

ALASKA STATE LEGISLATURE
HOUSE TRANSPORTATION STANDING COMMITTEE

April 1, 2025

1:05 p.m.

MEMBERS PRESENT

Representative Ashley Carrick, Co-Chair
Representative Ted Eischeid, Co-Chair
Representative Genevieve Mina
Representative Louise Stutes
Representative Kevin McCabe
Representative Elexie Moore

MEMBERS ABSENT

Representative Cathy Tilton

COMMITTEE CALENDAR

HOUSE BILL NO. 26

"An Act relating to the duties of the Department of Transportation and Public Facilities; and relating to a statewide public and community transit plan."

- HEARD & HELD

HOUSE BILL NO. 136

"An Act relating to use of railroad easements."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 26

SHORT TITLE: STATEWIDE PUBLIC & COMMUNITY TRANSIT PLAN

SPONSOR(S): REPRESENTATIVE(S) MINA

01/22/25	(H)	PREFILE RELEASED 1/10/25
01/22/25	(H)	READ THE FIRST TIME - REFERRALS
01/22/25	(H)	CRA, TRA
02/27/25	(H)	CRA AT 8:00 AM BARNES 124
02/27/25	(H)	Heard & Held
02/27/25	(H)	MINUTE(CRA)
03/18/25	(H)	CRA AT 8:00 AM BARNES 124
03/18/25	(H)	Heard & Held
03/18/25	(H)	MINUTE(CRA)

03/20/25 (H) CRA AT 8:00 AM BARNES 124
 03/20/25 (H) Moved CSHB 26(CRA) Out of Committee
 03/20/25 (H) MINUTE(CRA)
 03/21/25 (H) CRA RPT CS(CRA) 4DP 1DNP 1AM
 03/21/25 (H) DP: HOLLAND, HALL, HIMSCHOOT, MEARS
 03/21/25 (H) DNP: PRAX
 03/21/25 (H) AM: RUFFRIDGE
 03/27/25 (H) TRA AT 1:00 PM BARNES 124
 03/27/25 (H) Heard & Held
 03/27/25 (H) MINUTE(TRA)
 04/01/25 (H) TRA AT 1:00 PM BARNES 124

BILL: HB 136

SHORT TITLE: RAILROAD UTILITY CORRIDORS
 SPONSOR(s): REPRESENTATIVE(s) KOPP

03/14/25 (H) READ THE FIRST TIME - REFERRALS
 03/14/25 (H) TRA, JUD
 04/01/25 (H) TRA AT 1:00 PM BARNES 124

WITNESS REGISTER

BRIDGER REED-LEWIS, Board Member
 Alaska Mobility Coalition
 Anchorage, Alaska

POSITION STATEMENT: Provided public testimony on HB 26.

MICHELE GIRAULT, Executive Director; Chairman
 Hope Community Resources;
 Key Coalition of Alaska
 Anchorage, Alaska

POSITION STATEMENT: Provided public testimony in support of HB 26.

GERRY HOPE, Government Relations Director
 Sitka Tribe of Alaska
 Sitka, Alaska

POSITION STATEMENT: Provided public testimony in support of HB 26.

BRITTANI ROBBINS, representing self
 Wrangell, Alaska

POSITION STATEMENT: Provided public testimony in support of HB 26.

JASON NORRIS, representing self
 Anchorage, Alaska

POSITION STATEMENT: Provided public testimony in support of HB 26.

CYNTHIA LONG, representing self
Kasilof, Alaska

POSITION STATEMENT: Provided public testimony in support of HB 26.

ANDY MILLS, Legislative Liaison, Special Assistant to the
Commissioner
Office of the Commissioner
Department of Transportation and Public Facilities
Juneau, Alaska

POSITION STATEMENT: Answered questions on CSHB 26(CRA).

REPRESENTATIVE CHUCK KOPP
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: As prime sponsor, introduced HB 136.

BILL O'LEARY, President, CEO
Alaska Railroad Corporation
Anchorage, Alaska

POSITION STATEMENT: Answered questions on HB 136.

MEGHAN CLEMENS, Director
External Affairs
Alaska Railroad Corporation
Anchorage, Alaska

POSITION STATEMENT: Answered questions on HB 136.

