

HOUSE FINANCE COMMITTEE
April 7, 2016
6:41 p.m.

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CALL TO ORDER

Co-Chair Thompson called the House Finance Committee meeting to order at 6:41 p.m.

MEMBERS PRESENT

Representative Mark Neuman, Co-Chair
Representative Steve Thompson, Co-Chair
Representative Dan Saddler, Vice-Chair
Representative Bryce Edgmon
Representative Les Gara
Representative Lynn Gattis
Representative David Guttenberg
Representative Scott Kawasaki
Representative Cathy Munoz
Representative Lance Pruitt
Representative Tammie Wilson

MEMBERS ABSENT

None

ALSO PRESENT

Jane Pierson, Staff, Representative Steve Thompson;
Representative Paul Seaton, Sponsor.

SUMMARY

HB 365 INCOME TAX; PERMANENT FUND TAX CREDIT

HB 365 was HEARD and HELD in committee for further consideration.

CSSB 74(FIN) am

MEDICAID REFORM; TELEMEDICINE; DRUG DATABAS

CSSB 74(FIN) am was HEARD and HELD in committee for further consideration.

Co-Chair Thompson reviewed the agenda for the evening.

#sb74

CS FOR SENATE BILL NO. 74(FIN) am

"An Act relating to diagnosis, treatment, and prescription of drugs without a physical examination by a physician; relating to the delivery of services by a licensed professional counselor, marriage and family therapist, psychologist, psychological associate, and social worker by audio, video, or data communications; relating to the duties of the State Medical Board; relating to limitations of actions; establishing the Alaska Medical Assistance False Claim and Reporting Act; relating to medical assistance programs administered by the Department of Health and Social Services; relating to the controlled substance prescription database; relating to the duties of the Board of Pharmacy; relating to the duties of the Department of Commerce, Community, and Economic Development; relating to accounting for program receipts; relating to public record status of records related to the Alaska Medical Assistance False Claim and Reporting Act; establishing a telemedicine business registry; relating to competitive bidding for medical assistance products and services; relating to verification of eligibility for public assistance programs administered by the Department of Health and Social Services; relating to annual audits of state medical assistance providers; relating to reporting overpayments of medical assistance payments; establishing authority to assess civil penalties for violations of medical assistance program requirements; relating to seizure and forfeiture of property for medical assistance fraud; relating to the duties of the Department of Health and Social Services; establishing medical assistance demonstration projects; relating to Alaska Pioneers' Homes and Alaska Veterans' Homes; relating to the duties of the Department of Administration; relating to the Alaska Mental Health Trust Authority; relating to feasibility studies for the provision of specified state services; amending Rules 4, 5, 7, 12, 24, 26, 27, 41, 77, 79, 82, and 89, Alaska Rules of Civil Procedure, and Rule 37, Alaska Rules of Criminal Procedure; and providing for an effective date."

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Vice-Chair Saddler MOVED to ADOPT the proposed committee substitute for CSSB 74, Work Draft (29-LS0692\T). There being NO OBJECTION, it was so ordered.

JANE PIERSON, STAFF, REPRESENTATIVE STEVE THOMPSON, reviewed the changes to the committee substitute from a prepared statement:

Title Changes: (Pages 1-2, Lines 1-20) Changes to conform with the changes in the bill

Sec. 1: (Pages 2-3, Lines 19-8) Adds Telehealth for registered audiologist assistants AS 08.11.080

Sec. 2: (Page 3, Lines 13 - 28) Adds Telehealth for licensed speech-language pathologist assistants. AS 08.11.083

Sec. 3: (Pages 3-4, Lines 25-9) Adds Telehealth for licensed speech-language pathologist. AS 08.11.085

Sec. 5: (Page 5, Line 19-21) Requires a licensed dentist with a federal DEA registration number to register with the PDMP. AS 08.36.070(a).

Sec. 7: (Pages 6, Lines 27-29) Requires that a physician with a federal DEA number register with the controlled substance database. AS 08.64.101

Sec. 10: (Page 9, Lines 6-8) Requires that an Advanced Nurse Practitioner with a federal DEA number register with the controlled substance database. AS 08.68.100(a)

Sec. 11: (Page 9, Lines 14-16) Requires that an Optometrist with a federal DEA number register with the controlled substance database. As 08.72.060(c)

Sec. 12: (Page 10, Line 19-21) Requires a licensed pharmacist with a federal DEA number register with the controlled substance database. AS 08.80.030(b)

Sec. 13: (Page 10-11, Lines 22-5) Adds Telehealth protections for licensed physical therapists and occupational therapists. AS 08.84.120.

