

D R A F T

SUMMARY

Makes form and style changes to provisions in Ballot Measure 110 (2020).

A BILL FOR AN ACT

Relating to substance use; creating new provisions; and amending ORS 153.012, 153.018, 423.478, 475.752, 475.824, 475.834, 475.854, 475.874, 475.884, 475.894, 475B.759 and 670.280 and sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 22, 23, 24 and 25, chapter 2, Oregon Laws 2021.

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

FINDINGS AND POLICY

SECTION 1. Section 1, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)), is amended to read:

Sec. 1. (1)(a) The people of Oregon find that drug addiction and overdoses are a serious problem in Oregon and that Oregon needs to expand access to drug treatment.

(b) The people of Oregon further find that a health-based approach to addiction and overdose is more effective, humane and cost-effective than criminal punishments. Making people criminals because they suffer from addiction is expensive, ruins lives and can make access to treatment and recovery more difficult.

(2)(a) The purpose of *[this]* **the** Drug Addiction Treatment and Recovery Act of 2020 is to make health assessment, treatment and recovery services for drug addiction available to all those who need and want access to those

services and to adopt a health approach to drug addiction by removing criminal penalties for low-level drug possession.

(b) It is the policy of the State of Oregon that health assessment, treatment and recovery services for drug addiction are available to all those who need and want access to those services.

(3) The provisions of [*this Act*] **chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020))**, shall be interpreted consistently with the findings, purposes and policy objectives stated in this section and shall not be limited by any policy set forth in Oregon law that could conflict with or be interpreted to conflict with the purposes and policy objectives stated in this section.

EXPANDING TREATMENT AND SERVICES

SECTION 2. Section 2, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)), is amended to read:

Sec. 2. [*Grants Program.*] (1) The Oversight and Accountability Council shall oversee and approve grants to implement Addiction Recovery Centers and increase access to community care, as set forth below.

(2)(a) [*Addiction Recovery Centers.*] The Oversight and Accountability Council shall provide grants to existing agencies or organizations, whether government or [*community-based*] **community based**, to [*create*] **establish** Addiction Recovery Centers for the purposes of immediately triaging the acute needs of people who use drugs and assessing and addressing any [*on-going*] **ongoing** needs [*thorough*] **through** intensive case management and linkage to care and services.

[(a)] (b) Grants must be disbursed such that at least one center shall be established within each existing coordinated care organization service area. Centers within each existing coordinated care organization service area shall be established and operational by October 1, 2021.

[(b)] (c) Grantees must be able to provide or display an ability to provide

1 the following services to any Oregon resident who requests it, in order to
2 receive funding as an Addiction Recovery Center:

3 [(i)] (A) 24/7 triage.[.] Centers shall assess a client's need for immediate
4 medical or other treatment shortly upon the client's arrival to determine
5 what acute care is needed and where it can be best provided. Centers shall
6 provide this service [twenty-four] **24** hours a day, seven days a week, 365 days
7 a year. **Notwithstanding paragraph (b) of this subsection, only one**
8 **center within each coordinated care organization service area is re-**
9 **quired to provide the triage assessments set forth in this subpara-**
10 **graph.**

11 [(ii)] (B) Health assessment.[.] Centers shall conduct a comprehensive
12 behavioral health needs assessment for each client, including a substance use
13 disorder screening by a certified alcohol and drug counselor or other cre-
14 dentialized addiction treatment professional. The assessment shall prioritize
15 the self-identified needs of the client.

16 [(iii)] (C) Individual intervention plan, intensive case management and
17 connection to services.[.] If, after the completion of the assessment, the cli-
18 ent indicates a desire to address some or all of the identified needs, a case
19 manager shall work with the client to design an individual intervention plan.
20 The plan must address the client's need for substance use disorder treatment,
21 coexisting health problems, housing, employment and training, [childcare]
22 **child care** and other services. Intensive case management requires, in the
23 least, that case managers have a sufficiently low staff-to-client ratio to pro-
24 vide daily support as needed to connect clients to services and care needed
25 to fulfill the individual intervention plan and have the capacity to
26 [follow-up] **follow up** to ensure clients are accessing care and, if not, to re-
27 connect clients to care as necessary and as desired by clients.

28 [(iv)] (D) Peer support.[.] Each center shall offer ongoing peer counseling
29 and support from triage and assessment through implementation of individ-
30 ual intervention plans as well as provide peer outreach workers to engage
31 directly with marginalized community members who could potentially benefit

from the center's services.

[(v)] **(E)** Outreach.[.] Each center shall assess the need for, and provide, mobile or virtual outreach services to reach clients who are unable to access the center.

[(A) *Notwithstanding subsection (2)(a) of this section, only one center within each coordinated care organization service area is required to provide the triage assessments set forth in subsection (2)(b)(i) of this section.*]

[(c)] **(d)** All services provided at the centers must be evidence-informed, trauma-informed, culturally responsive, patient-centered, [non-judgmental,] **nonjudgmental** and centered on principles of harm reduction. The goal of the individual intervention plan and intensive case management shall be to address effectively the client's substance use disorder and any other factors driving problematic behaviors without employing coercion or shame or mandating abstinence.

