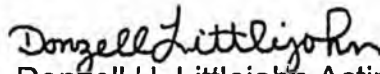


ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 8672

11347 SENATE STATE AFFAIRS

A copy of this ruling is being sent to your authorized representative pursuant to a power of attorney on file in this office. Should you have any questions pertaining to this ruling, you may contact Denise Y. Bowen (ID # 50-21343) of this office at (202) 283-9580.

Sincerely yours,


Donzell H. Littlejohn Acting Manager,
Employee Plans Technical Group 1

Enclosures:

Deleted Copy of the Ruling
Notice of Intention to Disclose, Notice 437

cc: Thomas M. Mayer
400 One Financial Plaza
Minneapolis, MN 55402

EP Area Manager Pacific Coast Area, STOP 7000
Internal Revenue Service
300 N. Los Angeles Street
Los Angeles, CA 90012-3335

Sectional Analysis
2004 Session Committee Substitutes for SB 232/HB 331
(Identical bill versions originally introduced in 2003 session)

“An Act relating to federal requirements for governmental plan and other qualifications for the teacher’s retirement system, the public employees’ retirement system, and the judicial retirement system; and providing for an effective date.”

The changes introduced with this substitute add all the changes requested by the Internal Revenue Service. It also repeals prior legislation (SB 145, 2001 Legislative Session) which would have allowed village public safety officers (VPSO) employed under the village public safety officer program to become members of the public employees’ retirement system. This repeal results directly from a specific negative Private Letter Ruling that does not allow for the inclusion of VPSOs in PERS as specified in SB 145.

Section 1 States that the purpose of this Act is that the retirement systems continue to meet governmental plan qualifications of the Internal Revenue Code. To also make changes so members can take advantage of changes in federal tax laws to better plan retirement.

Sections 2 - 15 relate to the Teachers’ Retirement System

Section 2 Makes the stipulation that no amendment to the TRS statutes are meant to provide a vested right to a benefit if the IRS determines that the amendment would result in disqualification of the plan under the Internal Revenue Code.

Section 3 Uses the broader definition of “member or member’s” versus the previous use of “teacher or teacher’s”. A member is more in line with how the IRC refers to plan participants.

(This reference change to “member(s)” versus “teacher(s)” or “employee(s)” is throughout the entire legislation.)

Section 4 Makes the claiming of BIA service optional. The prior language makes the service claim mandatory.

Section 5 Makes the reinstatement of prior service, because of a previous refund of contributions, optional. The prior language makes the reinstatement mandatory.

Section 6 Specifies member(s) rather than teacher(s) in the affected statute.

Section 7 Allows additional sections in TRS to be paid for by pre-tax transfers and contributions, not previously included.

Section 8 Further clarifies the tax law requirements relating to the purchase of service credits through a salary reduction program and conforms the statute to those rules acceptable to the IRS. It adds additional sections where contributions would be acceptable, highlights the fact that the selection is irrevocable, and when contributions must cease.

Section 9 Further clarifies the tax law requirements relating to the purchase of service credit through transfers from other plans, and the coordination required with a salary reduction program.

Section 10 Updates the sections related to purchase of service credits. Conforms this subsection to new additions in other subsections.

Section 11 Conforms the referenced section of the system statute with the IRC date of applicability.

Section 12 Conforms the referenced section of the system statute with the IRC date of applicability.

Section 13 Makes the requirement that the assumptions, factors, and methods that form the basis of actuarial adjustment factors must be specified in regulation.

Section 14 Indicates that "teacher" or "member" is intended to be used interchangeably (the purpose to reduce confusion as to whom a particular section applies to).

Section 15 Adds the definition of "prescribed rate of interest."

Sections 16 - 20 relate to the Judicial Retirement System

Section 16 Further specifies when a Judge or Justice becomes a member in JRS.

Section 17 Further specifies when the administrative director of the Alaska court system becomes a member of JRS.

Section 18 Makes the stipulation that no amendment to the JRS statutes are meant to provide a vested right to a benefit if the IRS determines that the amendment would result in disqualification of the plan under the Internal Revenue Code.

Section 19 Specifies vesting criteria in the event of termination of the JRS plan.

Section 20 Makes the requirement that the assumptions, factors, and methods that form the basis of actuarial adjustment factors must be specified in regulation.

Sections 21 - 31 relate to the Public Employees' Retirement System

Section 21 Makes the stipulation that no amendment to the PERS statutes are meant to provide a vested right to a benefit if the IRS determines that the amendment would result in disqualification of the plan under the Internal Revenue Code.

Section 22 Removes Village Public Safety Officers employed by a nonprofit regional corporation as included PERS members by virtue of their employment status with the nonprofit regional corporation.

Section 23 Further clarifies the tax law requirements relating to the purchase of service credits through a salary reduction program and conforms the statute to those rules acceptable to the IRS. It adds additional sections where contributions would be acceptable, highlights the fact that the selection is irrevocable, and when contributions must cease.

Section 24 Further clarifies the tax law requirements relating to the purchase of service credit through transfers from other plans, and the coordination required with a salary reduction program.

Section 25 Removes the requirement for a member to cash out their account if they have less than five years of service and less than \$1,000 in their refundable balance.

Section 26 Part of the coordinated VPSO changes.

Section 27 Conforms the referenced section of the system statute with the IRC date of applicability.

Section 28 Conforms the referenced section of the system statute with the IRC date of applicability.

Section 29 Makes the requirement that the assumptions, factors, and methods that form the basis of actuarial adjustment factors must be specified in regulation.

Section 30 Part of the coordinated VPSO removal. Removes a nonprofit regional corporation who employees VPSOs as an eligible employer.

Section 31 Part of the coordinated VPSO removal.

Uncodified Law Changes related to indicated plans

Section 32 A reviser's instruction to change a section title in PERS related to the taxation of benefits.

Section 33 Stipulates when certain statute changes related to the credited service purchases under PERS and TRS apply. Notification requirements to the reviser of statutes.

Section 34 Conforms the dates of certain sections in the retirement systems related to the rollover distributions and rollover contributions to tax law requirements.

Effective Date

Section 35 Immediate effective date of the Act.

STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION

DIVISION OF RETIREMENT AND BENEFITS

FRANK H. MURKOWSKI, GOVERNOR

PO BOX 110203
JUNEAU, AK 99811-0203
TDD: (907) 465-2805
FAX: (907) 465-3086
PHONE: (907) 465-4460
TOLL-FREE 1-800-821-2251

February 9, 2004

The Honorable Gary Stevens, Chair
Senate State Affairs Committee
Alaska State Legislature
State Capitol
Juneau, Alaska 99801-1182

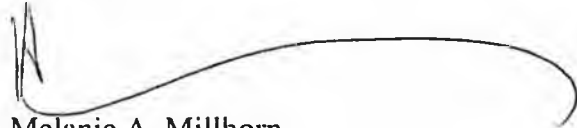
RE: Committee Substitute for Senate Bill 232
Federal requirements related to retirement system plan qualification

Dear Mr. Chair:

The Committee Substitute for Senate Bill No. 232 places into law those changes to the statutes of the Alaska Public Employees' Retirement System, Alaska Teachers' Retirement System, and the Alaska Judicial Retirement System that are required as result of a detailed review of each plan by the Internal Revenue Service. These changes must be implemented so that all three plans remain proper qualified plans under the Internal Revenue Code.

The changes in the original bill and this Committee Substitute do not add new benefits that have not been provided for previously. It also does not increase costs to the state, political subdivisions, and school districts, if the legislation is adopted in the form submitted.

Sincerely,



Melanie A. Millhorn
Director \ Plan Administrator

MAM/nn

cc: Raymond Matiashowski
Deputy Commissioner

Kevin Jardell
Assistant Commissioner

Anselm Staack
Chief Financial Officer

FRANK H. MURKOWSKI
GOVERNOR
GOVERNOR@GOV.STATE.AK.US



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

P.O. Box 110001
JUNEAU, ALASKA 99811-0001
(907) 465-3500
FAX (907) 465-3532
WWW.GOV.STATE.AK.US

May 20, 2003

The Honorable Gene Therriault
President of the Senate
Alaska State Legislature
State Capitol, Room 107
Juneau, AK 99801-1182

Dear President Therriault:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to federal requirements for governmental plan qualifications for the teachers' retirement system, the public employees' retirement system, and the judicial retirement system, as required by the federal Internal Revenue Service.

This bill also would further implement changes that allow retirement system members to selectively transfer pre-tax money, or make additional contributions, to repay indebtedness and to purchase permissible service credits in the Alaska retirement systems. These changes would allow members to better plan their retirement and to make their financial future more secure. Taking advantage of such tax law provisions would strengthen the retirement systems in a cost-effective manner.

Sincerely,

A handwritten signature in cursive script that reads "Frank H. Murkowski".

Frank H. Murkowski
Governor

SESSION ADDRESS:
Alaska State Capitol
Juneau, Alaska 99801-1182
(907) 465-4925
Fax: (907) 465-3517
Toll Free: 1-800-821-4925

Senator Gary Stevens

Alaska State Legislature

INTERIM ADDRESS:
112 Mill Bay Road
Kodiak, Alaska 99615
(907) 486-4925
Fax: (907) 486-5264



facsimile transmittal

To: *Leg. Legal* Fax: *2029*
From: *Katrina Srothberg* Date: *2/11/04*
Re: *Sen. A. Stevens office* Pages: *16*
CC:

Urgent For Review Please Comment Please Reply Please Recycle

Can I please get a Senate State Affairs final CS based on this work draft. The Committee made no changes to this version.

*Thank you,
Katrina
4713*

CS FCR SENATE BILL NO. 232(STA)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Offered:
Referred: Finance
Sponsor: Senate Rules Committee by Request of the Governor

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to federal requirements for governmental plan and other qualifications**
2 **for the teachers' retirement system, the public employees' retirement system, and the**
3 **judicial retirement system; and providing for an effective date."**

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

5 *** Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
6 to read:

7 **PURPOSE.** (a) The purpose of this Act is to

8 (1) assure that the teachers' retirement system, the public employees'
9 retirement system, and the judicial retirement system continue to meet governmental plan
10 qualifications set by the Internal Revenue Service so that those plans may qualify for
11 favorable federal tax treatment; and

12 (2) implement changes in those retirement systems for members to take
13 advantage of changes in federal tax laws to better plan their retirement.

14 *** Sec. 2.** AS 14.25.010(b) is amended to read:

1 (b) The retirement system established by this chapter is intended to qualify
2 under 26 U.S.C. 401(a) and 414(d) (Internal Revenue Code) as a qualified retirement
3 plan established and maintained by the state for its employees, for the employees of
4 school districts and regional educational attendance areas in the state, and for the
5 employees of other employers whose participation is authorized by this chapter and
6 who participate in this system. No amendment to this chapter provides any person
7 with a vested right to a benefit if the Internal Revenue Service determines that
8 the amendment will result in disqualification of the plan under the Internal
9 Revenue Code.

10 * Sec. 3. AS 14.25.050(a) is amended to read:

11 (a) Except as provided in (c) of this section, beginning January 1, 1991, each
12 teacher or member shall contribute to the system an amount equal to 8.65 percent of
13 the member's [TEACHER'S] base salary accrued from July 1 to the following
14 June 30. The employer shall deduct the contribution from the member's
15 [TEACHER'S] salary at the end of each payroll period and it shall be credited by the
16 system to the member contribution account. The contributions shall be deducted
17 from employee compensation before the computation of applicable federal taxes and
18 shall be treated as employer contributions under 26 U.S.C. 414(h)(2). A member may
19 not have the option of making the payroll deduction directly in cash instead of having
20 the contribution picked up by the employer.

21 * Sec. 4. AS 14.25.060(a) is amended to read:

22 (a) If a member first joined the system [SERVICE] before July 1, 1990, and
23 has military service or Alaska Bureau of Indian Affairs (BIA) service, or if a member
24 joined the system before July 1, 1978, and has creditable outside service, the member
25 may claim this service. If the member claims the service, the member is indebted
26 to the system as follows:

27 (1) At the time of first becoming a member of the system, the arrearage
28 indebtedness is seven percent of the base salary multiplied by the total number of
29 years of creditable outside, military, and Alaska BIA service. The administrator shall
30 add compound interest at the rate prescribed by regulation to the arrearage
31 indebtedness beginning July 1, 1963, or at the time the member first becomes eligible

1 to claim the service, whichever is later, to the date of payment or the date of
2 retirement, whichever occurs first.

3 (2) If a member terminates from the system and is subsequently
4 reemployed as a member, the arrearage indebtedness to the system for outside,
5 military, or Alaska BIA service accumulated in the interim is seven percent of the base
6 salary upon reentering membership service, multiplied by the number of years of
7 interim outside, military, and Alaska BIA service. Compound interest at the rate
8 prescribed by regulation shall be added to the arrearage indebtedness beginning July 1,
9 1963, or the date of reemployment as a member, whichever is later, to the date of
10 payment or the date of retirement, whichever occurs first.

11 * Sec. 5. AS 14.25.062 is amended to read:

12 Sec. 14.25.062. Reinstatement indebtedness. A member [TEACHER] who
13 has received a refund of contributions in accordance with AS 14.25.150 forfeits
14 corresponding credited service under this chapter. A member may elect to
15 reinstate credited service associated with the refund by repaying the total amount
16 of the refund. If an election is made under this section, an indebtedness [IS
17 INDEBTED] to the system in the amount of the total refund shall be established.
18 Compound interest at the rate prescribed by regulation shall be added to the
19 reinstatement indebtedness from the date of the refund to the date of repayment or the
20 date of retirement, whichever occurs first.

21 * Sec. 6. AS 14.25.070 is amended to read:

22 ~~Sec. 14.25.070. Contributions by employer. An employer shall contribute to~~
23 ~~the system an amount equal to the percentage, as certified by the administrator, of the~~
24 ~~sum total of the base salaries of all members [TEACHERS] that is required in~~
25 ~~addition to member [TEACHER] contributions to provide the benefits of this chapter~~
26 ~~times the sum total of the base salaries paid to members [TEACHERS], including any~~
27 ~~adjustments to contributions required by AS 14.25.173(a), by the employer.~~

28 * Sec. 7. AS 14.25.075(a) is amended to read:

29 (a) An employee who is eligible to purchase credited service under
30 AS 14.25.047 or 14.25.048, a member who is eligible to purchase credited service
31 under AS 14.25.048, 14.25.050, 14.25.060 [AS 14.25.060], 14.25.061, 14.25.062,

1 [OR] 14.25.100, or 14.25.107, or a teacher who is eligible to purchase credited service
2 under AS 14.20.345, AS 14.25.050, 14.25.062, or 14.25.105 [IS A MEMBER FOR
3 PURPOSES OF THIS SECTION. A MEMBER], in lieu of making payments directly
4 to the system, may elect to have the member's employer make payments as provided
5 in this section.

6 * Sec. 8. AS 14.25.075(b) is amended to read:

7 (b) A member may elect to have the employer make payments for all or any
8 portion of the amounts payable for the member's purchase of credited service through
9 a salary reduction program as follows:

10 (1) the amounts paid under a salary reduction program are in lieu of
11 contributions by the member making the election; the electing member's salary or
12 other compensation shall be reduced by the amount paid by the employer under this
13 subsection [SECTION];

14 (2) the member shall make an irrevocable election under this
15 subsection [SECTION] to purchase credited service as permitted in AS 14.20.345,
16 AS 14.25.047, 14.25.048, 14.25.050, 14.25.060, 14.25.061, 14.25.062, 14.25.100,
17 [OR] 14.25.105, or 14.25.107 before the member's termination of employment; the
18 irrevocable election must specify the number of payroll periods that deductions will
19 be made from the member's compensation and the dollar amount of deductions for
20 each payroll period during the specified number of payroll periods; the deductions
21 made under this paragraph cease upon the earliest of the member's termination
22 of employment with the employer or the member's death; amounts paid by an
23 employer under (f) of this section may not be applied toward the payment of the
24 dollar amount of the deductions representing the portion of the credited service
25 that is being purchased by the member through payroll deduction in accordance
26 with the member's irrevocable election under this subsection;

27 (3) [A MEMBER WHO MAKES AN ELECTION UNDER THIS
28 SECTION TO HAVE THE EMPLOYER MAKE PAYMENTS FOR LESS THAN
29 ALL OF THE AMOUNTS PAYABLE FOR THE MEMBER'S PURCHASE OF
30 CREDITED SERVICE MAY SUBSEQUENTLY ELECT TO HAVE THE
31 EMPLOYER MAKE PAYMENTS FOR ALL OR ANY PORTION OF THE

1 REMAINING AMOUNTS PAYABLE FOR THE MEMBER'S PURCHASE OF
2 CREDITED SERVICE;

3 (4)] amounts paid by an employer under this subsection [SECTION]
4 shall be treated as employer contributions for the purpose of determining tax treatment
5 under 26 U.S.C. (Internal Revenue Code); the amounts paid by the employer under
6 this subsection [SECTION] may not be included in the member's gross income for
7 income tax purposes until those amounts are distributed by refund or retirement
8 benefit payments.

