

# Implementing Recreational Marijuana in Oregon



# Marijuana Is Now and Will Still Be Illegal...

- Unless consumed by an adult
- Unless consumed in a private residence
- Unless grown for personal use **only** or by an entity licensed by OLCC
- Unless distributed by a entity licensed by OLCC or medical marijuana dispensary
- Unless you possess at home no more than:
  - 8 ounces of useable marijuana
  - 16 ounces of product in a solid form
  - 72 ounces of product in a liquid form
- Unless transporting one ounce or less
- Unless you are more than 1,000 feet from a school

# Recreational Marijuana Will Not Be Legal...

- Within 1,000 feet of a school
- For a minor to possess at any time
- When sold to the public by anyone other than a licensed OLCC retail store
- To be consumed in public
- To be transported across state lines
- To be grown on state or federal lands
- To be used while driving

# What Does Measure 91 do?

- Establishes licenses for commercial production and sale of marijuana
- Taxes commercial marijuana at the producer (grower) level
- Provides tax revenue to addiction treatment, schools and law enforcement
- Provides for regulation by OLCC of a commercial recreational marijuana market

# License Types

- Producer: The only license able to cultivate marijuana. Responsible for payment of tax at first point of sale
- Processor: Packages and labels marijuana items. Also manufactures edible marijuana products and marijuana extracts
- Wholesale: Buys and sells at wholesale.
- Retail: Stores authorized to sell marijuana products to adults over 21

# Federal Considerations

- Marijuana remains illegal under federal law
- US Dept. of Justice's Cole Memo offers federal guidance to states operating marijuana programs including:
  - Prevent access by minors
  - Prevent criminal activities involvement in sale and production
  - Prevent diversion to other states
  - Prevent violence in growing and distribution and use of public lands
  - Address DUI

# OLCC's Responsibilities

- Tax, license and regulate
- Issue four license types
  - Producer (grower)
  - Processor
  - Wholesaler
  - Retailer
- Meet statutory deadlines
  - Marijuana personal use and home grow legal July 1, 2015
  - OLCC must begin accepting applications January 4, 2016

# Differences From Alcohol Regulation

- Product tracking from seed to sale
- No peace officer authority
- Individuals may hold multiple license types
- No licensed establishments for public consumption
- Home production and personal possession limits
- 1,000 foot rule
- No specific provisions for local government input
- License application fee (alcohol has none)
- No bonding and insurance requirements



# Timeline for Implementation

- January-March 2015: Listening sessions
- February- June, 2015: Legislature in session
- **July 1, 2015:** Personal possession and home production become legal
- March-October, 2015: Rule making
- November, 2015: Adopt rules
- **January 4, 2016:** Begin accepting applications for licenses
  - Application fee revenue begins in January
  - License fees collected when the licenses are issued
  - Tax revenue expected to begin July-October
- Late 2016: Retail sales begin

# Measure 91 Implementation Challenges

- Brand new program
  - No similar program within Oregon—third state in nation
  - Washington and Colorado provide some guidance
  - Significant differences in laws from state-to-state
- No implementation resources for OLCC included in measure
  - Loan from constitutionally established Liquor Fund
    - Repaid with 2% interest by end of 15-17 biennium
  - December E-Board authorized loan of \$583,000 and four positions
  - Additional 2013-15 Reconciliation Budget request for \$750,000

# How OLCC will Implement Measure 91

- Transparent public engagement process
- Develop rules to prevent access by minors
- Develop rules that promote public safety
- Bring industry into regulated market
- Prevent diversion of product from Oregon's legal system
- Partner with law enforcement efforts
- Address DUII standards

# Public Engagement

- Survey and listening tour
  - 16,000+ responses in one week to listening tour planning survey
  - Baker City, Pendleton, Salem, Eugene, Ashland, Klamath Falls, Bend, Beaverton, Clackamas, Newport, Portland
- [marijuana.oregon.gov](http://marijuana.oregon.gov)
  - More than 150,000 hits since November 5, 2014
  - E-mail list has more than 10,000 subscribers
  - Hundreds of comments through [marijuana@oregon.gov](mailto:marijuana@oregon.gov) and by phone
- Rule making hearings March-October
- Commission hearings