[(d)] **(e)** The centers shall be adequately staffed to address the needs of people with substance use disorder within their regions as determined by the Oversight and Accountability Council, but must include, at a minimum, at least one person qualified in each of the following categories:

(A) Certified alcohol and drug counselor or other credentialed addiction treatment professional;

(B) Intensive case manager; and[,]

(C) Peer support specialist.

[(e)] **(f)** Each center shall provide timely verification on behalf of any client who has completed a health assessment, as set forth in subsection [(2)(b)(ii)] **(2)(c)(B)** of this section, if the client requests such verification to comply with section 22 or [section] 23 (2), **chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020))** [of this Act].

(3) [*Increasing Community Access to Care.*] The Oversight and Accountability Council shall provide grants to existing agencies or organizations, whether government or community based, to increase access to one or more of the following:

(a) Low barrier substance use disorder treatment that is evidence-informed, trauma-informed, culturally responsive, patient-centered[,] and [non-judgmental] **nonjudgmental**;

(b) Peer support and recovery services;

(c) Transitional, supportive[,] and permanent housing for persons with substance use disorder; **or**

(d) Harm reduction interventions including, but not limited to, overdose prevention education, access to naloxone hydrochloride and sterile syringes[,] and stimulant-specific drug education and outreach.

(4) The council shall prioritize providing grants to community-based nonprofit organizations within each coordinated care organization service area. However, if within any such service area a community-based nonprofit organization does not apply for a grant or grants are not sought within that service area for which services are needed, then the council may request and fund grants to any community care organization or county within that service area.

(5) Services provided by grantees, including services provided by Addiction Recovery Centers, shall be free of charge to the persons receiving the services. To the extent consistent with applicable law, grantees and service providers may seek and obtain reimbursement for services provided to any person from any insurer or entity providing insurance to that person.

SECTION 3. Section 3, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)), is amended to read:

Sec. 3. [*Oversight and Accountability Council.*] (1)(a) The Director of the Oregon Health Authority shall establish an Oversight and Accountability Council for the purpose of determining how funds will be distributed to grant applicants and to oversee the implementation of the **Addiction Recovery Centers** pursuant to section 2, **chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020))**. The council shall be formed on or before February 1, 2021.

[(a)] (b) The council shall [*be comprised*] **consist** of qualified individuals

with experience in substance use disorder treatment and other addiction services. The council shall consist of at least one member from each of the following categories only:

[(i)] (A) A representative of the Oregon Health Authority, Health Systems Division Behavioral Health Services;

[(ii)] (B) Three members of communities that have been disproportionately impacted by arrests, prosecution or sentencing for conduct that has been classified or reclassified as a Class E violation pursuant to [section 11 to section 19] **ORS 153.012, 153.018, 475.752, 475.824, 475.834, 475.854, 475.874, 475.884 and 475.894;** [.]

[(iii)] (C) A physician specializing in addiction medicine;

[(iv)] (D) A licensed clinical social worker;

[(v)] (E) An evidence-based substance use disorder provider;

[(vi)] (F) A harm reduction services provider;

[(vii)] (G) A person specializing in housing services for people with substance use disorder or a diagnosed mental health condition;

[(viii)] (H) An academic researcher specializing in drug use or drug policy;

[(ix)] (I) At least two people who suffered or suffer from substance use disorder;

[(x)] (J) At least two recovery peers;

[(xi)] (K) A mental or behavioral health provider;

[(xii)] (L) A representative of a coordinated care organization; and[,]

[(xiii)] (M) A person who works for a [non-profit] **nonprofit** organization that advocates for persons who experience or have experienced substance use disorder.

(2) A quorum consists of nine members **of the council**.

(3) The term of office for a member of the council [shall be] **is** four years. Vacancies shall be appointed for the unexpired term.

(4)(a) To the extent permissible by law, a member of the council performing services for the council may receive compensation from [his or her]

1 **the member's** employer for time spent performing services as a council
2 member.

3 (b) If a member of the council is not compensated by *[their]* **the**
4 **member's** employer as set forth in *[subsection (4)(a) of this section]* **para-**
5 **graph (a) of this subsection**, that member shall be entitled to compensation
6 and expenses as provided in ORS 292.495.

7 (c) Nothing in this subsection *[(4) of this section]* excuses or exempts a
8 member of the council *[from]* **from** complying with any applicable provision
9 of Oregon's ethics laws and regulations, including the provisions of ORS
10 chapter 244.

11 **SECTION 4.** Section 4, chapter 2, Oregon Laws 2021 (Ballot Measure 110
12 (2020)), is amended to read:

13 **Sec. 4. *[Administration.]*** (1)(a) On or before June 30, 2021, the Oversight
14 and Accountability Council shall adopt rules that establish general criteria
15 and requirements for the Addiction Recovery Centers and the grants required
16 by section 2, **chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020))**.

17 (b) The council shall from time to time adopt such rules, and amend and
18 revise rules *[it]* **the council** has adopted, as *[it]* **the council** deems proper
19 and necessary for the administration of *[this Act]* **chapter 2, Oregon Laws**
20 **2021 (Ballot Measure 110 (2020))**, and the performance of *[its]* **the council's**
21 work.

22 (2) The council shall have and retain the authority to implement and
23 oversee the Addiction Recovery Centers *[created by]* **established under** sec-
24 tion 2, **chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020))**, and the
25 grants program created and required by section 2, **chapter 2, Oregon Laws**
26 **2021 (Ballot Measure 110 (2020))**.

