

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

April 11, 2022

1:34 p.m.

**MEMBERS PRESENT**

Senator Roger Holland, Chair  
Senator Mike Shower, Vice Chair  
Senator Shelley Hughes  
Senator Robert Myers  
Senator Jesse Kiehl

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

SENATE BILL NO. 207

"An Act restricting the release of certain records of convictions; and providing for an effective date."

- HEARD & HELD

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 157(FIN)

"An Act requiring the disclosure of the identity of certain persons, groups, and nongroup entities that expend money in support of or in opposition to an application filed for a state referendum or recall election; relating to the location of offices for the Alaska Public Offices Commission and the locations at which certain statements and reports filed with the commission are made available; relating to the duties of the Alaska Public Offices Commission; clarifying the limits on making, accepting, and reporting certain cash campaign contributions; relating to campaign finance reporting by certain groups; increasing the time the Alaska Public Offices Commission has to respond to a request for an advisory opinion; repealing a reporting requirement for certain contributions; relating to contribution limits and recall campaigns; and providing for an effective date."

- MOVED SCS CSHB 157(JUD) OUT OF COMMITTEE

SENATE BILL NO. 229

"An Act relating to misconduct involving confidential information; relating to artifacts of the state; and relating to penalties regarding artifacts or historic, prehistoric, or archeological resources of the state."

- MOVED CSSB 229(JUD) OUT OF COMMITTEE

SENATE BILL NO. 39

"An Act relating to elections; relating to voter registration; relating to ballots and a system of tracking and accounting for ballots; establishing an election offense hotline; designating as a class A misdemeanor the collection of ballots from other voters; designating as a class C felony the intentional opening or tampering with a sealed ballot, certificate, or package of ballots without authorization from the director of the division of elections; and providing for an effective date."

- HEARD & HELD

#### **PREVIOUS COMMITTEE ACTION**

BILL: SB 207

SHORT TITLE: ACCESS TO MARIJUANA CONVICTION RECORDS

SPONSOR(S): SENATOR(S) SHOWER

02/22/22	(S)	READ THE FIRST TIME - REFERRALS
02/22/22	(S)	STA, JUD
03/10/22	(S)	STA AT 3:30 PM BUTROVICH 205
03/10/22	(S)	-- MEETING CANCELED --
03/17/22	(S)	STA AT 3:30 PM BUTROVICH 205
03/17/22	(S)	Heard & Held
03/17/22	(S)	MINUTE(STA)
03/22/22	(S)	STA AT 3:30 PM BUTROVICH 205
03/22/22	(S)	Heard & Held
03/22/22	(S)	MINUTE(STA)
03/29/22	(S)	STA AT 3:30 PM BUTROVICH 205
03/29/22	(S)	Moved CSSB 207(STA) Out of Committee
03/29/22	(S)	MINUTE(STA)
03/30/22	(S)	STA RPT CS 2DP 1NR SAME TITLE
03/30/22	(S)	DP: SHOWER, KAWASAKI
03/30/22	(S)	NR: COSTELLO
04/06/22	(S)	JUD AT 1:30 PM BUTROVICH 205
04/06/22	(S)	Heard & Held
04/06/22	(S)	MINUTE(JUD)
04/11/22	(S)	JUD AT 1:30 PM BUTROVICH 205

BILL: HB 157

SHORT TITLE: APOC; REPORT REFERENDA/RECALL CONTRIBUTOR  
SPONSOR(s): REPRESENTATIVE(s) RASMUSSEN

03/31/21 (H) READ THE FIRST TIME - REFERRALS  
03/31/21 (H) STA, JUD  
04/17/21 (H) STA AT 3:00 PM GRUENBERG 120  
04/17/21 (H) Heard & Held  
04/17/21 (H) MINUTE(STA)  
04/27/21 (H) STA AT 3:00 PM GRUENBERG 120  
04/27/21 (H) Moved HB 157 Out of Committee  
04/27/21 (H) MINUTE(STA)  
04/28/21 (H) FIN REPLACES JUD REFERRAL  
04/28/21 (H) BILL REPRINTED  
04/28/21 (H) STA RPT 1DP 1NR 5AM  
04/28/21 (H) DP: KREISS-TOMKINS  
04/28/21 (H) NR: TARR  
04/28/21 (H) AM: CLAMAN, STORY, EASTMAN, KAUFMAN,  
VANCE  
05/03/21 (H) FIN AT 1:30 PM ADAMS 519  
05/03/21 (H) Heard & Held  
05/03/21 (H) MINUTE(FIN)  
05/04/21 (H) FIN AT 9:00 AM ADAMS 519  
05/04/21 (H) Heard & Held  
05/04/21 (H) MINUTE(FIN)  
05/13/21 (H) FIN AT 9:00 AM ADAMS 519  
05/13/21 (H) Moved CSHB 157(FIN) Out of Committee  
05/13/21 (H) MINUTE(FIN)  
05/14/21 (H) FIN RPT CS(FIN) NEW TITLE 4DP 5NR  
05/14/21 (H) DP: LEBON, JOSEPHSON, RASMUSSEN,  
MERRICK  
05/14/21 (H) NR: ORTIZ, CARPENTER, THOMPSON, WOOL,  
FOSTER  
05/19/21 (H) LIMIT ALL DEBATE TO 2 MIN EACH Y23 N16  
E1  
05/19/21 (H) TRANSMITTED TO (S)  
05/19/21 (H) VERSION: CSHB 157(FIN)  
01/18/22 (S) READ THE FIRST TIME - REFERRALS  
01/18/22 (S) STA, JUD  
01/21/22 (S) FIN REFERRAL ADDED AFTER JUD  
02/17/22 (S) STA AT 3:30 PM BUTROVICH 205  
02/17/22 (S) Scheduled but Not Heard  
03/01/22 (S) STA AT 3:30 PM BUTROVICH 205  
03/01/22 (S) -- MEETING CANCELED --  
03/03/22 (S) STA AT 3:30 PM BUTROVICH 205  
03/03/22 (S) Heard & Held  
03/03/22 (S) MINUTE(STA)  
03/24/22 (S) STA AT 3:30 PM BUTROVICH 205

