

**HB**

**226**

FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. CSHB 226(FIN)

Revision Date: \_\_\_\_\_  
Title: An Act permitting the provision of different retirement and health benefits to certain employees by differentiating  
Sponsor: Kelly Rokeberg  
Requestor: State Affairs, Health, Education & Social Services

Department Affected: All State Agencies  
BRU: All State Agencies  
Component: All State Agencies  
COMPONENT SERIAL NO. 64

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ( )	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 96) cost: \$ zero

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

The state's health insurance plan already extends coverage by statute (AS 39 30.090(a)(2)) to employees, their spouses, and their eligible dependent children.

Prepared by Robert F. Stalnaker *Robert F. Stalnaker* Phone 465-4470  
Division Retirement & Benefits Date \_\_\_\_\_

Approved by Commissioner Mark Boyer *Mark Boyer*  
Agency Department of Administration Date 1/31/96

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# SENATE COMMITTEE REPORT

## First Committee of Referral

DATE: 3/8/96

FURTHER: *has no further*

DATE TURNED INTO OFFICE: 3-26-96

The Judiciary Committee considered CS FOR HOUSE BILL NO. 226(FIN) am

Permitting the provision of different retirement and health benefits to certain employees by differentiating between benefits provided to employees with spouses or children and to other employees.

and recommends:

be replaced with CS HB 226 (JUD)

adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)

attached amendment(s)

adopt Letter of Intent by \_\_\_\_\_ Committee

further referral to the \_\_\_\_\_ Committee

Senate Bill:

same title

new title

House Bill:

same title

technical title

new: SCR# \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Linda Green</i>	<input checked="" type="checkbox"/>	<i>[Signature]</i>		<input checked="" type="checkbox"/>	
<i>Linda Miller</i>	<input checked="" type="checkbox"/>	<i>[Signature]</i>			
		<i>[Signature]</i>	<input checked="" type="checkbox"/>		
CHAIR: <i>[Signature]</i>		CHAIR: _____			

**NEW FISCAL NOTE(S):**

Department	Date	Zero	Fiscal

**PREVIOUS FISCAL NOTE(S):\***

Department	Date	Zero	Fiscal
<del>11500</del>	<del> </del>	<del> </del>	<del> </del>

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

# POSITION PAPER ~ Opposing CS-226 ~ March 25, 1996

## Against Marital Discrimination in University Health Benefits

**Organization:** Committee for Equality -- Statewide organization.  
PO Box 34202, Juneau, AK 99803

**Board Contacts:** Anchorage: Jackie Buckley, 279-5001 (w); 279-5437 (fax); 562-0046 (h).  
Fairbanks: Louise Barnes, 479-0618 (w/h).  
Juneau: Sara Boesser, 581-5230 (w); 789-7450 (home fax); 789-9604 (h).

**Position:** CFE Opposes House CS-226 as written, because it attacks State Human Rights Statute by discriminating on the basis of marital status. Either amend this bill as recommended by the courts to extend health benefits to financially interdependent partners, or stop it in this committee now.

Committee for Equality opposes CS-226 as written. There is not a financial or legal reason to pass a bill such as this. The court decision it addresses is under appeal, and this body should not interfere in that process. Rather than attack state human rights law, as this bill now does, it would serve all Alaskans better to follow the court's initial ruling and extend benefits to all financially interdependent domestic partners.

It is important for you to know that coverage for domestic partners would not cost the state money. In fact, it could well save money, because by allowing more employees to pay for the health care coverage of their financially interdependent partners, more Alaskans would be covered by private insurance, and there would be fewer citizens left to seek Medicaid at state expense.

Studies at universities and businesses across the country show that extending domestic partner health benefits does not lead to large numbers of people joining the health care plan or to significantly increased premium costs. You have access to studies done by many businesses and universities. All find from 1-3% increase in enrollment -- with no negligible premium increase. AETNA serves over 25 universities and businesses, and their study finds only 2% enrollment increase the first year, and less than 1% each year following; AETNA sees no increase in premiums as a result of domestic partners inclusion.

So -- amending this bill to include domestic partners could get more people off Medicaid and paying for their health care coverage -- at no premium increase.

Opponents to domestic partner health care coverage have stated many concerns that in the end don't stand up to research.