9 * Sec. 9. AS 14.25.075(f) is amended to read:

10 (f) The [TO THE EXTENT THAT A PAYMENT UNDER THIS SECTION
11 DOES NOT ALTER, AMEND, OR REVOKE ANY ONE OR MORE CURRENTLY
12 EFFECTIVE ELECTIONS MADE BY THE EMPLOYEE, THE] board may accept
13 rollover [EMPLOYEE] contributions from a member, and direct transfers as
14 described in this subsection, for the purchase, in whole or in part, of credited
15 service under this section for the reinstatement, in whole or in part, of forfeited
16 credited service in accordance with AS 14.25.062. A rollover contribution or
17 transfer as described in this subsection [, WHICH] shall [ALSO] be treated as
18 employer contributions for the purpose of determining tax treatment under the Internal
19 Revenue Code, and may be made [FOR THE PAYMENT FOR CREDITED
20 SERVICE PURCHASES MADE UNDER THIS SECTION IN WHOLE OR IN
21 PART,] by any one or a combination of the following methods:

22 (1) subject to the limitations prescribed in [26 U.S.C. 401(a)(3) AND]
23 26 U.S.C. 402(c), accepting eligible rollover distributions directly from one or more
24 retirement programs of another employer that are qualified under 26 U.S.C. 401(a) or
25 accepting rollovers directly from a member [AN EMPLOYEE];

26 (2) subject to the limitations prescribed in 26 U.S.C. 408(d)(3)(A)(ii),
27 accepting from a member [AN EMPLOYEE] conduit rollover contributions that are
28 received by the member [EMPLOYEE] from one or more conduit rollover individual
29 retirement accounts previously established by the member [EMPLOYEE];

30 (3) subject to the limitations prescribed in 26 U.S.C. 403(b)(13),
31 accepting direct trustee-to-trustee transfers of all or a portion of the accounts of the

1 member [EMPLOYEE], on or [AND] after January 1, 2002, from a tax sheltered
2 annuity described in 26 U.S.C. 403(b);

3 (4) subject to the limitations prescribed in 26 U.S.C. 457(e)(17),
4 accepting direct trustee-to-trustee transfers of all or a portion of the accounts of the
5 member [EMPLOYEE], on or [AND] after January 1, 2002, from an eligible deferred
6 compensation plan of a tax-exempt organization or a state or local government
7 described in 26 U.S.C. 457(b);

8 (5) accepting direct trustee-to-trustee transfer from an account
9 established for the benefit of the member in AS 39.30.150 - 39.30.180 (Alaska
10 Supplemental Annuity Plan).

11 * Sec. 10. AS 14.25.075(i) is amended to read:

12 (i) On satisfaction of the eligibility requirements of AS 14.20.345,
13 AS 14.25.047, 14.25.048, 14.25.050, 14.25.060, 14.25.061, 14.25.062, 14.25.100,
14 [OR] 14.25.105, or 14.25.107, the requirements of this section, and the administrative
15 filing requirements specified by the board, the system shall adjust the member's
16 credited service history and add any additional service credits acquired.

17 * Sec. 11. AS 14.25.110(k) is amended to read:

18 (k) For system fiscal years beginning after December 31, 1975, and
19 notwithstanding [NOTWITHSTANDING] any other provision of this chapter, the
20 projected annual benefit provided by this chapter and the benefit from all other defined
21 benefit plans required to be aggregated with the benefits from this system under the
22 provisions of 26 U.S.C. 415 may not increase to an amount in excess of the amount
23 permitted under 26 U.S.C. 415 at any time. In the event that any projected annual
24 benefit of a member exceeds the limitation of 26 U.S.C. 415 for a limitation year, the
25 system shall take any necessary remedial action to correct an excess accrued annual
26 benefit. The provisions of 26 U.S.C. 415, and the regulations adopted under that
27 statute, as applied to qualified defined benefit plans of governmental employers are
28 incorporated as part of the terms and conditions of the system. This subsection applies
29 to any member of this system.

30 * Sec. 12. AS 14.25.165(h) is amended to read:

31 (h) Unless otherwise specified, the provisions of this section apply to calendar

1 years beginning on and after January 1, 1983 [1989].

2 * Sec. 13. AS 14.25.220(2) is amended to read:

3 (2) "actuarial adjustment" means the adjustment necessary to obtain
4 equality in value of the aggregate expected payments under two different forms of
5 pension payments, considering expected mortality and interest earnings on the basis of
6 assumptions, factors, and methods specified in regulations issued under the
7 system, which are formally adopted in accordance with AS 14.25.022 by the
8 Alaska Teachers' Retirement Board and which clearly preclude employer
9 discretion in the determination of the amount of any member's benefit [TABLES
10 SET OUT IN THE INFORMATION HANDBOOK PUBLISHED UNDER
11 AS 14.25.030(5)];

12 * Sec. 14. AS 14.25.220(42) is amended to read:

13 (42) "teacher" or "member" is used interchangeably under this
14 chapter and means a person eligible to participate in the system and who is covered
15 by the system, limited to

16 (A) a certificated full-time or part-time elementary or
17 secondary teacher, a certificated school nurse, or a certificated person in a
18 position requiring a teaching certificate as a condition of employment in a
19 public school of the state or in the Department of Education and Early
20 Development;

21 (B) a full-time or part-time teacher of the University of Alaska
22 or a person occupying a full-time administrative position at the University of
23 Alaska that requires academic standing; the approval of the administrator must
24 be obtained before an administrative position qualifies for membership in the
25 system; however, a teacher or administrative person at the university who is
26 participating in the optional university retirement program under AS 14.40.661
27 - 14.40.799 is not a member under this system;

28 (C) a state legislator who elects membership under
29 AS 14.25.040(b);

30 * Sec. 15. AS 14.25.220 is amended by adding a new paragraph to read:

31 (46) "prescribed rate of interest" means the rate of interest used for

1 computing employer contributions, for preparing actuarial tables used by the system,
2 for crediting interest to members' contributions, and for charging interest on members'
3 indebtedness accounts.

4 * Sec. 16. AS 22.25.011 is amended to read:

5 Sec. 22.25.011. Contributions of judges and justices. Each justice and
6 judge appointed after July 1, 1978, and covered as a member under the judicial
7 retirement system as of the date of the justice's or judge's appointment shall
8 contribute seven percent of the base annual salary received by the justice or judge to
9 the judicial retirement system. Contributions shall be made for all creditable service
10 under this chapter up to a maximum of 15 years. This contribution is made in the
11 form of a deduction from compensation, at the end of each payroll period, and is made
12 even if the compensation paid in cash to the justice or judge is reduced below the
13 minimum prescribed by law. The contributions shall be deducted from the justice's or
14 judge's compensation before the computation of applicable federal taxes and shall be
15 treated as employer contributions under 26 U.S.C. 414(h)(2). A member may not have
16 the option of making the payroll deduction directly in cash instead of having the
17 contribution picked up by the employer. Each justice and judge is considered to
18 consent to the deduction from compensation. Payment of compensation less the
19 deduction constitutes a full discharge of all claims and demands for the services
20 rendered by the justice or judge during the period covered by the payment, except as
21 to the benefits provided for under this chapter. The contributions shall be credited to
22 the judicial retirement fund established in accordance with AS 22.25.048.

23 * Sec. 17. AS 22.25.012(a) is amended to read:

24 (a) An administrative director of the Alaska court system appointed under art.
25 IV, sec. 16 of the state constitution is covered as a member under the judicial
26 retirement system as of the date of the administrative director's appointment and
27 is entitled to retirement benefits under this chapter on the terms and conditions
28 applicable to a superior court judge appointed after July 1, 1978, except that an
29 administrative director may receive retirement benefits only with service as
30 administrative director for 10 or more years.

31 * Sec. 18. AS 22.25.025 is amended to read:

1 **Sec. 22.25.025. Administration.** The commissioner of administration is
2 responsible for the administration of the judicial retirement system. The system is
3 intended to qualify as a governmental plan established and maintained by the
4 government of this state for the state's employees, as permitted under 26 U.S.C.
5 414(d). The commissioner shall publish an information handbook for the system at
6 intervals as the commissioner considers appropriate. No amendment to this chapter
7 provides any person with a vested right to a benefit if the Internal Revenue
8 Service determines that the amendment will result in disqualification of the plan
9 under the Internal Revenue Code.

10 * Sec. 19. AS 22.25.048(i) is amended to read:

11 (i) If the judicial retirement system is terminated, a member whose
12 contributions have not been refunded, regardless of the member's employment
13 status at the date of the termination of the system, shall be considered fully vested
14 in the member's adjusted accrued retirement benefits as of the date of the
15 termination of the system. If, upon termination of the system, all liabilities are
16 satisfied, any excess assets arising from erroneous actuarial computation shall revert to
17 the employer.

18 * Sec. 20. AS 22.25.900(1) is amended to read:

19 (1) "actuarial equivalent" means the adjustment necessary to obtain
20 equality in value of the aggregate expected payments under two different forms of
21 pension payments, considering expected mortality and interest earnings on the basis of
22 assumptions, factors and methods specified in regulations issued under the
23 system, which are formally adopted in accordance with AS 22.25.027 by the
24 commissioner of administration and which clearly preclude employer discretion
25 in the determination of the amount of any justice's, judge's, or member's benefit
26 [TABLES REFERRED TO IN THE INFORMATION HANDBOOK PUBLISHED
27 UNDER AS 22.25.025];

28 * Sec. 21. AS 39.35.010(c) is amended to read:

29 (c) The retirement system established by this chapter is intended to qualify
30 under 26 U.S.C. 401(a) and 414(d) (Internal Revenue Code) as a qualified retirement
31 plan established and maintained by the state for its employees and for the employees

1 of political subdivisions, public corporations, and public organizations of the state, and
2 for the employees of other employers whose participation is authorized by this chapter
3 and who participate in this system. No amendment to this chapter provides any
4 person with a vested right to a benefit if the Internal Revenue Service determines
5 that the amendment will result in disqualification of the plan under the Internal
6 Revenue Code.

7 * Sec. 22. AS 39.35.120 is amended to read:

8 Sec. 39.35.120. Commencement of participation. (a) An employee of the
9 state shall be included in this system upon commencement of employment with the
10 state, or on January 1, 1961, whichever is later. Unless an employee has elected to
11 participate in the optional university retirement program under AS 14.40.661 -
12 14.40.799, an employee of a political subdivision or public organization that becomes
13 an employer shall be included in the system on the effective date of the employer's
14 participation or the date of the employee's commencement of employment with the
15 employer, whichever is later. [UNLESS THE VILLAGE PUBLIC SAFETY
16 OFFICER WAIVES COVERAGE UNDER AS 39.35.127, A VILLAGE PUBLIC
17 SAFETY OFFICER EMPLOYED UNDER THE VILLAGE PUBLIC SAFETY
18 OFFICER PROGRAM ESTABLISHED IN AS 18.65.670 IS INCLUDED IN THIS
19 SYSTEM ON THE EFFECTIVE DATE OF THIS BILL SECTION OR UPON THE
20 OFFICER'S COMMENCEMENT OF EMPLOYMENT WITH THE EMPLOYER,
21 WHICHEVER IS LATER.]

22 (b) Inclusion in the system is a condition of employment for an employee
23 except as otherwise provided for

- 24 (1) an elected official;
25 (2) an employee making an election under AS 39.35.150(b); and
26 (3) an employee of the university who has elected to participate in the
27 optional university retirement program under AS 14.40.661 - 14.40.799 [; AND
28 (4) A VILLAGE PUBLIC SAFETY OFFICER EMPLOYED BY A
29 NONPROFIT REGIONAL CORPORATION AS SET OUT IN AS 39.35.127].

30 * Sec. 23. AS 39.35.165(b) is amended to read:

31 (b) An employee may elect to have the employer make payments for all or any

1 portion of the amounts payable for the employee's purchase of credited service
2 through a salary reduction program as follows:

3 (1) the amounts paid under a salary reduction program are in lieu of
4 contributions by the employee making the election; the electing employee's salary or
5 other compensation shall be reduced by the amount paid by the employer under this
6 subsection;

7 (2) the employee shall make an irrevocable election under this section
8 to purchase credited service as permitted in AS 39.35.310, 39.35.330, 39.35.340,
9 39.35.342, 39.35.345, 39.35.350, 39.35.360, 39.35.370, 39.35.375, or 39.35.381 and
10 before the employee's termination of employment; the irrevocable election must
11 specify the number of payroll periods that deductions will be made from the
12 employee's compensation and the dollar amount of deductions for each payroll period
13 during the specified number of payroll periods; the deductions made under this
14 paragraph cease upon the earliest of the member's termination of employment
15 with the employer or the member's death; amounts paid by an employer under
16 (f) of this section may not be applied toward the payment of the dollar amount of
17 the deductions representing the portion of the credited service that is being
18 purchased by the member through payroll deduction in accordance with the
19 member's irrevocable election under this subsection;

20 (3) [AN EMPLOYEE WHO MAKES AN ELECTION UNDER THIS
21 SECTION TO HAVE THE EMPLOYER MAKE PAYMENTS FOR LESS THAN
22 ALL OF THE AMOUNTS PAYABLE FOR THE EMPLOYEE'S PURCHASE OF
23 CREDITED SERVICE MAY SUBSEQUENTLY ELECT TO HAVE THE
24 EMPLOYER MAKE PAYMENTS FOR ALL OR ANY PORTION OF THE
25 REMAINING AMOUNTS PAYABLE FOR THE EMPLOYEE'S PURCHASE OF
26 CREDITED SERVICE;

27 (4) amounts paid by an employer under this subsection [SECTION]
28 shall be treated as employer contributions for the purpose of determining tax treatment
29 under the Internal Revenue Code; the amounts paid by the employer under this
30 subsection [SECTION] may not be included in the member's gross income for income
31 tax purposes until those amounts are distributed by refund or retirement benefit

1 payments.

