

**ALASKA STATE LEGISLATURE**  
**SENATE STATE AFFAIRS STANDING COMMITTEE**

April 13, 2015

8:02 a.m.

**MEMBERS PRESENT**

Senator Bill Stoltze, Chair  
Senator John Coghill, Vice Chair  
Senator Charlie Huggins  
Senator Bill Wielechowski

**MEMBERS ABSENT**

Senator Lesil McGuire

**OTHER MEMBERS PRESENT**

Senator Kevin Meyer  
Senator Pete Kelly  
Representative Jim Colver

**COMMITTEE CALENDAR**

SENATE BILL NO. 74

"An Act relating to permanent fund dividends; relating to a medical assistance reform program; establishing a personal health savings account program for medical assistance recipients; relating to the duties of the Department of Health and Social Services; establishing medical assistance demonstration projects; and relating to a study by the Department of Health and Social Services."

- HEARD & HELD

CONFIRMATION OF GOVERNOR'S APPOINTMENTS HEARING:

Board of Fisheries  
Orville Huntington  
Robert Ruffner

- HEARD

**PREVIOUS COMMITTEE ACTION**

BILL: SB 74

SHORT TITLE: MEDICAID REFORM/PFD/HSAS/ER USE/STUDIES

SPONSOR(s): SENATOR(s) KELLY

03/13/15 (S) READ THE FIRST TIME - REFERRALS  
03/13/15 (S) HSS, STA, FIN  
03/13/15 (S) HSS AT 1:30 PM BUTROVICH 205  
03/13/15 (S) -- MEETING CANCELED --  
03/23/15 (S) HSS AT 1:30 PM BUTROVICH 205  
03/23/15 (S) Heard & Held  
03/23/15 (S) MINUTE(HSS)  
04/01/15 (S) HSS AT 1:30 PM BUTROVICH 205  
04/01/15 (S) Heard & Held  
04/01/15 (S) MINUTE(HSS)  
04/02/15 (S) STA AT 9:00 AM BUTROVICH 205  
04/02/15 (S) <Pending Referral>  
04/03/15 (S) HSS AT 1:30 PM BUTROVICH 205  
04/03/15 (S) -- MEETING CANCELED --  
04/08/15 (S) HSS AT 1:30 PM BUTROVICH 205  
04/08/15 (S) Heard & Held  
04/08/15 (S) MINUTE(HSS)  
04/10/15 (S) HSS AT 1:30 PM BUTROVICH 205  
04/10/15 (S) Moved CSSB 74(HSS) Out of Committee  
04/10/15 (S) MINUTE(HSS)  
04/11/15 (S) HSS RPT CS 3DP 1NR NEW TITLE  
04/11/15 (S) DP: GIESSEL, ELLIS, STOLTZE  
04/11/15 (S) NR: STEDMAN  
04/13/15 (S) STA AT 8:00 AM BUTROVICH 205

**WITNESS REGISTER**

HEATHER SHADDUCK, Staff  
Senator Kelly  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Provided an overview of the CS for SB 74.

COMMISSIONER VALERIE DAVIDSON  
Alaska Department of Health and Social Services  
Juneau, Alaska

**POSITION STATEMENT:** Addressed questions on SB 74.

JON SHERWOOD, Deputy Commissioner  
Alaska Department of Health and Social Services  
Juneau, Alaska

**POSITION STATEMENT:** Addressed the time required for regulation changes to be written for SB 74.

ORVILLE HUNTINGTON, appointee

Board of Fisheries  
Huslia, Alaska  
**POSITION STATEMENT:** Addressed his background.

ANDREW COUCH, representing himself  
Palmer, Alaska  
**POSITION STATEMENT:** Supports Mr. Huntington's reappointment.

PAUL SHADURA, advocate  
South K-Beach Independent Fishermen's Association  
Kenai, Alaska  
**POSITION STATEMENT:** Supports Mr. Huntington's reappointment.

BRUCE KNOWLES, representing himself  
Wasilla, Alaska  
**POSITION STATEMENT:** Supports Mr. Huntington's reappointment.

BYRON CHARLES, representing himself  
Ketchikan, Alaska  
**POSITION STATEMENT:** Did not address Mr. Huntington's appointment.

ROBERT RUFFNER, appointee  
Board of Fisheries  
Soldotna, Alaska  
**POSITION STATEMENT:** Addressed questions from the committee regarding his appointment.

MIKE TINKER, representing himself  
Ester, Alaska  
**POSITION STATEMENT:** Opposes Mr. Ruffner's appointment.

AL BARRETTE, representing himself  
Fairbanks, Alaska  
**POSITION STATEMENT:** Opposes Mr. Ruffner's appointment.

LOREN FLAGG, representing himself  
Kenai, Alaska  
**POSITION STATEMENT:** Supports Mr. Ruffner's appointment.

DAVID ATHONS, representing himself  
Soldotna, Alaska  
**POSITION STATEMENT:** Supports Mr. Ruffner's appointment.

GARY STEVENS, representing himself  
Chugiak, Alaska  
**POSITION STATEMENT:** Opposes Mr. Ruffner's appointment.

ANDREW COUCH, representing himself  
Palmer, Alaska

**POSITION STATEMENT:** Supports Mr. Ruffner's appointment.

BRUCE KNOWLES, representing himself  
Wasilla, Alaska

**POSITION STATEMENT:** Did not provide an endorsement for or  
against Mr. Ruffner's appointment.

BILL IVERSON, representing himself  
Soldotna, Alaska

**POSITION STATEMENT:** Opposes Mr. Ruffner's appointment.

MIKE NAVARRE, Mayor  
Kenai Peninsula Borough  
Soldotna, Alaska

**POSITION STATEMENT:** Supports Mr. Ruffner's appointment.

#### **ACTION NARRATIVE**

[8:02:41 AM](#)

**CHAIR BILL STOLTZE** called the Senate State Affairs Standing Committee meeting to order at 8:02 a.m. Present at the call to order were Senators Coghill, Huggins, Wielechowski, and Chair Stoltze.

#### **SB 74-MEDICAID REFORM/PFD/HSAS/ER USE/STUDIES**

[8:03:30 AM](#)

**CHAIR STOLTZE** announced the consideration of SB 74. He welcomed Senator Kelly's office to review bill.

[8:03:43 AM](#)

**HEATHER SHADDUCK**, Staff, Senator Kelly, Alaska State Legislature, Juneau, Alaska, provided an overview of the committee substitute for SB 74 as follows:

Senate Bill 74 starts the process of cost containment and reform needed to slow the growth of the Alaska Medicaid Program. Medicaid has grown to \$1.8 billion of the annual operating budget and has accounted for 22 percent of the total Unrestricted General Fund (UGF) increases over the last 10 years.

The current and former administrations have testified that the Medicaid program as it stands is not sustainable. Low oil prices and billions of dollars in revenue short falls have forced us to change how we do business. In July 2013, the Medicaid budget group of Department of Health and Social Services (DHSS) reported that the total spending on Medicaid services will reach \$6.3 billion in 2032, including \$2.8 billion in state matching funds. If we don't act now to bend the growth curve of Medicaid, many of our most vulnerable Alaskans, those who are disabled and our children, will be without the critical healthcare services they need. We look at reform as pushing the right care in the right place at the right time and you can certainly add for the right price.

[8:05:27 AM](#)

MS. SHADDUCK addressed specific changes to SB 74 as follows:

Section 1, page 1, line 7, this was a new section added in by the Senate Health and Social Services Committee; it replaced a previous Section 1, so this adds new sections establishing civil penalties for false claims for Medicaid assistance and it authorizes the DHSS to assess civil penalties against Medicaid assistance providers that submit false claims.

Section 2, page 3, line 6, this is our Medicaid assistance reform program that we put into statute. Subsection (a) directs the DHSS to design and implement a program for reforming Medicaid. The reform program must include 10 items. The first one, which starts on line 9, is referrals to community and social support services including career and education training services available through the Department of Labor, the University of Alaska, and others. As you know, our state has a lot of training opportunities through our current network of job centers, vocational rehabilitation offices, our Workforce Investment Act programs, vocational training programs, and supports through our extensive nonprofits that provide job services in case management. We certainly believe that jobs are the path to self-staining and an improved self-image.

