

ALASKA STATE LEGISLATURE
JOINT MEETING
HOUSE JUDICIARY STANDING COMMITTEE
SENATE JUDICIARY STANDING COMMITTEE
9:03 a.m.

MEMBERS PRESENT

HOUSE JUDICIARY

Representative Wes Keller, Chair
Representative Bob Lynn, Vice Chair
Representative Neal Foster
Representative Lance Pruitt
Representative Max Gruenberg

SENATE JUDICIARY

Senator John Coghill, Chair
Senator Donald Olson

MEMBERS ABSENT

HOUSE JUDICIARY

Representative Gabrielle LeDoux
Representative Charisse Millett

SENATE JUDICIARY

Senator Fred Dyson
Senator Lesil McGuire, Vice Chair
Senator Bill Wielechowski

OTHER LEGISLATORS PRESENT

HOUSE

Representative Sam Kito III

SENATE

Senator Charlie Huggins

COMMITTEE CALENDAR

PRESENTATION(S): AN ACT TO TAX AND REGULATE THE PRODUCTION,
SALE AND USE OF MARIJUANA

- HEARD

PREVIOUS COMMITTEE ACTION

No previous action to record

WITNESS REGISTER

LIBBY BAKALAR, Assistant Attorney General
Labor and State Affairs Section
Civil Division(Juneau)
Department of Law (DOL)
Juneau, Alaska

POSITION STATEMENT: Provided a sectional analysis of the
marijuana initiative titled "An Act to Tax and Regulate the
Production, Sale, and Use of Marijuana."

BRUCE TANGEMAN, Deputy Commissioner
Office of the Commissioner
Department of Revenue (DOR)
Anchorage, Alaska

POSITION STATEMENT: Spoke to the cost impacts that the proposed
act to tax and regulate the production, sale and use of
marijuana would have to the Department of Revenue.

MATT FONDER, Director
Anchorage Office
Tax Division
Department of Revenue (DOR)
Anchorage, Alaska

POSITION STATEMENT: Spoke to the amount of estimated revenue
that the proposed act to tax and regulate the production, sale
and use of marijuana would bring to the state.

NANCY MEADE, General Counsel
Administrative Staff
Office of the Administrative Director
Alaska Court System
Anchorage, Alaska

POSITION STATEMENT: Spoke to the anticipated impacts to the
Alaska Court System that would result from enactment of the
proposed act to tax and regulate the production, sale and use of
marijuana.

RONALD TAYLOR, Deputy Commissioner
Office of the Commissioner - Anchorage
Department of Corrections (DOC)
Anchorage, Alaska

POSITION STATEMENT: Spoke to the anticipated impacts to the Department of Corrections that would result from enactment of the proposed act to tax and regulate the production, sale and use of marijuana.

L. DIANE CASTO, Prevention & Early Intervention Manager
Prevention & Early Intervention Section
Division of Behavioral Health
Department of Health & Social Services (DHSS)
Juneau, Alaska

POSITION STATEMENT: Spoke to the anticipated impacts to the Department of Health & Social Services that would result from enactment of the proposed act to tax and regulate the production, sale and use of marijuana.

JEANNE MUNGLE, Director
Division of Administrative Services
Department of Commerce, Community, and Economic Development (DCCED)
Juneau, Alaska

POSITION STATEMENT: Spoke to the anticipated fiscal impacts to the Department of Commerce, Community, and Economic Development that would result from enactment of the proposed act to tax and regulate the production, sale, and use of marijuana.

SHIRLEY COTE, Executive Director
Alcoholic Beverage Control Board
Department of Commerce, Community & Economic Development (DCCED)
Juneau, Alaska

POSITION STATEMENT: Spoke to the anticipated impacts to the Alcoholic Beverage Control Board that would result from enactment of the proposed act to tax and regulate the production, sale, and use of marijuana.

ELAINE BUSSE FLOYD, Director
Division of Environmental Health
Department of Environmental Conservation (DEC)
Anchorage, Alaska

POSITION STATEMENT: Spoke to the anticipated impacts to the Department of Environmental Conservation that would result from enactment of the proposed act to tax and regulate the production, sale, and use of marijuana.

KELLY HOWELL, Special Assistant
Office of the Commissioner
Department of Public Safety (DPS)
Anchorage, Alaska

POSITION STATEMENT: Spoke to the anticipated fiscal impacts to the Department of Public Safety that would result from enactment of the proposed act to tax and regulate the production, sale and use of marijuana.

CHRISTOPHER RUSSELL, Sergeant
Statewide Drug Enforcement Unit (SDEU)
Division of Alaska State Troopers
Department of Public Safety (DPS)
Juneau, Alaska

POSITION STATEMENT: Answered questions related to anticipated impacts from enactment of the proposed act to tax and regulate the production, sale, and use of marijuana.

TIM HINTERBERGER, PhD; Chair
Campaign to Regulate Marijuana Like Alcohol
Anchorage, Alaska

POSITION STATEMENT: Speaking as chair of the Campaign to Regulate Marijuana, testified in support of the initiative.

KELLY DREW, MD
Fairbanks, Alaska

POSITION STATEMENT: Speaking in her capacity as a scientist, testified in support of the marijuana initiative.

ROBERT CAPECCHI, Deputy Director
State Policies
Marijuana Policy Project (MPP)
Washington, D.C.

POSITION STATEMENT: Testified in support of the marijuana initiative.

BEN CORT, Business Manager
Center for Dependency, Addiction and Rehabilitation (CeDAR)
University of Colorado Health System
Denver, Colorado

POSITION STATEMENT: Speaking in his capacity as one who works at the University of Colorado Health System in-patient drug treatment program, testified in opposition to the marijuana initiative.

JEFF JESSEE, Chief Executive Officer
Alaska Mental Health Trust Authority (AMHTA)

Department of Revenue (DOR)
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to the marijuana initiative.

DEAN GUANELI, Attorney at Law
Juneau, Alaska

POSITION STATEMENT: Speaking as a former Assistant Attorney General, Criminal Division, Department of Law, testified in opposition to the marijuana initiative.

ADAM BERKEY
Juneau, Alaska

POSITION STATEMENT: Speaking as a medical marijuana consumer, testified in support of the initiative.

ROSEANNE MANCUSO
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of the marijuana initiative.

JIM NELSON
Anchor Point, Alaska

POSITION STATEMENT: Testified regarding the lack of studies on the use of cannabis in Alaska.

DEBORAH WILLIAMS
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to the marijuana initiative.

ELIZABETH RIPLEY, Executive Director
Mat-Su Health Foundation
Mat-Su Regional Medical Center
Wasilla, Alaska

POSITION STATEMENT: Testified in opposition to the marijuana initiative.

JAMES SCHENK
Ketchikan, Alaska

POSITION STATEMENT: Testified in support of the initiative.

TOM TOUGAS
Seward, Alaska

POSITION STATEMENT: Speaking as an owner of Major Marine Tours and with concerns regarding Alaskan youth, testified in opposition to the marijuana initiative.

ACTION NARRATIVE

[9:03:48 AM](#)

CHAIR JOHN COGHILL called the joint meeting of the House and Senate Judiciary Standing Committees to order at 9:03 a.m. Present at the call to order from the House Judiciary Standing Committee were Representatives Foster, Lynn, and Keller. Representatives Gruenberg and Pruitt arrived after the meeting was called to order. Representative Kito III was also present. Present from the Senate Judiciary Standing Committee were Senators Olson and Coghill. Senator Huggins was also present.

Presentation: An Act to Tax and Regulate the Production, Sale and Use of Marijuana

[9:04:22 AM](#)

CHAIR COGHILL announced that the first order of business would be a presentation related to the initiative titled "An Act to Tax and Regulate the Production, Sale, and Use of Marijuana" that will be on the 2014 ballot. He explained the Alaska Statutes require that legislative hearings are held for initiatives that have been certified by the lieutenant governor. The hearings are not for debating the bill, but to review the legal analysis and discover the fiscal impacts and enforcement impacts.

[9:09:08 AM](#)

LIBBY BAKALAR, Assistant Attorney General, Labor and State Affairs Section, Civil Division(Juneau), Department of Law (DOL), provided a sectional analysis of the marijuana initiative titled "An Act to Tax and Regulate the Production, Sale, and Use of Marijuana." She clarified that neither the Department of Law, nor any of her colleagues in the administration who will be testifying on behalf of their respective departments, are taking any position on the initiative. Presenters are before the committees to discuss the mechanics of the initiative and offer a completely neutral assessment of its associated costs and impacts. She explained that "13PSUM" is a ballot measure that has been certified on the 8/19/14 statewide primary election ballot, and 13PSUM is the designation given the proposition by the Division of Elections.

MS. BAKALAR described her office's role in the ballot initiative process. The Department of Law represents the lieutenant governor and the Division of Elections in helping them execute their constitutional and statutory duties. Members of the public author and propose ballot measures and are the sponsors. There are certain statutory and constitutional limitations on the initiative process, and her office reviews ballot measure applications to determine whether they comply with the technical and constitutional requirements of a ballot measure, and then advises the lieutenant governor - usually in the form of a written published opinion - whether DOL believes the measure should be certified. If DOL believes the measure is legally sound, it helps author the ballot summary. In this case, DOL found 13PSUM to be a legally sound use of the initiative and therefore recommended certification. Subsequently, sufficient signatures were gathered to place the measure on the 2014 primary ballot.

[9:11:10 AM](#)

CHAIR COGHILL pointed out that he has not asked anyone to take a position on the bill; the issue is something the people of Alaska get to decide. He explained that the position of legislators is to figure out "how does that work," which requires the asking of questions. During the questioning process it might be clear as to the positions of the legislators.

MS. BAKALAR explained the initiative bill has three sections and proposes eighteen new statutes regulating the production, sale, and use of marijuana. Section 1 of the bill would add fourteen new statutes to Title 17 of the Alaska Statutes. These new statutes would be under a new chapter, AS 17.38, Regulation of Marijuana. She drew attention to her June 11, 2013/May 16, 2013, letter to Lieutenant Governor Treadwell [included in the members' committee packet] that provides a sectional summary of the proposed bill. Regarding the first four of the proposed fourteen new statutes, she paraphrased from the following written text [original punctuation provided]:

AS 17.38.010. Purpose and findings. This provision states the Act's intent to legalize marijuana for use by persons age 21 or older, in the interest of allowing law enforcement to focus on violent and property crimes and to promote individual freedom. The statute would provide that the production and sale of marijuana should be regulated such that legitimate

businesses--not criminal actors--sell marijuana and that such sale should be conducted in a manner that protects consumers and promotes public health and safety. Finally, the statute would provide that the Act does not intend to abrogate or diminish rights or responsibilities under the Alaska Constitution or federal law.

AS 17.38.020. Personal use of marijuana. This statute would legalize the personal use of marijuana for persons age 21 or older. Specifically, the statute would permit: the possession, use, display, purchase, or transportation of marijuana accessories or one ounce or less of marijuana; the possession, growth, processing, or transporting of no more than six marijuana plants (with three or fewer being mature, flowering plants) and possession of the marijuana on the premises where the plants were grown; the transfer of one ounce or less of marijuana and up to six immature marijuana plants to a person who is 21 years of age or older without remuneration; the consumption of marijuana in a non-public location; and assisting another person who is 21 years of age or older in any of the above activities.

AS 17.38.030. Restrictions on personal cultivation, penalty. This statute would impose certain restrictions on the personal cultivation of marijuana. Specifically, marijuana plants must be: cultivated in a location where the plants are not subject to naked-eye public view; reasonably secure from unauthorized access; cultivated only on property lawfully possessed by the cultivator or with the property owner's consent. The statute would impose a maximum \$750 fine for a violation.

AS 17.38.040. Public consumption banned, penalty. This statute would ban the public consumption of marijuana and would permit a maximum \$100 fine for a violation.

[9:15:22 AM](#)

CHAIR COGHILL inquired whether "in public" is defined anywhere in this statute.

MS. BAKALAR replied the section of definitions is proposed AS 17.38.900, but said she does not see a definition of "public."

REPRESENTATIVE KELLER stated the use in proposed AS 17.38.030 of the words "public view" is a new concept to him. He requested a definition.

CHAIR COGHILL suggested the initiative sponsors can probably answer the aforementioned questions, but said he thinks this is something that needs to be defined. He surmised it is probably the difference between doing something by initiative versus committee process.

MS. BAKALAR continued paraphrasing from her June 11, 2013/May 16, 2013, letter to Lieutenant Governor Treadwell, addressing the fifth of the fourteen proposed statutes [original punctuation provided]:

AS 17.38.050. False identification, penalty. This statute would prohibit a person under 21 years of age from presenting false identification to purchase or attempt to purchase marijuana or marijuana accessories, or access a marijuana establishment. The statute would provide for a \$400 maximum fine for a violation.

CHAIR COGHILL asked whether this would be like a traffic ticket; for example, a written violation that is contestable.

MS. BAKALAR answered she is unsure about "contestable," but imagines yes. The maximum fine for a violation is \$400, and while it is not stated in the bill, she presumed it would be similar to any other false identification presented for alcohol or cigarettes.

CHAIR COGHILL presumed there is a corollary but said this is something that should be looked at.

MS. BAKALAR continued paraphrasing from her June 11, 2013/May 16, 2013, letter to Lieutenant Governor Treadwell, addressing the sixth of the fourteen proposed statutes [original punctuation provided]:

AS 17.38.060. Marijuana accessories authorized. This statute would legalize the manufacture, possession, purchase, distribution, and sale of marijuana accessories by and to persons age 21 years of age or older.

