

**ALASKA STATE LEGISLATURE  
SENATE LABOR AND COMMERCE STANDING COMMITTEE**

March 22, 2016

1:32 p.m.

**MEMBERS PRESENT**

Senator Mia Costello, Chair  
Senator Cathy Giessel, Vice Chair  
Senator Kevin Meyer  
Senator Gary Stevens

**MEMBERS ABSENT**

Senator Johnny Ellis

**COMMITTEE CALENDAR**

CONFIRMATION HEARINGS

**Alcoholic Beverage Control Board**

Robert Kelly Evans - Public Rural Seat

- HEARD AND HELD

**Big Game Commercial Services Board**

Nicholas Jackson - Private Landowner Seat

- HEARD AND HELD

**Marijuana Control Board**

Loren A. Jones - Public Health Seat  
Peter Jacob Miynarik - Public Safety Seat  
Bruce Schulte - Industry Seat  
Brandon Emmett - Industry Seat  
Mark Springer - Rural Seat

- HEARD AND HELD

SENATE BILL NO. 104

"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."

- MOVED CSSB 104(L&C) OUT OF COMMITTEE

SENATE BILL NO. 202

"An Act relating to providing medical insurance coverage to certain surviving spouses and dependent children of peace officers and firefighters; and providing for an effective date."

- BILL HEARING CANCELED

**PREVIOUS COMMITTEE ACTION**

BILL: SB 104

SHORT TITLE: PERSON W/DISABILITY SAVINGS ACCOUNTS

SPONSOR(s): SENATOR(s) GIESSEL

04/11/15	(S)	READ THE FIRST TIME - REFERRALS
04/11/15	(S)	L&C, FIN
02/04/16	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
02/04/16	(S)	Heard & Held
02/04/16	(S)	MINUTE (L&C)
03/22/16	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)

**WITNESS REGISTER**

ROBERT KELLY EVANS, Appointee - Public Rural Seat  
Alcoholic Beverage Control Board  
Nome, Alaska

**POSITION STATEMENT:** Testified as appointee to the Alcoholic Beverage Control Board.

NICHOLAS JACKSON, Appointee - Private Landowner Seat  
Big Game Commercial Services Board  
Gulkana, Alaska

**POSITION STATEMENT:** Testified as appointee to the Big Game Commercial Services Board.

BRUCE SCHULTE Appointee - Industry Seat  
Marijuana Control Board  
Anchorage, Alaska

**POSITION STATEMENT:** Testified as appointee to the Marijuana Control Board.

BRANDON EMMETT, Appointee - Industry Seat  
Marijuana Control Board  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified as appointee to the Marijuana Control Board.

Mark Springer, Appointee - Rural Seat  
Marijuana Control Board  
Bethel, Alaska

**POSITION STATEMENT:** Testified as appointee to the Marijuana Control Board.

PETER JACOB MIYNARIK, Appointee - Public Safety Seat  
Marijuana Control Board  
Soldotna, Alaska

**POSITION STATEMENT:** Testified as appointee to the Marijuana Control Board.

Loren A. Jones Appointee - Public Health Seat  
Marijuana Control Board  
Juneau, Alaska

**POSITION STATEMENT:** Testified as appointee to the Marijuana Control Board.

ED MARTIN, representing himself

**POSITION STATEMENT:** Testified on the appointments to the Marijuana Control Board.

JEFF JESSEE, Chief Executive Officer  
Alaska Mental Health Authority  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of SB 104.

WESTON EILER, Staff  
Senate Labor and Commerce Standing Committee and  
Senator Mia Costello

**POSITION STATEMENT:** Reviewed the changes in the committee substitute (CS) for SB 104.

JANE CONWAY, Staff  
Senator Cathy Giessel  
Alaska State Legislature Juneau, Alaska

**POSITION STATEMENT:** Spoke to the changes between version I and version L of SB 104.

STEWART SPIELMAN, Senior Policy Advisor and Counsel  
Autism Speaks  
Maryland

**POSITION STATEMENT:** Answered questions related to SB 104.

CHASE REHNWEINKEL, Director of Policy  
Illinois State Treasurer

**POSITION STATEMENT:** Answered questions relating to SB 104.

PAM LEARY, State Investment Officer  
Treasury Division  
Department of Revenue (DOR)  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions related to SB 104.

#### **ACTION NARRATIVE**

[1:32:01 PM](#)

**CHAIR MIA COSTELLO** called the Senate Labor and Commerce Standing Committee meeting to order at 1:32 p.m. Present at the call to order were Senators Giessel, Stevens, and Chair Costello. Senator Meyer joined the committee soon thereafter. She reviewed the agenda including that SB 202 would not be heard today.