Number 2, line 12, is the distribution of an Explanation of Benefits (EOB) to recipients. We've

heard other states are providing EOBs, this may or may not be something that our state should be doing and we think it is just one of those tools to get folks thinking about their healthcare.

8:07:15 AM

MS. SHADDUCK continued to provide an overview as follows:

Number 3, line 14, is expanding the use of telemedicine for Primary Care Behavioral Health and urgent care.

Number 4, line 16, is enhancing fraud prevention detection enforcement. As you are probably aware, a lot has been done under Andrew Peterson's lead at the Medicaid Fraud Control Unit and we want to encourage as much fraud prevention and enforcement as possible.

Number 5, line 17, is reducing the cost of Behavioral Health Senior and Disability Services provided to Medicaid recipients under the state's Home and Community-Based Services Waiver; we line up with the administration in our goals for this and we would anticipate them using a 1915(k) waiver like the DHSS has testified in previous committees this session and this would enhance our federal match rate from 50 percent to 56 percent and I believe it would also use a 1915(i) option in here as well and that switches folks who were currently paying for with 100 percent general funds (GF) to a 50-50 state match. We also anticipate using telemedicine in these areas and this is kind of if folks are at home and getting care, you can increase telemedicine and just have check-in on them daily, make sure they are taking their meds and those kind of things.

Number 6 is pharmacy initiatives and this is expanding on what DHSS has already done, including using generic meds, claims pricing, and payment reforms prior to authorization, etc.

Number 7, line 21, page 3, is Enhanced Care Management (ECM), so this could be set up in a couple of different ways and these are methods to teach the proper use of our healthcare system which could be pretty overwhelming and it's not intuitive to just access that if you are new at that. Primary Care

Management Plans (PCMP) can be used with the use of a patient-centered medical home and this is where a Medicaid user, often a super-utilizer, is assigned to a primary care provider to oversee their care.

8:09:17 AM

CHAIR STOLTZE asked for super-utilizer to be defined.

MS. SHADDUCK explained that a super-utilizer has been a term coined by the DHSS under the previous administration and those are folks who are in the emergency room (ER) more than most. She added that there are some thresholds for an individual to be referenced as a super-utilizer where users use an ER 10 times or more. She specified that super-utilizers are the folks using the ER as their primary care doctors instead of using more appropriate care.

CHAIR STOLTZE asked if "excessive" would have been a better adjective than "super."

MS. SHADDUCK answered probably.

She continued to provide an overview as follows:

With this case management, these folks would have access to preventative care, primary care, vaccines, flu shots, and all appropriate care. Another example is special treatment for identified needs, folks who are pregnant, have diabetes, asthma and so on, you want to have the appropriate specialized care for those folks.

Number 8, line 22, is redesigning the payment process, including fee agreements for performance measures that include premium payments for Centers of Excellence and penalties for hospital acquired infections, readmissions, and failures of outcomes. We would anticipate DHSS would also use bundled rates for physicians and diagnosis related groups for hospitals. For example, instead of going into the hospital and having a fee for service and getting charged for an Advil, an IV and everything they do, it would be one bundled rate; for instance, if you go in and get a knee replacement.

Number 9 is stakeholder involvement in setting annual targets for quality and cost effectiveness.

Number 10, line 28, is reducing travel cost by requiring a recipient to obtain Medicaid services in their home community to the extent appropriate when services are available there. We definitely need to reduce travel where we can. We would anticipate expanded use of telemedicine. DHSS has options like going after a choice-waiver that they can direct folks where to receive their care. We would hope to see a better coordination of travel overall if a mom and her kids have several preventative trips that they would need to come in from a village to Anchorage instead of having mom come in to get one checkup and returning to her village and then traveling again into Anchorage a couple of weeks later with her children that would need somebody to travel with them. DHSS and Indian Health Service (IHS) facilities can coordinate that travel all together if it is preventative in nature.

SENATOR HUGGINS addressed number 10 regarding "To the extent consistent with federal law." He asked what the federal law is and what hurdles are involved.

MS. SHADDUCK answered that Medicaid has many hurdles with federal law. She detailed that many of the provisions in the proposed reforms must be approved by the federal government for state plan amendments. She surmised that "consistent with federal law" probably means that the reforms are in line with Alaska's state plan for everything that the Medicaid program authorizes.

SENATOR HUGGINS commented that he has heard that the state has applied for waivers and asked if travel is an issue that has a waiver potential.

CHAIR STOLTZE asked that should the bill be enacted, would there be an implicit agreement to pursue all of the items noted in the bill or would the pursuit continue to be on a "trust me" basis with both DHSS and the federal government.

[8:13:59 AM](#)

MS. SHADDUCK explained that there are explicit directions that DHSS would apply for any waivers required to implement the items addressed in the bill. She added that the fiscal notes back up what waivers that would be applied for, so legislative intent is certainly shown. She detailed that a little bit later there are some conditional effects so that once DHSS receives the okay

from the federal government to change the state plan and gets approval for the waivers, the law won't officially go into effect.

MS. SHADDUCK continued to provide an overview as follows:

Subsection (b), line 31, page 3, this subsection has DHSS identify the areas of the state where improvements and access to telemedicine would be most effective in reducing the cost of Medicaid; it also allows DHSS to enter into an agreement with IHS providers if necessary to improve access to telemedicine facilities and equipment. As you are probably aware, IHS facilities have a pretty extensive network of telemedicine, we would certainly want to partner with them where possible.

Subsection (c), line 7, page 4, this is a section about reports and the subsection requires the DHSS to annually report to the Legislature on October 15 of every year and to have those reports roll in before the legislative session. Some of these measures would focus on: realized cost savings related to the reforms in the program, savings from reforms efforts undertaken by DHSS, and a statement of whether DHSS has met annual targets for quality and cost effectiveness. There would be other recommendations for the Legislature, including legislative changes, budget changes, impacts of federal laws, and results of the demonstration projects. Basically I look at this section as everything that legislators want to know to continue to monitor and reform the Medicaid program. I suspect that this report will be very useful to our Health and Social Services Committee and both of the finance committees.

[8:16:14 AM](#)

SENATOR HUGGINS asked if he was being naïve to expect tangible results to be reported by October 15.

MS. SHADDUCK replied that results for the first year on October 15 will be sketchy. She pointed out that the report will be presented annually. She noted that the date was chosen to leave enough time to propose legislative or budgetary changes.

SENATOR HUGGINS commented that he supports reform. He remarked that the questions of expansion should be based upon the results of reform and not in spite of it.

MS. SHADDUCK continued to provide an overview as follows:

Subsection (d), page 5, line 10, this just provides a definition for telemedicine.

Section 3, page 5, line 15, this requires DHSS to design and implement a demonstration project to reduce the non-urgent use of the emergency departments of Medicaid recipients; again, this is where I used the term super-utilizer, this would build on what DHSS has already done with their super-utilizer program and it's about directing individuals to the right care, at the right time, at the right place.

Subsection 5, page 6, line 1, sets out a process for referring a frequent ER utilizer to a primary care provider within 96 hours after an ER visit. We are really trying to teach people how to use proper healthcare and get them into primary care where ever possible and this section also includes strict guidelines for the prescribing of narcotics and a prescription monitoring program.

Section 4, page 6, line 12, this was also an addition by the Senate HSS Committee, this requires DHSS and the Attorney General to annually prepare a report regarding fraud prevention, abuse, prosecution, and vulnerabilities in the Medicaid program.

[8:19:02 AM](#)

She continued to provide an overview as follows:

Section 5, page 7, line 6, this sets out our Medicaid managed care or a case management demonstration program for individuals enrolled in the Medicaid program.

