

ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE

March 9, 2016

3:32 p.m.

MEMBERS PRESENT

Representative Kurt Olson, Chair
Representative Shelley Hughes, Vice Chair
Representative Jim Colver
Representative Gabrielle LeDoux
Representative Cathy Tilton
Representative Andy Josephson
Representative Sam Kito

MEMBERS ABSENT

Representative Mike Chenault

COMMITTEE CALENDAR

HOUSE BILL NO. 188

"An Act relating to financial accounts for persons with disabilities; relating to financial institutions; relating to property exemptions; relating to securities; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 337

"An Act relating to taxes on marijuana."

- HEARD & HELD

HOUSE BILL NO. 314

"An Act relating to the Alaska regional economic assistance program; extending the termination date of the Alaska regional economic assistance program; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: HB 188

SHORT TITLE: PERSON W/DISABILITY SAVINGS ACCOUNTS

SPONSOR(S): REPRESENTATIVE(S) SADDLER

04/11/15 (H) READ THE FIRST TIME - REFERRALS
04/11/15 (H) L&C, FIN
03/09/16 (H) L&C AT 3:15 PM BARNES 124

BILL: HB 337

SHORT TITLE: MARIJUANA TAXES;EXCESS POSSESSION;BONDS
SPONSOR(S): REPRESENTATIVE(S) LEDOUX

02/24/16 (H) READ THE FIRST TIME - REFERRALS
02/24/16 (H) L&C, FIN
03/09/16 (H) L&C AT 3:15 PM BARNES 124

WITNESS REGISTER

REPRESENTATIVE DAN SADDLER
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Speaking as the sponsor, introduced HB 188.

KIM SKIPPER, Staff
Representative Dan Saddler
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Speaking on behalf of Representative Saddler, sponsor, answered questions during the hearing on HB 188.

MILLIE RYAN, Executive Director
Key Coalition of Alaska
President, REACH, Inc.
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 188.

ROBERT FRICK
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 188.

MALLORY HAMILTON
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 188.

STUART SPIELMAN
Senior Policy Advisor and Counsel
Autism Speaks
Washington, District of Columbia

POSITION STATEMENT: Testified in support of HB 188.

RICK NELSON, Self-Advocate
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 188.

KALYSSA MAILE, Staff
Representative Gabrielle LeDoux
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Speaking on behalf of Representative LeDoux, sponsor, answered questions during the hearing on HB 337.

KEN ALPER, Director
Tax Division
Department of Revenue
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 337.

CYNTHIA FRANKLIN, Director
Alcohol & Marijuana Control Office
Department of Commerce, Community & Economic Development
Anchorage, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 337.

BRIAN OLSON, Owner/Operator
Alaska Berries Winery
Soldotna, Alaska

POSITION STATEMENT: Testified in opposition to the cash bond provision in HB 337.

DOLOYNDA PHELPS
Alaska Small Cultivators Association
Nikiski, Alaska

POSITION STATEMENT: Testified in opposition to the cash bond provision in HB 337.

JAMES BARRETT, Owner/Operator
Rainforest Farms
Juneau, Alaska

POSITION STATEMENT: Testified during the hearing on HB 337.

ACTION NARRATIVE

[3:32:45 PM](#)

CHAIR KURT OLSON called the House Labor and Commerce Standing Committee meeting to order at 3:32 p.m. Representatives Olsen, Tilton, Kito, Josephson, Hughes, and LeDoux were present at the call to order. Representative Colver arrived as the meeting was in progress.

HB 188-PERSON W/DISABILITY SAVINGS ACCOUNTS

[3:33:15 PM](#)

CHAIR OLSON announced that the first order of business would be HOUSE BILL NO. 188, "An Act relating to financial accounts for persons with disabilities; relating to financial institutions; relating to property exemptions; relating to securities; and providing for an effective date."

[3:33:39 PM](#)

REPRESENTATIVE DAN SADDLER, speaking as the sponsor, read from the following sponsor statement [original punctuation provided]:

HB 188 seeks to help Alaskans cope with the challenges of living with a disability by allowing individuals and families to set up tax-free savings accounts, called "ABLE accounts," to pay for education, housing, transportation or other disability-related expenses. The U.S. Congress passed the "Achieving a Better Life Experience (ABLE) Act" in 2014, authorizing states to create special savings accounts for disability-related expenses modeled after the successful "529 college savings programs," named after the relevant section of IRS code. ABLE accounts, also known as "529A" accounts, allow individuals with disabilities to improve their financial security by using private investments to supplement their benefits from insurance, employment, Supplemental Security Income (SSI), Medicaid, and other sources. Assets held in an ABLE account would not be counted under means tests required for Medicaid or SSI, although SSI cash benefits would be suspended if the ABLE balance exceeded \$100,000. ABLE accounts could be spent for education, transportation, job training and support, assistive technology, health and wellness, legal and other qualified services. Contributions would be limited to \$14,000 per year, and capped at \$400,000. A person could have only one account. To be eligible for

an ABLE account, a person must have become blind or disabled before the age of 26. The Governor's Council on Disabilities and Special Education estimates that about 13,770 Alaskans - 10 percent of those with a disability - might qualify for ABLE accounts. By empowering Alaskans with disabilities and their families to build their financial independence, HB 188 will help them meet more of their life challenges by relying on private resources, without eroding the value of public benefits to which they are entitled. ABLE accounts will be important tools for helping them live full, productive lives in their communities.

REPRESENTATIVE SADDLER noted that the current version of the bill places administration of the [Stephen Beck, Jr., Achieving a Better Life Experience (ABLE) Act of 2014], accounts with the Department of Commerce, Community & Economic Development (DCCED), but a forthcoming proposed committee substitute would place administration with the Department of Revenue (DOR).

[3:37:49 PM](#)

CHAIR OLSON asked whether the \$400,000 cap on ABLE accounts would only be contributions, or could include interest.

REPRESENTATIVE SADDLER was unsure.

REPRESENTATIVE LEDOUX expressed her understanding that the bill allows a disabled person with \$400,000 in assets to continue to benefit from various state and federal entitlement programs.

REPRESENTATIVE SADDLER said yes.

REPRESENTATIVE HUGHES asked what mechanism is used to determine eligibility for account holders.

REPRESENTATIVE SADDLER stated there is a federal certification to establish one's disability. In further response to Representative Hughes, he said an account can be held by someone who is older than 26 years of age.

REPRESENTATIVE KITO asked how DOR would administer the program differently than would DCCED.

[3:40:10 PM](#)

KIM SKIPPER, Staff to Representative Saddler, answered that DCCED has a conflict of interest because they audit and regulate the affected industry; however, DOR can manage ABLE accounts. In further response to Representative Kito, she said she was unsure whether DOR manages similar accounts, and deferred his question to DOR.

REPRESENTATIVE SADDLER observed that the current Alaska 529 savings plan for college education is currently housed in the University of Alaska (UA).

REPRESENTATIVE COLVER questioned whether there was a way for individuals to open 529 plans through brokerage houses instead of having the state administer accounts.

REPRESENTATIVE SADDLER said yes. He advised that the 529(A) federal enabling legislation does allow individuals to set up private investment accounts with brokerage houses.

REPRESENTATIVE TILTON requested a review of the monetary guidelines.

REPRESENTATIVE SADDLER restated that the annual cap on contributions to one account is \$14,000, and the lifetime maximum is \$400,000. In further response to Representative Tilton, he said if the balance in the account exceeds a threshold of \$100,000, SSI cash benefits to the account holder would be suspended.

REPRESENTATIVE TILTON inquired as to the maker of the monetary guidelines.

REPRESENTATIVE SADDLER said the \$400,000 maximum was established by the state for 529 savings accounts, and the \$100,000 threshold is a federal requirement.

REPRESENTATIVE LEDOUX questioned why there is an age limit for eligible disabilities.

REPRESENTATIVE SADDLER stated the age limit is based in the federal legislation, and suggested that in order to limit the number of potential beneficiaries, those who become disabled later in life are not eligible.

REPRESENTATIVE LEDOUX directed attention to the bill on page 6, lines 24-26, which read:

SEC. 06.65.150. Program account contributions.

(a) A person may not make a contribution to open or add to a program account unless the person makes the contribution in cash.

REPRESENTATIVE LEDOUX asked why securities are not acceptable.

[3:47:08 PM](#)

MS. SKIPPER responded that this provision would be changed in the forthcoming committee substitute.

REPRESENTATIVE LEDOUX asked how the meaning of "member of the family" is described in the federal authorizing statute.

REPRESENTATIVE SADDLER said he would inquire and provide this information.

REPRESENTATIVE COLVER expressed his reluctance to approve the appropriation indicated in the attached fiscal note which adds two employees to the Division of Banking and Securities, DCCED.

