

HOUSE FINANCE COMMITTEE
May 11, 2002
5:50 P.M.

TAPE HFC 02 - 109, Side A
TAPE HFC 02 - 109, Side B

CALL TO ORDER

Co-Chair Williams called the House Finance Committee meeting to order at 5:50 P.M.

MEMBERS PRESENT

Representative Bill Williams, Co-Chair
Representative Eldon Mulder, Co-Chair
Representative Con Bunde, Vice-Chair
Representative Eric Croft
Representative John Davies
Representative Richard Foster
Representative John Harris
Representative Bill Hudson
Representative Ken Lancaster
Representative Carl Moses
Representative Jim Whitaker

MEMBERS ABSENT

None

ALSO PRESENT

Representative Fred Dyson; Josh Govaars, Staff, Senator Dave Donley; Gwendolyn Hall, Staff, Senator Pete Kelly; Chip Wagoner, Alaska Catholic Conference; William Craig, Alaska Independent Blind, Sitka; Helen Craig, Sitka; Nancy Weller, Division of Medical Assistance, Department of Health & Social Services

PRESENT VIA TELECONFERENCE

Dr. Colleen Murphy, Anchorage; Dr. John Middaugh, Epidemiology Section, Department of Health and Social Services, Anchorage

SUMMARY

SB 180 An Act implementing pay differentials based on geographic areas for certain state employees and for members of the Alaska State Defense Force; and providing for an effective date.

HCS CS SB 180 (FIN) was reported out of Committee with a "do pass" recommendation and new fiscal

notes by Department of Administration and the Alaska Court System.

SB 206 An Act relating to registration plates and parking permits for persons with disabilities and to illegal use of parking spaces for persons with disabilities.

HCS CS SB 206 (FIN) was reported out of Committee with a "do pass" recommendation and with zero fiscal notes, #2 by the Department of Public Safety and #3 by the Department of Administration.

SB 247 An Act making capital appropriations and reappropriations, and capitalizing funds; making appropriations under art. IX, sec. 17(c), Constitution of the State of Alaska, from the constitutional budget reserve fund; and providing for an effective date.

SB 247 was HEARD and HELD in Committee for further consideration.

SB 252 An Act renaming the Alaska Human Resource Investment Council as the Alaska Workforce Investment Board and relating to its membership; repealing the termination date of the state training and employment program; relating to employment and training activities; and providing for an effective date.

CS SB 252 (RLS) was SCHEDULED but had not arrived to the Committee.

SB 359 An Act relating to organization grants for mergers, consolidations, or unifications involving third class boroughs.

CS SB 359 (RLS) was SCHEDULED but the House Majority was still working on the work draft.

SB 364 An Act relating to medical services under the state Medicaid program.

SB 364 was HEARD and HELD in Committee for further consideration.

#SB247

CS FOR SENATE BILL NO. 247(FIN)

An Act making and amending appropriations and reappropriations; making appropriations under art. IX, sec. 17(c), Constitution of the State of Alaska, from

the constitutional budget reserve fund; and providing for an effective date.

Co-Chair Williams explained his intent regarding the capital budget amendment process. He asked if there was any public testimony. There being no one on line or present in Committee to testify, public testimony was closed.

SB 247 was HELD in Committee for further consideration.

#SB180

CS FOR SENATE BILL NO. 180(FIN)(efd fld)

An Act implementing pay differentials based on geographic areas for certain state employees and for members of the Alaska State Defense Force; relating to cost-of-living differentials for state aid to municipalities.

Co-Chair Mulder MOVED to RESCIND previous action taken on adopting Amendment #2. There being NO OBJECTION, the action was rescinded.

Co-Chair Mulder MOVED to WITHDRAW Amendment #2. There being NO OBJECTION, the amendment was withdrawn.

Co-Chair Mulder MOVED to report HCS CS SB 180 (FIN) out of Committee with individual recommendations and with the accompanying fiscal notes. There being NO OBJECTION, it was so ordered.