Subsection (a), Alaska is about one of only 12 states to not employ some sort of managed health plan in their Medicaid population. Individuals would be managed by a traditional insurance carriers like Moda, Aetna, or Premera. I would anticipate these Medicaid folks would get regular insurance cards instead of

Medicaid cards and that is certainly helping their self-outlook; some folks that have run health plans like these cite better outcomes and more one-on-one engaged care.

Comprehensive care management and care coordination would be a part of this program. For instance, someone like an expectant mother who is enrolled in the Denali Kid Care Program would be engaged by a PCCM case manager once she became pregnant, this would be her go-to person. There would be check-ins along the way to make sure that the woman is having a healthy pregnancy, that she was taking her prenatal vitamins, and that she was getting her questions answered by the same provider; the goal of this is to have the healthiest outcomes we can have and this type of plan sets up relationships and trusts between providers. If you are going in regularly and seeing the same person and talking to them, those vulnerabilities will come down and those walls will come down. I would fully anticipate that providers would pick up on things that folks will not share originally; this is all about the best care at the best time. This program also requires individual and family support and referrals to community and social support services including job training. Again, we are looking at the whole person, not just the immediate healthcare needs.

[8:21:01 AM](#)

SENATOR HUGGINS asked how an expectant mother using alcohol would fit into the program that Ms. Shadduck described.

MS. SHADDUCK replied that comprehensive care management would be a way to see the factors where a case manager would check in on women. She stated that hope is that the woman Senator Huggins described would feel comfortable enough about sharing information with the case manager without feeling any judgement and be able to get the help that she needs. She said the hope is that comprehensive care management will help reduce the number of Fetal Alcohol Syndrome (FAS) cases.

She continued to provide an overview as follows:

Section 5, subsection (b), page 7, line 29, this requires DHSS to enter into contracts with one or more third party administrators for this project.

Subsection (c), page 8, this outlines requirements for DHSS and the third party administrator for services and fees.

Subsection (d), page 8, line 12, this shows that the project must include cost saving measures that include innovations and that would be reducing travel through the expanded use of telemedicine for primary and urgent care services. Alaska Native Tribal Health Consortium (ANTHC) has led the way on telemedicine; they have done studies that show about 40 percent of telemedicine visits have avoided travel. ANTHC has capacity across the state, so we can certainly expand on that and learn from what they have done. Subsection (d) also simplifies administrative procedures for providers including streamlining the audit payment process for stakeholders.

[8:23:31 AM](#)

SENATOR COGHILL called attention to subsection (b) regarding "third party" and asked Ms. Shadduck if she had a chance to research those that are available. He inquired if the Legislature will have a chance to hear from the potential field of third party administrators.

MS. SHADDUCK answered that there is a letter from Aetna supporting managed care in the Medicaid program. She detailed that conversations with the third party administrators have not occurred, but she surmised that Aetna, Moda, and Premera would be interested; however, the legal process regarding the request for proposal (RFP) must be taken into account.

SENATOR COGHILL replied that his intent is to make sure the Legislature is directing the third parties to something out there.

MS. SHADDUCK specified that "third party administrator" was added to the latest version of the bill's CS. She noted that the bill's sponsor wanted to make sure the insurance network was used rather than adding more state employees in DHSS.

She continued to provide an overview as follows:

Section 6, page 8, line 20, this sets up the feasibility studies that DHSS would undergo. Before the state can consider privatizing any state function, the contracts require that a feasibility

study be done. The studies would not look the same for each listed facility to study; those facilities are: Alaska Psychiatric Institute (API), the Alaska network of Pioneer Homes, and select facilities of the Division of Juvenile Justice; for example, there are private companies that all they do is run psychiatric hospitals and they have great outcomes. API has some of the highest rates of workers' compensation rates, so we are studying if privatization is going to lower the cost and provide better care. One more example, certain facilities of Juvenile Justice, there are places like Nome where you could turn over the facility that is not full to the local native health corporation and turn it into a residential psychiatric treatment center. Not only would folks be getting a culturally relevant care by the tribes, they would be staying in their home communities. As a bonus, instead of DHSS paying 100 percent general funds (GF), it would be Medicaid reimbursable at 50 percent.

SENATOR HUGGINS addressed lines 27 and 28 regarding dates as follows:

10 days after the convening of the second regular session of the 29th Legislature.

He asked if a meeting would be held around February 1, 2016.

MS. SHADDUCK answered yes.

SENATOR HUGGINS requested that a cause-and-effect report on the changes be submitted prior to the meeting.

[8:27:26 AM](#)

MS. SHADDUCK continued to provide an overview as follows:

Section 7, page 8, line 30, this section requires DHSS to amend the state Medicaid plan and apply for any waivers necessary to implement the projects and programs described in the bill.

Section 8, page 9, line 10, this section allows DHSS to adopt regulations necessary to implement the changes by the act and the regulations may not take effect before the dates of the relevant provisions of the act takes effect. Section 8 allows DHSS to start on the regulations now, they are transition

regulations that do not have to wait for the bill to actually get the federal government to pass and agree to everything, DHSS can start the lengthy regulation process beforehand.

Section 9, page 9, line 16, this section protects DHSS from having to follow a law on the books if the federal government won't approve state plan amendments or waivers needed to implement the law.

Sections 10-14, starting on page 10, line 7, these provide for effective dates for provisions that require waiver and state plan amendment approvals from the U.S. Department of Health and Human Services.

Section 15, line 22, provides an immediate effective date for Sections 6, 7, and 8.

[8:29:33 AM](#)

COMMISSIONER VALERIE DAVIDSON, Alaska Department of Health and Social Services (DHSS), Juneau, Alaska, commented as follows:

With regard to committee substitute for SB 74, DHSS wants the committee to know that we have really appreciated the collaboration that Senator Kelly's office has sought with us to refine and improve SB 74. The committee substitute as outlined by Ms. Shadduck includes costs for fraud control efforts, contracts to establish performance metrics, and also conducting the feasibility study on privatizing some of DHSS's facilities.

The bill does contain a section on managed care and calls for a demonstration project in managed care to start by January 2016. We appreciate the flexibility in the language that will enable DHSS to be able to really find the greatest possible savings and coverage because as we have discussed before, not in this committee, what works in one region of the state may not work in another. DHSS really appreciates the sponsor's willingness to add some flexibility so that we have the ability to provide what is necessary and what will actually work in a particular region.

SENATOR HUGGINS asked to confirm that Commissioner Davidson was referring to Medicaid.

COMMISSIONER DAVIDSON answered that the bill is about Medicaid and specified as follows:

Medicare is a federal program, federally authorized, and federally funded that provides care to people who are 65 and older. Medicaid is a federally authorized, state authorized, and state administered program that provides aid to people typically dependent based upon income and there are some folks who can be eligible for both, but because Medicaid is federally authorized and state administered, there's a federal-match as well as a state-match.

8:32:09 AM

SENATOR HUGGINS remarked that approximately \$720 billion was supposed to come out of Medicare to fund "ObamaCare;" that is a big number that you cannot take that kind of money out of a program. He said he was told that Medicaid will in fact infringe upon Medicare patients' ability to get medical service, i.e. done at the expense of some of his peers.

COMMISSIONER DAVIDSON replied as follows:

When the Affordable Care Act was being drafted, there were a number of considerations that were made with regard to providers across the country. At the time, Medicaid expansion was actually mandatory under the Affordable Care Act before the U.S. Supreme Court struck down the mandatory provision and made it optional for states so that states could reject Medicaid expansion; a part of that included the way to be able to pay for that Medicaid expansion, providers across the country agreed to making cuts in the Medicare program in terms of the payment and also making cuts to Disproportionate Share Hospital (DSH) payments because they would not be able to make up those losses in Medicaid expansion. After the U.S. Supreme Court decided that states could reject Medicaid expansion, many providers felt that they got a part of the deal that they bargained for, which was they gave up the potential revenue in Medicare, and they gave up their potential revenue in disproportion share payments, but they lost the opportunity to be able to regain the revenue in Medicaid expansion.