For example, Representative Kolly in the past attempted to suggest that the domestic partners language discriminated on the basis of economic status. In fact, since CS-226 addresses *employees* (not indigent people, not unemployed people), any *employee* regardless of income level could qualify for at least five of the domestic partner criteria -- all that is needed for domestic partner status -- at no cost. So for employees, there is no economic barrier to receiving health benefits for a domestic partner.

And to claims that the domestic partner list of criteria is too lax -- look again. It is actually more stringent than marriage requirements. For example, married persons do not have to live together -- in fact they can live in different countries and still give each other health benefits. And as to the issue of "fraud" potential with domestic partner benefits -- the current married person benefits program already experiences fraud -- with people claiming to be married when they're not, and with people continuing to claim marriage status even after they're divorced. Fraud is fraud -- it can be dealt with equally for any form of relationship.

At another House hearing, it was further suggested that the domestic partners language might somehow discriminate on the basis of race, or on the number of children a person might have. It is unfathomable what was meant by such comments. Because, once again, 226 deals with all employees. It would not deal with employees of only certain races, or those with only certain numbers of children, receiving health benefits for their domestic or married partners. Quite the contrary: with the domestic partners' amendment, it would clearly say the university must offer health benefits to *all* employees' married or domestic partners. All. Equally. That's what a good law would do -- treat all financially interdependent couples fairly, without special benefits only for married people.

[continues]

I hope you are aware that this issue is not rare in America. You have access to a lengthy and fast-growing list of jurisdictions, companies and colleges that have some form of domestic partnership benefits. Universities on the list include Columbia University, General Theological Seminary, Harvard, Teachers College in New York, Thomas Jefferson University and Hospital, University of Washington, Yale, and many others. Companies offering health benefits range from phone companies like Nynex Corp, to breweries like Coors, to Children's Hospital of Boston, to Dow Chemical, Xerox Corp, and even to the Walt Disney Company. Why are benefits extended? A Nynex phone company spokesman says, "this helps us retain and attract the best employees."

I would hope you'd recognize that extending domestic partner benefits would thereby actually increase the value of the University system, while discriminatory bills like 226 lessen the program when good employees look elsewhere to find employment. If pro-family companies like Walt Disney can see this, I'm sure you can too.

One final but very important point. The Alaska Legislature is extending its ethics bill coverage to include the domestic partners of lobbyists. Thus the state finally recognizes that domestic partners are equivalent to married persons in regards to the ethics of lobbying. So, to be ethical in health benefits at the University, domestic partners should be considered equivalent as well.

In conclusion: CS-226 as written is a bad bill, and unnecessary due to court actions at this time. You can do the public and the legislature a favor by either amending it for domestic partner benefits as recommended by the courts, or by letting it die, today. Save the state money by not passing a bad bill that would cause more court cases to arise. The legislature does not need unnecessary contentious bills before it when matters of genuine concern need its time and attention. Refocus your energies. Hold hearings on bills that would intentionally protect people from physical violence -- such as the Governor's Domestic Violence Bill -- instead of spending time on a bill like this that intentionally attacks the physical well-being of Alaskan citizens.



# Alaska State Legislature

Please enter into the record my testimony to the Senate Judiciary  
 committee name  
 committee on HB 226, dated 25 March 96  
 bill/subject

*I ask your support of HB 226.  
 Employers need their burden (put on them by govt) lightened.*

Signed: Mark N. Moldenhauer MARK N. MOLDENHAUER  
 Testifier

Representing (Optional)

PO Box 595 Sterling, Ak. 99672

Address

262-9319

Phone No.

SENATE CS FOR CS FOR HOUSE BILL NO. 226(JUD)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
NINETEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered:  
Referred:

Sponsor(s): REPRESENTATIVES KELLY, Rokeberg

A BILL

FOR AN ACT ENTITLED

1 "An Act permitting the provision of different retirement and health benefits to  
2 certain employees by differentiating between benefits provided to employees with  
3 spouses or children and to other employees."

