

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

April 10, 2024

1:45 p.m.

**MEMBERS PRESENT**

Senator Matt Claman, Chair  
Senator Jesse Kiehl, Vice Chair  
Senator James Kaufman  
Senator Löki Tobin

**MEMBERS ABSENT**

Senator Cathy Giessel

**COMMITTEE CALENDAR**

SENATE BILL NO. 258

"An Act relating to a permanent fund dividend for an individual whose conviction has been vacated, reversed, or dismissed; and relating to the calculation of the value of the permanent fund dividend by including payment to individuals eligible for a permanent fund dividend because of a conviction that has been vacated, reversed, or dismissed."

- MOVED SB 258 OUT OF COMMITTEE

SENATE BILL NO. 255

"An Act relating to the obstruction of airports and runways; relating to the obstruction of highways; establishing the crime of obstruction of free passage in public places; relating to the obstruction of public places; relating to the crime of trespassing; relating to the obstruction of navigable waters; and providing for an effective date."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: SB 258

SHORT TITLE: CRIM. CONV. OVERTURNED: RECEIVE PAST PFD

SPONSOR(s): STATE AFFAIRS

03/06/24	(S)	READ THE FIRST TIME - REFERRALS
03/06/24	(S)	JUD, FIN

03/25/24 (S) JUD AT 1:30 PM BUTROVICH 205  
03/25/24 (S) Heard & Held  
03/25/24 (S) MINUTE(JUD)  
04/10/24 (S) JUD AT 1:30 PM BUTROVICH 205

BILL: SB 255

SHORT TITLE: OBSTRUCTION OF PUBLIC PLACES; TRESPASSING  
SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

02/21/24 (S) READ THE FIRST TIME - REFERRALS  
02/21/24 (S) TRA, JUD  
03/14/24 (S) TRA AT 1:30 PM BUTROVICH 205  
03/14/24 (S) Heard & Held  
03/14/24 (S) MINUTE(TRA)  
03/21/24 (S) TRA AT 1:30 PM BUTROVICH 205  
03/21/24 (S) Heard & Held  
03/21/24 (S) MINUTE(TRA)  
03/26/24 (S) TRA AT 1:30 PM BUTROVICH 205  
03/26/24 (S) Moved SB 255 Out of Committee  
03/26/24 (S) MINUTE(TRA)  
03/27/24 (S) TRA RPT 1DNP 1NR 2AM  
03/27/24 (S) AM: KAUFMAN, WILSON  
03/27/24 (S) DNP: TOBIN  
03/27/24 (S) NR: MYERS  
04/10/24 (S) JUD AT 1:30 PM BUTROVICH 205

**WITNESS REGISTER**

TREG TAYLOR, Attorney General  
Department of Law  
Anchorage, Alaska

**POSITION STATEMENT:** Introduced SB 255 on behalf of the administration.

LIEUTENANT ROBERT FRENCH  
Alaska State Troopers  
Department of Public Safety (DPS)  
Anchorage, Alaska

**POSITION STATEMENT:** Available to answer questions during the discussion on SB 255.

PARKER PATTERSON, Assistant Attorney General  
Department of Law  
Civil Division  
Juneau, Alaska

**POSITION STATEMENT:** Introduced the sectional analysis during the slideshow presentation on SB 255.

KACI SCHROEDER, Assistant Attorney General, Criminal Division,  
Department of Law  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions pertaining to criminal  
law during the discussion of SB 255.

AMANDA PINEDA, representing self  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in opposition to SB 255.

MENEKA THIRU, representing self  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in opposition to SB 255.

NITHYA THIRU, representing self  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in opposition to SB 255.

KC CASORT, representing self  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified in opposition to SB 255.

SERENE O'HARA-JOLLEY, Alaska State Director  
Planned Parenthood Alliance Advocates  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified in opposition to SB 255.

ALMA ABAZA, representing self  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in opposition to SB 255.

SALIM HOUCK, representing self  
Juneau, Alaska

**POSITION STATEMENT:** Testified in opposition to SB 255.

SONIA KUMAR, representing self  
Juneau, Alaska

**POSITION STATEMENT:** Testified in opposition to SB 258.

THOMAS PATRICK O'CONNOR, representing self  
North Pole, Alaska

**POSITION STATEMENT:** Testified in opposition to SB 255.

LAURA BONNER, representing self  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in opposition to SB 255.

## **ACTION NARRATIVE**

[1:45:41 PM](#)

**CHAIR MATT CLAMAN** called the Senate Judiciary Standing Committee meeting to order at 1:45 p.m. Present at the call to order were Senators Kiehl, Kaufman, Tobin, and Chair Claman.

### **SB 258-CRIM. CONV. OVERTURNED: RECEIVE PAST PFD**

[1:46:15 PM](#)

CHAIR CLAMAN announced the consideration of SENATE BILL NO. 258 "An Act relating to a permanent fund dividend for an individual whose conviction has been vacated, reversed, or dismissed; and relating to the calculation of the value of the permanent fund dividend by including payment to individuals eligible for a permanent fund dividend because of a conviction that has been vacated, reversed, or dismissed."

