



July 30, 2024

Financial Estimate Committee  
Secretary of State Griffin Valade, Chair  
Public Service Building Suite 126  
255 Capitol St. NE  
Salem OR 97310

**Re: Initiative Petition 35**

Chair Griffin-Valade and members of the Committee:

On behalf of the chief sponsors of Initiative Petition 35, I would like to urge your reconsideration of the draft Estimate of Financial Impact dated July 11, 2024 and adopt a statement of indeterminate impact (detailed below) on the following bases:

**1. The Financial Estimate Committee has a precedent of allowing “indeterminate” statements when circumstances exist like that of IP-35.**

This Committee adopted a statement of “indeterminate” impact for Referral 401 (allowing impeachment of state officials). Though acknowledging that additional costs could conceivably materialize, the Committee wisely demurred assigning a precise figure because of the discretionary and subjective nature of the process. Even in the last cycle, the Committee (of which two members are still serving) made a point of avoiding overly prognosticative assertions:

- In 2022, the Financial Estimate Committee issued an “indeterminate” statement for Measure 111 (a constitutional amendment ensuring affordable healthcare access) because the actual costs would be predicated on the methods of implementation of the measure.
- Also in 2022, the Committee issued an “indeterminate” statement for Measure 112 (a constitutional amendment outlawing slavery) despite the acknowledgement that certain legal costs and agency changes to programs would be expected.
- Also in 2022, the Committee issued a “no financial effect” statement for Measure 113 (limiting legislators with unexcused absences from re-election), which was reasonably expected to be the case at the time, even though the chance of additional legal costs existed (and eventually materialized).

But most parallel to the process in evaluating Initiative Petition 35 is the statement issued in 2022 for Measure 114, which required background checks and locally-led safety training for obtaining firearms, established a fee for a permit to acquire firearms, required the Oregon State Police to establish and maintain a new permit/firearm database, and established criminal penalties for the possession of certain items. The Financial Estimate Committee acknowledged receipt of cost estimates from both state and local government entities, but nevertheless wisely issued a statement of “indeterminate” fiscal impact given both the uncertainty in the incoming assumptions as well as the uncertainty around potential cost savings to those same entities. Those same criteria exist in the case of IP-35, and we ask for the same measured consideration.

## **2. Agency assumptions do not consider possible cost savings**

As noted above, in the case of Measure 114 the Financial Estimate Committee opted for an “indeterminate” finding when it had received estimates of costs from state agencies but were unable to determine the resulting net costs when those costs were set against probable cost savings.

Similarly, the Committee’s preliminary draft acknowledges several sources of expenditures from the Oregon Liquor and Cannabis Commission, but has insufficient information with regard to savings to issue a precise impact statement:

- Call center costs:  
OLCC asserts that “approximately 1/3 of calls received [to OLCC’s call center] relate to labor/management issues at OLCC licensed cannabis locations,” and that “One Regulatory Specialist would be needed to vet and investigate additional call center complaints and prepare case reports for referral to the Administrative Hearings Division to impose sanctions required by IP 2024-35.” However, this is an incomplete picture of the circumstances that would likely exist under IP-35. First, there is no indication that a particular call “relat[ing] to labor/management issues” would necessarily — or even likely — be one that necessitated a case report be forwarded to Administrative Hearings. The only sanctions required by IP-35 would have to be specifically triggered by lack of a Labor Peace Agreement during a licensee’s application or renewal process or an abatement of that agreement, which are currently not at issue because that requirement does not yet exist. As it stands, OLCC has stated that it has received 9,783 calls in 2023, and that one third (over 3,200) were related to labor/management issues. However, if IP-35 were to take effect, each of those licensees would, after the renewal of their current license, necessarily be party to an agreement that spelled out many of the details surrounding labor/management relations. This would not only clarify many of the issues leading to those calls, but also provide callers an alternate party with which to lodge complaints (i.e: a disaffected employee could call the union party rather than the OLCC, or a manager with questions could call their attorney to interpret the LPA rather than call OLCC to interpret labor laws).

