

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

March 19, 2021

1:31 p.m.

MEMBERS PRESENT

Representative Matt Claman, Chair
Representative Liz Snyder, Vice Chair
Representative Harriet Drummond
Representative David Eastman
Representative Christopher Kurka
Representative Sarah Vance

MEMBERS ABSENT

Representative Jonathan Kreiss-Tomkins

COMMITTEE CALENDAR

CONFIRMATION HEARING(S) :

Attorney General, Department of Law

Treg Taylor - Anchorage

- CONFIRMATION(S) ADVANCED

HOUSE BILL NO. 57

"An Act relating to the budget reserve fund established under art. IX, sec. 17(d), Constitution of the State of Alaska; relating to money available for appropriation for purposes of applying art. IX, sec. 17, Constitution of the State of Alaska; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

HOUSE BILL NO. 3

"An Act relating to the definition of 'disaster.'"

- BILL HEARING CANCELED

HOUSE BILL NO. 29

"An Act relating to liability of an electric utility for contact between vegetation and the utility's facilities; and relating to vegetation management plans."

- BILL HEARING CANCELED

HOUSE BILL NO. 62

"An Act relating to solemnization of marriage."

- BILL HEARING CANCELED

PREVIOUS COMMITTEE ACTION

No previous action to record

WITNESS REGISTER

SHELDON FISHER

Anchorage, Alaska

POSITION STATEMENT: Provided invited testimony in support of the confirmation of Mr. Treg Taylor, appointee for attorney general.

PHYLLIS RHODES

Anchorage, Alaska

POSITION STATEMENT: Provided invited testimony in support of the confirmation of Mr. Treg Taylor, appointee for attorney general.

MIKE GERAGHTY

Anchorage, Alaska

POSITION STATEMENT: Provided invited testimony in support of the confirmation of Mr. Treg Taylor, appointee for attorney general.

SHELLY CORDOVA, Senior Vice President/General Counsel

ASRC Energy Services

Anchorage, Alaska

POSITION STATEMENT: Provided invited testimony in support of the confirmation of Mr. Treg Taylor, appointee for attorney general.

TREG TAYLOR, Appointee

Attorney General

Office of the Attorney General

Department of Law

Anchorage, Alaska

POSITION STATEMENT: Testified as the appointee for attorney general.

BARRY JACKSON

No address provided

POSITION STATEMENT: During the confirmation hearing for Mr. Treg Taylor, appointee for attorney general, testified regarding an investigative report conducted by Mr. Taylor.

DAVID CARTER

Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to the confirmation of Mr. Treg Taylor, appointee for attorney general.

VERI DI SUVERO

Alaska Public Interest Research Group (AKPIRG)

Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to the confirmation of Mr. Treg Taylor, appointee for attorney general.

ANDREE MCLEOD, Good Government Director

Alaska Public Interest Research Group (AKPIRG)

Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to the confirmation of Mr. Treg Taylor, appointee for attorney general.

THERESA OBERMEYER, PhD

Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to the confirmation of Mr. Treg Taylor, appointee for attorney general.

ACTION NARRATIVE

[1:31:00 PM](#)

CHAIR MATT CLAMAN called the House Judiciary Standing Committee meeting to order at 1:31 p.m. Representatives Drummond, Snyder, and Claman were present at the call to order. Representatives Eastman, Kurka, and Vance arrived as the meeting was in progress.

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

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CHAIR CLAMAN announced that the only order of business would be the confirmation hearing for Treg Taylor, the governor's appointee for attorney general, Department of Law. He reminded members that this is the committee's second confirmation hearing for Mr. Taylor.

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CHAIR CLAMAN opened invited testimony.

[1:33:16 PM](#)

SHELDON FISHER provided invited testimony in support of Treg Taylor, appointee for attorney general, Department of Law. He stated he has known Mr. Taylor for many years, including when they served together at McKinley Capital [Management], and they are personal friends. Over these years, he said, he has found Mr. Taylor to be honest, motivated by principle in his dealings, hardworking, intelligent, and thoughtful. He offered his appreciation for the committee taking Mr. Taylor's confirmation seriously and reiterated his support for Mr. Taylor.

[1:34:46 PM](#)

PHYLLIS RHODES provided invited testimony in support of Treg Taylor, appointee for attorney general, Department of Law. She said her working career was with the federal courts in Alaska, and her retirement career has been aimed at equality for all. She related that her personal knowledge of Mr. Taylor is from working closely with him over a two-year period in a diverse group of individuals seeking to devise what statewide nondiscrimination legislation would look like that could be supported across party lines. She specified that Mr. Taylor was fully involved in the endeavor, truly believed in equality for everyone, was attentive, actively participated in compromise, and presented innovative solutions to be considered in the group's discussions. She said legislators will find Mr. Taylor receptive to ideas, easy to work with, and dedicated to finding workable compromise where needed to further a better Alaska for all citizens.