CHAIR CLAMAN solicited the will of the committee.

[1:46:52 PM](#)

SENATOR KIEHL moved to report SB 258, work order 33-LS1477\A, from committee with individual recommendations and attached zero fiscal note(s).

[1:47:06 PM](#)

CHAIR CLAMAN found no objection and SB 258 was reported from the Senate Judiciary Standing Committee.

### **SB 255-OBSTRUCTION OF PUBLIC PLACES; TRESPASSING**

[1:47:20 PM](#)

CHAIR CLAMAN announced the consideration of SENATE BILL NO. 255 "An Act relating to the obstruction of airports and runways; relating to the obstruction of highways; establishing the crime of obstruction of free passage in public places; relating to the obstruction of public places; relating to the crime of trespassing; relating to the obstruction of navigable waters; and providing for an effective date."

[1:48:21 PM](#)

TREG TAYLOR, Attorney General, Department of Law, Anchorage, Alaska, introduced SB 255 on behalf of the administration.

[1:48:43 PM](#)

ATTORNEY GENERAL TAYLOR moved to slide 2:

[Original punctuation provided.]

**Overview**  
**SB 255**

Alaskans have a constitutional right to freedom of movement within the state and to have free access to public places.

Alaskans also have a constitutional right to peaceably and lawfully assemble.

SB 255 is an Act to protect Alaskans' constitutional rights.

ATTORNEY GENERAL TAYLOR stated that SB 255 seeks to balance these constitutional rights. He said that, to address this, Department of Law has considered events that have occurred worldwide and in the Lower 48.

[1:49:12 PM](#)

CHAIR CLAMAN asked whether any of the events being referenced have occurred in Alaska.

ATTORNEY GENERAL TAYLOR replied that events in Alaska have not matched the scale of those in the Lower 48. He said that he is uncertain whether it is a new phenomenon (or simply receiving more press attention); however, these types of protests - and the potential for destruction and economic harm - are at the forefront of people's minds.

[1:49:45 PM](#)

ATTORNEY GENERAL TAYLOR moved to slide 3:

[Original punctuation provided.]

**Freedom of Movement**

- Alaskans' right to freely move within the state is violated when their access to public places and facilities are unlawfully obstructed
- Unlawful obstruction presents a threat to public safety -emergency vehicles are unable to respond when a crucial roadway is obstructed

- Unlawful obstruction poses a threat to Alaska's economy -businesses cannot operate normally; Alaskans may be unable to get to work
- SB 255 imposes additional criminal penalties for obstruction of public places and creates a civil cause of action for a private citizen whose access is unlawfully obstructed
- Penalties imposed by the bill discourage and deter unlawful obstruction of public places

[1:51:00 PM](#)

ATTORNEY GENERAL TAYLOR moved to slide 4:

[Original punctuation provided.]

#### **Freedom of Assembly**

- Conduct that includes rendering highways, roadways inaccessible or impassible is already illegal.
- Freedom of expression is already subject to time, place, and manner restrictions to prevent interference with the rights of others
- Proposed bill targets the conduct of blocking access to public places - not Alaskans' right to peaceably and lawfully assemble
- Provides Alaskans an avenue to remedy against unlawful obstruction

ATTORNEY GENERAL TAYLOR explained that SB 255 would increase the penalty for rendering highways and roadways inaccessible or impassible. He said that providing a remedy against unlawful obstruction would potentially keep those protests from escalating into violence.

[1:52:01 PM](#)

ATTORNEY GENERAL TAYLOR moved to slide 5, "Around the U.S.," which showed images of protestors bodily blocking traffic at the State of the Union Address in Washington, D.C. and Trump supporters using their cars to block access to a bridge in South Nyack, NY. He noted that protests of this kind are becoming more

common. He stated that currently, this is not an arrestable offence in Alaska. Instead, it is a violation that receives a \$1000 fine. SB 255 would make this an arrestable offence, thus allowing police officers to remove the obstruction. He surmised that, while protests of this magnitude have yet to occur in Alaska, it is only a matter of time.

[1:52:58 PM](#)

ATTORNEY GENERAL TAYLOR stated that Alaskans face unique challenges with respect to travel within the state. He moved to slide 6, which stated that Alaskans are vulnerable to economic impacts, road safety concerns, and disruptions to daily life that could result from obstructive protests. Slide 6 lists four vulnerable highways of concern:

[Original punctuation provided.]

