

ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE

March 9, 2020

1:33 p.m.

MEMBERS PRESENT

Senator John Coghill, Chair
Senator Peter Micciche, Vice Chair
Senator Shelley Hughes
Senator Lora Reinbold
Senator Jesse Kiehl

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

CONFIRMATION HEARING(S)

Commission on Judicial Conduct
Todd Fletcher - Anchorage

- CONFIRMATION ADVANCED

Select Committee on Legislative Ethics
Deborah Fancher - Anchorage
Lee Holmes - Anchorage

- CONFIRMATIONS ADVANCED

Alaska State Commission for Human Rights
William Craig - Sitka
Elizabeth "Betsy" Engle - Fairbanks
Kyle Foster - Anchorage
Evelyn Falzerano - Anchorage

- CONFIRMATIONS ADVANCED

SENATE JOINT RESOLUTION NO. 13
Proposing an amendment to the Constitution of the State of
Alaska relating to abortion.

- HEARD AND HELD

SENATE BILL NO. 191

"An Act relating to trusts and trustees, including trust division, the powers of trustees, delayed gifts to trusts, and community property trusts; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: SJR 13

SHORT TITLE: CONST. AM: PROHIBIT ABORTION/FUNDING

SPONSOR(S): SENATOR(S) HUGHES

01/21/20	(S)	READ THE FIRST TIME - REFERRALS
01/21/20	(S)	HSS, JUD, FIN
02/26/20	(S)	HSS AT 1:30 PM BUTROVICH 205
02/26/20	(S)	Heard & Held
02/26/20	(S)	MINUTE(HSS)
03/06/20	(S)	HSS AT 1:30 PM BUTROVICH 205
03/06/20	(S)	Moved SJR 13 Out of Committee
03/06/20	(S)	MINUTE(HSS)
03/09/20	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

TODD FLETCHER, Appointee
Commission on Judicial Conduct
Alaska Court System;
Branch Manager, Wells Fargo Advisors
Anchorage, Alaska

POSITION STATEMENT: Testified as appointee to the Commission on Judicial Conduct.

DEBORAH FANCHER, Appointee
Select Committee on Legislative Ethics
Legislative Affairs Agency
Anchorage, Alaska

POSITION STATEMENT: Testified as appointee to the Select Committee on Legislative Ethics.

LEE HOLMES, Appointee
Select Committee on Legislative Ethics
Legislative Affairs Agency;
Manager, The Superior Group, Inc.
Anchorage, Alaska

POSITION STATEMENT: Testified as appointee to the Select Committee on Legislative Ethics.

WILLIAM CRAIG, Appointee
Alaska State Commission for Human Rights
Office of the Governor
Sitka, Alaska

POSITION STATEMENT: Testified as appointee to the Alaska State Commission for Human Rights.

ELIZABETH BETSY ENGLE, Appointee
Alaska State Commission for Human Rights
Office of the Governor
Fairbanks, Alaska

POSITION STATEMENT: Testified as appointee to the Alaska State Commission for Human Rights.

KYLE FOSTER, Appointee
Alaska State Commission for Human Rights
Office of the Governor;
Executive Director, Aleutia
Anchorage, Alaska

POSITION STATEMENT: Testified as appointee to the Alaska State Commission for Human Rights.

EVELYN FALZERANO, Appointee
Alaska State Commission for Human Rights
Office of the Governor
Anchorage, Alaska

POSITION STATEMENT: Testified as appointee to Alaska State Commission for Human Rights.

MARILYN STEWART, representing self
Anchorage, Alaska

POSITION STATEMENT: During consideration of governor appointees, raised concern about racism associated with the Alaska State Commission for Human Rights.

KATRINA JACKSON, Senator
Louisiana State Legislature
Monroe, Louisiana

POSITION STATEMENT: Testified during the hearing on SJR 13.

ACTION NARRATIVE

[1:33:49 PM](#)

CHAIR JOHN COGHILL called the Senate Judiciary Standing Committee meeting to order at 1:33 p.m. Present at call to order were Senators Reinbold, Kiehl, Micciche, Hughes and Chair Coghill.

