

ALASKA STATE LEGISLATURE
SENATE LABOR AND COMMERCE STANDING COMMITTEE

February 27, 2018

1:32 p.m.

MEMBERS PRESENT

Senator Mia Costello, Chair
Senator Kevin Meyer, Vice Chair
Senator Gary Stevens
Senator Berta Gardner
Senator Peter Micciche

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 205

"An Act relating to the Regulatory Commission of Alaska; and relating to telecommunications regulations, exemptions, charges, and rates."

- HEARD & HELD

SENATE JOINT RESOLUTION NO. 7

Proposing an amendment to the Constitution of the State of Alaska prohibiting the imposition of a tax, the increase of an existing tax, or state retail sales taxation without the approval of the voters of the state.

- HEARD & HELD

SENATE BILL NO. 119

"An Act relating to disclosure of health care services and price information; relating to health care insurers; relating to availability of payment information and estimates of out-of-pocket expenses; relating to an incentive program for electing to receive health care services for less than the average price paid; relating to filing and reporting requirements; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 205

SHORT TITLE: TELECOMMUNICATIONS REGULATION/EXEMPTIONS

SPONSOR(s): SENATOR(s) MEYER

02/19/18 (S) READ THE FIRST TIME - REFERRALS
02/19/18 (S) L&C
02/27/18 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SJR 7

SHORT TITLE: CONST. AM: VOTER APPROVAL FOR NEW TAXES

SPONSOR(s): SENATOR(s) MEYER

04/06/17 (S) READ THE FIRST TIME - REFERRALS
04/06/17 (S) L&C, JUD, FIN
02/27/18 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 119

SHORT TITLE: HEALTH CARE COSTS: DISCLOSURE;INSURERS;

SPONSOR(s): SENATOR(s) HUGHES

04/24/17 (S) READ THE FIRST TIME - REFERRALS
04/24/17 (S) L&C, FIN
02/27/18 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

EDRA MORLEDGE, Staff
Senator Kevin Meyer
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Delivered the sectional analysis for SB 205.

CHRISTINE O'CONNOR, Executive Director
Alaska Telecom Association
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 205.

CHRISTINE MARASIGAN, Staff
Senator Kevin Meyer
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Delivered the sectional analysis for SJR 7:

SENATOR SHELLEY HUGHES
Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Sponsor of SB 119.

BUDDY WHITT, Staff
Senator Shelly Hughes
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Delivered the sectional analysis for SB 119.

LORI WING-HEIER, Director
Division of Insurance
Department of Commerce, Community and Economic Development
Juneau, Alaska

POSITION STATEMENT: Provided supporting comments for the concept of SB 119 and voiced concern about implementation.

JILL LEWIS, Deputy Director
Division of Public Health
Department of Health and Social Services (DHSS)
Juneau, Alaska

POSITION STATEMENT: Agreed with Ms. Wing-Heier's comments on SB 119.

ROSA AVILA, Deputy Section Chief
Health Analytics and Vital Records
Department of Health and Social Services (DHSS)
Anchorage, Alaska

POSITION STATEMENT: Agreed with Ms. Wing-Heier's comments on SB 119.

MIKE COONS, President
Alaska Chapter of the Association of Mature American Citizens
Palmer, Alaska

POSITION STATEMENT: Testified in support of SB 119.

JEREMY PRICE
Americans for Prosperity
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 119.

PORTIA NOBLE, representing self
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 119.

JEANNIE MONK, Vice President
Policy & Programs
Alaska State Hospital and Nursing Home Association

Juneau, Alaska

POSITION STATEMENT: Stated opposition to the incentive provision in SB 119.

ACTION NARRATIVE

[1:32:46 PM](#)

CHAIR MIA COSTELLO called the Senate Labor and Commerce Standing Committee meeting to order at 1:32 p.m. Present at the call to order were Senators Gardner, Stevens, Micciche, Meyer, and Chair Costello.

SB 205-TELECOMMUNICATIONS REGULATION/EXEMPTIONS

[1:34:09 PM](#)

CHAIR COSTELLO announced the consideration of SB 205.

[1:34:21 PM](#)

SENATOR KEVIN MEYER, Alaska State Legislature, Juneau, Alaska, sponsor of SB 205, stated that the legislation seeks to modernize the telecommunication statutes and adopts the cooperative model for tariffs. The RCA will assess regulatory costs directly to the company, rather than assessing individuals monthly. He continued the introduction speaking to the following sponsor statement:

The telecommunication statutes (AS 42.05) are in need of revision due to rapid changes in technology and in FCC regulations, which render portions of the existing statutes obsolete and/or inefficient in the modern telecommunications world.

All of Alaska's telecommunications providers through the Alaska Telephone Association have worked together to offer these suggested changes. In doing so, they have strived to maintain important consumer protections, appropriate RCA jurisdiction, and consistency with FCC regulations while at the same time allowing for greater flexibility to more rapidly take advantage of new technology.

Some existing RCA regulations are over 25 years old and are largely obsolete today. Customer preferences continue to grow for broadband and mobile service while the demand for landlines declines. In competitive markets, carrier of last resort requirements and alternative operator services are no

longer necessary. Placing service providers on a more level playing field will encourage deployment of advanced technologies and more efficient network design.

Adoption of these recommended statutory changes will result reduced regulatory cost charges for consumers.

