

**ALASKA STATE LEGISLATURE
HOUSE TRANSPORTATION STANDING COMMITTEE**

May 6, 2025

1:07 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 167

"An Act renaming Ruby Airport as Harold Esmailka Airport; and providing for an effective date."

- MOVED HB 167 OUT OF COMMITTEE

HOUSE BILL NO. 136

"An Act relating to use of railroad easements."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 167

SHORT TITLE: HAROLD ESMAILKA AIRPORT AT RUBY

SPONSOR(s): REPRESENTATIVE(s) FOSTER

04/02/25	(H)	READ THE FIRST TIME - REFERRALS
04/02/25	(H)	TRA
05/06/25	(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
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03/14/25 (H) TRA, JUD
04/01/25 (H) TRA AT 1:00 PM BARNES 124
04/01/25 (H) Heard & Held
04/01/25 (H) MINUTE (TRA)
05/06/25 (H) TRA AT 1:00 PM BARNES 124

WITNESS REGISTER

PAUL LABOLLE, Staff
Representative Neal Foster
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: On behalf of Representative Foster, prime sponsor, presented HB 167.

KATIE KANGAS, Mayor
City of Ruby
Ruby, Alaska

POSITION STATEMENT: Provided invited testimony on HB 167.

CYNTHIA ERICKSON, representing self
Tanana, Alaska

POSITION STATEMENT: Provided invited testimony on HB 167.

GRIFFEN SUKKAEW, Staff
Representative Ashley Carrick
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: On behalf of Representative Carrick, gave the explanation of changes on the proposed CS for HB 136, Version H.

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

POSITION STATEMENT: Provided invited testimony on the proposed CS for HB 136, Version H, and answered questions.

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

POSITION STATEMENT: Presented a PowerPoint, titled, "HB 136: Railroad Utility Corridors" and answered questions.

ALEXA DOBSON, Executive Director
Bike Anchorage
Anchorage, Alaska

POSITION STATEMENT: Provided public testimony in opposition of HB 136.

DAVID POST, representing self
Anchorage, Alaska

POSITION STATEMENT: Provided public testimony in opposition of HB 136.

TOM ATKINSON, representing self
Anchorage, Alaska

POSITION STATEMENT: Provided public testimony in opposition of HB 136.

MICHAL STRYSZAK, representing self
Anchorage, Alaska

POSITION STATEMENT: Provided public testimony in opposition of HB 136

BONNIE WOLDSTAD, representing self
North Pole, Alaska

POSITION STATEMENT: Provided public testimony in support of HB 136.

JOE MATHIS, representing self
Anchorage, Alaska

POSITION STATEMENT: Provided public testimony in support of HB 136.

LARRY LAU, representing self
Anchorage, Alaska

POSITION STATEMENT: Provided public testimony in support of HB 136.

JAMES BROOKS, representing self
Anchorage, Alaska

POSITION STATEMENT: Provided public testimony in opposition to HB 136.

MARIE FRANCIS, representing self
Anchorage, Alaska

POSITION STATEMENT: Provided public testimony in opposition to HB 136.

SADIE ARNESON, representing self
Anchorage, Alaska

POSITION STATEMENT: Provided public testimony in opposition to HB 136.

ROBERT GASTROCK, representing self
Anchorage, Alaska

POSITION STATEMENT: Provided public testimony in support of HB 136

NANCY PEAFFE, representing self
Anchorage, Alaska

POSITION STATEMENT: Provided public testimony in opposition to HB 136.

BETH NORDLUND, Executive Director
Anchorage Park Foundation
Anchorage, Alaska

POSITION STATEMENT: Provided public testimony in opposition to HB 136.

REPRESENTATIVE CHUCK KOPP
Alaska State Legislature
Juneau, Alaska,

POSITION STATEMENT: As prime sponsor, spoke to the proposed CS for HB 136, Version H, and answered questions.

ACTION NARRATIVE

[1:07:21 PM](#)

CO-CHAIR CARRICK called the House Transportation Standing Committee meeting to order at 1:07 p.m. Representatives Moore, Tilton, Mina, McCabe, Eischeid, and Carrick were present at the call to order. Representative Stutes arrived as the meeting was in progress.

HB 167-HAROLD ESMAILKA AIRPORT AT RUBY

[1:07:59 PM](#)

CO-CHAIR CARRICK announced that the first order of business would be HOUSE BILL NO. 167, "An Act renaming Ruby Airport as Harold Esmailka Airport; and providing for an effective date."

