

**ALASKA STATE LEGISLATURE**  
**SENATE JUDICIARY STANDING COMMITTEE**

March 15, 2013

1:36 p.m.

**MEMBERS PRESENT**

Senator John Coghill, Chair  
Senator Fred Dyson  
Senator Donald Olson  
Senator Bill Wielechowski

**MEMBERS ABSENT**

Senator Lesil McGuire, Vice Chair

**COMMITTEE CALENDAR**

**SENATE JOINT RESOLUTION NO. 9**

Proposing amendments to the Constitution of the State of Alaska relating to state aid for education.

- HEARD & HELD

**SPONSOR SUBSTITUTE FOR SENATE BILL NO. 49**

"An Act defining 'medically necessary abortion' for purposes of making payments under the state Medicaid program."

- MOVED SSSB 49 OUT OF COMMITTEE

**COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 69(JUD)**

"An Act exempting certain firearms, firearm accessories, and ammunition in this state from federal regulation; declaring certain federal statutes, regulations, rules, and orders unconstitutional under the Constitution of the United States and unenforceable in this state; providing criminal penalties for federal officials who enforce or attempt to enforce a federal statute, regulation, rule, or order regulating certain firearms and firearm accessories in this state; and providing for an effective date."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: SB 49

SHORT TITLE: MEDICAID PAYMENT FOR ABORTIONS; TERMS

SPONSOR(s): SENATOR(s) COGHILL

02/11/13 (S) READ THE FIRST TIME - REFERRALS  
02/11/13 (S) JUD, FIN  
02/15/13 (S) SPONSOR SUBSTITUTE INTRODUCED-REFERRALS  
02/15/13 (S) JUD, FIN  
02/27/13 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)  
02/27/13 (S) Heard & Held  
02/27/13 (S) MINUTE(JUD)  
03/04/13 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)  
03/04/13 (S) Heard & Held  
03/04/13 (S) MINUTE(JUD)  
03/05/13 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)  
03/05/13 (S) Heard & Held  
03/05/13 (S) MINUTE(JUD)  
03/11/13 (S) JUD AT 5:00 PM BELTZ 105 (TSBldg)  
03/11/13 (S) Heard & Held  
03/11/13 (S) MINUTE(JUD)  
03/13/13 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)  
03/13/13 (S) Heard & Held  
03/13/13 (S) MINUTE(JUD)  
03/15/13 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SJR 9

SHORT TITLE: CONST. AM: EDUCATION FUNDING

SPONSOR(s): SENATOR(s) DUNLEAVY

02/13/13 (S) READ THE FIRST TIME - REFERRALS  
02/13/13 (S) EDC, JUD  
02/15/13 (S) EDC REFERRAL REMOVED  
02/15/13 (S) FIN REFERRAL ADDED AFTER JUD  
02/15/13 (S) UPHOLD CHANGE TO REFERRALS Y11 N4 E4 A1  
03/13/13 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)  
03/13/13 (S) Scheduled But Not Heard  
03/15/13 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

BILL: HB 69

SHORT TITLE: EXEMPT FIREARMS FROM FEDERAL REGULATION

SPONSOR(s): REPRESENTATIVE(s) CHENAULT

01/16/13 (H) READ THE FIRST TIME - REFERRALS  
01/16/13 (H) JUD  
01/18/13 (H) BILL REPRINTED 1/17/13  
02/08/13 (H) JUD AT 1:00 PM CAPITOL 120  
02/08/13 (H) Heard & Held  
02/08/13 (H) MINUTE(JUD)  
02/18/13 (H) JUD AT 1:00 PM CAPITOL 120

02/18/13 (H) Moved CSHB 69(JUD) Out of Committee  
02/18/13 (H) MINUTE(JUD)  
02/20/13 (H) JUD RPT CS(JUD) NT 6DP 1NR  
02/20/13 (H) DP: MILLETT, PRUITT, LYNN, FOSTER,  
LEDOUX, KELLER  
02/20/13 (H) NR: GRUENBERG  
02/27/13 (H) TRANSMITTED TO (S)  
02/27/13 (H) VERSION: CSHB 69(JUD)  
02/28/13 (S) READ THE FIRST TIME - REFERRALS  
02/28/13 (S) JUD  
03/15/13 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

**WITNESS REGISTER**

SENATOR MIKE DUNLEAVY  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Sponsor of SJR 9.