# Considerations to Prevent Access by Children

- No access by children anywhere in system
- No advertising targeting children
- No marketing to children
- All product in child-resistant packaging
- Education to children around risk
- Education to parents about risk
- 1,000 feet from schools
- Minor decoy operations

# Public Safety Considerations

- Ensure licensed business are operating according to regulations and preventing access to minors
- Prevent product migration between the legal and illegal markets
- Support local law enforcement agencies in their efforts to prevent unlicensed production and distribution of marijuana
- Testing all product for pesticides, molds and potency
- Labeling standards

# Law Enforcement Considerations

- Measure 91 gives OLCC no peace officer authority
- Local law enforcement lacks resources for complex financial investigations
- Partnership with law enforcement in all enforcement activities
- Funds will be available to local law enforcement
- Support law enforcement efforts to drive all marijuana commerce into regulated system
- Enforcement roles and responsibilities need to be clarified

# Considerations to Prevent Diversion

- Seed-to-sale system:
  - Colorado and Washington require robust inventory tracking system to ensure taxes are collected and inventory remains in legal market
  - Designed to allow for more effective audits and to satisfy federal guidelines
  - All product is tracked via Radio Frequency Identification (RFID) from seedling to final sale to consumer
  - Vendors have developed this software



# Impaired Driving Considerations

- The law does not identify a specific limit for marijuana intoxication
- The law requires OLCC to examine research and present a report to the Legislature, due January 2017
- OLCC will partner with DOJ Criminal Investigation Division and Oregon State Police to coordinate the collection of data before and after implementation

# Program Creation Challenges

- OLCC did not submit a 2015-17 Agency Request Budget
- Governor's estimated budget was based on information from July 2014, prior to passage of Measure 91
- No real picture of number of licenses until after January 2016 when applications begin
- No reliable revenue projections until after October 2016 when tax collection begins
- Credible projections of costs and revenues available in 2017

# Revenue Collection

- OLCC collects the tax from producers (growers)
  - \$35 per ounce for flowers
  - \$10 per ounce for leaves
  - \$5 per immature plant
- License fees
  - \$1,000 annual license fee plus \$250 application fee

# Revenue Variables

- Local referendums banning recreational marijuana
- Number of license applications
- Unknown consumption levels
- Market price
- Legislative action
- Home grow
- Edibles
- Changes in demand related to medical marijuana

# Estimates of License Fee Revenue

- OLCC estimates using industry consensus (1,200 total)
  - 600 Producers (Growers)
  - 200 Processors/Wholesalers
  - 400 Retailers
- Annual license revenue
  - \$1.5 million first year
  - \$1.4 million each subsequent year

# Estimated Tax Revenue

- Legislative Revenue Office state estimate
  - GRB \$16.7 million in biennium
- Independent estimates – not built around Oregon’s fiscal and budget process
  - Harvard study
    - \$70 million each year
  - ECONorthwest
    - \$38 million in first full year of tax collection
    - \$78 million in first full biennium

# Revenue Distribution

- Net revenue distribution after program expenses
  - 40% to Common School Fund
  - 20% to Mental Health, Alcoholism and Drug Services
  - 15% to State Police
  - 10% to Cities For Law Enforcement
  - 10% to Counties for Law Enforcement
  - 5% to Oregon Health Authority for Alcohol and Drug Abuse Prevention

# Governor's Recommended Budget

| Estimated Costs and Revenues Through 2015-17                  |                       |             |
|---|-----------------------|-------------|
| OLCC Fiscal Year 2015 Costs                                   | \$ (333,098)          |             |
| OLCC Fiscal Year 2016 Costs                                   | \$ (2,571,718)        |             |
| OLCC Fiscal Year 2017 Costs                                   | \$ (4,234,228)        |             |
| <b>Total Costs</b>  | <b>\$ (7,139,044)</b> |             |
| Projected Revenues  | \$ 16,035,830         |             |
| License and Application Fee Revenue                           | \$ 424,800            |             |
| <b>Net</b>  | <b>\$ 9,321,586</b>   |             |
| Transfer to ODA   | \$ 212,641            |             |
| <b>Available for Distribution</b>                             | <b>\$ 9,108,945</b>   |             |
| Distribution of Revenues                                      |                       |             |
| Common School Fund  | \$ 3,643,577          | 40%         |
| Mental Health Alcoholism and Drug Services Account            | \$ 1,821,789          | 20%         |
| State Police Account  | \$ 1,366,342          | 15%         |
| Cities for Local Law Enforcement                              | \$ 910,895            | 10%         |
| Counties for Local Law Enforcement                            | \$ 910,895            | 10%         |
| Oregon Health Authority for Alcohol and Drug Abuse Prevention | \$ 455,447            | 5%          |
| <b>Total</b>  | <b>\$ 9,108,945</b>   | <b>100%</b> |



