

ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE

April 20, 2018

1:37 p.m.

MEMBERS PRESENT

Senator John Coghill, Chair
Senator Mia Costello
Senator Pete Kelly
Senator Bill Wielechowski
Senator Mike Shower

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 355 (JUD)

"An Act relating to the crime of criminally negligent burning; relating to protection of and fire management on forested land; relating to prohibited acts and penalties for prohibited acts on forested land; requiring the Alaska Supreme Court to establish a bail schedule; and providing for an effective date."

- MOVED SCS CSHB 355 (JUD) OUT OF COMMITTEE

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 123 (HSS)

"An Act relating to disclosure of health care services and price information; and providing for an effective date."

- HEARD & HELD

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 259 (JUD) AM

"An Act relating to containing or confining loads being transported on highways."

- HEARD & HELD

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 336 (JUD) AM

"An Act relating to supported decision-making agreements to provide for decision-making assistance; and amending Rule 402, Alaska Rules of Evidence."

- HEARD & HELD

HOUSE BILL NO. 208

"An Act relating to trusts and powers of appointment; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: HB 355

SHORT TITLE: FIRE;FOREST LAND; CRIMES;FIRE PREVENTION

SPONSOR(S): REPRESENTATIVE(S) GUTTENBERG

02/16/18	(H)	READ THE FIRST TIME - REFERRALS
02/16/18	(H)	RES, JUD
02/28/18	(H)	RES AT 1:00 PM BARNES 124
02/28/18	(H)	Heard & Held
02/28/18	(H)	MINUTE(RES)
02/28/18	(H)	RES AT 6:00 PM BARNES 124
02/28/18	(H)	Heard & Held
02/28/18	(H)	MINUTE(RES)
03/05/18	(H)	RES AT 1:00 PM BARNES 124
03/05/18	(H)	Heard & Held
03/05/18	(H)	MINUTE(RES)
03/09/18	(H)	RES AT 1:00 PM BARNES 124
03/09/18	(H)	Moved CSHB 355(RES) Out of Committee
03/09/18	(H)	MINUTE(RES)
03/12/18	(H)	RES RPT CS(RES) NT 4DP 3NR 1AM
03/12/18	(H)	DP: LINCOLN, DRUMMOND, JOSEPHSON, TARR
03/12/18	(H)	NR: BIRCH, PARISH, TALERICO
03/12/18	(H)	AM: RAUSCHER
03/14/18	(H)	JUD AT 1:00 PM GRUENBERG 120
03/14/18	(H)	Heard & Held
03/14/18	(H)	MINUTE(JUD)
03/19/18	(H)	JUD AT 1:00 PM GRUENBERG 120
03/19/18	(H)	Heard & Held
03/19/18	(H)	MINUTE(JUD)
03/26/18	(H)	JUD AT 1:00 PM GRUENBERG 120
03/26/18	(H)	Scheduled but Not Heard
03/30/18	(H)	JUD AT 1:00 PM GRUENBERG 120
03/30/18	(H)	<Bill Hearing Canceled>
04/02/18	(H)	JUD AT 1:00 PM GRUENBERG 120
04/02/18	(H)	Heard & Held
04/02/18	(H)	MINUTE(JUD)
04/02/18	(H)	JUD AT 7:00 PM GRUENBERG 120
04/02/18	(H)	Moved CSHB 355(RES) Out of Committee

04/02/18 (H) MINUTE (JUD)
 04/04/18 (H) JUD RPT CS (JUD) NT 3DP 1NR 2AM
 04/04/18 (H) DP: KREISS-TOMKINS, STUTES, CLAMAN
 04/04/18 (H) NR: LEDOUX
 04/04/18 (H) AM: EASTMAN, KOPP
 04/09/18 (H) TRANSMITTED TO (S)
 04/09/18 (H) VERSION: CSHB 355 (JUD)
 04/10/18 (S) READ THE FIRST TIME - REFERRALS
 04/10/18 (S) JUD
 04/17/18 (S) JUD AT 9:00 AM BELTZ 105 (TSBldg)
 04/17/18 (S) Heard & Held
 04/17/18 (S) MINUTE (JUD)
 04/18/18 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 04/18/18 (S) Heard & Held
 04/18/18 (S) MINUTE (JUD)
 04/19/18 (S) JUD AT 9:00 AM BELTZ 105 (TSBldg)
 04/19/18 (S) Heard & Held
 04/19/18 (S) MINUTE (JUD)
 04/20/18 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

BILL: HB 123

SHORT TITLE: DISCLOSURE OF HEALTH CARE COSTS

SPONSOR (s): REPRESENTATIVE (s) SPOHNHOLZ

02/13/17 (H) READ THE FIRST TIME - REFERRALS
 02/13/17 (H) HSS, JUD
 03/02/17 (H) HSS AT 3:00 PM CAPITOL 106
 03/02/17 (H) Heard & Held
 03/02/17 (H) MINUTE (HSS)
 03/09/17 (H) HSS AT 3:00 PM CAPITOL 106
 03/09/17 (H) Moved CSHB 123 (HSS) Out of Committee
 03/09/17 (H) MINUTE (HSS)
 03/10/17 (H) HSS RPT CS (HSS) 5DP 2NR
 03/10/17 (H) DP: JOHNSTON, TARR, EDGMON, SULLIVAN-
 LEONARD, SPOHNHOLZ
 03/10/17 (H) NR: KITO, EASTMAN
 03/24/17 (H) JUD AT 1:00 PM GRUENBERG 120
 03/24/17 (H) Heard & Held
 03/24/17 (H) MINUTE (JUD)
 03/27/17 (H) JUD AT 1:00 PM GRUENBERG 120
 03/27/17 (H) Heard & Held
 03/27/17 (H) MINUTE (JUD)
 03/29/17 (H) JUD AT 1:00 PM GRUENBERG 120
 03/29/17 (H) Moved CSHB 123 (HSS) Out of Committee
 03/29/17 (H) MINUTE (JUD)
 03/31/17 (H) JUD RPT CS (HSS) 1DP 1NR 4AM
 03/31/17 (H) DP: CLAMAN

