

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

February 25, 2019

1:01 p.m.

MEMBERS PRESENT

Representative Matt Claman, Chair
Representative Gabrielle LeDoux, Vice Chair
Representative Chuck Kopp
Representative Louise Stutes
Representative Adam Wool
Representative Laddie Shaw
Representative David Eastman

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

CONFIRMATION HEARING(S) :

Attorney General, Department of Law

Kevin Clarkson - Juneau

- CONFIRMATION(S) ADVANCED

PREVIOUS COMMITTEE ACTION

No previous action to record

WITNESS REGISTER

KEVIN CLARKSON
Attorney General Designee
Department of Law
Juneau, Alaska

POSITION STATEMENT: Testified and answered questions during his confirmation hearing for attorney general.

ROBIN BRENA, Managing Attorney
Brena, Bell & Clarkson
Anchorage, Alaska

POSITION STATEMENT: Testified in support of Kevin Clarkson during the confirmation hearing.

CLARK NICHOLS

Perkins & Coie
Bellevue, Washington

POSITION STATEMENT: Testified in support of Kevin Clarkson during the confirmation hearing.

ERIC SANDERS, Attorney
Anchorage, Alaska

POSITION STATEMENT: Testified in support of Kevin Clarkson during the confirmation hearing.

JEFF FELDMAN, Professor
University of Washington
Seattle, Washington

POSITION STATEMENT: Testified in support of Kevin Clarkson during the confirmation hearing.

LOREN LEMAN
Anchorage, Alaska

POSITION STATEMENT: Testified in support of Kevin Clarkson during the confirmation hearing.

JOHN THORSNESS
Anchorage, Alaska

POSITION STATEMENT: Testified in support of Kevin Clarkson during the confirmation hearing.

MIKE GERAGHTY
Former Attorney General
State of Alaska
Anchorage, Alaska

POSITION STATEMENT: Testified in support of Kevin Clarkson during the confirmation hearing.

KARYN WARNER
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to the confirmation of Kevin Clarkson.

BESSIE ODAM
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to the confirmation of Kevin Clarkson.

ZHENIA PETERSON
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to the confirmation of Kevin Clarkson.

ROBIN SMITH

Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to the confirmation of Kevin Clarkson.

LIN DAVIS

Juneau, Alaska

POSITION STATEMENT: Testified in opposition to the confirmation of Kevin Clarkson.

ALYSON CURREY, Legislative Liaison

Planned Parenthood Votes Northwest

Juneau, Alaska

POSITION STATEMENT: Testified in opposition to the confirmation of Kevin Clarkson.

STACEY LUCASON

Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to the confirmation of Kevin Clarkson.

DARIO NOTTI

Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to the confirmation of Kevin Clarkson.

MIKE COONS, President

Greater Alaska Chapter of the Association of Mature American Citizens (AMAC)

Palmer, Alaska

POSITION STATEMENT: Testified in support of Kevin Clarkson during the confirmation hearing.

LYNETTE CLARK

Fox, Alaska

POSITION STATEMENT: Testified in support of Kevin Clarkson during the confirmation hearing.

CRIS EICHENLAUB

Eagle River, Alaska

POSITION STATEMENT: Testified in support of Kevin Clarkson during the confirmation hearing.

ACTION NARRATIVE

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CHAIR MATT CLAMAN called the House Judiciary Standing Committee meeting to order at 1:01 p.m. Representatives Claman, Eastman, Kopp, Shaw, and LeDoux were present at the call to order. Representatives Wool and Stutes arrived as the meeting was in progress.

CONFIRMATION HEARING(S): **Department of Law, Attorney General**

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CHAIR CLAMAN announced that the only order of business would be a confirmation hearing for the Attorney General.

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KEVIN CLARKSON, Attorney General Designee, Department of Law, shared his personal background, growing up in Oregon, attending college at Oregon State University, and graduating from the Willamette University law school. He noted that his father was a police officer at Oregon State University. He explained that his plan after law school had been to work with a law firm in the Pacific Northwest, but that, upon interviewing with the law firm Perkins Coie, he was informed the Portland and Seattle openings had already been filled. Perkins Coie informed him that there was an opening in the Anchorage office and, subsequently, when he flew to Anchorage in March 1985, he was impressed and decided to work there for two years before returning to the Pacific Northwest.