HCS CS SB 180 (FIN) was reported out of Committee with a "do pass" recommendation and with new fiscal notes by the Department of Administration and the Alaska Court System.

#SB206

CS FOR SENATE BILL NO. 206(TRA)

An Act relating to registration plates and parking permits for persons with disabilities and to illegal use of parking spaces for persons with disabilities.

JOSH GOVAARS, STAFF, SENATOR DAVE DONLEY, stated that the committee substitute for SB 206 (TRA) would help to insure the availability of priority parking for truly disabled Alaskans and was intended to prevent many of the instances of abuse that currently exist in our State's disabled parking system. The bill would accomplish that by improving the issuing process for disabled parking permits and cracking down on individuals convicted of illegally parking in disabled parking areas or convicted of misusing disabled parking permits.

To provide better access to disabled parking spaces for the

truly disabled, the State of Washington toughened its laws to combat widespread abuse of disabled parking placards. Other states have also tightened up their disabled parking laws.

Mr. Govaars noted that it is often difficult to identify whether or not individuals who have parked an automobile in a disabled parking space are disabled. Working closely with the Division of Motor Vehicles (DMV), it has been determined that their computer system indicates whether an individual has been issued a disabled parking placard and/or license plates. The Division was able to make the information available to troopers and police officers when they perform a records check on either a license plate or a person's identification. That would allow law enforcement officials to determine if a placard or license plate was being used fraudulently.

Mr. Govaars added that under current law, anyone might park in a disabled parking space as long as their vehicle has a disabled placard or license plate. The legislation would clearly define whom "may park" in a parking place reserved for disabled individuals. A new provision was added specifying that the person issued a special permit must be occupying or operating the vehicle; or that the person operating the vehicle was doing so for the purpose of transporting a disabled person and that the disabled person must actually exit or enter the vehicle.

Mr. Govaars concluded that the legislation would increase the penalties for illegally parking in a disabled parking space and for misusing a disabled permit to park in a disabled parking space. Under existing law, violators are fined \$100 dollars if they are convicted of either of those offenses. Under the bill, individuals convicted of illegally parking in a disabled parking space would be fined \$125 dollars for the first offense

Representative Croft inquired what the current requirement was.

Mr. Govaars explained that as statute is now, if there is a permit in the vehicle, any person has the right to use the space. The proposed legislation guarantees that only the person actually issued the permit is able to use the space. To use it, the person must get in and out of the vehicle.

Representative Croft asked what was being corrected.

Mr. Govaars responded that there have been people caught in Anchorage with someone else's permit in their car, which is legal under current statute. The bill would change that.

Representative Hudson asked if the disabled person had to be the driver.

Mr. Govaars responded that in order to use the spot, the disabled has to be in the vehicle and must either enter or exit the vehicle when it is parked.

Representative Hudson suggested that the legislation could be "over" restrictive.

Discussion following between Mr. Govaars and Representative Hudson regarding a particular situation with a handicapped friend of his.

Vice-Chair Bunde noted that the legislation would be establishing a new standard.

Representative Davies asked if consideration had been given to how many spaces were available at each lot.

Mr. Govaars responded that federal law mandates a certain number and size of spaces to be allocated. The persons owning the lot decide the number of spaces.

Representative Davies understood that all the handicap spaces were open and that the driver could remain in the car to guarantee that the space remains available.

Mr. Govaars clarified that the legislation would not account for people borrowing a spot, which would be considered an inappropriate use of that spot. The disabled parking spots are designed for those people that need to have access.

Representative Davies pointed out that there are circumstances in which no other parking places are available outside of those designated. He thought it was reasonable that as long as there were spaces available and there was a driver in the car, it should be okay to park there.

Mr. Govaars did not know how to make the legislation "fit" into that example.

WILLIAM CRAIG, ALASKA INDEPENANT BLIND, SITKA, spoke in favor of the bill and urged that it pass from Committee.

HELEN CRAIG, SITKA, testified in support of the legislation.

