



Comments on HB3169
House Committee on Economic Development
Submitted by Pam Leavitt, Northwest Credit Union Association

Chair Lively and members of the Committee, I am Pam Leavitt here today representing the Northwest Credit Union Association. Credit unions are not-for-profit financial cooperatives, organized to meet the needs of their members. They are democratically owned and controlled institutions, governed by their members. Oregon's 59 credit unions serve over 2 million members – your constituents. Credit unions provide the financial services consumer need and want – home loans, car loans, business loans, savings and checking accounts, financial counseling and financial education programs.

State laws legalizing marijuana use and legalizing marijuana production and distribution have left credit unions in a bind. The many new businesses that have been created in Oregon are in need of financial services in order to successfully operate. However, financial institutions face substantial difficulties in providing those services due to intense compliance requirements and federal criminal concerns.

Credit unions do not take a position on legalizing or decriminalizing marijuana. However, the cannabis industry has grown rapidly as more states choose legalization. We need to get cash out of backpacks and shoeboxes, off the streets and into secure, legal depositories.

Where is the money today? Unlike other legal business operators, cannabis-related businesses don't have equal access to financial services.

Credit unions that provide cannabis banking use rigorous screening and compliance protocols to appropriately monitor and maintain high-risk accounts, but they still face significant legal risks. Ultimately, they need Congress to provide a safe harbor to resolve those risks. Based on experience, we believe cannabis banking can be done safely and effectively, in a manner that satisfies state and federal policy objectives.

Federal Legislation

The SAFE Banking Act (H.R. 1595) was introduced in March with 138 bipartisan co-sponsors including Rep. Ed Perlmutter (D-Colo.) and Rep. Denny Heck (D-Wash.). The legislation is designed to get cannabis industry cash off the streets and into bank accounts. The bill would require the Financial Institution Examination Council, composed of five federal bank and credit union regulators, to develop guidance on how to serve cannabis companies. A hearing on the bills was held on March 26 in the House Financial Services Committee.

With GOP support in addition to strong backing from House Financial Services Committee Chairwoman Rep. Maxine Waters (D-Calif.), the bill is likely to be approved by the committee. The bill's two original cosponsors are hopeful it could get to the House floor by summer where there's strong odds of passage, they told Bloomberg Law earlier this month. Sen. Jeff Merkley (D-Ore.) is expected to introduce companion legislation later this year in the Senate, where prospects are less certain.

HB3169

As our members reviewed the bill, here are some of the questions we have about the implementation:

1. An organization that serves only a single industry in a small geographic area has significant concentration risk, especially when that industry by definition operates in violation of federal law. While some credit unions serve employees of a specific business or industry, serving individual consumers spreads the risk over a larger pool than serving specific businesses in that industry.
2. We believe that it is inevitable that federal law will change, and at that point the need for this institution will go away (and the demand will change dramatically). There would have to be a business plan to wind down the institution if it couldn't merge.
3. We don't believe the Federal Deposit Insurance Corporation (FDIC) or the National Credit Union Administration (NCUA) would provide federal deposit insurance coverage due to the concentration risks and legal issues involved. For the same reasons, it is unlikely that a private insurer would undertake that risk.
4. HB3169 has a prohibition on transacting business with any other financial institution except another cannabis financial institution which provides many challenges. Financial institutions operating under this model would not be able to get correspondent services (cash, check clearing, wires, credit facilities etc.), which are critical to their operations.
5. The limitation on checks in Section 4 makes them difficult to pay vendors with. If a check can only be deposited at another cannabis financial institution, the vendors will have to have accounts there, but they can't do anything with those accounts. Also, since cannabis financial institutions can't offer accounts except as provided in this section, it appears they couldn't offer accounts to vendors.

Thank you for the opportunity to provide testimony to you today.