

**MINUTES**  
**SENATE FINANCE COMMITTEE**  
**Fourth Special Session**  
**November 15, 2006**  
**9:13 a.m.**

**CALL TO ORDER**

Co-Chair Lyda Green convened the meeting at approximately [9:13:35 AM](#).

**PRESENT**

Senator Lyda Green, Co-Chair  
Senator Gary Wilken, Co-Chair  
Senator Fred Dyson  
Senator Bert Stedman  
Senator Donny Olson  
Senator Lyman Hoffman

**Also Attending:** SENATOR GARY STEVENS; SENATOR TOM WAGONER; SENATOR KIM ELTON; REPRESENTATIVE JOHN COGHILL, REPRESENTATIVE MIKE KELLY; SCOTT NORDSTRAND, Commissioner, Department of Administration; PAM FINLEY, Revisor of Statutes, Legislative Legal Counsel, Division of Legal and Research Services, Legislative Affairs Agency; TAM COOK, Director, Division of Legal and Research Services, Legislative Affairs Agency; BARBARA BELNAP, President, Juneau chapter, National Organization for Women (NOW); MARSH BUCK, Parents, Families and Friends of Lesbians and Gays (PFLAG) Juneau; LIN DAVIS, Plaintiff, ACLU v. State of Alaska and Municipality of Anchorage; BEN KRALL; CINDY BOESSER;

**Attending via Teleconference:** KEVIN CLARKSON, Attorney, Brena, Bell & Clarkson, P.C.; MICHAEL MCLEOUD-BALL, Executive Director, American Civil Liberties Union of Alaska (ACLU); DAVE BRONSON; JIM MINNERY; Alaska Family Council, DAN WAYNE, Attorney, Division of Legal and Research Services; LEE BADGETT, UCLA Law School; NANCY HOMSTEAD; JAN DEYOUNG, Chief Assistant Attorney, General-Statewide Section, Supervisor, Labor and State Affairs Section, Civil Division (Anchorage); STEVEN JACQUIER; DEBBIE JOSLIN, Delta Junction, President, Eagle Forum Alaska.

**SUMMARY INFORMATION**

SB 4001-STATE EMPLOYEE SAME-SEX PARTNER BENEFITS

The Committee heard from the Department of Administration, the Division of Legal and Research Services, and took public testimony. A committee substitute was adopted and the bill was held in Committee.

#sb4001

SENATE BILL NO. 4001

"An Act relating to employment-related insurance benefits for the same-sex partner of a state employee; relating to survivor and medical benefits for the same-sex partner of a member of the state's teachers', public employees', judicial, or elected public officers retirement systems; and providing for an effective date."

This was the first hearing for this bill in the Senate Finance Committee.

Co-Chair Wilken moved to adopt CS SB 4001(FIN), 24-GS4033\G, as the working document.

There was no objection, and Version "G" was ADOPTED as a working document.

[9:15:02 AM](#)

SCOTT NORDSTRAND, Commissioner, Department of Administration, directed Members to a booklet titled "Special Legislative Session, Same-Sex Partner Benefits, November 13, 2006, Frank H. Murkowski, Governor" [copy on file] provided by the Office of the Governor. Section 9, titled "ACLU Case Timeline" would provide background on the issue.

AT EASE [9:16:17 AM](#) / [9:18:05 AM](#)

Commissioner Nordstrand reviewed the history of the complaint filed by the Alaska Civil Liberties Union (ACLU) against the State of Alaska and the Municipality of Anchorage in 1999. The superior court ruled in 2001 in favor of the State, finding that the State had not violated the Equal Protection clause of the Alaska State Constitution by failing to extend health and retirement benefits to same-sex partners of State employees.

Commissioner Nordstrand continued that in October of 2005 the Alaska Supreme Court overruled the superior court, holding that denial of benefits to same-sex partners was a violation of equal protection guarantees under the State Constitution. The Court's opinion was based on the existence of the 1998 "Marriage Amendment" that defined marriage as a contract that could be entered into only by one man and one women, effectively prohibiting same-sex couples from wedding. The Court found that because a same-sex couple was prohibited from marrying to obtain spousal benefits as a heterosexual couple could, denying them equal benefits was discriminatory. Commissioner Nordstrand noted that the Court subjected the policy that denied same-sex partner benefits to "minimal scrutiny". The Supreme Court retained jurisdiction over the case in its October, 2005 ruling, and asked for briefings from both parties of the potential remedies to bring the State and Municipality into compliance with the constitution.

