

SENATE FINANCE COMMITTEE
March 30, 2009
9:02 a.m.

9:02:13 AM

CALL TO ORDER

Co-Chair Stedman called the Senate Finance Committee meeting to order at 9:02 a.m.

MEMBERS PRESENT

Senator Lyman Hoffman, Co-Chair
Senator Bert Stedman, Co-Chair
Senator Johnny Ellis
Senator Donny Olson
Senator Joe Thomas

MEMBERS ABSENT

Senator Charlie Huggins, Vice-Chair

ALSO PRESENT

Senator Gene Therriault; Hensley, Max, Staff, Senator Ellis; Jon Sherwood, Director, Office of Program Review, Department of Health and Social Services (DHSS); Senator Bettye Davis; Lynda, Zaugg, Staff, Senator Bettye Davis; Ginger Blaisdell, Director, Division of Administrative Services, Department of Revenue; Peter Putzier, Department of Law.

PRESENT VIA TELECONFERENCE

John Mallonee, Acting Director, Child Support Enforcement Division, Department of Revenue; Stacy Steinberg, Department of Law.

SUMMARY

SB 32 "An Act relating to medical assistance payments for home and community-based services."

SB 32 was REPORTED out of Committee with a "do pass" recommendation and with two new fiscal

impact notes by the Department of Health and Social Services

SB 45 "An Act relating to state employment preferences for veterans, former prisoners of war, and members of the Alaska National Guard; authorizing the Department of Military and Veterans' Affairs to establish and maintain Alaska veterans' cemeteries; establishing the Alaska veterans' cemetery fund in the general fund; and authorizing the legislature to appropriate income from fees collected for commemorative veterans' plates to the Alaska veterans' cemetery fund."

SB 45 was REPORTED out of Committee with "no recommendation" and with a previously published fiscal impact note FN1 (MVA).

SB 96 "An Act relating to nonpayment of child support; relating to certain judicial and administrative orders for medical support of a child; relating to periodic review and adjustment of child support orders; relating to relief from administrative child support orders; relating to child support arrearages; relating to medical support of a child and the Alaska Native family assistance program; amending Rule 90.3, Alaska Rules of Civil Procedure; and providing for an effective date."

SB 96 was HEARD and HELD in Committee for further consideration.

#sb45

SENATE BILL NO. 45

"An Act relating to state employment preferences for veterans, former prisoners of war, and members of the Alaska National Guard; authorizing the Department of Military and Veterans' Affairs to establish and maintain Alaska veterans' cemeteries; establishing the Alaska veterans' cemetery fund in the general fund; and authorizing the legislature to appropriate income from fees collected for commemorative veterans' plates to the Alaska veterans' cemetery fund."

[9:02:30 AM](#)

Co-Chair Stedman reviewed SB 45. He explained that the hearing was the second for SB 45, with public testimony taken at the initial Senate Finance Committee meeting. The current intent is brief discussion of the legislation.

SENATOR GENE THERRIAULT reviewed the legislation. He explained that the bill contains two sections. The first allows a specialty request plate for Alaska veterans. He explained that funds generated are routed into a new Alaska veteran's cemetery fund. The funds are appropriated by the legislature for the creation of a veteran's cemetery including the ongoing maintenance of the cemetery. The legislation alters the veteran's hiring preferences currently in statute. Finally, the end of the bill references the Alaska veteran's cemeteries and the federal codes enabling the statute to conform to the codes. He mentioned that the Fairbanks North Star Borough passed a resolution in support of the creation of this cemetery in Interior Alaska and recently passed a new resolution updating support to ensure awareness that the current assembly supports the effort.

Co-Chair Stedman noted that Alaska's oldest cemetery is in Sitka. The cemetery is currently near capacity, with expansion issues. Alaska has the highest percent of veterans per capita in the country. The proposal is to move forward with a state sponsored cemetery in a location that is accessible to most state residents.

