

ALASKA STATE LEGISLATURE
HOUSE STATE AFFAIRS STANDING COMMITTEE

March 5, 2019

3:03 p.m.

MEMBERS PRESENT

Representative Zack Fields, Co-Chair
Representative Jonathan Kreiss-Tomkins, Co-Chair
Representative Gabrielle LeDoux
Representative Adam Wool
Representative Sarah Vance
Representative Laddie Shaw

MEMBERS ABSENT

Representative Andi Story

COMMITTEE CALENDAR

CONFIRMATION HEARING(S)

Commissioner, Department Of Military & Veterans' Affairs

General Torrence Saxe - JBER

- CONFIRMATION(S) ADVANCED

Commissioner, Department Of Administration

Kelly Tshibaka - Anchorage

- HEARD

HOUSE JOINT RESOLUTION NO. 9

Requesting the United States Secretary of the Treasury to mint not less than 5,000,000 \$1 coins honoring Elizabeth Peratrovich under the Native American \$1 Coin Act.

- HEARD & HELD

HOUSE BILL NO. 57

"An Act relating to expanding the period in a day during which an employed child under 16 years of age may perform work in the summer; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 15

"An Act relating to sentencing for vehicle theft in the first degree."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HJR 9

SHORT TITLE: ELIZABETH PERATROVICH COMMEMORATIVE COIN

SPONSOR(S): REPRESENTATIVE(S) JOHNSON

02/27/19 (H) READ THE FIRST TIME - REFERRALS
02/27/19 (H) STA
03/05/19 (H) STA AT 3:00 PM GRUENBERG 120

BILL: HB 57

SHORT TITLE: CHILD LABOR HOURS

SPONSOR(S): REPRESENTATIVE(S) WILSON

02/20/19 (H) READ THE FIRST TIME - REFERRALS
02/20/19 (H) STA, L&C
03/05/19 (H) STA AT 3:00 PM GRUENBERG 120

BILL: HB 15

SHORT TITLE: SENTENCING: VEHICLE THEFT

SPONSOR(S): REPRESENTATIVE(S) FIELDS

02/20/19 (H) PREFILE RELEASED 1/7/19
02/20/19 (H) READ THE FIRST TIME - REFERRALS
02/20/19 (H) STA, JUD, FIN
03/05/19 (H) STA AT 3:00 PM GRUENBERG 120

WITNESS REGISTER

GENERAL TORRENCE SAXE, Commissioner Designee
Department of Military & Veterans' Affairs (DMVA)
Joint Base Elmendorf-Richardson (JBER), Alaska

POSITION STATEMENT: Testified as commissioner designee to the Department of Military & Veterans' Affairs (DMVA).

BRYAN MCPHERSON
Air National Guard
Texas

POSITION STATEMENT: Testified in support during the confirmation hearing on General Torrence Saxe.

COLONEL SAM KEENER
Tennessee Air National Guard
Tennessee

POSITION STATEMENT: Testified in support during the confirmation hearing on General Torrence Saxe.

RICK CAVENS
Retired Air National Guard
Wasilla, Alaska

POSITION STATEMENT: Testified in support during the confirmation hearing on General Torrence Saxe.

KELLY TSHIBAKA, Commissioner Designee
POSITION STATEMENT: Testified as commissioner designee to the Department of Administration.

SCOTT DAHL
Washington, D.C.

POSITION STATEMENT: Testified in support during the confirmation hearing on Kelly Tshibaka.

MICHELE HARTLIN
Nikiski, Alaska

POSITION STATEMENT: Testified in support during the confirmation hearing on Kelly Tshibaka.

KADITA TSHIBAKA
Virginia

POSITION STATEMENT: Testified in support during the confirmation hearing on Kelly Tshibaka.

JENNIFER EASON
Washington, D.C.

POSITION STATEMENT: Testified in support during the confirmation hearing on Kelly Tshibaka.

BRANDY CUNNINGTON
Anchorage, Alaska

POSITION STATEMENT: Testified in support during the confirmation hearing on Kelly Tshibaka.

NIKI TSHIBAKA
Anchorage, Alaska

POSITION STATEMENT: Testified in support during the confirmation hearing on Kelly Tshibaka.

CHRISTINE HUTCHISON

Kenai, Alaska

POSITION STATEMENT: Testified in support during the confirmation hearing on Kelly Tshibaka.

AMALIA DOLAND

Oklahoma

POSITION STATEMENT: Testified in support during the confirmation hearing on Kelly Tshibaka.

LYNN HALLFORD

Palmer, Alaska

POSITION STATEMENT: Testified in support during the confirmation hearing on Kelly Tshibaka.

JANE KASSUBE

Anchorage, Alaska

POSITION STATEMENT: Testified in support during the confirmation hearing on Kelly Tshibaka.

JARRED LEWIS

Anchorage, Alaska

POSITION STATEMENT: Testified in support during the confirmation hearing on Kelly Tshibaka.

JIM DRAKE

Anchorage, Alaska

POSITION STATEMENT: Testified in support during the confirmation hearing on Kelly Tshibaka.

JESSICA CHULUZ

Arizona

POSITION STATEMENT: Testified in support during the confirmation hearing on Kelly Tshibaka.

JULIA HARRISON

Virginia

POSITION STATEMENT: Testified in support during the confirmation hearing on Kelly Tshibaka.

DOUGLASS STEVENS

Washington DC

POSITION STATEMENT: Testified in support during the confirmation hearing on Kelly Tshibaka.

KEVIN HAUSMAN

California

POSITION STATEMENT: Testified in support during the confirmation hearing on Kelly Tshibaka.

AMY HANSEN
Virginia

POSITION STATEMENT: Testified in support during the confirmation hearing on Kelly Tshibaka.

JOAN CORR
Soldotna, Alaska

POSITION STATEMENT: Testified in support during the confirmation hearing on Kelly Tshibaka.

LORREL BROWN, MD
Louisville Kentucky

POSITION STATEMENT: Testified in support during the confirmation hearing on Kelly Tshibaka.

BRENT BREINING
Washington DC

POSITION STATEMENT: Testified in support during the confirmation hearing on Kelly Tshibaka.

REPRESENTATIVE DELANA JOHNSON
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Introduced HJR 9, as prime sponsor.

MARCY HERMAN, Staff
Representative DeLana Johnson
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HJR 9 on behalf of Representative Johnson, prime sponsor.

REPRESENTATIVE TAMMIE WILSON
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 57, as prime sponsor.

GREY MITCHELL, Director
Division of Workers' Compensation (DWC)
Department of Labor & Workforce Development (DOLWD)
Juneau, Alaska

POSITION STATEMENT: Provided information during the hearing on HB 57.

ACTION NARRATIVE

[3:03:02 PM](#)

CO-CHAIR ZACK FIELDS called the House State Affairs Standing Committee meeting to order at 3:03 p.m. Representatives LeDoux, Wool, Vance, Shaw, Kreiss-Tomkins, and Fields were present at the call to order.

CONFIRMATION HEARING(S)

[3:03:51 PM](#)

CO-CHAIR FIELDS announced that the first order of business would be confirmation hearings.

Commissioner, Department of Military & Veterans' Affairs

[3:04:07 PM](#)

GENERAL TORRENCE SAXE, Commissioner Designee, Department of Military & Veterans' Affairs (DMVA), began by announcing that the National Guard Bureau has requested through Governor Michael J. Dunleavy that 10 Alaska National Guard soldiers be deployed to Southwest U.S. to provide U.S. Army aviation support, with a 45- to 60-day rotation beginning April 1, 2019. He added that mobilization was voluntary.

[3:04:53 PM](#)

CO-CHAIR KREISS-TOMKINS asked whether there are any instances of similar deployment of the Alaska National Guard ("the Guard").

