

**ALASKA STATE LEGISLATURE  
HOUSE STATE AFFAIRS STANDING COMMITTEE**

February 27, 2018

3:17 p.m.

**MEMBERS PRESENT**

Representative Jonathan Kreiss-Tomkins, Chair  
Representative Gabrielle LeDoux, Vice Chair  
Representative Chris Tuck  
Representative Adam Wool  
Representative Chris Birch  
Representative DeLena Johnson  
Representative Gary Knopp

**MEMBERS ABSENT**

Representative Andy Josephson (alternate)  
Representative Chuck Kopp (alternate)

**COMMITTEE CALENDAR**

CONFIRMATION HEARING(S) :

Lt. Governor Successor

Valerie Davidson - Juneau

- CONFIRMATION(S) ADVANCED

HOUSE CONCURRENT RESOLUTION NO. 22

Proclaiming April 2018 as Sexual Assault Awareness Month.

- HEARD & HELD

HOUSE JOINT RESOLUTION NO. 38

Relating to certain conveyances to the Alaska Railroad Corporation under the Alaska Railroad Transfer Act of 1982.

- HEARD & HELD

HOUSE BILL NO. 184

"An Act adding to the powers and duties of the State Commission for Human Rights; and relating to and prohibiting discrimination based on sexual orientation or gender identity or expression."

- HEARD & HELD

HOUSE JOINT RESOLUTION NO. 1  
Proposing an amendment to the Constitution of the State of  
Alaska relating to marriage.

- SCHEDULED BUT NOT HEARD

**PREVIOUS COMMITTEE ACTION**

BILL: HCR 22

SHORT TITLE: APRIL 2018:SEXUAL ASSAULT AWARENESS MONTH  
SPONSOR(s): REPRESENTATIVE(s) MILLETT

02/19/18 (H) READ THE FIRST TIME - REFERRALS  
02/19/18 (H) STA, HSS  
02/27/18 (H) STA AT 3:15 PM GRUENBERG 120

BILL: HJR 38

SHORT TITLE: AK RAILROAD TRANSFER ACT; CONVEYANCES  
SPONSOR(s): REPRESENTATIVE(s) KOPP

02/21/18 (H) READ THE FIRST TIME - REFERRALS  
02/21/18 (H) STA, JUD  
02/27/18 (H) STA AT 3:15 PM GRUENBERG 120

BILL: HB 184

SHORT TITLE: DISCRIMINATION: GENDER ID.;SEXUAL ORIENT.  
SPONSOR(s): REPRESENTATIVE(s) JOSEPHSON

03/17/17 (H) READ THE FIRST TIME - REFERRALS  
03/17/17 (H) STA, JUD  
05/04/17 (H) STA AT 3:00 PM GRUENBERG 120  
05/04/17 (H) Heard & Held  
05/04/17 (H) MINUTE(STA)  
02/27/18 (H) STA AT 3:15 PM GRUENBERG 120

**WITNESS REGISTER**

VALERIE DAVIDSON, Commissioner  
Department of Health and Social Services (DHSS)  
Juneau, Alaska

**POSITION STATEMENT:** Testified as appointed Lt. Governor  
Successor.

ANA HOFFMAN, Co-Chair  
Alaska Federation of Natives (AFN)  
Bethel, Alaska

**POSITION STATEMENT:** Testified in support of the confirmation of the appointment of Valerie Davidson as Lt. Governor Successor.

MYRA MUNSON  
Juneau, Alaska

**POSITION STATEMENT:** Testified in support of the confirmation of the appointment of Valerie Davidson as Lt. Governor Successor.

LIZ MEDICINE CROW, President  
First Alaskans Institute (FAI)  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of the confirmation of the appointment of Valerie Davidson as Lt. Governor Successor.

TILLIE DAVIDSON  
Bethel, Alaska

**POSITION STATEMENT:** Testified in support of the confirmation of the appointment of Valerie Davidson as Lt. Governor Successor.

HANS RODVIK, Staff  
Representative Charisse Millett  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented HCR 22 on behalf of Representative Millett, prime sponsor.

REPRESENTATIVE CHUCK KOPP  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented HJR 38, as prime sponsor, with the use of a PowerPoint presentation.

REPRESENTATIVE ANDY JOSEPHSON  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** As prime sponsor of HB 184, summarized the intent of the proposed legislation.

ALYSON CURRY  
Planned Parenthood Votes Northwest and Hawaii (PPVNH)  
Juneau, Alaska

**POSITION STATEMENT:** Testified in support of HB 184.

MARSHA BUCK, Treasurer  
Parents Families and Friends of Lesbians and Gays (PFLAG) Juneau  
Juneau, Alaska

**POSITION STATEMENT:** Testified in support of HB 184.

MARTIE BUSCAGLIA, Executive Director  
Alaska State Commission for Human Rights (ASCHR)  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of HB 184.

LIN DAVIS  
Parents Families and Friends of Lesbians and Gays (PFLAG) Juneau  
Juneau, Alaska

**POSITION STATEMENT:** Testified in support of HB 184.

KIM LEA  
Juneau, Alaska

**POSITION STATEMENT:** Testified in support of HB 184.

BARBARA LEARMONTH  
Juneau, Alaska

**POSITION STATEMENT:** Testified in support of HB 184.

KEVIN MCGEE, President  
Anchorage National Association for the Advancement of Colored  
People (NAACP)  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of HB 184.

BESSI ODAM  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of HB 184.

GRACE MATTHEWS  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified in support of HB 184.

KARA CARLSON  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified in support of HB 184.

MARINA DAY  
Ester, Alaska

**POSITION STATEMENT:** Testified in support of HB 184.

CHANNON PRICE  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified in support of HB 184.

ROSE O'HARA-JOLLEY  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified in support of HB 184.

LIZ FURMAN

Fairbanks, Alaska

**POSITION STATEMENT:** Testified in support of HB 184.

LIZ LYKE

Fairbanks, Alaska

**POSITION STATEMENT:** Testified in support of HB 184.

LIZ TAPP

Fairbanks, Alaska

**POSITION STATEMENT:** Testified in support of HB 184.

ABBY NORTH

Fairbanks, Alaska

**POSITION STATEMENT:** Testified in support of HB 184.

MORGAN WILHELM

Ketchikan, Alaska

**POSITION STATEMENT:** Testified in support of HB 184.

PAMELA SAMESH

Nenana, Alaska

**POSITION STATEMENT:** Testified during the hearing on HB 184.

ZHENIA PETERSON

Anchorage, Alaska

**POSITION STATEMENT:** Testified during the hearing on HB 184.

ALYSSA QUINTYNE

Fairbanks, Alaska

**POSITION STATEMENT:** Testified in support of HB 184.

JEFF CHEN

Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of HB 184.

MELISSA BURGER

Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of HB 184.

MELISSA GOLDSTEIN

Legal Fellow

Alaska Civil Liberties Union (ACLU) of Alaska

Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of HB 184.

JUDY ANDREE

League of Women Voters of Alaska (LWVAK)  
Juneau, Alaska

**POSITION STATEMENT:** Testified in support of HB 184.

KASEY CASORT

Fairbanks, Alaska

**POSITION STATEMENT:** Testified in support of HB 184.

ISADORE CHRISTIANSON

Juneau, Alaska

**POSITION STATEMENT:** Testified in support of HB 184.

### **ACTION NARRATIVE**

[3:17:50 PM](#)

**CHAIR JONATHAN KREISS-TOMKINS** called the House State Affairs Standing Committee meeting to order at 3:17 p.m. Representatives LeDoux, Tuck, Knopp, and Kreiss-Tomkins were present at the call to order. Representatives Wool, Birch, and Johnson arrived as the meeting was in progress.

### **CONFIRMATION HEARING(S):** **Lt. Governor Successor**

[3:19:50 PM](#)

CHAIR KREISS-TOMKINS announced that the first order of business would be a confirmation hearing to consider the appointment of Valerie Davidson as Lt. Governor Successor.

[3:20:09 PM](#)

VALERIE DAVIDSON, Commissioner, Department of Health and Social Services (DHSS), introduced herself by her Yup'ik name and relayed that it is her honor to be asked by Governor Bill Walker to serve as Lt. Governor Successor. She continued by saying that there was concern in both the House and the Senate when she was named as Lt. Governor Successor; people questioned whether the lieutenant governor was leaving or in poor health and whether she was leaving her position as commissioner. She stated that the answer to those questions is "no." She explained that the lieutenant governor successor position is as follows: if something happens, it is good practice to ensure

that a third person is named who can step up to that role in case the lieutenant governor is unable to serve.

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REPRESENTATIVE JOHNSON expressed that she was pleased with the choice and asked Commissioner Davidson what she has done to prepare for the role.

