

HB

106

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HB 106
 (H) Publish Date: 1/24/05
 Dept. Affected: Health & Social Services
 RDU Departmental Support Services
 Component Commissioner's Office

Revision Date/Time (Note if correction):

Title ESTABLISHING THE ALASKA SENIOR CARE PROGRAM

Sponsor (RLS) BY REQUEST OF THE GOVERNOR

Requester GOVERNOR

Component No. 317

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES (0)						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	8,689.0	17,377.9	18,064.5	18,826.7	19,659.1	20,579.2
1037 GF/Mental Health						
1189 Senior Care Fund	7,762.4					
Other(Specify Type-do not abbreviate)						
TOTAL	16,451.4	17,377.9	18,064.5	18,826.7	19,659.1	20,579.2

Estimate of any current year (FY2005) cost: _____
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The bill authorizing the continuation of the SeniorCare program includes provision to establish a new Alaska senior care fund as an account in the general fund. Per proposed section 47.45.360 the fund would consist of 1) money in the former senior care fund established in sec. 2, ch. 2, SLA 2004; 2) appropriations to the Alaska senior care fund; and 3) any appropriation of interest earned on money in the Alaska senior care fund.

This fiscal note represents capitalization of the new Alaska senior care fund; expenditures are shown on associated fiscal notes for components that would be operating the program. See attachment A for summary of Alaska SeniorCare projected caseload and costs. (Continued on next page)

Prepared by: Janet Clarke, Assistant Commissioner Phone 465-1630
 Division Finance and Management Services Date/Time 01/10/2004
 Approved by: Joel S. Gilbertson, Commissioner Date 01/14/2005
 Agency Department of Health and Social Services

FISCAL NOTE

FN # 1

**STATE OF ALASKA
2005 LEGISLATIVE SESSION**

BILL NO. HB 106

ANALYSIS CONTINUATION

The Alaska senior care fund would be capitalized with a General Fund deposit as well as deposit of the balance of the former senior care fund. The estimated balance of the former senior care fund will be approximately \$7,764.2 on January 1, 2006. This balance will be subject to actual claims and benefit payments under the existing SeniorCare program through December 31, 2005. The General Fund appropriation represents half of the FY07 projected expenditures for SeniorCare cash and drug benefits and the administrative costs to run the program.

It is anticipated that there will be an annual general fund capitalization deposit to the Alaska senior care fund that will be contained in the language section of the operating budget bill. Legislative approval of carryforward of the Alaska senior care fund annually (general fund sweep reversal) will be necessary to allow continuation of the Fund balance for use to pay benefits in the following year.

Alaska SeniorCare Projected Caseloads & Costs

	FY 06 -- 3rd & 4th Qtr	FY 07	FY 08
Caseload Projections			
Alaska SeniorCare Below 135% of Poverty-Cash Benefit	7,000	7,000	7,000
Alaska SeniorCare Between 135% and 300% of Poverty-Drug Benefit	9,975	10,474	10,997
Benefit Assumptions			
Alaska SeniorCare Below 135% of Poverty-Cash Benefit	\$ 720	\$ 1,440	\$ 1,440
Alaska SeniorCare Between 135% and 300% of Poverty-Drug Benefit	\$ 320	\$ 640	\$ 672
<hr/>			
	FY 06 -- 3rd & 4th Qtr	FY 07	FY 08
Budget Forecast			
Alaska SeniorCare Below 135% of Poverty-Cash Benefit	\$ 5,040,000	\$ 10,080,000	\$ 10,080,000
Alaska SeniorCare Between 135% and 300% of Poverty-Drug Benefit	\$ 3,192,000	\$ 6,703,360	\$ 7,389,984
Total Program Cost	\$ 8,232,000	\$ 16,783,360	\$ 17,469,984
Administrative Costs			
Eligibility	\$ 454,500	\$ 450,100	\$ 450,100
Claims Processing	\$ 163,900	\$ 80,900	\$ 80,900
Information and Referral	\$ 59,000	\$ 63,500	\$ 63,500
Total Administrative Costs	\$ 677,400	\$ 594,500	\$ 594,500
Combined Program and Administrative Costs	\$ 8,909,400	\$ 17,377,860	\$ 18,064,484

Source: Fiscal notes for LL-90, as of 1/13/05

FISCAL NOTE

**STATE OF ALASKA
2005 LEGISLATIVE SESSION**

Fiscal Note Number: 2

Bill Version: HB 106

(H) Publish Date: 1/24/05

Revision Date/Time (Note if correction):

Dept. Affected: Health & Social Services

Title ESTABLISHING THE ALASKA SENIOR CARE PROGRAM

RDU Health Care Services

Component Medical Assistance Admin.

Sponsor (RLS) BY REQUEST OF THE GOVERNOR

Requester GOVERNOR

Component No. 242

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	80.9	80.9	80.9	80.9	80.9	80.9
Travel						
Contractual	83.0					
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	163.9	80.9	80.9	80.9	80.9	80.9

CAPITAL EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011

CHANGE IN REVENUES (0)	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1037 GF/Mental Health						
1196 AK Senior Care Fund	163.9	80.9	80.9	80.9	80.9	80.9
Other(Specify Type-do not abbreviate)						
TOTAL	163.9	80.9	80.9	80.9	80.9	80.9

Estimate of any current year (FY2005) cost: _____

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time	1	1	1	1	1	1
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill authorizes the continuation of the SeniorCare program and modifies the prescription drug benefit available under the program. Approximately 10,000 seniors will receive assistance paying their premiums and deductibles for prescription drug coverage under Medicare or some comparable insurance.