JULIA CARR, Staff
Representative Chuck Kopp
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: On behalf of Representative Kopp, prime sponsor, gave the sectional analysis of HB 136.

HUGH ASHLOCK, Owner
Diamond Center Mall, LLC;
Diamond Center Holdings, LLC
Anchorage, Alaska

POSITION STATEMENT: Gave invited testimony on HB 136.

IVAN LONDON, Senior Attorney
Mountain State Legal Foundation
Denver, Colorado

POSITION STATEMENT: Gave invited testimony on HB 136.

JOE MATHIS, property owner
Anchorage, Alaska

POSITION STATEMENT: Gave invited testimony on HB 136.

JOHN PLETCHER, property owner
Anchorage, Alaska

POSITION STATEMENT: Gave invited testimony on HB 136.

ACTION NARRATIVE

[1:05:38 PM](#)

CO-CHAIR TED EISCHEID called the House Transportation Standing Committee meeting to order at 1:05 p.m. Representatives Mina, McCabe, Moore, Carrick, and Eischeid were present at the call to order. Representative Stutes arrived as the meeting was in progress.

HB 26-STATEWIDE PUBLIC & COMMUNITY TRANSIT PLAN

[1:06:47 PM](#)

CO-CHAIR EISCHEID announced that the first order of business would be HOUSE BILL NO. 26, "An Act relating to the duties of the Department of Transportation and Public Facilities; and relating to a statewide public and community transit plan." [Before the committee was CSHB 26(CRA).]

[1:07:50 PM](#)

REPRESENTATIVE MINA, as prime sponsor, gave a recap of CSHB 26(CRA). She stated that it would update the responsibilities of the Department of Transportation & Public Facilities (DOT&PF) to enact a statewide transit plan in coordination with community stakeholders. She stated that the proposed legislation would help update the multimodality work DOT&PF is currently doing, as it would ensure public transportation is there for those who do not drive.

[1:08:53 PM](#)

CO-CHAIR EISCHEID opened public testimony on HB 26.

[1:09:45 PM](#)

BRIDGER REED-LEWIS, Board Member, Alaska Mobility Coalition, stated that he is an advocate for those with disabilities in Alaska. He shared that he is originally from Palmer, but he had to move because of the lack of para-transit opportunities. He shared that in Anchorage he can access AnchorRIDES. He recommended that the proposed legislation be amended to allow for two roundtrip Taxi or Uber rides for individuals who are on the Supplemental Nutrition Assistance Program (SNAP) or the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC). He clarified that this would be for a ride to a store within a 15-mile radius. He argued that many individuals with disabilities cannot carry bags onto a bus; therefore, they are limited to shopping at expensive convenience stores. He outlined the idea for a future bill that would allow free transportation for everyone. He spoke about how transportation should be a right for everyone, as this would allow more access to jobs and stores.

[1:13:15 PM](#)

MICHELE GIRAULT, Executive Director, Hope Community Resources, Chairman, Key Coalition of Alaska, stated that Hope Community Resources provides disability support in six regions of the state and the Key Coalition of Alaska is a statewide group supporting Alaskans with disabilities. She pointed out that Alaskans with disabilities face many challenges, but transportation is at the top of the list. She noted that the proposed legislation would improve access to community-based services and give a voice to those who are not often heard. She expressed her support of HB 26.

[1:14:46 PM](#)

GERRY HOPE, Government Relations Director, Sitka Tribe of Alaska, noted that the proposed bill is a part of the Alaska Mobility Coalition's multiyear effort to improve public, Tribal, and community transit programs in the state. He stated that during his experience as the Transportation Director for the Sitka Tribe of Alaska, it had been difficult "getting a seat at the table" with DOT&PF; therefore, on behalf of the Sitka Tribe of Alaska he expressed support for the proposed legislation.

[1:16:36 PM](#)

BRITTANI ROBBINS, representing self, shared that she is a "lifelong, remote Alaskan" and the Civic Engagement Coordinator [for Alaska Community Action on Toxics]. She listed several

past community positions she has also held. She expressed support for the proposed legislation, explaining that living on a remote island reinforces the lack of public transportation in the state. She highlighted the importance of viable transportation within the education system, especially for sports teams. She noted that when she had been a student, schools used the Alaska Marine Highway System as reliable transportation for student athletes, as it is more financially viable than flying. She pointed out that now only a couple of ferries a week service Wrangell. She stated that some federal funding has helped the situation, and this is important for her as she travels often to the Lower 48 because of medical disabilities. She argued that a transportation system needs to be in place for every Alaskan.