CONFIRMATION HEARING(S):
Commission on Judicial Conduct
Select Committee on Legislative Ethics
Alaska State Commission for Human Rights

[1:34:50 PM](#)

CHAIR COGHILL announced that the first order of business would be consideration of governor appointees for the Commission on Judicial Conduct, Commission on Legislature Ethics, and the Alaska State Commission for Human Rights.

He asked Mr. Fletcher to explain his interest in serving on the Commission on Judicial Conduct.

[1:35:39 PM](#)

TODD FLETCHER, Appointee, Commission on Judicial Conduct, Alaska Court System; Branch Manager, Wells Fargo Advisors, Anchorage, Alaska, said he is a lifelong Alaskan. He related his interest in serving on the board was to work with judges and attorneys to be certain that ethics in the Alaska Court System are held to the highest standards. He stated that the public member can help the commission make the best decisions to address any concerns.

[1:38:06 PM](#)

SENATOR REINBOLD remarked that she wanted to be sure judges recuse themselves when it is appropriate.

MR. FLETCHER agreed that recusals are important. He said the public member of the commission would want to ensure that judges recused themselves.

[1:39:14 PM](#)

SENATOR MICCICHE said he assumed that members of the public were also able to bring complaints regarding judicial conduct to the board. He noted that Mr. Fletcher had been serving since May and asked what goals he had to improve the process.

MR. FLETCHER answered that he was relatively new but he noticed other members have focused on working together and with the executive director to improve the process. He indicated that going forward he would be alert to any areas that need improvement.

[1:41:00 PM](#)

SENATOR MICCICHE said he was pleased to hear that he was willing to challenge the process to help improve it.

MR. FLETCHER responded that the judges and attorneys help provide insight on how matters are handled and ways that the process can be improved.

CHAIR COGHILL stated that the commission consists of nine members: six of whom are appointed by the governor - three public members who are not judges, retired judges, or members of the state Bar; three attorneys who have practiced law in Alaska for 10 years, from nominations provided by state Bar Association. The commission also consists of three state court judges. He stated that Mr. Fletcher was appointed to serve in a public seat until March 1, 2023.

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SENATOR REINBOLD asked whether he was an accountant.

MR. FLETCHER answered that he earned a bachelor's degree in accounting, but he currently works as a bank manager.

SENATOR REINBOLD commented on his bank's decision to not invest in the Arctic and then asked whether he had observed any judicial or political activism by the commission.

MR. FLETCHER commented on his company's position and asked her to repeat the question.

CHAIR COGHILL said her question was on judicial activism.

[1:44:52 PM](#)

SENATOR REINBOLD reframed the question stating that the committee will hear a resolution relating to the abortion issue. She recapped her work with Senator Hughes on a bill to minimize abortions. She said the bill passed the legislature, but the court reversed it. She voiced concern saying that the legislature should set policy, not the judicial branch. She asked if he had observed any instances of this type of activity.

MR. FLETCHER said he was not aware of any judge participating in fundraisers or serving on committees and had not seen anything related to activism from the commission.

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CHAIR COGHILL advised that allegations against judges and justices relate to the code of conduct for judges and activism would fall outside that realm. He acknowledged that what the legislative branch deals with is political.

SENATOR REINBOLD offered her view that judicial conduct is political activism. She asked if he sees that his role on the commission is to consider instances when someone has an issue with the judge being too lenient in sentencing.

MR. FLETCHER answered that anyone who has issues with a case can report it to the executive director. The commission does not make decisions on any judicial rulings on cases but investigates whether judges and attorneys have committed any ethics violations. The commission reviews the process judges take but does not consider any specific decisions, he said.

SENATOR REINBOLD offered her view that the judicial branch needs more constraints. She asked him to be bold and not defer decisions to the executive director. She remarked that many of her constituents are disappointed in the judicial branch.

MR. FLETCHER emphasized that he takes his role very seriously. He said he believes in the judicial system, which is why he would like to serve on the commission and help improve the process.