03/24/22 (S) Moved CSHB 157(FIN) Out of Committee  
03/24/22 (S) MINUTE(STA)  
03/25/22 (S) STA RPT 3DP  
03/25/22 (S) DP: SHOWER, HOLLAND, COSTELLO  
03/28/22 (S) JUD AT 1:30 PM BUTROVICH 205  
03/28/22 (S) Heard & Held  
03/28/22 (S) MINUTE(JUD)  
04/04/22 (S) JUD AT 1:30 PM BUTROVICH 205  
04/04/22 (S) Scheduled but Not Heard  
04/08/22 (S) JUD AT 1:30 PM BUTROVICH 205  
04/08/22 (S) Heard & Held  
04/08/22 (S) MINUTE(JUD)  
04/11/22 (S) JUD AT 1:30 PM BUTROVICH 205

BILL: SB 229

SHORT TITLE: STATE HISTORICAL ARTIFACTS; CRIMES

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

03/11/22 (S) READ THE FIRST TIME - REFERRALS  
03/11/22 (S) JUD, RES  
03/23/22 (S) JUD AT 1:30 PM BUTROVICH 205  
03/23/22 (S) <Bill Hearing Canceled>  
04/06/22 (S) JUD AT 1:30 PM BUTROVICH 205  
04/06/22 (S) Heard & Held  
04/06/22 (S) MINUTE(JUD)  
04/08/22 (S) JUD AT 1:30 PM BUTROVICH 205  
04/08/22 (S) Heard & Held  
04/08/22 (S) MINUTE(JUD)  
04/11/22 (S) JUD AT 1:30 PM BUTROVICH 205

BILL: SB 39

SHORT TITLE: BALLOT CUSTODY/TAMPERING; VOTER REG; MAIL

SPONSOR(s): SHOWER

01/25/21 (S) PREFILE RELEASED 1/15/21  
01/25/21 (S) READ THE FIRST TIME - REFERRALS  
01/25/21 (S) STA, JUD  
01/26/21 (S) STA AT 3:30 PM BUTROVICH 205  
01/26/21 (S) -- MEETING CANCELED --  
01/28/21 (S) STA AT 3:30 PM BUTROVICH 205  
01/28/21 (S) Heard & Held  
01/28/21 (S) MINUTE(STA)  
02/02/21 (S) STA AT 3:30 PM BUTROVICH 205  
02/02/21 (S) Heard & Held  
02/02/21 (S) MINUTE(STA)  
02/09/21 (S) STA AT 3:30 PM BUTROVICH 205  
02/09/21 (S) Scheduled but Not Heard

02/11/21 (S) STA AT 3:30 PM BUTROVICH 205  
02/11/21 (S) Heard & Held  
02/11/21 (S) MINUTE(STA)  
02/16/21 (S) STA AT 3:30 PM BUTROVICH 205  
02/16/21 (S) Heard & Held  
02/16/21 (S) MINUTE(STA)  
02/18/21 (S) STA AT 3:30 PM BUTROVICH 205  
02/18/21 (S) -- MEETING CANCELED --  
02/25/21 (S) STA AT 3:30 PM BUTROVICH 205  
02/25/21 (S) Heard & Held  
02/25/21 (S) MINUTE(STA)  
03/16/21 (S) STA AT 3:30 PM BUTROVICH 205  
03/16/21 (S) Heard & Held  
03/16/21 (S) MINUTE(STA)  
03/18/21 (S) STA AT 3:30 PM BUTROVICH 205  
03/18/21 (S) Scheduled but Not Heard  
03/30/21 (S) STA AT 3:30 PM BUTROVICH 205  
03/30/21 (S) Scheduled but Not Heard  
04/01/21 (S) STA AT 3:30 PM BUTROVICH 205  
04/01/21 (S) -- MEETING CANCELED --  
04/08/21 (S) STA AT 3:30 PM BUTROVICH 205  
04/08/21 (S) Scheduled but Not Heard  
04/15/21 (S) STA AT 3:30 PM BUTROVICH 205  
04/15/21 (S) Heard & Held  
04/15/21 (S) MINUTE(STA)  
04/20/21 (S) STA AT 3:30 PM BUTROVICH 205  
04/20/21 (S) -- MEETING CANCELED --  
04/21/21 (S) STA WAIVED PUBLIC HEARING NOTICE, RULE  
23  
04/22/21 (S) STA AT 3:30 PM BUTROVICH 205  
04/22/21 (S) Heard & Held  
04/22/21 (S) MINUTE(STA)  
04/22/21 (S) STA AT 6:00 PM BUTROVICH 205  
04/22/21 (S) Heard & Held  
04/22/21 (S) MINUTE(STA)  
05/04/21 (S) STA AT 3:30 PM BUTROVICH 205  
05/04/21 (S) Moved CSSB 39(STA) Out of Committee  
05/04/21 (S) MINUTE(STA)  
05/07/21 (S) STA RPT CS 1DP 1DNP 2NR 1AM NEW TITLE  
05/07/21 (S) DP: SHOWER  
05/07/21 (S) DNP: KAWASAKI  
05/07/21 (S) NR: COSTELLO, REINBOLD  
05/07/21 (S) AM: HOLLAND  
05/07/21 (S) JUD AT 1:30 PM BUTROVICH 205  
05/07/21 (S) Heard & Held  
05/07/21 (S) MINUTE(JUD)  
05/08/21 (S) JUD AT 10:00 AM BUTROVICH 205

05/08/21 (S) Heard & Held  
05/08/21 (S) MINUTE (JUD)  
04/08/22 (S) JUD AT 1:30 PM BUTROVICH 205  
04/08/22 (S) Heard & Held  
04/08/22 (S) MINUTE (JUD)  
04/11/22 (S) JUD AT 1:30 PM BUTROVICH 205

**WITNESS REGISTER**

KELLY HOWELL, Special Assistant  
Office of the Commissioner  
Department of Public Safety  
Anchorage, Alaska

**POSITION STATEMENT:** Answered questions during the hearing on SB 207.

LISA PURINTON, Chief  
Criminal Records and Identification Bureau  
Division of Statewide Services  
Department of Public Safety  
Anchorage, Alaska

**POSITION STATEMENT:** Answered questions during the hearing on SB 207.

NANCY MEADE, General Counsel  
Office of the Administrative Director  
Alaska Court System  
Anchorage, Alaska

**POSITION STATEMENT:** Answered questions during the discussion of SB 207.

CRYSTAL KOENEMAN, Staff  
Representative Sara Rasmussen  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions on HB 157 on behalf of the sponsor.

DAWSON MANN, Staff  
Senator Robert Myers  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Explained the changes from Version I to Version G of SB 229.