[1:36:35 PM](#)

EDRA MORLEDGE, Staff, Senator Kevin Meyer, Alaska State Legislature, Juneau, Alaska, paraphrased the following sectional analysis of SB 205.

Section 1 - Municipal powers and duties. AS 29.35.070 Public Utilities. Section 7 repeals AS 42.05.810, therefore it is removed from reference in this section of the statute.

Section 2 - Alaska Public Utilities Regulatory Act. AS 42.05.141 Adds two new subsections (e) and (f) to the general powers and duties of the RCA. These subsections state that the Commission may not designate a local exchange carrier or an interexchange carrier as the carrier of last resort, and that the Commission may designate an eligible telecommunications carrier consistent with the federal code that allows for federal subsidies under the Universal Service Fund.

A carrier of last resort is a telecommunications company that commits (or is required by law) to provide service to any customer in a service area that requests it, even if serving that customer would not be economically viable at prevailing rates.

The **Universal Service Fund** is a system of telecommunications subsidies and fees managed by the U.S. Federal Communications Commission intended to promote universal access to telecommunications services at reasonable and affordable rates for all consumers.

Section 3 - Alaska Public Utilities Regulatory Act. AS 42.05.711 Exemptions. This section exempts telecommunications carriers from the Act except for the following provisions:

- AS 42.05.141(f) - New section in the bill (Section 2 above)
- AS 42.05.221 - Requiring a Certificate of Public Convenience and Necessity
- AS 42.05.231 - Provision for applying for the certificate
- AS 42.05.241 - Conditions of issuing/denial of a certificate
- AS 42.05.251 - Allow public utilities to obtain a permit for the use of streets in municipalities
- AS 42.05.254 - Regulatory cost charge
- AS 42.05.261 - Prohibits a public utility from discontinuing or abandoning service for which a certificate has been issued
- AS 42.05.271 - Allows the RCA to amend, modify, suspend or revoke a certificate
- AS 42.05.281 - Prohibiting a sale, lease, transfer or inheritance of certificate without RCA permission
- AS 42.05.296 - Requirements for providing telephone services for certain impaired subscribers

[1:41:26 PM](#)

At ease

[1:44:34 PM](#)

CHAIR COSTELLO reconvened the meeting.

MS. MORLEDGE continued the sectional analysis of SB 205.

Continuation of Section 3

- AS 42.05.306 - Allows discounted rates for customers receiving benefits from a social services assistance program administered by the state or federal government
- AS 42.05.631 - Allows a public utility to exercise the power of eminent domain
- AS 42.05.641 - Extends RCA's jurisdiction to public utilities operating in a municipality
- AS 42.05.830 - Requires the RCA to establish exchange access charges to be paid by long distance carriers to compensate local exchange

carriers for the cost of originating and terminating long distance services

- AS 42.05.840 - Allows the RCA to establish a universal service fund
- AS 42.05.860 - Prohibits a carrier from restricting the resale of telecommunications services

Section 4 - AS 42.05.820 No Municipal Regulation. In addition to a long distance telephone company, this section amends AS 42.05.820 to add 'local exchange carrier' that is exempted in whole or in part from this chapter from being regulated by a municipality.

MS. MORLEDGE said Section 5 and a corresponding repealer in Section 7 will be removed due to an open docket with the RCA that deals with exchange access charges and the administration of those charges.

Section 6 - AS 42.05.890 Definitions. This section defines "local exchange carrier," "long distance telephone company," and "long distance telephone service."

Section 7 - Repealers. This section repeals the following provisions:

- AS 42.05.145 - Telecommunications regulation policy; restriction on regulation of telephone directories.
- AS 42.05.325 - Registration and regulation of alternate operator services.
- AS 42.05.810 - Competition
- AS 42.05.850 - Exchange carrier association. Allows the RCA to require a trade association to assist in administering access charges and may require the association to file tariffs and pool costs and revenue. [This will be removed in a future version of the bill.]

Section 8 - Transition language requiring telecommunications utilities to continue paying the annual regulatory cost charge (RCC) until July 1, 2019.

[1:48:46 PM](#)

CHRISTINE O'CONNOR, Executive Director, Alaska Telecom Association, Anchorage, Alaska, testified in support of SB 205. She recognized the member companies in the audience and clarified that all the statutes addressed in SB 205 relate to local landline service or long-distance access through a landline.

MS. O'CONNOR presented a brief PowerPoint to help explain how SB 205 simplifies and modernizes the telecommunications statutes.

Slide 2 depicts the roster of ATA members that are unanimous in support of SB 205. These are landline, long distance, wireless, and broadband companies.

Slide 3 highlights the transformation of the telecommunications industry. Landlines still exist and are important, but consumer preferences are focused on wireless and broadband service. Currently, 48 percent of the population has a landline and 52 percent of adults are in wireless only households. The underlying networks are essential but the landline service (the piece regulated by Alaska statutes) is an increasingly smaller portion of the market and resources are consumed to monitor and report on the competition. For example, in 1999 there was \$64 million in long distance revenues within the state and in 2016 that had dropped to \$16 million.

The national trends are similar. Forty-one states have reduced or eliminated oversight of retail landline telecommunications services. The National Regulatory Research Institute (NRRI) monitors the status of regulations throughout the U.S. and issues annual reports. They recommend that state commissions focus on the quality of the networks, consumer complaints, and interactions with providers and consumers to identify needs. She said those elements and strong consumer protections remain, regardless of the changes in SB 205.