Representative Croft referenced Page 4; the phrase used throughout, "is operated by or used for the purpose of transporting a person with a disability". He noted that the problem exists that Section 2 adds, "The person who has the special permit actually exits or enters the vehicle". He stated that language should address the concern.

Representative Croft MOVED to DELETE language on Page 4, Lines 11 & 12, "and the person who has the special permit actually exits or enters the vehicle".

Vice-Chair Bunde OBJECTED. He stated that the person driving does not need the special space. The person with the disability would not be inconvenienced if they were not getting into or exiting the vehicle.

Representative Hudson referred to a personal situation in which his friend remained in the car but he had parked in a designated space in order to take care of her pharmacy needs from that establishment. He understood that he could have backed out and parked in another space.

Vice-Chair Bunde reiterated that if the driver is capable, they should not use the designated handicap spot.

Representative Davies interjected that there are handicap persons that are mobile that might only need assistance.

Vice-Chair Bunde commented that person would be driving with handicap plates or a handicap sticker.

Discussion followed between Vice-Chair Bunde, Representative Davies and Representative Croft regarding the handicap plates and ticketing potential.

Representative Davies thought that "handicap" should be clarified.

Vice-Chair Bunde pointed out that the legislation stipulates that the handicap person must either enter or exit the vehicle. The person does not have to do both to avoid the ticket.

Co-Chair Mulder voiced concern with language written on Page 4 and the number of points charged for a non-moving violation. He stated that he did not object to a fine, however, the points affect the amount that person pays for insurance. He reiterated that would be an inappropriate point charge. He referenced Lines 22-31, recommending a conceptual amendment which would double the fine and delete language regarding the points against the person's driving record.

Co-Chair Mulder MOVED to ADOPT that conceptual amendment.

Representative Foster MOVED to report HCS CS SB 206 (FIN) out of Committee with individual recommendations and with the accompanying fiscal notes. There being NO OBJECTION, it was so ordered.

HCS CS SB 206 (FIN) was reported out of Committee with a "do pass" recommendation and with zero fiscal notes, #2 by the Department of Public Safety and #3 by the Department of Administration.

#SB252

CS FOR SENATE BILL NO. 252(RLS)

An Act renaming the Alaska Human Resource Investment Council as the Alaska Workforce Investment Board and relating to its membership; relating to repayment on promissory notes for work-related items paid for by grant programs; extending the termination date of the state training and employment program; relating to employment and training activities; and providing for an effective date.

Co-Chair Williams noted that CS SB 252 (RLS) was SCHEDULED but had not yet arrived into the House Finance Committee.

#SB359

CS FOR SENATE BILL NO. 359(RLS)

An Act relating to organization grants for mergers, consolidations, or unifications involving third class boroughs; and relating to identification by the Local Boundary Commission of areas that meet the standards for borough incorporation.

Co-Chair Williams stated that CS SB 359 (RLS) was SCHEDULED, however, the House Majority was working on a committee substitute.

#SB364

SENATE BILL NO. 364

An Act relating to medical services under the state Medicaid program.

GWENDOLYN HALL, STAFF, SENATOR PETE KELLY, noted that a majority of Alaskans agree that it is inappropriate to use State funds to provide elective abortions. Despite the many efforts of the Legislature, the State has been unable to implement the will of the people. All attempts to bring Alaskan Medicaid funding under federal standards, which prohibit funding abortions except for rape, incest and life of the mother, have been thwarted by the Alaska Supreme Court.

Ms. Hall stated that the Alaska Administrative Code defines therapeutic abortion as:

"The termination of a pregnancy, certified by a physician as medically necessary to

prevent the death or disability of the woman,
or to ameliorate a condition harmful to
the woman's physical or psychological health."

"Medically necessary" has proved to be too broad language, allowing elective abortions to take cover under the umbrella of protection. She suggested that any form of emotional discomfort a woman may experience from pregnancy could warrant a "medically necessary" termination. Ms. Hall noted that SB 364 would define "medically necessary", restricting Medicaid funded abortions to those cases that fall under the Hyde Amendment guidelines.

