

ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE

April 3, 2013

1:46 p.m.

MEMBERS PRESENT

Senator John Coghill, Chair
Senator Fred Dyson
Senator Bill Wielechowski

MEMBERS ABSENT

Senator Lesil McGuire, Vice Chair
Senator Donald Olson

COMMITTEE CALENDAR

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."

- MOVED CSHB 83(JUD) 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."

- MOVED SCS CSHB 69(JUD) OUT OF COMMITTEE

HOUSE BILL NO. 9

"An Act relating to secured transactions under the Uniform Commercial Code and to the regulation of funds transfers, including remittance transfers, under the Uniform Commercial Code and federal law; and providing for an effective date."

- HEARD & HELD

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

PREVIOUS COMMITTEE ACTION

BILL: SB 65

SHORT TITLE: RETIREMENT PLANS; ROTH IRAS; PROBATE

SPONSOR(s): SENATOR(s) COGHILL

02/27/13	(S)	READ THE FIRST TIME - REFERRALS
02/27/13	(S)	L&C, JUD
03/21/13	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
03/21/13	(S)	Heard & Held
03/21/13	(S)	MINUTE(L&C)
03/26/13	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
03/26/13	(S)	Moved CSSB 65(L&C) Out of Committee
03/26/13	(S)	MINUTE(L&C)
03/27/13	(S)	L&C RPT CS 2DP 2NR SAME TITLE
03/27/13	(S)	DP: DUNLEAVY, ELLIS
03/27/13	(S)	NR: OLSON, MICCICHE
04/01/13	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)
04/01/13	(S)	Heard & Held
04/01/13	(S)	MINUTE(JUD)
04/03/13	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)

BILL: HB 9

SHORT TITLE: SECURED TRANSACTIONS AND FUNDS TRANSFERS

SPONSOR(s) : REPRESENTATIVE(s) GRUENBERG

01/16/13 (H) PREFILE RELEASED 1/7/13
01/16/13 (H) READ THE FIRST TIME - REFERRALS
01/16/13 (H) L&C, JUD
02/20/13 (H) L&C AT 3:15 PM BARNES 124
02/20/13 (H) Moved Out of Committee
02/20/13 (H) MINUTE(L&C)
02/22/13 (H) L&C RPT 3DP 3NR
02/22/13 (H) DP: REINBOLD, JOSEPHSON, OLSON
02/22/13 (H) NR: CHENAULT, SADDLER, MILLETT
03/13/13 (H) JUD AT 1:00 PM CAPITOL 120
03/13/13 (H) Moved Out of Committee
03/13/13 (H) MINUTE(JUD)
03/14/13 (H) JUD RPT 4DP 2NR
03/14/13 (H) DP: GRUENBERG, FOSTER, LEDOUX, LYNN
03/14/13 (H) NR: PRUITT, KELLER
03/25/13 (H) TRANSMITTED TO (S)
03/25/13 (H) VERSION: HB 9
03/27/13 (S) READ THE FIRST TIME - REFERRALS
03/27/13 (S) JUD
04/03/13 (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) -- MEETING CANCELED --
 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)
 04/01/13 (S) Heard & Held
 04/01/13 (S) MINUTE(JUD)
 04/03/13 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

BILL: HB 83

SHORT TITLE: FEDERAL LAWS & EXECUTIVE ORDERS

SPONSOR(S): REPRESENTATIVE(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)
 03/29/13 (S) Heard & Held
 03/29/13 (S) MINUTE(JUD)
 04/01/13 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 04/01/13 (S) Heard & Held

04/01/13 (S) MINUTE(JUD)
04/03/13 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

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

POSITION STATEMENT: Opposed the proposed amendment to HB 83.

DEBORAH BEHR, Chief Assistant Attorney General
Legislation and Regulation Section
Civil Division
Department of Law
Chair
Alaska Uniform Law Delegation
National Conference of Commissioners on Uniform State Laws
Juneau, Alaska

POSITION STATEMENT: Provided supporting information related to HB 9.

STACY SCHUBERT, Director
Government Relations and Public Affairs
Alaska Housing Finance Corporation (AHFC)
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 9.

ERIC HAVELOCK, Multifamily Underwriting Supervisor
Alaska Housing Finance Corporation
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 9.

LUKE FANNING, Vice President
First National Bank Alaska
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 9.

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

POSITION STATEMENT: Provided information related to SB 65.

