

**ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE**

April 8, 2009

1:35 p.m.

MEMBERS PRESENT

Senator Hollis French, Chair
Senator Bill Wielechowski, Vice Chair
Senator Lesil McGuire
Senator Gene Therriault

MEMBERS ABSENT

All members present

OTHER LEGISLATORS PRESENT

Senator Donny Olson
Senator Linda Menard
Senator Charlie Huggins
Senator Johnny Ellis

Representative Mike Doogan

COMMITTEE CALENDAR

CONFIRMATION HEARING(S)

Attorney General
WAYNE ANTHONY ROSS - Anchorage
HEARD AND HELD

PREVIOUS COMMITTEE ACTION

No Previous Action to Report

WITNESS REGISTER

WAYNE ANTHONY ROSS, Attorney General Appointee
Anchorage, AK

POSITION STATEMENT: Testified as Appointee to the position of
Attorney General.

BRADLEY J. FLUETSCH, Grand President
Alaska Native Brotherhood (ANB) and
Alaska Native Sisterhood (ANS) Grand Camp and

Glacier Valley ANB and ANS Camp 70
Juneau, AK

POSITION STATEMENT: Testified in opposition to Wayne Anthony Ross as attorney general.

ROBERT LOESCHER
Central Council
Tlingit Haida Indian Tribes of Alaska
Juneau, AK

POSITION STATEMENT: Testified in opposition to Wayne Anthony Ross as attorney general.

MARSHA BUCK
Alaskans Together for Equality Incorporated
Juneau, AK

POSITION STATEMENT: Testified in opposition to Wayne Anthony Ross as attorney general.

NELSON ANGAPOK, SR., representing himself
Anchorage, AK

POSITION STATEMENT: Testified in opposition to Wayne Anthony Ross as attorney general.

FRED TRABER, representing himself, his spouse, and others who
comprise the gay community of Alaska
Anchorage, AK

POSITION STATEMENT: Testified in opposition to Wayne Anthony Ross as attorney general.

JAKE JACOBSON, representing himself
Kodiak, AK

POSITION STATEMENT: Testified in support of Wayne Anthony Ross as attorney general.

VICTOR VITALIE, representing himself
Anchorage, AK

POSITION STATEMENT: Testified in opposition to Wayne Anthony Ross as attorney general.

PAMELA SAMASH, representing herself
Nenana, AK

POSITION STATEMENT: Testified in support of Wayne Anthony Ross as attorney general.

ROBERT FITHIAN, representing himself
Lower Tonsina, AK

POSITION STATEMENT: Testified in support of Wayne Anthony Ross as attorney general.

TOM LAKOSH, representing himself
Anchorage, AK

POSITION STATEMENT: Testified in opposition to Wayne Anthony Ross as attorney general.

CHRIS KINNY, representing himself
Anchorage, AK

POSITION STATEMENT: Testified in support of Wayne Anthony Ross as attorney general.

LYNNETT BERGH, representing herself
North Pole, AK

POSITION STATEMENT: Testified in support of Wayne Anthony Ross as attorney general.

BYRON HALEY, representing himself
Fairbanks, AK

POSITION STATEMENT: Testified in support of Wayne Anthony Ross as attorney general.

PAUL EAGLIN, representing himself
Fairbanks, AK

POSITION STATEMENT: Testified in opposition to Wayne Anthony Ross as attorney general.

SHAYLE HUTCHISON, representing herself
Fairbanks, AK

POSITION STATEMENT: Testified in opposition to Wayne Anthony Ross as attorney general.

SCOTT TRAFFORD CALDER, representing himself
Fairbanks, AK

POSITION STATEMENT: Testified in support of Wayne Anthony Ross as attorney general.

MIKE PROX, representing himself
North Pole, AK

POSITION STATEMENT: Testified in support of Wayne Anthony Ross as attorney general.

MELVIN GROVE representing himself and
MatSu Advisory Council
MatSu, AK

POSITION STATEMENT: Testified in support of Wayne Anthony Ross as attorney general.

KAREN LEWIS, representing herself
MatSu, AK

POSITION STATEMENT: Testified in support of Wayne Anthony Ross as attorney general.

PETER M. PROBASCO, representing himself and his family
MatSu, AK

POSITION STATEMENT: Testified in support of Wayne Anthony Ross as attorney general.

KAREN LACKEY, representing herself
MatSu, AK

POSITION STATEMENT: Testified in support of Wayne Anthony Ross as attorney general.

EARL LACKEY, representing himself
Wasilla, AK

POSITION STATEMENT: Testified in support of Wayne Anthony Ross as attorney general.

ROSE FOSDICK
Kawerak Inc

POSITION STATEMENT: Testified in opposition to Wayne Anthony Ross as attorney general.

NORMAN ANDERSON
Bristol Bay Native Association
Dillingham, AK

POSITION STATEMENT: Testified in opposition to Wayne Anthony Ross as attorney general.

LEO WASSILIE, representing himself
Anchorage, AK

POSITION STATEMENT: Testified in opposition to Wayne Anthony Ross as attorney general.

PAGE HODSON, representing herself,
Anchorage, AK

POSITION STATEMENT: Testified in opposition to Wayne Anthony Ross as attorney general.

DEBORAH BURLINSKI, representing herself

POSITION STATEMENT: Testified in opposition to Wayne Anthony Ross as attorney general.

WILLIE ANDERSON, PFLAG of Juneau
Juneau, AK

POSITION STATEMENT: Testified in opposition to Wayne Anthony Ross as attorney general.

JAY STEVEN REESE, representing himself
Juneau, AK

POSITION STATEMENT: Testified in opposition to Wayne Anthony Ross as attorney general.

ALFRED MCKINLEY
ANB and ANS Camps throughout Alaska
Juneau, AK

POSITION STATEMENT: Testified in opposition to Wayne Anthony Ross as attorney general.

BRIAN JUDY, Alaska Liaison
National Rifle Association
Anchorage, AK

POSITION STATEMENT: Testified in support of Wayne Anthony Ross as attorney general.

ACTION NARRATIVE

[1:35:03 PM](#)

CHAIR HOLLIS FRENCH called the Senate Judiciary Standing Committee meeting to order at 1:35 p.m. Present at the call to order were Senators, Wielechowski, Therriault, McGuire and French. Also present were Senators Olson and Menard, and Representative Doogan.

CONFIRMATION HEARING

[1:35:41 PM](#)

CHAIR FRENCH stated that this hearing is to fulfill the constitutional requirement and duty under Article 3, Section 25 to confirm heads of departments. The Citizen's Guide to the Constitution published by the Legislative Affairs Agency points out that confirmation of executive appointees is a key legislative check on the executive branch. Governor Palin has appointed Mr. Wayne Anthony Ross to the position of attorney general, subject to legislative confirmation.

CHAIR FRENCH pointed out that Mr. Ross has an extensive public record and has been a recognizable landmark on the Alaska landscape for some time. He said his intention for the hearing

today is to have a thorough, vigorous and respectful dialog with Mr. Ross about his qualifications for this important position.

Senator French said he intends to cover a variety of subjects this afternoon and public testimony will be taken at 5:30 pm this evening. Mr. Ross will have an opportunity to respond to that testimony if he feels the need to do so. Given the committee's schedule and the fact that Mr. Ross's confirmation hearing before the House Judiciary Committee is on Friday, there's a good possibility that the hearing won't be concluded until Monday, April 13, he said.

CHAIR FRENCH welcomed Mr. Ross and asked him to state his name and affiliation for the record.

[1:37:29 PM](#)

WAYNE ANTHONY ROSS, governor's appointee as Attorney General, introduced himself.

CHAIR FRENCH asked Mr. Ross why he accepted the governor's offer of this important position.

MR. ROSS related that he first came to Alaska in 1967 and fell in love with the state. "It's been very good to me and when I had a chance to do some public service, I jumped at the chance," he said.

CHAIR FRENCH asked what he sees as the greatest strength he will bring to the position of attorney general.

MR. ROSS replied he brings integrity.

CHAIR FRENCH asked the greatest weakness he will bring to the position.

MR. ROSS replied it's probably that he speaks his mind. "And so I get shot at once in awhile. I don't know if that's a strength or a weakness, but that's caused me problems from time-to-time, he said.

CHAIR FRENCH asked who he perceives the attorney general's primary client to be.

MR. ROSS returned the statutes make clear that the attorney general represents the people of the state of Alaska and gives advice to the governor and other state officials. "We have

probably quite a few clients with people coming to us from time-to-time for advice," he said.

[1:38:57 PM](#)

CHAIR FRENCH said I hear you saying you'll have a divided client list.