REPRESENTATIVE FRED DYSON explained that Senator Kelly has attempted to narrow down the definition of what is medically necessary for emotional and psychological problems. SB 364 makes a clear provision that the woman must, in order to maintain emotional and psychological stability, take a powerful drug, which would not endanger the child, and currently is allowed. The bill would "tighten" up that language.

He pointed out that in 1998, when the Legislature tightened up the language on "medical necessity", the number of State funded abortions dramatically decreased. That court case was overturned and it now appears that more abortion cases are being paid with State dollars.

Representative Dyson advised that all polls in Alaska indicate that the public is not interested in using public money to fund abortions.

Representative Davies asked the definition of "medical necessity" used in the State of Michigan.

Ms. Hall read the list of complications listed in that report:

- Shock
- Uterine Perforation
- Cervical Laceration
- Hemorrhage
- Allergic Response
- Death
- Infection
- Retained Products
- Other complications

Representative J. Davies pointed out that no psychological sections had been added.

Ms. Hall acknowledged that was true.

Representative Whitaker asked for clarification that the bill would not restrict the Supreme Court decision Roe versus Wade and the woman's right for an abortion. He noted that the legislation only restricts what the State will pay for.

Representative Dyson agreed.

DR. COLEEN MURPHY, (TESTIFIED VIA TELECONFERENCE), PHYSICIAN, ANCHORAGE, testified in opposition to the proposed bill stating that it is important that Alaska not compare itself to Michigan. The Alaska State Constitution has a greater right to privacy than Michigan State one does.

Dr. Murphy stated that previous testimony indicates how lay people confuse indications for incomplete abortions. There is a difference between evacuating a uterus for a uterine preparation and an incomplete product of conception. It is important to understand those distinctions. At present time, legislators are attempting to provide what they determine a "clear" provision of what constitutes "medical necessity" for termination of a pregnancy.

Dr. Murphy noted that she is a practicing medical doctor, who currently provides reproductive health services to women in need. The language of the bill is not clear. She commented that the bill attempts to meddle in the relationship between a doctor and their patient, a relationship which should remain private.

Dr. Murphy explained that when she talks with women about their pregnancies, she requests an informed consent about that pregnancy. Each woman signs certain conditions that are acceptable.

Dr. Murphy provided hypothetical pregnancy situations questioning if they were considered appropriate for consideration of "medical necessity". She acknowledged that she personally could not make that determination for any woman and that ultimately that must be their choice. It should be a very private discussion.

Dr. Murphy voiced concern that when a woman is depressed that they should be medicated during their pregnancy. She reminded members of the Committee that Andrea Yates experienced multiple signs of depression throughout her pregnancy preceding the murder all her children. She warned members that the patient's doctor should make the ultimate choice regarding medication.

Dr. Murphy stressed that pregnancies, where the woman wants a termination, are high-risk pregnancies. Right now the State Medicaid program costs \$450 dollars for a State

termination of pregnancy. If those pregnancies go on to full term, basically, the State would be paying out \$75 dollars for every prenatal visit and \$1500 dollars for the delivery services. She emphasized that if the State wants to save money, give women what they want and do not judge them for their choice. She reiterated that women should be able to decide for themselves.

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Representative Croft asked if defects of the fetus would fit into the definition.

Dr. Murphy advised that some of the highest risk medical conditions for women are associated with a 50% mortality rate. She addressed primary pulmonary hypertension conditions associated with up to a 50% mortality rate. She pointed out that nothing is 100% guaranteed. Doctors can access good pictures of what the fetus looks like but the ultimate outcome cannot be determined until birth.

Dr. Murphy commented that the legislation gives doctors too much credit about their ability to predict outcomes. She stressed, ultimately the decision is a private choice whether a woman wants to continue a pregnancy associated with long term disabilities. Those costs are usually shifted from the family to the State.