**Seward Highway**

Obstructing the Seward south of Anchorage blocks the Kenai Peninsula from accessing the Port of Alaska and the Ted Stevens Int'l Airport

**Dalton Highway**

Obstructing the Haul Road during mobilization season could have devastating effects on the oil patch

**Glenn Highway**

Obstructing the Glenn north of Anchorage blocks every community north of Anchorage from accessing the Port of Alaska and the Ted Stevens Int'l Airport

**Highway 2**

Obstructing the road just inside the US/Canada border blocks all traffic in and out of Alaska

ATTORNEY GENERAL TAYLOR stated that a blockage of several hours can cause significant disruptions, including running out of fuel and/or food.

[1:54:38 PM](#)

CHAIR CLAMAN directed attention to the Highway 2 example on slide 6 and asked whether, at this time, Alaska State Troopers (AST) are legally able to remove disruptions from the road.

[1:55:08 PM](#)

ATTORNEY GENERAL TAYLOR replied that this is currently a violation and a \$1000 fine. He explained that a violation does

not allow for an arrest. He said that this can create difficulties for AST as they determine how to address these types of issues. He deferred to the Department of Public Safety (DPS).

[1:55:47 PM](#)

CHAIR CLAMAN directed the question to DPS.

[1:55:49 PM](#)

LIEUTENANT ROBERT FRENCH, Alaska State Troopers, Department of Public Safety (DPS), Anchorage, Alaska, deferred to the Department of Law (DOL) to supply information regarding specifically how this type of situation would play out. He said that he would have to research this question and get back to the committee.

[1:56:17 PM](#)

CHAIR CLAMAN said that from his experience, AST has asked the person to move their car, and the person has moved. He shared that he had been on the Seward Highway when there was an accident. He described how this scenario played out. He noted that there was no crime involved. He reiterated that he had witnessed incidents where AST had to ask someone to move (and they complied) and emphasized that he has not witnessed any incidents where someone was intentionally blocking the highway and refused to move.

[1:57:17 PM](#)

SENATOR TOBIN said that the United States Department of Justice (USDOJ), Office of Justice Programs, issued a statement indicating that "increasing the severity of the punishment does little to deter the crime." She asked what evidence or research Department of Law (DOL) can provide to show that increasing the penalties will prevent obstructive protests from happening in Alaska.

[1:57:50 PM](#)

ATTORNEY GENERAL TAYLOR replied that, across the country and worldwide, law enforcement is faced with the inability to act in response to these types of protests. He said that SB 255 is an attempt to provide law enforcement with tools to deescalate these situations and prevent disruptions. He opined that a rational person would weigh the consequences before acting. He indicated that a bigger consequence would act as a deterrent to obstructive protests and protestors would be more likely to apply for municipal permits to hold protests in locations that do not obstruct traffic.

[1:58:59 PM](#)

SENATOR TOBIN acknowledged that there is no way for the state to permit protests. She asked for clarification regarding whether or not DOL has evidence to support the claim that increasing the penalty would decrease the likelihood of these protests occurring.

[1:59:16 PM](#)

ATTORNEY GENERAL TAYLOR replied that it is a matter of common sense. He argued that a higher penalty would encourage groups to think twice. He acknowledged that some groups may choose to pay the higher fine and continue to protest; however, some would choose to protest in a lawful manner.

[1:59:37 PM](#)

SENATOR TOBIN said that many individuals commit egregious, white-collar crimes (including inciting riots) that have very large fines - which have not deterred these behaviors. She questioned whether "common sense" is an appropriate consideration in this case.

[1:59:59 PM](#)

CHAIR CLAMAN said that while he appreciates the appeal to "common sense," the evidence does not bear this out. He referred to previous discussions related to the death penalty and shared how a "common sense" argument has been used by proponents of the death penalty - while the evidence suggests that this is not an effective deterrent. He stated that a large body of criminological data suggests that, while increased penalties may appeal to a theory of "common sense," the statistical reality does not support this statement.

[2:00:50 PM](#)

ATTORNEY GENERAL TAYLOR replied that globally organized protests are often planned weeks in advance and are different than crimes of passion and impulse. He opined that protest organizers are more likely to be deterred by a higher penalty and expressed hope that this would be the case.

[2:01:44 PM](#)

CHAIR CLAMAN shared that he grew up in the Southern United States in the 1960s, when civil rights protestors knew they would be arrested and intentionally filled jails. He reiterated that he appreciates this perspective but stated that he does not find it to be a convincing argument - particularly in light of these historical protests.

[2:02:19 PM](#)

ATTORNEY GENERAL TAYLOR said that a deterrent is not always successful; however, the state can take action to keep these protests from occurring. He opined that SB 255 accomplishes this goal.

[2:02:32 PM](#)

SENATOR KIEHL noted that SB 255 applies to planned protests by groups and asked which section contains these changes in criminal law.

ATTORNEY GENERAL TAYLOR replied that SB 255 is agnostic to cause. He stated that these changes would apply equally to anyone who engages in obstructive protest, regardless of group size or cause. He clarified that if individuals knowingly block traffic, they would be subject to the penalties.

[2:03:20 PM](#)

SENATOR KIEHL said that, in this case, SB 255 would also apply to someone who does not plan their protest well in advance but rather protests with a sense of immediacy.