Commissioner Nordstrand relayed that in January 2006, the State and the ACLU presented the requested briefings to the Court. The State of Alaska's recommendations included presenting the issue to the legislature to develop regulations and eligibility guidelines, and create an implementation plan. The State's briefing contained a timeline that called for a same-sex partner benefit program to be in place by January 1, 2007.

Commissioner Nordstrand informed that the Alaska Supreme Court did not provide its recommended remedy until June 1, 2006. At that time, the legislature had adjourned its regular session.

[9:23:01 AM](#)

Commissioner Nordstrand referred to section 10 of the booklet, titled "Supreme Court Order, June 1, 2006". This order required the State to be providing benefits to eligible same-sex couples by January 1, 2007, and transferred jurisdiction of the case back to the superior court for further proceedings. Due to the fact that the legislature would not convene until after the January 1 deadline, the Department of Administration was directed to draft regulations, as the Commissioner of the Department is the plan administrator for retirement and benefits. Commissioner Nordstrand published "draft regulations" in September of 2006, and conducted a 30-day public comment and hearing period. On October 13, the Department issued the final

version of the regulations. The portion of those regulations pertinent to retirement benefits would have become effective November 12, 2006, but an "emergency regulation" was filed the previous week. Lieutenant Governor Loren Lemman refused to endorse and file the regulations pertaining to active employee's health benefits, as required by the Administrative Procedures Act, and thus this component of the benefit package was "in limbo".

[9:25:25 AM](#)

Commissioner Nordstrand noted the court's involvement in the administrative process had been "unusual". While the legislative branch of government is charged with drafting the laws of the State of Alaska, the executive branch has the delegated responsibility to draft administrative regulations. In this case, the court had required the Commissioner to submit regulations for review before they were adopted or implemented. A series of hearings, some lasting two hours, were held to "debate" draft regulations before the superior court. The Department, in an attempt to protect the "deliberative process" and executive authority, had refused to provide the Department's reasoning for adopting the regulations as requested by the court. The court ordered the final regulations to be submitted more than a week before they were published and warned that if they were not submitted prior to their being made public, the regulations would be deemed unconstitutional. Commissioner Nordstrand was "uncomfortable" with the court's involvement in the development of regulations.

[9:28:11 AM](#)

Commissioner Nordstrand told that after the final regulations were compiled, the court concluded that the regulations were unconstitutionally strict. It recommended specific changes to the regulation criteria, including deletion of the word "exclusive" in the definition of the relationship, changing the duration of the relationship from twelve months to six, and adding joint custody of children to the criteria, which "trumped" all other financial requirements. The number of financial criteria an applicant was required to meet was decreased from five to three, and additional benefits were added related to leave considerations and issuance of final paycheck in the event of the death of an employee.

9:29:45 AM

Commissioner Nordstrand detailed that the superior court's order, dated October 30, 2006 required the State to "immediately incorporate this court's order into its regulations or otherwise modify its regulations so that they comply with the Alaska Supreme Court's mandate." This order was the result of a request for an emergency regulation, which is effective upon adoption. He was then faced with the prospect of establishing a new retirement tier, as retirement benefits cannot be diminished once they've been granted. The new tier would have applied to all current State, Public Employee Retirement System (PERS), and Teachers Retirement System (TRS) employees.

Commissioner Nordstrand struggled with the impact the court's order would have on the State's retirement systems, and the proposed regulations were questioned by Lieutenant Governor Leman, who queried whether the Commissioner of Administration was acting within the scope of his authority.

Commissioner Nordstrand identified statute sections AS 39.35.535 and 39.30.090, which delineate who is eligible to receive benefits, as areas that would be affected if the court ordered regulations were adopted to include "same-sex partner".

Commissioner Nordstrand declared he was "stuck between a rock and a hard place", as the Lieutenant Governor believed adopting regulations mandated by the court would usurp the legislature's power to draft laws, but the Department of Law considered a court order a sort of "super authority" to carry out the court's ruling to comply with the constitution. This situation resulted in the current special legislative session to resolve this issue.