The Division of Health Care Services will need to contract for changes to its claims payment system (MMIS) to allow for payment of premiums and deductibles, at a one-time cost of \$133.0 (\$50.0 of this total cost is included in the FY06 Governor's Budget and so not reflected above). In addition, the division will need to add one, full-time staff member. Initially, this position will perform the development and testing of system changes to MMIS. Once the new prescription drug benefit is effective, the position will be responsible for overseeing the premium buy-in process and coordinating the coverage of deductibles with providers.

Prepared by: Jon Sherwood

Phone 465-5820

Division Office of Program Review

Date/Time 01/05/2005

Approved by: Joel S. Gilbertson, Commissioner

Date 01/14/2005

Agency Department of Health and Social Services

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 3
 Bill Version: HB 106
 (H) Publish Date: 1/24/05
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction):

Title ESTABLISHING THE ALASKA SENIOR CARE PROGRAM

RDU Senior and Disabilities Svcs

Component Senior/Disabilities Svcs Admin

Sponsor (RLS) BY REQUEST OF THE GOVERNOR

Requester GOVERNOR

Component No. 2663

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 20 ⁰ 9	FY 2010	FY 2011
Personal Services	36.0	48.0	48.0	48.0	48.0	48.0
Travel	0.5	0.5	0.5	0.5	0.5	0.5
Contractual	15.0	15.0	15.0	15.0	15.0	15.0
Supplies	7.5					
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	59.0	63.5	63.5	63.5	63.5	63.5

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (0)						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1037 GF/Mental Health						
1196 AK Senior Care Fund	59.0	63.5	63.5	63.5	63.5	63.5
Other(Specify Type-do not abbreviate)						
TOTAL	59.0	63.5	63.5	63.5	63.5	63.5

Estimate of any current year (FY2005) cost: _____

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time	1	1	1	1	1	1
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill will make the SeniorCare program permanent. With the permanency, the Division of Senior and Disabilities Services needs to add one Administrative Clerk III to provide the support for the SeniorCare Information office. This position would be responsible for answering phones, making referrals to agencies, mailing out informational packets on the senior benefits, and maintaining files.

The division is requesting support costs for office space, furniture, a computer, telephone and computer lines, mailings, printing and general office supplies.

Prepared by: Sharon K. Lowe
 Division: Senior and Disabilities Services
 Approved by: Joel S. Gilbertson, Commissioner
 Agency: Department of Health and Social Services

Phone 907-465-5810
 Date/Time _____
 Date 01/14/2005

FISCAL NOTE

**STATE OF ALASKA
2005 LEGISLATIVE SESSION**

Fiscal Note Number: 4
 Bill Version: HB 106
 (H) Publish Date: 1/24/05
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction):

Title ESTABLISHING THE ALASKA SENIOR CARE PROGRAM

RDU Public Assistance

Component SeniorCare

Sponsor (RLS) BY REQUEST OF THE GOVERNOR

Requester GOVERNOR

Component No. 2760

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	301.5	361.8	361.8	361.8	361.8	361.8
Travel	3.5	3.5	3.5	3.5	3.5	3.5
Contractual	114.5	74.8	74.8	74.8	74.8	74.8
Supplies	35.0	10.0	10.0	10.0	10.0	10.0
Equipment						
Land & Structures						
Grants & Claims	8,232.0	16,783.4	17,470.0	18,232.2	19,064.6	19,984.7
Miscellaneous						
TOTAL OPERATING	8,686.5	17,233.5	17,920.1	18,682.3	19,514.7	20,434.8

CAPITAL EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
CHANGE IN REVENUES (0)						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1037 GF/Mental Health						
1196 AK Senior Care Fund	8,686.5	17,233.5	17,920.1	18,682.3	19,514.7	20,434.8
Other(Specify Type-do not abbreviate)						
TOTAL	8,686.5	17,233.5	17,920.1	18,682.3	19,514.7	20,434.8

Estimate of any current year (FY2005) cost:

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time	6	6	6	6	6	6
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill authorizes the continuation of the SeniorCare program, which provides a cash or drug benefit to eligible seniors age 65 or older. It also changes the drug benefit to a State Pharmaceutical Assistance Program, to cover the premiums and deductibles of the new Medicare Part D prescription drug coverage that begins January 1, 2006. This bill would allow seniors with incomes below 135% of the federal poverty guideline and countable assets below \$6,000 (\$9,000 for couples) to continue to be eligible for the \$120 monthly cash payment. Seniors with incomes below 300% of the federal poverty guideline and countable assets below \$50,000 (\$100,000 for couples) would be eligible to have their premiums and deductibles for Medicare Part D, or other similar prescription drug coverage, paid for by the new SeniorCare drug benefit.