MR. ROSS responded it's rather like representing a family. "Dad might come to you, Mom might come to you, and one of the kids might come to you so you got to do a little tap dancing and balancing act, but I think it can be done," he said.

CHAIR FRENCH questioned how he would handle a conflict between his duty to the governor and his duty to the law.

MR. ROSS responded that his duty to the law comes first. "I took an oath to support and defend the constitution of the United States and that of the State of Alaska. I didn't take an oath to support and defend the governor," he added.

CHAIR FRENCH said you will have the largest law firm in the state at your disposal. Which legal question will you choose to concentrate on first?

MR. ROSS replied he will first concentrate on getting to know who the lawyers are and their areas of responsibility. The system has worked well and I don't anticipate major changes, he said. "I can't think of anything I'd put 50 lawyers on - maybe you can," he added.

[1:40:59 PM](#)

SENATOR OLSON asked Mr. Ross where he was raised, where he went to school, and if he's done anything other than practice law. Obviously you're known throughout the state but I'd like more background, he said.

MR. ROSS said he's worked since he was 12 years old and has hauled garbage, cut grass, mended fences, and soled shoes. During high school, college and law school he worked between 20 and 30 hours a week. Responding to a question he said he attended Marquette University in Milwaukee. He first came to Alaska in the summer of 1967. He and his wife moved permanently to Alaska the following year after he finished law school. He worked for the Alaska Department of Law for a year, Judge Butcher in family court for four years, a private attorney for four years, and then in 1977 he opened his own office. "When the governor asked me to take over the job of attorney general and I

started taking the pictures off the wall at my office, that's when it really hit me that I was sorry that I didn't have any kids that I could turn the law office over to because I've made a good living doing it," he said. He and his wife have four grown children.

1:45:08 PM

CHAIR FRENCH found no further introductory questions and said he'd next like to talk about public safety because that is a prime role of the attorney general. He asked Mr. Ross what he perceives to be the number one public safety issue in the state of Alaska.

MR. ROSS replied one is alcoholism, but he's also very concerned about the number of seemingly random shootings that are taking place. He said that as a criminal defense attorney he's seen cases that he believes should have been prosecuted and weren't and cases that were prosecuted that shouldn't have been. He continued:

I think one of the things I would like to do first is meet with the commissioner of Public Safety and learn more about what he sees the number one issues are. I would also like to get the focus on the Department of Law ... going after serious crimes rather than people who maybe find themselves accidentally on the wrong end of the law. Somebody joked that Alaska Airlines stock should be purchased because if Ross got in as attorney general all the criminals would go south. I like to think that's true.

MR. ROSS mused that Alaska has seen great change with regard to crime. When he was a children's court judge the worst crime was when a kid stole some tires. Now young people kill one another and something needs to be done about that, he said.

1:47:05 PM

CHAIR FRENCH noted that Mr. Ross identified alcohol as the number one public safety issue and asked if he has specific plans to address that issue.

MR. ROSS responded it seems that if alcohol isn't involved drugs are. He continued to say that, "Right now my plans are to get through the confirmation process and after that I can start going after big issues."

CHAIR FRENCH mentioned the work this committee has done and will continue to do on sex assault and sex abuse of a minor and asked

where prosecution of those cases would be on his list of priorities.

MR. ROSS responded, "The greatest asset Alaska has is its children and I think sexual abuse cases of children should be right up in some of the highest lists of people to be prosecuted. There's simply no excuse for that."

[1:48:51 PM](#)

CHAIR FRENCH asked if he is aware that Alaska has a rate of sexual assault that is roughly 2.5 times higher than the rest of the nation.

MR. ROSS responded, "I've heard that and I have no way to verify whether or not that's correct, but that's something that needs to be studied and determine what the reason is if that's true."

CHAIR FRENCH said the reasons are difficult to pinpoint, but it is beyond dispute. The uniform crime reports of data gathered by police agencies statewide and reported to the FBI come back year-after-year identifying Alaska as having consistently horrible performance in this area. This committee recently became aware of the 2002-2003 research done by the University of Alaska Justice Center on 1,379 cases of sex assault reported to the Alaska State Troopers. Those 1,379 cases were winnowed through the process of trooper investigations and referrals to the Department of Law, DOL screening and acceptance rates, and DOL prosecution rates to produce 217 convicted sex offenders. That suggests that a lot of work needs to be done upstream of the Department of Law, he said. An enormous amount of work needs to be done in the villages with respect to training Village Public Safety Officers and with respect to training sex assault nurses to gather information. He conveyed his desire that Mr. Ross share the committee's conviction to work strenuously to improve what appears to be a one in four conviction rate.

MR. ROSS replied, "I certainly will and I also will advise you that I'll attempt to give you my full attention at all times--as the rest of the Legislature."

[1:51:27 PM](#)

CHAIR FRENCH asked if he ever defended a sex abuse of a minor case.

MR. ROSS said no because all his clients were innocent and he doesn't have much sympathy for that sort of case. He added:

I have represented parents against the [former] Department of Family and Children [Youth] Services when an older teenage child would make those allegations. And when I was absolutely convinced that those allegations were false, then I represented them. And eventually in many of the cases we proved the case - as much as you can - that we proved that the case was false. But making an allegation of sexual abuse is like shooting an arrow. You can never call it back. And it's one of the most vicious allegations that can be made against a person if it's false because people will always wonder whether or not there was any truth to it. So it's a very difficult case to defend when the Department of Health and Social Services is involved because how do you prove a negative? It's a bad situation all around. It's an easy allegation to make; it's a hard allegation to defend against.

CHAIR FRENCH remarked that's a good segue into the next area of family law and domestic violence.

[1:53:01 PM](#)

SENATOR WIELECHOWSKI said, "As attorneys we all have a fundamental belief in our clients that they're innocent if we're defending them and that they're guilty if we're prosecuting them."

MR. ROSS returned he would think that that is one of the difficulties associated with being a public defender. "Most of the people that a public defender gets probably are guilty and you probably find out they are guilty and yet you have to stand up there and put on a strong defense." He added his sincere belief that most of his clients were innocent.

SENATOR WIELECHOWSKI said Vic Kohring was a very high profile client of yours and you wrote a very high profile letter stating Mr. Kohring's innocence. After listening to the evidence did you change your opinion?

MR. ROSS said no. He added:

I represented Vic Kohring...just in the very beginning and we went to the U.S. attorney's office and I reviewed the evidence as much as they showed me at that time. They wanted Vic to change the plea to something and I told him I thought that their case was Bravo Sierra -- if you know what I mean. And I advised Vic to do certain things and Vic didn't follow my

advice and hired an attorney from Seattle. And that's all I'm at liberty to say but I felt that Vic's main problem is that he was naive.

[1:55:18 PM](#)

SENATOR WIELECHOWSKI noted that the governor called for Mr. Kohring's resignation and asked if he believes that she made a correct call.

MR. ROSS responded she called for former U.S. Senator Ted Steven's resignation too and he didn't believe either call was correct. "I believe our system of justice should work first before somebody is publicly asked to resign," he said. Had the governor made private contact and asked for his resignation it would have been better.

SENATOR WIELECHOWSKI said you probably wouldn't agree with the governor's call for Senator Begich to resign either.

MR. ROSS replied he doesn't agree with that call either.

CHAIR FRENCH asked if he believes that former Representative Kohring was innocent.

[1:56:45 PM](#)

MR. ROSS said "I do believe that he was innocent but naive." He's stuck with being found guilty until the appeal goes through, but I don't personally believe that he is guilty, Mr. Ross added.

SENATOR THERRIault asked if the videos were available at the time he was advising Mr. Kohring.

MR. ROSS acknowledged that he watched those videos.

SENATOR THERRIault asked if he came to that conclusion after having seen the videotape evidence.

MR. ROSS responded he doesn't know if he saw all the videos but did he spend several hours with the U.S. attorney. "And they put on quite a dog and pony show and I wasn't convinced."

CHAIR FRENCH asked if he spent a number of years as a family lawyer.

MR. ROSS replied between 45 percent and 50 percent of his practice involved family law.

CHAIR FRENCH asked if he would represent a particular side or just the first person to approach him.

MR. ROSS replied it was usually was the first person who came to him with money.

CHAIR FRENCH asked his view on the use of restraining orders in the process of a divorce.