27 (3) The Oregon Health Authority¹, *Health Systems Division Behavioral*
28 *Health Services* shall administer and provide all necessary support to ensure
29 the implementation of *[this Act]* **chapter 2, Oregon Laws 2021 (Ballot**
30 **Measure 110 (2020))**.

31 (4)(a) The *[Oregon Health Authority, Health Systems Division Behavioral*

Health Services,] **authority**, in consultation with the council, may enter into interagency agreements to ensure proper distribution of funds for the grants created and required by section 2, **chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020))**.

(b) The [*Oregon Health Authority, Health Systems Division Behavioral Health Services*] **authority** shall encourage and take all reasonable measures to ensure that grant recipients cooperate, coordinate and act jointly with one another to offer the services described in section 2, **chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020))**.

(5) The [*Oregon Health Authority, Health Systems Division Behavioral Health Services*] **authority** shall provide requested technical, logistical and other support to the council to assist the council with [*its*] **the council's** duties and obligations.

FUNDING

SECTION 5. Section 5, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)), is amended to read:

Sec. 5. (1) The Drug Treatment and Recovery Services Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the **Drug Treatment and Recovery Services** Fund shall be credited to the fund.

(2) The Drug Treatment and Recovery Services Fund shall consist of:

(a) Moneys deposited into the fund pursuant to section 6, **chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020))**;

(b) Moneys appropriated or otherwise transferred to the fund by the Legislative Assembly;

(c) Moneys allocated from the Oregon Marijuana Account, pursuant to ORS 475B.759 (7); and[,]

(d) All other moneys deposited [*in*] **into** the fund from any source.

(3) Moneys in the fund shall be continuously appropriated to the Oregon

Health Authority for the purposes set forth in section 2, **chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020))**.

[(4) Unexpended moneys in the fund may not lapse and shall be carried forward and may be used without regard to fiscal year or biennium.]

[(5)(a)] **(4)(a)** Pursuant to subsection (2)(b) of this section, the Legislative Assembly shall appropriate or transfer to the fund an amount sufficient to fully fund the grants program required by section 2, **chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020))**.

(b) The total amount deposited and transferred into the fund shall not be less than \$57 million for the first year *[this Act]* **chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020))**, is in effect.

(c) In each subsequent year, *[that]* **the minimum transfer** amount set forth in **paragraph (b) of this** subsection *[(5)(b) of this section]* shall be increased by not less than **the sum of**:

[(i)] **(A) \$57 million multiplied by** the percentage *[(if any)]*, **if any**, by which the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending *[December]* **August** 31 of the prior calendar year exceeds the monthly index for the fourth quarter of the calendar year 2020; and_[,]

[(ii)] **(B) [An amount not less than the increase] The annual increase, if any**, in moneys distributed pursuant to ORS 475B.759 (7).

SECTION 6. Section 6, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)), is amended to read:

Sec. 6. (1) The Department of Revenue shall credit and transfer or cause to be credited and transferred to the Drug Treatment and Recovery Services Fund the savings to the State of Oregon from the implementation of *[this Act]* **chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020))**, as calculated in section 7, **chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020))**.

(2) If the savings calculated for any subsequent biennium under section 7 (1), **chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020))**, is less

1 than any prior biennium, the amount credited and transferred to the Drug
2 Treatment and Recovery Services Fund shall be the highest amount calcu-
3 lated for any previous biennium.

4 (3) The savings as calculated in section 7, **chapter 2, Oregon Laws 2021**
5 **(Ballot Measure 110 (2020))**, shall be transferred on or before the end of the
6 fiscal year in which the calculation is completed.

7 **SECTION 7.** Section 7, chapter 2, Oregon Laws 2021 (Ballot Measure 110
8 (2020)), is amended to read:

9 **Sec. 7.** (1)(a) Within 180 days of the end of **the** first biennium in which
10 [*this Act*] **chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020))**, be-
11 comes effective, and within 180 days of the end of each subsequent biennium,
12 the [*Office of Economic Analysis*] **Oregon Department of Administrative**
13 **Services** shall calculate the savings to the State of Oregon resulting from
14 the sentence reductions set forth in [*section 11 to section 20*] **ORS 153.012,**
15 **153.018, 423.478, 475.752, 475.824, 475.834, 475.854, 475.874, 475.884 and**
16 **475.894**, including any savings resulting from reductions in arrests, incar-
17 ceration and supervision.

18 (b) The savings shall be calculated based on a comparison of the most
19 recent biennium concluded at the time the calculation is made and the
20 biennium immediately preceding the biennium in which [*this Act*] **chapter**
21 **2, Oregon Laws 2021 (Ballot Measure 110 (2020))**, became effective.

22 (2) In making the calculations set forth in this section, the [*Office of*
23 *Economic Analysis*] **department** shall use actual data. The [*Office of Eco-*
24 *nomic Analysis*] **department** may use best available estimates [*where*] **when**
25 actual data is unavailable.

