

**ALASKA STATE LEGISLATURE  
SENATE JUDICIARY STANDING COMMITTEE**

March 18, 2013

1:34 p.m.

**MEMBERS PRESENT**

Senator John Coghill, Chair  
Senator Lesil McGuire, Vice Chair  
Senator Fred Dyson  
Senator Donald Olson  
Senator Bill Wielechowski

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

CONFIRMATION HEARINGS

**Board of Governors of the Alaska Bar**

Adam Trombley

- CONFIRMATION ADVANCED

**Commission on Judicial Conduct**

May Gurton Mead

- CONFIRMATION ADVANCED

CS FOR HOUSE JOINT RESOLUTION NO. 4(JUD) AM

Urging the President of the United States to rescind 23 executive orders, executive actions, and executive recommendations, related to regulation of firearms; and urging the United States Congress to refrain from passing legislation that restricts the right of individuals to keep and bear arms.

- HEARD & HELD

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

SENATE JOINT RESOLUTION NO. 9

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

- HEARD & HELD

#### PREVIOUS COMMITTEE ACTION

BILL: HJR 4

SHORT TITLE: OPPOSE GUN CONTROL ORDERS & LEGISLATION

SPONSOR(S): REPRESENTATIVE(S) MILLETT

01/24/13	(H)	READ THE FIRST TIME - REFERRALS
01/24/13	(H)	JUD
02/06/13	(H)	JUD AT 1:00 PM CAPITOL 120
02/06/13	(H)	Heard & Held
02/06/13	(H)	MINUTE(JUD)
02/08/13	(H)	JUD AT 1:00 PM CAPITOL 120
02/08/13	(H)	Moved CSHJR 4(JUD) Out of Committee
02/08/13	(H)	MINUTE(JUD)
02/11/13	(H)	JUD RPT CS(JUD) NT 6DP 1NR
02/11/13	(H)	DP: MILLETT, PRUITT, LYNN, FOSTER, LEDOUX, KELLER
02/11/13	(H)	NR: GRUENBERG
02/27/13	(H)	TRANSMITTED TO (S)
02/27/13	(H)	VERSION: CSHJR 4(JUD) AM
02/28/13	(S)	READ THE FIRST TIME - REFERRALS
02/28/13	(S)	JUD
03/18/13	(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)  
03/15/13 (S) Heard & Held  
03/15/13 (S) MINUTE(JUD)  
03/18/13 (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)  
03/15/13 (S) Heard & Held  
03/15/13 (S) MINUTE(JUD)  
03/18/13 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

**WITNESS REGISTER**

ADAM TROMBLEY, Appointee  
Board of Governors of the Alaska Bar  
Anchorage, Alaska

**POSITION STATEMENT:** Testified as appointee to the Board of  
Governors of the Alaska Bar.

AMY GURTON MEAD, Appointee  
Commission on Judicial Conduct  
Juneau, Alaska

**POSITION STATEMENT:** Testified as appointee to the Commission on  
Judicial Conduct.

REPRESENTATIVE CHARISSE MILLETT  
Alaska State Legislature

Juneau, Alaska

**POSITION STATEMENT:** Sponsor of HJR 4.

RODNEY DIAL, Lieutenant  
Alaska State Troopers  
Department of Public Safety (DPS)  
Ketchikan, Alaska

**POSITION STATEMENT:** Testified that DPS had no concerns with the Senate CS for HB 69.

DAVID NEES, representing himself  
Anchorage, Alaska

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

JERRY COVEY, representing himself  
Anchorage, Alaska

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

DAVID BOYLE  
Alaska Policy Forum  
Anchorage, Alaska

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

TOM FINK, representing himself  
Anchorage, Alaska

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

VICTOR FISCHER, representing himself  
Anchorage, Alaska

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

DAN KENNEDY, representing himself  
Wasilla, Alaska

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

SHARON AUBREY representing herself  
Mat-Su, Alaska

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

SAMMY CRAWFORD, representing herself  
Kenai, Alaska

**POSITION STATEMENT:** Warned against passing SJR 9 without full vetting, including in the Education Committee.

CONNIE BELL, representing herself  
Petersburg, Alaska

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

MARY TOUTOUNJHI, representing herself  
Soldotna, Alaska

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

MIKE COONS, representing himself  
Lazy Mountain Alaska

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

JANE ANGVIK, representing herself  
Anchorage, Alaska

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

VICKI CHEKAN, representing herself  
Anchorage, Alaska

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

#### **ACTION NARRATIVE**

[1:34:34 PM](#)