GENERAL SAXE responded that Alaska's Guard has not been engaged in this way previously; however, the Guards of other states have been. He said that since it is a voluntary mobilization, the governor will remain the commander-in-chief and the troops will remain under [Code of Federal Regulations (CFR)] Title 32.

CO-CHAIR KREISS-TOMKINS referred to the size of the deployment - ten soldiers - and asked, "Who made that decision?"

GENERAL SAXE answered that the governor made that decision.

[3:06:22 PM](#)

REPRESENTATIVE LEDOUX asked if the deployment was the result of the national emergency declaration [made by President Donald J. Trump under the National Emergencies Act (NEA) of 1976] at the southern border.

GENERAL SAXE replied, "At least indirectly." He said that with a federal emergency you can involuntarily mobilize the troops to be deployed under federal status; however, it is not the case in this situation. The Alaska National Guard troops will be deployed under "state" status; therefore, the commander-in-chief will be the governor. If it were a federal deployment, the President would be the commander-in-chief.

REPRESENTATIVE LEDOUX asked whether the deployment would change if the U.S. Congress declared that there was no emergency on the border.

GENERAL SAXE said, "It would not."

CO-CHAIR FIELDS asked whether there are state costs or preparedness impacts associated with the deployment.

GENERAL SAXE replied that there would be no impacts and [this deployment] would not impact future deployments. He maintained that Alaska would have adequate troops and equipment to address any event and for the "fire season."

CO-CHAIR FIELDS asked whether [the deployment] would impair Alaska's ability to perform search and rescue.

GENERAL SAXE responded, "It would not."

GENERAL SAXE reviewed his background and experience. He stated that he has been in the military about 30 years; he enlisted in the army in 1989. He was enlisted for five years, became an officer, was on active duty for nine years, and joined the Alaska Air National Guard (AK ANG) in 2004.

GENERAL SAXE relayed that he started his military career working with Intercontinental Ballistic Missiles (ICBMs) on active duty; his background is space and missiles. He has been stationed at Clear Air Force Station (AFS), Eielson Air Force Base (AFB), and twice at Joint Base Elmendorf-Richardson (JBER). He has been a commander seven times. He stated that he is very careful to always "take care of the people because they take care of the mission." He related that he was the commander at Clear AFS,

commander for the 168th Wing at Eielson AFB, and most recently commander of AK ANG.

3:09:23 PM

REPRESENTATIVE WOOL mentioned that he understood that General Saxe was not a pilot but has been commander of various wing units.

GENERAL SAXE responded that he is not a pilot but was the first non-pilot to command the 168th Wing. He explained that the 168th Wing has a space mission at Clear AFS and has the refuelers. He mentioned that the newest refueler at the station was made in 1963, and if the follow-on KC-46 [refueler] does go to Eielson AFB, AK ANG would like to be involved.

3:10:06 PM

CO-CHAIR KREISS-TOMKINS asked General Saxe to state his goals for the direction of the Guard, if confirmed. He also asked how General Saxe would carry forth the work initiated by his predecessor in terms of re-centering the culture of the Guard, especially as it relates to sexual harassment and abuse.

GENERAL SAXE relayed three major points to describe his goals for the direction of the Guard. He expressed his desire to shift the focus more on state operations. The National Guard is the only entity in the Department of Defense (DoD) that has both a state and federal mission. The [JBER] staff is charged with preparedness for a national disaster. He expressed his belief that more focus is needed on that mission.

GENERAL SAXE stated that his second point involves focusing on the people; he has no tolerance for toxic behavior or toxic leadership. He stated that his predecessor addressed that, but he intends to refine that effort. He stated that he has zero tolerance for sexual harassment and sexual assault. He mentioned that his wife told him about a situation she had in the U.S. Army involving harassment; that story impressed upon him that he must be the one to make sure that he is a good example, and everyone under his command is following the same rules as well.

GENERAL SAXE moved on to the third goal, which is to focus on future missions. He relayed that the largest mission currently involves the F-35, the KC 46, and the long-range discrimination radar (lrdr) at Clear AFS. He explained that the operation at

Clear AFS is a spotter-sniper relationship; that is, personnel at Clear AFS are to spot inbound missiles and personnel at Fort Greely [U.S. Army launch site] are to shoot them down. Both missions are executed by the Guard; he expressed his desire to see the operation enhanced.

GENERAL SAXE continued by saying, "As far as centering the culture, I have to be a good example, and I have to hold those people below me to the same high standard." He recited his rules for sexual harassment: never talk about sex in any aspect; don't say anything inappropriate; and do not touch anyone inappropriately. He maintained that every issue that he has addressed with either sexual assault or sexual harassment has come down to one of two things: something has been said inappropriately or something has been done inappropriately. He added that he must hold people accountable who do not hold their troops accountable.

[3:13:00 PM](#)

CO-CHAIR KREISS-TOMKINS asked for General Saxe's assessment of the marginal change in the Guard from the widely reported toxic culture of 2013-2014 to the present and the room for improvement in the future.

GENERAL SAXE maintained that there is always room for improvement. He stated that the Guard has sexual assault response coordinators and victim advocates. He asserted that to address the [toxic] culture, it is necessary to have a leadership program in place, and now the Guard does. He relayed that senior leaders just came together in a 200-person event to discuss these issues and answer questions. He maintained that the Guard will have that program going forward so that people understand that the Guard is looking for leaders who are good examples, and if they oversee others, a higher standard is expected.

[3:14:40 PM](#)

CO-CHAIR FIELDS offered that one issue with the Guard "scandal" was that victims had a difficult time getting their issues heard at a high enough level to address those concerns. He added that chaplains played a role in trying to elevate those concerns. He asked, "How do you make sure that you're going to know when a problem exists, recognizing that sometimes it can be hard to get that problem noticed - jumping up in the command structure?"

GENERAL SAXE responded that the guard has a system in place with the sexual assault response coordinator; however, if the report [of the incident] is restricted because the victim does not want the general to know, then he may not know of it. He maintained that there is an option for the victim to make an unrestricted report, in which case General Saxe will become involved and give assistance. He stated that the Guard tries very hard to respect the wishes of the victim. For a victim who comes forward, whether the report is restricted or unrestricted, the incident is investigated to the extent possible with the information given and not one will be ignored.

[3:15:54 PM](#)

REPRESENTATIVE SHAW shared that General Saxe is extremely interactive with his troops, which makes the difference in excellent leadership. He maintained that it is through that interaction that a leader becomes aware of soldiers' issues. He cited General Saxe's career in working his way up through the ranks.

REPRESENTATIVE WOOL referred to the biography of General Saxe, included in the committee packet, which has the general listed as Colonel Saxe, and asked when he received a promotion.

GENERAL SAXE responded, the 28th of December [2018].

REPRESENTATIVE WOOL asked for a clarification of definitions - National Guard versus Air National Guard.

GENERAL SAXE explained that the National Guard refers to the U.S. Army's National Guard and the Air National Guard refers to the U.S. Air Force.

REPRESENTATIVE WOOL mentioned that General Saxe has mostly served in the U.S. Air Force and asked whether the general anticipated a cultural conflict as commander of both components of the Guard - "Army" and "Air".

GENERAL SAXE maintained that he does understand both cultures. He asserted that he has a very good working relationship with the Army; he knows the Air very well with 15 years of experience within Alaska. He said that he has reported to DMVA that his focus for the military will be on the Army. He maintained that he will do physical training with the infantry, and he will shoot with the military police (MPs). He relayed, "Those are

things I need to do right now to make sure they see me as a leader for both the Army and the Air."

CO-CHAIR FIELDS referred to reports of federal funds being spent on an emergency border wall project along the southern border [of the U.S.] and mentioned that it is possible that some of those funds could be diverted from military construction projects in Alaska. He asked for comment on when Alaska would know if the funds will be transferred, from which projects, and implications for important Alaska projects.

GENERAL SAXE responded that he would like to do more research on that question, but his focus would be on the projects that affect DMVA.