MS. BAKALAR added that a definition of "marijuana accessories" is [item (7)] in the last provision of the proposed statutes.

CHAIR COGHILL understood from reading the initiative that political subdivisions could restrict the use of marijuana, but at this point it would say "notwithstanding any other provision." He surmised this would mean that these accessories could probably be sold without regard to the restrictions that a community might make.

MS. BAKALAR believed this is true, saying there is a provision in the bill on local control that talks about what localities can do to impose certain restrictions on the bill's operation. She offered her belief that a locality cannot enact an ordinance in conflict with the statute, but can tailor the community's needs based on local control options.

CHAIR COGHILL said it will be interesting if a community cannot restrict accessories but must somehow manage the actual sale, purchase, and manufacture of marijuana.

[9:19:23 AM](#)

REPRESENTATIVE GRUENBERG asked whether accessories are currently outlawed.

MS. BAKALAR responded she does not know the law on accessories, but she knows a person can walk into a store and buy marijuana accessories. It is "sort of a wink-and-a-nod type of a thing where they're sold for tobacco purposes, not for marijuana use." The proposed initiative would bring the use of those types of accessories into a more legitimate light.

REPRESENTATIVE GRUENBERG posed a scenario in which someone buys a little trowel that could be used to plant anything, including a marijuana plant. He asked how that would be enforceable.

CHAIR COGHILL referred Representative Gruenberg to the section with definitions.

REPRESENTATIVE GRUENBERG said that is what he is referring to because someone could say the trowel was purchased for planting a tomato.

MS. BAKALAR answered it would be a question of fact if there were ever a prosecution or legal proceeding on that particular issue.

CHAIR COGHILL commented these are questions the people of Alaska need to hear and think about.

[9:21:30 AM](#)

REPRESENTATIVE KELLER understood DOL has certified this for the election, but there are federal laws of controlled substance. He inquired whether it is normal for the department to certify initiatives that defy federal law.

MS. BAKALAR replied there are four constitutional restrictions on the use of the initiative process. An initiative may not make or repeal an appropriation, dedicate revenue, create rules of court, or create local or special legislation. A measure may not be clearly unconstitutional under controlling law and the [Alaska] Supreme Court has interpreted that. An initiative bill on the order of Brown v. Board of Education, 347 U.S. 483 (1954); segregation of schools; or secession of the state from the union would be a clearly unconstitutional type of authority that would violate the use of the initiative. In this case, none of those issues were present. The existence of a conflicting federal statute can sometimes be a complicated question of preemption and she acknowledged the committee may have some questions about how state and federal law interact on that point. But, no, she continued, a federal statute would not prevent this initiative or any initiative from going to the ballot here.

CHAIR COGHILL allowed this legislature has been bullish on challenging federal authority, but said there are some real practical questions on how the enforcement [of conflicting federal law] would work under these conditions.

[9:23:11 AM](#)

MS. BAKALAR continued paraphrasing from her June 11, 2013/May 16, 2013, letter to Lieutenant Governor Treadwell, addressing the seventh of the fourteen proposed statutes [original punctuation provided]:

AS 17.38.070. Lawful operation of marijuana-related facilities. This statute would legalize certain activities conducted by a validly registered retail marijuana store, marijuana cultivation facility, marijuana product manufacturing facility, marijuana testing facility, or any such establishment's

authorized owner, agent, or employee, as long as that person is 21 years of age or older. Generally, the statute would provide that such an establishment may purchase, possess, display, store, transport, deliver, transfer, receive, harvest, process, or package marijuana and marijuana products subject to certain restrictions. The statute would provide that such an establishment may be penalized for violations of the Act or duly adopted rules of the Alcoholic Beverage Control (ABC) Board or local governments pursuant to the Act. Finally, the statute would provide that the provisions of AS 17.30.020 (Controlled Substances) do not apply to marijuana establishments.

CHAIR COGHILL noted the language, "notwithstanding any other provision of law," is frequently used in the bill. He said his expectation is "that is a sweep to say if there is any other law that deals with this type of issue, this trumps it."

MS. BAKALAR responded she would say "that is a fair statutory construction, yes."

[9:24:41 AM](#)

MS. BAKALAR continued paraphrasing from her June 11, 2013/May 16, 2013, letter to Lieutenant Governor Treadwell, addressing the eighth of the fourteen proposed statutes [original punctuation provided]:

AS 17.38.080. Marijuana Control Board. This statute would permit the legislature to create a Marijuana Control Board in the Department of Commerce, Community, and Economic Development to assume the duties of the ABC Board under AS 17.38.

MS. BAKALAR explained that currently the default administrative agency to administer marijuana authorization in the state is the Alcoholic Beverage Control (ABC) Board. However, this bill would let the legislature come back and create a separate board just to deal with marijuana. The legislature would have to do that as a secondary act; this statute does not, in and of itself, create [a "Marijuana Control Board"], it creates authority of the legislature to do so.

REPRESENTATIVE LYNN asked whether there is a fiscal note with the bill for what [a "Marijuana Control Board"] would cost.

CHAIR COGHILL responded he thinks the word "may" in the bill is how the fiscal note is not going to be attached to this.

MS. BAKALAR answered that some of her colleagues who will be testifying later can speak to the details on the costs that would be associated with the establishment of a separate board.

CHAIR COGHILL reported the Department of Revenue, as well as other departments, will be presenting the fiscal and enforcement impacts; Ms. Bakalar is presenting the sectional analysis.

[9:26:27 AM](#)

MS. BAKALAR continued paraphrasing from her June 11, 2013/May 16, 2013, letter to Lieutenant Governor Treadwell, addressing the ninth of the fourteen proposed statutes [original punctuation provided]:

AS 17.38.090. Rulemaking. This statute would require the ABC Board to adopt regulations to implement AS 17.38 no later than nine months after the Act's effective date. Generally, such regulations must include regulations governing marijuana establishments and cover such topics as: procedures subject to the Administrative Procedure Act to apply for, receive, and revoke the registration of a marijuana establishment; a schedule of registration fees; qualifications for registration; security requirements and requirements to prevent the sale of marijuana to persons under 21 years of age; labeling requirements, advertising and display restrictions, and health and safety standards for marijuana and marijuana products; and civil penalties for failure to comply with the regulations. This statute would provide that the ABC board shall not require a consumer to present any personal information other than a government-issued identification to prove age at a retail marijuana store, and that such a store shall not be required to acquire personal information about consumers.

[9:27:29 AM](#)

CHAIR COGHILL understood the health and safety regulations would be under either the ABC Board or, if the legislature so chooses, under a new Marijuana Control Board.

MS. BAKALAR replied that is her understanding.

[9:27:51 AM](#)

MS. BAKALAR continued paraphrasing from her June 11, 2013/May 16, 2013, letter to Lieutenant Governor Treadwell, addressing the tenth of the fourteen proposed statutes [original punctuation provided]:

AS 17.38.100. Marijuana establishment registrations.

This statute would govern the application process for registering a marijuana establishment. The statute would vest this duty primarily in the ABC Board, acting in conjunction with local governments as applicable. The statute would impose various timeframes for the processing of such applications. The statute would provide that each registration must specify where the establishment would operate, and that books and records of such establishments would be subject to the ABC Board's inspection.

MS. BAKALAR noted one of the aforementioned timeframes is that the ABC Board cannot accept any applications for registration of a marijuana establishment until one year from the proposed effective date.

[9:28:31 AM](#)

REPRESENTATIVE KELLER, regarding proposed statutes AS 17.38.080, Marijuana Control Board, and AS 17.38.090, Rulemaking, inquired what the impact would be if the legislature did not act. For example, what that would do to the entire bill and would it mean the rest of the bill would go through without regulation.

MS. BAKALAR responded the bill would have to be voted up at the election, at which point it would go into effect 90 days after certification of the election. Under the constitution, a law enacted by initiative becomes effective 90 days after certification of the election. It is not subject to veto. It cannot be repealed by the legislature within two years of its effective date; however, it may be amended at any time. The line between amendment and repeal is somewhat grey. The Alaska Supreme Court has said that as long as amendments do not eviscerate the spirit of the bill, they are considered amendments as opposed to a repeal. For example, if this were enacted at the ballot, the legislature could come in at any time and tweak the bill in certain unsubstantial ways and within two years could repeal it entirely.

REPRESENTATIVE KELLER asked whether no action by the legislature would be viewed as a "repeal."

CHAIR COGHILL offered his understanding that the ABC Board is designated by default.

MS. BAKALAR confirmed that if the legislature does not act to create a Marijuana Control Board, the ABC Board would be the default board; a Marijuana Control Board would be at the discretion of the legislature.

[9:30:47 AM](#)

MS. BAKALAR continued paraphrasing from her June 11, 2013/May 16, 2013, letter to Lieutenant Governor Treadwell, addressing the eleventh and twelfth of the fourteen proposed statutes [original punctuation provided]:

AS 17.38.110. Local control. Generally, this statute would allow a local government to: prohibit the operation of a marijuana cultivation, manufacturing, testing, or retail facility through the enactment of an ordinance or through voter initiative; enact ordinances to govern the time, place, and manner of marijuana establishment operations; designate a local regulatory authority to process applications to register a marijuana establishment and create procedures surrounding this application process subject to the Administrative Procedure Act.

AS 17.38.120. Employers, driving, minors and control of property. This statute provides that the Act is not intended to: require any employer to permit or accommodate the use, possession, transfer, display, transportation, sale, or growth of marijuana in the workplace; allow driving under the influence of marijuana or supersede related laws; permit the transfer of marijuana with or without remuneration to a person under age 21; or prohibit a person, employer, or any other entity who occupies, owns or controls private property from prohibiting or controlling the use, display, transfer, distribution, sale, or growth of marijuana on that property.

CHAIR COGHILL surmised that for a person under 21 it would be very similar to handling alcohol. A person under 21 could not

drive a delivery truck hauling this stuff, or retail it, or wholesale it.

MS. BAKALAR replied that her understanding of the intent of the bill, and the way it is written, is to regulate marijuana in a way very similar to the way alcohol is regulated.

MS. BAKALAR continued paraphrasing from her June 11, 2013/May 16, 2013, letter to Lieutenant Governor Treadwell, addressing the thirteenth of the fourteen proposed statutes [original punctuation provided]:

AS 17.38.130. Impact on medical marijuana law. This statute would provide that nothing in the Act is intended to limit the privileges or rights of a medical marijuana patient or caregiver under AS 17.37.

[9:33:10 AM](#)

CHAIR COGHILL inquired whether members need to look at the interplay with AS 17, medical marijuana. He asked whether there is already a legal review available and whether this would "exempt them and are there competing rights under this."

MS. BAKALAR responded she does not believe a separate side-by-side comparison legal analysis of the current medical marijuana and this initiative bill has been done. She offered to follow up in this regard if the committees wish. However, she said she thinks the idea is to harmonize them. She opined this statute says that nothing in the initiative bill is intended to really affect the medical marijuana provisions and they are supposed to operate separately. Whether they actually do that, or if there is conflict between the two, would require a closer analysis.

CHAIR COGHILL stated that, for him, the review would be to determine whether there is equal treatment under the law and whether that works for enforcement expectations and things like that.

[9:34:17 AM](#)

REPRESENTATIVE GRUENBERG posed a scenario in which someone is charged with a violation of this proposed act and his/her defense is that what he/she was doing was within the scope of the rights and duties under the Alaska Medical Marijuana Act. He asked whether use of the Alaska Medical Marijuana Act would be an affirmative defense with the burden of persuasion on the

defendant or would the only responsibility of the defendant be to raise a "triable" issue, and the burden would be on the prosecution to disprove the defense beyond a reasonable doubt. He said Ms. Bakalar could provide a written answer, explaining House Judiciary Standing Committee members talked about this theme a couple of days ago and are familiar with the difference.

MS. BAKALAR replied that to be able to properly answer this question she will have to look closely at the medical marijuana law and how it interplays with this statute. She said she would follow up in this regard.

CHAIR COGHILL requested he receive this information about the interplay in legal terms so it can be made available to the public.

REPRESENTATIVE GRUENBERG said the aforementioned is just one example for people who are unfamiliar with how this would work and there may be other things that fall into the category of whether or not it is an affirmative defense. For example, a bill by the majority leader deals with someone coming across a person who has overdosed on a narcotic and notifies the police. The bill says the person cannot be prosecuted for possession in that circumstance. There was expert testimony that it was not an affirmative defense, it was that an issue had to be raised and the burden remained on the prosecution to disprove that beyond a reasonable doubt. It is important to know from a judiciary point of view, he continued, how this is going to interplay with the Alaska Medical Marijuana Act, but he does not want to limit it to that because there may be other things that fall into that category.

CHAIR COGHILL remarked that the aforementioned is going way deeper into the weeds than he had expected to go.

[9:37:14 AM](#)

MS. BAKALAR returned to her sectional analysis, addressing the fourteenth of the fourteen proposed statutes. She said proposed AS 17.38.900 defines the following 14 terms: board, consumer, consumption, local government, local regulatory authority, marijuana, marijuana accessories, marijuana cultivation facility, marijuana establishment, marijuana product manufacturing facility, marijuana products, marijuana testing facility, retail marijuana store, and unreasonably impracticable.

