

**A-Engrossed**  
**House Bill 3067**

Ordered by the House June 11  
Including House Amendments dated June 11

Sponsored by Representative MARSH (at the request of League of Oregon Cities (LOC))

**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.

Provides for cities and counties to certify annually that city or county has not adopted ordinance prohibiting establishment requiring marijuana-related business license and is therefore eligible for distribution of Oregon Marijuana Account moneys. Requires certification with Oregon Department of Administrative Services. **Directs Department of Revenue to collect moneys from city or county subject to order to return moneys from ineligible transfer.**

Applies to transfers of moneys in calendar quarters beginning on or after January 1, 2020.  
Takes effect on 91st day following adjournment sine die.

**A BILL FOR AN ACT**

1  
2 Relating to distribution of marijuana tax revenues to local governments; creating new provisions;  
3 amending ORS 475B.496 and 475B.759; and prescribing an effective date.

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

5 **SECTION 1.** ORS 475B.759, as amended by section 1, chapter 81, Oregon Laws 2018, is amended  
6 to read:

7 475B.759. (1) There is established the Oregon Marijuana Account, separate and distinct from the  
8 General Fund.

9 (2) The account shall consist of moneys transferred to the account under ORS 475B.760.

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

12 (b) Subject to subsection (4) of this section, the department shall transfer quarterly 20 percent  
13 of the moneys in the Oregon Marijuana Account as follows:

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

16 (i) Seventy-five percent of the 10 percent must be transferred in shares that reflect the popu-  
17 lation of each city of this state that is not exempt from this paragraph pursuant to subsection (4)(a)  
18 of this section compared to the population of all cities of this state that are not exempt from this  
19 paragraph pursuant to subsection (4)(a) of this section, as determined by Portland State University  
20 under ORS 190.510 to 190.610, on the date immediately preceding the date of the transfer; and

21 (ii) Twenty-five percent of the 10 percent must be transferred in shares that reflect the number  
22 of licenses held pursuant to ORS 475B.070, 475B.090, 475B.100 and 475B.105 on the last business day  
23 of the calendar quarter preceding the date of the transfer for premises located in each city compared  
24 to the number of licenses held pursuant to ORS 475B.070, 475B.090, 475B.100 and 475B.105 on the  
25 last business day of that calendar quarter for all premises in this state located in cities; and

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

3 (i) Fifty percent of the 10 percent must be transferred in shares that reflect the total commer-  
4 cially available area of all grow canopies associated with marijuana producer licenses held pursuant  
5 to ORS 475B.070 on the last business day of the calendar quarter preceding the date of the transfer  
6 for all premises located in each county compared to the total commercially available area of all  
7 grow canopies associated with marijuana producer licenses held pursuant to ORS 475B.070 on the  
8 last business day of that calendar quarter for all premises located in this state; and

9 (ii) Fifty percent of the 10 percent must be transferred in shares that reflect the number of li-  
10 censes held pursuant to ORS 475B.090, 475B.100 and 475B.105 on the last business day of the cal-  
11 endar quarter preceding the date of the transfer for premises located in each county compared to  
12 the number of licenses held pursuant to ORS 475B.090, 475B.100 and 475B.105 on the last business  
13 day of that calendar quarter for all premises in this state.

14 (c) Eighty percent of the moneys in the Oregon Marijuana Account must be used as follows:

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

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

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

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

23 (4)(a) A city that has an ordinance prohibiting the establishment of a premises for which issu-  
24 ance of a license under ORS 475B.070, 475B.090, 475B.100 or 475B.105 is required is not eligible to  
25 receive transfers of moneys under subsection (3)(b)(A) of this section.

26 (b) A county that has an ordinance prohibiting the establishment of a premises for which issu-  
27 ance of a license under ORS 475B.070 is required is not eligible to receive transfers of moneys under  
28 subsection (3)(b)(B)(i) of this section.

29 (c) A county that has an ordinance prohibiting the establishment of a premises for which issu-  
30 ance of a license under ORS 475B.090, 475B.100 or 475B.105 is required is not eligible to receive  
31 transfers of moneys under subsection (3)(b)(B)(ii) of this section.

32 **(5)(a) A city or county that is ineligible under subsection (4) of this section to receive a**  
33 **transfer of moneys from the Oregon Marijuana Account during a given quarter but has re-**  
34 **ceived a transfer of moneys for that quarter shall return the amount transferred to the**  
35 **Department of Revenue, with interest as described under paragraph (f) of this subsection.**  
36 **An ineligible city or county may voluntarily transfer the moneys to the Department of Re-**  
37 **venue immediately upon receipt of the ineligible transfer.**

38 **(b) If the Director of the Oregon Department of Administrative Services determines that**  
39 **a city or county received a transfer of moneys under subsection (3)(b) of this section but**  
40 **was ineligible to receive that transfer under subsection (4) of this section, the director shall**  
41 **provide notice to the ineligible city or county and order the city or county to return the**  
42 **amount received to the Department of Revenue, with interest as described under paragraph**  
43 **(f) of this subsection. A city or county may appeal the order within 30 days of the date of the**  
44 **order under the procedures for a contested case under ORS chapter 183.**

45 (c) As soon as the order under paragraph (b) of this subsection becomes final, the di-

1 rector shall notify the Department of Revenue and the ineligible city or county. Upon no-  
2 tification, the Department of Revenue immediately shall proceed to collect the amount stated  
3 in the notice.