CO-CHAIR FIELDS asked him to follow up for the committee regarding the implications to Alaska of the funding shift.

REPRESENTATIVE WOOL conjectured that the F-35 project in Fairbanks is the number one military construction project in the state; he asked whether General Saxe is aware of any risks to that project.

GENERAL SAXE replied that is a question for active duty; he is trying to get the Guard involved in flying and repairing the F-35. He added, "The overall question - about how would it be impacted - if money is used for military construction, or "milcon," then that might be the only tether, but that's certainly outside of my purview and outside of the DMVA."

[3:21:06 PM](#)

CO-CHAIR FIELDS opened public testimony during the confirmation hearing on the commissioner of DMVA.

[3:21:29 PM](#)

The committee took a brief at-ease at 3:22 p.m.

[3:22:14 PM](#)

BRYAN MCPHERSON, Air National Guard, related his experience working with General Saxe: they worked together in Security Forces and on the Exercise Evaluation Team (EET), which was responsible for testing and enforcing standards for the Clear AFS. He learned that General Saxe is tough and has high standards. He attested that he has observed throughout General

Saxe's career that "whatever he expects of you, he expects more of himself, and he lives up to those high standards." He said that General Saxe is very calm and thoughtful; he sees all sides of issues; he has a calm demeanor when people and situations are tense and can make tough decisions. He expressed that General Saxe never forgets that his decisions affect people's lives, and he ensures that the resources are there to take care of them.

[3:25:23 PM](#)

COLONEL SAM KEENER, Tennessee Air National Guard, stated that he served with General Saxe at Clear AFS. He relayed that he found General Saxe to be a mission focused leader; he was always concerned about his people; he had high standards, which he expected of others and of himself; and he had great integrity. He further stated that General Saxe has an outstanding reputation both among the National Guard leadership and the active duty U.S. Air Force leadership. He maintained that General Saxe would do an outstanding job as adjutant general.

[3:26:58 PM](#)

RICK CAVENS, Retired Air National Guard, stated that he has been a pastor for 34 years - 30 of those years in Alaska - and an AK ANG chaplain for 22 years. He relayed that General Saxe was one of his favorite commanders of all the commanders under which he served. He opined that General Saxe was honest, caring, open, and dedicated. General Saxe exemplifies the U.S. Air Force core values of integrity, service, and excellence. As chaplain under General Saxe, Mr. Cavens never doubted the General's tactical expertise, his operational competence, and his strategic vision.

MR. CAVENS referred to the attributes listed in the Air Force Handbook. He relayed that General Saxe strove to keep others from risk - physical and emotional; he looked for the best people to work with him to solve issues; he always responded quickly and timely. General Saxe demonstrated resilience; he was always educating himself and had a deep understanding of every job on the base he commanded. He quoted General Saxe, who once told him, "I treat the people here as I do my own family, when they are in crisis." Mr. Cavens maintained that was due to love and loyalty.

MR. CAVENS said that General Saxe is an amazing, talented athlete and he is a man of faith. General Saxe utilizes teamwork, communication, being connected, and seeking social support as tools for accomplishing his mission and solving

problems. He is a team player who strives to engage talented and trusted people to work with him to achieve success. He maintained that General Saxe would be an asset as commander for the Alaska National Guard.

[3:34:01 PM](#)

REPRESENTATIVE SHAW stated that the House State Affairs Standing Committee has reviewed the qualifications of the governor's appointee and recommends that the confirmation of General Torrence Saxe be forwarded to a joint session for consideration. He reminded the committee that doing so does not reflect intent by any of the members to vote for or against this individual during any further sessions for the purposes of confirmation.

CO-CHAIR FIELDS relayed that the confirmation is advanced from the committee.

[3:34:38 PM](#)

The committee took an at-ease from 3:34 p.m. to 3:37 p.m.

[3:36:46 PM](#)

CO-CHAIR FIELDS moved on to the second item under confirmations hearings.

[3:37:02 PM](#)

The committee took a brief at-ease at 3:37 p.m.

Commissioner, Department of Administration

[3:37:42 PM](#)

KELLY TSHIBAKA, Commissioner Designee, stated that as a child she developed her values for accountability and fiscal responsibility by helping her mother, who was an auditor. She mentioned that she learned the value of a united work team from her father, who was an electrician and union member. She added that she also learned to question authority in a responsible and respectful way. She related experiences growing up in Alaska. She stated that she graduated from Steller [Secondary School], attended Texas A&M University, worked for Senator Ted Stevens on the U.S. Senate Committee on Appropriations, attended Harvard Law School, and joined the U.S. Department of Justice (USDOJ) Office of the Inspector General (OIG).

COMMISSIONER TSHIBAKA relayed that staff at OIG were responsible for promoting efficiency and effectiveness in detecting and deterring waste, fraud, and abuse through audits, investigations, inspections, and multi-disciplinary reviews. She maintained that the values that her parents instilled in her - accountability, fiscal responsibility, team unity, and questioning authority - were a perfect alignment for an OIG career. At USDOJ OIG she investigated complex cases, like the abuse of Arabs and Muslims detained after the [the terrorist attacks of September 11, 2001]. The case was heard before the U.S. Supreme Court. She oversaw audits, investigations, and inspections of other USDOJ programs and activities; she helped to manage 400 employees nationwide.

COMMISSIONER TSHIBAKA stated that after her work at USDOJ OIG, she was the first hire at the Office of the Director of National Intelligence (ODNI) OIG. The ODNI OIG was established after the 9/11 Commission Report [of 2004] found the need for a federal agency to oversee all intelligence community agencies, including the Department of Defense (DoD), the Central Intelligence Agency (CIA), the National Security Administration (NSA), the Federal Bureau of Investigations (FBI), the U.S. Department of State (USDOS), and about 12 other agencies. She explained that she served as legal counsel in the office and co-lead the creation and establishment of the office. In that role she investigated misconduct by presidential appointees, participated in projects such as improving the process for putting people's names on the terrorist watchlist, and evaluated the ODNI agency's culture and effectiveness. She briefed the Director of National Intelligence on agency projects. She advocated successfully for legislation that established the inspector general in statute, which she accomplished in collaboration with inspectors general, general counsels, congressional oversight committees, and White House staffers in a five-year process.

COMMISSIONER TSHIBAKA stated that in her next position, she served as the special advisor in the ODNI Office of Civil Liberties, Privacy [and Transparency], where she participated in developing guidance for the intelligence community on civil liberty and privacy issues, collaborative electronic environments, use of social media information, and the development of research projects. She relayed that after that position, she joined the Federal Trade Commission (FTC) OIG where she served as the chief investigator and legal counsel and later as the acting inspector general. She led the team to complete high-risk core mission reviews of an agency with a \$300

million budget and 1,200 employees. She cited her achievements: examined effectiveness of FTC in protecting consumers; investigated allegations made by Congressman Darrel Issa, then chairman of the Committee on Oversight and Government Reform, regarding the number of FTC successful enforcement actions; and performed information security audits, financial statement audits, performance inspections, and investigations of misconduct.

[3:42:33 PM](#)

COMMISSIONER TSHIBAKA offered that most recently she founded and established the position of Chief Data Officer at the U.S. Postal Service (USPS) OIG. As the Chief Data Officer, she served on a nine-person executive team responsible for oversight of the USPS, which generates \$70 million in revenue, has over 620,000 employees and \$13 billion in contracts, and moves over 5 billion parcels of mail every year. She said that in contrast, the OIG has just over 1,000 employees and about \$250 million; therefore, the most effective way to perform oversight of USPS is to use data analytics. Use of data analytics led to more than \$1.9 billion in financial impact, \$179 million in cost avoidances, 225 criminal case outcomes, and enabled OIG to do more with less, not less with less. She reported that her office led innovative efforts to identify illegal opioids in more than 5 billion parcels delivered annually. She maintained that this unprecedented use of data analytics substantially advanced multi-agency efforts to prevent drug trafficking. She asserted that her OIG background would shape how she approaches being commissioner of DOA. She offered that she would promote efficiency and effectiveness, pursue innovations and cost savings, and achieve results.