CHAIR COGHILL pointed out that definitions have a huge impact on how a law actually works, so is very important to understand those definitions.

MS. BAKALAR turned to proposed Section 2 of the bill, which would add a new chapter, AS 43.61, Excise Tax on Marijuana, to the Alaska Statutes. She reviewed the three provisions in Section 2 by paraphrasing from her June 11/May 16, 2013, letter to Lieutenant Governor Treadwell, written as follows [original punctuation provided]:

AS 43.61.010. Marijuana tax. This statute would impose a \$50 per ounce (or proportionate part) excise tax on the sale or transfer of marijuana from a marijuana cultivation facility to a retail marijuana store or marijuana product manufacturing facility. The marijuana cultivation facility would pay the tax. The Department of Revenue could exempt certain parts of the marijuana plant from the tax or could establish a lower rate for certain parts of the plant.

AS 43.61.020. Monthly statement and payments. This statute would require each marijuana cultivation facility to send monthly tax statements and payments to the Department of Revenue based on the amount of marijuana sold or transferred to retail marijuana stores and marijuana product manufacturing facilities during the preceding month.

AS 43.61.030. Administration and enforcement of tax. This statute would subject a marijuana cultivation facility to the civil penalties under AS 43.05.220 for delinquent payments under the Act and allow for the revocation of a delinquent facility's registration pursuant to regulations adopted under the Act.

[9:39:32 AM](#)

MS. BAKALAR moved to proposed Section 3, the final section of the bill, explaining it is a standard severability clause which provides that if any part of the proposed act is found invalid, the remainder would not be affected.

CHAIR COGHILL understood that if there were a court case on implementation of a portion of this bill and that portion was found either inordinate or unconstitutional, the rest of the bill would stay intact.

MS. BAKALAR responded correct.

MS. BAKALAR noted for the record that, under the Alaska Constitution, this petition would be void if this body enacts a measure that is substantially the same as the initiative bill before the primary election on 8/19/14. Whether in fact the legislature has done that is a separate analysis - what constitutes substantially similar legislation as compared to an initiative bill is a highly fact-sensitive inquiry and there is Alaska Supreme Court case law on that.

REPRESENTATIVE PRUITT commented that \$50 per ounce is easy when talking about the actual weight of the plant itself. He asked whether there is an understanding of how to address when an extract or oils are taken and utilized separately from smoking the plant. He understood changes had to be made to the related California bill when the oils began being placed in foodstuffs. He asked how Alaska would tax that, saying that if this law exists he wants to ensure that Alaska gets all its money.

CHAIR COGHILL suggested the Department of Revenue speak to this when it addresses the committee.

MS. BAKALAR said she would definitely defer to her colleagues at the Department of Revenue. However, she pointed out, there is a definition of marijuana in the statute that would provide some guidance in this regard.

CHAIR COGHILL noted the sectional analysis provided by Ms. Bakalar showed that this proposed bill has highly descriptive and somewhat complex parts to it.

[9:42:26 AM](#)

BRUCE TANGEMAN, Deputy Commissioner, Office of the Commissioner, Department of Revenue, said he will be speaking to the cost impacts that the proposed act to tax and regulate the production, sale and use of marijuana would have to the Department of Revenue (DOR). Approval of the initiative by the voters would require DOR to incur additional costs to effectively implement it. If approved by a majority of qualified voters, it is presumed that this initiative would take effect 30 days after approval. The estimated cost to DOR for the implementation of this initiative is between \$650,000 and \$800,000. Recurring annual costs are estimated at approximately \$300,000. The estimated costs can be broken down into two

categories: personal services of approximately \$300,000 and contractual services of between \$350,000 and \$500,000. Responding to Chair Coghill, he confirmed that the contractual services would be a one-time cost.

MR. TANGEMAN stated that on the personnel side, DOR estimates it will need to create at least three new positions to oversee the new excise tax imposed by this initiative, at a cost of about \$300,000. To assist with the administration and collection of the new excise tax, DOR would need at least one tax auditor III, one tax technician II, and one investigator III position to fulfill the needs of a new tax program. This cost is similar to the cost that is currently incurred by DOR to administer other similar types of excise taxes and would be recurring annually for DOR. So, while the subject matter is quite different than what DOR is used to dealing with, it is to DOR just another excise tax.

MR. TANGEMAN said that on the contractual services side, DOR estimates it will incur a one-time additional expense of approximately up to \$500,000 for systems configuration. In August 2014, DOR will have completed the configuring of its excise tax portion of its new tax revenue management system (TRMS). If this initiative is approved by the voters, it will require DOR and its information system contractors to reconfigure the system to add this new excise tax. Currently, DOR has 22 tax types and this would be an additional tax type that DOR would be adding to the system.

[9:46:02 AM](#)

CHAIR COGHILL understood the collection style would be about the same, so it would really be an addition in a computer line as well as someone to monitor that particular system. He inquired whether enforcement under this law would be different than that under other excise taxes.

MR. TANGEMAN responded [enforcement] would be fairly similar; it is just another type of an excise tax. There is a criminal investigations unit and it would be a team effort with DOR's sister agencies.

MR. TANGEMAN related it was DOR's contractors who supplied the estimated range of \$350,000 to \$500,000 and it would be contingent on the timeline of how quickly it would need to be initiated. He qualified that the aforementioned estimates represent a minimum cost, given the numerous uncertainties

around the referendum and what all the effects of its passage would be.

MR. TANGEMAN said new ground is being broken regarding the revenue side of the discussion. While many folks would like to look at what is happening in Colorado and Washington - the only other states that have recently undertaken this - DOR does not see it as being as simple as comparing numbers on a head count basis. For example, people can drive from surrounding states to Colorado and California and the populations there are much bigger. Alaska is much more secluded, so it is not going to be an apples-to-apples comparison. He understood that legislators do not necessarily like the word "indeterminate" when it comes to discussing revenues, but maintained it truly is very indeterminate when it comes to a new system like this.

9:48:06 AM

CHAIR COGHILL, regarding the tax under proposed AS 43.61.010, surmised the department being talked about is the Department of Revenue. He inquired whether it would be DOR, the ABC Board, or the new marijuana board that could exempt certain [parts of the plant] from the excise tax. He understood the monthly statement would be submitted to DOR.

MR. TANGEMAN replied he is unsure regarding the aforementioned.

CHAIR COGHILL surmised that because proposed AS 43.61.020 is a taxation issue it would go to the Department of Revenue.

MR. TANGEMAN answered correct.

REPRESENTATIVE GRUENBERG inquired whether an estimate of the income to the state would be forthcoming.

MR. TANGEMAN deferred to Mr. Fonder of the Tax Division to speak to the revenue side, but reiterated it is very indeterminate.

9:50:01 AM

MATT FONDER, Director, Anchorage Office, Tax Division, Department of Revenue (DOR), responded it is very difficult to determine what the revenue in tax will be. However, he continued, at [a tax rate of] \$50 an ounce, the sale of 100,000 ounces would create \$5 million in revenue. The sale of 300,000 ounces, which is roughly one ounce for every other person in Alaska every year, would create \$15 million in revenue. It is

hard to tell what the consumption rates would be, but if the initiative passes, the division will do its due diligence and dig into that as much as it can.

MR. FONDER addressed Chair Coghill's earlier question regarding the department under AS 43.61.010. He explained that because this statute would be under Title 43 and Title 43 is the Department of Revenue, any references to the department in Title 43 are to DOR.

REPRESENTATIVE GRUENBERG asked whether this will also have an impact on local governments insofar as many of them have sales taxes.

MR. TANGEMAN replied he does not believe this addresses revenue sharing or sales tax per se.

REPRESENTATIVE GRUENBERG noted the City and Borough of Juneau imposes a sales tax. He inquired whether this would be taxable and provide revenue for the local government.

MR. TANGEMAN deferred to the Department of Law.

REPRESENTATIVE GRUENBERG noted Alaska does not have a statewide sales tax. He asked whether this would apply to someone acquiring marijuana via the Internet and, if so, whether that would be additional revenue and how would it be collected.

MR. TANGEMAN deferred to the Department of Law.

[9:53:26 AM](#)

REPRESENTATIVE PRUITT requested he be able to ask the Department of Revenue the question he earlier asked the Department of Law. Normally, it is the leaf that is thought about. He asked what happens when [the taxable products are] the oils, extracts, and resins.

MR. TANGEMAN answered DOR is taking the initiative at face value and not drilling down to what might be. So, it is \$50 for the sale of an ounce of marijuana.

REPRESENTATIVE PRUITT commented he does not know that that really answers it and that is part of the ambiguity there.

MR. TANGEMAN responded the sale is from the cultivation to the retailer and that is where the tax takes place.

REPRESENTATIVE PRUITT said that helps.

CHAIR COGHILL interjected it might also come into some of the regulatory issues that will come forward under the Department of Commerce, Community & Economic Development (DCCED).

9:54:55 AM

NANCY MEADE, General Counsel, Administrative Staff, Office of the Administrative Director, Alaska Court System, first noted that the Alaska Court System takes no position on the initiative. Also, because of the lack of experience and so many unknowns with the initiative, the Alaska Court System cannot say with any definiteness whatsoever what any fiscal impact will be to the courts. She has not seen any reports from other states about the impact on the courts from changing their marijuana laws. It is truly an indeterminate fiscal impact on the courts as well as the other agencies.

MS. MEADE noted she has been asked to provide the numbers the court currently sees for marijuana in the state and what it means for the court system. Of course, that usually comes up under criminal cases. Alaska has a number of statutes that criminalize possession, use, delivery, and sale of marijuana in different amounts. Though the initiative does not delete any criminal statutes, presumably those would no longer be prosecuted because of language in the initiative regarding "notwithstanding any other laws." The criminal laws disallowing the possession of marijuana would presumably no longer be in effect.

MS. MEADE, to give a sense of what is seen in the court system today, related that most of the cases with a charge having to do with marijuana come as class B misdemeanors. Marijuana is a schedule VIA controlled substance, meaning it is determined to have the lowest degree of danger or probable danger to a person or the public. A schedule VIA drug is usually treated in a much less severe manner than some other drugs. About 1,200 cases were filed last year that had something to do with marijuana, and that has been steady. A case count was looked at for the last two years. Most of the 800 cases filed came in under AS 11.71.060(a)(1), Use or display of marijuana. She noted that half of those did not end up with a conviction and said that is true of almost all the marijuana cases for the statistics that were gathered. The number of cases filed is about double of the number of cases that are disposed with a conviction. So it

could be said that many are dismissed, or perhaps plea-bargained, or somehow resolved in a way that does not result in a conviction for the person.

[9:58:30 AM](#)

MS. MEADE reported that the next largest category after the use of marijuana is possession of less than an ounce of marijuana. About 350 cases were filed and about half of those ended up with a conviction. She said her understanding of the current law is that a person can possess in one's own home less than one ounce. Therefore, those 350 cases were because the marijuana was discovered by a law enforcement officer in a situation such as someone's pocket during a traffic stop or somehow otherwise out of the home. Again, most of these are going to be class B misdemeanors with a maximum penalty of up to 90 days in jail. She understood that many of these cases are charged on a citation and are handled fairly rapidly by the court system. She added that about 150 cases come in as class A misdemeanor, which is the possession of one ounce or more of marijuana or the sale of less than an ounce of marijuana.

MS. MEADE further reported that last year there were about forty class C felony cases, which is when someone possesses twenty-five or more cannabis plants, and there were twelve class B felony cases, which is delivery of marijuana to a minor and the age difference between the seller and minor is three or more years.

[10:00:19 AM](#)

MS. MEADE, noting the aforementioned is what the court system sees now, stated she does not think it fair to conclude that those cases would all go away because her understanding of the initiative is that those actions by someone under 21 would still be illegal and she does not know how many of those 1,200 marijuana cases were charged against people under 21. Also, consumption in public would still be illegal. One could assume Alaska would have fewer criminal cases filed for possession, sale, and delivery of marijuana and marijuana products.

MS. MEADE said it would be quite remote that there could be an impact on the court system with tax litigation by the Department of Revenue. Only a few cases have to do with the Alcoholic Beverage Control Board and these would be similar.

MS. MEADE, qualifying the following statement is somewhat speculative, said presumably marijuana usage would increase, and though difficult to predict, there could be an increase in driving under the influence (DUI) arrests and case filings. Unlike DUI cases where alcohol is involved and which has a fairly reliable breath test that results in a measure of impairment and a presumption if the measure is above 0.08 percent, driving under the influence of drugs is less numbers-driven and could lead to more trials where the facts would have to be fleshed out. She reiterated that this is very speculative and said she cannot say much more than that about the impact on the court system.

[10:02:17 AM](#)

CHAIR COGHILL offered his appreciation to Ms. Meade and said the members will be asking questions about how that might work regulatory-wise and enforcement-wise. While the court system does not get to decide what ends up at its door, the committees are trying to figure this out.

REPRESENTATIVE FOSTER inquired as to how many of the cases that go to court and have convictions result in jail time. He said this information could be provided later and requested that it be broken down by felony and some of the lesser charges.

MS. MEADE agreed to provide a chart of numbers of each of the case filings that the court system has under the different statutes and their classifications.

REPRESENTATIVE PRUITT, regarding driving under the influence and the burden of proof, asked whether there is an understanding of what will need to be implemented for how to handle things when an individual is driving under the influence, and especially if that person hurts someone. He understood from Colorado's experience that there is quite a bit of ambiguity with this.