**CHAIR JOHN COGHILL** called the Senate Judiciary Standing Committee meeting to order at 1:34 p.m. Present at the call to order were Senators Dyson, Olson, and Chair Coghill. Senators McGuire and Wielechowski arrived soon thereafter.

#### **CONFIRMATION HEARINGS**

#### **Board of Governors of the Alaska Bar**

[1:35:39 PM](#)

**CHAIR COGHILL** announced the first order of business would be confirmation hearings. He asked Mr. Trombley to introduce himself and tell the committee why he was interested in serving on the Board of Governors of the Alaska Bar.

[1:36:08 PM](#)

**ADAM TROMBLEY**, Appointee, Board of Governors of the Alaska Bar, said he is an assembly member representing East Anchorage and before that he served on the municipal budget advisory commission. That service piqued his interest in serving on the state level, and because he represents a large constituency of Alaska Natives, he thought this service would broaden his horizons and help him better serve the public he represents.

**CHAIR COGHILL** asked if he had attended any meetings of the Board of Governors of the Alaska Bar.

MR. TROMBLEY said he attended his first meeting in January.

[1:37:39 PM](#)

CHAIR COGHILL found no further questions. He thanked Mr. Trombley for being willing to serve and advised that he would ask for a motion to forward Mr. Trombley's name after the committee heard from the next appointee.

### Commission on Judicial Conduct

CHAIR COGHILL asked Ms. Mead to introduce herself and tell the committee why she was interested in serving on the Commission on Judicial Conduct.

[1:38:16 PM](#)

AMY GURTON MEAD, Appointee, Commission on Judicial Conduct, said she is an attorney in Juneau and she submitted her name because she believes in public service. She finds the subject matter of the commission interesting and believes it serves an important role in maintaining a strong judiciary and fostering public trust. She was honored to be asked to serve and to date had attended two meetings.

[1:39:39 PM](#)

SENATOR MCGUIRE joined the meeting.

CHAIR COGHILL asked what she found new or surprising in the two meetings she attended.

MS. MEAD replied that she was enjoying the nuances of ethics that apply to attorneys versus the judiciary.

SENATOR DYSON asked what ethical concerns the commission ought to pay attention to with regard to judicial conduct.

MS. MEAD relayed that she was proud of the judiciary, but it could be problematic when a judge is not aware of how his/her behavior or decisions appear to unrepresented parties or parties that have little contact with the court. What an attorney may understand as a normal course of business may come across very differently to someone without that experience.

SENATOR DYSON articulated concern about the underrepresented indigent and the caseload of public defenders, and said he'd enjoy her thoughts on that as time goes on. He asked if she, as

an attorney, had any sense that she would be under pressure for disciplining a judge before whom she might have to appear.

MS. MEAD replied that it was not a concern.

[1:43:30 PM](#)

SENATOR DYSON thanked Ms. Mead for being willing to serve.

CHAIR COGHILL thanked Ms. Mead and asked for a motion to forward both names to the full body for consideration.

[1:43:58 PM](#)

SENATOR MCGUIRE moved and asked unanimous consent to forward to the full body with individual recommendations the names Amy Gurton Mead for a position on the Commission on Judicial Conduct and Adam Trombley for a position on the Board of Governors.

[1:44:41 PM](#)

CHAIR COGHILL announced that without objection the names would be forwarded to the full body for consideration.

#### **HJR 4-OPPOSE GUN CONTROL ORDERS & LEGISLATION**

[1:44:57 PM](#)

CHAIR COGHILL announced the consideration of HJR 4. [CSHJR 4(JUD) AM was before the committee.]