COMMISSIONER TSHIBAKA continued by saying that she met her husband in law school; they intended to become great lawyers and pay off their law school debts; however, God really changed their hearts. She said, "We are Christians, and our faith really took a different turn in those early years of our career. Instead of becoming leaders of all, we wanted to become servants of all." She stated that they became pastors and started a church that focuses on developing leaders, healing people from trauma and addiction, and helping orphans, refugees, and survivors of victims of human trafficking. She said, "Whether it's people or it's organizations, I love helping people become who they've always wanted to be." She maintained that organizations are just collections of people with a purpose; she enjoys helping organizations become the best that they can be.

COMMISSIONER TSHIBAKA stated that in preparing for the confirmation hearings, she had the opportunity to meet with the members of the committee in advance; the meetings have given her the chance to learn about issues of interest to the members and answer questions on a wide range of topics. She maintained that the majority of the meetings have been enjoyable and productive; however, in her meeting with [Co-Chair] Fields, she was asked questions related to her religious beliefs: how she would express her Christian faith at work; how her Christian faith would affect her implementation of laws and policies; and if she would separate her faith life from her work life. She testified that he told her to be prepared to answer these questions during today's hearing.

COMMISSIONER TSHIBAKA expressed her desire to address the questions openly and publicly. She stated:

I have a strong and established 16-year federal career of cultivating diverse teams and of faithfully implementing federal laws, regulations, and policies. I would not have been entrusted with multiple senior-level positions, nor maintained my top secret sensitive compartmented information (SCI) security clearance, if I had engaged in religious expression that was inappropriate, if I had forced my religious beliefs on others, or if I had contravened laws and policies with which I disagreed. As further testament to my leadership, the committees have received several letters of endorsement from inspectors general who've supervised me throughout my career, as well as, from some of my direct reports, many of whom do not share my religious views.

COMMISSIONER TSHIBAKA referred to the letters of support from the following individuals, included in the committee packet: the former inspector general of USDOJ [Glenn A. Fine]; the former inspector general of the FTC [Scott Wilson]; and the inspector general of USPS [Tammy L. Whitcomb]. She mentioned that the inspector general of the Department of Labor (DOL) has also endorsed her nomination. She contended that she would not have received these endorsements if she was a leader who used her position or authority to violate other people's civil rights. She said, "In short, throughout my professional career, I have lived out my faith and values in a manner that is true to myself, respectful of others, and consistent with the law."

COMMISSIONER TSHIBAKA maintained that in her last two confirmation hearings before the [Alaska State] Senate, she was asked if she would have the courage to speak up if she believed that Alaska's state leaders were heading in the wrong direction. She responded, "I said I would, and today I am." She maintained that the questions she has been asked about her faith are unconstitutional lines of inquiry that violate her civil liberties - religious liberties enshrined in the text of the U.S. Constitution. She declared that the first amendment protects the freedom of religious expression. Article VI of the U.S. Constitution provides that no religious test shall ever be required as a qualification to any office or public trust under the U.S. The U.S. Supreme Court has explicitly warned against the danger of presuming that a person's faith might present a danger in the context of holding public office. She continued by saying that in *McDaniel v. Paty*, [Supreme Court Justices] Brennan and Marshall wrote, "that the American experience provides no persuasive support for the fear that clergymen in public office will be less careful of anti-establishment interests or less faithful to their oaths of civil office than their unordained counterparts." She cited Article 1, Section 3, of the Alaska State Constitution, which states, "No person is to be denied the enjoyment of any civil or political right because of ... creed" She claimed that in addition, the questions she has been asked violate the spirit of AS 18.80.200; she cited AS.80.210, which explicitly prohibits discrimination based on religion, including religious discrimination in employment. She emphasized that the laws maintain that the Alaska State Legislature has declared it a legislative finding that discrimination against an inhabitant of the state because of religion is a matter of public concern; it not only threatens the rights and privileges of the inhabitants of the state but also threatens the peace, order, health, safety, and general welfare of the state and its inhabitants. She directed the committee members' attention to ["Guidelines of Religious Exercise and Religious Expression"] issued by President Bill Clinton on August 17, 1997, relating to religious expression in the federal workplace; the guidelines have the force of an executive order and have been affirmed by every presidential administration since then, including President Barak Obama. She relayed the guidelines: a supervisor is free to engage in religious expression when it is understood as the personal view of the supervisor and not perceived as coercion of religious or of non-religious behavior. She gave an example: a supervisor may invite coworkers to church events, talk about religion, and hold or attend a Bible study during lunch; he/she cannot, however, order coworkers to attend a religious service or coerce

agreement with his/her views. She expressed her desire to submit for the legislative record both the Guidelines issued by President Clinton and the October 6, 2017, memorandum issued by DOJ, entitled "Federal Law Protections for Religious Liberty."

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COMMISSIONER TSHIBAKA concluded by asserting that her rights, both under the U.S. Constitution and Alaska State Constitution, were violated during her pre-hearing meeting with Co-Chair Fields. She maintained that she harbors no ill will against Co-Chair Fields; however, her hope is that she is the last nominee to come before the legislature to be subjected to such unconstitutional lines of inquiry. She continued:

All employees of Alaska from supervisors to staff, from commissioners to interns, have a protected freedom to express their religion or non-religion. Alaskans rights of free exercise are not limited to the doors of their churches, their synagogues, their mosques, or their temples. They carry those rights with them wherever they go and wherever they are, including in the halls of our state legislature or at the desks of their State of Alaska agencies. Their rights of free exercise of religion have to be honored and protected and observed.

COMMISSIONER TSHIBAKA further stated, "I have found that the greatest diversity in the workforce is created when people are fully free to be their true selves, and it's in the richness of that diversity that trust is formed, and community is fostered, and unity is forged." She said that it is along these lines that some Democratic legislators have asked if I will discriminate against people based on their sexual orientation. She said, "So let me be absolutely clear. I will not engage in such discrimination, nor have I ever engaged in such discrimination." She offered that she has a long career as a senior leader in federal government, in which she has consistently celebrated, embraced, and respected diversity. She maintained that she will continue to live by that standard as the commissioner of DOA.

COMMISSIONER TSHIBAKA concluded her remarks by addressing another question she has received: Why do you want this job? She stated that she believes Alaska is an extraordinary place and is inhabited by an extraordinary and diverse people, but the state is facing an extraordinary crisis. She said, "I was

inspired to come home by the vision of a leader who wants to make our state safer, more prosperous, and fiscally healthy - a leader who wants to turn our extraordinary crises into an extraordinary comeback." She maintained that it was for that reason she submitted her resume and asked the newly elected governor, [Michael J. Dunleavy], "Is there a need for my skillset?" She said, "Quite simply I wanted to come back and help the state I love." She stated that initially she was brought on board in January [2019] as a policy advisor to the governor, overseeing reviews of programs and operations to help make them more efficient and effective. She offered that she was both humbled and honored when the governor asked her to serve as the commissioner of DOA. She expressed her belief that her skills and experience will be more valuable in the role of commissioner of DOA than in the role of policy advisor. She said, "I love Alaska and the people who live here. I came home to help and to serve." She maintained that as commissioner of DOA, she will help the department to become the best that it can be, and in so doing, the state agencies will be able to better serve Alaskans.

[3:53:16 PM](#)

CO-CHAIR FIELDS acknowledged that he did ask Commissioner Tshibaka about her views on homosexuality and her ability to be a manager of a diverse workforce and considered her answer entirely appropriate. He maintained that he was simply looking for her to repeat that on the record to reassure the public. He stated, "I certainly did not apply a religious test or intend to apply a religious test. I respect that there's a wide variety of people who are in our workforce." He expressed, "I guess I'm just disappointed that you made that accusation, because that was not my intent nor is that what I did."