[9:06:48 AM](#)

Co-Chair Hoffman suggested that cemeteries operated by municipalities and dedicated to veterans are funded by collected fees. He requested the opportunity to address his concern.

Co-Chair Stedman discussed the fiscal note dated February 6, 2009 illustrating a \$250 thousand general fund appropriation, the next fiscal note dated February 23, 2009 shows a \$750 thousand general fund appropriation. He noted that the governor originally set aside \$250 thousand in the FY10 capital budget, which was since removed. He suggested that the committee adopt the initial fiscal note dated February 6, 2009.

[9:08:18 AM](#)

Co-Chair Hoffman MOVED to report CSSB 45 out of Committee with individual recommendations and the accompanying fiscal note dated February 6, 2009. There being NO OBJECTION, it was so ordered.

CSSB 45 was REPORTED OUT of Committee with individual recommendations and the accompanying fiscal note dated February 6, 2009.

#sb32

SENATE BILL NO. 32

"An Act relating to medical assistance payments for home and community-based services."

9:09:21 AM

Co-Chair Hoffman MOVED to ADOPT CSSB 32 (FIN), version M out of Committee with the accompanying fiscal notes. There being NO OBJECTION, it was so ordered.

Senator Ellis reviewed the Committee Substitute (CS). He explained that his aide Max Hensley will explain the legislation.

HENSLEY, MAX, STAFF, SENATOR ELLIS, reviewed the legislation. He thanked the staff of the Co-chair for the work done in developing the CS. He stated that the CS is a simpler bill which greatly reduces the forecasted fiscal impact to the state. The CS removes the general relief medical programs formerly in the Health and Social Services committee's work version. The intention is focus on the Medicaid sector. He noted Page 2, Line 5 replacing the word "consider" for "use" and Page 2, Line 6 replacing the word "cost" with "periodic cost surveys." Both changes achieve the goals of the original legislation with less overhead and administrative burden. He noted two new fiscal notes; the first maintains funding for three existing positions not included in the FY10 operating budget, the second includes updated assumptions for rates whose funding is appropriated by the legislature. He defined the new fiscal notes as predictive assumptions.

9:12:49 AM

Co-Chair Stedman requested a brief explanation of the bill's purpose for constituents at home. Mr. Hensley stated that SB 32 provides regular and periodic rate review for the providers of home and community based services under the Medicaid waiver program.

Co-Chair Stedman addressed the fiscal notes. The first note is from Support Services in an annual general fund match of \$182 thousand to fund three new full time positions. The second note is from Senior and Disability Services illustrating zero cost for FY10 and FY11, and a \$3 million cost in FY12 for increased Medicaid benefit on appropriation.

Senator Ellis noted appreciation for the work done on the bill. He expressed satisfaction at the improved legislation.

[9:14:50 AM](#)

JON SHERWOOD, DIRECTOR, OFFICE OF PROGRAM REVIEW, DEPARTMENT OF HEALTH AND SOCIAL SERVICES (DHSS), represented the administration. He appreciated the bill in the current draft. He felt that there was flexibility present in the amended draft and he felt it worthy of statute.

Co-Chair Stedman reminded of public testimony taken at the previous hearing.

Co-Chair Hoffman informed that the fiscal notes stating the amounts do not include inflation unless otherwise noted.

Mr. Sherwood answered that there is not inflation on the administrative cost of the fiscal note, but there is a specific inflation rate for the Medicare home health care market basket index. In an effort to give the best approximation of the impact of the bill showed the inflation rate moving forward from FY12.

[9:17:44 AM](#)

Co-Chair Hoffman asked if the inflation rate was 2.8 percent. Mr. Sherwood confirmed 2.8 percent.

Senator Olson asked the department's view on Section 3. Mr. Sherwood responded that Section 3 would repeal the

provision that the department must report on the rate setting process by 2014. By 2014, he opined the progress will be well established and functional. He stated that the department did not anticipate the need to provide annual progress reports. He stated that reporting would prove redundant each year although the department is willing to present reports at the will of the legislature.