She displayed slide 5 that depicts a map of the U.S. from the NRRI showing the states that have reduced regulation.

[1:52:35 PM](#)

MR. O'CONNOR reviewed the obsolete statutes addressed in SB 205. She explained that the long-distance competition statutes AS 42.05.800-810 require the RCA to manage competition in the landline long distance market. This is left over from the era when long distance competition was developing. It was hugely competitive, and the RCA played a critical role in adopting, monitoring, and managing regulations. The statute and the

regulations are still in place and require annual reports and tariff filings. A lot of resources are expended for a small piece of the market. SB 205 removes the outdated regulation of long distance retail competition.

She reviewed tariff regulation. She related that as the market has changed, cooperatives are able to manage their own tariffs if their members grant approval. They can post the rates on their websites and roll out new bundles and different service offerings for landlines. Any privately-owned companies must still file some form of tariff filing with the RCA. Depending on the operating location, the filing can be a simple informational filing or one that takes 45 days to review. That is a considerable delay for changing services for a customer for a new bundle. A full rate case has a statutory timeline of over 420 days. SB 205 proposes that all companies would operate the same as the cooperatives. With membership permission, cooperatives have been doing this successfully for over 15 years.

MS. O'CONNOR displayed a snapshot of the telecom filings that still must go through the commission. She said this is an inefficient and unnecessary process for both sides. SB 205 proposes moving these to the cooperative model.

[1:55:29 PM](#)

MS. O'CONNOR said SB 205 also proposes a change to the carrier of last resort designation. This is a duplicative designation that was used in the past to guarantee that at least one provider in an area would be available to offer service upon request. The Certificate of Public Convenience & Necessity designates an area where service is required and prevents the abandonment of service without permission from the RCA. An application to discontinue service is rigorously evaluated with the public interest in mind. Federal rules designate that a company must also apply through the FCC to abandon service in an area.

She said she does not consider SB 205 a deregulation bill because the RCA retains strong authority to ensure that Alaskan consumers continue to have service. The bill adds efficiencies and saves resources while maintaining essential consumer protections. These include the Certificate of Public Convenience and Necessity, Eligible Telecommunications Carrier, RCA Consumer Protection & Information Section, Attorney General Consumer Protection Unit, and FCC Consumer Complaint Center.

1:58:50 PM

MS. O'CONNOR said SB 205 is structured to right-size the regulation. SB 205 maintains essential RCA oversight, removes obsolete statutes, adopts the cooperative model for tariffs, requires RCA and FCC approval before discontinuing service, reduces costs and delays of regulation for RCA and providers, eliminates regulatory surcharges on consumer bills, and shifts actual costs to providers. The benefits to consumers are eliminating the regulatory cost charge. Now the cost to regulate telecommunication companies is funded by a surcharge on customers' bills. After some transition, the RCA will bill the cost of services directly to the companies.

2:00:14 PM

CHAIR COSTELLO asked if the RCA has taken a position on the bill.

MS. O'CONNOR said not yet; she will present the bill to the RCA tomorrow morning during the public meeting.

CHAIR COSTELLO asked how SB 205 would impact SB 80, a bill she introduced on behalf of a member of the RCA. SB 80 takes a portion of the surcharge from landline fees and shifts it to the cellphone environment to help pay for the materials that deaf and hard of hearing Alaskans need for their devices.

MS. O'CONNOR said SB 205 would not affect SB 80 and Alaska Telecom Association supports the much-needed change proposed by that bill. TRS services currently are funded by a separate surcharge on a consumer's bill, not the regulatory cost charge.

2:01:57 PM

SENATOR MEYER said his concern is whether the bill would impact RCA's budget. He offered his understanding that RCA now automatically receives the \$0.16 RCC charge on consumers' monthly bill, whereas SB 205 provides that the RCA will need to bill the telephone companies directly.

MS. O'CONNOR said that's correct. She explained that the bill provides a transition period for the RCA to get the mechanism in place to bill actual charges. Because fewer filings will be necessary, this should be more equitable. The RCA has the statutory authority to bill any telecom generated activity directly to the company, not the consumer.

SENATOR MEYER asked if the list on slide two includes all the telephone providers in the state.

MS. O'CONNOR replied Circle Telephone Company and Verizon are not on the list because they are not official members. Both operate in Alaska and ATA keeps them updated. Circle is a very small company and Verizon doesn't offer landline service in Alaska.

SENATOR MEYER noted that the rural providers are listed so the concerns about future development and infrastructure in rural areas should be addressed.

MS. O'CONNOR advised that the federal funding those companies receive has very stringent requirements for the deployment of broadband.

[2:04:36 PM](#)

SENATOR MICCICHE asked if consumer groups are aware of the bill and if any have voiced concern about the changes.

MS. O'CONNOR said she hasn't received any comment from consumer groups and she doesn't expect any objection because the strong RCA consumer protection role is unchanged.

[2:05:25 PM](#)

SENATOR STEVENS asked if the legislation has any connection to or effect on 911 service.

MS. O'CONNOR said no; that is a separate surcharge that the bill does not change.

SENATOR GARDNER directed attention to Section 7 that repeals AS 42.05.145 and asked for an explanation of the restriction on regulation of telephone directories.

