Oregon Liquor Control Commission

	2013-15 Actual	2015-17 Legislatively Approved*	2017-19 Current Service Level	2017-19 Governor's Budget
Other Funds	151,299,015	182,681,809	191,327,026	202,793,906
Total Funds	**$ 151,299,015**	**$ 182,681,809**	**$ 191,327,026**	**$ 202,793,906**
Positions	234	268	263	266
FTE	226.47	255.33	261.00	264.00

* Includes Emergency Board and administrative actions through December 2016.

Program Description

The Oregon Liquor Control Commission (OLCC) licenses and regulates individuals and businesses that manufacture, sell, import, export, or serve alcoholic beverages, and individuals and businesses that grow, process, wholesale, test and sell at retail marijuana (including those who work in the marijuana industry. The agency educates and trains its licensees, the public, and other groups; and investigates and acts when necessary against those who violate liquor or marijuana laws. The five-member Commission is appointed by the Governor and confirmed by the Senate. In November 2014, Oregon voters approved Ballot Measure 91 which legalized the sale and use of recreational marijuana in Oregon. OLCC was named in both the ballot measure and subsequent implementing legislation as the chief regulator for recreational marijuana. Over the course of the 15-17 biennium, the OLCC developed and implemented a phased regulatory framework for subject licensees, including producers, processors and wholesalers of recreational marijuana, and the retail establishments in which marijuana products are for sale.

CSL Summary and Issues

Liquor sales are assumed to generate an estimated $1.3 billion in gross revenue, which includes an assumed $35.4 million generated from the $0.50 per bottle surcharged imposed by the OLCC in August. Privilege taxes on beer, wine and malt beverages are estimated to generate $38.1 million. After Current Service Level expenditures (including cost of goods and agent's compensation) the amount of revenue generated for the General Fund is estimated at $316.8 million, a figure that includes the surcharge revenue.

Agency data entry errors relating to transfers of revenue between the Marijuana Regulation division and other agency divisions resulted in an understatement of revenue to the General Fund of $14.8 million. The Governor's budget makes technical adjustments to correct these errors.

The Current Service Level phases out $15 million in expenditures, including $5 million for one-time expenses related to shipping capacity expansion, $4.1 million for roof and other facility repairs, $1.3 million in one-time expenditures related to information technology development for the marijuana program, and agent's compensation limitation for a Commission-imposed $0.50 per bottle surcharge which was set to expire at the end of the 2015-17 biennium (but has since been renewed for 2017-19, so will have to be built back into the legislatively adopted budget). Inflationary exceptions are included for agents' compensation and bank card fee expenses. The OLCC will also need additional expenditure limitation associated with a $40 per month fee for each licensee associated with the cannabis tracking system, charged by the system developer, METRC.

Policy Issues

The number of active and approved recreational marijuana licenses through March 20, 2017 totals 1,042, compared with the 1,100 licensees forecast for the biennium at the time the 2015-17 budget was adopted. In addition, there are currently 1,224 applications currently in the agency's application queue. Taken together, this represents nearly twice as many licensees by the close of 2015-17 as originally forecast, were the agency to have the licensing personnel to review and investigate all applications in a timely manner. Up to now, OLCC has been focusing personnel resources on evaluation and approval of licenses (including necessary site visits), in an effort to meet statutory deadlines associated with standing up the recreational marijuana regulatory framework outlined in approved legislation. Ninety two percent of authorized positions related to the marijuana program are filled, and OLCC has also been "borrowing" licensing and public safety personnel previously dedicated to liquor licensing and enforcement to keep up with demand. OLCC redeployed liquor investigators and enforcement staff to their primary liquor duties as of late March, 2017. In addition, marijuana enforcement staff must begin to inspect licensed premises and respond to reporting discrepancies in the cannabis tracking system. The change in staffing emphasis will result in an anticipated backlog in licensing applications. The renewal period for licenses already issued has also begun, which adds another chokepoint. Cash flow further complicates the issue: The Legislature directed the Marijuana Program to be self-supporting; however, revenue for licensing applicants is not received until the license is issued, after much of the licensing investigatory and review occurs. If additional staff are approved to address the increase in license applications, licensing fees are projected to be sufficient to cover costs, but the timing of when the revenue is received creates a temporary shortfall that must be remedied, either by borrowing against Marijuana tax revenues (to be repaid by the agency) or by borrowing against the liquor fund, as was done in 2013.

