

# House Bill 2089

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**.

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

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to marijuana revenue; creating new provisions; amending ORS 327.008 and 475C.726; and  
3 prescribing an effective date.

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

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

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

10 (2) There is established the Oregon Marijuana Account, separate and distinct from the General  
11 Fund. 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) **After setting aside sufficient funds to reimburse the department for costs incurred**  
15 **in the administration of the account and before making other transfers of moneys required**  
16 **by this section, the department shall transfer to the cities and counties of this state, in ad-**  
17 **dition to the moneys described in paragraph (c) of this subsection, 11 percent of the moneys**  
18 **in the account in the manner described in paragraph (c) of this subsection.**

19 (B) **After making the transfer described in subparagraph (A) of this paragraph and** before  
20 making **any** other transfers of moneys required by this section, the department shall transfer quar-  
21 terly to the Drug Treatment and Recovery Services Fund all moneys in the Oregon Marijuana Ac-  
22 count in excess of \$11,250,000.

23 [(B)] (C) The department shall annually adjust the limitation in subparagraph [(A)] (B) of this  
24 paragraph. The department shall multiply \$11,250,000 by the percentage, if any, by which the  
25 monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending  
26 August 31 of the prior calendar year exceeds the monthly index for the fourth quarter of the cal-  
27 endar year 2020, and shall add that product to \$11,250,000. Any increase in the limitation shall apply  
28 beginning with transfers made in July of each year, based upon receipts in the second calendar  
29 quarter of each year.

30 (c) Subject to subsection (4) of this section, and after making the transfer of moneys required

**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 by paragraph (b) of this subsection, the department shall transfer quarterly [20] **60** percent of the  
 2 moneys in the Oregon Marijuana Account as follows:

3 (A) [Ten] **Thirty** percent of the moneys in the account must be transferred to the cities of this  
 4 state in the following shares:

5 (i) [Seventy-five] **Forty** percent of the [10] **30** percent must be transferred in shares that reflect  
 6 the population of each city of this state that is not exempt from this paragraph pursuant to sub-  
 7 section (4)(a) of this section compared to the population of all cities of this state that are not exempt  
 8 from this paragraph pursuant to subsection (4)(a) of this section, as determined by Portland State  
 9 University under ORS 190.510 to 190.610, on the date immediately preceding the date of the transfer;  
 10 [and]

11 (ii) [Twenty-five] **Thirty** percent of the [10] **30** percent must be transferred in shares that reflect  
 12 the number of licenses held pursuant to ORS 475C.065, 475C.085, 475C.093 and 475C.097 on the last  
 13 business day of the calendar quarter preceding the date of the transfer for premises located in each  
 14 city compared to the number of licenses held pursuant to ORS 475C.065, 475C.085, 475C.093 and  
 15 475C.097 on the last business day of that calendar quarter for all premises in this state located in  
 16 cities; and

17 (iii) **Thirty percent of the 30 percent must be transferred in shares that reflect the vol-**  
 18 **ume of marijuana produced, processed and sold at wholesale and retail at premises licensed**  
 19 **pursuant to ORS 475C.065, 475C.085, 475C.093 and 475C.097 between the first business day of**  
 20 **the calendar quarter preceding the date of the transfer and the last business day of the**  
 21 **calendar quarter preceding the date of the transfer on premises located in each city com-**  
 22 **pared to the volume of marijuana produced, processed and sold at wholesale and retail at**  
 23 **premises licensed pursuant to ORS 475C.065, 475C.085, 475C.093 and 475C.097 between the first**  
 24 **business day of the calendar quarter preceding the date of the transfer and the last business**  
 25 **day of that calendar quarter at all premises in this state located in cities; and**

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

28 (i) Fifty percent of the [10] **30** percent must be transferred in shares that reflect the total com-  
 29 mercially available area of all grow canopies associated with marijuana producer licenses held  
 30 pursuant to ORS 475C.065 on the last business day of the calendar quarter preceding the date of the  
 31 transfer for all premises located in each county compared to the total commercially available area  
 32 of all grow canopies associated with marijuana producer licenses held pursuant to ORS 475C.065 on  
 33 the last business day of that calendar quarter for all premises located in this state; and

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

39 (d) After making the transfer of moneys required by [paragraph (b)] **paragraphs (b) and (c)** of  
 40 this subsection, [80 percent of] the remaining moneys in the Oregon Marijuana Account must be used  
 41 **solely for purposes for which moneys in the State Police Account established under ORS**  
 42 **181A.020 may be used.** [as follows:]

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

45 [(B) *Twenty percent of the moneys in the account must be used solely for mental health treatment*

1 *or for alcohol and drug abuse prevention, early intervention and treatment;]*

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

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

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

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

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

15 (d)(A) Paragraphs (b) and (c) of this subsection do not apply to a county ordinance adopted on  
 16 or after January 1, 2018, that prohibits the establishment of a premises for which a license under  
 17 ORS 475C.065, 475C.085, 475C.093 or 475C.097 is required but allows in the unincorporated area of  
 18 the county the continued operation of an existing premises for which a license under ORS 475C.065,  
 19 475C.085, 475C.093 or 475C.097 is required.