MS. O'CONNOR explained that the provision removes the obligation for companies to deliver a phonebook to consumers. Companies are adjusting their phonebooks to meet the needs of consumers, including online options.

[2:07:09 PM](#)

CHAIR COSTELLO found no one who wished to comment, and closed public testimony on SB 205.

[SB 205 was held in committee.]

[2:07:40 PM](#)

At Ease

SJR 7-CONST. AM: VOTER APPROVAL FOR NEW TAXES

2:09:58 PM

CHAIR COSTELLO reconvened the meeting and announced the consideration of SJR 7.

2:10:23 PM

SENATOR MEYER advised that he took over as prime sponsor of SJR 7 after the initial sponsor resigned his seat. He introduced the legislation speaking to the following sponsor statement:

This bill proposes an amendment to the Constitution of the State of Alaska regarding the power of taxation. If passed, the Division of Elections Director would place a question on the ballot that goes before the voters at the next general election. The question would amend Article IX, sec. 1 to require a majority of voters to approve any law establishing a tax, tax increase, or another revenue-producing measure.

There are a number of ways governments have weighed the opinion of its people on taxes. Many may be familiar with the Anchorage Municipality which uses an advisory vote on any tax increase. Or the proposition process that may alter or do away with a tax. In the state of Colorado, voters enshrined the Taxpayer's Bill of Rights (TABOR) into the state constitution in 1992. The premise was simple, if lawmakers want to raise taxes or issue debt, they should ask voters for permission.

It has been many years since the State of Alaska has levied an individual income tax on its citizens. There has been much discussion in this era of budget deficits on revenue generation by the implementation of and/or increase in taxes. The intention of this legislation is to explore the idea that before enacting a new tax, be it an individual income or statewide sales tax, it should be ratified by a vote of the people. Voters are being asked to approve budget timelines, spending caps, and per diem spending; it makes sense that we consult the people of Alaska on taxation.

SENATOR MEYER noted that he introduced SB 130 that would have placed an advisory vote in statute but placing it in the constitution is probably a better idea.

[2:13:45 PM](#)

CHRISTINE MARASIGAN, Staff, Senator Kevin Meyer, Alaska State Legislature, Juneau, Alaska, delivered a sectional analysis for SJR 7 stating the following:

Section 1 regards taxing power. The law establishing a tax, a tax increase, or another revenue producing measure shall not take effect until approved by the voters of the state by a majority of the votes cast on the proposed law.

Section 2 simply states that amendment will be put onto the ballot in the next general election in conformity with [Art. XIII, Sec. 1 Constitution of the State of Alaska].

[2:14:31 PM](#)

SENATOR STEVENS asked if this applies to any kind of tax as well as any change to an existing tax.

SENATOR MEYER replied that is the way the resolution is currently written, but his intent is to focus solely on the broad-based sales and income taxes.

CHAIR COSTELLO asked it was the intent to provide no public education; it would be available for any group to promote.

MS. MARASIGAN said that when the sponsor consulted the Division of Elections regarding SB 130 he was advised that the matter would simply be placed on the ballot. That did not bring an additional cost. The division also broke down what it would cost to place the measure on the ballot in a special election.

CHAIR COSTELLO asked if the sponsor had received comments that this might conflict with the legislature's power to budget and tax.

MS. MARASIGAN admitted to running into constitutional roadblocks when she and the sponsor initially had conversations with legislative legal about drafting SB 130. They were offered two options: option 1 was to take an advisory vote, and option 2 was to amend the constitution.

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CHAIR COSTELLO stated she would hold SJR 7 in committee.

[2:18:44 PM](#)

At ease

SB 119-HEALTH CARE COSTS: DISCLOSURE; INSURERS;

[2:20:58 PM](#)

CHAIR COSTELLO reconvened the meeting and announced the consideration of SB 119.

[2:21:11 PM](#)

SENATOR SHELLEY HUGHES, Alaska State Legislature, Juneau, Alaska, sponsor of SB 119, stated that decades of taskforces, commissions, and studies have tried to tackle the issues associated with health care cost and access. A lot of good ideas were shared around those tables but there was a tendency not to rock the boat. As a result, health care costs have continued to rise. She identified providers and health care insurers as major contributors in the matter of rising costs and told the members that there are specific things the legislature could do to nudge down health care costs in Alaska. Other states are moving forward with changes that are making a difference. She continued the introduction of SB 119 speaking to the following sponsor statement:

Alaska's health care costs are among the highest in the nation and continue to rise. Through free market principles, SB 119 will bend the cost curve down over time to help relieve the disproportionate burden of health care costs on family budgets, seniors on fixed incomes and employers providing insurance coverage to their employees.

Senate Bill 119 will provide Alaskans with the information they need to plan financially for their health care decisions. The bill requires health care providers and facilities to list meaningful cost information online and onsite. The bill also requires a health care provider and an insurance company disclose full cost information within five days of request by a patient specific to their condition, including any expected out of pocket costs.

The bill also adds a mechanism so insurance companies will provide an incentive - a shared savings check -

to policyholders who choose an in-network provider who charges below the average in-network cost. Employers providing insurance coverage for employees will also be eligible for some of the shared savings. This approach will bring down the high cost of healthcare in Alaska by encouraging consumers to shop and providers to compete for Alaska's healthcare dollars.

35 states have either passed or are currently working on healthcare cost transparency legislation. SB 119 is among the most innovative approaches as a result of the incentive provision, and is expected to bend the cost curve more effectively than other efforts because of this.

