

HOUSE FINANCE COMMITTEE
January 27, 2004
1:48 P.M.

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CALL TO ORDER

Co-Chair Williams called the House Finance Committee meeting to order at 1:48 P.M.

MEMBERS PRESENT

Representative John Harris, Co-Chair
Representative Bill Williams, Co-Chair
Representative Kevin Meyer, Vice-Chair
Representative Mike Chenault
Representative Eric Croft
Representative Hugh Fate
Representative Richard Foster
Representative Mike Hawker
Representative Reggie Joule
Representative Carl Moses
Representative Bill Stoltze

MEMBERS ABSENT

None

ALSO PRESENT

Peter Ecklund, House Finance Committee Staff, Representative Bill Williams; Joel Gilbertson, Commissioner, Department of Health & Social Services; Angela Salerno, Division of Public Assistance, Department of Health & Social Services

PRESENT VIA TELECONFERENCE

Robert Briggs, Attorney, Disability Law Center, Sitka

SUMMARY

HB 374 An Act establishing the Senior Care program and relating to that program; and providing for an effective date.

CS HB 374 (FIN) was reported out of Committee with a "do pass" recommendation and with five new fiscal impact notes by the Department of Health & Social Services.

#HB374

HOUSE BILL NO. 374

An Act establishing the SeniorCare program and relating to that program; and providing for an effective date.

Co-Chair Harris MOVED to ADOPT work draft #23-GH2123\V, Mischel, 1/26/04, as the version of the legislation before the Committee. There being NO OBJECTION, it was adopted.

PETER ECKLUND, HOUSE FINANCE COMMITTEE STAFF, REPRESENTATIVE BILL WILLIAMS, noted that version "V" incorporates the two amendments previously passed at the last Committee meeting. Additionally, a change was made to Page 5, proposing to set up a Senior Care Fund with the direct purpose to pay for the Senior Care services. The purpose is to send a "strong" signal to all the seniors associated with the program that the State program would be fully funded until the federal program takes effect sometime in FY06.

Mr. Ecklund also noted that Page 5, Line 21, Section "C", clarifies that if there is left over balance in that fund, it would lapse back to the general fund at the termination of the program.

Mr. Ecklund noted the technical change to the fiscal notes. Currently, it is indicated that the funding source would be paid from the Senior Services Fund and that will be changed to the Senior Care Fund.

Co-Chair Harris interjected that the committee substitute would not change any of the programs. Mr. Ecklund agreed, and that it remained as introduced by the Administration.

JOEL GILBERTSON, COMMISSIONER, DEPARTMENT OF HEALTH & SOCIAL SERVICES, addressed the new version of the bill. He noted that the Administration has the program "on track to be up & running by April 1, 2004". The proposed program will provide cash for drug assistance for low-income seniors in the State, who are below the 140% poverty level. They will have the choice to receive either the \$120 dollars cash per month or a prescription by subsidy benefit in the amount of \$1600 dollars per year. He added that the combination with the \$600 dollar Medicare subsidy and availability of a discount prescription card for seniors, means that seniors below 135% poverty level would have no out of pocket expense for their first \$2,500 dollar drug coverage. He reiterated that seniors would have a choice between the cash, drug assistance and/or access to a \$1,000 dollar per year prescription drug subsidy.

Commissioner Gilbertson added that the program will begin April 1st, 2004. Applications should be processed during March 2004 and that the program will continue until January 1st, 2006 or a later date if it takes longer to implement the

federal program. He guaranteed that there would be no gap in coverage. The program is being administered through the Senior Information Office.

Co-Chair Harris clarified that the program would be funded through FY06 and would end at that point. Commissioner Gilbertson stated that information was drafted in the committee substitute and it would be fully funded through January 1st, 2006, the commencement of the federal program.