4 (d) The Department of Revenue shall have the benefit of all laws of the state pertaining  
5 to the collection of income and excise taxes and may proceed to collect the amounts de-  
6 scribed in the notice under paragraph (c) of this subsection. An assessment of tax is not  
7 necessary and the collection described in this subsection is not precluded by any statute of  
8 limitations.

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

12 (f) Interest under this section shall accrue at the rate established in ORS 305.220 begin-  
13 ning on the date the ineligible transfer was made.

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

17 [(5)] (6)(a) [In a form and manner prescribed by the Oregon Liquor Control Commission,] Not  
18 later than July 1 of each year, each city and county in this state shall certify with the  
19 [commission] Oregon Department of Administrative Services whether the city or county has an  
20 ordinance prohibiting the establishment of a premises for which issuance of a license under ORS  
21 475B.070, 475B.090, 475B.100 or 475B.105 is required. The certification shall be made concu-  
22 rrently with certifications under ORS 221.770, in a form and manner prescribed by the Oregon  
23 Department of Administrative Services.

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

27 (c) A city or county that repeals an ordinance as provided in ORS 475B.496 shall file an  
28 updated certification with the Oregon Department of Administrative Services in a form and  
29 manner prescribed by the department, noting the effective date of the change. A city or  
30 county that repeals an ordinance as provided in ORS 475B.496 is eligible to receive quarterly  
31 transfers of moneys under this section for quarters where the repeal is effective for the  
32 entire quarter and the updated certification was filed at least 30 days before the date of  
33 transfer.

34 **SECTION 2.** ORS 475B.759, as amended by sections 1 and 2, chapter 81, Oregon Laws 2018, is  
35 amended to read:

36 475B.759. (1) There is established the Oregon Marijuana Account, separate and distinct from the  
37 General Fund.

38 (2) The account shall consist of moneys transferred to the account under ORS 475B.760.

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

41 (b) Subject to subsection (4) of this section, the department shall transfer quarterly 20 percent  
42 of the moneys in the Oregon Marijuana Account as follows:

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

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

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 475B.070, 475B.090, 475B.100 and 475B.105 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 475B.070, 475B.090, 475B.100 and 475B.105 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 475B.070 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 475B.070 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 475B.090, 475B.100 and 475B.105 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 475B.090, 475B.100 and 475B.105 on the last business  
22 day of that calendar quarter for all premises in this state.

23 (c) Eighty percent of the moneys in the Oregon Marijuana Account must be used as follows:

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

26 (B) Twenty percent of the moneys in the account must be used solely for purposes for which  
27 moneys in the Mental Health Alcoholism and Drug Services Account established under ORS 430.380  
28 may be used;

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 475B.070, 475B.090, 475B.100 or 475B.105 is required is not eligible to  
35 receive transfers of moneys under subsection (3)(b)(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 475B.070 is required is not eligible to receive transfers of moneys under  
38 subsection (3)(b)(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 475B.090, 475B.100 or 475B.105 is required is not eligible to receive  
41 transfers of moneys under subsection (3)(b)(B)(ii) of this section.

42 **(5)(a) A city or county that is ineligible under subsection (4) of this section to receive a**  
43 **transfer of moneys from the Oregon Marijuana Account during a given quarter but has re-**  
44 **ceived a transfer of moneys for that quarter shall return the amount transferred to the**  
45 **Department of Revenue, with interest as described under paragraph (f) of this subsection.**

1 **An ineligible city or county may voluntarily transfer the moneys to the Department of Re-**  
 2 **venue immediately upon receipt of the ineligible transfer.**

3 **(b) If the Director of the Oregon Department of Administrative Services determines that**  
 4 **a city or county received a transfer of moneys under subsection (3)(b) of this section but**  
 5 **was ineligible to receive that transfer under subsection (4) of this section, the director shall**  
 6 **provide notice to the ineligible city or county and order the city or county to return the**  
 7 **amount received to the Department of Revenue, with interest as described under paragraph**  
 8 **(f) of this subsection. A city or county may appeal the order within 30 days of the date of the**  
 9 **order under the procedures for a contested case under ORS chapter 183.**

10 **(c) As soon as the order under paragraph (b) of this subsection becomes final, the di-**  
 11 **rector shall notify the Department of Revenue and the ineligible city or county. Upon no-**  
 12 **tification, the Department of Revenue immediately shall proceed to collect the amount stated**  
 13 **in the notice.**