DEENA PARAMO PhD., Superintendent  
Matanuska-Susitna Borough School District  
Palmer, Alaska

**POSITION STATEMENT:**

MICHAEL JOHNSON PhD., Superintendent  
Copper River School District  
Glennallen, Alaska

**POSITION STATEMENT:** Testified in support of SJR 9.

ELLEN VAROSI, representing herself  
Wasilla, Alaska

**POSITION STATEMENT:** Testified in support of SJR 9.

JOHN O'DAY, representing himself  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of SJR 9.

PATRICK SHIER, representing himself  
Juneau, Alaska

**POSITION STATEMENT:** Testified in support of SJR 9.

MARK ROSEBERRY, President  
North Slope Borough Education Association (NSBEA) and  
Barrow, Alaska

**POSITION STATEMENT:** Expressed concern with SJR 9.

JOSEPH SEBASTIAN, representing himself

Kupreanof, Alaska

**POSITION STATEMENT:** Testified in opposition to SJR 9.

MARY GRAHM, representing herself

Juneau, Alaska

**POSITION STATEMENT:** Testified in opposition to SJR 9.

TINA BERNOSIA, representing herself

Anchorage, Alaska

**POSITION STATEMENT:** Testified in opposition to SJR 9.

CONNIE WINGREN, representing herself

Ketchikan, Alaska

**POSITION STATEMENT:** Testified in support of SJR 9.

REPRESENTATIVE MIKE CHENAULT

Alaska State Legislature

Juneau, Alaska

**POSITION STATEMENT:** Sponsor of HB 69.

JORDAN SHILLING, Staff

Senator John Coghill

Alaska State Legislature

Juneau, Alaska

**POSITION STATEMENT:** Reviewed the changes between the Senate CS and HB 69.

TOM WRIGHT, Staff

Representative Mike Chenault

Alaska State Legislature

Juneau, Alaska

**POSITION STATEMENT:** Provided supporting information for HB 69 on behalf of the sponsor.

#### **ACTION NARRATIVE**

[1:36:48 PM](#)

**CHAIR JOHN COGHILL** called the Senate Judiciary Standing Committee meeting to order at 1:36 p.m. Present at the call to order were Senators Dyson, Wielechowski, and Chair Coghill. Senator Olson arrived during the course of the meeting.

#### **SJR 9-CONST. AM: EDUCATION FUNDING**

[1:37:45 PM](#)

**CHAIR COGHILL** announced the consideration of SJR 9, noting that this was the first hearing.

[1:38:37 PM](#)

SENATOR MIKE DUNLEAVY, sponsor of SJR 9, introduced SJR 9, reading the sponsor statement into the record as follows: [Original punctuation provided.]

Senate Joint Resolution 9, if passed by both bodies of the legislature, places a constitutional amendment before the voters in the general election in the fall of 2014. This ballot proposal provides voters a change to amend the Alaska Constitution to allow the use of public money for the benefit of all Alaskans seeking educational/training aid, regardless of whether individuals enroll in public or private institutions.

Currently the Alaska Constitution prohibits the use of public funds for the direct benefit of any private educational institution. The courts have determined that this ban extends to state funds being allotted to individual Alaskans who choose to attend a private school. Meanwhile an increasing number of Alaskans are questioning the constitutionality of the long-standing practice of giving educational scholarships/grants to adults for educational and training purposes while denying children the same funding opportunities.

Passage of SJR 9 clarifies the question on the constitutionality of current educational practices. More than that, the ballot question allows the voters to decide whether to maintain or abolish the restrictions on the use of public dollars for the education of children. SJR 9 gives the voters the power to decide what is right for them, their families and the State of Alaska.

It is important to note that even with the adoption of this constitutional amendment by a majority of voters, the legislature still needs to have a robust discussion on how to go forward. These deliberations will occur before any Alaskan child receives state funds to attend a private educational institution. The passage of SJR 9 allows these discussions to begin.