2 * Sec. 24. AS 39.35.165(f) is amended to read:

3 (f) The [TO THE EXTENT THAT A PAYMENT UNDER THIS SECTION
4 DOES NOT ALTER, AMEND, OR REVOKE ANY ONE OR MORE CURRENTLY
5 EFFECTIVE ELECTIONS MADE BY THE EMPLOYEE, THE] board may accept
6 rollover [EMPLOYEE] contributions from a member and direct transfers, as
7 described in this subsection, for the purchase, in whole or in part, of credited
8 service or for the reinstatement, in whole or in part, of forfeited credited service
9 in accordance with AS 39.35.350. A rollover contribution or transfer as
10 described in this subsection [, WHICH] shall also be treated as employer
11 contributions for the purpose of determining tax treatment under the Internal Revenue
12 Code, and may be made [FOR THE PAYMENT FOR CREDITED SERVICE
13 PURCHASES MADE UNDER THIS SECTION IN WHOLE OR IN PART,] by any
14 one or a combination of the following methods:

15 (1) subject to the limitations prescribed in [26 U.S.C. 401(a)(3) AND]
16 26 U.S.C. 402(c), accepting eligible rollover distributions directly from one or more
17 retirement programs of another employer that are qualified under 26 U.S.C. 401(a) or
18 accepting rollovers directly from a member [AN EMPLOYEE];

19 (2) subject to the limitations prescribed in 26 U.S.C. 408(d)(3)(A)(ii),
20 accepting from a member [AN EMPLOYEE] conduit rollover contributions that are
21 received by the employee from one or more conduit rollover individual retirement
22 accounts previously established by the member [EMPLOYEE];

23 (3) subject to the limitations prescribed in 26 U.S.C. 403(b)(13),
24 accepting direct trustee-to-trustee transfers of all or a portion of the accounts of the
25 member [EMPLOYEE], on or [AND] after January 1, 2002, from a tax sheltered
26 annuity described in 26 U.S.C. 403(b);

27 (4) subject to the limitations prescribed in 26 U.S.C. 457(e)(17),
28 accepting direct trustee-to-trustee transfers of all or a portion of the accounts of the
29 member [EMPLOYEE], on or [AND] after January 1, 2002, from an eligible deferred
30 compensation plan of a tax-exempt organization or a state or local government
31 described in 26 U.S.C. 457(b);

1 (5) accepting direct trustee-to-trustee transfer from an account
2 established for the benefit of the member in AS 39.30.150 - 39.30.180 (Alaska
3 Supplemental Annuity Plan).

4 * Sec. 25. AS 39.35.200(b) is amended to read:

5 (b) [IF, UPON TERMINATION OF EMPLOYMENT, AN EMPLOYEE
6 HAS CREDITED SERVICE OF LESS THAN FIVE YEARS AND HAS LESS
7 THAN \$1,000 IN THE EMPLOYEE CONTRIBUTION ACCOUNT, A REFUND OF
8 THE EMPLOYEE CONTRIBUTION ACCOUNT MUST BE MADE UNLESS THE
9 EMPLOYEE INDICATES IN WRITING THAT FUTURE RETIREMENT IS
10 INTENDED AND CONTRIBUTIONS SHOULD NOT BE REFUNDED.] An
11 employee who is reemployed with an employer and whose contributions have not
12 been refunded before reemployment is not eligible for a refund.

13 * Sec. 26. AS 39.35.342(a) is amended to read:

14 (a) A [EXCEPT FOR EMPLOYMENT FOR WHICH THE EMPLOYEE
15 WAIVED COVERAGE UNDER AS 39.35.127, A] vested employee is entitled to
16 credited service for employment as a village public safety officer under the program
17 established under AS 18.65.670 for which the employee has not otherwise received
18 credited service under this system. An employee is not entitled to credited service for
19 employment as a village public safety officer unless the employee was employed as a
20 village public safety officer for at least one year. The credited service allowed may
21 not exceed an aggregate period of five years. Benefits are not payable on credited
22 service for village public safety officer service under this section unless the employee
23 makes retroactive contributions to the system for the period of time that service credit
24 is claimed.

25 * Sec. 27. AS 39.35.370(i) is amended to read:

26 (i) For system fiscal years beginning after December 31, 1975, and
27 notwithstanding [NOTWITHSTANDING] any other provision of this chapter, the
28 projected annual benefit provided by this chapter and the benefit from all other defined
29 benefit plans required to be aggregated with the benefits from this system under the
30 provisions of 26 U.S.C. 415 may not increase to an amount in excess of the amount
31 permitted under 26 U.S.C. 415 at any time. In the event that any projected annual

1 benefit of a member exceeds the limitation of 26 U.S.C. 415(g) for a limitation year,
2 the system shall take any necessary remedial action to correct an excess accrued
3 annual benefit. The provisions of 26 U.S.C. 415, and the regulations adopted under
4 that statute, as applied to qualified defined benefit plans of governmental employers
5 are incorporated as part of the terms and conditions of the system. This subsection
6 applies to any member of this system.

7 * Sec. 28. AS 39.35.371(h) is amended to read:

8 (h) Unless otherwise specified, the provisions of this section apply to calendar
9 years beginning on or after January 1, 1983 [1989].

10 * Sec. 29. AS 39.35.680(2) is amended to read:

11 (2) "actuarial adjustment" means the adjustment necessary to obtain
12 equality in value of the aggregate expected payments under two different forms of
13 pension payments, considering expected mortality and interest earnings on the basis of
14 assumptions, factors and methods specified in regulations issued under this
15 system, which are formally adopted in accordance with AS 39.35.042 by the
16 Alaska Public Employees' Retirement Board and which clearly preclude
17 employer discretion in the determination of the amount of any member's benefit
18 [TABLES REFERRED TO IN THE INFORMATION HANDBOOK PUBLISHED
19 UNDER AS 39.35.060(8)];

20 * Sec. 30. AS 39.35.680(17) is amended to read:

21 (17) "employer" means

22 (A) the State of Alaska; or

23 (B) [A NONPROFIT REGIONAL CORPORATION, BUT
24 ONLY WITH RESPECT TO VILLAGE PUBLIC SAFETY OFFICERS
25 EMPLOYED BY THE CORPORATION UNDER AS 18.65.670 WHO HAVE
26 NOT TERMINATED PARTICIPATION IN THE SYSTEM UNDER
27 AS 39.35.127; OR

28 (C)] a political subdivision or public organization of the state
29 that participates in the system;

30 * Sec. 31. AS 18.65.670(d); AS 39.35.127, and 39.35.285 are repealed.

31 * Sec. 32. The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

2 REVISOR'S INSTRUCTION. The revisor of statutes is instructed to change the
3 heading of

4 (1) AS 14.25.050 from "Contributions of teachers" to "Contributions of
5 members";

6 (2) AS 39.35.546 from "Tax exemption" to "State and federal taxation of
7 benefits."

8 * Sec. 33. The uncodified law of the State of Alaska is amended by adding a new section to
9 read:

10 APPLICABILITY OF CERTAIN CREDITED SERVICE PURCHASES UNDER
11 PUBLIC EMPLOYEES' AND TEACHERS' RETIREMENT SYSTEMS. The provisions of
12 this Act listed in (1) and (2) of this section first apply on the day after the date on which the
13 Department of Administration receives favorable rulings on the changes from the Internal
14 Revenue Service that, under 26 U.S.C. 414(h)(2), the amounts paid by the employer will not
15 be included in the member's gross income for income tax purposes until those amounts are
16 distributed by refund or retirement benefit payment:

17 (1) the changes made to AS 14.25.075(b)(4), redesignated as
18 AS 14.25.075(b)(3) by sec. 8 of this Act;

19 (2) the changes made to AS 39.35.165(b)(4), redesignated as
20 AS 39.35.165(b)(3) by sec. 25 of this Act.

21 (b) The commissioner of administration shall promptly notify the revisor of statutes of
22 the dates that the rulings described in (a) of this section were received.

23 * Sec. 34. The uncodified law of the State of Alaska enacted in sec. 49, ch. 59, SLA 2002,
24 is amended by adding a new subsection to read:

25 (f) Notwithstanding AS 14.25.177 and AS 39.35.547, the following provisions of this
26 Act are retroactive to January 1, 1993:

27 (1) AS 14.25.163, enacted by sec. 9 of this Act;

28 (2) AS 22.25.022, enacted by sec. 19 of this Act;

29 (3) AS 39.35.195, enacted by sec. 32 of this Act.

30 * Sec. 35. This Act takes effect immediately under AS 01.10.070(c).

SB

245

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SB 245
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: 02
Title An Act relating to retirement contributions and BRU Centralized Administrative Services
benefits under PERS for certain harbor officers Component Retirement and Benefits
Sponsor _____
Requester _____ Component No. 64

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
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						
CHANGE IN REVENUES ()						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0
Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

AS 24.08.036 FISCAL NOTES ON BILLS AFFECTING STATE RETIREMENT SYSTEMS requires an analysis of the long term and short term costs to the state if a bill is adopted, as well as the impact of the bill on the actuarial soundness of the funds.

PERS allows peace officers to retire with 20 years of service and non peace officers to retire with 30 years of service. SB 245 would allow harbor officers to convert past service to service as a peace officer thereby allowing them to retire 10 years earlier. The harbor officer would pay the difference between the peace officers contribution rate and the rate for "All Others" (.75%) for the inclusion of this past service. Passage of this bill would increase the employer contribution rate by approximately 0.05% of total System payroll. The employer contribution rate attributable to the harbor officers would increase by 1.80%. The change would increase the unfunded liability of the PERS by approximately \$7.1 million and decrease the funding ratio as of June 30, 2003 by .05%. See attached letter from Mercer for further explanation.

Prepared by: Melanie Millhorn, Director Phone 465-4408
Division Retirement and Benefits Date/Time 3/9/04 9:45 AM
Approved by: Mike Miller, Commissioner Date 3/9/2004
Agency Administration

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL NO. SB 245

ANALYSIS CONTINUATION

Examples of impact on PERS employers are as follows:

Note: The Department of Transportation indicates there are no State of Alaska employees impacted.

	Salaries (in 000's)	rate increase%	Annual cost (in 000's)
Juneau Borough	23,913.3	0.05%	12.0
Anchorage Municipality	117,039.4	0.05%	58.5
Fairbanks Borough	15,353.7	0.05%	7.7
North Slope Borough	43,491.2	0.05%	21.7
All other PERS Employers	\$ 125,220.1	0.05%	62.6
Total			<u>162.5</u>

AS 24.08.036 FISCAL NOTES ON BILLS AFFECTING STATE RETIREMENT SYSTEMS, requires an additional analysis of the long term and short term costs to the state if a bill is adopted, as well as the impact of the bill on the actuarial soundness of the funds. This bill would increase the average PERS contribution rate by .05% of total PERS payroll, 1.80% of harbor officer payroll. In addition, the funding ratio of the PERS as of June 30, 2002 was 75.2%. Passage of this bill would decrease the funding ratio by .05% to 75.15%.



SENATOR KIM ELTON

SB 245
Sponsor Statement

"An Act relating to retirement contributions and benefits under the public employees' retirement system of certain harbor officers."

If you think a harbor officer is just there to pump out your boat when it's sinking, think again.

Among other duties, harbor officers:

- enforce regulations on the use of parking, safe operation of boats and vehicles, and the conduct of people and animals in the harbor and harbor areas;
- have the authority to issue citations and can testify in court;
- assist police, fire and other emergency personnel in harbor-related activities;
- carry radios to stay in contact with local police, state troopers and coast guard;
- work with state troopers and fish and wildlife officers;
- are required to render aid to distressed persons along with body recovery of drowning victims;
- work with the coast guard and FBI on security issues at the port; and
- have the authority to arrest individuals for violations.

Under federal regulations, harbor officers are responsible for port security. They have training in explosives and related fields and are part of homeland security. They are responsible for the security of docks when the huge cruise ships tie up and bring visitors to Alaska communities.

Harbor officers should be given the same retirement benefits as peace officers, fire fighters and dispatchers in the Public Employees Retirement System.

ALASKA SENATE

STATE CAPITOL • JUNEAU, ALASKA 99801-1182 • (907) 465-4947 • FAX (907) 465-2108

SENATOR_KIM_ELTON@LEGIS.STATE.AK.US



SENATOR KIM ELTON

SB 245
Sectional Analysis

"An Act relating to retirement contributions and benefits under the public employees' retirement system of certain harbor officers."

Section 1. For purposes of the employee contribution rate, harbor officers are added to the same subsection as peace officers and fire fighters in the Public Employees Retirement System (PERS).

Section 2. Adds harbor officers to the group of employees who may retire with 20 years of service for a normal retirement benefit.

Section 3. Adds harbor officers to the subsection which calculates the monthly amount of the retirement benefit for peace officers and fire fighters.

Section 4. Provides harbor officers with the same kind of retirement benefit provisions as peace officers and fire fighters. This subsection is for the situation where a person suffers a greater than one third permanent disability and continues to work for a PERS employer, but not as a police officer, fire fighter or harbor officer. That person can still get normal retirement after 20 years of service.

Section 5. Allows harbor officers to opt out of the enhanced retirement status that is provided in PERS to peace officers, fire fighters and harbor officers.

Section 6. Adds a definition for "hazardous duty status" to include peace officers, fire fighters and harbor officers for PERS purposes.

Section 7. Defines harbor officer.

Section 8. This uncodified section of law allows certain persons who have past service as harbor officers to convert that service to credited under this Act.



**Alaska Association of Harbormasters
And Port Administrators**
617 Katlian St., Sitka, AK 99835
Phone: (907) 747-4877 Fax: (907) 747-6278

February 19, 2004

Senator Kim Elton
State Capitol, Room 115
Juneau, AK 99801-1182

Subject: SB245

Dear Senator Elton,

The Alaska Association of Harbormasters and Port Administrators supports providing harbor officers with the same retirement benefits afforded to peace officers, fire fighters and dispatchers.

Harbor officers often work in hazardous conditions, with little or no outside support. Tasks include fire suppression, law enforcement, search and rescue, port security and assistance to all branches of local, state and federal law enforcement in our state. Harbors and ports represent the economic heart of our communities, and are the center of many important social activities. Harbor officers are often the first or only responders to emergencies occurring within our harbors and their presence is important to the health of Alaska's communities.

Thank you for sponsoring this legislation. Please contact me at (907) 846-4981 or email to asorum@ci.valdez.ak.us if I can be of further assistance in this effort.

Sincerely,

Alan J. Sorum – MPA

President, Alaska Association of Harbormasters and Port Administrators



Alaska State Legislature

Please enter into the record my testimony to the Senate State Affairs
committee name

Committee on SB 245, dated 2/26/04
bill # / subject public hearing date

I AM The finance Director for the City of Kenai; however, I am NOT representing Kenai at this time. I AM AGAINST passage of SB 245.

The PERS SYSTEM is currently seriously underfunded - liabilities greatly exceed Assets available to pay benefits. This bill would increase costs to the PERS SYSTEM. The .75% increase in employee contribution will NOT cover the increased cost of providing benefits up to 10 years earlier. These costs will be up to employers to pay. PERS employers are already facing increases that are nearly impossible to imagine. You may know that the rate proposed by the state's PERS actuary is 24.9% - THAT IS ^{six} 6 times the City of Kenai's current rate. SB 245 will increase costs and the rate will be higher.

I also do NOT agree that Harbor officers face the same work requirements and hazards that Police and Fire members do.

Please do not pass SB 245

Signed: Larry Semmons
Testifier

Representing (optional)
36574 Markov Lake Road, Soldotna 99669
Address

283 8227
Phone number

CITY OF SEWARD
P.O. BOX 167
SEWARD, ALASKA 99664-0167



MAR 17 2004

- Main Office (907) 224-4050
- Police (907) 224-3338
- Harbor (907) 224-3138
- Fire (907) 224-3445
- City Clerk (907) 224-4046
- Engineering (907) 224-4049
- Utilities (907) 224-4050
- Fax (907) 224-4038

March 12, 2004

Senator Gary Stevens, Chair
Senate State Affairs Committee
State Capitol, Room 417
Juneau, AK 99801-1182

Re: SB245

Dear Senator Stevens,

Please accept the following comments in opposition to Senate Bill 245 allowing harbor officers to switch to the police/ fire PERS "20 years and out" retirement program at an increase cost to affected municipalities.

The City of Seward recently found out that we are UNFUNDED in the PERS by \$5,077,954. That represents 70% of the ENTIRE years general fund expenditures. In addition, we are also unfunded in the Seward General Hospital by a recently estimated amount of \$3,881,207.

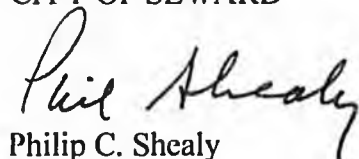
This along with the fact that I can think of no means to justify the inclusion of "harbor officers" in the status of police officer is reason enough to oppose SB245.