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MR. CLARKSON discussed his 34-year law career in Alaska, the first 10 years with Perkins Coie, and the subsequent years with Brena, Bell, and Clarkson. He offered his belief that this lack of movement among firms reflected his dedication and loyalty, adding that "anyone who looks at me and thinks that I don't have a depth of experience, with all due respect to them, they really don't know me very well." He reported that about 90 percent of his legal practice consisted of a wide range of civil litigation for a wide variety of clients, adding that "every case brought something new." He acknowledged that, although this brought stress, he had appreciation for this depth of experience. He

stated that "challenges are a good thing." He listed his clients to include individuals, small businesses, municipalities, boroughs, electric utilities, the Alaska State Legislature, the State of Alaska, Alaska Native Corporations, air carriers, the Alaska Bar Association, and Fortune 500 corporations. He reported that he had participated in and chaired both disciplinary and fee arbitration panels for the Alaska Bar Association. He noted that he had represented his clients in both federal and state courts throughout Alaska. He added that he had worked on more than 50 appeals, with about 30 cases in front of the Alaska Supreme Court. He shared that he had litigated cases involving tax issues, employment issues, contract disputes, construction disputes, professional liability claims, business dissolutions, partnerships, joint ventures, and complex oil and gas sale contracts involving producers, shippers, and refiners. He added that he had litigated cases involving elaborate criminal and fraudulent schemes, including six cases involving the Racketeer Influenced and Corrupt Organizations Act (RICO). He pointed out that, after the recent gubernatorial election, when he was asked to create a list for prospective attorneys general he had not listed himself. He shared that the governor had then persuaded him by explaining his vision for "what he wanted to accomplish for Alaska... to promote and protect Alaska's interests and protect public safety, support our law enforcement and our prosecutors." He opined that upon reflection on the memory of his father as an Oregon State police officer and "how good Alaska's been to me and my family," he had decided "it was time to give something back." He asked, "for the honor of your confirmation to the Alaska attorney general."

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REPRESENTATIVE STUTES, referencing the letters submitted in opposition to his confirmation, asked who were his supporters.

MR. CLARKSON opined that this support would be offered during live testimony, directing attention to those comments for his confirmation offered during the Senate committee hearings.

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REPRESENTATIVE EASTMAN asked for his assessment to the role of attorney general.

MR. CLARKSON offered his belief that the role would be as a legal advisor to the governor and as a representative of the

State of Alaska and the Office of the Governor. He stated that his role would include the offer to give the Governor and the various departments, and perhaps the legislature "from time to time," "the best legal advice that I can give them based on what the law is."

REPRESENTATIVE EASTMAN asked if he would characterize the role of attorney general as the top prosecutor for the state.

MR. CLARKSON acknowledged that he would be the highest official within the Department of Law with responsibility over the criminal division.

REPRESENTATIVE EASTMAN asked how, as attorney general and head of the Department of Law, he would handle a situation if the governor was violating state law.

MR. CLARKSON replied that he would explain to the governor what the law required and explain how this conduct was not compatible with the law. He pointed out that the check on the governor was the judiciary, the other co-equal branch of government, which was charged with protection of the constitution and enforcement of the state laws.

REPRESENTATIVE EASTMAN asked if he would prosecute, as head of the Department of Law, should the governor persist in violating the state law.

MR. CLARKSON opined that no one in the state was above the law, noting that there were prosecutors in the state who would be charged with prosecuting any crime no matter who committed it.

REPRESENTATIVE EASTMAN asked if he would personally be comfortable prosecuting the governor, or would he delegate this to another prosecutor.

MR. CLARKSON shared that in some cases it was necessary for an attorney to recuse himself. He questioned whether this would be necessary even as he had been appointed by the governor and offered his belief that this prosecution would be his job and responsibility.

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REPRESENTATIVE STUTES asked if the duties of the attorney general included a responsibility to be the moral compass for the state.

MR. CLARKSON replied that the law determined the moral decision for conduct, and it would be his job to enforce the law of Alaska. He declared that it was not his job to enforce "some other moral compass."

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REPRESENTATIVE WOOL asked for more information regarding Mr. Clarkson's earlier reference that a small percentage, 10 percent, of his work was on divisive social issues.

MR. CLARKSON replied that this was primarily a series of two cases which spanned over ten years as they were not resolved quickly. He referenced a parental consent law, passed in 1996, adding that the Alaska Supreme Court had issued a decision which stated that the right to privacy protects the right to abortion. He noted that this resulted in many nuances for what was permissible regarding the state regulation of abortion. He pointed out that the Alaska State Legislature had overwhelmingly passed a parental consent law in 1996, noting that passage included the override of a veto from Governor Knowles. He explained that the law required:

that before a young girl who was 16 years or younger could obtain an abortion she had to have either one parent's consent or the approval of a judge through a bypass proceeding which meant she'd have to appear in front of a judge and either prove that she was mature enough to make her own decision or that her parents weren't fit to participate in that decision for various reasons.