[1:41:39 PM](#)

SENATOR DUNLEAVY reviewed the contents of the packet and delivered a PowerPoint to further explain SJR 9. He relayed that

the issue is that the state constitution prohibits public funds going to private or religious educational service providers, yet public/private partnerships have expanded tremendously since 1965 to meet the needs of a diverse population. However, these partnerships and associated practices could be construed to be unconstitutional. This can be settled by the courts or the people can vote to change their constitution to align it with Alaska practices.

If SJR 9 passes, Alaskans will be given the opportunity to vote on whether or not to revise the Alaska Constitution. The language, "No money shall be paid from public funds for the direct benefit of any religious or other private educational institution." would be removed from art. VII, sec. 1. The language "however, nothing in this section shall prevent payment from public funds for the direct educational benefit of students as provided by law." would be added to art. IX, sec. 6.

SENATOR DUNLEAVY explained that if SJR 9 is passed by a 2/3 majority of each body, the proposition will appear on the 2014 general election ballot.

A review of the history of Alaska education from 1867 to 1905 shows a dual federal/territorial system of education starting in 1900, more or less until 1965. The territorial system included local school districts in incorporated towns; the federal system of schools was outside incorporated towns, primarily for Natives. An historical listing of Alaska school models includes: borough/city schools, family homeschools, correspondence schools, faith-based schools, mission schools, private schools and state-operated BIA boarding schools.

The Alaska Department of Education and Early Development (DEED) currently oversees a variety of educational delivery systems, including correspondence and charter schools. Many of these children are educated to public standards but don't necessarily go to neighborhood schools. Correspondence/homeschool students have an Individual Learning Plan (ILP) and their education is often supplemented by both for-profit and private educational service providers (ESP). The question is how far these partnerships can go before someone files a lawsuit claiming that public monies are being expended for private education.

He questioned whether the following were constitutional:

- Can a 15-year old student use public education funds to purchase courses through an allotment, voucher,

scholarship, or tuition process from a public university to support his/her educational plan?

- Can a 15-year old student use public education funds to purchase courses through an allotment, voucher, scholarship, or tuition process from a private religious university?
- Can a 19-year old purchase course work from a university system?
- Can a 12-year old student purchase a distance-delivered course in math from a national online educational service provider to support his/her public education learning plan?
- Can the same 12-year old student purchase a Latin course from a private religious school to support his/her public education learning plan?

SENATOR DUNLEAVY stated that the answer in each of the cases is yes, no, and maybe, depending on the individual's philosophy and view of what the constitutional language means.

SENATOR DUNLEAVY displayed a list of private, for-profit, and faith-based educational service providers in the state that partner with public education. [The list included A+ In-Home Tutoring, Alaska Center for the Martial Arts, Alaska Engineering Academies, Alaska Learning Labs, Alaska Pacific University, Brain Hurricane, LLC, Challenger Learning Center of Alaska, Math Savvy Institute, Northern Industrial Training, Sylvan Learning Center, Southeast Alaska guide Association, and Turning Leaf Literacy Center.]

[1:46:13 PM](#)

SENATOR OLSON joined the committee.

SENATOR DUNLEAVY relayed that the Charter School Act that passed in 1995 initially allowed for 30 schools. It brought thousands of students back into the public educational system, just not into the public schools. The first statewide homeschool program, Interior Distance Education of Alaska (IDEA), started in 1997 and helped people to look at education differently. The kids weren't chits to serve the schools, the schools were supposed to serve the kids. Since the advent of that program, many other schools have sprung up to meet the needs of Alaskans.

SENATOR DUNLEAVY said his goal in introducing SJR 9 is to enshrine what is currently being done in public education. Homeschool parents and others will testify that they want the latitude to pursue the goals in the stated public school outcomes.

He acknowledged that for some the focus has been on vouchers, but SJR 9 doesn't necessarily have to end in a voucher system. Others have focused on the potential loss of public funding to the educational system, but that's a separate issue. Some have focused on private or religious schools, but he would caution against giving private or religious schools money. However, he sees nothing wrong with a child taking a Latin course from a Catholic school as part of his/her ILP. The concept is to give the student the ability to purchase educational services from a provider.

SENATOR DUNLEAVY admitted that he favors vouchers through a tax credit concept. He also favors expanding the public educational system to include as many Alaskans as possible. He said he believes that the people of Alaska should be given the opportunity to vote on whether they want to change the language in their constitution regarding education funding.