COMMISSIONER DAVIDSON answered that she has spent a lifetime in public service - 18 years in healthcare organizations. She relayed that she began at the Yukon-Kuskokwim Health Corporation (YKHC) and later served at the Alaska Native Tribal Health Consortium (ANTHC) until her appointment as commissioner of DHSS. She mentioned that she has spent time with staff from the Office of the Lt. Governor (OLG) to get a sense of his responsibilities and to ensure readiness for assuming the role. She said, "We always hope for the best and plan for the worst, recognizing that the state needs to be prepared to be able to move forward." She offered that OLG has a solid team. The DHSS also has a solid leadership team; both deputy commissioners have been in their positions for a long time - one for 25 years and one for 30 years.

[3:23:47 PM](#)

REPRESENTATIVE WOOL relayed that the House State Affairs Standing Committee discussed succession in the event of the governor being incapacitated or unavailable [HB 152, 1/23/18, 1/25/18]. He asked whether Commissioner Davidson, if appointed as Lt. Governor Successor, would be the next in line if the lieutenant governor was unavailable.

COMMISSIONER DAVIDSON answered yes and added that it is prescribed under the Alaska Constitution.

[3:24:45 PM](#)

REPRESENTATIVE KNOPP asked whether the appointment would prevent her from traveling with the governor and the lieutenant governor at same time.

COMMISSIONER DAVIDSON responded yes and added that they would ensure that they were not traveling on the same flight. She expressed that when asked to fill this role, she responded that she and her family pray for the governor and lieutenant governor every day, and they will step up their efforts.

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REPRESENTATIVE LEDOUX inquired as to who was successor before this appointment.

COMMISSIONER DAVIDSON answered that the successor was Craig Fleener, who is now living in Washington, D.C.; he is still staff to the governor for Arctic policy. She added that the governor and lieutenant governor thought it more appropriate to have a successor who was living in Alaska.

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CHAIR KREISS-TOMKINS opened public testimony on the confirmation of the appointment of Valerie Davidson as the Lt. Governor Successor.

[3:26:26 PM](#)

ANA HOFFMAN, Co-Chair, Alaska Federation of Natives (AFN), stated that on behalf of AFN, she endorses the confirmation of Commissioner Davidson as Lt. Governor Successor. She relayed that Commissioner Davidson's knowledge, training, character, and integrity make her the smartest choice. She said that Commissioner Davidson has done excellent work within DHSS including the implementation of Medicaid expansion and the Office of Children's Services (OCS) state and tribal compacting. She continued by saying that Ms. Davidson is a critical member of the administration; she is thoughtful, sensible, and sincere. She offered that Commissioner Davidson's work before becoming commissioner coupled with her legal background and her connections to the land and Alaska's people makes her the most qualified on the governor's cabinet to hold the position of Lt. Governor Successor.

MS. HOFFMAN commented in Yup'ik and expressed her belief that Commissioner Davidson will execute her responsibilities on behalf of all Alaskans.

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MYRA MUNSON stated that she is an attorney and the former commissioner of DHSS. She expressed that she endorses the confirmation of the appointment of Commissioner Davidson as successor to the lieutenant governor. She offered that Commissioner Davidson is extremely capable and knowledgeable

about every aspect of the state; she is a terrific choice for all Alaskans.

3:29:40 PM

LIZ MEDICINE CROW, President, First Alaskans Institute (FAI), relayed that Commissioner Davidson is the best choice to fill in for the governor and the lieutenant governor if they are incapacitated. She mentioned that Alaska Natives are very careful to avoid speaking about something bad happening to someone. She repeated Ms. Davidson's words: "Hope for the best; prepare for the worst." She expressed that personally, there is no one else that she would go to for that type of leadership or that kind of care. She said that she has informed people that Commissioner Davidson is the person to seek out in the case of an "apocalypse"; she is the most prepared person; she is ready for any disaster that strikes.

MS. MEDICINE CROW offered that Commissioner Davidson has "children" at the center of her core; therefore, will always take care of them. She has "elders" at the fiber of her being; therefore, she will take care of them. She has the best interests of every Alaskan at heart. In the event she would be called upon to make difficult decisions and step up for the state in a time of emergency, there is no one better to do that and provide that leadership.

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TILLIE DAVIDSON testified that she is Commissioner Davidson's mother. She offered her support for Commissioner Davidson's appointment and the support of the commissioner's whole family.

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COMMISSIONER DAVIDSON apologized for her awkward introduction and explained why she did not relay her qualifications for the position. She explained that Yupiks have a wonderful tradition and philosophy; that is, a person's experiences define his/her view of the world; every experience one has shapes that person's world view; it is the person's responsibility to use that knowledge to improve the lives of people around him/her. She relayed that Yupiks believe that a person should not exalt themselves higher than another person; it is extremely bad luck. She directed the committee's attention to her resume, included in the committee packet, and said that her record speaks for itself. She added that a person is defined by what he/she has

done and what other people recognize, and not by what the person says that he/she has done.

COMMISSIONER DAVIDSON stated that this is not the first time the state must make really difficult decisions; she doesn't envy the role of the legislator at a time when the state is facing a significant budget deficit. She emphasized that from her life experience and building on thousands of years of history in her family, when Alaskans come together and have honest conversations, they always make the right decisions; everyone may not be happy with the decisions, but at the end of the day, Alaskans arrive at a good place. She added that she has also witnessed, time and time again, that people will do the most amazing things under the most impossible conditions, if it is for the right reasons. She maintained that "children and family" are always the right reasons. She thanked the legislators for their hard work and reiterated that "we're all really trying to make the best decisions that we possibly can for Alaska."

[3:36:49 PM](#)

REPRESENTATIVE LEDOUX moved to advance the confirmation of Valerie Davidson as Lt. Governor Successor to the joint session of the House and Senate. There being no objection, the confirmation was advanced.

**HCR 22-APRIL 2018:SEXUAL ASSAULT AWARENESS MONTH**

[3:37:08 PM](#)

CHAIR KREISS-TOMKINS announced that the next order of business would be HOUSE CONCURRENT RESOLUTION NO. 22, Proclaiming April 2018 as Sexual Assault Awareness Month.

[3:37:43 PM](#)

HANS RODVIK, Staff, Representative Charisse Millett, Alaska State Legislature, on behalf of Representative Millett, prime sponsor of HCR 22, relayed that the proposed resolution would proclaim April 2018 Sexual Assault Awareness Month. He said it is no surprise that the state has work to do in preventing violence; Alaska's sexual assault rates are some of the worst in the nation. He noted that the rates are cited in the resolution. He stated that sexual violence affects Alaskans with no regard to race, socioeconomics, region, or gender; it is felt throughout the entire state.

MR. ROSVIK relayed that it is easy to feel demoralized by the statistics and the presentations; however, the proposed resolution is needed as a point for change. Alaska has excellent resources throughout the state from the top down; resources that are working on the issue and are dedicated to preventing sexual assault and violence: Alaska Network on Domestic Violence and Sexual Assault (ANDVSA) - a letter of support is included in the committee packet; Standing Together Against Rape (STAR); Aiding Women in Abuse and Rape Emergencies (AWARE) in Juneau; Abused Women's Aid in Crises (AWAIC); Tundra Women's Coalition (TWC) in Bethel; Green Dot Alaska; Girls on the Run (GOTR); Coaching Boys into Men (CBIM); and other violence prevent projects in Anchorage, Sitka, Ketchikan, Juneau, and Homer.

MR. ROSVIK offered that there are "changemakers," both old and young, taking Alaska's rate of serious sexual violence to task. He stated that rates are on the decline; he noted the research in the committee packet. He indicated that there is more work to be done; sexual violence should never be tolerated. He maintained that a resolution is needed every year because it represents an important conversation and something upon which Alaska needs to be focused. He maintained that with the proposed resolution, Alaska can join the conversation, support survivors, and prevent future violence.

**HJR 38-AK RAILROAD TRANSFER ACT; CONVEYANCES**

[3:40:40 PM](#)

CHAIR KREISS-TOMKINS announced that the next order of business would be HOUSE JOINT RESOLUTION NO. 38, Relating to certain conveyances to the Alaska Railroad Corporation under the Alaska Railroad Transfer Act of 1982.

[3:41:01 PM](#)

REPRESENTATIVE CHUCK KOPP, Alaska State Legislature, as prime sponsor of HJR 38, relayed that he has been working on the issue addressed by HJR 38 with many Alaskan residents, from south of the Denali Borough down through the Matanuska-Susitna ("Mat-Su") Valley into Palmer, Anchorage, and Seward. The issue impacts thousands of Alaskans. He referred to his PowerPoint presentation, entitled "HJR - Restoring Property Rights," and pointed out the quote by John Locke on slide 1, which read: "Government has no other end, but the preservation of property."