Harbor officers are not police and are not required to wear bullet proof vests to work. Harbor officers are like many other municipal workers, in that they are first responders to facility emergencies and then call the police. Other municipal employees have similar duties such as enforcing laws and regulations, responding to medical and other emergencies but who rely upon the police when faced with substantial risk of injury or danger to their lives.

We will be asking the city council to pass a resolution opposing SB245 at their next regular meeting but we did want to share these concerns with you as soon as possible.

Likewise, if you have any further questions regarding this matter, please feel free to contact me at your earliest convenience.

Sincerely,
CITY OF SEWARD


Philip C. Shealy
City Manager

cc: mayor and council, Kent Dawson

IN SIA
file

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES



CITY OF PETERSBURG

P.O. BOX 329 • PETERSBURG, ALASKA 99833
TELEPHONE (907) 772-4511
TELECOPIER (907) 772-3759

March 15, 2004

Senator Gary Stevens, Chair
Senate State Affairs Committee
State Capitol, Room 417
Juneau, AK 99801-1182

Re: Opposition to SB 245

File

Dear Senator Stevens:

The City of Petersburg opposes allowing harbor officers to switch to the police/fire PERS "20 years and out" retirement program. We also oppose a "local municipal option" allowing such a benefit. The duties of harbor security officers do not begin to compare to the danger faced by fire fighters and police officers.

Our harbor security officers are not required to conduct police operations in or around the harbor areas. They do not respond to police calls, rather they call the police when trouble arises. They do not investigate nor arrest criminals. They are not required to undergo a law enforcement selection process (i.e. criminal history check, background investigation, written test, psychological test, interview board, physical test, polygraph exam or medical exam). Our harbor officers do not carry weapons, nor are they trained to use weapons. Our harbor security officers are not required to maintain any form of physical ability or agility and they are not required to obtain or maintain any form of certification.

The City of Petersburg's Harbor Security employees are no different than other municipal employees who may sometime need to respond to emergencies or sometimes perform dangerous work. Responding to emergencies and performing dangerous work are not considered major components of a harbor security officer's job duties.

We urge you to retain the 20 year and out option only for certified police officers and firefighters. Allowing a "20 year and out" option for harbor security officers will only open the doors for other municipal employees to seek the benefit.

Sincerely,

Bruce R. Jones
City Manager

Facsimile Transmittal

CITY OF PETERSBURG, ALASKA
Kathy O'Rear, City Clerk
PO Box 329 / 12 South Nordic Drive
Petersburg, Alaska 99833
(907) 772 4519 ext. 23 voice
(907) 772 3759 fax
e-mail clerk@ci.petersburg.ak.us

To: Senator Stevens

From: KATHY

Fax: 465-3517

Date: 3-16-04

Re: Letter opposition - SB 245 Pages, including cover sheet: 2

Multiple horizontal lines for additional information or notes.

CITY OF SEWARD
P.O. BOX 167
SEWARD, ALASKA 99664-0167



File

- Main Office (907) 224-4050
- Police (907) 224-3338
- Harbor (907) 224-3138
- Fire (907) 224-3445
- City Clerk (907) 224-4046
- Engineering (907) 224-4049
- Utilities (907) 224-4050
- Fax (907) 224-4038

March 12, 2004

Senator Gary Stevens, Chair
Senate State Affairs Committee
State Capitol, Room 417
Juneau, AK 99801-1182

Re: SB245

Dear Senator Stevens,

Please accept the following comments in opposition to Senate Bill 245 allowing harbor officers to switch to the police/ fire PERS "20 years and out" retirement program at an increase cost to affected municipalities.

The City of Seward recently found out that we are UNFUNDED in the PERS by \$5,077,954. That represents 70% of the ENTIRE years general fund expenditures. In addition, we are also unfunded in the Seward General Hospital by a recently estimated amount of \$3,881,207.

This along with the fact that I can think of no means to justify the inclusion of "harbor officers" in the status of police officer is reason enough to oppose SB245.

Harbor officers are not police and are not required to wear bullet proof vests to work. Harbor officers are like many other municipal workers, in that they are first responders to facility emergencies and then call the police. Other municipal employees have similar duties such as enforcing laws and regulations, responding to medical and other emergencies but who rely upon the police when faced with substantial risk of injury or danger to their lives.

We will be asking the city council to pass a resolution opposing SB245 at their next regular meeting but we did want to share these concerns with you as soon as possible.

Likewise, if you have any further questions regarding this matter, please feel free to contact me at your earliest convenience.

Sincerely,
CITY OF SEWARD

Philip C. Shealy
Philip C. Shealy
City Manager

cc: mayor and council, Kent Dawson



CITY OF SEWARD
 City Manager
 P.O. BOX 167
 SEWARD, AK 99664-0167
 Phone: 907.224.4068
 Fax: 907.224.4038
 E-mail: pshealy@cityofseward.net

DATE:	March 12, 2004 (4:15PM)
FAX TO:	Senator Stevens
COMPANY:	
FAX NUMBER:	
PHONE NUMBER:	
TOTAL PAGES:	2
FROM:	Phil Shealy

Call

PHL
Call →
4/16/04



CITY OF HOMER

CITY HALL

491 E. Pioneer Avenue, Homer, AK 99603

Handwritten notes:
 [Signature]
 4/16/04

Walt Wrede, City Manager/Dean Baugh, Finance Director/Sheri Hobbs, Personnel
 907-235-8121 - 907-235-3148 fax

FAX TRANSMITTAL

TO: Senator Gary Stevens
 DATE: 3-15-04
 PAGES: 4
 RE: SB245

We are writing regarding SB245 that would allow Harbor Officers a 20 year provision the same as police and fire fighters.

We feel that allowing Harbor Officers to retire at 20 years instead of 30 puts an additional strain on the PERS budget and health insurance program.

We do not feel that our Harbor Officer job description falls in the same category of duties as police and fire fighters. We have several positions in the city with duties considered hazardous. For example our ice plant and water/wastewater operators deal with hazardous chemicals on a daily basis.

Harbor Officers are first responders. After assessing the situation they call the appropriate fire or police department as needed. Several of our departments are trained in similar procedures.

The City of Homer like other cities in Alaska is facing budget shortfalls and cannot afford additional increases in our PERS rate. We have attached a copy of our Harbor Officer job description for reference. If you have any questions please contact us.

Thank you for the opportunity to comment.

**CITY OF HOMER
JOB DESCRIPTION AND SPECIFICATIONS**

<u>HARBOR OFFICER I</u>			
Department:	Port & Harbor	Sub-Department:	Operations
Reports To:	Deputy Harbormaster	Backed Up By:	Deputy Harbormaster
Supervises:	Seasonal hires	Backs Up:	
Pay Range:	9	Classification:	Full-Time/Regular

GENERAL FUNCTIONS

Responsible for the safe and efficient operation of the Port/Harbor during assigned shift. Monitors use and security of Port/Harbor facilities.

JOB FUNCTIONS AND MAJOR ACTIVITIES

1. Responsible for security of facilities. Initiates first response for fires, vessel pumping, police assistance and medical emergencies.
2. Operates, moves and tows vessels of all sizes with Harbor vessel, operates patrol vehicle, fire pumps, cranes, forklifts and other miscellaneous equipment.
3. Responsible for enforcing applicable rules/regulations (vehicle parking, excessive wake, Port/Harbor ordinances, state/federal pollution laws). Monitors moorage, electrical usage, grid usage, float and public dock usage.
4. Assists local, state and federal agencies as required. Implements special emergency procedures as required including search and rescue and Spit evacuation.
5. Provides information to the public on facilities and regulations. Operates VHF marine, SSB marine, police and CB radios. Maintains accurate daily log.
6. Responsible for impounding (vehicles, gear, vessels) as directed and keeping facilities safe and clear of debris.

Received: _____ Approved: _____
Employee: _____ Dept. Head _____ Personnel _____ City Manager _____ (11-00)

**CITY OF HOMER
JOB DESCRIPTION AND SPECIFICATIONS - Continued**

7. Responsible for maintaining vessel stall order and grid appointment order, assists in collection of harbor fees including delinquent fees. Responsible for maintenance of vessel registration system and invoicing during "shift" and performs miscellaneous office functions.
8. Coordinate with stevedoring agency for longshore activities.
9. Performs routine, minor maintenance on port and harbor equipment and facilities as assigned by Deputy Harbormaster or Port and Harbor Director.
10. Performs related duties as assigned by Deputy Harbormaster or Port and Harbor Director.

CITY OF HOMER
JOB DESCRIPTION AND SPECIFICATIONS - Continued

SKILLS, KNOWLEDGE AND ABILITIES

Two years of marine experience with knowledge of local, state and federal laws governing marine/harbor facilities. Experience with small vessel handling required. Experience in operating small gasoline engines desirable (outboards, snow blowers, bilge pumps, fire pumps). Law enforcement experience helpful. Valid Alaska driver's license required. High School diploma or G.E.D. required. CPR, First Aid and training in basic first response firefighting within 18 months of hire.

DECISION MAKING RESPONSIBILITIES

Independent decision making required for emergency situations (police, fire, medical). Activities are a moderate source of potential liability to the City.

SUPERVISORY AUTHORITY

Responsible for supervising seasonal hires on assigned shifts.

EXTERNAL VISIBILITY/CONTACT

Has high frequency of contact with current harbor users and general public. Moderate contact with government officials (Coast Guard, police, D.E.C). Low frequency of contact with key service personnel. Required to handle questions/complaints in a tactful/professional manner.

WORKING CONDITIONS

High frequency of work in unsheltered environment with exposure to extreme cold. Moderate hazardous conditions in dealing with irresponsible or dangerous person when attempting to enforce laws/regulations. Involves lifting up to 50 pounds and working in confined or awkward spaces. Involves occasional extreme physical effort during emergency situations. Requires ability to walk up and down steep ramps. May be required to work holidays and overtime. Required to work various shifts.

Subject: SB 245 Concerns from City of King Cove
Date: Fri, 12 Mar 2004 15:42:45 -0900
From: Mark Hickey <mshickey@gci.net>
To: Douglas Letch <Doug_Letch@legis.state.ak.us>

K -
for
SB245 file

Doug,

For Gary's information. I'll be working with AML and Elton's office on this...

Mark

----- Forwarded Message

From: Clark Corbridge <ccorbridgemgr@gci.net>
Date: Fri, 12 Mar 2004 15:05:26 -0900
To: 'Mark Hickey' <mshickey@gci.net>, 'Henry Mack' <kingcovemayor@arctic.net>, 'Gary Hennigh' <GHennigh@kauaigov.com>
Subject: Harbor PERS bill info

Mark:

I very much appreciate your bringing this to our attention. Your e-mail is the first I recall hearing of SB 245.

This bill would NOT be good for King Cove. To answer the specific questions:

1. The City of King Cove does NOT support SB 245 allowing harbor officers to switch to the police/fire PERS "20 and out" program.
2. Harbor officers do not have substantially the same duties and risks as police officers in our community. Their duties are more comparable to employees in the public works arena.
3. The projected PERS cost increases would have a bad effect on the City's budget.
4. The City of King Cove would be more likely to support the bill if it involved a local municipal option, but I will need to confer with Mayor Mack and others before giving a more definitive answer.

Please let me know what further I should do to make sure King Cove's voice is heard loud and clear in this regard.

THANKS for staying on top of things like this!

Clark

MAR 26 2004

CITY OF SEWARD
P.O. BOX 167
SEWARD, ALASKA 99664-0167



- Main Office (907) 224-4050
- Police (907) 224-3338
- Harbor (907) 224-3138
- Fire (907) 224-3445
- City Clerk (907) 224-4046
- Engineering (907) 224-4049
- Utilities (907) 224-4050
- Fax (907) 224-4038

March 24, 2004

Senator Gary Stevens, Chair
Senate State Affairs Committee
State Capitol, RM 417
Juneau, AK 99801-1182

Re: SB 245

Dear Senator Stevens:

ST17
Enclosed please find a copy of City of Seward resolution 2004-33 opposing Senate Bill 245 which would make harbor officers eligible for retirement after 20 years rather than 30 years of service under the State of Alaska Public Employees Retirement System.

This resolution was unanimously approved by the Seward City Council at their regular meeting on Monday, March 22, 2004. The Council is opposed to changes in the PERS system that increases cost to employers through added employee benefits, at a time when municipalities have been told to expect five percent annual increase in the PERS rate over the next five years.

If you have any further questions regarding this matter, please feel free to contact me at your convenience at 907-224-4068.

Sincerely,
CITY OF SEWARD

Handwritten signature of Philip C. Shealy in cursive.
Philip C. Shealy
City Manager

Enclosure

cc: Representative Paul Seaton
Kent Dawson

Sponsored by: Shealy

**CITY OF SEWARD, ALASKA
RESOLUTION 2004-33**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEWARD,
ALASKA, OPPOSING SENATE BILL 245 ("SB 245") WHICH WOULD
MAKE HARBOR OFFICERS ELIGIBLE FOR RETIREMENT AFTER 20
RATHER THAN 30 YEARS OF SERVICE UNDER THE STATE OF
ALASKA PUBLIC EMPLOYEES RETIREMENT SYSTEM**

WHEREAS, the September, 2002 actuarial valuation report published by the State of Alaska Public Employees Retirement System (PERS) states that the City of Seward has an *overfunded* balance with PERS of \$622,287, but the subsequent actuarial report dated August, 2003 depicts an *unfunded liability* with PERS of \$5,077,954; and

WHEREAS, over the years, a significant portion of the increase in costs associated with PERS is the result of benefit increases approved by the State for municipal employees, and in the case of SB245, only municipalities will be impacted by added retirement-related costs; and

WHEREAS, currently the only PERS employees eligible for retirement after 20 years of service are peace officers and fire fighters, jobs which are considered hazardous by nature, and SB245 would enable harbor officers to retire after 20 years of service rather than the current requirement of 30 years of service; and

WHEREAS, SB245 is based on the premise that the job of a harbor officer is similar to that of a police officer or fire fighter and therefore justifies a "20 year and out" retirement program, but the administration feels that harbor officers are like other municipal employees who may be first responders to facility emergencies, and may enforce laws and regulations, but will then call police or fire crews when facing substantial risk of injury or danger; and

WHEREAS, the State of Alaska Department of Retirement and Benefits estimates that the annual cost of increasing PERS benefits to harbor officers will be approximately \$2,963 per employee, although that figure is arguably low given the actuarial projections for health care and retirement costs; and

WHEREAS, the administration does not support SB245 even if it were amended to allow each municipality to make its own decision as to whether or not to offer harbor officers a 20 year retirement plan because that would create disparate competition among municipalities, as well as unfair and unjustified advantages for harbor officers over other municipal employees; and

WHEREAS, the administration is opposed to changes in the PERS system that increase costs to employers through added employee benefits, at a time when municipalities have been told to expect 5% annual increases in PERS rates over the next five years, resulting in an expected annual increase in costs to the City of Seward of approximately \$186,025 in the first year, and up to \$930,000 in increased costs by the fifth year.

CITY OF SEWARD, ALASKA
RESOLUTION 2004-33

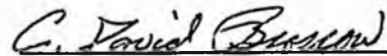
NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEWARD, ALASKA, that:

Section 1. The City Council opposes Senate Bill 245 which would make harbor officers eligible for retirement after 20 years rather than 30 years of service under the State of Alaska Public Employees Retirement System.

Section 2. This resolution shall take effect immediately.

PASSED AND APPROVED by the City Council of the City of Seward, Alaska, this 22nd day of March, 2004.