03/31/17 (H) NR: EASTMAN
 03/31/17 (H) AM: KOPP, KREISS-TOMKINS, FANSLER,
 REINBOLD
 04/07/17 (H) TRANSMITTED TO (S)
 04/07/17 (H) VERSION: CSHB 123 (HSS)
 04/10/17 (S) READ THE FIRST TIME - REFERRALS
 04/10/17 (S) HSS, JUD
 03/16/18 (S) HSS AT 1:30 PM BUTROVICH 205
 03/16/18 (S) Heard & Held
 03/16/18 (S) MINUTE (HSS)
 04/04/18 (S) HSS AT 1:30 PM BUTROVICH 205
 04/04/18 (S) Moved SCS CSHB 123 (HSS) Out of
 Committee
 04/04/18 (S) MINUTE (HSS)
 04/06/18 (S) HSS RPT SCS 4DP NEW TITLE
 04/06/18 (S) DP: WILSON, BEGICH, VON IMHOF, GIESSEL
 04/16/18 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 04/16/18 (S) <Above Item Removed from Agenda>
 04/16/18 (S) MINUTE (JUD)
 04/19/18 (S) JUD AT 9:00 AM BELTZ 105 (TSBldg)
 04/19/18 (S) Heard & Held
 04/19/18 (S) MINUTE (JUD)
 04/20/18 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

BILL: HB 259

SHORT TITLE: CONFINING VEHICLE LOADS

SPONSOR(S): REPRESENTATIVE(S) STUTES

01/08/18 (H) PREFILE RELEASED 1/8/18
 01/16/18 (H) READ THE FIRST TIME - REFERRALS
 01/16/18 (H) TRA, JUD
 01/25/18 (H) TRA AT 1:15 PM BARNES 124
 01/25/18 (H) -- MEETING CANCELED --
 01/30/18 (H) TRA AT 1:00 PM BARNES 124
 01/30/18 (H) -- MEETING CANCELED --
 02/01/18 (H) TRA AT 1:00 PM BARNES 124
 02/01/18 (H) Heard & Held
 02/01/18 (H) MINUTE (TRA)
 02/08/18 (H) TRA AT 1:00 PM BARNES 124
 02/08/18 (H) Moved CSHB 259 (TRA) Out of Committee
 02/08/18 (H) MINUTE (TRA)
 02/09/18 (H) TRA RPT CS (TRA) 1DP 5AM
 02/09/18 (H) DP: STUTES
 02/09/18 (H) AM: KOPP, CLAMAN, DRUMMOND, EASTMAN,
 WOOL
 02/21/18 (H) JUD AT 1:00 PM GRUENBERG 120
 02/21/18 (H) <Bill Hearing Canceled>

02/23/18 (H) JUD AT 1:30 PM GRUENBERG 120
 02/23/18 (H) Heard & Held
 02/23/18 (H) MINUTE(JUD)
 03/05/18 (H) JUD AT 1:00 PM GRUENBERG 120
 03/05/18 (H) Moved CSHB 259(JUD) Out of Committee
 03/05/18 (H) MINUTE(JUD)
 03/07/18 (H) JUD RPT CS(JUD) 5DP 1NR 1AM
 03/07/18 (H) DP: KOPP, KREISS-TOMKINS, STUTES,
 LEDOUX, CLAMAN
 03/07/18 (H) NR: REINBOLD
 03/07/18 (H) AM: EASTMAN
 03/15/18 (H) TRANSMITTED TO (S)
 03/15/18 (H) VERSION: CSHB 259(JUD) AM
 03/16/18 (S) READ THE FIRST TIME - REFERRALS
 03/16/18 (S) TRA, JUD
 03/29/18 (S) TRA AT 1:30 PM BUTROVICH 205
 03/29/18 (S) -- MEETING CANCELED --
 04/03/18 (S) TRA AT 1:30 PM BUTROVICH 205
 04/03/18 (S) Heard & Held
 04/03/18 (S) MINUTE(TRA)
 04/17/18 (S) TRA AT 1:30 PM BUTROVICH 205
 04/17/18 (S) Moved SCS CSHB 259(TRA) Out of
 Committee
 04/17/18 (S) MINUTE(TRA)
 04/18/18 (S) TRA RPT SCS 1DP 3NR SAME TITLE
 04/18/18 (S) NR: STEDMAN, WILSON, BISHOP
 04/18/18 (S) DP: EGAN
 04/20/18 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

BILL: HB 336

SHORT TITLE: SUPPORTIVE DECISION-MAKING AGREEMENTS

SPONSOR(s): REPRESENTATIVE(s) MILLETT

02/07/18 (H) READ THE FIRST TIME - REFERRALS
 02/07/18 (H) HSS, JUD
 03/01/18 (H) HSS AT 3:00 PM CAPITOL 106
 03/01/18 (H) Heard & Held
 03/01/18 (H) MINUTE(HSS)
 03/08/18 (H) HSS AT 3:00 PM CAPITOL 106
 03/08/18 (H) Moved CSHB 336(HSS) Out of Committee
 03/08/18 (H) MINUTE(HSS)
 03/09/18 (H) HSS RPT CS(HSS) 6DP
 03/09/18 (H) DP: JOHNSTON, CLAMAN, EDGMON, SULLIVAN-
 LEONARD, KITO, TARR
 04/09/18 (H) JUD AT 1:00 PM GRUENBERG 120
 04/09/18 (H) Heard & Held
 04/09/18 (H) MINUTE(JUD)

04/11/18 (H) JUD AT 1:00 PM GRUENBERG 120
04/11/18 (H) Moved CSHB 336(JUD) Out of Committee
04/11/18 (H) MINUTE(JUD)
04/11/18 (H) JUD AT 7:00 PM GRUENBERG 120
04/11/18 (H) -- MEETING CANCELED --
04/12/18 (H) JUD RPT CS(JUD) 4DP 2NR 1AM
04/12/18 (H) DP: KOPP, KREISS-TOMKINS, STUTES,
CLAMAN
04/12/18 (H) NR: LEDOUX, REINBOLD
04/12/18 (H) AM: EASTMAN
04/14/18 (H) TRANSMITTED TO (S)
04/14/18 (H) VERSION: CSHB 336(JUD) AM
04/15/18 (S) READ THE FIRST TIME - REFERRALS
04/15/18 (S) JUD
04/20/18 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

ALLIANA SALANGUIT, Staff
Representative David Guttenberg
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Stated that the sponsor supports the language in Amendment 6 for HB 355.

