

ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE

April 1, 2013

1:35 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

Senator Donald Olson

COMMITTEE CALENDAR

HOUSE BILL NO. 81

"An Act making corrective amendments to the Alaska Statutes as recommended by the revisor of statutes; and providing for an effective date."

- MOVED HB 81 OUT OF COMMITTEE

HOUSE BILL NO. 33

"An Act adding definitions of 'gravity knife' and 'switchblade' to the criminal law; and relating to reserving the authority to regulate knives to the state with limited exceptions for municipalities to regulate knives."

- MOVED SCS HB 33(JUD) OUT OF COMMITTEE

SENATE BILL NO. 65

"An Act relating to property exemptions for retirement plans, individual retirement amending Rule 64, Alaska Rules of Civil Procedure, and Rule 301(a), Alaska Rules of accounts, and Roth IRAs; relating to transfers of individual retirement plans; relating to Evidence." the rights of judgment creditors of members of limited liability companies and partners of limited liability partnerships; relating to the Uniform Probate Code, including pleadings, orders, liability, and notices under the Uniform Probate Code and the Alaska Principal and Income Act, the appointment of trust property, the Alaska Uniform Prudent Investor Act, co-trustees, trust protectors, and trust advisors; relating to the Alaska Principal and Income Act; relating to the Alaska Uniform Transfers to Minors Act; relating to the

disposition of human remains; relating to the tax on insurers for life insurance policies; relating to insurable interests for certain insurance policies; relating to restrictions on transfers of trust interests; relating to discretionary interests in irrevocable trusts; relating to the community property of married persons; and

- 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

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 83(JUD)

"An Act relating to certain federal statutes, regulations, presidential executive orders and actions, and secretarial orders and actions; relating to the duties of the attorney general; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 81

SHORT TITLE: 2013 REVISOR'S BILL

SPONSOR(S): RULES BY REQUEST OF LEGISLATIVE COUNCIL

01/22/13	(H)	READ THE FIRST TIME - REFERRALS
01/22/13	(H)	JUD
03/01/13	(H)	JUD AT 1:00 PM CAPITOL 120
03/01/13	(H)	Heard & Held
03/01/13	(H)	MINUTE(JUD)
03/04/13	(H)	JUD AT 1:00 PM CAPITOL 120
03/04/13	(H)	Heard & Held
03/04/13	(H)	MINUTE(JUD)
03/11/13	(H)	JUD AT 1:00 PM CAPITOL 120
03/11/13	(H)	Moved Out of Committee
03/11/13	(H)	MINUTE(JUD)

03/13/13 (H) JUD RPT 5DP
03/13/13 (H) DP: GRUENBERG, LYNN, LEDOUX, FOSTER,
KELLER
03/15/13 (H) TRANSMITTED TO (S)
03/15/13 (H) VERSION: HB 81
03/18/13 (S) READ THE FIRST TIME - REFERRALS
03/18/13 (S) JUD
03/29/13 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
04/01/13 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

BILL: HB 83

SHORT TITLE: FEDERAL LAWS & EXECUTIVE ORDERS

SPONSOR(S): KELLER

01/22/13 (H) READ THE FIRST TIME - REFERRALS
01/22/13 (H) JUD
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) Scheduled But Not Heard
02/25/13 (H) JUD AT 1:00 PM CAPITOL 120
02/25/13 (H) Scheduled But Not Heard
02/27/13 (H) JUD AT 1:00 PM CAPITOL 120
02/27/13 (H) Heard & Held
02/27/13 (H) MINUTE(JUD)
03/04/13 (H) JUD AT 1:00 PM CAPITOL 120
03/04/13 (H) Moved CSHB 83(JUD) Out of Committee
03/04/13 (H) MINUTE(JUD)
03/05/13 (H) JUD RPT CS(JUD) NT 5DP
03/05/13 (H) DP: MILLETT, GRUENBERG, PRUITT, FOSTER,
KELLER
03/13/13 (H) TRANSMITTED TO (S)
03/13/13 (H) VERSION: CSHB 83(JUD)
03/15/13 (S) READ THE FIRST TIME - REFERRALS
03/15/13 (S) JUD
03/29/13 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
04/01/13 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

BILL: HB 33

SHORT TITLE: KNIVES, GRAVITY KNIVES, & SWITCHBLADES

SPONSOR(S): REPRESENTATIVE(S) NEUMAN

01/16/13 (H) PREFILE RELEASED 1/7/13
01/16/13 (H) READ THE FIRST TIME - REFERRALS
01/16/13 (H) JUD
02/27/13 (H) JUD AT 1:00 PM CAPITOL 120