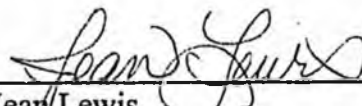
THE CITY OF SEWARD, ALASKA



C. David Brossow, Mayor

AYES: Shafer, Branson, Dunham, Clark, Valdatta, Amberg, Brossow
NOES: None
ABSENT: None
ABSTAIN: None

ATTEST:



Jean Lewis



SB

246

SENATE COMMITTEE REPORT First Committee of Referral

DATE: 1/12/04

FURTHER: Judiciary

Date of 5-Day Notice: 3/18/04
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 3/24/04

State Affairs Committee considered SENATE BILL NO. 246

SB 246 HATE CRIMES/DISCRIMINATION/TOLERANCE PROG

"An Act relating to the commission of an offense or a juvenile delinquency act involving the victim's race, sex, color, creed, physical or mental disability, sexual orientation, ancestry, or national origin; relating to sentencing, informal adjustment, and adjudication for those offenses and acts; relating to a diversity tolerance program for certain juvenile delinquency acts; relating to a civil cause of action for certain acts involving discriminatory harassment; and providing for an effective date."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
House Bill:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
DOA	3/19/04		✓		
DPS	3/22/04			✓	
Law	3/22/04			✓	
ACS	3/23/04		✓		

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
	✓			
	✓			
	✓			
CHAIR:				

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB246
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title An Act relating to the commission BRU Legal and Advocacy Services
of an offense involving victim's race.. Component Public Defender Agency
 Sponsor Senators Lincoln, Davis
 Requester (S) State Affairs Component No. 1631

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	*	*	*	*	*	*
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*	*	*	*	*	*

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	*	*	*	*	*	*
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	*	*	*	*	*	*

Estimate of any current year (FY2004) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 This bill will have a fiscal impact on the operations of the Agency, but it is impossible to determine with any accuracy what that impact will be. Creating a new "motivation by prejudice" or "hate crime" offense seeking to raise the classification and penalties for the underlying crime, will result in more serious prosecutions and trials involving Agency appointments, but it is not possible to predict how many new prosecutions or more trials this legislation will generate if enacted. Furthermore increasing mandatory minimum prison sentences for misdemeanors if circumstances indicate these offenses are hate crimes, and prohibiting SIS's will result in more misdemeanor trials because of these greater penalties, but once again, it is not possible to predict this increased number. For all of the above reasons, an indeterminate fiscal note is submitted.

Prepared by: Linda K. Wilson, Deputy Director Phone (907)-334-4416
 Division Public Defender Agency Date/Time March 19, 2004
 Approved by: Mike Miller, Commissioner Date 3/19/2004
 Agency Administration

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB246-DPS-ASTD-3-22-04
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
 Title Act Relating to Hate Crimes RDU Alaska State Troopers
 Component AST Detachments
 Sponsor Sen. Lincoln
 Requester (S) State Affairs Component No. 2325

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
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						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*
 If enacted, this bill will address several issues in law regarding charging a person with a criminal offense, sentencing that person if convicted, and establishing the capabilities of a complainant to bring a civil lawsuit against another if the action of the other person is driven by prejudice, bias, or hatred.

 Section 1 amends AS 09.55 by adding a paragraph (09.55.670) that allows an individual to bring civil action against another or against the parents or legal guardian of a minor who has caused physical injury to the individual or damage to the property of the individual with the intent to intimidate or harass the individual because of the individual's actual or perceived race, sex, color, creed, physical or mental disability, sexual orientation, ancestry, or national origin.

Prepared by: Lt. Al Storey Phone 269-4532
 Division: Alaska State Troopers Date/Time 3/22/04 10:55 AM
 Approved by: Commissioner William Tandeske Date 3/22/2004
 Agency: Department of Public Safety

FISCAL NOTE

**STATE OF ALASKA
2004 LEGISLATIVE SESSION**

BILL NO. SB246-DPS-ASTD-3-22-04

ANALYSIS CONTINUATION

Section 2 amends AS 11.76 by adding a new section that in essence establishes the law of "motivation by prejudice, bias, or hatred" if a person commits a crime in this title and the person knowingly directed the conduct constituting the crime at the victim of the crime because of the victim's actual or perceived race, sex, color, etc. The classifications of these hate based crimes would be one category up from what the core offense would normally be, i.e.. a class A misdemeanor would become a class C felony.

Section 3 through 12 of this bill address issues related to charging and sentencing those who perpetrate "hate crimes". Contained within these provisions are mandatory minimum sentences, non-suspension of sentences, and language to deal with minor offenders.

Section 13 requires Health and Social Services to develop and implement a diversity training program for minors who have been referred to the program because of "hate crime" conduct.

The Alaska State Troopers do not anticipate any fiscal impact if this proposed bill were to become law.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: SB246-LAW-CDCO-3-22
 Bill Version: SB246
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
 Title "An Act relating to the commission of an offense or a RDU CRIMINAL
juvenile delinquency act involving the victim's race, sex, color...." Component Criminal Justice Litigation
 Sponsor Senator Lincoln
 Requester Senate State Affairs Component No. _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
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						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill describes the circumstances under which an individual may maintain a civil action for discriminatory harassment and allows for the award of compensatory or punitive damages by the prevailing party. The bill also adds the crime of committing an act motivated by prejudice, bias, or hatred to the criminal code and provides for classification and sentencing for such offenses. The bill also adds a requirement to attend diversity tolerance training for juvenile delinquents who commit delinquent acts based on discrimination.

Passage of this legislation will have no foreseeable fiscal impact on the Department of Law.

Prepared by: Kathryn A. Daughhete, Director Phone 465-3673
 Division Administrative Services Date/Time 3/22/04 2:03 PM
 Approved by: Kathryn Daughhete for Gregg D. Renkes, Attorney General Date 3/22/2004
 Agency Department of Law

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB246-ACS-TC-3-23-04
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
 Title Hate Crimes/Discrimination/ PRU Alaska Court System
Tolerance Programs Component Trial Courts
 Sponsor Senator Lincoln
 Requester _____ Component No. _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*	*	*	*	*	*

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 C.F./Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	*	*	*	*	*	*

Estimate of any current year (FY2004) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*
 Senate Bill 246 makes several changes to the criminal and delinquency laws that increase the penalties for crimes that are motivated by prejudice, bias or hatred toward the victim because of the victim's actual or perceived race, sex, color, creed, physical or mental disability, sexual orientation, ancestry, or national origin. These changes will impact the court system because stiffer penalties will result in defendants more vigorously defending against the charges against them. This leads to longer and more frequent hearings and increases the chances that a case will go to trial. This is particularly likely when the stiffer penalties are tied to the proof elements associated with hate crimes. However, the extent of this impact is too speculative to support a fiscal note at this time. Should the impact prove to be significant, the court system may return to the legislature with a request for additional resources.

Prepared by: Doug Wooliver Administrative Attorney Phone 463-4750
 Division: Alaska Court System Date/Time 3/23/04 9:22 AM
 Approved by: Stephanie Cole Administrative Director by Doug Wooliver Date 3/23/2004
 Agency: Alaska Court System

Supporting Comment of SB 246

By: Don Bremner

463-7341

Good Afternoon;

On behalf of my Tlingit ancestors and many of my Elders who could not be here today I come to throw our ancestors voices behind SB 246, and to stand by the side of Senator Lincoln in putting this long over due Bill forward.

Our Nation and State has a poor track record of implementing the U.S. and Alaska State Constitutional Rights of equality, fairness and justice towards minority people. In this brief moment I will present samples and a snapshot of western society's unjust treatment of our people and this will reflect again, and again, why we support SB 246.

At the end of the presentation, you will realize like many of us that western citizenship, and the assimilation of Alaska Natives was not and is not succeeding like the hoped for American Dream.

You will see, there is pre-existing leadership and a mindset about Alaskan Natives within the U.S. Government bureaucracy and educational institutions. You will realize that my parents, grandparents, and great grandparents generation suffered greatly at the hands of the U.S. Government; Territory of Alaska; and State of Alaska. Many of you are probably aware that their grandchildren and great grandchildren continue to suffer through western systems today as a result of discriminatory systems and people in our society. We are experiencing this today in our own community.

Samples of Key Government laws and policy regarding Native education:

- Columbus on Indians: " they were "creatures," potential servants, with no religious convictions"

Source: <http://rvcc2.raritanval.edu/~bseater/nativea.htm>

- 1779- The Only Good indian is a Dead Indian- Major James Norris

"In 1779, one Major James Norris wrote in his journal, "Civilization or death to all American savages." He meant that any Native Americans who didn't become "civilized" should be killed. Andrew Jackson (1767-1845), a famous frontiersman and Indian fighter who became president allegedly said, "Better dead than red." (Indians were sometimes called "redskins.")

Source: <http://www.geobop.com/Symbols/world/na/us/history/5/>

- 1869- new directions in Government Policy- Board of Indian Commissioners

"The payment of money annuities to the Indians should be abandoned, for the reason that such payments encourage idleness and vice, to the injury of those whom it is intended to benefit. Schools should be established, and teachers employed by the government to introduce the English language in every tribe. It is believed that many of the difficulties with Indians occur from misunderstanding as to the meaning and intention of either party. The teachers employed should be nominated by some religious body having a mission nearest to the location of the school. The establishment of Christian missions should be encouraged, and their schools fostered. The pupils should at least receive the rations and clothing they would get if remaining with their families. The religion of our blessed Saviour is believed to be the most effective agent for the civilization of any people."

Source: *Annual Report of the Board of Indian Commissioners (Washington, 1869), 5-11.*

- 1880's- Charles Lummis: Indian Rights Crusader

"In the 1880s virtually everyone agreed that the only way to educate Indian children was to take them away from their homes and cut them off from their families for at least four years. At first, Charles Lummis was a believer in that approach, exemplified by the famous Carlisle Indian School in Pennsylvania. He wrote approvingly of the Carlisle School's "kill the Indian, save the child" theory of Indian education when he toured two Indian schools during his tramp across the continent in 1884. But within a year of his move to the Pueblo of Isleta, New Mexico, in late 1888, Lummis had changed his mind. Surrounded by grief-stricken parents whose children were being held against their will at the Albuquerque Indian School, cut off from their families, prevented from returning home even during summer vacations, Lummis came to regard the U.S. government's Indian education policies as an abomination."

"The first newspaper article that Lummis wrote about Indian education policy ran in the Los Angeles Times in April 1890. It was entitled "Poor Pedro, the Fate of the Indian Who Was Educated," and it began with an anecdote written in the style of a folk tale about an Isleta boy who had gone off to a government school for years and had returned to lead a tragic life as an outcast among his own people. The damage inflicted on the students was just part of the problem with the government Indian schools, Lummis asserted. "Of course the fundamental objection is the very same one that we or any other decent people would have if a superior race (self-asserted) were to come from Mars, overrun the land and force us to send our children away from home to be rid of our silly superstitions, religion and customs, and instructed in the better ways of the people of Mars," he wrote. "When I have the time and brains to do justice to so difficult a subject as this really is, you may hear from me about it."

Source: <http://www.charleslummis.com/indianrights.htm>

- Sept 21, 1887- Use of English in Indian Schools- Commissioner J.D.C. Atkins in his Annual report of 1887

"... Longer and closer consideration of the subject has only deepened my conviction that it is a matter not only of importance, but of necessity that the Indians acquire the English language as rapidly as possible. The Government has entered upon the great work of educating and citizenizing the Indians and establishing them upon homesteads. The adults are expected to assume the role of citizens, and of course the rising generation will be expected and required more nearly to fill the measure of citizenship, and the main purpose of educating them is to enable them to read, write, and speak the English language and to transact business with English-speaking people. When they take upon themselves the responsibilities and privileges of citizenship their vernacular will be of no advantage. Only through the medium of the English tongue can they acquire a knowledge of the Constitution of the country and their rights and duties thereunder."

"Deeming it for the very best interest of the Indian, both as an individual and as an embryo citizen, to have this policy strictly enforced among the various schools on Indian reservations, orders have been issued

accordingly to Indian agents, and the texts of the orders and of some explanations made thereof are given below:

DECEMBER 14, 1886.

In all schools conducted by missionary organizations it is required that all instructions shall be given in the English language.

FEBRUARY 2, 1887.

In reply I have to advise you that the rule applies to all schools on Indian reservations, whether they be Government or mission Schools. The instruction of the Indians in the vernacular is not only of no use to them, but is detrimental to the cause of their education and civilization, and no school will be permitted on the reservation in which the English language is not exclusively taught."

Source: http://www.alaskool.org/native_ed/historicdocs/use_of_english/prucha.htm

- 1898- "Carlisle Indian Industrial School newspaper, the "Indian Helper," printed a letter by Richard Henry Pratt"

"...in which he said, "Carlisle's mission is to kill THIS Indian, as we build up the better man. We give the rising Indian something nobler and higher to think about and do, and he comes out a young man with the ambitions and aspirations of his more favored white brother. We do not like to keep alive the stories of his past, hence deal more with his present and his future."

"What he meant is that teachers should "kill" Indian children's culture and make them more similar to white children, which were considered superior. Pratt's words were condensed into the motto, "Kill the Indian, save the man."

Source: <http://www.geobop.com/Symbols/world/na/us/history/5/>

We can see the pattern of how these government laws, policies, and themes were applied to the lower 48 Indian tribes. By the time education programs came to Alaska the same mindset was applied to Alaskan Natives. However, for Alaskan Natives we should begin our review by following key events that took place in my ancestor's lives;

- Alaskan Natives were allowed to be recognized citizens if they gave up all rights and practice of their Native language and culture and learned to read and write.
- 1924 Indian Citizenship Act

"Until the Indian Citizenship Act of 1924, Indians occupied an unusual status under federal law. Some had acquired citizenship by marrying white men. Others received citizenship through military service, by receipt of allotments, or through special treaties or special statutes. But many were still not citizens, and they were barred from the ordinary processes of naturalization open to

foreigners. Congress took what some saw as the final step on June 2, 1924 and granted citizenship to all Native Americans born in the United States.



President Calvin Coolidge with four Osage Indians after Coolidge signed the bill granting Indians full citizenship. Source - LOC, LC-USZ62-111409 DLC

The granting of citizenship was not a response to some universal petition by American Indian groups. Rather, it was a move by the federal government to absorb Indians into the mainstream of American life. No doubt Indian participation in World War I accelerated the granting of citizenship to all Indians, but it seems more likely to have been the logical extension and culmination of the assimilation policy. After all, Native Americans had demonstrated their ability to assimilate into the general military society. There were no segregated Indian units as there were for African Americans. Some members of the white society declared that the Indians had successfully passed the assimilation test during wartime, and thus they deserved the rewards of citizenship.

Dr. Joseph K. Dixon, an active proponent of assimilating the "vanishing race" into white society, wrote --

"The Indian, though a man without a country, the Indian who has suffered a thousand wrongs considered the white man's burden and from mountains, plains and divides, the Indian threw himself into the struggle to help throttle the unthinkable tyranny of the Hun. The Indian helped to free Belgium, helped to free all the small nations, helped to give victory to the Stars and Stripes. The Indian went to France to help avenge the ravages of autocracy. Now, shall we not redeem ourselves by redeeming all the tribes?"

So, the Indian Citizenship Act of 1924 proclaimed --

"BE IT ENACTED by the Senate and house of Representatives of the United States of America in Congress assembled, That all non citizen Indians born within the territorial limits of the United

States be, and they are hereby, declared to be citizens of the United States: Provided That the granting of such citizenship shall not in any manner impair or otherwise affect the right of any Indian to tribal or other property. (Approved June 2, 1924)"

What Citizenship Meant

Not all Native Americans viewed citizenship as something wonderful. Their experiences in dealing with Washington and the states did not give them much confidence in the government or desire to participate in it. Some tribes feared they would have to give up their own sovereignty and the federal government would deny its treaty obligations. In the words of one Native American --

"United States citizenship was just another way of absorbing us and destroying our customs and our government. How could these Europeans come over and tell us we were citizens in our country? We had our own citizenship. By its [the Citizenship Act of 1924] provisions all Indians were automatically made United States citizens whether they wanted to be so or not. This was a violation of our sovereignty. Our citizenship was in our nations."

On the other hand, there were Native Americans who saw voting as a right that had been denied to them too long. Maine was one of the last states to overturn state legal barriers to Indian voting. That rankled Henry Mitchell, an Indian canoe maker.