Sec. 18: (Page 13, Line 15) Conforming language re: removal of seizure and forfeiture of property.

(Page 13, Lines 20-24) Allows for full reasonable attorney fees and costs in a fraudulent claim

(Page 13, Lines 28-29) Allows for Rule 82 attorney fees for cases that do not involve fraud.

(Page 14, Line 7) Limits liability to the section rather than chapter

(Page 14, Lines 11-12) Adds protection to the principal in a fraud case if their agent acted with intent to deceive the principal.

(Pages 17-18, Lines 30-3) Allows for full reasonable attorney fees and costs in a fraudulent claim. Allows for Rule 82 attorney fees for cases that do not involve fraud.

(Page 19, Lines 16, 22, 24) Conforming amendments.

Sec. 21: (Page 22, Lines 1-4) Removes references to the Department of Commerce, Community, and Economic Development. AS 17.30.200(a)

Sec. 22: (Page 22-23, Lines 31-2) Adds that if a person picking up a prescription is not the person to whom the drug was prescribed, the pharmacist shall collect their name and date of birth. AS 17.30.200(b)

Sec 23: (Page 23, Lines 17-21) Adds that an agent of a practitioner who has access to the PDMP must be licensed or registered or licensed under AS 08.

(Page 23, Lines 23-27) Adds that an agent of a pharmacist that has access to the PDMP must be licensed or registered or licensed under AS 08.

(Page 23, Line 30) removes the word subpoena, so that a search warrant or court order must be obtained for law enforcement to access the PDMP.

(Page 24, Lines 26-27) Allows a practitioner employed by the United States Indian Health Services to access the database. AS 17.30.200(d)

Sec. 26: (Page 25, Lines 21 and 24) Removes pharmacists from having to check the PDMP before dispensing.

(Page 25, Lines 21-25) States that the practitioner only, not a pharmacist has to review the database before prescribing or dispensing schedule II or III controlled substance, removing schedule IV.

(Page 26, Lines 4-7) adds to exceptions for reviewing the database before dispensing:

1. 48 hours immediately before, during, or after surgery or a medical procedure.

2. In a hospice or nursing home that has an in-house pharmacy

3. A non-refillable prescription of a controlled substance in a quantity intended to last not more than three days. AS 17.30.200(h)

Sec. 27: (Pages 26-27, Lines 8-3) Sets forth that the Department of Commerce, Community, and Economic Development shall:

1. Assist the pharmacist board and provide necessary staff and equipment to implement the PDMP.

- Establish fees for registration with the database with a pharmacist or practitioner for operational costs equally among all required to register.

- Consult with the board to establish fees. AS 17.30.200

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Sec. 28: (Page 27, Line 5) deletes monetary recoveries under the Alaska Medical Assistance False Claim and Reporting Act.

(Page 27, Lines 4-18) States the Commissioner of DOC shall apply for medical assistance for prisoners during a period of hospitalization outside of a correctional facility. Allows DOC to obtain necessary information to determine whether a prisoner is eligible for medical assistance and that the information obtained may only be used to apply for assistance. AS 33.30.028

Sec. 32: (Page 28, Lines 16-17) adds security provisions to the computerized eligibility verification system. AS 47.05.105

Sec. 36: (Page 31) Old Section AS 47.05.260 was deleted having to do with seizures and forfeitures.

(Page 15, Lines 23-27) Adds subsection (15) to the reporting requirements the amount of state funds saved as the result of policy authorizing 100 percent federal funding provide for America Indian and Alaska Native individuals eligible for Medicaid, and estimated savings if the department had fully implemented the changes in policy. AS 47.05.250

Sec. 38: (Page 37, Lines 2-4) requests that the Department give continuing cooperation to the grant funded community mental health clinics and drug and alcohol treatment centers that have historically provided care to recipients. AS 47.07.036

Sec. 39: (Page 39, Lines 5-6) Amends the coordinated care project to include (9) innovative payment process, including bundled payments or global payments. AS 47.07.038

(Pages 40-41) Amends the Project Review Committee membership.