26 **SECTION 8.** Section 8, chapter 2, Oregon Laws 2021 (Ballot Measure 110
27 (2020)), is amended to read:

28 **Sec. 8.** Moneys transferred to the Drug Treatment and Recovery Services
29 Fund and distributed pursuant to section 2, **chapter 2, Oregon Laws 2021**
30 **(Ballot Measure 110 (2020))**, shall, to the maximum extent consistent with
31 law, be in addition to and not in replacement of any existing allocations or

appropriations for the purposes of providing substance use disorder treatment, peer support and recovery services, transitional, supportive and permanent housing for persons with substance use disorders, harm reduction interventions[,] and for establishing Addiction Recovery Centers.

SECTION 9. Section 9, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)), is amended to read:

Sec. 9. [Account Allocation.] [(1)] The Oregon Health Authority shall cause the moneys in the Drug Treatment and Recovery Services Fund to be distributed as follows:

[(a)] (1) An amount necessary for administration of [section 2 to section 4] **sections 2 to 4, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020))**, not to exceed [4%] **four percent** of the moneys deposited into the fund in any biennium.

[(b)] (2) After the distribution set forth in subsection [(1)(a)] (1) of this section, the remaining moneys in the fund shall be distributed to the grants program as set forth in section 2, **chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020))**.

SECTION 10. ORS 475B.759, as amended by section 10, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)), is amended to read:

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

(2) The account [*shall consist*] **consists** of moneys transferred to the account under ORS 475B.760.

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

(b) Subject to subsection (4) of this section, and after making the transfer of moneys required by subsection (7) of this section, the department shall transfer quarterly 20 percent of the moneys in the Oregon Marijuana Account as follows:

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

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

8 (ii) Twenty-five percent of the 10 percent must be transferred in shares
9 that reflect the number of licenses held pursuant to ORS 475B.070, 475B.090,
10 475B.100 and 475B.105 on the last business day of the calendar quarter pre-
11 ceding the date of the transfer for premises located in each city compared
12 to the number of licenses held pursuant to ORS 475B.070, 475B.090, 475B.100
13 and 475B.105 on the last business day of that calendar quarter for all prem-
14 ises in this state located in cities; and

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

17 (i) Fifty percent of the 10 percent must be transferred in shares that re-
18 flect the total commercially available area of all grow canopies associated
19 with marijuana producer licenses held pursuant to ORS 475B.070 on the last
20 business day of the calendar quarter preceding the date of the transfer for
21 all premises located in each county compared to the total commercially
22 available area of all grow canopies associated with marijuana producer li-
23 censes held pursuant to ORS 475B.070 on the last business day of that cal-
24 endar quarter for all premises located in this state; and

25 (ii) Fifty percent of the 10 percent must be transferred in shares that re-
26 flect the number of licenses held pursuant to ORS 475B.090, 475B.100 and
27 475B.105 on the last business day of the calendar quarter preceding the date
28 of the transfer for premises located in each county compared to the number
29 of licenses held pursuant to ORS 475B.090, 475B.100 and 475B.105 on the last
30 business day of that calendar quarter for all premises in this state.

31 (c) After making the transfer of moneys required by subsection (7) of this

section, [eighty] **80** percent of the remaining moneys in the Oregon Marijuana Account must 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 475B.070, 475B.090, 475B.100 or 475B.105 is required is not eligible to receive transfers of moneys under subsection (3)(b)(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 475B.070 is required is not eligible to receive transfers of moneys under subsection (3)(b)(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 475B.090, 475B.100 or 475B.105 is required is not eligible to receive transfers of moneys under subsection (3)(b)(B)(ii) of this section.

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

1 or county may voluntarily transfer the moneys to the Department of Revenue
2 immediately upon receipt of the ineligible transfer.

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

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

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

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

25 (f) Interest under this section shall accrue at the rate established in ORS
26 305.220 beginning on the date the ineligible transfer was made.

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

31 (6)(a) Not later than July 1 of each year, each city and county in this

state shall certify with the Oregon Department of Administrative Services whether the city or county has an ordinance prohibiting the establishment of a premises for which issuance of a license under ORS 475B.070, 475B.090, 475B.100 or 475B.105 is required. The certification shall be made concurrently with the certifications under ORS 221.770, in a form and manner prescribed by the Oregon Department of Administrative Services.

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

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

(7) Before making the transfer of moneys required by subsection (3) of this section, the department shall transfer quarterly to the Drug Treatment and Recovery Services Fund all moneys in the Oregon Marijuana Account in excess of \$11,250,000.

DRUG PENALTIES

SECTION 11. ORS 153.012, as amended by section 18, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)), is amended to read:

153.012. Violations are classified for the purpose of sentencing into the following categories:

(1) Class A violations[;].

(2) Class B violations[;].

(3) Class C violations[;].

(4) Class D violations[;].

(5) Class E violations[;].

(6) Unclassified violations as described in ORS 153.015[; *and*].

(7) Specific fine violations as described in ORS 153.015.

SECTION 12. ORS 153.018, as amended by section 19, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)), is amended to read:

153.018. (1) The penalty for committing a violation is a fine. The law creating a violation may impose other penalties in addition to a fine but may not impose a term of imprisonment.

(2) Except as otherwise provided by law, the maximum fine for a violation committed by an individual is:

(a) \$2,000 for a Class A violation.

(b) \$1,000 for a Class B violation.

(c) \$500 for a Class C violation.

(d) \$250 for a Class D violation.