We have heard from some folks that they are concerned that there would be a crowd-out of Medicare

beneficiaries who are receiving services. In Alaska, Medicaid actually pays more than Medicare, which is different than in other states, but we also believe that we shouldn't limit the access and limit the opportunity for Alaskans to have coverage because another federally administered program isn't paying sufficiently to be able to do that.

[8:35:51 AM](#)

SENATOR HUGGINS noted that Commissioner Davidson used the term "limit." He asked what Commissioner Davidson is going to limit.

COMMISSIONER DAVIDSON replied that she would take a moment to respond.

SENATOR HUGGINS stated that he is not trying to ask hard questions, but conceded that the questions have implications regarding a lot of people, a lot of money, and emotions by some. He stated that the Commissioner can take more time to provide a comprehensive answer, whatever is accurate is best.

CHAIR STOLTZE remarked that the committee is not dealing with the Medicaid expansion bill, but separating the two bills is hard. He assumed that a lot of work and thought has gone into the bill, but asserted that providing a list of the private care providers that accept Medicaid or Medicare should be easy. He declared that the provider listing is an integral part to what Senator Huggins addressed regarding crowding-out. He said physicians have told him how many Medicaid or Medicare patients that they can afford to take because they are small businesses as well as having to deal with the government. He remarked that having a discussion about Medicaid or Medicare without primary care physicians is hard. He added that senior citizens have voiced their frustration in trying to find a doctor that will even take them. He said the whole issue of crowding-out and having a discussion about Medicaid expansion is hard without having the information. He asserted that Commissioner Davidson has had an opportunity over the past few months to interact with the medical community and now has a pretty good handle where getting a list of how many folks are accepting patients should not be very hard.

[8:37:59 AM](#)

SENATOR HUGGINS remarked that Chair Stoltze's comments are a diplomatic way of saying let's get back to reform. He stated that he is a wholesale supporter of reform.

COMMISSIONER DAVIDSON said in terms of the payers, private insurance is the best and that includes employer-covered insurance and state-covered insurance. She detailed that Medicaid is the next best payer, followed by Medicare, and then the challenge with people who self-pay or people who have no coverage. She encouraged the committee to think about the arguments for whether crowd-out continues; for example, if private insurance is a better payer than Medicaid, then there should be an equal concern that the number of private insurers should be reduced due to its possible crowd-out of Medicaid and Medicare beneficiaries. She remarked that her previous example is not done because payment is recognized as being a patchwork.

CHAIR STOLTZE asked if Commissioner Davidson was really talking about getting to a single-payer.

COMMISSIONER DAVIDSON answered no.

[8:39:49 AM](#)

She said there are general reforms that are called for in SB 74 where DHSS will use the same options as in SB 78: 1915(i) option and the reduction in the non-urgent use of the emergency department's super-utilizer. She pointed out that the term super-utilizer is actually defined by the Centers for Medicare and Medicaid Services (CMS) because a number of states have been focusing on the super-utilizer population for some time. She detailed that CMS has defined super-utilizer as, "Patients who accumulate large number of emergency department visits and hospital admissions which might have been prevented by relatively inexpensive early intervention and primary care." She revealed that DHSS has undertaken the provision in the bill as a voluntary effort, but the bill makes the provision mandatory. She summarized that DHSS thinks the reforms are a great idea.

SENATOR COGHILL asked to verify that Commissioner Davidson is talking about demonstration projects for a directive care or managed care. He queried how and where the demonstration projects will occur.

[8:41:23 AM](#)

COMMISSIONER DAVIDSON answered that the super-utilizer program is a voluntary program that started in December. She detailed that 2,000 people were identified and enrolled in the program. She said DHSS's contractor contacted super-utilizers to schedule appointments with a primary care provider to hopefully teach a better way to access service. She added that the contractor reminds the super-utilizers the day prior to appointments as

well. She revealed that DHSS was initially apprehensive that people would be resistant, but she noted that people loved and embraced the primary care provider alternative because the program showed that somebody cared about their health outcome. She detailed that the bill allows flexibility where the state either uses a contractor or partners with a hospital where the hospital can share in their savings.

SENATOR COGHILL asked where the voluntary demonstration project is being implemented.

COMMISSIONER DAVIDSON answered that the program started in Anchorage and will be implemented next in Fairbanks and the Mat-Su Borough.

She revealed that SB 74's fiscal notes do not include the savings revenue and costs through Medicaid expansion because the bill does not have Medicaid expansion. She added that the fiscal notes do not include the savings from the Tribal 1115 Waiver which are included in SB 78.

[8:44:57 AM](#)

SENATOR HUGGINS asked for an explanation of the 1115 Waiver.

COMMISSIONER DAVIDSON answered that Medicaid has a lot of federal requirements, including choice of provider. She detailed that states can implement a number of waivers, including the 1115 Waiver, which allows states to waive or negotiate a deal with CMS to waive some of the requirements.

SENATOR HUGGINS asked if the super-utilizer or any provision is waivable. He remarked that he finds it interesting that a law has turned the state's system into a totally dysfunctional one where the state continues to feel bound by that law.

COMMISSIONER DAVIDSON answered that there are times when limits in the law are recognized and DHSS is allowed to do things on a voluntary basis. She detailed that the super-utilizer program is voluntary and not mandatory because a voluntary program may not necessarily require a demonstration waiver. She specified that a mandatory program may have to seek a waiver where requirements are waived; for example, freedom of choice is waived where a person is required to be matched with a primary care provider rather than having the freedom to choose an emergency room.

SENATOR COGHILL asked to verify that the 1115 Waiver is the broadest waiver that can be applied to the Medicaid program's sections.

[8:47:35 AM](#)

COMMISSIONER DAVIDSON answered correct.

SENATOR COGHILL asked to verify that the 1915 Waiver is much more specific.

COMMISSIONER DAVIDSON answered that the 1915(i) and 1915(k) options were created under the Affordable Car Act. She specified that 1915(i) and 1915(k) are options and not waivers. She explained that the options allow DHSS to negotiate an agreement with CMS to refinance the way services are provided; for example, instead of having to use 100 percent from state general funds, the 1915(i) allows 50 percent general funds and the 1915(k) moves the state-match from 50 percent to 44 percent.

SENATOR HUGGINS pointed out that some regulations have required several years to write. He asked how long writing regulations for Medicaid reform will take.

[8:49:55 AM](#)

JON SHERWOOD, Deputy Commissioner, Alaska Department of Health and Social Services, Juneau, Alaska, replied that based upon the regulations project's complexity and priority, 3 to 9 months. He noted that time for two levels of review by the Department of Law and a public comment period has to be taken into account as well.

SENATOR COGHILL noted that the directive under Section 7 instructs DHSS on waivers and notices for demonstration projects, telemedicine, and case management. He asked Commissioner Davidson if she has a list of things required in SB 74 for a State Plan Amendment (SPA) or waivers. He inquired if either "waiver" or "amendment" is the right word to say under Section 7.

COMMISSIONER DAVIDSON answered that DHSS has a good handle on which would require a waiver or SPA. She explained that waivers are generally required when certain Medicaid requirements of the Medicaid program are going to be waived; for example, waiving statewideness or choice provider. She detailed that a SPA is submitted to the CMS in order to change the state plan. She noted that negotiating agreements and collaborating with CMS

prior to an SPA submission helps move things along and avoids surprises.

SENATOR COGHILL asked what the timelines were for waivers and the SPA process.

[8:53:56 AM](#)

COMMISSIONER DAVIDSON answered that SPAs are generally faster and can be done in a few months when there is pretty good alignment and agreement. She said 1115 Waivers that are complicated can take up to a year or longer to negotiate; however, the time is well worth the effort based on the opportunity for savings.

SENATOR HUGGINS pointed out that the U.S. Supreme Court is making a ruling in June on "ObamaCare" and asked if modifiers are being anticipated for what is currently being discussed in the committee.