REPRESENTATIVE KOPP turned to slide 2, entitled "What's the Harm?" and relayed that the harm that is being addressed by HJR 38 is that there was a property interest that was taken from landowners along the Alaska Railroad (ARR) right-of-way (ROW) in a way that circumvented the [U.S. and Alaska] Constitutions and due process in the rule of law. Hundreds of landowners along the ARR ROW now have a cloud on their property titles due to an unlawful "exclusive-use easement" claim to the entire ROW. The exclusive-use easement claim does not exist for any other railroad in America.

REPRESENTATIVE KOPP continued by saying that in 1875, Congress announced that the U.S. government would no longer grant general land grant railroads [General Railroad Right-of-Way Act of 1875 ("1875 Act")]. Land had been granted to the Union Pacific Railroad (UPRR) to incentivize its east-west route; that led to huge tracks of divided land; industry and farming could not cross the rail belt without tariffs and fees; and it resulted in a great deal of corruption. He relayed that beginning in 1875, all railroads had surface easements only.

REPRESENTATIVE KOPP relayed that the Alaska Railroad Corporation (ARRC) acted in violation of AS 42.40.285 in 2005 and 2006, when it approached the Bureau of Land Management (BLM) in the U.S. Department of the Interior (USDOI) without notifying the legislature or governor of Alaska or any of the affected landowners along the ROW and obtained an exclusive-use easement patent on all the Homestead Act [1862] ("homestead") properties along the ROW.

REPRESENTATIVE KOPP referred to slide 5, entitled "A Brief History," and to the continuation on slide 6. He reminded the committee that the ARR was formed by an Act of Congress in 1914; between 1914 and 1982, there were hundreds of homestead patents issued by the federal government to private landowners along the ARR ROW; during that time, the federal government completely divested itself of all ownership in that land and the land went into private hands. He said that the only land that the U.S. government reserved for itself was a ROW - a surface easement for rail, telegraph, and telephone - consistent with all other railroad easements in the country post 1875.

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REPRESENTATIVE KOPP referred to slide 7, entitled "What is a standard railroad 'easement'?" and explained that the easement is a 200-foot easement that extends 100 feet on either side of

the track; this is a limited surface easement; and according to the 1875 Act, this was all railroads were to have from that time forward. He directed the committee's attention to the document included in the committee packet, entitled "HJR 38 Overview and Backdrop," which gives a historical background. He stated that today, the limited interest ROW - or surface easement - provides the foundation for 80 percent of all the track mileage in the nation.

REPRESENTATIVE KOPP relayed that using principles established in the 1875 Act, the Alaska Railroad Act of 1914 ("1914 Act") authorized the creation of ARR. He said that 1982 was the first time the easement became an issue, and the following questions were raised: "What does this easement mean?" "How exclusive is it?" "Does the railroad actually have a fee simple interest in the land?" He explained that under the Alaska Statehood Act [of 1958], the state selected ROW lands; ARRC claimed it owned the land; the Interior Board of Land Appeals (IBLA) ruled that the railroad did not own the land, but a surface easement only. The ruling was based on a U.S. Supreme Court case in 1942, Great Northern Railway Co. v. U.S., in which the court declared that a railroad only has a surface easement, not fee ownership of the land; that is, it does not have any outright ownership of the land. The ruling was confirmed by the U.S. Supreme Court in 2014 [Brandt Revocable Trust v. U.S.].

REPRESENTATIVE KOPP cited the 2014 U.S. Supreme Court Case Brandt Revocable Trust v. U.S. ruling: "The right of way was an easement that was terminated by the railroad's abandonment, leaving the property owner's land unburdened." The ruling went on to say that the 1875 Act, upon which IBLA based its decision, clearly states that the railroad only has an easement and nothing more. He stated that the court adopted the U.S. government's previous argument in full, which was that a railroad only has a surface easement. He quoted from the ruling, which read, "It found the 1875 Act's text 'wholly inconsistent' with the grant of a fee interest." He explained that a fee interest refers to owning land outright. The court declared that the railroad does not have a fee interest; it does not own the land; it has a surface easement only.

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REPRESENTATIVE KOPP relayed that the opinion was dated March 10, 2014. Less than one month later, ARRC authored a ten-page legal response to a constituent in Anchorage about concerns of the railroad's fee interest claim in the ROW, as well as exclusive-

use easement allowing it to fence off all adjoining property owners on homestead patent lands. He related that the ARRC told the constituent that it had previously addressed the constituent's concerns in a comprehensive memorandum explaining that ARRC holds fee simple interest in most ARR ROWs and at least an exclusive-use easement in all ROWs. Representative Kopp exclaimed, "That is outrageous!" He stated that it was in direct violation of the U.S. Supreme Court ruling.

REPRESENTATIVE KOPP continued by saying that in 2017, the Alaska Supreme Court ruled in Reeves v. Godspeed L.L.C that a surface easement must allow the holder of that easement all necessary control to safely conduct its operations but may not deny the landowner proper use of the easement, if it doesn't interfere with the holder's operations. He added that the case did not involve a railroad, but it did address easements; the principle is the same and continues as a legal basis. He maintained that no credible argument can be made that an exclusive-use easement belongs to ARRC without establishing what the private parties owned when the federal government made the transfer to the State of Alaska [under the Alaska Railroad Transfer Act (ARTA) of 1982].

REPRESENTATIVE KOPP referred to slide 8, entitled "What is an 'exclusive use easement?'" and said, "You may ask yourself, 'Why is this such a big deal with the exclusive-use easement?'" He relayed that the exclusive-use easement allows ARRC to fence off and exclude any adjoining landowner for any purpose whatsoever. He explained that doing so allows ARRC to build a fence through the back yard of any properties built next to the ROW - many of them built 40-50 years ago under original homestead patents. Many of these properties have immaculately maintained yards along the ARR ROWs or a boat or trailer in the yard that homeowners would not be able to access. He stated that ARRC claims that it needs to have the exclusive-use easements for safety, but Representative Kopp maintained that the safety problems have almost always occurred on public crossings and in areas of public land use. The private property owners are some of the best caretakers of the ROWs and the first to report a problem to ARRC, because it is their land and they want it protected.

[3:51:21 PM](#)

REPRESENTATIVE KOPP relayed that ARRC has not always maintained that it had the exclusive-use easement right. He stated that ARRC's lead counsel, Ms. Phyllis Johnson, argued on June 25,

1996, before the Alaska Legislative Budget & Audit (LBA) Committee that the federal government owns less than originally thought. She reported that the issue should be researched on a parcel-by-parcel basis to determine whether ARRC has all those rights from the transfer [to the state]; property owners were there first, and the ROWs went across private property not federal land. He offered that ARRC does have an exclusive-use easement on federal lands as authorized by ARCA - the Denali National Park and Preserve (DNPP) and federal lands under competing Native land claims in Northern Alaska. Wherever the federal government owned land, the exclusive-use easement could be transferred to the state; however, the federal government may not transfer anything to the state that it does not own. He emphasized that the issue was, What did the federal government actually own at the time of the transfer and what could it actually send to the state?

[3:52:55 PM](#)

REPRESENTATIVE KOPP referred to slides 9-19 to examine the details of HJR 38. He cited page 1, lines 4-7, of HJR 38 [shown on slide 9], which states that ARR was created under the 1914 Act, which directly granted interests in federal land for railroad ROWs for the construction of the standard easement, that is, for railroads and telegraph and telephone lines. He added that this standard easement was in place beginning in 1875, and it is the only easement that Congress authorized.

REPRESENTATIVE KOPP cited page 1, lines 10-15 [shown on slide 10], which states that before and after completion of ARR, the federal government conveyed into private ownership land affected and burdened by the ROWs. He explained that these lands refer to the homestead patents. He offered that about 60 percent of the 500 miles of tract are homestead patents - in the municipalities, Palmer, Anchorage, the Denali area, Cantwell, and Seward - and are in private hands. He said that homestead patent owners had railroad tracts reserved across their properties before ownership was transferred to the state in 1983.

REPRESENTATIVE KOPP cited page 2, lines 3-6 [shown on slide 11], which states that the state acquired ARR from the federal Government in 1983 and created ARRC to oversee operations as an instrumentality of the state.

REPRESENTATIVE KOPP cited page 2, lines 7-13 [shown on slide 12], which states that ARCA provided for the transfer of all

rail properties of ARR from the federal government to the State of Alaska; that is, all right, title, and interest of the U.S. in those properties. He emphasized that only the interest owned by the federal government was transferred; it could not transfer an interest it did not own. He continued by saying that on January 14, 1983, ARRC reserved and owned ROW interests on private properties - homestead properties - provided for in patents and other conveyance documents; those interests represented the rail, telegraph, and telephone ROW.