9:32:36 AM

Senator Dyson asked if "common law" marriages would qualify a person to receive their partner's benefits.

Commissioner Nordstrand was unsure, but understood that common law marriage was not recognized in Alaska.

Senator Dyson set forth that if common law marriages were recognized, perhaps the criteria used to establish those relationships could be applicable to the current situation.

[9:33:52 AM](#)

Commissioner Nordstrand spoke to the original version of the bill. He summarized it as a "codification" of the final regulations issued October 13, 2006. The State essentially based its criteria on the University of Alaska's domestic partnership program, which had been in existence for ten years, and tailored it to the State's specific needs.

[9:35:15 AM](#)

REPRESENTATIVE JOHN COGHILL informed that common law marriage is not recognized in Alaska.

[9:36:06 AM](#)

Senator Dyson asked if cases establishing a precedent on common law marriage were considered in relation to this legislation.

[9:36:25 AM](#)

Representative Coghill did not know. He explained SB 4001 as an attempt to reserve the right of the legislature to make policy decisions regarding the State's retirement and benefit regulations. He pointed out the "disagreement" between the legislative and judicial branches of State government, illustrated by the legislature's passage in 1996 of a statute prohibiting recognition of same-sex relationships as an entitlement to marriage benefits, which the court has effectively "overruled" with the current mandate. He suggested that the legislation was a means of conveying to the administration that the disagreement was ongoing. He warned that the Division of Legal and Research Services may "acquiesce" to the court's decision, but the legislature, as a policy-making body, should not be "bound to that" legal opinion.

[9:39:12 AM](#)

Co-Chair Green directed members to a memorandum from the Division of Legal and Research Services, dated November 15, 2006.

[9:39:21 AM](#)

PAM FINLEY, Reviser of Statutes, Division of Legal and Research Services, Legislative Affairs Agency, addressed legal concerns. She communicated that the committee substitute would place the commissioner of the Department of Administration in the "uncomfortable" position between a court order requiring him to adopt benefit regulations and a statute that would criminalize that action. She was also concerned that if the statute was passed solely as a prohibition on the adoption of the Department's regulations, and did not propose other regulations to implement same-sex partner benefits as required by the court, the statute would be ruled unconstitutional for violating the Equal Protection provision of the constitution.

[9:42:05 AM](#)

Senator Dyson asked if the statute would be acceptable if it were made effective for an eight-month period, in which the next legislature could meet in its regular session to address the entire issue.

[9:42:41 AM](#)

Ms. Finley replied that a temporary provision would likely be "more palatable" to the court than an outright refusal to adopt regulations. While she could not guarantee the court's approval of legislation, it would show "good faith" on the part of the legislature to comply with the court order.

[9:43:17 AM](#)

Senator Dyson continued, referencing a policy adopted by the state of Texas in which a state employee was allowed to designate one adult as a dependant for the purposes of insurance benefits. This would allow same-sex couples to participate in the benefits system, but he was uncertain if it would satisfy the superior court's ruling that "functional equivalency" be granted to these partnerships.

[9:44:44 AM](#)

Ms. Finley responded that such an approach "might very well work". It would eliminate marital status from Equal Protection considerations, as it would include married couples as well as unmarried same-sex couples.

9:45:56 AM

Senator Dyson inquired whether that type of benefit structure could be retroactively imposed that on all existing enrollees, active and retired.

9:46:32 AM

Ms. Finley answered that retirement rights could not be diminished, but expansions of benefits are permissible.

Senator Dyson assumed that adoption of a "one dependant per enrollee" system would not diminish retirement benefits.

Ms. Finley was unsure, and would require more time to research all applicable circumstances.

Co-Chair Green commented that she hoped the legislature would not have to manage that "hypothetical" situation.

9:47:25 AM

Ms. Finley stated that in a possible reaction to the passage of this statute, the court could rule the regulation unconstitutional. The second option would be a ruling in which the court would find that since the legislature had failed to act, and the Department of Administration was prohibited from acting, the court would order its own regulations be implemented. Those regulations would likely be very similar to those proposed by the Department of Administration.