(e) \$100, or, in lieu of the fine, a completed health assessment as specified in section 2 [(2)(b)(ii)] **(2)(c)(B), chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020))**, or section 23 (2), **chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020))**, for a Class E violation.

(f) \$2,000 for a specific fine violation, or the maximum amount otherwise established by law for the specific fine violation.

(3) If a special corporate fine is specified in the law creating the violation, the sentence to pay a fine shall be governed by the law creating the violation. Except as otherwise provided by law, if a special corporate fine is not specified in the law creating the violation, the maximum fine for a violation committed by a corporation is:

(a) \$4,000 for a Class A violation.

(b) \$2,000 for a Class B violation.

(c) \$1,000 for a Class C violation.

(d) \$500 for a Class D violation.

SECTION 13. ORS 423.478, as amended by section 20, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)), is amended to read:

423.478. (1) The Department of Corrections shall:

(a) Operate prisons for offenders sentenced to terms of incarceration for more than 12 months;

(b) Provide central information and data services sufficient to:

(A) Allow tracking of offenders; and

(B) Permit analysis of correlations between sanctions, supervision, services and programs, and future criminal conduct; and

(c) Provide interstate compact administration and jail inspections.

(2) Subject to ORS 423.483, *[the]* a county, in partnership with the department, shall assume responsibility for community-based supervision, sanctions and services for offenders convicted of felonies or designated drug-related misdemeanors who are:

(a) On parole;

(b) On probation;

(c) On post-prison supervision;

(d) Sentenced, on or after January 1, 1997, to 12 months or less incarceration;

(e) Sanctioned, on or after January 1, 1997, by a court or the State Board of Parole and Post-Prison Supervision to 12 months or less incarceration for violation of a condition of parole, probation or post-prison supervision; or

(f) On conditional release under ORS 420A.206.

(3) Notwithstanding the fact that the court has sentenced a person to a term of incarceration, when an offender is committed to the custody of the supervisory authority of a county under ORS 137.124 (2) or (4), the supervisory authority may execute the sentence by imposing sanctions other than incarceration if deemed appropriate by the supervisory authority. If the supervisory authority releases a person from custody under this subsection and the person is required to report as a sex offender under ORS 163A.010, the supervisory authority, as a condition of release, shall order the person to

report to the Department of State Police, a city police department or a county sheriff's office or to the supervising agency, if any:

(a) When the person is released;

(b) Within 10 days of a change of residence;

(c) Once each year within 10 days of the person's birth date;

(d) Within 10 days of the first day the person works at, carries on a vocation at or attends an institution of higher education; and

(e) Within 10 days of a change in work, vocation or attendance status at an institution of higher education.

(4) As used in this section:

(a) "Attends," "institution of higher education," "works" and "carries on a vocation" have the meanings given those terms in ORS 163A.005.

(b) "Designated drug-related misdemeanor" means:

(A) Unlawful possession of methadone under ORS 475.824 (2)(c);

(B) Unlawful possession of oxycodone under ORS 475.834 (2)(c);

(C) Unlawful possession of heroin under ORS 475.854 (2)(c);

(D) Unlawful possession of 3,4-methylenedioxymethamphetamine under ORS 475.874 (2)(c);

(E) Unlawful possession of cocaine under ORS 475.884 (2)(c); or

(F) Unlawful possession of methamphetamine under ORS 475.894 (2)(c).

SECTION 14. ORS 475.752, as amended by section 11, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)), is amended to read:

475.752. (1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful for any person to manufacture or deliver a controlled substance. Any person who violates this subsection with respect to:

(a) A controlled substance in Schedule I, is guilty of a Class A felony, except as otherwise provided in ORS 475.886 and 475.890.

(b) A controlled substance in Schedule II, is guilty of a Class B felony, except as otherwise provided in ORS 475.878, 475.880, 475.882, 475.904 and 475.906.

(c) A controlled substance in Schedule III, is guilty of a Class C felony,

except as otherwise provided in ORS 475.904 and 475.906.

(d) A controlled substance in Schedule IV, is guilty of a Class B misdemeanor.

(e) A controlled substance in Schedule V, is guilty of a Class C misdemeanor.

(2) Except as authorized in ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful for any person to create or deliver a counterfeit substance. Any person who violates this subsection with respect to:

(a) A counterfeit substance in Schedule I, is guilty of a Class A felony.

(b) A counterfeit substance in Schedule II, is guilty of a Class B felony.

(c) A counterfeit substance in Schedule III, is guilty of a Class C felony.

(d) A counterfeit substance in Schedule IV, is guilty of a Class B misdemeanor.

(e) A counterfeit substance in Schedule V, is guilty of a Class C misdemeanor.

(3) It is unlawful for any person knowingly or intentionally to possess a controlled substance unless the substance was obtained directly from, or pursuant to a valid prescription or order of, a practitioner while acting in the course of professional practice, or except as otherwise authorized by ORS 475.005 to 475.285 and 475.752 to 475.980. Any person who violates this subsection with respect to:

(a) A controlled substance in Schedule I, is guilty of a Class E violation, except as otherwise provided in ORS 475.854, 475.874 and 475.894 and subsection (7) of this section.

(b) A controlled substance in Schedule II, is guilty of a Class E violation, except as otherwise provided in ORS 475.824, 475.834 or 475.884 or subsection (8) of this section.