ATTORNEY GENERAL TAYLOR replied yes.

[2:03:45 PM](#)

SENATOR TOBIN said that in the Senate Transportation Standing Committee it was pointed out that, as currently written, SB 255 would allow the state to sue the Department of Transportation and Public Facilities (DOTPF) for blocking free and public access to a state sidewalk, etc. At that time, Attorney General Taylor stated that SB 255 would be interpreted with discretion. She asked for clarification regarding the agnostic application of SB 255.

[2:04:10 PM](#)

ATTORNEY GENERAL TAYLOR replied that SB 255 is agnostic with respect to the reason for the protest, i.e. the law would apply regardless of the reason for the protest. He emphasized that police officers always act with discretion when responding to a police call and this discretion continues as issues move through the judicial process.

[2:05:05 PM](#)

CHAIR CLAMAN noted that Attorney General Taylor indicated concern regarding international organizations organizing protests in Alaska. He shared his understanding that SB 255

would apply to individual protestors obstructing roadways but would not apply to the international organization responsible for planning the protest. He asked if this is correct.

[2:05:45 PM](#)

ATTORNEY GENERAL TAYLOR replied that there is a long-arm provision that would allow the State to hold out-of-state organizations accountable. He acknowledged that this may not apply to international organizations and indicated that more research is needed to determine how this could be done. He said that it would be possible to hold US organizations accountable.

CHAIR CLAMAN offered an example of someone in another state planning a protest in Alaska. He asked for confirmation of his understanding that the long-arm provision would, in theory, allow Alaskan law enforcement to travel across state lines and arrest that person, who would then face charges for planning an obstructive protest in the state.

ATTORNEY GENERAL TAYLOR confirmed that this an accurate reflection of Alaska's criminal statutes. He explained that the extradition process varies by state.

CHAIR CLAMAN said that he understood extradition to apply to someone who committed a crime in Alaska but later left the state. Extradition would allow the individual to be brought back to Alaska to face charges for their crime. He asked if extradition now allows Alaska law enforcement to charge someone for committing a crime in Alaska - even though that person was not physically in Alaska when the crime occurred.

[2:07:12 PM](#)

ATTORNEY GENERAL TAYLOR acknowledged that this is moving beyond the scope of his expertise. He referenced the 2019 murder of Cynthia Hoffman that occurred in Thunderbird Falls, Alaska. He explained that, in this case, one of the defendants was found guilty of soliciting the crime while in another state.

[2:07:49 PM](#)

ATTORNEY GENERAL TAYLOR moved to slide 7 and deferred to Mr. Patterson.

[2:08:01 PM](#)

PARKER PATTERSON, Assistant Attorney General, Department of Law, Civil Division, Juneau, Alaska, introduced the Sectional Analysis during the slideshow presentation on SB 255. Slides 7 - 10 provided a sectional analysis of SB 255:

[Original punctuation provided.]

**Section 1**

- Amends existing obstruction of airports statute to prohibit general obstruction of runways

**Section 2**

- Adds new penalties to the crime of obstruction of airports and classifies specific conduct as class C felony or class A misdemeanor

**Section 3**

- Accounts for amendments in section 2 with a conforming change

**Section 4**

- Establishes strict liability in a civil case for violations of any criminal statutes created or amended by the bill and sets out provisions for civil cause of action

**Section 5**

- Amends the crime of criminal trespass in the first degree to class C felony if the conduct creates a substantial risk of physical injury or interferes with an emergency response

**Section 6**

- Amends the crime of criminal trespass in the second degree to class A misdemeanor if the conduct creates a substantial risk of physical injury or interferes with an emergency response

MR PATTERSON continued his presentation of the sectional analysis of SB 255:

[Original punctuation provided.]

**Section 7**

- Accounts for amendments in section 8 with a conforming change

**Section 8**

- Makes obstructing a highway by dropping a substance on the highway a class C felony if it creates a

substantial risk of physical injury or interferes with an emergency response

- Other highway obstruction class A misdemeanor

#### **Section 9**

- Creates crime of obstruction of free passage in public places, a class A misdemeanor if conduct creates a substantial risk of physical injury or interferes with an emergency response
- Permitted conduct exempt

#### **Section 10**

- Amends the crime of obstruction to navigable waters to a class A misdemeanor if the conduct creates a substantial risk of injury or interferes with an emergency response
- Other obstructions class B misdemeanor

#### **Section 11**

- Provides prospective application of criminal offenses amended in the bill

#### **Section 12**

- Provides for a July 1, 2024 effective date

[2:10:47 PM](#)

SENATOR TOBIN directed attention to page 5, line 7 and suggested changing the period after "July 1" to a comma. She then directed attention to page 4, line 29, and asked for a definition of "substantial risk."

[2:11:25 PM](#)

MR. PATTERSON deferred to the Criminal Division of the Department of Law.