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

5 \* Section 1. AS 18.80.220(a) is amended to read:

6 (a) Except as provided in (c) of this section, it [IT] is unlawful for

7 (1) an employer to refuse employment to a person, or to bar a person  
8 from employment, or to discriminate against a person in compensation or in a term,  
9 condition, or privilege of employment because of the person's race, religion, color, or  
10 national origin, or because of the person's age, physical or mental disability, sex, marital  
11 status, changes in marital status, pregnancy, or parenthood when the reasonable demands  
12 of the position do not require distinction on the basis of age, physical or mental  
13 disability, sex, marital status, changes in marital status, pregnancy, or parenthood;

14 (2) a labor organization, because of a person's sex, marital status,

1 changes in marital status, pregnancy, parenthood, age, race, religion, physical or mental  
2 disability, color, or national origin, to exclude or to expel a person from its membership,  
3 or to discriminate in any way against one of its members or an employer or an  
4 employee:

5 (3) an employer or employment agency to print or circulate or cause to  
6 be printed or circulated a statement, advertisement, or publication, or to use a form of  
7 application for employment or to make an inquiry in connection with prospective  
8 employment, that expresses, directly or indirectly, a limitation, specification, or  
9 discrimination as to sex, physical or mental disability, marital status, changes in marital  
10 status, pregnancy, parenthood, age, race, creed, color, or national origin, or an intent to  
11 make the limitation, unless based upon a bona fide occupational qualification;

12 (4) an employer, labor organization, or employment agency to discharge,  
13 expel, or otherwise discriminate against a person because the person has opposed any  
14 practices forbidden under AS 18.80.200 - 18.80.280 or because the person has filed a  
15 complaint, testified, or assisted in a proceeding under this chapter;

16 (5) an employer to discriminate in the payment of wages as between the  
17 sexes, or to employ a female in an occupation in this state at a salary or wage rate less  
18 than that paid to a male employee for work of comparable character or work in the same  
19 operation, business, or type of work in the same locality; or

20 (6) a person to print, publish, broadcast, or otherwise circulate a  
21 statement, inquiry, or advertisement in connection with prospective employment that  
22 expresses directly a limitation, specification, or discrimination as to sex, physical or  
23 mental disability, marital status, changes in marital status, pregnancy, parenthood, age,  
24 race, religion, color, or national origin, unless based upon a bona fide occupational  
25 qualification.

26 • Sec. 2. AS 18.80.220 is amended by adding new subsections to read:

27 (c) Notwithstanding the prohibition against employment discrimination on the  
28 basis of marital status or parenthood under (a) of this section,

29 (1) an employer may, without violating this chapter, provide greater  
30 health and retirement benefits to employees who have a spouse or dependent children  
31 than are provided to other employees;

32 (2) a labor organization may, without violating this chapter, negotiate

1 greater health and retirement benefits for employees of an employer who have a spouse  
2 or dependent children than are provided to other employees of the employer.

3 (d) In this section, "dependent child" means an unmarried child, including an  
4 adopted child, who is dependent upon a parent for support and who is either

5 (1) less than 19 years old;

6 (2) less than 23 years old and registered at and attending on a full-time  
7 basis an accredited educational or technical institution recognized by the Department of  
8 Education; or

9 (3) of any age and totally and permanently disabled.

# Alaska State Legislature

REPRESENTATIVE  
PETER KELLY

Mailing Address:  
119 N. Cushman, Suite 203  
Fairbanks, Alaska 99701  
(907) 456-8161



White in Juneau  
State Capitol  
Juneau, Alaska  
99801-1182  
(907) 465-2327

House District 3:

## House Of Representatives

March 19, 1996

### Memorandum

To: Senator Robin Taylor, Chairman  
Senate Judiciary Committee

From: Representative Pete Kelly *Pete*

Re: HB 226, Draft CS.

Enclosed is a blank committee CS for your consideration.

This draft answers two questions initially posed by the Alaska Human Rights Commission. First it replaces the word "different" with "greater." The bill now reads:

"an employer may, without violating this chapter, provide greater health and retirement benefits to employees who have a spouse or dependent children than provided to other employees;"

Secondly the blank CS add a definition of "dependent children" excerpted from the employee benefits portion of Title 14. This definition reads:

- (d) In this section, "dependent child" means an unmarried child, including an adopted child, who is dependent upon a parent for support and who is either
- (1) less than 19 years old;
  - (2) less than 23 years old and registered at and attending on a full-time basis an accredited educational or technical institution recognized by the Department of Education; or
  - (3) of any age and totally and permanently disabled."