[1:51:31 PM](#)

CHAIR COGHILL asked Ms. Fancher to tell the committee why she wants to continue serving on the Select Committee on Legislative Ethics.

[1:52:10 PM](#)

DEBORAH FANCHER, Appointee, Select Committee on Legislative Ethics, Legislative Affairs Agency, Anchorage, Alaska, stated that she grew up in Gakona, which is in Interior Alaska. She earned a bachelor's degree in chemistry at the University of Washington. After working for several years in public health, she spent 25 years teaching chemistry. She has always loved Alaska and wanted to give something back to her community. When she was appointed to the ethics committee three years ago, she had a steep learning curve since she does not have a legal background. She has learned a significant amount and would like to serve another term and continue to give back to a state that has given her so much.

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SENATOR REINBOLD recalled that she served briefly on the committee with Ms. Fancher.

MS. FANCHER suggested that she may have been thinking about serving with Joyce Anderson.

SENATOR REINBOLD asked if she was serving when the committee worked on the legislative ethics bill.

MS. FANCHER said that's correct.

SENATOR REINBOLD asked if any issues regarding that bill were pressing.

MS. FANCHER replied there were significant issues early on, but many of the kinks have been worked out and things are better.

[1:55:16 PM](#)

SENATOR REINBOLD suggested that her background in chemistry and health as well as her work experience will be helpful during what is likely to be a crisis related to the COVID virus.

CHAIR COGHILL commented that he enjoyed serving on the committee with Ms. Fancher. He thanked her for her willingness to serve.

[1:56:54 PM](#)

CHAIR COGHILL turned to the consideration of Lee Holmes, appointee to the Select Committee on Legislative Ethics.

[1:57:26 PM](#)

LEE HOLMES, Appointee, Select Committee on Legislative Ethics, Legislative Affairs Agency; Manager, The Superior Group, Inc., Anchorage, Alaska, said that he is a 37-year resident and works as a mechanical engineer. His firm is based out of Anchorage, but he currently works in the Fairbanks area. He echoed Ms. Fancher's comments on the importance for people to give back to the state. He has done so in his profession, with non-profit organizations, and the municipality.

He was appointed to serve on the committee three years ago and found it to be a fantastic learning experience. He remarked that he previously thought he knew a considerable amount about ethics, but he has learned how little he knew. He characterized his time on the Select Committee on Legislative Ethic as challenging and fulfilling. He emphasized the importance of the committee work, to ensure that the government is run for the

people and not the legislature. He said he looks forward to serving.

[1:59:28 PM](#)

SENATOR REINBOLD remarked on his resume, including his certifications and service.

[2:00:03 PM](#)

SENATOR HUGHES commented that he had a very long list of credentials.

MR. HOLMES thanked members for the opportunity to testify.

[2:01:41 PM](#)

CHAIR COGHILL turned to the consideration of the three appointees to the Alaska State Commission for Human Rights. He reviewed information about the commission, which consists of seven members appointed by the governor. The commission appoints the executive director, who is approved by the governor. The commission elects its chair. The commission works to eliminate and prevent discrimination in employment, in practices by the state or its political subdivisions, in credit and financing practices, in places of public accommodation, and in the sale, lease or rental of real property. The commission processes complaints from the public, holds hearings, orders appropriate relief, and makes an overall assessment at least every three years on the progress made toward equal employment opportunity by every state department. The results are included in an annual report to the legislature.

[2:03:15 PM](#)

WILLIAM CRAIG, Appointee, Alaska State Commission for Human Rights, Office of the Governor, Sitka, Alaska, stated that serving on the commission was a way to give back to the state. He stated that Elizabeth Petrovitch established the Alaska State Commission for Human Rights in the 1940s. He wants to protect the Constitution of the State of Alaska, which he holds dear. He remarked that he has been most active with the National Federation of the Blind since he became blind 29 years ago. He has served as a board member for the National Federation of the Blind, Alaska, since 2013. He has also served as a board member for the Alaska Independent Blind and on the American Council of the Blind.

He provided his work history in Alaska, including the Trans-Alaska Pipeline Service Company, the Alaska Pulp Company, and commercial fishing.

