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Subject: Testimony RE: HB 2041, SB 844 & HB 2040

Co-Chairs Burdick and Lininger and Members of the M91 Committee,

My name is Jennifer Alexander and I am a resident of Beaverton in Washington County. I would like to provide some brief testimony regarding the three bills before you for today's meeting. I would also like to reiterate an ongoing concern that I have expressed multiple times but for which I never received any response or heard any dialogue in meetings.

My ongoing concern is the definition of adult use limits, which are based on 4 "marijuana plants" instead of 4 "mature marijuana plants". Changing this language to base the limits for adults on mature marijuana plants will ensure that there is consistency between the medical marijuana laws and the adult use laws – something that various committee members have repeatedly stated as intended in reframing the language around both medical marijuana and adult use marijuana. It is confusing to use different and conflicting units of measure for defining the limits between the two paradigms. Especially with the adoption of the local opt-out, hostile counties are likely to use this vague limit of four marijuana plants to persecute those who attempt to grow their own, despite the clear intent of the legislature to allow adults the option to grow their own. Allowing adults to grow four mature marijuana plants makes a lot more sense and will allow those who choose to grow their own the ability to do it easily without unintentionally running afoul of state and local laws.

Specifically this change is:

- **Section 39 of the dash 9 amendment, page 44, line 22 - add the word "mature" before "marijuana plants".**
- **Also Section 121, page 86, line 14, insert "mature" before "marijuana plants" in both instances.**

This is the same language found in SB 964 and repeated in the dash 10 amendment (page 26) where limits are defined by "mature marijuana plants".

Equally, I feel it is important to adopt similar possession limits for adult home cultivation, otherwise this Legislature will be incentivizing the black market. A single outdoor plant is likely to produce more than 8 ounces, and if a person is already violating the law by possessing too much, they are incentivized to quickly get rid of the excess by selling it to others, especially in "dry counties" that have chosen to opt out of legal outlets for purchasing marijuana. You are creating a scenario where there are people who are denied legal access and therefore creating demand for the illegal markets, and other people who are violating the law simply because they have too much marijuana due to successful gardens and therefore incentivizing them to sell their excess – and illegal transactions are almost guaranteed. If the legal options aren't going to be present for purchasing marijuana, you at least want to remove incentives for

people to rid themselves of excess. The current situation is either violate the law by possessing too much when you harvest, or quickly rid yourself of excess when you harvest to restore the legal limits. While some people are going to just give away any excess – others are going to seek consideration since they are already operating illegally simply by having the extra. Adopting the limits defined for medical users – at 12 pounds per outdoor plant and 6 pounds per indoor plant – would encourage people to retain their excess and stretch it out over greater periods of time, instead of seeking to dispose of it through any means necessary, limiting their need to continuously cultivate more marijuana.

On the language before you today:

HB 2041 - Taxation

I feel that the taxation rate is set too high at 17% plus a possible 3% local tax for initially trying to draw people into the legal markets, especially when nearly half of Oregon will have to drive great distances to locate legal outlets to purchase marijuana and/or pay ridiculous fees to have marijuana delivered hours from its origination. The tax is an additional cost on top of the increased costs of this excessive travel, putting a huge wedge between the price of black market marijuana and legal options. This will ensure that the black market marijuana remains preferable for large populations of marijuana consumers, contrary to the intent of all stakeholders involved in this discussion.

I believe that the total taxation for the initial implementation needs to be very low, and could potentially be set to gradually increase as the market evolves. Setting the tax for the initial year of sales at something significantly lower, such as 7%, and then the 3% to localities, would be far more effective at drawing people into the legal market. All the estimates I am seeing indicate that the state is only expecting 30% (Mazen's estimate) or 40% (Seth Crawford's estimate) of the recreational market to utilize the legal option of retail outlets. That indicates an acceptance that 60-70% of adults users will either grow their own or will acquire through other means, including the black market. Only 6% of adults grow their own vegetables despite virtually no obstructions to doing so, so the number of people likely to grow their own marijuana isn't likely to be a huge portion of the 60-70% that are not purchasing marijuana legally. While it would be unreasonable to think that everyone will suddenly convert to legal means of acquiring marijuana – I feel like the Legislature is intentionally setting the bar very low for converting users to legal means. If we set the tax reasonably low, that number will be much higher.

I also think that the change to allowing the local opt-out creates a scenario where many counties and cities will benefit from the revenue distributed through the general fund without the intended balance that the drafters of Measure 91 put into place. I think the distribution of funds should be reconsidered and that any city or county who adopts to opt-out without a vote of their citizens should lose the benefit of the tax dollars distributed through marijuana taxes that channel through the general fund into the localities. Taxation isn't my field, so I don't have specific suggestions on how to do this, but there should be some way to ensure that cities and counties are not financially benefiting from the revenue from activity that is forbidden in their own localities. Measure 91 proposed simply eliminating the local tax distribution if a city or county opted out, but did not seek to lessen the portion that passed through the general fund into localities; this was largely because those localities were empowered to allow the citizens to decide if they wanted outlets. I believe if a city or county is going to opt out, through only a city council or through county commissioners without a vote of the citizens, there should be some financial disincentive to balance that decision – some sort of reduction in the amount of general fund

revenue that results from marijuana taxation that is then passed along to those localities that opted out without enlisting their citizens' vote.