MR. ROSS replied:

I think it's much abused. I think the system is set up so the first person to the court house gets a restraining order [and that] puts the other person to a sincere disadvantage. I think restraining orders are sometimes granted when they shouldn't be. On the other hand, we have a high incident of domestic violence in this state and that concerns me too. And so we have judges, I think, or magistrates that seem to be overworked and perhaps haven't read the law real carefully in that I think they bend over backwards to grant restraining orders. But the system is needed because of the large amount of violence, but it's also abused.

[1:59:04 PM](#)

CHAIR FRENCH said you've worked in this area for a long time and I hear you saying that this is a difficult area of law.

MR. ROSS said when people ask how he can handle divorce cases he tells them:

I go home at night and I see the lady I've been married to and I think 'Boy am I lucky.' And that's why I can handle them. And I also say somebody's got to clean up after the elephants at the end of the parade and that's a divorce lawyer's job, I think.

CHAIR FRENCH said with respect to restraining orders a judge has to strike a balance in what may be a violent and disintegrating family situation. The judge has to listen to a single petitioner making an allegation of domestic violence and decide the appropriate action. Your view is that from time-to-time that power is abused in a petition that shouldn't be granted, but you concede that there is a lot of domestic violence and we need to do something, Senator French said. "Have you thought of any legal or legislative solutions to what you perceive as a problem?" he asked.

2:00:39 PM

MR. ROSS replied he believes it's the litigants rather than the judges who are abusing the system. "I think it takes a bit more time and maybe we need some more judges looking at it because it's kind of a revolving door where people go in and grab their order and get back out again." Perhaps judges need to spend more time looking at cases but it's important to keep in mind that whatever order that judge issues will affect another person's rights. "Too often you have people that have a spat...and one person suddenly finds themselves out of the house for 20 days without clothes, without work tools and it's...a pretty strong remedy for people that have arguments. So I don't have the solution, but I do know the problem," Mr. Ross said.

CHAIR FRENCH observed that children are frequently the fallout from divorces. They're the unwilling participants in divorce and family situations that have a violent trend. "I'm sure you're aware of the cycle of domestic violence. The lead up, the explosive outburst, the making up afterwards, the promises that there won't be any future problems and then the slowly building pressure of the violent and isolating tendencies as they renew themselves," Senator French said. Surely you've come across that in your time as a family lawyer.

CHAIR FRENCH noted that Mr. Ross would be overseeing lawyers from the Office of Children's Services (OCS) and asked his view of that agency.

MR. ROSS said he has a sign on his bookshelf that says that the best thing a dad can do for his children is to love their mother. He continued:

We made divorces a little too easy in my opinion, first of all. When I started with the family court we had court-ordered marriage counseling and the parties would have to go to marriage counseling to see if there was any possibility to make the marriage work. We had - and this is probably a bit much - but you had to have grounds to get divorced. Now we've got no-fault divorce where one person says, we're incompatible and the other person says we're not incompatible. Or one person says we're incompatible and the other one says we're incompatible and they can get divorced. You can get divorced even if you can't agree on whether you're compatible or not. So perhaps divorce is a bit easy. Maybe we ought to require some

kind of counseling to see if we can't keep the family together a bit more. That would be one solution.

2:04:28 PM

CHAIR FRENCH asked his view of the role of OCS workers in protecting children in households where there is abuse and domestic violence.

MR. ROSS said their job to protect the children. His experience is from the outside looking in. He continued:

On many occasions these social workers seem to be more intent in getting children out of the home than they are in working to keep children in the home. ...I've wondered whether it wasn't a matter of numbers. In other words, the more kids that they could get into the system of foster homes the more money they could come to you and justify getting. And so, I didn't see a lot of people with heart in that profession. There were some, some good ones, but I didn't see a lot of people that really had a heart and really were interested in trying to work something out.

2:06:07 PM

CHAIR FRENCH highlighted that research indicates that most children are abused by someone who has access to their home. Oftentimes it's a family member or a relative or an acquaintance. Children aren't dragged into the bushes, they're abused in their homes, he said.

MR. ROSS said:

But if you carry that further then we should take all the children out of their home immediately after birth. Then they would have less chance of being abused. I don't believe in that. I don't believe that most parents are abusers. I believe that most parents love their children. And I think that if children are abused they should be taken out of the home and there should be some intensive counseling and maybe kept out of the home forever. But I don't believe that most children are abused in their own home by their parents.

CHAIR FRENCH said he agrees that most children are raised in healthy families, but it's those remaining children who are abused in their homes. They're abused by parents or relatives who have alcohol problems, anger problems, or problems controlling their emotions and they lash out at the weakest and

most defenseless members of society. "Are we in agreement?" he asked.

MR. ROSS replied, "We're in 100 percent agreement."

CHAIR FRENCH asked if he perceives the workers who are charged with ensuring the safety of children as working to destroy family unity.

[2:07:51 PM](#)

MR. ROSS replied he saw some that he believes were working to do that.

CHAIR FRENCH asked if he thinks those workers are frightening.

MR. ROSS said yes; they're frightening to parents.

CHAIR FRENCH asked if OCS workers frighten him.

MR. ROSS replied, "I'm a cancer survivor; I'm not frightened very easily anymore."

[2:08:21 PM](#)

CHAIR FRENCH said he's bringing this up because of a column he once wrote in a newspaper titled "Family Unit Suffers from Bureaucratic Maze." He continued:

In that column you stated the belief that OCS workers try to destroy family unity and that DFYS (division of family and youth services) workers are frightening. The tone you took in that article was highly dismissive of the essential public safety nature of the work that these folks perform. And I have to say further that your answers today about quotas concern me as well - as if these workers were traffic cops trying to earn their monthly paycheck on the backs of families in Anchorage. When I have personally as a DA reviewed the reports of harm that come in from DFYS and seen dozens and dozens and dozens of cases on a weekly basis of children that don't get washed at home, that have to stay up with their drug-abusing parents, that come to school with blood matted in their hair. And my view is that these workers are extremely essential and do a great job under difficult circumstances. And I can't tell if you share that view or not and I suspect you don't.

[2:09:46 PM](#)

MR. ROSS responded:

They have a difficult job; they're necessary; some of them aren't as good as I'd like to see them be. I represent the parents; you represent the cases that have been investigated when you were in the DAS office. You got the cream on the top shall we say of such cases. I got Joe Average Schmuck and his wife who found themselves suddenly confronted when they're good parents. So we have different viewpoints of probably the same problem. That doesn't mean you're wrong, that doesn't mean I'm wrong, but it means that we're looking at the elephant from different ends."

SENATOR WIELECHOWSKI commented that he too was concerned when he read that article. He added:

The concern now is that you're going to be the head attorney for the state and you did say that the Alaska Division of Family and Youth Services is a frightening group and that they are aided in their endeavors by state assistant attorneys general. The question is now that you as the head attorney in the state who are overseeing the work of the assistant attorneys general, Do you intend to continue the practice that we have in the state now to send attorneys general in to protect children?

[2:11:22 PM](#)

MR. ROSS said that article was written about 18 years ago and he would hope that the system has improved since then. "I know that I haven't had too many cases of parents recently that have had problems so presumably the system's improved. But yes, I will send in assistant attorneys general to protect kids."

SENATOR WIELECHOWSKI asked if his opinion has changed about DFYS being a frightening group.

MR. ROSS replied, "They were a frightening group, not to me but to parents in the way they were acting in those days." He can cite other attorneys who have had similar cases even recently. "They say the same thing, that some of those people are frightening," he said.

[2:12:35 PM](#)

SENATOR WIELECHOWSKI asked if his opinion that DFYS workers are frightening has changed in the last 18 years.

MR. ROSS replied, "I think there are some people in that group that probably shouldn't be there."

SENATOR WIELECHOWSKI asked if as attorney general he has plans to take action on that.

MR. ROSS replied that isn't the attorney general's job. He continued:

The attorney general's job is to represent everybody and protect the kids of the state of Alaska. I intend to do that, but I also think we have a duty to protect families. And I'm going to do my best to see what we can do to protect families - the families that really need protection, not the families that you're talking about where kids are being abused. I want to make sure that my attorneys look at cases carefully and that they're convinced that there has been abuse and not just somebody that's offended a social worker.

[2:13:35 PM](#)

SENATOR MCGUIRE said she doesn't have concern about his confidence to publicly express his opinions 18 years ago, but she would like to hear how he intends to tackle the issues that are facing Alaska in 2009. She asked what style he intends to take on the issues of abuse and neglect and rape of minors.

[2:16:02 PM](#)

MR. ROSS related that he was in private practice when he wrote those articles and it was a method of getting his name out. "I wrote what I believed in and tilted at the windmills that I thought needed tilting at the time." He has different clients now. "An attorney has to be able to ascertain who his clients are and how they deserve the best representation possible. Now I would represent the people of the state of Alaska."