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MIKE GERAGHTY provided invited testimony in support of Treg Taylor, appointee for attorney general, Department of Law. He stated he has been an active attorney in Alaska for almost 43 years and served as attorney general under Governor Parnell from 2012-2014. He related that he hired Mr. Taylor out of law school in 2004 and Mr. Taylor worked as an associate with the firm for about five years. He said he worked closely with Mr. Taylor on several matters of litigation including trials, and Mr. Taylor was a hard worker, a very good attorney, and a valued

member of the firm. He said he was pleased for Mr. Taylor when the governor announced his appointment. Mr. Geraghty added that he has known Mr. Taylor as an honest and ethical attorney with strength of character and would never question Mr. Taylor's desire and commitment to do the right thing and to seek the input and guidance he needs to determine the right thing. He pointed out that as the attorney general Mr. Taylor has the resources of the Department of Law to help him with those decisions and Mr. Taylor would not hesitate to draw on that knowledge to assist him in the discharge of those duties. He stated that the attacks on Mr. Taylor's character in previous testimony were unwarranted and malicious, and he endorses Mr. Taylor's appointment without any qualifications.

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SHELLY CORDOVA, Senior Vice President, General Counsel, ASRC Energy Services, provided invited testimony in support of Treg Taylor, appointee for attorney general, Department of Law. She related that she was general counsel and Mr. Taylor's manager when he worked as senior corporate counsel at her company. She said she is testifying on behalf of herself and ASRC Energy Services to state that Mr. Taylor's integrity, legal acumen, work ethic, and other strong qualities make him the right person to be Alaska's attorney general. Regarding integrity, she said Mr. Taylor is the kind of person who does the right thing because it is the right thing to do, and his commitment to honesty, transparency, and accountability would serve Alaska well. She specified that Mr. Taylor's legal experience across a broad range of fields makes him well qualified, and that this experience includes employment, environmental, investigation, litigation, and matters worth many hundreds of millions of dollars. She added that Mr. Taylor's work ethic is exemplary, and Alaskans can count on him to work hard advancing their interests. For these reasons, she said, she and ASRC Energy Services wholeheartedly support Mr. Taylor's confirmation. As well, she continued, Mr. Taylor is kind, strongly committed to his family, authentically cares about others, helps others on a person-by-person basis, and takes on volunteer projects to help his community, all of which show that he is fundamentally a good person. She stated that Mr. Taylor will be able to fix Alaska's problems, both big and small, and will do so with integrity.

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CHAIR CLAMAN invited committee members to ask questions of Mr. Taylor.

[1:42:55 PM](#)

REPRESENTATIVE DRUMMOND related that in 2018 House Bill 119 was passed by the legislature and signed into law by the governor. She said House Bill 119 contained a provision that stated: "Section 4, AS 42.40.350(a) is amended to read: (a) the corporation shall receive from the United States and in its own name take title to all rail property transferred under 45 USC 1201-1214, the Alaska Railroad 14 Transfer Act of 1982, except that the corporation does not have authority over any right, title, or interest in property transferred under this subsection that was not vested in the United States at the time of transfer." She explained that this provision was intended to instruct the railroad to stop charging private property owners along the railroad for using their own land. In October 2020 it was reported that the railroad was suing the Flying Crown Homeowners Association to obtain such payments in direct violation of this new law put in place by House Bill 119. She asked Mr. Taylor whether he has any knowledge of this situation.

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TREG TAYLOR, Appointee, Attorney General, Department of Law (DOL), confirmed he has knowledge of the bill and the issues.

REPRESENTATIVE DRUMMOND inquired whether Mr. Taylor believes that the state-owned Alaska Railroad Corporation can flout legislative instructions.

MR. TAYLOR responded he is in an awkward position to answer the question because he has recused himself from that issue within the Department of Law (DOL) due to a conflict of interest. He explained that in an abundance of caution he has removed himself from this question because his personal residence abuts railroad property in south Anchorage. He said he has very strong personal feelings about that issue but hesitates to provide those here and give them the clout of the attorney general when he has a clear conflict of interest on the issue.

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REPRESENTATIVE DRUMMOND asked whether as the attorney general sworn to uphold state law, Mr. Taylor will take action on this issue or assign someone in DOL to take that action.

CHAIR CLAMAN answered on behalf of the appointee. He explained that if Mr. Taylor has recused himself, he cannot have anything to do with it. Responding further to Representative Drummond, Chair Claman said Mr. Taylor could answer questions but because Mr. Taylor has recused himself, he has no involvement in the decision. He asked Mr. Taylor to correct him if he is wrong.

MR. TAYLOR confirmed Chair Claman is correct. He said it is out of his hands whether someone within his section takes that up or whether someone within the Civil Division takes up that issue, as he doesn't have the ability to encourage that or to even talk about that with those individuals. He informed Representative Drummond that she can submit the questions to the Department of Law and the administrative assistant will ensure the questions get to the appropriate person to address her concerns.

[1:47:44 PM](#)

REPRESENTATIVE SNYDER addressed the topic of restrictions on employment after leaving state service and the use of waivers. She said this ethics rule is in place to protect the interests of the public and ensure unfair advantages aren't afforded to one business over another when someone leaves public service. She added that those safeguards are in place to strengthen and promote the faith and confidence that Alaskans have in their public officers. With respect to former chief of staff Ben Stevens, she noted that Mr. Taylor previously shared with the committee that he didn't think a waiver was necessary based on some verbal and undocumented conversations, that in his new job as vice president of external affairs and transportation at ConocoPhillips Alaska, Inc. Mr. Stevens wouldn't be advising on matters under consideration by the governor's office and in which Mr. Stevens had participated, in particular matters having to do with the oil industry. She requested Mr. Taylor to help the committee better understand how this job position entered by Mr. Stevens did not require a waiver.