[2:00:23 PM](#)

SENATOR DYSON recalled that other states have language in their constitutions that is similar to the failed federal Blaine Amendment, and the courts have found it did permit public funds to flow through the students to private institutions.

SENATOR DUNLEAVY said the difference is that the language in other state constitutions refers to public monies being used for direct and indirect benefit of private or religious education, and the Alaska Constitution does not use the term "indirect."

SENATOR DYSON offered his understanding that Alaska's constitutional delegates chose not to put the term "indirect" in the constitution.

SENATOR DUNLEAVY said that was his understanding, too.

SENATOR DYSON said he also understood that it was a court decision that precluded Alaska from using the interpretation that money could flow ultimately to a private institution.

SENATOR DUNLEAVY responded that there have been several court decisions and he believes the interpretation is open to too much question.

SENATOR DYSON summarized that the language in the Alaska Constitution needs clarification because private institutions

that are using public money to accomplish a public education objective are in jeopardy of being sued.

SENATOR DYSON said that was his belief.

[2:05:07 PM](#)

CHAIR COGHILL promised that he would not shortchange public testimony, although everyone would not be heard today.

SENATOR OLSON asked how this legislation would address the current high dropout rates.

SENATOR DUNLEAVY replied that the discussion of how to use private/public partnerships to address education problems will come after SJR 9 passes and the people of Alaska have voted on the language in their constitution.

SENATOR COGHILL observed that the proposed language in art. IX is intended to follow the student.

SENATOR DUNLEAVY agreed and noted his intention to file a companion bill that clarifies that concept.

[2:08:34 PM](#)

DEENA PARAMO PhD., Superintendent, Matanuska-Susitna (Mat-Su) Borough School District, said she has been an educator in Alaska for 22 years. The district serves 17,500 students in 45 unique and diverse schools that have unique and diverse programs to serve the Mat-Su Valley community. She said she was not speaking to the political aspect of SJR 9 or as a historian on the constitution. She was testifying to share that Mat-Su is a successful school district that meets the needs of the community through innovation, public school choice, and customer service. Mat-Su is diverse with small, one-room school houses that serve children K-12 in one community and five large comprehensive high schools that serve as neighborhood schools in another community. Mat-Su has special mission schools that focus on science and engineering, six charter schools, a renowned career and technical high school, and 16 large elementary schools that serve over 400 students each. In addition, Mat-Su has a central school serving over 1,400 homeschool students throughout the borough.

Equally important to the diverse school buildings and settings, are the school programs. She related that she has standardized the rigor of the educational programs, and has challenged schools to customize their individual programs to meet their

students' needs. Mat-Su offers a wide variety of choices for students and families to prepare the youths for their multifaceted future, she said.

DR. PARAMO said the educational choices offered by the Mat-Su Borough School District provide evidence of the strong community commitment to education that ties private and public goals in the state. Children today are born into a world of ubiquitous choice and opportunity, and Mat-Su has chosen to focus on what is necessary to prepare students for their world. The success of the district is defined by the students' subsequent success finding jobs, earning livable wages, and caring for their families. Outcomes are measured through a post high school survey that is commissioned by a third party.

To ensure it remains competitive and provides the best education possible, the Mat-Su district partners with other public and private entities in the Valley, state, and nation. Mat-Su students are offered Cisco technology training, flux core welding, and high quality online learning for core curriculum, because this is what the students will face in college. Curriculum training for teachers is through the National Math and Science Initiative, and other professionals provide music and sports training. Private industry directs the program at the career and technical high school. Private partnerships allow students to engage in authentic learning and national best practices and curriculum help students prepare for what they will encounter after high school.

DR. PARAMO said the empirical evidence hasn't shown vouchers to be the downfall of public education or the panacea but she did know that the Mat-Su Borough School District meets more students' needs, desires, and dreams than ever before by embracing innovation, choice, and customer service.

CHAIR COGHILL asked Dr. Paramo to submit her written testimony.

[2:15:36 PM](#)

At ease

[2:16:11 PM](#)

MICHAEL JOHNSON, Superintendent, Copper River School District, asked the committee to allow Alaskans the opportunity to debate and vote on the constitutional amendment proposed by SJR 9. This important education issue is worthy of a vigorous public debate and will lead to conversations about other topics important for the future of the state's education performance.

