thirty** percent of the moneys in the account must be trans-
 21 ferred to the cities of this state in the following shares:

22 (i) ~~[Seventy-five]~~ **Forty** percent of the ~~[10]~~ **30** percent must be transferred
 23 in shares that reflect the population of each city of this state that is not
 24 exempt from this paragraph pursuant to subsection (4)(a) of this section
 25 compared to the population of all cities of this state that are not exempt
 26 from this paragraph pursuant to subsection (4)(a) of this section, as deter-
 27 mined by Portland State University under ORS 190.510 to 190.610, on the date
 28 immediately preceding the date of the transfer; ~~[and]~~

29 (ii) ~~[Twenty-five]~~ **Thirty** percent of the ~~[10]~~ **30** percent must be transferred
 30 in shares that reflect the number of licenses held pursuant to ORS 475C.065,
 31 475C.085, 475C.093 and 475C.097 on the last business day of the calendar

1 quarter preceding the date of the transfer for premises located in each city
2 compared to the number of licenses held pursuant to ORS 475C.065, 475C.085,
3 475C.093 and 475C.097 on the last business day of that calendar quarter for
4 all premises in this state located in cities; and

5 **(iii) Thirty percent of the 30 percent must be transferred in shares**
6 **that reflect the volume of marijuana produced, processed and sold at**
7 **wholesale and retail at premises licensed pursuant to ORS 475C.065,**
8 **475C.085, 475C.093 and 475C.097 between the first business day of the**
9 **calendar quarter preceding the date of the transfer and the last busi-**
10 **ness day of the calendar quarter preceding the date of the transfer on**
11 **premises located in each city compared to the volume of marijuana**
12 **produced, processed and sold at wholesale and retail at premises li-**
13 **censed pursuant to ORS 475C.065, 475C.085, 475C.093 and 475C.097 be-**
14 **tween the first business day of the calendar quarter preceding the date**
15 **of the transfer and the last business day of that calendar quarter at**
16 **all premises in this state located in cities; and**

17 (B) [*Ten*] **Thirty** percent of the moneys in the account must be transferred
18 to counties in the following shares:

19 (i) Fifty percent of the [*10*] **30** percent must be transferred in shares that
20 reflect the total commercially available area of all grow canopies associated
21 with marijuana producer licenses held pursuant to ORS 475C.065 on the last
22 business day of the calendar quarter preceding the date of the transfer for
23 all premises located in each county compared to the total commercially
24 available area of all grow canopies associated with marijuana producer li-
25 censes held pursuant to ORS 475C.065 on the last business day of that cal-
26 endar quarter for all premises located in this state; and

27 (ii) Fifty percent of the [*10*] **30** percent must be transferred in shares that
28 reflect the number of licenses held pursuant to ORS 475C.085, 475C.093 and
29 475C.097 on the last business day of the calendar quarter preceding the date
30 of the transfer for premises located in each county compared to the number
31 of licenses held pursuant to ORS 475C.085, 475C.093 and 475C.097 on the last

business day of that calendar quarter for all premises in this state.

(d) After making the transfer of moneys required by [paragraph (b)] **paragraphs (b) and (c)** of this subsection, [80 percent of] the remaining moneys in the Oregon Marijuana Account must be used **solely for purposes for which moneys in the State Police Account established under ORS 181A.020 may be used.** [as follows:]

[(A) Forty percent of the moneys in the account must be used solely for purposes for which moneys in the State School Fund established under ORS 327.008 may be used;]

[(B) Twenty percent of the moneys in the account must be used solely for mental health treatment or for alcohol and drug abuse prevention, early intervention and treatment;]

[(C) Fifteen percent of the moneys in the account must be used solely for purposes for which moneys in the State Police Account established under ORS 181A.020 may be used; and]

[(D) Five percent of the moneys in the account must be used solely for purposes related to alcohol and drug abuse prevention, early intervention and treatment services.]

(4)(a) A city that has an ordinance prohibiting the establishment of a premises for which issuance of a license under ORS 475C.065, 475C.085, 475C.093 or 475C.097 is required is not eligible to receive transfers of moneys under subsection (3)(c)(A) of this section.

(b) A county that has an ordinance prohibiting the establishment of a premises for which issuance of a license under ORS 475C.065 is required is not eligible to receive transfers of moneys under subsection (3)(c)(B)(i) of this section.

(c) A county that has an ordinance prohibiting the establishment of a premises for which issuance of a license under ORS 475C.085, 475C.093 or 475C.097 is required is not eligible to receive transfers of moneys under subsection (3)(c)(B)(ii) of this section.

(d)(A) Paragraphs (b) and (c) of this subsection do not apply to a county

1 ordinance adopted on or after January 1, 2018, that prohibits the establish-
2 ment of a premises for which a license under ORS 475C.065, 475C.085,
3 475C.093 or 475C.097 is required but allows in the unincorporated area of the
4 county the continued operation of an existing premises for which a license
5 under ORS 475C.065, 475C.085, 475C.093 or 475C.097 is required.