MR. TAYLOR replied that his understanding of Mr. Stevens' job description is general, and that it was the ethics counsel at DOL who got into the details. He said his understanding is that Mr. Stevens is participating in a wide variety of things, including Conoco's tanker fleet, working with stakeholders in various areas in which ConocoPhillips has projects or potential projects, and overseeing ConocoPhillips' paid lobbyists.

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REPRESENTATIVE SNYDER noted that ConocoPhillips spokeswoman Natalie Lowman specifically mentions in a 2/24/[21] article that the job responsibilities of Mr. Stevens will include government relations. She recounted that Mr. Taylor's view in his last conversation with the committee was that it's the responsibility of Mr. Stevens to self-report should his duties create an ethical conflict. She requested Mr. Taylor to provide more detail on what that self-reporting would look like in terms of timing and what the requirements would be if Mr. Stevens' responsibilities were to change.

MR. TAYLOR responded that at the last hearing he indicated there would be times that he expects to hear a request for a public interest waiver from Mr. Stevens. He said he guesses that occasions will arise where, in an abundance of caution or because of personal and substantial involvement in a matter Mr. Stevens is dealing with on the Conoco side that he had as chief of staff (COS), that DOL is going to receive specific waivers to specific job duties that Mr. Stevens has. Mr. Taylor stated that the Alaska Executive Branch Ethics Act ("Ethics Act") is designed for self-reporting. Given many people leave state service, he said, one can imagine the fiscal note that would be attached to putting an investigator on each of those persons to monitor their daily activities. Training is provided to those individuals on their duties under the Ethics Act, he advised, so he expects that Mr. Stevens would request a waiver if asked to do something in the course of his job duties that he feels would require a waiver or questions whether a waiver is required.

MR. TAYLOR further noted that Mr. Stevens has access to DOL ethics attorneys for the next two years and has already developed a relationship with those individuals. He explained that if Mr. Stevens asks for a waiver, then the governor and he [as the attorney general] would discuss the aspect of that waiver and whether Mr. Stevens had personal and substantial involvement at the COS level and then whether granting of a waiver would be in the public's best interest. If those criteria are met, he continued, the waiver would be granted and would become public; if he and the governor didn't grant the waiver, that would be the end and Mr. Stevens would be precluded from working on that specific task. He specified that any violations of the Ethics Act are an entirely different matter. He explained that if an ethics complaint were to be seen in a year a so that Mr. Stevens has violated that two-year prohibition on doing something in which he had personal and substantial involvement while he was COS, then the Ethics Act

would kick into place and the repercussions outlined in the Act would occur after an investigation.

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REPRESENTATIVE SNYDER recalled that at the last hearing this approach was noted as somewhat unprecedented and represents a departure from how these things have been approached in the past for these types of positions.

MR. TAYLOR stated he is not aware of what has been done in the past, he is simply going on his reading of the Ethics Act and the information he has received from DOL ethics attorneys. He said the question is whether a blanket waiver on Mr. Stevens' activities is in the best interest of the state. He stated he feels a blanket waiver is not in the best interest of the public and therefore a tact has been taken of looking at a case-by-case basis and making those decisions based upon the specific facts of that case, and then making that determination of what is in the public's best interest.

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REPRESENTATIVE EASTMAN stated for the record that the first testifier was too humble because Mr. Fisher was a member of the Walker Administration's cabinet. He maintained that as a former appointee who went through this same confirmation process, Mr. Fisher's testimony is even more relevant.

[1:55:51 PM](#)

REPRESENTATIVE KURKA noted that the attorney general often gives advice on the separation of powers between the different branches of government. He related that in the Federalist Papers, No. 78, Hamilton talks about the Judiciary Branch as being the weakest branch of government because it depends on the Executive Branch and the Legislative Branch to enforce its judgements. He asked whether Mr. Taylor agrees with that assessment that the Judicial Branch must depend on the other two branches of government to confirm its actions.

MR. TAYLOR answered he is a staunch believer in the separation of powers. He recalled he spoke to that in the prior hearing when he said there is inherent tension between the three branches, and that the inherent tension is what produces good law and the best results for the public served by the branches. He stated that the very makeup for the Judicial Branch's lack of

enforcement mechanism - a court order - depends on outside the court branch to enforce, whether that's law enforcement or when the court strikes down a statute. So, he continued, the Judicial Branch does have to rely on the other branches to respect the decisions that the Judicial Branch has made.

[1:58:04 PM](#)

REPRESENTATIVE SNYDER thanked Mr. Taylor for mentioning at his first confirmation hearing that sexual violence and harassment is a priority to address in Alaska's communities and should not be tolerated in Alaska's governmental institutions. She brought up the topic of former Attorney General Kevin Clarkson sending 558 harassing texts to a subordinate over 27 days and requested Mr. Taylor's perspective on moving forward and lessons learned from this issue. She recalled Mr. Taylor's statement that Mr. Clarkson was an honorable man and that the right thing was done. She asked whether the committee should interpret this statement to mean that the one month of unpaid administrative leave was enough recourse for Mr. Clarkson's actions or whether, as the attorney general [designee] Mr. Taylor's opinion would be that a different course should have been taken.