[1:08:29 PM](#)

PAUL LABOLLE, Staff, Representative Neal Foster, Alaska State Legislature, on behalf of Representative Foster, prime sponsor, presented HB 167. He explained that HB 167 would rename the airport in Ruby to the "Harold Esmailka Airport." He stated

that Mr. Esmailka was a pioneer in Alaska aviation, especially in the Interior, where he was a [bush pilot], operating two different air service companies. He stated that Mr. Esmailka provided many services, including medivac flights, cargo services, and passenger services.

[1:10:10 PM](#)

KATIE KANGAS, Mayor, City of Ruby, provided invited testimony on HB 167. She shared Harold Esmailka's history, stating that he had been a pilot for two-thirds of his life. She said that when he became a pilot, the airport in Ruby had a single landing strip. As aviation grew in the Yukon River villages, she said that Mr. Esmailka was instrumental in air service modernization. She shared that he had helped many people in the villages he served, as over 60 letters have been submitted in support of renaming the airport. She stated that without his services, air service in the villages has changed, and she mentioned the expense of being medevacked. She stated that he handled his businesses with "humility, kindness, and generosity." She asked the committee to support the proposed legislation.

[1:12:44 PM](#)

CYNTHIA ERICKSON, representing self, provided invited testimony on HB 167. She shared that Harold Esmailka was her father, and she provided anecdotes about his life. This included stories of flying in snowstorms, delivering packages to anticipating villagers, and having eight babies delivered on flights he piloted. She related that he had said, "One lady liked it so much, that she did it twice." She expressed support not only from herself, but from all the young men and women he mentored along the way. She expressed pride that her father had influenced the many Alaska Native pilots who exist today. She stated that he was born on an island and had an eighth-grade education, and English was his second language. She added that he worked "like a dog" and never gave up. She concluded that he became successful in aviation and business in "a white-man's world." On behalf of her family, she thanked the sponsors of the proposed legislation.

[1:17:07 PM](#)

The committee took a brief at-ease.

[1:17:55 PM](#)

CO-CHAIR CARRICK opened public testimony on HB 167. After ascertaining that there was no one who wished to testify, she closed public testimony.

[1:18:30 PM](#)

The committee took an at-ease from 1:18 p.m. to 1:20 p.m.

[1:20:43 PM](#)

REPRESENTATIVE TILTON commented that her husband was a pilot, flying in remote Alaska. She noted that a woman gave birth on one of his flights, and from the story he told, she expressed the belief that any individual who had had eight babies born while flying a plane "is beyond deserving" of this privilege.

[1:21:25 PM](#)

CO-CHAIR EISCHEID moved to report HB 167 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 167 was reported out of the House Transportation Standing Committee.

[1:21:53 PM](#)

The committee took an at-ease from 1:21 p.m. to 1:25 p.m.

HB 136-RAILROAD UTILITY CORRIDORS

[Contains discussion of HB 142.]

[1:25:58 PM](#)

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

[1:26:17 PM](#)

CO-CHAIR EISCHEID moved to adopt the proposed committee substitute (CS) for HB 136, Version 34-LS0640\H, Walsh, 4/28/25, ("Version H") as a working document.

[1:26:36 PM](#)

CO-CHAIR CARRICK objected for the purpose of discussion.

[1:26:54 PM](#)

GRIFFEN SUKKAEW, Staff, Representative Ashley Carrick, on behalf of Representative Carrick, gave the explanation of changes on Version H, [copy included in the committee packet] which read as follows [original punctuation provided]:

Section 3 is amended by removing line 11 of the original bill which stated "for the purpose of the easement."

[1:27:30 PM](#)

CO-CHAIR CARRICK explained that the change was made to align the intent of the proposed legislation with received testimony. She stated that, concerning the use of easements, Version H would reflect the Alaska Railroad Corporation's (ARRC's) obligation to work with potential trail users, trail projects, and others.

[1:28:17 PM](#)

CO-CHAIR EISCHEID expressed agreement with the explanation, stating that by working with the sponsor's office, the language has been clarified. He added that the change would keep the original intent of the proposed legislation intact.

[1:29:06 PM](#)

REPRESENTATIVE MCCABE, for the record, commented that the proposed legislation would address the entire railroad, which is 635 miles, and it would not be specific to a 3-mile section and the trail users in Anchorage. He pointed out that individuals in Fairbanks have different issues. He emphasized that the bill would affect the entire railroad; therefore, any decision made on a small section should be examined thoroughly.

[1:30:12 PM](#)

CO-CHAIR CARRICK expressed the opinion that Version H would better reflect the underlying intent of having ARRC work with those who have other, noninterfering uses for easement properties.