I believe these changes address important concerns raised in discussion of the bill on the floor of the House.

cc: Representative Caren Robinson

9-LS0595D  
Cramer  
3/15/96

SENATE CS FOR CS FOR HOUSE BILL NO. 226( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
NINETEENTH LEGISLATURE - SECOND SESSION

BY

Offered:  
Referred:

Sponsor(s): REPRESENTATIVES KELLY, Rokeberg

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11 status, changes in marital status, pregnancy, or parenthood when the reasonable demands  
12 of the position do not require distinction on the basis of age, physical or mental  
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1 changes in marital status, pregnancy, parenthood, age, race, religion, physical or mental  
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3 or to discriminate in any way against one of its members or an employer or an  
4 employee;

5 (3) an employer or employment agency to print or circulate or cause to  
6 be printed or circulated a statement, advertisement, or publication, or to use a form of  
7 application for employment or to make an inquiry in connection with prospective  
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10 status, pregnancy, parenthood, age, race, creed, color, or national origin, or an intent to  
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17 sexes, or to employ a female in an occupation in this state at a salary or wage rate less  
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7 basis an accredited educational or technical institution recognized by the Department of  
8 Education; or

9 (3) of any age and totally and permanently disabled.

# Alaska State Legislature

REPRESENTATIVE  
PETER KELLY

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Alaska State Capitol  
Juneau, Alaska  
99801-4100  
(907) 463-2222  
House District 01

## House Of Representatives

### Sponsor Statement

#### HB 226

House Bill 226 protects the rights of employers, employees and unions, including the State, to negotiate health insurance benefits as they choose.

The bill addresses a recent lower level court decision that found the University of Alaska discriminated in its benefits package because it "is compensating married employees to a greater extent than it compensates unmarried employees." (Tumeo v. UofA, p 12). The court gave the University two choices: "First it could simply refuse to provide health care coverage for spouses . . . Second . . . The University could adopt Tumeo and Anders' "Affidavit of Spousal Equivalency"." (Tumeo v. UofA, p. 18)

Thankfully, the University choose the second alternative, maintaining the benefits package for its married employees. The problem is the precedence this case sets. What will other employers do if faced with this court ruling? The court ruled in absence of any recorded legislative intent. HB 226 clearly provides future courts this intent.

The intent of HB 226 is to protect existing benefits packages from further court challenges by organized domestic partners groups. Those seeking to gain benefits for domestic partners failed to address the needs of single parents. HB 226 protects the benefits granted to single parents and married employees.

HB 226 does not prohibit employees, unions and employers from voluntarily negotiating for benefits for domestic partners. HB 226 reduces the uncertainty employers now face in planning their group insurance program.

# Alaska State Legislature

REPRESENTATIVE  
PETER KELLY

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(907) 456-6161



White House  
State Capitol  
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—  
465-2927

## House Of Representatives

### Sectional

Section 1. Provides for the exception found in Section 2. Section one contains Alaska's Human Rights laws prohibiting discrimination:

"in compensation or in a term, condition or privilege of employment because of a person's . . . marital status . . . or parental status. . . ."

Section 2. Allows (1) an employer or (2) a union to negotiate:

"different health and retirement benefits to employees who have a spouse or children than are provided to other employees."

# STATE OF ALASKA

## DEPARTMENT OF LAW

### OFFICE OF THE ATTORNEY GENERAL

April 6, 1995

Representative Cynthia Tooney  
Co-Chair, House HESS Committee  
Alaska State Legislature  
State Capitol, Room 104  
Juneau, Alaska

Re: Proposed amendment to HB 125

Dear Representative Tooney:

Nancy Jordan, the Assistant Attorney General in our Anchorage office who represents the Human Rights Commission, has proposed a suggested change to HB 125. In her opinion, the existing language of bill section 2 is too vague, because it lacks a definition of "benefits." Thus, for instance, because vacation is a benefit, under the bill as written an employer could offer extra vacation time to married employees. She believes, and I agree, that this is beyond the intent of the bill which is limited to areas such as health insurance and retirement benefits where married and unmarried employees are differently treated.