02/27/13 (H) Moved Out of Committee
02/27/13 (H) MINUTE(JUD)
03/01/13 (H) JUD RPT 6DP
03/01/13 (H) DP: MILLETT, GRUENBERG, PRUITT, LYNN,
LEDOUX, KELLER
03/27/13 (H) TRANSMITTED TO (S)
03/27/13 (H) VERSION: HB 33
03/28/13 (S) READ THE FIRST TIME - REFERRALS
03/28/13 (S) JUD
04/01/13 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

BILL: HB 65

SHORT TITLE: APPROP: OPERATING BUDGET/LOANS/FUNDS

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/16/13 (H) READ THE FIRST TIME - REFERRALS
01/16/13 (H) FIN
01/22/13 (H) FIN AT 1:30 PM HOUSE FINANCE 519
01/22/13 (H) Scheduled But Not Heard
01/23/13 (H) FIN AT 1:30 PM HOUSE FINANCE 519
01/23/13 (H) Heard & Held
01/23/13 (H) MINUTE(FIN)
01/24/13 (H) FIN AT 1:30 PM HOUSE FINANCE 519
01/24/13 (H) Heard & Held
01/24/13 (H) MINUTE(FIN)
01/25/13 (H) FIN AT 1:30 PM HOUSE FINANCE 519
01/25/13 (H) Heard & Held
01/25/13 (H) MINUTE(FIN)
01/28/13 (H) FIN AT 1:30 PM HOUSE FINANCE 519
01/28/13 (H) Heard & Held
01/28/13 (H) MINUTE(FIN)
01/29/13 (H) FIN AT 1:30 PM HOUSE FINANCE 519
01/29/13 (H) Heard & Held
01/29/13 (H) MINUTE(FIN)
01/30/13 (H) FIN AT 1:30 PM HOUSE FINANCE 519
01/30/13 (H) Heard & Held
01/30/13 (H) MINUTE(FIN)
01/31/13 (H) FIN AT 1:30 PM HOUSE FINANCE 519
01/31/13 (H) Heard & Held
01/31/13 (H) MINUTE(FIN)
02/14/13 (H) FIN AT 1:30 PM HOUSE FINANCE 519
02/14/13 (H) Heard & Held
02/14/13 (H) MINUTE(FIN)
03/04/13 (H) FIN AT 1:30 PM HOUSE FINANCE 519
03/04/13 (H) Heard & Held
03/04/13 (H) MINUTE(FIN)
03/05/13 (H) FIN AT 1:30 PM HOUSE FINANCE 519