ANN NELSON, Assistant Attorney General
Department of Law
Juneau, Alaska

POSITION STATEMENT: Discussed the effect of Amendment 6 for HB 355.

CHRIS MAISCH, State Forester and Director
Division of Forestry
Department of Natural Resources (DNR)
Fairbanks, Alaska,

POSITION STATEMENT: Discussed the practical effect of Amendment 6 for HB 355.

JORDAN SHILLING, Staff
Senator John Coghill
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Described the changes between version B and version Q of HB 123 and version S and version G of HB 259.

REPRESENTATIVE IVY SPOHNHOLZ
Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Sponsor of HB 123.

GINA BOSNAKIS, representing self

Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 123.

JENNIFER MEYHOFF, representing self

Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 123.

SHAUN LEWIS, representing self

Fairbanks, Alaska

POSITION STATEMENT: Testified in support of HB 123.

TERRY ALLARD

Alaska Association of Health Underwriters

Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 123.

ELIZABETH WARLICK, Advocacy Coordinator

Greater Fairbanks Chamber of Commerce

Fairbanks, Alaska

POSITION STATEMENT: Testified in support of HB 123.

DR. THOMAS KOBYLARZ, representing self

Soldotna, Alaska

POSITION STATEMENT: Testified that he appreciates that HB 123 is an effort to control costs health care costs, but he does not want to post a menu in his office to describe the cost of each procedure.

DR. HEATHER WILLIS, Governmental Affairs Chair

Alaska Dental Society (ADS)

Fairbanks, Alaska

POSITION STATEMENT: Testified that ADS appreciates the intent of HB 123 to increase transparency, but believes it will have unintended consequences as currently drafted.

DR. GRAHAM GLASS, representing self

Anchorage, Alaska

POSITION STATEMENT: Testified that his concern with HB 123 is that rack rates for services almost never reflect what the patient actually pays.

RHONDA PROWELL-KITTER, Chief Financial Officer

Public Education Health Trust

Anchorage, Alaska

POSITION STATEMENT: Testified in full support of HB 123.

NIBERT LUJAN

Alaska Association of School Business Officials

Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 123.

JEANNIE MONK

Alaska State Hospital and Nursing Association (ASHNA)

Juneau, Alaska

POSITION STATEMENT: Testified that HB 123 is a reasonable first step to control health care costs.

DR. JOSEPH ROTH, MD and President elect

Alaska State Medical Association (ASMA)

Juneau, Alaska

POSITION STATEMENT: During the hearing on HB 123, stated that ASMA does not support the requirement that providers list undiscounted charges.

DIANE WENDLANDT, Assistant Attorney General

Criminal Division

Office of Criminal Appeals

Department of Law

Anchorage, Alaska

POSITION STATEMENT: Provided supporting testimony for version G of the Senate CS for HB 259.

REPRESENTATIVE LOUISE STUTES

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Sponsor of HB 259.

MATT GRUENING, Staff

Representative Louise Stutes

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Presented the sectional analysis for HB 259 on behalf of the sponsor.

REPRESENTATIVE CHARISSE MILLETT

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Sponsor of HB 336.

HANS RODVICK, Staff

Representative Charisse Millett
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented the sectional analysis for HB 336 on behalf of the sponsor.

ACTION NARRATIVE

[1:37:04 PM](#)

CHAIR JOHN COGHILL called the Senate Judiciary Standing Committee meeting to order at 1:37 p.m. Present at the call to order were Senators Costello, Shower, Wielechowski, and Chair Coghill. Senator Kelly arrived during the meeting.

HB 355-FIRE;FOREST LAND; CRIMES;FIRE PREVENTION

[1:38:29 PM](#)

CHAIR COGHILL announced the consideration of HB 355 and recognized Senator Shower.

[1:39:00 PM](#)

SENATOR SHOWER moved to rescind the action [on 4/18/2018] to adopt Amendment 3, 30-LS1382.O.18.

CHAIR COGHILL found no objection and Amendment 3 was withdrawn.

[1:40:07 PM](#)

SENATOR SHOWER moved Amendment 6, 30-LS1382\O.28.

30-LS1382\O.28
Radford
4/20/18

AMENDMENT 6

OFFERED IN THE SENATE
TO: CSHB 355 (JUD)

BY SENATOR SHOWER

Page 3, line 9, following "regulation":
Insert "under (a) of this section"

CHAIR COGHILL objected for an explanation.

SENATOR SHOWER explained that withdrawing Amendment 3 and adopting Amendment 6 is an agreement he came to with the bill sponsor, the Division of Forestry, and the Department of Law. His initial concern was that the definition of "other land use" was too broad. The amendment maintains the intent for consistency between Sections 5, 6, and 7 while also meeting his intention to tighten the language regarding other land uses. It essentially establishes that whatever the commissioner puts in regulation is what the inspector must adhere to.

[1:42:04 PM](#)

At ease

[1:42:57 PM](#)

CHAIR COGHILL reconvened the meeting.

[1:43:06 PM](#)

ALLIANA SALANGUIT, Staff, Representative David Guttenberg, Alaska State Legislature, Juneau, Alaska, said the sponsor supports the language in Amendment 6 for HB 355.

CHAIR COGHILL asked Ms. Nelson to discuss the effect of the amendment.

[1:43:37 PM](#)

ANN NELSON, Assistant Attorney General, Department of Law, Juneau, Alaska, explained that the language clarifies that the permit enforcement authority is limited to activities for which a permit is required.