Our proposed change would replace existing bill section 2 with the following language:

- (c) Notwithstanding the prohibition against employment discrimination on the basis of marital status under (1) of this section, it is not a violation of this chapter for an employer to extend benefits only to employees, the spouses of employees, or the dependent children of employees, or for a labor organization to negotiate for or enter into a collective bargaining agreement under which the employer extends benefits only to employees, the spouses of employees, or the dependent children of employees. In this subsection "benefits" means medical insurance, retirement benefits, and supplemental employee benefits under AS 19.30.150 - 19.30.130.

The key change here is the definition of "benefits" added in the last sentence.

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

☐ 1031 WEST 4TH AVENUE, SUITE 200  
ANCHORAGE, ALASKA 99501-1993  
PHONE: 907/269-5100  
FAX: 1907/275-3697

☐ KEY BANK BUILDING  
100 CUSHMAN ST. SUITE 400  
FAIRBANKS, ALASKA 99701-4679  
PHONE: 907/451-2311  
FAX: 1907/451-2846

☐ P.O. BOX 110300-DIMOND COURT -CL  
JUNEAU, ALASKA 99811-3300  
PHONE: 1907/465-3600  
FAX: 1907/465-6725

Representative Cynthia Tooney  
Co-Chair, House HESS Committee  
Alaska State Legislature  
Proposed amendment to HB 226

April 6, 1995  
Page 2

Please feel free to contact us if you have any questions  
about this letter.

Very truly yours,

BRUCE M. BOTEHO  
ATTORNEY GENERAL

BY:

  
John B. Gaguine  
Assistant Attorney General

JBG/clh

cc: Representative Pete Kelly

Pat Pouchot  
Legislative Liaison  
Office of the Governor

Deborah Benz  
Assistant Attorney General  
Department of Law

# STATE OF ALASKA

~~WALTER CHICKEL, GOVERNOR~~

## HUMAN RIGHTS COMMISSION

300 A STREET, SUITE 204  
ANCHORAGE, ALASKA 99501-3663  
PHONE: (907) 274-3632, 276-7474  
TTY/TDD (907) 276-3177  
FAX (907) 278-8528

March 14, 1995

The Honorable Pete Kelly  
The Honorable Norman Rokeberg  
House of Representatives  
State Capitol  
Mail Stop 3101  
Juneau, Ak. 99801-1182

RE: House Bill 226 and House Bill 227

Dear Representatives Kelly and Rokeberg:

Last week's Representative Kelly's aide, Bruce Campbell, contacted the Commission's executive director and indicated that you would appreciate knowing the agency's position on House Bills 226 and 227, and any suggestions that the Commission might have. At its meeting on March 9 and 10, 1995, in Anchorage the Commission considered the legislation.

The Commissioners reviewed the bills and passed the following motion with regard to House Bill 226:

Motion: The Commission supports House Bill 226 with the following change: the term 'benefits' be clearly defined as health insurance benefits.

Motion By: Commissioner Hamilton; Second by Commissioner Dyson.  
Motion passed unanimously.

The Commission takes no position on House Bill 227 because it doesn't directly effect A.S. 18.80 e. seq. the Commission's enforcement statute. The current commission has taken this practice when considering legislation.

If you have questions, please contact either me at 745-3362 or Executive Director Paula M. Haley at 1-907-276-7474, extension 241.

Sincerely,



Edna DeVries, Chairman

# FACTS ABOUT DOMESTIC PARTNERSHIP BENEFITS

Contacts for further information:  
Fairbanks: Mark Tumeo, 474-6090  
Juneau: Sara Boesser, 586-5230  
Anchorage: Allison Mendel, 279-5001

## Domestic Partnerships are NOT the Same as Marriage

The establishment of a domestic partnership is NOT a substitute for marriage nor does it provide the same rights and privileges bestowed upon a married couple. A domestic partnership is a contractual relationship between two individuals who share long-term financial commitments with each other, and agree to share liabilities and assets. While such a contractual arrangement may provide such benefits as insurance coverage through one of the individual's employers, there are numerous rights which accrue to married couples which do not accrue to domestic partners and which cannot be gained through contractual arrangements outside marriage. Examples of some of these benefits are provided below.