[2:11:47 PM](#)

KACI SCHROEDER, Assistant Attorney General, Criminal Division, Department of Law, Juneau, Alaska, said that "substantial risk" is a phrase used throughout the Criminal Code and explained that, ultimately, it is determined by the jury.

[2:12:11 PM](#)

SENATOR TOBIN shared her understanding that determining what constitutes a "substantial risk" would be a matter of discretion.

MS. SCHROEDER said that there has been litigation surrounding the term "substantial risk" in other areas of law - and this would be considered when deciding to bring charges and whether to bring a case before a jury. She added that, ultimately, it is up to the jury to decide.

[2:12:48 PM](#)

SENATOR KIEHL said that he has questions regarding the new crime of obstruction of free passage.

[2:12:54 PM](#)

CHAIR CLAMAN asked if there were additional questions regarding Section 10 of SB 255 that could be addressed before moving on. He expressed concern that the definition of "physical injury" in the criminal code includes minor injuries and wondered why "serious physical injury" (which is also defined in criminal code) was not used instead.

MS. SCHROEDER replied that the highway obstruction statute uses "physical injury", and this was carried through SB 255.

[2:13:57 PM](#)

SENATOR KIEHL asked whether individuals taking part in a protest for which no permit is available would be guilty of a crime according to SB 255. He offered an example of protests that utilize the sidewalk and pointed out that permits are available for street protests but are not offered for sidewalk protests.

[2:15:12 PM](#)

ATTORNEY GENERAL TAYLOR said that this points to an interesting issue. He explained that Alaska's case law allows municipalities to further limit the right to assemble. He said that municipalities implement permitting to determine time, place, manner, and location of allowable protests. He stated that anywhere in the state where a protest intentionally, knowingly blocks a "highway" (which carries a broad definition and includes any pathway, sidewalk, etc.) - and where a municipal law is not in place - this new law would apply. He offered an example of a protest at the entrance to a state park and stated that, in this case, blocking access to a trail would constitute a crime under SB 255.

SENATOR KIEHL expressed concern. He offered an example of city workers picketing on the sidewalk in front of city hall - a form of protest for which no permit is available - and pointed out that this would constitute a crime under SB 255.

[2:17:06 PM](#)

ATTORNEY GENERAL TAYLOR replied that, in current statute, this is a violation of the law and SB 255 does not change that.

[2:17:17 PM](#)

CHAIR CLAMAN asked for clarification that, while this is currently a violation of law, SB 255 would increase the penalty.

[2:17:31 PM](#)

ATTORNEY GENERAL TAYLOR agreed that SB 255 would heighten the penalties.

SENATOR KIEHL expressed concern that instead of a violation this would now constitute a crime. He pointed out that the new crime of obstructing free passage in public places would apply to any municipal or state land where there happens to be a trail. He asked what is needed for someone to authorize a protest on private property in order to render it non-criminal.

ATTORNEY GENERAL TAYLOR replied that he is not sure what a private person would do to allow a protest. He surmised that if the owner of the property called law enforcement to report the protest, this would indicate that the protest was not authorized and would therefore be a crime. He added that, if the landowner did not report the protest, there would be no reason for law enforcement to become involved.

[2:18:54 PM](#)

SENATOR KIEHL shared his understanding that, in this case, no request to leave, notice to quit, or no trespass notice would be necessary. He said that any protest occurring under a building that is privately owned and generally open to the public - would be guilty of a crime under SB 255.

[2:19:18 PM](#)

ATTORNEY GENERAL TAYLOR said that the way the statute is written, if a person enters and remains unlawfully on the land (i.e. they are asked to leave and they refuse) they are in violation of trespass laws. He noted that this pertains to both premises and dwellings (with the latter carrying a higher penalty).

[2:19:46 PM](#)

SENATOR KIEHL asked where that language is found in Section 9 of SB 255.

ATTORNEY GENERAL TAYLOR said that is part of the current criminal trespass code. He explained that this language is not included in SB 255, which adds penalties to the existing code.

[2:20:45 PM](#)

CHAIR CLAMAN clarified that Senator Kiehl's question was related to Section 9 of SB 255 and not Sections 5 and 6, which relate to criminal trespass. He pointed out that Section 9 does not contain any reference to criminal trespass.

ATTORNEY GENERAL TAYLOR replied that he understood the question to refer to private property, which falls under criminal trespass. He added that Section 9 deals with public places (e.g. obstructing the entrance to the museum).

[2:21:41 PM](#)

SENATOR KIEHL agreed that this is what is being discussed. He said that the definition of "public place" does not require it to be public property. He pointed out that a plaza at a commercial building would qualify as a public place to which the crime of obstruction to public spaces would apply.

[2:22:22 PM](#)

ATTORNEY GENERAL TAYLOR replied yes and added that an obstruction of entry would be considered a violation. He said that one aspect of the crime would apply to being present on the premises without permission. A second aspect is found in Section 9 and applies to a protest that prevents entry to the premises (e.g. blocking entrance to a store).