03/05/13 (H) Heard & Held
 03/05/13 (H) MINUTE(FIN)
 03/06/13 (H) FIN AT 1:30 PM HOUSE FINANCE 519
 03/06/13 (H) Heard & Held
 03/06/13 (H) MINUTE(FIN)
 03/11/13 (H) FIN AT 1:30 PM HOUSE FINANCE 519
 03/11/13 (H) APPROP: MENTAL HEALTH BUDGET
 03/12/13 (H) FIN AT 1:30 PM HOUSE FINANCE 519
 03/12/13 (H) Heard & Held
 03/12/13 (H) MINUTE(FIN)
 03/13/13 (H) FIN RPT CS(FIN) NT 9DP 2AM
 03/13/13 (H) DP: HOLMES, THOMPSON, MUNOZ, NEUMAN,
 EDGMON, T.WILSON, COSTELLO, AUSTERMAN,
 STOLTZE
 03/13/13 (H) AM: GARA, KAWASAKI
 03/13/13 (H) FIN AT 9:00 AM HOUSE FINANCE 519
 03/13/13 (H) Moved CSHB 65(FIN) Out of Committee
 03/13/13 (H) MINUTE(FIN)
 03/13/13 (H) FIN AT 1:30 PM HOUSE FINANCE 519
 03/13/13 (H) APPROP: MENTAL HEALTH BUDGET
 03/14/13 (H) TRANSMITTED TO (S)
 03/14/13 (H) VERSION: CSHB 65(FIN)
 03/15/13 (S) READ THE FIRST TIME - REFERRALS
 03/15/13 (S) FIN
 03/21/13 (S) FIN AT 9:00 AM SENATE FINANCE 532
 03/21/13 (S) Heard & Held
 03/21/13 (S) MINUTE(FIN)
 03/22/13 (S) FIN AT 9:00 AM SENATE FINANCE 532
 03/22/13 (S) Heard & Held
 03/22/13 (S) MINUTE(FIN)
 03/22/13 (S) FIN AT 1:30 PM SENATE FINANCE 532
 03/22/13 (S) Heard & Held
 03/22/13 (S) MINUTE(FIN)
 03/23/13 (S) FIN AT 10:00 AM SENATE FINANCE 532
 03/23/13 (S) Heard & Held
 03/23/13 (S) MINUTE(FIN)
 03/25/13 (S) FIN AT 1:30 PM SENATE FINANCE 532
 03/25/13 (S) APPROP: MENTAL HEALTH BUDGET
 03/26/13 (S) FIN AT 9:00 AM SENATE FINANCE 532
 03/26/13 (S) Moved SCS CSHB 65(FIN) Out of
 Committee
 03/26/13 (S) MINUTE(FIN)
 03/27/13 (S) FIN RPT SCS 7DP SAME TITLE
 03/27/13 (S) DP: KELLY, MEYER, FAIRCLOUGH, BISHOP,
 DUNLEAVY, HOFFMAN, OLSON
 03/29/13 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 04/01/13 (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)
03/18/13	(S)	Heard & Held
03/18/13	(S)	MINUTE(JUD)
03/20/13	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)
03/20/13	(S)	CONST. AM: EDUCATION FUNDING
03/25/13	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)
03/25/13	(S)	Heard & Held
03/25/13	(S)	MINUTE(JUD)
03/29/13	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)
03/29/13	(S)	Heard & Held
03/29/13	(S)	MINUTE(JUD)
04/01/13	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

CHUCK KOPP, Staff
Senator Fred Dyson
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Introduced the proposed Senate CS for HB 33.

RAY THIVAULT, representing himself

Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 33.

CHAD HUTCHINSON, Staff
Senator John Coghill
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Introduced SB 65 on behalf of the sponsor.

DAVID SHAFTEL, Attorney
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 65.

DOUGLAS BLATTNACHR, President and CEO
Alaska Trust Corporation
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 65.

BETH CHAPMAN, Attorney
Juneau, Alaska

POSITION STATEMENT: Testified in support of SB 65.

SEYMOUR MILLS, representing himself
Sterling, Alaska

POSITION STATEMENT: Stated absolute opposition to the watered down version of HB 69.

LLOYD HILLING, representing himself
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of HB 69.

FRANK TURNEY, representing himself
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of HB 69.

LYNETTE CLARK, representing herself
Fairbanks, Alaska

POSITION STATEMENT: Testified that she wants HB 69 to pass, but that the Senate CS lacks important references.

DAVID LEE, representing himself
Nikiski, Alaska

POSITION STATEMENT: Described the changes to the penalties in the Senate CS for HB 69 as abhorrent.

MIKE COONS, representing himself
Lazy Mountain, Alaska

POSITION STATEMENT: Urged the committee to reinsert the felony provision in HB 69.

WAYNE OZOSKY, representing himself
Eagle River, Alaska

POSITION STATEMENT: Testified in support of HB 69.

JIM POUND, Staff
Representative Wes Keller
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Introduced HB 83 on behalf of the sponsor.

DAVID JONES, Assistant Attorney General
Civil Division
Opinions, Appeals, and Ethics Section
Department of Law
Anchorage, Alaska

POSITION STATEMENT: Testified that DOL does not foresee any problems with HB 83.

MIKE COONS, representing himself
Lazy Mountain, Alaska

POSITION STATEMENT: Testified in support of HB 83.

ACTION NARRATIVE

[1:35:53 PM](#)

CHAIR JOHN COGHILL called the Senate Judiciary Standing Committee meeting to order at 1:35 p.m. Present at the call to order were Senators Dyson, Wielechowski, McGuire, and Chair Coghill.

HB 81-2013 REVISOR'S BILL

[1:37:58 PM](#)

CHAIR COGHILL announced the consideration of HB 81. He asked the committee for questions or comments.

[1:38:08 PM](#)

SENATOR DYSON said it piqued his interest to learn that Legislative Legal Services relies heavily on the Department of Law to locate inconsistencies, redundancies, and obsolescence in the statutes, because they don't have the resources to do it themselves. He relayed that he would continue to look into the matter.

SENATOR DYSON moved to report HB 81 from committee with individual recommendations and attached fiscal note(s).