Prepared by: Katherine Farnham
 Division: Public Assistance
 Approved by: Joel S. Gilbertson, Commissioner
 Agency: Department of Health and Social Services

Phone: 269-7930
 Date/Time: 01/14/2005
 Date: 01/14/2005

FISCAL NOTE
FN # 4

STATE OF ALASKA
2005 LEGISLATIVE SESSION

BILL NO. HB 106

ANALYSIS CONTINUATION
SENIORCARE ANALYSIS CONTINUATION

Caseload & Benefit Cost Projections

Assumptions:

This fiscal note assumes the new SeniorCare program begins January 1, 2006 when Medicare Part D drug coverage first becomes available.

- ◀ In FY 04, an average of 7,000 seniors received the \$120 cash benefit each month. The Department estimates a monthly average of 7,000 seniors will be eligible for and continue to receive the \$120/month cash benefit, when the program is extended on January 1, 2006.
- ◀ The Department estimates an additional 9,975 seniors will become eligible for the new SeniorCare drug benefit beginning January 1, 2006, at an annual cost per individual of \$640.
- ◀ The number of seniors receiving the drug benefit and the associated drug benefit premium and deductible costs will increase by 5%/year beginning in FY 07.

Total FY 06 SeniorCare Benefit Costs (6 months): \$8,232.0

Cash benefit @ 135% of FPG: 7,000 x \$720 = \$5,040.0

Drug benefit @ 300% of FPG: 9,975 x \$320 = \$3,192.0

Total FY 07 SeniorCare Benefit Costs: \$16,783.4

Cash benefit @ 135% of FPG: 7,000 x \$1,440 = \$10,080.0

Drug benefit @ 300% of FPG: 10,474 x \$640 = \$6,703.4

Total FY 08 SeniorCare Benefit Costs: \$17,470.0

Cash benefit @ 135% of FPG: 7,000 x \$1,440 = \$10,080.0

Drug benefit @ 300% of FPG: 10,997 x \$672 = \$7,390.0

Total FY 09 SeniorCare Benefit Costs: \$18,232.2

Cash benefit @ 135% of FPG: 7,000 x \$1,440 = \$10,080.0

Drug benefit @ 300% of FPG: 11,547 x \$706 = \$8,152.2

Total FY 10 SeniorCare Benefit Costs: \$19,064.6

Cash benefit @ 135% of FPG: 7,000 x \$1,440 = \$10,080.0

Drug benefit @ 300% of FPG: 12,125 x \$741 = \$8,984.6

Total FY 11 SeniorCare Benefit Costs: \$19,984.7

Cash benefit @ 135% of FPG: 7,000 x \$1,440 = \$10,080.0

Drug benefit @ 300% of FPG: 12,731 x \$778 = \$9,904.7

FISCAL NOTE
FN # 4

STATE OF ALASKA
2005 LEGISLATIVE SESSION

BILL NO. HB 106

ANALYSIS CONTINUATION
SENIORCARE ANALYSIS CONTINUATION

Administration

In FY 06, Administration of the new SeniorCare program will transfer from the Alaska Division of Pioneer Homes to the Division of Public Assistance (DPA). Six new positions are needed in DPA to administer the SeniorCare program: 1 Administrative Clerk II; 3 Eligibility Technician I's, 1 Eligibility Technician III Lead Worker; and 1 Program Coordinator. These positions will have statewide responsibility for processing the enrollment applications for the projected 16,975 eligible recipients. This includes the initial and ongoing determining of eligibility, processing claims, and serving as a liaison with the Social Security Administration to ensure recipient enrollment in Medicare Part D.

Assumptions:

- DPA staff recruitment, hiring, and program eligibility training for new staff will begin in September 2005.
- In October 2005, DPA will begin processing renewal applications for the 7,000 current SeniorCare cash benefit recipients, and begin accepting new applications for the new drug benefit coverage.
- Eligibility determinations for the new SeniorCare drug benefit will begin in November 2005, concurrently with the Social Security Administration's enrollment of beneficiaries for Medicare Part D.
- Starting in January 2006, DPA will have full responsibility for issuing the \$120 SeniorCare cash benefit checks and the new drug benefit identification cards.
- Modifications to DPA's Eligibility Information System (EIS) will be completed to facilitate the issuance of SeniorCare cash benefits and drug benefit identification cards.

Total FY 06 Administrative Costs: \$454.5

Personal Services (\$30,150/month x 10 months): \$301.5
Travel (to support employee training, marketing, outreach): \$3.5
Contractual: \$114.5
*Office Space: \$24.0
*Local & Long Distance Telephone Support \$8.5
*Marketing & Outreach: \$30.0
*Regulations Development: \$5.0
*EIS Computer System Programming Modifications: \$25.5
*Other Services (printing/mailing recipient warrants and drug benefit ID cards): \$21.5
Office Supplies: \$10.0 Desktop computers, printers, and work stations: \$25.0

Total FY 07 (Annual) Administrative Costs: \$450.1

Personal Services (\$30,150/month x 12 months): \$361.8
Travel (to support employee training, marketing, outreach): \$3.5
Contractual: \$74.8
*Office Space: \$24.0
*Local & long distance telephone support: \$8.5
*Other Services (printing/mailing recipient warrants and drug benefit ID cards): \$42.3
Office Supplies: \$10.0

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2/8/05

CS FOR HOUSE BILL NO. 106(HES)

**IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION**

BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

**Offered:
Referred:**

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 **"An Act establishing the senior care program and relating to that program; creating a**
2 **fund for the provision of the senior care program; repealing ch. 3, SLA 2004; and**
3 **providing for an effective date."**

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

5 *** Section 1.** AS 09.38.015 is amended to read:

6 **Sec. 09.38.015. Property exempt without limitation.** (a) An individual is
7 entitled to exemption of the following property:

- 8 (1) a burial plot for the individual and the individual's family;
- 9 (2) health aids reasonably necessary to enable the individual or a
10 dependent to work or to sustain health;
- 11 (3) benefits paid or payable for medical, surgical, or hospital care to
12 the extent they are or will be used to pay for the care;
- 13 (4) an award under AS 18.67 (Violent Crimes Compensation Board) or
14 a crime victim's reparations act of another jurisdiction;

- 1 (5) benefits paid or payable as a longevity bonus under AS 47.45;
2 (6) compensation or benefits paid or payable and exempt under federal
3 law;
4 (7) liquor licenses granted under AS 04;
5 (8) tuition credit or savings accounts under a higher education savings
6 account established under AS 14.40.802 or an advance college tuition savings contract
7 authorized under AS 14.40.809(a);
8 (9) a permanent fund dividend to the extent allowed under
9 AS 43.23.065;
10 (10) benefits paid or payable as a senior care benefit under
11 AS 47.45.300 - 47.45.390.

12 * Sec. 2. AS 47.45 is amended by adding new sections to read:

13 **Article 3. Senior Care Program.**

14 **Sec. 47.45.300. Senior care program.** (a) The senior care program is
15 established in the Department of Health and Social Services to provide cash assistance
16 benefits and prescription drug benefits as far as practicable under appropriations
17 provided by law.

18 (b) The department shall

- 19 (1) administer the program; and
20 (2) adopt regulations under AS 44.62 to carry out the purposes of the
21 program.

22 (c) If the department estimates that appropriations for the program are
23 insufficient to meet the demands of the program in a fiscal year, the department may
24 reduce or eliminate the benefits available to recipients. Benefits shall be reduced or
25 eliminated in the following order:

- 26 (1) deductible coverage under AS 47.45.320(c);
27 (2) premium coverage under AS 47.45.320(c);
28 (3) cash assistance under AS 47.45.310(b).

29 **Sec. 47.45.310. Cash assistance benefit.** (a) To be eligible for a cash
30 assistance benefit under the program, an individual shall

- 31 (1) be 65 years of age or older;

- 1 (2) be a resident of the state;
- 2 (3) have household income that does not exceed 135 percent of the
- 3 federal poverty line as defined by the federal Office of Management and Budget and
- 4 revised under 42 U.S.C. 9902(2), as amended;
- 5 (4) meet other eligibility requirements specified in this subsection and
- 6 in regulations adopted under this subsection; and
- 7 (5) apply on a form provided by the department; the department may
- 8 use an abbreviated form for an individual who received a payment under an assistance
- 9 program for seniors that paid \$120 a month and was administered by the department
- 10 on or before the effective date of this section.

11 (b) An eligible individual who meets the income standard of (a)(3) of this

12 section shall receive cash assistance of \$120 a month as far as practicable under

13 appropriations available to the program.

14 (c) Cash assistance provided under this section is inalienable by assignment or

15 transfer and is exempt from garnishment, levy, or execution as provided in

16 AS 09.38.015.

17 **Sec. 47.45.320. Prescription drug benefit.** (a) To be eligible for a

18 prescription drug benefit under the program, an individual

- 19 (1) shall be 65 years of age or older;
- 20 (2) shall be a resident of the state;
- 21 (3) shall have household income that does not exceed 300 percent of
- 22 the federal poverty line as defined by the federal Office of Management and Budget
- 23 and revised under 42 U.S.C. 9902(2), as amended;
- 24 (4) may not be receiving a cash assistance payment under
- 25 AS 47.45.310,
- 26 (5) shall be enrolled in at least one of the prescription drug programs
- 27 described in (c) of this section;
- 28 (6) shall meet other eligibility requirements specified in this subsection
- 29 and in regulations adopted under this subsection; and
- 30 (7) shall apply on a form provided by the department; the department
- 31 may use an abbreviated form for individuals who received a payment under an

1 assistance program for seniors that paid \$120 a month and was administered by the
2 department on or before the effective date of this section.

3 (b) To receive a prescription drug benefit under this section, an individual

4 (1) may not also receive a similar prescription drug benefit, except for
5 a prescription drug program offered by a facility that operates under the authority of
6 25 U.S.C. 450 - 458bbb-2; and

7 (2) if eligible for a similar prescription drug benefit, shall assign to the
8 department the individual's right to payment of the other prescription drug benefit.