#### **Confirmation Hearings**

[1:32:44 PM](#)

**CHAIR COSTELLO** announced the first order of business would be confirmation hearings. She explained that the committee would hear from the appointees, take questions, and hold the nominations for committee action at a later date.

#### **Alcoholic Beverage Control Board**

[1:33:30 PM](#)

**CHAIR COSTELLO** said the committee would first consider nominations to the five member Alcoholic Beverage Control Board. She asked Robert Evans to explain his interest in continuing to serve on the board, filling the public seat.

Senator Meyer joined the committee.

[1:34:07 PM](#)

ROBERT KELLY EVANS, Appointee - Public Rural Seat, Alcoholic Beverage Control Board, said he has lived in Nome most of his life and is retired from state service as a corrections officer. After retirement he started working at the regional nonprofit, Kawerak, Incorporated, primarily on suicide prevention, underage drinking, adult binge drinking, youth leadership and smart choices that focus on alcohol awareness. He has been elected to leadership roles in the Sitnasuak Native Corporation and the Bering Straits Native Corporation, and is a small business owner in Nome.

SENATOR STEVENS thanked Mr. Evans for retiring from state service and continuing his public service in the community.

CHAIR COSTELLO asked what challenges he sees that the board faces going forward.

MR. EVANS said the state's fiscal crisis will be a manageable challenge for the board; meetings will be done via teleconference and videoconference which will not be problematic. Probably the largest challenge is the addition of the Marijuana Control Board and the seemingly weighted focus on that new industry. He expressed hope that alcohol won't be shortchanged with the new focus.

[1:41:40 PM](#)

CHAIR COSTELLO thanked Mr. Evans for his service. There were no questions and no public testimony.

### **Big Game Commercial Services Board**

[1:42:00 PM](#)

CHAIR COSTELLO asked Nicholas Jackson to tell the committee about his interest in serving on the Big Game Commercial Services Board in the private landowner seat.

NICHOLAS JACKSON, Appointee - Private Landowner Seat, Big Game Commercial Services Board, said he was born in Copper Center and now lives in Gulkana. He worked for the Alaska Department of Fish and Game for about 10 years, then started working for Ahtna, Incorporated in 1973. He currently serves on the Ahtna,

Inc. Board of Directors and has served two terms on the Alaska Board of Game. Knowing the region and his board service will be beneficial to his service on the Big Game Commercial Services Board, if confirmed.

[1:45:45 PM](#)

CHAIR COSTELLO asked if he had any comments on the recommendations put forth in the recent audit of the Big Game Commercial Services Board.

MR. JACKSON said no; he has only attended one meeting and is familiarizing himself with how the board operates.

CHAIR COSTELLO commented on the experience he gained serving on the Board of Game. She thanked Mr. Jackson for his interest in serving. She solicited questions and public testimony, but found none.

### **Marijuana Control Board**

[1:47:10 PM](#)

CHAIR COSTELLO asked Bruce Schulte to tell the committee about his interest in serving on the five-member Marijuana Control Board in an industry seat. She noted that this is a new committee and questions would be taken after members heard from all the nominees.

[1:48:09 PM](#)

BRUCE SCHULTE Appointee, - Industry Seat, Marijuana Control Board, said he is an architect by training and has been an advocate for the marijuana industry for about two years. He opined that the board developed a good set of regulations last year that strike a reasonable balance.

[1:49:16 PM](#)

CHAIR COSTELLO asked him to discuss the challenges facing the Marijuana Control Board going forward.

MR. SCHULTE said one of the largest challenges relates to the fact that there wasn't any solid data on the previous black market. As licensed businesses get started, the board will probably learn about different things it can do with the regulations to meet the needs of the industry and the public, he said. The fact that marijuana is federally illegal also presents

challenges related to banking, the Internal Revenue Service, and transportation. Social inertia is also a challenge. His hope is that in five years people will describe the transition as relatively easy.

[1:50:42 PM](#)

SENATOR MEYER asked if he anticipates raising fees to cover expenses.

MR. SCHULTE said he expects the fees will cover the operating expenses of the board, but if they don't the fee structure will be revisited.

CHAIR COSTELLO thanked Mr. Schulte. She asked Brandon Emmett to tell the committee about his interest in continuing to serve in an industry seat on the Marijuana Control Board.