[1:19:47 PM](#)

JASON NORRIS, representing self, expressed his support for HB 26. He explained that Anchorage is in a crisis for pedestrian safety, and this is because transportation planning has focused on motor vehicles. He argued that transportation for Alaskans who have different needs should be prioritized because this would improve quality of life and be better for the economy. He stated that if individuals are given the opportunity to move around, they will choose to do so, even in winter cities, and he cited examples.

[1:21:30 PM](#)

CYNTHIA LONG, representing self, stated that she is a lifelong public transportation user. She stated that she is testifying on behalf of herself and her husband, who is no longer able to drive. She stated that on the Kenai Peninsula, the Central Area Rural Transit System [CARTS] takes people to the doctor, the store, and more, and this helps members of the community not to be isolated. She opined that a larger transportation system could allow residents of the Kenai Peninsula to work in the Anchorage area.

[1:22:51 PM](#)

CO-CHAIR EISCHEID, after ascertaining that there was no one else who wished to testify, closed public testimony on HB 26.

[1:23:25 PM](#)

CO-CHAIR CARRICK requested a clarification on the stakeholders not included in the proposed legislation.

REPRESENTATIVE MINA responded that metropolitan planning organizations are one of the stakeholders that are not included in the proposed bill. She explained that these are separate entities outside of local governments and other community organizations.

[1:25:08 PM](#)

ANDY MILLS, Legislative Liaison, Special Assistant to the Commissioner, Department of the Commissioner, Department of Transportation and Public Facilities, in response to a follow-up question from Representative Mina, clarified that there is a difference between the use of "coordination" and "cooperation" in the proposed legislation. He stated that the choice of wording was intentional, as the department had been advised by its legal counsel on specific usage in the Alaska Railroad Act of 1982 (ARTA). He pointed out that the term "coordination" has been used in CSHB 26(CRA). He discussed that this relates to [the concept of the Three Cs of transportation planning: continuing, comprehensive, and cooperative, as guided by federal law].

[1:26:14 PM](#)

REPRESENTATIVE STUTES commented that Kodiak has a local transportation service provided to the community by the senior center. She shared that her nephew has a disability, and the ability to ride the bus has made a difference in his life. She expressed support for the proposed legislation.

[1:27:18 PM](#)

CO-CHAIR EISCHEID commented on how AnchorRIDES improves the quality of life for the elderly. He made closing comments.

[CSHB 26(CRA) was held over.]

HB 136-STATEWIDE PUBLIC & COMMUNITY TRANSIT PLAN

[1:27:47 PM](#)

CO-CHAIR EISCHEID announced that the final order of business would be HOUSE BILL NO. 136, "An Act relating to use of railroad easements."

[1:28:02 PM](#)

The committee took an at-ease from 1:28 p.m. to 1:29 p.m.

[1:29:47 PM](#)

CO-CHAIR EISCHEID notified the committee of the individuals available for questions concerning the proposed legislation.

[1:30:47 PM](#)

REPRESENTATIVE CHUCK KOPP, Alaska State Legislature, as prime sponsor, introduced HB 136 and gave a PowerPoint presentation [hard copy included in the committee packet]. He stated that the proposed legislation is a policy bill dealing with the management of the railroad easements. The goal would be to balance the interest between the Alaska Railroad Corporation (ARRC) and landowners who live along the right-of-way from Seward to Fairbanks. He explained that HB 136 would affirm the state's right to set a management policy for railroad easements.

[1:32:46 PM](#)

REPRESENTATIVE KOPP moved to slide 3 and slide 4, showing a timeline of railroad easement law, beginning with the General Railroad Right of Way Act of 1875. This law granted railroads the right-of-way through public lands in the United States, allowing easements instead of land grants for railroads. He stated that the 1914 Railroad Act authorized the federal government to build and operate the Alaska Railroad, creating a blanket right-of-way across all federal lands for rail, telegraph, and telephone lines. Per this law, he clarified that the federal government became both the granter of easements and the landowner. He continued that in a 1942 case, Great Northern Railway Co. v. United States, 315 U.S. 262 (1942), the Supreme Court of the United States affirmed that a right-of-way is an easement and not a fee interest in the land.