9 (c) The department may pay an eligible individual's premium and deductible
10 for a prescription drug benefit authorized under

11 (1) 42 U.S.C. 1395w-101 - 1395w-152 (Medicare Prescription Drug,
12 Improvement and Modernization Act of 2003), as amended, including

13 (A) a prescription drug plan funded under 42 U.S.C. 1395w-
14 101 - 1395w-152 (Medicare Prescription Drug, Improvement and
15 Modernization Act of 2003), as amended; and

16 (B) a Medicare Advantage plan that provides prescription drug
17 coverage qualified under 42 U.S.C. 1395w-101 - 1395w-152 (Medicare
18 Prescription Drug, Improvement and Modernization Act of 2003), as amended;

19 (2) a group health plan, including the federal employees health benefits
20 program and qualified retiree prescription drug plan as defined in 42 U.S.C. 1395w-
21 132 (sec. 1860D-22(a)(2) of the Social Security Act), as amended;

22 (3) coverage of prescription drugs for veterans, survivors, and
23 dependents under 38 U.S.C. 1701 - 1784, as amended;

24 (4) coverage under a Medicare supplemental policy, such as medigap
25 under 42 U.S.C. 1395ss (sec. 1882 of the Social Security Act), as amended, and as
26 specified in 42 C.F.R. 403.205, that provides a prescription drug benefit regardless of
27 whether the coverage was issued in accordance with the standardization requirement
28 under 42 U.S.C. 1395ss(p)(1) (sec. 1882(p)(1) of the Social Security Act), as
29 amended;

30 (5) military coverage under 10 U.S.C. 1071 - 1110, as amended; or

31 (6) any other private plan that is identified by the department as

1 providing coverage actuarially equivalent to 42 U.S.C. 1395w-101 - 1395w-152
2 (Medicare Prescription Drug, Improvement and Modernization Act of 2003), as
3 amended.

4 (d) If an eligible individual has a prescription drug benefit that is specified in
5 (c) of this section, but that benefit does not require the individual to pay either a
6 premium or a deductible, the department may not pay a prescription drug benefit to the
7 individual under this section.

8 (e) The total prescription drug benefit that an eligible individual may receive
9 under this section in a fiscal year may not exceed the annual premium cost of a plan
10 identified in (c) of this section and any deductible required under 42 U.S.C. 1395w-
11 101 - 1395w-152 (Medicare Prescription Drug, Improvement and Modernization Act
12 of 2003), as amended.

13 (f) The department may not pay a prescription drug benefit under this section
14 to an individual who has a prescription drug benefit authorized under

15 (1) Medicaid under 42 U.S.C. 1396 - 1396v (Title XIX of the Social
16 Security Act), as amended; or

17 (2) a waiver under 42 U.S.C. 1315 (sec. 1115 of the Social Security
18 Act), as amended

19 (g) An individual residing in a public institution, a nursing facility, the Alaska
20 Pioneers' Home, or the Alaska Veterans' Home is not eligible for a prescription drug
21 benefit under this section. For purposes of this subsection, an individual is not
22 considered to be residing in a public institution or nursing facility if the individual is
23 institutionalized for medical services for a period of less than three months and
24 continues to maintain and provide for the expenses of the individual's home or living
25 arrangement to which that individual may return upon discharge from the institution or
26 facility.

27 **Sec. 47.45.330. Continuation of benefits.** An eligible individual who leaves
28 the state may not receive a cash assistance benefit under AS 47.45.310 or prescription
29 drug benefit under AS 47.45.320 during the absence unless the individual's absence is
30 temporary and is for one of the following reasons:

31 (1) to receive medical treatment for the individual;

1 (2) to accompany the individual's family member who is receiving
2 medical treatment outside the state; or

3 (3) for a vacation, business trip, or other absence of less than 30
4 consecutive days, unless the individual has applied for and received a time extension
5 from the department for special circumstances.

6 **Sec. 47.45.340. Appeal rights.** An individual who receives a determination
7 from the department that denies, limits, or modifies a cash assistance benefit or
8 prescription drug benefit under AS 47.45.300 - 47.45.390, other than a determination
9 under AS 47.45.300(c) to reduce or eliminate benefits, may request a hearing before
10 the department under regulations adopted by the department.

11 **Sec. 47.45.350. Ability to recover or recoup improper assistance benefits.**
12 An individual is liable to the department for the value of assistance or benefits
13 improperly paid to the person under AS 47.45.310 or 47.45.320 if the improper
14 payment was based on inaccurate or incomplete information provided by the
15 individual. In a civil action brought by the state to recover from the individual the
16 value of assistance or benefits improperly paid under AS 47.45.310 or 47.45.320, the
17 state may recover from the individual the costs of investigation and prosecution of the
18 civil action, including attorney fees as determined under court rules.

19 **Sec. 47.45.360. Alaska senior care fund.** The Alaska senior care fund is
20 established as an account in the general fund. The fund shall be used by the
21 commissioner of health and social services to pay for costs incurred in the provision of
22 senior services under AS 47.45.300 - 47.45.390. The fund consists of

- 23 (1) money in the former senior care fund established in sec. 2, ch. 3,
24 SLA 2004;
- 25 (2) appropriations to the Alaska senior care fund; and
- 26 (3) any appropriation of interest earned on money in the Alaska senior
27 care fund.