MR. TAYLOR qualified he must be careful how he comments given this is a personnel issue. He stated he does not think the one-month suspension in and of itself was adequate and doesn't think it was ever intended to be the final say. He said he believes that it was the opportunity for Mr. Clarkson's boss to review what had gone on, review the findings of the human resources investigation, and make a final decision about the status of Mr. Clarkson's employment. This second part, he pointed out, was preempted from taking place because ultimately Mr. Clarkson resigned as attorney general. Given the nature of the texts and given it was a subordinate, although a subordinate within another department of the Executive Branch, not the Department of Law, he said it was the right conclusion for Mr. Clarkson to step down and, if not, the right conclusion to probably terminate his employment.

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REPRESENTATIVE SNYDER surmised there might have been some shortcomings in the vetting process in that specific appointment decision. She asked Mr. Taylor what could be done to prevent situations like this from occurring again in the future.

MR. TAYLOR replied he has many ideas on that subject, and he has shared some of them with the governor's office. He explained that a sort of investigation takes place, and he hopes there is some element where residents of Alaska know they can submit comments to the chief executive about their observations. Not speaking specifically to this appointment, he said there have been times when this ability would have prevented some of this and would have aided the state and the executive in making decisions.

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REPRESENTATIVE EASTMAN said some people are of the opinion that the oath taken by legislators or attorney general is symbolic and that deference should be given to what the courts say is the constitution rather than viewing their own oath as a relation directly to the constitution. He requested Mr. Taylor's thoughts in this regard.

CHAIR CLAMAN stated that this discussion has occurred in prior attorney general nominations, and that as a member of Alaska Bar Association ("Bar") Mr. Taylor is required to follow the court's decisions on the interpretation of the constitution. Chair Claman said he is therefore ruling that question out of order.

REPRESENTATIVE EASTMAN asked whether Chair Claman is suggesting he direct that question to Mr. Taylor in private. He said his vote is dependent on Mr. Taylor's views on these matters as "the constitution and our oath is very important."

CHAIR CLAMAN responded that as a member of this body and citizen of this state and this country, Representative Eastman is entitled to ask on a personal level or direct from his office to the attorney general nominee any question that he wants but not during this committee. He said that when asking about areas which Mr. Taylor's oath as a member of the Bar would prohibit him from answering, he thinks Mr. Taylor is not going to answer in this committee. He inquired whether Representative Eastman has other questions.

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REPRESENTATIVE EASTMAN stated that the Alaska Supreme Court decision on Valley Hospital Association Inc. v. Mat-Su Coalition for Choice hit close to home in his area. He said that in this decision the court held that "we are under a duty to develop additional constitutional rights and privileges under our Alaska

constitution." He asked whether that is how Mr. Taylor sees the role of the courts.

MR. TAYLOR answered that as cases come to the Alaska Supreme Court, oftentimes the constitutional rights of individuals of this state, constitutional rights of citizens of the United States, are brought to light; so, issues come up that there's a constitutional question about. He said he doesn't think it is the court's duty to invent new constitutional rights, but he does believe it is the court's duty to sort of define what those constitutional rights are in questions that are of first impression; so, they are taking the old constitutional rights and applying them to current situations. He stated he doesn't think constitutional rights change over time, but that blanks are being filled in where there are matters of first impression.

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REPRESENTATIVE EASTMAN noted that numerous cases started before Mr. Taylor's tenure began, one being Alaska Legislative Council v. Dunleavy. He noted that as a party to that case, the legislature might like the attorney general to take its side in that opinion. He inquired whether Mr. Taylor, as the attorney general, has an obligation to maintain the position advocated by the administration prior to his tenure. In response to Chair Claman, he confirmed that this case involves appointments.

MR. TAYLOR replied he doesn't want to comment and second guess his predecessors, but stated he will look at cases afresh, including prior decisions that attorneys general have given, and look at the application of law. He specified he will weigh in on those if he thinks there has been an error in the advice that was given. He said he doesn't think that once an attorney general gives an opinion that that is law. There should be a willingness to take a new look at these things and engage in discussions on these issues, he continued, especially in this case with Legislative Legal. Mr. Taylor added that he is a believer in talking through things, communicating sides, and working to solutions rather than to head to the courts. The courts ultimately play a role in that if both parties can't come to a position in which they agree, he advised, then it is the natural duty of the courts to decide those issues between the Legislative Branch and the Executive Branch.

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REPRESENTATIVE VANCE said it has come to her attention that Mr. Taylor issued an opinion on Alaska's Open Meetings Act. She related that some of her constituents have concerns about AIDEA [Alaska Industrial Development and Export Authority] and others that are consistently going into executive session, thereby cutting out much of the public process. She requested Mr. Taylor's thoughts.

MR. TAYLOR responded he believes the Open Meetings Act should be followed. He said the transparency that the legislature intended with that Act is an important aspect of government and gives the public confidence in their government. There are exceptions within that Act that allow these executive sessions, he advised, and whether those executive sessions are being abused would be a case-by-case look and investigation into that matter. He offered his hope that that is not being abused, but said if that is the case, they are in violation of the Open Meetings Act.

[2:10:41 PM](#)

CHAIR CLAMAN stated it is troubling to hear complaints from his constituents that executive sessions start five minutes after AIDEA begins a meeting and sometimes the public must sit on the phone for as long as three hours before the meeting is finally reopened. He said that while he understands the need to go into executive session, it is frustrating that AIDEA cannot manage its agenda to give meaningful opportunity for public input. He urged that Mr. Taylor's office try to direct AIDEA that way when giving counsel.