Ms. Finley stated that the courts are reluctant to impose regulations. She exemplified instances of court-ordered busing of students in the public school system to remedy racial segregation, in which the courts repeatedly returned the issue to the legislative body for review before mandating the busing policy, as the legislature failed to act. Court-ordered regulations are less desirable because the courts do not have the opportunity to hold hearings and gather information as the administration does. The court, in this instance, could take regulations developed by the Department of Administration and "tweak" them to their specifications, then order the Department to implement them.

9:49:11 AM

Senator Olson asked the consequences if the commissioner of the Department of Administration did not follow a court order to implement the regulations, under the "separation of powers" argument.

Ms. Finley replied that the issue would be enforcement. The court does not have law enforcement to impose their edict. If the entire executive branch were to ignore the court order, the remedy would be to hold individuals in contempt of court.

[9:50:06 AM](#)

Ms. Finley spoke to the retroactive element in this legislation as potentially problematic with regard to vestment of rights. Commissioner Nordstrand testified that the emergency regulation of November 10, 2006 was intended to prevent the retirement portion of the regulations from vesting November 12, 2006. Ms. Finley was not certain that the regulation accomplished this, and allowed for the possibility that some benefits may have vested.

[9:51:13 AM](#)

Ms. Finley elaborated that regulations adopted under the retirement systems are not subject to the Administrative Procedures Act, and become effective 30 days after adoption. The original regulations were adopted October 12, 2006, and could have become effective the previous week.

Ms. Finley set forth that medical benefits, on the other hand, are not vested until the regulations have been filed. Since the regulations had not yet been filed, the benefits had not been vested. These scenarios represent two tracks of vested rights. If rights have vested, the retroactivity clause would not apply to them.

[9:53:16 AM](#)

TAMARA COOK, Director, Division of Legal and Research Services, Legislative Affairs Agency, responded to Senator Dyson's remarks regarding the benefits system adopted by the state of Texas. If the State of Alaska were to adopt a benefit structure that eliminated spousal benefits and instead allowed each eligible worker to designate a dependant adult, the Equal Protection

issues currently facing the State would be alleviated. Consideration of how the new regulations would be applied to current employees would be necessary, but no Equal Protection conflicts would apply for employees hired under those rules.

[9:54:29 AM](#)

Senator Dyson mentioned that the court's order was directed to the current administration, which would be concluding its term in several weeks. He wondered whether the new administration could request an extension from the court, or if the order would apply to the new executive body as well.

[9:55:24 AM](#)

Ms. Cook understood that the new administration could ask the court for an extension, but could not demand one be granted. She was unsure how the court would react to such a request.

[9:55:53 AM](#)

KEVIN CLARKSON, Attorney, Brena, Bell & Clarkson, P.C., testified via teleconference from an offnet location. He informed that he had been retained by the Legislative Council and asked to address the legal opinions issued by the Division of Legal and Research Services. He characterized the legislation as a "separation of powers" bill rather than a "no benefits" bill. He endorsed the incorporation of a termination date provision to limit the amount of time this bill would be effective. He agreed with the Division of Legal and Research Services that if the intent of this bill is to absolutely deny benefits to same-sex partners, it would be unconstitutional. If, however, the intent of the bill is to delay the "effect of the remedy", he would consider that to be a legal exercise of the legislature's power.

Mr. Clarkson emphasized that the January 1, 2007 deadline set by the court had no "constitutional significance". He encouraged the legislature to address the issue by statute during the next legislative session.

Mr. Clarkson disagreed with the position of the Division of Legal and Research Services in relation to the retroactivity provision. He surmised that the emergency regulation issued by Commissioner Nordstrand effectively delayed the vesting of

benefits on November 12, 2006. He assumed a time limit on the statute would help ensure the court's approval of the bill.

AT EASE [10:01:17 AM](#) / [10:16:07 AM](#)

Ms. Finley related that ex post facto provisions in the constitution would prohibit any law which would change the legal consequences for an act committed before the law was enacted. Thus, regulations published by the commissioner of the Department of Administration could not be punished retroactively.