[2:17:34 PM](#)

ELLEN VAROSI, representing herself, said she favors choice and hopes SJR 9 leads to school vouchers, because vouchers yield choice, choice yields competition, and competition yields success. She said that vouchers will have minimal impact on public school funding. Rather, they will relieve school districts of students that don't fit the public school model and fail to thrive. She cited the December 2010 McKinsey report that shows that the more the U.S. has spent on education the worse the outcome has been, and the Program for International Student Assessment (PISA) studies that show that U.S. 15-year-olds rank poorly internationally in reading, math, and science. Don't be afraid of change or choice or competition, and, above all, don't be afraid of vouchers, she said.

[2:19:12 PM](#)

JOHN O'DAY, representing himself, testified in support of SJR 9, the proposal to amend art. VII, sec. 1, and art. IX, sec 6. The time has come for this discussion because 60 percent of incoming University of Alaska students desperately need remedial classes. He stated support for vouchers and what they can accomplish.

[2:21:11 PM](#)

PATRICK SHIER, representing himself, testified that SJR 9 will give voters an opportunity at self-determination and will clarify existing practice. He related that throughout his children's varied schooling careers, administrators raised significant questions about issues that SJR 9 will solve. Alaskans will also be better equipped to continue the conversations already underway regarding their expectations under art VII.

CHAIR COGHILL stated that the committee would accept written testimony.

[2:22:24 PM](#)

MARK ROSEBERRY, President, North Slope Borough Education Association (NSBEA) and teacher at Barrow High School, said he supports choice but he looks at it from a rural perspective. He questioned how rural school districts can maintain an education system, hiring teachers and support staff and securing housing without knowing if they have the student population to support the system. He asked how it helps the education system in Alaska if a group separates from the public school to form a separate school that shuts down a few years later.

[2:24:26 PM](#)

JOSEPH SEBASTIAN, representing himself, said that Alaska's public education system is the backbone of its efforts to create worthy citizens capable of leading the state into the future, and SJR 9 will deplete the system of funds when it is already in need of more funding, not less. He related that his two children were homeschooled in grades 1-6 in the excellent, state-sponsored correspondence school program that was inexplicably discontinued by former Governor Frank Murkowski, and replaced with little or nothing. His children subsequently attended high school in Petersburg, which he believes it may be a leading example of school systems in the state. He opined that Alaska's public school system needs to be reinforced, not dismantled piecemeal through efforts such as this resolution.

[2:26:17 PM](#)

MARY GRAHM, representing herself, said she doesn't believe it is time to put this issue to a popular vote. She trusts the work of the constitutional delegates and wants to see the public school system succeed. She predicted that if this issue comes to a vote, the voices that will be heard the loudest are the ones that support vouchers. In this time of *Citizens United* and unlimited spending on issues, this discussion will not be held by Alaskans, because this legislation is part of a national agenda to allow the diversion of public funds to private and religious schools. She said she finds it hard to believe that education for profit will lead to Alaska's education goals. She recalled other attempts to amend the Alaska Constitution that were wasteful of both time and money. Alaska has the ability to provide lots of choices in its educational system, without SJR 9.

[2:28:37 PM](#)

TINA BERNOSIA, representing herself, said she is testifying against SJR 9 as a school counselor and mother of twins who attend public school in Anchorage. She believes in the public school system and would suggest spending a day in the system to see what great things are happening. She offered her belief that Alaska would be among the best if its public education system were fully funded. Concentrate on all of Alaska's children, and do not create a system of have and have not, she said.

[2:29:36 PM](#)

CONNIE WINGREN, Principal, Holy Name Catholic School, Ketchikan, Alaska, stated that parents should have the right to decide how they would like their children to be taught, and SJR 9 gives

them that choice. Furthermore, it will provide educational diversity in the state.

[2:31:06 PM](#)

CHAIR COGHILL said public testimony would continue in subsequent meetings. He held SJR 9 in committee.

**SB 49-MEDICAID PAYMENT FOR ABORTIONS; TERMS**

[2:32:37 PM](#)

CHAIR COGHILL announced the consideration of SB 49, relating to Medicaid funding for abortions. [SSSB 49 was before the committee.] He noted that there had been extensive discussion and debate on the legislation. Finding no further discussion, he solicited a motion.