[1:45:15 PM](#)

REPRESENTATIVE CHARISSE MILLETT, sponsor of HJR 4, stated that the resolution urges the President of the United States not to issue executive actions related to the regulation of firearms, because that might limit Alaskans' unique abilities to provide food and protection for themselves. She opined that while the shootings in Newtown Connecticut, Aurora Colorado, and Bethel Alaska were tragic, gun control would not mitigate those actions.

She said it was unclear what type of authorization the 23 actions or executive orders the President issued actually hold, but the volume of gun legislation passing through Congress was amazing. What was even more amazing was the idea that someone from Washington, D.C. or New York City could regulate guns and think it would be appropriate that the action take place in Alaska.

REPRESENTATIVE MILLETT asked the committee to stand with her to support the Second Amendment right as well as the Ninth and

Tenth Amendments that give states the right to determine what laws fit their state. These rights are particularly important for gun and ammunition control because one size does not fit all, she stated.

[1:47:46 PM](#)

SENATOR WIELECHOWSKI joined the committee.

CHAIR COGHILL asked if 23 [executive actions] was the correct number, because he heard some conflicting debate on that.

REPRESENTATIVE MILLETT affirmed that was the correct number. She added that some of the recommendations were reasonable, but the implications on a national level did not fit Alaskan lifestyles. She granted that many violent offenders and people involved in mass shootings have some type of mental health issue, but did not agree with the notion of establishing a level of mental illness to keep a person from owning a gun. She agreed that mental health awareness should increase, but urged caution because unreasonable restrictions may make people less likely to report or get help with their mental illness. She maintained that the recommendations by President Obama and Vice President Biden should be addressed on a statewide level rather than a national level, because many of the 23 actions do not fit Alaska.

[1:49:52 PM](#)

CHAIR COGHILL asked if it was her experience that executive actions or recommendations were more difficult to get ahold of than executive orders.

REPRESENTATIVE MILLETT agreed that executive orders were very different from executive actions and they carried different weight. When the President brought the 23 executive actions forward there was misunderstanding in Alaska and other states, but now she understands that they were recommendations.

SENATOR MCGUIRE thanked the sponsor for bringing this legislation forward, and described the [23 executive actions] illustrated more absurd federal overreach. She reviewed the facts in the Newtown, Connecticut shooting and highlighted that the gunman was not licensed to own a weapon, so he took his mother's. She stated that as a mother, she would like to have more trained and armed personnel in schools. She maintained that Alaska doesn't see many mass shooting tragedies because the state has concealed carry laws.

SENATOR DYSON explained that the difference between an executive order and an executive action is that an executive order appears in the Congressional Record. He stated that he certainly did not want the decision about who is mentally fit to own a gun to be centralized, and highlighted that one of the first things Hitler did when he seized power in 1933 was to eliminate those he deemed "mentally defective."

[1:54:24 PM](#)

SENATOR WIELECHOWSKI asked if she wanted rescission of all 23 executive orders.

REPRESENTATIVE MILLETT said yes, and she was asking the President not to issue executive orders, actions, or recommendations on gun control for Alaska.

SENATOR WIELECHOWSKI agreed that there should not be executive orders on gun control, then pointed out that some of the recommendations were reasonable. He asked the sponsor if she disagreed with "Provide incentives for schools to hire school resource officers."

REPRESENTATIVE MILLETT responded that it was not a matter of agreeing or disagreeing.

SENATOR WIELECHOWSKI interjected that the resolution urges the President to rescind every single one of the recommendations. He asked if she believes it was wrong and perhaps in violation of the Second Amendment for the President to say that states should provide incentives for schools to hire school resource officers.

REPRESENTATIVE MILLETT reiterated that the resolution was about sending a message. While some of the 23 executive actions may be realistic, it was the state's job to do that, not the President's. The state may want to adopt some of the recommendations, but it will also want to tailor them to Alaska. She asserted that the executive actions were sound bites that may be difficult to apply realistically. She drew a parallel to the federal "No Child Left Behind" directive, which sounded good on its face, but didn't work in Alaska. She reiterated that it was not the federal government's job to tell Alaska when, how, or where to use guns. It was the state's right to do that.

SENATOR WIELECHOWSKI said he agreed with that, but hiring school resource officers had nothing to do with guns. He then asked if she thought there was something wrong with the recommendation to

"Launch a national dialog led by Secretaries Sebelius and Duncan on mental health."