Ms. Finley assumed that the court would be reluctant to grant the legislature an extension, as ample time had been allowed for drafting and adoption of regulations. She suggested suspending the commissioner's power to adopt regulations for a specified period of time, such as until the next regular session of the legislature, and include a provision that would make any regulations adopted thereafter retroactive to January 1, 2007.

Senator Dyson asked if that language could be drafted for consideration as an amendment.

Ms. Finley agreed.

[10:18:35 AM](#)

MICHAEL MCLEOUD-BALL, Executive Director, American Civil Liberties Union of Alaska (ACLU), one of the parties involved in the lawsuit testified via teleconference from an offnet location. He had not seen the current Version "G" of the bill, but would attempt to tailor his comments to that version. He was opposed to the governor's legislation and deemed it unnecessary. Due to the fact that the governor's bill would establish two different sets of employees with different standards, it would be ruled unconstitutional by the courts. He suggested that the legislature was the proper body to resolve the issue, as had been mentioned in the ACLU's original brief.

Mr. McLeoud-Ball opined that the Court had not issued an order until June in anticipation that the legislature would have acted on the issue during its regular session. When the legislature failed to act, the Court issued the order. With the exception of the Court's motivation for waiting until June to issue the order, he agreed with Commissioner Nordstrand's comments and

timeline. The consensus of attorneys from the ACLU, the administration, and the legislature who have examined the issue is that the legislation is unnecessary, and that Commissioner Nordstrand did have the authority to issue regulations. He found the Lieutenant Governor's concern to be without merit.

Mr. McLeoud-Ball addressed comments made by members of the legislature in objection to the court mandate requiring them to adopt regulations. No such court order had been issued. The June 1 Supreme Court ruling returned the case to the Anchorage superior court to oversee the implementation of a remedy. The proposal that the remedy be adopted by regulation came from the administration, not the court.

Mr. McLeoud-Ball contended that the court's involvement in the drafting of regulations was merely advisory and an attempt to assist the administration in drafting regulations that would be constitutionally acceptable. One recent court order set forth that the Commissioner ought to change the criteria included in the regulations, and provided criteria that the judge would consider constitutional. The order specified that alternative criteria may also be acceptable, but the Commissioner submitted only the judge's suggested criteria. The Court again offered the administration an opportunity to submit other criteria, which the administration chose not to do. He concluded that the supposition that the court had tried to write the criteria was a "mischaracterization".

Co-Chair Green appreciated Mr. McLeoud-Ball's observations. She spoke to the "fine distinction" in the court's involvement, which she characterized as "highly unusual". She asked Mr. McLeoud-Ball if he had witnessed such extensive court involvement in regulation preparation previously.

Mr. McLeoud-Ball replied negatively. He found the separation of powers to be the "interesting" aspect of the question. While the court is the arbiter of what is or is not constitutional, the executive branch is charged with the daily operations of the government, and the legislature sets the policy. Those divisions have been tenuous. For that reason, superior court Judge Joannides had been careful to allow the administration to devise its own criteria, yet views it as her obligation to inform the parties what would or would not be deemed constitutional.

[10:29:00 AM](#)

Senator Dyson understood that some jurisdictions had chosen to recognize transsexuals as members of the gender with which they identify, rather than the gender they are biologically determined to be a part of. This has occurred even in instances where the transsexual chooses not to have surgical alterations. He asked Mr. McLeoud-Ball if he had knowledge of such situations.

Mr. McLeoud-Ball had no personal knowledge, but did not consider the issue relevant to the current discussion. The State of Alaska operates under its own constitution and must satisfy its own Equal Protection clause, which has been deemed by the courts to be broader than the federal equal protection clause, thus constitutional issues decided in another state are often not applicable to Alaska.

Senator Dyson asked whether the State could be liable to provide employment benefits to an unmarried heterosexual couple who claimed to be a transgender same-sex couple.

Mr. McLeoud-Ball clarified that the issue before the court was the State's justification of the current benefit system as an attempt to encourage marriage, and that the only group barred from marriage were same-sex couples. Therefore, nothing in the law would bar an opposite-sex couple from getting married or obtaining benefits.

[10:33:19 AM](#)

Co-Chair Green asked testifiers to provide brief comments.