Senator Olson asked how to ensure that the community service providers continue to receive compensation for fair market value. Mr. Hensley explained that the sunset provision removes the reporting provision fee, but the rate setting provision remains in statute.

[9:19:30 AM](#)

Co-Chair Hoffman asked about the additional personnel requested. Mr. Sherwood answered that the department sought information regarding reports from providers learning that the providers neglect to report accurate costs. He suggested that the legislation must inform providers about surveys. Surveys and analysis must occur prior to new rate setting.

Co-Chair Hoffman asked why the department requests continuation of the three new positions following the process of survey and analysis. Mr. Sherwood replied that cost surveys are anticipated periodically. The ongoing process ensures current information required for rate setting. He mentioned that hiring new providers requires training. Mr. Hensley explained that the three positions exist currently and therefore maintenance rather than creation is the goal.

[9:22:27 AM](#)

Co-Chair Hoffman asked for verification of Mr. Hensley's comment. Mr. Sherwood responded that the requested positions are currently filled and funded under the previous SB 61 efforts addressing Medicaid reform.

Senator Ellis MOVED to report CSSB 32 out of Committee with individual recommendations and the accompanying fiscal note there being NO OBJECTION, it was so ordered.

[9:23:50 AM](#)

#sb96

SENATE BILL NO. 96

"An Act relating to nonpayment of child support; relating to certain judicial and administrative orders for medical support of a child; relating to periodic review and adjustment of child support orders; relating to relief from administrative child support orders; relating to child support arrearages; relating to medical support of a child and the Alaska Native family assistance program; amending Rule 90.3, Alaska Rules of Civil Procedure; and providing for an effective date.

LYNDA, ZAUGG, STAFF, SENATOR BETTYE DAVIS,

In July 2008, the federal government issued new medical support regulation that require states to have guidelines addressing how either or both parents will provide for a child's healthcare needs through accessible health insurance coverage, cash medical support, or both. Failure to satisfy these regulations jeopardizes federal funding for the state's child support programs.

Under the federal regulations, states must order either or both parents to purchase reasonably-priced, accessible health insurance coverage, cash medical support, or both. Cash medical support may be required in those cases where no reasonable-priced health insurance coverage is accessible to the child. If a parent is ordered to pay cash medical support, the Child Support Services Division must enforce the ongoing cash medical support obligation as well as collect any cash medical support arrears.

[9:27:36 AM](#)

Co-Chair Stedman asked if medical payments were retroactive applying to past orders.

GINGER BLAISDELL, DIRECTOR, DIVISION OF ADMINISTRATIVE SERVICES, DEPARTMENT OF REVENUE introduced two members of the Child Support Enforcement Division. She provided the choice of either hearing a sectional analysis by John

Mallonee, or asking questions directly of her. Co-Chair Stedman requested the presentation by Mr. Mallonee.

JOHN MALLONEE, ACTING DIRECTOR, CHILD SUPPORT ENFORCEMENT DIVISION, DEPARTMENT OF REVENUE (testified via teleconference). He explained that the federal government provides greater than 66 percent of the funding needed for the program. In order to secure funding, the state must comply with requirements of the Social Security Act and federal regulations. Failure to meet the requirements places federal funding for the child support program at risk. The funding amounts to approximately \$17 million per year. This legislation addresses three areas where state statutes require change to federal requirements and ensure federal funding for the child support program. The first area is the Uniform Family Support Act. The purpose of the act is to provide efficient procedures to collect child support in interstate cases and to eliminate multiple support orders permitted under child support laws. In 1995, Alaska enacted a version of the act that contained a different definition of "state" than contained in the Uniform Act. The following year, Congress passed legislation mandating the states adopt the Uniform Act for eligibility for continued receipt of federal funds for the child support program. Alaska's definition of "state" does not encompass two entities included in the uniform act. These two entities are the "United States Virgin Islands" and an "Indian tribe." The bill eliminates the differences by incorporating the two entities in the Alaska Uniform Interstate Family Support Act Statute.