REPRESENTATIVE MILLETT reiterated that the message the resolution tries to send is that the federal government should not issue a one-size-fits-all package for states to implement gun regulations. She agreed that mental health should receive more attention, but the President didn't need to tell the state what it should be doing in this area.

[1:57:33 PM](#)

SENATOR WIELECHOWSKI clarified that the recommendation was to launch a national dialog.

CHAIR COGHILL pointed out that the resolves go to the right to keep and bear arms, not to the executive orders.

SENATOR WIELECHOWSKI said he was trying to bring clarity to the request to ask the President to rescind all 23 executive orders - as called for in the title of the legislation - because a number of them were very good. He cautioned that requesting blanket rescission calls Alaska's credibility into question.

REPRESENTATIVE MILLETT acknowledged that there might be some good recommendations, but the point is that the state is telling the federal government to stop issuing orders on gun control.

SENATOR WIELECHOWSKI argued that they weren't all on gun control.

REPRESENTATIVE MILLETT maintained that they were all on gun control.

CHAIR COGHILL pointed out that the two resolution statements talk about the individual right to keep and bear arms and recommendations related to regulation of firearms. He described the statements as very clear.

SENATOR MCGUIRE summarized that the point the sponsor was making is that the state of Alaska collectively disagrees that the federal government and the President should tell the state how to address the issue of guns in the state. She stated support for that collective statement of beliefs.

[2:02:22 PM](#)

CHAIR COGHILL said he didn't intent to move the bill today.

SENATOR WIELECHOWSKI said he agreed with the resolve, but he did not agree with rescission of all 23 resolves. Most Alaskans would agree that some of them were good. He suggested that a simple "tweak" on the title may resolve the issue.

REPRESENTATIVE MILLETT explained that the resolution specifically mentions the number 23 because the intention is to be specific to the gun control measures the President is taking. The message the resolution sends is that the federal government cannot tell the State of Alaska and its citizens when, where, and how it should control guns.

CHAIR COGHILL asked if it was a package of 23 orders, actions, and recommendations.

REPRESENTATIVE MILLETT answered yes.

[2:04:22 PM](#)

SENATOR OLSON observed that the resolution also had overreach because it condemns all 23 executive orders, actions, and recommendations when some should be supported.

REPRESENTATIVE MILLETT responded that the resolution wasn't condemning everything the President was doing; the point was that it is the state's purview to make its own recommendations on gun control, and those may or may not include some of the President's recommendations.

SENATOR OLSON thanked the sponsor.

[2:06:02 PM](#)

SENATOR MCGUIRE asked if her concern with the recommendation to "Launch a national dialog led by Secretaries Sebelius and Duncan on mental health." was that in the context of gun control it could lead to a discussion about how to limit the rights of those with mental health issues.

REPRESENTATIVE MILLETT responded that everything in the package is about gun control and this resolution is to make sure that Alaska is not left out of the conversation.

[2:07:47 PM](#)

SENATOR MCGUIRE indicated that she would talk to the sponsor about a clarifying amendment.

CHAIR COGHILL held HJR 4 in committee.

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

[2:08:44 PM](#)

CHAIR COGHILL announced the consideration of HB 69. [SCS CSHB 69, labeled 28-LS0290\R, was before the committee.] He asked if there were questions for Lieutenant Dial.

SENATOR WIELECHOWSKI asked for a sectional walk-through of the Senate CS.

CHAIR COGHILL suggested he meet with both his staff and the sponsor's staff for a full sectional walk-through.

[2:10:07 PM](#)

SENATOR DYSON asked Lieutenant Dial if anything in the Senate CS would cause trouble for public safety officers in performing their duty.

RODNEY DIAL, Lieutenant, Alaska State Troopers, Department of Public Safety (DPS), Ketchikan, Alaska, stated that the department reviewed the [Senate] CS and had no concerns with the changes.

SENATOR WIELECHOWSKI asked if DPS had any concerns with the version that came to the Senate.