# Marijuana Program Impact On OLCC Alcohol Program

- Administration/Support Services
  - Human Resources
  - Financial Services
  - Procurement
  - Facilities
  - Information Services
  - Contested case hearings

# 2013-15 Rebalance Needs

- E-Board December action - \$583,000
  - Four staff
  - Legal costs
  - Listening sessions
  - Seed-to-sale RFP development
- Current request for rebalance budget - \$750,000
  - Seed-to-sale RFP
  - Five additional staff
  - Public education campaign

# Seed-to-Sale System

- Track all marijuana within licensed commercial system
- Meet federal Cole Memo guidelines
- January RFI received 23 responses
- Coordinate with LFO and CIO's office implementing Stage Gate Review Process
- Intent to release RFP on March 10, 2015
- Intent to award on May 10, 2015
- System must be operative by January 4, 2016

# Rebalance Request for Staffing

- Compliance Specialist- oversee internal licensing policies and processes
- Data Analyst- develop analysis of the impact of Measure 91 including taxes, assist with budget planning and fiscal analyses, provide data for the “seed-to-sale” tracking system
- Project Manager- manage the business processes of computer programs, applications and systems to ensure that OLCC business objectives are met
- Business Analyst- oversee the business requirements and create process models for computer programs, applications and systems
- Administrative Assistant- provides administrative and technical support to the marijuana program

# Rebalance Request for Public Education Campaign

- \$350,000 public education campaign for July 1 legalization date
  - Contracted with state agency or outside consultants
- Improve Oregonians' understanding of recreational marijuana laws
- Improve compliance with the laws
- Minimize potential negative impacts of recreational marijuana use
  - Education specific to parents
  - Education specific to use of edibles and making of concentrates
  - Targeted information at preventing use by children/minors
- Provide avenues for citizens to obtain additional information

# GRB Building Block to Future Budget

- \$7.1 Million in 2015-17
  - Includes pay back of FY 2015 funding requests
- 28 Positions (20.5 FTE)
  - Staged hiring as needed
    - 15 positions for licensing and regulation
    - 4 positions for financial services, tax collection and audit
    - 5 positions for administrative support, rulemaking and outreach
    - 3 positions for information system development and maintenance
    - 1 manager
- Procurement of “seed-to-sale” tracking system
  - Estimated cost to build \$800,000
  - Estimated annual maintenance fee \$300,000