"The Indians aren't allowed to have a voice in state affairs because they aren't voters. All they [the politicians] have to do out there is to look out for the interests of the Indians. Just why the Indians shouldn't vote is something I can't understand. One of the Indians went over to Old Town once to see some official in the city hall about voting. I don't know just what position that official had over there, but he said to the Indian, 'We don't want you people over here. You have your own elections over on the island, and if you want to vote, go over there.'"

Did the 1924 Act really mean the end of the journey in the Native American's march to equality or was it merely a rest stop? By the time the 1924 Citizenship Act was passed, two-thirds of all Indians had already gained citizenship. And while all Native Americans were now citizens, not all states were prepared to allow them to vote. Western states, in particular, engaged in all sorts of legal ruses to deny Indians the ballot. It was not until almost the middle of the 20th century that the last three states, Maine, Arizona and New Mexico, finally granted the right to vote to Indians in their states. And the policies of the federal government towards American Indians continued to change and evolve."

Source:

http://www.nebraskastudies.org/0700/frameset_reset.html?http://www.nebraskastudies.org/0700/stories/0701_0146.html

Under normal circumstances citizenship and the right to vote would mean access and opportunity to things like a good education. But here in Alaska the Native education system was still managed from Washington, DC. and by the Commissioner of Education in Juneau.

It's amazing that schools were even built in Native communities such as Yakutat. For example, thanks to the local minister and commissioner, E.M. Axelson a small school for Natives was completed in Yakutat on Sept 20, 1929. I was surprised to find in my research that the location of the school activated the Yakutat Tlingits to petition the Commissioner of Education with a petition.

We can research and read the Governor of Alaska Reports to the Secretary of Interior from early as 1925 and we will see that regardless of having schools in Rural Alaska for Natives there was always insufficient management of the schools from Washington, DC; the Territorial Education Commissioner avoided getting involved; and there was always a shortage of operations funds and regular teachers.

In addition to issues which affected the operation of schools for Alaskan Natives there was widespread racial discrimination towards Natives which affected their acceptance and participation in the communities of which they lived. This hindered the quality of education they received.

It wasn't until 1945 the Anti-discrimination Act was passed. Prior to 1945 and even to date, our Native people were stereo-typed.

"A few lexicographers and paremiographers have also put together small lists of these invectives, and what follows is a selective number of phrases from these different sources with dates of earliest occurrence where they are available. Frequently found proverbial expressions are "To go Indian file" (1754, i.e., to walk in a single line), "To be an Indian giver (gift)" (1764), "To sing Indian" (1829, i.e., to act as one who defies death), "To do (play) the sober Indian" (1832, i.e., to remain sober or drink only very little to get the knives), "To play Indian" (1840, i.e. to not show any emotions), "To see Indians" (1850, i.e., to be in a delirium), "To turn Indian" (1862, i.e., to revert to a state of nature), "To be a regular Indian" (1925, i.e. to be an habitual drunkard), and "To be on the Indian list" (1925, i.e. to not be allowed to purchase liquor). The many proverbial comparisons repeat this negative image of the Native Americans as being of questionable ethical value: "As dirty as an Indian" (1803), "As mean as an Indian" (1843), "To yell and holler like Indians" (1844), "As wild (untameable) as an Indian" (1855), "As superstitious as an Indian" (1858), "To run like a wild Indian" (1860), "To spend money like a drunken Indian" (this text and all others stem from the late 19th century), "To stare (stand) like a wooden Indian", "Straight as an Indian's hair", "Red as an Indian", "Silent as a cigar-store Indian", "Drunker than an Indian", and "Sly as an Indian".¹¹"

Source: <http://www.utas.edu.au/docs/flonta/DP,1,1,95/INDIAN.html>

Stereo-typing acted as an accepted way to prevent Natives from being accepted in school and getting good jobs. Imagine that the 1945 Act was passed only 58 years ago. The grandchildren of these people are going through the school system today.

Mt. Edgecumbe High School was opened by the Government in 1946. A good description of why the school was built can be presented as;

“Boarding Schools: Tools of Acculturation”

“ Boarding schools were introduced as a means to acculturate all Native American groups, including Alaska Natives. The schools in fact attempted to destroy Native village life and motivate the Native population to put an end to dispersed and isolated communities based on subsistence. The relocation of Native youth was intended to break down old village patterns, patterns that could retard the development of Natives into a "disciplined reliable workforce." (Training Corporation of America, 1966)

Alaska Native students wanting to further their education were required to attend school in one of four Indian boarding schools in the lower 48: Chemawa, OR, Chilocco, OK, Carlisle, PA, and Riverside, CA”

Source: <http://transition.alaska.edu/pt3/projects/ED478/boarderline/pastmain.html#T3>

Even though schools like Mt. Edgecumbe High School were being built there was still a lack of funding for village Territorial schools as can be seen from a resolution adopted by The ANB & ANS Grand Camp Convention in Hydaburg on Nov 15, 1947.

Titled: Resolution No. 20 Entitled: “ Territorial School Subsidies”

“Whereas, native children have the right to attend public schools in the territory of Alaska as one of the paramount attributes of citizenship, and ...

“Whereas, the requested subsidy to Territorial schools can be justified on grounds not involving discrimination; namely, that the territory has not developed sufficiently to assume full financial responsibility for its school system, therefore

BE IT RESOLVED, that this convention support the request for a Federal subsidy to Alaskan Territorial schools on the grounds last stated.”

Not many people today know that funding for schools in the territory came from alcohol and tobacco taxes. Establishments that sold alcohol and tobacco fought the taxes so there was always a shortage of school operating funds, especially in and for rural Alaska.

Even when Alaska became a State in 1959 much of the debate surrounding Natives by delegates at the Fairbanks convention concluded with, “The Natives were the Governments problem.” So it’s not surprising that 11 years after Alaska Statehood president Nixon adopted new Indian policy on July 8, 1970 condemning forced

termination of Indian tribes, including Alaska Natives. This was a new direction from the government that was previously avoiding helping Native Americans.

President Nixon stated, “..we have turned from the question of *whether* the Federal government has a responsibility to Indians to the question of *how* that responsibility can best be furthered..”The Indians of America need Federal assistance- this much has long been clear. What has not always been clear, however, is that the Federal government needs Indian energies and Indian leadership if its assistance is to be effective in improving the conditions of Indian life.”

Source: Public papers of the President of the United States; Richard Nixon, 1970, pp. 564-567, 576-76.

Native education programs in Alaska have followed the same path as the lower 48 Indian education programs. So, it shouldn't have been any surprise that Alaskan Natives pressed for control and input to education programs in Alaska. John Collier, Jr. published an article in, “Cultural Influences in Alaska Native Education, Center for Northern educational Research, 1974.”

In his article he stated, “The challenge of Indian education is that we generally agree on why it has failed, but remain confused on its practical solution. Its failure is in the destructive impact of white education on Native children..”Many observers, both Indian and white, feel that removing the white teacher from the school and allowing Native culture to dominate the curriculum will solve many of the basic faults of Indian education.”

As we all know the Molly Hootch case was filed in 1972. “In August 1972, Cooke filed suit in Superior Court in Anchorage on behalf of native children and their parents in three villages in the Bethel area of Southwest Alaska (*Hootch v. Alaska State-Operated School System*, 1972). The first name on the list of 27 plaintiffs was 16-year-old Molly Hootch, from the Yukon River village of Emmonak.

Cooke filed the suit as a class action on behalf of all similarly situated native children in villages without high schools.” The case was settled out of court in 1976. “in May 1975, the Alaska Supreme Court affirmed this holding in a 4-1 decision (*Hootch*, 1975). The first claim was dead. But the state's highest court remanded the case for trial on the second claim put forward by the plaintiffs. This second claim was that the state's failure to provide local high schools in native villages constituted a pattern and practice of racial discrimination against natives in violation of the United States Constitution, federal non-discrimination laws, and the Alaska Constitution.

Attorneys for the plaintiffs, anticipating the likelihood of a remand, had already begun the laborious task of assembling evidence on the discrimination claim. While the decision

on the first claim was still pending in the State Supreme Court, I was taking sworn testimony from state officials and sifting through thousands of pages of state and federal documents. And, most importantly, I was traveling to the villages to meet with parents and children to talk about their experiences with the boarding programs.

State and territorial records from years earlier to the present suggested a simple pattern. In predominantly white communities and in native communities with more than a handful of white inhabitants, if white parents wanted their children to stay home for high school, a local program was provided. In native communities, the idea of a local high school was rarely a matter open to consideration by officials. Even the tiniest white communities, with one or two or five children of high school age, had historically been provided local high school programs. Dozens of larger native communities had not. In all, over 95% of the children coming from villages without high schools were natives; fewer than 5% were whites.

At every turn, evidence mounted of discriminatory policies and actions.” “In August 1975, as the plaintiffs’ lawyers began to step up trial preparations, Alaska Attorney General Avrum Gross advised Governor Jay Hammond to consider an expanded program of rural high school construction — the purpose, to help defend the *Hootch* case. Gross wrote that a \$20-million bond issue might help “counterbalance what a court may view as past transgressions by the State in rural education” and facilitate a settlement of *Hootch* “and thereby avoid a long and costly trial of this matter.” (*Memorandum to Gov.*, 1975, p. 3). Shortly thereafter, lawyers for the state asked the plaintiffs’ attorneys to suspend trial preparations and talk about a settlement. We agreed.”

“October 1976: court approves consent decree; the Molly Hootch case, now entitled *Tobeluk v. Lind*, is settled (*Agreement of Settlement*, 1976).”

Source: http://www.alaskool.org/native_ed/law/mhootch_erq.html

With all of this history a person might ask, “What does all this mean?”

It means what President Lyndon Johnson said in his State of the Union Address, Proposing the “Great Society” Program, on Jan 4, 1965.

- “I propose that we begin a program in education to ensure every American child the fullest development of his mind and skills. “
- “Every child must have the best education that this Nation can provide.”

It means what Theodore Roosevelt said in his “The man with the Muck Rake Speech,” on April 1906.

“The foundation stone of national life is, and ever must be, the high individual character of the average citizen.”

We can only ask that you help give our youth a first class education; to be fair-minded about their background and abilities; that you be fair in your communication with them; help them be responsible for their own lives and education; so that when they go out into society it can be said, "They are impressive!"



Senator Georgianna Lincoln

Alaska State Legislature, District C
State Capitol • Juneau, Alaska 99801-1182 • (907) 465-3737 • Fax (907) 465-2652
E-mail: Senator_Georgianna_Lincoln@legis.state.ak.us

Sponsor Statement SB 246 "Relating to the Hate Crimes"

Senate Bill 246 is being introduced to address the abomination of hate crimes in Alaska. This bill is not new. I introduced similar legislation (SB 163) during the 21st legislative session which did not make it through the process before end of session.

Crimes motivated by prejudice, bias, or hatred continue to make the headlines in our newspapers. It is inherent in our duties as leaders to take a substantive role in eliminating discrimination and fostering a climate of tolerance.

Senate Bill 246 alone cannot eliminate bias/hate –motivated crimes, but Senate Bill 246 sends the message that Alaskans will not tolerate bias/hate-motivated crime in any form.

This bill does the following:

First, it provides that a person may bring a civil lawsuit for both compensatory and punitive damages against another who has caused physical injury or damage to property, with the intent to harass the person because of actual or perceived race, sex, color, creed, physical or mental disability, sexual orientation, ancestry, or national origin. A lawsuit may be brought against the parent or legal guardian of a minor who has caused physical injury or damage if it is based on reckless conduct by the parent or legal guardian.

Second, it adopts a new crime, motivation by prejudice, bias, or hatred, AS11.76.200. It provides that any crime in Title 11 that is knowingly directed toward a victim because of the victim's actual or perceived race, sex, color, creed, physical or mental disability, sexual orientation, ancestry, or national origin, is elevated to the next higher level of offense. For example, a class B felony, such as assault in the second degree, would be a class A felony if motivated by prejudice, bias, or hatred.

Third, a sentencing court *may not* suspend imposition of sentence for a person convicted of motivation by prejudice, bias, or hatred, or convicted of any offense that is knowingly directed at a victim.

Fourth, a person convicted of a class A felony, may be sentenced to a term of imprisonment of at least five years but not more than 99 years.

Fifth, the bill establishes mandatory minimum terms of imprisonment for certain misdemeanor hate crimes that are not prosecuted under AS 11.76.200, but where the court finds clear and

convincing evidence that the offense is a hate crime. If a person is sentenced to these mandatory minimums, the sentence may not be suspended or reduced, and imposition of sentence may not be suspended.

Sixth, the bill amends the aggravating factor in sentencing felony cases directed at a victim because of crimes motivated by bias, prejudice or hatred.

Seventh, the bill requires the Department of Health and Social Services, when taking informal action in a delinquency case based on prejudice, bias, or hatred, to require the minor to perform a minimum of 100 hours of community work, and to participate in a diversity tolerance program or otherwise provide the minor and the minor's parents or guardian with the opportunity to develop respect for the ethnic, cultural, and personal diversity of all persons of the state.

This bill reflects our values and signals that crimes motivated by hate are especially reprehensible.



Senator Georgianna Lincoln

Alaska State Legislature, District C
State Capitol • Juneau, Alaska 99801-1182 • (907) 465-3737 • Fax (907) 465-2652
E-mail: Senator_Georgianna_Lincoln@legis.state.ak.us

Sponsor Statement SB 246 "Relating to the Hate Crimes"

Senate Bill 246 is being introduced to address the abomination of hate crimes in Alaska. This bill is not new. I introduced similar legislation (SB 163) during the 21st legislative session, which did not make it through the process before end of session.

Crimes motivated by prejudice, bias, or hatred continue to make the headlines in our newspapers. It is inherent in our duties as leaders to take a substantive role in eliminating discrimination and fostering a climate of tolerance.

Senate Bill 246 alone cannot eliminate bias/hate –motivated crimes, but Senate Bill 246 sends the message that Alaskans will not tolerate bias/hate-motivated crime in any form.

This bill does the following:

Provides that a person may bring a civil lawsuit for both compensatory and punitive damages against another who has caused physical injury or damage to property, with the intent to harass the person because of the individual's actual or perceived race, sex, color, creed, physical or mental disability, sexual orientation, ancestry, or national origin. A lawsuit may be brought against the parent or legal guardian of a minor who has caused physical injury or damage if it is based on reckless conduct by the parent or legal guardian.

Adopts a new crime, **motivation by prejudice, bias, or hatred**, AS11.76.200. It provides that any crime in Title 11 that is knowingly directed toward a victim because of the victim's actual or perceived race, sex, color, creed, physical or mental disability, sexual orientation, ancestry, or national origin, is elevated to the next higher level of offense. For example, a class B felony, such as assault in the second degree, would be a class A felony if motivated by prejudice, bias, or hatred.

A sentencing court *may not* suspend imposition of sentence for a person convicted of motivation by prejudice, bias, or hatred, or convicted of any offense that is knowingly directed at a victim.

A person convicted of a class A felony, may be sentenced to a term of imprisonment of at least five years but not more than 99 years.

Establishes mandatory minimum terms of imprisonment for certain misdemeanor hate crimes that are not prosecuted under AS 11.76.200, but where the court finds clear and convincing evidence that the offense is a hate crime. If a person is sentenced to these mandatory minimums,

the sentence may not be suspended or reduced, and imposition of sentence may not be suspended.

Amends the aggravating factor in sentencing felony cases directed at a victim because of crimes motivated by bias, prejudice or hatred.

Requires the Department of Health and Social Services, when taking informal action in a delinquency case based on prejudice, bias, or hatred, to require the minor to perform a minimum of 100 hours of community work, and to participate in a diversity tolerance program or otherwise provide the minor and the minor's parents or guardian with the opportunity to develop respect for the ethnic, cultural, and personal diversity of all persons of the state.

This bill reflects our values and signals that crimes motivated by hate are especially reprehensible.