DAVID SHAFTEL, Attorney
Anchorage, Alaska

POSITION STATEMENT: Provided information and answered questions related to SB 65.

ACTION NARRATIVE

[1:46:52 PM](#)

CHAIR JOHN COGHILL called the Senate Judiciary Standing Committee meeting to order at 1:46 p.m. Present at the call to order were Senators Dyson, Wielechowski, and Chair Coghill.

HB 83-FEDERAL LAWS & EXECUTIVE ORDERS

[1:47:22 PM](#)

CHAIR COGHILL announced the consideration of HB 83. "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."

He reminded the members that CSHB 83(JUD), version 0, was before the committee and a motion to adopt proposed Amendment 1, labeled 28-LS0328\0.1 was awaiting action.

[1:47:44 PM](#)

JIM POUND, Staff, Representative Wes Keller, sponsor of HB 83, drew attention to a report from the Department of Law that discusses legal actions against the federal government since 2008. He relayed the bill sponsor's opinion of the amendment, which is that it is unfriendly and unnecessary. Mr. Pound said he personally believes it is an effort to delay the legislation.

[1:48:39 PM](#)

SENATOR WIELECHOWSKI called a point of order. He said the statement is offensive, and if he wanted to delay the bill he'd walk out of the meeting because he was making the quorum.

CHAIR COGHILL cautioned against reading in motives.

MR. POUND apologized.

MR. POUND reported that the Department of Law advised that the amendment does not affect the fiscal note. He said he believes that current statutory language in AS 44.23.020(b)(7)(A) makes the amendment unnecessary. That language talks about an annual report to the legislature from the attorney general about the work and expenditures of the office. He further opined that the issue of the amendment was of little concern to most legislators

and could be brought up during finance subcommittees under missions and measures. He asked the committee to reject the amendment.

[1:49:58 PM](#)

SENATOR WIELECHOWSKI countered that the amendment simply asks the attorney general to provide a summary of the litigation between the state and the federal government, a discussion of the legal issues, the cost of the case, and the final disposition. He said it is good government to have this information and every legislator should be interested in having it.

CHAIR COGHILL said he was sympathetic to the amendment, but would vote against it based on the bill sponsor's recommendation.

[1:52:08 PM](#)

A roll call vote was taken. Senator Wielechowski voted in favor of Amendment 1 and Senators Dyson and Coghill voted against it. Therefore, Amendment 1 failed by a 1:2 vote.

CHAIR COGHILL solicited a motion.

[1:53:22 PM](#)

SENATOR DYSON moved to report CSHB 83(JUD), version 0, from committee with individual recommendations and attached fiscal note(s).

CHAIR COGHILL announced that without objection CSHB 83(JUD) moved from the Senate Judiciary Standing Committee.

HB 69-EXEMPT FIREARMS FROM FEDERAL REGULATION

[1:53:59 PM](#)

CHAIR COGHILL announced the consideration of HB 69. "An Act prohibiting state and municipal agencies from using assets to implement or aid in the implementation of the requirements of certain federal statutes, regulations, rules, and orders that are applied to infringe on a person's right to bear arms or right to due process or that implement or aid in the implementation of the federal REAL ID Act of 2005; 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; requiring the attorney general to file any legal action

to prevent implementation of a federal statute, regulation, rule, or order that violates the rights of a resident of the state; and providing for an effective date."

He noted that the Senate committee substitute (CS), version I, was before the committee.

[1:54:36 PM](#)

REPRESENTATIVE MIKE CHENAULT, sponsor of HB 69, stated that he may not agree with everything in the current CS, but he understands the concerns the committee and the attorney general have with the legislation.

CHAIR COGHILL said the committee heard some vehement opposition to the changes, but he continues to feel they are important. He solicited a motion.

[1:56:02 PM](#)

SENATOR DYSON moved to report Senate CS for CS for HB 69(JUD), version I, from committee with individual recommendations and attached fiscal note(s).

CHAIR COGHILL announced that without objection, SCS CSHB 69(JUD) moved from the Senate Judiciary Standing Committee.

[1:56:34 PM](#)

At ease

HB 9-SECURED TRANSACTIONS AND FUNDS TRANSFERS

[2:00:07 PM](#)

CHAIR COGHILL announced the consideration of HB 9. "An Act relating to secured transactions under the Uniform Commercial Code and to the regulation of funds transfers, including remittance transfers, under the Uniform Commercial Code and federal law; and providing for an effective date."