[3:54:06 PM](#)

REPRESENTATIVE VANCE asked the commissioner to speak to her vision for DOA and how that vision would differ from the department in the past.

COMMISSIONER TSHIBAKA relayed that her vision would be to fully implement what the legislature has been attempting to do, which is to make the department effective in providing shared services. She maintained that the legislature has funded, outlined, and tried to implement the effort to make the department efficient in providing excellent customer service and in gaining cost-savings by setting up the Division of Shared

Services of Alaska (SSOA) and centralizing information technology (IT) within the division. She expressed her desire to successfully implement that effort and show results.

COMMISSIONER TSHIBAKA stated that her long-term vision is for DOA to realize cost savings and efficiencies through automation that is successful across the departments and to move DOA into data analytics. She maintained that the state could realize substantial savings, uncover possible fraud, and identify efficiencies not yet realized. She expressed her suspicion that the state is spending money in places it doesn't intend to spend money and, therefore, not able to spend money in places it wants to spend money. She maintained that even a modest data analytics capability inside DOA could reverse that trend.

[3:55:57 PM](#)

REPRESENTATIVE LEDOUX asked for a definition of data analytics and an explanation of what can be done with it.

COMMISSIONER TSHIBAKA said that data analytics is the same as data analysis. She stated that data analytics involves using tools - people with business process knowledge and data scientists - to "bounce data off each other" for inquiry and insight that cannot be achieved with just the human brain. She gave an example from her work at USPS. Through data analytics, staff was able to identify people under the age of 50, who were receiving regular Worker's Compensation payments from the U.S. DOL for soft tissue injuries, such as sprained ankles, for more than five years. She maintained that one does not have a sprained ankle for more than five years if under the age of 50. She explained that using those three data points in a mathematical algorithm and applying that filter to the Worker's Compensation claim data identified several fraud cases that would not have been readily identified with the human eye. She said that the result was that a great deal of money was returned to USPS.

COMMISSIONER TSHIBAKA relayed a second example: It involved developing a complex algorithm using the 26 indicators of contract fraud identified from successful prosecutions, such as cost overruns, vendor changes fees, and missed timelines. The algorithm was applied to the \$13 billion in contracts to determine which ones were high risk on a risk scale and should be investigated and audited. She said, "Data looking at data to tell us in a way that our brain is too simple to understand. You have a problem here. You need to go look at that."

REPRESENTATIVE LEDOUX agreed that it makes sense that someone under a certain age would not be disabled for five years because of a sprained ankle; however, the "eggshell plaintiff" [doctrine] taught in the first year of law school suggests that there are some people who are different, therefore, not committing fraud. She offered that she didn't understand why the human eye could not identify those cases; but even so, assuming a certain number of people fall into the category described, "what do you do next to actually show that they are faking it, as opposed to the eggshell plaintiff."

COMMISSIONER TSHIBAKA replied that the department would have to work with an agent to investigate and validate it. She offered that DOA would need to develop analytics queries to prove there is a match, then work with a trained investigator to assist with proving a fraud case to be referred to the Department of Law (DOL). The department would have to set up a system for working a whole case before starting the process.

REPRESENTATIVE LEDOUX asked for confirmation that there would be an actual person investigating before a person's Worker's Compensation payments are stopped.

COMMISSIONER TSHIBAKA replied, "That's correct."

[4:00:36 PM](#)

REPRESENTATIVE WOOL referred to the breach in Alaska's electoral system during the [2016 presidential] election. He asked if that issue is under DOA's purview; he asked her to provide her thoughts on it.

COMMISSIONER TSHIBAKA responded, "Yes, it falls under our purview, and we are right now working up a request for proposal (RFP) to replace our entire system for the Division of Elections (DOE) in order to upgrade the information security architecture for the computer system."

REPRESENTATIVE WOOL asked whether this upgrade is in DOA's budget, given the state's fiscal restraints and the great expense of software. He stated that the Office of Information Technology (OIT) within DOA has increased its budget to try to consolidate and centralize and asked whether new DOE software is part of its budgeting process.

COMMISSIONER TSHIBAKA expressed her belief that DOE is procuring the software. She said that the need for a budget supplement will be determined after the RFP's are submitted; however, her understanding is that the funds are adequate.

[4:02:22 PM](#)

CO-CHAIR FIELDS mentioned that the state has had fiscal restraints for several years; the commissioner will be inheriting multi-year [employee] contracts; and some state employees have foregone raises for several years. He asked if she intends to honor the contracts.

COMMISSIONER TSHIBAKA answered that she intends to honor the contracts that have already been decided and would not make any changes.

CO-CHAIR FIELDS referred to Commissioner Tshibaka's testimony regarding the investigation of former Congressman Darrel Issa and asked for the outcome of the investigation.

COMMISSIONER TSHIBAKA replied that the outcome was the determination that the employees did not conspire to fabricate the evidence. She maintained that it was a complicated investigation and "it all came down to whether or not they took the trip to the headquarters on the Pennsylvania Turnpike on a particular Monday, so it required investigating all of the tollbooth photographs that day."

CO-CHAIR FIELDS asked to get in writing a list of the following: the new exempt and partially exempt positions that have been created since the governor took office; existing, exempt, and partially exempt positions that have been moved to a higher salary; and a total of the associated costs for both. He said, "Basically what is the additional cost ... to oversimplify political appointees hired since the beginning of this administration."

COMMISSIONER TSHIBAKA asked if the request is different than that which was already submitted.

CO-CHAIR FIELDS responded that his new request is "a little drilled down" from the former request, and this time he is looking for only political appointees that are new or have a changed salary from the previous administration.

[4:05:14 PM](#)

CO-CHAIR FIELDS referred to the commissioner's work regarding human trafficking. He stated that the commissioner [Heidi Drygas] of the Department of Labor & Workforce Development (DOLWD) during the previous administration and the mayor of Anchorage [Ethan Berkowitz] formed the state local Human Trafficking Working Group with multi-agency participants - DOLWD, the local prosecutor's office, FBI, DOL, and the U.S. Department of Commerce (USDOC). He asked if Commissioner Tshibaka would consider continuing the working group across administrations. He expressed his belief that the working group was a valuable way for agencies and local and state government to collaborate on a very troubling issue.

COMMISSIONER TSHIBAKA expressed that she would like to learn more from him about it.

[4:06:13 PM](#)

CO-CHAIR KREISS-TOMKINS stated that he has followed SSOA IT consolidation over the years. He asked Commissioner Tshibaka to give her assessment of progress made thus far, what yet needs to happen, percentage completion in achieving consolidation, and the value or lack of value of IT consolidation.

COMMISSIONER TSHIBAKA said that within DOA, SSOA does not include IT, even though IT is a shared service for the state. She stated that she would answer the question for shared services separately from her answer for IT. The shared services include travel, accounts payable, and some procurement. Travel is completely integrated to include all departments; SSOA has just launched a travel platform to streamline it and make it more efficient. The accounts payable has gone through some office model reorganization and some process changes; results are mixed; six agencies have been integrated into the new processes with more agencies to come. Later this year DOA will inherit procurement from the procurement portfolio and the different agencies will be onboarded onto this new system. She maintained that there is a massive change management process necessary; onboarding must be monitored to avoid congestion and backlogs and to ensure good customer service. She said, "I am watching this very carefully."