REPRESENTATIVE KOPP cited page 2, lines 14-17 [shown on slide 13], which stated that if all right, title, and interest of the U.S. in the ROWs did not include at a minimum an exclusive-use easement as defined in ARTA, the easement could not have been included in the transfer under the plain language of ARTA. He explained that there are two places in ARTA where the exclusive-use easement is mentioned: competing land claims among Alaska Native corporations and village corporations; and in Denali Borough. He offered that those two places are where the federal government did have an exclusive-use easement that it could pass on to the state; however, it never claimed to have that easement across all the homestead patent properties. He added that in December 2015, Alaska U.S. Congressman Don Young proclaimed that ARTA would have never passed Congress had vested property rights been contemplated to be changed by the transfer; in other words, there was never an intent to change vested property rights.

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REPRESENTATIVE KOPP cited page 2, lines 18-25 [shown on slide 14], which stated that during the transfer of rail properties under ARTA, USDOJ erroneously issued and ARRC accepted an interim conveyance of interests in real property not owned by the federal government, including exclusive-use easements. He stated that this interim transfer speaks to how the whole process happened: first there was a license issued by the federal government for ARR; then there was an interim conveyance. He explained that "interim" conveyance means it is temporary and conditional. It was realized that there were many properties that needed to be researched to discover the interest that the federal government was passing on to the state. The federal government was not familiar with all the properties it had; over 500 miles of track needed to be researched. The interim conveyance was not made final until 2005 and 2006.

REPRESENTATIVE KOPP relayed that before 2005 and 2006, the Alaska State Legislature started to get nervous: residents from

Whittier, Palmer, Anchorage, and all over the state were complaining that ARRC was incrementally ratcheting down on the ROWs and fencing off adjoining landowners when for decades, it had never been an issue. He cited page 3, lines 1-4 [shown on slide 16], which stated that the legislature specified that under AS 42.40.285, ARRC must receive legislative approval before accepting any conveyances of land - land grants, titles, interests. He added that complaints from the City of Whittier was the "final straw"; residents maintained they were being run out of town by the ARRC's assumption of exclusive-use.

REPRESENTATIVE KOPP cited page 3, lines 5-8 [shown on slide 16], which stated that the legislature listed, as an exception, properties that are consistent with any right, title, or interest that the federal government had a right to bestow; for those, ARRC would not need to receive legislative approval. He reiterated that an exclusive-use easement was not something the federal government had in their possession to give if it was across private homestead patent properties; AS 42.40.285 specifically states that to be true in a municipality. He mentioned that most of the homesteads are in municipalities; therefore, Anchorage, Palmer, and the Mat-Su Valley are all affected.

REPRESENTATIVE KOPP continued that in 2005 and 2006, ARRC approached BLM and received patents of exclusive-use easement; it claimed it was only getting what it was promised in 1985. Representative Kopp emphasized that ARRC was never promised those patents to the entire ROWs; it would be an outrageous unconstitutional theft of property rights without due process of law. Residents were unaware of the transfer until ARRC began to institute the Residential Right-Of-Way Use Permit Program to monetize the railroad. He offered that to ARRC's credit, it discontinued the practice. He mentioned that he does not completely blame ARRC for what happened, as USDOJ improperly allowed it to happen when it gave ARRC the 2005 and 2006 patents of exclusive-use easement across hundreds of miles of private property. He stated that the property interests that were given to ARRC are the same as fee interests; it is outright ownership; and the U.S. Supreme Court has ruled that no longer may railroads have them. He said that in the Brandt Revocable Trust v. U.S. ruling, the Supreme Court mentioned other cases that it had ruled on, [Stalker] v. Oregon Short Line R. Co. [1912] and Great Northern Ry. Co. v. Steinke [1923] - disputes dealing with competing land claims to acquire and develop tracks of land. The Supreme Court made it clear that any implication that the

interest is something more than a surface easement would not have survived the court's unequivocal statement to the contrary.

[4:01:22 PM](#)

REPRESENTATIVE KOPP referred to slide 19, which cites page 3, lines 28-31, of HJR 38. He stated that the intent of HJR 38 is to give the Alaska State Legislature the opportunity to comment on what it believes is clearly the law. If there was a misapplication of ARTA regarding exclusive-use easements affecting many hundreds or thousands of property owners, then under HJR 38, Alaska would disclaim any property interests that were taken contrary to law and ask its Congressional delegation to work with the legislature to right this egregious wrong.

[4:02:35 PM](#)

REPRESENTATIVE LEDOUX stated that Representative Kopp has given very impassioned legal arguments and asked why this issue would not be dealt with in court.

REPRESENTATIVE KOPP answered that ARTA was written so that the U.S. Solicitor General is bound to defend any claim on the ROW forever; therefore, someone would have to be very wealthy to sue the federal government and take them to court; it would be a difficult task. He maintained that a resolution is a way for the State of Alaska to speak strongly about an egregious wrong that has been committed to Alaska land owners. He mentioned that the new Assistant Secretary for USDOJ is aware of this issue and is assisting to resolve it. He asserted that it is the state's duty to disclaim and "walk away" from stolen property. The state should not stand quietly by abating and abetting the taking of property it doesn't own; by law, that is theft by receiving. He concluded that for the individual landowner, the cost of litigation is prohibitive. He expressed that he would welcome a large public interest law firm taking on this issue; however, there is much the legislature can do.

[4:04:46 PM](#)

REPRESENTATIVE LEDOUX asked whether such a lawsuit would be considered a public interest lawsuit; if so, those type of lawsuits are attractive to attorneys and bring generous attorney fees when won.

REPRESENTATIVE KOPP maintained that many people have tried to get the attention of public interest law firms; pursuing that is

an ongoing effort; however, he advocates acting when possible rather than waiting for a law firm to take the case. He reiterated that court action would involve suing the federal government. The proposed resolution would make it very clear that Alaska does not support any interest that was not originally owned by the federal government. He emphasized that HJR 38 does not state that ARRC does not have a ROW or the right to safety conduct a ROW. He offered that ARRC has police officers that can issue citations for trespassing; they have full legal authority for protecting the ROW. He maintained that ARRC does not need an exclusive-use [easement] to make a safe ROW; it is an unsupportable claim legally and is contrary to the interest of every land owner on the ROW.

[4:06:27 PM](#)

REPRESENTATIVE KNOPP asked for a history lesson on why Representative Kopp is pursuing this issue so aggressively.

REPRESENTATIVE KOPP explained that in South Anchorage and other districts, homes built near the ROW have been there since the '50s and '60s. When ARRC started advancing its residential use permit, many property owners received notices that they would be charged per square foot for their lawns or gardens. These residents had thought that they were the landowners and ARRC had a ROW. He relayed that no one had an issue with ARRC preventing anything hazardous to the movements of the trains; however, at that point they realized their ROWs were being monetized. He referred to the Flying Crown airpark in South Anchorage; about 40 pilots have used a portion of it as a taxiway for an airfield since the '50s, that is, almost 70 years of continuous use as an airpark. He stated that some of the homes in the area have hangars big enough for an airplane; now residents are faced with a fence that could prevent them from driving airplanes out of their hangars. He maintained that the airpark, which has been in continuous operation for 65-plus years and in which there is shared use of a small portion of the ROW, now has fences on a small sliver at the very end of the 1,500-foot strip. Significant fees are being charged to the entire group of homes in that area. He added that to its credit, ARRC has discontinued doing this. He asserted that this issue needs to be pursued until there is a final solution recognizing simply that the federal government could not have passed to the state an interest that it never owned.

[4:09:06 PM](#)

REPRESENTATIVE KNOPP offered his understanding that landowners were being denied access to their property.

REPRESENTATIVE KOPP replied that there were landowners who were denied access to the back yards of their properties; concrete barriers were erected by the railroad in Oceanview that blocked residents from access to their boats. He relayed that he worked with ARRC to remove those barriers; ARRC always offered reasons why it could not do so; and in the end, the situation became untenable. He referred the committee to letters included in the committee packet from residents and businesses who are negatively impacted. He stated that the owner of Red Robin in Anchorage had his land trespassed on, his trees cut down, and a fence erected on his property; ARRC was mistaken as to the location of the ROW. This person conflicted with ARRC when he plowed snow onto a small section of the ROW and ARRC objected. Representative Kopp asserted that the disagreement was fair, but ARRC putting a fence in the individual's yard was unfair and was done without notification. He further referred to Hugh Ashlock, the owner of Dimond Center, who has had a very difficult circumstance with ARRC; he would like 20 more parking spaces but to obtain them, he would have to part with a "fortune of spaces" that impede slightly into an ARRC ROW that he has improved immensely. He reiterated that all these lands are homestead patent lands, and this is an issue that runs through Anchorage and up and down the Railbelt. He declared that the issue is ARRC claiming a fee interest in the land and an exclusive-use easement to the entire ROW; he maintained that ARRC has neither, except in areas that the federal government originally owned.