# GRB Building Block to Future Budget (cont.)

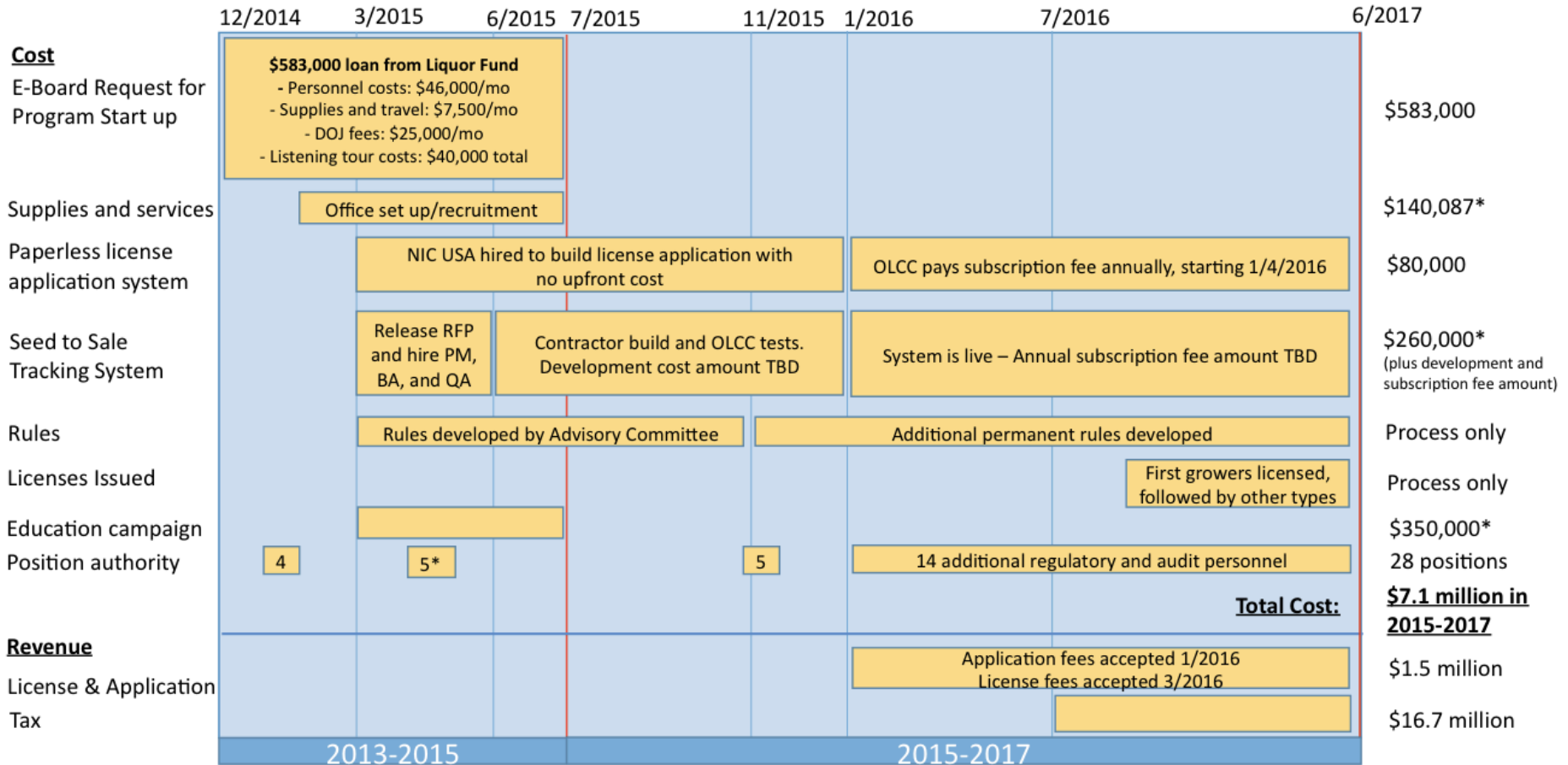
- Department of Justice consultation
- Facilities and resources for new personnel
- Other services for expert consultants and contractors
  - Help building the “seed-to-sale” request for proposals
  - Help setting laboratory and analysis standards
- Funding for other agencies
  - \$213,000 transfer to Oregon Department of Agriculture
    - Consult on standards for grow operations and scales

# Timing of Revenue and Expenditures

- Expenditures began December 2014
  - Increasing hiring and expenditures with ramp-up to issuing first licenses by March 2016 with emphasis on rule making, developing compliance standards and license investigation
  - The number of enforcement positions will be dictated by number of licensees, but some will be brought on after March 2016 as producer (grower) licensees begin to operate
- Seed-to-sale tracking system tested and in place by January 2016
- License revenue begins March 2016 with phased approach
  - License producers (growers) first, followed by processors then by retailers
- Tax revenue expected to begin July - October 2016 as first retail licensees begin to operate
- Additional regulatory and audit personnel hired as full operations are established (October 2016 and beyond)



# Implementation Costs and Timing



# More Information

Web

[marijuana.oregon.gov](http://marijuana.oregon.gov)

Email

[marijuana@oregon.gov](mailto:marijuana@oregon.gov)

Phone

503-872-6366

# Questions

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