[1:44:11 PM](#)

SENATOR KELLY joined the committee.

CHAIR COGHILL asked Mr. Maisch to discuss the practical effect of the amendment.

CHRIS MAISCH, State Forester and Director, Division of Forestry, Department of Natural Resources (DNR), Fairbanks, Alaska, said the language would tighten the statute and tie it to the regulation process. Responding to a question, he confirmed that it would be a more public process tied to the enforcement piece.

[1:45:08 PM](#)

CHAIR COGHILL found no objection and Amendment 6 was adopted.

SENATOR SHOWER asked to hear either the Division of Forestry or the Department of Law state that civil immunity would apply if a

citizen was directed by a state official to take certain action. That was part of the agreement to withdraw Amendment 3.

MS. NELSON confirmed that the civil immunity statute under AS 41.15.045 would apply to a homeowner or other member of the public who is directed to take certain action at the direction of a federal or state fire official.

MR. MAISCH added that he also committed to provide training and educational material to the public so they understand that is an option. The division will also be doing a lot of education about the bail schedule should the bill pass.

CHAIR COGHILL noted who was available to answer questions.

[1:47:57 PM](#)

SENATOR COSTELLO moved to report the CS for HB 355, version O as amended, from committee with individual recommendations and attached fiscal note(s).

[1:48:09 PM](#)

At ease

[1:48:23 PM](#)

CHAIR COGHILL reconvened the meeting and advised that the motion referenced the wrong version. He asked Senator Costello to restate the motion.

CHAIR COSTELLO moved to report the Senate CS for CSHB 355, version U as amended, from committee with individual recommendations and attached fiscal note(s).

CHAIR COGHILL found no objected and SCS CSHB 355(JUD moved from the Senate Judiciary Standing Committee) with the understanding that conforming technical changes may be necessary.

[1:49:12 PM](#)

At ease

HB 123-DISCLOSURE OF HEALTH CARE COSTS

[1:51:32 PM](#)

CHAIR COGHILL announced the consideration of HB 123 and noted the proposed committee substitute (CS).

[1:52:11 PM](#)

SENATOR COSTELLO moved to adopt the work draft Senate CS for CSHB [123], version 30-LS0380\Q, as the working document.

CHAIR COGHILL objected for an explanation.

1:52:45 PM

JORDAN SHILLING, Staff, Senator John Coghill, Alaska State Legislature, Juneau, Alaska, reviewed the following substantive changes between version B and version Q of HB 123:

Page 2, the disclosed price information that is required to be posted no longer reflects the Medicaid price. It will reflect the undiscounted price.

Also on page 2, the requirement for a health care facility to post the 50 most common procedures is changed to the 25 most common procedures.

Page 4, line 22, insurers were removed from the requirements under subsection (h). They will no longer have to comply with the components of (h) that are a part of the good faith estimate.

MR. SHILLING explained that insurers indicated they would not be able to comply with a few elements of subsection (h). They would have difficulty providing the procedure code unless the provider or patient supplied it. Further, Primera said they could not provide, as part of a good faith estimate, the information required under subsection (h)(5). This information is the identity or suspected identity of any other person who "may charge the patient for a service, product, procedure, or supply in connection with the health care services included in the estimate,".

Page 6, line 26, under subsection (n)(3), a facility operated by an Alaska tribal health organization is exempted from the definition thereby exempting them from the requirements of the bill.

CHAIR COGHILL said it was a federal preemption issue.

1:55:52 PM

REPRESENTATIVE IVY SPOHNHOLZ, Alaska State Legislature, Juneau, Alaska, sponsor of HB 123, said her minor concern about reducing the number of prices a facility is required to post from 50 to [25] is ameliorated by a forthcoming amendment.

CHAIR COGHILL advised that the amendment he had drafted would take 10 common health care services from each of the six sections of Category I, Current Procedural Terminology. The idea is to provide patients with the most relevant information.

REPRESENTATIVE SPONHOLHLZ clarified that she supports the CS with the forthcoming amendment.

[1:57:51 PM](#)

CHAIR COGHILL opened public testimony on HB 123.

[1:58:34 PM](#)

GINA BOSNAKIS, representing self, Anchorage, Alaska, said she is a small business owner and has worked in the Alaska employee benefits industry for over 30 years. Outside of a death claim, the most difficult part of her job is receiving a call from a patient who thought they'd done everything they were supposed to do to make sure they were getting their procedure from the right doctor or facility, but they did not ask if the provider was a preferred provider or in-network with their insurance company. If they aren't, it changes the whole dynamic for the patient.

She said HB 123 will make it easier for the patient to find out approximately what their out-of-pocket expenses will be if the provider is in-network with their insurance company and what the procedure code for the recommended treatment will be. If the provider is not in-network, the patient will know their out-of-pocket expenses will almost certainly be much more than anticipated. At that point they can and probably should consider other options such as traveling outside of the state for their care. Most insurance companies in Alaska offer that option.

If HB 123 becomes law as written, it will absolutely save a lot of Alaskans from unnecessary debt and potentially curb the high cost of health care and therefore health insurance in Alaska. She said she believes with all her heart that the positive impacts of HB 123 will be felt in every city, borough, and village in Alaska.

[2:02:03 PM](#)

JENNIFER MEYHOFF, representing self, Anchorage, Alaska, said she is a principal with Marsh & McLennan Agency which is part of the worldwide consulting firm, Marsh & McLennan Company. She has over 25 years of experience working with employers on their employee benefits and what can be affordable. She asked members to think about the economic decisions they make in an average day about purchasing various goods and services in the market.

She also asked them to think about the complexity of exploring for oil and getting it to market and that the company can tell you to the penny what the price will be before you buy it. She pointed out that throughout the day and in virtually all aspects of life, consumers are participants in the market and the exchange of goods and services. The price of the good or service is known and communicated before every transaction, except when you go to the doctor or the hospital.