COMMISSIONER TSHIBAKA continued by saying that OIT has achieved greater progress [than SSOA]; however, customer service needs improvement before integrating the agencies. The first step is to improve the customer service scheme; the second step is to

bring in all the "bits and pieces" of OIT that are now spread out in all the different agencies of the state. She expressed her understanding that at one time all the services were spread out; the state decided that centralized services would create cost efficiencies and better government. She maintained that the "shared service" model with shared services and consolidated IT constitutes the best government. She continued by saying the model that the state currently has is the worst model, because it has been done halfway. She said that she wants to show the state agencies that DOA can perform shared services well. To accomplish that, internal problems must be fixed first to demonstrate that DOA can provide excellent customer service; after that, the functions that are still de-centralized must be integrated. She emphasized, "What we're doing right now is the least efficient, least cost-savings model possible." She added that it is unsustainable.

[4:11:27 PM](#)

REPRESENTATIVE WOOL asked whether some services are better de-centralized, such as travel, which might possibly be managed and "fine-tuned" better by someone who has a closer working relationship with the people in the department who will be traveling.

COMMISSIONER TSHIBAKA replied that it is quite possible that there are some services for which it does not make sense to centralize. She referred to an official study performed a couple of years ago identifying those services for which it would make the most sense to centralize for the state, and DOA is focusing on those identified. She maintained that de-centralization of services has not served the state well and her job is to ensure that [delivery of services] works well for the state. She asserted that when travel is done well, it works best centralized. She emphasized, "We've got to figure out why it's not working well, and we've got to make it work well." She maintained that [centralization] would be the most efficient and lead to the best cost savings for the state. She offered that if DOA tries every avenue to make it work well and fails, then DOA should reverse course. She expressed her belief that DOA has not tried every avenue. She asserted that from her experience in the many OIGs, [centralization] is the path to efficiency and cost savings; she wants DOA to determine how to provide the best customer service. She said that she did not think the state agencies should settle for subpar travel support; DOA needs to improve customer service.

4:14:29 PM

The committee took an at-ease from 4:14 p.m. to 4:16 p.m.

4:16:00 PM

CO-CHAIR FIELDS opened public testimony during the confirmation hearing on Commissioner Designee Kelly Tshibaka.

4:16:19 PM

SCOTT DAHL testified that he is the inspector general for the U.S. Department of Labor (USDOL) and has known and worked with Ms. Tshibaka for many years. He stated he was at times her supervisor, her colleague, and her peer. He said that over the years he has been impressed with her ability to find collaborative opportunities, even in challenging environments, and she accomplishes that by earning the trust and respect of others. He maintained that she is an inclusive manager who seeks and respects diverse perspectives. He asserted that she would make an outstanding commissioner; she is capable, articulate, and a quick study. He offered his belief that she will make extraordinary achievements in her career.

4:18:09 PM

MICHELE HARTLIN testified that she has known Ms. Tshibaka since "the day she was born." She relayed numerous attributes of Ms. Tshibaka as a youth: precocious, driven, and selfless; volunteering her time; studying Russian language; and graduating from high school at age 15 to attend college. She maintained that Ms. Tshibaka has an innate ability to listen to people and gather facts before coming to an educated decision; she is an organized multitasker who is able to excel in a myriad of subjects and tasks - employing logic, humor, and common sense; she can see people for who they are on the inside and accepts them without judgement. She relayed that as a supervisor, Ms. Tshibaka was an involved mentor to employees, helped them become successful valued assets to the team, and earned their respect.

4:20:29 PM

KADITA TSHIBAKA, testified that he is Ms. Tshibaka's father-in-law; has known her since 2001; and has followed her career closely through various positions. He relayed that he views Ms. Tshibaka as a true leader of people; she is a visionary; she is an extremely well organized, efficient, results-driven promoter

and developer of people. She accepts advise when needed; she is a good listener and quick study; and she is as good as her word. She delivers over and beyond what is demanded or expected. He maintained that having Ms. Tshibaka and her family move to Alaska was a huge sacrifice for them all. He offered his belief that Ms. Tshibaka would be a huge asset for Alaska.

[4:22:35 PM](#)

JENNIFER EASON testified that she has known Ms. Tshibaka personally and professionally for over 10 years. She said she went to Ms. Tshibaka to find healing from a destructive lifestyle; Ms. Tshibaka mentored her and trained her on leadership. She attributed Ms. Tshibaka with the following qualities: she helps people in need regardless of social class, nationality, political leaning, and sexual orientation; she is a role model; she is loyal and trustworthy; her integrity is high caliber; she is unique, gifted, and incredibly thoughtful; she is highly intelligent, but doesn't flaunt it; she has a unique way of bringing people together and allowing her staff to feel seen and valued; she is an excellent listener; and she is passionate, loves justice, and loves people.

MS. EASON offered that Ms. Tshibaka would be the "hardest worker in the room." Ms. Eason said, "Her 50 percent is the average person's 100 percent." She continued by saying that Ms. Tshibaka would be efficient and effective in "getting the job done and getting the job done well." She said that Ms. Tshibaka's example and leadership helped her become a productive and giving person. She maintained that Ms. Tshibaka has always been passionate regarding her Alaskan roots.

[4:25:38 PM](#)

BRANDY CUNNINGTON testified that she doesn't have a personal relationship with Ms. Tshibaka but is impressed with her resume. She urged the committee to give Ms. Tshibaka its vote of confidence based on her resume, her qualifications, and the supporting testimony. She maintained that anything short of a vote of confidence would suggest an underlying personal matter.

[4:27:10 PM](#)

NIKI TSHIBAKA testified that as her husband he has known her 20 years and can attest to her integrity. She speaks her mind and speaks with kindness, grace, and humility. He mentioned that he has witnessed the many ways in which she leads in a variety of

contexts, and her leadership is consistent across all those contexts in terms of valuing people, embracing diversity, seeing the best in people, and bringing out the best in people. He reiterated that her credentials and qualifications are unimpeachable.

[4:29:11 PM](#)

CHRISTINE HUTCHISON testified that Ms. Tshibaka's management experience will be an asset to the state while it is trying to survive its fiscal crisis. The state is facing its "sea change of attitude"; to see its way through [this crisis] it needs every tool and technique to which it has access; and the state will forever be grateful for the skills and life experience that Ms. Tshibaka is willing to bring back to Alaska.

[4:30:16 PM](#)

AMALIA DOLAND testified that she concurs with previous testimony. She stated that she has known Ms. Tshibaka for 17-18 years. When Ms. Tshibaka was a student at Harvard Law School, Ms. Doland saw her as a sharp, witty, very intelligent woman. She said that over the years, she has come to realize that Ms. Tshibaka is a very capable and organized multitasker. Ms. Doland extolled Ms. Tshibaka's qualities: calmness, leadership, respect for and inclusiveness of other people, integrity, high moral character, and a hospitable and welcoming disposition. Ms. Doland maintained that even though Ms. Tshibaka has been in many places in the U.S. and abroad, she has always been proud that her roots are Alaskan.

[4:34:05 PM](#)

LYNN HALLFORD testified that she has known Ms. Tshibaka since elementary school and maintained that Ms. Tshibaka has always loved Alaska; her absolute brilliance, intelligence, kindness, and spunk are needed in the state right now during tough times. She said that she is relying on Ms. Tshibaka's auditing background to bring efficiencies and effectiveness to state government and to find funds that are being spent where the state does not intend. She maintained that Alaska is fortunate that Ms. Tshibaka wants to return to Alaska; she will do a great job for Alaska and all Alaskans.

[4:35:24 PM](#)

JANE KASSUBE testified that she has known Ms. Tshibaka her whole life and is familiar with Ms. Tshibaka's many activities. She confirmed that Ms. Tshibaka demonstrates responsibility and leadership; she is focused and hard-working; she is trustworthy and has integrity; she is a problem solver; she loves Alaska; and she is authentic and genuine in every aspect of her life.

[4:36:40 PM](#)

JARRED LEWIS testified that he does not know Ms. Tshibaka personally but everything he has read about her indicates that she is a person of high integrity. He said that he supports the appointment because she would bring change, and Alaska needs something new. He mentioned that she could offer new ideas for efficiency and accountability. (indisc.) He stated that he endorses her for the position.