REPRESENTATIVE VANCE said she concurs as her constituents have expressed the very same frustration. She said AIDEA has met in executive session more than what it has offered to the public and therefore AIDEA is not offering the transparency. She asked whether Mr. Taylor has compared the open meeting acts of other states with Alaska's and how Alaska could improve.

MR. TAYLOR answered that he has not yet had the opportunity but is sympathetic to the concerns expressed by both Chair Claman and Representative Vance.

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CHAIR CLAMAN said he understands the administration became aware of complaints about Mr. Clarkson's behavior in these texts in

May or early June [2020]. He asked when the administrative leave occurred.

MR. TAYLOR replied he became aware of the general nature of the allegations against Mr. Clarkson at the time Mr. Clarkson was asked to take administrative leave, but he said he couldn't recall when that exactly occurred and would have to look at the record.

CHAIR CLAMAN inquired whether Mr. Clarkson told Mr. Taylor as the deputy attorney general or whether Mr. Taylor heard that Mr. Clarkson went on administrative leave but didn't know the reasons [for that leave].

MR. TAYLOR responded that it involved a personal conversation as Mr. Clarkson left the office. He said Mr. Clarkson had a very brief conversation with several people of the leadership team that he was taking some time off and did not provide an explanation at that time. It was soon thereafter, he continued, that the team became aware of the general nature of the complaint against Mr. Clarkson.

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CHAIR CLAMAN recalled that during his first confirmation hearing in response to questions from Representative Kreiss-Tomkins, Mr. Taylor stated that he knew Mr. Clarkson to be an honorable man. He inquired whether Mr. Taylor thinks Mr. Clarkson was being an honorable man when he sent the first of those text messages to the employee of the Executive Branch.

MR. TAYLOR answered that he in no way condones what took place with those text messages and it was wrong. He said action should have been taken and was taken that ultimately led to Mr. Clarkson resigning. That was the right result, he added, and he would never condone action of that nature in any circumstance.

CHAIR CLAMAN stated that Mr. Taylor did not answer the specific question of whether Mr. Clarkson was being an honorable man when he sent that first text.

MR. TAYLOR replied he isn't sure whether that first text would. He said he hasn't gone through all the texts Mr. Clarkson sent, but it was not an honorable exchange that took place. Good people make mistakes, he stated, and he believes in redemptive quality. It was not honorable that Mr. Clarkson sent those texts, he continued, but he doesn't think those texts define Mr.

Clarkson as a person. He related that he thought highly of Mr. Clarkson when he worked with him, the texts were a revelation and something he has to consider. He said he thinks the texts were wrong, should not have been sent, and should have been acted upon, and they were acted upon.

[2:16:08 PM](#)

CHAIR CLAMAN asked whether Mr. Taylor thinks Mr. Clarkson has been held accountable for his conduct in sending the 558 texts.

MR. TAYLOR responded that Mr. Clarkson lost his employment with the state, which was the appropriate action for the state to take and the appropriate result. Some soul searching by Mr. Clarkson probably needs to take place, he added. He said another possibility is a civil action from the employee against Mr. Clarkson for those texts, but he has no knowledge of that.

CHAIR CLAMAN pointed out that a civil action would be a decision by the employee, not anyone else.

MR. TAYLOR answered correct.

[2:17:12 PM](#)

CHAIR CLAMAN recalled that when asked about the losing string of cases [during his first confirmation hearing], Mr. Taylor's response included a comment that the governor doesn't make those decisions, the attorney general decides those in the public interest. Chair Claman noted that one case currently pending on appeal involves the Alaska State Employees Association regarding union affiliation and a certain interpretation of the "Janus case" that led to an injunction from the superior court and a ruling against the state. He said he doesn't see that as an attorney general's decision and rather a governor's decision to take that executive action, but it's upon the advice of the attorney general to take that action. He asked how Mr. Taylor views the attorney general's role in a case where it is not just the attorney general making a decision, but the governor wanting to do something and getting advice from the attorney general's office which in that case was contrary to a statute in prior decisions of the supreme court.

MR. TAYLOR replied Chair Claman is almost answering the question for himself. He said his role, to the best of his ability, is to provide the best advice on how the governor should act; his role isn't to sugarcoat any of the realities of the potential

decision or the outcomes of any of those decisions. He noted that there is no statutory requirement for the governor, who is elected by the people, to listen to the attorney general, who isn't elected by the people. Once the governor acts, he continued, then the attorney general has a decision to make if it results in litigation. The part played by the attorney general in that process, he said, is to both give advice and then defend state action if it's in the public interest.

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CHAIR CLAMAN surmised that in this particular case the decision to proceed to appeal and appeal the trial court's ruling was made by the attorney general at that point and no longer the governor making that decision.

MR. TAYLOR responded correct. He said the governor is a client and like any client [the attorney] consults with the client, but ultimately the attorney relationship is unlike a client in that the attorney general ultimately has say on whether a case proceeds, whether a case is appealed, and whether a case is instigated. He specified that when [the state] gets sued [the attorney general] has a statutory duty to defend the state, a role given to [the attorney general] by the legislature.