28 **Sec. 47.45.390. Definitions.** In AS 47.45.300 - 47.45.390,
29 (1) "department" means the Department of Health and Social Services;
30 (2) "eligible individual" means an individual who meets the
31 requirements of AS 47.45.310 or 47.45.320 and regulations adopted under those

1 statutes for eligibility for the program;

2 (3) "family member" means a person who is

3 (A) legally related to an eligible individual through marriage or
4 guardianship; or

5 (B) an eligible individual's sibling parent, grandparent, son,
6 daughter, grandson, granddaughter, uncle, aunt, niece, nephew, or first cousin;

7 (4) "program" means the senior care program established in
8 AS 47.45.300 - 47.45.390;

9 (5) "public institution" means a governmentally owned establishment
10 that furnishes food, shelter, and some additional treatment or services to 16 or more
11 persons; "public institution" does not include the Alaska Pioneers' Home or Alaska
12 Veterans' Home;

13 (6) "resident" has the meaning given in AS 47.25.430(a).

14 * **Sec. 3.** AS 37.05.146(c) is amended by adding a new paragraph to read:

15 (78) the Alaska senior care fund (AS 47.45.360).

16 * **Sec. 4.** Chapter 3, SLA 2004, is repealed.

17 * **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to
18 read:

19 **TRANSITION: TRANSFER OF ASSETS TO THE ALASKA SENIOR CARE**
20 **FUND.** Subject to appropriation, the assets of the senior care fund created by sec. 2, ch. 3,
21 SLA 2004, are transferred to the Alaska senior care fund (AS 47.45.360) established by sec. 2
22 of this Act.

23 * **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to
24 read:

25 **TRANSITION: REGULATIONS.** (a) To the extent the regulations are not
26 inconsistent with this Act, regulations adopted by the Department of Health and Social
27 Services in 2005 to provide cash assistance of \$120 a month to seniors that were in effect on
28 June 29, 2004, remain applicable and in effect as valid regulations until the Department of
29 Health and Social Services adopts regulations under this Act and those regulations take effect
30 under AS 44.62.

31 (b) The Department of Health and Social Services may proceed to adopt regulations

1 to implement the changes made by this Act. The regulations take effect under AS 44.62
2 (Administrative Procedure Act), but not before the effective date of the statutory changes.

3 * Sec. 7. The uncodified law of the State of Alaska is amended by adding a new section to
4 read:

5 DUTY OF COMMISSIONER TO NOTIFY REVISOR OF STATUTES. The
6 commissioner of health and social services shall notify the revisor of statutes when 42 U.S.C.
7 1395w-101 - 1395w-152 (Medicare Prescription Drug, Improvement and Modernization Act
8 of 2003) is operational for recipients in this state, as communicated to the commissioner of
9 health and social services by the United States Department of Health and Human Services.

10 * Sec. 8. Sections 6(b) and 7 of this Act take effect immediately under AS 01.10.070(c).

11 * Sec. 9. Except as provided in sec. 8 of this Act, this Act takes effect on the date that the
12 commissioner of health and social services notifies the revisor of statutes that 42 U.S.C.
13 1395w-101 - 1395w-152 (Medicare Prescription Drug, Improvement and Modernization Act
14 of 2003) is operational for recipients in this state, as communicated to the commissioner of
15 health and social services by the United States Department of Health and Human Services.

LEGAL SERVICES

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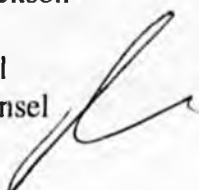
MEMORANDUM

February 3, 2005

SUBJECT: Senior Care (HB 106 (Work Order No. 24-GH 1090\A))

TO: Representative Peggy Wilson
Attn: Kathy Erickson

FROM: Jean M. Mischel
Legislative Counsel



You have asked for a review and opinion on the drafting and legal issues raised in the above referenced bill. The bill creates an account to transfer funds from the temporary senior care program established under ch. 3 SLA 2004, repeals the temporary program in its entirety, and establishes a senior care program in AS 47.45 for administration by the Department of Health and Social Services. While the bill shares many similarities with the temporary senior care program, it would be inaccurate to characterize this bill as merely codifying the temporary law. Both the benefits and the eligibility criteria have been changed in this bill.

The bill also contains explicit cross-references to the federal act that provides for prescription benefits. As a drafting matter, these cross references should be changed to reflect the title of the federal act, "**Medicare Prescription Drug, Improvement and Modernization Act of 2003**" and the reference to "**Medicare Part D**" should be deleted throughout this bill. The cross-reference to "Part D" could easily prove ambiguous or inaccurate, particularly if a future Congress reorganizes the federal act. The bill also contains an error at page 3, line 31 that should be corrected. The cross-reference there should read: "38 U.S.C. 1701-**1784**", rather than "38 U.S.C. 1701-1774." Other editorial changes should be made in compliance with the legislative drafting manual including a substitution of the word "**shall**" for "**must**" wherever "must" appears.

In addition, the exemption of senior care benefits from garnishment, levy or execution at page 2, line 25-26 of the bill requires an amendment to AS 09.38.015(a) to include senior care benefits. If senior care benefits are intended to replace longevity bonus payments then other conforming amendments pertaining to the longevity bonus program should be made. Let me know if you would like to have these conforming amendments drafted.

A potential equal protection issue is raised by the exclusion of residents of certain types of public facilities, who would otherwise qualify, from eligibility for the prescription benefits provided for in this bill (page 4, lines 25-31). Since this an economic benefit, a court would apply the lowest level of scrutiny to the rationale for this provision. The

Representative Peggy Wilson

February 3, 2005

Page 2

state must have a legitimate interest supporting the differential treatment.