(Page 41, Line 30) Amends third-party actuary review of demonstration projects from one year to two years.

Sec. 40: Reports (Pages 41 -42, Lines 27-9) 30) Adds an additional report to require the Department to prepare, semi-annually a report to the legislature on the Medicaid Management Information System.

Sec. 43: (Page 42, Lines 24-30) Amends 47.25.140 which prohibits the ability to receive public assistance benefits while in institutions, like nursing homes or correctional facilities.

Sec. 46: (Page 43, Line 11) Repeals section 47.07.076(c),

Sec. 47: (Pages 44-45, 30-6) Conforming language regarding attorney fee changes.

Sec. 50: Feasibility studies removes section to study privatization of the Alaska Pioneer Homes and select facilities of the division of juvenile justice.

Sec. 51: (Pages 48-49, Lines 28-13) Requires a report from medical professionals regarding recommended

guidelines for prescribing schedule II controlled substances.

Co-Chair Thompson communicated that the committee would be given time to digest the changes, as there were many. He set the bill aside.

CSSB 74(FIN) am was HEARD and HELD in committee for further consideration.

#hb365

HOUSE BILL NO. 365

"An Act relating to the permanent fund dividend disbursement; relating to the taxation of income of individuals; relating to tax credit against the individual income tax in the amount of a permanent fund disbursement; repealing tax credits applied against the tax on individuals under the Alaska Net Income Tax Act; and providing for an effective date."

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Co-Chair Neuman MOVED to ADOPT the proposed committee substitute for HB 365 (FIN), Work Draft (29-LS1422\P). There being NO OBJECTION, it was so ordered.

REPRESENTATIVE PAUL SEATON, SPONSOR, introduced the PowerPoint Presentation: "HB365 Individual Income Tax and Permanent Fund Refundable Tax Payment." He began by reading a quote by Gunnar Knapp on slide 2:

"Not paying for what we spend this year means that our children will pay for what we spend this year."

Representative Seaton turned to slide 3: "The Plan." He explained that the plan had 3 parts: Sensible spending cuts, new revenue, and the Permanent Fund Dividend (PFD).

Representative Seaton scrolled to slide 4: "The Plan: Sensible Spending Cuts." He reported that spending cuts were controlled by the legislature. There were a number of bills before the legislature.

Representative Seaton advanced to slide 5: "The Plan: PFD." He explained that most of the other plans that had been put forward dealt with restructuring the PF. The money used for

state spending would be derived solely from draining money from the fund or decreasing or eliminating the PFD.

Representative Seaton turned to slide 6: "The plan: PFD and New Revenue." He elaborated that his plan contained in HB 365 combined new revenues and the PFD. If the PFD was reduced it would have the most impact on large families with several kids and low income families. His plan was balanced with new revenues from an income tax. An income tax would impact higher income families more. No particular segment of the population would be paying more on a percentage basis than another.

Representative Seaton reviewed slide 7: "Income Tax." He detailed the income tax portion of his plan. It would be at 15 percent of the federal tax liability which would raise about \$500 million. He reported that in 1961 through 1975 when Alaska had a very similar income tax it was 16 percent. His income tax plan also included a 10 percent long-term capital gains which would raise about \$85 million. Many states had a similar capital gains tax. For example California had a 13.3 percent capital gains tax. He provided additional examples of capital gains in other states. The tax also raised about \$70 million from non-residents who made up a little more than 20 percent of the workforce.

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Representative Seaton discussed slide 8: "Changes with the PFD." He spoke to the benefits of the plan. It left everyone doing the job that they knew how to do. Currently the state had a PFD Division and the PF Corporation. The Permanent Fund Corporation managed a pot of money and the division handled PFDs. In the plan he was presenting they stayed exactly the same.

Representative Seaton read from slide 8:

- Distributable Income: currently 50 percent of the income available for distribution goes to PFDs and 50 percent stays in the Earnings Reserve. HB365: 25 percent goes to PFDs, 25 percent goes to the general fund, and 50 percent still stays in the Earnings Reserve.