CHAIR CLAMAN noted that when an attorney recognizes a case is weak and the odds of prevailing very low there are options for resolving that case sooner than later and not necessarily going all the way to final judgement, not necessarily choosing to appeal. He asked where the point is that the attorney general can exercise independent judgement and say, "Governor, you may want to but we're just not going to do that, it's not in the state's interest to appeal this anymore or proceed any further because we're just going to lose."

MR. TAYLOR concurred there is a point where that conversation is had with the governor, then the attorney general acts, and then the governor is free to act based upon that action. He reiterated that it's up to the attorney general to bring litigation that's in the state interest, pursue litigation that's in the public's interest. If [an attorney general] makes a decision that is contrary to what the governor would like done, then the governor can act with the governor's authority if he or she so chooses.

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CHAIR CLAMAN surmised the governor's authority would be to fire the attorney general because, if the attorney general is not willing to file the appeal, the governor must find somebody else to do it.

MR. TAYLOR confirmed that that's one of the options available to the governor.

CHAIR CLAMAN cited the abortion funding veto as an example in which the trial court ruled against the state and the Department of Law did not appeal that ruling. He surmised that was a decision made by the Department of Law independent of the governor saying the state should not appeal this case.

MR. TAYLOR answered that due to attorney-client privilege he can't get into what was in those conversations. He explained that in a case like that the attorney general listens to the client about what the client wants done, whether the client is a department or the governor, and then the attorney general advises the governor as to what the attorney general thinks is the right course of action and the reasons why, and then the decision on appeal is a decision for the attorney general.

[2:22:56 PM](#)

CHAIR CLAMAN noted the governor recently withdrew Executive Order (EO) 119, which would have [reorganized] the Department of Health and Social Services. He recounted that before the withdrawal there were legislative hearings and meetings between the attorney general and Legislative Legal Services on the EO. He inquired whether Mr. Taylor recognized that if EO 119 wasn't withdrawn a lawsuit would likely have been quickly filed.

MR. TAYLOR agreed that [a lawsuit filed against the state] would likely have happened and said that would not have been in the state's best interest. The Department of Law, he explained, looked with fresh eyes at the concerns brought up by Legislative Legal Services and made a determination. He said DOL's recommendation to withdraw the EO and to work with Legislative Legal Services to address those concerns was in the best interest of the state. He related he is hopeful a compromise can be reached on this issue, and something put forward that is going to withstand legal scrutiny and be a positive for the residents of Alaska.

[2:24:16 PM](#)

CHAIR CLAMAN complimented Mr. Taylor for his focus on criminal cases. He shared that in his conversations with other lawyers there has been discussion that lawyers appointed to the Alaska attorney general's office are always civil experts, not criminal experts, yet this huge job is the criminal side. He asked whether Mr. Taylor has any criminal law experience other than his time serving as attorney general.

MR. TAYLOR replied he has no criminal law experience. He said that historically an appointed attorney general usually comes from the civil side, while an elected attorney general usually rises through the prosecution or defense ranks and becomes the attorney general of the state. He said his focus regarding the Criminal Division is to learn that side so he can be hands-on and able to help prioritize the division's concerns so it can become stronger and more effective in its prosecutions.

CHAIR CLAMAN asked whether in his prior practice Mr. Taylor had any appellate matters before the Alaska Supreme Court in which he was the lead counsel.

MR. TAYLOR responded no.

CHAIR CLAMAN inquired whether Mr. Taylor has tried any civil jury trials.

MR. TAYLOR pointed out that in today's testimony Mike Geraghty testified that the two of them did some trials together. Mr. Taylor said he was co-counsel on those trials. In further response to Chair Claman, Mr. Taylor confirmed that Mr. Geraghty was the lead counsel in those trials.

CHAIR CLAMAN asked whether Mr. Taylor has been actively involved in any oil and gas tax matters.

MR. TAYLOR replied he has not in his prior capacity had any involvement in specific oil and tax issues.

[2:26:53 PM](#)

REPRESENTATIVE VANCE recounted that in the previous confirmation hearing she asked how, given the breadth of the work required of an attorney general, Mr. Taylor comes to prioritize cases that the state should pursue. She inquired whether Mr. Taylor has been able to reflect upon that question and how he plans to make that prioritization.

MR. TAYLOR responded that it's a tough question given the diversity of the legal issues taken on by DOL. He related that DOL has nearly 300 attorneys, all of whom are experts in one or another area of law and who work hard on behalf of the public. It's almost impossible for an attorney general to come in who has experience in all those diverse issues, he stated, so he is all ears when DOL attorneys have issues come up. As far as prioritization, he said he has certain things that he has a statutory obligation to take on and that is defense. Any time the state is sued, he explained, DOL engages in that litigation to defend the state whether it is a statute passed by the legislature or a decision made by a department. Regarding the state's defense, he said he would order those in priority of being constitutional issues, statehood defense issues making sure the state receives the things promised at statehood and that there is not encroachment on those issues, and third is the resource development aspect because that is the lifeblood of this state.

[2:29:36 PM](#)

CHAIR CLAMAN pointed out that statistics show the Department of Corrections population overrepresents minorities, particularly Alaska Natives. He noted that Mr. Taylor talked in his opening statement about his youth connection on Indian reservations and concern for people in minority communities. He requested Mr. Taylor's thoughts as attorney general on steps that could be taken to make it so that this overrepresentation of Alaska Natives is no longer seen in a few years.