[4:37:47 PM](#)

JIM DRAKE testified that he has known Ms. Tshibaka all her life; because of an age difference he never had the chance to work with her. He offered that Alaskans bemoan the fact that they raise their kids, send them to college, and most never return. He stated that "now we have a chance" with Ms. Tshibaka with her talents and attributes. He urged the committee to advance her confirmation.

[4:38:50 PM](#)

JESSICA CHULUZ testified that she highly recommends Ms. Tshibaka; she has worked with Ms. Tshibaka on a regional level in developing programs that identify disenfranchised people, release new leaders, and put people into positions that allow them to thrive. She said that she has found Ms. Tshibaka's unique ability to simplify complex problems without ignoring important details to be helpful in making a difference. She maintained that she has witnessed Ms. Tshibaka find ways to leverage the strength of every member of a team so that they are able to be their best and contribute to the organization in ways that are fruitful, helpful, and move the pendulum toward success. She asserted that she is extremely grateful for all the times she has been able to work with Ms. Tshibaka and has found her to bring out the best in people. She has incredible integrity; she is forward, honest, and gracious; she is a balance of individual hard work and smarts.

[4:40:53 PM](#)

JULIA HARRISON testified that she has had the extreme privilege of being led by Ms. Tshibaka for the past 10 years. She said that what Ms. Tshibaka does best is "develop" other people; she gives of herself and her time. Ms. Harrison stated that she had the privilege of being among a group of women with whom Ms. Tshibaka met once a week to teach leadership skills; all the women have advanced into leadership roles. She maintained that Alaska will "be thrilled" with the legacy Ms. Tshibaka leaves the state and the people she leads will be in a better position than before her tenure.

[4:42:13 PM](#)

DOUGLAS STEVENS testified that Ms. Tshibaka is incredibly well qualified and has great talent and ability but not the "sharp elbows" of a hard charger who destroys people in his/her wake. He offered that she really does care for and develop people. He maintained that with [the appointment of] Ms. Tshibaka, Alaska would be getting someone who can fix problems, straighten out systems, institute efficiencies, and "build people up" in the process.

[4:43:44 PM](#)

KEVIN HAUSMAN testified that he agrees with all the testimony thus far. He attested to her high integrity and transparency; she is welcoming and gracious; and she is very capable.

[4:45:53 PM](#)

AMY HANSEN testified that she was in Harvard Law School with Ms. Tshibaka and found her to be one of the most capable people she had ever known. She offered that Ms. Tshibaka had the capacity to do extraordinary work in the government while raising five amazing children, running a church, and being a loyal friend. She maintained that Ms. Tshibaka is a brilliant, thoughtful, extremely hard-working, incredibly gifted women; she is a remarkable leader, a woman of integrity, and she loves Alaska. She added that Ms. Tshibaka's work will make a tremendous contribution to the people of Alaska.

[4:46:56 PM](#)

JOAN CORR testified that she has not met Ms. Tshibaka but has read her resume and heard of her integrity and work ethic. She maintained that Ms. Tshibaka's resume and accomplishments are

outstanding; her educational background is impressive; and it would be hard to find a more competent professional with experience in so many different areas. She touted Ms. Tshibaka's fiscal responsibility, work in promoting a safer society, and networking abilities. She expressed that Ms. Tshibaka's knowledge of working with many government agencies would be a big asset for the state; she loves Alaska and will do what she can to improve it.

[4:48:19 PM](#)

LORREL BROWN, MD testified that Ms. Tshibaka is loyal, kind, and forgiving. Dr. Brown stated that she considers Ms. Tshibaka an example of the type of professional woman leader that she herself aspires to be. She maintained that she sought Ms. Tshibaka's advice on all her leadership questions when selected as chief resident at Johns Hopkins Hospital, especially how to function in a male dominated field; she sought advice on how to lead responsibly, with strength, but also with compassion, and how to live out her faith in a way that was responsible within her profession.

[4:49:47 PM](#)

BRENT BREINING testified that he is a retired U.S. Navy captain. He said that he knows Ms. Tshibaka through attending her church; she is welcoming and open; and she encouraged him to pursue a pastor's license. He stated that the Tshibakas' church is one of the most amazing churches that he has encountered. The Tshibakas have been inclusive of people of all ethnicities, cultures, and social and economic backgrounds. He maintained that Ms. Tshibaka is equally inclusive in the workplace. He asserted that she would be an excellent leader for the State of Alaska.

[4:51:26 PM](#)

CO-CHAIR FIELDS stated that the confirmation would be held over.

[4:51:43 PM](#)

The committee took a brief at-ease at 4:52 p.m.

HJR 9-ELIZABETH PERATROVICH COMMEMORATIVE COIN

[4:52:47 PM](#)

CO-CHAIR FIELDS announced that the next order of business would be HOUSE JOINT RESOLUTION NO. 9, Requesting the United States Secretary of the Treasury to mint not less than 5,000,000 \$1 coins honoring Elizabeth Peratrovich under the Native American \$1 Coin Act.

[4:53:04 PM](#)

REPRESENTATIVE DELANA JOHNSON, Alaska State Legislature, as prime sponsor of HJR 9, stated that the proposed resolution came about through discussions with 4-H youth who visited the capitol and requested that the Elizabeth Peratrovich coin, scheduled to be minted in 2020, not be just a collector's item but a coin distributed for real use in Alaska. She paraphrased from the sponsor statement, which read in part [original punctuation provided]:

Through House Joint Resolution 9, the Alaska State House of Representatives is asking the United States President, Vice President, and the US Secretary of Treasury to mint not less than a full run of 5,000,000 Elizabeth Peratrovich \$1 coins and to deliver them to the Seattle branch of the Federal Reserve Bank of San Francisco for distribution throughout the State of Alaska and to coin collectors.

[4:54:51 PM](#)

MARCY HERMAN, Staff, Representative DeLana Johnson, Alaska State Legislature, on behalf of Representative Johnson, prime sponsor of HJR 9, stated that specialty coinage is a way to honor Alaska's past and reflect on its heritage. These coins are typically distributed to coin collectors; the resolution would ask that 5 million minted coins be distributed throughout Alaska and to coin collectors. She paraphrased from the sponsor statement, which read in part [original punctuation provided]:

In 2000, the US Mint released the Sacagawea Golden Dollar which featured a portrait of Sacagawea carrying her infant son, Jean-Baptiste. In 2009, the United States Mint began minting and issuing \$1 coins featuring designs celebrating the important contributions to the history and development of the United States made by Native American tribes and individual Native Peoples.

MS. HERMAN relayed that the Elizabeth Peratrovich [coin] would be the twelfth Native American commemorative coin but only the fourth coin honoring an individual, as opposed to a tribe. She explained that Elizabeth Peratrovich was chosen for the Native American \$1 coin because she was an important civil rights activist before there was even the term "civil rights activist." Elizabeth Peratrovich refused to be silent in the face of injustice, helping Alaskans see the reality of discrimination and its devastating effect on those against whom discrimination was practiced. She advocated for the passage of the Alaska Anti-Discrimination Act of 1945, which was the first anti-discrimination law in the U.S., passed on February 16, 1945. Elizabeth Peratrovich symbolizes the crucial role that the public plays in the legislative process. She also served as the grand princess of the Alaska Native Sisterhood and was named the 2018 honoree of the National Women's History Alliance. The Alaska State Legislature has already recognized Elizabeth Peratrovich by establishing February 16 each year as Elizabeth Peratrovich Day; in 1992, the public gallery of the chambers of the House of Representatives, formerly known as Gallery B, was renamed in her honor.