REPRESENTATIVE SADDLER remarked:

The intent of the legislation, the authorizing federal legislation, does not envision the state doing investment work, but contracting with an organization like Ameritrade or ... T. Rowe Price which is, who does the 529 for Alaska, and having them do the actual investment and so forth, and providing the quarterly or annual reports. There is some expense for the state required to make sure reports are done for the state to the [Internal Revenue Service, U.S. Department of the Treasury] and so forth. I hope there is a way to do that ... we're working on trying to reduce the costs.

MS. SKIPPER added that the forthcoming committee substitute allows DOR to contract out with other services instead of hiring staff, resulting in a lower fiscal note. In addition, the state may partner with other states to lower costs.

REPRESENTATIVE LEDOUX suggested imposing a charge on those who are setting up an account.

MS. SKIPPER pointed out that the bill operates in a similar manner to the college savings accounts, and fees would be

charged. In further response to Representative LeDoux, she said she was unsure whether the fees would cover all of the state's costs.

REPRESENTATIVE HUGHES asked whether the state incurs an annual cost for the college savings accounts.

MS. SKIPPER said yes. However, UA has reduced the cost by creating a large pool of account holders; in fact, the pool creates sufficient income to pay for staffing.

REPRESENTATIVE HUGHES observed that if the legislature creates an enabling statute, that would encompass the state's obligation.

MS. SKIPPER advised that the state does not have to authorize the accounts because disabled persons could establish accounts in other states; however, establishing enabling legislation benefits Alaska because residents could direct contributions to the accounts from their permanent fund dividends, and a provision in the forthcoming committee substitute allows Medicaid services to be repaid to the state after the death of an account holder.

[3:54:04 PM](#)

CHAIR OLSON opened public testimony on HB 188.

[3:56:38 PM](#)

MILLIE RYAN, Executive Director of REACH, Inc., said her organization serves those with intellectual and developmental disabilities who would benefit from HB 188. She is also the president of Key Coalition of Alaska, which strongly endorses the bill. Those with disabilities and their family members would like the opportunity to save a down payment for a house or for transportation, an opportunity that is taken for granted by others. In fact, those with disabilities often live with extraordinary expenses, and need services and support such as Medicaid waivers and disability income; currently, however, after saving more than \$2,000, disability income and support are taken away. Ms. Ryan advised that REACH would encourage its beneficiaries to begin saving for their needs and to work for things that are important.

[3:58:18 PM](#)

ROBERT FRICK said he lives in Juneau and has worked for Club Demonstration Services (CDS) at Costco for 16 years demonstrating food products. He is 62 years old and expressed his support for HB 188. The bill would help him save for a house or car and a service dog.

[3:59:35 PM](#)

MALLORY HAMILTON said she is the parent of a young woman who experiences autism, Down syndrome, and a seizure disorder. She is in support of the proposed legislation. Although she is grateful that her daughter is on a waiver and receives SSI benefits, her daughter must keep her income at well below poverty level, which restricts her choices for items such as eyeglasses. The bill would allow her daughter to save for a home and to save any money she may receive from her relatives. Ms. Hamilton pointed out that in the event of her daughter's death, the state would have the option to claim any funds her daughter has saved to pay for care she received during her lifetime. The bill would allow her daughter to live a more typical life and to have a job, which is important to her self-worth. Speaking as a parent, Ms. Hamilton urged the committee to pass the bill.

[4:02:46 PM](#)

STUART SPIELMAN, Senior Policy Advisor and Counsel, Autism Speaks, informed the committee Autism Speaks is the nation's largest autism science and advocacy organization. Mr. Spielman said he is the parent of a son severely affected by autism. He has been involved with ABLE Act legislation for over ten years and because of his training as a tax lawyer, he was influenced by the aspect that a person with autism is in a fundamentally different position than a person who does not; for example, his son without autism has a 529 college savings account, but his son with autism must avoid putting assets in his own name. This is one of the reasons the disability community and U.S. Congress is supportive of this legislation. Beyond the technical aspects of the bill, he stressed that the bill inspired overwhelming support from Congress in December 2014, and every state is considering legislation, or has authorized a program. Mr. Spielman noted that people with disabilities are more than twice as likely as others to live in poverty; the ABLE Act represents one effort to improve the status of those with disabilities. With the bill, parents of children with disabilities can provide a little more help to ensure their children have more secure and successful lives.

REPRESENTATIVE LEDOUX asked why the bill limits eligibility to those with a disability that occurred prior to the age of 26 years.

MR. SPIELMAN explained that the provision represents a compromise in the federal bill.