[1:31:05 PM](#)

CO-CHAIR CARRICK removed her objection. There being no further objection, Version H was before the committee.

[1:32:04 PM](#)

BILL O'LEARY, President, CEO, Alaska Railroad Corporation, provided invited testimony on the proposed CS for HB 136, Version H. He expressed the opinion that the plain language in the proposed legislation already "mirrors" ARRC's practices. However, after the previous hearing [held on 4/1/2025], he stated that he had made the realization that more, far-reaching consequences could result from different interpretations of the language. He pointed out that during the previous meeting "blurry areas" concerning the quiet title in the case of Alaska Railroad Corporation v. Flying Crown Subdivision Addition, No. 1 & NO. 2, et al, (9th Cir. 2023) had been discussed. He stated that this issue and others would be addressed in the upcoming presentation, along with ARRC's perspective. He said, "We do, respectfully, disagree with some of the conclusions that were drawn as a result of the last presentation."

[1:34:03 PM](#)

MEGHAN CLEMANS, External Affairs Director, Alaska Railroad Corporation, presented the PowerPoint, titled "HB 136: Railroad Utility Corridors" [hard copy included in the committee packet]. She began by addressing the background of the case law and standards for the railroad industry. She addressed the Flying Crown case, stating that the dispute really began around 15 years ago, when ARRC introduced a new right-of-way policy, which created a charge for usage. Because of negative feedback, this policy was rescinded, and ARRC no longer charges for the residential usage of the right-of-way. Before this, she stated that a letter had been received from the Flying Crown Subdivision requesting that the railroad relinquish the exclusive use of easements in the right-of-way. In pursuit of clarity, she stated that ARRC had initiated a quiet title action to understand its property interest in the easement.

MS. CLEMANS, concerning the quiet title, pointed to slide 2 showing the two key questions: the federal government's interest in creating ARRC's right-of-way, and the interest in the right-of-way conveyed by the federal government to the state at the time of transfer in 1985.

[1:36:48 PM](#)

REPRESENTATIVE MCCABE requested the definitions of "easement," "exclusive-use easement," and "right-of-way."

MS. CLEMANS suggested that the presentation continue, as these definitions would be explained.

[1:38:04 PM](#)

MS. CLEMANS moved from slide 3 through slide 5 to provide the answers to the questions on slide 2. She pointed out that the 1914 Alaska Railroad Act had not defined the federal government's property interest in the right-of-way; therefore, the issue has been debated. In its analysis, she said that the court looked at legal precedent in the Lower 48 and at the fact that the federal government had originally owned the Alaska Railroad.

MS. CLEMANS, concerning the legal precedent in the Lower 48, noted that easements were created in the 1875 General Railroad Right-of-Way Act, which determined that railroads do not have subsurface mineral rights or reversionary rights; however, she pointed out that there was never a ruling on exclusive-use rights. She continued that Marvin Brandt Revocable Trust v. United States, 572 U.S. 93 (2014) had ruled that railroads have the right to exclude others from the right-of-way because "a railroad easement is exclusive in character."

MS. CLEMANS, concerning the federal ownership question, reiterated that the federal government's interest in easement property had not been addressed in the 1914 Act, but the court has since reasoned that the federal government would not have given itself a lesser property interest than other railroads in the 1875 Act; therefore, the federal government had reserved the right-of-way for itself. She added that other railroads retained an exclusive-use easement at the time. She stated that the courts established precedent, issuing that when land grants are ambiguous, the ambiguity must be resolved in favor of the sovereign grantor, which was the federal government. She added that in the [1982 Alaska Railroad Transfer Act (ARTA)] the U.S. Congress issued that the federal government held either a fee simple interest or exclusive-use easement in the full right-of-way of the Alaska Railroad.

[1:41:19 PM](#)

MS. CLEMANS moved to slide 6 and addressed the definition of "exclusive-use easement." She pointed out ARTA determined that the Alaska Railroad's exclusive control over the right-of-way would be necessary for the safe and economic operation of the

railroad, and it was determined that the federal government must grant the state an easement that is "not less than an exclusive-use easement." She directed attention to the definition on the slide, which read as follows [original punctuation provided]:

ARTA Definition: "exclusive-use easement" means an easement which affords to the easement holder the following:

(A) the exclusive right to use, possess, and enjoy the surface estate of the land subject to this easement for transportation, communication, and transmission purposes and for support functions associated with such purposes;

(B) the right to use so much of the subsurface estate of the lands subject to this easement as is necessary for the transportation, communication, and transmission purposes and associated support functions for which the surface of such lands is used;

(C) subjacent and lateral support of the lands subject to the easement; and

(D) the right (in the easement holder's discretion) to fence all or part of the lands subject to this easement and to affix track, fixtures, and structures to such lands and to exclude other persons from all or part of such lands;

[1:42:07 PM](#)

REPRESENTATIVE MCCABE questioned the difference in the proportion of the right-of-way held in fee simple versus exclusive use. He questioned how the proposed legislation would affect this.

