

ALASKA STATE LEGISLATURE
SENATE LABOR & COMMERCE COMMITTEE

April 18, 2002
1:35 pm

MEMBERS PRESENT

Senator Ben Stevens, Chair
Senator Alan Austerman
Senator Loren Leman
Senator John Torgerson
Senator Bettye Davis

MEMBERS ABSENT

All Members Present

COMMITTEE CALENDAR

CS FOR SENATE BILL NO. 320(TRA)

"An Act prohibiting discrimination in insurance rates based on credit rating or credit scoring; and providing for an effective date."

HEARD AND HELD

SENATE BILL NO. 252

"An Act renaming the Alaska Human Resource Investment Council as the Alaska Workforce Investment Board and relating to its membership; repealing the termination date of the state training and employment program; relating to employment and training activities; and providing for an effective date."

HEARD AND HELD

PREVIOUS COMMITTEE ACTION

SB 320 - See Transportation minutes dated 2/28/02 and Labor and Commerce minutes dated 3/5/02 and 3/26/02.

SB 252 - See Labor and Commerce minutes dated 2/14/02.

WITNESS REGISTER

Mr. Kurt Olson
Staff to Senator Torgerson
State Capitol Bldg.

Juneau AK 99811

POSITION STATEMENT: Commented on SB 320 for sponsor.

Mr. David McCarter, Consumer
857 Faultline
Fairbanks AK 99705Mr.

POSITION STATEMENT: Opposed SB 320.

Mr. David Valdez
658 Fairbanks St.
Fairbanks AK 99709

POSITION STATEMENT: Opposed SB 320.

Mr. Steven Conn, Executive Director
Alaska Public Interest Research Group (AKPIRG)
507 E St #213
Anchorage AK 99501

POSITION STATEMENT: Opposed SB 320.

Mr. Mark Niehaus
Progressive Insurance
No Address Provided

POSITION STATEMENT: Supported CS SB 320.

Mr. John Furuness
AARP

National Association of Retired Federal Employees (NARFE)
1285 Fritz Cove Rd.
Juneau AK 99801

POSITION STATEMENT: Opposed SB 320.

Ms. Sarah McNair Grove, Property Casualty Actuary
Division of Insurance
Department of Community and Economic Development
POB 110805
Juneau AK 99811-0805

POSITION STATEMENT: Commented on SB 320.

Mr. Michael Harrold, Northwest Manager
National Association of Independent Insurers (NAII)
9611 Rainier Ave. S.
Seattle WA 98118

POSITION STATEMENT: Commented on SB 320.

Mr. Michael Lessmeier
State Farm Insurance
3000 Vintage Blvd, Ste 100
Juneau AK 99801

POSITION STATEMENT: Commented on SB 320.

Ms. Pat Davidson
Division of Legislative Audit
POB 113300
Juneau AK 99811

POSITION STATEMENT: Commented on SB 252.

Ms. Rebecca Gamez, Deputy Commissioner
Department of Labor and Workforce Development
PO Box 21149
Juneau, AK 99802-1149

POSITION STATEMENT: Commented on SB 252.

Ms. Mary Jackson
Staff to Senator Torgerson
State Capitol Bldg.
Juneau AK 99811

POSITION STATEMENT: Commented on SB 252.

Ms. Eden Larson
No address provided

POSITION STATEMENT: Commented on SB 252.

Mr. Michael Shiffer, Program Coordinator
Workforce Investment Office
Department of Labor & Workforce
Development
PO Box 21149
Juneau, AK 99802-1149

POSITION STATEMENT: Commented on SB 252.

Mr. Mike Andrews
Alaska Works Partnership, Inc.
19839 S. Amalga
Eagle River AK

POSITION STATEMENT: Commented on SB 252.

ACTION NARRATIVE

TAPE 02-22, SIDE A

Number 001
#SB320

SB 320-MOTOR VEHICLE INSURANCE & REPAIRS

CHAIRMAN BEN STEVENS called the Senate Labor & Commerce Committee meeting to order at 1:35 pm and announced SB 320 to be up for consideration.

CHAIRMAN TORGERSON moved to adopt the proposed committee substitute, LS1462\B. There were no objections and it was so ordered.

MR. KURT OLSON, Staff to Senator Torgerson, explained that the CS differs significantly from the previous version of this bill, which was one paragraph long and prohibited the use of credit scoring for personal insurance. The CS allows it under certain circumstances. Section 1 deals primarily with the restriction on the use of credit history and credit scoring and outlines the duties and the responsibilities of the insurers who are going to be using it. Section 2 deals with filings the insurance companies have to make to the Division of Insurance. Probably the most important part of the section is the fact that it would require the insurance companies to give the scoring model to the Division of Insurance. This is what actually makes the credit rating program work and up until this time, they haven't had access to the model. This will allow the Division to determine whether or not there's anything that might have an adverse impact on the consumers in Alaska that are buying insurance. Section 3 is a sunset provision and takes effect July 2006. The final section is the effective date, January 1, 2003.