[2:22:56 PM](#)

SENATOR KIEHL said that as he reads Section 9 in conjunction with the definitions in AS 11, a protest could block the steps to a plaza - not access to the building or entry into the business. He pointed out that it is a misdemeanor to block access to a place that renders government services. It is also a misdemeanor to make it difficult to enter a public location. He emphasized that the owner of the building is not required to give notice to the protestors to leave - they are automatically guilty of the crime. He asserted that the vagueness of the language is very problematic and would make it difficult for citizens to know when they are in violation of the proposed criminal law.

[2:23:43 PM](#)

ATTORNEY GENERAL TAYLOR replied that SB 255 requires individuals to "knowingly" block passage to prevent people access and/or passage. This can be anything from passage on a trail or access to a museum. He emphasized that the obstruction must be willful.

[2:24:22 PM](#)

SENATOR KIEHL said that he appreciates the discretion given to law enforcement to ask a series of questions. He clarified that the question currently being discussed is not whether the protestors know they are blocking entrance or passage - but whether the protestors know that they are not authorized to be in a given location - when the general public is authorized to be there. He said that he is unaware of a definition of what it means to be authorized by the person in charge of the premises.

[2:24:55 PM](#)

CHAIR CLAMAN offered a hypothetical scenario that relates to Section 9. He asked whether a protest occurring in front of the main store entrance (while still allowing patrons to pass and enter the building) that caused some patrons to choose to instead enter the premises via a side entrance would be a crime according to SB 255.

ATTORNEY GENERAL TAYLOR said that the passage must be considered "unreasonable access". Therefore, if someone could easily pass by the protest - yet chose to access via a different route - this would not be a violation of the law.

[2:26:25 PM](#)

SENATOR TOBIN asked where it is written in SB 255 that a crime of obstruction is not committed if there is an alternate route available.

ATTORNEY GENERAL TAYLOR said this is found in Section 9, page 4, lines 7-11. He surmised that if there is a reasonable alternative route, the protestors would not be in violation.

SENATOR TOBIN opined that this is unclear and suggested that an amendment could clarify this. She argued that there is ambiguity in the language as it relates to a variety of situations and this results in a lack of clarity.

[2:28:03 PM](#)

CHAIR CLAMAN directed attention to Section 4(a) and asked whether a criminal conviction is required prior to bringing civil action.

ATTORNEY GENERAL TAYLOR emphasized that the act must be committed "knowingly." He referenced the civil case brought against O.J. Simpson. He deferred to Ms. Schroeder.

[2:29:27 PM](#)

MS. SCHROEDER asked Chair Claman to repeat the question.

[2:29:37 PM](#)

CHAIR CLAMAN directed attention to Section 4 and offered a hypothetical example. He wondered if an acquittal would have an impact on the ability to bring a civil suit in response to the violation.

[2:30:30 PM](#)

MS. SCHROEDER shared her understanding that a civil suit would still be possible. She explained that civil cases carry a lower burden of proof.

[2:30:51 PM](#)

MR. PATTERSON added that a conviction is not required. He explained that a civil case requires proof by a preponderance of the evidence.

[2:31:18 PM](#)

SENATOR KIEHL commented that there is no statutory definition for "nominal damages." He offered an example of a clinic whose patients cannot attend their appointments due to a protest occurring outside the clinic. He asked whether every employee of the clinic would individually have a claim to nominal damages of \$10,000 (i.e. \$10,000 per employee).

[2:31:56 PM](#)

MR. PATTERSON answered yes and directed attention to the definition of "nominal damages" on page 3, line 1 of SB 255. He explained that each employee would have an individual cause of action under this provision.

[2:32:17 PM](#)

SENATOR KIEHL shared his understanding that this would be a significant expansion of tort law and includes strict, vicarious, and joint and several liabilities. He asked if this also occurs in other areas of law.

[2:32:49 PM](#)

MR. PATTERSON said that this is common for a tort that is based on a violation of criminal law, which is referred to as "negligence per se." He explained that "negligence per se" includes "strict liability" - and this is a well-known, common law and tort law doctrine. He added that SB 255 follows the general rule.

[2:33:22 PM](#)

CHAIR CLAMAN asked if these provisions include a damage schedule like the one in Section 4 - or if it is open-ended.

[2:33:33 PM](#)

MR. PATTERSON replied, no. He said that this provision is unique. He explained that, normally, a tort law case has compensatory and punitive damages; SB 255 creates a separate schedule of statutory damages.

CHAIR CLAMAN asked whether individuals would owe statutory, punitive, and compensatory damages.

MR. PATTERSON replied yes. He directed attention to page 2, line 8, which states that the statutory damages are in addition to other civil damages and criminal penalties.

[2:34:13 PM](#)

SENATOR KIEHL directed attention to page 2, line 20 and asked whether someone who walks by and says "way to go" would be liable under this section for "encouraging" the protestors.