MS. CLEMANS expressed uncertainty concerning the difference the railroad holds in fee simple interest versus exclusive-use easements. She stated that the language in the bill is specific to underlying property owners; therefore, it would not affect sections of the right-of-way held in fee simple; however, it could affect exclusive-use areas.

REPRESENTATIVE MCCABE directed attention to the language in ARTA concerning the safe and economic operation of the railroad. He suggested that this language would not address allowing the use

of a trail on an easement by a third party. He argued that, in issuing the right-of-way, the federal government would be strictly concerned with safety. He pointed out the conflict over this, reasoning that the property belongs to an owner who would have these rights in any other situation other than with the railroad. He referenced the three-mile [trail] discussed earlier in the meeting. He questioned the railroad's perspective on this.

MS. CLEMANS stated that other uses of the utility corridor have been defined in state statute and ARTA, including for the purposes of transportation, communication, and transmission. She pointed out that state statute specifically addresses approval for trails in the right-of-way.

[1:44:57 PM](#)

MS. CLEMANS pointed out that in the Flying Crown case the courts had sided with ARRC, upholding the exclusive-use easement, as defined in ARTA. She directed attention to the excerpts from the court on slide 7, which explained the difference between railroad easements and other easements. She paraphrased from the slide, which read as follows [original punctuation provided]:

Excerpt from the Ninth Circuit opinion:

Safe and efficient operation requires railroads to have the ability to exclude anyone, including the servient estate owner, at any time.

Railroad rights-of-way are necessarily different than traditional easements because of the purpose of the easement.

Logically, the scope of an easement intended to

facilitate the passage of large, fast-moving machinery differs from, say, an easement to walk across a neighbor's land to access the beach.

The purpose of the 1914 Act—to provide a railroad for the territory of Alaska—is best served by an exclusive-use easement.

[1:46:07 PM](#)

MS. CLEMANS transitioned to slide 8 and slide 9 and acknowledged the language change in Version H. She reiterated that the proposed legislation would largely mirror ARRC's existing practices. She noted that the railroad no longer charges fees for the use of the right-of-way, and adjacent homeowners can use the outer edges of the right-of-way for lawns, gardens, and other approved uses, in respect to safety and efficiency of the railroad. She expressed confusion over the intent of the proposed legislation. She pointed out that ARRC became concerned after the previous hearing [on 04/01/25], as the intent of the proposed legislation seemed to go beyond codifying the railroad's existing practices, undermining the legal precedent on exclusive-use easements.

MS. CLEMANS addressed AARC's general concerns regarding the proposed legislation, as seen on slide 10 and slide 11. She noted that an over-arching concern is the lack of clarity for the practical application of the proposed legislation, as it is unclear what the legislation would be changing. She explained that ARRC is a separate legal entity than the state, and with greater management of the right-of-way, the state's liability could increase, along with regulatory obligation. She added that currently ARRC is charged with this responsibility. She continued that promoting private usage and development of the right-of-way would erode the available land within the continuous utility corridor. In reference to utilities, she emphasized the value of this land to Alaskans, of which the railroad is statutorily mandated to protect.

1:50:00 PM

REPRESENTATIVE MCCABE, concerning safety, acknowledged that ARRC has authority over the right-of-way. He directed attention to slide 11 and questioned the length of an extension of the right-of-way onto a property owner's easement. He questioned the Federal Railroad Administration's (FRA's) requirements concerning safe usage on a property owner's easement.

MS. CLEMANS responded that ARTA has defined the right-of-way as 100 feet from either side of the centerline of the tracks, as seen on the example on slide 11. The slide showed homes adjacent to the tracks, with lawns extended well into the railroad's right-of-way. She added that her statement is not in criticism of these homeowners, as this is an older neighborhood, [pre-ARTA]. She explained that this particular usage would conflict with other public-benefit usages on the corridor. In reference to this, she discussed the trail proposal, adding that

the railroad is responsible for protecting property for utility usage.

MR. O'LEARY added that freight cars can be 80-feet long, and derailments could occur. He stated these cars could go sideways until the train is able to stop. He advised the committee that having 100 feet of the right-of-way on either side of the railroad is not an arbitrary decision; rather, FRA has determined this length for safety. He emphasized that safety for the railroad is a core concern.