REPRESENTATIVE KOPP noted that in 1982 there had been two significant events. In December of that year, the Alaska Railroad Act of 1982 (ARTA) transferred ownership of properties of the Alaska Railroad from the federal government to the state. He stated that just before this transfer, the state had made a land selection along the right-of-way, and the federal government protested this because it already owned a 200-foot swath the state could not select. The Interior Board of Land

Appeals heard the appeal and sided with the state, ruling that the railroad only has an easement over state public lands; otherwise, there would be a fee interest in the lands. In this decision, the board of appeals relied on the General Railroad Right of Way Act of 1875 and the Northern Railway Co. v. United States case. He reiterated that this decision had been the understanding just before ARTA was passed.

[1:37:47 PM](#)

REPRESENTATIVE KOPP moved to slide 4 and directed attention to the case of Marvin Brandt Revocable Trust v. United States, 572 U.S. 93 (2014). He stated that this case reaffirmed that railroads only have a mere easement over state public lands and not a fee interest. Moving through the timeline, he addressed Reeves v. Godspeed Properties, LLC, 517P. 3d 31 (Alaska 2022), as this case decided that an easement would not exclude a property owner from the property burdened by the easement. He concluded the timeline with the case of Alaska Railroad Corporation v. Flying Crown Subdivision Addition, No. 1 & NO. 2, et al, (9th Cir. 2023), where, under appeal, the court had sided with [the Alaska Railroad Corporation]. He expressed the opinion that this had been "a wild misinterpretation of law," and it was this decision that brought the need for the proposed legislation.

[1:41:02 PM](#)

REPRESENTATIVE MCCABE questioned where the term "exclusive use" originated.

REPRESENTATIVE KOPP replied that the term "exclusive use" was created during the enactment of ARTA, for the adjudication of lands that had claims of valid existing rights. These were lands that had been previously designated, such as lands under the Alaska Native Claims Settlement Act (ANCSA) and the Alaska National Interest Land Claims Act (ANICLA). These lands also included mining claims, cemeteries, and town sites. He explained that these lands resulted in a patchwork the railroad was trying to navigate, and the U.S. Congress was trying to adjudicate the property rights of the railroad in these areas. If ownership of the land was contested, once resolved, per ARTA, the railroad could have an "exclusive use" of the easement, which could not be interfered with. He concluded that "exclusive use" was a new concept because of the different claims on Alaska lands.

[1:44:38 PM](#)

REPRESENTATIVE MCCABE asked whether land determined "exclusive use" would belong to the State of Alaska or ARRC.

REPRESENTATIVE KOPP responded that the term "exclusive use" only applies to the easement, and the easement can only be used for its stated purpose. He added that the landowner has the title and would not be denied noninterfering uses. He stated that there is a range of exclusivity for usage. He pointed out that one reason for the proposed legislation would be so the legislature could direct ARRC relations with landowners on easement usage. In response to a follow-up question concerning charging a third party for usage of an easement, he stated that the Federal Railroad Association and the Department of the Interior have addressed this, and there was the opinion that revenue from utilities on an easement would belong to landowners versus the railroad.

[1:48:09 PM](#)

REPRESENTATIVE KOPP, in response to a question from Co-Chair Eischeid, clarified that the courts had sided with ARRC over the Flying Crown Subdivision case. He expressed the understanding that if an easement is exclusive to the point where the landowner has been driven out, courts would not be involved with this dispute resolution; rather, the decision would be made in the railroad boardroom, where easements can be monetized by the railroad. He argued that this is akin to ownership and a fee interest in the land. He expressed the opinion that currently ARRC is treating the easements as fee interest properties. He stated that the crux of the argument is whether private landowners have rights for safe, noninterfering uses of their land. In response to a follow-up question, he stated that the Supreme Court of the United States declined to take the Alaska Railroad Corporation v. Flying Crown Subdivision case any further. He continued that this is why the issue is back before the legislature, so it could be able to decide the relations between ARRC and those living alongside the railroad.