[10:33:39 AM](#)

DAVE BRONSON testified via teleconference from an offnet location. He opined that the Supreme Court was acting contrary to the "will of the people", and usurping the responsibilities of the executive and legislative branches of government. He aligned himself with Mr. Clarkson's comments, and agreed that the idea of giving benefits to every eligible employee and one designated beneficiary is "two steps forward" while the court's approach has taken "three steps back". The current proposal would be an additional burden to the PERS and TRS systems, and it would be appropriate to challenge the courts and "say no". Both SJR 20 and HJR 32 were attempts to remedy this situation

that failed to pass the legislature last year. He urged Members to side with "the people" rather than the Court and reject the implementation of benefits for same-sex couples.

[10:37:41 AM](#)

JIM MINNERY, Alaska Family Council, testified via teleconference from an offnet location. He would not support the implementation of benefits, and alleged the Supreme Court was overstepping its authority. He continued that it is important to recall that Colorado had allowed for benefits to be provided across the board for every state employee and their designated beneficiary. That proposal was not supported by the groups seeking same-sex benefits, as those groups were looking not for benefits, but for "affirmation" of their lifestyle. He assumed that the Marriage Amendment indicated the "people's" opinion on same-sex employee benefits as well as marriage. He concluded that critical public policy should not be addressed hurriedly in a special legislative session.

[10:40:17 AM](#)

Co-Chair Green interjected that the retroactivity clause in the bill applies only to subsection (a) of Sec.44.21.015.Regulations prohibited., not to subsection(b) which provides for the penalty.

[10:40:59 AM](#)

DAN WAYNE, Attorney, Division of Legal and Research Services, Legislative Affairs Agency, testified via teleconference that he was available to answer questions.

[10:41:11 AM](#)

Co-Chair Green noted that a written testimony had been received from Ms. Badgett.

LEE BADGETT, University of California Los Angeles Law School, testified via teleconference from an offnet location. She indicated she would confine her testimony to the regulations developed by the Department of Administration. She qualified that, as an economist studying domestic partner benefits for more than a decade, she considered the criteria "quite stringent". Additionally, the level of documentation required by

the State of Alaska is unprecedented. It would impose a burden on those seeking benefits, and they would likely incur monetary costs to the applicants.

Ms. Badgett noted that the cost increase estimates accompanying the bill were markedly greater than her own. Her estimates were based on census and state of Alaska Retirement & Benefits records, and came in much lower than the State's estimates. While the two estimates are similar the first year of benefits, the State's estimate balloons over time. She expected the additional cost to be less than \$1.4 million per year. She shared that her estimates were similar to consultants hired by the State, in terms of both projected enrollment increases and cost increases. She anticipated cost increases would be "much lower" than the Department of Administration estimates.

Co-Chair Green asked the percentage increase in Ms. Badgett's calculations.

Ms. Badgett replied that she projected the increase in enrollment to be less than one half of one percent, and likely as low as 0.1 or 0.3 percent to 0.5 percent.

[10:45:23 AM](#)

Senator Dyson assumed that in the future, the issue of incestuous relationships would arise. He anticipated that polygamous families "similarly situated" to same-sex couples would petition the State for access to employment benefits for all members of the family under the Equal Protection clause of the state constitution. He referenced a similar situation currently under consideration in Canada, and asked how the State could avoid such a circumstance.

Ms. Badgett classified herself as an economist rather than an attorney, and deferred to lawyers for a legal opinion on that issue. To her knowledge, however, that occurrence is quite rare, and benefits had not been implemented in cases where that had arisen. She did not expect the State would encounter such a situation upon adoption of the regulations, as the Canadian case was the only one she knew of that had been well documented.

[10:47:34 AM](#)

NANCY HOMSTEAD, testified via teleconference from an offnet location. She agreed with Lieutenant Governor Leman that the Court lacked the authority to require a benefit regulation when the Marriage Amendment seemed to contradict the claim that same-sex employment benefits must be provided. She furthered that the intended denial of benefits was part of the Marriage Amendment vote in 1998. The issue should be returned to the voters of Alaska to clarify their intent, and she encouraged the Senate to delay implementation. She warned that "the situation in Canada" could occur in Alaska.

JAN DEYOUNG, Chief Assistant Attorney, General-Statewide Section Supervisor, Labor and State Affairs Section, Civil Division, Department of Law, testified via teleconference from Anchorage to answer questions.