COMMISSIONER DAVIDSON specified that the case before the U.S. Supreme Court, King v. Burwell, is really a case about the subsidized insurance plans on the federally facilitated marketplace. She explained that when the Affordable Care Act started, the federal government offered grants to participating states to build up state marketplaces for residents to shop and purchase insurance plans. She said states that chose not to participate or did not meet timelines were subject to the federally facilitated marketplace; Alaska and other states are subject to the federally facilitated marketplace. She specified that the case before the U.S. Supreme Court addresses whether the marketplace plans on the federally facilitated marketplace can continue to stand. She said in anticipation of the ruling, either states will continue status quo or build up their own state marketplace. She added that states building up their own marketplace is typically very expensive. She revealed that the opportunities for the significant federal dollars that came with the original grants has gone away and are no longer available to states. She detailed that options that states are considering are building up a state "store front" in front of the federally facilitated marketplace that looks like a state specific marketplace, or consideration in a state's ability to utilize another state's marketplace.

[8:57:29 AM](#)

SENATOR HUGGINS asked to verify that Commissioner Davidson's previous description on the insurance plans is essentially the

ability to take taxpayers' money and subsidize if a state exchange is not used.

COMMISSIONER DAVIDSON answered yes.

CHAIR STOLTZE asked if anyone in the public wished to testify on the bill. He announced that public testimony was closed.

He asked that DHSS bring back a chart with the department's and Governor Walker's letterhead regarding the anticipated growth of Medicaid, absent expansion. He reiterated that Medicaid is one of the state's three cost-drivers for budget growth.

CHAIR STOLTZE announced that SB 74 is set aside.

[9:00:21 AM](#)

At ease.

**Confirmation of Governor's appointments for the Board of Fisheries**

[9:06:05 AM](#)

CHAIR STOLTZE called the committee back to order. He announced that the committee's next order of business is the confirmation of the Governor's appointments for the Board of Fisheries.

[9:06:33 AM](#)

ORVILLE HUNTINGTON, appointee, Board of Fisheries, Huslia, Alaska, revealed that his primary employer is the Tana Chiefs Conference and he serves as the Wildlife and Parks Director. He detailed that he has lived in Alaska his entire life, served on many educational science boards, and has tried to promote education in the state for many years. He revealed that he has served one term on the Board of Fisheries and expressed his interest in serving for another term.

CHAIR STOLTZE pointed out that three committee members had heard Mr. Huntington testify in the Senate Resources Committee.

SENATOR COGHILL said he appreciated Mr. Huntington's willingness to serve on the Board of Fisheries and noted that he had a good record while serving his first term.

CHAIR STOLTZE opened public testimony.

[9:08:31 AM](#)

ANDREW COUCH, representing himself, Palmer, Alaska, said he supports Mr. Huntington's reappointment. He noted that he is a member of the Mat-Su Fish and Wildlife Commission and the Matanuska Valley Fish and Game Advisory Committee. He revealed that the two groups that he mentioned have not taken a formal position and he will strictly be representing his own business interest. He specified that his experience working through the Upper Cook Inlet Board of Fisheries meetings with Mr. Huntington were positive and he supports Mr. Huntington's nomination.

[9:10:05 AM](#)

PAUL SHADURA, advocate, South K-Beach Independent Fishermen's Association, Kenai, Alaska, said he supports Mr. Huntington's reappointment. He declared that South K-Beach Independent Fishermen's Association has reviewed Mr. Huntington's qualifications and agrees with the Governor's appointment to serve another term.

[9:12:24 AM](#)

BRUCE KNOWLES, representing himself, Wasilla, Alaska, said he supports Mr. Huntington's reappointment. He said he had worked with Mr. Huntington during his first term on the Board of Fisheries and recommends his reappointment. He noted that Mr. Huntington supports addressing issues regarding low salmon returns to the Mat-Su Valley region.

[9:13:24 AM](#)

BYRON CHARLES, representing himself, Ketchikan, Alaska, did not address Mr. Huntington's reappointment.

[9:15:44 AM](#)

CHAIR STOLTZE closed public testimony for Mr. Huntington's nomination. He announced that Mr. Huntington's confirmation will be set aside.

[9:16:08 AM](#)

At ease.

[9:16:40 AM](#)

CHAIR STOLTZE called the committee back to order. He announced that the committee will take up the appointment of Robert Ruffner for the Board of Fisheries.

[9:18:28 AM](#)

ROBERT RUFFNER, appointee, Board of Fisheries, Soldotna, Alaska, stated that he will explain his qualifications and why he wants

to serve on the Board of Fisheries, but first asked to address some of his opposition as follows:

My name is Robert Ruffner, I am very honored to be in this position and it's a big deal to deal with fisheries across the State of Alaska. I don't have the track record that the other nominee who has already served on the Board. I understand that there are a lot more questions and a lot more vetting to be done.

I lived in Alaska since 1996, 46 years old, married for 22 years, and have 2 children. I am a graduate of the University of Minnesota where I studied geology and really had an emphasis in rivers. I've done some graduate work after my undergraduate degree in covering a lot of modeling and statistics. I've been the director of a conservation organization down on the Kenai Peninsula called the Kenai Watershed Forum since 1997. I have served on the Planning Commission on the Kenai Peninsula Borough Road Service Area Board.

My fishing experiences, mostly these days I harvest all of the fish that I have in my freezer and on my shelves out of the Kenai and Kasilof personal-use fishery, it's an important fishery to me. Rod and reel fishing, I've caught all five species of salmon, Rainbow Trout, Dolly Varden, Grayling, Pike, Rock Fish, and Halibut, from Sitka when I spent a summer down there all the way up to the Jim River on the south side of the Brooks Range. My commercial fishing experience has been limited to two days where I was, back in the late 90s, a crew member on a commercial gill net; I explained in the other committees, at least I have that experience and I know how that fishery operates.

Why would I want to do this? Family values are one of those things that have led me to working in conservation my whole professional career. I very much think that fishing is an important thing, my earliest childhood memories are fishing with my grandfather and my dad. I came up to Alaska largely to do adventure sports, hunting, and fishing. Now I am passing that tradition to my two daughters. I am interested in public service where I think I can make a difference. I have followed the Board of Fisheries since I've

moved here and I do think that I can make a positive contribution to the whole state. A lot of the issues that we deal with relate to the Cook Inlet, but we all should remember that this is a statewide responsibility and I am looking forward to learning a lot about the various parts of the state and challenging myself as I move into this position if I am confirmed.

9:21:37 AM

MR. RUFFNER addressed what he brings to the board and summarized as follows:

What do I have to offer? I have a strong personal use and sport fishing experience, scientific background, knowledge about habitat and sustainable salmon policies, and a strong commitment to public process.

So that's a briefer version of what I said to the committees personally. In this committee there's some new information that has come forward since the last one, there's a couple of new opposition letters that have come forward.

He addressed opposition to his appointment as follows:

As I see it, there are three general points of opposition. There are probably some more that I'd be happy to answer some question on in the vetting process, but there are three general ones that I would like to address.

The first one is that I will not represent all Alaskans, specifically those in Anchorage and Mat-Su, and this is a criterion by which I should be rejected.

Second issue that I see is that I am aligned with commercial fishing organizations to promote their allocative agenda.

Third, I have testified in the previous three hearings to change several specific elements of the Cook Inlet management plans.

The first claim is that I won't represent all Alaskans, including Anchorage and Mat-Su. As far as I can tell, this appears to be based solely on the fact

that I do not reside in Anchorage, which is a fact that I can't deny. I do not live in Anchorage, I live on the Kenai Peninsula between the Kenai and Kasilof rivers. However, the allocation criteria that is laid out before board members clearly speaks to the number of users and benefits to recreational and personal use. At each of the previous three hearings, I have stated that I will follow this criteria that is set forth in regulation for us and will weigh heavily when it comes to our most popular sport fisheries. If the Legislature thinks that Anchorage residency is a valid criterion to consider, I would respectfully ask that we amend AS 16.05.221, which states that "Members shall be appointed on the basis of interest in public affairs, good judgement, knowledge, and ability in the field of action of the board and a view to providing diversity of interest and points of view to the membership." All members of the Legislature are ultimately the judge of whether I meet that criteria or not, I would submit to you, based on my previous testimony in what is in my resume, that I meet that criteria.