MR. CLARKSON stated that this law was challenged by opponents to the law. He reported that the law "didn't put Alaska out in some fringe, 80 percent of the states in this country have parental involvement laws, so 40 out of 50." He added that this law put Alaska in the mainstream. He explained that the Alaska State Constitution was applied independently by the Alaska Courts System. He noted that after the challenge to the law was filed, the case went to the trial court, which ruled that the law was unconstitutional. He pointed out that he was then hired by the Alaska State Legislature to help defend the statute, alongside the attorneys from the Department of Law. He reported that the trial court "struck the law down" and, as it subsequently went to the Alaska Supreme Court, he was invited, along with the Assistant Attorney General, to argue the case.

He stated that the Alaska Supreme Court was split on its decision, 3 votes to 2 votes. He explained that two of the justices would have upheld the law as a matter of law; however, the other three justices wanted the case returned to the trial court for a trial so the court could receive evidence about "what the state's compelling interest might be, which was necessary to uphold that law and how that law might be implemented in the least restrictive means possible." The case was returned to the trial court and, again, the law was struck down. He stated that he was again hired by the State of Alaska to represent the State in the appeal to the Alaska Supreme Court, noting that the Supreme Court was again split on its decision, 3 votes to 2 votes, and "struck the law down." He added that upon re-hearing the case, the Alaska Supreme Court was split, with the retirement of one judge, 2 votes to 2 votes. He explained that a tie in an appellate court affirmed the decision of a lower court.

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MR. CLARKSON moved on to discuss his second case. He reported that the parental notice case was a result of the parental consent decision, as the Alaska Supreme Court struck down the parental consent law because a less restrictive but equally effective alternative for the state was found with the parental notice law. He paraphrased the court in the parental consent decision "our constitution will permit a statutory scheme which ensures that parents are notified so that they can be involved in their young daughter's decision regarding pregnancy and abortion." He added that this had encouraged an attempt at creation of a full notice law, first by the legislature, and then by a citizen initiative which was subsequently challenged. He reported that he was hired by the initiative sponsors to work with the attorneys from the Department of Law to once again defend the parental notice law. The case was upheld in the trial court but was struck down by the Alaska Supreme Court. He pointed out that the existing law was a result of these cases.

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REPRESENTATIVE WOOL asked if Mr. Clarkson had been involved with the issues of same sex marriage.

MR. CLARKSON, in response, explained that in 1998, after a challenge to keep a marriage amendment to the constitution on the ballot, he had been hired by the Alaska State Legislature to defend the amendment and keep it on the ballot. He shared that

the amendment was passed with a 69 percent approval. He reported that although 31 states had passed and ratified marriage amendments, the U.S. Supreme Court has since ruled for the constitutional right to marriage of someone of the same sex.

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REPRESENTATIVE WOOL reported that Fairbanks was currently hearing about a city ordinance for non-discrimination based on gender and sexual identity. He asked if Mr. Clarkson would support such a law if passed by the legislature.

MR. CLARKSON replied that it was the job of the attorney general to enforce and uphold the law, regardless of whether he supported it.

REPRESENTATIVE WOOL asked if he had served on the grant committee for the Alliance Defending Freedom (ADF).

MR. CLARKSON replied that he had served for 14 years and mused that he had left the ADF grant review committee in 2017. He explained that the ADF was a "public interest, non-profit law firm that represents individuals and constitution cases involving rights to free exercise of religion, rights of conscience, protecting a person's rights to free speech, and also on right to life issues from time to time." He explained that the organization raised money and provided grants to lawyers looking for support.

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REPRESENTATIVE LEDOUX asked how Mr. Clarkson would handle a situation whereby he philosophically agreed with a restrictive abortion or LGBT proposed law, even if the passage of this law would be unconstitutional.

MR. CLARKSON, in response to Representative LeDoux, said that he did not see his role as one to engage in the political debate for whether this proposal should become law. He opined that his role, unless the law was "black letter clear as day unconstitutional," would be to defend the law. He pointed out that it would be up to the judiciary to determine the constitutionality of the law. He reiterated that the law would "literally have to be just as clear as day that it's unconstitutional. I'm not going to be refusing to defend laws in areas where it's questionable." He stated that it was the job of an attorney to zealously represent a client within the

bounds of the law. He acknowledged that, although the question would be for the bounds of the law, if there was a reasonable argument to be made on behalf of his client, the State of Alaska, it was his job to defend the law.

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REPRESENTATIVE KOPP asked whether much of the representation by Mr. Clarkson on the aforementioned cases had been by invitation from the State of Alaska.

MR. CLARKSON expressed his agreement that his participation on the abortion related cases had been by invitation from the Alaska State Legislature or the State of Alaska. He clarified that his representation on the parental notice case was by invitation from the sponsors of the initiative. He added that this participation had been as co-counsel with the Office of the Attorney General.

REPRESENTATIVE KOPP commented that, upon review, Mr. Clarkson appeared to have extensive experience representing Alaska Native village corporations.