10:51:02 AM

STEVEN JACQUIER testified via teleconference from Anchorage. In response to an earlier question asking if "handcuffs and arrests" could be the result of denying the court order, he stated that they could be. He warned that, while the court does not have enforcement troops, he and other citizens may take it upon themselves to make citizens' arrests of the offending legislators and members of the administration should a court order be defied. He read his testimony as follows.

My name is Steven Jacquier; my partner and I have lived in Alaska for a combined total of 44 years while working as schoolteachers, University of Alaska professors, and small business owners. We have two children, one now in college and one in high school here in Anchorage. I am testifying on behalf of my children, my partner, and myself.

This is sheer-wedge issue politics, targeting a small group. A group which does much good and no harm in Alaska.

Just as women should receive pay equal with that of men for performing equal work, we Alaskans in long-standing, committed relationships raising children and contributing with our labor, all while being barred from marriage, absolutely have paid in equally and fully earned treatment equal with that accorded our married co-workers. This bigoted effort hurts Alaska's families and kids. Like a

parasite it brings more grief, expense and suffering the bigger it is allowed to grow.

In seeking to perform an end run on the justice of Alaska's courts, in order to subvert the ruling for equal treatment under the law, some members of this legislature are attempting to turn married Alaskan co-workers in to parasites. Yes, parasites. Parasites benefiting at the expense of others by unfairly leeching off the labor of co-workers with families. Respectable people and good neighbors, good Christians do not embrace being like tapeworms.

Pandering to prejudice, some members of this legislature are trying to target same-sex families and their children for special discriminatory exclusions. Instead of protecting equality and citizens rights, this effort would strip away equal treatment and unjustly target a specific group, unmarried families, for harm while creating special privileges for others, married families, thus effectively forcing married co-workers and their families to become parasites upon unmarried co-workers with families and committed same-sex relationships.

Only hypocrites who give lip service to ideals of "small government" and "equality under the law" while intruding their own personal and religious prejudices into their neighbors' lives would support this ugly effort. Hypocrites and parasites do not make for good co-workers, nor good neighbors, nor a healthy Alaska. Such parasites are without any shred of fairness, honor, or dignity. Legislators and others who embrace being parasites should not even think about trying to claim the high moral ground on this issue. Alaska's courts have ruled, and the commissioner of administration is able to implement the ruling. For shame, people. Please stop this heinous pandering now, and let us all just live in peace. Thank you.

[10:55:36 AM](#)

BARBARA BELNAP, President, Juneau chapter, National Organization for Women (NOW), testified against the bill. She urged the Committee to allow the court ruling to stand. The government of South Africa recently announced it would recognize same-sex marriages and civil unions, stating that the government had

labored to abolish racial discrimination and could not ignore discrimination based on sexual preference. While numerous states in America have passed laws prohibiting same-sex marriage, more than half of the largest corporations in the country, as well as some city and state governments, offer benefits to same-sex couples. The Alaska State Constitution affords equal protection to all. The court is not legislating from the bench but is rather upholding the constitution.

[10:57:55 AM](#)

MARSH BUCK, Parents, Families and Friends of Lesbians and Gays (PFLAG) Juneau, urged the Committee to oppose this legislation. She communicated that the implementation of same-sex partner benefits by January 1, 2007, made "financial sense", as it is less of a monetary burden to the state to provide benefits than to provide services to uninsured Alaskans. Another financial concern is the possibility of being found in contempt of court and fined accordingly. She stressed that other minority groups of society, including ethnic minorities and those with disabilities, have received benefits, and advised the Committee to provide the court ordered benefits to same-sex couples.

[11:01:11 AM](#)

LIN DAVIS, Plaintiff in the aforementioned lawsuit, and employee of the Department of Labor and Workforce Development, urged the Committee to contest this legislation. She is in a committed, loving relationship with her partner of more than 18 years, who is nine years her junior. Ms. Davis has been a State employee for ten years, and does not receive the same pay as her heterosexual co-workers who enjoy employment and retirement benefits for their spouses. Her partner was laid off after 13 years of State employment, and her COBRA health insurance extension would expire in March of 2007. This illustrates the importance of the January 1, 2007 implementation deadline.