MR. TAYLOR said that is a big issue on which he has not fully developed an opinion. He said as he learns more about these issues and why Alaska has an overrepresentation within some of those minority groups it is obviously going to be a multifaceted problem. He stated he is willing to address those issues as he becomes more aware and will take them on to make sure there isn't any bias in Alaska's system in the way cases are prosecuted and that it is based on the law and not the color of skin. He added that in making these comments he has zero reason to believe that the state's prosecutors are engaging in that, but he is willing to look at that issue.

[2:31:37 PM](#)

REPRESENTATIVE EASTMAN stated he will ask Mr. Taylor more questions after the hearing is over [given Mr. Taylor's time

constraint]. He offered his congratulations to Mr. Taylor for stepping forward.

[2:32:26 PM](#)

CHAIR CLAMAN opened public testimony on the confirmation of Mr. Treg Taylor, appointee for attorney general.

[2:33:01 PM](#)

BARRY JACKSON testified he is a retired state employee who worked for 30 years in procurement and all aspects of state purchasing. He said his concerns about Mr. Taylor's potential service as the attorney general have to do with Mr. Taylor's investigative report on the Alaska Industrial Development and Export Authority (AIDEA) and the Clark Penney contract, which was done to ascertain how procurement came about, the contractor selection process, and whether AIDEA complied with the procurement process. He related that the report was just one paragraph basically saying that AIDEA had all the necessary papers in place in its files. He said the report ignored that the procurement began with the Department of Commerce, Community, and Economic Development (DCCED) through Mr. Penney's drafting of the contract, and that once the contract had been largely negotiated it was offloaded to AIDEA which then did a sole source contract procurement. He asserted that DCCED knew it would never get this contract through the process of sole source procurement. He charged that the amount of this investigation was astoundingly bad and seems to indicate an intent to cover up what really happened.

[2:36:50 PM](#)

DAVID CARTER testified he is a retired lawyer who practiced in Anchorage from 1984-2013. He stressed that the attorney general position is a very important position for which there are many qualified people in the state. But, he continued, Mr. Taylor is not one of them given how he approached the matter of Ben Stevens receiving money from VECO [while a state senator]. He maintained that the ethics policy of ConocoPhillips is that it doesn't tolerate ethics. He asserted there are no penalties of any consequence and no criminal penalties for violations. He charged that there is too much money involved, and too many revolving doors and incestuous relationships. He said Mr. Taylor is not the proper person to be Alaska's attorney general and urged members to not support Mr. Taylor's confirmation.

REPRESENTATIVE VANCE clarified for the record that while it may be a public concern, Mr. Stevens was not found guilty for any of his actions with VECO.

CHAIR CLAMAN offered his understanding that Mr. Stevens was not even charged.

[2:40:00 PM](#)

VERI DI SUVERO, Alaska Public Interest Research Group (AKPIRG), testified in opposition to the confirmation of Mr. Taylor. Mx. Di Suvero said AKPIRG is a statewide nonpartisan nonprofit organization advocating on behalf of consumers and the public interest. They referenced a statement by Mr. Taylor regarding not judging people on their worst days and related that when a white supremacist recently killed six Asian American women a law enforcement official said the supremacist was having a bad day. This rhetoric, they argued, is used to absolve and forgive predators, murderers, and white supremacists in positions of power while women, communities of color, and other marginalized communities are left to bear burdens of violence without ever seeing accountability. They related that when former Attorney General Clarkson resigned, AKPIRG sent a letter alongside others requesting Governor Dunleavy to commit to combatting the sexual assault crisis in Alaska by assuring that the next attorney general be a woman and/or a person of color and not a sexual predator. Instead, the governor appointed another predator, Mr. Sniffin, who also resigned due to sexual improprieties with a high school student.

MX. DI SUVERO recalled Mr. Taylor's statement about Mr. Clarkson being an honorable man and said Mr. Taylor does not seem to understand that those behaviors share the same fate as the current sexual violence crisis that Alaska faces and that Mr. Taylor purports to address as attorney general, the top legal office for the state. They added that Mr. Taylor's doublespeak continues into the realm of public trust in government. Through a recent information request for within the Department of Law, they continued, AKPIRG learned that Mr. Taylor actively colluded to circumvent ethics statutes that would lead to written waiver mandates for certain conflicts of interest. They asserted that this was confirmed during Mr. Taylor's first confirmation hearing when he stated that only certain circumstances would require a conflict waiver, circumstances of which have already been satisfied by Ben Stevens' job description of government affairs. They said Mr. Taylor seems to have directed Mr.

Stevens to ask for forgiveness instead. They stated that AKPIRG believes Mr. Taylor is unfit to serve the public's interest.