Medical providers have said they can't disclose prices because it's just too complicated, but there are a lot of complicated goods and services in the marketplace and somehow consumers figure it out. She said a lot needs to be done to help rebalance the health care marketplace and HB 123 is an important part. It's time to empower consumers with information to make good economic decisions about their health care just like the information most consumers use to make good economic decisions throughout their average day. HB 123 provides that opportunity and will help toward containing the cost of health care.

CHAIR COGHILL noted who was available to answer questions.

2:05:08 PM

SHAUN LEWIS, representing self, Fairbanks, Alaska, said he has been in the health insurance industry for the last 25 years. He believes that HB 123 is a good bill because it is good for businesses to have transparency. It will also make the consumer responsible for looking at why doctor XYZ charges more than doctor ABC. He said he believes posting the 25 most common procedures is a step in the right direction. HB 123 is not a silver bullet that will magically drive costs down, but it's a good start in the marathon.

2:08:04 PM

TERRY ALLARD, representing the Alaska Association of Health Underwriters, said she is a Senior Benefits Advisor with The Wilson Agency in Anchorage, Alaska. She has been in the industry for over 25 years and is testifying in support of HB 123. The very high cost of health insurance is an issue the state has been dealing with for some time. Some might say we've reached a crisis point. Her clients have asked why expenses are so high and what can be done about it/ There isn't a single solution, but HB 123 is a starting point. It gives consumers the tools they need to access information from their providers so they can make informed decisions about when to get services, who to get services from, and how to deal with that in their own personal

budgets. There is no silver bullet, but passage of HB 123 will, over time, help bring health care costs down.

[2:11:25 PM](#)

ELIZABETH WARLICK, Advocacy Coordinator, Greater Fairbanks Chamber of Commerce, Fairbanks, Alaska, said the more than 700 businesses they represent absolutely support market transparency, information availability, and the role in government to bring the cost of health care into balance.

[2:12:13 PM](#)

DR. THOMAS KOBYLARZ, representing self, Soldotna, Alaska, said he appreciates the legislative efforts to control costs health care costs. He related a personal experience of trying to get quotes from five clinics on the cost of getting a physical examination. He was given five different quotes over the phone. The only issue was the lab tests were different. The exam he chose to have took about one hour, whereas other exams he's had lasted about 10 minutes. That illustrates a difference in the equality of health care.

He said the biggest problem he has in his private practice is with insurance companies. Preauthorized services are often not paid as promised. This is frustrating to both providers and consumers. He believes in health care transparency and disclosure of health care costs. However, he does not want to post a menu in his office to describe the cost of each procedure. That won't lower prices but will make his office look different.

[2:14:28 PM](#)

DR. HEATHER WILLIS, Governmental Affairs Chair, Alaska Dental Society (ADS), Fairbanks, Alaska, said ADS appreciates the intent of HB 123 to increase transparency. She highlighted that in the dental industry it is not difficult to get accurate estimates for a service. They have no issues with that part of the bill. However, they do have concerns with posting the top 25 procedures and the fees. The highest fees consumers will see will be from specialists but they won't necessarily know it is for specialty care. Based on the fee alone, patients may go to the wrong or an unqualified provider. She opined that posting the fees for services tells consumers that health care is a commodity, but it is not gas or oil. She concluded that the bill is a step in the right directions for consumers overall, but it will have unintended consequences as currently drafted.

[2:17:24 PM](#)

DR. GRAHAM GLASS, representing self, Anchorage, Alaska, said he is a neurologist and past president of the Alaska State Medical Association/ He applauds the sponsor for pushing for transparency in health care. He referenced his practice and noted that it can be particularly difficult for patients to ask the right questions and get needed information about health care costs when they've just been told they have something like Parkinson's or ALS. He said he strongly supports good-faith estimates and his office has been proactive in doing this. It is appreciated and also helps the office because patients do not like to pay surprise bills.

He said his concern with the bill relates to listing rack rates for services because those rates almost never reflect what the patient will actually pay for their contracted rates. It's a little misleading on the transparency scale. He said contracted rates would be the most valuable but that's difficult to do. He supports good faith estimates and believes the bill could be amended to say that "no contracts with providers are allowed to have nondisclosure clauses." Consumers should know basically what they're going to pay and some of that burden should be on insurance companies, he said.

[2:21:25 PM](#)

RHONDA PROWELL-KITTER, Chief Financial Officer, Public Education Health Trust, Anchorage, Alaska, said she is testifying as the president of Alaskans for Sustainable Healthcare Costs. This is a group of Alaskan employers who are working to find solutions to the rising health care costs. They fully support HB 123 and urge its passage. Their employees are being asked to contribute more out-of-pocket, increase their deductibles, and to be informed consumers. Part of being an informed consumer is knowing the cost of services, starting with the rack rate. She said HB 123 is not the silver bullet to bring down health care costs, but it is the silver BB that is needed in the market.

[2:23:09 PM](#)

NIBERT LUJAN, Alaska Association of School Business Officials (ALASBO), Juneau, Alaska, said there is a recognition in the capitol that there are lots of cost pressures on school districts. Flat funding results in a cut to education services. The high cost of health care is one of those cost pressures that school districts and all employers face. HB 123 is a bill that can help school districts that are struggling with costs. It won't solve the problem, but it will help health care consumers become better consumers and hopefully bend the cost curve. She urged passage of HB 123.

2:24:53 PM

JEANNIE MONK, Alaska State Hospital and Nursing Association (ASHNA), Juneau, Alaska, thanked the sponsor for working with stakeholders in the development of HB 123. She said ASHNA supports price transparency and believes that this legislation is a reasonable first step. They appreciate that the CS removes the posting of Medicaid prices. Medicaid payment rates are negotiated between the state and provider and are already published. ASHNA also supports good faith price estimates. Hospitals have existing systems to help patients get estimates for planned procedures and ASHNA members believe they will be able to comply with this legislation. She said insurers often have access to the best data on prices and that is who consumers should work with to get accurate information on the cost of services, out-of-pocket expenses, and to make sure the provider is part of the insurer's network. HB 123 is a first step toward transparency and ASHNA looks forward to continuing to work with the legislature on this initiative and others to help consumers. She highlighted the fairhealthconsumer.org website as an example of what can be done to make price transparency meaningful.