Mr. Mallonee discussed the topic of child support. He mentioned that the state child support program efforts to secure an enforced medical support order met with limited success. Congress enacted the Child Support Performance Incentive Act of 1998. The act directed the establishment of medical support working groups. The group includes 30 members representing federal and state child support programs employers, payroll professionals, health plans, and the children's advocates. The working group's report was delivered to Congress in 2000. In July of 2008, in response to several of the working group's key recommendations, the federal office of child support enforcement issued new medical support regulations. These regulations require a state to have guidelines necessitating that both parents provide for the child's healthcare needs through accessible health care insurance

coverage, cash medical support or both. Under the federal regulations, a state must order either or both parents to purchase reasonably priced accessible health insurance coverage, cash medical support or both. While health insurance coverage is preferred, cash support is required in cases where no reasonably priced health insurance coverage is accessible to the child. If a parent is ordered to pay cash medical support, the child support division must enforce the ongoing cash medical support obligation as well as collecting any medical support. The bill adds existing authority to order either or both parents to pay the cash medical support if warranted. While meeting federal requirements, the bill assures that children receive medical support to which they are entitled.

Mr. Mallonee stated that the third area involves review and modification of support orders. Clients may request review at any time. If no request is made, a review is not performed. Current federal regulations require the state to have procedures of which child support orders must be reviewed and appropriately modified every three years. The bill requires the agency to perform the reviews in compliance with the review cycle; however this in no way limits a client's ability to request a review at any time. He explained that an automated system collects income information from each party once a year and performs a calculation determining whether the case meets the criteria for modification. If it appears that modification criteria are met, notices are sent to both parties informing them that a modification may be warranted. In addition to these federal required provisions, the bill also removes the language limiting who may request the correction of a clerical mistake in an administrative order or who may request the vacation of an administrative order.

[9:34:38 AM](#)

Co-Chair Stedman asked about the changing of the definition of state and the impact the change has in undermining the state's sovereignty. Ms. Blaisdell informed that assistant attorney general dealing directly with tribal affairs from the Department of Law (DOL) was available to answer questions.

PETER PUTZIER, DEPARTMENT OF LAW spoke to the amendment. He opined that the changes are procedural in how child support orders are enforced. The changes do not affect a

substantive change either expanding or limiting tribal jurisdiction and conversely neither expand nor contract the state's jurisdiction with respect to child support enforcement authority.

Co-Chair Stedman asked if the change might potentially affect future court challenges. Mr. Putzier opined that the change would not impact future court challenges. He stated that the change only affects procedural changes in the law. The issue of tribal jurisdiction will remain unresolved. The bill does not expand or restrict jurisdiction that tribes have on one hand or the state on the other.

Co-Chair Stedman asked if the administration supports the bill. Ms. Blaisdell answered yes.

Co-Chair Stedman noticed the request to change the definition of state and the amount of \$17 million per year. He asked the impact of the bill if the legislature takes no positive action. Ms. Blaisdell answered that the administration received a letter regarding the definition of "state." She cited a section reporting that the funds are at risk if the state is not involved in a block grant for The Temporary Assistance to Needy Families (TANF), which requires the state to certify that it will operate a child support enforcement program under the state plan under Section d. Therefore Alaska should be aware that TANF funds may also be at risk if the state does not enact conforming child support legislation. She informed that \$17 million is the amount of federal funding that goes to the child support services division. Unfortunately the TANF grant is also used widely in the Department of Health and Social Services (DHSS). If the federal government were to restrict the entire federal TANF grant, it would equate to \$85 million in negative impact to the state.

Co-Chair Stedman asked about the "strings attached" to SB 96 as suspected with the economic stimulus bill. He asked how to specifically reconcile the issue of "strings attached."