[2:01:14 PM](#)

REPRESENTATIVE MAX GRUENBERG, Alaska State Legislature, sponsor of HB 9, stated that this legislation is important and time sensitive, because July 1, 2013 is a nationwide effective date. The bill updates two articles of the Uniform Commercial Code (UCC). These are Article 9 on secure transactions and Article 4A on funds transfer. He reported no opposition to the bill.

[2:03:21 PM](#)

DEBORAH BEHR, Chief Assistant Attorney General, Legislation and Regulation Section, Civil Division, Department of Law, and Chair, Alaska Uniform Law Delegations, National Conference of Commissioners on Uniform State Laws (NCCUSL), Juneau, Alaska, said the Alaska statutes assigned DOL the duty of promoting uniform laws in Alaska where uniformity among the states is important. The state has been a member of the Uniform Law Commission for over 100 years. She described the Uniform Law Commission as a states' rights organization, in which states meet annually to propose uniform solutions to state legislatures to address common problems where uniformity across state lines is desirable. One area is commerce.

Because businesses buy and sell products and borrow money across state lines, all the states have adopted the Uniform Commercial Code (UCC) to ensure reliability and predictability of business transactions. The purpose of the bill is to update two articles of the UCC. These pertain to Article 9 on secure transactions and Article 4A on funds transfer.

She highlighted four major changes and provided examples. The first amendment to Article 9 deals with misspellings of names. She explained that she and her husband are in the process of buying a car. As part of the process, they got a loan and gave the creditor a security interest in the car in the event of default. The UCC commissioners have found that names are sometimes misspelled in these documents and this makes it difficult for the creditor to recover the asset - the car in this example. To address this problem the UCC has recommended that all states create a safe harbor for creditors if they look at the person's current driver's license or state ID card. This is a protection to the consumer as well.

MS. BEHR said the second update to Article 9 makes changes to the definition of "registered organization." For example, if she were to obtain a loan to start a small business in Anchorage called Behr's Bikes to sell bikes in Alaska, Washington, and Oregon there would be a question about where the security agreement would be filed. This update says that the date and location where the business was formed determines where those documents will be filed. In this example it would be in Alaska.

The third update to Article 9 relates to "after acquired property." Using the same example of Behr's Bikes in Anchorage, she hypothesized that she moved the business to Arizona, purchased additional merchandise, but kept the same loan. The legal issue that arises in this circumstance is where the

creditor would look for that security agreement. This amendment says that the creditor may rely on the filing in Alaska for four months. She noted that 36 states have adopted these three changes and they're pending in 13 more jurisdictions.

MS. BEHR said the final changes relate to remittance transfers in UCC Article 4A. She noted a letter of support in the packets from the Alaska Bankers Association and explained that it's often unclear whether these electronic transfers are covered by state or federal law. The Article 4A changes have been passed by 14 jurisdictions and are pending in 21 jurisdictions. She noted that the packets included a sectional analysis of HB 9.

SENATOR WIELECHOWSKI asked if there would be a walk-through of the bill.

CHAIR COGHILL stated his preference to take testimony first.

[2:11:02 PM](#)

STACY SCHUBERT, Director, Government Relations and Public Affairs, Alaska Housing Finance Corporation (AHFC), explained that AHFC uses Article 9 of the Uniform Commercial Code in securing some collateral when financing multifamily projects. The collateral for things like kitchen appliances and furniture is perfected through the recording of a UCC financing statement.

She said that HB 9 will enhance AHFC's secured position in two ways. It will provide greater guidance as to the name of the debtor on the financing statement and it will provide greater protection for an existing secured creditor when the debtor moves to another state or merges with another entity. She noted that Mr. Havelock could answer technical questions.

CHAIR COGHILL asked where that provision was in the bill.

MS. SCHUBERT said she didn't have a copy of the bill in front of her.

CHAIR COGHILL asked Mr. Havelock if he could identify where that provision was in the bill.

[2:13:03 PM](#)

ERIC HAVELOCK, Multifamily Underwriting Supervisor, Alaska Housing Finance Corporation, said that Ms. Schubert was talking about the sections that make changes to Article 9, and Representative Gruenberg could identify the exact location in the bill.

[2:13:42 PM](#)

LUKE FANNING, Vice President, First National Bank Alaska, said he was representing the Alaska Bankers Association (ABA) in support of HB 9. It provides necessary amendments to Articles 4A and 9 of the Uniform Commercial Code. This legislation is necessary to address amendments made in 2010 to Article 9 of the UCC. HB 9 also clarifies the relationship between UCC Article 4A and the federal Electronic Funds Transfer Act. If the bill is not passed this session, Alaska will be inconsistent with the financial practices in the rest of the country. Failure to pass the bill could result in additional costs and uncertainty for Alaska businesses and financial services customers.