Representative Joule noted that the federal government was currently revising their guidelines. He asked if the proposed legislation would also be changing. Commissioner Gilbertson noted that the legislation sites different federal poverty guidelines. Those guidelines are adjusted on a yearly basis and the income levels are currently updated levels. The legislation will adjust on an annual base with the federal poverty guidelines.

Representative Joule voiced concern that if it changes, it might not accommodate the same people each year. Commissioner Gilbertson acknowledged that the program and the adjustments to the federal poverty guideline should determine eligibility. If the income levels increase, more individuals will be eligible and that such assumptions are taken into account.

ROBERT BRIGGS, (TESTIFIED VIA TELECONFERENCE), ATTORNEY, DISABILITY LAW CENTER, SITKA, testified on HB 374, addressing the many Alaskans that receive disability. There is another Medicare population that has similar needs to the seniors. Those Alaskans receive only Medicare and their age is under 65. Some of these people are not capable of providing for their own prescription drugs. The only health insurance some of these people receive is Medicare.

Mr. Briggs commented on the Medicare Buy-In Program, which does not help some people on Medicare, who have a certain income bracket. There is a population of Alaskans who have high medical expenses, who receive Medicare and are under the age of 65. He suggested that the bill be amended to address that population. He did recommend that the bill be passed from Committee and not slowed by the addition of that language. He requested that language be reviewed, as there are approximately 225 Alaskans in the described category and estimated it would cost \$290 thousand extra dollars to provide a prescription drug benefit to those people.

Commissioner Gilbertson commented that the purpose of the proposed Senior Care Program as brought forward by Governor Murkowski is to serve seniors in the State of Alaska. He acknowledged that there are individuals with other needs and offered to work with the Committee to address that population.

Commissioner Gilbertson questioned the numbers provided by Mr. Briggs. He admitted that there is a high degree of uncertainty regarding the numbers. The Department estimates that the cost of adequate drug coverage in cash assistance will be close to \$7.3 million dollars, largely resulting from the \$6 million allocated for the cash option segment. He reiterated that the purpose of the bill is to provide assistance to the seniors of Alaska.

Co-Chair Harris interjected that the proposed legislation is an answer to the elimination of the Longevity Bonus program and is intended to address the most urgent needs for prescription drug benefits for low-income seniors. He commented that the group referenced by Mr. Briggs would not have been affected one way or another. Commissioner Gilbertson interjected that they would not be eligible unless they met the age and residency criteria.

Representative Chenault inquired if the State might be creating a "constitutional issue" by offering services for a select group of persons in the State. Commissioner Gilbertson advised that the constitution does grant authority to develop programs that differentiate by age. The Department is required by law that the persons who meet that criterion are treated equally. There are numerous programs in State government that differentiate between age and condition. The proposed program is constitutional and is consistent with that type of program.

Vice Chair Meyer asked if the proposed program was consistent with the percent of poverty level offered in Denali Kid Care. Commissioner Gilbertson responded that it is not. The income criterion for that program was at 200% of the federal poverty level and was reduced to 175% during the last legislative session. The proposed bill ends eligibility at the 150% poverty level.

Co-Chair Williams noted that AMENDMENT #3 had been WITHDRAWN, and that Representative Croft might bring it up on the House Floor.

Representative Joule MOVED to ADOPT Amendment #4. (Copy on File). Co-Chair Harris OBJECTED.

Representative Joule explained that the amendment would offer "treatment" for the individual. Additionally, the amendment inserts a new paragraph on Page 3, Line 31, to read:

"to accompany the individual's parent, spouse, sibling, grandchild, child, or stepchild who is receiving medical treatment outside the state; or".

Representative Joule added that the amendment would delete "30" days and insert "60" days on Page 4, Line 1, the amount of time that a person eligible for the Longevity Bonus could have been out-of-State.