LIEUTENANT DIAL acknowledged that there was initial discussion about how to address violations by federal officers, but those concerns were addressed. If the version that passed the House had become law, state law enforcement would have investigated those violations the same as any other violation of law and would have referred them to the Department of Law for review and prosecution.

CHAIR COGHILL stated his intention to hold HB 69 in committee and take additional public testimony on Wednesday.

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

[2:12:27 PM](#)

CHAIR COGHILL announced the consideration of SJR 9 and opened public testimony.

[2:14:13 PM](#)

DAVID NEES, representing himself, Anchorage, Alaska, reviewed the dialog on day 48 of the Alaska Constitutional Convention and quoted delegate Fischer. He highlighted that the final motion

that day was to strike the third sentence in art. VII, sec. 1, which is exactly what SJR 9 does. The closing argument was that public funds for education should not receive more restrictive or more favored treatment. He said he believes that the public purpose provision should be the only guide when it comes to appropriating public funds, but the public purpose has probably changed since 1957. The proposed constitutional amendment will serve the public purpose, and a heartfelt public discussion on how it will manifest itself is appropriate after it moves out of the committee. The discussion could also include whether to include the terms parochial or private.

2:20:02 PM

JERRY COVEY, representing himself, Anchorage, Alaska, said he is an education and nonprofit consultant, former Alaska commissioner of education, former school superintendent, principal, and teacher in Alaska's public education system who is testifying in support of SJR 9. He stated his belief that public funds should only be used for public outcomes, and that any organization that accepts public monies should be required to abide by statutes and regulations governing public schools. He also stated support for giving a voucher to every student in Alaska and letting the parents decide where to use it as long as the school complies with education statutes and regulations.

MR. COVEY said he appreciates that some professional groups see SJR 9 as a threat to public education, but his view is that the public education system belongs to the public and that voice should be given priority over the voice of those who operate the system. He warned that if SJR 9 fails at the legislative level, the public will be denied its voice.

He recalled that in the past some professional groups opposed the creation of education standards that are now considered the foundation of the school system. It took significant public engagement to override that internal opposition and move the standards forward. He said he believes that the public deserves that level of engagement on this issue. SJR 9 is an opportunity to engage the public in making revisions to the education system that will translate to better opportunities for parents and students. He asked the committee to advance SJR 9 to give the public its rightful opportunity to decide this issue.

2:23:08 PM

DAVID BOYLE, Alaska Policy Forum (APF), said APF supports SJR 9. It will lead to better education outcomes for Alaskan students and loosen the grip of special education interests. He

characterized education in Alaska as a monopoly and the Blaine Amendment language in the Alaska Constitution as anti-Catholic and anti-immigrant. He described the differing points of view as a battle between those who support the right of parents to choose the best education for their child, and those who want to maintain their stranglehold on Alaska education.

MR. BOYLE quoted the past general counsel for the NEA to illustrate that to the NEA this was a matter of power and control. He noted that NEA-Alaska had collected more than \$5.6 million in dues for the current school year, but that it was only using its power and influence to speak for itself and its members, not for the children of Alaska.

He said the Alaska Constitution has provisions for amending the document and the people play a large part in that process. He urged the committee to give the people the opportunity to vote on this important matter.

[2:27:30 PM](#)

TOM FINK, representing himself, stated that he is a board member of a private K-12 school in the Anchorage area and an active in a volunteer taskforce that supports SJR 9. He urged the committee to allow the public to decide the issue and not allow NEA leadership to deny the public the opportunity to make this important decision. He emphasized that the existing inadequate K-12 situation cannot be solved without this constitutional amendment.

[2:29:28 PM](#)

VICTOR FISCHER, representing himself, stated opposition to SJR 9, the proposed constitutional amendment that would provide public funds for religious and other private educational institutions. He affirmed that he was a delegate to the Alaska Constitutional Convention and noted that he was quoted in earlier testimony. He relayed that he also served in the Territorial Legislature and the Alaska State Senate.

MR. FISCHER highlighted that earlier testimony quoted him as having been in favor of eliminating the language that SJR 9 proposes to strike. That language says, "No money shall be paid from public funds for the direct benefit of any religious or other private educational institution." Mr. Fischer clarified that in principle he opposed eliminating that language during the Constitutional Convention days in 1955-1956, and he opposes eliminating that language today. He reiterated that he opposes

the concept of public funding of private educational institutions, including religious institutions.