- A PFD will not exceed \$1,200. If the amount calculated for the PFD is over \$1,200, the amount in excess of \$1,200 shall be appropriated to the general fund.
- Residents may apply their PFD to their upcoming state income tax due as a Refundable Tax Payment. Any amount left over after paying taxes will be refunded by the Tax Division.
- 2.3 percent Permanent Fund POMV directed to the General Fund and delete inflation proofing.

Representative Seaton referred to the bubble chart on slide 9: "Current Permanent Fund System." He noted that on the top it showed that oil and gas and mineral royalties were the real supplies of money. Currently, 25 percent to 30 percent were going into the PF royalties. The other 70 percent to 75 percent went into the general fund (GF). In the past it had been as high as 50 percent by statute. He pointed out that the PF and all of the money it made flowed into the earnings reserve. From the earnings reserve a couple of things happened. First, to the left, there was an automatic inflation proofing. To the right of the scale the legislature had 2 options: It could, by simple majority vote, appropriate earnings and put them into the GF or into the principle of the PF. He indicated that 21 percent of the 5 year average of the earnings reserve itself went to the distributable income account. He noted that 50 percent of the distributable income went to calculate the PFD and the PFD was distributed with the option to donate to Pick-Click-Give and college funds.

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Representative Seaton pointed to slide 10: "HB365–Income Tax & Permanent Fund Refundable Tax Payment Changes to current." He drew attention to the center of the chart where it showed an income tax of \$655 million which, with the passage of HB 365, would go directly into the general fund. Next he pointed to the distributable income, 25 percent of which would be used to calculate the PFD. Another 25 percent would be deposited into the GF. If the calculation of the PFD was over \$1200, the excess amount would go into the GF essentially capping the PFD. Like the current system donations could be given to Pick-Click-Give and college funds. House Bill 365 also provided another option which would allow individuals to apply their PFD

against their state income tax. The remainder would be sent out. The new option was totally up to the individual. The advantage to his legislation was that the PFD did not have to be restructured. The thing that changed was the percentage that came out of the distributable earnings. He reported that the percentage of market value (POMV) would be an entirely separate calculation made on the basis of the entire fund and the earnings reserve combined (averaging about \$1.1 billion). There was no direct impact on the calculation of the PFD. He relayed that in his plan the POMV was not created to calculate a dividend, but rather to figure out how much of a draw was possible for GF spending without damaging the earnings reserve or the PFD.

Representative Seaton reviewed the figures on slide 11: "HB365: Total Estimated Revenue to General Fund":

- Income Tax Revenue \$655,000,000
- 25 Percent PF Distributable Income \$686,542,500
- 2.3 Percent POMV Draw and Delete \$1,100,000,000
Inflation Proofing
- Total Revenue to General Fund \$2,441,542,500

Representative Seaton noted that \$2.44 million was not the state's total debt. The legislature was doing other work towards controlling the budget.

Representative Seaton discussed the models on slide 12: "Alaska Futures - CS HB 365 ver. P." He first looked at the status quo. Currently, the Constitutional Budget Reserve (CBR) would be exhausted in 2018. He relayed that the PF earnings reserve, represented by the red line on the chart in the lower left-hand corner, would be exhausted by 2021. In the upper right-hand corner the PF value would continue to grow a little before declining. In the lower right-hand corner it showed that there would be three large years of PFDs over \$2000 [represented by the red bars]. The following year the dividend calculation would be over \$2000 but there would be no money to pay for it because money would have been lost in the CBR and the earnings reserve would have declined. Under the status quo there would 3 years of large dividends and then no dividends. Under the plan proposed in HB 365 the blue bars reflected the PFD. Next he pointed to the upper left-hand chart reflecting the

funds in the CBR. In the proposed plan, without any budget cuts, the Constitutional Budget Reserve would extend out to about 2024, represented by the blue line. The plan would keep the earnings reserve growing a little and the Permanent Fund (PF) would grow by about \$5 billion over the following 5 years (2 percent per year).

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Representative Seaton discussed slide 13: "Alaska Futures - CS HB 365 ver. P - with additional Budget Reductions & Revenues." He explained that the slide showed what the fiscal circumstances might look like if there were additional cuts to the budget. The slide assumed \$450 million in reductions, a motor fuel tax increase of about \$49 million, a fish tax increase of about \$18 million, a tax credit reduction for Cook Inlet of about \$300 million, and a credit reduction of about \$100 million for the North Slope. He reported that the earnings reserve stayed healthy, the PF stayed healthy, and the CBR would extend to 2034. He thought his proposal, with a combination of solutions, gave fairness and balance to the citizens of the state. He suggested that the purpose of putting the plan together was to have one package that solved the state's fiscal woes in a fair and balanced way. He was open to any questions and referred to a hand-out in member packets. He reviewed the list of available testifiers.