Commissioner Gilbertson stated that the bill as currently drafted and proposed by the Governor would allow for individuals to maintain and assure their Alaska residency for the program by only taking absence for medical treatment or vacations, and/or business trips for 30 consecutive days. It would include medical treatment for immediate family members and is consistent with the permanent fund standards. The Department believes that as currently drafted, the committee substitute does provide ample room for any individuals to leave the State. He added that they do not specifically object to Representative Joule's amendment.

Co-Chair Harris understood that Representative Joule was attempting to clarify length of duration of medical treatment time for the individual under consideration by adding a new section. Commissioner Gilbertson suggested that the bill draft before the Committee does provide ample opportunity for individuals to leave the State, however, the Administration does not have specific objections to the 60-day recommendation.

Co-Chair Harris asked if anyone had been excluded from their benefits because of the language. Representative Joule responded that under the new language, it would make the language consistent with that of the Permanent Fund excused absences. He did not know if anyone had been affected.

Co-Chair Harris maintained his objection. Representative Joule inquired if a person was out-of-state for more than 30-days, would they continue to be eligible to receive benefits. Commissioner Gilbertson reiterated that the language of the bill would limit an individual to only 30-days out-of-state in order to continue their benefits.

ANGELA SALERNO, DIVISION OF PUBLIC ASSISTANCE, DEPARTMENT OF HEALTH & SOCIAL SERVICES, stated that in the Longevity Bonus program, the allowable absence had been 60-days. At the end of that program, individuals were allowed to stay away as long as needed. They could not get their benefits forwarded to them but they became eligible again when they returned. She reiterated that it had been 60-days.

Co-Chair Harris MOVED to AMEND Amendment #4, leaving the first two sections in tact and deleting the "30 - 60" day change.

Vice Chair Meyer asked how long could an individual be out-of-state and still qualify for the benefit. Commissioner Gilbertson responded that an individual could be out-of-

state for longer than 30-days but not continuously. The version before the Committee does not remove eligibility for individuals who stay within the consecutive days out-of-state.

Representative Chenault questioned what the "special circumstances" are noted on Line 2. Commissioner Gilbertson responded that the Department has not enumerated those specific standards. The intent is to allow for the discretion of the Department for cases of undue hardship. The authority is discretionary and determined case by case and should pass a common sense test.

Representative Joule clarified the intent of the change proposed by Co-Chair Harris deleting the last portion of Amendment #4.

There being NO OBJECTION, the amendment to the amendment was adopted.

Co-Chair Harris WITHDREW his OBJECTION to the amended Amendment #4. There being NO further OBJECTION, the amended Amendment #4 was adopted.

Representative Joule MOVED to ADOPT Amendment #5. (Copy on File). Co-Chair Harris OBJECTED.

Representative Joule stated that the amendment would allow the Legislature to make the decision regarding termination of the program rather than the Commissioner of the Department of Health & Social Services. Commissioner Gilbertson advised that the amendment would eliminate the sunset. He pointed out that the sunset was not tied to a specific date, instead to the actual implementation of the Medicare prescription benefit. As currently drafted, it would be the Commissioner that would then certify that benefit had become available. Representative Joule maintained that the Legislature rather than the Department should determine the program.

Co-Chair Harris noted that the Legislature does have and will continue to have the authority to extend the program into the future through the funding of it. The question is regarding the process and if it is on the books and should it exist in statute. Co-Chair Harris maintained his opposition to the amendment.

Representative Stoltze agreed with Co-Chair Harris.

A roll call vote was taken on the motion.

IN FAVOR: Joule, Moses
OPPOSED: Chenault, Fate, Foster, Hawker, Meyer,
Stoltze, Harris, Williams

Representative Croft was not present for the vote.

The MOTION FAILED (2-8).

Representative Joule MOVED to ADOPT Amendment #6. (Copy on File). Co-Chair Harris OBJECTED.

