

# House Bill 4056

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Revenue for Representative Nancy Nathanson)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires annual adjustment for inflation of amount to be retained, for distribution to cities, counties and other entities from Oregon Marijuana Account, prior to transfer of remainder of account balance to Drug Treatment and Recovery Services Fund.

Applies to distributions from Oregon Marijuana Account beginning in 2023.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to distribution of marijuana tax revenues; creating new provisions; amending ORS 475C.726;  
3 and prescribing an effective date.

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

5 **SECTION 1.** ORS 475C.726 is amended to read:

6 475C.726. (1) **As used in this section, "U.S. City Average Consumer Price Index" means**  
7 **the U.S. City Average Consumer Price Index for All Urban Consumers (All Items) as pub-**  
8 **lished by the Bureau of Labor Statistics of the United States Department of Labor.**

9 (2) There is established the Oregon Marijuana Account, separate and distinct from the General  
10 Fund.

11 [(2)] The account consists of moneys transferred to the account under ORS 475C.734.

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

14 (b)(A) Before making other transfers of moneys required by this section, the department shall  
15 transfer quarterly to the Drug Treatment and Recovery Services Fund all moneys in the Oregon  
16 Marijuana Account in excess of \$11,250,000.

17 **(B) The department shall annually adjust the limitation in subparagraph (A) of this par-**  
18 **agraph. The department shall multiply \$11,250,000 by the percentage, if any, by which the**  
19 **monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months**  
20 **ending August 31 of the prior calendar year exceeds the monthly index for the fourth quarter**  
21 **of the calendar year 2020, and shall add that product to \$11,250,000. Any increase in the lim-**  
22 **itation shall apply beginning with transfers made in July of each year, based upon receipts**  
23 **in the second calendar quarter of each year.**

24 (c) Subject to subsection (4) of this section, and after making the transfer of moneys required  
25 by paragraph (b) of this subsection, the department shall transfer quarterly 20 percent of the moneys  
26 in the Oregon Marijuana Account as follows:

27 (A) Ten percent of the moneys in the account must be transferred to the cities of this state in  
28 the following shares:

29 (i) Seventy-five percent of the 10 percent must be transferred in shares that reflect the popu-

**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 lation of each city of this state that is not exempt from this paragraph pursuant to subsection (4)(a)  
 2 of this section compared to the population of all cities of this state that are not exempt from this  
 3 paragraph pursuant to subsection (4)(a) of this section, as determined by Portland State University  
 4 under ORS 190.510 to 190.610, on the date immediately preceding the date of the transfer; and

5 (ii) Twenty-five percent of the 10 percent must be transferred in shares that reflect the number  
 6 of licenses held pursuant to ORS 475C.065, 475C.085, 475C.093 and 475C.097 on the last business day  
 7 of the calendar quarter preceding the date of the transfer for premises located in each city compared  
 8 to the number of licenses held pursuant to ORS 475C.065, 475C.085, 475C.093 and 475C.097 on the  
 9 last business day of that calendar quarter for all premises in this state located in cities; and

10 (B) Ten percent of the moneys in the account must be transferred to counties in the following  
 11 shares:

12 (i) Fifty percent of the 10 percent must be transferred in shares that reflect the total commer-  
 13 cially available area of all grow canopies associated with marijuana producer licenses held pursuant  
 14 to ORS 475C.065 on the last business day of the calendar quarter preceding the date of the transfer  
 15 for all premises located in each county compared to the total commercially available area of all  
 16 grow canopies associated with marijuana producer licenses held pursuant to ORS 475C.065 on the  
 17 last business day of that calendar quarter for all premises located in this state; and

18 (ii) Fifty percent of the 10 percent must be transferred in shares that reflect the number of li-  
 19 censes held pursuant to ORS 475C.085, 475C.093 and 475C.097 on the last business day of the cal-  
 20 endar quarter preceding the date of the transfer for premises located in each county compared to  
 21 the number of licenses held pursuant to ORS 475C.085, 475C.093 and 475C.097 on the last business  
 22 day of that calendar quarter for all premises in this state.