MS. MEADE responded that Alaska's current statute for driving under the influence does cover being under the influence of drugs. She has seen DUI cases where the defendant is alleged to be under the influence of narcotics or other drugs. Courts do handle those and she does not know that it is difficult other than there is not an absolute number like with alcohol where a number of 0.08 percent is the presumption that the person is impaired. She understood that with drugs, because there is not a definitive test, a line, or a blood marker, it comes down to

facts and more of a question for the judge and jury to determine whether the person was impaired.

CHAIR COGHILL observed that proposed AS 17.38.120 of the bill states, "Nothing in this chapter is intended to allow driving under the influence of marijuana" So, it would be up to the legislature to come up with the penalty.

[10:06:11 AM](#)

RONALD TAYLOR, Deputy Commissioner, Office of the Commissioner - Anchorage, Department of Corrections, testified that the Department of Corrections (DOC) reviewed the initiative and does not see that it will have any impact for DOC.

CHAIR COGHILL understood Mr. Taylor to be saying the initiative will not have a direct fiscal impact [on the Department of Corrections].

MR. TAYLOR responded there is none that the department can see.

CHAIR COGHILL asked what the fiscal impact is under present law to the Department of Corrections.

MR. TAYLOR replied he does not know that DOC has looked at that, but offered to do an analysis for members. He said there are few cases coming through the department that are just straight marijuana cases; oftentimes they are in conjunction with other drugs or other types of offenses. The department books offenses through the legal definitions, so whatever it comes in is how the department would book it. Responding further to Chair Coghill, he confirmed there would be no significant impact to the Department of Corrections.

[10:07:40 AM](#)

L. DIANE CASTO, Prevention & Early Intervention Manager, Prevention & Early Intervention Section, Division of Behavioral Health, Department of Health & Social Services (DHSS), stated many impact are unknown because this would be a fundamental change in the Alaska Statutes and the work that the department does. The initiative language primarily focuses on the process and procedures necessary to establish the taxation and regulation of the production, sale, and use of marijuana. The actual initiative itself does not have an impact on the Department of Health & Social Services (DHSS). The department will not be part of that piece of the initiative structure.

MS. CASTO noted, however, that the medical marijuana piece of the initiative could potentially impact DHSS. Currently, the operational part of medical marijuana, the issuance of a card to receive medical marijuana, is within the Division of Public Health, Bureau of Vital Statistics. It is unknown at this point how that will look. From being in touch with her colleagues in Washington and Colorado, Ms. Casto said she knows those states have discussed how to bring together their issues of recreational marijuana and medical marijuana.

10:09:58 AM

MS. CASTO specified there is evidence that downstream there will be health and social service consequences of implementing the initiative. Because the initiative presents a relatively untested concept, it is difficult to know what that impact might be. The department has prepared an estimate based on research on other states' experiences and an extrapolation of expenses the department incurs providing similar substance-related services related to alcohol, tobacco, and illegal drugs. She addressed the assumptions used by the department for making these estimates. She said the fiscal impact will directly relate to how many additional people begin using marijuana, how many current users increase their use, and how many have developed a dependency on marijuana and will need services, such as treatment services. These numbers are unknown, but are things DHSS will be looking for. The consequences and outcome of marijuana use will likely create a significant potential increased cost for physical and behavioral health care, child welfare services, educational systems, employers, public safety, criminal justice, community health, and other aspects of state and local government. However, there are many unknowns.

10:11:42 AM

MS. CASTO stated she has been exploring this issue because it does have significant potential impact. She has relied upon a book that has a neutral approach to this issue, giving the pros and cons of both sides [the title of the book was not provided]. She read the following: "There is more to the issue than a simple yes or no on a survey or a ballot. Marijuana legalization turns out not to be a single question, but a whole collection of questions." She agreed this is the case and continued quoting from the book the following: "Legalization of marijuana in whatever form would create both good and bad effects and the magnitude of those effects are uncertain." Ms.

Casto concluded that even if the facts were known with certainty, which they cannot be because this is such a profound policy change, there is no objective way of weighting those gains and harms.

MS. CASTO specified Alaska's marijuana use rate is 11 percent, the highest rate in the U.S. The national rate was 6.4 percent prior to the legalization of marijuana in Washington and Colorado. While there are unknowns regarding the impact of developing a system of legal marijuana production, sale, and use, a number of entities have developed "guesstimates." One guesstimate in the aforementioned book is that legalization would likely double or triple consumption. She cautioned that Alaska, unlike other states, already has some legalization so the department projects a lesser increase than doubling or tripling.

[10:13:46 AM](#)

MS. CASTO said it is important to remember when talking about developing a business of marijuana that there are other aspects to it, just as with alcohol. Those aspects are public health and public safety, which is not the case with something like a grocery store. So, it is not just "business as usual," it is a unique commodity. Research, primarily with alcohol, is very clear that use may increase when it is easily accessible and widely acceptable and available, particularly by people under 21. When young people perceive it as not harmful, and it is legal, seen as a medical product, seen in food products, or being sold on the corner, how dangerous can it be? The department anticipates seeing a decrease in the perception of harm, which research shows will result in an increase in use. Research shows that the probability of dependency is significantly increased for those who begin using marijuana before the age of 25 years. Nationally, 97 percent of new users are 24 years or younger and that is another concern for the department. While the proposed law says marijuana cannot be purchased and used by someone under 21, it is known that people under 21 get and use tobacco and alcohol products.

[10:15:59 AM](#)

MS. CASTO said the primary areas of concern for DHSS are related to physical health, behavioral health, child protection services, and youth services. These issues are also among adults. She stressed these issues are not definitive, but have some levels of experience, research, and initial data to say

that these are areas where increased consequences may be seen. Research talks about physical health consequences that include respiratory symptoms, increased heart rate, and increased hospital emergency department admissions. She learned from a recent talk with a Colorado pediatrician that Colorado has seen a significant increase of children coming to the emergency department for ingesting marijuana products, which is something that will need to be paid attention to in Alaska. She qualified she is not saying these things will happen, but rather these are things her department is looking at.

CHAIR COGHILL noted the whole purpose of this meeting is to put the questions on the table that need to be thought about by society.

MS. CASTO added there is also fetal impact related to prenatal exposure. While the data is not clear, it is clear enough to say there should be concern and attention paid to this.

[10:17:32 AM](#)

MS. CASTO reported that behavioral health consequences include increased dependency, increased need for treatment, and increased mental health episodes such as hallucinations and paranoia. Initial data shows possible links between marijuana and some psychoses and schizophrenia. The data is very limited so she is not implying that these are solid findings, but it should be thought about. As a worker in this field and as a mother and grandmother, she has concerns about the fairly new and significant data on brain development and function that is coming from the National Institute on Drug Abuse. Data is showing that persistent and consistent marijuana use by youth and young adults, whose brains are not yet fully developed, makes them much more susceptible to negative impacts of marijuana - which are also known with alcohol - including deficits in learning and memory. She referred to a report titled "Persistent Marijuana Use Among Youth" [report not provided] shows a reduction of intelligence quotient (IQ) by as much as eight points. While these are not definitive, she reiterated, they are beginning to show this relationship. Regarding child welfare, she related that Colorado has seen some increase in child neglect and the issues of children getting access to these products that are in the home with parents who are using marijuana and marijuana food products. It is hard for a child to resist a cupcake or cookie which may be laced with tetrahydrocannabinol (THC).

10:19:40 AM

MS. CASTO said DHSS anticipates some increase from the legalization of production, sale, and use of marijuana, but she qualified that these are total guesstimates. The department ranges estimates from zero cost, which is not anticipated, up to perhaps \$2.8 million. The department used a percentage of increase of 5-20 percent. She reiterated that nationally it is being said a doubling or tripling of use, but the department does not anticipate that will be the case in Alaska. These projected impacts are looking at increased treatment, mental health services, physical health services through public health and primary care providers, and a potential increase in Medicaid cost to cover some of those treatment costs. The department has already started and will continue doing more outreach in prevention education related to marijuana for young people and parents of younger children, so they understand the impacts of marijuana. Other projected impacts are increased child protective services and potentially increased juvenile justice costs. Another area is human resource activities and how is this going to impact the workforce. She concluded her presentation saying that DHSS will be doing a lot more investigation and she will be staying in close touch with her colleagues in Colorado and Washington.

MS. CASTO addressed Representative Pruitt's earlier question about driving under the influence of a drug. She noted the retail sale of marijuana does not start in Washington until July 1, 2014, but it is now legal to smoke and to use. Washington has found that the percentage of total driving cases confirming positive for THC was 18.2 in 2009 and 24.9 in 2013. The percentage of total driving cases confirming positive for carboxy-THC (THC-COOH), which indicates marijuana use, was 26.3 in 2009 and 40.0 in 2013. She said DHSS will be keeping close tabs on what is happening in Washington and Colorado so it can make the best decisions and assumptions about the impact that this proposed act is going to have on the State of Alaska.

10:24:11 AM

JEANNE MUNGLE, Director, Division of Administrative Services, Department of Commerce, Community, and Economic Development (DCCED), thanked members for the opportunity to provide the estimated cost to her department. If the initiative passes, she said, the responsibility for controlling marijuana will lie with the ABC Board until or unless a Marijuana Control Board is established by the legislature within DCCED. Using information

available from Colorado and Washington and other sources, DCCED has identified potential costs to implement this initiative of \$1.5 million in the first year to \$1.4 million in the second year. However, there are numerous unknowns in the implementation of this initiative. For example, it is unknown whether the legislature will create a Marijuana Control Board within DCCED or implement under the ABC Board. The cost estimates as presented here reflect the administrative structure of the ABC Board.

MS. MUNGLER said the initiative requires the ABC Board to adopt regulations and implement the law no later than nine months after the initiative is approved. To achieve this, and similar to Colorado and Washington's implementation efforts, the cost estimates include the establishment of a taskforce to represent major stakeholders. A taskforce would be an effective method to facilitate an expedient and comprehensive gear-up of the tax and regulatory framework described in the initiative.

[10:25:53 AM](#)

MS. MUNGLER provided DCCED's cost estimates based on the information to date. Personal services would be \$107,800 in the first year for a program coordinator to facilitate, coordinate, and document taskforce activity and for the long-term program planning and development. Cost in the second year will be \$847,000 because additional staff will be needed to regulate the industry, including two business licensing examiners, five investigators, and an administrative officer. She noted this is based on the ABC Board's current administrative structure. Travel within the first year would be \$16,600 to cover taskforce travel and per diem. In the second year, \$119,900 will cover board member travel, staff travel, and compliance check travel. Board travel is estimated based on extending the current ABC Board meetings by one additional day to address the marijuana industry. Equipment, office space, and supplies are estimated at \$27,000 in the first year and \$188,140 in the second year for the setup costs, office space, and various supplies. Contracts and services are estimated at \$1.4 million in the first year and include funds for contracting for a taskforce report on implementation, and a regulation study to assist in defining legal policy and procedural issues that need to be resolved, and to offer proposals for executive and legislative action. The expedited regulations process with the Department of Law would also be part of that figure in order to achieve the nine-month implementation requirement from the effective date. In addition, there would be database development and maintenance

for the licensing enforcement of the program. In the second year, \$258,100 will cover database maintenance, vehicles to perform investigations across the state, and ongoing legal cost with the Department of Law.

MS. MUNGLE, in response to Representative Pruitt, reiterated that the total cost to implement the initiative would be \$1.5 million in the first year and \$1.4 million in the second year.

CHAIR COGHILL commented that the ABC Board gets quite a responsibility out of this. It would have to start regulations, would define some things, and would also have to define health and safety standards, all of which are no small task.

[10:28:57 AM](#)

SHIRLEY COTE, Executive Director, Alcoholic Beverage Control (ABC) Board, Department of Commerce, Community & Economic Development (DCCED), noted that the initiative provides that the responsibility of the control of marijuana would lie with the ABC Board unless the legislature creates a Marijuana Control Board. She said the ABC Board is "in the loop" and staying informed.

MS. COTE pointed out that, like the control of alcoholic beverages, the board will be responsible for licensing and the enforcement of the statutes and regulations. Regulation of marijuana will require not only the development of regulations similar to those that govern the sale and use of alcohol, but because the sale and use of marijuana is against federal law, the state will have to take on new oversight roles that the federal government provides for alcohol. A framework for regulation would have to be created. If the initiative passes, regulations would have to be adopted to determine eligibility for licensing, how many licenses would be issued in particular populated areas, and who would be eligible to obtain a license.

MS. COTE said other considerations would be location restrictions, such as proximity to schools and churches, and security issues, such as how these locations are going to be held secure. Packaging, labeling, testing standards, and serving sizes are just a few of the subjects of regulation that would need to be written. As with alcohol, local governing bodies under the initiative may choose to enact their own ordinances, as is the case for local option for alcohol. The ABC Board would need to work with those communities to establish controls that they deem in the best interest of their community.

10:31:05 AM

CHAIR COGHILL remarked that what Ms. Cote said is a huge issue and some of those [issues] will require going to federal codes for some of the definitions. Starting at 90 days, he inquired whether the expected regulatory buildup would be within a year or two years.

MS. COTE replied the ABC Board should have the regulations online within nine months of enactment.

CHAIR COGHILL commented that the health and safety standards are what caught his attention because they are a little different than what the ABC Board has had to do with alcohol. He surmised the board would go to other jurisdictions that have devised some kind of health and safety standard.