MR. CLARKSON expressed his agreement, noting that this had been his work for 6 - 7 years of his career. In response to Representative Kopp, he explained that much of this work was for professional liability cases in representation for Native corporations "who had been significantly wronged by legal professionals, attorneys, who were representing them and had committed significant malpractice and or breaches of fiduciary duty in the course of representing those Native corporations and had harmed those Native corporations." He added that he had successfully represented the Native corporations, and that later work had included representation for the timber interests of some village corporations in Southeast Alaska. He declared "I am a litigator, and these are civil cases that I found interesting and intriguing. These were clients that needed representation and they deserved representation." He added that, in his view, his clients had been wronged.

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REPRESENTATIVE KOPP directed attention to the discussions regarding educational outcomes and asked about the suggestion for a different path forward with the state entering into an agreement with tribes through state-tribal compacts. He noted that this would allow more local control for the delivery of the

education and the curriculum. He asked if Mr. Clarkson recognized any barriers to prevent this within the Department of Law.

MR. CLARKSON said that he could not see anything standing in the way. He opined that compacting was used in numerous areas, including the criminal area by signing criminal diversion agreements with the tribes to allow enforcement by the villages of lower level misdemeanor criminal activity. He stated that it "makes a lot of sense to have those kinds of things handled by the local communities." He offered his belief that there would not be any impediment to funding.

REPRESENTATIVE KOPP noted that there may be some federal issues to address. He asked whether Mr. Clarkson was aware that it was the legislature's duty to impeach a governor if there was a transgression of law.

MR. CLARKSON expressed his understanding that impeachment would be the legislature's role, and that his role as Attorney General would be for any criminal prosecution.

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REPRESENTATIVE EASTMAN asked whether Mr. Clarkson would feel comfortable with the appeal of cases to the US Supreme Court in which the Alaska Supreme Court had ruled against his assessment.

MR. CLARKSON replied that, if a decision by the Alaska Supreme Court had made an error in federal constitutional law, he would be comfortable petitioning these issues to the US Supreme Court.

REPRESENTATIVE EASTMAN asked how he would advise the governor about a decision that was in issue with the Alaska State Constitution without an appeal to the US Supreme Court as an alternative.

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CHAIR CLAMAN interjected that the question may be for whether the Alaska Supreme Court "ever gets anything wrong."

MR. CLARKSON, in response, expressed his agreement, noting that, in a technical sense, the Alaska Supreme Court was always right as they were able to have the last word with Alaska law. He stated that he could not imagine advising the governor or any

department to simply ignore a ruling of Alaska law by the Alaska Supreme Court.

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CHAIR CLAMAN asked if Mr. Clarkson had represented the Native Corporations for the defense or the plaintiff.

MR. CLARKSON replied that every case except one had been on their behalf as the plaintiff, either suing another business or corporation over a timber ownership dispute. He added that he had also been the defense attorney during a tax dispute.

CHAIR CLAMAN asked whether the malpractice cases had been representation for the plaintiff.

MR. CLARKSON acknowledged that the Native Corporations had been the plaintiff in those cases.

CHAIR CLAMAN asked about the current status of a lawsuit with the Anchorage Equal Rights Commission.

MR. CLARKSON stated that he was no longer involved with that case. He explained that he had represented the downtown [soup kitchen] Hope Center, a homeless shelter for abused women. He explained the situation which precluded the admittance of a woman looking for shelter as she was under the influence of alcohol. The woman filed a claim with the Anchorage Equal Rights Commission that she had been discriminated against based on gender identity. He stated that, even as this charge was not true, the law regarding discrimination based on gender identity law only applied to public accommodations. Shortly thereafter, during an initiative drive over this ordinance, he received a call from a reporter asking about the case. He sent the reporter a copy of the response to the commission. Then, the Anchorage Equal Rights Commission filed a charge of discrimination against his law firm, claiming a spoken discrimination. He questioned the charge, noting that this was what lawyers do, they speak on behalf of their clients. He added that the claim was dropped very quickly. He opined that the Hope Center had a case still pending.

CHAIR CLAMAN asked if the state was a party to this case, and if so, would he recuse himself as the Attorney General because of his prior work on the case.

MR. CLARKSON replied, "absolutely, absolutely."

CHAIR CLAMAN asked what advice he would give to a committee if the proposal was "stretching about as far as you could."

MR. CLARKSON declared that he viewed his personal integrity and honesty very seriously. He explained that he would "tell you exactly what the law is, if it's grey, I'll tell you it's grey." He emphasized that he would "shoot straight and tell you what it is."

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CHAIR CLAMAN opened invited testimony.