MR. FISCHER explained that the quote was not in context. It had more to do with placement of the prohibition than whether to fund private and religious educational institutions. He said there was no objection during the Constitutional Convention to having that language in the Alaska Constitution; it was the principle that was involved of what constitutes public interest and what constitutes use of public funds for public purposes.

MR. FISCHER said his basic concern with eliminating the third sentence [in art. VII, sec. 1] and then adding language to the finance art. [IX] is that it effectively removes any kind of constitutional limitation on putting public money into private and religious institutions. He suggested that leaving the education language and amending the public purpose article might achieve the aim that most people who have spoken in favor of SJR 9 are after. That is to benefit the individual child, which is what was accepted at the Constitutional Convention.

Removing the provision against public funding for the direct benefit of religious and other institutions combined with the amendment to the finance article leaves the gates wide open to provide money through the student for the direct benefit of religious and other private educational institutions. He said he was bothered by the combination, because of the potential for subsequent abuse.

MR. FISCHER concluded that he very much opposed SJR 9 as currently written.

[2:34:37 PM](#)

SENATOR WIELECHOWSKI noted the earlier testimony that this was a discriminatory provision, and asked if that was his recollection of how this amendment was adopted.

MR. FISCHER replied that it was never thought of in those terms. Free-thinkers were well represented at the Constitutional Convention; there was no discrimination and the language was in accordance with that approach. He noted that a convention colleague pointed this out in his strong arguments on behalf of adding the word "indirect." He wanted it very clear that public funds would not go for the direct or indirect benefit of religious and other private educational institutions. His argument, in part, was that parents can choose to put their children in a public educational institution or a private

educational institution. It was a matter of not having public tax monies go directly or indirectly for the benefit of religious institutions. He reiterated with emphasis that it was not meant to be discriminatory and has never been discriminatory.

MR. FISCHER noted that one of the arguments made on behalf of this amendment was that public money was already going for the benefit of students. His perspective was that if that was already occurring and hadn't been challenged, then there was no need for the amendment.

[2:38:26 PM](#)

DAN KENNEDY, representing himself, said his three children graduated from the Wasilla school system with high honors. Two are currently at the Annapolis Military Academy and the third is at the U.S. Air Force Academy in Colorado Springs. He described the requirements and rigorous competition to gain entrance to these academies and stated that he and his wife believe that competition with education is imperative. For that reason they support the opportunity for Alaskans to vote to change the constitution to allow for choice, including private education.

He said he understands that the accelerated programs his children participated in through elementary and middle school were eliminated because of budget constraints and other requirements of public education. This is unfortunate because he knows that options must be available if gifted Alaskans are to continue to compete with some of America's finest students. He urged the committee to support SJR 9.

SENATOR WIELECHOWSKI observed that his children did very well going through the public schools.

MR. KENNEDY restated how important the extended learning programs in elementary school and middle school were in preparing his children to attend elite colleges.

[2:43:02 PM](#)

SHARON AUBREY, representing herself, described the barriers she encountered as a parent educator trying to fulfill her children's individual learning plans (ILPs) because of constitutional language interpretations. These restrictions hinder many public school students from achieving their academic and career goals. For example, if she purchases a sectarian textbook to fulfill her daughter's ILP for an algebra class, her allotment will not pay for the scientific calculator. However,

if she buys a secular textbook the allotment will pay for that same calculator. Materials that are used daily in brick and mortar schools are denied to other public school students in alternative programs because of the current interpretation of the constitution.

MS. AUBREY said she wasn't necessarily asking the state to purchase faith-based curriculums. She was asking for a change in the constitutional language so that courses that meet state grade level expectations could be recognized for enrollment, and for the basic supporting materials required for general education to be made available.

She stated her belief that SJR 9 would solve the limitations and problems currently facing the public education system and give better educational options, curriculums, and materials for Alaskan students to succeed.