[2:43:20 PM](#)

ANDREE MCLEOD, Good Government Director, Alaska Public Interest Research Group (AKPIRG), testified that Mr. Taylor's statements during his first confirmation hearing left no doubt that he ought not to be confirmed as Alaska's attorney general. She said Mr. Taylor promises the sun, moon, and stars, but his actions related to the jump of Ben Stevens from the governor's office to ConocoPhillips reveal that either Mr. Taylor doesn't understand the state's laws, or he does understand them and has purposely, willfully, and intentionally chosen to ignore and disregard them. She noted that she has submitted to the committee a copy of all written waivers filed since 2005 per the Alaska Executive Branch Ethics Act. She said it shows that many former public officials did take to heart their oath to do right by the public they served, did follow Alaska's laws regarding written waivers, and that they knew appearances of conflicts of interest existed and took them seriously. Oftentimes corruption is thought of as money changing hands, she stated. But, she charged, during his first hearing Mr. Taylor misconstrued laws put on the books to protect the public interest and prevent and mitigate conflicts of interest, which is corruption. She stated that after the 2006 FBI raids of legislative offices, legislators took great pains to right the wrongs that occurred because of the actions of corrupt public officials. She said corruption can be changed if each committee member takes the necessary action to not confirm Mr. Taylor.

[2:45:37 PM](#)

THERESA OBERMEYER, PhD, testified that she cannot support Mr. Taylor. She cited Mr. Taylor's statement that good people do bad things and asked, "Where are any limits?" She noted that the Alaska Bar Association is an integrated bar, so anyone who is a member must pay Bar dues. She said the Bar has not disciplined Mr. Clarkson, Mr. Sniffin, or Mr. Berkowitz; they have kept their licenses to do whatever they please. She pointed out that only 2 of 24 attorneys general have finished a term, the two being Avrum Gross and Bruce Botelho. She argued it is not a sensible system to leave it up to the individual to be ethical. She questioned whether Mr. Taylor will do anything to Ben Stevens and noted that nothing happened to Mr. Clarkson for several months until the press published a story.

[2:48:21 PM](#)

CHAIR CLAMAN closed public testimony after ascertaining no one else wished to testify.

[2:49:00 PM](#)

REPRESENTATIVE VANCE thanked Mr. Taylor for stepping up to serve and stated it isn't easy to serve after people who haven't acted honorably. She said it doesn't matter who is next after such concerning actions and allegations, this person has a hard line to toe. She recounted that Mr. Taylor has stated he intends to pursue a different avenue and different course of action in his office and will be prioritizing sexual misconduct and sexual assault in Alaska. She related that she has met with Mr. Taylor and asked him what his priorities are, how he is going to do things different. She said the sense she has from Mr. Taylor, and from looking at how he has served and his personal life, is that Alaska can expect a better environment from this attorney general in the future. She said it is up to the people involved in those previous actions to pursue that on behalf of themselves and the public, it's not up to this attorney general to do that. She offered her belief that this committee wants to respect that everyone is innocent until proven guilty.

[2:51:00 PM](#)

REPRESENTATIVE EASTMAN thanked the day's testifiers and Mr. Taylor. He recalled that during the hearing there was some criticism levied at the Executive Branch regarding executive sessions and the public being locked out of the process for hours at a time. While that criticism may be well founded, he continued, just today a constituent told him about waiting for an hour locked out of the House floor session and was then confused about why it ended with 100 percent executive session. So, he stated, everyone has work to do in this area.

[2:51:49 PM](#)

REPRESENTATIVE SNYDER offered her appreciation for the themes that Mr. Taylor addressed regarding what he would like his focus areas to be. She stated she would have appreciated a bit more detail and some of the specific ways in which he would address those issues both statewide and within government offices. She expressed her hope that through continued conversations the committee will continue to receive additional detail. She said it is straightforward to say, "Yes these are important themes,"

but it is also clear that these things continue to persist because they are difficult to address, and it is going to take persistence, research, and detailed focus approaches.

[2:52:59 PM](#)

CHAIR CLAMAN thanked the testifiers and Mr. Taylor.

[2:53:26 PM](#)

REPRESENTATIVE DRUMMOND expressed her appreciation to the public and colleagues of Mr. Taylor who testified. She said it is a tough decision on whether to accept the attorney general and she still isn't there on how she is going to vote on Mr. Taylor in joint session. She stated she was inspired by the train of thought of some of the suggestions and questions, one example being Chair Claman's reference to the percentage of incarcerated Alaska Natives. She offered her belief that there are other paths to reduce that, but they don't have to do with the law or the attorney general's office; rather it has to do with looking across departmentally at things like adverse childhood experiences and how to stop them from happening to Alaska citizens. She said she will call Mr. Taylor to have this conversation with him. She added that she likes the direction Mr. Taylor appears to be wanting to take the department.

[2:55:50 PM](#)

CHAIR CLAMAN stated it is always interesting when Dr. Obermeyer testifies because she often brings information the committee might not have thought about. For example, he continued, her reference to how few attorneys general have served an entire governor's term, whether a single- or two-term governor, and Alaska has only had two governors who served two terms. It raises significant questions, he said, and regardless of whether confirmed Mr. Taylor will not serve the entirety of a term because it is already more than halfway through [this governor's term]. He offered his appreciation to Mr. Taylor for his time [before the committee].

[2:56:35 PM](#)

REPRESENTATIVE SNYDER moved to advance the confirmation of Treg Taylor, appointee for attorney general, Department of Law, to the joint session for consideration. She reminded the committee that signing the reports regarding appointments to boards and commissions does not reflect intent by any individual member to

approve or disapprove confirmation of the appointee during any further sessions. [The nomination is merely forwarded to the full legislature for confirmation or rejection.]

[2:57:34 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 2:58 p.m.