(c) A controlled substance in Schedule III, is guilty of a Class E violation.

(d) A controlled substance in Schedule IV, is guilty of a Class E violation.

(e) A controlled substance in Schedule V, is guilty of a violation.

(4) **It is an affirmative defense** in any prosecution under this section

1 for manufacture, possession or delivery of *[that]* **the** plant of the genus
2 Lophophora commonly known as peyote~~*[it is an affirmative defense]*~~ that the
3 peyote is being used or is intended for use:

4 (a) In connection with the good faith practice of a religious belief;

5 (b) As directly associated with a religious practice; and

6 (c) In a manner that is not dangerous to the health of the user or others
7 who are in the proximity of the user.

8 (5) The affirmative defense created in subsection (4) of this section is not
9 available to any person who has possessed or delivered the peyote while
10 incarcerated in a correctional facility in this state.

11 (6)(a) Notwithstanding subsection (1) of this section, a person who un-
12 lawfully manufactures or delivers a controlled substance in Schedule IV and
13 who thereby causes death to another person is guilty of a Class C felony.

14 (b) For purposes of this subsection, causation is established when the
15 controlled substance plays a substantial role in the death of the other per-
16 son.

17 (7)(a) Notwithstanding subsection (3)(a) of this section, unlawful pos-
18 session of a controlled substance in Schedule I is a Class B felony if the
19 possession is a commercial drug offense under ORS 475.900 (1)(b).

20 (b) Notwithstanding subsection (3)(a) of this section and except as pro-
21 vided in ORS 475.900 (1)(b), unlawful possession of a controlled substance in
22 Schedule I is a Class A misdemeanor if the person possesses:

23 (A) Forty or more user units of a mixture or substance containing a de-
24 tectable amount of lysergic acid diethylamide; or

25 (B) Twelve grams or more of a mixture or substance containing a detect-
26 able amount of psilocybin or psilocin.

27 (8) Notwithstanding subsection (3)(b) of this section, unlawful possession
28 of a controlled substance in Schedule II is a Class C felony if the possession
29 is a commercial drug offense under ORS 475.900 (1)(b).

30 **SECTION 15.** ORS 475.824, as amended by section 12, chapter 2, Oregon
31 Laws 2021 (Ballot Measure 110 (2020)), is amended to read:

475.824. (1) It is unlawful for any person knowingly or intentionally to possess methadone unless the methadone was obtained directly from, or pursuant to[,] a valid prescription or order of, a practitioner while acting in the course of professional practice, or except as otherwise authorized by ORS 475.005 to 475.285 and 475.752 to 475.980.

(2)(a) Unlawful possession of methadone is a Class E violation.

(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of methadone is a Class C felony if the possession is a commercial drug offense under ORS 475.900 (1)(b).

(c) Notwithstanding paragraph (a) of this subsection, unlawful possession of methadone is a Class A misdemeanor if the person possesses 40 or more user units of a mixture or substance containing a detectable amount of methadone.

SECTION 16. ORS 475.834, as amended by section 13, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)), is amended to read:

475.834. (1) It is unlawful for any person knowingly or intentionally to possess oxycodone unless the oxycodone was obtained directly from, or pursuant to[,] a valid prescription or order of, a practitioner while acting in the course of professional practice, or except as otherwise authorized by ORS 475.005 to 475.285 and 475.752 to 475.980.

(2)(a) Unlawful possession of oxycodone is a Class E violation.

(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of oxycodone is a Class C felony if the possession is a commercial drug offense under ORS 475.900 (1)(b).

(c) Notwithstanding paragraph (a) of this subsection, unlawful possession of oxycodone is a Class A misdemeanor if the person possesses 40 or more pills, tablets or capsules of a mixture or substance containing a detectable amount of oxycodone.

SECTION 17. ORS 475.854, as amended by section 14, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)), is amended to read:

475.854. (1) It is unlawful for any person knowingly or intentionally to

possess heroin.

(2)(a) Unlawful possession of heroin is a Class E violation.

(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of heroin is a Class B felony if the possession is a commercial drug offense under ORS 475.900 (1)(b).

(c) Notwithstanding paragraph (a) of this subsection and except as provided in ORS 475.900 (1)(b), unlawful possession of heroin is a Class A misdemeanor if the person possesses one [gram] or more **grams** of a mixture or substance containing a detectable amount of heroin.

SECTION 18. ORS 475.874, as amended by section 15, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)), is amended to read:

475.874. (1) It is unlawful for any person knowingly or intentionally to possess 3,4-methylenedioxymethamphetamine.

(2)(a) Unlawful possession of 3,4-methylenedioxymethamphetamine is a Class E violation.

(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of 3,4-methylenedioxymethamphetamine is a Class B felony if the possession is a commercial drug offense under ORS 475.900 (1)(b).

(c) Notwithstanding paragraph (a) of this subsection and except as provided in ORS 475.900 (1)(b), unlawful possession of methylenedioxymethamphetamine is a Class A misdemeanor if the person possesses one [gram] or more **grams** or five or more pills, tablets or capsules of a mixture or substance containing a detectable amount of:

(A) 3,4-methylenedioxyamphetamine;

(B) 3,4-methylenedioxymethamphetamine; or

(C) 3,4-methylenedioxy-N-ethylamphetamine.