The mandatory assignment of rights to similar prescription drug benefits (page 3, lines 16-17) assumes that the benefit is assignable, which may not always be available to a beneficiary.

The appeal procedure provided for at page 5, lines 12-16, may more appropriately be placed within the Department of Administration's Office of Administrative Hearings under AS 44.64.

Finally, the effective date at section 7 may allow for a gap in benefits should the federal Medicare Part D prescription drug benefits not be operational by January 1, 2006. At that point, the temporary senior care program will be repealed and eligible participants who have private or non-Medicare prescription drug benefits will receive a prescription drug benefit unavailable to other eligible recipients, a result that may not be intended.

If I may be of further assistance, please advise.

JMM:jad

05-067.jad

Sectional Analysis of HB 106/SB 78 (Senior Care)

(Prepared by the Department of Health and Social Services and the Department of Law, January 28, 2005)

HB 106/SB 78 would establish the senior care program, which provides cash assistance and prescription drug benefits to eligible seniors.

I. Establishment of the senior care program (Section 1):

Sec. 1: Section 1 establishes and sets out the senior care program in statute by adding new sections to the chapter dealing with older Alaskans, as follows:

- it establishes senior care as a program, provides the Department of Health and Social Services with the authority to administer it, and establishes the order in which senior care benefits are to be reduced if funding is inadequate;
- it provides for a cash assistance benefit of \$120 per month for Alaska residents, age 65 and older, who have income less than or equal to 135 percent of the federal poverty guidelines;
- it provides for a prescription drug benefit for Alaska residents, age 65 and older, who have income less than or equal to 300 percent of the federal poverty guidelines, who do not receive a cash assistance payment under section 1, and who meet other requirements;
- it provides that the prescription drug benefit will pay for premiums and deductibles for prescription drug coverage under Medicare Part D, a group health plan, veteran benefits, Medigap, military coverage, and other plans comparable to Medicare Part D, while limiting the total benefit to the annual cost of Medicare Part D premiums and deductibles;
- it places the following limitations on the prescription drug benefit: an individual is not eligible for the prescription drug benefit if their premium and deductible are covered by another source or if they have a prescription drug benefit authorized under specific sections of the Social Security Act; in addition, residents of public institutions, nursing facilities, Pioneers' Homes, and Veterans' Homes are not eligible, unless they reside in a public institution or nursing facility for less than three months;
- it prevents recipients of either the cash assistance benefit or the prescription drug benefit from receiving benefits if they leave the state, unless it is temporary absence to receive medical treatment, accompany a family member receiving medical treatment, or take a trip of less than 30 consecutive days (or longer if the department grants an exception for special circumstances);

- it provides for an appeal process for people whose benefits are denied, terminated, or reduced;
- it makes an individual liable to the Department of Health and Social Services for benefits improperly paid due to inaccurate or incomplete information, and gives the Department of Health and Social Services the ability to recover those benefits and associated recovery costs through a civil action;
- it establishes the Alaska senior care fund in statute as an account in the general fund; the senior care fund would receive appropriations and unexpended funds in the current senior care fund created by temporary law;
- it provides definitions.

II. Adds the senior care fund to the list of nongeneral fund program receipts (Section 2):

Sec. 2: Section 2 adds the Alaska senior care fund to the list of nongeneral fund program receipts at AS 37.05.146(c).

III. Repeal of existing senior care program in session law (Section 3):

Sec. 3: Section 3 repeals ch. 3, SLA 2004, which sets out the existing senior care program.

IV. Transition provisions (Sections 4 - 5):

Sec. 4: Section 4 transfers the assets of the current senior care fund created under ch. 3, SLA 2004 to the senior care fund created under sec. 1.

Sec. 5: Section 5(a) gives the Department of Health and Social Services the authority to use the existing regulations to operate the senior care program until it can adopt regulations under the statutes added by the bill. Section 5(b) gives the Department of Health and Social Services authority to begin the process of adopting new regulations before the new statute takes effect.

V. Effective dates (Sections 6 - 7):

Sec. 6: Section 6 provides for an immediate effective date for sec. 5(b), authorizing the Department of Health and Social Services to begin adopting new regulations.

Sec. 7: Section 7 provides for an effective date of January 1, 2006, or the date Medicare Part D begins, whichever is sooner, for the remainder of the bill sections.

STATE OF ALASKA

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

Alaska Commission on Aging

FRANK H. MURKOWSKI
GOVERNOR

P.O. BOX 110693

JUNEAU, ALASKA 99811-0693

PHONE: (907) 465-3250

FAX: (907) 465-1398

February 7, 2005

The Honorable Peggy Wilson, Chair
House H.E.S.S. Committee
House of Representatives
State Capitol Room 108
Juneau, AK 99801-1182

Re: HB 106, SeniorCare Program

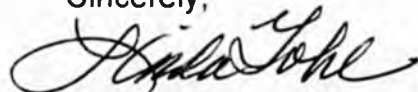
Dear Representative Wilson:

The members of the Alaska Commission on Aging would like to voice their very strong support for passage of the Governor's SeniorCare Bill, HB 106. The Commission is charged with making recommendations to the Governor and the Legislature with respect to legislation, regulations and appropriations for programs and/or services that support the health and well-being of older Alaskans.