[2:34:55 PM](#)

ATTORNEY GENERAL TAYLOR replied no and said that this type of encouragement would not be a violation of this law. He said that there is legal precedent (*Rice v. Paladin Enterprises, Inc.*) requiring evidence that the individual encouraged the protestors to break the law and offered examples.

CHAIR CLAMAN asked what court rendered the decision in *Rice v. Paladin Enterprises, Inc.*

MR. PATTERSON answered that it was a federal case heard by the 4th Circuit Court of Appeals.

CHAIR CLAMAN noted that Alaska is not in the 4th Circuit.

MR. PATTERSON agreed and explained that he was not able to find a 9th Circuit case that would directly apply to SB 255.

CHAIR CLAMAN asked whether the Alaska Supreme Court had any applicable cases.

MR. PATTERSON answered no, none that would apply to the narrow question addressed by SB 255.

[2:36:21 PM](#)

CHAIR CLAMAN opened public testimony on SB 255.

[2:36:51 PM](#)

AMANDA PINEDA, representing self, Anchorage, Alaska, testified in opposition to SB 255. She said that this legislation violates Alaskans' First Amendment rights. She expressed concern about terminology and definitions and indicated that there is a lack of clarity that needs to be addressed. She urged the committee not to pass or advance SB 255 to protect the fundamental rights of Alaskans.

[2:38:07 PM](#)

MENEKA THIRU, representing self, Anchorage, Alaska, testified in opposition to SB 255. She drew attention to the civil liabilities and felony classification and opined that the goal of this legislation is to frighten protestors and discourage expressions of dissent - or to require that protests occur in ways that the governor has deemed appropriate. She stated that protesting is a First Amendment right and has historically been one of the only avenues by which individuals can ensure their voices are heard. She said that she has participated in many protests and will continue to do so. She opined that the intention of SB 255 is to discourage Alaskans from exercising their First Amendment rights.

[2:39:17 PM](#)

NITHYA THIRU, representing self, Anchorage, Alaska, testified in opposition to SB 255. She stated that this legislation would infringe on the First Amendment right to assemble. She offered the Selma Marches to illustrate instances in which blocking roadways may be necessary. She said that blocking roadways is a critical tool that has historically been used to push for governmental change in times when the government will not otherwise listen. She argued that SB 255 would harshly penalize civil rights protestors and is a dangerous silencing of dissent.

[2:40:26 PM](#)

KC CASORT, representing self, Fairbanks, Alaska, testified in opposition to SB 255. She opined that creating more reasons to arrest Alaskans for exercising their right to protest is not the

correct choice. She said that she has participated in many peaceful protest events. She stated that, while she has experienced counter-protest during these events, she would not want those individuals to be arrested or fined for speaking up. She expressed concern about the intention behind SB 255. She argued that protest, which is intended to disrupt, is a legitimate part of the political process - and SB 255 would criminalize this.

[2:41:47 PM](#)

SERENE O'HARA-JOLLEY, Alaska State Director, Planned Parenthood Alliance Advocates, Fairbanks, Alaska, testified in opposition to SB 255. She stated that this legislation would criminalize Alaskans who exercise their First Amendment rights to freedom of speech and assembly. She said that the broad language in SB 255 would render constitutionally protected speech illegal, while vague wording would create difficulties for those seeking to follow and/or enforce the law. She asserted that the new crime of obstruction of free passage in public places is constitutionally problematic. She expressed concern that this law would potentially stifle lawful speech and protests. She asserted that the vague language in SB 255 is an attempt to stop Alaskans from exercising their First Amendment rights. She reiterated that the language is overly broad and offered examples of potential consequences. She asserted that the penalties and civil liabilities are unreasonable. She argued that law enforcement can selectively apply vague and overly broad laws and asserted that the state cannot neutrally apply SB 255. She said that laws against obstructing passage in public places may criminalize homeless individuals - which could be weaponized by law enforcement.

[2:44:11 PM](#)

ALMA ABAZA, representing self, Anchorage, Alaska, testified in opposition to SB 255. She opined that this legislation is an attempt to suppress Alaskans' First Amendment rights. She stated that there is no need for this legislation and asserted that it is undemocratic.

[2:44:49 PM](#)

SALIM HOUCK, representing self, Juneau, Alaska, testified in opposition to SB 255. He said that standing up for what you believe in is an Alaskan value that would be restricted if this legislation were to pass. He said he is not aware of external groups protesting in the state. He shared his experience participating in protests and said that it is unclear whether these protests would be criminalized by SB 255. He emphasized

that First Amendment rights are essential to democracy and asserted that threatening these rights is counter to what it means to be an American and an Alaskan.