2:04:35 PM

CHAIR COGHILL asked whether he had attended any of the commission meetings.

MR. CRAIG stated that the commission held nine meetings last year.

CHAIR COGHILL asked what skills he brings to the commission.

MR. CRAIG said he brings his experience as a disabled person. He has worked on voting rights and issues for the blind at the federal level.

2:06:22 PM

SENATOR REINBOLD said she was impressed with his activism for the blind. She asked him to highlight the most interesting and important issues for the commission.

MR. CRAIG said that the commission has a new executive director, so it is just getting organized. He would like to help bring the organization into the 21st century. He said the commission needs to work on outreach since it is not well known in Alaska. He reported that the commission settled 216 cases last year. The commission handles a wide variety cases. Nothing stands out since all of the cases are important, he said.

MR. CRAIG said the commission currently is working on some important issues, but he would not feel comfortable discussing them at this point.

2:08:29 PM

SENATOR REINBOLD said she was pleased that outreach is important. She asked whether he could identify any issues that the legislature should address.

MR. CRAIG answered no. He said that he was still learning the job.

CHAIR COGHILL asked him to comment on any issues related to the Capitol, which is an old building.

MR. CRAIG answered that the building has a lack of braille. For example, it is not possible to order food since the lounge forms are written in cursive. The building also lacks visual display and accessible technology, including that many documents are not appropriately formatted for the disabled to read. He

acknowledged that this issue was not unique to Alaska. He said he coordinates with the director of the Americans with Disabilities Act (ADA) and the National Federation of the Blind. He has been working with Congress on the AIM High Act on accessible instructional materials and standardized equipment and documents.

CHAIR COGHILL thanked him for his testimony and willingness to serve.

[2:13:20 PM](#)

ELIZABETH BETSY ENGLE, Appointee, Alaska State Commission for Human Rights, Office of the Governor, Fairbanks, Alaska, said she is originally from the Philippines and is a professional civil engineer and a sanitary engineer by training. In 1969, she became the first female engineer registered in Alaska. She has 44 years of engineering work experience in Alaska. She reviewed her work history, including that she worked for the Department of Transportation & Public Facilities, Tanana Chiefs Conference, and the Alyeska Pipeline Service Company. She retired in 2008, but volunteers for various community non-profits and social events.

She was appointed to the Alaska State Commission for Human Rights on 5/28/2019 and reappointed on 3/1/2020. She would like to serve because she brings her professional experience to the commission. She raised one issue related to the building the commission uses in Anchorage. The commission shares the building with the Department of Corrections, Probation & Parole offices. She said she does not feel safe sharing the entrance to the building, and that holding executive meetings on confidential matters is not possible since soundproofing is inadequate. The commission has been holding executive meetings at other buildings. She said people have been experiencing bug bites in the bathroom even though it has been fumigated twice. She identified the location as 800 A Street.

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CHAIR COGHILL said the committee will take her concerns into consideration. He thanked her for her willingness to serve.

[2:21:53 PM](#)

SENATOR REINBOLD commended her for earning a Women of Distinction award in 2017.

MS. ENGLE said she admires the composition of the commission. Having two Filipinos and two Native Americans brings diversity to the commission.

CHAIR COGHILL turned to the confirmation hearing for Kyle Foster, appointee to the Alaska State Commission for Human Rights.

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KYLE FOSTER, Appointee, Alaska State Commission for Human Rights, Office of the Governor; Executive Director, Aleutia, Anchorage, Alaska, said that he was born in Sand Point and holds a master's degree in Business Administration from West Texas A&M University, and currently lives in Anchorage. He works as the executive director for Aleutia, which is a small fishing organization that focuses on community development in the Aleutian region. He said that he would like to serve on the commission because Alaska is a culturally diverse state. He would like to be certain that opportunities free from discrimination are provided to Alaska's diverse demographic. He said that hoped to use his background and personal experiences. He is an Alaska Native and his wife is an immigrant. He spent a few years in China and Mexico, which helped broaden his perspective. He offered his view that his diverse and culturally rich experiences along with his leadership skills will be a positive asset to this commission. He said that he appreciated their consideration.