[1:46:14 PM](#)

ROBIN BRENA, Managing Attorney, Brena, Bell & Clarkson, said that he had tremendous respect for Mr. Clarkson both as a person and as an attorney. He declared that Mr. Clarkson was an excellent attorney and a good person to work with. He shared that Mr. Clarkson was highly thought of by other attorneys, was a conservative person, and was always respectful for people and the law. He opined that Mr. Clarkson was the best constitutional attorney in the State of Alaska and had dedicated himself to improving the practice of law in the state. Mr. Clarkson volunteered time with the Alaska Bar Association, and often took legal, ethics, and conflict cases which the Alaska Bar Association was not able to prosecute. He strongly recommended Mr. Clarkson and declared that he was highly qualified for this position.

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CLARK NICHOLS, Perkins & Coie, shared that he had worked with Mr. Clarkson for about 10 years in the Anchorage office. He said that he held Mr. Clarkson's legal skills in the highest regard, and that he enjoyed practicing with Mr. Clarkson as he was a genuinely courteous advocate. He spoke about Mr. Clarkson's representation of a village corporation in a fraud and bankruptcy case, and the resulting judgement in favor of the village corporation. He emphasized the perseverance by Mr. Clarkson in following this defendant to the State of Arizona, where he succeeded in having the case transferred back to Alaska. He pointed out that Mr. Clarkson had taken that case when no one else would have taken it, as it initially did not have a "high ability of success." He stated that he held Mr.

Clarkson in the highest regard, and he supported the confirmation for Attorney General.

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ERIC SANDERS, Attorney, reported that he had been practicing law in Alaska for 43 years, and he shared his extensive experiences working with Mr. Clarkson. He said that he had, as a judge, mediated Mr. Clarkson's cases, as an attorney, mitigated cases against him, and served as an arbitrator with Mr. Clarkson as a participant. He stated that he felt qualified to offer an opinion. He noted that Mr. Clarkson's personal and political leanings had never been an issue, and that Mr. Clarkson had always been extremely well prepared, very thorough, very hardworking, and very honest. He opined that Mr. Clarkson had very high regard for the law and did not allow his personal views to intrude into his work as a lawyer. He added that Mr. Clarkson had tremendous respect for people, was extremely polite and courteous, and was "probably about the least dogmatic or argumentative person I've ever dealt with." He offered his belief that Mr. Clarkson was an honorable person and that his personal political views were irrelevant, as these had not been an issue in his work as a lawyer. He offered his highest recommendation for Mr. Clarkson as Attorney General.

1:58:26 PM

JEFF FELDMAN, Professor, University of Washington, reported that he had been an attorney practicing in Alaska for more than 40 years, and that he was currently teaching law at the University of Washington. He shared that he had:

litigated a great number of cases with Mr. Clarkson. They all have been what are described sometimes as high-profile cases involving issues of public policy. These are cases involving issues of reproductive freedom, reapportionment, election disputes, ballot initiatives... I suspect that I may be, may have been, Mr. Clarkson's most frequent adversary on these kinds of cases.

MR. FELDMAN acknowledged that, although he and Mr. Clarkson disagreed on all these issues, he had found that Mr. Clarkson was a very talented lawyer, committed to the rule of law, diligent and dedicated as a professional, courteous and respectful, and acted with strict adherence to professional standards and ethics. He stated his understanding of the

concern by some individuals for this appointment, as Mr. Clarkson frequently aligned himself with one side of these social cause issues; however, he offered his belief that it was a mistake to judge a lawyer by the clients represented or the positions argued on behalf of the clients. He opined that the test for this confirmation should be addressed by the answer to three questions: will the nominee zealously represent the interest of the people of Alaska; does the nominee have the requisite intelligence, skills, and professional judgement and ethical compass to hold this position; and finally, will the nominee lead and provide sound guidance and direction to the more than 200 lawyers working in the Department of Law. Based on his own experience as an advocate and an adversary, he stated his support for the nomination.

[2:01:12 PM](#)

LOREN LEMAN shared that he was a life-long resident of Alaska, a former legislator from West Anchorage, and a former lieutenant governor. He stated his support for Mr. Clarkson as the attorney general, noting that he had known Mr. Clarkson for about 30 years. He reported that Mr. Clarkson had represented the legislature and the State of Alaska on challenges to the defense of marriage and the parental consent legislation. He added that Mr. Clarkson had also represented the sponsors on a ballot initiative for parental involvement. He said that Mr. Clarkson was fair, thorough, thoughtful, and smart, and that he respected the constitution and the law. He relayed that Mr. Clarkson conducted himself with integrity and dignity, while he remained humble.

[2:04:16 PM](#)

JOHN THORSNESS reported that he had been a lawyer in Alaska for more than 35 years and that he had known Mr. Clarkson for many years. He emphasized that he had represented cases in which he was both aligned and opposed with Mr. Clarkson. He stated that in every respect Mr. Clarkson had shown himself to be honest, prepared, and professional. He stated his support for Mr. Clarkson, noting that he would be a superb Attorney General.