6 (B) A county that adopts an ordinance described in subparagraph (A) of
7 this paragraph shall certify the adoption of the ordinance under subsection
8 (6) of this section.

9 (5)(a) A city or county that is ineligible under subsection (4) of this sec-
10 tion to receive a transfer of moneys from the Oregon Marijuana Account
11 during a given quarter but has received a transfer of moneys for that quarter
12 shall return the amount transferred to the Department of Revenue, with in-
13 terest as described under paragraph (f) of this subsection. An ineligible city
14 or county may voluntarily transfer the moneys to the Department of Revenue
15 immediately upon receipt of the ineligible transfer.

16 (b) If the Director of the Oregon Department of Administrative Services
17 determines that a city or county received a transfer of moneys under sub-
18 section (3)(c) of this section but was ineligible to receive that transfer under
19 subsection (4) of this section, the director shall provide notice to the ineli-
20 gible city or county and order the city or county to return the amount re-
21 ceived to the Department of Revenue, with interest as described under
22 paragraph (f) of this subsection. A city or county may appeal the order
23 within 30 days of the date of the order under the procedures for a contested
24 case under ORS chapter 183.

25 (c) As soon as the order under paragraph (b) of this subsection becomes
26 final, the director shall notify the Department of Revenue and the ineligible
27 city or county. Upon notification, the Department of Revenue immediately
28 shall proceed to collect the amount stated in the notice.

29 (d) The Department of Revenue shall have the benefit of all laws of the
30 state pertaining to the collection of income and excise taxes and may proceed
31 to collect the amounts described in the notice under paragraph (c) of this

1 subsection. An assessment of tax is not necessary and the collection de-
2 scribed in this subsection is not precluded by any statute of limitations.

3 (e) If a city or county is subject to an order to return moneys from an
4 ineligible transfer, the city or county shall be denied any further relief in
5 connection with the ineligible transfer on or after the date that the order
6 becomes final.

7 (f) Interest under this section shall accrue at the rate established in ORS
8 305.220 beginning on the date the ineligible transfer was made.

9 (g) Both the moneys and the interest collected from or returned by an
10 ineligible city or county shall be redistributed to the cities or counties that
11 were eligible to receive a transfer under subsection (3)(c) of this section on
12 the date the ineligible transfer was made.

13 (6)(a) Not later than July 1 of each year, each city and county in this
14 state shall certify with the Oregon Department of Administrative Services
15 whether the city or county has an ordinance prohibiting the establishment
16 of a premises for which issuance of a license under ORS 475C.065, 475C.085,
17 475C.093 or 475C.097 is required and whether the county has an ordinance
18 described in subsection (4)(d) of this section. The certification shall be made
19 concurrently with the certifications under ORS 221.770, in a form and man-
20 ner prescribed by the Oregon Department of Administrative Services.

21 (b) If a city fails to comply with this subsection, the city is not eligible
22 to receive transfers of moneys under subsection (3)(c)(A) of this section. If
23 a county fails to comply with this subsection, the county is not eligible to
24 receive transfers of moneys under subsection (3)(c)(B) of this section.

25 (c) A city or county that repeals an ordinance as provided in ORS
26 475C.457 shall file an updated certification with the Oregon Department of
27 Administrative Services in a form and manner prescribed by the department,
28 noting the effective date of the change. A city or county that repeals an or-
29 dinance as provided in ORS 475C.457 is eligible to receive quarterly transfers
30 of moneys under this section for quarters where the repeal is effective for
31 the entire quarter and the updated certification was filed at least 30 days

1 before the date of transfer.

2 **SECTION 2.** ORS 327.008 is amended to read:

3 327.008. (1)(a) There is established a State School Fund in the General
4 Fund.

5 (b) The Department of Education, on behalf of the State of Oregon, may
6 solicit and accept gifts, grants, donations and other moneys from public and
7 private sources for the State School Fund. Moneys received as provided in
8 this paragraph shall be deposited into the State School Fund.

9 (c) The State School Fund shall consist of moneys appropriated by the
10 Legislative Assembly, moneys transferred from the Fund for Student Success,
11 moneys transferred from the Education Stability Fund [*and the Oregon*
12 *Marijuana Account*] and moneys received as provided in paragraph (b) of this
13 subsection.

14 (d) The State School Fund is continuously appropriated to the Department
15 of Education for the purposes of ORS 327.006 to 327.077, 327.095, 327.099,
16 327.101, 327.125, 327.137, 327.348, 327.356 to 327.359, 336.575, 336.580, 336.635,
17 343.243, 343.533, 343.941 and 343.961.

18 (2) There shall be apportioned from the State School Fund to each school
19 district a State School Fund grant, consisting of the positive amount equal
20 to a general purpose grant and a facility grant and a transportation grant
21 and a high cost disabilities grant minus local revenue, computed as provided
22 in ORS 327.011 and 327.013.