[2:46:01 PM](#)

SAMMY CRAWFORD, representing herself, said she was a classroom teacher for 30 years and a member of the Board of Education for 15 years. She stated her belief that SJR 9 needed full vetting and the potential impact explored before moving forward. Since it was an education issue, the Education Committee should be part of the process. She pointed out that every ten years the voters are asked whether or not they want a constitutional convention to vet major changes, and since statehood they have always declined.

MS. CRAWFORD described herself as a public education advocate who believes that to further divide the pie of financial assistance to public schools would make it more difficult for public education.

[2:48:08 PM](#)

CONNIE BELL, representing herself, described herself as a homeschooling mom who takes the responsibility for educating her children very seriously. She offered her belief that the responsibility of choosing the best education possible lies first with parents. The opportunity to vote on whether or not to amend the constitution would begin the process of giving Alaskans that freedom. Competition has always has always encouraged excellence and better stewardship of finances and resources, and freedom produces prosperity. Don't be afraid to give Alaskans the freedom to choose; put the amendment on the ballot, she said.

[2:49:37 PM](#)

MARY TOUTOUNJHI, representing herself, described herself as a 25-year public school educator who had strong feelings about public education. She pointed out that both the state and federal constitutions mandate the concept of separation of church and state, and the concept of public education available to all. SJR 9 denies both of these concepts. She said she respects religious beliefs but doesn't want the state funding those beliefs.

MS. TOUTOUNJHI observed that this resolution represents a consistent pattern. It will reduce funding to schools already stressed by reductions in funding and it will make it impossible to make long-term plans and set educational goals because funding will be inconsistent year-to-year. She offered her belief that one of the single most effective ways to maintain a viable government of the people is to provide a strong educational base. She urged the committee to leave the constitution alone.

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MIKE COONS, representing himself, said he supports SJR 9 and fully opposes the notion of separation of church and state. He quoted the First Amendment and argued that giving parents the right to choose their child's school does not mean the State of Alaska is establishing a religion to get an education. He discussed the history of schooling and pointed out that Jefferson, Madison, and Adams had no formal schooling until their teens and they went on to write the Declaration of Independence, the U.S. Constitution, and the Bill of Rights.

MR. COONS quoted Wikipedia on the history of education and noted that states that adopted Blaine Amendment language did so because they felt that Catholic children should be educated in public schools to become American, not to stop a religious belief. Then in 1925 the U.S. Supreme Court ruled that students could attend private schools to comply with state compulsory education laws, thereby giving parochial schools an official blessing.

He corrected testimony a professor gave to a joint committee that Wisconsin and the District of Columbia showed improvement after giving parents choices outside of public education. In fact, the testimony was that the underprivileged were the vast majority who moved out of public schools and into private schools with immediate and long-lasting increases in learning and graduation rates. Public schools were helped from a

financial standpoint. Clearly, giving parents and children a choice in their education benefits all. He urged the committee to pass SJR 9 and give the people the opportunity to debate, learn, and vote on this important matter.

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JANE ANGVIK, representing herself, stated opposition to SJR 9. She said she believes the prohibition in the constitution against using public funds for private and religious education is appropriate and should be retained. She reminded the members that they weren't just deciding on whether to let the people vote, because they were actually required use their judgment to decide whether this was a good idea or not. She encouraged the committee to consider the financial obligations to the state for including the opportunity for public funding for private or religious education. She questioned whether the state was prepared for the financial cost of adding the 9,600 students that are currently enrolled in private schools in Alaska to the current education budget. She encouraged the committee to seriously consider the content and ramifications of SJR 9.

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VICKI CHEKAN, representing herself, said she had experience with both homeschooling and the public system and she was testifying in support of SJR 9. She urged the committee to consider the derivation of the original language and to examine the historical interpretation against universal principles, and to base their vote on factual information from varied sources, as opposed to special interests.

MS. CHEKAN quoted the opening section of "The Making of America: The Substance and Meaning of the Constitution" to support the position that the founding fathers did not intend to remove religion from formal education. She expressed hope that the committee would allow the people to determine the future of their government and their lives.

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CHAIR COGHILL held SJR 9 in committee and stated his intention to take additional public testimony on Wednesday.

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There being no further business to come before the committee, Chair Coghill adjourned the Senate Judiciary Standing Committee meeting at 3:06 p.m.