Dr. Murphy discussed the number of uninsured people that live in the State of Alaska. Many of those uninsured people qualify for the State Medicaid Program for their pregnancy care. She added that she was disturbed that there is a partial solution for some of the unwanted pregnancies, the prescription equity bill. She stated that bill should have been addressed with the legislation before the Committee. There are women that do not receive contraception options through their current insurance provider. She noted that contraception works and prevents unintended pregnancies.

Dr. Murphy mentioned that the rate of termination of pregnancies in Alaska is lower than most other states. There are tremendous access issues compared to other states. The most recent statistic in Alaska is that 16% of pregnancies result in termination as compared to 34% in all other states. The epidemic in this State is uninsured women seeking reproductive health.

Vice-Chair Bunde commented that medicine is more of an art than it is a science. He claimed there is a "public policy issue" regarding women that use abortion for birth control. He questioned how often that occurs.

Dr. Murphy replied that there is national data regarding that concern with 50% of women using a contraceptive technique and 50% not using a contraceptive. Despite efforts to have reliable contraceptive devices, there will continue to be contraceptive failures. One out of two women that come in for a termination of pregnancy have used contraceptives. The other 50% of women, who did not use contraceptives, have an opportunity to prevent the pregnancy by using "Emergency Contraception". Most women are very responsible. She challenged that the Committee provide a companion bill, which legislates the sexual behavior of men.

Vice-Chair Bunde asked if out of 100 performed abortions, would 25 of those result from accidents using birth control.

Dr. Murphy spoke to the elective abortion. Invariably every woman contemplates the risk factors involved with her pregnancy. There is nothing elective about those risks. Abortion is not a procedure that most women want to under go. They would prefer to avoid it.

DR. JOHN MIDDAGH, (TESTIFIED VIA TELECONFERENCE), EPIDEMIOLOGY SECTION, DEPARTMENT OF HEALTH AND SOCIAL SERVICES, spoke in opposition to SB 364.

Dr. Middaugh explained that the legislation has language problems with regard to the physician and patient relationship. The absence of a fair understanding and the meaning of the language, physicians would have great problems meeting the certification required by the legislation. The terms "serious, adverse, physical conditions" could seriously aggravate the physical health. That language would need to be interpreted to enforce the statute.

The language also has problems in the areas of psychological illness that require medication. He pointed out that there are many serious psychological illnesses that are not treated by medication. Because of the wording, women who have a serious mental problem would not be eligible for funding. Dr. Middaugh proposed to delete "would" and insert "could" or "might". Rarely, if ever, can physicians make a prediction to 100% accuracy. By requiring a standard of "would", implies a certainty that almost could never be met.

Dr. Middaugh pointed out that the bill omits coverage in all instances in which a pregnant woman bearing an infant with horrible congenital malformations, even if they are known to be incompatible with the mother's life.

Dr. Middaugh reiterated that there is no epidemic of abortions in Alaska. He pointed out that Alaska ranks #33 of all the states for the number of average abortions. The State's policy does not pay for elective procedures.

In summary, Dr. Middaugh urged that the bill not be passed and offered to answer questions of the Committee.

Vice-Chair Bunde asked if the statistic for Alaska's rate was based on per capita or total numbers performed.

Dr. Middaugh replied that the rate was based on the number of abortions for 1000 women between the ages of 15-44 years. In 1997, the national rate was 22 women per thousand and in Alaska that rate was 12 per thousand.

Vice-Chair Bunde inquired the difference in comparison between Michigan and Alaska.

Dr. Middaugh responded that the numbers quoted for Michigan were based on Michigan State law that was restrictive and enabling payment only for saving the life of a woman. He advised that law has been held unconstitutional. Using those figures today would be inaccurate.

Representative Hudson asked about Dr. Middaugh's recommendation on Page 2 replacing "would" with "could" or "might".

Dr. Middaugh advised that "would" implies that you know that something is going to happen with 100% certainty; however, medicine is always about probability. The physicians can only inform patients of probable outcomes.

Vice-Chair Bunde asked if it would be medically more accurate to say "would more likely".