The Alaska Health Care Consumer's Right to Shop Act will empower Alaskans with the tools needed to make healthcare choices that are right for them.

SENATOR HUGHES identified two things that have allowed the uncontrolled escalation of health care costs in Alaska: 1) prices aren't clear up front, and 2) there is a third-party payer system. Consumers are confused and don't know where to go which results in very little medical shopping. In other sectors people can find out what they are getting into and make informed decisions. It hasn't worked that way with health care. The health care industry has been shielded in a way that has kept the market forces from flowing freely. This has also hurt other business sectors.

She said the health care pie in Alaska is too large and SB 119 proposes shrinking it through natural market forces. The providers and insurers will gradually see fewer dollars. She clarified that this gradual reduction will allow time for this adjustment. She pointed out that health care has weathered the current recession on the backs of family budgets and businesses. SB 119 seeks to lessen that burden and make things fairer. She noted that the Alaska Health Care Commission convened recently to address price and quality transparency and in January the Alaska Policy Forum specified price transparency and the right to shop as important factors in addressing cost.

[2:31:24 PM](#)

SENATOR HUGHES presented a brief PowerPoint to explain the Right to Shop Act. It rewards patients who pick high quality and low-cost health care.

She reported that from 1999 to 2016, employee pay has increased 60 percent and health insurance premiums have increased 213 percent. In 2006, employee out-of-pocket costs were \$2,972 and over 10 years those increased 78 percent to \$5,277. In that same 10-year period, employers health insurance premiums increased 58 percent. She pointed out that those increased premiums could otherwise have gone into growing the businesses and creating new wealth. Further, the premiums go to insurance companies outside the state and just some of that returns to providers in Alaska. She said patients should know that they have an opportunity to save and they should be aware of price differences. Of the \$3 trillion that is spent nationwide on health care, \$1 trillion is shoppable and half of that could be saved by shopping for a lower cost option.

SENATOR HUGHES described the three pillars of right to shop.

- The right to know: Patients can find out the estimated price ahead of time from their insurance plan and compare providers to find one that works for them.
- The right to save: Patients share in savings if they shop for a high-value provider (i.e. high quality, lower cost).
- The right to pick: Patients' access to high-value providers is protected, whether the provider is in- or out-of-network.

She explained that the tools available for shopping customize information for the policy holders, but they are limited in Alaska. She presented data to illustrate that Alaska needs Right to Shop. Conservatively, Alaska spends \$6.9 billion per year on health care. Of that, \$2.3 billion is shoppable and about half or \$1.1 billion could be saved by implementing SB 119. She noted that Maine passed Right to Shop legislation in 2017.

[2:35:24 PM](#)

CHAIR COSTELLO asked if her office produced the PowerPoint or if the Right to Shop is a national movement.

SENATOR HUGHES said her office worked with think tanks on the presentation and customized it for Alaska.

CHAIR COSTELLO asked Mr. Whitt to comment on that after the presentation.

SENATOR HUGHES said her office used information from the Foundation of Government Accountability, Kaiser Permanente, and others.

SENATOR HUGHES continued the presentation citing data from the Foundation of Government Accountability that shows that 77 percent of Americans want the right to shop in health care. She displayed a chart that illustrates that this is a bipartisan issue. Voters are more likely to support Right to Shop legislation when they learn it could mean lower out-of-pocket costs for individuals with chronic health conditions.

CHAIR COSTELLO observed that Right to Shop reflects a different kind of transparency. The online tool provides information specific to an individual as opposed to showing what is being charged to anybody by anyone.

SENATOR HUGHES said the bill has a degree of both. A policyholder that uses the tool gets information that applies only to them, but then Section 1 requires a certain number of codes to be posted that anyone could view. Because two-thirds of businesses in Alaska do not offer employer insurance, there is value in having that information available. She said she wasn't sure about the best way to make that work.

CHAIR COSTELLO asked if there was any conversation about health care consumers posting what they paid for a health care service that can be shared amongst the population.

SENATOR HUGHES said she had heard about efforts to compile information for an application, but she was not aware of one specific to Alaska.

[2:40:36 PM](#)

SENATOR HUGHES said SB 119 is unique in that it has an incentive piece that has bipartisan support. When asked, more than 50 percent of consumers would consider switching providers for a savings of as little as \$50 on a non-emergency procedure. Incentives matter and they work. She said the third-party payer system is expensive, confusing, and harmful. She cited the following 2017 data from the Foundation of Government Accountability:

- 62 percent of voters say it would be tough to pay their entire deductible in one month.
- 63 percent know prices differ wildly for the same care. For example, a knee surgery could vary from \$20,000 to \$120,000.
- 69 percent think insurers are not working to keep their costs down.

[2:41:58 PM](#)

SENATOR HUGHES displayed a graphic that shows that MRI in one location may be \$359 compared to \$2,272 in another location. The takeaway is that prices vary widely for equivalent services. She cited the following 2017 data from the Foundation of Government Accountability:

- 98 percent of insurers have a cost tool but only 2 percent of members use it. She offered the explanation that the system is too complicated and there is no incentive.
- Right to Shop works.
- Incentives matter.

She opined that few consumers use the tool because the system is too complicated and there is no incentive to do so. In 2014, about 50 percent of insurance companies in other states readily provided information through a tool or otherwise. In Alaska, it was just 29 percent. As mentioned before, incentives work. Even a \$50 savings would motivate people to do some research.