[1:52:00 PM](#)

BRANDON EMMETT, Appointee, - Industry Seat, Marijuana Control Board, said he was born in Fairbanks and has lived in Alaska most of his life. He has worked as a commercial fisherman, on initiative issues, and as a public servant. He has always been concerned about marijuana issues and has an intimate knowledge of the marijuana industry, including the black market. He felt it was his responsibility to use this knowledge and experience to help champion a legal, regulated industry. As a board member he has tried to provide a synthesis of research and fact-based decision making while taking public comment into consideration. He looks forward to continuing this work.

[1:55:45 PM](#)

CHAIR COSTELLO thanked Mr. Emmett for being available to the committee. She asked Mark Springer to express his interest in continuing to serve on the Marijuana Control Board in the rural seat.

[1:56:20 PM](#)

Mark Springer, Appointee - Rural Seat, Marijuana Control Board, Bethel, Alaska, informed the committee that he currently lives in Bethel and is employed as a tribal planner and transportation director for the Tuluksak Native Community. Previously he served on the Alaska Board of Marine Pilots, and is proud of the system of citizen regulators in Alaska. The Marijuana Control Board hopefully is building a new segment of Alaska's economy that

ultimately will be beneficial both economically and socially. He is proud to work with the members of the board and the hard-working, professional staff.

1:58:46 PM

CHAIR COSTELLO thanked Mr. Springer for his commitment to serving the state in this capacity. She asked Peter Miynarik to express his interest in continuing to serve on the Marijuana Control Board in the public safety seat.

1:59:20 PM

PETER JACOB MIYNARIK, Appointee - Public Safety Seat, Marijuana Control Board, said he has been the chief of police in Soldotna for about 3.5 years. Before that, he spent more than 22 years with the Alaska Department of Public Safety as a Wildlife Trooper and Alaska State Trooper. He retired in 2012. His interest in serving on the board is to protect the public in general, and youth in particular, as this new industry gets started. His primary role on the board has been to help craft regulations for the commercial marijuana industry. The next step is to review the applications and potentially approve licenses. His interest in continuing on the board is to follow the industry for the next several years. Serving on the board is one of the highlights of his career in law enforcement.

2:01:50 PM

SENATOR MEYER asked if he had any takeaways from the January 2015 conference in Colorado that looked at the impact of marijuana on public safety. He also asked how law enforcement can tell when someone is driving impaired under the influence of marijuana.

MR. MIYNARIK said the primary takeaway was that law enforcement would face many challenges. How to tell someone is driving impaired under the influence of marijuana was one of the issues. He explained that many of the regular tests for driving under the influence of alcohol don't apply to marijuana, but some do. Officers can get some cues from driving characteristics, balance, and the function and tracking of the eyes. But what is needed is a portable test similar to the field sobriety tests for alcohol. There is a blood test but timeliness makes it problematic.

CHAIR COSTELLO thanked Mr. Miynarik for making himself available. She asked Loren Jones to express his interest in continuing to serve on the Marijuana Control Board in the public health seat.

[2:05:40 PM](#)

LOREN A. JONES Appointee - Public Health Seat, Marijuana Control Board, said he came to Alaska in 1975 and spent most of his career in state service working in alcohol/drug abuse/mental health. Before he retired he was the director of the Division of Alcoholism and Drug Abuse. During that time he was the department representative on the Council of Domestic Violence and Sexual Assault. He listed the boards he has served on to illustrate that he has a lot of regulatory, board, and public health experience. He also is serving a second term on the City and Borough of Juneau Assembly.

He discussed the challenges facing the board from the perspective of a local elected official. He said that even though 63 percent of the community voted to support the industry, there now is significant concern about regulations, neighborhoods, and compatibility. Because of the state budget situation, there is concern that the state won't be able to enforce its regulations and monitor the industry and local communities will need to step in and do that. Another challenge will be getting all the licenses issued and ensuring that the local communities have input to either support or protest the license. He hopes to be able to serve out the remainder of the three-year term and perhaps more.

[2:09:36 PM](#)

CHAIR COSTELLO thanked Mr. Jones for being available and for his past service to the state. She opened public testimony and requested that the testimony be relative to the board appointees, not the initiative, the law or the regulations.

[2:10:30 PM](#)

ED MARTIN, representing himself, stated that the governor did a good job of appointing people to the Marijuana Control Board, but the ball was dropped sometime prior to rolling out the regulations. He asked if the appointees are members of the Municipal League or have participated in the black market. He believes that if they voted against the initiative they may not be in the best interest of the new regulations and if they

participated in the black market they shouldn't be considered. He pointed out that one member is enforcing laws in a community that does not allow the use of marijuana, and questioned that bias. He shared a personal experience related to the discussion of impairment and related that there is no quantitative test to determine impairment under the influence of marijuana. He maintained that the questions asked of the appointees are not sufficient to provide an adequate screening.