MS. COTE responded there are quite a few unknowns at this point. The board is doing quite a bit of research with the intention of being prepared. As of today, however, the board is unsure which department will be responsible for the safety standards and how those safety standards would be implemented.

CHAIR COGHILL pointed out that these are the things committee members want the people of Alaska to be thinking through. For example, if the committees were debating this as a bill, those would be the things the committees would dig into: How something will work; What can be done about it; Who will devise them; The cost for devising them.

REPRESENTATIVE FOSTER asked whether thought has been given to whether it is better to use the ABC Board or to create a Marijuana Control Board.

MS. COTE answered the ABC Board has not formed any kind of an opinion as to whether the regulation of marijuana should be under the ABC Board or if a Marijuana Control Board should be encouraged. The ABC Board is poised and ready to take on the responsibility.

CHAIR COGHILL added that is something the citizens get to decide and the legislature will have to decide along the way as well. If the initiative passes, the ABC Board is where it starts and it may stay there if the legislature is slow to act.

10:33:59 AM

ELAINE BUSSE FLOYD, Director, Division of Environmental Health, Department of Environmental Conservation (DEC), testified the ballot initiative, as written, does not directly require anything of the Department of Environmental Conservation (DEC); the initiative puts all of the powers, duties, and responsibilities to DCCED. Normally, DEC has the responsibility to regulate food and food products, so marijuana, if considered a food, would normally fall under those provisions. However, the proposed law puts the responsibility for regulating marijuana, including labeling and health and safety regulations, with the ABC Board.

MS. BUSSE FLOYD explained that if additional food establishments are opened to create marijuana products, such as marijuana bakeries, and depending on how many additional food facilities begin operation, the Food Safety & Sanitation Program within DEC would need an additional environmental health officer to review sanitation plans and conduct sanitation inspections for the increased facilities. That would require approximately one full-time position at a total cost of [\$136,900], which includes all contractual travel and supply expenses. This estimate is based on costs during fiscal year 2014 (FY 14) and does not reflect any increases that would occur.

MS. BUSSE FLOYD said another area that would possibly concern DEC is the need for the Environmental Health Laboratory to certify laboratories that perform marijuana testing. That would require DEC to develop standards and criteria for independent testing and certification of marijuana testing facilities and then regulating those. If that occurred, the laboratory would need an additional laboratory certification officer. The department currently does similar work for drinking water laboratories and contaminated site laboratories. This would add marijuana testing labs to that, along with an associated expense.

MS. BUSSE FLOYD pointed out that if the Food Safety & Sanitation Program becomes involved once standards are in place, then the food itself needs to be processed under sanitary standards like any other food. However, this is food with a drug effect, so if it is considered a drug it would probably fall under the Department of Health and Social Services. She further pointed out that dietary substances are not currently regulated by DEC and that there are no federal standards of identity or labeling requirements and no consumer protection standards concerning

what would allow a person to make a claim that he/she is producing a product that contains marijuana.

[10:37:34 AM](#)

MS. BUSSE FLOYD, in response to Representative Pruitt about the labeling of food products containing marijuana, explained that according to the proposed changes in the initiative, the Marijuana Control Board or DCCED would have to create labeling requirements. Currently there are no federal requirements, so it would be up to the ABC Board or the Marijuana Control Board to set those standards for health and safety regulations and standards.

CHAIR COGHILL said that is what he was asking about earlier - that the state would probably have to come up with some health and safety standards. He offered his belief that these will be hard to get to and will be highly contested.

REPRESENTATIVE GRUENBERG noted the initiative will have to be implemented if it passes. While it will not be effective on the date it passes, the legislature will not be in session for a while. He requested testimony at some point on how this would likely work because otherwise it may sound to the public like an impossible situation. He surmised there must be a way for the administration to have a contingency if the initiative does pass and what can be done by executive order.

CHAIR COGHILL replied this is directive by the people; if they implement it the department is under obligation to implement. He guessed the legislature could debate the cost but would be under direction to implement it.

REPRESENTATIVE GRUENBERG said he was not thinking so much of the cost, but of who would do it.

CHAIR COGHILL suggested the Department of Law may be best for answering the question of what the legislature would be mandated to do. However, he continued, it is very clear at this point that DCCED, under the ABC Board, would be directed to implement the whole range of standards listed and the legislature would be directed to somehow fund those. Once the people have spoken it would be hard [for the legislature] not to do that. Then it would be the whole range of everything from requirements of inspecting to what it would like for enforcing a fine. He said the initiative sponsor will be testifying after the agencies and the sponsor may be able to tell the members what the sponsor's

expectation is. After that, the Department of Law can summarize.

REPRESENTATIVE GRUENBERG commented it is helpful to have all of this on the record for the public to be able to see.

CHAIR COGHILL said he hopes the public will think about the questions and information that is being put on the table today.

[10:42:33 AM](#)

KELLY HOWELL, Special Assistant, Office of the Commissioner, Department of Public Safety, stated the cost estimate prepared by the Department of Public Safety (DPS) is based on several assumptions. The first assumption is that the legalization of marijuana will lead to increased demand and usage, and to a consequent increase in the number of people driving while under the influence of this drug.

CHAIR COGHILL interjected that one question is how that will be tested.

MS. HOWELL continued her presentation, stating the second assumption is that the legalization of marijuana will not eliminate the illegal, commercial marijuana growing operations. The department anticipates those will continue to exist, skirting taxes and regulation in order to make the maximum profit. Due to the more potent levels of THC in Alaska-grown marijuana, the out-of-state demand for the drug is currently significant and legalization could result in the increased potential for Alaska's legally-grown marijuana to be illegally diverted and exported outside of the state. Therefore, the estimated costs to DPS are \$1.4 million for the first year and \$1.2 million for the second and subsequent years. These costs are associated with the following: 1) The number of investigator positions in the Statewide Drug Enforcement Unit would be increased to target the illegal diversion and exportation of marijuana that is lawfully cultivated in Alaska. These positions would also work with DCCED's investigators through the Alcoholic Beverage Control Board, or in a subsequent Marijuana Control Board that is created, on investigations into the criminal activity that is associated with the regulation of the marijuana industry. 2) More DPS troopers would be required to receive drug recognition expert certification. This is tied to the DUI enforcement and would enhance the troopers' abilities to detect drivers impaired by marijuana. 3) A public education and awareness campaign of the dangers of driving under the

influence of marijuana would be launched, similar to what Colorado has recently done. 4) The number of samples being sent out for toxicology analysis to detect the presence of marijuana in blood for those suspected DUI cases would be increased.

CHAIR COGHILL asked for the timeframe and credibility issues related to toxicology reporting.

MS. HOWELL answered that currently any driver suspected of being under the influence, for example during a traffic stop, will be given a series of field sobriety tests and questions. If the driver is suspected of being impaired by a substance such as marijuana, the officer can apply for a search warrant to obtain a blood and/or urine sample. There is currently no field test similar to a breath alcohol test to determine whether someone is under the influence of marijuana. The state crime lab does not actually provide the analysis of drugs in blood or urine, those toxicology samples are sent to the Washington State Patrol Toxicology Lab. The Washington lab provides the analysis as well as the expert testimony should those cases go to trial.

[10:47:01 AM](#)

REPRESENTATIVE FOSTER inquired as to whether in designing the new crime lab there has been any planning for future expansion of testing for [marijuana].

MS. HOWELL responded yes, there is currently "shelled out space" available to expand should the lab branch out into doing in-state toxicology testing. However, she noted, it is more cost-effective to send those samples to the Washington State toxicology lab. That is done through a grant that DPS receives through the Department of Transportation & Public Facilities (DOT&PF), Highway Safety Office. The contract is on a per-sample basis, which is why DPS expects an increase in that contractual cost.

CHAIR COGHILL asked what the suspicion and probable cause is for a DUI in a particular case that is going to be tested for sampling.

[10:48:10 AM](#)

CHRISTOPHER RUSSELL, Sergeant, Statewide Drug Enforcement Unit (SDEU), Division of Alaska State Troopers, Department of Public Safety (DPS), qualified that he has not done a DUI for about 10 years because he has been in the drug unit for quite a while and

was in Western Alaska before that. He said a DUI investigation takes people through some standardized field tests. Based on the way a person passes or fails those standardized field tests, the trooper makes a decision on whether the person is too impaired to be on the road.

REPRESENTATIVE PRUITT asked how this would work given that marijuana would be legal in Alaska but illegal with the federal government.

SERGEANT RUSSELL provided an example to answer the question. He said the U.S. Postal Inspection Service (USPIS) comes to Southeast Alaska once a month to help DPS do interdiction at the U.S. Post Offices. Marijuana is always found, sometimes up to 30 pounds. He said he thinks that if an ounce or less was seized, DPS would be inclined to give it to USPIS to handle, which normally means disposing of it at one of its centralized areas. He said he thinks it would be that easy to just defer to USPIS and not accept cases like DPS has in the past.

CHAIR COGHILL understood that currently under local control laws [for alcohol] in Alaska, communities can choose to be damp or dry. He inquired as to how marijuana would work under local control; for example, whether a Village Public Safety Officer (VPSO) do something different than what Sergeant Russell would do.

SERGEANT RUSSELL deferred to his supervisor.

CHAIR COGHILL said these questions [need to be asked]. A tiered system would be created here - a statewide thing that has allowed some local control, except there are some things that the local control does not get. He understood one thing that a DPS officer currently does is count the number of plants. He offered his belief that the initiative has some of the same categorization for the number of plants. He surmised there was nothing new or unusual in the initiative and DPS would still be able to count and weigh marijuana plants in the same way as today.

SERGEANT RUSSELL responded he did not [see anything new or unusual] and it would be like now - just counting the

plants. He understood the proposed law is for six plants, with three mature.

CHAIR COGHILL understood that is changing the level.

SERGEANT RUSSELL replied yes.

10:52:00 AM

REPRESENTATIVE LYNN recalled a previous witness stating a cost to the state of \$1.5 million. He asked whether the figure mentioned by DPS is in addition to the \$1.5 million mentioned previously, or is part of the \$1.5 million.

MS. HOWELL responded it is in addition to that.

REPRESENTATIVE LYNN calculated the cost would therefore be almost \$3 million. He posed a scenario in which an officer pulls someone over who appears to be driving impaired. With alcohol, the field sobriety test probably provides 99 percent certainty that the person is actually intoxicated. However, there is no field sobriety test for marijuana. He asked what liability an officer has if a person is arrested or cited for driving under the intoxication of marijuana and it turns out that the person was not intoxicated with marijuana. He surmised there would be a secondary charge, such as speeding or improper lane changing, that would provide a backup to preclude a false arrest.

SERGEANT RUSSEL answered that his understanding is if an officer does his/her job in good faith and follows through the officer will be okay under the law. For example, he feels comfortable that his bosses at Alaska State Troopers would support him. If an officer did have someone for whom the officer is unsure but has the feeling the person is under the influence of something, that is exactly when the officer would call in a drug recognition expert who has gone through the training, and could do an in-depth investigation of the person and determine whether that person is under the influence of marijuana or another illegal drug.

REPRESENTATIVE LYNN said he is talking about the cop on the street that pulls somebody over. He presumed the expert

would not come to the site of arrest and that the person would have to be brought to the station.

MS. HOWELL clarified that the drug recognition expert certification is for patrol troopers, so DPS would want to have as many of its patrol troopers as possible certified as drug recognition experts so they can conduct detailed field testing on the spot.

CHAIR COGHILL asked what some of the interplay is between DPS and federal drug enforcement agents and whether DPS is flexible. If the initiative passes there will be some disparity between the federal law and state law. He understood DPS has memorandums of understanding (MOUs) with federal law enforcement.

MS. HOWELL responded the Alaska State Troopers receive a federal grant from the U.S. Drug Enforcement Administration (DEA) specifically for marijuana eradication efforts. How that federal grant will be impacted should the initiative become law is yet to be known. It could potentially have an impact on the federal funds that the state receives specifically for the purpose of marijuana eradication and suppression efforts. As well, marijuana would still be illegal under federal law, although there is the relationship that Sergeant Russell has with the federal law enforcement partners in drug enforcement in Alaska. How those relationships will be affected remains to be seen.

REPRESENTATIVE PRUITT inquired whether DPS's understanding of this legislation is that localities could ban marijuana sale, and marijuana facilities, but localities could not ban personal possession.

SERGEANT RUSSELL replied it would be like how alcohol works. Some villages are damp and people can possess alcohol, but alcohol cannot be bought or sold in the village. If the marijuana law is similar to the alcohol importation law, then, yes, his understanding is that a law enforcement officer would not seize an ounce or less if someone in a village was caught with it.

REPRESENTATIVE PRUITT said that is how he reads it as well, that possession would still be allowed in some villages.

[10:58:03 AM](#)

REPRESENTATIVE FOSTER related that according to information [in the committee packet], the total cost range for all of the different agencies, which includes DOR, DCCED, DHSS, DPS, DEC, the University of Alaska, the Office of the Lieutenant Governor, and the Division of Elections, would add up to between \$3.7 million and \$7 million.

CHAIR COGHILL concurred that is the dollar amount and added that there are huge indeterminate questions yet.

REPRESENTATIVE PRUITT said his understanding from reading about Colorado and other states is that because of sales becoming legal, there are now individuals whose illegal participation has decreased so they are not making as much money. According to a DEA agent in Colorado, there has been an increase in cartels moving in, such as through straw owners of some of the facilities. He asked whether DPS perceives that something similar will happen in Alaska.