[2:05:41 PM](#)

MIKE GERAGHTY, Former Attorney General, State of Alaska, reported that he was currently a lawyer in Anchorage and had practiced law in Alaska for more than 40 years. He added that he had been the Attorney General for four years. He stated that

his relationship with Mr. Clarkson had always been professional, without malice, even as they were often on opposite sides. He declared that Mr. Clarkson was an excellent attorney, a "straight shooter," direct, honest, and without artifice or pretense. He offered his belief that Mr. Clarkson had respect for the Department of Law and would earn the respect of the department. He acknowledged that Mr. Clarkson had strong personal convictions and personal beliefs which he defended. He stated his confidence that Mr. Clarkson would put those personal convictions aside and "do his utmost to uphold the laws of the state and our constitution because that is the oath he will take, and he will take it very seriously." He declared that these qualities would serve Mr. Clarkson well as attorney general, and he offered his endorsement to Mr. Clarkson.

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CHAIR CLAMAN opened public testimony.

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KARYN WARNER said that she was strongly opposed to the confirmation of Kevin Clarkson as attorney general. She pointed out that, although testimony by Mr. Clarkson had stated that only 10 percent of his case work had been on controversial social issues, "that's 10 percent too much." She declared that Alaskans deserved an Attorney General who would uphold the constitutionally protected rights of all, including reproductive and sexual health access, education, and equal rights for the LGBTQ [lesbian, gay, bisexual, transgender, and queer] Alaskans. She directed attention to Mr. Clarkson's application to the Alaska Supreme Court and his rating of 2.7 by the Alaska Judicial Council, which she interpreted as between sufficient and acceptable on the scale. She opined that Alaskans deserved someone who was more than only bordering on acceptable.

REPRESENTATIVE LEDOUX asked about the cases in which Mr. Clarkson represented "the side that you did not agree with. She asked Ms. Warner whether anyone should have represented that side.

MS. WARNER replied, "yes, I do. That is part of the beauty of our court system is the fair and effective testimony for both sides."

REPRESENTATIVE LEDOUX asked about the concern for representation by Mr. Clarkson, when Ms. Warner had expressed support for representation by someone.

MS. WARNER opined that it was "because of his history, in terms of those cases." She shared her employment history as a sexual assault examiner and expressed her strong support for the importance of qualified educators teaching sexual health, reproduction, and healthy relationships in the schools.

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BESSIE ODAM declared that the position of Attorney General required the utmost integrity toward all Alaskans. She offered her belief that "it was less than acceptable to have an appointee whose work has been marginally discriminatory." She stated that Alaskans should be doing all that can be done to support the LGBTQ community. She declared that these were human rights which could not be jeopardized. She stated that Alaskans should be represented without regard to sexuality or gender and declared a need for the Attorney General to be fair and just, and not driven by religious ideologies. She asked that the committee vote no on this confirmation.

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ZHENIA PETERSON stated that she was testifying in opposition to the nomination of Mr. Clarkson as Attorney General. She said that Mr. Clarkson had shown disregard for many Alaskans. She declared that the Attorney General had a clear role for protecting the constitutional rights of Alaskans, noting that his rating for the Supreme Court nomination had stated that he was too biased. She added that Mr. Clarkson had used religious liberty as a means of denying Alaskans reproductive health care and access to sex education. She emphasized that all students should have access to comprehensive, medically accurate [indisc] sex education. She pointed out that Mr. Clarkson had supported denial of services to transgender women, and that he supported an amendment to the Alaska State Constitution to ban same sex marriage. She said that this was not looking to the best interests of all Alaskans, and she encouraged rejection of this nomination.

[2:16:58 PM](#)

ROBIN SMITH stated that she was opposed to the nomination of Mr. Clarkson for Attorney General. She said that it was necessary

to have a moderate attorney in this role, pointing out that Mr. Clarkson's religious views "put him outside the norm of the standard Alaskan and puts him at odds with the Alaska Constitution." She expressed her concern for the impact of his personal beliefs on the Alaskans that he would represent. She stated that Mr. Clarkson was "hostile to equal rights for the LGBTQ community. He has worked to change the non-discrimination law in Anchorage and opposed same sex marriage in Alaska." She added that Mr. Clarkson had worked to deny Muslims and Jews participation with the invocations at the Kenai [Peninsula] Borough meetings. She reported that Alaska had a high rate of sexually transmitted infections, rapes, and sexual assault. Although one way to reduce these was to offer teens comprehensive sex education which included subjects such as consent and respect, she stated that Mr. Clarkson had worked to restrict access to sexual education. She reminded the committee that, although women had the right to a legal abortion in Alaska, Mr. Clarkson had actively worked to restrict abortions. She declared that the Attorney General held "tremendous power in the Department of Law." She questioned whether an LGBTQ, a transgender person, or a woman seeking an abortion would trust that Mr. Clarkson "would uphold their rights as forcefully or use as much financial resources as he would to defend a white, straight, pro-life Christian." She stated that "Alaska deserves a better AG [Attorney General]." She offered her belief that having men testify first was inappropriate and asked that the committee realize that "attorneys are not more important than women or anybody else."