14 **(d) The Department of Revenue shall have the benefit of all laws of the state pertaining**  
 15 **to the collection of income and excise taxes and may proceed to collect the amounts de-**  
 16 **scribed in the notice under paragraph (c) of this subsection. An assessment of tax is not**  
 17 **necessary and the collection described in this subsection is not precluded by any statute of**  
 18 **limitations.**

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

22 **(f) Interest under this section shall accrue at the rate established in ORS 305.220 begin-**  
 23 **ning on the date the ineligible transfer was made.**

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

27 **[(5)] (6)(a) [In a form and manner prescribed by the Oregon Liquor Control Commission,] Not**  
 28 **later than July 1 of each year, each city and county in this state shall certify with the**  
 29 **[commission] Oregon Department of Administrative Services whether the city or county has an**  
 30 **ordinance prohibiting the establishment of a premises for which issuance of a license under ORS**  
 31 **475B.070, 475B.090, 475B.100 or 475B.105 is required. The certification shall be made concu-**  
 32 **rently with the certifications under ORS 221.770, in a form and manner prescribed by the**  
 33 **Oregon Department of Administrative Services.**

34 **(b) If a city fails to comply with this subsection, the city is not eligible to receive transfers of**  
 35 **moneys under subsection (3)(b)(A) of this section. If a county fails to comply with this subsection,**  
 36 **the county is not eligible to receive transfers of moneys under subsection (3)(b)(B) of this section.**

37 **(c) A city or county that repeals an ordinance as provided in ORS 475B.496 shall file an**  
 38 **updated certification with the Oregon Department of Administrative Services in a form and**  
 39 **manner prescribed by the department, noting the effective date of the change. A city or**  
 40 **county that repeals an ordinance as provided in ORS 475B.496 is eligible to receive quarterly**  
 41 **transfers of moneys under this section for quarters where the repeal is effective for the**  
 42 **entire quarter and the updated certification was filed at least 30 days before the date of**  
 43 **transfer.**

44 **SECTION 3. ORS 475B.496 is amended to read:**

45 **475B.496. (1) The governing body of a city or county may repeal an ordinance that prohibits the**

1 establishment of any one or more of the following in the area subject to the jurisdiction of the city  
2 or in the unincorporated area subject to the jurisdiction of the county:

3 (a) Marijuana processing sites registered under ORS 475B.840;

4 (b) Medical marijuana dispensaries registered under ORS 475B.858;

5 (c) Marijuana producers that hold a license issued under ORS 475B.070;

6 (d) Marijuana processors that hold a license issued under ORS 475B.090;

7 (e) Marijuana wholesalers that hold a license issued under ORS 475B.100;

8 (f) Marijuana retailers that hold a license issued under ORS 475B.105;

9 (g) Marijuana producers that hold a license issued under ORS 475B.070 and that the Oregon  
10 Liquor Control Commission has designated as an exclusively medical licensee under ORS 475B.122;

11 (h) Marijuana processors that hold a license issued under ORS 475B.090 and that the commission  
12 has designated as an exclusively medical licensee under ORS 475B.127;

13 (i) Marijuana wholesalers that hold a license issued under ORS 475B.100 and that the commis-  
14 sion has designated as an exclusively medical licensee under ORS 475B.129;

15 (j) Marijuana retailers that hold a license issued under ORS 475B.105 and that the commission  
16 has designated as an exclusively medical licensee under ORS 475B.131; or

17 (k) Any combination of the entities described in this subsection.

18 (2) If the governing body of a city or county repeals an ordinance under this section, the gov-  
19 erning body must provide the text of the ordinance:

20 (a) To the Oregon Health Authority, in a form and manner prescribed by the authority, if the  
21 ordinance concerns a medical marijuana dispensary registered under ORS 475B.858 or a marijuana  
22 processing site registered under ORS 475B.840; or

23 (b)(A) To the commission, in a form and manner prescribed by the commission, if the ordinance  
24 concerns a premises for which a license has been issued under ORS 475B.010 to 475B.545[.]; **and**

25 **(B) To the Oregon Department of Administrative Services, in a form and manner pre-**  
26 **scribed by the department, within 30 days of enactment of the repeal of the ordinance, if the**  
27 **ordinance concerns a premises for which issuance of a license is required under ORS**  
28 **475B.070, 475B.090, 475B.100 or 475B.105.**

29 **SECTION 4. The amendments to ORS 475B.496 and 475B.759 by sections 1 to 3 of this 2019**  
30 **Act apply to transfers of moneys in calendar quarters beginning on or after January 1, 2020.**

31 **SECTION 5. This 2019 Act takes effect on the 91st day after the date on which the 2019**  
32 **regular session of the Eightieth Legislative Assembly adjourns sine die.**

33