CHAIR COGHILL found no objection and announced that HB 81 moved from Senate Judiciary Standing Committee.

HB 33-KNIVES, GRAVITY KNIVES, & SWITCHBLADES

[1:39:41 PM](#)

CHAIR COGHILL announced the consideration of HB 33, and asked for a motion to adopt the proposed Senate committee substitute (CS).

SENATOR DYSON moved to adopt Senate CS for HB 33, labeled 28-LS0194\C as the working document.

[1:40:36 PM](#)

CHAIR COGHILL objected for purposes of an explanation.

[1:40:59 PM](#)

REPRESENTATIVE MARK NEUMAN, sponsor of HB 33, stated support for the Senate CS for HB 33, version C.

CHAIR COGHILL asked Mr. Kopp to explain the changes that version C made.

[1:41:37 PM](#)

CHUCK KOPP, Staff to Senator Fred Dyson, stated that version C was a cooperative effort with the bill sponsor. He explained that Senator Dyson believes that criminal law should only apply to conduct that is blame worthy or that threatens public safety. Version C [incorporates SB 11] and makes it legal for a person 18 years or older to possess a gravity knife or switchblade.

He provided the following sectional analysis:

Section 1 decriminalizes the manufacture or sale of switchblades or gravity knives and provides that a person may not transfer or sell those knives to a person under age 18 without written parental consent.

Section 2 provides that a person under age 16 may possess a gravity knife or switchblade if he/she has parental consent.

Section 3 adopts definitions for the terms gravity knife and switchblade.

[Section 4 adds "and knives" to AS 29.10.200.]

Sections 5 and 6 give authority to the state to regulate knives so that a municipality can regulate conduct relating to knives to the extent that the ordinance is the same or less restrictive than state law. This is similar to the ability of the state to regulate firearms.

Section 7 repeals AS 11.61.220(a)(5).

MR. KOPP relayed that his research shows that less than two percent of assaults on public safety officers are done with knives, and in the past two years public safety officers have sustained no injuries or assaults from knives. Research also indicates that knives are less dangerous to the general population than other weapons, including hands and feet. He argued that in a state where a non-felon can legally carry a concealed handgun, it is incongruous that the person couldn't carry a gravity knife or switchblade, as they would any other knife. He directed attention to a display of legal knives.

[1:46:32 PM](#)

REPRESENTATIVE NEUMAN said he discussed this with law enforcement and the commissioner of public safety and they were not concerned with version C.

CHAIR COGHILL asked the sponsor or Mr. Kopp to speak to the fact that this law, if enacted, would impose a different standard than is found in National Parks in the state.

MR. KOPP explained that Jeffrey Olson, the National Parks spokesperson, said that the current federal parks' policy regarding weapons enforcement is to comply with state law. He said that knife regulations in the parks were less important than guns, but he would follow up.

[1:48:47 PM](#)

SENATOR WIELECHOWSKI said he supports the bill, but would like to hear from an attorney about the differences between federal and state law regarding knives. He suggested that it would be a good idea to educate Alaskans about what they can and can't do legally on federal land in this state.

MR. KOPP explained that Mr. Olson encouraged the state to work with local park service offices to clearly post the rules and regulations. It's a duty of the state to communicate that public information, he said.

CHAIR COGHILL encouraged the sponsors, before the bill reaches the floor, to speak with either the Region 10 director or a park supervisor in Alaska about how the bill may impact them.

MR. KOPP acknowledged the suggestion.

SENATOR WIELECHOWSKI said he'd be more comfortable receiving written comments from the parks.

[1:51:13 PM](#)

SENATOR DYSON commented that thousands of Alaskans carry assisted opening knives and they would be stunned to know that they're illegal.

SENATOR DYSON moved to report [Senate CS for CSHB 33 from committee with individual recommendations and attached fiscal note(s).]

CHAIR COGHILL removed his objection and version C was before the committee. He said he would take up the motion when public testimony was finished.

RAY THIVAULT, representing himself, Anchorage, Alaska, stated that he owns a large knife store in Anchorage and would like to chime in that HB 33 would have a positive impact on trade industries and professionals. He said he had nothing negative to say about the bill.

[1:53:50 PM](#)

CHAIR COGHILL announced that without objection [SCS CSHB 33(JUD)] moved from the Senate Judiciary Standing Committee.