CHAIR COGHILL noted that Paula Kelsey from the Department of Natural Resources (DNR) was available to answer questions.

[2:16:19 PM](#)

CHAIR COGHILL asked Ms. Behr to explain the process to get a UCC law in place and where there was potential for modification.

MS. BEHR explained that the Uniform Law delegates meet annually to discuss potential changes in an open process. The banking community and consumer groups help develop the bill and then it is recommended to state legislatures, as she is doing today. She said it is unusual for the commissioners to recommend a particular date, but for secure transactions it is very important in that things happen on the same date. Almost all the states have adopted or have this legislation pending.

CHAIR COGHILL asked where the suggested changes fit in the articles.

MS. BEHR said they apply to Article 9 and Article 4A.

CHAIR COGHILL asked Mr. Henning if he had anything to add.

MR. HENNING explained that the Uniform Law Commission and the American Law Institute develop the UCC articles in a deliberate, open process, and make recommendations to the states. They are not law. He explained that a major revision of Article 9 of the UCC became effective in all the states on July 1, 2001. The provisions in HB 9 are technical clarifications of those revisions. They seek to resolve the practical problems facing lenders and borrowers in the marketplace. He highlighted that the legislature has the full authority to modify the UCC

recommendations embodied in HB 9, but it would put Alaska out of step with other states.

[2:22:09 PM](#)

MS. BEHR provided the following sectional analysis of HB 9:

Sections 1 and 2 address the amendments to Article 4A to maintain coverage under state law for certain types of remittance transfers in commercial transactions. The banking community supports this language.

Sections 3 through 7 update definitions in Article 9 of the Uniform Commercial Code relating to secured transactions. Some changes update language on electronic commerce to comply with the Uniform Electronic Transactions Act. Others reflect updates on certificates of title and recognize that there are alternatives in other states. Sections 5 and 6 recognize that there are new business organizations in Alaska and other states that are not formed under the corporation law, but are formed under other process of Alaska law such as limited liability companies. If there is confusion about the official name, the names on record with the department of commerce will be examined.

Section 8 sets out a general test to demonstrate who owns electronic chattel paper.

Section 9 makes a technical change and recognizes in statute that designating a state of location of an organization or agency includes the location of the home office.

Section 10 makes technical changes to conform to the revised definition of certificate of title.

Section 11 relates to when a debtor changes location from one state to another. It provides a four-month grace period for after-move acquired collateral that current law provides for pre-move collateral.

Sections 12 and 13 make technical changes in language to conform to other provisions of the Uniform Commercial code, Article 9.

Section 14 addresses the priority of security creditors. These technical changes protect the new priority rule in the bill.

Sections 15 and 16 clarify that a secured party that takes an assignment of a payment as collateral for an obligation may use the remedies under Article 9.

Sections 17 through 19 provide clarity on the name of the debtor to be used in a financing statement for different types of debtors, such as registered organizations, trusts, decedent of estate, or individual debtors.

Section 20 makes technical changes to conform to the new rules governing individual debtor names on financing statements.

Section 21 makes a technical change to parallel other provisions of the section. The change is needed for ease of administration by filing offices.

Sections 22 through 24 change the term "correction statement" to "information statement" to avoid giving the impression that a filing of the statement has a legal effect of correcting a problem. The changes also allow a secured party of record to file an information statement regarding a filed record if the secured party believes that the person that filed the record was not entitled to do so under Article 9. Without this change, only a debtor could file such a statement.

Section 25 says that in order for a secured party to record an affidavit to facilitate foreclosure on a mortgage serving as collateral for a promissory note, the secured party must state in the affidavit that the mortgagor is in default.

Sections 26 sets out an applicability provision for the Act.

Sections 27 through 33 set out transition provisions for the Act.

Section 34 instructs the Department of Natural Resources (DNR) on implementation of the Act.

Section 35 provides a savings clause for an action, case, or proceeding commenced before July 1, 2013.

Section 36 provides an immediate effective date of these instructions.

Section 37 provides an effective date of July 1, 2013 for the Act. This avoids implementation issues across the states.

[2:29:23 PM](#)

MR. HENNING said that many of the provisions resolve minor ambiguities or address definitional changes.