MR. DAVID MCCARTER, consumer from Fairbanks, said he was testifying due to credit scoring and because there is no recourse. He said that he thought his insurance rates would go down when he hadn't had any tickets or accidents. But with Atlanta Casualty, his rate on a 2001 Buick Regal - for him and his wife - for a 2001 Ford F250 pickup was \$2,400 for comprehensive, collision and liability. Now it's going to go up to \$4,400 because of his credit score, which according to his mortgage company is 620, 650 and 680, with a combined score of about 640. This is bad economics, because it's going to make him not want to buy any more vehicles. Furthermore the new bill says that the guy just needs to get oral permission, so he could lie. There's no proof. "This bill has no teeth whatsoever..."

MR. MCCARTER said they are not protecting the consumer and that credit fraud is a number one crime in the U.S. right now.

SENATOR DAVIS said he was acting like they were already passing this bill out of committee and all they are doing is having a hearing to debate the issue.

MR. DAVID VALDEZ, Fairbanks resident, said this bill would have an adverse impact on the working poor, minorities and people from the villages who can't establish credit. He said they should change Article 1 to an Act that allows rate discrimination based

on credit ratings or credit scoring.

CHAIRMAN STEVENS encouraged the public to stay on line to hear what transpires in committee before they make a judgment on the final product.

MR. STEVE CONN, Executive Director, Alaska Public Interest Research Group, agreed with the previous testifier. He was shocked to see the committee substitute.

It is absolutely worthless in terms of the original motivation of Senator Cowdery and it's in fact anti consumer. All of the so-called rights in this bill are already guaranteed by federal law. The way this bill simply deals with the subject is that it mixes credit scoring and credit history and, of course, they're not the same. Section 1 still gives the insurance company, upon the refusal of the consumer, the right to allow it to use credit scoring, but the absolute right to reject that consumer as a customer. This the problem we confronted with the original bill and the reason for the ban was several-fold. The credit histories are known throughout the country, which are the material used by these mysterious credit scores to be in error, in bad error and if you correct them, they leave the errors in place. This does nothing for people like Senator Cowdery's daughter who had a unique and serious event that effected her credit history or victims of identity theft or emergency situations. This does nothing. This bill effectively says that the insurance companies can do what they want..

MR. MARK NIEHAUS, Progressive Insurance, said he would not repeat his previous testimony. He thought the CS was far superior to the original bill and that about two-thirds of their policy holders in Alaska, about 15,000, are getting significantly lower rates due to the use of credit as part of the rating formula they are using today. If that ability were to go away, those people would get big rate increases and they are trying to prevent that from happening.

Section 1, paragraph (b) requires an adverse notice action to be sent, which is fine, but the second sentence says the notice must state the significant factors of credit history that resulted in the adverse action and provide information on how credit scores can be improved. Mr. Niehaus said his company already does that on request, but that the cost of the reports is significant and most don't want it. Their adverse action notice says that it is free of charge and provides an 800 number to call to get it.

MR. NIEHAUS suggested modifying the second sentence to something like the notice must state "that consumers may obtain upon request a free report containing the significant factors of the credit history" as opposed to mandating that it be give to every consumer.

His second recommendation concerned page 4, section 2, (c)(1), the absence of credit. His concern was an increase in no-hits, if they were automatically giving them a better rate. As insurers, they have no way of determining accuracy or completeness of the information.

MR. NIEHAUS said, "The requirement that they can't use the absence of credit history to calculate a rate doesn't make any sense in a world where we're using credit as part of the rate."

He could not implement that if he wanted to and he thought the committee might be saying that they want no-hits to be treated as having average credit or - he just wasn't sure. He said that no-hits are a very small percentage, less than 5%, of their business. They have significant data showing that they have dramatically higher loss costs. He suggested using an approach that was used in Washington to simply require that the filing justify actuarially the handling of the charges associated with credit no-hits. He also suggested using the effective date of January 1, 2003 to give them time for implementation.

SENATOR DAVIS asked if they serve Washington and what do they do there.

MR. NIEHAUS replied that they serve Washington and are currently using credit. The bill he mentioned has passed, but it hadn't taken effect yet. It allows insurers to continue to use credit; it just has to be filed with the Department of Insurance and approved and justified actuarially. There are some other limitations on information within the credit reports that can be used.

SENATOR DAVIS asked if they are doing business in any state where they are not allowed to use credit.