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LIN DAVIS stated her opposition to the nomination because Mr. Clarkson's "discriminatory efforts" had done her family harm. She reported that, as a state worker, she had been unable to enroll her wife in health benefits for almost 12 years. She referenced statewide testimony for protection to the LGBTQ community, pointing out the vulnerability of this community. She shared that Mr. Clarkson did not give her hope that there would be support for equal protection. She urged the committee not to confirm the nomination.

[2:22:36 PM](#)

ALYSON CURREY, Legislative Liaison, Planned Parenthood Votes Northwest, stated that Planned Parenthood was in opposition to the nomination of Mr. Clarkson for Attorney General. She said that based on their experience, there was not a trust that Mr.

Clarkson would uphold the state constitution for all Alaskans. She expressed her agreement with earlier testimony that Alaska deserved an Attorney General who would advocate for the constitutionally protected rights of all people and not elevate the rights of one group over all others. She reported that throughout his legal career, Mr. Clarkson had "elevated religious freedom rights above other basic human rights and needs," citing examples for creating a family with the person you love or "controlling one's own body free of discrimination." She relayed that Mr. Clarkson had consistently shown a disregard for the reproductive and sexual health of Alaskans, as well as a disregard for the Alaska State Constitution. She referenced earlier testimony which stated that he had "spearheaded unsuccessful lawsuits supporting laws that would have rolled back the right to privacy for Alaskans." She pointed out that these anti-abortion laws, as well as the parental notification law, were correctly deemed unconstitutional by the Alaska Supreme Court. She added that Mr. Clarkson had an unacceptable record for opposing equal rights for the LGBTQ community. She emphasized that "no one should be denied access to housing, employment, or public accommodations in a community, based on who they are or who they love." She stated that Mr. Clarkson's opposition to reproductive rights and equal protections for LGBTQ individuals demonstrated that he was unfit for the position, adding that he could not be trusted to uphold protections for basic human rights or uphold the state constitution. She urged the committee to reject the nomination.

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REPRESENTATIVE LEDOUX asked whether there should be representation for those not in favor to those positions such as LGBTQ or reproductive rights.

MS. CURREY acknowledged that there was a vast array of beliefs for reproductive freedom and LGBTQ rights and she expressed her respect for those people who represented "the other side." She declared that she would always fight for access to health care, housing, employment, education, and public accommodations for all people, no matter who a person was or who they loved.

REPRESENTATIVE LEDOUX asked whether it was a dangerous precedent to declare against a candidate because of disagreement to a position on LGBTQ or abortion rights. She pointed out that preclusion of Mr. Clarkson based on his representation for a side to which Ms. Currey did not agree was also an argument that

could be used for a candidate with whom Ms. Currey agreed on the same issues.

MS. CURREY offered her belief that, as a member of the public, it was a right to voice concern and opposition for any candidate. She acknowledged that the legislature would make the decision for confirmation. Pointing out that the precedent had already been set, she offered two examples of prior nominees not confirmed because of their beliefs: an appointee to the Board [of Certified] Direct-Entry Midwives not confirmed because of her employment by Planned Parenthood and an appointee to the Human Rights Commission not confirmed because of his gender identity. She asked that the committee consider all views for the qualifications of appointees.

[2:29:08 PM](#)

STACEY LUCASON declared that, although Mr. Clarkson may be a good person and a good lawyer, he was an inappropriate choice for Attorney General. In response to an earlier query by Representative LeDoux as to why question the confirmation for someone who was a religious radical and defended certain positions, she emphasized that the Attorney General was responsible for serving all Alaskans and had to be more centrist. She declared that the confirmation of someone radical as the Attorney General was a declaration of support for some Alaskans, in this case, specifically white Christian Alaskans over all others. She stated that this was not appropriate and not a way for the state "to affirm that these rights are afforded to all citizens of the state instead of just a few." She offered her belief that the candidate, based on his record and his actions, did not uphold the Alaska State Constitution for all Alaskans. She offered an example of Mr. Clarkson "standing with Jim Minnery in a discriminatory organization, founding a discriminatory organization, that advocates against rights for some people and elevates specific rights above others." She stated that these actions say that this person should not be trusted to act in a non-partisan way and treat everyone equally.

[2:31:30 PM](#)

REPRESENTATIVE EASTMAN asked if she was aware the US Supreme Court had ruled that there was not to be any religious test administered to an appointee for the position of attorney general.