[1:54:11 PM](#)

At ease

SB 65-RETIREMENT PLANS; ROTH IRAS; PROBATE

[1:56:55 PM](#)

CHAIR COGHILL announced the consideration of SB 65. He described the bill as a continuing update of trust doctrine law and relayed that he was carrying the bill this year.

[1:57:43 PM](#)

CHAD HUTCHINSON, Staff to Senator Coghill, stated that SB 65 has wide support from banks. It updates Alaska trust laws, which

haven't been updated since 1997. He explained that when the statutes were enacted they put Alaska at the forefront and created commerce and jobs in a variety of fields including insurance, legal, trust and banking. However, since 1997 other states have enacted similar legislation and surpasses Alaska law.

He opined that SB 65 will diversify the state's economic portfolio and make it highly competitive in the financial planning sector. It will generate revenue for the state by encouraging residents and nonresidents to plan their financial future and security in Alaska. The bill benefits everyone, he said.

[2:01:15 PM](#)

CHAIR COGHILL noted that Marty Hester, David Shaftel, and Douglas Blattmachr were available to testify and answer questions.

[2:01:44 PM](#)

DAVID SHAFTEL, Attorney, Anchorage, Alaska, stated that his law office focuses on estate planning and estate trust administration. He related that he has worked with a group of attorneys and trust officers since 1997 to recommend improvements to Alaska trust and estate laws. He explained that SB 65 amends the Uniform Principle and Income Act to conform to final IRS regulation; it amends the Alaska Uniform Transfer to Minors Act to continue management of the minor's assets beyond the age of maturity if he/she desires; it enacts a majority of rule in the retirement account area that provides protection for beneficiaries' interests; and it allows for the transfer of IRAs.

In the area of life insurance, SB 65 clarifies that trustees of life insurance trusts can have insurable interests, and it relieves trustees of life insurance trusts of liability with respect to insurance policies that the clients have purchased. The bill also clarifies the remedies in the limited liability company and limited partnership area. There is also a provision new to Alaska law that addresses the disposition of human remains. As part of estate planning, a person can designate who will make those decisions using the form that is included under that amendment. In 1998 Alaska enacted a community property regime that minimizes capital gains taxes when property is sold by the surviving spouse. SB 65 contains provisions under the community property regime that clarify title matters and rules

for recovering improper gifts. The bill also enacts decanting provisions for modifying trusts.

He described SB 65 as an excellent bill.

CHAIR COGHILL noted that four members of the committee heard a substantially similar bill last year.

[2:08:17 PM](#)

DOUGLAS BLATTNACHR, President and CEO, Alaska Trust Corporation (ATC), Anchorage, Alaska, stated that ATC strongly supports passage of SB 65, but would like Sections 34 and 35 removed. They should be in a separate bill.

CHAIR COGHILL stated his intention to introduce a committee substitute (CS) that does not include those sections, and provide an explanation.

[2:09:44 PM](#)

BETH CHAPMAN, Attorney, Juneau, Alaska, said she practices primarily in the area of trusts and estates and she believes that SB 65 is in the best interest of Alaskans. It will help alleviate the need to go to court, particularly to respond to changes in circumstances with families.

SENATOR WIELECHOWSKI noted that tab 8 of the bill packet has a legal opinion that says the bill could violate the single subject rule. He suggested the committee arrange to hear from an attorney to discuss that opinion, because the bill may have constitutional problems.

MR. HUTCHINSON said he would provide a copy of the legal opinion that responds to that memorandum.

SENATOR WIELECHOWSKI said he would like someone to go over the bill with him section by section before he votes on it. He agreed that it would be acceptable if that took place in his office.

CHAIR COGHILL said he would make sure someone visited his office, but his intention was to introduce the bill today and delve into it on Wednesday.

[2:12:35 PM](#)

CHAIR COGHILL held SB 65 in committee.

HB 69-EXEMPT FIREARMS FROM FEDERAL REGULATION

[2:13:00 PM](#)

CHAIR COGHILL announced the consideration of HB 69. He noted that version I was before the committee and that the areas of tension were subsection (a)(1) and (2) in Section 2 and subsection (g) in Section 6.

He opened public testimony.

[2:15:03 PM](#)

SEYMOUR MILLS, representing himself, Sterling, Alaska, stated absolute opposition to the watered down version of HB 69. If the Alaska State Troopers won't enforce it that is a good reason to have sheriffs. They would be elected by the people and would take an oath to uphold the law. He mentioned *United States v. Lopez*, a case involving the Gun-Free School Zones Act of 1990 and the Commerce Clause, and questioned the reference in the bill since the U.S. Supreme Court said that the Commerce Clause did not apply. He reiterated his opposition to the current version of the bill, and asked the state to stand between himself and the federal government.