[2:46:27 PM](#)

SONIA KUMAR, representing self, Juneau, Alaska, testified in opposition to SB 255. She said that this legislation violates First Amendment rights to freedom of speech and assembly. She expressed concern that criminalizing acts of protest would make it difficult for Alaskans to exercise their First Amendment right to petition the government for redress of grievances. She pointed out that protests are a primary avenue by which this is done. She indicated concern that this could lead to a fascist state and questioned the reasoning and intent behind SB 255. She stated that she has never experienced a roadblock due to protests; however, she has experienced roads blocked due to tourists, wildlife, etc.

[2:47:43 PM](#)

THOMAS PATRICK O'CONNOR, representing self, North Pole, Alaska, testified in opposition to SB 255. He said that he is the former mayor of North Pole, Alaska and briefly shared his work history, including work with the New York City Police Department. He said that SB 255 violates the First Amendment rights to freedom of speech and assembly. He said that the new crime of obstruction of free passage in public places is problematic, according to the American Civil Liberties Union (ACLU). He detailed additional concerns brought forward by ACLU, including broad language that would potentially criminalize homelessness. He emphasized the importance of the First Amendment, which is protected from interference by state governments. He pointed out that the Alaska Constitution also protects these rights.

[2:49:34 PM](#)

LAURA BONNER, representing self, Anchorage, Alaska, testified in opposition to SB 255. She said that this legislation would violate Alaskans' First Amendment rights. She offered an example of a sidewalk protest that would no longer be lawful. She expressed concern that "public spaces" are not clearly defined and questioned who would make that determination. She shared that she has participated in many protests, marches, and pickets, none of which impeded the movement of medical response workers. She added that buildings could always be entered and exited freely. She urged committee members not to move SB 255 out of committee.

[2:51:23 PM](#)

CHAIR CLAMAN closed public testimony on SB 255.

[2:51:34 PM](#)

SENATOR KIEHL stated that the Constitution of the State of Alaska (Alaska Constitution) protects Alaskans' right to peaceably assemble. He directed attention to Section 9 of SB 255 and pointed out that violence or otherwise volatile behavior is not required for an assembly to be considered unlawful. Instead, the requirement is "unreasonable inconvenience". He asked how this can be reconciled with the Alaska Constitution.

[2:52:18 PM](#)

ATTORNEY GENERAL TAYLOR replied that Article 1 of the Alaska Constitution states that Alaskans have a right to move freely about the state and offered examples. He said that SB 255 does not change the current laws related to the obstruction of highways and airports. It increases the penalties for both. He stated that the only new violation is the obstruction of public places. He opined that those who presented public testimony would likely agree that they have a right to freely access public places; however, this is not currently protected by law. SB 255 would ensure continued access. He acknowledged that law enforcement can act in cases when protests escalate to violence and added that SB 255 is an attempt to keep this escalation from occurring.

SENATOR KIEHL said that the question of unreasonable convenience is different than the question of a threatening mob or a mob that prevents access. He opined that the civil portion of SB 255 creates the most chilling piece. He expressed surprise to hear that Planned Parenthood of Alaska (PPA) opposes SB 255 and opined that PPA could lawfully sue many protestors for blocking entry to facilities, should this legislation pass. He indicated that SB 255 could make it possible for those with different views to sue individuals involved in protests that they disagree with. He shared an example of a rally in front of the Capitol building on February 23, 2013, during which protestors carried chambered rifles - which caused his constituents to avoid the building out of fear. He expressed concerns related to the potential misuse of the new crime of obstruction of free passage in public places.

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CHAIR CLAMAN commented that the Planned Parenthood example offered by Mr. Taylor is not an issue of protests but an issue of safety. He stated that the Alaska Constitution gives Alaskans the right to access safe medical treatment. He pointed out that

Planned Parenthood clinics often employ security personnel because clinic patients are routinely threatened. He expressed concern about this. He turned his attention to SB 255 and commented that the administration is arguing that the threat of obstructive protests in Alaska merits a change in the law and increased penalties. He said that protests in the Lower 48 have been used as evidence but expressed doubt that protests in Alaska have reached a comparable intensity. He offered an example of recent discussions about added security at the state capitol to illustrate the ways Alaska differs from states in the Lower 48 with respect to violent threats. He shared that he has experienced uncomfortable interactions with protestors who disagree with his positions on certain issues; however, he expressed doubt that Alaska has reached the point where these additional penalties are necessary.

[2:58:51 PM](#)

ATTORNEY GENERAL TAYLOR said that it is an issue of balancing rights. He stated that Alaska faces unique accessibility challenges that could potentially be exacerbated by protests that obstruct roadways. He said that the potential harm to Alaskans was the impetus behind SB 255. He opined that this legislation is an attempt to balance the interests of Alaskans. He commented that there may be disagreement on how to address this. He added that the legislature can determine the specifics of how this balance is achieved and whether civil penalties are necessary.

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CHAIR CLAMAN held SB 255 in committee.

[3:00:27 PM](#)

There being no further business to come before the committee, Chair Claman adjourned the Senate Judiciary Standing Committee meeting at 3:00 p.m.