MS. LUCASON acknowledged that she was not suggesting the implementation of a religious test to any individual; however, she suggested a look at a person's record for the rights they have upheld and the choices they have made in order to determine the candidate's ability to consistently uphold the law and the rights for all citizens. She added that, in the case of Mr. Clarkson, this could be viewed through the lens of religion.

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DARIO NOTTI stated that he was in opposition to the nomination. He opined that Mr. Clarkson was always on the side opposing the rights of LGBTQ and added that discrimination was not allowed based on religion. He offered his belief that, if Mr. Clarkson could not fairly represent both sides, he could not be a fair attorney general.

[2:34:46 PM](#)

MIKE COONS, President, Greater Alaska Chapter of the Association of Mature American Citizens (AMAC), declared that he fully supported the confirmation of Mr. Clarkson for attorney general, stating that this was about the law, as written by the Alaska State Legislature, the U.S. and Alaska State Constitutions, and enforcement of the rule of law. He added that any reference to Mr. Clarkson's religious beliefs or his past work as a lawyer were a violation of "Article 6 in the US Constitution, which reads in part "no religious tests shall ever be required as a qualification to any office or public trust under the United States."" He declared the need for a "person of strength who will stand for our state constitution... " He added that the Attorney General needed to work with the Alaska US Attorney General in the prosecution of federal felonies, offering an example of the use of firearms by felons in the commission of a crime. He offered his belief that Mr. Clarkson would be an Attorney General who Alaskans could be proud of and have faith that he would uphold the rule of law.

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LYNETTE CLARK reported that Mr. Clarkson had proven where and how he stood, and what he believed in: the Alaska State Constitution, the US Constitution, and the Bill of Rights. She said that Mr. Clarkson was more than qualified and would "make a fine attorney general." She declared that, with the condition of the state, there was a need for "a knight in shining armor."

[2:39:20 PM](#)

CRIS EICHENLAUB stated his support for Mr. Clarkson. He stated that the main objective was the rule of law and justice for all. He opined that he had no doubt that Mr. Clarkson would not support any special interest.

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CHAIR CLAMAN closed public testimony.

[2:40:54 PM](#)

REPRESENTATIVE EASTMAN asked if Mr. Clarkson would make the determination whether a case would move forward for prosecution.

MR. CLARKSON replied, "not in every case."

REPRESENTATIVE EASTMAN asked if the governor was able to veto a case in which the Attorney General wanted to move forward.

MR. CLARKSON offered his belief that the governor would not play a direct role in criminal cases, noting that only some controversial, high profile issues "might actually make it to my desk." Regarding other cases including involvement of Alaska's interests, he opined that there could be a discussion between the governor and the attorney general. In controversial cases, he would involve the governor's office to ensure they were all in line. He offered his belief that the governor, in the end, could make a policy call to pursue certain issues.

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CHAIR CLAMAN pointed out that a significant source of revenue for the state had been lawsuits by the Department of Law and the Department of Natural Resources against oil companies for tax issues, noting that the oil companies hired the best lawyers and accountants. He asked Mr. Clarkson for his perspective on whether the oil companies could be trusted on these tax matters, or should the state have a strong, aggressive Department of Law to pursue the interests of the state for tax recovery.

MR. CLARKSON offered his belief that the state did need a strong, talented Department of Law in order to respond. He pointed out that the [oil] companies would "do what they're supposed to do, which is to look out for their own financial interests. They're not lookin' out for our financial

interests." He acknowledged that there was occasional partnership toward common goals. He opined that, for tax issues, it was necessary for a strong Department of Law, adding that there currently was "a lot of talent in our department."

[2:45:13 PM](#)

REPRESENTATIVE KOPP offered his belief that Mr. Clarkson had uniform support for his integrity from those people with whom he had professionally served the longest, pointing out that Mr. Clarkson had been referenced as "the least dogmatic, most soft spoken and thoughtful lawyer [Mr. Sender] had ever known, and with some of the best ethics of anybody he had ever practiced with."

[2:47:57 PM](#)

REPRESENTATIVE SHAW shared his experience of meeting and working with people he had fought against in Vietnam, and he stated his appreciation for the plaudits to the integrity of Mr. Clarkson.

[2:48:49 PM](#)

CHAIR CLAMAN, in response to an earlier query from a testifier, explained that those invited to testify were given the first opportunity to speak.

[2:49:29 PM](#)

REPRESENTATIVE LEDOUX moved to advance the confirmation of Kevin Clarkson, appointee as Attorney General, Department of Law, to the joint session of the House and Senate for consideration. There being no objection, the confirmation was forwarded. She reminded the committee that signing the reports regarding appointments in no way reflects individual members' approval or disapproval of the appointees, and that the nominations are merely forwarded to the full legislature for confirmation or rejection.

[2:50:04 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 2:50 p.m.