MR. NIEHAUS replied yes - in Hawaii and California.

SENATOR DAVIS asked if they are still doing business in those states.

MR. NIEHAUS replied yes and that it's not a statutory prohibition in California, but it's a regulatory requirement.

However, there are a lot of people that are paying rates that are a lot higher than they would have otherwise been if they would have been able to use credit...In the state of Alaska we have been using credit for a number of years now and to take it away...It's one thing if you've never had it, but to take it away now, the only way we could accomplish that - the result would be about two-thirds of the people who get a rate increase. There's no way around that.

SENATOR DAVIS asked if they had ever had to remove credit as a factor in rates.

MR. NIEHAUS replied no.

SENATOR LEMAN said that section 2 adds a new section on how to rate and it says an insurer may not use a methodology that incorporates gender, race, nationality or religion. He understood that for automobile coverage it's common to use gender.

MR. NIEHAUS replied that he would be happy to have that deleted. "They don't want us to treat the credit of a woman any differently from that of a man. A credit score is a credit score...We already use gender ratings anyway..."

CHAIRMAN STEVENS said the language came from Washington State that prohibits certain types of credit history from being used.

MR. KURT OLSON said the intent was to specifically outline that credit scoring couldn't be factored in with race and gender.

CHAIRMAN STEVENS said that the majority of the issues that are brought up now are related to the use of the credit history, not to the use of how the credit scoring is used in the rate making. "This was an attempt to say if you're going to use the credit history, you've got to treat all credit histories exactly the same."

MR. OLSON indicated that was right.

CHAIRMAN STEVENS asked how many years they were using credit scoring in Alaska.

2:05 pm

MR. NIEHAUS replied approximately four years.

CHAIRMAN STEVENS asked if they had approval from the Division of Investments.

MR. NIEHAUS replied yes.

CHAIRMAN STEVENS asked if any other state had used credit scoring and then removed the ability to use it.

MR. NIEHAUS replied none that he was aware of.

CHAIRMAN STEVENS asked him to explain how two-thirds of Alaskan customers' rates would be affected.

MR. NIEHAUS replied that almost all rates would be affected. About two-thirds of their customers would see higher rates, hypothetically, if they were required to completely remove credit from the underwriting process.

CHAIRMAN STEVENS asked, "Why would everybody's rates go up if you eliminated this?"

MR. NIEHAUS replied, "It's a zero sum game. The total amount of premium we would collect would be unchanged."

He said that about 30% of folks would get rate decreases and about two-thirds would get rate increases. "The sum of all those changes would be zero."

MR. JOHN FURUNESS, AARP Capitol City Task Force, said he is also the legislative representative for the local chapter of National Association of Retired Federal Employees (NARFE). He hadn't had a chance to study the revised bill, but they just don't think that credit ratings should be used to determine auto insurance rates.

MS. SARAH MCNAIR GROVE, Division of Insurance, said:

We support the legislature's efforts to place parameters on the use of credit information in insurance rating and underwriting. Now that the discussion has turned from a prohibition of the use of credit information to identifying what the appropriate parameters should be, we would like to offer just a couple of comments on the committee substitute.

Some of the issues that the Division hears from consumers relate to credit problems that seem to be beyond the control of the consumer. As they have identified, it really is the use of credit history that seems to be an issue - not complaints about how it's actually used in the rate-making process, but should it be used at all. For example, some of the issues we hear about are medical bills that are caused by a serious injury or sickness that can result in poor credit

through no fault of the consumer, themselves. Some of the other issues we hear about are denying coverage because of the number of hits on your credit report. Part of the insurance industry and the increased use of credit information has created the number of hits on the reports, so it seems like there needs to be some way to alleviate that effect when it is being used. Including some of these kinds of prohibitions on the pieces of information that can be used on a credit report, I think, would go a long way towards addressing some of the consumer issues we have heard about.

I just have one other suggestion on the bill, itself, and that is that the definition of 'adverse action,' while it's fine, is defined by the federal Fair Credit Reporting Act and it might be good to put specifically what we mean in Alaska law rather than relying on federal legislation.

SENATOR AUSTERMAN asked if she heard the Progressive Insurance position saying if credit rating is eliminated altogether, that the rates would change and, if she would have any say on how those rate changes would take place.

MS. GROVE replied:

Every rate filing or every change in rates must be filed with the Division of Insurance and we look at them and review them to be sure they comply with Alaska law. So a change could not be made without our approval.

SENATOR AUSTERMAN asked if she anticipated approving the rate change they are suggesting taking place if there is no credit rating.

MS. GROVE replied that she would have to look at the reasons and support for that and couldn't say yes or no at this point.