2:28:06 PM

DR. JOSEPH ROTH, MD and President elect Alaska State Medical Association (ASMA), Juneau, Alaska, stated that ASMA supports transparency in medicine, ongoing work on improving health care and its costs, and good faith estimates by physicians and insurers. However, ASMA does not support the requirement for providers to list undiscounted charges. These charges do not reflect what a patient will actually pay. What they pay is based on the patient's type of insurance and whether their provider is in-network or out-of-network. Most procedural charges cannot be listed accurately because changes in the description of the procedure can lead to marked changes in charges. For example, there can be a wide disparity in cost to treat an ankle fracture because it depends on what is done to the ankle. Another problem is that studies show that the posting of prices by physicians leads to increased overall health care costs. They are able to see what other providers charge and price discrepancies narrow in an upward fashion. Also, medical billing is a complicated process. His office of 15 providers has 3.5 billers who are always available to discuss the cost of a patient's medical care based on their insurance type.

DR. ROTH advised that both he and ASMA support good faith estimates from providers and insurers, but they believe that an all-claims database would serve patients more fully. This means

that both insurers and providers would fully disclose their prices. He cautioned members against using information from an undisclosed cost list to determine health care costs, and encouraged them to talk to their providers and insurance companies to get accurate information.

CHAIR COGHILL said he's been working with the sponsor to make the information a little more valuable, but having the rack price will be "a big part of having one end of the conversation."

DR ROTH replied the concern is that patient won't get the information they want if insurers aren't also involved. It shouldn't be any more difficult for insurers to provide that information than it is for providers.

CHAIR COGHILL noted that they learned that the insurers wouldn't be able to provide some of the information that was originally required.

CHAIR COGHILL asked Mr. Shilling the substance of the proposed amendment that seeks to make the price information more valuable.

[2:34:04 PM](#)

MR. SHILLING explained that an ongoing concern has been that listing the 25 most common procedures could result in a list of admission or diagnostic and admission codes that are not relevant to some consumers. To make the data more relevant, the amendment models a bill in the Senate that provides for the posting of the most common procedures and services within the six different Current Procedural Terminology (CPT) categories.

CHAIR COGHILL asked the sponsor to comment on the proposed amendment.

[2:35:42 PM](#)

REPRESENTATIVE SPOHNHOLZ said the amendment works conceptually and it makes sense for hospitals, but the applicability may be problematic in the various health care settings. The legal definition of health care facility is any practice that has more than one health care provider, which encompasses the many facilities that do not provide services such as radiology, anesthesiology, or surgery. She said finding something that works for everybody has been very complicated and that is why she and the other sponsors decided on the 50 most offered

services. That is simple enough to implement in any health care setting.

[2:37:35 PM](#)

SENATOR WIELECHOWSKI asked for an explanation of the six sections of Category I, Current Procedural Terminology.

REPRESENTATIVE SPOHNHOLZ listed evaluation and management, anesthesia, surgery, radiology, pathology labs, and medicine. The idea is to serve patients who go to a hospital as well as the patients who only visit their local provider.

CHAIR COGHILL said he wouldn't offer the amendment today but would bring it up again when the bill is heard on Monday. He reiterated his concern about providing relevant information.

REPRESENTATIVE SPOHNHOLZ noted she had samples from members of ASHNA that show the top 50 procedures in several health care facilities in the state.

CHAIR COGHILL removed his objection and version Q was adopted.

[2:40:15 PM](#)

CHAIR COGHILL held HB 123 in committee for further consideration.

[2:40:37 PM](#)

At ease

HB 259-CONFINING VEHICLE LOADS

[2:42:36 PM](#)

CHAIR COGHILL reconvened the meeting and announced the consideration of HB 259. He noted the proposed committee substitute (CS) that corrects an issue that the sponsor and the Department of Law identified.

[2:43:37 PM](#)

SENATOR COSTELLO moved to adopt the [Senate CS] for HB 259, version G, as the working document.

CHAIR COGHILL objected for an explanation.

[2:44:17 PM](#)

JORDAN SHILLING, Staff, Senator John Coghill, Alaska State Legislature, Juneau, Alaska, advised that the CS for HB 259 removes subsection (e) on page 2, line 24, of version S that

came to the committee. He deferred further explanation to Diane Wendlandt with the Department of Law.

2:45:01 PM

DIANE WENDLANDT, Assistant Attorney General, Criminal Division, Office of Criminal Appeals, Department of Law, Anchorage, Alaska, said the primary concern is burden shifting. Subsection (e) relies on the proof of one fact (the prior conviction) to prove another fact (criminal negligence). There isn't a close connection between the prior violation and the proof of criminal negligence because there are too many factual variables in proving criminal negligence. She noted that other statutes are illustrative. For example, if you're trying to prove the fact that a defendant knew he had an obligation to register as a sex offender, proof that he has a prior conviction is a very direct and close connection to the fact you're trying to prove.

A prior conviction of what was found to be criminal negligence may have turned on the type of load, the means of securing the load, the vehicle, or the route traveled. The risk really depends on very specific facts in each case. Trying to tie the finding of criminal negligence in a prior case with a current one doesn't require any similarity between the two cases. That effectively shifts the burden of showing why the cases aren't similar to the defendant, which is generally not allowed.

MS. WENDLANDT advised that not requiring similarity between the past and current event means you're essentially defining criminal negligence based strictly on propensity. The defendant was careless in the past and therefore is presumed to be careless in the current case. Evidence Rule 404(b) allows evidence of prior acts to be presented to the extent that it proves things such as the absence of mistake or knowledge. What isn't allowed is to say a person is bad or careless and that's enough to prove that they were careless of bad in the current case.

CHAIR COGHILL found no questions and asked the sponsor to present the bill.