[9:38:51 AM](#)

Ms. Blaisdell confessed that she did not understand the connection of "strings attached" and SB 96. Co-Chair Stedman replied that the federal money is contingent on changing the definition of "state." He asked how the

committee might reconcile decisions regarding the stimulus bill. Ms. Blaisdell informed that SB 96 was not directly related to the federal stimulus package. She explained that SB 96 informs that Alaska must be in compliance with the US act. If the state is not in compliance, we are at risk of losing significant federal funding. The federal economic funding child support section allows child support to utilize some of its federal funding as a general fund match providing a benefit. She did not believe that there is a direct correlation between this bill and the federal economic stimulus package other than child support is impacted by both.

Co-Chair Stedman understood that the legislation was not the stimulus bill. He was confused about the message that was coming from the administration dealing with bills or requests to the state with "strings attached." He asked how to separate the two issues.

[9:41:22 AM](#)

Ms. Blaisdell offered to return to the committee with the needed answers regarding SB 96 and "strings attached".

Senator Olson asked about native tribes and health care beneficiaries. He asked if any changes compromise native's access to healthcare. He explained that Indian Health Service (IHS) beneficiaries have health care provided for them. He asked how services are affected by having "Indian tribes" included in the legislation's language on Page 2, Line 24.

Mr. Putzier believed that the amendment's change regards the method of child support orders between jurisdictions. He did not believe that the amendment would have an impact on IHS beneficiaries.

[9:43:37 AM](#)

STACY STEINBERG, DEPARTMENT OF LAW (testified via teleconference) stating that IHS beneficiaries will not be affected. She informed that the cash support provision of the bill adds to the existing law the requirement to consider and determine if health care is available to the children. This bill adds an additional piece stating that during instances where health insurance is unavailable to the children, the agency report would consider whether cash

medical support is then appropriate. Under the current law, if the children are eligible for IHS, then the requirement is met.

Senator Thomas asked about the addition of the language and its impact on employers in relationship to payment of cash. He opined that difficulty in tracking wages earned might provide a problem. He wondered if the legislation might hold the employers more responsible.

[9:46:41 AM](#)

Mr. Mallonee responded that an underground cash economy exists where people work for unreported wages. The wages are attached to cash medical support. He thought it impossible to withhold the income or take it out of an individual bank account.

Senator Thomas asked if the state or federal governments are erring by neglecting to approach the issue. Mr. Mallonee stated that the federal government and child support directors across the nation have struggled with the problem for some time. A reporting mechanism does not exist to address the problem, but to date a solution is unavailable.

Ms. Blaisdell restated previous questions, whether cash medical assistance is used strictly for medical payments. The second question was whether the legislation was retroactive to preexisting orders or forward funding only.

[9:48:50 AM](#)

Mr. Mallonee discussed the retroactive question. With this legislation a modification to child support order to include the cash medical support would not go retroactive to previous times. The money does not require proof of use for medical expenses. Once the money is received, the custodial parent is then responsible for spending the money. There is no reason to report the use of the money to the state.

Senator Thomas asked about Page 1, Line 10 stating "when a person commits a crime of aiding the nonpayment of child support in the second degree". He asked about the penalty for the crime.

Mr. Mallonee answered that the penalty is felony prosecution for aiding and abetting the nonpayment of child support. For the acts of nonpayment of child support the penalties are either misdemeanor or felony charges. The legislation simply places the cash medical support as a portion of that periodic cash support in that statute.

[9:51:56 AM](#)

Co-Chair Hoffman asked for specific examples addressing the inclusion. Mr. Mallonee replied that the inclusion was simply for cash medical support inserted in the definition within the particular statute.

Co-Chair Hoffman asked if the language change was required for the legislature to remain in conformance. Mr. Mallonee stated that the language change is not required.

[9:53:02 AM](#)

Senator Bettye Davis

SB 96 was HEARD and HELD in Committee for further consideration.

[9:54:14 AM](#)

#

ADJOURNMENT

The meeting was adjourned at 9:54 AM.