Sectional Analysis for SB 246

“An Act Relating to Hate Crimes”

Section 1. AS 09.55 (Actions for Crime Victims) is amended by adding a new section (AS 09.55.670) stating that a person may bring a civil lawsuit for both compensatory and punitive damages against another who has caused physical injury or damage to property, with the intent to harass the person because of actual or perceived race, sex, color, creed, physical or mental disability, sexual orientation, ancestry, or national origin. A lawsuit may be brought against the parent or legal guardian of a minor who has caused physical injury or damage if it is based on reckless conduct by the parent or legal guardian who has custody of the minor. Certain entities such as state agencies may not be sued under this provision.

Section 2 (Criminal Law - Miscellaneous Offenses) AS 11.76 adopts a new crime, motivation by prejudice, bias, or hatred, AS 11.76.200. It provides that any crime in Title 11 that is knowingly directed toward a victim because of the victim's actual or perceived race, sex, color, creed, physical or mental disability, sexual orientation, ancestry, or national origin, is elevated to the next higher level of offense. For example, a class B felony, such as assault in the second degree, would be a class A felony if the prosecution proves that it was motivated by prejudice, bias, or hatred.

Section 3 and 4 (Criminal Law - General Provisions) AS 11.81.250 (a) and (b) are conforming amendments that provide that a predicate class A felony that is motivated by prejudice, bias, or hatred, is an unclassified felony.

Section 5 (Code of Criminal Procedure - Sentencing and Probation) AS 12.55.085 (f) provides that a sentencing court may not suspend imposition of sentence for a person convicted of motivation by prejudice, bias, or hatred, or convicted of any offense that is knowingly directed at a victim because of the victim's actual or perceived race, sex, color, creed, physical or mental disability, sexual orientation, ancestry, or national origin.

Section 6 (Code of Criminal Procedure - Sentences for imprisonment for felonies) AS 12.55.125 (b) provides that a person convicted of motivation by prejudice, bias, or hatred under AS 11.76.200, where the predicate offense is a class A felony, may be sentenced to a term of imprisonment of at least five years but not more than 99 years.

Sections 7, 8, and 9 (Code of Criminal Procedure - Sentences for imprisonment for misdemeanors) AS 12.55.135 (i) (j) and (k) establish mandatory minimum terms of imprisonment for certain misdemeanor hate crimes that are not prosecuted under AS 11.76.200, but where the court finds clear and convincing evidence that the offense is a hate crime. If a person is sentenced to these mandatory minimums, the sentence may not be suspended or reduced, and imposition of sentence may not be suspended.

Section 10 (Code of Criminal Procedure - Factors in aggravation and mitigation) AS 12.55.155 amends the aggravating factor in sentencing felony cases for conduct directed at a victim because of the victim's race, sex, color, creed, physical or mental disability,

ancestry or national origin, to add actual or perceived race, sex, color, creed, physical or mental disability, sexual orientation, ancestry, or national origin.

Section 11 (Informal action to adjust matter – delinquent minors) AS 47.12.060(b) requires the Department of Health and Social Services, when taking informal action in a delinquency case when the minor knowingly directed the conduct constituting a delinquent act at a victim because of that person's actual or perceived race, sex, color, creed, physical or mental disability, sexual orientation, ancestry, or national origin to perform community work, and to participate in a diversity tolerance program or other educational program.

Section 12 (Judgments and orders) AS 47.12.120(b) provides that in a delinquency case, if the court finds by clear and convincing evidence that the minor's delinquent act was motivated by prejudice, bias, or hatred, the court must order the minor to perform a minimum of 100 hours of community work. It also requires the court to ensure that the plan proposed for the minor by the department provides the minor and the minor's parents or guardian with an opportunity to develop respect for the ethnic, cultural, and personal diversity of all persons in the state.

Section 13 (Community Dispute Resolution Centers) AS 47.12.970 requires the Department of Health and Social Services, in cooperation with other agencies, to develop a diversity tolerance program.

Section 14 and 15 are applicability and effective date clauses.

Anchorage Police Department

Hate Crimes 1998-2002

A Hate Crime is any criminal offense committed against a person or property which is motivated, in whole or in part, by the offender's bias against race, religion, ethnic/national origin group, or sexual orientation. Crimes that meet the Uniform Crime Reporting (UCR) criteria of a Hate Crime are reported to the FBI. Incidents that appear to be Hate Crimes but do not meet the FBI's specific guidelines are classified as Hate Information Calls.

	1998	1999	2000	2001	2002
Hate Information Calls	3	2	5	5	8
UCR Hate Crimes	8	5	4	20	7
Total Incidents	11	7	9	25	15
Persons Arrested	4	5	2	5	0

UCR Hate Crime Breakdown

Race of Victim(s)		1998	1999	2000	2001	2002	
Black		0	0	0	0	1	Robbery
Black		1	2	1	2	1	Intimidation
Black		1	0	1	0	0	Aggravated Assault
Black		2	0	2	1	0	Vandalism
Indian/AK Native		0	0	0	1	1	Simple Assault
Indian/AK Native		1	0	0	8	0	Aggravated Assault
Indian/AK Native		0	0	0	1	0	Vandalism
Indian/AK Native		0	0	0	2	1	Intimidation
White		2	1	0	0	0	Aggravated Assault
White		0	0	0	1	0	Intimidation
Subtotal		7	3	4	16	4	
Ethnicity/National Origin of Victim(s)		1998	1999	2000	2001	2002	
Other Ethnicity		0	0	0	1	0	Simple Assault
Subtotal		0	0	0	1	0	
Alleged Sexual Orientation of Victim(s)		1998	1999	2000	2001	2002	
Male Homosexual		0	0	0	1	3	Aggravated Assault
Subtotal		0	0	0	1	3	
Religion of Victim(s)		1998	1999	2000	2001	2002	
Islamic		0	0	0	1	0	Aggravated Assault
Islamic		0	0	0	1	0	Intimidation
Jewish		1	2	0	0	0	Intimidation
Subtotal		1	2	0	2	0	

ANTI-DEFAMATION LEAGUE

STATE HATE CRIME STATUTORY PROVISIONS

	AL	AK	AZ	AR	CA	CO	CT	DC	DE	FL	GA	HI	ID	IL	IN	IA	KS	KY	LA	ME	MD	MA	MI	MN	MS	MO
Bias-Motivated Violence and Intimidation -- Criminal Penalty	✓	✓	✓		✓	✓	✓	✓	✓	✓	*5	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Civil Action				✓	✓	✓	✓	✓		✓	✓		✓	✓		✓			✓	✓		✓	✓	✓		✓
Race, Religion *1, Ethnicity	✓	✓	✓		✓	✓	✓	✓	✓	✓		✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Sexual Orientation			✓		✓		✓	✓	✓	✓		✓		✓		✓	✓	✓	✓	✓		✓		✓		✓
Gender		✓	✓		✓		✓	✓				✓		✓		✓			✓	✓			✓	✓	✓	✓
Disability	✓	✓	✓		✓		✓	✓	✓	✓		✓		✓		✓	✓		✓	✓		✓		✓		✓
Other *2					✓			✓		✓		✓				✓	✓		✓	✓				✓		
Institutional Vandalism	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Data Collection *3			✓		✓		✓	✓		✓			✓	✓		✓		✓	✓	✓	✓	✓	✓	✓	✓	
Training for Law Enforcement Personnel *4			✓		✓								✓		✓			✓	✓			✓		✓		

*1. The following states also have statutes criminalizing interference with religious worship: AR, CA, DC, FL, ID, MD, MA, MI, MN, MS, MO, NV, NM, NY, NC, OK, RI, SC, SD, TN, VA, WV.

*2. "Other" includes political affiliation (CA, DC, IA, LA, WV) and age (CA, DC, FL, IA, HI, KS, LA, ME, MN, NE, NM, NY, VT).

*3. States with data collection statutes which include sexual orientation are AZ, CA, CT, DC, FL, IL, IA, MD, MI, MN, NV, OR, TX and WA; those which include gender are AZ, DC, IL, IA, MI, MN, TX, WA.

*4. Some other states have administrative regulations mandating such training.

ANTI-DEFAMATION LEAGUE

STATE HATE CRIME STATUTORY PROVISIONS

	MT	NE	NV	NH	NJ	NM	NY	NC	ND	OH	OK	OR	PA	RI	SC	SD	TN	TX	UT	VT	VA	WA	WV	WI	WY
Bias-Motivated Violence and Intimidation – Criminal Penalty	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓ ^{*6}	✓	✓	✓	✓	✓	✓
Civil Action		✓	✓		✓					✓	✓	✓	✓	✓		✓	✓	✓		✓	✓	✓		✓	
Race, Religion, Ethnicity *1	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓		✓	✓	✓	✓	✓	✓
Sexual Orientation		✓	✓	✓	✓	✓	✓					✓	✓	✓			✓	✓		✓		✓		✓	
Gender		✓		✓	✓	✓	✓	✓	✓				✓	✓				✓		✓		✓	✓		
Disability		✓	✓	✓	✓	✓	✓				✓		✓	✓				✓		✓		✓		✓	
Other *2		✓				✓	✓													✓			✓		
Institutional Vandalism	✓	✓	✓		✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓				✓	✓		✓
Data Collection *3		✓			✓	✓					✓	✓	✓	✓				✓				✓	✓		
Training for Law Enforcement Personnel *4						✓						✓		✓									✓		

*5. The Georgia statute enhances criminal penalties for crimes in which the defendant "intentionally selected" the victim or property "because of bias or prejudice."

*6 The Utah statute ties penalties for hate crimes to violations of the victim's constitutional or civil rights

State by State Comparison, HCSA Reporting

STATE	2002		2001		2000		1999		1998		1997		1996		1995		1994		1993		1992		1991	
	A	B	A	B	A	B	A	B	A	B	A	B	A	B	A	B	A	B	A	B	A	B	A	B
Alabama	31	2	5	0	**	**	**	**	**	**	282	0	289	0	**	**	**	**	4	5	4	4	**	**
Alaska	1	7	1	20	1	4	1	5	**	**	1	10	1	9	1	8	1	9	1	24	**	**	**	**
Arizona	88	238	97	384	88	240	86	252	90	283	85	330	81	250	97	220	82	205	89	208	90	172	1	40
Arkansas	7	0	3	3	4	3	192	8	193	3	194	0	191	1	190	7	189	9	107	13	183	37	169	10
California	726	1,648	725	2,246	722	1,943	720	1,949	719	1,749	720	1,831	718	2,052	744	1,751	13	354	11	364	7	75	2	5
Colorado	190	96	202	126	234	101	235	148	233	128	232	113	230	133	228	149	231	173	199	170	197	258	194	128
Connecticut	84	129	98	169	97	151	98	135	94	109	59	113	90	114	94	87	89	68	39	117	23	62	29	69
Delaware	50	13	51	17	52	34	54	37	50	19	54	58	50	67	51	45	51	42	49	33	57	47	58	29
DC	2	14	2	11	1	5	1	4	1	2	1	6	1	16	1	4	1	2	1	10	1	14	**	**
Florida	409	257	491	30	491	240	483	267	464	179	580	93	394	107	411	164	370	214	374	239	374	334	**	**
Georgia	76	31	86		80	35	56	36	58	34	5	45	2	28	3	49	3	51	4	75	4	66	2	23
Hawaii	**	**	**	**	**	**	**	**	**	**	**	**	**	**	**	**	**	**	**	**	**	**	**	**
Idaho	117	43	114	34	118	45	121	34	120	58	119	46	112	72	116	114	117	79	110	70	115	54	98	33
Illinois	59	155	72	282	46	183	55	247	73	277	86	339	113	348	1	146	19	239	224	724	620	241	26	133
Indiana	163	77	143	74	166	106	143	111	150	50	139	62	179	36	164	35	89	32	52	82	5	19	1	0
Iowa	221	46	223	32	220	33	222	31	218	0	230	55	231	43	232	29	226	61	196	39	190	36	201	89
Kansas	339	55	344	71	1	42	1	41	1	54	1	55	1	28	**	**	**	**	1	0	2	3	3	6
Kentucky	341	76	336	82	317	73	251	71	264	45	213	48	527	109	513	81	5	4	3	13	2	5	**	0
Louisiana	159	15	168	10	174	12	172	6	134	10	147	4	140	6	146	7	92	9	58	23	10	13	6	0
Maine	180	36	182	32	181	28	165	22	133	57	131	57	131	58	130	75	5	7	6	32	9	19	**	**
Maryland	148	211	148	231	146	217	146	230	147	282	148	321	148	387	148	353	150	325	153	404	156	484	156	431
Massachusetts	305	430	338	584	341	458	303	443	177	431	359	441	405	454	202	333	**	**	135	343	158	424	30	200
Michigan	619	416	621	442	620	425	610	407	546	384	465	461	485	486	480	405	518	252	555	247	454	122	**	**
Minnesota	279	203	295	210	313	169	314	225	72	248	312	214	307	268	66	285	**	**	**	**	69	411	42	225
Mississippi	66	3	72	3	78	2	88	2	90	3	75	0	129	3	51	6	53	6	17	0	1	0	4	1
Missouri	144	64	85	65	186	70	209	83	212	118	194	157	230	150	157	135	155	139	81	168	17	158	18	136
Montana	93	13	102	13	102	19	86	27	77	22	85	15	95	10	6	11	2	0	18	21	**	**	**	**
Nebraska	203	74	198	53	202	17	233	35	202	52	10	3	10	3	**	**	**	**	**	**	**	**	**	**
Nevada	35	62	36	94	37	85	37	75	35	60	34	45	4	44	35	68	5	16	8	12	3	23	1	16
New Hampshire	107	27	108	27	110	32	86	20	57	16	**	**	2	24	2	3	1	0	**	**	**	**	**	**
New Jersey	557	570	561	767	564	652	565	617	565	757	567	694	568	839	568	768	559	895	317	1,101	291	1,114	271	895
New Mexico	49	15	54	20	43	15	59	16	59	31	58	24	70	44	70	24	57	4	13	4	**	**	**	**
New York	505	693	568	712	539	608	506	590	500	776	502	853	499	903	520	845	567	911	571	934	569	1,112	773	943
North Carolina	446	62	449	85	205	31	463	31	434	39	445	42	83	34	59	52	7	7	6	10	1	1	**	**
North Dakota	74	18	73	17	80	5	84	2	81	2	84	2	101	2	74	3	82	5	91	1	1	1	**	**
Ohio	400	263	363	363	348	240	351	232	344	172	304	265	405	234	321	267	266	357	128	260	26	105	30	80
Oklahoma	301	44	298	46	301	80	300	42	25	57	300	41	293	83	7	37	4	20	9	60	9	147	7	99
Oregon	172	61	174	222	171	142	239	123	167	93	171	105	174	172	243	152	206	177	279	237	279	376	39	296
Pennsylvania	849	92	770	132	933	141	1,140	185	1,127	168	1,108	168	1,137	205	1,134	282	1,044	278	1,038	391	944	432	50	277
Rhode Island	48	38	48	63	48	48	48	41	46	29	45	43	46	40	45	46	45	37	45	62	44	48	**	**
South Carolina	310	70	340	41	352	33	339	52	300	94	316	71	340	42	293	26	302	30	295	27	4	4	**	**
South Dakota	130	4	113	5	121	7	117	14	76	19	42	34	32	3	38	5	4	1	3	4	**	**	**	**
Tennessee	443	129	445	335	422	230	355	127	260	58	167	46	191	33	104	25	113	20	56	2	2	4	2	1
Texas	869	347	952	434	942	286	739	262	931	300	924	333	915	350	914	328	895	364	879	418	870	486	28	95
Utah	59	54	58	65	127	71	122	59	101	66	124	49	124	59	116	107	123	93	121	45	9	12	**	**
Vermont	57	18	57	17	43	19	43	16	37	13	20	3	33	4	19	10	18	12	**	**	**	**	**	**
Virginia	399	291	397	362	384	325	372	203	415	160	409	105	409	100	175	51	160	95	21	100	24	102	19	53
Washington	246	174	248	270	236	242	231	230	238	221	229	190	230	198	229	266	226	281	207	457	207	374	208	196
West Virginia	336	41	279	39	268	60	249	32	112	21	32	3	22	4	**	**	**	**	**	**	**	**	**	**
Wisconsin	370	32	359	61	360	47	364	49	**	**	345	50	338	43	337	45	150	140	161	19	145	67	303	41
Wyoming	31	5	35	10	67	9	68	2	33	6	38	6	70	4	59	19	60	6	49	10	5	0	**	**
TOTALS	12073	7462	11987	9730	11690	8063	12122	7876	10461	7755	11211	8049	11354	8759	9584	7947	7358	5932	6865	7587	6181	7466	27719	74558

A = Number of Agencies participating in HCSA for each state

B = Number of incidents reported by agencies in the state

** = indication that the state did not report

Compiled by the Anti-Defamation League's Washington Office from information collected by the FBI
More information about ADL's resources on response to hate violence can be found at the League's Website: www.adl.org



Municipality of Anchorage

P.O. Box 196650 • Anchorage, Alaska 99519-6650 • Telephone: (907) 343-4431 • Fax: (907) 343-4499 <http://www.muni.org>

Mayor Mark Begich

Office of the Mayor

March 9, 2004

The Honorable Georgianna Lincoln
Alaska State Senate
State Capitol, Room 11
Juneau, AK 99801

Dear Senator Lincoln:

I write to commend you for your courage in introducing Senate Bill 246 regarding hate crimes, and to express strong support for this important legislation.