2:49:12 PM

REPRESENTATIVE LOUISE STUTES, Alaska State Legislature, Juneau, Alaska, sponsor of HB 259, stated that the bill addresses a serious gap in the confined load statute that only allows a \$300 traffic infraction, even if a person is seriously injured as a result of someone's negligence in securing their load. The bill also updates the statute to include all materials that escape a

vehicle, with a few specific exemptions. It requires maintaining six inches of freeboard or tarping loads of sand, gravel, rock, or similar materials. This is a responsible public safety measure that will reduce fatalities, property damage, and roadway litter.

CHAIR COGHILL asked Mr. Gruening to go through the sectional.

2:50:50 PM

MATT GRUENING, Staff Representative Louise Stutes, Alaska State Legislature, Juneau, Alaska, presented the following sectional analysis for HB 259.

Section 1 on Page 1, line 3 through Page 3, line 9: AS 28.35.251 is repealed and reenacted:

Subsection (a) on Page 1, lines 4 through 7:

This subsection states that a person is guilty of the crime of failure to contain or confine a load in the first degree if, with a mental state of criminal negligence, they violate (c) and as result, cause serious physical injury to another person. Criminal negligence applies to the act of the securing the load. Failure to contain or confine a load in the first degree is a class A misdemeanor.

Subsection (b) on Page 1, lines 8 through 10:

This subsection states that a person is guilty of the crime of failure to contain or confine a load in the second degree if, with criminal negligence, they violate (c) and as result, cause property damage of \$5,000 or more to another person's property. Criminal negligence applies to the act of the securing the load. Failure to contain or confine a load in the second degree is a class B misdemeanor.

Subsection (c)(1)(A)(i)(ii) and (B) on Page 1, line 11 through Page 2, line 7:

This subsection specifies that a person commits the offense of failure to contain or confine a load in the third degree if the person drives or moves a motor vehicle loaded with any material on a highway unless it is secured or situated in a way that prevents it from escaping the vehicle or shifting to the extent

that the vehicle's maneuverability or stability is adversely affected and the load is treated by methods approved through regulation by the Department of Public Safety that are designed to settle the load or remove loose material before it is driven on a highway. Failure to contain or confine a load in the third degree is an infraction.

Subsection (c) (2) on Page 2, lines 9 through 12:

This subsection specifies that a person may drive or move a motor vehicle loaded with sand, gravel, dirt, rock, or similar materials if at least 6 inches of freeboard is maintained around the perimeter of the load or a cover is used and securely fastened.

Subsection (d) (1) on Page 2, lines 13 through 16:

This subsection is an exemption that specifies that the provisions of this act do not apply to a vehicle that deposits sand, liquids, or other materials for the purpose of cleaning, maintaining, or improving traction on the highway.

Subsection (d) (2) on Page 2, lines 17 through 18:

This subsection is an exemption that specifies that the provisions of this act do not apply to commercial motor vehicles that are subject to federal motor carrier securement standards implemented through state or federal law.

Subsection (d) (3) on Page 2, lines 19 through 20:

This subsection is an exemption that specifies that the provisions of this act do not apply to the natural accumulation of snow, ice, mud, dirt, or similar materials.

Subsection (d) (4) on Page 2, line 21:

This subsection is an exemption that specifies that the provisions of this act do not apply to a vehicle that is removing snow or hauling snow after removal.

Subsection (d) (5) on Page 2, lines 22 through 23:

This subsection is an exemption that specifies that the provisions of this act do not apply to random litter escaping a vehicle. Litter is defined in this section as plastic wrappers, empty plastic bags, leaves, paper, or similar soft materials. "Random" modifies "litter" to clarify that a load of litter is not exempted.

Subsection (e)(1) on Page 2, lines 25 through 26:

This subsection specifies that failure to contain or confine a load in the first degree is a class A misdemeanor.

Subsection (e)(2) on Page 2, lines 27 through 28:

This subsection specifies that failure to contain or confine a load in the second degree is a class B misdemeanor.

Subsection (e)(3)(A), (B), (C), and (D) on Page 2, line 29 through Page 3, line 6:

This subsection specifies that failure to contain or confine a load in the third degree is an infraction punishable by a fine of not more than \$300 on the first offense, \$750 on the second offense, \$1,500 on the third offense, and \$2,500 on the fourth offense. The penalty for the first violation is consistent with current statute.

Subsection (f) on Page 3, lines 7 through 8:

This subsection specifies that criminal negligence in this section has the meaning given in AS 11.81.900.

Section 2 on Page 3, lines 9 through 10. AS 28.35.253 is amended by adding a new subsection:

This section is a conforming amendment to reflect the repeal and reenactment of AS 28.35.251 in Section 1 of the bill and the repeal of AS 28.35.255. AS 28.35.255 currently houses the penalties for violations of both AS 28.35.251 and AS 28.35.253. Violating AS 28.35.253 is currently an infraction and there is no substantive change.

Section 3 on Page 3, line 11:

This section repeals 28.35.255. This is a section that requires people to have anti-spray devices such as mud flaps and fenders on vehicles.

2:57:39 PM

CHAIR COGHILL held HB 259 in committee for further consideration.

HB 336-SUPPORTIVE DECISION-MAKING AGREEMENTS

2:57:53 PM

CHAIR COGHILL announced the consideration of HB 336. [CSHB 336(JUD)am was before the committee.]

2:58:11 PM

REPRESENTATIVE CHARISSE MILLETT, Alaska State Legislature, Juneau, Alaska, introduced HB 336 speaking to the following sponsor statement:

With over 100 wards per public guardian Alaska has one of the highest rates of full guardianship in the nation. Studies concerning individuals under full guardianship have found that such individuals were significantly less likely to have any kind of paid employment and are less likely to be integrated into their community, than people provided less restrictive options to full guardianship.

Policy makers should engage in efforts to provide adults with intellectual and developmental disabilities (IDD) the needed tools to experience lives with the most autonomy, freedom and independence as possible. The Supported Decision-Making Agreements Act does just that.