[4:11:49 PM](#)

REPRESENTATIVE BIRCH expressed his appreciation for the proposed resolution and confirmed that it has been a long-standing concern. He offered that when he served in municipal government, it was a concern but could not be resolved at the municipal level. He supported the legislature addressing it through the proposed resolution.

[4:12:42 PM](#)

REPRESENTATIVE TUCK also thanked Representative Kopp for introducing the proposed resolution. He maintained that ARRC is creating miles of borders blocking access to the railroad. He stated that in Anchorage, the beach is cut off from the coastal trail.

[4:13:27 PM](#)

REPRESENTATIVE WOOL asked for confirmation that the easement was 100 feet on each side of track; ARRC is preventing people from the area 100 feet from the center line; and fences are being erected and blocking people from accessing property on the other side of the track.

REPRESENTATIVE KOPP answered yes and added that there are many property owners for which this is the case; if the railroad assumed the exclusive-use easement on the homeowners' properties, they would be cut off from both sides of their own land. He added that also people who abut the track may be cut off from access to public land areas because of the fencing. He said that ARRC's argument is always safety, but in the name of safety, people's rights are being "run over."

REPRESENTATIVE WOOL asked whether the fencing is recent.

REPRESENTATIVE KOPP responded that the erection of fencing became very aggressive in 2012. He referred to page 4, paragraph 3, of the document, entitled "HJR 38 Overview and Backdrop," included in the committee packet, and stated that it highlights six critical situations in the Municipality of Anchorage. He apologized that he did not include the list of grievances from Palmer. He relayed that ARRC fenced off access to the Fish Creek estuary in the Turnagain area forcing a utility to erect a \$114,000 fence near Westchester Lagoon as a precondition to entering and repairing sewer mains. The ARRC installed concrete barricades and steel posts blocking access to the ROW in a residential area in Oceanview. He mentioned again the ROW Use Permit Program as further evidence of ARRC's infringement.

[4:16:18 PM](#)

REPRESENTATIVE WOOL asked whether many of the original homesteads still exist or have been subdivided.

REPRESENTATIVE KOPP replied that all the homesteads still exist as federal patents; he conceded that the homesteads have been divided into multiple successors but maintained that homestead patents don't "go away." He relayed that all the way up the track are large homesteads still recognized in titles searches; the original landowners have subdivided the land; and the current landowners are considered successors in interest to the

homestead and carry with the land the property interest that came with that homestead patent property.

[4:17:33 PM](#)

CHAIR KREISS-TOMKINS announced HJR 38 would be held over.

[4:18:22 PM](#)

REPRESENTATIVE WOOL mentioned that ARRC owns other lands that are not easements or ROWs; he asked for clarification that the resolution addresses only ROWs and easements.

REPRESENTATIVE KOPP replied that the proposed legislation does not refer to other lands that ARRC lawfully owns; it is focused on the ROW and what is viewed as unconstitutional claims to property interests in the ROW.

[4:19:35 PM](#)

CHAIR KREISS-TOMKINS announced that the next order of business would be consideration of forthcoming legislation relating to the collection of fees by the Department of Public Safety for fire and explosion prevention and safety services.

[4:20:25 PM](#)

REPRESENTATIVE LEDOUX moved that the committee authorize the chair to draft an act relating to the collection of fees by the Department of Public Safety for fire and explosion prevention and safety services, on behalf of the House State Affairs Standing Committee. There being no objection, it was so ordered.

**HB 184-DISCRIMINATION: GENDER ID.;SEXUAL ORIENT.**

[4:20:50 PM](#)

CHAIR KREISS-TOMKINS announced that the last order of business would be HOUSE BILL NO. 184, "An Act adding to the powers and duties of the State Commission for Human Rights; and relating to and prohibiting discrimination based on sexual orientation or gender identity or expression."

[4:21:05 PM](#)

REPRESENTATIVE ANDY JOSEPHSON, Alaska State Legislature, as prime sponsor of HB 184, stated that the proposed legislation was heard in the House State Affairs Standing Committee meeting on 5/4/17; it was recommended by the Alaska State Commission for Human Rights (ASCHR); and it would prohibit discrimination in the public sphere in the area of employment, housing, lending, and by the government.

[4:21:47 PM](#)

CHAIR KREISS-TOMKINS opened public testimony on HB 184.

[4:22:12 PM](#)

ALYSON CURRY, Planned Parenthood Votes Northwest and Hawaii (PPVNH), testified that HB 184 is common sense legislation that has the full support of PPVNH. She relayed that every day Alaskans across the state live in fear of being fired, or being denied housing, public services, or other opportunities, because they are gay or transgender. She opined that everyone should be free from discrimination to build loving relationships and create families based on their personal, private lives.

MS. CURRY stated that as a healthcare provider and employer, Planned Parenthood [Federation of America, Inc. (PPFA) "Planned Parenthood"] knows that the proposed legislation is good for public health and good for business. Because of discrimination and fear of discrimination, many lesbian, gay, bisexual, transgender, queer/questioning (LGBTQ) employees hide their identities, are paid less, and have fewer employment opportunities than their non-LGBTQ counterparts. This prejudicial treatment puts LGBTQ individuals at increased risk for poor health, both physical and mental.

MS. CURRY relayed that businesses like Planned Parenthood that support anti-discrimination measures for LGBTQ people recognize that having a corporate culture of inclusivity improves worker productivity and helps recruit the best talent. Sexual orientation, gender identity, and gender expression have no relation to workplace performance, and hardworking Alaskans should not be fired because of whom they love or who they are. She added that additionally no one should be turned away from a business, denied housing, or denied a public service because of who they are.

MS. CURRY stated that she is incredibly proud to live in a community that has already embraced equal protection under the

law for all people - for her friends, neighbors, and colleagues. She emphasized that it is time for the state to catch up.

[4:24:22 PM](#)

MARSHA BUCK, Treasurer, Parents Families and Friends of Lesbians and Gays (PFLAG) Juneau, paraphrased from her written testimony, which read as follows [original punctuation provided]:

My name is Marsha Buck and I am the treasurer of PFLAG Juneau. I would like to testify in strong support of House Bill 184. PFLAG, as you may know, stands for Parents, Families and Friends of Lesbians and Gays as well as people who are transgender, bisexual, intersex, queer, and questioning.

PFLAG Juneau strongly supports House Bill 184 as well as Senate Bill 72 because they are needed here in Alaska. Discrimination based on sexual orientation and gender identity and gender expression are sadly still alive and active in our great state where we think of ourselves as independent and strong and delightfully different than people in the Lower 48. But I've noticed in my 49 years here in Alaska that we still manage to harbor discrimination.

Two examples come to mind. I will never forget the night my phone rang in the middle of the night and I answered to find a friend sobbing. My friend was a lesbian who lived here in Juneau at the time and her landlord had just evicted her from her house because she was a lesbian living peacefully with her partner. When she asked me through her tears if the landlord could do that, all I could give her was a place to stay but not any legal recourse.

Another conversation I will never forget was with a transgender woman in Anchorage who was told by a bus driver that she could not board a city bus because of the way she looked. Apparently she looked "too trans." Again, I could not assure this woman that she had any place to turn legally.

Please pass HB 184 out of committee with your full committee support, because you are Alaskans who care about other Alaskans and you care about ending discrimination against your constituents.

[4:27:37 PM](#)

MARTIE BUSCAGLIA, Executive Director, Alaska State Commission for Human Rights (ASCHR), testified that the mission of ASCHR is to eliminate and prevent discrimination for all Alaskans; its vision is an Alaska free of discrimination. She asked how Alaska can achieve that if there is a segment of the population against whom discrimination is legal.

MS. BUSCAGLIA relayed that in November 2016, ASCHR passed a resolution calling upon the legislature to revise Alaska's Human Rights Law, AS 18.80, to expressly prohibit discrimination based on sexual orientation or gender identity and expression. The same resolution requested that staff draft proposed regulation language adopting the U.S. Equal Employment Opportunity Commission's (EEOC's) definition of "sex" to include sexual orientation and gender identity. She stated that the commissioners could not agree on language for that part of the resolution; some of the commissioners felt strongly that the first part of the resolution - calling on the legislature to act - was the most important part; and the law should be changed in the legislature. Currently the second part of the resolution is "dead," making it even more critical for the legislature to revise the law.

MS. BUSCAGLIA asked, "How can we achieve a discrimination free Alaska, if the state allows same sex couples to be married, but then when they return to work or they are looking for a home, they can be discriminated against?" She expressed that she commends the growing number of representatives who stand behind HB 184, and she urged the committee to move it out of committee so that the vision of a truly discrimination free Alaska can become reality.

MS. BUSCAGLIA closed by saying there is no fiscal impact to the proposed legislation; ASCHR expects a minimal increase in complaints; ASCHR has checked with EEOC and the Anchorage Equal Rights Commission (AERC), both of which accept such complaints, and found that the percentages of complaints of this nature are low.