MR. ROSS pointed out that his knowledge is broad from the defense standpoint and he has a fairly broad knowledge from the family court standpoint. He said he doesn't have all the answers because he's been on the job just eight days. He said, "I was the top man of the bottom third of my law school class and I made a success because I worked harder than other people. ... I prepared my cases harder than other people and ... probably 95 percent of my cases settle before I go to court. Only 5 percent go to trial, but of those 5 percent that go to trial I probably won 80 to 90 percent. ... I'm not telling you I've got the solutions; I'm telling you I'm willing to work to get them and

learn from you guys what your thoughts are and listen and I don't think you can ask more than that."

[2:19:42 PM](#)

SENATOR MCGUIRE said this is her third confirmation hearing for an attorney general for the state and she's found that what's more important than the right answer is to have the right philosophy. She suggested that he approach the job with the recognition that he may have said and believed in things that were right at the time, but now may have changed.

MR. ROSS acknowledged that things change.

[2:20:52 PM](#)

SENATOR THERRIAULT asked how he sees his role as attorney general in terms of interacting with the commissioners who deal with alcohol problems and child abuse problems.

MR. ROSS said once he learns his job he'd like to meet with and get input from judges, public defenders and peace officers from the various areas across the state. "There's a lot to learn and maybe we can come up with some better solutions."

[2:22:40 PM](#)

SENATOR THERRIAULT stated the opinion that the toughest section of statute that legislators deal with is family law because of the many different family situations. Over the years the Legislature has worked to more clearly delineate parental and individual children's rights so it's not surprising that complaints about OCS have dropped off. "We have changed the rules there by modifying the law."

MR. ROSS suggested that legislators add a provision that says that a parent who successfully litigates against false allegations can be awarded attorney's fees. That would be another check against the [former] DFYS. In the past people couldn't afford to litigate the issue because the full power of the state was against them and they wouldn't get attorney's fees back. He cited a case he handled that cost the parents between \$30,000 and \$40,000 and the kids remained in the home as a result of the hearing. The parents got none of that money back and it could have gone to the kids, he said.

[2:25:13 PM](#)

SENATOR THERRIAULT noted that Representative Hawker wrote that he found Mr. Ross to be absolutely and completely dedicated to the constitution and rule of law. He asked Mr. Ross if he would

have a problem applying the laws that the Legislature writes if he had a different opinion.

MR. ROSS replied his job is to administer the law whether he agrees with it or not. "You don't have as much freedom in this job as you did in private practice and I recognize that." That's fine, he said.

[2:26:16 PM](#)

CHAIR FRENCH asked if he was ever sued for malpractice when he was in private practice.

MR. ROSS replied he was sued twice. The first time was after he got the largest settlement in the history of the U.S. for a wrongful termination of employment case. Ultimately it was dismissed and the attorney that brought the case was sanctioned under Rule 11 for \$25,000. He still doesn't understand why that client sued him. The second case he settled for \$500.

CHAIR FRENCH asked if he's ever been sanctioned by a court, had an order to show cause issued by a judge, or been publicly reprimanded by the bar.

MR. ROSS said no.

[2:29:41 PM](#)

CHAIR FRENCH asked what his chief focus will be with respect to resource development since the governor emphasized that when she announced his appointment to the position of attorney general.

MR. ROSS replied this state has wonderful resources that need to be used wisely.

CHAIR FRENCH asked if he adheres to the philosophy of former Governor Wally Hickel that this is an owner state - that the resources are owned in common.

MR. ROSS said yes.

CHAIR FRENCH asked if he has any litigation planned with respect to carrying out the wishes of the legislature or the governor on resource development.

MR. ROSS answered no. He plans to learn about the litigation the state is already involved in and if he learns about problems he will submit legislation to correct the problems. He doesn't

intend to look for things to litigate; from what he's seen so far there's plenty to keep the state's 300 attorneys busy.

[2:32:14 PM](#)

SENATOR WIELECHOWSKI observed that the state has a number of lawsuits pertaining to oil spills and environmental protection and noted that he had written an article titled "We Should Quit Crying over the Oil Spill." He asked Mr. Ross if he believes that it is appropriate for the state to pursue legal action to make the state whole if it finds that a company is acting negligently and has caused damage to the environment.

MR. ROSS replied, "The first day on the job we filed a \$1 billion lawsuit against British Petroleum for the failure to properly protect against corrosion in the pipe." As attorney general my job is to protect the people of the state of Alaska and when you do that you also protect the state's resources. My job is to go after people who break the law and pollute the environment and I'm happy to do it. Noting that he is also on the committee that has to do with the Exxon Valdez oil spill, he said he won't have a problem with that either because he is now wearing a different hat.

[2:34:56 PM](#)

CHAIR FRENCH said when you campaigned for governor you spoke about too many regulations tying up resource development in the state, and the BP spill example is a perfect illustration of what you get in the face of inadequate regulation and oversight.

MR. ROSS responded the regulations were adequate; the enforcement was lacking. BP was supposed to enforce the regulations and didn't do it, but the state shouldn't rely on the people who are supposed to abide by the laws to enforce them. "We need to have more of a watchdog role I do believe."

CHAIR FRENCH said I heard you say that the state should have strict enforcement of its laws and regulations.

MR. ROSS said yes.

CHAIR FRENCH asked if he believes that the same should apply to people who may not have broken the law in the past.

MR. ROSS replied you could sit them down with their attorney and let them know what they did wrong and why there is such a law. After that you could let them walk. He cited a personal experience and said police officer discretion is the best way to

enforce the law. Prosecutors also should use that sort of discretion. Lots of times people don't intend to violate the law, but they end up doing just that. Fish and game cases are a prime example where a warden can issue a warning and thereby increase the likelihood that someone will in the future report a case of serious wrongdoing. Citizens need to cooperate and you won't have that if people are alienated when they shouldn't be.

2:39:05 PM

SENATOR WIELECHOWSKI said he believes everyone would agree with Mr. Ross's statement supporting strict adherence to the law. The problem is that for years the oil companies have fought regulations on the transit lines at the state and federal level. As a result we really didn't have laws or regulations governing a lot of the transit lines, he pointed out. He asked Mr. Ross if he would support stricter regulations to make sure that the environment is safe. "Even where there have been no prior offenses, the risk is so huge to our economy and to our state if there is a breach."

MR. ROSS returned it's not the attorney general's job to enact regulations; the attorney general's job is to enforce the regulations. It's the job of the legislature to decide what regulations need to be enacted. He said he doesn't know if additional regulations are needed, but he would caution against regulating a company out of business.

SENATOR WIELECHOWSKI said he would tend to agree but in a press release the governor said you, as attorney general, would work with her on issues related to development of Alaska's rich natural resources. I've never thought of the attorney general as being someone who would be involved in the development of natural resources, he said, but the governor put you in that situation and I'd like to hear whether you agree that that is your job.

MR. ROSS stated his belief that the attorney general should challenge federal regulations that prevent the state from developing its natural resources. He continued:

I'd like to have a role in that. ... We were promised in the statehood compact that we would get a certain percentage of the resources that we developed in the state and then suddenly the federal government seems to be closing the door and preventing us from reaching those resources. And I would like to see us get involved in challenging some of those. That doesn't mean that we develop the resources willy-nilly and

without the proper regard for the environment. So I think that's what she had in mind. That we need to make sure that we have the freedom to develop our resources and that we don't have people Outside telling us how we should do it. The management of fish and wildlife is a good example where we have people Outside who don't like us shooting wolves from the air. And we believe that we should cut down the predators so that we can build up our moose and caribou populations. And I think that's one of the resources that she was referring to also.

2:42:44 PM

CHAIR FRENCH welcomed Senator Huggins to the hearing.

Turning to the issues of Native rights, subsistence rights, and ANILCA (Alaska National Interest Lands Conservation Act), Senator French asked Mr. Ross if he thinks there are Indian tribes in the state of Alaska.

MR. ROSS said of course there are tribes.

CHAIR FRENCH asked if he recognizes the supremacy of federal law with respect to ANILCA - Title 8.

MR. ROSS replied, "Of course I do."

CHAIR FRENCH asked if he recognizes that the challenges to the constitutionality of Title 8 have been exhausted.

MR. ROSS responded it was a long fought war.

CHAIR FRENCH asked his view of the path towards unifying management of fish and game under state control now that it's beyond the state's legal grasp to change the supremacy of federal law with respect to Title 8.