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CHAIR COGHILL thanked him for his willingness to serve. He asked if he has had an opportunity to attend any commission meetings.

MR. FOSTER answered that he has attended a few meetings and that everyone is new but is working together very well. He said he helped the commission hire a new executive director.

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SENATOR REINBOLD remarked on his impressive background and asked if he had any concerns or if he had identified any issues.

MR. FOSTER replied he had not seen anything glaring. He offered his view that the new director was doing a great job. He thanked members for their support.

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At-ease.

[2:27:54 PM](#)

CHAIR COGHILL reconvened the meeting.

[2:28:06 PM](#)

EVELYN FALZERANO, Appointee, Alaska State Commission for Human Rights, Office of the Governor, Anchorage, Alaska, said she was born in the Philippines and holds a degree in business administration and accounting from the University of the East, Manila. In 2001 she moved to the U.S. and became a bilingual tutor at Wonder Park Elementary School, helping English as a second language students. She has been working since 2006 for Primerica Financial Services, helping people become debt free and financially independent. She said she is grateful for the opportunity to serve and give back to her community. She also volunteers at events for the Filipino community.

[2:32:43 PM](#)

SENATOR REINBOLD thanked her for her willingness to serve. She was happy to hear that she wants financial independence for Alaskans.

MS. FALZERANO said she appreciates serving on the commission.

[2:33:43 PM](#)

MARILYN STEWART, representing herself, Anchorage, Alaska, raised concerns about the Alaska State Commission for Human Rights that she thought amounted to racism. She provided her background, including that she served in the military and in 1980 was stationed at Fort Richardson. She served as the executive director for the Bridge Builder of Anchorage. She has worked for four governors and two mayors in various positions.

She explained that Governor Dunleavy appointed her in January to serve as his director of outreach. She applied for the executive director position with the Alaska State Human Rights Commission and served for a few weeks in July. She met the criteria for the job and had two interviews. Six of the seven commission members supported her appointment, but Betsy Engles voted against it. She had a meeting with Commissioner Fullenwilder and two former commissioners. She was informed that she was incompetent, and the commissioners did not have any confidence in her ability to perform the day to day duties required. She was asked to clean out her desk and not return.

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CHAIR COGHILL recapped that she was voted in as executive director by the Alaska State Commission for Human Rights, but she was later let go.

MS. STEWART answered yes.

CHAIR COGHILL suggested that she could contact individual members about her concerns.

MS. STEWART said she disagreed with earlier testimony that the commission is diverse because it is comprised of several Filipino and Native Alaskan members. Alaska is a melting pot, but the commission does not have an African American member, so it does not truly represent the diversity in Alaska.

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SENATOR REINBOLD asked her to provide more information on her experience with the commission. She said she did not think that the appointees' names should be forwarded until the committee fully hears her story.

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CHAIR COGHILL interjected that everyone who applied to serve on the commission is qualified. He related his understanding that Ms. Stewart's matter was the governor's issue rather than the commission's issue. He suggested that Ms. Stewart could discuss her complaint offnet with individual committee members or she could put her complaint in writing and forward it to his office and he would distribute it to members.

MS. STEWART said the commission's sole purpose is to eliminate and prevent discrimination. She offered her view that the commission had violated its own purpose.

SJR 13-CONST. AM: PROHIBIT ABORTION/FUNDING

[2:43:40 PM](#)

CHAIR COGHILL announced the consideration of SENATE JOINT RESOLUTION NO. 13, Proposing an amendment to the Constitution of the State of Alaska relating to abortion.

[2:45:10 PM](#)

SENATOR HUGHES, speaking as sponsor of SJR 13, said the resolution proposes an amendment to the Constitution of the State of Alaska by adding a new section that would provide clarity regarding Article 1, specifically pertaining to the

right to privacy and the right to equal protection, and Alaska's ability to set public policy related to abortion.