1:55:26 PM

REPRESENTATIVE MCCABE, concerning FRA's safety requirements, argued that trails should not be placed in the right-of-way.

MR. O'LEARY responded that trails in the right-of-way are not taken "lightly," and ARRC would require an indemnity. He expressed the understanding that trail organizations are aware of the risks. He added that statutorily this would be allowed.

REPRESENTATIVE MCCABE questioned who would need the indemnity clause. He opined that this discussion should end any trail projects in the right-of-way.

MS. CLEMENS responded that the municipalities would assume the indemnity for the trails. She pointed out that statute allows trails on the right-of-way in individual stretches, but it would be based on safety. She pointed out that there are 600-plus miles of tracks, so there would be variations to consider.

REPRESENTATIVE MCCABE expressed confusion on the railroad's ability to install a trail, while landowners are not able to use their easements because of safety issues. He opined whether this is hypocrisy.

1:59:23 PM

REPRESENTATIVE MINA questioned the difference between ARRC's right-of-way usage for railroad, telegraph, and telephone versus ARTA's designation for railroad right-of-way usage.

MS. CLEMENS responded that the 1914 Act designated the right-of-way for railroad, telegraph, and telephone purposes, while in 1982 ARTA defined the right-of-way for transportation, communication, and transmission purposes. She pointed out that

this is a more expansive view of how the right-of-way would be used today.

REPRESENTATIVE MINA noted that, statutorily, the railroad has the ability to have trails on the right-of-way. Other than the Fish Creek Trail, she questioned other instances when the railroad had allowed trails and instances of conflict with homeowners over the allowance.

MS. CLEMANS expressed the understanding that, at the time of construction, the [Tony Knowles Coastal Trail], which goes along the right-of-way, had been a point of discussion among the adjacent homeowners. She added that she was not part of this discussion.

[2:01:59 PM](#)

CO-CHAIR EISCHEID directed attention to property owners developing into the right-of-way, as seen on slide 11. He questioned whether they pay additional property taxes.

MS. CLEMANS expressed the understanding that the Municipality of Anchorage does not tax the property underneath the right-of-way.

CO-CHAIR EISCHEID questioned the limit into the right-of-way the landowners could develop.

MR. O'LEARY responded that this is dependent on variables, such as the train's speed limit, the topography, and whether the property development is new or existing. He noted that the usage for the Fish Creek Trail is 75 feet from the centerline.

[2:04:34 PM](#)

MS. CLEMANS, in response to Representative McCabe, clarified that the picture on slide 11 shows the property boundaries in red, which is the outer edge of the right-of-way. She noted that the property shown in the photo was sold in a homestead patent, so the land under the right-of-way would not be owned by the railroad.

[2:05:24 PM](#)

REPRESENTATIVE STUTES questioned whether any homeowners are being taxed for usage of the railroad right-of-way.

MS. CLEMANS expressed uncertainty of any homeowners being taxed, as ARRC would not be notified of this transaction. She expressed the understanding that there was one instance when the railroad responded with a letter in support of a homeowner who had received a tax notification.

[2:06:35 PM](#)

MS. CLEMANS returned to the presentation on slide 12 and stated that the railroad does not contend it has a fee simple interest in the land underneath the easement along the Fish Creek Trail; however, she pointed out the uncertainty whether an adjacent property owner would be the underlying property owner. She explained that homestead patents could have been subdivided into parcels, with the land under the right-of-way not included. She added that an operating railroad has not always been on top of the land. She continued that the railroad does not require proof of underlying ownership; however, it would be unclear how the proposed legislation would affect this. She pointed out this would be an example of an unintended consequence of the bill.

MS. CLEMANS moving to slide 13, directed attention to ARRC's current policies and practices. She expressed the belief that these are consistent with the stated intent of the proposed bill. If easement usage does not conflict with the railroad's purpose, she pointed out that fees are not charged. She explained that the crossing policy is designed to be revenue neutral, only covering any expenses to the railroad. Next, she pointed out that ARRC is [statutorily] charged with preserving the integrity of the utility corridor along the railroad. She noted that there have been right-of-way disagreements; however, the state-owned model has offered effective and meaningful channels for public feedback. She emphasized that the railroad is responsive to community concerns, pointing out that it stopped charging fees in result of the Flying Crown dispute.

MS. CLEMANS, concluding the presentation on slide 14, stated that ARRC is not adversarial to the proposed legislation, as it is already meeting the proposals. She offered that it shares the goal of having positive relationships with adjacent property owners.

[2:10:53 PM](#)

CO-CHAIR CARRICK opened public testimony on HB 136.