MR. ROSS expressed the view that the state should have control over its resources. He continued:

We're the only state that's prevented from having management of our fish and game resources." It's going to be up to the Legislature to determine whether or not it should seek to regain control of its fish and game resources. "In my six days of doing the dancing bear act around this capitol building in the last week or two I've had legislators tell me that they would like to get management of our fish and game resources

back. If that's your decision that would be my job - to do what I can to get management back. But my job is also to support the Constitution of Alaska and that provides that the resources belong to everyone. So I would not want to get the resources back by amending our constitution, for example. I do believe that we can have a preference for subsistence use and that subsistence is one of the really neat things about Alaska that makes Alaska unique. We have people that are far away from grocery stores or long distances that they have to transport food that live off the resources that we have. We should be able to manage those resources so that those people don't go hungry. I've said several times when Mom would invite somebody to the house for dinner, and she'd bake a pie and more people showed up she didn't say well some people can have pie and some people can't. She didn't say people can have littler pieces of pie. She'd make another pie. When we properly manage our fish and wildlife resources we're in effect making another pie. We're seeing to it we have more animals so that people can exercise their subsistence rights and so sport hunters can exercise their rights. But in times of shortage, we can have a preference for subsistence and probably should.

[2:47:08 PM](#)

CHAIR FRENCH returned that the conflict is not about subsistence in general; it's about whether there will be a rural subsistence preference. The state's unwillingness to pass a law of general application on that topic is what led to the federal takeover.

MR. ROSS responded the people of Eklutna have had a subsistence tradition for thousands of years and now that village is part of the Municipality of Anchorage. He continued:

Suddenly because of where they live they can't get subsistence, but you've got Dr. Smith who flies into one of the villages in his Cessna 206 and because of where he lives, he can get subsistence when he's maybe hunting for the first time in his life. It's a bad system based on where you live and I oppose it. ... I say we should be like the muskox, circling and facing out towards our enemies and not fighting amongst ourselves. ... We ought not to battle those old battles over again. We can solve our problems if people of goodwill will sit down and work them out and remember that we're here together and we're Alaskans.

2:49:15 PM

CHAIR FRENCH said that's true, but it's worth pointing out that when you ran for governor you talked about hiring junkyard dog attorneys general to regain control of the federal land. There is a great philosophical problem in reconciling the differences between the federal and state views of subsistence. If your goal is to regain state control of those federal lands, there are two options given the supremacy clause. You either change federal law or you comply with it.

MR. ROSS responded that's why we have court systems. He continued:

When the people of Alaska approved the constitution, the constitution said the ... resources of Alaska belong to everyone. Congress approved that constitution. In effect it said you're going to be a state; we recognize the validity of your constitution. Then Congress came along and enacted a law that said unless you change your constitution we're going to take over management of your fish and game. Alaskans stood up for Alaska, in my opinion, and said we're not going to change our constitution. So the feds took over management of fish and game. I think an argument could be made that they breached the statehood compact. And I think Alaskans ought to say, why are we treated differently than other states? Aren't we entitled to manage our own fish and game resources on federal lands? So, I think federal law's bad and should be challenged. But, as attorney general that's not my job. You guys decide it should be challenged I'll put on my armor and go forth to battle for you. If the governor decides it I'll do the same, but the hat that I'll be wearing I can't just go picking battles because of my personal philosophy. It's not my job.

CHAIR FRENCH recognized that Senator Menard had joined the hearing.

2:52:30 PM

SENATOR MCGUIRE commented that this conversation dovetails with a broader conversation that she thinks the state will be facing with the change in administration at the federal level. Indications are that there will be a dramatic shift in the Department of Interior and the Bureau of Indian Affairs with respect to Alaska. There is a question about whether the Indian country ruling that the U.S. Supreme Court overturned will

somehow be revisited and then there's the Katy John case and the issue of navigable waters. It wasn't taken to the U.S. Supreme Court because former Governor Knowles opted not to do that, but it sits out there as an undefined area, she said. "So I see sovereignty in parts of Alaska as a huge part, not only of our present situation but our future, and it dovetails into Senator French's questions." She asked Mr. Ross his game plan for helping Alaskans to navigate this difficult, likely emotional and potentially stagnating chapter of history with respect to state sovereignty, sovereignty of tribes in Alaska and the relationship the state has with the federal government.

[2:54:31 PM](#)

MR. ROSS said it's a good question that's without an answer for a guy who's been on the job just six days. He said he recently heard that closing ANWR (Arctic National Wildlife Refuge) permanently and cutting off development in the Beauford Sea is being considered by Congress and he may have a different view of Alaska than some others but he's proud of this state. Alaskans came here for the freedoms the state has and to get away from big government as much as possible. Yet there are people who are 5,000 miles away who are telling us what to do with our resources. He continued:

We've been entrusted with those resources and we should have the right to determine what should be done with our resources ourselves. So when laws like that come down - people elected you to protect them and I would probably welcome direction from you to resist that outside interference. But it isn't my job to decide to do that. That's your job and it's the governor's. ... I'm just the general ... that carries out the campaigns. I don't decide to go to war. That's the administration's job. My job's to win the war after you guys decide to go to war.

[2:56:35 PM](#)

SENATOR MCGUIRE said she has a very strong belief in letting the governor select her cabinet. "Barring any major incompetencies that rise up to even a constitutional level I think our job is to hear you out." You'll probably go forward and be the attorney general for this state so the tone of my questioning is food for thought to formulate how you think about things. She suggested that going to war might well divide people further and leave the state under greater federal control than even today. She doesn't disagree that legislators are the policy makers, but the attorney general has tools to navigate the law with respect to sovereignty, management of lands and all the kinds of things

that will come forward. Again she said, "It's just more food for thought."

MR. ROSS responded that one job of the attorney general is to give advice the legislature and he thinks conversations should take place as often as possible. He said this is another subject but he believes that the way the subpoenas were handled was the result of people not communicating enough.

[2:59:43 PM](#)

SENATOR OLSON acknowledged the differing points of view and agendas and said the problem he sees relates to Mr. Ross making comments about junkyard dogs as he did in the 1990 governor race. People get very concerned about those kinds of words because they polarize the "haves" and the "have nots."

SENATOR OLSON noted that Mr. Ross talked about issues related to subsistence and rural preference and how people who didn't have financial resources were forced to travel 5,000 miles to try to get something done on the federal level to preempt state law. The problem I see with your confirmation and your sitting in the position as the general is that you may not be the one declaring war, but you're the one that's going to have all the casualties under your command. Senator Olson said my concern is that those casualties may indeed be those people in rural Alaska that I represent. I've had torrents of emails and communications stating opposition to your appointment because of the statements you've made over the years that have been so polarizing. What do I say to the people out there that I represent who had to go to Washington D.C. to get some type of arrangement so that they could continue to do what they've done for years? Senator Olson asked.

[3:02:43 PM](#)

MR. ROSS responded:

You don't go to Washington D.C. anymore; Washington D.C. is not friends with Alaska. ... A general's job is not to cause casualties with his own people; a general's job is to win the war against the enemy. Alaskans should be working together. ... I've felt that the subsistence issue was very divisive. It could have been handled a long time ago without being divisive. The problem with the subsistence is that some people felt that they should have more rights than other people instead of sitting down and working out to make sure that subsistence was protected. You can't have

those who have and those who have not and not develop enemies.

SENATOR OLSON asked Mr. Ross to repeat his last statement about enemies.

MR. ROSS said:

If you push for haves versus have nots - if you say I'm better than you are. I should have a bigger car than you. I'm not going to make friends with you doing that. But if we sit down and say, how can we arrange our transportation, we can reach an agreement. We never did that. Instead some people went off to Washington to try and get rights over others, which was violative of our constitution. It wasn't the way to handle it in my opinion. And now we got the federal government sticking its nose in the State of Alaska and we need to realize that we've invited a giant to our state and that we need to protect all of us from the giant.

Have you seen the old western movies where they get a new marshal into town and he turns out to be far worse than they had before? That's what we did okay? We can work out our problems. If we sit down and talk about what's needed, we can work those out. As I told you at the very beginning, 95 percent of my cases were settled because even though there's a lot of emotion in divorce cases ... we were able to calm them down and get it worked out. But you don't invite the giant into your house - or the bear if you want to say that. You don't invite the bear into your house and then not expect to get eaten up. We're being eaten up and we need to get together.

SENATOR OLSON said he respectfully disagrees with the parallel that the state has invited the bear into the room. That so-called bear is the U.S. government and it had to step in because state law was starting to run over the rank and file little guy that's trying to make a living in rural Alaska, he said. He cautioned against calling people junkyard dogs to try to rectify a situation.