As you know, hate crimes continue to plague our country and are on the increase nationally. Hate crimes perpetrated against a person or group of persons based on the actual or perceived gender, disability or sexual orientation of that person or group of persons is a significant concern within our community. Current laws are inadequate to appropriately punish individuals who engage in such shameful criminal conduct.

SB246 is a necessary tool to help fight the continuing problem of hate crimes against people because of race, religion, national origin, gender, disability or sexual orientation. It is important legislation that reflects our values and signals that crimes motivated by hate are especially reprehensible. Hate crimes are not merely crimes against an individual, but rather crimes against the entire community because such bias-motivated crimes are more likely to provoke retaliatory crimes, inflict distinct emotional harms on victims and incite community unrest. Hate crimes are also troubling because they can strike fear in people who have done nothing illegal and are only members of an identifiable group. Thus, meaningful hate crime laws are needed to punish hate crimes to the fullest extent possible, and it is part of a government's responsibility to ensure equal protection is afforded to everyone.

Hate crimes statutes are the result of legislative strategies to combat crimes specifically motivated by bias and discrimination. Such statutes generally impose an enhanced punishment for commission of certain listed crimes which were committed based on motivating factors such as discrimination and bias. Such legislation has been upheld by numerous courts, including the United States Supreme Court, provided that the statutory language and supporting evidence provide an adequate explanation for penalty-enhancement which is based on demonstrable factors beyond mere legislative disapproval of the discriminatory motivation behind hate crimes.

Community, Security, Prosperity

The Honorable Georgianna Lincoln

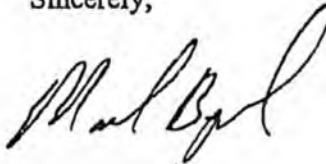
Page 2

March 9, 2004

I fully support this legislation and hope that Alaska's existing state hate crimes law is expanded to include hate crimes motivated by the victim's disability, gender or sexual orientation. By expanding this law, it would bring the city's existing hate crimes law into conformity with growing trends around the country and send a clear message that equal protection is afforded to all citizens of Alaska.

Please let me know what you intend to do, and what I can do to help you in this fight. Thank you in advance for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Begich". The signature is fluid and cursive, with the first name "Mark" and last name "Begich" clearly distinguishable.

Mark Begich
Mayor

ALASKA FEDERATION OF NATIVES
1577 "C" Street, Suite 300 – Anchorage, Alaska 99501
(907) 274-3611 Fax: (907) 276-7989

March 22, 2004

The Honorable Gary Stevens
Chair, Senate State Affairs Committee
State Capitol Room 121
Juneau, AK 99801

The Honorable Ralph Seekins
Chair, Senate Judiciary Committee
State Capitol Room 125
Juneau, AK 99801

RE: Support for SB 246 – Hate Crimes Legislation

Dear Senators Stevens and Seekins:

On behalf of the Alaska Federation of Natives, I urge you to support passage of Senate Bill 246, entitled "*An Act relating to the commission of an offense or a juvenile delinquency act involving the victim's race, sex, color, creed, physical or mental disability, sexual orientation, ancestry, or national origin; relating to sentencing, informal adjustment, and adjudication for those offenses and acts; relating to a diversity tolerance program for certain juvenile delinquency acts; relating to a civil cause of action for certain acts involving discriminatory harassment.*" This "Hate Crimes" bill was introduced by Senator Georgianna Lincoln, and is co-sponsored by Senator Davis. A similar bill (SB 163) was introduced during the 21st legislative session but the session ended before the bill could make it through the legislative process.

Hate crimes are serious, well-documented problems that remain inadequately recognized and largely unaddressed in this state. While the Alaska Legislature has condemned hate crimes (Legislative Resolve 27, July 7, 2001), and called upon the citizens of the state to likewise condemn hate crimes and racism, more needs to be done. This fact is reflected in the final report of the Commission on Tolerance, established in May 2001. That Commission held 11 public meetings around the state and heard testimony of discrimination and injustice. In December 2001, the Tolerance Commission released its report. It concluded that "Alaska's statutes regarding punishment for crimes motivated by bias or hate are limited, too lenient, and do not offer positive approaches to preventing further offenses." It went on to recommend that the legislature pass hate crimes legislation that would address crimes against individuals that are based upon race, religion, disability, national origin, gender, and sexual orientation. It recommended changes in the law that would encourage cultural diversity/sensitivity training for offenders and consideration of a separate criminal charge for hate crimes, as opposed to the current law which simply allows harsher sentences for crimes in which hate is a

Letter re: SB 246
March 22, 2004
Page 2 of 3

factor. AFN supports these recommendations and believes that SB 246 addresses each of them.

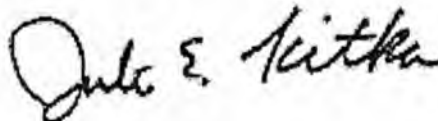
SB 246 expands the legal protection given to those of our citizens who are most vulnerable to attack because of prejudice. The bill creates a separate criminal charge for hate crimes and expands the law to cover crimes targeting a victim's sexual orientation; it clarifies that the law may apply even if the offender mistakenly perceived the victim to fall into one of the listed attributes; it imposes mandatory minimum sentences for hate crime misdemeanors; prohibits the suspension of imposition of sentences in hate crime cases and requires sanctions for juveniles who commit hate crimes, including retribution in the form of community work service and referral to diversity tolerance programs. Finally, the bill creates a civil cause of action that would allow the victims of such crimes to sue their attacker or the parents or guardian of a juvenile attacker.

Every Alaskan has the right to live in an environment free of the terror brought on by hate violence. Alaska's laws need to be expanded and strengthened so that prosecutors have an additional set of tools to reinforce society's moral response to such crimes. Hate crimes have no place in a civilized society, and for that reason the issue needs to be addressed in a comprehensive way. Studies have shown that early intervention and education can help prevent future crimes. SB 246 contains provisions that require juveniles who commit hate crimes to participate in a diversity tolerance program or other educational program and to perform a minimum of 100 hours of community work.

SB 246 offers a comprehensive approach to the problem. It would significantly increase the ability of state law enforcement agencies to work together to solve and prevent a wide range of hate crimes committed because of bias based on race, color, national origin, religion, sexual orientation, gender or disability of the victim. The bill is a thoughtful, measured response to the problem. For that reason we strongly urge your support for SB 246.

Thank you for your consideration and assistance on this important issue.

Sincerely,



Julie Kitka
President

JK/chd

Cc: Senator Georgianna Lincoln, Sponsor, SB 246
Senator Bettye Davis, co-sponsor

Letter re: SB 246

March 22, 2004

Page 3 of 3

Senator Bert Stedman

Senator Gretchen Guess

Senator Lyman Hoffman

Senator Gene Terriault, Senate President

Senator Scott Ogan, Vice-Chair, Senate Judiciary Committee

Senator Johnny Ellis

Senator Hollis French

March 4, 2004

Senator Georgianna Lincoln
Alaska State Legislature, District C
State Capitol
Juneau, Alaska 99801-1182

Dear Senator Lincoln:

I am writing in support for your proposed Senate Bill 246 to fight hate crime in Alaska.

You have my admiration for your persistence in this matter. I believe Alaska and the U.S. need to have a zero tolerance policy for crimes spurred by bias, prejudice and hate.

Sincerely,



Gerald Luken
9606 Reliance Drive
Anchorage, AK 99507

3/4/2004

Senator Georgianna Lincoln

Dear Senator Lincoln,

I am in full support of your hate crimes bill. As a young Alaskan Native man, I have seen and experienced firsthand, violence by non-natives towards myself, and to pass such a piece of legislation would be a stepping stone towards curbing hate crimes, not only against Alaskan Natives but for all who reside in the great State of Alaska.

Thank you and best wishes for you in your retirement,

Terry Don

tddon@anthc.org

MAR 08 2004

Jenny Bell-Jones
308 Noyes Street
Fairbanks
Alaska 99701
907 455 0222

Senator Georgianna Lincoln,
Alaska State Senate

March 4th 2004

Dear Senator Lincoln,

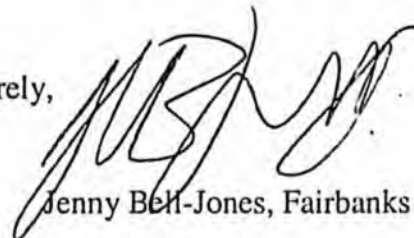
I would like to take this opportunity to express my support for the passage of a "Hate Crimes Bill" through the Alaska State Legislature during the current session. It is very disturbing to me that it has taken so long for this issue to receive due consideration, when the problems of racism within our state are so clear and obvious.

While I recognize that there are in the Legislature those who use the reasoning that you cannot legislate behavior in order to avoid supporting this legislation I find this to be a very poor excuse. Of course we cannot legislate behavior, but we CAN and DO make our disapproval of different behaviors known through legislation. Law in and of itself has not prevented rape and murder, however we would find ourselves alone in the nation were we to fail to have enacted statutes that show united community disapproval and indicate severe penalties for such heinous acts.

By passing a "Hate Crimes Bill" we can send a clear message of community disapproval to people who would indulge in that kind of behavior. While we may not be able to prevent individual acts of violence and hatred by doing so, we can make it known that the majority in Alaska do not condone racial hatred. Failure to act has the opposite effect of saying that we, as citizens, do not care how our neighbors are treated, and of giving a subtle green light to perpetrators of hate crimes.

I find the position of "supporting hate by inaction" to be unacceptable and I trust that you will be successful in convincing other Senate members that enacting this legislation is the only morally right thing to do

Sincerely,



Jenny Bell-Jones, Fairbanks

Kia ora Senator Lincoln & Shari,

I am writing to support your SB 246 relating to hate crimes legislation.

I have been involved with racial relations with my church synod during the past - the Evangelical Lutheran Church in American (ELCA). It is a very real social issue that must be recognized and supported by public policy. I am proud of your initiative to address this in our state and make sure hate driven crimes are punishable and individuals held accountable for their life damaging actions toward other people and at the same time a whole segment of our society.

As president of Sitnasuak Foundation, I am also glad to see such legislation introduced to help give protection to our Alaska Native students that leave our Native communities in order to pursue higher education in urban areas of Alaska. It is a true injustice to our people that chose to leave for educational development that they must face prejudice and racism in achieving their dreams. Your legislation sends the public policy message that hate driven crimes are not a civilized part of our developing Alaska society.

Again, I support SB 246 and look forward to its enactment.

Tom Okleasik
PO Box 429
Nome, AK 99762

March 8, 2004

RE: SUPPORT FOR SB246 – HATE CRIMES PREVENTION
LEGISLATION

I am writing in support of SB246 – Hate Crimes Prevention Legislation introduced by Senator Georgianna Lincoln. This bill is not new; similar legislation (SB163) was introduced during the 21st legislative session, but did not make it through the process before the session expired.

Hate crimes perpetrated against a person or group of persons based on the actual or perceived gender, disability or sexual orientation of that person or group of persons is a significant concern.

Hate crimes are not merely crimes against an individual, but rather crimes against the entire community because such bias-motivated crimes are more likely to provoke retaliatory crimes, inflict distinct emotional harms on victims and incite community unrest. Hate crimes are also troubling because they can strike fear in people who have done nothing illegal and are only members of an identifiable group. Thus, appropriate hate crime laws are appropriate as part of a government's responsibility to ensure equal protection is afforded to everyone.

I fully support this legislation and hope that Alaska's existing hate crimes bill is expanded to include hate crimes motivated by the victim's disability, gender or sexual orientation.

As a member of such groups as: Bridge Builders, Alaska AIDS Assistance Association, Alaska Native Women's Sexual Assault Committee, Mt. Susitna Sleeping Lady Singers & Drummers, Naa Luudisk Gwaiiyatki, Standing Committee for Tolerance & Diversity and a myriad of Municipal Task Forces, I can honestly state that our community must rise up and meet this situation head on. To look away, deny or make excuses will only foster future difficulties and give silent approval to the past actions of many. I hope to never hear the following words again: "What's the big deal about? We did that when we were kids," ...not from the mouths and minds of our fellow citizens. It never was acceptable and it shall never be acceptable. Such blatant disregard for fellow human beings must not be tolerated nor ignored. Justice is not a matter of convenience, for the privileged, nor a social whim.

Let us work together as a society that in the future, our great-grandchildren will be able to live in a society that at present we can only struggle to build. Let us aide one another to overcome the issues and illnesses that assail all of our society so that we may all become better people. For the illness and issues of one race become the illnesses and issues of all other races that come into contact with it. To live in a society, where no one is afraid to walk down the street at any time of the day or night. To live in a society where no one is merely tolerated, but openly accepted. Where some one who looks like me and comes from my ancient society is not "hunted, murdered, raped, beaten" just for the pleasure of other races. It is this future that I work to build for ALL our great-grandchildren.

Respectfully,
Ida F. Nelson
701 West 8th Ave #230
Anchorage, AK 99501

Honored Senator Georgianna Lincoln
Alaska State Legislature
Juneau, Alaska
99801-1182

Dear Senator Lincoln,

I heartily support your efforts on behalf of all of those that have been victimized by perpetrators of any type of hate crime. We, as a people, and as a society can not afford to tolerate this behavior or these crimes. The cost to the individual is incalculable, the cost to our culture high. I speak not only about ethnic minorities but for anyone that has felt the sting and blow of verbal or physical abuse. I am not an ethnic minority. I grew up in Anchorage and attended Clark Junior High and graduated from East High School in 1968. When I see those that went to school with me we refer to ourselves as survivors of Clark and East, not graduates. Many of us were beaten and bullied on a regular basis and I know first hand of the toll it took on self-esteem, self-worth and self-respect. Many of my friends have not survived, succumbing to drugs, alcohol and other means of self-destruction. I attribute a lot of this to the way we were treated in and out of school.

I can speak as a victim. I too followed the paths that took so many, but was more fortunate than most. Some extremely kind and gentle people helped me during those years of despair and self-loathing. Incrementally I found myself and have finally achieved some measure of success and have forgiven those others as well as myself for allowing those negative things to happen to me.

A single word is symbolic of this, Columbine. For those that think this cannot happen in Alaska, they need only go to Bethel.

A culture is measured by how it treats those that are less fortunate, weak or unable to protect themselves. Many of our children, women and young adults fall into this category. It takes courage to stand up for what is right and for those whose rights are being abused. I want to live in an Alaska where our motto is not only "neighbor helping neighbor" but also "neighbor protecting neighbor".

SB 246 is good legislation. It sends the correct message to the appropriate areas. Thank you for caring and thank you for your courage.

Sincerely,
Skip Richards