[4:30:26 PM](#)

LIN DAVIS, Parents Families and Friends of Lesbians and Gays (PFLAG) Juneau, paraphrased from her written testimony, which read in part as follows [original punctuation provided]:

There is an ongoing urgent need to protect us LGBTQ Alaskans through HB 184. Especially transgender Alaskans - they are very vulnerable to violence and vilification. Last year, 33 of us LGBTQ from all over the state testified for SB 74, Senator Gardner's protection bill. 33 of us shared stories of discrimination. In summer of 2016, 29 LGBTQ Juneau people told the CBJ Assembly about losing jobs and apartments, being kicked out of public accommodations, being turned down for financial services. Many people talked through tears sharing their stories. And now, all of us testifiers have experienced a dangerous increase in anti-LGBTQ rhetoric.

This is a perfect time to move this bill forward. Please vote today to showcase equality in Alaska.

My wife, a family physician, Dr. Mo Longworth, reminds me that the Alaskan Academy of Family Physicians has always strongly spoken out for statewide LGBTQ protections. Research from the National Academy of Family Physicians shows improved health outcomes for individuals and communities when LGBTQ protections are in place. And studies show there is less violence toward women when LGBTQ people are respected.

Fairness in housing, employment, public accommodations and financial services is basic to surviving in Alaska.

My most recent and troubling knowledge of discrimination comes from meeting with transgender high school students. They are under siege for being who they are. Their families and friends worry constantly about their safety. Alaska can send a national message of inclusion and respect by passing HB 184.

Thank you for hearing our concerns.

[4:33:33 PM](#)

KIM LEA testified that her preferred name is Emogene Kimberly Lea and her preferred pronouns are she, her, hers. She offered that the U.S. has had for the past century a positive trend regarding civil rights: no longer does one see NINA, "No Irish

Need Apply," in hiring notices, "whites only" signs on water fountains, or Alaskan Natives being required to sit in the balcony away from white folk. She mentioned that these things happened mostly in her lifetime. She added that lately the U.S. has avoided the practice of shipping segments of its population to concentration camps in desolate parts of the U.S. She stated that it is her desire to encourage this trend.

MS. LEA relayed that six and a half decades ago, as a child in the Alaska education system, she was taught that one of the basic tenants of American law is that all people are afforded the same protection before the law - that all people are equal. She was taught that there was a separation of state and church, so that religious teachings of one faith are not imposed upon a person of another faith or a person of no faith.

MS. LEA stated that there is much "to do" in the press in the past few years; conservative members of a given religious leaning are strongly opposed to equal rights for persons who do not conform to the rigid binary division of people as solely male or female. She offered that she finds this strange, as the Jewish religion from which their faith springs recognizes six genders.

MS. LEA clarified the word "gender" as follows: "Your gender is who you go to bed as, and your sexual orientation is who you go to bed with." She shared that she is transgender; she was born with a male body; and she identifies as female.

MS. LEA maintained that religion has no place in American law; if there is a real problem, like assault weapons being used to slaughter our children, then take appropriate and decisive action. She emphasized that action should not be taken based on the agitation of a relatively small part of one American religious population, who selectively pick and choose the parts of the Christian Old Testament that they choose to enforce.

MS. LEA relayed that she recognizes from a political standpoint the desirability of targeting small demographic groups that are not likely to have the political or economic power to defend themselves as are larger segments of the population, who might fight back. There is less chance of sustaining push-back to one's peer group, if no one knows a person who is part of the target group.

MS. LEA stated, "I am a 'trans' person - probably the first one you've met." She said that there are only about six per thousand, and she offered that if they can "pass," they will.

MS. LEA relayed that she recognizes the right of religion to disprove anything it desires and to enforce those beliefs within its willing congregation. She admonished, "To such groups, judge not lest you be judged. Love God, love your neighbor."

MS. LEA offered that as a transgender woman, she seeks two things: to be perceived as a valid being within the community and to be treated with respect. She asked to be treated as a human and treated with respect using her preferred pronouns; she asked that she be allowed to void her bowel and bladder where she chooses, comfortably and privately. She added that there are stalls, and she would not see anything inappropriate.

[4:37:33 PM](#)

BARBARA LEARMONTH testified that as a Christian, she wishes to correct the common, and very hurtful, misperception that all Christian churches discriminate against people based on sexual orientation. She stated that her Episcopal Church does not.

MS. LEARMONTH relayed that she has had many years of experience at work places that do not discriminate based on sexual orientation. She stated that personally she has not been discriminated against but feels compelled to speak for her gay co-workers. She said that it is not just that their inclusion in the workplace is not a problem, it's that the workplace would have suffered if they had been excluded. She referred to a senior manager, who was one of the wisest and most effective senior managers that she has ever known; the agency, the clientele, and she herself would have suffered, if he has been excluded because of his sexual orientation. She offered that he is just one of many such people.

MS. LEARMONTH relayed that there is no factual reason to exclude people from a workplace based on sexual orientation; current times are very challenging, and workplaces need all the skilled people they can get.

[4:39:48 PM](#)

KEVIN MCGEE, President, Anchorage National Association for the Advancement of Colored People (NAACP), testified that the mission of the NAACP is to promote equality and equal treatment

under the law. He said that it is in that tradition that he is testifying in support of HB 184. The proposed legislation would ensure that sexual orientation and gender identity cannot be used as a legal basis for discriminating against Alaskans.

MR. MCGEE relayed that HB 184 would help ensure that Alaskans have a "level playing field" when they look for jobs, housing, and credit, and use public accommodations. He offered that the average Alaskan probably considers these civil rights safeguards already to be law; most people see the protection of civil rights as a "no-brainer"; those rights are widely recognized both in society and in federal law. He stated that HB 184 represents an opportunity to protect civil rights through state law, which is important both as a matter of principle and as a practical matter for Alaskans who should not be subjected to discrimination in their daily lives. He thanked the legislators who co-sponsored the proposed legislation.

[4:41:55 PM](#)

BESSI ODAM testified that many people come to Alaska just to visit; some decide to call Alaska home. She relayed that her parents are among them; they came from Mississippi in 1972 not knowing they would become permanent residents of Alaska. She offered that her parents were attracted to the freedom that Mississippi did not allow; they were content in knowing that the discrimination that dominated their lives in the South was not as apparent in the Last Frontier.

MS. ODAM stated that it was here in Alaska that her parents were able to truly live unafraid. She said that she has heard the stories of discrimination of her parents and emphasized that no one deserves to be treated as anything less than human. She maintained that a person should not be discriminated against because of race, gender, or sexual orientation. She offered that Alaska has always provided its residents a haven from discrimination; it must strive to ensure that Alaska remains as such.

MS. ODAN relayed that it is time not only to support people of various genders and sexual orientation, but also to protect them with the inclusive language of HB 184. She requested a "yes" vote.

[4:43:48 PM](#)

GRACE MATTHEWS testified that growing up "queer" in Alaska has not been easy. She stated that when she moved out of her parents' house at age 18 and rented a dry cabin in the woods, she wondered if her landlord would want to evict her if she was aware of Ms. Matthews's girlfriend. She related that after she received her automotive mechanics certificate, she got her first job in an automobile ("auto") shop. Her co-workers were not shy when talking about their intolerance. She said that she never told her boss or her co-workers about her girlfriend, because she was well aware she could lose her job.

MS. MATTHEWS reported that she is testifying in support of HB 184 so that Alaskans younger than she need not grow up wondering if they belong in Alaska. She expressed that she loves Alaska and Alaskans; Alaskans are independent, hard-working, and kind. She maintained that discrimination is not an Alaskan value. She urged the committee to pass HB 184 out of committee.

[4:45:21 PM](#)

KARA CARLSON testified that a few years ago she was invited to walk in the Golden Days Parade with PFLAG - an organization that focuses on advancing equality for people who identify as LGBTQ. She mentioned that it was her first time walking with PFLAG or any LGBTQ organization. She said that when she showed up, she was met by 15 energetic, passionate strangers, who were standing between two groups of people who were not excited about the presence of the PFLAG group. She relayed that she was terrified, walked back to her car, and called her dad in tears, because she did not feel strong enough to be an ally on that day. She stated that her dad reminded her that she had the choice to go home - a privilege not everyone has.

MS. CARLSON continued by saying that during that same year, she experienced discrimination for the first time. She emphasized that this experience in no way compares with the experiences of her friends, colleagues, and neighbors who have lifetimes of experiences with discrimination. She stated that it is just an example of what not having these protections does to everyone. She said that as a young single mother, she has been fortunate to find safe, affordable housing. Since she was a model tenant, she was surprised and saddened at the many threats of eviction and reprimands that followed when her landlord saw her at the parade. She said that she wished she could articulate how scary it was for her, as a single mother, to feel at risk of losing her housing. She stated that more importantly, her friends, families, and neighbors actually do lose housing, jobs,

livelihoods, and basic human rights because society has decided there are groups of people who do not deserve the same rights the rest of society enjoys and takes for granted every day.

