To: Fiscal Estimate Committee
Fr: Sam Chapman, Campaign Manager, IP 34
Re: IP 34 Response to Draft Fiscal Statement
7/27/2020

This memo outlines the justification for why the Yes on IP 34 campaign believes that the current Fiscal Estimate Committee draft fiscal estimate assumes an egregiously high dollar amount for the fiscal impact of IP 34 in the first two years after it is enacted.

We believe that the Oregon Health Authority estimate of 19.75 FTE and 23 staff total is far too high for a measure this modest.

Our understanding is that the current fiscal estimate assumes that OHA will have similar implementation costs to cannabis legalization. This memo enumerates why that is not the case. Three areas stand out as substantially different than cannabis legalization:

1. Much of the bureaucratic systems for cannabis legalization were started from scratch after the passage of Measure 91 (2014). To reduce administrative burden, IP 34 used the same language and sections when writing IP 34 (2020) which should allow for the OHA to use carbon copy bureaucratic systems to implement IP 34, saving on staff time and money.
2. The scope of IP 34 in terms of products and retail locations is dwarfed by the cannabis industry. Most importantly, since IP 34 keeps psilocybin illegal except at licensed therapeutic centers, there is no need for packaging regulations for child safety and no need for home grow regulations. IP 34 limits the forms of psilocybin to be used for the therapy, these methods are already in use in the federal FDA process for psilocybin research and should be easily adapted to therapeutic use in Oregon.
3. The number of cannabis retailers far outstrips the expected therapeutic locations for IP 34, and again, since there is no advertising of psilocybin, no home use, no home growing, no retail sales of psilocybin, establishing the rules for psilocybin from this perspective should take fewer staff and resources by an order of magnitude in comparison to cannabis.

In addition to these important bureaucratic differences, the OHA estimate includes a $1.5 million estimate for Fiscal Year 2019-2021, when the law does not require any activity from the state. That cost should be immediately cut from the proposed fiscal estimate.

Details of our concerns are below:

1. <u>2019-2021 Biennium</u>

OHA cost estimates are $1.5M for 2019-2021 to “implement” the program

- The measure has no requirements from OHA during this two month period, and costs will not and should not accrue until January 2021.

2. Two-Year Development Period

The timeline outlined in the measure does not demand considerable work from state agencies until well into the 3rd quarter — which should call into question the need for considerable staff in advance of July 2021 at the earliest.

The timeline for the 2-year program development period is:

- 2/28/21 – Governor appoints members of Advisory Board
- 3/31/21 – Advisory Board holds first meeting
- 6/30/21 – Advisory Board makes recommendations on studies, research, and educational information to be published by OHA
- 7/31/21 – OHA publishes studies, research, and educational information
- 6/30/22 – Advisory Board makes recommendations regarding rules/regulations
- 12/31/22 – OHA adopts rules and regulations

It is likely the case that the majority of costs for implementation will be in 2022, not 2021. With this in mind, the cost of 19.75 FTE for the development period is not consistent with demand and workload.

3. Reasons Why IP 34 Rules Will Be Easier Than Measure 91 Rules

- Large portions of IP 34 are borrowed language and concepts from ORS Chapter 475B, which governs OLCC-regulated cannabis. While IP 34 obviously differs from Measure 91/ORS 475B in many respects, there will be many consistencies in the programs. OLCC-regulated cannabis has been through six years of rule/regulation/statute changes. Lessons have been learned. The OR legislature and the OLCC have modified and adapted since the measure passed, but things have now largely stabilized. For this reason, many parts of the IP 34 rules will **not** be starting from scratch.

  Also, following the passage of Ballot Measure 91, the Oregon legislature stepped in during their 2015 session and held numerous hearings and made significant changes to Measure 91 during a relatively hectic 1-year rule-making period. The proposed laws were changing month to month, and both the OLCC and the OHA had to monitor things week in and week out to keep abreast of what was happening. While the 2021 Oregon legislature might make some tweaks to IP 34, there is more time baked into the development for IP 34 and there is reason to believe that the lessons learned from cannabis legalization will remove a substantial part of the administrative burden.

  The overlaps between IP 34 and the provisions of ORS Chapter 475B include (but are not limited to):

  - Sections 14-19: Application Process / Eligibility for Licenses / Fingerprints / Land Use Compatibility Statements
  - Sections 27-28: Licensed premises proximity to schools
  - Section 45 – Tracking system

    - Sections 42-44 and 46-50 – Authority to investigate, inspect, and discipline licensees
    - Sections 54-55 – Identification procedures to ensure 21 years of age
    - Section 64 – Disciplining licensees
    - Sections 65-68 – Employees and worker permits
    - Sections 70-73 – Certain prohibited conduct by licensees
    - Section 74-78 – Civil and criminal enforcement powers
    - Sections 79-83 – Local regulations
    - Sections 84-90 – Powers and duties of agencies and governor
    - Sections 96-104 – Testing and labs
    - Sections 105-112 – Packaging and labeling
    - Sections 113-127 – Retail tax
    - Section 128 – Local jurisdiction opt out

- There will be no outdoor production of mushrooms. Section 52. There will be no need for the significant amount of rules governing outdoor marijuana grows.

- Mushrooms have no connection to hemp, and so there will be no need for the significant amount of rules governing the interplay between marijuana and hemp.

- There will be considerably fewer products to regulate. Marijuana products include marijuana itself, edibles, extracts, concentrates, tinctures, and topicals. Psilocybin products will be much more limited.

- There are considerably fewer licenses than cannabis. IP 34 licensed businesses are limited to manufacturing, services center operator (akin to retail), and labs. IP 34 does not have a separate processing license or wholesale license (like cannabis does) and the number of these licenses will be far fewer than cannabis.

- Psilocybin products will not leave a service center, advertising of psilocybin is not allowed, there is no retail sale of psilocybin and it is not approved for home use. This likely will obviate the need for child-proof packaging, and other child-related regulations (such as marketing / confusion with candies, gummies, etc.)

Best,

Sam Chapman
Campaign Manager, IP 34
503-396-9062
sam@yesonip34.org