REPRESENTATIVE JOHNSON concluded by saying that in 2020, the residents of Alaska will celebrate Elizabeth Peratrovich and the 75th anniversary of the Anti-Discrimination Act. That same year is the year that the U.S. Treasury is scheduled to issue the commemorative coin recognizing Elizabeth Peratrovich. She stated that HJR 9 would ask the U.S. Treasury to continue the campaign to encourage commercial enterprises to accept and dispense the Elizabeth Peratrovich Native American commemorative \$1 coin in such a way that it would not be only a collector's coin but would have a use in Alaska.

REPRESENTATIVE JOHNSON pointed out that the 4-H young people who came to the capitol demonstrate that a single person or several people, speaking from the heart and working on something in which they believe, can significantly and positively affect the future of all Alaskans.

[4:58:58 PM](#)

REPRESENTATIVE WOOL asked whether the number of coins to be issued - 5 million - was arbitrary or a standard issue.

REPRESENTATIVE JOHNSON replied that 3 billion Sacagawea [Golden Dollar] coins were minted since 2000. The last year it was minted was 2016, during which 2.1 million coins were minted;

every year about that number was minted. She stated that she could not find out the number minted under a collector's run. She relayed that the number - 5 million - came from a coin enthusiast in Fairbanks who has been working with the Forget-Me-Not 4-H club.

[5:00:15 PM](#)

CO-CHAIR KREISS-TOMKINS asked whether Representative Johnson would be amenable to an amendment adding the Congressional delegation as recipients of copies of HJR 9.

REPRESENTATIVE JOHNSON responded that it would be fine.

[HJR 9 was held over.]

[5:01:09 PM](#)

The committee took a brief at-ease at 5:01 P.M.

HB 57-CHILD LABOR HOURS

[5:01:21 PM](#)

CO-CHAIR FIELDS announced that the next order of business would be HOUSE BILL NO. 57, "An Act relating to expanding the period in a day during which an employed child under 16 years of age may perform work in the summer; and providing for an effective date."

[5:01:44 PM](#)

REPRESENTATIVE TAMMIE WILSON, Alaska State Legislature, as prime sponsor of HB 57, relayed that the proposed legislation was drafted in response to the [Fairbanks Youth Soccer Association], which was concerned that 14- and 15-year-olds had to stop refereeing at 9 p.m. in the summer in Fairbanks. She maintained that in drafting HB 57, she learned that the current hours allowed for youth to work - 5 a.m. to 7 p.m. during the school year and 5 a.m. to 9 p.m. during the summer - do not comply with federal law, which calls for a 7 a.m. beginning time for both; therefore, a waiver is necessary. She offered that in Alaska, "nobody even knew of such a waiver"; however, the Department of Labor & Workforce Development (DOLWD) is now pursuing one. She offered that should HB 57 pass, Alaska would be required to have a waiver to ensure compliance with federal law.

5:03:30 PM

GREY MITCHELL, Director, Division of Workers' Compensation (DWC), Department of Labor & Workforce Development (DOLWD), testified that the state's child labor law differs from federal law in several areas. One area of disagreement is found in AS 23.10.340, which HB 57 would amend. He stated that AS 23.10.340 was last amended in 1981 when the hours, which were 6 a.m. to 7 p.m., were changed to 5 a.m. to 9 a.m. He offered that DWC is pursuing several matters: a clear understanding of the legislative intent associated with that change; the reaction of the U.S. Department of Labor (USDOL) to the change; and the existence of a waiver process that Alaska could pursue. He said that initially his office was told there is no waiver process; the provisions for child labor are set at the federal level. He added that his contacts in the Wage and Hour Division (WHD), USDOL, suggested that these requirements have not been changed for many years and when they were created, Alaska with its nighttime daylight hours was most likely not considered. He maintained that the exclusion that exists under federal law is primarily related to work training programs; therefore, the waiver being discussed would likely not fit into that category. Alaska would be looking more at an opportunity for a "common sense" waiver based on Alaska's circumstances and the situation regarding young people officiating soccer, which does not constitute a significant hazard.

MR. MITCHELL relayed that one the issues still needing resolution is whether there might be an exclusion from coverage based on the tests of applicability that exist in the Fair Labor Standards Act (FLSA). He said that there are two tests that apply. To meet the enterprise test for coverage, the organization would have to have at least \$500,000 in annual revenue, at least two employees, and engage in interstate commerce. The second test is an individual test. He said DWC has not checked with the youth soccer organization to see if it meets the enterprise test; however, he suspects it does not.

REPRESENTATIVE WILSON emphasized that the proposed legislation would not be solely for soccer, but would be for 14- and 15-year-olds throughout the state to be able to engage in such activities until 10 p.m.

5:08:22 PM

REPRESENTATIVE WOOL offered that he has additional questions on child labor laws.

REPRESENTATIVE WILSON stated that the requirements for 14- and 15-year-olds are very clear in federal law; however, for other ages the rules change tremendously.

[HB 57 was held over.]

HB 15-SENTENCING: VEHICLE THEFT

[5:09:42 PM](#)

CO-CHAIR FIELDS announced that the final order of business would be HOUSE BILL NO. 15, "An Act relating to sentencing for vehicle theft in the first degree."

[5:10:13 PM](#)

The committee took a brief at-ease at 5:10 p.m.

CO-CHAIR FIELDS passed the gavel to Co-Chair Kreiss-Tomkins.

[5:10:28 PM](#)

CO-CHAIR FIELDS, as prime sponsor of HB 15, stated that in the past six months, he has heard from many police officers that the lack of incarceration of car thieves is well known among recidivist car thieves; the lack of meaningful penalties, especially for first time felony offenses, is a factor in the dramatic growth of vehicle thefts in Anchorage. He maintained that he drafted HB 15 in response to hearing from police officers and constituents on this issue.

CO-CHAIR FIELDS relayed that the proposed legislation would establish a mandatory minimum sentence of at least 120 days for felony vehicle theft. He stated that he recognized that there are complexities related to mandatory minimum sentences; he does not support them in most cases; however, he expressed his belief that it makes sense in this circumstance.

CO-CHAIR FIELDS offered that HB 15 has received support from the Anchorage Police Department Employees Association (APDEA), the National Insurance Crime Bureau (NICB), and the Alaska Peace Officers Association (APOA).

[5:12:23 PM](#)

REPRESENTATIVE WOOL asked what the current sentence is for first offense vehicle theft and what is proposed under HB 15.

REPRESENTATIVE FIELDS answered that zero to two years is the current sentence. He expressed his belief that in practice, the sentence is often zero years for many crimes; for those who do go to jail for a first-time felony, there are aggravating factors; and for second- and third-time offenses, there are mandatory minimums of one and two years, respectively. The proposed legislation would make the mandatory minimum for a first-time felony offense 120 days; second and third offenses would still have the existing mandatory minimums of one and two years, respectively.

REPRESENTATIVE FIELDS clarified for Representative Wool that HB 15 addresses felony first-time offenses. He stated that based on Legislative Legal Services counsel, there are misdemeanor first-time vehicle theft offenses; however, these offenses are in a slightly different category and are atypical, such as failing to return a rental car for a period.

REPRESENTATIVE WOOL asked whether "joy-riding" is considered vehicle theft.

REPRESENTATIVE FIELDS suggested that given there are both misdemeanor and felony convictions for vehicle theft, there would remain an element of prosecutorial digression. He maintained that it is possible that a joy-rider might be charged with felony vehicle theft. Recidivist criminals stealing cars left idling by the owners to warm them up is a real concern in the neighborhoods that he represents.

REPRESENTATIVE WOOL pointed out that there is an option for sentencing someone for a first offense vehicle theft for two years.

REPRESENTATIVE FIELDS acknowledged that there is a jail option for a first offense; however, a person could steal three cars and be released each time before being convicted for the first crime. He maintained that the absence of meaningful penalties for the first crime enables the thief to steal cars on multiple other occasions. He asserted that police have described this scenario anecdotally.

[HB 15 was held over.]

[5:16:36 PM](#)

ADJOURNMENT

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 5:17 p.m.