[2:11:07 PM](#)

ALEXA DOBSON, Executive Director, Bike Anchorage, testified in opposition to HB 136. She stated that Bike Anchorage is a nonprofit organization working to make Anchorage more bike friendly. She argued that the proposed legislation would threaten the trail projects along the railroad corridors across the state. She noted that she has not reviewed Version H. She expressed the understanding that some believe the proposed bill is not about the Fish Creek Trail; however, she argued that the bill has been supported by the interest of those wanting to stop this and other trails. She pointed out that during the 04/01/25 hearing of HB 136, Hugh Ashlock, Ivan London, John Pletcher, and Joe Mathis, were invited to testify. She expressed the understanding that they were all involved with the Flying Crown case, of which the sponsor has cited as the impetus for HB 136. She argued that the reason for this would be to set precedent for private landowners along the railroad. She expressed the understanding that the bill sponsor's firm was hired to lobby against the Fish Creek Trail extension project, which is also connected with the Flying Crown case concerning easement usage. She reiterated that the proposed legislation might not mention trails; however, she argued that individuals with known interest in stopping trails are advancing it. She pointed out that many of the most promising trail corridors in the state align with the railroad. She argued that if the proposed bill passes, it could cause legal delays for trail projects, or stoppage all together. She urged the committee to oppose the proposed legislation and support the state's "world-class" trail network.

[2:13:47 PM](#)

DAVID POST, representing self, testified in opposition to HB 136. He shared that he lives close to the area of the Fish Creek Trail. He pointed out that the quality of life in Anchorage attracts businesses and creates jobs. He stated that he is an avid trail user and expressed concern for the unintended consequences of the proposed legislation on trails across the state. He testified in support of public trails in the state.

[2:17:13 PM](#)

TOM ATKINSON, representing self, testified in opposition to HB 136. He directed attention to Version H, and he recommended a change to some of the language, including the usage of the word "unreasonably" in Section 3. He argued that this usage could be

used in court against the Fish Creek Trail connection project. He directed the committee to read his written testimony [copy included in the committee packet]. He said, "It appears the prime sponsor has a conflict of interest here," as his company represents the principal opponents of the Fish Creek Trail project. He pointed out that during the 04/01/25 hearing on the proposed legislation, the prime sponsor had said he has no clients who would be affected by HB 136. He expressed the opinion that there could be a conflict of interest.

[2:19:58 PM](#)

MICHAL STRYSZAK, representing self, testified in opposition to HB 136. He shared that his family lives in West Anchorage, and he expressed the belief that the trail system is a major asset, as it draws people to the city. He expressed support for the extension of the Fish Creek Trail, as his sons bicycle to school and he bicycles to work, and the current route connects onto an unsafe, busy road. He discussed that some who oppose the extension of the trail are clients of [the sponsor], as this would be a conflict of interest. He urged the committee to "not allow a handful of landowners to stop what so many in the community want." He expressed the belief that the passage of the proposed legislation would jeopardize the Fish Creek Trail extension project.

[2:22:54 PM](#)

BONNIE WOLDSTAD, representing self, provided public testimony in support of HB 136. She commented on the hypocrisy of Alaska, as the state fights for property rights, but it does not respect its citizens in the same fight. She shared that her family has the remaining portion of a homestead patented by the U.S. government, which predates the Alaska Railroad. She stated that since initial ownership, her family has purchased an additional homestead and the railroad traverses this. Concerning railroad easements, she reviewed the history of actions taken by the federal government and the courts. She pointed out that during the creation of [ARTA], land issues had been a key concern. During that process, she argued lands with patented homesteads were supposed to be addressed. She directed attention to [45 U.S. Code 1203] of ARTA, stating that all unresolved claims were to be adjudicated within three years. She pointed out the court opinion, which gave the railroad exclusive use of easements, did not address third-party claims on the easements. She argued that the railroad has now received patents on properties that were already patented. She argued that HB 136 would be a good

starting point on investigating this issue so adjudications on claims could be finalized.

[2:26:57 PM](#)

JOE MATHIS, representing self, stated he is testifying on behalf of the Langford family, who has owned a 160-acre homestead in the state for 69 years. He said that before the state ownership of the railroad, his relatives had helped install the railroad crossing on the property. He stated that the crossing had been established 68 years ago; however, since the ownership of the Alaska Railroad transferred to the state, there have been annual permit fees, totaling \$1,000 annually. He pointed out that one of the permits is for an underground electric line to power his home, while the other is a crossing permit. He argued that the fees are unreasonable. He added that every 5 years there is also a \$250 permit renewal fee. He stated that a clause in the contract would allow ARRC to change the terms at any time. He expressed support for HB 136, as it would protect the property rights of Alaskans.