Dr. Middaugh recommended using "could" or "might". Using "would more likely" would eliminate the eligibility of women who should have a therapeutic and indicative procedure. Those women would fall outside that category.

Vice-Chair Bunde commented that "could" was far too permissive and agreed that "would" allows little. He inquired if there was any middle ground.

Dr. Middaugh pointed out that for three years, Representative Rokeberg attempted to define "medical necessity" in the patient's bill of rights and in those efforts, he was unable to do so. All the efforts lead to additional problems and basically do not take into account the unique circumstances and problems that happen in the practice of medicine. Dr. Middaugh reiterated that there are not a large number of abortions occurring in Alaska, and that in fact there is a high bar related to limiting procedures to those that are medically needed. He noted that information should only be decided between a physician and a patient.

WILLIAM CRAIG, ALASKA INDEPENDENT BLIND, SITKA, spoke in support of the legislation. He commented on various individuals that have had developmental disabilities that went on to become important people in society.

HELEN CRAIG, SITKA, commented that sexual abuse and rape would be reasons for a woman to be able to have an abortion. She admitted that babies are priceless and the ultimately the decision should be left to the woman and her higher power and the doctor. Ms. Craig stated that the decision comes down to moral choices.

CHIP WAGONER, ALASKA CATHOLIC CONFERENCE, JUNEAU, stated that there is nothing in the bill that interferes between the doctor and the patient's relationship. The communication between the physician and the patient will continue just as before, and the decisions made between the doctor and the patient will continue just as before. The only difference is that if the bill passes, State Medicaid funds would no longer be used to pay for the abortion procedure.

Mr. Wagoner continued, the reason that the statute is needed is because there is no other medical procedure paid for by Medicaid funds for purely elective reasons. He stressed that the issue was the payment.

He added that an additional issue is the language of "would" verses "could". Using "would" modifies the word "aggregate" and would be dangerous. To change "would" to "could" would basically gut the bill because everything "could" be an opportunity. He emphasized that if "would" was not used in the bill, there would be no reason for the legislation. There is an additional safeguard in the bill. It was impossible to write the bill to take into consideration every circumstances; that is why there are regulations and that is why the bill authorizes the Department of Health & Social Services to adopt regulations. He recommended that the Department should have a review process to determine medically necessary cases.

Mr. Wagoner spoke to the "uncomplicated" legal abortions, which were performed that were unnecessary. He addressed the unwanted pregnancies. Diagnosis codes should be closely scrutinized. State funds should be used outside of the State determined necessity and that Medicaid funds should not be used for those abortions. Mr. Wagoner noted that the Alaska Catholic Conference strongly supports the bill.

NANCY WELLER, DIVISION OF MEDICAL ASSISTANCE, DEPARTMENT OF HEALTH AND SOCIAL SERVICES, offered to answer questions of the Committee regarding the bill. Ms. Weller distributed a

handout: "Complications of Pregnancy, Childbirth, and the Puerperium". (Copy on File).

She stated that the list of diagnostic codes for abortion procedures are very specific and do not correlate to those suggested by previous testimony. The diagnosis codes used, determine if there are complications to the woman and/or the baby. Ms. Weller offered to answer questions of the Committee.

Vice-Chair Bunde asked about the code, which addresses the psychological problems of the mother.

Ms. Weller replied that the codes do not indicate why the abortion is performed, but rather indicate what type of abortion it is such as a spontaneous abortion or miscarriage.

Representative Croft asked if "complicated" meant that the medical procedure was complicated by some other thing and not a justification of why it needed to be done.

Ms. Weller agreed that was correct.

Representative Hudson referenced the court case definition previously referenced and asked if the language "medically necessary" was essential.

Ms. Weller explained that the Division was following the court order under the language that the Court put forth. She noted that she could not judge from the fiscal note what physicians might do in reaction to the court order. She did not know how the current regulations were being interpreted.

SB 364 was HELD in Committee for further consideration.
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ADJOURNMENT

The meeting was adjourned at 7:17 P.M.