Claim number two is that I am aligned with commercial sport fishing organizations to promote their allocative agenda since they are the majority of my supporters. I have not done a tally of who my supporters are and who my objectors are, but I don't believe that the majority of the people that have gone on the record in support of me are in fact commercial fisherman. Nearly every governmental entity on the Kenai Peninsula has offered support, either in the form of a letter or in the form of a formal resolution and that includes: the Kenaitze Indian Tribe, the Kenai Peninsula Borough, the City of Kenai, the City of Homer, the City of Soldotna, and the City of Seward, all of these are elected officials that represent their respective communities; in addition to those, there are major sport fishing organizations including the past president of the Alaska Fly Fishers, the Alaska Charter Association which represents 115 membership organizations, Trout Unlimited, and several other regional organizations that are clearly defining themselves as sport fishing interests.

There are a number of guides and individuals that have offered their written support, but there is bit of a spilt between the sport fishing community in support and opposition. The one that really caught my attention was the opposition raised by the Kenai River Sportfishing Association letter and I'd be happy to address the points that they have in their letter one-by-one, but that's going to take some time because those are complicated issues, but I am very willing to go through them on by one and address those points should the committee desire. At no point in this process have I committed or implied to any user group that I am going to advance an allocative interest. Only one organization has specifically asked me to do so and when I told them that it was not appropriate to make a commitment before I am on the board, they reversed course and chose to reverse their support for me.

9:26:17 AM

MR. RUFFNER addressed the third claim against his appointment as follows:

Claim number three, I have testified and have stated on the record the following four items:

First, that the recent Board of Fisheries actions in the Upper Cook Inlet including allocation decisions are questionable and need to be readdressed; fortunately for me there is a very clear record with video tape included of what I have specifically said, I did not say this in any form. I did not say that I thought that we should readdress these allocation decisions and I will go on to say that the management plans for Upper Cook Inlet are among the most complicated in the state, if not the entire U.S.; they evolved over a long period of time and that precedent in developing these plans is important to these complex fisheries and that precedent is important for me to take into consideration when we move forward and talk about Upper Cook Inlet, I never said they needed to be readdressed.

Second part of that claim was that the Cook Inlet commercial fishery managers need additional management flexibility to meet escapement goals; for example,

avoid large Sockeye escapements regardless of their resulting impacts on other fisheries and other stocks. In fact what I said was, I said that fishery managers need to retain their flexibility that is presently in regulation, so that regulation deals with the emergency authority openings and closings which cut both ways, so that is not an additional flexibility that I am suggesting they needed, I'm just saying the current flexibility that they have is important and that is a very important distinction that needs to be made in that claim.

Next claim was that the commercial fishery closure windows in the Cook Inlet do not provide substantial benefit to inner-river fisheries, again, what I said on the record in Senate Resources was that windows do not always provide fish to the river on weekends because of natural variability including things like the wind and the tide patterns, and people have been disappointed in the past just like they were last year when windows didn't guarantee weekend-fish. I went on to say that I generally support the concept of windows because they increase the probability that fish will be available when the majority of Anchorage and Mat-Su residents can participate in the personal-use fisheries, so I am saying that I support that concept.

Last claim was the Kenai rivers sport fishing activities contribute to cumulative habitat impacts on humans, that is they may warrant substantial fisheries restrictions even when there are no measurable biological impact. I didn't say that anywhere, I don't know where that claim came from.

I thought it was really important for me to go through those claims and again there are a number of others in there that we can tackle should the committee desire one-by-one, but I want to make this very clear where I stand on how my thought process is moving into some that is very important to so many people in the State of Alaska.

[9:29:27 AM](#)

SENATOR WIELECHOWSKI noted that he appreciates Mr. Ruffner's attendance at the meeting. He said he has great admiration for anyone that would want to serve on the Board of Fisheries. He stated that serving on the Board of Fisheries is a tremendous

responsibility with a lot of competing interests. He remarked that the concern people have with Mr. Ruffner's appointment appears to be due to the perception that the board's fundamental composition for the past 30 years is being changed where an equal number of sport fishing and commercial fishing interests are represented. He noted that the Board of Fisheries' composition for the past 30 years is not constitutionally or legally required. He pointed out that the Board of Fisheries would no longer have someone from Anchorage. He said the Legislature has heard from some that the Board of Fisheries process is broken and particularly in regards to the Cook Inlet and he asked if Mr. Ruffner agrees or disagrees.

MR. RUFFNER answered that he disagrees that the Board of Fisheries process is broken.

SENATOR WIELECHOWSKI asked if Mr. Ruffner agreed with some of the management decisions that have been made in recent years, e.g., to shutdown set-nets back in 2012.

MR. RUFFNER answered that he agreed with the decision.

SENATOR WIELECHOWSKI asked if he agreed with the conservation corridor that was established for Mat-Su this past year.

MR. RUFFNER answered yes.

[9:31:35 AM](#)

SENATOR WIELECHOWSKI asked if Mr. Ruffner believes that there are any salmon fishery management plans that are currently not working.

MR. RUFFNER replied that there are a lot of salmon management plans across the entire state that he has not viewed. He specified that he does not think there are any management plans in the Cook Inlet that are broken or fundamentally flawed.

SENATOR WIELECHOWSKI noted that he had a conversation with Mr. Ruffner regarding Senator Stoltze's personal-use priority bill and noted that he thought he heard that Mr. Ruffner supported the bill; however, Mr. Ruffner stated in last week's Resource hearing that he did not support the bill. He asked if he misheard Mr. Ruffner's stance on the bill or did he change his position.

MR. RUFFNER answered that his position did not change.

SENATOR WIELECHOWSKI asked to clarify that Mr. Ruffner did not say he supported the bill and to also verify that he does not currently support the bill.

MR. RUFFNER replied that answering Senator Wielechowski's question with a "yes" or "no" is difficult due to its complexity. He summarized that he could support the bill if the personal-use still fell within the confines of the existing allocation criteria that is outlined in the existing salmon policy where the conservation burden is shared equally.

[9:33:54 AM](#)

CHAIR STOLTZE asked if Mr. Ruffner thinks that the two dipnetting organizations that first supported and then rescinded his appointment may have misheard him as well. He asked Mr. Ruffner to verify that three folks misheard him with clarity.

MR. RUFFNER answered that he has not heard from the dipnetting organizations if they thought that that was what he had said.

CHAIR STOLTZE remarked that withdrawing an endorsement is unusual. He asked if the dipnetting organization mishearing Mr. Ruffner was a possibility.

MR. RUFFNER answered that mishearing was a possibility. He specified that the South-Central Dipnetters Association asked him if he would fight for a very specific allocation and he told them that he could not. He added that he would not fight for a specific allocation for any other organization as well.

CHAIR STOLTZE asked to verify that the reason for the endorsement withdrawal was due to the allocation request.

MR. RUFFNER answered yes.

CHAIR STOLTZE asked to confirm that the dipnetting organizations as well as Senator Wielechowski could have misheard Mr. Ruffner.

MR. RUFFNER replied that being misheard was possible.

[9:35:16 AM](#)

SENATOR WIELECHOWSKI asked that Mr. Ruffner address the burden of conservation sharing as it pertains to the Chinook salmon season on the Copper River. He inquired if the personal-use fishery bears a little more conservation burden when the Chinook season is shutdown.

MR. RUFFNER answered that the Chinook harvest was exactly the issue asked of him whether he would push to change the allocation. He explained that the Copper River Area Management Report showed that portion to which everybody was reduced was pretty close to being equal across the board. He remarked that each fishery is different where timing for every user group is complicated. He detailed that Copper River issues include harvesting during low abundance and subsistence fishing.