She emphasized that this resolution does not indicate what a woman may legally do. It is not designed to tell the legislature that it may or may not fund abortion in the future. This resolution does not set any parameters regarding abortion policy, but is designed to keep the courts from adding something to the Constitution of the State of Alaska that its framers never envisioned and to allow Alaska to be on par with other states across the nation in terms of policy under the federal courts.

[2:46:53 PM](#)

KATRINA JACKSON, Senator, Louisiana State Legislature, Monroe, Louisiana, said Louisiana passed a resolution similar to SJR 13. She echoed Senator Hughes that the resolution protects the right to legislate in this area, like any other health care policy. She related that Louisiana had a clinic near the Texas border that was not mandated to report human trafficking. When the state's Department of Health received word that some young trafficking victims were being brought into Louisiana for abortions, the department learned it could not legally obtain those health records. The state now has statutes to allow the department to obtain such records. Louisiana is filing a bill to require mandatory reporting just like any other health care provider, she said.

SENATOR JACKSON summarized that taking a stance with a resolution like SJR 13 does not indicate whether abortion is legal, but it would allow states to regulate it. In some states that have not passed resolutions to clarify the law, the courts have recognized the fundamental right to abortion, so bills related to human trafficking are being struck down. She said she would not hide the fact that Louisiana is a pro-life state but given Roe v. Wade, she wants to ensure that her constituents are safe. Most states have not required these clinics to be mandatory reporters. Legislation like SJR 13 would give states the ability to regulate the clinics just as they do physicians providing other types of surgical procedures.

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SENATOR HUGHES said that when the committee hears the presentation at the next hearing, they will see the wide spectrum of states that have passed similar policies. She pointed out that Senator Katrina Jackson is a Democrat and an African American serving in Louisiana. She asked members to keep

an open mind in this matter and allow the legislature, through the voter initiative process, to determine what type of policies the state may wish to have. When Senator Jackson previously testified before the Senate Health and Social Services Standing Committee, she mentioned that because of Louisiana's parental consent or notification law, the people bringing some young girls to clinics for abortions could not provide proof that they were their parents. The committee has previously heard about problems in Alaska related to human trafficking. She expressed concern that the legislature would be limited in what it could do to control this activity under the current conditions and the interpretation of the Constitution of the State of Alaska. She stated that that was one of the reasons to bring this resolution forward.

CHAIR COGHILL thanked Senator Jackson. He apologized that the committee did not have time to hear from Jeanneane Maxon from the Charlotte Lozier Institute in Washington, D.C.

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SENATOR HUGHES advised that Ms. Maxon was a scholar who could provide information related to the legal aspects.

[SJR 13 was held in committee.]

[2:55:19 PM](#)

CHAIR COGHILL stated that in accordance with AS 39.05.080, the Senate Judiciary Committee reviewed the following and recommends the appointments be forwarded to a joint session for consideration, which Senator Micciche read:

Commission on Judicial Conduct

Todd Fletcher - Anchorage

Select Committee on Legislative Ethics:

Deborah Fancher - Anchorage

Lee Holmes - Anchorage

Alaska State Commission for Human Rights:

William Craig - Sitka

Elizabeth "Betsy" Engle - Fairbanks

Kyle Foster - Anchorage

Evelyn Falzerano - Anchorage

Signing the reports regarding appointments to boards and commissions in no way reflects individual members' approval or

disapproval of the appointees; the nominations are merely forwarded to the full legislature for confirmation or rejection.

SENATOR REINBOLD expressed concern about forwarding the name of Ms. Engle to the Alaska State Commission for Human Rights and suggested removing her name from the list of appointees.

CHAIR COGHILL offered his view that all the candidates considered today were qualified to serve on the commissions. He said the decision not to retain Ms. Stewart was made by the governor's office.

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SENATOR REINBOLD reiterated that she would like to forward all appointee names with the exception of Ms. Engle because she would like to ask her more questions.

[2:58:10 PM](#)

CHAIR COGHILL said she had every right to contact Ms. Stewart offnet, to state her case on the floor, and in the building.

[2:58:20 PM](#)

There being no further business to come before the committee, Chair Coghill adjourned the Senate Judiciary Standing Committee meeting at 2:58 p.m.