[1:50:38 PM](#)

REPRESENTATIVE KOPP recalled that in 2016 many constituents had complained concerning ARRC fees on easements. After right-of-way legislation passed, he said that the ARRC's right-of-way use program stopped around 2017, and the monetization stopped. He stated that in 2018, he introduced House Joint Resolution 38

[heard during the Thirtieth Alaska State Legislature], which addressed the "wild misapplications" of the exclusive use claim to the entire right-of-way, in a way that "Congress never intended." He directed attention to slide 6, which showed the letter that United States Congressmen Don Young wrote in support of the resolution. He paraphrased two passages from the letter, including the last sentence from the third paragraph, which read as follows [original punctuation provided]:

Nowhere in ARTA did Congress authorize the transfer of privately owned property interests, nor could it do so in such a cavalier and vague manner as in being suggested.

REPRESENTATIVE KOPP expressed the opinion that ARRC's claim of "exclusive use" of the entire right-of-way was based on its misunderstanding of ARTA. He reiterated the understanding that this was not the intent of ARTA. He stated that even as a private citizen, he has been in continuous support of balancing ARRC and private landowners. For the record, he stated that he has no clients who are involved with the proposed legislation.

[1:54:24 PM](#)

REPRESENTATIVE KOPP moved to slide 7 and slide 8 and explained that a railroad right-of-way is a right of passage through public lands in the U.S. He explained that an easement is a right-of-way that crosses private property, giving a user the right to the property for a specific purpose. He added that this definition is from the Marvin Brandt Revocable Trust v. United States case.

REPRESENTATIVE KOPP moved to slide 9 and explained homestead land patents as privately owned land over which much of the railroad easement crosses. He stated that more than 142.34 miles of track in Alaska cross lands patented to individuals. For homestead land patents, he explained that the federal government has reserved the right-of-way for rail, telegraph, and telephone lines. He further discussed homestead patents that exist in the state.

[1:57:45 PM](#)

REPRESENTATIVE KOPP paraphrased slide 11, which read as follows [original punctuation provided]:

Why does HB 136 matter?

The 9th Circuit's 2023 ruling in Alaska Railroad Corporation v. Flying Crown held the ARC possesses an "exclusive use" easement in the entire right-of-way, which conflicts with significant U.S. Supreme Court and Alaska Supreme Court rulings on the general nature of the property interest that railroads possess in their easement over private property.

REPRESENTATIVE KOPP reiterated that the U.S. Supreme Court has repeatedly described "exclusive use" as an extreme claim, and it has said that law must be explicitly state this, and it cannot be implied. He argued that "exclusive use" had been inserted after the fact to ensure that ARRC would have exclusive usage over contested areas, such as ANCSA or a village land claim. He displayed a picture of the Flying Crown Subdivision and explained that ARRC had fenced off access to an easement. He stated that this has now been resolved, but he suggested that a similar issue could arise, thus the need for the proposed legislation.

[2:01:42 PM](#)

REPRESENTATIVE MCCABE gave details on the image of the Flying Crown Subdivision, as seen on the slide.

[2:02:31 PM](#)

REPRESENTATIVE KOPP paraphrased from slide 12, which read as follows [original punctuation provided]:

What's the harm?

- The Alaska Railroad does not own the land over which more than half of the railroad right-of-way traverses*
- The Alaska Railroad wrongly asserts a fee interest in the easement over these private lands
- This policy allows the Alaska Railroad discretion to deny safe, noninterfering landowner uses of land within the easement
- The Alaska Railroad restricts access via onerous fees, permits, and crossing restrictions to property owners whose land is bisected by the railroad easement

REPRESENTATIVE KOPP continued that ARRC has been allowed to charge other state entities and local governments fees for crossing and accessing easements to public property. He stated

that in the Flying Crown case the court did not specify circumstances when ARRC can exercise exclusive use of the right-of-way. He argued that this allows landowners to be excluded from easements on their own property for no reason.