KACI SCHROEDER, Assistant Attorney General  
Legal Services Section

Criminal Division  
Department of Law  
Juneau, Alaska

**POSITION STATEMENT:** Answered legal questions on Amendment 1 to SB 229.

SCOTT OGAN, Staff  
Senator Mike Shower  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Testified on SB 229 on behalf of Senator Shower.

JUDY BITTNER, Chief/State Historic Preservation Officer  
Office of History & Archeology Alaska Historical Commission  
Division of Parks and Outdoor Recreation  
Department of Natural Resources  
Anchorage, Alaska

**POSITION STATEMENT:** Answered questions on SB 229.

ED KING, Staff  
Senator Roger Holland  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Explained Conceptual Amendment 1 to SB 229 on behalf of the committee.

SCOTT OGAN, Staff  
Senator Mike Shower  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Provided a summary of SB 39 on behalf of the sponsor.

GAIL FENUMIAI, Director  
Division of Elections  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions during the hearing on SB 39.

#### **ACTION NARRATIVE**

[1:34:19 PM](#)

**CHAIR ROGER HOLLAND** called the Senate Judiciary Standing Committee meeting to order at 1:34 p.m. Present at the call to

order were Senators Myers, Hughes, Shower, Kiehl, and Chair Holland.

**SB 207-ACCESS TO MARIJUANA CONVICTION RECORDS**

[1:34:53 PM](#)

CHAIR HOLLAND announced the consideration of SENATE BILL NO. 207 "An Act restricting the release of certain records of convictions; and providing for an effective date."

[CSSB 207(STA) was before the committee.]

[1:35:11 PM](#)

CHAIR HOLLAND opened public testimony on SB 207; finding none, he closed public testimony on SB 207.

[1:35:41 PM](#)

SENATOR KIEHL said he raised questions at the last hearing, but since then, he had reviewed the statutes and spoke to advocates for the bill and is satisfied that the bill as written is in good shape.

[1:36:44 PM](#)

SENATOR MYERS stated that the committee previously held discussions on background checks used by employers or landlords to check on job applicants or potential renters. He asked how this bill would affect background checks for those applying for legal guardianship or adoption.

SENATOR SHOWER deferred to the Department of Law or the Department of Public Safety.

[1:38:21 PM](#)

KELLY HOWELL, Special Assistant, Office of the Commissioner, Department of Public Safety, Anchorage, Alaska, responded that the background checks performed by the Department of Public Safety were for employment or criminal justice purposes. She deferred to Ms. Purinton to respond to background checks for foster care or adoption.

[1:38:54 PM](#)

LISA PURINTON, Chief, Criminal Records and Identification Bureau, Division of Statewide Services, Department of Public Safety, Anchorage, Alaska, stated that a person would request a complete criminal history report for the purpose of adoption. Since that request was outside the scope of SB 207, any

marijuana convictions would be displayed in the background check.

[1:39:33 PM](#)

SENATOR HUGHES related her understanding that even if this bill passed, a person could walk in and obtain the complete background records, which is great for those in proximity to a courthouse. She asked whether a person seeking the complete background check could write, call, or email a request or if the person must physically go to a courthouse.

[1:40:30 PM](#)

NANCY MEADE, General Counsel, Office of the Administrative Director, Alaska Court System, Anchorage, Alaska, stated that under the bill, people would not be able to view marijuana records on CourtView from their homes. However, a person could go to any of the state's 42 courthouses and view any unpublished case via kiosks. She pointed out that this information is not available by phone.

SENATOR HUGHES asked whether that information was available if the person requested it by mail.

MS. MEADE said she was uncertain. She offered her view that small courthouses would likely be able to respond; however, the Anchorage courthouse probably would not have the staff to respond due to its heavy workload.

[1:42:07 PM](#)

SENATOR SHOWER asked if a person could send someone to the courthouse to check records at a kiosk on their behalf.

MS. MEADE agreed they could. She stated that there are public kiosks in the court lobby for the public to access any unpublished cases. She characterized it as a more expanded view of the CourtView available at home.

[1:42:52 PM](#)

SENATOR HUGHES expressed concern about equal access to information, especially for those with physical limitations. She asked whether Ms. Meade could research and report to the committee.

MS. MEADE commented that this bill addresses two completely different things. Although CourtView is often used for background checks since the information is input by clerks for the court system's use, it is not audited. She acknowledged that

many people, including landlords, employers, and others, use it because it provides good information. However, someone seeking to obtain a criminal background check should request it from the Department of Public Safety (DPS). She noted that DPS receives federal funding and communicates with the Federal Bureau of Investigation (FBI) so the report is broad; however, CourtView was not intended for that purpose.

[1:45:01 PM](#)

SENATOR HUGHES asked Ms. Purinton whether a person or small business owner could call or send a letter to DPS requesting a thorough background check if they could not go to a kiosk.

MS. PURINTON responded that criminal records are confidential and can only be released with a signed waiver by the individual authorizing the release of the information. She said if a person cannot come into any DPS location, they could use a DPS online release form. If the person wanted to share that information with their landlord or employer, they would sign the release. The department would mail it to the individual or any person designated to receive the information.

SENATOR HUGHES asked her to clarify that the records would be accessible if the person released the information. Thus, a business owner or landlord could not obtain the records without first obtaining the person's permission.

MS. PURINTON agreed that the individual would sign a form to authorize the court to release the information.

[1:47:32 PM](#)

CHAIR HOLLAND held SB 207 in committee.

**HB 157-APOC; REPORT REFERENDA/RECALL CONTRIBUTOR**

[1:47:38 PM](#)

CHAIR HOLLAND announced the consideration of HB 157 CS FOR HOUSE BILL NO. 157(FIN) "An Act requiring the disclosure of the identity of certain persons, groups, and nongroup entities that expend money in support of or in opposition to an application filed for a state referendum or recall election; relating to the location of offices for the Alaska Public Offices Commission and the locations at which certain statements and reports filed with the commission are made available; relating to the duties of the Alaska Public Offices Commission; clarifying the limits on making, accepting, and reporting certain cash campaign contributions; relating to campaign finance reporting by certain

groups; increasing the time the Alaska Public Offices Commission has to respond to a request for an advisory opinion; repealing a reporting requirement for certain contributions; relating to contribution limits and recall campaigns; and providing for an effective date."

[CSHB 157(FIN) was before the committee.]