She displayed a list of the potential savings between high-cost and lower-cost in-network facilities, specific to Anchorage. For knee arthroscopy, there could be a price difference of \$15,869; for cataract surgery, there could be a price difference of \$7,204; for shoulder MRI, there could be a price difference of \$2,038; and for a colonoscopy, there could be a price difference of \$2,894.

CHAIR COSTELLO asked who collected that information because her family has found it's difficult to impossible to get prices for service at a certain Anchorage facility.

SENATOR HUGHES replied the information comes from Health Care Bluebook. She offered to follow up on how the research was done.

[2:44:46 PM](#)

SENATOR GARDNER shared that she was able to get a price once she had the procedure code and zip code, but the actual bill didn't match what she was told. When she questioned the difference, one facility removed the extra charge and the other did not. Also, consumers may not know to ask the cost of the things that are related to the service such as the cost for the facility, the surgeon, and the anesthesiologist. She said she appreciates the bill but worries that providers may post costs and then bump up the cost for things that aren't posted but related.

SENATOR HUGHES advised that the bill asks insurance companies to also provide cost information so that consumers can get a better estimate.

She cited Health Care Bluebook data that states that one large public entity paid \$30,000 in cash incentives and captured over \$800,000 in savings. She said her office would try to find out the name of the public entity. She said this is an option for Alaska's state employee health insurance. New Hampshire paid \$1 million in incentives and saved \$12 million. She said she understands that the Department of Administration (DOA) has looked at this and isn't entirely supportive, but she believes there is potential to save. She pointed to a graph on the same slide that illustrates that out-of-network care can save money. The data comes from a facility in a large U.S. market. She displayed a graph that shows that more than three-fourths of voters support the Right to Shop to help small businesses deal with rising health care costs, freeing up money to hire more workers. She displayed the final slide that shows which states have passed or are considering full Right to Shop legislation or one or more of the three pillars -right to know, right to save, and right to pick. In the 2017/2018 legislative cycle, 17 states are considering Right to Shop legislation.

[2:49:12 PM](#)

SENATOR GARDNER asked if right to know (full transparency) has all three elements.

SENATOR HUGHES said no. The right to know is getting prices from insurance companies and posted prices; right to save is the incentive; and right to pick is the cost for out-of-network service that would apply to the consumer's out-of-pocket limit.

SENATOR GARDNER asked if Maine was the only state that had implemented all three elements.

SENATOR HUGHES said yes; it's a fairly new concept but a lot has happened in the last two years. She added that the incentives that New Hampshire implemented show promise. Prices are nudging down.

CHAIR COSTELLO asked Mr. Whitt to walk through the sectional analysis.

[2:51:30 PM](#)

BUDDY WHITT, Staff, Senator Shelly Hughes, advised that Mr. Allumbaugh was available online to answer questions about the

policy and how it has worked in other states. He paraphrased the following sectional analysis for SB 119:

Sec. 1, Page 1, Lines 7-10 Adds the Alaska Health Care Consumer's Right to Shop Act to the uncodified law of the State of Alaska.

Sec. 2, Page 1, Line 11 - Page 3, Line 20 Authorized the Department of Health and Social Services to collect and analyze data relating to health care services and price information.

Sec. 3, Page 2, Line 12 - Page 3, Line 20 Adds a new section to Title 18 for health care services and price information.

a. Health care provider shall compile a list annually by procedure code of the top 25 health care services from each of the six category I CPT code sections.

b. The provider or facility will publish the lists above, by providing it to the department for publishing it on their website, by posting it for public review in the facility or office where the service(s) are performed and by posting it on their website.

c. The health care provider or facility may include a disclaimer noting the price paid may be higher or lower than listing of service due to unforeseen needs or complications.

d. The department shall compile the information provided by the provider or facility and post it on the department's website for public view.

e. If the provider performs less than 25 of the services from each CPT code category, then they will compile a list based upon the total number of services that they provide.

f. Failing to comply with this section will result in a civil penalty of \$50 per day for each day after March 31st that the facility or provider has failed to provide the information. This civil penalty will not exceed \$2,500

annually. An appeal process is allowed under this section

Sec. 18.23.405 Page 3, Line 21 - Page 4, Line 28 This section is added to specify the provider and/or facilities responsibility to provide cost information to patients or potential patients who have health insurance coverage.

a. Within five business days of request, a provider must give a good faith estimate of the total charges of the healthcare service requested if the total of the charges exceeds \$250.

b. The estimate of charges must include the network status of the provider under the patient's plan, whether the services of another provider are necessary and if they are, a separate request to that additional provider must be made.

c. If the patient is uninsured, the health care provider must include information about financial assistance that may be available, as well as the internet website that provides information about standard charges for the type of care the patient is seeking.

d. The patient may request the information in writing or electronically.

e. Estimate of charges must represent a good faith effort to provide accurate information, is not legally binding and is not guaranteed due to unforeseen conditions.

f. This section does not apply to emergency medical conditions.

Sec. 18.23.420 Page 4, Line 29 - Page 5 This section gives definitions of terms.

Sec. 4, Page 6 - Page 7, Line 4 Adds healthcare insurance incentive program to the list of items to be included in the director's annual report.