[2:18:09 PM](#)

LLOYD HILLING, representing himself, Fairbanks, Alaska, testified in support of HB 69. His view was that the federal government can take care of things in Washington, D. C. and Alaska was competent to decide how to deal with its issues, including firearms. He said the Second Amendment prohibits all entities from infringing on the peoples' right to own firearms; the Tenth Amendment makes it clear that the federal government should do only that which is directly implied in the constitution, and things such as the regulation of firearms is not found in there. Stating steadfast support for HB 69, he said it will send a message that Alaska is doing what it should do.

[2:19:39 PM](#)

FRANK TURNEY, representing himself, Fairbanks, Alaska, expressed hope that HB 69 would protect Alaskan citizens from federal overlords, and stated support for directing the attorney general with the term "shall" as opposed to "may." He said it was a mistake that the Constitutional Convention didn't require the attorney general to be an elected position, because Alaska needs a strict constitutionalist to protect citizen rights. He requested the bill cover infringement of rights other than just the Second Amendment, and expressed satisfaction that it addressed the right to due process.

He said he wasn't aware that under AS 11.76.110, interfering with the constitutional rights of Alaskan citizens is a misdemeanor. It should be a felony. He said he sees nothing in the bill regarding enforcement or penalties or accountability to federal overlords. He asked that the term "state nullification" be added and suggested that the bill needed more work.

CHAIR COGHILL said he understood the consternation.

[2:23:11 PM](#)

LYNETTE CLARK, representing herself, Fairbanks, Alaska, said she wanted HB 69 to pass, but the current CS lacked important references. She appreciates that the Real ID Act is mentioned, but the provisions from [Section 1, paragraphs (3), (4), and (5)] of SB 75 regarding the National Defense Authorization Act (NDAA) and the Authorization for Use of Military Force are missing. She said these are perilous times for this union of states and if Alaska doesn't respond with federal felony charges, the monster that is the federal government will come down around its throat. She urged the committee to include those provisions in the bill.

CHAIR COGHILL said the point was well taken.

[2:26:50 PM](#)

DAVID LEE, representing himself, Nikiski, Alaska, described the changes to the penalties in HB 69 as abhorrent. He said the fact that President Obama became chair of the United Nations Security Council, in direct violation of the constitution, and then had three U.S. citizens assassinated was a very good reason for nullification. He maintained that Alaska needs sheriffs to back the bill up, because the people are their boss.

[2:28:20 PM](#)

MIKE COONS, representing himself, Lazy Mountain, Alaska, urged the committee to reinsert the felony provision in HB 69, and if it's challenged it could go to the U.S. Supreme Court. He claimed it would be a strong case if 12-14 other states have passed similar legislation. If the felony provision isn't reinserted, he suggested inserting a reference to AS 11.76.110, interference with constitutional rights. That is a misdemeanor now, but it could be increased to a felony next session, he said.

[2:30:52 PM](#)

WAYNE OZOSKY, representing himself, Eagle River, Alaska, thanked the committee for protecting Alaska citizens from the tyrannical

federal government. He said the President's executive orders pushing Congress to violate citizens' Second Amendment rights are in conflict with the constitution. He requested the committee include a reference to AS 11.76.110 [as it appears in SB 75] if the felony language isn't reinserted. He said nobody wants anarchy, but if federal agencies routinely disregard the constitution there will be a second "shot heard 'round the world." The statement that judges aren't always right also applies to people working in the Department of Law. Just because a lawyer says the felony provisions of HB 69 are unconstitutional, doesn't make it true. He reiterated support for the felony provisions and emphasized that it was constitutional for the state to protect its citizens.

CHAIR COGHILL explained his reasoning for removing the felony language. He agrees that Alaskans should stand up for their right and the freedom guaranteed under the constitution, but taking a hard position may ultimately weaken the state's position. The intent is to provide the best defense for Alaskans.

He said he'd like to get a sense of the committee with regard to the felony question.

[2:35:59 PM](#)

SENATOR DYSON encouraged the chair and his staff to qualify the meaning of the phrase on page 2, line 4, "banning any firearm."