CHAIR HOLLAND noted that this was the third hearing and the committee adopted a committee substitute (CS), Version G, during the previous hearing. Amendments 1 and 2 were adopted, and Amendment 3 was withdrawn on 4/8/22.

[1:48:13 PM](#)

CHAIR HOLLAND moved to adopt Amendment 4, work order 32-LS0669\G.4.

32-LS0669\G.4  
Bullard  
4/11/22

#### **AMENDMENT 4**

OFFERED IN THE SENATE BY SENATOR HOLLAND  
TO: SCS CSHB 157(JUD), Draft Version "G"

Page 1, line 9, following "opinion;":

Insert "relating to penalties assessed for campaign finance violations;"

Page 6, following line 14:

Insert new bill sections to read:

"\* **Sec. 13.** AS 15.13.390(a) is amended to read:

(a) **Subject to (e) of this section,** a [A] person who

(1) fails to register when required by AS 15.13.050(a) or who fails to file a properly completed and certified report within the time required by AS 15.13.040, 15.13.060(b) - (d), 15.13.110(a)(1), (3), or (4), (e), or (f) is subject to a civil penalty of not more than \$50 a day for each day the delinquency continues as determined by the commission subject to right of appeal to the superior court. A person who fails to file a properly completed and certified report within the time required by

AS 15.13.110(a)(2) or 15.13.110(b) is subject to a civil penalty of not more than \$500 a day for each day the delinquency continues as determined by the commission subject to right of appeal to the superior court;

(2) whether as a contributor or intermediary, delays in reporting a contribution as required by AS 15.13.040(r) is subject to a civil penalty of not more than \$1,000 a day for each day the delinquency continues as determined by the commission subject to right of appeal to the superior court;

(3) whether as a contributor or intermediary, misreports or fails to disclose the true source of a contribution in violation of AS 15.13.040(r) or 15.13.074(b) is subject to a civil penalty of not more than the amount of the contribution that is the subject of the misreporting or failure to disclose; upon a showing that the violation was intentional, a civil penalty of not more than three times the amount of the contribution in violation may be imposed; these penalties as determined by the commission are subject to right of appeal to the superior court;

(4) violates a provision of this chapter, except as otherwise specified in this section, is subject to a civil penalty of not more than \$50 a day for each day the violation continues as determined by the commission, subject to right of appeal to the superior court; and

(5) is assessed a civil penalty may submit to the commission an affidavit stating facts in mitigation; however, the imposition of the penalties prescribed in this section or in AS 15.13.380 does not excuse that person from registering or filing reports required by this chapter.

\* **Sec. 14.** AS 15.13.390(d) is amended to read:

(d) When an action has been filed in the superior court under AS 15.13.380, upon proof of the violation, the court shall enter a judgment in the amount of the civil penalty authorized to be collected under [BY (a) OF] this section.

\* **Sec. 15.** AS 15.13.390(e) is amended to read:

(e) If the commission or superior court finds that the violation was

(1) not a repeat violation or was not part of a series or pattern of violations, was inadvertent, was quickly corrected, and had no adverse effect on another [THE] campaign [OF ANOTHER], the commission or the court may

(A) [(1)] suspend imposition of the penalties; and

(B) [(2)] order the penalties set aside if the person does not engage in a similar violation for a period of one year;

(2) inadvertently committed by a candidate, the maximum financial penalty the commission or the court may impose may not exceed 20 percent of the total contributions made to the candidate's campaign."

Renumber the following bill sections accordingly.

[1:48:17 PM](#)

SENATOR SHOWER objected for discussion purposes.

[1:48:29 PM](#)

CHAIR HOLLAND explained that Amendment 4 took a different approach to accomplish the goal of Amendment 3. Under Amendment 4, penalties for candidates who made mistakes on their reports would be limited to 20 percent of the total contributions received by their campaigns. This limit intentionally excludes large independent groups since they are generally well funded with sophisticated treasurers. He stated the intent of Amendment 4 was to remove potential obstacles for candidates for making an inadvertent mistake that could result in large fines. He acknowledged that limiting the penalties for candidates but not political groups might open a door for equal protection challenges. However, the public purpose served by making this distinction justifies this approach. In addition, individual candidates and large political action groups are not similarly situated, further justifying the different treatment. He directed attention to the language on page 2 of Amendment 4.

[1:49:33 PM](#)

SENATOR MYERS stated that the language says, "inadvertently committed by a candidate." He noted that his campaign had a volunteer serving as the campaign treasurer who handled most of the Alaska Public Offices Commission (APOC) reporting. He asked whether the language included campaign staff or volunteers or only the candidate.

[1:50:19 PM](#)

CRYSTAL KOENEMAN, Staff, Representative Sara Rasmussen , Alaska State Legislature, Juneau, Alaska, responded by reading the definition for "candidate" in AS 15.13.400, which read:

(1) "candidate"

- (A) means an individual who files for election to the state legislature, for governor, for lieutenant governor, for municipal office, for retention in judicial office, or for constitutional convention delegate, or who campaigns as a write-in candidate for any of these offices; and
- (B) when used in a provision of this chapter that limits or prohibits the donation, solicitation, or acceptance of campaign contributions, or limits or prohibits an expenditure, includes
  - (i) a candidate's campaign treasurer and a deputy campaign treasurer;
  - (ii) a member of the candidate's immediate family;
  - (iii) a person acting as agent for the candidate;
  - (iv) the candidate's campaign committee; and
  - (v) a group that makes expenditures or receives contributions with the authorization or consent, express or implied, or under the control, direct or indirect, of the candidate;

[1:51:07 PM](#)

SENATOR KIEHL related that as a casual observer of APOC, he did not find that APOC typically fined candidates up to 20 percent for making inadvertent mistakes. He wanted to ensure that this amendment was offered as a bar against a future commission going "off the rails" rather than using 20 percent as a target.

[1:51:45 PM](#)

SENATOR SHOWER said he appreciated the approach and surmised that 20 percent for a large group was not unreasonable. He agreed with Senator Kiehl that 20 percent should not be the target amount.

[1:52:49 PM](#)

SENATOR SHOWER removed his objection.

CHAIR HOLLAND found no further objection, and Amendment 4 was adopted.

[1:53:16 PM](#)

SENATOR SHOWER moved to report the Senate committee substitute (CS) for CSHB 157, work order 32-LS0669\G, as amended, from committee with individual recommendations and attached fiscal note(s).

CHAIR HOLLAND found no objection, and SCS CSHB 157(JUD) was reported from the Senate Judiciary Standing Committee.