[2:03:50 PM](#)

REPRESENTATIVE KOPP gave examples of ARRC's exerted control over the right-of-way, as seen on the next slide. He paraphrased from the slide, which read as follows [original punctuation provided]:

Examples

- Homestead properties being charged for access to their own property, or road access blocked
- Private property owners being charged for utilities buried on their property
- Business owners denied the opportunity to use or develop their commercial properties
- Municipalities denied access to lands and charged large sums of money to maintain road crossings
- Utility companies charged exorbitant fees to access the right-of-way
- Homeowner Associations being sued
- Outdoor recreationists being denied access to public property

[2:04:37 PM](#)

REPRESENTATIVE KOPP pointed out on slide 15 a sliding scale of exclusive use, which begins with no right to exclude anyone to a point where everyone is excluded. He stated that the homestead patents along the railroad have easements for only rail, telegraph, and telephone lines, with no specifications that the railroad owns the land. He added that the homestead patent is the title to the land. He explained that the "right to exclude" is the essence of property ownership; therefore, the terms "easement" and "exclusive use" are irreconcilable. He gave further examples of "exclusive use," pointing out why it should not apply to the landowner. He explained that "exclusive use" means exclusive to the purposes of the easement. He added that the landowner would be excluded only if it is clearly stated.

[2:07:54 PM](#)

REPRESENTATIVE KOPP moved to the next slide and stated that the issue is not new, and he listed instances of requests for change. He reiterated that the question is how to have ARRC be a "good neighbor" with people who live along right-of-way, and not assume a fee interest when it does not have a fee interest in the land. He commented that ARRC does have a fee interest in certain segments of the land along the right-of-way; however, on homestead-patented lands the railroad has never had a fee interest. He explained that homestead patent owners were never questioned on easement rights because ownership had never been a question.

[2:10:07 PM](#)

REPRESENTATIVE KOPP moved to the next slide, and he said, "It is just a matter of justice, and that's why I am relentless on this issue." He continued that under due process, the government cannot give or sell the same parcel of property to two different owners, and once a land patent title is issued, it cannot be changed.

REPRESENTATIVE KOPP, on the next slide, stated that HB 136 would affirm the state's right to manage ARRC's right-of-way as a nonexclusive easement, where it crosses homestead patent lands. It is not being denied that ARRC has fee interest in some lands. He reiterated that the proposed legislation is a policy bill for landowners who have noninterfering uses of easements.

[2:13:09 PM](#)

BILL O'LEARY, President, CEO, Alaska Railroad Corporation, answered questions on HB 136.

MEGHAN CLEMENS, Director, External Affairs, Alaska Railroad Corporation, answered questions on HB 136.

[2:13:16 PM](#)

REPRESENTATIVE MCCABE questioned who owns the Alaska Railroad.

[2:14:33 PM](#)

MR. O'LEARY responded that the State of Alaska owns the railroad.

REPRESENTATIVE MCCABE pointed out that Alaskans own the railroad, and it is one of the state's biggest assets. He asked why ARRC, which is owned by Alaskans, would sue Alaskans.

MR. O'LEARY responded that the decision to take action with the quiet title against the Flying Crown Subdivision was not taken lightly, as the decision resulted from over a decade of events regarding the right-of-way. He acknowledged that there were two distinct sides to the issue, and the courts should have been the place to settle, yet no action was being taken. Eventually the homeowner's association for Flying Crown asserted that ARRC was affecting the title to their property, and it should renounce its exclusive use over the lands in question. He noted that ARRC was aware of the public's opinion of this, but it moved forward to gain clarity through the courts. He added that ARRC had paid all legal fees. He expressed the opinion that clarity was received at the federal court level. In response to a follow-up question, he stated that in 2017 the railroad stopped charging the landowners for use of the easement lands, as it ended the residential right-of-way use program; therefore, for this usage there is no charge. In response to a follow-up comment, he stated in the interest of time ARRC would wait with comments.

[2:20:05 PM](#)

REPRESENTATIVE MOORE questioned whether the owners of the easements are paying property taxes on the right-of-way.

[2:20:30 PM](#)

MS. CLEMENS responded that, to the knowledge of ARRC, taxes are not being assessed on the property subject to the exclusive use of the railroad.

REPRESENTATIVE MOORE expressed the understanding that the issue has been through the courts and questioned whether the legislation would be undermining the court's decision.