Sec. 5, Page 7, Line 5 - Page 10, Line 19 Adds a new section to AS 21.96. This section establishes news provisions for health care insurance companies to operate in the state of Alaska. This section deals with private health insurance policies not pre-empted by ERISA or any other federal laws.

Sec. 21.96.200 Page 7, Lines 6 - 14 A health care insurer shall establish an interactive online tool so that the covered person may request and obtain information about the amount paid to in network providers by the insurance company for specific health care services and be able to compare prices among network healthcare providers.

Sec. 21.96.205 Page 7, Line 15 - 31

a. Upon request of a covered person, a health care insurer shall provide within five days a good faith estimate of out of pocket expenses that a covered person will have to pay for a specific covered medically necessary benefit.

b. This section does not prohibit the health insurance provider from imposing fees for unforeseen services or additional costs that come up but were not covered in the estimate provided in Section (a).

c. The health care insurer shall disclose that this is an estimate and the actual cost may be different if unforeseen services or costs arise.

Sec. 21.96.210 Page 8 - Page 9, Line 3

a. The health care insurance company shall set up an incentive plan for a covered person who elect to receive a health care service from a health care provider that charges less than the average in network price paid by the insurer for that service. At a minimum the health care services that apply to this section shall include:

1. Physical and Occupational Therapy Services
2. OBGYN Services
3. Radiology and Medical Imaging Services
4. Laboratory Services
5. Infusion Therapy Services
6. Dental Services
7. Vision Services
8. Behavioral Health Services
9. Inpatient and Outpatient Surgical Procedures: and
10. Outpatient non-surgical diagnostic tests and procedures

b. The insurer shall provide to the covered person a cash payment based upon the shared savings that result from the covered person choosing the provider whose price falls below the

average cost to the insurance company for that service. For those whose insurance is provided as part of a group plan offered by their employer, the shared savings will be split at least equally between the patient, the employer and the insurance company. For those who secured health care insurance on their own without an employer or some other third party, the cash payment will be calculated with at least 50% of the shared savings going to the policy holder.

c. The health care insurer will base average price paid to in network providers within a reasonable period of time, but not to exceed one calendar year.

Sec. 21.96.215, Page 9, Lines 4 - 8 The incentive program will be made available as a part of all qualified plans in the state and will notice it at time of initial enrollment or annual renewal.

Sec. 21.96.220, Page 9, Lines 9 - 13 Before offering an incentive program, the health insurance company shall file a description of the program with the Director for approval.

Sec. 21.96.225, Page 9, Lines 14 - 20 If a covered person participates in an incentive program and chooses an out-of-network provider that results in a savings to the health care insurer, the health care insurer will treat the amount paid for the health care service as though it was provided by an in-network provider or facility.

Sec. 21.96.230, Page 9, Lines 21 - 23 The incentive program will not be treated as an administrative expense by the insurer for rate development or rate filing purposes.

Sec. 21.96.235, Page 9, Line 24 - Page 10, Line 9 a. Provides instruction for the health care insurance company to provide an annual report concerning the incentive program. b. Provides instruction for the division of insurance to provide an aggregate report annually to the legislature on health care insurance incentive programs in the state.

Sec. 21.96.300, Page 10, Lines 10 - 19 Establishes definitions for terms in this section.

Sec. 6, Page 10, Lines 20 - 22 Adds Sec. 29.35.142 to the list of home rule powers under AS 29.10.200.

Sec. 7, Page 10, Line 23 - Page 11, Line 5 The authority to regulate the disclosure or reporting of price information for health care services is reserved to the state of Alaska.

Sec. 8, Page 11, Line 6 - Page 13, Line 22 Health Care Insurance policies obtained by the Department of Administration under AS 39.30.090 must be in compliance with requirements under AS 18.23.400, AS 18.23.405 and AS 21.96.200 - AS 21.96.300.

Sec. 9, Page 13, Line 23 - Page 14, Line 2 Language added to AS 39.30.91 providing additional guidance for the Department of Administration for compliance with requirements under AS 18.23.400, AS 18.23.405 and AS 21.96.200 - AS 21.96.300.

Sec. 10, Page 14, Lines 3 - 8 Amended language to the uncodified law of the State of Alaska allowing for the Department of Commerce, Community, and Economic Development to adopt regulations necessary to implement this act.

Sec. 11, Page 14, Line 9 Section 10 of this Act takes effect immediately.

Sec. 12, Page 14, Line 10 Except for the provision above, the act has an effective date of January 1, 2018.

MR. WHITT noted that the effective date would need to be changed to reflect the current year.

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SENATOR GARDNER referenced the language [in Sec. 21.96.210] on page 8 and asked what the phrase "at least equally" means.

MR. WHITT said the idea was to give the insurance companies some leeway to decide how to structure their incentive plan to attract market share.

SENATOR GARDNER said she assumes that language in the bill says the employer and the patient will each get one-third and the insurance company has discretion to use its third as it sees fit.

MR. WHITT replied, "That's what it should say."

CHAIR COSTELLO asked Lori Wing-Heier and Jill Lewis to comment on SB 119.