[9:38:19 AM](#)

SENATOR HUGGINS opined that Mr. Ruffner is a victim of circumstances, but noted that opposition was also due to his judgement and statements on why he wants to be on the Board of Fisheries. He remarked that he would rather have Mr. Johnstone, the person that previously held the board seat, serving on the Board of Fisheries. He asserted that the Governor missed a grand opportunity in not re-appointing Mr. Johnstone to the Board of Fisheries. He addressed escapement goals and asserted that lowered escapement goals has limited the number of fish in the Mat-Su.

[9:41:22 AM](#)

MR. RUFFNER agreed that Mr. Johnstone is a good man and the situation on reappointment was unfortunate. He remarked that lowering an escapement goal does not sound like a very good plan. He noted that his opposition has stated that he is aligned with commercial fishermen with a desire to reduce an escapement goal and that is absolutely not the case. He asserted that he is going to ask some very hard questions should the department present information on why the Board of Fisheries should lower the escapement goal. He stated that he is not inclined to lower escapement goals without some really good evidence.

SENATOR HUGGINS asked if Mr. Ruffner supports the way the Cook Inlet is currently managed.

MR. RUFFNER answered yes. He detailed that the 20 year precedent in developing the Cook Inlet's management plans has worked out by and large pretty well.

SENATOR HUGGINS divulged that he is a supporter of closing the Cook Inlet north of its mouth. He asserted that the current management plan is not working due to his observations. He said he is angry when people write articles that the problem in the Mat-Su is due to culverts and Northern Pike. He asked if Mr. Ruffner had written articles about the fishing problems in the Mat-Su.

[9:43:52 AM](#)

MR. RUFFNER replied that he has not written any articles. He noted that he has surveyed culverts in the Mat-Su and is generally aware of the problems in the urban areas. He said he has written some articles that compared invasive species in Kenai to the Mat-Su. He added that he had testified before Senate Resources the previous year regarding Northern Pike.

SENATOR HUGGINS noted that areas in South Central without Northern Pike and culverts are closed to fishing. He asked that Mr. Ruffner explain why he believes the Cook Inlet's management plans are working.

[9:47:03 AM](#)

MR. RUFFNER answered that the whole state has a Chinook salmon problem.

SENATOR HUGGINS replied that he accepts the problem with Chinook salmon.

MR. RUFFNER asked what specific species Senator Huggins was referring to.

SENATOR HUGGINS replied Coho salmon.

MR. RUFFNER answered that he has not looked into the details on how Coho salmon is being managed in the area Senator Huggins was referring to.

SENATOR HUGGINS replied that he is disappointed that Mr. Ruffner thinks the management plan is working because his experience is it is hard to catch species other than Chinook salmon.

[9:49:42 AM](#)

CHAIR STOLTZE noted that Mr. Ruffner lauded his support from all of the local governments on the Kenai Peninsula. He pointed out that commercial fishing is the Kenai Peninsula's dominant industry and noted their goal to maintain status quo. He asked what Mr. Ruffner is trying to convey by noting his support from communities that have taken positions in favor of the commercial industry.

MR. RUFFNER replied that the Kenai Peninsula is a pretty good reflection of the entire state with both commercial and sport fisheries. He noted that he serves on Soldotna's Chamber of Commerce and has received letters of support from fishing guides

as well as bed and breakfast businesses. He remarked that Soldotna is a pretty small community that is primarily dependent on its sport fishery.

9:52:07 AM

SENATOR WIELECHOWSKI asked what criteria would Mr. Ruffner use to decide what level of Coho salmon harvest is appropriate in the Upper Cook Inlet.

MR. RUFFNER asserted that his 20 year record on the Kenai Peninsula has shown that nobody has a track record of working more for the overall conservation and for producing more fish. He specified that his number one criteria for how many fish should be commercially harvested is contingent on the department and the public telling the Board of Fisheries whether or not there are fish that are on the spawning grounds to produce sufficient fish for sustaining runs that are consistent with Alaska's constitution. He said the hard part is having to weigh and balance the excess for the different user groups. He summarized that there is not a blanket answer and decisions come down to which area is being addressed.

SENATOR WIELECHOWSKI asked if Mr. Ruffner believes there is such a thing as over-escapement.

9:54:27 AM

MR. RUFFNER answered yes. He detailed that over-escapement is a yield concept that is rooted in biology. He noted that friends in commercial fishing have told him that over-escapement ruins runs and he said that statement is categorically false.

CHAIR STOLTZE remarked that the Mat-Su is not familiar with the term "over escapement" and noted that the Legislature has been told to make sure that the United Cook Inlet Drift Association (UCIDA) gets most of the fish. He remarked that Fish and Game has testified that the driftnet fleet is their most important management tool.

MR. RUFFNER explained that Sockeye salmon coming out of the Kenai and Kasilof rivers drives a lot of what happens in the Cook Inlet. He remarked that fisheries managers have a very tough job and there are times when the Mat-Su suffers from the decisions that are made. He said if confirmed, he will address the concerns from the Mat-Su for being leery of his appointment.

SENATOR WIELECHOWSKI commented that Senator Stoltze raises a really important point in the way over-escapement or perceived

over-escapement is dealt with in the Kenai and Kasilof rivers. He said the rivers' management tool is to open up the drift fleet and allow more set-netting. He remarked that committee members' constituents head down to the Kenai to dipnet and there are no fish due to a blockade from an emergency-opener. He asked if Mr. Ruffner would be open to changing the management tool where the hours are extended for earlier dipnetting and expanding the number of sport fish that can be taken. He noted that the Copper River's personal-use fishery allows an extra 10 salmon. He inquired if Mr. Ruffner would support changing the management tool for the Kenai and Kasilof rivers.

9:58:10 AM

MR. RUFFNER He replied that he would certainly entertain changes and would be interested in hearing proposed changes. He detailed that the sport harvest as is currently set up is taking out of the escapement goal because most of that sport fishing occurs above the "counters;" they are taking 350,000 Sockeyes with rod-and-reel. He said part of the issue is the "fishing power," with a rod-and-reel you can only catch so many fish and the dipnetters are getting better at catching fish and approximated that 400,000 and 500,000 Sockeyes were caught in the previous year. He admitted that the previous year was not a great year for weekends. He said he does have a shorter drive to the Kenai and Kasilof rivers, but he does not want to limit the number of Alaskans that want to come down to his neighborhood to catch fish. He opined that problems will occur where people will get hurt and conflict between communities increases if the Kenai fisheries do not become more orderly. He asserted that he wants the job on the Board of Fisheries to address the Kenai fisheries.

SENATOR WIELECHOWSKI asked what Mr. Ruffner meant by "more orderly."

MR. RUFFNER replied that he would be surprised if anyone that comes down on the third weekend of July and looked at the boat fishery and say "orderly."

SENATOR WIELECHOWSKI asked if the number of boats should be limited.

MR. RUFFNER answered that the number of boats should not be limited. He said a plan must be devised that keeps people from bumping into each other, arguing, and creating an unsafe condition. He asserted that everyone that is a policymaker has a responsibility to figure out how to make the fishery more

orderly. He said he does not have the answers, but wants to be a part of the solution on the Board of Fisheries.

10:01:08 AM

SENATOR WIELECHOWSKI asked if Mr. Ruffner could provide some of his ideas.

MR. RUFFNER answered that some of the conflicts come strictly from the infrastructure that is in place. He said not enough infrastructure is in place to readily accommodate the number of people that want to come down to the Kenai. He noted that people put their boats in miles upstream due to a lack of parking and the result is the river is used as a highway to move in and out of the fishery. He added that more enforcement is needed to address concerns that the fishery is abused. He noted that he has fished in the Kenai fishery since 1997 and has only been checked once. He asserted that lack of enforcement is probably pervasive across all fisheries.

CHAIR STOLTZE asked if Mr. Ruffner subscribes to a conspiracy where fish that is being shipped out of state needs to be investigated.

MR. RUFFNER answered no.

SENATOR WIELECHOWSKI asked if Mr. Ruffner would recommend drift-boat-only areas in the Kenai River.