### Examples of Rights and Privileges Gained Through Marriage (NOT available through Domestic Partnerships)

- Joint parenting, joint adoption, joint foster care or custody.
- Visitation status as next of kin for hospital visits.
- Dissolution and divorce protections, including child support.
- Joint insurance policies for home, auto and health.
- Immigration and residency for foreign partners.
- Inheritance in the absence of will.
- Crime victims recovery benefits.
- Rights to social security and medicare benefits.
- Veterans discounts on medical care, education and home loans.
- Joint filing of tax returns.
- Wrongful death benefits for surviving partner and children.
- Joint filing of customs claim when travelling.
- Bereavement or sick leave to care for partner or child.
- Joint leases with automatic renewal rights in event of death or departure of one partner.
- Inheritance of jointly-owned real and personal property through survivorship, avoiding taxes and probate.
- Spousal exemptions to property tax increases upon death of co-owner.

## Domestic Partnership Benefits DO NOT Cause Economic Hardship

Currently, over 50 cities or municipalities, 60 universities and 100 private companies offer domestic partnership benefits. A complete listing of these organizations is provided in the attached information. As a result of their experiences, extensive data have been collected on the economic impact of extending health benefits to unmarried domestic partners. Without exception, there has been little to no economic impact when benefits were extended. Average enrollment increases ranged between 0.3% to 2%. There have been no associated increases in insurance premiums.

Using the data collected from the extensive experience of other universities, municipalities and private companies, if the University of Alaska extended domestic partnership benefits to its approximately 6000 employees, it could realistically expect an increased enrollment of approximately 60 people (1%). At the average additional cost to the University of approximately \$150 per month, this represents a total increase of only \$108,000 per year. This is less than a 0.6% increase over the approximately \$16.7 million the University expended in FY 1994 on benefits.

# 'Domestic partners' sign up for University of Alaska benefits

By KATE RIPLEY  
Staff Writer

Of 38 University of Alaska employees who have signed up their unmarried partners for health benefits under a two-month old policy, the majority are heterosexual and most are at the Fairbanks campus.

The so-called "domestic partner" cov-

erage was created to comply with a Fairbanks Superior Court ruling that found the university's old health care plan discriminated against unmarried employees. The revamped policy has increased the university's annual health care costs by about 4 percent, or \$76,000 out of \$18 million, said Bob Miller, a university spokesman.

That percentage is slightly more than advocates for the coverage had predicted and a lot less than foes had claimed it would be.

"We had predicted fewer than 60 people would sign up. So certainly, this is within the realm of our expectation," Miller said.

The university is the only government agency in Alaska offering such benefits.

That could change if the institution is successful with its appeal of the lower court ruling. That appeal is scheduled to be heard before the Alaska Supreme Court next month.

For now, employees taking advantage of the new benefits are pleased.

"The university administration has  
See BENEFITS, Page B-2

## BENEFITS: University employees sign up

Continued from Page B-1

done everything they possibly can to put in a fair and equitable program," said Kate Wattum of Fairbanks, a public affairs assistant for the university's statewide office. "They've done a great job administering a program I'm happy with."

It was Wattum and UAF professor Mark Tumeo who forced

the university's hand in offering the benefits. The two employees sued the university in January 1994, claiming the health care benefits package discriminated against them because of their marital status. Both are unmarried but sought health-care coverage for their respective same-sex partners. The university turned them down on the

grounds the old policy did not extend to unmarried partners.

Fairbanks Superior Court Judge Mary Greene, however, agreed with Tumeo and Wattum. The judge did not require the expanded coverage but laid out several options the university could take to make its benefits package equitable. A "spousal equivalent" program was one option.

To qualify, employees must swear financial interdependence with their unmarried partner. The couples must sign a statement that they have been in an "exclusive personal relationship" with each other for at least a year and intend to continue the arrangement forever. They must live together, consider themselves members of each other's family and be responsible for their common welfare.

In addition, they must show common finances through such things as owning a house or car together, maintaining joint bank accounts or credit cards, and being listed as beneficiaries in each other's will.

The stringent requirements prevent employees from casually

signing up boyfriends and girlfriends—as it should, Tumeo said.

"Once the university got past their angst, they realized it's not a big administrative burden."

Of the 38 newly insured partners, 16 are from same-sex relationships and 22 are from opposite-sex relationships, Miller said. Of the total, 23 are in Fairbanks. The rest are in Juneau or Anchorage.

The decision to appeal Greene's ruling came from the Board of Regents. Regent Mike Kelly, who lives in Fairbanks, said a majority of the regents, but not all, feared extending benefits would drive up health care costs.