23 (3) For the first school year after a public charter school ceases to oper-
24 ate because of dissolution or closure or because of termination or
25 nonrenewal of a charter, there shall be apportioned from the State School
26 Fund to each school district that had sponsored a public charter school that
27 ceased to operate an amount equal to the school district's general purpose
28 grant per extended ADMw multiplied by five percent of the ADM of the
29 public charter school for the previous school year.

30 (4) There shall be apportioned from the State School Fund to each edu-
31 cation service district a State School Fund grant as calculated under ORS

327.019.

(5) All figures used in the determination of the distribution of the State School Fund shall be estimates for the same year as the distribution occurs, unless otherwise specified.

(6) Numbers of students in average daily membership used in the distribution formula shall be the numbers as of June of the year of distribution.

(7) A school district may not use the portion of the State School Fund grant that is attributable to the facility grant for capital construction costs.

(8) The total amount of the State School Fund that is distributed as facility grants may not exceed \$3 million in any biennium. If the total amount to be distributed as facility grants exceeds this limitation, the Department of Education shall prorate the amount of funds available for facility grants among those school districts that qualified for a facility grant. If the total amount to be distributed as facility grants does not exceed this limitation, any remaining amounts shall be expended for expenses incurred by the Office of School Facilities as provided in ORS 326.125 (1).

(9) Each biennium, the Department of Education may expend from the State School Fund no more than \$10 million for expenses incurred by the Office of School Facilities under ORS 326.125 (2) to (7).

(10) Each fiscal year, the Department of Education shall transfer to the Pediatric Nursing Facility Account established in ORS 327.022 the amount necessary to pay the costs of educational services provided to students admitted to pediatric nursing facilities as provided in ORS 343.941.

(11) Each fiscal year, the Department of Education shall transfer the amount of \$55 million from the State School Fund to the High Cost Disabilities Account established in ORS 327.348.

(12)(a) Each biennium, the Department of Education shall transfer \$39.5 million from the State School Fund to the Educator Advancement Fund established under ORS 342.953.

(b) For the purpose of making the transfer under this subsection:

(A) The total amount available for all distributions from the State School

Fund shall be reduced by \$6 million;

(B) The amount distributed to school districts from the State School Fund under this section and ORS 327.013 shall be reduced by \$16.75 million; and

(C) The amount distributed to education service districts from the State School Fund under this section and ORS 327.019 shall be reduced by \$16.75 million.

(c) For each biennium, the amounts identified in this subsection shall be adjusted by the same percentage by which the instructions furnished to state agencies by the Governor under ORS 291.204 direct the state agencies to adjust their agency budget requests for special payments under ORS 291.216 (6)(a)(C).

(13) Each biennium, the Department of Education shall transfer \$12.5 million from the State School Fund to the Statewide English Language Learner Program Account established under ORS 327.344.

(14) Each fiscal year, the Department of Education may expend up to \$550,000 from the State School Fund for the contract described in ORS 329.488. The amount distributed to education service districts from the State School Fund under this section and ORS 327.019 shall be reduced by the amount expended by the department under this subsection.

(15) Each biennium, the Department of Education may expend up to \$350,000 from the State School Fund to provide administration of and support for the development of talented and gifted education under ORS 343.404.

(16) Each biennium, the Department of Education may expend up to \$150,000 from the State School Fund for the administration of a program to increase the number of speech-language pathologists and speech-language pathology assistants under ORS 348.394 to 348.406.

(17) Each biennium, the Department of Education shall transfer \$2 million from the State School Fund for deposit to the Healthy School Facilities Fund established under ORS 332.337. Notwithstanding ORS 332.337, the department may expend moneys received in the Healthy School Facilities Fund under this subsection only as grants for costs associated with testing for el-

evated levels of lead in water used for drinking or food preparation.

(18) Each biennium, the Department of Education shall transfer an amount not to exceed \$5,595,000 for the purpose of making tampons and sanitary pads available as provided by ORS 326.545.

(19) Each fiscal year, the Department of Education shall transfer the amount of \$2.5 million from the State School Fund to the Small School District Supplement Fund established in ORS 327.359.

SECTION 3. The amendments to ORS 327.008 and 475C.726 by sections 1 and 2 of this 2023 Act apply to distributions from the Oregon Marijuana Account occurring on and after the operative date specified in section 4 of this 2023 Act.

SECTION 4. (1) The amendments to ORS 327.008 and 475C.726 by sections 1 and 2 of this 2023 Act become operative on January 1, 2024.

(2) The Department of Revenue may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the department to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the department by the amendments to ORS 327.008 and 475C.726 by sections 1 and 2 of this 2023 Act.

SECTION 5. This 2023 Act takes effect on the 91st day after the date on which the 2023 regular session of the Eighty-second Legislative Assembly adjourns sine die.