Members of the Commission are particularly concerned about the ability of our most needy and vulnerable seniors to afford adequate medical care, including coverage for prescription drugs. We are also concerned about all seniors on fixed incomes who are burdened with skyrocketing costs for medical care, prescription drugs, Medicare and expensive private health insurance premiums. With the establishment of the Medicare Part D prescription drug program, it is vitally important that Alaska seniors are able to cover the cost of participating in this federal program if they are to avail themselves of this federal assistance. We believe the Governor's proposed SeniorCare program will go a long way toward ensuring that our seniors have adequate and affordable prescription drug coverage in Alaska.

The members of the Commission on Aging respectfully ask your consideration and support for passage of HB106 and sufficient funding to ensure this program is successful.

Sincerely,



Linda Gohl, Executive Director
Alaska Commission on Aging



February 8, 2005

The Honorable Peggy Wilson, Chair
House Health, Education and Social Services Committee
Alaska State Capitol, Room 108
Juneau, AK 99801-1182

RE: HB 106 (Governor Murkowski)—Support

Dear Chair Wilson:

On behalf of the members of AARP in Alaska, we encourage you and your colleagues on the House Health, Education and Social Services Committee to support HB 106, introduced by the House Rules Committee at the request of Governor Murkowski.

Last year Governor Murkowski proposed, and the Legislature passed, the Alaska SeniorCare bill. As you know from talking to your own constituents, the cost of prescription medications for older Alaskans is a critical issue for many family budgets. Older persons use more medications than younger people. With more years, we use more medications. Our oldest Alaskans are the ones most likely to use the most prescriptions. They are also statistically likely to have the lowest incomes.

In Alaska, just like every other state, we also have a second group of persons who reach retirement age with serious health problems. Very often they already face significant prescription drug costs when they turn 65 and these costs usually continue to go up as they age.

Prescription medications are not a luxury. They are an essential part of preventive health care today. Without prescriptions, many older Alaskans would face more serious (and more costly) health interventions, including surgery. Providing prescription drug coverage under SeniorCare is smart medicine and we applaud the Governor and the Legislature for passing SeniorCare last year.

HB 106 would allow SeniorCare to continue beyond December 31, 2005. Better yet, HB 106 would compliment the new Medicare Part D program and assist older Alaskans who sign up for the new Medicare benefit with premium and deductible costs up to 300% of the federal poverty level. HB 106 also raises the "assets test" for eligibility in SeniorCare. The original assets test undoubtedly prevented some medically needy older Alaskans from participating. Older persons tend to save for that "rainy day." Even low income older people tend to save for emergencies. They may not be able to save much but what they do save often makes them ineligible for programs like SeniorCare. Raising the assets test to more reasonable limits is certainly good public policy and supports the intent of the Governor and the Legislature.

We are well aware that the Legislature faces competing requests for a limited budget. However, we also believe that SeniorCare is successful in its intent and, with the Governor's recommend changes in HB 106, Alaska's SeniorCare will be even more effective in helping older Alaskans deal with the ever-rising cost of prescription medications.

We urge an "AYE" vote on HB 106.

Should you have any questions about our position, please feel free to contact me (586-3637) or Patrick Luby, AARP Advocacy Director (907-762-3314).

Thank you for your consideration.

Sincerely,

Marie Darlin

Marie Darlin, Coordinator
AARP Capital City Task Force
415 Willoughby Avenue, Apt. 506
Juneau, AK 99801
586-3637 (voice)
463-3580 (fax)

CC: Vice-Chair Paul Seaton
Representative Vic Kohring
Representative Tom Anderson
Representative Lesil McGuire
Representative Berta Gardner
Representative Sharon Cissna
Governor Frank Murkowski
Commissioner Joel Gilbertson

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

FRANK H. MURKOWSKI, GOVERNOR

P.O. BOX 110601
JUNEAU, ALASKA 99811-0601
PHONE: (907) 465-3030
FAX: (907) 465-3068

January 26, 2004

Honorable Peggy Wilson, Chair
House Health, Education and
Social Services Committee
Alaska State Capitol; Rm. 108
Juneau, AK 99801

Dear Representative Wilson,

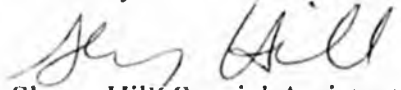
The Department of Health and Social Services respectfully requests a hearing in the House Health, Education, and Social Services Committee on House Bill 106 "An Act establishing the senior care program and relating to that program; creating a fund for the provision of the senior care program; repealing ch. 3, SLA 2004; and providing for an effective date."

The proposed legislation will repeal the existing SeniorCare program established in temporary law last year and replace it with a permanent law that will strengthen the SeniorCare program in future years.

A copy of Governor Murkowski's transmittal letter providing additional information on the bill and the associated fiscal notes should be on file with the committee. A sectional analysis will be provided to the committee prior to a hearing on the bill

Your favorable consideration of this request will be appreciated.

Sincerely,


Sherry Hill, Special Assistant
Office of the Commissioner

cc: Kevin Jardell, Legislative Director
Office of the Governor

Ms. Katherine Farnham, Director
Division of Public Assistance