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

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

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

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

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

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

45 (f) Interest under this section shall accrue at the rate established in ORS 305.220 beginning on

1 the date the ineligible transfer was made.

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

5 (6)(a) Not later than July 1 of each year, each city and county in this state shall certify with  
 6 the Oregon Department of Administrative Services whether the city or county has an ordinance  
 7 prohibiting the establishment of a premises for which issuance of a license under ORS 475C.065,  
 8 475C.085, 475C.093 or 475C.097 is required and whether the county has an ordinance described in  
 9 subsection (4)(d) of this section. The certification shall be made concurrently with the certifications  
 10 under ORS 221.770, in a form and manner prescribed by the Oregon Department of Administrative  
 11 Services.

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

15 (c) A city or county that repeals an ordinance as provided in ORS 475C.457 shall file an updated  
 16 certification with the Oregon Department of Administrative Services in a form and manner pre-  
 17 scribed by the department, noting the effective date of the change. A city or county that repeals an  
 18 ordinance as provided in ORS 475C.457 is eligible to receive quarterly transfers of moneys under  
 19 this section for quarters where the repeal is effective for the entire quarter and the updated certi-  
 20 fication was filed at least 30 days before the date of transfer.

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

22 327.008. (1)(a) There is established a State School Fund in the General Fund.

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

26 (c) The State School Fund shall consist of moneys appropriated by the Legislative Assembly,  
 27 moneys transferred from the Fund for Student Success, moneys transferred from the Education Sta-  
 28 bility Fund [*and the Oregon Marijuana Account*] and moneys received as provided in paragraph (b)  
 29 of this subsection.

30 (d) The State School Fund is continuously appropriated to the Department of Education for the  
 31 purposes of ORS 327.006 to 327.077, 327.095, 327.099, 327.101, 327.125, 327.137, 327.348, 327.356 to  
 32 327.359, 336.575, 336.580, 336.635, 343.243, 343.533, 343.941 and 343.961.

33 (2) There shall be apportioned from the State School Fund to each school district a State School  
 34 Fund grant, consisting of the positive amount equal to a general purpose grant and a facility grant  
 35 and a transportation grant and a high cost disabilities grant minus local revenue, computed as pro-  
 36 vided in ORS 327.011 and 327.013.

37 (3) For the first school year after a public charter school ceases to operate because of dissol-  
 38 ution or closure or because of termination or nonrenewal of a charter, there shall be apportioned  
 39 from the State School Fund to each school district that had sponsored a public charter school that  
 40 ceased to operate an amount equal to the school district's general purpose grant per extended  
 41 ADMw multiplied by five percent of the ADM of the public charter school for the previous school  
 42 year.

43 (4) There shall be apportioned from the State School Fund to each education service district a  
 44 State School Fund grant as calculated under ORS 327.019.

45 (5) All figures used in the determination of the distribution of the State School Fund shall be

1 estimates for the same year as the distribution occurs, unless otherwise specified.

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

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

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

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

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

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

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

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

23 (A) The total amount available for all distributions from the State School Fund shall be reduced  
24 by \$6 million;

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

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

29 (c) For each biennium, the amounts identified in this subsection shall be adjusted by the same  
30 percentage by which the instructions furnished to state agencies by the Governor under ORS 291.204  
31 direct the state agencies to adjust their agency budget requests for special payments under ORS  
32 291.216 (6)(a)(C).

33 (13) Each biennium, the Department of Education shall transfer \$12.5 million from the State  
34 School Fund to the Statewide English Language Learner Program Account established under ORS  
35 327.344.

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

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

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

1 (17) Each biennium, the Department of Education shall transfer \$2 million from the State School  
2 Fund for deposit to the Healthy School Facilities Fund established under ORS 332.337.  
3 Notwithstanding ORS 332.337, the department may expend moneys received in the Healthy School  
4 Facilities Fund under this subsection only as grants for costs associated with testing for elevated  
5 levels of lead in water used for drinking or food preparation.

6 (18) Each biennium, the Department of Education shall transfer an amount not to exceed  
7 \$5,595,000 for the purpose of making tampons and sanitary pads available as provided by ORS  
8 326.545.

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

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

14 **SECTION 4. (1) The amendments to ORS 327.008 and 475C.726 by sections 1 and 2 of this**  
15 **2023 Act become operative on January 1, 2024.**

16 **(2) The Department of Revenue may take any action before the operative date specified**  
17 **in subsection (1) of this section that is necessary to enable the department to exercise, on**  
18 **and after the operative date specified in subsection (1) of this section, all of the duties,**  
19 **functions and powers conferred on the department by the amendments to ORS 327.008 and**  
20 **475C.726 by sections 1 and 2 of this 2023 Act.**

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

23