MR. RUFFNER answered that he responds to the drift-boat-only question from guides that use single powerboats by saying that he is not approaching the Board of Fisheries by taking a drift-boat agenda. He asserted that he will weigh all of the facts as they come in. He noted that 236 proposals for the fisheries in the Upper Cook Inlet came before the Board of Fisheries in 2014 and 5 votes were taken where 1 vote would have made a difference, but the 5 votes did not include a drift-boat vote. He reiterated that he is not carrying an agenda for drift-boat fisheries and will listen to the facts if new information comes forward.

SENATOR WIELECHOWSKI asked if Mr. Ruffner is open to having a drift-boat-only area for the Kenai River.

MR. RUFFNER replied that the Kenai River has a drift-boat-only area in the upper river. He stated that based on current facts, there is no biological reason to push for a drift-boat-only fishery.

[10:04:49 AM](#)

SENATOR WIELECHOWSKI asked if Mr. Ruffner would support some ideas floating around where the Upper Cook Inlet would be placed on a three year cycle in addition to adding some conservation corridors.

MR. RUFFNER answered that responding to Senator Wielechowski's question that is not a formal request to the Board of Fisheries is really not fair for him to answer.

SENATOR WIELECHOWSKI asked how large of impact does Mr. Ruffner believe that the commercial setnet fishery in the Cook Inlet has on the late Kenai Chinook salmon runs.

MR. RUFFNER answered that he was glad Senator Wielechowski specified "late run." He explained that the greatest concern is on the Chinook's early run in the Kenai Peninsula. He noted that data over the past 20 years has shown that commercial and sport fishing catches have been fairly equal during abundant Chinook runs.

[10:06:53 AM](#)

SENATOR WIELECHOWSKI asked if the Cook Inlet sharing the conservation burden with paired prescriptions in the sport fishery is appropriate.

MR. RUFFNER answered yes. He reiterated that a sustainable salmon policy requires that the conservation burden is shared equally. He asserted that the department's authority for emergency openers must be retained in order to manage the set goals. He said the Board of Fisheries does not have the purview to take away the department's emergency authority.

SENATOR WIELECHOWSKI asked if there are too many guides on the Kenai River.

[10:08:24 AM](#)

MR. RUFFNER answered that there are times when portions of the river are receiving a little bit too much use. He noted that he has answered the question posed by Senator Wielechowski in the past and will continue to say that he's concerned about the river's overall use rather than on a particular segment. He asserted that guides provide a very important component to Soldotna's economy and he is reluctant to speak out negatively about their over-use without talking about the total use on the river.

SENATOR WIELECHOWSKI asked if Mr. Ruffner is aware of the "one percent rule."

MR. RUFFNER answered no.

10:10:04 AM

SENATOR WIELECHOWSKI specified that the "one percent rule" applies at the end of the season when two consecutive periods' take is less than one percent of the season total where nets are then required to be taken out of the water. He pointed out that there has been some argument over how to define "period" where some define "period" as 12 hours and some define "period" as 96 hours. He asserted that there has been a lot of concern that defining "period" as 96 hours results in a lot of Coho salmon being caught that were heading up to the Mat-Su. He asked Mr. Ruffner if he had any thoughts on how a "period" should be defined or whether he supported the "one percent rule."

MR. RUFFNER commented that the level of detail requested by Senator Wielechowski at his current appointment stage may be above his current pay-grade. He remarked that he agrees with the concept's intent to provide both the Mat-Su and the sport fishery with abundant levels of Coho salmon is the best and highest use.

SENATOR WIELECHOWSKI asked if Mr. Ruffner supported limiting the "period" to 12 hours.

MR. RUFFNER replied that he is not prepared to answer Senator Wielechowski's question due to its level of detail. He specified that he does not know enough about the implications related to the question.

CHAIR STOLTZE noted that Senator Stedman asked Mr. Ruffner in the previous committee what the horsepower was on the outboard that he owns.

MR. RUFFNER answered that he has access to power boats through his work and the boat that he owns has a 15 horsepower engine.

10:12:30 AM

SENATOR HUGGINS noted that an individual from Kodiak suggested 15 years ago about bringing back fish traps. He asked if Mr. Ruffner agreed that fish traps were pretty efficient and fish could not withstand the technique.

MR. RUFFNER answered that he thinks so.

SENATOR HUGGINS replied if Mr. Ruffner agreed, then he should look at the efficiency in commercial fishing. He stated that he is not against commercial fishing, but consideration must be given to resetting management in order to error on the side of the fish.

CHAIR STOLTZE commented that he has been accused by some testifiers as promoting the commercial fisheries due to his ex officio board membership for the Alaska Seafood Marketing Institute (ASMI). He said he does not think everybody should have to get their fish from a restaurant or grocery store and asked if Mr. Ruffner agreed.

MR. RUFFNER answered yes.

10:14:08 AM

MIKE TINKER, representing himself, Ester, Alaska, said he opposes Mr. Ruffner's appointment. He stated that Mr. Ruffner is an academic with great research credentials, but he would like to see a person with broader knowledge. He asserted that the Board of Fisheries will be unbalanced with a person that has a commercial fishing preference.

AL BARRETTE, representing himself, Fairbanks, Alaska, said he opposes Mr. Ruffner's appointment. He commented that he would rather see people nominated with a history of participating with the Board of Fisheries.

10:20:01 AM

LOREN FLAGG, representing himself, Kenai, Alaska, said he supports Mr. Ruffner's appointment. He noted that he worked with Mr. Ruffner while working at the Alaska Department of Fish and Game. He said Mr. Ruffner was dedicated to habitat restoration and resource protection. He added that Mr. Ruffner's leadership of the Kenai Watershed Forum has been recognized statewide and nationally. He remarked that the Anchorage area representation argument used by some in an effort to stop Mr. Ruffner's confirmation is bogus and totally out of line with Title 16 of the Alaska statutes.

CHAIR STOLTZE commented that he had better reiterate to his friends in Kodiak that there is no constitutional right or designated seats on the Board of Fisheries.

10:21:02 AM

DAVID ATHONS, representing himself, Soldotna, Alaska, said he supports Mr. Ruffner's appointment. He stated that he was retired from the Alaska Department of Fish and Game, Division of Sport Fish as Fisheries Manager in Soldotna. He asserted that Mr. Ruffner will focus on biology over politics and sound management practices while considering the best interests of all Alaskans.

[10:23:11 AM](#)

GARY STEVENS, representing himself, Chugiak, Alaska, said he opposes Mr. Ruffner's appointment. He noted that he currently is on the Board of Directors for the Alaska Outdoor Council. He specified that the Board of Fisheries needs to retain balance and appoint someone who is aggressive about getting more fish into the rivers. He noted that the commercial fisheries harvested 98 percent of all of the wild food harvested in the State of Alaska in 2012.

[10:25:08 AM](#)

ANDREW COUCH, representing himself, Palmer, Alaska, said he supports Mr. Ruffner's appointment.

[10:27:13 AM](#)

BRUCE KNOWLES, representing himself, Wasilla, Alaska, did not provide an endorsement in support or opposition of Mr. Ruffner's appointment.

[10:29:02 AM](#)

BILL IVERSON, representing himself, Soldotna, Alaska, said he opposes Mr. Ruffner's appointment. He divulged that he is the President of the Alaska Outdoor Council (AOC). He declared that AOC opposes Mr. Ruffner being confirmed because his confirmation would un-balance the Board of Fisheries. He noted that Mr. Ruffner indicated that the current fish management plans are working, but clearly they are not working.

[10:30:29 AM](#)

MIKE NAVARRE, Mayor, Kenai Peninsula Borough, Soldotna, Alaska, said he supports Mr. Ruffner's appointment. He stated that the Kenai Peninsula Borough Assembly passed a resolution endorsing Mr. Ruffner's appointment to the Board of Fisheries. He asserted that all fisheries are important to the Kenai Peninsula. He set forth that Mr. Ruffner will listen to all interested groups and individuals and will make well informed, balanced, and impartial decisions in the best interest of the resource.

[10:34:40 AM](#)

There being no further business to come before the committee, Chair Stoltze adjourned the Senate State Affairs Standing Committee hearing at 10:34 a.m.