[1:53:48 PM](#)

At ease

**SB 229-STATE HISTORICAL ARTIFACTS; CRIMES**

[1:55:40 PM](#)

CHAIR HOLLAND reconvened the meeting and announced the consideration of SENATE BILL NO. 229 "An Act relating to misconduct involving confidential information; relating to artifacts of the state; and relating to penalties regarding artifacts or historic, prehistoric, or archeological resources of the state."

CHAIR HOLLAND noted that this was the third hearing and there was a committee substitute (CS) for the committee to consider.

[1:56:03 PM](#)

SENATOR SHOWER moved to adopt the CS for SB 229, work order 32-GS2541\G, as the working document.

[1:56:18 PM](#)

CHAIR HOLLAND objected for discussion purposes.

[1:56:43 PM](#)

DAWSON MANN, Staff, Senator Robert Myers, Alaska State Legislature, Juneau, Alaska, read the summary of changes from Version I to Version G of SB 229 on behalf of the committee.

[1:56:56 PM](#)

**SUMMARY OF CHANGES**  
(VERSION I TO VERSION G)

Change 1: Sections 1, 3, and 6 of version I were deleted

Change 2: The classifications were changes so that "intentional" violations of AS 41.35.200(a) or (b) are class C felonies

Change 3: The definition of "artifact" was deleted

[1:57:31 PM](#)

CHAIR HOLLAND removed his objection; he found no further objection, and Version G was adopted.

[1:57:54 PM](#)

SENATOR KIEHL moved to adopt Amendment 1, work order 32-GS2541\G.1.

32-GS2541\G.1  
Bullard  
4/11/22

#### **AMENDMENT 1**

OFFERED IN THE SENATE BY SENATOR KIEHL  
TO: CSSB 229(JUD), Draft Version "G"

Page 1, line 11:

Delete "is convicted of violating a provision of"  
Insert "**knowingly violates** [IS CONVICTED OF VIOLATING A PROVISION OF]"

Page 1, line 14, following the second occurrence of "(b)":

Insert ", and the value of the affected historic, prehistoric, or archeological resource is equal to or greater than \$2,500,"

Page 2, line 2:

Delete all material and insert:  
"(c) If it is necessary in prosecuting a violation of AS 41.35.010 - 41.35.240 to determine the value of a historic, prehistoric, or archaeological resource, the appraised value of the historic, prehistoric, or archeological resource at the time and place of the crime is the value. In determining the

degree or classification of a crime under this section, amounts involved in criminal acts committed under one course of conduct, whether from the same person or several persons, shall be aggregated.

(d) In this section, "intentionally" and "knowingly" have the meanings given in AS 11.81.900(a)."

Page 2, line 6:

Delete "AS 41.35.210(b) and (c)"

Insert "AS 41.35.210(b) - (d)"

1:58:03 PM

CHAIR HOLLAND objected for discussion purposes.

1:58:07 PM

SENATOR KIEHL explained that Amendment 1 would place a threshold value on the felony and make removing any artifact a potential felony. He stated the intent was to capture only those taking high-value artifacts. Amendment 1 would hold an offender to a "knowing" mental state, subject to a misdemeanor, so a person must intentionally remove or sell a historic archeological resource valued at \$2,500 or more for the penalty to rise to a felony.

1:59:08 PM

CHAIR HOLLAND asked for the reason to set the value of an archeological resource or artifact at \$2,500.

1:59:19 PM

SENATOR KIEHL answered that he picked a value that seemed appropriate. He was unsure whether the threshold was set high enough to avoid capturing a hiker who picked up railroad spikes or tiles without realizing their value. He envisioned that the person would face criminal penalties but not felony penalties. However, someone who takes a basket from an archeological dig site thousands of years old should face a more severe penalty.

2:00:21 PM

SENATOR SHOWER stated that the genesis of the bill was to address the theft of state assets, including old WWII artifacts that could be worth hundreds of thousands of dollars. He offered his view that even a small widget could be worth \$5,000 to \$10,000, and a WWII jeep's value could range from \$50,000 to \$100,000 for collectors, depending on the jeep's condition. He agreed that the intent was not to cast the net so wide that someone who took a little piece of something they found while

hiking would face felony charges. Still, it was essential to set a felony penalty for those intentionally coming to the state to extract entire assets with historical value. He asked whether the Department of Law would suggest a different amount, such as \$15,000. He further asked whether the department was concerned about any equal protection or other issues.

[2:03:04 PM](#)

KACI SCHROEDER, Assistant Attorney General, Legal Services Section, Criminal Division, Department of Law, Juneau, Alaska, stated that the threshold was a policy decision for the legislature. She deferred to the Department of Natural Resources (DNR) for any comments.

SENATOR SHOWER noted that his staff previously worked as a DNR manager, so Mr. Ogan may have some insights.

[2:03:41 PM](#)

SCOTT OGAN, Staff, Senator Mike Shower, Alaska State Legislature, Juneau, Alaska, stated that when he previously served as a Department of Natural Resources (DNR) manager, his staff worked with the Office of History Archeology on navigable water issues. During that time, they found an old mining boat artifact with significant historical value to the state. A naval architect calculated the load and draft for the boat, which helped resolve issues related to navigable waters. Thus, the definition should include significant historical value to the state rather than just setting a dollar value for the artifact.

[2:07:30 PM](#)

CHAIR HOLLAND pointed out that he was comfortable with a threshold of \$2,500.

[2:08:07 PM](#)

SENATOR HUGHES acknowledged that although someone couldn't sell the dilapidated mining boat on eBay, it had significant historical value to DNR. She asked how DNR would determine the monetary value of artifacts.

[2:09:20 PM](#)

JUDY BITTNER, Chief/State Historic Preservation Officer, Office of History & Archeology Alaska Historical Commission, Division of Parks and Outdoor Recreation, Department of Natural Resources, Anchorage, Alaska, responded that archeologists and historians often do not put a market value on artifacts due to the intrinsic value or information that these artifacts yield. Instead, the site is essential in understanding the

contribution. For example, Mr. Ogan mentioned finding a boat next to a river, which provides an association. Some states consider the disturbance of a site and base the value on the cost to restore the site and on the amount of information lost rather than to determine the market value of the individual artifacts removed. For example, the loss of the artifact might mean that a significant amount of information archeologists could gain from that site was lost. She explained that artifacts in museums are valued for insurance purposes, but that valuation is not currently done by the Office of History and Archeology. However, if the bill had a provision to put a value on artifacts, DNR would have to figure out a way to do so.