MS. CARLSON asked for support of HB 184 and updating the law to ensure that Alaska residents are judged on job performance and qualifications. She said that no one should have to live in fear of being legally fired for reasons that have nothing to do with job performance or fear of being denied housing or other services.

[4:48:21 PM](#)

MARINA DAY testified that the other day in church, the congregation was asked to write their worst fears on a piece of paper and pass it to another person. She said that the one she received stated, "My son came out last Christmas. We're all 100 percent for him, but I will always worry about him as his mom, especially as people cannot be so accepting." She stated that no mother in Alaska should have to have those worries. She urged the committee to pass HB 184 out of committee. She asked the committee to do so in honor of the "love in your heart" and in honor of [former Senator] Georgianna Lincoln whose Senate Bill [163, Twenty-Second Alaska State Legislature, 2001-2002] would have brought protection for my (indisc.) in the state 15 years prior.

MS. DAY relayed that issues of crimes against humanity will not go away without the shield of law. She suggested that SB [163] might have prevented years of despondency in Alaska communities. She urged passage of HB 184 in honor of all who have testified against hate crimes and discrimination every time legislation is introduced. She maintained that human rights law in the state is meant to secure the peace, order, health, safety, and general welfare of the state and its people. She asked that the committee members end the (indisc.) of the non-binary and allow the vast expression of gender that exists in the human realm. She urged passage of HB 184 in honor of "love in your heart and because love trumps hate."

[4:50:51 PM](#)

CHANNON PRICE paraphrased from his written testimony, which read as follows [original punctuation provided]:

Thank you, Mr./Madam Chair. For the record my name is Channon Price, and I live in House District 04/Senate

District B. I have been a voting citizen in that district for over thirty years, during which time I have also raised a family.

I have come today to offer my views on House Bill 184 (SB 72), which would update Alaska's non-discrimination statutes.

The right to self-expression should only be limited when it poses a clear danger to the safety of others. Within that limitation, any person should enjoy the same rights as others.

Historically, Alaska lead the nation in establishing protections against discrimination in housing and employment based on race, creed, color and national origin. Our great state has added protections covering individuals against discrimination based on disability, age, sex, marital status, pregnancy and parenthood. This is because there was and continues to be a sense that our state is great because it is plural: that this is not just a great state for, as an example, white males.

Regrettably, in 2015 the Alaska Supreme Court found a very narrow definition of the protections based on sex, choosing to exclude sexual orientation, gender identity, and gender expression from those protections. I personally know of Alaskans who have been impacted, both in their attempts to find employment and in their attempts to obtain housing, by discrimination against orientation or against identity/expression. This is wrong: orientation and identity have no relation to how well one does their job, and what goes on behind closed doors -- our private lives -- is no one's business as long as it stays with the limitation noted above.

Discrimination is based on beliefs. You are entitled to your belief, as long as it does not cause harm to others. It was a founding principle of this nation that one group of citizens never have the right to impose their religious beliefs on another group, as this infringes on the right of the second group to practice their beliefs as they saw fit, to choose their beliefs. Orientation and identity are even more fundamental than beliefs, as one does not have the

choice of one's orientation and identity: in that, they are like one's color or national origin. Thus, it is just as wrong to discriminate against an individual based on their orientation and identity.

For these reasons, I wholeheartedly support this bill, and I encourage the committee to move the bill to the full House for its consideration and approval.

I would like to thank the committee for their time in considering my point of view.

[4:53:17 PM](#)

ROSE O'HARA-JOLLEY testified that Alaska is her home and she is dedicated to making it a better place. She said that she worked as an educator of young children of special needs for over 13 years and currently teaches teachers at the University of Alaska Fairbanks (UAF). She stated that although she does not worry about her job at UAF, she has had to hide who she is from employers in the past out of fear: fear of being fired; fear of being targeted in her small community; and fear of losing her housing. She relayed that she is not alone; 44 percent of LGBTQ people report discrimination at work. It is unacceptable to be denied employment, housing, or other services in a place she calls home, because of her gender identity and because of whom she loves.

MS. O'HARA-JOLLEY offered that the cities of Anchorage, Juneau, and Sitka have all passed legislation protecting the LGBTQ community from discrimination, which means that over 330,000 Alaskans - over half the state's population - are protected. She said that she finds it upsetting that she must "come out" to the House State Affairs Standing Committee in hopes of receiving the same protections for other Alaskans. She relayed that the city in which she lives does not offer protections based on sexual orientation and gender identity; therefore, a result of her testifying could directly affect her ability to gain employment or housing. She emphasized that it is time Alaska stops its "patchwork" approach to protections and let all Alaskans know they are valued. She urged support of HB 184.

[4:55:39 PM](#)

LIZ FURMAN testified that she is an ally of LGBTQ people. She stated that she is a substitute teacher; she works in homeless shelters, as a wilderness therapy guide, and with youth having

mental health disorders. She maintained that Alaska needs to update its nondiscrimination clause to include LGBTQ folks and promote dignity and human rights in the community.

MS. FURMAN relayed that as a teacher and someone who has worked with youth and homeless people, she worries about the LGBTQ teens, especially the transgender teens, who experience violence and hate speech almost daily. She stated that working with at-risk and homeless people, she has noticed that LGBTQ people are over-represented in those two groups. She added that it is not because they are doing something wrong but because they are experiencing discrimination in housing and employment.

MS. FURMAN offered that sexual orientation has no relationship to job performance and no relationship to one's ability to pay rent or be a respectful homeowner. She emphasized that it is shameful and wrong that in Alaska, discrimination in housing and employment is allowed based on sexual orientation and identity. She maintained that this kind of systemic discrimination haunts society and strips LGBTQ individuals of dignity and basic rights.

MS. FURMAN relayed that in her experience, LGBTQ people bring positive strength, skill, and perspective, and should have the right to practice their beliefs as they see fit. She mentioned that Alaska communities need these diverse leaders and role models, and Alaska should protect their rights. She urged support of HB 184.

[4:57:50 PM](#)

LIZ LYKE testified that she is a transgender woman and has lived in Alaska eight years. She said that Alaska really became her home three years ago when she came out; Alaska is a place where everyone is accepted and included. She stated that she has done her part to make Alaska better. She expressed that to have the best Alaska possible, Alaska needs to allow everyone, including LGBTQ people, to have the best life possible - the best job, the best housing, the best loans - everything everyone else experiences. She maintained that Alaska has given her so much, and she does her part to give back.

MS. LYKE relayed that currently 24 states have LGBTQ protections; Alaska can stand on the "right side of history" and be number 25. She urged passage of HB 184 out of committee.

[4:59:24 PM](#)

LIZ TAPP testified that when she first moved to Alaska from Los Angeles, she was impressed most by the kindness and helpfulness of everyone. She said that everyone was helpful when she knew nothing about snow, cold, or how to get appropriate necessities. She stated that she now wonders whether the store clerk would have been as helpful, or the Division of Motor Vehicles (DMV) [staff] would have been as helpful, or she would have been able to find housing as easily, if people had known she was gay. She declared that she is not sure of that now. She maintained that she has the luxury of looking like "your average, middle-class, white woman"; it is a luxury not everyone has. She opined that she should not have to rely on that luxury; she should not have to hide the fact that she has a beautiful transgender wife; she should not have to worry about where her wife goes and how she will be treated; she should not have to worry if doctors will turn her away; she should not have to worry if police will treat her differently; she should not have to worry about any of these issues, because her wife's rights should be protected like those of anyone else. She asserted that she wishes everyone in Alaska could have the same experience she had when she first moved to Alaska - the experience of kind, helpful Alaskans reaching out with offers of help - but she knows that they do not. She maintained that HB 184 would help to further what she experienced.

[5:01:34 PM](#)

ABBY NORTH testified that she is Ms. Tapp's wife - a transgender woman - and a teacher. She said that since she came out, she has been discriminated against twice; she was refused service at a pharmacy and she was refused service at a gun shop. She stated that she is lucky enough to have a job that includes protections for sexual orientation and gender identity, and she and her wife own their home. She stated that she is not testifying for herself, but for all LGBTQ Alaskans and especially for her LGBTQ students. She relayed that these students get tortured daily. She offered that she tries to fight it and to encourage her colleagues to fight it; however, she worries about those students when they leave school, go out into the real world, and can't find a job or home for no other reason than because of who they are or whom they love. She urged passage of HB 184 to protect all Alaskans equally.