SECTION 19. ORS 475.884, as amended by section 16, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)), is amended to read:

475.884. (1) It is unlawful for any person knowingly or intentionally to possess cocaine unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course

of professional practice, or except as otherwise authorized by ORS 475.005 to 475.285 and 475.752 to 475.980.

(2)(a) Unlawful possession of cocaine is a Class E violation.

(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of cocaine is a Class C felony if the possession is a commercial drug offense under ORS 475.900 (1)(b).

(c) Notwithstanding paragraph (a) of this subsection and except as provided in ORS 475.900 (1)(b), unlawful possession of cocaine is a Class A misdemeanor if the person possesses two [grams] or more **grams** of a mixture or substance containing a detectable amount of cocaine.

SECTION 20. ORS 475.894, as amended by section 17, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)), is amended to read:

475.894. (1) It is unlawful for any person knowingly or intentionally to possess methamphetamine unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of professional practice, or except as otherwise authorized by ORS 475.005 to 475.285 and 475.752 to 475.980.

(2)(a) Unlawful possession of methamphetamine is a Class E violation.

(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of methamphetamine is a Class C felony if the possession is a commercial drug offense under ORS 475.900 (1)(b).

(c) Notwithstanding paragraph (a) of this subsection and except as provided in ORS 475.900 (1)(b), unlawful possession of methamphetamine is a Class A misdemeanor if the person possesses two [grams] or more **grams** of a mixture or substance containing a detectable amount of methamphetamine.

SECTION 21. ORS 670.280, as amended by section 21, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)), is amended to read:

670.280. (1) As used in this section:

(a) "License" includes a registration, certification or permit.

(b) "Licensee" includes a registrant or a holder of a certification or permit.

(2) Except as provided in ORS 342.143 (3) or 342.175 (3), a licensing board, commission or agency may not deny, suspend or revoke an occupational or professional license solely for the reason that the applicant or licensee has been convicted of a crime, but it may consider the relationship of the facts which support the conviction and all intervening circumstances to the specific occupational or professional standards in determining the fitness of the person to receive or hold the license. There is a rebuttable presumption as to each individual applicant or licensee that an existing or prior conviction for conduct that has been classified or reclassified as a Class E violation pursuant to [section 11 to section 19] **the amendments to ORS 153.012, 153.018, 475.752, 475.824, 475.834, 475.854, 475.874, 475.884 and 475.894 by sections 11 to 19, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020))**, does not make an applicant for an occupational or professional license or a licensee with an occupational or professional license unfit to receive or hold the license.

(3) Except as provided in ORS 342.143 (3) and 342.175 (3), a licensing board, commission or agency may deny an occupational or professional license or impose discipline on a licensee based on conduct that is not undertaken directly in the course of the licensed activity, but that is substantially related to the fitness and ability of the applicant or licensee to engage in the activity for which the license is required. In determining whether the conduct is substantially related to the fitness and ability of the applicant or licensee to engage in the activity for which the license is required, the licensing board, commission or agency shall consider the relationship of the facts with respect to the conduct and all intervening circumstances to the specific occupational or professional standards. There is a rebuttable presumption as to each individual applicant or licensee that an existing or prior conviction for conduct that has been classified or reclassified as a Class E violation pursuant to [section 11 to section 19] **the amendments to ORS 153.012, 153.018, 475.752, 475.824, 475.834, 475.854, 475.874, 475.884 and 475.894 by sections 11 to 19, chapter 2, Oregon Laws**

1 **2021 (Ballot Measure 110 (2020))**, is not related to the fitness and ability
 2 of the applicant or licensee to engage in the activity for which the license
 3 is required.

4 **SECTION 22.** Section 22, chapter 2, Oregon Laws 2021 (Ballot Measure
 5 110 (2020)), is amended to read:

6 **Sec. 22.** Any person subject to the penalty set forth in ORS 153.018 (2)(e)
 7 for a violation that has been classified or reclassified as a Class E violation
 8 pursuant to [section 11 to section 19,] **ORS 153.012, 153.018, 475.752, 475.824,**
 9 **475.834, 475.854, 475.874, 475.884 and 475.894** shall be fined up to \$100, but
 10 in lieu of the fine[,] may complete a health assessment, as set forth in section
 11 2 [(2)(b)(ii),] **(2)(c)(B), chapter 2, Oregon Laws 2021 (Ballot Measure 110**
 12 **(2020))**, at an Addiction Recovery Center. Upon verification that the person
 13 has received a health assessment at an Addiction Recovery Center within 45
 14 days of when the person receives a citation for a violation subject to the
 15 penalty set forth in ORS 153.018 (2)(e), the fine shall be waived. Failure to
 16 pay the fine shall not be a basis for further penalties or for a term of in-
 17 carceration.