CHAIR COGHILL stated that he would hold HB 9 for further consideration.

[2:30:58 PM](#)

At ease

SB 65-RETIREMENT PLANS; ROTH IRAS; PROBATE

[2:35:57 PM](#)

CHAIR COGHILL reconvened the meeting and announced the consideration of SB 65. "An Act relating to property exemptions for retirement plans, individual retirement accounts, and Roth IRAs; relating to transfers of individual retirement plans; relating to 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 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 amending Rule 64, Alaska Rules of Civil Procedure, and Rule 301(a), Alaska Rules of Evidence."

CHAIR COGHILL moved to adopt the proposed committee substitute (CS), labeled 28-LS0473\0. He explained that it removes what was Section 37 in version C, and asked if there was objection.

SENATOR WIELECHOWSKI asked what Section 37 did.

[2:37:41 PM](#)

CHAD HUTCHINSON, Staff, Senator John Coghill, sponsor of SB 65, explained that Section 37 amends AS 21.09.210(m). He read the subsection (m) as follows:

(m) The tax imposed under this section for **a single [AN INDIVIDUAL] life insurance policy or for a group or other type of policy that insures the life of**

one or more individuals shall be computed at the rate of

(1) 2.7 percent of policy year premium up to \$100,000; and

(2) one-tenth of one percent of policy year premium exceeding \$100,000.

MR. HUTCHINSON deferred to Beth Chapman or David Shaftel to explain what that means and why it was eliminated.

CHAIR COGHILL said the policy call was to avoid the fiscal impact this year.

MR. HUTCHINSON agreed, and added that it could be taken up in a separate bill in the future.

[2:38:51 PM](#)

CHAIR COGHILL found no objection and stated that version O was before the committee. He directed attention to the new fiscal note, and stated his intention to take action on the bill tomorrow.

[2:39:46 PM](#)

MR. HUTCHINSON addressed the question Senator Wielechowski raised during the last hearing regarding the single subject rule. He explained that he corresponded with Senator Wielechowski's office and sent a legal opinion that was prepared by Representative Thompson for House Bill 292. It was introduced last year and was substantially similar to SB 65. Mr. Hutchinson said he, too, reviewed the opinion and cross-referenced the cases stated in the memorandum on the Westlaw database.

He highlighted that the single subject rule has a broad interpretation, and an act generally qualifies under the rule as long as there is a logical connection or popular understanding. The Alaska Supreme Court has heard eight of these cases and seven were deemed to have qualified because of the broad interpretation. The case that did not qualify under the single subject rule tried to include both oil taxes and a clean election program. He opined that SB 65 would qualify because the subjects all address trusts and family or estate financial planning matters.

[2:42:16 PM](#)

SENATOR WIELECHOWSKI said the opinion that Legislative Legal Services issued certainly raises the question about whether the bill violates the single subject rule. He suggested the

committee could manage the risk by removing the offending parts. He warned that some attorney would challenge it if there was a lot of money involved.

[2:43:49 PM](#)

DAVID SHAFTEL, Attorney, Anchorage, Alaska, said the group of estate planning attorneys and trust officers that has worked to improve the laws in this area has received similar opinions from Legislative Legal Services nearly every time a bill like this has been introduced. One particular attorney feels an obligation to bring the issue up because it is a possibility. Mr. Hutchinson and other attorneys believe that it won't be a problem, and the Supreme Court has taken a broad view on these challenges. He acknowledged that there was a small risk that some attorney would make an argument in the future, but it wasn't a realistic concern. The bill has 17 subjects but they're all related to family and estate planning.

[2:48:02 PM](#)

CHAIR COGHILL asked if he had been working in this venue for 16 years.

MR. SHAFTEL clarified that he began working with the legislature in 1997, but he's been practicing in Alaska for about 40 years.

CHAIR COGHILL asked if the single subject rule had always been a topic of conversation.

MR. SHAFTEL said yes.

CHAIR COGHILL asked if there had been a court challenge.

MR. SHAFTEL said not in the area of estate planning and estate and trust administration.

SENATOR WIELECHOWSKI said it's a risk but he wouldn't push it any further.

[2:50:10 PM](#)

CHAIR COGHILL said he intended to have a sectional analysis at the next hearing.

He held SB 65 in committee.

[2:53:15 PM](#)

There being no further business to come before the committee,
Chair Coghill adjourned the Senate Judiciary Standing Committee
meeting at 2:53 p.m.