Licensing volume will also drive ongoing enforcement needs, expenditure limitation, and will influences the future fee structure of the marijuana program, which was legislatively directed to be self-supporting. It is likely to be at least a couple of biennia before the marijuana industry becomes more predictable in terms of licensees and volume of product. Additional legislative policies enacted related to the regulation of recreational cannabis, and discussions regarding merging the regulation of medical marijuana with recreational marijuana may also drive administrative and enforcement personnel needs, and attendant expenditure limitation, as well as create the potential for revenue shortfalls in the Oregon Health Authority, which has historically relied on medical marijuana fee revenue to support other public health programs.

The OLCC is also in the process of a distilled spirits retail expansion -- with some new licensees located within larger existing retail establishments -- in communities with a high population to liquor outlet ratio. Fourteen new retail outlets were approved for the Portland Metro area, and six were approved in Linn, Benton and Lane Counties. The agency is in the process of opening recruitment for new stores in central and eastern Oregon. By the end of the 2017-19 biennium, the OLCC expects the number of stores to increase, from the current 262, to as many as 310. The workload demands of recreational marijuana on liquor enforcement personnel have resulted in fewer inspections of premises licensed to sell and serve alcohol in 2015-17.

Other Significant Issues and Current Discussions

The Governor's Budget assumes doubling the current $0.50 per bottle surcharge to $1.00, and dedicates approximately $33.8 in assumed additional revenue to the General Fund, and provides related expenditure limitation for bank card fees and agents compensation consistent with this assumption. The Governor's budget would also propose to increase licensing fees on all classes of licenses but service permits, resulting in an additional $5.3 million in revenue for the General Fund. The Co-Chairs Existing Resources Budget Framework does not contemplate these revenue enhancements.

OLCC facility repair and improvements were approved in 15-17, including $5 million for improvements to shipping capacity to meet demand for distilled spirits, and $5.1 million for repair and safety improvements to OLCC's roof, HVAC and electrical systems. OLCC initially anticipated a 10-year facilities plan that anticipated future requests for other sections of roof, door and window repair and replacement, seismic upgrades, security system improvements, lighting, wiring, asbestos removal, flooring repair and replacement and parking lot maintenance, but additional infrastructure repair and maintenance items are not included in the Governor's budget. OLCC may soon look to leasing additional office space to accommodate additional personnel related to marijuana regulation, particularly if directed to regulate medical marijuana growers and retailers.

In its effort to comply with statutory deadlines surrounding the legalization of recreational marijuana, OLCC has deployed a cannabis tracking system and on-line application and licensing system for recreational marijuana licensees. A comprehensive on-line application and renewal system for liquor licenses is once again the agency's primary information technology focus. The agency has worked on such a system internally, on and off, since 2007. The agency plans to build on the marijuana licensing platform to create its distilled spirits licensing system, but further planning is needed before additional expenditure limitation is requested and considered. Beer and wine tax reporting and payment is still done via a mail-and-paper process. A policy option package regarding the latter was requested by the agency but not approved as part of the Governor's recommended budget, and legislation has been introduced to mandate an automated system. A case can be made that a tax reporting and payment system is highly desirable for both licensees and agency productivity, but whether such a system can be incorporated into liquor licensing project design is to be determined. It is becoming increasingly apparent that the agency needs to develop an integrated approach to information technology planning and execution, for both the short and long-term.

OLCC's most recent Annual Performance Progress Report indicates that the agency missed its key performance measure target for Return On Investment, owing to large one-time expenditures associated with capital improvements, a new warehouse conveyor system, IT investments and expenditures related to staffing the new marijuana program absent reimbursement from marijuana tax revenue. Performance related to the average number of days to issue a liquor license also fell, from 72 days to an average of 78, which the agency also attributes to one-time staffing gaps created by temporarily moving liquor licensing personnel to the marijuana program. The agency met performance targets for customer service, rate of second violations and sales to minors, which will factor into Legislative Fiscal Office recommendations regarding requests for additional enforcement staff.