"Where does it stop? In a time when the university is undergoing extreme financial pressure, expanding the benefits beyond the traditional benefits offered is not wise," Kelly said. "Ultimately, it is about costs."

Wattum doesn't buy that argument. "Why does the university continue to fight this? It's called homophobia," she said.

Regent Kelly's brother, state Rep. Pete Kelly, sponsored legislation last winter that would render the court ruling moot. As it was originally introduced, House Bill 226 would allow employers to deny health-care benefits to an employee's unmarried partner. The bill is still in committee.



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January 29, 1996

Daniel Collison  
Southeast Gay & Lesbian Alliance  
P. O. Box 21466  
Juneau, Alaska 99802

Dear Mr. Collison:

This is in response to your request for information regarding the financially interdependent partners program instituted by the University of Alaska last year. The program has been in effect since September 1, 1995, when it was started in response to an order from the Fairbanks Superior Court. The university has said the program is interim pending the outcome of the university's appeal to the Supreme Court or a change in state law.

To date, 44 university employees have enrolled in all or part of the program. Two-thirds of them are with opposite-sex partners, and one-third are with same-sex partners. In addition to the partners, nine dependents were added.

The total number of university employees is about 3,500, and 44 represents .012%. The total number of individuals covered by the health plan is 9,000, and the total cost of providing health benefits to university employees and dependents is about \$18 million annually.

The estimated cost just for participants in the financially interdependent partners program totals about \$88,000 per year (total cost of \$18 million divided by 9,000, which comes to \$2,000 per covered employee times 44).

Briefly, the benefits program covers health issues (medical, dental, audio and visual care), life insurance, retirement and the tuition waiver program for university employees and qualified dependents.

If you have other questions, please let me know. In the meantime, thank you for your interest in the University of Alaska.

Sincerely,

Bob Miller  
Director

# THE NATIONAL LEGAL FOUNDATION

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April 11, 1995  
Via Facsimile & U.S. Mail

Representative Pete Kelly  
Alaska State Legislature  
State Capitol, Room 513  
Juneau, AK 99801

Dear Representative Kelly:

I am writing in response to your request for our opinion of the recent *Tumeo* decision and the legal effect that H.B. 226 would have on it.

First, the order of the *Tumeo* court is of course binding only on the parties to the case. The reasoning of the case however will undoubtedly be used in other cases, both in Alaska and other states, as persuasive, though not binding, authority on what constitutes marital status discrimination. Thus, *Tumeo* has far-reaching implications.

Second, the Minnesota case, *Lilly v. City of Minneapolis*, 527 N.W.2d 107 (Minn. Ct. App. 1995), is inapplicable. The *Lilly* court enjoined the city's provision of benefits to employees' same sex "domestic partners" because the court concluded that the city had no authority to provide benefits to domestic partners under state law. The case did not turn, as did *Tumeo*, on what constitutes marital status discrimination.

Third, if H.B. 226 is made law it will nullify *Tumeo*'s result. However, the nullification will be limited in its scope because it would reach only the employment area. The proposed amendment does not affect the marital status provisions of other state statutes such as the prohibition on marital status discrimination in housing.

Furthermore, H.B. 226 does not target the real danger -- *Tumeo*'s reasoning and its definition of marital status discrimination. See *Tumeo v. University of Alaska*, No. 4F-94-43, slip op. at 12-13 (Alaska, Super. Ct., 4th Judicial Dist. Jan. 11, 1995). The reason the *Tumeo* court was free to conclude that the University of Alaska had discriminated on the basis of marital status was because the legislature failed to tie the court's hands by defining what constitutes marital status discrimination. If the legislature defined marital status discrimination in all relevant

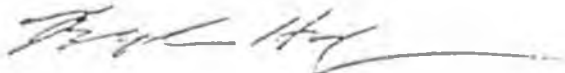
statutes in a way that did not prohibit the type of action taken by the University. *Tumelo's* result as well as its reasoning would be nullified.

For that reason, I suggest that marital status discrimination be defined in all relevant statutes as follows:

A claim of discrimination on the basis of marital status arises when an individual is denied [housing, employment, public accommodations] because that individual is married, divorced, separated, or widowed.

I trust I have been of assistance in answering your questions. Should you have further questions, please feel free to contact me.

Sincerely,



Barry C. Hodge  
Staff Attorney

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