[2:12:01 PM](#)

CHAIR HOLLAND asked whether the Office of History and Archeology could examine an artifact in the field and make an initial determination if the value was greater or less than \$2,500.

MS. BITTNER maintained that archeologists in the field do not look at the monetary value of an artifact but consider the information it provides to understand the site. For example, archeologists might discover a small set of microblades from a 13,000-year-old site and glean information about the technology used and how people hunted rather than seek to determine the market value. She said she was unaware of any archeologist who places a monetary value on artifacts or collections from a site.

[2:13:28 PM](#)

SENATOR SHOWER stated that some artifacts might only have intrinsic value, such as the crumbling boat DNR found. However, the committee also considered abandoned equipment found at a crash or other site. He recalled that the threshold for a felony was \$750 for property crimes but noted that even small pieces of equipment might be valued at \$2,500. He said he could not support Amendment 1 due to the low threshold for the value of the historic, prehistoric, or archeological resource. He pointed out that some people come to Alaska and remove whole assets, such as a WWII jeep, truck, or plane valued above \$15,000.

[2:15:48 PM](#)

SENATOR KIEHL said while he deeply values historical records and artifacts, it is challenging to differentiate and decide which objects have more historical value than others. Amendment 1 uses current law, which states that if a person knowingly takes an archeological resource of the state, it constitutes a class A misdemeanor. Thus, it would establish a criminal penalty for taking the microblade or flint knife.

SENATOR KIEHL stated that the old Treadwell Mine in Juneau had a natatorium constructed with white hexagonal tiles. After the mine cave-in in 1917, the tiles were strewn along the beach and have continued to be popular items for people to pick up. He surmised the committee would not want that collecting to be a felony. Still, these tiles likely would be considered a historical resource of the state. Amendment 1 would create a higher threshold than the crime of theft because it is difficult for a layperson to assess the value of a historic resource. Amendment 1 speaks about an appraised value, often used to value museum objects or for wills or estates. Thus, someone would need to testify as an expert witness to identify an artifact as a valuable, historical thing.

[2:18:45 PM](#)

SENATOR KIEHL expressed his willingness to raise the threshold value of an item to avoid catching the person who inadvertently picks up an artifact while beachcombing. He further noted that Amendment 1 requires an intentional mental standard.

[2:19:08 PM](#)

SENATOR MYERS indicated he had questions about the mental states in Amendment 1. He posed a scenario where someone goes to an archeological site and finds something they believe could be sold on eBay for \$5,000 or \$10,000. He asked whether it would fall under the felony statute.

[2:20:01 PM](#)

MS. SCHROEDER responded that the person would need to have a conscious objective when taking an artifact. She agreed the scenario described by Senator Myers would fall under the intentional standard.

[2:20:16 PM](#)

SENATOR MYERS posed another scenario where someone goes to an archeological site, finds something, and brings it home as a keepsake. The person may or may not know its value but likes the object. He asked whether it would fall under the felony provision, the misdemeanor, or something else.

MS. SCHROEDER stated that property crimes don't require a mental state related to the monetary threshold, but only for the mental state necessary for the act.

[2:21:18 PM](#)

SENATOR MYERS asked which mental state would apply to someone who finds an artifact and may or may not know the monetary value but takes the object home.

MS. SCHROEDER answered that the knowing mental state means the person was aware of a substantial probability of its existence, so the person in his scenario would likely meet the knowing standard unless they did not believe it was an artifact, but they might also meet the intentional state.

[2:22:05 PM](#)

SENATOR MYERS related another scenario where someone goes on a hike across state land that was previously a mining claim, finds a gold pan, takes it home, but does not think about its historical significance.

[2:22:39 PM](#)

MS. SCHROEDER answered that would not constitute a crime.

[2:22:49 PM](#)

SENATOR SHOWER asked how often these crimes happen. He envisioned Amendment 1 would apply if someone brought in a crew and removed a significant artifact from the state via a barge. He viewed that action as intentionally taking an artifact, which seemed different than someone randomly finding an artifact and keeping it. He asked whether low-level offenses were a problem or if the intent of the bill and Amendment 1 was to address people taking significant, historical artifacts from the state.

MS. SCHROEDER was unsure how often this occurs. She deferred to DNR to respond. She noted that in the entire time that the Department of Law had tracked these cases, the department received only two referrals. She reviewed those cases and found that each one met the intentional standard.

[2:24:20 PM](#)

CHAIR HOLLAND asked how often people are taking artifacts from state lands.

[2:24:46 PM](#)

MS. BITTNER responded that it happens quite often in remote areas where it would be difficult to apprehend them. The department had found evidence of sites where artifacts were being dug up and removed. DNR previously conducted joint operations with the federal agencies in instances where people posted videos on social media with them using metal detectors,

digging up artifacts, and marketing them. However, it is difficult to prosecute those cases.

MS. BITTNER stated that the intent was to identify offenders with a repetitive pattern of digging up sites. She acknowledged that there were significant operations by those collecting WWII aircraft parts. During her tenure, the office sometimes had intervened, retrieved the artifacts but had not prosecuted the looters. She reiterated that it was difficult to enforce these laws due to the nature and remoteness of many historical sites. However, she offered her believe that it was important for the legislature to identify unlawful acts and create penalties to address theft at historical sites for those removing artifacts.

CHAIR HOLLAND maintained his support for using a threshold of \$2,500. He offered his view that it's easy to view rusted-out items and equate them as low-value artifacts but acknowledged that probably only an appraiser could determine an item's value was \$15,000.

[2:27:59 PM](#)

SENATOR HUGHES wondered if Amendment 1 would trigger a fiscal note since an official appraisal would need to determine the value of the artifacts. She asked whether it would create any legal issues because the archeologist would not provide an appraisal but only estimate the intrinsic value.

MS. BITTNER responded that she would research whether the state could find appraisers at the state museum or the University of Alaska who could provide the necessary expertise. She said she was unsure whether it would trigger a fiscal note. However, DNR's federal partners enforce federal historic preservation laws, so they may have appraisers.

[2:30:10 PM](#)

MS. SCHROEDER pointed out that Amendment 1 related to the appraised value of the historic, prehistoric, or archeological resource, so guestimates would not suffice to prove the elements of the offense.