[3:06:33 PM](#)

MR. ROSS clarified that he said he was going to hire junkyard dogs to get the feds off the state's back. He continued:

That would be my intention had I been elected governor because I believe that Alaskans should be working together and that you don't just represent some people out there and that's all the people you represent. You're a Senator, you represent all Alaskans and you should be working with other Alaskans to develop solutions rather than going out and crying to mom out somewhere else and saying, 'Mom you got to help me.' And that's not necessarily directed at you, but we should have worked together to solve those problems rather than get somebody else out to solve those problems. That was a mistake we made years ago and I'm saying we need to sit down and work together to develop solutions so that you people out there are happy with what's going on here and don't have to look to the federal government. They should be looking to other Alaskans to solve their problems.

[3:07:39 PM](#)

CHAIR FRENCH said it's fair to say that the Native community has expressed strong opposition to your appointment.

MR. ROSS responded it's from people who don't know him.

CHAIR FRENCH highlighted that during the course of a fundraiser when Mr. Ross ran for governor, rock and roll star Ted Nugent was quoted in the 8/26/02 issue of the Anchorage Daily News on the topic of subsistence saying, "Can an Alaska Native look at me with a straight face and say he needs 20 caribou to feed dogs on a chain all day? I'd like to smash that SOB in the temple." Did you apologize or consider apologizing for the comment that Mr. Nugent made, he asked.

MR. ROSS responded I didn't make that comment. What Ted Nugent said was outrageous and it didn't get any votes. "My wife and I thought it was the improper thing to say, nobody ever asked me about it until ... 7 years after. ... Had somebody asked me about it at that time, I would have apologized then and said he doesn't speak for me."

MR. ROSS urged Senator Olson to talk to Alaska Natives that they know in common to see if he's either anti-Native or anti-subsistence. "They'll tell you the truth," he added.

[3:11:39 PM](#)

SENATOR WIELECHOWSKI said he has a binder full of things Mr. Ross has said and written over the years. Some of those

statements don't help the state move forward because they are so extremely divisive. He provided the following examples:

- "The idea of Native sovereignty is a 19th century principle."
- A letter to the bar association called a particular group of people immoral and degenerate.
- A former legislator said Mr. Ross thrives on confrontation. "He tries to convince me that he is absolutely right and I am absolutely wrong and I don't buy that", former Representative Abood said.
- A friend once said, "He can dig in and be very belligerent and say 'There's my way and no way.'" Mr. Ross's response was "That hits the nail on the head."

MR. ROSS said, "You want a woose for a private attorney or do you want somebody who's going to fight for you. That's what I did."

SENATOR WIELECHOWSKI said he wants an attorney general who will represent all Alaskans, who will be fair to all sides, and who will see that the state is not further divided.

MR. ROSS stated the following in his closing statement:

I told you at the beginning that I want to represent all Alaskans - that I'll have a different hat on. An attorney makes comments on behalf of his clients, he is an advocate for his clients and an attorney may advocate that a guy be found not guilty for murder. That doesn't mean the attorney supports murder. An attorney may advocate that somebody gets a divorce; that doesn't mean an attorney believes in divorce. And if I have the job of advocate for the State of Alaska, I'm going to advocate for all the people of the state of Alaska. When I had a different job, I performed that job with integrity. I wrote an article that you should look up called "High Hopes Waits for the Phone Call" and it was about a guy who wanted to be Supreme Court justice and so he took no positions on anything. He sat there, he read the law, and he waited for a phone call from the President because he hasn't alienated anybody. He didn't eat meat in a restaurant because he might get the vegetarians upset. He didn't wear leather shoes because he might get the PETA people upset. He didn't join the Kiwanis because he might get the Rotarians upset. He did absolutely nothing for 20 years because he knew the President was

going to call him and he didn't want to have any controversy.

I've lived my [professional] life for 42 years and I've had a great time doing it. And I've represented all kinds of groups and I've advocated for them and nobody ever accused me of tippy toeing around the issues. Now I'm asking for the job of advocating for Alaska - for the state that I love almost as much as I love my wife. I want to be the advocate for Alaska and I want to work with people that we can face outward and fight the people that don't like what we're doing in Alaska. I don't want to get into a battle between Alaskans again. We did that years ago. We did that and his people [indicating Senator Olson] felt they had to go to Washington to get help. They should have never had to go to Washington to get help. We should have solved those problems working among ourselves. We can do it. I'm a good negotiator and I listen to people and I'll work to try and solve the problems here so that people don't have to go to Washington. But I'm going to be the advocate for all the state. If you want someone who's never taken an opinion on anything, well then you can get a nice quiet attorney general who will do exactly nothing. That ain't me.

[3:17:08 PM](#)

CHAIR FRENCH thanked Mr. Ross and recessed the hearing until 5:30 pm.

[5:36:12 PM](#)

CHAIR FRENCH reconvened the Senate Judiciary Standing Committee meeting at 5:36 pm and announced his intention is to take public testimony for 90 minutes on the governor's appointment of Wayne Anthony Ross as attorney general. Any written testimony that is submitted with the request that it be made part of the permanent record will be honored. He asked testifiers to limit their remarks to three minutes.

BRADLEY J. FLUETSCH, Grand President, Alaska Native Brotherhood (ANB) and Alaska Native Sisterhood (ANS) Grand Camp and Glacier Valley ANB and ANS Camp 70, stated that Mr. Ross has a proven record of not honoring federal Indian law or recognizing Alaska Native's special relationship with the federal government. Furthermore, he does not understand the importance of subsistence to Alaska Natives. During the 2002 governor race he was interviewed by "Fish Alaska" and said that as governor he

intended to challenge provisions of ANILCA mandating federal management of Alaska's resources through the congressional delegation and the courts. In this morning's Juneau Empire he states that he does not believe in tribal sovereignty. "This man just wants to wage war on Alaska Natives," Mr. Fluetsch asserted. That doesn't move the state forward and it's expensive. We need to work cooperatively which means the state needs to work with the tribes and the Native corporations. "We do not need a litigious attorney general fighting 150 years of federal Indian law."

[5:40:22 PM](#)

SENATOR THERRIAULT joined the committee.

ROBERT LOESCHER said he is representing the Central Council of Tlingit Haida Indian Tribes of Alaska, which is a federally recognized tribe with 26,000 enrolled members, and the Alaska Native Brotherhood Camp 2, which is located in Juneau and is affiliated with the ANB Grand Camp. He recognized and honored Mr. Fluetsch as Grand President. He stated that ANB has fought for civil rights for all Alaskans for many years. Since statehood the Native community has contributed a great deal to the way of life and prosperity of the state. Alaska Natives cooperated in settling the Alaska Native claims that held up rights of way permits for the Trans Alaska Pipeline. That brought prosperity to the state. Since that time Natives have contributed to the economy of the state through commerce and economic development. Indian people and tribal members have facilitated millions if not billions of federal transfer funds for social, economic, and welfare programs for Alaska Natives. The tribes have developed clinics, job-training centers, and social programs to offset costs to the state's operating budget. We're proud of that, Mr. Loescher said.

MR. LOESCHER said Mr. Ross's public record is well known. He has opposed the recognition of tribes, he has opposed ANCSA and he has not been helpful to the civil rights of Alaska Natives. He urged the committee to seriously consider not endorsing Mr. Ross as attorney general. "We really would like to foster a constructive engagement between the Alaska Native community and the state and we do not believe that the appointment of Wayne Anthony Ross would facilitate that," Mr. Loescher stated.

[5:44:37 PM](#)

MARSHA BUCK, representing Alaskans Together for Equality Incorporated, said this is a new organization formed to advance the civil equality of all Alaskans with a particular focus on

equality for gay, lesbian, bisexual, transgender, and intersex citizens. She said her testimony is in opposition to the appointment of Wayne Anthony Ross as attorney general. His record of negative comments about gay, lesbian, bisexual, and transgender Alaskans appear to make him biased against these citizens so it's difficult to imagine how he could fairly uphold their constitutional rights. "We need an attorney general who represents all Alaskans equally - including gay, lesbian, bisexual, and transgender Alaskans. I would therefore ask you to oppose Mr. Ross's nomination," Ms. Buck stated.