REPRESENTATIVE LEDOUX expressed her interest in knowing how much the legislation would cost the federal government compared to the cost with no age limit.

MR. SPIELMAN offered to provide information from the Congressional Budget Office.

CHAIR OLSON asked whether other states have achieved a zero budget impact.

MR. SPIELMAN said funding mechanisms vary between states, such as intergovernmental loans and fees, and consortiums have the potential for sharing costs.

REPRESENTATIVE LEDOUX asked for the effect on the state's Medicaid bill.

[4:10:44 PM](#)

REPRESENTATIVE SADDLER opined that the bill would not affect the state's Medicaid costs unless the state recovers Medicaid expenses after a beneficiary's death.

REPRESENTATIVE LEDOUX surmised that if the bill does not affect the state's Medicaid budget, there would not have been a compromise needed to affect the cost of the federal legislation.

REPRESENTATIVE SADDLER said he was unsure of the explanation; however, the forthcoming committee substitute will have a more accurate fiscal note.

MR. SPIELMAN clarified that the age limit affects the total number of people who could qualify for an ABLE account.

REPRESENTATIVE LEDOUX stated that there must be costs to the federal government, other than additional staff, that led to a compromise age limit. Her concern is that there will be a cost to the state.

MR. SPIELMAN acknowledged that there is a federal tax cost because the accounts are tax-preferred accounts and are not subject to federal taxation.

CHAIR OLSON added that children are dropped off of their parents' medical insurance at age 26.

REPRESENTATIVE SADDLER said another possible expense would be tax reporting.

[4:16:21 PM](#)

RICK NELSON said he is a self-advocate speaking in support of the ABLE Act, and currently works for the Governor's Council on Disabilities and Special Education, Department of Health and Social Services. Before the ABEL Act, he was only allowed to save up to \$2,000, and was unable to buy anything like a house or a means of transportation, or assisted technology to help him communicate with others. Mr. Nelson said the bill is a big game-changer for people with severe disabilities, and will level the playing field for people with disabilities. If a child needs eyeglasses, and they are a preteenager, they don't want the frames that are offered by Medicaid. The bill would allow a teenager to buy eyeglasses that meet her needs, put her in her peer group, and save the state money. Mr. Nelson urged the committee to pass the ABLE Act.

[4:21:09 PM](#)

CHAIR OLSON announced that public testimony would remain open.

[HB 188 was held over.]

[4:21:23 PM](#)

The committee took a brief at ease.

HB 337-MARIJUANA TAXES;EXCESS POSSESSION;BONDS

[4:23:05 PM](#)

CHAIR OLSON announced that the next order of business would be HOUSE BILL NO. 337, "An Act relating to taxes on marijuana."

[4:23:28 PM](#)

REPRESENTATIVE LEDOUX, speaking as the sponsor, paraphrased from the sectional analysis for HB 337 as follows [original punctuation provided]:

Section 1 amends AS 17.38.200 by adding the bond created in Section 3 to the marijuana establishment requirements.

Section 2 amends AS 43.61.020(a) to require electronic filing of marijuana tax returns.

Section 3 amends AS 43.61 adding two new sections:

Sec. 43.61.040 grants the tax division authority to assess a tax on marijuana plants found in excess of the possession limit for adults not licensed under AS 17.38.

Sec. 43.61.050 requires a marijuana cultivation facility to furnish a cash bond, to be forfeited if taxes are not paid. It also makes marijuana product manufacturing facilities and retail marijuana stores secondarily liable for taxes on their marijuana inventory and responsible for providing proof that their marijuana inventory is legitimate, upon request by the department.

REPRESENTATIVE KITO directed attention to proposed Section 43.61.040 [text previously provided]. He expressed his understanding that plants found in excess of the legal amount for possession would engage a criminal statute, which would result in a criminal action, and asked if the state would tax them as well.

[4:27:16 PM](#)

KALYSSA MAILE, Staff to Representative LeDoux, sponsor of HB 337, advised that the bill does not specify one action or the other, the option is open that one could be charged criminally, and also assessed penalties through the Tax Division, Department of Revenue (DOR).

REPRESENTATIVE JOSEPHSON inquired as to whether the policy goal was to deter black market competition with a lawful market, or to raise revenue.

MS. MAILE acknowledged that deterrence is "pretty fundamental" to support a legal industry, and DOR has been unable to determine what the expected revenue from the industry will be.

