

# House Bill 3210

Sponsored by Representative OWENS

## 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 that Department of Revenue transfer moneys from Oregon Marijuana Account to Drug Treatment and Recovery Services Fund after completion of transfers from account to cities and counties. Applies to fiscal quarters beginning on or after April 1, 2021.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to the disposition of marijuana tax revenues; creating new provisions; amending ORS  
3 475B.759 and section 5, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)); and declaring  
4 an emergency.

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

6 **SECTION 1.** ORS 475B.759, as amended by section 10, chapter 2, Oregon Laws 2021 (Ballot  
7 Measure 110 (2020)), is amended to read:

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

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

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

13 (b) Subject to subsection (4) of this section, and [*after*] **before** making the transfer of moneys  
14 required by [*subsection (7) of this section*] **paragraph (c) of this subsection**, the department shall  
15 transfer quarterly 20 percent of the moneys in the Oregon Marijuana Account as follows:

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

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

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

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

30 (i) Fifty percent of the 10 percent must be transferred in shares that reflect the total commer-

**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 cially available area of all grow canopies associated with marijuana producer licenses held pursuant  
 2 to ORS 475B.070 on the last business day of the calendar quarter preceding the date of the transfer  
 3 for all premises located in each county compared to the total commercially available area of all  
 4 grow canopies associated with marijuana producer licenses held pursuant to ORS 475B.070 on the  
 5 last business day of that calendar quarter for all premises located in this state; and

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

11 **(c) After making the transfer of moneys required by paragraph (b) of this subsection, the**  
 12 **department shall transfer quarterly to the Drug Treatment and Recovery Services Fund es-**  
 13 **ablished in section 5, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)), all moneys**  
 14 **in the Oregon Marijuana Account in excess of \$11,250,000.**

15 [(c)] (d) After making the [transfer] transfers of moneys required by [subsection (7) of this  
 16 section] paragraphs (b) and (c) of this subsection, eighty percent of the remaining moneys in the  
 17 Oregon Marijuana Account must be used as follows:

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

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

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

24 (D) Five percent of the moneys in the account must be used solely for purposes related to al-  
 25cohol and drug abuse prevention, early intervention and treatment services.

26 (4)(a) A city that has an ordinance prohibiting the establishment of a premises for which issu-  
 27ance of a license under ORS 475B.070, 475B.090, 475B.100 or 475B.105 is required is not eligible to  
 28receive transfers of moneys under subsection (3)(b)(A) of this section.

29 (b) A county that has an ordinance prohibiting the establishment of a premises for which issu-  
 30ance of a license under ORS 475B.070 is required is not eligible to receive transfers of moneys under  
 31subsection (3)(b)(B)(i) of this section.

32 (c) A county that has an ordinance prohibiting the establishment of a premises for which issu-  
 33ance of a license under ORS 475B.090, 475B.100 or 475B.105 is required is not eligible to receive  
 34transfers of moneys under subsection (3)(b)(B)(ii) of this section.

35 (5)(a) A city or county that is ineligible under subsection (4) of this section to receive a transfer  
 36of moneys from the Oregon Marijuana Account during a given quarter but has received a transfer  
 37of moneys for that quarter shall return the amount transferred to the Department of Revenue, with  
 38interest as described under paragraph (f) of this subsection. An ineligible city or county may vol-  
 39untarily transfer the moneys to the Department of Revenue immediately upon receipt of the ineligi-  
 40ble transfer.

41 (b) If the Director of the Oregon Department of Administrative Services determines that a city  
 42or county received a transfer of moneys under subsection (3)(b) of this section but was ineligible to  
 43receive that transfer under subsection (4) of this section, the director shall provide notice to the  
 44ineligible city or county and order the city or county to return the amount received to the Depart-  
 45ment of Revenue, with interest as described under paragraph (f) of this subsection. A city or county

1 may appeal the order within 30 days of the date of the order under the procedures for a contested  
2 case under ORS chapter 183.

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

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

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

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

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

18 (6)(a) Not later than July 1 of each year, each city and county in this state shall certify with  
19 the Oregon Department of Administrative Services whether the city or county has an ordinance  
20 prohibiting the establishment of a premises for which issuance of a license under ORS 475B.070,  
21 475B.090, 475B.100 or 475B.105 is required. The certification shall be made concurrently with the  
22 certifications under ORS 221.770, in a form and manner prescribed by the Oregon Department of  
23 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 updated  
28 certification with the Oregon Department of Administrative Services in a form and manner pre-  
29 scribed by the department, noting the effective date of the change. A city or county that repeals an  
30 ordinance as provided in ORS 475B.496 is eligible to receive quarterly transfers of moneys under  
31 this section for quarters where the repeal is effective for the entire quarter and the updated certi-  
32 fication was filed at least 30 days before the date of transfer.

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

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

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

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

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

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

45 (c) Moneys *[allocated]* **transferred** from the Oregon Marijuana Account, pursuant to ORS

1 475B.759 [(7)] (3); and[,]

2 (d) All other moneys deposited in the fund from any source.

3 (3) Moneys in the fund shall be continuously appropriated to the Oregon Health Authority for  
4 the purposes set forth in section 2, **chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020))**.

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

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

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

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

14 [(i)] (A) **\$57 million multiplied by** the percentage, **if any**, [*if any*] by which the monthly av-  
15 eraged U.S. City Average Consumer Price Index for the 12 consecutive months ending [*December*]  
16 **August 31** of the prior calendar year exceeds the monthly index for the fourth quarter of the cal-  
17 endar year 2020; and[,]

18 [(ii)] (B) [*An amount not less than the increase*] **The annual increase, if any**, in moneys dis-  
19 tributed pursuant to ORS 475B.759 [(7)] (3).

20 **SECTION 3. The amendments to ORS 475B.759 and section 5, chapter 2, Oregon Laws**  
21 **2021 (Ballot Measure 110 (2020)), by sections 1 and 2 of this 2021 Act apply to fiscal quarters**  
22 **beginning on or after April 1, 2021.**

23 **SECTION 4. This 2021 Act being necessary for the immediate preservation of the public**  
24 **peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect**  
25 **on its passage.**