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LORI WING-HEIER, Director, Division of Insurance, Department of Commerce, Community and Economic Development (DCCED), Juneau, Alaska, said there is no doubt that everyone is concerned about the cost of health care. There is a give and take with insurance companies and providers and in the last few months conversations have started with the Alaska Comprehensive Health Insurance Plan. Members of the legislature, the administration, and private employers are taking part. The governor's announcement in Washington, D.C. that he wants to address health care, including transparency, is an important step in these conversations. When there is talk about transparency, health care is the one industry where the up-front cost is not known. That is an historical truth. Generally, the division has found that it's because consumers have only been concerned about the deductible. Now that deductibles are large, premiums are huge, and there are copayments, everyone wants to know the cost of services and the best bang for the buck. She cautioned that changing the way that health care is delivered will require time and there will be costs associated with getting the system up and running. Nevertheless, the overall concept of transparency is something that everyone who talks about health care supports.

She said the incentive piece isn't a bad idea (the right to shop, the right to know) but a few kinks need to be worked out. She hasn't seen that the individual market is part of other states, but the division and the sponsor's office will research that further to see that the individual market is included, not just group health care. The additional research will ensure that this doesn't inadvertently drive costs up for the state and it doesn't drive costs up for insurers which will come back to the employers that are providing health care.

MS. WING-HEIER said the idea of the database is great and some insurers already have it available. Discussions across the state demonstrate a need for an all-claims-paid database, but there

hasn't been a decision about how that will work or who will host it or how the data would be populated.

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JILL LEWIS, Deputy Director, Division of Public Health, Department of Health and Social Services (DHSS), Juneau, Alaska, agreed with Ms. Wing-Heier's comments and offered to answer questions related to SB 119.

[3:09:13 PM](#)

ROSA AVILA, Deputy Section Chief, Health Analytics and Vital Records, Anchorage, Alaska, agreed with Ms. Wing-Heier's comments and offered to answer questions related to SB 119.

[3:09:46 PM](#)

CHAIR COSTELLO opened public testimony on SB 119.

[3:10:16 PM](#)

MIKE COONS, President, Alaska Chapter of the Association of Mature American Citizens (AMAC), Palmer, Alaska, said AMAC supports SB 119 as one of the tools to help address the rising costs in Alaska by allowing free market principles to apply to the health care industry in the state. AMAC supports consumers being able to make informed decisions by knowing costs before they receive the service. They also support increased competition in the health care market. The hidden costs in the third-party payer system has stymied free market principles that operate in other sectors, so the shared savings incentive piece is an important element. He said he believes that SB 119 will have a positive impact on people who have health savings accounts and it will cut administrative costs to providers.

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CHAIR COSTELLO reconvened the meeting and asked Mr. Allumbaugh to provide his phone number. [He did so.]

[3:15:35 PM](#)

JEREMY PRICE, Americans for Prosperity, Anchorage, Alaska, said this free market advocacy association is consistently supportive of measures like SB 119 to address the ever-rising cost of health care. He said we won't get to the root of the problem of rising health care costs until Alaskan consumers and Americans generally have greater control and ownership. Incentivizing competition and giving consumers the ability to price compare

are steps in the right direction. He expressed support for greater transparency, greater competition, and greater choice for the consumer. SB 119 is a positive step toward those goals.

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PORTIA NOBLE, representing self, Anchorage, Alaska, spoke in support of incentives and the free market principles of shopping for services. Having providers and health care facilities publish prices gives consumers both information and the opportunity to shop for the best price. She shared that she has received discounts for services by paying cash. This is a great incentive and a tool that many uninsured Alaskans use. She offered her belief that over 80 percent of Alaskans want the option to choose.

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JEANNIE MONK, Vice President, Policy & Programs, Alaska State Hospital and Nursing Home Association (ASHNHA), Juneau, Alaska, noted that ASHNHA submitted written comments on SB 119. She said ASHNHA agrees with the points Ms. Wing-Heier made and supports the provisions relating to the right to know and insurance companies working with patients. The area of most concern is the right to pick, specifically the section that focuses on discounts to out-of-network providers. She said this could undermine the established contracts between insurers and providers. ASHNHA would recommend deleting that section. Regarding the right to save, if the goal is to incentivize competition in the state, ASHNHA would recommend adding language that focuses on making this an in-state competition. ASHNHA is concerned about inadvertently dismantling parts of the health care system in the interest of giving people a \$50 rebate. Costs in Alaska will always be higher than the costs in Seattle and if people have an incentive to go outside their community it could jeopardize critical access hospitals that are already on the margin financially. She summarized that ASHNHA supports all the provisions in SB 119, except the incentive program. It could disrupt the access to care in Alaska and erode the health infrastructure.

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SENATOR HUGHES refuted opposing testimony stating that many services in Alaska are three or four times higher than similar services in Seattle and it's not justified. She said she was open to changing the bill but if it's watered down or made a pilot program it would kill its purpose. Providers would argue that they are already highly regulated by government and that's true for a segment of their patients. But things can be loosened

for their other patients. Providers will also argue that posting prices will take away from time to treat patients but that's a baseless argument because other service sectors do it. Rural critical care hospitals do not need to close their doors if some patients select service elsewhere. They can innovate and reduce prices. Insurance companies that complain that this will be an administrative burden, advocated for the regulation laden Affordable Care Act. She clarified that the out-of-network provision asks that it apply to the consumer's out-of-pocket limit.

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CHAIR COSTELLO held SB 119 in committee with public testimony open.

[3:23:40 PM](#)

There being no further business to come before the committee, Chair Costello adjourned the Senate Labor and Commerce Standing Committee meeting at 3:23 p.m.