CHAIR COGHILL said he would discuss that with his staff. Additional things for the committee to consider were the suggestion to insert the word "illegally" at the beginning of paragraphs (A) and (B) on page 3, lines 7 and 9; the language from the National Defense Authorization Act that was in the previous version R; and the language in subsection (g) on page 5 of version I as opposed to the wording in version P that passed the House.

[2:40:58 PM](#)

SENATOR WIELECHOWSKI voiced support for moving the bill when the chair was ready.

CHAIR COGHILL said he would review Senator Dyson's suggestion and take action on the bill on Wednesday.

SENATOR DYSON asked for a short at ease.

[2:42:04 PM](#)

At ease.

[2:43:43 PM](#)

CHAIR COGHILL reconvened the meeting and relayed that the off the record discussion was about the attorney general and his powers. He noted that there would likely be two amendments offered at the next hearing.

He closed public testimony and held HB 69 in committee.

HB 83-FEDERAL LAWS & EXECUTIVE ORDERS

[2:45:10 PM](#)

CHAIR COGHILL announced the consideration of HB 83. [CSHB 83(JUD) 28-LS0328\O was before the committee.]

[2:45:30 PM](#)

JIM POUND, Staff to Representative Wes Keller, sponsor of HB 83, noted that this was the second hearing for HB 83. It pertains to federal statutes, regulations, presidential executive orders or secretarial orders that are passed by the federal government and federal agencies and are currently reviewed by the attorney general's office. The bill asks the attorney general to provide the judiciary committees in each body a copy of the review so they may decide whether to introduce legislation that would nullify the measure or make it not applicable in the state of Alaska. He noted that Assistant Attorney General David Jones was available to answer the questions that Senator Wielechowski raised when the bill was introduced.

SENATOR WIELECHOWSKI inquired about the attorney general's position on the bill, if there would be any problems with implementation, the extent to which DOL currently reviews federal statutes, regulations, executive orders and actions and secretarial orders, and if the bill would cause DOL to need additional resources.

[2:47:59 PM](#)

DAVID JONES, Assistant Attorney General, Civil Division, Opinions, Appeals, and Ethics Section, Department of Law (DOL), Anchorage, Alaska, stated that DOL does not see problems with HB 83. He explained that a similar version was introduced in 2011 and discussions with the sponsor led to the language in the current bill. It says "the attorney general will continue to review" and DOL's understanding is that would not impose an obligation on the attorney general to review all statutes, regulations, executive orders and actions, and secretarial

orders to determine whether any were potentially preemptive. Rather, the attorney general's office would continue its normal course. With that understanding, DOL does not believe the bill will impose excessive work on the department.

CHAIR COGHILL asked if the conflict addressed in Section 2 would be primarily a constitutional conflict.

MR. JONES said it could be characterized otherwise, but the Supremacy Clause of the U.S. Constitution assures that almost every conflict between a federal and state provision will have a constitutional element.

CHAIR COGHILL commented that it's been his experience that accepting money from the federal government comes with the relinquishment of some right or power.

SENATOR DYSON questioned how the Department of Law would continue current practices if the bill were to pass, because his understanding was that it would impose a mission on the department to look for conflicts between state and federal statutes, regulations, and other directives.

MR. JONES acknowledged that if the department were to undertake a complete review of all federal statutes, regulations, and orders to determine whether any were potentially preemptive, it would require a significant number of additional staff.

SENATOR DYSON offered his belief that the legislature wants the Department of Law to be alert to the particular conflicts that affect liberties and actions in the state.

MR. JONES replied that the message is clearly received, understood, and will be accepted.

[2:53:37 PM](#)

SENATOR DYSON said he and most of his colleagues want to be alert to protecting liberties and they will consider this a significant part of Department of Law's mission.

MR. JONES acknowledged the directive.

[2:54:16 PM](#)

MIKE COONS, representing himself, Lazy Mountain, Alaska, said he hopes that HB 83 is passed from committee today. The bill is legally solid, and it protects people from an "out of control" President. He encouraged the committee to read Bob Byrd's

testimony and the documents pertaining to HB 69, because they dovetail into this bill. The need for this bill has grown over the last four years, but it's been needed for decades since the federal government has been disregarding the Tenth Amendment and burdening states with unfunded mandates. Now it is incumbent on states to stand up for citizens' rights and for what is best for the state. He maintained that the current administration was using executive orders to enact law, although Article Two of the U.S. Constitution does not provide that authority. He cited examples. Passing HB 83 will help states take back the nation and perhaps put backbone in Congress to stand with the Constitution.