Representative Guttenberg asked if part of the plan was to turn the PF into a POMV. Representative Seaton stated there was a POMV element at 2.3 percent which he believed would not be damaging to the fund.

Representative Guttenberg asked for Representative Seaton to repeat himself. Representative Seaton indicated it would not diminish the fund.

Representative Guttenberg commented that the state had dealt with POMV's in the past. He understood that the 2.5 percent padding was more moderate than the other proposals the committee had considered. He asked about the consequences of low earnings and getting locked out of the principle.

Representative Seaton replied that earnings over time, based on a 5 year average, would not approach the rate. There was nothing that could be done in statute that could

affect the principle. The calculation would always be made by the Permanent Fund Corporation because legally the legislature could not tap into the principle of the fund. He thought the plan helped to bring in new revenue to offset the deficit rather than closing the gap using the earnings of the PF. He commented that he was also counting on the legislature to make further cuts to the budget. He furthered that his plan extended the CBR out to 2024 even without budget cuts. The legislature was aware that the fiscal problem needed to be addressed in 3 areas: sensible spending cuts, the PFD, and new revenues.

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Representative Guttenberg suggested that the PFD portion of the plan had a cap without a floor. Representative Seaton indicated that Representative Guttenberg was correct. The reason there was no floor was because if the return was low for a series of years, money would not be generated. He did not want to put the state in the position of taking additional money above the formula to make payouts. The Permanent Fund was essentially green oil; oil turned into money. The state was using the investment stream as a source of the money rather than the pool. However, if the investment stream was not keeping up there would be significant problems that would have to be addressed again.

Representative Edgmon asked Representative Seaton to discuss the difference between his plan and the others including the governor's plan [Legislation offered in 2016 - HB 245: Short Title: Perm Fund: Deposits; Dividend; Earnings] and the plan offered by Representative Hawker [Legislation offered in 2016 - HB 224: Short Title: Perm Fund: Income; Distribution; PFD] in terms of the impact for those earning a higher income versus a lower income.

Representative Seaton responded that the other plans used volatile royalties, values based on price, to pay or be a contributor to the dividend itself. He indicated that the problem with attaching the dividend to royalties was that when prices were low the dividend would be low. He suggested that it was better to have it out of cycle so that a dividend was paid out based on investment earnings over time. He specified that when prices were low the economy would be aided by having a healthy dividend. In cycling the 2 together when prices were low the dividend would be low and problems in the economy would be

accelerated. In terms of the PF, the difference between his plan and the others was that the other plans totally restructured the make-up of the fund and were more complicated. His plan left everyone continuing to do their same job. The Permanent Fund Corporation would continue to manage the fund, the Permanent Fund Division would continue to generate and process PFD applications, and distributing the PFD. The only difference was that the division would be distributing 25 percent instead of 50 percent of the distributable earnings. His plan attempted to keep everything clean and easy. He did not have the graph on how the legislation influenced each section of the economy. However, he had seen graphs that showed that a PFD reduction hit low income families and large families much harder affecting a larger percentage of their income. Hence, that was why the plan was balanced with an income tax which hit the wealthier population harder.

Representative Edgmon asked about the refundable tax provision on slide 10. He drew attention to the box at the bottom of the page labeled "Refundable Tax Payment applied to state income tax." He thought the refundable tax provision lent itself to being less regressive for those that made less money and depended more on their annual PFD. He commented that it was a distinguishing feature between Representative Seaton's plan and all of the other plans in circulation at present. He wanted to hear more about the progressivity feature of the plan. He opined that the feature was a highly attractive part of the overall plan.

Co-Chair Thompson thanked Representative Seaton for presenting his bill. He indicated he would be setting the bill aside.

HB 365 was HEARD and HELD in committee for further consideration.

Co-Chair Thompson reviewed the agenda for the following day and stated that the committee would meet at 10:00 AM.

ADJOURNMENT

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The meeting was adjourned at 7:19 p.m.