[2:15:00 PM](#)

CHAIR COSTELLO thanked the appointees and stated she would hold the names until the committee had heard from all the appointees referred to the Senate Labor and Commerce Standing Committee. The names then would be submitted in one batch.

[2:15:20 PM](#)

At ease

#### **SB 104-PERSON W/DISABILITY SAVINGS ACCOUNTS**

[2:18:17 PM](#)

CHAIR COSTELLO reconvened the meeting and announced the consideration of SB 104. She relayed that this is the second hearing and public testimony was closed on 2/4/16. The intent is to take members' questions, adopt a committee substitute, and look to the will of the committee.

[2:19:00 PM](#)

SENATOR GIESSEL moved to adopt the CS for SB 104, labeled 29-LS0702\L, as the working document.

CHAIR COSTELLO objected for an explanation of changes and requested Mr. Jessee first provide testimony.

[2:19:24 PM](#)

JEFF JESSEE, Chief Executive Officer, Alaska Mental Health Authority, stated that he and the board consider SB 104 to be a very important piece of legislation. He related that he previously was the senior attorney for the Disability Law Center and had to advise people with disabilities not to accumulate any resources. The reason is that it would make them ineligible for Medicaid. He described SB 104 as a huge step forward in allowing people with disabilities to do things for themselves and become more self-sufficient. It allows these individuals to set aside

assets for legitimate purposes related to their disability. He noted that there is a claw-back provision so that the state can recover some of the Medicaid payments it made, once the individual has passed away.

MR. JESSEE reported that the Alaska Mental Health Authority trustees last week unanimously voted to fund the Department of Revenue fiscal note for SB 104 with \$60,000 in FY2017 and \$40,000 in FY2018.

CHAIR COSTELLO expressed surprise for the generous offer and appreciation for the work the Mental Health Trust Authority does on behalf of Alaskans.

[2:21:50 PM](#)

SENATOR STEVENS asked if the contributions are tax deductible.

MR. JESSEE deferred the question.

[2:22:38 PM](#)

CHAIR COSTELLO asked Mr. Eiler to explain the changes made in the CS.

[2:22:57 PM](#)

WESTON EILER, Staff, Senate Labor and Commerce Standing Committee and Senator Mia Costello, explained that the committee substitute (CS), version L, for SB 104 houses the ABLE Savings Program in the Department of Revenue rather than the Department of Commerce, Community and Economic Development. The reason for the shift is that the Division of Banking and Securities would have been in charge of auditing and regulating the same accounts it was administering. The CS also changes the plan from a 529 (A) approach, and looks towards having the State of Alaska join a consortium of states to achieve greater economies of scale for the programs.

Section 8 on pages 15-16, amends AS 47.10.115(b) relating to permanent fund dividends held in foster care trusts. The CS provides that the proceeds of the trust will be distributed when the youth has reached 21 years of age, is no longer in state care and has reached 18 years of age or is emancipated. The idea is that this provides bridge funding for these youths as they prepare for adult life.

[2:26:17 PM](#)

JANE CONWAY, Staff, Senator Cathy Giessel, Alaska State Legislature spoke to the following prepared overview of changes to from the original version I to the current version L of SB 104:

When Senate Bill 104 was introduced, it was written to reflect the intention of Alaska setting up its own ABLE Savings Program to be housed and administered in the Department of Commerce and Economic Development.

Early on we heard from DCCED concerns that they would have a conflict of interest in housing the program since banking and securities would be in charge of auditing the very same accounts that they would be administering. Following that, we then approached Dept. of Revenue to run the program (which is where most states house their ABLE programs) and they agreed to work with us on the legislation.

In looking for expertise in the area of 529 plans, like Alaska's college savings plan, we called the folks there who run that program out of University of Alaska, Fairbanks. In that conversation we learned that T.Rowe Price, one of the financial institutions who offer the college savings plan portfolios, had told UAA that they had no interest in offering 529(A) plans in Alaska, as there is not a healthy economy of scale for them to make it worth their investment to do so.

After that conversation, we learned that is the same obstacle that other states were experiencing: not large enough numbers of possible account holders to make it economically viable for investment companies to offer ABLE accounts in most states.

Then we learned about a consortium of states who are now working together in an effort to offer ABLE accounts by joining together and pooling their numbers to attract and incentivize financial institutions to respond to an RFP with ABLE Account investment offerings. If SB 104 passes, Alaska plans to join that consortium of 8 states (and more states poised to

join), be part of the RFP process to select a financial contractor to handle the accounts and benefit from the economies of scale, resulting in lower account fees for Alaska ABLE account holders. The consortium would also provide a call center and assist in marketing assistance for its members.