NELSON ANGAPOK, SR., Anchorage, said the Alaska Federation of Natives is strongly opposed to the confirmation of Mr. Ross as attorney general. He has been vocal in his opposition to rural preference and he does not support Natives. Fishing and gathering have been the core of Alaska Native life for thousands of years. If subsistence use can't be protected against competition from other uses, most residents of rural Alaska will gradually be forced to abandon their homes and villages to move to urban areas. When Mr. Ross ran for governor he stated his intention to hire a band of junkyard assistant attorneys general to challenge ANILCA. Furthermore, he has opposed the existence of tribal governments. Mr. Angapok reiterated that AFN is opposed to the confirmation of Mr. Ross as attorney general for Alaska. "Mr. Ross holds striking beliefs in opposition to two core issues that affect the very survival of our Native communities and people - subsistence and tribal sovereignty. This raises a major concern about his ability to represent Alaska Natives on an equal footing as any other citizens of the state of Alaska," Mr. Angapok stated.

[5:48:19 PM](#)

SENATOR MCGUIRE joined the committee.

FRED TRABER said he is a resident of Anchorage and is representing himself, his spouse, and others who comprise the gay community of Alaska. He urged the committee to ask Mr. Ross about his regard for and attitude toward the gay, lesbian, bisexual, and transgender citizens of Alaska. "We need an attorney general willing to meet the needs of all Alaskans not just a few."

JAKE JACOBSON, representing himself from Kodiak, said he has known Mr. Ross for years. He has seen him in times of stress and disappointment and he is always consistent. He doesn't succumb to knee jerk temptations and is devoted to the law. The foundation of the U.S. is based on individual rights rather than

group or mob rights and Mr. Ross knows this well. It takes courage to do the right thing when it's unpopular, but Mr. Ross doesn't dodge his responsibility to do the right thing. His effort to secure equal subsistence rights for all Alaskans is consistent with the Alaska and U.S. Constitutions and is unpreferentially inclusive. His tireless defense of the Second Amendment is unpopular with some, but is part of the Bill of Rights. He knows that the Alaska and U.S. Constitutions are owner manuals that should be followed by all citizens as owner/operators. Without adherence to these fundamental rights society would be in chaos. When Mr. Ross lost the primary election for governor, he commented that the voters know he is a better lawyer than a politician. "We need this lawyer not a politician as attorney general. It is my hope that Wayne Anthony Ross be confirmed unanimously by the Alaska Legislature. I know he will serve all Alaskans well if given the opportunity," Mr. Jacobson stated.

[5:53:22 PM](#)

VICTOR VITALIE, representing himself from Anchorage, said his opposition to Mr. Ross is not based on what he believes; his opposition is based on the fact that Mr. Ross is rigid and a true believer irrespective of the position he is taking. He doesn't give credence to contrary arguments in either negotiations or arguments. Mr. Vitalie said he's tried a number of cases against Mr. Ross and he's found Mr. Ross to be bombastic and ill prepared in court. "In negotiations, particularly if you're multi-party, one of the issues the attorneys have to deal with is 'What do we do so we don't set Wayne Ross off.'" The comment he made about setting junkyard dogs on an issue illustrates that behavior. That sort of comment doesn't take into account how his advocacy will impact the parties on the other side of the argument, but a public lawyer must be very cognizant of the fact that the other side has to be taken seriously and treated respectfully. "He doesn't do that. He takes up a lot of air in the room when he's trying to negotiate or litigate."

MR. VITALIE said he understands that Mr. Ross submitted his name to be a judge some time ago and he received average numbers on the bar poll. I believe that an attorney general should be viewed as excellent by his or her colleagues rather than average, Mr. Vitalie said. Mr. Ross will be extraordinarily divisive regardless of the issue and he does not like to listen to subordinates. He isn't going to listen to department heads and professional attorneys who have been in the AGs office for 10 to 20 years if he doesn't like the answers they're giving

him. "He's going to get the state in trouble at some point if he's attorney general," Mr. Vitalie warned.

5:56:01 PM

PAMELA SAMASH, representing herself from Nenana, expressed support for Wayne Ross as attorney general and Governor Palin's decision to appoint him. The primary reason is because she likes his morals. "I believe the same way he believes and I think the same way that he thinks." When she hears about people who want to be self sufficient and want to hunt and fish, she realizes that he's the man. "He is for guns and he is for gun rights and this is why I really support him because I think that we're in a day and age in America where we need people like him in as many places as possible and definitely in the Alaska way of life." She encouraged the committee to support the confirmation of Mr. Ross and added that she also supports his views on pro life.

ROBERT FITHIAN, representing himself from Lower Tonsina, said he has for several administrations served with honor on the Wrangell-St Elias Subsistence Resource Council and has worked to help Alaskans help Alaska within the mining, forestry, and professional guiding industry. He said he supports the confirmation of Mr. Wayne Ross as attorney general.

TOM LAKOSH, representing himself from Anchorage, said Mr. Ross's testimony shows he has an inherent conflict of interest that would preclude his being attorney general. When Mr. Ross was asked about child molesters, he stated that all his clients were innocent yet the state is currently prosecuting appeals of his convicted clients. "I'd like to know if this is Governor Palin's April Fool's joke," he said.

5:59:42 PM

CHRIS KINNY, representing himself from Anchorage, said he is testifying in support of Mr. Ross as attorney general.

LYNNETT BERGH, representing herself from North Pole, said she is testifying in full support of Governor Palin's appointment of Wayne A. Ross as attorney general for the state of Alaska. She has researched Mr. Ross's background and qualifications and finds he will be a tremendous asset. She understands that some people have opposed Mr. Ross's record but it's her belief that anyone who has been involved in the legal arena for some years has undoubtedly made unpopular decisions. "But his decisions have always been based on the law," she said. He is a champion of Alaska. "I believe that he is the right man for this position

and that he should be sworn in as our new attorney general," Ms. Bergh said.

6:01:54 PM

BYRON HALEY, representing himself from Fairbanks, said he strongly supports Wayne Anthony Ross as attorney general. He believes that the Chitina Dipnetters Association support Mr. Ross as well, but it's not official.

PAUL EAGLIN, representing himself from Fairbanks, said he sent an email in hopes it would be distributed to the committee. Attached to the email was a letter he sent to the Alaska Bar Association "Bar Rag" in response to an article that Mr. Ross published following his unsuccessful application for nomination to the state supreme court. Mr. Ross's article made a number of criticisms with respect to his experience as an unsuccessful applicant. Mr. Ross's article illustrates that he has difficulty accurately thinking through an issue and clearly articulating his position. He was speaking with respect to his experience as an applicant and the comments he made were injudicious. Mr. Eaglin said he also thinks the comments were inappropriate in terms of the remarks he directed to the justices of the Alaska Supreme Court and the successful applicants.

MR. EAGLIN suggested that the committee obtain a copy of Mr. Ross's article so that his criticism would be in context. He noted that as an applicant to the Alaska Supreme Court Mr. Ross didn't score very well. Furthermore he understands that Mr. Ross has referred to gays, lesbians, bisexuals, and transsexuals as "degenerates" and that's offensive. These people have rights protected by law.

6:06:00 PM

SHAYLE HUTCHISON, representing herself from Fairbanks, said she is voicing her strong opposition to Mr. Ross as attorney general because Alaska needs someone who will represent the interests of all Alaskans. Mr. Ross's comments in the past have been dismissive of the problems of violence against women and children even though Alaska consistently leads the nation in rates of domestic violence, sexual assault, and child abuse. Alaska needs an attorney general who can provide leadership in these areas; Mr. Ross is not that person. Mr. Ross's stance on gay, lesbian, bisexual, and transgender rights is also a concern. She suggested that in the next several years civil rights will be a primary issue and Alaska will need an attorney general who can handle this issue with sensitivity and

understanding. Mr. Ross's degrading statements show he will not be competent in this area.

SCOTT TRAFFORD CALDER, representing himself from Fairbanks, said he is speaking in favor of Mr. Ross as attorney general. He listened to some of the questions and answers this afternoon and on that brief experience he is satisfied that Mr. Ross has good answers. Senator Olson spoke wisely and had good questions, but Mr. Ross's answers that Alaskans should work together seemed to be good. In other questions he demonstrated that he would speak truth to power and enforce the laws regarding the interests and rights of all Alaskans. "Apparently he is a very colorful personality and there is some opposition, but I guess I'm inclined otherwise," Mr. Calder said.

[6:09:02 PM](#)

MIKE PROX, representing himself from North Pole, said he is speaking in support of Mr. Ross as attorney general. He's worked with Mr. Ross on issues and some political work and he does have an understanding of and respect for the law. He is a colorful personality, which isn't all bad. There isn't any need to silence opposing views on any issue. It's a question of understanding and respecting the rule of law. Mr. Ross does that.