MS. CLEMENS expressed the belief that the question was answered by the courts with the same information given in the presentation. With further committee questions, she recommended that members review the legal opinions, so the court's decision can be better understood.

[2:22:43 PM](#)

REPRESENTATIVE KOPP expressed the opinion that the proposed legislation would be "in response to mitigate the harmful effect of the court's ruling." He reiterated the belief that the court misconstrued federal law on every point. He expressed the opinion that the arguments against this are arguments against the interest of Alaskans and against the law, and the proposed legislation would rebalance these interests. He made the conclusion that the state has the right to set the policy call concerning the right-of-way.

[2:25:10 PM](#)

REPRESENTATIVE MCCABE questioned whether the proposed legislation would provide clarity for all parties, as this is what ARRC has said it tried to do through the courts.

REPRESENTATIVE KOPP expressed agreement that the proposed legislation would be an attempt not only to mitigate, but also to clarify.

[2:26:29 PM](#)

JULIA CARR, Staff, Representative Chuck Koff, Alaska State Legislature, on behalf of Representative Kopp, gave the sectional analysis. She paraphrased from Section 3, which read as follows [original punctuation provided]:

Section 3: Adds the New AS 42.40.415 - Use of Easement

- **New Provision:** This section explicitly states that ARRC must allow landowners to use property they own that is subject to an easement, provided that the use does not unreasonably interfere with railroad operations.
- **Purpose:** This provision places guardrails on ARRC's authority, ensuring that it cannot broadly prohibit landowners from using their own property simply because the land is subject to a railroad easement.
- **Effect:** Permits landowners to exercise noninterfering use of their land that is subject to a railroad easement.

MS. CARR continued the sectional analysis, paraphrasing from Section 1 and Section 2, which read as follows [original punctuation provided]:

Section 1: Amends AS 42.40.350 (b)

- **Current Law:** AS 42.40.350(b) establishes that railroad utility corridors must be at least 100 feet wide on either side of the main or branch line unless the railroad does not own enough land to meet that standard. The Alaska Railroad Corporation (ARRC) has the authority to lease or grant easements within this corridor for transportation, communication, and transmission purposes, as long as those uses do not restrict other parallel uses.

- **Amendment:** This section clarifies that ARRC's authority to lease or grant easements is subject to limitations introduced by the new AS 42.40.415 (added to the Alaska Statutes through Section 3 of the bill). This change ensures that ARRC cannot unreasonably restrict property owners from using their land within the easement.

Section 2: Amends AS 42.40.350(c)

- **Current Law:** AS 42.40.350(c) allows ARRC to lease, grant easements, or authorize the use of railroad land, but it prohibits ARRC from selling or conveying its entire interest in rail land except in specific cases.

- **Amendment:** This section adds an exception to ARRC's authority by incorporating the new AS 42.40.415, meaning ARRC must allow landowners to use their property as long as it does not interfere with railroad operations.

Goals of HB 136

- Permit property owners to use their land that is covered by a railroad easement unless their use interferes with railroad operations.

[2:28:35 PM](#)

HUGH ASHLOCK, Owner, Diamond Center Mall, LLC, Diamond Center Holdings, LLC, provided invited testimony. He explained that his parents originally built the Diamond Mall, and it is the highest trafficked facility in the state. He explained that the mall is located on a former homestead property that his family purchased as a direct transfer from the original owner. He suggested that the right-of-way on the property is the most valuable piece of right-of-way in the state. He stated that the right-of-way is subject to only rail, telegraph, and telephone use. He expressed the desire to build a culvert on the right-

of-way and create a parking lot, housing, or other mixed-use projects in the area, and this would be without interrupting the railroad's usage. He stated that in 2005 he received \$3 million, per a bill sponsored by Alaska's Congressional Delegation, to implement intermodal transportation, with a train/bus combination. He explained that this resulted in a bus station in the Diamond Mall parking lot; however, the railroad was not interested in participating in the project.

MR. ASHLOCK stated that after the multimodal project, he had a national chain restaurant interested in the Diamond Center location, but he needed 5,000 square feet of the right-of-way for landscaping. He noted that he was quoted an exorbitant price; however, now he understands that he would have been paying for the use of his own land. After relaying this story, he said, "I have run into some bad actors over the years." He continued by expressing the desire to create an intermodal station or create a new parking lot, as the easement property is worth "a lot of money."