23 (d) After making the transfer of moneys required by paragraph (b) of this subsection, 80 percent  
 24 of the remaining moneys in the Oregon Marijuana Account must be used as follows:

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

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

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

31 (D) Five percent of the moneys in the account must be used solely for purposes related to al-  
 32 cohool and drug abuse prevention, early intervention and treatment services.

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

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

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

42 (d)(A) Paragraphs (b) and (c) of this subsection do not apply to a county ordinance adopted on  
 43 or after January 1, 2018, that prohibits the establishment of a premises for which a license under  
 44 ORS 475C.065, 475C.085, 475C.093 or 475C.097 is required but allows in the unincorporated area of  
 45 the county the continued operation of an existing premises for which a license under ORS 475C.065,

1 475C.085, 475C.093 or 475C.097 is required.

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

4 (5)(a) A city or county that is ineligible under subsection (4) of this section to receive a transfer  
 5 of moneys from the Oregon Marijuana Account during a given quarter but has received a transfer  
 6 of moneys for that quarter shall return the amount transferred to the Department of Revenue, with  
 7 interest as described under paragraph (f) of this subsection. An ineligible city or county may vol-  
 8 untarily transfer the moneys to the Department of Revenue immediately upon receipt of the ineligi-  
 9 ble transfer.

10 (b) If the Director of the Oregon Department of Administrative Services determines that a city  
 11 or county received a transfer of moneys under subsection (3)(c) of this section but was ineligible to  
 12 receive that transfer under subsection (4) of this section, the director shall provide notice to the  
 13 ineligible city or county and order the city or county to return the amount received to the Depart-  
 14 ment of Revenue, with interest as described under paragraph (f) of this subsection. A city or county  
 15 may appeal the order within 30 days of the date of the order under the procedures for a contested  
 16 case under ORS chapter 183.

17 (c) As soon as the order under paragraph (b) of this subsection becomes final, the director shall  
 18 notify the Department of Revenue and the ineligible city or county. Upon notification, the Depart-  
 19 ment of Revenue immediately shall proceed to collect the amount stated in the notice.

20 (d) The Department of Revenue shall have the benefit of all laws of the state pertaining to the  
 21 collection of income and excise taxes and may proceed to collect the amounts described in the no-  
 22 tice under paragraph (c) of this subsection. An assessment of tax is not necessary and the collection  
 23 described in this subsection is not precluded by any statute of limitations.

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

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

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

32 (6)(a) Not later than July 1 of each year, each city and county in this state shall certify with  
 33 the Oregon Department of Administrative Services whether the city or county has an ordinance  
 34 prohibiting the establishment of a premises for which issuance of a license under ORS 475C.065,  
 35 475C.085, 475C.093 or 475C.097 is required and whether the county has an ordinance described in  
 36 subsection (4)(d) of this section. The certification shall be made concurrently with the certifications  
 37 under ORS 221.770, in a form and manner prescribed by the Oregon Department of Administrative  
 38 Services.

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

42 (c) A city or county that repeals an ordinance as provided in ORS 475C.457 shall file an updated  
 43 certification with the Oregon Department of Administrative Services in a form and manner pre-  
 44 scribed by the department, noting the effective date of the change. A city or county that repeals an  
 45 ordinance as provided in ORS 475C.457 is eligible to receive quarterly transfers of moneys under

1 this section for quarters where the repeal is effective for the entire quarter and the updated certi-  
2 fication was filed at least 30 days before the date of transfer.

3 **SECTION 2. The amendments to ORS 475C.726 by section 1 of this 2022 Act apply to dis-**  
4 **tributions from the Oregon Marijuana Account beginning in 2023.**

5 **SECTION 3. This 2022 Act takes effect on the 91st day after the date on which the 2022**  
6 **regular session of the Eighty-first Legislative Assembly adjourns sine die.**

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