REPRESENTATIVE JOSEPHSON referred to proposed Section 43.61.050 [text previously provided] and surmised "the primary responsibility is the grower, and that person may be different than the manufacturer and seller"

MS. MAILE said correct. The cultivator is responsible for paying the tax, and the secondary liability goes to the retailer or the product manufacturer, who must be able to prove that their source of marijuana was from a legal cultivator. In further response to Representative Josephson, she said there is nothing in HB 337 inconsistent with [Alaska Marijuana Legalization Ballot Measure 2 approved 11/4/14].

REPRESENTATIVE HUGHES asked how many ounces a plant weighs, its value, and the annual value of "excess plants."

[4:30:35 PM](#)

MS. MAILE said AS 11.71.080 establishes that the aggregate weight of a live marijuana plant is one-sixth of the plant weight after the roots have been removed. She said she was unsure how often excess plants are found.

[4:31:47 PM](#)

KEN ALPER, Director, Tax Division, DOR, in response to Representative Hughes, based on information from a recent arrest, estimated a weight of 5 ounces per plant; therefore, a \$50 per ounce excise tax would garner a \$250,000 civil penalty to the grower.

CHAIR OLSON suggested that taxes could be based on tetrahydrocannabinol (THC) content rather than weight.

MR. ALPER responded that illegal marijuana is not normally processed in a laboratory, and the division seeks to confiscate, destroy, and penalize by an efficient procedure. In further response to Co-Chair Olson, he said the division has not considered processing illegal marijuana for the purposes of the prosecution. In fact, the goals of the tax authorities are to provide the tax division with the ability to charge the penalty on illegal marijuana. He remarked:

If the committee would prefer to somehow find a means of calculating THC we can do that. Let me be clear though, that the legal marijuana industry is silent on the robustness of the product. You know, it's a flat \$50 an ounce regardless of the quality of THC content of what it is that's actually being grown. In some ways, our marijuana tax favors the high quality manufacturer because it's a, the more valuable your product, the \$50 an ounce becomes less burdensome as a percentage of the value.

CHAIR OLSON observed that other states measure, label, and check for herbicides.

MR. ALPER said Alaska has testing requirements as part of the legal marijuana system; furthermore, the aforementioned states have sales taxes based on the percentage of the value as their primary revenue source, whereas Alaska chose a "by weight" tax mechanism.

REPRESENTATIVE JOSEPHSON inquired whether a fine is consistent with proposed SB 91; he characterized SB 91 as "friendlier" and HB 337 as punitive for those who possess drugs illegally, including a jail term.

[4:35:27 PM](#)

MR. ALPER advised that marijuana possession remains criminal in Alaska beyond the six plants for personal use. In a certain case a person was found possessing 1,000 plants with no evidence of illegal dealing. If the criminal justice system does not seek a felony indictment, there is no disincentive, but the bill is a means of deterrent to encourage Alaska marijuana growers into a legal system.

MS. MAILE added that other proposed legislation related to marijuana deals primarily with the criminal code; HB 337 imposes a civil penalty.

REPRESENTATIVE KITO directed attention to the bill on page 2, lines 24-29, which read:

(c) A marijuana product manufacturing facility or retail marijuana store is secondarily liable for the taxes on marijuana that is sold by or to the marijuana product manufacturing facility or retail marijuana store. If requested by the department, the marijuana

product manufacturing facility or retail marijuana store shall provide the department with proof that the taxes have been paid on the marijuana inventory in the possession of the marijuana product manufacturing facility or retail marijuana store.

REPRESENTATIVE KITO recalled that the commerce of cigarettes is facilitated by tax stamps, and alcohol is also marked when taxes are paid. He surmised there is a regulatory process to inform consumers that taxes have been paid on a marijuana product.

MS. MAILE said DCCED is in the process of setting up a seed-to-sale system.

[4:38:07 PM](#)

CYNTHIA FRANKLIN, Director, Alcohol & Marijuana Control Office, DCCED, informed the committee that a seed-to-sale tracking system will involve radio-frequency identification (RFID) tags attached to marijuana plants over eight inches; the tracking number will stay with the plant as it is harvested, dried, manufactured into a product, and sold by the retail store. The tracking software is capable of generating the reports required of licensees by DOR, thus by this system, cultivation facilities will be tracking and filing monthly reports with DOR. Ms. Franklin concluded that the seed-to-sale software will provide back-up documentation for tax reporting to DOR, to ensure that taxes have been paid. Labels and marijuana products will indicate to consumers the tracking system. In response to Chair Olson, she said the system is the same as used in Colorado and Oregon, and information can be read with a handheld device within ten feet of the tag on each plant.