HB 2040 & SB 844-37 – Early Retail Sales

I support the idea of early sales, and encourage this committee to support the concept. The thing that concerns me the most about the early retail sales is the proposed limit of a quarter-ounce purchase at a time. I haven't purchased less than a half ounce at any time for many years, including in Indiana where it was a misdemeanor to possess any amount of marijuana and a felony to possess an ounce or more, and Oregonians have long recognized one ounce as a reasonable personal possession limit. Restricting purchase to a quarter-ounce increases the cost for consumers (the cost tends to be higher when small portions are purchased – you can view Leafly to see how the price increases with small quantities) and will further increase costs by requiring consumers to repeatedly return to the dispensaries to replenish their supply. I feel like this will create unreasonable lines in these dispensaries, by forcing adult consumers to return often to replenish their supply, instead of allowing them to shop one time and have a supply that will last them a reasonable amount of time while reducing their expenses associated with the purchase. I typically buy an ounce every two weeks, and we use it conservatively and far less than most other marijuana consumers I personally know. That is more than enough 'trips' to make a purchase for me and I live close to the options for purchasing. If I lived in one of the unfriendly counties and had to drive hours to purchase marijuana, I don't want to be limited to a quarter-ounce per purchase.

Limiting purchases to a quarter-ounce seems to indicate a fear that there won't be enough marijuana to meet the needs of medical patients, but that is contrary to the basis for nearly every other rule that is predicated on us producing far more marijuana than Oregonians need by three to five times for both medical and recreational consumers. It seems to me that there is either a huge excess of marijuana and therefore a one ounce purchase limit is much more reasonable – or there isn't an excess, and therefore all the changes made so far are only going to ensure we don't have sufficient supply to meet the demands of our local market. I feel like this Legislature is contrarily arguing that there is too much marijuana and also not enough. It seems to me that it is one or the other, but not both.

HB 2041-3 – Early Retail Sales with an increased tax rate

I support the early sales, but I do not support an increased tax rate of 25% as proposed in the dash 3 amendment. Again, we are trying to draw people into the legal channels, not drive them out. I do not understand why we would suggest a higher tax rate for the "limited" sales allowed under this amendment; the 17%+ proposed is already too high to effectively draw people into the legal channels. This Legislature is comparing apples and oranges if the rates reported by the Oregonian of 65% tax on the wholesale price of cigarettes or 100% tax on the wholesale price of alcohol. We are not taxing marijuana "wholesale" and the retail rates for both these items are significantly lower. A pack of cigarettes averages about \$5.00, which includes a federal tax of \$1.01 and a state tax of \$1.31, meaning cigarettes taxes are something less than 48% at retail (depending on the actual price per pack). Beer and wine are taxed much lower, at the equivalent of approximately ten cents per 12 pack of beer, or less than a penny per beer, and approximately thirteen cents per bottle of wine – both tax rates coming in far below 1% of the retail price.

A 12-pack of beer or a bottle of wine is roughly equivalent to a quarter-ounce of marijuana, in terms of how long it would last a consumer. Yet, where the 12-pack of beer would only incur ten cents in tax and

the bottle of wine would incur thirteen cents in tax – the quarter-ounce of marijuana (estimated at \$50 for a quarter ounce) would incur something like \$8.50 in state taxes and a possible \$1.50 more in local taxes, for a total of 10 dollars in taxes (or 20%). This is way too high for the intended purpose of implementing legal retail sales, especially at the outset when this is a new industry trying to draw consumers into the marketplace. This rate is particularly high when we consider that our federal congressman is currently lobbying to reduce craft brewing taxes to encourage the growth of the beer industry – tax rates far below anything being considered for marijuana. We need to consider the consequences of the tax rate on consumer behavior and potential revenue from collected taxes. A lower tax rate will encourage more people to use the legal options, increasing revenues and reducing enforcement costs. A higher tax rate will reduce revenues by discouraging conversation to the legal market, and will increase enforcement costs trying to prevent the unlawful sales that are guaranteed to occur if the tax rates are set too high.

SB 844-36

I do not understand why every task force or committee created not only fails to include a consumer or patient among their membership, but appears to intentionally exclude that perspective in statute. Most other committees include something such as “one member of the public” or some other similar ‘open’ appointment that would at least allow a consumer to get their voice heard through the body. But all these various committees and task forces that are supposed to determine the impact on the consumers fail to include the consumer or any “member of the public” by statute.

SB 844-38

I support the provisions of the dash 38. Please support this amendment.

Thank you for your time and consideration.

Sincerely,

Jennifer Alexander