[2:30:31 PM](#)

SENATOR KIEHL related his understanding that an agency overseeing the resources would refer criminal behavior but not engage in appraising the item's value. He stated that the prosecutor would build out the record to prove the elements of the case. He asked whether he had interpreted the process correctly.

MS. SCHROEDER responded that an officer or investigator would conduct an investigation. One element of the case would be the valuation of the artifacts, and the officer would subsequently send the case to the prosecutors to review. She surmised that prosecutors would likely summon the appraiser as a witness during the trial.

SENATOR SHOWER wondered whether the committee should consider a conceptual amendment. He offered his view that a higher limit would help. In his experience visiting aviation crash sites, nothing taken was less than \$2,500, and some artifacts were worth vastly more. He cautioned members that \$2,500 seemed very low.

SENATOR HUGHES commented that the state would pay for an appraisal, whether the Department of Natural Resources or the Department of Law provided it.

MS. SCHROEDER agreed.

[2:33:20 PM](#)

SENATOR SHOWER moved to adopt Conceptual Amendment 1 to Amendment 1

**CONCEPTUAL AMENDMENT 1 TO AMENDMENT 1**

Line 7 of Amendment 1 would read, "... equal to or greater than \$10,000 or of significant historical value to the state."

SENATOR SHOWER acknowledged that an appraisal would likely be necessary, but the higher threshold would focus on items of significant value.

[2:34:46 PM](#)

CHAIR HOLLAND objected for discussion purposes.

CHAIR HOLLAND restated that Conceptual Amendment 1 to Amendment 1 would read, "... equal to or greater than \$10,000 or of significant historical value to the state."

[2:35:12 PM](#)

ED KING, Staff, Senator Roger Holland, Alaska State Legislature, Juneau, Alaska, pointed out that Conceptual Amendment 1 to Amendment 1 should be read in conjunction with AS 41.35.230(2), which read:

(2) "historic, prehistoric, and archeological resources" includes deposits, structures, ruins, sites, buildings, graves, artifacts, fossils, or other objects of antiquity which provide information pertaining to the historical or prehistorical culture of people in the state as well as to the natural history of the state.

MR. KING suggested Ms. Schroeder discuss the interplay between the proposed amendment and current law.

[2:35:51 PM](#)

MS. SCHROEDER pointed out that raising the threshold to \$10,000 would create the same issues that were previously discussed. She deferred to DNR as to whether the department could articulate significant historical value to the state, which would be an element of the offense that the state would need to prove.

[2:36:25 PM](#)

SENATOR SHOWER said he started the process to limit it to WWII artifacts, but the bill morphed and expanded. He indicated his willingness to return to the original concept for the bill, which was to protect WWII assets in Alaska. It would likely be easy to identify them as WWII assets since they were manufactured from 1938 to 1945. Other artifacts have intrinsic value, so it could be more challenging to place a monetary value on them.

SENATOR KIEHL offered his view that the heart of the bill was good because of its breadth. He emphasized that the state does not want 9,000-year-old Ravenstail weavings from Karst caves on Prince of Wales Island collected and sold. However, he was unsure how a prosecutor would prove how something had more significant historical value to the state than the definition Mr. King read. He suggested that if the language reads "or," the state could still prove the dollar value. He said he was okay with Conceptual Amendment 1 to Amendment 1.

[2:38:29 PM](#)

SENATOR HUGHES stated her preference to include all artifacts rather than limit it to WWII crash sites; however, Conceptual Amendment 1 offered two options.

[2:38:58 PM](#)

CHAIR HOLLAND asked whether phrasing \$10,000 or significant historical value raised any issues.

MS. SCHROEDER responded that she is not an expert in artifacts, so she was unsure she could articulate what constitutes significant historical value, but someone at DNR may be able to do so.

[2:39:34 PM](#)

CHAIR HOLLAND stated his concern was more focused on the legal aspects but asked Ms. Bittner for her perspective.

MS. BITTNER responded that DNR has the methodology for determining and evaluating items of historical significance to the state. She explained that the department established the criteria and process to evaluate historical items, including determining whether the object had historical significance.

[2:40:28 PM](#)

CHAIR HOLLAND removed his objection; he found no further objection, and Conceptual Amendment 1 to Amendment 1 was adopted.

[2:40:51 PM](#)

CHAIR HOLLAND stated that Amendment 1, as amended, was before the committee.

CHAIR HOLLAND removed his objection; he found no further objection, and Amendment 1, as amended, was adopted.

[2:41:56 PM](#)

SENATOR SHOWER pointed out that there was a companion bill to SB 229.

[2:42:15 PM](#)

CHAIR HOLLAND asked whether "artifacts" is included in the definition of "archeological resources" in current law.

MR. KING explained that "artifact" appears in the definition. Defining "artifact" would only apply within the definition. He stated that it is the definition found in the dictionary, so it was assumed there was no need for that additional language.

[2:43:23 PM](#)

SENATOR SHOWER moved to report the CS for SB 229, work order 32-GS2541\G, as amended, from committee with individual recommendations and attached fiscal note(s).

CHAIR HOLLAND found no objection, and CSSB 229(JUD) was reported from the Senate Judiciary Standing Committee.

CHAIR HOLLAND stated that the committee authorizes Legislative Legal Services to make conforming and technical changes to accomplish the committee's intentions.

[2:44:04 PM](#)

At ease

**SB 39-BALLOT CUSTODY/TAMPERING; VOTER REG; MAIL**

[2:46:14 PM](#)

CHAIR HOLLAND reconvened the meeting and announced the consideration of SENATE BILL NO. 39 "An Act relating to elections; relating to voter registration; relating to ballots and a system of tracking and accounting for ballots; establishing an election offense hotline; designating as a class A misdemeanor the collection of ballots from other voters; designating as a class C felony the intentional opening or tampering with a sealed ballot, certificate, or package of ballots without authorization from the director of the division of elections; and providing for an effective date."

CHAIR HOLLAND noted that this was the fourth hearing in this committee and a committee substitute (CS) was adopted during the previous hearing. He asked the sponsor if he had any comment on the CS.

[2:46:50 PM](#)

SENATOR SHOWER stated that Mr. Ogan would speak to the committee substitute.

[2:47:31 PM](#)

SCOTT OGAN, Staff, Senator Mike Shower, Alaska State Legislature, Juneau, Alaska, provided a summary of SB 39. He said the sponsor's goal in revising election statutes was to make it easy to vote and hard to cheat. The sponsor worked with people with wide-ranging views. He hoped the process taken with SB 39 would provide other states with a consensus model. He noted that many states made accusations and floated conspiracy theories. He stated that the sponsor preferred to use the approach of consensus building in the committee substitute (CS).