SERGEANT RUSSELL answered there is a lot of money to be made in the sale of illegal and legal marijuana and he thinks people will do what is in their best interest and will try to continue to sell marijuana, whether or not they have a license to do so.

[11:01:32 AM](#)

TIM HINTERBERGER, PhD, Chair, Campaign to Regulate Marijuana Like Alcohol, offered the following testimony:

My name is Tim Hinterberger, I've been an Alaskan resident for over 20 years. I am a professor in the medical school at the University of Alaska, Anchorage. I am here to talk today about the public policy reform grounded in a concern for public health and wiser public policy. On August 19, 2014, Alaskans will have the chance to vote on a ballot initiative that will end the harmful and ineffective policy of marijuana prohibition and replace it with a system in which marijuana is taxed and regulated like alcohol. It will

restrict legal use to adults, 21 years of age or older, and allow limited sale of the substance to licensed tax-paying businesses that test their products and require proof of age. This all makes good sense to those of us who recognize that marijuana prohibition has been just as ineffective, inefficient, and problematic as alcohol prohibition was. Polls show that a majority of Americans and Alaskans agree it is time to end marijuana prohibition and make marijuana legal. The dramatic increase in public support for marijuana legalization over the last decade is based largely on the recognition that marijuana is objectively safer than alcohol. Gallop released a poll in October 2013 showing that a majority of Americans agree it is time to replace the failed policy of prohibition with a more sensible approach. Another major poll released in Alaska last month showed that 55 percent of Alaska voters are in favor of regulating marijuana like alcohol with just 39 percent opposing. And, the yearly poll commissioned by the Republican House Majority reaffirmed what we already knew, the majority of Alaskans believe that marijuana should be made legal for use by adults in this state. In the 1980s and 1990s era of the War on Drugs, the public was inundated with the inaccurate and dangerous message that marijuana is more harmful than it actually is. Our laws should reflect the scientific fact, and it is a fact that marijuana is vastly less toxic, less addictive, and less harmful to the body than is alcohol. Nor does it significantly contribute to violent and reckless behavior. It is also a substance that offers benefit to people suffering from chronic pain and other serious medical conditions. As policy makers, you understand that there is one commonly used drug associated with the wide variety of health problems, both chronic and acute: alcohol. A Centers for Disease Control and Prevention report released in 2013, shows that the cost of binge drinking is higher in alcohol than in any other state. According to this report, the cost

of health care bills, lost days at work, car crashes, other alcohol related problems came to over \$1,096 per Alaskan. Marijuana, on the other hand, does not cause overdose deaths and comes with far fewer long-term health consequences. A Rand Corporation study of California patients, released in 2010, found that fewer than 200 total patients were admitted to California hospitals in 2008 for marijuana abuse or dependence. In contrast, a Rand report is that in 2006 there were 34,000 ... over 34,000 hospitalizations due to illness or chronic conditions caused by alcohol consumption. By allowing alcohol ... I'm sorry ... by allowing adults to use alcohol, but making it a crime for them to use a safer substance, marijuana, our laws are steering people in the wrong direction. Such absurd policies foster disrespect for the law and law enforcement officials whose time and resources would be better spent addressing serious crimes instead of arresting and prosecuting adults for using marijuana. In 2010, over 2,000 Alaskans were arrested for marijuana possession according to a 2013 ACLU report. Those 2,028 arrests made up 81 percent of all drug arrests in this state which represents the highest rate in the country. That same report compiled publically available FBI data and found that the state spent nearly \$9 million enforcing marijuana possession statutes. That is \$2 million a year more than it will cost to implement the regulatory system that this initiative proposes even at the very highest levels being projected by the state. Any talk of the so-called cost of passing this initiative should be framed as savings because, we know, without question that the government program we've come to know as prohibition is significantly more expensive.

[11:06:38 AM](#)

[DR. HINTERBERGER continued] Meanwhile, clearance rates for many serious crimes are exceptionally low in Alaska and many never result in arrest.

Anyone who tells you that marijuana is basically legal in this state and that people aren't being arrested simply doesn't know the facts. It's a problem and will continue to be until prohibition is ended in this state. Under our initiative, authorities will actually know who is selling marijuana, where it is being sold, when and to whom. Sellers will be legitimate tax-paying business instead of criminal enterprises in the underground market. Regulating marijuana will create new jobs and generated much needed tax revenue for Alaska. That money is currently going to criminal enterprises which should be going toward building schools, improving Alaska's infrastructure, and to educating Alaskans about the risks associated with the abuse of any substance. This is an important point and is one that you will be hearing Mr. Jessee and Mr. Cort focus their testimony on, we believe. We are in the position of having to testify first so I will try and address their arguments proactively in the short amount of time we have. They are going to tell you that responsible Alaskans should be allowed to use marijuana without fear of arrest. They will agree with us that marijuana is far safer than alcohol. They will tell you that basically ... that they basically agree with the concept of legalization, but that this initiative goes too far because it allows for the establishment of a commercial industry. This is a ridiculous argument that ignores both practical reality and the language of the initiative. You simply cannot legalize consumption of any product, food, beverage, marijuana, if it is illegal to sell or buy the product commercially. You end up with what we have now, quasi-legal consumption and an unregulated black market. Alaskans will continue to be arrested for choosing to use a substance that is safer than alcohol and underground criminal enterprises will continue to exercise monopoly control over the market and reap all the profits. Everyone agrees that marijuana is not going to go away so you have to ask yourself a fundamental question, why would we want

marijuana to be sold by criminals instead of licensed businesses. Again, we are talking about a substance that is already widely available, widely used, and we agree is objectively less harmful than alcohol. There is no reason why we should leave it in the underground market where its cultivation and sale are entirely uncontrolled. Mr. Guaneli will likely tell you that passing this initiative will lead to significant increase in use amongst teens. A majority of Alaskans support making marijuana legal for adults and we all care just as much about protecting young people as those who wish to keep marijuana illegal. We simply know that regulation will be a more effective way of restricting access to teens. Marijuana prohibition has failed miserably at keep marijuana out of the hands of teens. For decades, more than 80 percent of high school seniors have reported that marijuana is very easy or fairly easy to obtain in a ... a national survey. If the goal of our current prohibition policy is to keep marijuana out of the hands of young people and yet more than 80 percent can a ... get it easily, that is a sign that the policy has failed and it is time for a new approach. By forcing marijuana into an underground market we are guaranteeing that sales will be entirely uncontrolled. Illegal marijuana dealers do not ask for ID, they sell a product that is unregulated, and possibly impure, and they might expose consumers to other more harmful drugs. In a regulated market businesses would be required to ask customers their proof of age, and they would face penalties for selling marijuana to minors. Under the language of the initiative, the state and local governments have broad powers to create rules regarding advertising, labeling, testing, serving sizes, additives, permissible financial interests, production caps, licensing classes and so on. Local governments can even go so far as to ban retail stores all together within their jurisdiction. If the Northwest Arctic Borough, or Municipality of Anchorage, or the City and Borough

of Juneau determine that they do not want a commercial industry of marijuana in their community then they are perfectly free to make that decision. In theory, every governmental entity in the state could come to that same conclusion. You are likely going to hear Mr. Jessee still try and tell you that marijuana legalization can work without setting up a commercial industry. His solution, he is going to argue that the initiative could and ... could have and should have been written to give the State of Alaska monopoly control over the industry. Does anyone in this room believe that alcohol sales should be taken out of the private sector all together and handed over to the state? If not, then why would we take this approach with a substance such as marijuana which is objectively safer? It makes absolutely no sense and violates the principles which unite us as Alaskans. We live in a free society and as Alaskans we really value and cherish that freedom. Part of living in a free society is recognizing that responsible adults should be left to make reasonable decisions about how to live their lives. We draw the line with truly dangerous substances and with activities that harm others. But, nobody actually believes that marijuana belongs in that category. So we have the opportunity to do this right with marijuana and it will ultimately be your job as policymakers to determine the best way to go about setting up this industry. This is what the people elected you to do. They want to end the failed policies of prohibition and after they vote to pass Ballot Measure 2 this fall the reins will be handed over to you and other state officials to guide the process forward in a reasonable and responsible manner. I would encourage you all to focus your attention on how to work within the parameters of the initiative to implement this commonsense policy. I encourage you to start thinking about ways to potentially improve upon the law as it is currently written rather than listening to scare tactics and misinformation that

failed in Colorado, failed in Washington, and will ultimately fail in Alaska. Thank you.

11:13:11 AM

CHAIR COGHILL remarked that the committees are trying to figure out what the initiative says.

11:13:36 AM

KELLY DREW, MD, said she "seconds" Dr. Hinterberger's testimony. She informed the committees that she has been a resident of Alaska for four years, with specific expertise in the neuropharmacology of marijuana, and is not an expert on the specific provisions of the initiative. Dr. Drew reiterated that she is trained in neuropharmacology, which is the study of the effects of drugs on behavior and the brain. She related that as a scientist she has studied this subject and has made significant contributions in understanding addiction, plus she teaches a course at the University of Alaska Fairbanks in how drugs affect the brain and behavior. The course includes information on the pharmacology behavioral effects, the cellular and molecular effects, and addictive properties of the cannabinoids, which are a class of drugs defined by marijuana. On occasion she has served as an expert witness for legal proceedings that contain effects and ("indisc.") behavior, including the effects of marijuana. She stated she is available to provide expertise, and is a citizen supporting the initiative.

DR. DREW, in response to Chair Coghill, said that she is not an original sponsor of the initiative, but participates. Dr. Drew further responded that she would be very interested in joining the discussion when health and safety standards are considered, especially with field sobriety and other aspects of the pharmacology of the drug.

REPRESENTATIVE KELLER asked if she disagreed that marijuana use will increase if the initiative is passed.

DR. DREW offered that it is a debatable and difficult question in that there is evidence in the literature to suggest that it might, and evidence it will not.

CHAIR COGHILL asked about the significant health differences between smoking marijuana and smoking tobacco.

DR. DREW related that primarily it is the magnitude of the amount of smoke consumed. Marijuana is smoked significantly less frequently than someone who smokes tobacco, she opined. There is also some evidence that the secondary products in marijuana are not as harmful as tobacco, but it is a very small population of individuals who are only marijuana smokers and do not consume tobacco.

CHAIR COGHILL noted that the carcinogenic question and the second-hand smoke questions are issues people will be alert to because cigarette smoking is something that has been paid close attention to.

REPRESENTATIVE LYNN asked if Dr. Drew has information as to what percentage of marijuana smokers also smoke cigarettes.

DR. DREW advised that she does not have exact numbers but in the studies that try to "tease out" the health consequences of smoking marijuana it is often confounded by tobacco use. It is a small percentage of individuals studied who smoke only marijuana, she opined.

[11:19:42 AM](#)

ROBERT CAPECCHI, Deputy Director, State Policies, Marijuana Policy Project, stated the Marijuana Policy Project (MPP) is a national 501(c)(3) and a 501(c)(4) based in D.C., and is privately funded by individuals. He noted that MPP has worked in Alaska for policy reforms for the past 10 years, and also works with legislatures across the country and on a federal level. The largest study to separate out marijuana-only smokers was conducted by Donald P. Tashkin, MD, of the University of California, Los Angeles (UCLA). Dr. Tashkin and his team studied only marijuana smokers, marijuana/tobacco smokers, and non-smokers, assuming they would find a correlation between cancers of the mouth, throat and lungs. The highest rate of cancers in the mouth, throat, and lungs was predictably from the group of individuals who smoked both marijuana and tobacco. However, he opined, the lowest rate of cancers of the

mouth, throat and lungs were from only marijuana smokers and were even lower than non-smokers in general. He highlighted that it is not to suggest that marijuana use prevents cancers, but he found it interesting to consider since marijuana use was parsed out from marijuana/tobacco use and felt it should be given weight. The idea of a state monopoly tramples on the idea of entrepreneurship and even though it would exact control on the market, it would be federally illegal. An assistant attorney general previously discussed preemption which is a difficult question, except in situations when direct preemption arises. He described a scenario of the state instructing state employees of state marijuana stores, to violate federal law. He opined that it is clearly a federal preemption issue and not an option. He suggested that those who wish to have a state monopoly lobby the federal government and that could be accomplished "quite easily." He pointed out that Diane Casto had discussed the downstream consequences of passage of this initiative and how the fiscal impact is necessarily tied to new users. He argued that fiscal impact will be affected by some new users but more so by current users who are purchasing marijuana illicitly. The assumption that the fiscal impact is driven entirely by new users is inaccurate, he opined. After the first month of legal sales in Colorado, a poll was conducted that revealed that while 51 percent of those polled said they had tried marijuana in their lifetime, only 10 percent said they used marijuana when sales began on January 1, [2014]. He related that the 10 percent figure is in line with survey results that show what use rates are in Colorado. There was nothing to suggest that the beginning of regulated sales all of a sudden led to a huge new demand. He surmised it would be expected at the front end of the sale because the excitement would be there. He referred to a prior discussion that the criminal market was not being eradicated by voting-in this initiative, and the fact they would still be involved in marijuana sales. He said he is not aware of business licenses being issued to the cartel in the State of Colorado, as the state has a vigorous marijuana enforcement division and frequently brings cases against marijuana dispensaries that violate state law. It was suggested there could be diversion from Alaska out-of-state, and he referred to previous testimony regarding the geographic

difficulty of doing this from Alaska versus from Colorado where an individual can drive across state lines. On March 15, 2014, The Coloradoan published an article stating that Colorado's border states have had little change since marijuana was legalized. He remarked that it quoted extensively from law enforcement officials with neighboring states who all agreed they had seen no increase of marijuana coming across their borders and nothing to suggest there is massive diversion taking place by the new law. He said he could understand concerns that passing the initiative would be adding another vice to the market for adults to use. However, he related there is no reason to believe that allowing adults to use marijuana will result in significant societal problems. Health care costs associated with alcohol, tobacco, and marijuana were studied in 2009, and the British Columbia Mental Health and Addictions Journal found that the annual health care costs of alcohol consumption per user are \$165, tobacco user \$800, marijuana user \$20. The effects of marijuana use to society pales in comparison, and marijuana tax revenue would offset that amount, he opined. With regard to tax revenue, he said it is difficult to tag a specific number, however, the first month's sales in Colorado brought in \$2 million to the state in taxes which, he noted, is lower than people expected. He related that it could be seen as a good thing as not as many people were purchasing marijuana as may have been feared. In addition to sales tax and excise taxes in Colorado, jobs are created. He said it is difficult to put a number on the amount of jobs in Alaska, but the Colorado Marijuana Enforcement Division has issued 5,728 employee badges. He advised that currently there is a big marijuana industry - the Zetas, Sinaloa, and Gulf Cartels - which operate in high schools across the country. This initiative removes marijuana from that industry's structure and places it in regulated businesses that the state oversees. Advertising restrictions are not set in the initiative as that would be performed in the regulatory process. In Colorado, marijuana retailers may not engage in advertising via unsolicited pop-up ads on the Internet, are prohibited from using advertising visible from any public place, and may not use cartoon characters, images, or content appealing to individuals under 21. The State of Rhode Island envisions advertising restrictions at least as restrictive as tobacco. The State of Alaska has the opportunity to enact responsible and thorough regulations on an emerging industry. He opined that tobacco and alcohol were not regulated from the front end, but rather the tail end.