[2:33:05 PM](#)

SENATOR DYSON moved to report [SSSB] 49 from committee with individual recommendations and attached fiscal note(s).

CHAIR COGHILL asked if there was objection.

[2:33:21 PM](#)

SENATOR WIELECHOWSKI said he was not going to support the bill, but wouldn't object to it moving because he could count the votes. However, he wanted to state a few important things for the record.

He said he commends the intent to decrease the number of abortions, but he didn't believe the bill was necessary at this time. During the last hearing, the commissioner of the Department of Health and Social Services (DHSS) testified that the department spent considerable time and heard from nearly 500 people to come to resolution on how to deal with medically necessary on the issue of abortions. To that end, DHSS put a new regulation in place that requires doctors to certify that an abortion is medically necessary in order to get funding from the state.

SENATOR WIELECHOWSKI pointed out that the Parnell Administration had the ability to define the term but instead chose to use certification from the doctor. He said he believes that DHSS chose to do it that way to avoid constitutional problems. Providing a definition the way the bill does is unconstitutional. Over the years the court has repeatedly said that women who seek an abortion cannot be treated differently

than women who seek childbirth. Treating them differently creates an equal protection issue.

He predicted that if SB 49 passes, the litigation costs will be high and the court will ultimately find that it violates the constitution. He suggested that the better course of action is to give the new DHSS regulation time to work. He noted that it is a constitutional regulation, whereas SB 49 is not.

[2:36:07 PM](#)

CHAIR COGHILL clarified that the regulation says [the state will pay for] medically necessary abortions and the problem is that there is no definition for what is elective. With regard to constitutionality, he said he believes the bill is constitutional because it is based on a standard of neutral criteria. He said he understands that Planned Parenthood intends to challenge the legislation should it pass, but he believes it brings clarity.

[2:37:24 PM](#)

CHAIR COGHILL found no further comments and no objection, and announced that [SSSB] 49 moves from the Senate Judiciary Standing Committee.

[2:37:53 PM](#)

At ease

### **HB 69-EXEMPT FIREARMS FROM FEDERAL REGULATION**

[2:39:20 PM](#)

CHAIR COGHILL reconvened the meeting and announced the consideration of HB 69. He moved to bring the work draft Senate committee substitute (CS) for CSHB 69, labeled 28-LS2090\R, before the committee.

SENATOR DYSON objected [for discussion purposes].

CHAIR COGHILL acknowledged that the sponsor may or may not agree with the proposed Senate CS.

[2:40:16 PM](#)

REPRESENTATIVE MIKE CHENAULT, sponsor of HB 69, introduced the bill speaking to the following sponsor statement: [Original punctuation provided.]

The intent of House Bill 69 is an effort to protect Alaskans' rights to keep and bear arms protected by

both the U.S. and Alaska Constitutions. In light of the President's executive orders and legislative proposals, it is important that Alaska protect not only our Second Amendment rights but also asserting citizens' and states' rights guaranteed under the Ninth and Tenth Amendment.

The legislation was drafted in anticipation of President Obama's executive orders based on recommendations of a work group led by Vice President Biden. This group was charged with developing a set of concrete policy proposals for reducing gun violence. These proposals were the basis for the Presidential Executive [memoranda] that were announced on January 16, 2013. The plan combines executive actions and calls for legislative action that "would help keep guns out of the wrong hands, ban assault and high-capacity magazines, make our schools safer, and increase access to mental health services." Although the executive orders did not carry the force of law, the recommendations calling for Congressional action could affect Second Amendment rights and the rights of states as well.

REPRESENTATIVE CHENAULT highlighted that HB 69, before the proposed Senate CS, adds the phrase, "possession of a firearm within the state" to current statute. It also adds new subsections that say that any federal actions to restrict guns or ammunition ownership taken after the effective date of this bill are unenforceable in the state.

CHAIR COGHILL thanked the sponsor for proposing the bill and the clarification of executive memoranda versus executive order.

SENATOR DYSON relayed that his research found that the only difference between an executive order and executive memorandum is that one declaration goes into the congressional record.

CHAIR COGHILL read the new subsection (g) in Section 5 and suggested it might be more workable than the original felony language. He asked the sponsor if he had reviewed the language in the proposed Senate CS.