Currently our office and our Dept. of Revenue folks are part of a weekly teleconference with the other states to share concerns, ask questions and learn as much as they can about the ABLE Act, as it is a brand new federal authorizing law and many states are in some stage of implementation at this time.

This change of course for the program has resulted in **restructured legislation language** to reflect that:

Dept. of Revenue will run the program

Broader language for it to respond to any changes in federal authorizing law

Allows DOR to "contract with other states" (ie) join the "consortium" to achieve a better economy of scale and share administrative tasks

Allows DOR to have an equal vote in the RFP process that selects a financial contractor

Allows DOR to contract with its own financial institution if it chooses to do so and it deems it an economically viable choice

**These items remain the same:**

The Dept. can order an audit of the financial contractor, maintain oversight, terminate or not renew a contract if they want to choose a different contractor

Describes who is an eligible to apply for an ABLE account

Describes who can represent an eligible individual for an ABLE account

States who can own an account, the number of accounts allowed, that a fee may be required to open

an account, guidelines and caps for the accounts themselves, that the accounts can be changed only 2 times a year, that a designated beneficiary can be changed, guidelines for use of the account, rollover options, statement requirements, accounting requirements, annual fees.

Does not allow an ABLE account to be seen as a "security" for a loan

States that an ABLE account is exempt from creditor claims during the life of the beneficiary

Relieves the state of any obligation to guarantee an ABLE account

Ensures that information re: ABLE accounts are confidential, and not open to public record search, but allows the Dept. and DHSS to exchange information re: eligibility

Specifies that ABLE accounts may not be considered assets under means test programs

Funds/fees received can be used in a program expense fund to run the program

Allows a state or Medicaid to file a claim to claw back funds if a beneficiary dies

Establishes federal ABLE Act law as the governing law for the program

Adds an ABLE account to the list of exemptions

Requires an annual report to the legislature beginning in 2018

[2:33:19 PM](#)

SENATOR GIESSEL advised Senator Stevens that income from the accounts and contributions to the accounts are not taxed.

SENATOR STEVENS asked if property rights attach to ABLE accounts that can be passed on to the heirs of the account holder.

MS. CONWAY deferred to Mr. Spielman.

[2:34:25 PM](#)

STEWART SPIELMAN, Senior Policy Advisor and Counsel, Autism Speaks, Maryland, explained that the account passes through the individual's estate like other property and is subject to a Medicaid claw back. Any assets that remain in the account after the Medicaid claim is paid pass through to the estate of the deceased individual.

[2:35:43 PM](#)

CHAIR COSTELLO removed her objection and finding no further objection, the committee substitute, version L, for SB 104 was adopted.

SENATOR GIESSEL asked if the committee would like to hear from the head of the consortium that Alaska would join, should the bill pass.

[2:36:10 PM](#)

CHASE REHNWEINKEL, Director of Policy, Illinois State Treasurer, related that the idea of the consortium developed because states were concerned that the economy of scale would not be sufficient to sustain a program. To address the concern, a number of states decided to work together to share services while maintaining control over the individual accounts in their state.

SENATOR GIESSEL asked which states have joined the consortium, how many he anticipates joining, and the current state of the request for proposals (RFP) process.

MR. RHNWEINKEL said Illinois, Wisconsin, Minnesota, Iowa, Kansas, Missouri, Pennsylvania, and Nevada have signed interstate agreements to participate in the consortium and a number of other states have indicated interest. The consortium is in the process of drafting RFPs for services in order to provide investment and recordkeeping for the program.

CHAIR COSTELLO noted the individuals online to answer questions.

SENATOR STEVENS asked for information about the individual tax benefits.

[2:39:52 PM](#)

PAM LEARY, State Investment Officer, Treasury Division, Department of Revenue (DOR), said the contributions to the fund are after tax, but the income earned on the contributions is not taxed.

CHAIR COSTELLO found no further questions and solicited a motion.

[2:40:41 PM](#)

SENATOR GIESSEL moved to report the CS for SB 104, labeled 29-LS0702\L, from committee with individual recommendations and attached fiscal note(s).

CHAIR COSTELLO announced that without objection CSSB 104(L&C) is reported from the Senate Labor and Commerce Standing Committee.

[2:41:19 PM](#)

There being no further business to come before the committee, Chair Costello adjourned the Senate Labor and Commerce Standing Committee meeting at 2:41 p.m.