[5:03:56 PM](#)

MORGAN WILHELM testified that she is a fourth generation Alaskan, who plans to stay in Alaska and who has traveled around the world. She maintained that wherever she goes, she finds herself bragging about the vibrant cultures and landscapes in which she grew up. She stated that she does not mention her fear of losing her job because she is gay or her wife losing her job by announcing her marriage at work. She stated that being gay is part of her identity, which she cannot change. She maintained that Alaska is where she wants to thrive and spend her life as an openly gay resident. She asked for support of HB 184 to protect her ability to obtain and maintain employment and live with dignity and honesty.

[5:05:28 PM](#)

PAMELA SAMESE expressed her concern with HB 184. She stated that she has not seen discrimination due to sexual orientation in her community and is surprised at the testimony. She referred to testimony stating that children in the schools are being discriminated against. She stated that she is heavily involved in the schools and maintained that a misunderstanding exists; what some people are interpreting as discrimination may be concern that schools are pressuring children to become LGBTQ; and there seems to be a strong liberal movement. She relayed that as a Christian, she believes that everyone is made by God in the womb of his/her mother. She maintained that children are being coerced into being LGBTQ; they see other people being LGBTQ; they are taught it is good and natural; and they experiment with it and become confused, depressed, and suicidal because of the confusion. She said that the American Academy of Pediatrics (AAP) agrees that society needs to be careful about pressuring children into the LGBTQ movement.

[5:08:44 PM](#)

ZHENIA PETERSON began her testimony but due to audio difficulties, agreed to send in written testimony instead.

[5:10:05 PM](#)

ALYSSA QUINTYNE testified that she and her fellow testifiers from Fairbanks work hard to make the city safe for LGBTQ people. It is frustrating when legislation that could protect people that they care about and work with does not pass. Such legislation would give her and other allies the leverage to help those who are being discriminated against. She said that having the proposed legislation pass would not only make

nondiscrimination law but allow people to avoid living in fear of losing their jobs and give parents of LGBTQ children a legal avenue. She maintained that LGBTQ children are discriminated against, and it should not happen; no kid should have to face not being accepted by his/her community. She urged passage of HB 184; for legislators to encourage support among their constituents; and by passage of the proposed legislation to let the LGBTQ community know they are supported and welcome.

[5:12:12 PM](#)

JEFF CHEN paraphrased from his written testimony, which read as follows [original punctuation provided]:

Thank you Chairman. For the record, my name is Jeff Chen. I live in House District 18, and I am speaking on behalf of myself.

I'm testifying in support of House Bill 184 because I believe the State of Alaska should have non-discrimination laws for everyone, including our Lesbian, Gay, Bisexual, Transgender, and Queer community members.

I am a Taiwanese American. I work in the youth conservation community. And I am on the Board of Directors of the Alaska Chinese Association, though I am only representing myself in my testimony.

Our history is full of acts of legal discrimination based on local, state, and federal policies. Immigrant families know discrimination -- legal discrimination. For example, the Chinese Exclusion Act of 1882 barred Chinese immigrants from entering the country and gaining access to housing, work, and places of public accommodation. The ramifications were felt throughout society, and led to physical violence and literally the massacre of Chinese communities.

There is no justice in excluding based on race, religion, color, national origin, age, sex, disability, and marital status -- just as there is no justice in discriminating based on sexual orientation and gender identity.

44% of LGBTQ respondents reported facing discrimination at work. In Alaska, that discrimination

is legal, and that discrimination is leading to an increase in anti-LGBTQ violence across the country.

I support HB 184 because our LGBTQ family and friends should not have to face discrimination in the workplace, in public, or at home. Remember, through the perseverance of Elizabeth Peratrovich and other Alaska Native and Alaskan advocates, our state passed some of the nation's first anti-discrimination laws. I urge you to support HB 184. Thank you.

[5:14:33 PM](#)

MELISSA BURGER testified that as a proud LGBTQ advocate in high school, it breaks her heart to see such amazing and wonderful students suffer discrimination based on who they are. She mentioned that the high school she attends is the most diverse school in the nation; it includes students not only of all races, religions, and color, but also LGBTQ students. She said that when people ask her what it is she needs, now that gay marriage is possible, she responds by saying she needs antidiscrimination laws. She mentioned that due to Proposition 1 in Anchorage [Access to Public Bathrooms and Locker Rooms Based on Sex at Birth], the LGBTQ community needs HB 184 to be passed now more than ever.

[5:16:48 PM](#)

MELISSA GOLDSTEIN, Legal Fellow, Alaska Civil Liberties Union (ACLU) of Alaska, testified that in 2015, the National Center for Transgender Equality (NCTE) conducted a survey of over 27,000 transgender Americans, including 84 Alaskans. She provided the following statistics regarding the discrimination that transgender Alaskans face on a daily basis: in Alaska, 85 percent of transgender children have faced discrimination and harassment; over half of transgender children were verbally harassed; nearly one-third were physically harassed for being transgender; 14 percent were sexually assaulted - that is, specifically attacked because they were transgender; nearly one-quarter of transgender children in Alaska faced such severe mistreatment that they left a K through 12 school.

MS. GOLDSTEIN relayed that transgender adults are similarly impacted: in 2015 alone, one-third of transgender Alaskans experienced some form of housing discrimination; 43 percent experienced homelessness; and 17 percent were denied employment

opportunities or were fired because of their gender identity or expression.

MS. GOLDSTEIN stated that Anchorage has protected its residents from discrimination based on sexual orientation and gender identity or expression since 2015 without issue; however, even Anchorage's protections are under attack. These attacks make antidiscrimination legislation like HB 184 even more necessary. She referred to the research attached to her written testimony, included in the committee packet, entitled "2015 U.S. Transgender Survey Alaska State Report."

[5:19:23 PM](#)

JUDY ANDREE, League of Women Voters of Alaska (LWVAK), testified that both the League of Women Voters of the U.S. (LWVUS) and LWBAK believe that one of government's most important responsibilities is to protect the rights and safety of all citizens. She maintained that HB 184 would help provide such protection. She stated that a society is weakened when it excludes some of its citizens from full participation and the rights and opportunities available to most of its citizens; therefore, LWVAK strongly supports HB 184 - a bill to protect the rights of persons regardless of sexual orientation and gender identity or expression.

MS. ANDREE urged the committee members to consider the rights of all their constituents and pass HB 184 out of committee.

[5:20:38 PM](#)

KASEY CASORT paraphrased from his written testimony, which read as follows [original punctuation provided]:

Hello, my name is Kasey Casort, and I'm from Fairbanks. I am testifying in support of HB 184. In high school, I was the Vice President of my school's Gender Sexuality Alliance, and I wrote a letter of support for a different version of this bill when I was fourteen. It was the first bill I ever printed out and went through with a highlighter, because it mattered so much to me. Now I'm nineteen, and I know that it just makes sense to have fundamental protections under the law.

Young people like me have grown up watching America learn to accept us for who we love and the way we

live, but in Alaska we can still be fired, kicked out of our homes, denied loans, and prevented from achieving our full potential based on our identities. I am an ally, and I know that it's time to move this bill out of committee and onto the floor, where our representatives can show us that they're ready to stand up for all of their constituents. I appreciate the opportunity to testify today, and I urge you to support HB 184. Thank you.

[5:22:02 PM](#)

ISADORE CHRISTIANSON testified that he is a student and member of the Campus Inclusivity Alliance (CIA) at the University of Alaska Southeast (UAS). He relayed that he supports HB 184 because of his belief that at this point in history it should be a given that everyone on the LGBTQ spectrum should be allowed to live freely without threat of discrimination; it should be a given that parents take needed time off from work to raise their children; it should be a given that people with mental or physical disabilities receive accommodations; it should be a given that people be allowed time off from work to practice their religions.

MR. CHRISTIANSON asserted that while Alaska has made a great deal of progress in terms of inclusion, the fact that this bill needs to be passed in 2018 and Anchorage residents are struggling with an "anti-trans" ballot measure, demonstrates that Alaska still has a way to go. He maintained there are still young adults in Alaska struggling with getting support in certain places from certain people. He said that if his gay friends cannot get the support they need from their parents, they should at least have more amiable work environments.

MR. CHRISTIANSON relayed that the passage of the proposed legislation would be important not only for Alaska's political climate but for American's political climate. He emphasized that legislators' priorities should be to create opportunities and not restrict them; to nurture dreams, not deny them. (indisc.) He maintained that legislators cannot say they support family values and cast their votes against supporting families; they cannot say that "all men are created equal" without supporting legislation that reaffirms unity.

MR. CHRISTIANSON concluded by saying he endorses the passage of HB 184 as reflective of the rights granted every citizen under

the U.S. Constitution and the Alaska Constitution, and he hopes the legislators will support it as well.

[5:24:09 PM](#)

CHAIR KREISS-TOMKINS closed public testimony on HB 184 and announced it would be held over.

[5:25:06 PM](#)

**ADJOURNMENT**

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 5:25 p.m.