REPRESENTATIVE CHENAULT said he hadn't had an opportunity to look in depth at the proposed language, but his staff had communicated potential concerns.

CHAIR COGHILL said his intention was to adopt the Senate CS and consider amendments next week. He asked Mr. Shilling to review the changes proposed in the Senate CS, particularly subsection (g).

[2:45:19 PM](#)

JORDAN SHILLING, staff to Senator Coghill, explained that the Senate CS inserts a new Section 2 that prohibits the use of state funds for the purpose of implementing or aiding in the implementation of a federal action that infringes on a person's Second Amendment right or due process right. Section 2 also contains definitions for the terms "asset" and "state or municipal agency."

[2:46:31 PM](#)

SENATOR WIELECHOWSKI asked what the provision in paragraph (A) on page 3 would encompass regarding infringement on a person's Second Amendment right.

MR. SHILLING offered his understanding that there are recent U.S. Supreme Court cases that define the limits of a person's right to bear arms. He added that the Alaska Supreme Court would probably make a determination as well.

CHAIR COGHILL suggested the committee ponder that question over the weekend and review the specific language in Section 1 of the version that passed the House.

SENATOR DYSON asked if the definition of "asset" on page 3, line 12, includes personnel.

MR. SHILLING responded that employees are addressed in the definition of state or municipal agency on page 3, line 20.

[2:49:29 PM](#)

TOM WRIGHT, staff to Representative Mike Chenault, prime sponsor of HB 69, added that the language in subsection (f) on page 4 applies to this bill. It reads as follows:

(f) A federal statute, regulation, rule, or order adopted, enacted, or otherwise effective on or after the effective date of this Act is unenforceable in this state by an official, agent, or employee of this state, a municipality, or the federal government if the federal statute, regulation, rule, or order attempts to

- (1) ban or restrict ownership of a semiautomatic firearm or a magazine of a firearm; or
- (2) require a firearm, magazine, or other firearm accessory to be registered.

CHAIR COGHILL observed that that goes to Senator Wielechowski's question about paragraph (A) on page 3.

SENATOR DYSON commented that he recalls times when state public safety officers refused to cooperate with what federal agencies were doing in the state, so this wasn't breaking new ground.

MR. WRIGHT said he found four or five instances of sheriffs in other states who said they wouldn't enforce a certain federal provision.

CHAIR COGHILL asked if this discussion was similar to the Arizona immigration policy that the U.S. Supreme Court overturned.

MR. WRIGHT said he didn't believe so because the bill was specific to the Second Amendment. He said it's a constitutional question involving states' rights, but it's also legitimate to ask when the federal government will start enforcing laws it imposed, like for marijuana.

CHAIR COGHILL commented that the state surrenders Tenth Amendment rights by taking funds from the federal government under conditions, but HB 69 speaks to fundamental rights outlined in the constitution. He opined that the state has good standing. After all, the states formed the nation, not the other way around.

MR. WRIGHT noted that the findings in Section 1 of HB 69 specifically allude to art. I, sec. 19, of the Constitution of the State of Alaska, the Tenth Amendment of the Constitution of the United States, and the Ninth Amendment of the Constitution of the United States. The courts will decide whether it is defensible or not.

CHAIR COGHILL added that version R says this is the policy and the state will use its assets to thwart federal action to the contrary. He asked, because of the constitutional question, if there was original jurisdiction.

MR. WRIGHT replied he didn't have an answer.

[2:53:50 PM](#)

CHAIR COGHILL asked if deleting the felony language would potentially erode support for the bill.

MR. WRIGHT said he didn't believe so, although many supporters subscribed to a class C felony. He noted that the bill was modeled on Wyoming law that has class A misdemeanor language. He opined that the SCS was a little more enforceable than the House version that tries to have a trooper arrest a federal agent or employee [for trying to enforce a federal law].

[2:55:32 PM](#)

SENATOR DYSON removed his objection and version R was before the committee.

[2:56:27 PM](#)

CHAIR COGHILL announced he would hold HB 69 in committee.

[2:56:39 PM](#)

There being no further business to come before the committee, Chair Coghill adjourned the Senate Judiciary Standing Committee meeting at 2:56 p.m.