Ms. Davis, as a dedicated employee at the Juneau Job Center, does not believe she receives the same "stewardship and dedication" from the State that she provides through her work. Her father worked for General Electric (GE) most of his life and left his company stock to Ms. Davis upon his death. She displayed GE's 2005 stock report, which included offering same-sex partner benefits as one of the company's five methods for growth. The Alaska Permanent Fund is invested in GE, a company

which has proven that offering same-sex partner benefits is good for business and good for the bottom line. She urged the legislature to follow GE's example of providing partner benefits.

BEN KRALL, provided written testimony [copy on file], read by his mother Cindy Boesser as follows. .

I am Ben Krall. I am 11-years-old, and was born and raised in Juneau. I would like to testify against giving you any more time to do what you need to do. You just need to give the benefits to all of the people of Alaska who deserve them for the work they do.

It does not matter whether you like them or not. It doesn't matter whether you think how they are is o.k. It doesn't even matter if you think you can afford it or not. That's not the point! It's just about it being what you owe them for the work they do.

I just finished my first big paying job last week, walking my neighbor's dog for a month, and she paid me what it was worth. She wouldn't have cared if I liked girls or boys, because I don't really care about either, and because that really had nothing to do with my work or my pay. She didn't talk about whether she had enough money to do it, either. That would be crazy. She had asked me to work, and I had done the job.

I have good friends who are lesbians and gays. One lesbian couple has two sweet babies I've helped babysit this summer. They are really responsible parents, and take good care of those girls. And they both are hard workers, too, but only one works for the State. They deserve to have full benefits for their work. Their kids need benefits, too. And the couple needs to be able to take care of each other, too.

My dad works for the State of Alaska and gets benefits, but my mom doesn't work enough hours with the city to get benefits. Mom had her thyroid taken out last month, so I've been hearing the talk about expensive doctors, and about insurance. What if they were a lesbian couple? Then she wouldn't have been able to use Dad's insurance, and we'd

owe like \$15,000.00! We don't have that much, and I bet lots of gay and lesbians probably don't either.

I am really disgusted with the Governor for wasting all that money on flying you all down here because he and his prejudiced gang think they know better than the Supreme Court. The court thought a lot about their decision. They did their homework. They decided these people deserve the benefits because our Constitution says so. That's good enough for me, and I bet it's good enough for most people, unless they let their prejudice get in the way. All that needs to be done is to just give the workers their benefits. It's a no-brainer.

[11:08:35 AM](#)

CINDY BOESSER, responded to remarks regarding "the will of the people". She was raised in the South, and assumed that if "the will of the people" had dictated the law, rather than the Constitution, African-Americans would still be without legal rights. As the former director of a childcare center in Juneau, she experienced an approximate 80 percent turnover rate until she was able to provide benefits to employees. After benefits were offered to employees, the turnover was almost nonexistent. She urged the Committee to oppose the legislation.

Senator Dyson indicated he had submitted an amendment, Amendment #1 [copy on file].

Co-Chair Green requested the amendment be held until the Committee met again. [Note: the amendment received no further consideration.]

[11:12:32 AM](#)

DEBBIE JOSLIN, Delta Junction, President, Eagle Forum Alaska, testified via teleconference from Anchorage and spoke in support of the committee substitute. She opined that the court was legislating from the bench. She did not support providing benefits to same sex couples. She considered the legislation a "back door attempt" to achieve married status for same-sex couples. Acknowledging same-sex partnerships in this manner would lead to the "destruction of our society and our social fabric".

There being no further testifiers, public testimony was concluded.

[11:13:51 AM](#)

Senator Stedman requested an updated memorandum from the Division of Legal and Research Services regarding possible amendments. He assumed further clarification of the issues raised would be beneficial to the continued discussion.

Co-Chair Wilken spoke in support of reporting the unamended committee substitute. He urged that it be reported from Committee at the earliest possible time.

RECESS TO CALL OF THE CHAIR [11:15:32 AM](#) / [2:31:06 PM](#)

The bill was HELD in Committee.

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**ADJOURNMENT**

Co-Chair Lyda Green adjourned the meeting at [2:31:27 PM](#).