MR. OGAN offered his belief that voting is a cornerstone of the US democracy. He emphasized the need for voter confidence in the

voting system. Otherwise, he believed that the US would be in serious trouble.

MR. OGAN pointed out that the Division of Elections had a data breach that exposed personal information, the voter rolls need updating, and the public is concerned about election security. He stated that since the division follows the current statutes, the legislature must address these issues as a policy-setting body.

[2:50:05 PM](#)

MR. OGAN outlined changes in the bill to same-day registration, including that voters must provide sufficient proof of identity, submit a signed affidavit confirming residency in the district under the penalty of perjury, and vote a questioned ballot. The bill would increase opportunities for poll watchers and enhance ballot security and chain of custody. Currently, election laws allow ballots to be destroyed in the precincts. This bill would require all ballots to be delivered to a central location for destruction, which could help ensure the security of ballots from the time they leave the Division of Elections until their return.

[2:54:17 PM](#)

MR. OGAN stated that absentee ballots in Section 32 requires online ballot tracking with a USPS barcode. He noted the committee would be considering an amendment that would allow the division to contract with private sector companies.

MR. OGAN stated that SB 39 would allow for early counting of absentee ballots but make it a felony to disclose that information. He surmised that it would cut down on time to tally votes on Election Day.

[2:55:27 PM](#)

MR. OGAN stated that SB 39 would tighten up late arrival ballots with ballot tracking by USPS. It would use voter signature technology and eliminate the need for two witnesses to verify a voter's identification. He stated that if a voter makes a simple mistake on their ballot, the division will send a text to the voter, so they can come to the division to cure their ballot. He characterized it as not overly burdensome. The bill would authorize the division to mail out ballots in small communities when emergencies arise.

[2:56:50 PM](#)

MR. OGAN stated that SB 39 requires open-source voting to allow the public to review the codes since none of the vendor's hardware would be proprietary. This should eliminate any conspiracy theories about the manipulation of voting machines. SB 39 would create new crimes for intentionally tampering, breaching, or hacking ballots. It would increase poll workers' pay since the division has difficulty recruiting people.

MR. OGAN stated that the bill would offer a permanent absentee ballot provision, although this provision still needs a little work. He indicated that the committee could decide whether to limit the permanent absentee ballot to four years. The bill would require a strict chain of custody for voting equipment and it increases cybersecurity.

[2:59:29 PM](#)

SENATOR SHOWER explained that a risk-limiting audit was different from a forensic audit, which provides a money trail. The risk-limiting audit would look at ballot counts and registration. He outlined some concerns with the upcoming election, including that the division will have a mass mailing of ballots with no chain of custody. He was unsure whether the division would institute a tracking system for all ballots mailed to voters. He expressed concern that the ballots will not require a signature verification, and the division does not plan to cross-check the compromised voters affected by the data breach. He explained that the open-source algorithm is to push the voter identification data to allow voters to analyze the data themselves.

[3:01:05 PM](#)

SENATOR HUGHES asked whether the division would require proof of 30-day residency for same-day voter registration or if the same-day registrants will merely fill out a form and sign their name.

MR. OGAN responded that the voter must provide a rent receipt or other sufficient proof in person and vote a questioned ballot.

[3:02:19 PM](#)

SENATOR MYERS referred to Section 23, lines 25-27, related to early voting. He asked whether this provision switches early voting stations to in-person absentee voting, making it a little harder to vote. He stated his preference for preserving anonymity, which was eroded by creating an envelope. He offered his belief that early voting should use the same procedure as regular in-person voting on Election Day. Thus, a person should walk in, show identification, and receive their ballot.

MR. OGAN was unsure but believed that he filled out an absentee ballot form when he was an early voter when he voted.

3:04:35 PM

SENATOR MYERS stated that he previously voted both absentee and early voting. He noted that the Fairbanks North Star Borough (FNSB) allows for early voting until a few days before the election, then it switches to an in-person absentee voting. The state allows early voting through Election Day and double checks signatures against the voter rolls. He said the state does not allow in-person absentee voting unless the voter requests it or votes a questioned ballot.

3:05:33 PM

GAIL FENUMIAI, Director, Division of Elections, Juneau, Alaska, responded that Senator Myers is correct that there are two distinct processes for early voting and absentee in-person voting. Early voting takes place in the Division of Election's five regional offices. Absentee-in-person voting happens in the non-regional offices. Some offices have multi-district ballots, others have single-district sites, and some have ballots for all 40 districts. Those are strictly absentee-in-person locations. It is considered early voting, but voters must fill out an absentee-in person oath and voter certificates at polling places, including at the airport, and the university. However, those are strictly absentee in-person locations. It is voting early, but voters must fill out the absentee-in-person oath and voter certificates. Those documents are returned to the division, and the voter's eligibility is determined once the ballot is received and reviewed by the Absentee Review Board.

3:07:30 PM

SENATOR KIEHL asked about open-source software; he was only aware of one company for voting tabulators. He wondered whether the sponsor could provide names of other companies so he could verify that the committee was not inadvertently writing in a sole-source contract. He related his understanding that nothing in the bill eliminates paper ballots for special needs voting machines with voter-verifiable paper trails. He pointed out everything in that process was re-countable and auditable.

SENATOR KIEHL wondered why the division would use open-source software if it is not the best software. He suggested that if it crashes more often, it could create more hiccups that must be verified, potentially decreasing voter confidence. He suggested

the state should use the best software, then check and verify the results.

[3:09:08 PM](#)

SENATOR SHOWER offered to provide the number of the open-source software companies. He noted the one company he heard from still needed to obtain federal certification. He indicated he consistently heard the public impression was that the current company lacks transparency since its algorithm is proprietary. He noted the lack of transparency in the election process was one of the most problematic concerns. He acknowledged that some of the concerns were based on national conspiracy theories. The Division of Elections said the state would need to go through Dominion to obtain data pre-election and post-election, which is proprietary information. However, that information would be available with an open-source company and given to citizens who want it.

[3:12:32 PM](#)

CHAIR HOLLAND held SB 39 in committee.

[3:12:45 PM](#)

There being no further business to come before the committee, Chair Holland adjourned the Senate Judiciary Standing Committee meeting at 3:12 p.m.