11:30:47 AM

REPRESENTATIVE PRUITT noted that Alaskans are very sensitive about outside influence. He read a statement by the Affiliated Tribes of Northwest Indians that includes the Village of Kasaan, Central Council of Tlingit-Haida Indians, and the Community of Metlakatla as follows:

Their member tribes strive for drug free communities in order to provide safe and healthy environments for their tribal members, including the most vulnerable, the children.

REPRESENTATIVE PRUITT asked how he would respond to someone outside coming in and having an influence and potentially pushing something on a group of people of Alaska who have indicated that they would prefer this not be allowed in Alaska.

MR. CAPECCHI related that the ballot initiative being debated would allow localities to determine whether they wanted regulated sales on their territory. He acknowledged that MPP's base is Washington, D.C., it has given money to the campaign [in support of the initiative], and Alaskans have donated to the campaign.

REPRESENTATIVE KELLER related that a sponsor of the campaign said the message would be getting out to Alaskans in a number of ways. He asked the scope of the campaign.

MR. CAPECCHI answered that he cannot explain the scope as he does not work in the communications department; he is the deputy director of state policies. Within the Colorado Amendment 64 campaign, of which MPP was the primary financial backer, MPP produced television commercials, radio ads, flyers, handouts, yard signs, and typical campaign advocacy materials.

11:34:16 AM

BEN CORT, Business Manager, Center for Dependency, Addiction and Rehabilitation (CeDAR), University of Colorado Health System, stated he works for the University

of Colorado Health System in their inpatient drug treatment program, CeDAR, and is the father of three. He said Colorado clearly is at the forefront of this "experiment" and asked that everyone remember the old adage, "A smart man learns from his mistakes and a wise man from the mistakes of others." There is clear national attention from the marijuana lobby on Alaska because they are trying to [pass the initiative] quickly. He suggested everyone wait for the data from Colorado to "play out." A National Institute on Drug Abuse (NIDA) report is due at the end of the summer, and he had the opportunity to preview some of the disturbing numbers. The race to legalize marijuana is driven by a well-coordinated industry with approximately \$100 million in its war chest, which includes the Marijuana Policy Project (MPP), the Drug Policy Alliance (DPA) and the National Organization for the Reform of Marijuana Laws (NORML). It is a clear national agenda and Alaska fits very well into that as Alaska is starting to see the beginning of exactly what was seen in Colorado, which was a massive influx of external money to influence voters. The "NO" campaign was outspent by about 12 to 1 with all of its money coming from within Colorado, with little exception. He opined that almost all of the money on the other side came from California and Washington D.C. He related that Colorado was caught up in more of a national agenda than a Colorado agenda. The commercialization of marijuana caught people off guard and it is very important to remember that the way Alaska's proposed legislation is written, it specifically protects provisions that were allowed under Colorado law by omission. The notion that aggressive marketing will be held back in any manner is wrong as there would be First Amendment to the U.S. Constitution issues. He offered to forward examples of cartoons being used to sell marijuana, and noted that marketing is aggressively publicized in public places such as billboards, taxi sides, advertisements, and folks with flip signs, and it all has an appeal to young people. He related that many of the business owners have public relations backgrounds and who were not involved in the marijuana industry until there was money to be made. There are First Amendment issues anytime attempts are made to curtail advertising. Due to the large amounts of money to be made, many of these folks have said they are interested in becoming "big marijuana," and not "small mom and pop stuff." In Colorado there are two

companies: Dixie Elixirs basically sells fruit flavored sodas with high doses of THC in them and Open Vape sells a product they blatantly advertise is for the consumption of marijuana discreetly and the tag line is "so you can smoke the good stuff anywhere you want." These companies are saying they are going to do \$1 billion in commerce just in Colorado this year. He described the foregoing as big marijuana. During a job fair, sponsored by Open Vape, he noted that the advertised jobs were for marketing and sales and not running a counter. He related that another concern is of sub-industries that have sprung up such as the marijuana vaporizing industry. This allows the user to consume THC anywhere they want to with no smell and in a manner manifested in Colorado by young people in high schools. This has high school principals, guidance counselors, school resource officers, and everyone up in arms because the kids don't even have to cut class to get high. From an industrialization standpoint, there is no arguing that Colorado has the best marijuana on earth: smoked marijuana is 20-30 percent THC content and the concentrates are 80-90 percent THC content. The butane extracted hash that has the 80-90 percent THC content very notably is consumed on a super-heated needle by hot knifing the exact way that is typical of crack cocaine. He opined that anytime industry is invited in, there will be a race for the potency to increase because the shops are all basically selling the same product, and the guy who can sell the most THC for the least amount of money is going to get the business. He asked that the committee take a hard look at the concentrates and carefully consider that proposed AS 17.38.900(6) speaks very clearly to what marijuana is: resin extracted from the plant, oils, and every compound. This is Alaska's legislation saying that this is always going to be considered marijuana, these highly industrialized products and super-potent things that from an addiction standpoint, and mental health standpoint, Colorado has never seen before. There have been four years' worth of experience with marijuana this potent in the world and the idea it is the same hemp George Washington probably smoked on his front porch, which was 0.2 percent THC, and this is 80-90 percent THC, is unfounded. He asked that the committees further consider that Colorado's marijuana edibles in many cases are so potent that they require they be cut into fourths before

consuming. Colorado has had several deaths of animals that have eaten entire edibles. There are multiple examples at the Children's Hospital emergency room at the University of Colorado campus of young people coming in with accidental ingestion issues. He described the edibles as not just pot brownies, because there are gums, suckers, hard candies, gummy worms, and gummy bears, which are not being marketed for the 40-year-old who wants to get high in his basement on a Friday night. These are sweet treats and the appeal is for children.

[11:44:20 AM](#)

CHAIR COGHILL asked for the definition of a tincture under proposed AS 17.38.900(11).

[11:44:32 AM](#)

MR. CORT responded that he did not know if Colorado specifically called out tinctures. His thought is a tincture may be cannabidiol (CBD) enhanced medicinal products that are taken orally by young people. Cannabidiol has almost no psychoactive compound and the CBD will not get someone high.

MR. CORT requested that the committee give legalizing marijuana some time to play out in Colorado. He used the analogy that if Colorado is the canary in the coal mine, Alaska revisit the issue in two years to determine if Colorado is singing or is dead. He reiterated that the industry is coming from a national lobby with a national agenda that is much more concerned with its agenda than with Alaskans. Colorado fell victim and it is his hope that Alaska does not.

[11:46:02 AM](#)

JEFF JESSEE, Chief Executive Officer, Alaska Mental Health Trust Authority (AMHTA), Department of Revenue (DOR), said this initiative is nothing less than a Trojan Horse as it seeks to cloak the real purpose of the initiative with a veil of evolving public opinion and Alaska's attitude that individuals should be free to engage in personal conduct, including the consumption of marijuana, without fearing a

wrath of citations by the government. Alaska has already moved quite a distance compared to most other states in this regard as under Ravin v. State, 537 P.2d 494 (Alaska 1975), personal use in the privacy of an individual's own home is legal. In addition, there are medical marijuana provisions allowing for the legitimate medicinal properties of marijuana to be made available to the public under a controlled situation. Proponents of the initiative consistently talk about the illegality of the use of this product and the threat of arrest that faces people as the linchpin for Alaskans to vote for this initiative, he opined. He related that the vast majority of those types of arrests would be covered by two proposed sections: AS 17.38.020 regarding personal use, and AS 17.38.030 regarding cultivation. These two provisions constitute less than one page of the eight page initiative so the real purpose of the initiative is to legalize the commercialization and industrialization of marijuana, he opined. He said the initiative would allow very little ability to limit the advertising and promotion of this drug, and the presence of multiple commercial outlets would further contribute to promotion of this product. The proponents make an argument that because marijuana is less harmful than alcohol, it should be okay for people to consume, and when it is okay for people to consume it, it should be okay to create an industry willing to spend huge sums of money to promote the increased use of marijuana. He reiterated that the two purposes behind this are the promotion and advertising of marijuana, and expressed his hope that few people have bought the argument that advertising and promoting these products isn't about increasing consumption, it is just about the different companies fighting for market share. In the alcohol industry, the huge amounts of money that go into advertising are clearly designed to maximize the consumption of the product and therefore maximize the profits of the companies that are engaged in this activity. He related that huge amounts of money are being poured into the legalization efforts to see that these are not folks worried about someone getting a ticket, or even a misdemeanor charge for consuming marijuana, this isn't led by the American Civil Liberties Union (ACLU), but by people who want to increase consumption of this product and allow

themselves to make further profit at the expense of the community.

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MR. JESSEE, in response to Chair Coghill, said that his last reference is to edibles and foodstuff which are totally different from alcohol. Edibles allow THC to be placed in a huge range of products as prior testimony showed, and many of those products will be very attractive to underage consumers as they will consume these products once they are out of the package, in front of teachers and parents, and there is no way in the field to determine whether in fact these products are laced with THC or not. He reiterated that the initiative is a Trojan Horse designed not just to address the issue of criminalization but to create a commercial enterprise that will be dedicated to increasing the consumption of marijuana among all age groups of Alaskans.

[11:53:13 AM](#)

DEAN GUANELI, Attorney at Law, stated he worked for the Alaska Department of Law for 30 years. One of his major projects toward the end of his career was testifying before the legislature in favor of the re-criminalization of marijuana. In 2006, the legislature held extensive hearings on marijuana and many of the same things the legislature heard at that time, are being heard now. In 2004, there was a defeated ballot initiative to legalize marijuana and, four years before that, another defeated ballot initiative. He questioned what had changed between then and now. He determined that the primary changes are that Washington and Colorado made the mistake of legalizing marijuana and creating retail industries. In addition, Diane Casto's testimony of a new study showing a decrease in IQ for young people using marijuana is another change. There is no question that use of marijuana among adults and children is going to increase, as it has happened in other places where marijuana has been legalized. In Europe, and in many countries where marijuana has not been legalized and there is no retail marketing, but possession is not a crime, yet it's still illegal to grow or sell, use has increased greatly. National experts have referred to the

