**Ballot Measure 110 Savings Calculation – 2021-23 Biennium**

**Introduction**

Ballot Measure 110 was approved by Oregon voters in the November 2020 election. BM 110 reduced the penalties for most Possession of a Controlled Substance (PCS) offenses from a felony or misdemeanor to a new Class E violation, punishable with a $100 maximum fine. This change went into effect on February 1, 2021. The Oregon Legislature enacted Senate Bill 755 (2021) to codify and amend BM 110. SB 755 directed the Department of Administrative Services (DAS) to calculate the savings to the State of Oregon from the sentence reductions in BM 110 and further directed the Department of Revenue to transfer those savings to the Drug Treatment and Recovery Services Fund. This document outlines the methodology for calculating the savings to the State of Oregon and documents the savings for the 2021-23 biennium.

**Savings Calculation**

Oregon Revised Statute 591 contains the language passed in Senate Bill 755. Section 7 subsection 1 (b) states: “The savings shall be calculated based on a comparison of the most recent biennium concluded at the time the calculation is made **and the biennium ending June 30, 2019**.” In other words, absent the passage of BM 110, felony and misdemeanor conviction rates are assumed to have continued at 2017-19 rates. The focus is on felonies and misdemeanors since these convictions resulted in probation and local control/post-prison supervision (PPPS) sentences that resulted in costs to the State of Oregon (specifically the Department of Corrections).

The Covid-19 pandemic complicates the calculation somewhat. The only felony and misdemeanor convictions occurring post BM 110 are for Commercial Drug Offenses (CDO) or sufficient quantities, what will be termed henceforth in this document as “major” convictions. Both the pandemic and BM 110 will have reduced the number of major convictions occurring in the window following the effective date of BM 110. Thus, an adjustment needs to be made to the number of major convictions assumed during the 2021-23 biennium to reflect what would have occurred absent the pandemic. For this, rates of major convictions were examined during the 2017-19 reference period, which averaged 53 convictions per month. The number of major convictions observed during 2021-23 was 21 per month. Given that BM 110 would have some effect on major convictions, but that such convictions are still trending upward, the current assumption is an average of the two which is 37.

Table 1 presents the average conviction and revocation rates for the 2017-19 reference biennium, as well as for the 2021-23 biennium. Note that the average number of monthly felonies, misdemeanors and revocations for major offenses assumed for the 2021-23 biennium totals 37 as derived above.

The savings to the State of Oregon is simply the difference between what costs would have been without the passage of BM 110 and what they are under BM 110. Clearly this is the cost of the foregone probation, local control (county jail) and post-prison supervision days. In the 2017-19 biennium, all simple misdemeanor PCS convictions resulted in a probation sentence averaging 17.9 months. In addition, non-major felonies were split nearly in half between probation sentences averaging 19.4 months and local control sentences of one month followed by a post-prison supervision sentence of twelve months. Finally, revocations also resulted in an average one-month local control stay followed by a post-prison supervision sentence of approximately twelve months. These sentencing characteristics are assumed to have continued in the absence of BM 110.

Table 1



Table 2



The daily capitated rate for Department of Corrections community corrections stays for the 2021-23 biennium was $12.426. The three tables above illustrate the calculations for probation, local control (county jail) and post-prison supervision for the 2021-23 biennium.

Table 4



Table 3



Summing up the savings estimates for probation, local control and post-prison supervision results in a total cost savings in community corrections of $37,512,017.

Theoretically, BM 110 could potentially result in savings in other State of Oregon agencies. These include the Judicial Department, which runs the state’s circuit courts, the Oregon State Police and Public Defense Services Commission. ORS 591 Section 7 subsection (2) states “In making the calculations set forth in this section, the department shall use actual data.” DAS queried the Chief Financial Office to determine whether explicit reductions were made to any of these departments’ 2021-23 Legislatively Adopted Budgets specifically in response to BM 110. With regards to the 2021-23 biennium, BM 110 did not result in tangible savings in any of the listed agencies.

**Summary**

For the 2021-23 biennium, DAS calculates the savings to the State of Oregon from the passage of Ballot Measure 110 to be $37,512,017.

ORS 591 Section 6 subsection 1 states “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]”.

ORS 591 Section 6 subsection 2 states “If the savings calculated for any subsequent biennium under section 7 (1), chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)), is less than any prior biennium, the amount credited and transferred to the Drug Treatment and Recovery Services Fund shall be the highest amount calculated for any previous biennium.” Given that the savings estimated by DAS for the only other biennium prior to 2021-23 was substantially less than that estimated herein, this is not binding.