Representative Joule commented that the amendment would address the sections that deal with proration. The amendment would delete language on Page 2, Lines 18-22(d) and Page 3, Lines 22-25(i). Commissioner Gilbertson clarified that the amendment would establish the program as an entitlement program and therefore eliminate any restriction on the amount of expenditures by the Department for the program as the amount prorated by the Legislature. The second portion of the amendment would eliminate the proration of benefits for individuals in the program for less than one year. He stressed that the current plan provides an annual benefit of \$1,600 dollars in drug subsidy and \$120 dollars per month in cash assistance. He maintained that the Senior Care proposal provides a solid and annual benefit. He maintained that if a person is only eligible for one month, they then should not be receiving a benefit.

A roll call vote was taken on the motion.

IN FAVOR: Joule, Moses
OPPOSED: Chenault, Fate, Foster, Hawker, Meyer,
 Stoltze, Harris, Williams

Representative Croft was not present for the vote.

The MOTION FAILED (2-8).

Representative Joule MOVED to ADOPT Amendment #7. (Copy on File). Co-Chair Harris OBJECTED.

Representative Joule explained the intent of the amendment, which would insert after "public institution" on Page 4, Line 27, "state" governmentally owned establishment. Commissioner Gilbertson advised that the amendment would change the definition of public institution to restrict interpretation to only those operated by the State of Alaska. He pointed out that on Page 3, Line 26, directs the Department not to make payments to individuals who are residing in public institutions and nursing facilities.

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Commissioner Gilbertson stated that there are a series of arrangements including prescription drugs. Under the amendment, it would largely exempt the Native owned facilities. He reiterated that as currently drafted, it would not apply to the Alaska Native Medical Center but rather the long-term care bed capacity in the Alaska Native Health Care system. Commissioner Gilbertson clarified that on a policy level, the Administration would not support something that would differentiate the ability to receive the benefits, as there must be equality in the programs.

Representative Joule WITHDRAWN Amendment #7.

Representative Joule MOVED to ADOPT Amendment #8. (Copy on File). Co-Chair Harris OBJECTED.

Representative Joule explained that the amendment would change "may" to "shall" on Page 1, Line 8 and Page 2, Line 19.

Representative Stoltze asked if that amendment had been adopted during the previous meeting. Commissioner Gilbertson clarified that the previous amendment addressed brand name drugs paid for by the Department. Amendment #8 would alter two provisions providing assistance and the payments of the \$120 dollars. The amendment is consistent with the intent of the legislation and the manner in which the fiscal note was drafted. He noted that the Department would not object to the amendment.

Co-Chair Harris maintained his objection.

Representative Joule discussed the reduction of the Department of Health & Social Services BRU. He added that the Commissioner does have latitude of where funds can be shifted. Incorporating "shall" guarantees the intent and latitude. He understood that there would be a broader discussion regarding compressing the BRU's.

Representative Hawker noted that he did support the amendment. Commissioner Gilbertson noted that the amendment would direct the Department to implement the program and to make the payments.

Co-Chair Harris inquired if the Department supported the amendment. Commissioner Gilbertson clarified that they do not oppose the amendment.

Co-Chair Harris WITHDREW his OBJECTION. There being NO further OBJECTION, Amendment #8 was adopted.

Representative Joule asked about the \$12 million dollar fiscal note fund source and if it would be amended. Co-

Chair Harris noted that the current notes had been updated and would come out of the general fund.

Brief At-Ease.

Co-Chair Harris clarified that the fiscal notes do not reflect the Senior Care fund. The committee substitute creates a new fund called the Senior Care Fund. That fund has no money in it at this point but will be funded through the supplemental. The \$12 million dollars in the other fund has been placed in the Marine Highway Stabilization Fund.

Representative Foster MOVED to report CS HB 374 (FIN) out of Committee with individual recommendations and with the accompanying fiscal notes. There being NO OBJECTION, it was so ordered.

CS HB 374 (FIN) was reported out of Committee with a "do pass" recommendation and with five new fiscal impact notes by the Department of Health & Social Services.

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ADJOURNMENT

The meeting was adjourned at 2:49 P.M.