REPRESENTATIVE KITO questioned the validity of tracking a RFID tag that becomes part of a process which combines plants, or separates plants into various components such as an extract, a leaf, or a bud.

MS. FRANKLIN stated that the tags are robust and as the plant evolves, the tag may change, but the tracking number stays. She assured the committee the system works.

MR. ALPER returned attention to the concept of secondary liability, which is a power currently held by the tax division for alcohol and tobacco taxes. For example, if a retailer is found in possession of alcohol or cigarettes that did not come from a licensed distributor, the tax division can charge the

taxes to the retailer. The division seeks to extend this power to the marijuana industry to create a deterrent against a black market. The difference is that the marijuana will be grown and sold in Alaska, and the software tracking system will ensure that the marijuana came from a licensed grower.

REPRESENTATIVE JOSEPHSON asked whether the amount of the cash bond is comparable to what is assessed to alcohol vendors.

MS. MAILE said the alcohol industry must post a surety bond to ensure that alcohol taxes are paid. She characterized the \$5,000 cash bond as "significantly lower than that you would see with alcohol." In further response to Representative Josephson, she said the marijuana cash bond may be more burdensome than that of a new liquor business; however, a surety bond requires a premium to be paid, and over the long term a cash bond could cost less.

REPRESENTATIVE LEDOUX advised that the bill sponsors set the cash bond for marijuana lower than a \$25,000 surety bond because the marijuana industry won't be able to get a surety bond. This amount will cover the tax liability, but is not overly onerous.

MR. ALPER stated that the bill offers the division similar authorities as are established for alcohol, as directed by the initiative.

[4:48:14 PM](#)

CHAIR OLSON opened public testimony on HB 337.

[4:48:21 PM](#)

BRIAN OLSON, Owner/Operator, Alaska Berries Winery, stated that the \$5,000 cash bond for a cultivation license is onerous to an applicant. Previously the "MTF board" discussed the use of surety bonds, which he used to obtain his federal license for a winery business. However, a \$5,000 cash bond for a limited cultivation license, in addition to a nonrefundable \$1,000 application fee and \$1,000 license fee, would hamper a beginning industry. He opined that those who are establishing a legitimate business have a lot invested already, and although he supports the proposed regulations, he said the cash bond should be a surety bond which can be collected by the state from those who renege on their taxes.

REPRESENTATIVE LEDOUX asked how marijuana growers or cultivators would be able to obtain a surety bond and if not, for his opinion on the amount of a more reasonable cash bond.

MR. OLSON said he got two surety bonds to satisfy state and federal requirements for a winery and a liquor license. On the state level, any insurance company will issue a bond based on the individual's ability to pay. Even without a surety bond, any legitimate business must submit its taxes, and a \$5,000 surety bond would cost about \$150 annually.

REPRESENTATIVE LEDOUX related that if the sponsors of the bill thought marijuana growers could obtain a surety bond, they would have made that choice. She restated her previous question.

MR. OLSON said there is recourse for the state to recoup lost revenue due to nonpayment of taxes, and it is not necessary to have a bond for taxes on any business.

[4:55:45 PM](#)

DOLOYNDA PHELPS stated her concern was related to proposed Section 43.61.050 [text provided previously]. She said the \$5,000 cash bond is problematic, and asked for understanding that potential business owners are aware of financial commitments and have a lot at stake. The cash bond and compounded fees are difficult for business owners who want to pay their taxes so the industry ends up with a legal market. Ms. Phelps said proposed Section 43.61.050 does not favor the legal taxpayer, or encourage a transition into a "good, healthy, regulated industry here in the state."

[4:58:10 PM](#)

JAMES BARRETT said he was applying for cultivation, processing, and retail marijuana licenses. He brought up several points related to the bill: tax based on weight includes the flower, and "doesn't really line up"; if a person pays a tax after they are found guilty, the cannabis would have to be preserved because it can change in weight over time; whether cash would be accepted for the bond; the importance of the effective date on those who are presently starting a business; the tax should really be called a fine, and he questioned the legality of the tax.

[5:00:10 PM](#)

CHAIR OLSON, after ascertaining that no one further wished to testify, held public testimony open.

MR. ALPER advised that DOR would accept a surety bond if that option is in the legislation; however, many taxpayers will not be able to open a bank account, and thus will not be able to secure a bonding agent either.

CHAIR OLSON recalled at one time the state accepted certificates of deposit (CDs) in lieu of cash.

[HB 337 was held over.]

[5:01:42 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 5:01 p.m.