18 **OVERSIGHT AND ADMINISTRATION**

19
 20
 21 **SECTION 23.** Section 23, chapter 2, Oregon Laws 2021 (Ballot Measure
 22 110 (2020)), is amended to read:

23 **Sec. 23.** [*Implementation.*] (1) Not later than February 1, 2021, the Oregon
 24 Health Authority[, *Health Systems Division Behavioral Health Services*] shall
 25 establish a statewide temporary telephone Addiction Recovery Center. The
 26 temporary telephone Addiction Recovery Center shall be staffed
 27 [twenty-four] **24** hours a day, seven days a week, 365 days a year. The tem-
 28 porary telephone Addiction Recovery Center shall provide the services set
 29 forth in section 2 [(2)(b)(i)-(iii)] **(2)(c)(A) to (C), chapter 2, Oregon Laws**
 30 **2021 (Ballot Measure 110 (2020))**, and the verification set forth in section
 31 2 [(2)(e)] **(2)(f), chapter 2, Oregon Laws 2021 (Ballot Measure 110**

1 (2020)).

2 (2) Until such time as an Addiction Recovery Center is established in the
 3 coordinated care organization service area where a person subject to the
 4 penalty set forth in ORS 153.018 (2)(e) for a violation that has been classified
 5 or reclassified as a Class E violation pursuant to [section 11 to section 19]
 6 **ORS 153.012, 153.018, 475.752, 475.824, 475.834, 475.854, 475.874, 475.884 and**
 7 **475.894** resides, the person shall be fined up to \$100, but in lieu of the fine
 8 may complete a health assessment, as set forth in section 2 [(2)(b)(ii)]
 9 **(2)(c)(B), chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020))**,
 10 through the temporary telephone Addiction Recovery Center. Upon verifica-
 11 tion that the person has received a health assessment through the temporary
 12 telephone Addiction Recovery Center within 45 days of when the person re-
 13 ceives a citation for a violation subject to the penalty set forth in ORS
 14 153.018 (2)(e), the fine shall be waived. Failure to pay the fine shall not be
 15 a basis for further penalties or for a term of incarceration.

16 (3) When an Addiction Recovery Center is established in each coordinated
 17 care organization service area, and not later than October 1, 2021, the tem-
 18 porary telephone Addiction Recovery Center shall be terminated.

19 **SECTION 24.** Section 24, chapter 2, Oregon Laws 2021 (Ballot Measure
 20 110 (2020)), is amended to read:

21 **Sec. 24.** [*Audits.*] (1) No later than December 31, 2022, and at least once
 22 every two years thereafter, the [*Oregon*] Secretary of State[, *Audits*
 23 *Division*] shall conduct financial and performance audits regarding the uses
 24 of the Drug Treatment and Recovery Services Fund and the effectiveness of
 25 the fund in achieving the purposes of the fund and the policy objectives of
 26 [*this Act*] **chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020))**. The
 27 audit shall include:

28 (a) Data on grant programs, including:

29 [(i)] **(A)** A list of organizations and agencies receiving moneys from the
 30 fund;

31 [(ii)] **(B)** The amount each organization and agency received from the

fund;

[(iii)] (C) The total number of organizations and agencies that applied for moneys from the fund;

[(iv)] (D) The moneys that remained in the fund after funds were disbursed;

[(v)] (E) The moneys used to administer the programs selected by the fund; **and**

[(vi)] (F) The effectiveness of the grants in increasing access to substance use disorder treatment, peer support and recovery services, harm reduction interventions as well as housing placement[,] and any other relevant outcome measures.[,]

(b) Data on Addiction Recovery Centers, including:

[(i)] (A) The outcomes of each center, including, but not limited to, the number of clients with substance use disorder served by each center, the average duration of client participation[,] and client outcomes, including rates of recidivism, substance use disorder treatment completion, ability to obtain housing, employment[,] and legitimate income;

[(ii)] (B) The number of people seeking assistance from the center who are denied or not connected to substance use disorder treatment and other services, and the reasons for such denials;

[(iii)] (C) The average wait time it takes for people at the center to be able to fulfill their individual intervention plan and the reason for any delays, such as waiting lists at referred services; **and**

[(iv)] (D) The total amount of money disbursed to each center.

(c) Data on implementation, including, the number of citations for Class E violations issued and the race of the person receiving a citation for a Class E violation.[,]

(2) The audits set forth in subsection [(a)] (1)(a) of this section shall be conducted pursuant to the provisions of [*Oregon Revised Statutes Chapter 297 (and any subsequent modifications or amendments to those statutes)*] **ORS chapter 297**, except to the extent any provision of **ORS** chapter 297 conflicts

with any provision of [*this Act*] **chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020))**, in which case the provisions of [*this Act*] **chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020))**, shall control.

(3) The [*Audits Division*] **Secretary of State** shall monitor and report annually on agency progress in implementing recommendations made in the audits. The [*Audits Division*] **secretary** shall follow up on recommendations as part of recurring audit work or as an activity separate from other audit activity. When following up on recommendations, the [*Audits Division*] **secretary** may request from the appropriate agency evidence of implementation.

EFFECTIVE AND OPERATIVE DATES

SECTION 25. Section 25, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)), is amended to read:

Sec. 25. [*Effective and Operative Dates.*] (1) [*This Act*] **Chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020))**, shall become effective pursuant to Article IV, section 1 (4)(d), of the Oregon Constitution.

(2) **Section 22, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020))**, and the amendments to statutes by [*section*] **sections 11 to** [*section*] **21**, [*and section 22,*] **chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020))**, become operative on February 1, 2021.

CAPTIONS

SECTION 26. The unit captions used in this 2021 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2021 Act.