[2:33:54 PM](#)

IVAN LONDON, Senior Attorney, Mountain State Legal Foundation, provided invited testimony. He stated that he is a constitutional and property rights attorney. He noted that he has experience litigating easements with state and federal legislative authority. In response to a previous committee question, he expressed the opinion that the proposed legislation would not undermine the court's decision in the [Flying Crown case]. He opined that the railroad is an entity that can be governed by the legislation because the legislature created ARRC; therefore, giving it the right to govern and regulate it. He continued that the proposed legislation would not change the nature of the property rights, but it would change "how the rail corporation acts vis-à-vis the landowners." He argued that the easements were created for use by the railroad, not as rent control policies.

[2:38:14 PM](#)

JOE MATHIS, property owner, provided invited testimony on HB 136. He shared that his family has owned a 160-acre homestead in the state for 69 years. He stated that the parcel is bisected by the Alaska Railroad right-of-way, which is contained in the patent for the land. He said that before state ownership of the railroad, his relatives had helped install the rail crossing on the property; however, since the ownership

transferred to the state, annual permit fees for crossing and contract renewal fees have continually increased. He added that an underground electric line was installed by the family at its own expense, with no maintenance cost and no liability to the railroad; however, this requires an additional annual \$500 fee to ARRC.

MR. MATHIS stated that in 2023, the family requested a waiver for the permit and the requirement for the five-year contract, but it had been denied. He stated that now his family has been informed that the exclusive use of the right-of-way has been transferred to ARRC, which means it can restrict the use of this property. He stated that even though ARRC has conveyed in court that the right-of-way program has ended, his family and other property owners are still subject to required permits and fees for the use of their own land, even when the use is compatible with railroad operations. He stated that two annual payments to the railroad, one for the electric line and one for the crossing, total \$1000. The contract must be renewed every five years, with an administrative cost of \$250 to each. He stated that the railroad dictates nonnegotiable terms for each contract, such as a requirement for liability insurance for \$2 billion. The current contract requires that the crossing gate be locked, with the key distribution controlled by the railroad. To cross their own property, he concluded that his family has paid ARRC \$20,000 in fees over the last 10 years. He argued that this is unreasonable and unfair.

[2:44:46 PM](#)

JOHN PLETCHER, property owner, provided invited testimony. He shared that his family moved to their property in Anchorage in 1981, and since that time, they have maintained a large garden in the easement. He stated that the parcel of land has not caused problems; however, they do not want to be continually threatened by ARRC's permit requirements. Regarding a residential use policy, he stated that he received a letter informing him that he needed a permit, which he declined. After this, ARRC threatened to put a lien on the property. He stated that, per the exclusive use provision, the railroad wanted to charge \$2,200 annually. He discussed the details of the exclusive use provision, of which will be published in an article on the website, www.railroadedalaska.com. He shared his understanding of what the courts have said about the exclusive use provision. He noted that there is nothing in the property patent about ARRC's exclusive use.

MR. PLETCHER stated that his community has created a railroad committee, of which he chairs. He advised the committee members to go to its website [listed above] and visit the document's page. He cited that the legislature has directed policy on ARRC in the past, and he noted these sections in the statute. Concerning the comment made by Mr. O'Leary that the railroad paid all the legal fees in the Flying Crown case, he said, "The governor forced them to do it." He added, "The railroad's got more money than God."

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REPRESENTATIVE KOPP, in wrap up, stated that HB 136 would affirm the legislature's oversight rule of ARRC. He added that any questions on policy would not need to go through litigation, as the proposed legislation would establish policy on the relationship between the railroad and landowners, especially concerning easements on private property. He argued that decisions should not be made exclusively in ARRC's boardroom; rather, the interest of the landowners should be considered, permitting safe operations on easements that are not interfering with railroad operations.

[2:52:27 PM](#)

CO-CHAIR EISCHEID made closing comments.

[HB 136 was held over.]

[2:53:17 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Transportation Standing Committee meeting was adjourned at 2:53 p.m.