[2:30:24 PM](#)

LARRY LAU, representing self, provided public testimony in support of HB 136. He stated that he has lived in South Anchorage for 52 years, living for the past 38 years near the railroad tracks. He noted his background in land title management, stating that his family members have a patent in the ARRC right-of-way. He stated that he had worked on the Flying Crown case. He expressed support for HB 136, as it would be a "reasonable solution to the inherent conflicts."

[2:31:54 PM](#)

JAMES BROOKS, representing self, testified in opposition to HB 136. He shared that he lives on Turnagain Street and is the owner of the Rustic Goat, the apartments next door, and the Alaska Rock Gym. He noted that his background is in finance, and he owns property along the railroad. He expressed opposition to HB 136, as there would be unintended consequences. He expressed the opinion that the proposed legislation would not be the tool to mitigate easement disputes. He pointed out his experience in arbitrating and mediating easement disputes, stating that the process is expensive. He expressed support for the Fish Creek Trail extension project, as it offers a safe alternative to biking in the area. He advised the committee that the trail issue could be resolved through a mediated

settlement; otherwise, federal funding for the trail project could be jeopardized.

[2:34:55 PM](#)

MARIE FRANCIS, representing self, testified in opposition to HB 136. She cautioned that elevating the interest of private landowners over the public good would create unintended consequences. She expressed the opinion that the green belt is the pride of Anchorage, improving the quality of life in the city. She referenced the prospective Alaska Long Trail and expressed concern that HB 136 could have adverse effects on this project. She urged the committee to oppose the proposed legislation.

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SADIE ARNESON, representing self, testified in opposition to HB 136. She shared that she works in public health and public health research. She explained that her home is next to Fish Creek, and for safe access to downtown on the Coastal Trail, she must cross a main road. She addressed the comment from Representative McCabe concerning safety along the railroad corridor. She argued that the prospective Fish Creek Trail connector along the railroad would provide a safer corridor for people to access downtown. She noted that she serves on the [Anchorage Trails Advisory Group], and it has received "overwhelming support for connector trails for safe corridors across Anchorage." She expressed the opinion that the proposed legislation represents a conflict of interest for the prime sponsor. She advised that the committee should invite planners from the Anchorage Parks and Recreation Department for comment, as they have invested time and work into the Fish Creek Trail project.

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ROBERT GASTROCK, representing self, provided public testimony in support of HB 136. He argued that the proposed legislation would protect the property rights of homeowners "burdened" by the ARRC right-of-way. He argued that the proposed legislation is not about the trail system; rather, it would address land usage within the easement by property owners if the usage does not interfere with railroad operations. He said that it would preclude "arbitrary extortion" by ARRC. He shared that he is a long-time Anchorage resident and lives in the Flying Crown Subdivision. Concerning ARRC, he spoke about the easement

situation in the subdivision, explaining that when the federal government owned the railroad, the relationship had been mutually supportive; however, after ARTA and state control, the railroad began monetizing the right-of-way. He reviewed the Flying Crown lawsuit, resulting in ARRC's "total control" of the easement. He expressed the understanding that the result of the case has also removed the judicial process as a way for conflict resolution in these situations. He argued that the state has the authority to set the management policies for railroad right-of-way usage. He requested that the committee "properly exercise" this authority by passing HB 136.

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NANCY PEAFFE, representing self, testified in opposition to HB 136. She shared that she is a lifelong resident of Anchorage. She pointed out that Alaska is the largest state in the country and expressed the opinion that the proposed bill would threaten public access to the state's land. She argued that the proposed legislation would create the unintended consequences of future denial of public access along the entire railroad corridor, including the prospective Alaska Long Trail. She expressed the opinion that this trail is one of the "best" infrastructure ideas for the state. She argued that every landowner on the right-of-way purchased this land with the knowledge there could be imposed constraints. She stated that opposing HB 136 would serve the public interest by allowing potential trail access along the railroad corridor.

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BETH NORDLUND, Executive Director, Anchorage Park Foundation, testified in opposition to HB 136. She stated that the Anchorage Park Foundation supports trail connectivity. She stated that 94 percent of the residents of Anchorage have reported trail usage within the last year. She offered to help resolve any issues with the bill sponsor. She expressed the belief that ARRC should not be "trampling" property rights, adding that the Fish Creek Trail project has been undergoing the development process for years, and it has a large amount of neighborhood support.