- Expanded licensure requirements resulting in closing of businesses  
 OLCC explains that its past action of “Expanding the licensure requirements [to include tax compliance certificates] resulted in a heavy burden on OLCC licensing staff,” due to the resulting closure of three licensees and the significant related costs to the agency. However, this is not at all parallel to obtaining a Labor Peace Agreement for several reasons, the most notable being the ease and discretion with which an LPA is entered into. Obtaining a Tax Compliance Certificate from the Department of Revenue is a more rigorous process, requiring certain federal information for a business that the federal government does not recognize as legitimate and complete accounting of a cash-only business. In fact, even on the Department of Revenue’s own web page answering questions on Tax Compliance Certificates (for all businesses; not just cannabis businesses), one of four “Frequently Asked Questions” is: “Why was my application returned as ‘unable to process’?” Conversely, a Labor Peace Agreement is a mostly standard-form template, discretionary to both parties, and can be entered into online in as little as thirty minutes. It is unlikely that any licensee who attempts to enter into a LPA will be unable to successfully do so.
- Additional technology upgrades to CAMP  
 OLCC indicates it will require \$100,000 to upgrade its Cannabis and Alcohol Management Program (CAMP) licensing system to include the submission of Labor Peace Agreements. The chief sponsors and UFCW Local 555 have been similarly preparing for upgrades to its internal systems and are bearing the costs in-house, which have been incorporated into the existing ongoing costs of maintaining an information infrastructure; we suggest that OLCC re-bid that project.
- Additional costs associated with the hearings and sanctions process  
 While OLCC is expected to impose sanctions in the event that a licensee is non-compliant with the provisions of IP-35, additional related costs are all described as those stemming from the administrative hearing process. OLCC asks for an additional Case Presenter and an Administrative Specialist who would help facilitate the appeals process for any such penalized licensees. However, this fails to take into account two characteristics of the LPA requirement: The objectivity of the requirement and the ease at which the requirement may be fulfilled. Some of the existing requirements for OLCC licensure of cannabis businesses include subjective requirements for which denial may result in a robust appeal: e.g: Whether the applicant is "in the habit" of using controlled substances "to excess," whether the applicant is of "good repute and moral character," or has "demonstrated financial responsibility." (From ORS 475C.037) But for almost all circumstances in which a licensee might be sanctioned under IP-35, the requirement is not subjective; a signed Labor Peace Agreement either exists or does not. The administrative hearings process is unlikely to see many appeals for a possible violation that is not subjective and might otherwise be cured within a matter of hours.

Also notably, the OLCC’s Administration and Support program does not appear to be overly strained, as in the last budget cycle the Governor’s budget contained a budget

option that removed nine positions “that remained vacant for an extended period of time,” resulting in adoption of Package 802, which removed 5.00 FTE from the program representing Administration and Support positions that had gone unfilled. (See SB 5519-A Budget Report, 2023.)

Given these mitigating factors, we believe that the indeterminate costs as well as possible cost savings are sufficient to consider agency costs to be indeterminate.

### **3. Agency needs are still under review**

Lastly, it is premature to assume what positions will be added to OLCC as a result of IP-35 given the 2023 Legislature recently approved Budget Package 801 to SB 5519 which provided for some OLCC personnel reclassifications as a first step in reevaluating personnel needs in this area. Specifically, an attached budget note stated:

“By December 2024, the Oregon Liquor and Cannabis Commission shall provide to the Legislative Fiscal Office an **analysis of workload and staffing** in the areas of **licensing**, public safety, financial administration, **contested cases/disciplinary proceedings**, policy development, and communications. The analysis shall be for purposes of determining the extent to which positions devote time to matters related to liquor vs. cannabis. allocating staff to appropriate funding streams, and developing a cost allocation model for shared administrative and program functions to inform future investment decisions.” (SB 5519-A Budget Report, 2023. Emphasis added)

To our knowledge, this analysis has not yet been delivered. We feel it would be premature for this Committee to issue what is, essentially, a prospective endorsement of those positions before the OLCC is able to provide such an analysis of its current needs in these program areas.

### **Summary**

A number of factors make potential costs for implementing IP-35 difficult to ascertain, including but not limited to: consideration of potential and likely cost savings, dissimilar circumstances compared to past program adjustments, and ongoing analysis with regard to the OLCC’s own staffing needs in this area. We do not want to suggest that the information provided by OLCC is in any way inaccurate, but the stated methodologies engender significant unanswered questions in the context of an estimate for IP-35.

While we do not expect the Committee to reject or ignore OLCC’s estimates, we respectfully point out that the Financial Estimate Committee has a solid precedent of returning an “indeterminate” fiscal impact statement when it feels that agency costs would be mitigated by likely but unknown factors.

We recommend and request a statement such as the following, which is in line with past Committee statements:

“The measure intends for increased costs to be funded by existing cannabis-related licensing fees. Cost estimates related to the measure were received, but there is uncertainty in the assumptions regarding the estimates made, including the projections of the number of noncompliant licensees and other related costs. There is also uncertainty in potential cost savings to state government expenditures due to an expected decrease in OLCC involvement in labor/management issues. Therefore, the financial impact of Measure \_\_ for state government is indeterminate. There is no financial impact to local governments.”

Thank you.

With Regards,

A handwritten signature in blue ink, appearing to read "Mif Selvaggio". The signature is fluid and cursive, with a long horizontal stroke at the end.

Michael Selvaggio  
Political Director, United Food and Commercial Workers Local 555  
*for the Chief Sponsors of IP-35*

Cc: IP-35 Chief Sponsors  
Members of the Financial Estimate Committee