"Portugal Model," under which growing and selling is illegal, but allows an individual to possess marijuana, marijuana use has increased 50 percent, heroin use has increased more than 50 percent, Ecstasy use has almost doubled, and cocaine use has doubled. Those kinds of figures have applied across Europe where many countries have made it legal to possess drugs or have tolerated it. Before Colorado and Washington, the biggest experience America had with legalized marijuana was medical marijuana. States with medical marijuana have seen use increase and particularly among children. In the states that have "medical marijuana dispensaries" where retailed medical marijuana can be sold, use among teenagers is at 50 percent higher than other states. A survey took place in Denver, Colorado, of teenagers and juveniles and three-fourths of those who smoked marijuana said they have been able to get marijuana from medical marijuana users. He opined that as a society, the use of any psychoactive drug should not be condoned, certainly for adults driving with it, working with it, or caring for children. Professor Hinterberger's testimony outlined that there would be savings in criminal justice costs, and money to be made in doing this. Earlier this month he said he participated in a University of Alaska panel discussion regarding marijuana legalization, and one of the first things he did was review cases involving misdemeanor marijuana possession that had gone through the courts. As Nancy Meade testified from the Alaska Court System, most are done by citation and are quickly resolved with a suspended sentence and maybe a small fine. Every once in a while jail time was imposed as the person was indicted for felony distribution of marijuana to children and assault on a police officer with a long criminal history, yet after plea bargaining it looked like a misdemeanor sentence. The vast majority of cases the Alaska Court System sees are public possession of marijuana currently done by citation, he reiterated. He related that under this initiative, those will still be citable offenses and still go through the court system, so will not save any money. On the question of whether it would make money there was testimony that in Colorado during the first month marijuana was legalized it made \$2 million in taxes, but Colorado has seven times the population of Alaska and also a population base in surrounding states. He suggested dividing \$2 million by

one-seventh to determine what Alaska could expect. Assuming Alaska makes enough money to counteract the costs projected in the current fiscal notes, there would be costs for health and social services and for marijuana dependence, which is comparable to addiction. He referred to a proponent of marijuana legalization, a medical expert from Harvard who testified in front of the legislature in 2006, who basically defined dependence as an unhealthy and unwanted preoccupation with a drug to the exclusion of most other things. Mr. Guaneli offered that the Harvard medical expert said an individual is constantly thinking about it, and using it to recover from its effects; it is a habit that impairs physical health, work, family life and relationships and noted people often repeatedly try to quit and they can't. He said this is the medical definition of dependence. He opined that scientists know that 9-10 percent of regular adult users become dependent to this extent on marijuana. At some point in their lives, whether by judicial action, employer action, or when their family forces them into treatment, they are going to need treatment, he submitted. In the event more individuals need treatment, "Who's going to pay for that?" he asked. In 2006, a witness experienced in alcohol treatment from the Department of Health and Social Services testified that marijuana treatment makes alcohol treatment much more difficult. In Alaska, a large percentage of people in treatment for alcohol addiction also have a secondary dependence on marijuana, which makes it more difficult to treat those people, he reiterated. As the individuals are recovering from alcoholism they think marijuana is a safe high and it brings them back down the spiral into alcoholism. He queried why allow a drug which brings so much havoc in Alaska. In 2006, the legislature heard from experts of the proponents to legalize marijuana that marijuana affects people prone to mental illness as it makes psychotic breaks come on more rapidly and more seriously. In fact, Senator Olson marked at the time that he knew a number of people whose mental illnesses were made worse by the use of marijuana, he offered. Mr. Guaneli said the Department of Health & Social Services fiscal note is probably too conservative with adults. He referred to Diane Casto's testimony in that there are prenatal effects of women using marijuana, and noted that Alaska surveys show that a fairly good percentage of pregnant women use in

Alaska. Proponents' experts, in 2006, testified that the adolescent brain is going through development in the late teenage years and into the early 20s. The experts further testified that a portion of the higher brain functions, such as judgment and reasoning, are developed in late teenage years, and marijuana is dangerous during that critical period of development, he opined. The mechanism was unknown as to how it affected the brain development, they just knew it did. Currently, he proffered that one of the proponents' 2006 experts currently commented that "... what we now know is that ... it affects the ratio of brain cells." The expert further commented there are white brain cells and grey brain cells that have to be of a certain ratio and stated that those brain cells get "out of whack." He said that Diane Casto earlier mentioned a recent study that has now quantified and measured at least part of that affect and that is a study that showed up to an eight point decrease in IQ.

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MR. GUANELI offered a scenario regarding the eight point drop in IQ, wherein if an individual's IQ is 100, which is the 50th percentile, an eight point drop puts an individual at well below average. Our public education system has enough problems without juveniles having lowered IQ because of a drug, he opined. There is a reason the Affiliated Tribes of Northwest Indians voted that marijuana should not be legal, as surveys have shown that among Alaska Native youth, marijuana use is significantly higher and in many cases double the rate of use by non-Native youth, he stated. The tribes themselves have recognized that there is a real problem as should the rest of society, he opined. There are a number of issues in this initiative that are not well understood, some of which have been addressed today, but the legislature will have to clarify and offer guidance as to how legalizing marijuana would work. For example, the initiative seems to say an individual can possess under one ounce, plus an individual can possess any amount of marijuana an individual has grown on their own. Essentially, there is no limit to the amount of marijuana that can be possessed under the initiative, he submitted.

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CHAIR COGHILL noted that enforcement issues will be tough.

MR. GUANELI agreed and said that he was not sure the legislature necessarily has the ability to correct that issue. He reiterated Mr. Cort's testimony that Alaska has an opportunity to learn from Washington and Colorado simply by waiting, as we do not want to experiment with Alaska, our youth, and the health of the state.

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ADAM BERKEY stated he is a 5th grade teacher and has worked with Drug Abuse Resistance Education (D.A.R.E.) over the years. He stated he is a medicinal marijuana consumer due to epilepsy as it works well for grand mal seizures. In that marijuana is illegal, people believe those who use marijuana are morally corrupt and are not trusted as individuals. He asked the committees to consider him a human being as anyone else: He is 36 years old, volunteers for his community, teaches children, works hard, is a good husband, and a good son, but at the end of the day he does not "dare" adopt children with the current laws as he is concerned his adopted child will tell schoolmates about his medicinal marijuana license. He related that there is a human side to marijuana and it is not the ACLU, or MPP coming into Alaska but people in Alaska, known to members of the committees, who are adults in the "marijuana closet" for fear of getting into trouble.

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ROSEANNE MANCUSO stated she is Gwich'in Athabascan and said that to offset the suicide rate is to legalize cannabis in the State of Alaska to help people's depression due to the long cold winters, or cabin fever. The pro-marijuana groups claim that hemp is such a versatile raw material that its products not only compete with petroleum, but with coal, natural gas, nuclear energy, and pharmaceutical, tender, and textile companies. She related that it is estimated that methane and methanol production alone from cannabis grown as biomass could replace 90 percent of the world's energy needs. The difference is that the cannabis source is renewable, cheap, and clean and the petroleum and

coal sources are limited, expensive, and dirty. By volume, 30 percent of the cannabis seed contains oil suitable for high-grade diesel fuel as well as aircraft engine and precision machine oil. She offered that a long time ago, William Randolph Hurst began referring to hemp in his newspapers by its Spanish name - marijuana. She related that this did two things: it associated the plant with Mexicans and played on racist fears, and misled the public into thinking that marijuana and hemp were a different plant. In 1938, Popular Mechanics ran an article about cannabis called the New Billion Dollar Crop, and it was the first time the words "billion dollars" were used to describe a U.S. agricultural product.

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JIM NELSON stated there has been legal possession of cannabis by adults in Alaska for almost 40 years which generated almost no data on any affects or consequences on society. He noted that Alaska could have been a testing ground for the rest of the country, but there are no studies because [adult marijuana consumption] hadn't risen to the level of conducting studies. Alaskans could have studied rates of suicide, car accidents, general rates of crime, emergency room visits, rates of alcoholism, spousal and child abuse and use of other substances, he opined. He pointed out that a study at a ".gov" website concluded there are substances in cannabis among the most powerful neurological anti-toxins known, and offered that there have been incredible results with children and seizure control. It is a very complicated subject, but not to worry about it from the point of view of addiction; personally, his strongest addiction is coffee. In terms of creating policy, he suggested maximizing employability among people finding it hard to find employment.

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DEBORAH WILLIAMS stated she will address five issues raised by committee members. It is clear that Representative Foster and others are concerned about [marijuana] having an adverse impact on local control, and she said it does. In particular, she noted that Alaskans living in villages and smaller communities should read proposed AS 17.38.020(a),

because villages will not be able to restrict the transportation or use of marijuana in their community under this [initiative]. She opined there will be no such thing as villages being able to be "dry" on marijuana. It is essential that the definition of marijuana is clear as the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture or preparation of a plant, its seeds or its resin including marijuana concentrate. She urged every Alaskan to Google shatter, crumble, butane hash oil (BHO), and wax to review that this [initiative] specifically requires and authorizes Alaska to legalize, commercialize, and industrialize 80-90 percent THC. Alaskans have no idea of the serious impacts from the industrialized product the initiative specifically authorizes, she opined. She noted the importance of the testimony of the Department of Corrections in that there are no savings, which means there is not a problem with people in jail now on marijuana possession. Therefore, this [initiative] does not present any savings because Alaska does not have that problem now. She related concern that the [initiative] is filled with "shall, shall not, and notwithstanding any other provision of law," and urged the Department of Law to review each of those instances regarding profound implications. The legislature has appropriately focused on the cost to state government which is over \$7 million, but those are not costs to Alaskans. There are costs to society when youth lose eight to ten points of IQ, or an individual is injured because someone is driving under the influence. The DUI rates for marijuana are skyrocketing in Colorado and Washington, and costs to productivity when people are injured on the job from others consuming marijuana, she opined. She remarked that the legislature should try to come up with the total costs to state government [and society], as it is known from tobacco and alcohol for every \$1 raised in revenue there are \$10 of costs to society. She opined this is a flawed, costly [initiative] that would legalize the industrialization and commercialization in Alaska.

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ELIZABETH RIPLEY, Executive Director, Mat-Su Health Foundation, Mat-Su Regional Medical Center, stated that the Mat-Su Health Foundation Board of Directors is concerned

about the potential health effects of the initiative as articulated by Diane Casto and Jeff Jessee. She noted that Mat-Su youth marijuana use increased by 14 percent from 2005-2011, and during that timeframe the perception of harm of the drug decreased due to changing social norms. As Jeff Jessee indicated, the initiative will create a rapid acceleration in the shifting social norms, she opined. The initiative sets an age limit of 21 years, but sends a clear message to Alaskan youth that getting high is okay through the use of this drug. She related that the proliferation of stories, advertising, and communications will reinforce the message all over Alaska and through the media. She related that the local substance abuse coalition has worked hard through a variety of environmental strategies to reduce alcohol consumption among youth. Binge drinking rates in Mat-Su have decreased 41.5 percent from 2005-2011 as it was clearly communicated that binge drinking is not a healthy norm, but the initiative will do the opposite and normalize marijuana socially, she opined. She noted that the Mat-Su Community Health Needs Assessment was completed in 2013, and in 24 community forums, Alaska residents outlined the top health goals for the state's fastest growing population. She advised that the number one goal is that children are safe and well cared for and it is in the interest of this goal that the Mat-Su Health Foundation expresses concern about the initiative.

[12:24:07 PM](#)

JAMES SCHENK stated that lives are needlessly destroyed by marijuana prohibition laws. He remarked that the government arrests over 700,000 Americans, which are more than the population of Wyoming, for marijuana possession every year. He opined that these new convicts are driven from their jobs and families and pushed into a prison system that turns first-time offenders into hardened criminals. He noted the hypocrisy in that the U.S. government previously was awarded a patent number 6,630,507 on cannabinoids and neuro-protectants which is useful in the prevention and treatment of a wide variety of diseases including stroke, trauma, autoimmune disorder, human immunodeficiency virus (HIV), dementia, Parkinson's, and Alzheimer's. He related that laws are in conflict with the states and federal government due to this patent for the

federal government. He opined that there is no medical evidence that shows a high potency in marijuana is more harmful than a low potency in marijuana as marijuana is literally one of the least toxic substances known. He submitted that high-potency marijuana is actually preferable because less of it is consumed to obtain the desired effect and thereby reducing the amount of smoke entering the lungs, and lowering the risk of respiratory health hazards. He related that claiming high-potency marijuana is more harmful than low-potency marijuana is like claiming wine is more harmful than beer. He admitted there is a chance of contracting cancer from smoking marijuana, but it is miniscule as tobacco smokers typically smoke 20 plus cigarettes every day for decades. He further submitted that virtually no one smokes marijuana in the quantity and frequency required to cause cancer. The U.S. government's statistics show that over 75 percent of all Americans who use marijuana never use harder drugs. He stated he wished there were not so many unknowns to the people Alaskans have chosen to represent them and expressed that everyone should have come more prepared in reading the initiative and understanding the laws and things Alaskans are up against. Mainly, he remarked, the legislature should protect the rights of Alaskan citizens in Alaska communities in order that individuals do not unnecessarily become criminals due to an act that does not harm anyone else.

[12:27:18 PM](#)

TOM TOUGAS stated he is the owner of Major Marine Tours which is a marine ferry boat and tour company that must follow the federal regulations of the U.S. Coast Guard. He commented that this initiative will create confusion among the workforce and difficulties for employers due to the conflict between federal laws and the initiative. He expressed concern about the impact on Alaskan youth in order to benefit outside profit-making corporations, particularly in small communities. He noted that earlier testimony related there is a human side to this, but it makes no sense to subject Alaskan children to this issue when it is really to benefit people outside of Alaska. He offered additional concern regarding the impact on fetal development, the personal cost, and cost to the state. He

offered that an individual can say marijuana is less harmful than alcohol, but fetal alcohol syndrome (FAS) in Alaska is a devastating experience and each FAS child costs the state over \$1 million. He submitted that even though it could be said marijuana is less harmful than alcohol, it still may cost \$500,000. The way the [initiative] is written, the penalties are very low and as someone who drives the Seward Highway every week he said he is very concerned. He said he appreciates the fact that Alaska increased the penalties for DUIs, to which he attributed the lowering of highway deaths in Alaska. He expressed concern that the initiative penalties appear to be extremely low and, therefore, restrictions on enforcing the impact of impaired driving would be low. He agrees with prior testimony that Alaskans should stand back, stand down, watch what happens in Washington and Colorado, and not subject Alaskans and Alaskan children to this type of abuse.

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ADJOURNMENT

There being no further business before the committees, the joint meeting of the House Judiciary Standing Committee and the Senate Judiciary Standing Committee was adjourned at 12:31 p.m.