[2:58:14 PM](#)

CHAIR COGHILL opened committee discussion.

SENATOR WIELECHOWSKI noted he had an amendment that was discussed previously.

SENATOR WIELECHOWSKI moved Amendment 1, labeled 28-LS0328\0.1.

AMENDMENT 1

OFFERED IN THE SENATE BY SENATOR WIELECHOWSKI
TO: CSHB 83(JUD)

Page 2, following line 13:

Insert a new bill section to read:

"* **Sec. 3.** AS 44.23.020(b) is amended to read:

(b) The attorney general shall

(1) defend the Constitution of the State of Alaska and the Constitution of the United States of America;

(2) bring, prosecute, and defend all necessary and proper actions in the name of the state for the collection of revenue;

(3) represent the state in all civil actions in which the state is a party;

(4) prosecute all cases involving violation of state law, and file informations and prosecute all offenses against the revenue laws and other state laws where there is no other provision for their prosecution;

(5) administer state legal services, including the furnishing of written legal opinions to the governor, the legislature, and all state officers and departments as the governor directs; and give

legal advice on a law, proposed law, or proposed legislative measure upon request by the legislature or a member of the legislature;

(6) draft legal instruments for the state;

(7) make available a report to the legislature, through the governor, at each regular legislative session

(A) of the work and expenditures of the office; [AND]

(B) on needed legislation or amendments to existing law; and

(C) summarizing litigation between the state and a department or agency of the federal government, including, for each case, a discussion of the legal issues presented to the court, the cost of the case, and the final disposition of the case, if available;

(8) prepare, publish, and revise as it becomes useful or necessary to do so an information pamphlet on landlord and tenant rights and the means of making complaints to appropriate public agencies concerning landlord and tenant rights; the contents of the pamphlet and any revision shall be approved by the Department of Law before publication; and

(9) perform all other duties required by law or which usually pertain to the office of attorney general in a state."

Renumber the following bill sections accordingly.

[2:59:04 PM](#)

CHAIR COGHILL objected for an explanation.

SENATOR WIELECHOWSKI explained that the bill currently requires the attorney general to provide summaries of what is happening with federal statutes and regulations, but it appears to create a gap because the attorney general is not required to actually provide a summary of the litigation against the federal government. The amendment fills that gap.

MR. POUND said the sponsor considers this an unfriendly amendment. It would probably add a fiscal note to the bill, which is unnecessary. Furthermore, he wasn't given a copy of the amendment until now.

CHAIR COGHILL pointed out that Senator Wielechowski brought the issue up during the last hearing. He said his perspective was that a summary of litigation seemed reasonable.

SENATOR DYSON described the amendment as a substantial change.

SENATOR WIELECHOWSKI said the bill appears to be asking the attorney general to review tens of thousands if not hundreds of thousands of documents and prepare memos of every document that is potentially in conflict with a statute or regulation, and the Department of Law submitted a zero fiscal note for that work. The amendment simply asks for a summary of the litigation that the state is involved in. The bill creates a gap that the amendment fills, and there shouldn't be a fiscal note.

[3:02:39 PM](#)

CHAIR COGHILL asked Mr. Jones if he had reviewed the amendment.

MR. JONES said no.

CHAIR COGHILL said it's only fair to provide an opportunity for everyone to look at the amendment and quantify the cost. He reiterated that he was more sympathetic to the amendment than not.

SENATOR WIELECHOWSKI said there was no attempt to keep the amendment from the sponsor or anyone else; his office just received it.

CHAIR COGHILL said if the bill goes to the finance committee, he wants it to be on purpose with some recommendation.

SENATOR DYSON observed that the issue isn't money; it's what the legislature wants the attorney general to do. He opined that the amendment changes the bill profoundly.

[3:05:23 PM](#)

SENATOR WIELECHOWSKI clarified that the amendment doesn't take anything away, it adds a section that says the attorney general provides an additional summary of the litigation.

CHAIR COGHILL said he was open to the discussion because both look at conflicts between the state and federal government.

MR. POUND remarked that it's a difference between past and future. Litigation is what is taking place now and in the past,

whereas regulations, secretarial orders, and executive orders are happening now and in the future.

CHAIR COGHILL announced that he would hold HB 83 and take action on Amendment 1 on Wednesday.

3:07:33 PM

There being no further business to come before the committee, Chair Coghill adjourned the Senate Judiciary Standing Committee meeting at 3:07 p.m.