MELVIN GROVE said he is representing himself and the MatSu Advisory Council, which voted unanimously in support of Mr. Ross. He's a board member of the MatSu Fish and Game Advisory Committee, board member of the Alaska Outdoor Access Alliance, and the Anchorage Motor/Mushers Club and he believes they would support Mr. Ross's nomination as well.

KAREN LEWIS, representing herself from MatSu, said she supports Governor Palin's decision. She has known Mr. Ross for years and has seen him in action as an attorney. "I want him in my corner if I ever get in trouble. He possesses a moral Godly character and he won't back down when he's standing up for righteousness. ... I wish that all of the courts and the state and U.S. legislatures were all filled with people that had that moral fortitude and Godly characteristic that Mr. Ross possesses. This would be a great country. He would have been a wonderful governor and he would be a great supreme court justice and he will be one heck of an attorney general. ... Mr. Ross believes in equality not special interest groups. And when it comes to gays, lesbians, transgender, etc. he relies on what the word of God states not what men think. Again, he will be a wonderful attorney general," Ms. Lewis said.

[6:12:52 PM](#)

PETER M. PROBASCO, representing himself and his family from MatSu, said he's known Mr. Ross for years and he knows him to be of the highest integrity. "I think that lawyers of integrity are one of the most important things this country can have and we see what happens when they are not of that caliber." He knows the constitutions of the U.S. and Alaska and he will fulfill his duty and be an outstanding attorney general.

KAREN LACKEY, representing herself from MatSu, said she has known Mr. Ross for many years and he is an honorable and ethical man. He is a highly competent lawyer and she would urge his confirmation as attorney general.

EARL LACKEY, representing himself from Wasilla, said he's known Mr. Ross for at least 20 years and he knows that Mr. Ross will uphold the U.S. and Alaska constitutions to the letter of the law. "I would support Wayne Ross and do not believe you could get a better man for the job."

[6:14:55 PM](#)

ROSE FOSDICK said she is testifying on behalf of Kawerak Inc., a private nonprofit consortium whose mission is to promote and provide programs to improve the social, economic, and cultural wellbeing of the people within the Bering Straits region. Last week the Kawerak board met and passed a resolution in opposition to the confirmation of Wayne Anthony Ross as attorney general for the State of Alaska. The resolution states the opposing views that Kawerak Inc and Mr. Ross have on issues such as subsistence and tribal sovereignty. The last two Whereas statements and the Resolve are as follows:

- Whereas Governor Palin's candidate for appointment of attorney general should be an individual who exemplifies leadership skills that will seek collaboration with all local governments to resolve vital issues which would lead to safe economically viable and healthy communities and
- Whereas Wayne Anthony Ross's record and professional stance on rural subsistence priority and tribal sovereignty exemplifies an extreme bias, which will further exacerbate the process to resolve vital issues to our regional communities.
- Now therefore be it resolved that Kawerak Board of Directors oppose the confirmation and appointment of Wayne Anthony Ross to serve as attorney general for the State of Alaska. Dated April 3, 2009.

6:17:00 PM

NORMAN ANDERSON, representing Bristol Bay Native Association (BBNA), Dillingham, read a letter from BBNA to Governor Palin in opposition to the appointment of Mr. Ross as attorney general. Whatever positive qualities Mr. Ross may have, he is widely perceived in the Alaska Native community as an extreme and prominent anti-subsistence anti-Native spokesman and his appointment is viewed as a slap in the face by many Natives. It is difficult to see how a cordial relationship can be maintained if the chief law enforcement officer in the state is an icon of anti-subsistence and anti-Native sentiment. [The full letter is part of the permanent file.]

LEO WASSILIE, representing himself from Anchorage, testified in opposition to the confirmation of Mr. Ross as attorney general. Constitutional rights will be under attack if he is confirmed, he warned.

6:20:50 PM

PAGE HODSON, representing herself, said she will relate an experience she had several years ago. Several years ago after passage of a law addressing custody issues and protection of domestic violence victims, she helped organize a co-sponsored panel discussion at UAA on which Wayne Anthony Ross was a presenter. Ms. Hodson said she found the views he expressed to be quite sexist. The implication was that domestic violence was on the rise because the equal rights movement had emasculated men. Therefore, they beat their wives. Furthermore, he insinuated that there wasn't a lot of real domestic violence; women were simply lying and fabricating claims in order to position themselves for custody. "I just found those statements to be extremely sexist and the reaction in the audience and the room was similar," Ms. Hodson said. She noticed on "Craig's Daily News" that a couple of other people had commented and had a similar recollection of the events. She thought she should pass this along, particularly because of the incidence of domestic violence and sexual assault in the state. As attorney general Mr. Ross would have an influence on interpreting the law. "I just think that that is not someone who is going to represent half our population, which is women." Ms. Hodson said.

CHAIR FRENCH asked if she recalls the approximate year the conference took place.

MS. HODSON responded the bill became effective in July 2004 and the panel discussion took place around domestic violence

awareness month, which is October. The year was either 2004 or 2005. Between 75 and 100 people attended.

CHAIR FRENCH asked her role in the conference.

MS. HODSON replied she founded a grass roots group called Alaska Moms for Custodial Justice. She asked UAA to do a screening on a documentary that had come out on those issues and to discuss the legislation. She helped get things organized and provided the documentary film.

CHAIR FRENCH asked is she is speaking on behalf of herself or a group.

MS. HODSON replied she is speaking on her own behalf and is giving her recollections.

SENATOR WIELECHOWSKI asked if there was a recording of the discussion.

MS. HODSON replied she doesn't know. Professor Sharon Irozzy (ph) had done a study on the issues and she helped to put on the discussion. She has since taken a position at the University of Colorado and would be the person to contact.

[6:24:00 PM](#)

DEBORAH BURLINSKI, representing herself, stated that she doesn't support Wayne Anthony Ross for the position of attorney general because she doesn't believe he supports the constitution. She related that Mr. Ross represented pro bono individuals who poured water on some people near Kenai who were exercising free speech and protesting the war. "I understand that lawyers take all kind of cases, but when you take the case for free it means to me that you support the position." Ms. Burlinski further noted that it's her understanding that Mr. Ross applied for Alaska judgeships several times and received unacceptable ratings. "He does represent extreme viewpoints; he does not represent mainstream Alaska in my opinion and I urge you to vote no on his appointment," Ms. Burlinski said.

[6:25:37 PM](#)

WILLIE ANDERSON, representing PFLAG (Parents, Families and Friends of Lesbians and Gays) of Juneau, said he is testifying in opposition to the confirmation of Wayne Anthony Ross as attorney general. Mr. Ross has made statements about gay, lesbian, and bisexual people. "I happen to be a parent of a lesbian daughter; I do not believe Mr. Ross would represent her

legal rights in this state of Alaska if he was attorney general." The Alaska Supreme Court has ruled that domestic benefits for same sex couples is legal in this state. Mr. Ross would be required to support that law yet his statements have been contrary so how would he support those rights? Mr. Anderson asked. "Please vote no on Mr. Ross."

JAY STEVEN REESE, representing himself from Juneau, said he is alarmed at many of the statements Mr. Ross has made. His demonstrated hatred for anyone other than his own race, sex and gender reflect an inability to be impartial in judging the law. "I just wanted to express my opposition to his appointment," Mr. Reese said.

ALFRED MCKINLEY said he is representing ANB and ANS Camps throughout Alaska. "We simply oppose Mr. Ross's appointment as attorney general because of [his] position on subsistence." Mr. McKinley said he grew up in Alaska and knows discrimination. It hurts. If Mr. Ross is appointed he will divide the people. That isn't what we need; we need to work together, he said.

[6:33:22 PM](#)

BRIAN JUDY, Alaska Liaison, National Rifle Association (NRA), Anchorage, said he is speaking on behalf of the thousands of NRA members in strong support of the confirmation of Wayne Anthony Ross as attorney general. The right to bear arms and self defense are fundamental rights and few issues are of greater importance to Alaskans. Based on Mr. Ross's passion for the Second Amendment, Alaskans can rest assured that they will have a consistent defender in the attorney general's office. He has listened to some of the other testimony - that on domestic violence in particular - and he finds it impossible to believe that Mr. Ross would coddle any kind of criminal. He said he has known Mr. Ross for more than 20 years and he's found him to be a man of strong character and great integrity. Mr. Ross loves Alaska and will have its best interest as one of his top priorities. "On behalf of NRA members [I] urge your support for the confirmation of Wayne Ross for attorney general," Mr. Judy said.

[6:34:57 PM](#)

Finding no further testimony, Chair French adjourned the Senate Judiciary Standing Committee at 6:34 pm.