Designed as a mechanism to enable adults with IDD to enter into newly created legal structures called supported decision-making agreements (SDMA), House Bill 336 will provide a less restrictive alternative to full guardianship for adults with IDD. Guided by the experience of other states, HB 336 will enable adults with disabilities to maintain their rights to make decisions currently being taken away from them by guardianship orders.

The philosophy underpinning HB 336 contends that adults with IDD do have and should retain their constitutional and civil rights to live as freely and autonomously as possible. HB 336 will help change the current system in which one person tends to make every decision for adults with IDD, even though those adults have capacity to make many decisions on their own; to a system where adults who can make life decisions with support from others no longer have the right to make those decisions taken away from them by the government.

HB 336 will enable OPA to focus its efforts on adults who truly need full guardianship, while providing Alaskans experiencing varying levels of IDD an avenue to live happier and healthier lives.

CHAIR COGHILL offered his understanding that the bill fills the gap between full guardianship and the need for a little help and support.

REPRESENTATIVE MILLETT said that's correct. It's an idea that is gaining traction throughout the nation.

[3:00:35 PM](#)

HANS RODVICK, Staff, Representative Charisse Millett, Alaska State Legislature, Juneau, Alaska, presented the sectional analysis for HB 336 speaking to the following prepared document:

Section One: Amending AS 13, which related to decedents' estates, guardianships, transfers, trusts and health care decisions, by adding a new chapter - chapter 56

13.56.010: Authorizes adults to enter into a supported decision-making agreement (SDMA) and spells out reasons why an adult may not enter a SDMA.

13.56.020: Describes the requirements adults must meet to be qualified as supporters in SDMA's.

13.56.030: Sets the parameters for what a SDMA must contain to be legitimate. Also deals with alternate supporters and sharing of information amongst supporters.

13.56.040: This section lays out the precise requirements for a SDMA to be valid, and how the principal and supporter(s) may formalize the signing of the SDMA.

13.56.050: Mandates that each supporter acknowledge their relationship with the principal and their responsibilities to support the principal.

13.56.060: Delineates who a witness to the signing of the SDMA can and cannot be.

13.56.070: Clarifies when a SDMA becomes effective and how long they last.

13.56.080: This section details how either a principal or supporter(s) of a SDMA may terminate all or portions of a SDMA. Likewise, explains what happens to a SDMA if only portions of it are terminated.

13.56.090: States the general duties of supporters.

13.56.100: Outlines the areas of a principal's life, including health, finances, education and communication, that a supporter may provide support in. Also provides a way for supporters to help the principal deal with health information covered under federal healthcare privacy laws.

13.56.110: Prohibits supporters from wrongfully guiding and influencing the principal in a harmful manner. This section also prohibits supporters from using or obtaining the principal's personal information without their consent.

13.56.120: Requires the supporter(s) of a principal to keep all information related to the principal confidential, protected and shielded from unauthorized use.

13.56.130: Directs people who interact with principals/supporter(s) to recognize the communication, requests and decisions made by the

principal (with support from the supporter(s)) as if that communication, request or decision was made solely by the principal.

13.56.140: This section absolves a person (for three distinct reasons) from civil or criminal liability or discipline for unprofessional conduct if they either comply or decline to comply with an authorization in a SDMA.

13.56.150: Delineates the circumstances in which a principal is capable and has capacity. A principal doesn't lack capacity based on how they communicate. Likewise, a principal may make decisions without the support of a supporter(s). Lastly, the existence of a SDMA doesn't mean a principal lacks capacity.

13.56.160: Deals entirely with the affairs of a principal that a SDMA may cover. Work, healthcare, support services education, finances, living arrangements and more are all discussed.

13.56.170: This section spells out the multitude of support services, as referenced in 13.56.160, that supporters may provide the principal as agreed upon in the SDMA.

13.56.180: This section creates a statutory form for supported decision-making agreements as prescribed in the other sections of HB 336.

- 1) Introduction: Principal declares their desire to enter a SDMA.
- 2) Supporters: Supporters fill out their information and select what they will be helping the principal with. Provides for an alternate supporter to enter the SDMA.
- 3) Information Access Forms: Enables supporters to obtain the principal's private information.
- 4) Guardians and Conservators: Principal must declare whether they have a guardian or conservator.
- 5) Notice to Third Parties: Outlines the rights and obligations of supporters and ensures that a third party must recognize a

principal's request or decision as declared under AS 13.56.130.

6) Duration and Termination of Agreement: Principals may end the agreement at any time by giving notice to their supporters.

7) Signature of Principal: Recognition of voluntary signature of the principal to enter the SDMA

8) Signatures of Supporters: Self explanatory

9) Declaration of Supporters: Supporters and possible alternate supporter sign again and acknowledge their role to help the principal with the mutually agreed upon terms.

10) Notarization or Witnessing: Provides area for notary or two witnesses to sign and make the SDMA official.

11) Approval by Guardian: Space for the guardian to approve the principal entering the SDMA.

12) Approval by Conservator: Space for a conservator to approve the principal entering the SDMA.

13.56.190: Definitions

13.56.195: The short title of House Bill 336 is the Supported Decision-Making Agreements Act.

Section 2: Amends Alaska Court Rule 402, Alaska Rules of Evidence, to clarify that the execution of a SDMA cannot be used as evidence of a principal's incapacity.

Section 3: Amends the uncodified law of Alaska by amending Court Rule 402 and clarifies the two-thirds majority vote of each house needed to achieve such action.

[3:05:10 PM](#)

CHAIR COGHILL asked if this was based on a model act.

MR. RODVIK said no, but the association that deals with guardianships and this type of disability legislation recognizes supported decision-making agreements as a legitimate alternative to guardianship and recommends it in their national legislation.

[3:05:45 PM](#)

CHAIR COGHILL held HB 336 in committee for future consideration.

[3:06:41 PM](#)

There being no further business to come before the committee, Chair Coghill adjourned the Senate Judiciary Standing Committee meeting at 3:06 p.m.