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CO-CHAIR CARRICK, after ascertaining that there was no one else who wish to testify, closed public testimony on HB 136.

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REPRESENTATIVE CHUCK KOPP, Alaska State Legislature, as prime sponsor, spoke to the proposed CS for HB 136, Version H. He expressed the opinion that HB 142 would be the proposed legislation that pertains to trail usage, the railroad, and landowners' consent concerning public recreation projects. He argued that Version H would not affect trail projects or public usage along the railroad right-of-way; instead, it would protect property owners' noninterfering usage of their land underlying the easement. Concerning the testimony from Joe Mathis and his yearly fees, he clarified that Mr. Mathis owns a single track of land on both sides of the railway. He reiterated that Version H would be "narrowly focused" on protecting the individual landowner's right to a noninterfering usage, but it would not address the railroad's statutory allowances.

REPRESENTATIVE KOPP addressed the claim by ARRC that the proposed legislation would undermine its exclusive use of the easements; however, the Supreme Court of the United States has already ruled on this in Marvin Brandt Revocable Trust v. United States, 572 U.S. 93 (2014), which said "easements are nonpossessory and purpose limited." He continued, arguing that ARRC "cherry picked" a quote from ARTA, which deals with Native land claims. He stated that in Great Northern Railway Co. v. United States, 315 U.S. 262 (1942), the Supreme Court of the United States said that railroads have easements only on other people's land, and the owners of the underlying property possess an interest. He stated that Version H would simply honor this court authority.

REPRESENTATIVE KOPP stated that "actions do matter," as in 2003 ARRC went to the U.S. Congress, without notifying the state, to remove the reversionary interest from ARTA. This reversionary interest would allow the land to go back to landowners if the railroad were removed. He continued that in 2006 ARRC got an exclusive-use land patent over the entire Anchorage area and up into the Matanuska-Susitna Valley without telling the state. He pointed out that the Flying Crown lawsuit had used the "weight" of a public corporation against landowners, emphasizing the importance of the right-of-way for ARRC. He expressed the belief that there should be a management policy that says, "Be a good neighbor," letting underlying landowners have noninterfering uses without fees. He argued that currently the interest is not balanced, especially where the railroad crosses private property. He concluded that the proposed legislation would create a management policy to allow the legislature to

give guidance, and it would not amend any language concerning trails.

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REPRESENTATIVE MCCABE expressed the understanding that, after speaking with the Department of Transportation and Public Facilities, the bill would not affect the Fish Creek Trail extension project. He stated that the individuals expressing support for the trail might find a solution in HB 142.

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REPRESENTATIVE KOPP, addressing the statements concerning his conflict of interest, said that he "has no clients on these matters." He continued that he has fought for property rights of individuals who live along the right-of-way since 2016.

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CO-CHAIR EISCHEID questioned whether, under Section 3 of the proposed legislation, a trail could be put on the edge of the right-of-way, adjacent to property lines, as seen on slide 11. He suggested that this could remove a property owner's lawns or gardens.

REPRESENTATIVE KOPP responded that the proposed bill would not change any current statute allowing the railroad to create a public recreation project in the right-of-way. He noted that ARRC has said it would work with landowners, and Version H would only codify ARRC standards. He reiterated that HB 142 would address this question.

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CO-CHAIR EISCHEID questioned whether Version H would allow property owners to sue the state successfully over trail development on easement property.

REPRESENTATIVE KOPP expressed the understanding that the proposed bill would not change anything regarding this. He stated that it would not offer more or less protection than what already exists. He reiterated that his main concern is the underlying landowners with easements crossing their land, as they should be allowed noninterfering uses on their land. He reiterated that any other permitted usage inside the right-of-way would be up to the Alaska Railroad. He reviewed his

understanding of ARRC's process for the approval of projects. He stated that the proposed legislation would be beneficial to all Alaskans who live along the railroad, and it would not be about a small portion of the railroad track in Anchorage. He reiterated that this would allow the legislature to give guidance to the Alaska Railroad.

CO-CHAIR EISCHEID, for the record, stated that his priority is for his district in Anchorage.

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REPRESENTATIVE MINA, for the record, clarified that HB 142 would be the specific legislation that addresses public management of trail access within 100 feet of the right-of-way. She questioned whether Version H would be specific to ARRC's ability to charge fees to homeowners.

REPRESENTATIVE KOPP responded in the affirmative. He stated that, concerning property owners, the proposed legislation would make sure the right-of-way is not monetized.

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CO-CHAIR CARRICK announced that CSHB 136, Version H, was held over.

[3:01:16 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Transportation Standing Committee meeting was adjourned at 3:01 p.m.