MR. MICHAEL HARROLD, Northwest Manager, National Association of Independent Insurers, said:

I think this is a workable and good compromise bill, but certainly contains aspects that I would prefer not be in law. We truly believe that the way our companies have used credit is to help better price their product and that they use it to write more business, not less. They have been giving discounts to consumers who are less of a risk than other consumers. So I certainly

would not support some of the restrictions that are in the bill, but I would simply point out again that it's a compromise that I think we could live with and that it does simply more than require some type of notice or disclosure to be given. The fact that it says an insurer cannot deny personal insurance in whole or in part on the absence of credit history. It does take into account the no-hits that Mr. Niehaus was speaking about. It takes them into account both in regard to underwriting as well as coming up with a rate.

MR. HARROLD said he disagreed with their treatment of no-hits, because they have been actuarially proven to be the most expensive to insure. He passed the committee a chart to illustrate that fact. He added that it included "thin files" which is a file with little credit. People who have the worst credit scores have losses that are well over the amount of a one to one ratio. It's even more so for the no-hits or thin files. That's why insurers use that as a tool.

CHAIRMAN STEVENS asked if there were percentages that he had from his pool of insurers and what percentage had good credit and what percent had average and high risk credit.

MR. HARROLD replied that insurers could probably have that information. Individual companies compete in the market place by choosing where they are going to have their break points.

CHAIRMAN STEVENS asked what is the percentage of consumers who are going to be affected by this. How many consumers have a good or average credit rating.

MR. HARROLD replied that he hears from his companies that the overwhelming majority of consumers have good to excellent credit. That's why they have testimony saying the majority of them would have increased rates if they couldn't use credit for a rating tool.

CHAIRMAN STEVENS asked if this tool was removed and every company had to file for rate changes, how many of their companies would participate in that. "Would anyone pull out of the market?"

MR. HARROLD replied that it's possible. "Alaska has not been a lucrative market from the loss perspective."

CHAIRMAN STEVENS asked how many would leave if the Division of Insurance didn't approve their rate changes.

MR. HARROLD replied, "Perhaps more would leave or you would have consumers that are simply paying rates that aren't fair."

CHAIRMAN STEVENS asked if he had 700 companies writing insurance in this state, what would be the effect on those consumers who are still looking for insurance.

MR. HARROLD replied, "The less companies you have, the less availability you have, but all 600 of those companies do not write in Alaska."

SENATOR AUSTERMAN said one of the concerns he has with using credit is that, for example, it took his daughter six months to get something off of her credit rating that she didn't know anything about. It took him, personally, over one year when he lost his credit card and had a bill for \$3,800, which came back three years later when it wasn't paid. It took him a year after that to get rid of it with the credit agencies. He was concerned about that type of example and how many people don't understand the whole process of credit rating for insurance and the effects it has on their rates.

MR. HARROLD responded that specifically there is a provision in this bill that states if there is incorrect or disputed information, they could submit that and the insurer has to go back to the inception of the policy period and rewrite or reunderwrite and recalculate the premium.

So, something positive could come out of getting it checked. A more general comment would be that the use of credit information is just permeating society and it isn't just insurance. I would say the best job that any consumer advocate can do is to encourage people to look at their credit information. If someone has an adverse action taken against them, underneath this bill they would be able to get their consumer report free under the Fair Credit Reporting Act, but I think everybody, whether you're looking for auto insurance or homeowner's insurance or you're looking at a mortgage or buying a car, it simply permeates our life here at the beginning of the 21 Century and I can't imagine that we would be willing to stop using the information, because it has so many other benefits.

SENATOR AUSTERMAN asked for the year that it took him to get the error off his bill, would they have given him insurance until it was corrected.

MR. HARROLD replied the way the bill reads, he didn't think it would go back through the years, but it says to the inception of the current policy term. He also thought that the Fair Credit Reporting Act also requires that if somebody says that they have

incorrect data in their report, that they have 30 days to determine whether or not that is correct. If the credit bureau has not made that determination within 30 days, then it goes to the consumer's advantage.

MR. MICHAEL LESSMEIER, State Farm Insurance Co., said they have approximately 24% of the automobile insurance premium and approximately 34 - 35% of the homeowners insurance premium written in Alaska. He said that they have found from all the testimony up to today that credit is an accurate predictor of loss. The representative from the Division of Insurance testified that the correlation between this tool and risk of loss was high. It has also proven to be a high correlation in their experience.

This is a tool just like many other tools used for predicting future loss. The second point that I would make to the committee is that the use of credit in insurance has not presented a significant problem in Alaska. I don't know if this testimony was presented to your committee, but it certainly was presented to the House Labor and Commerce Committee. The representative from the Division of Insurance was asked about complaints about the use of this tool. I recall that her testimony was that there may have been a few and she was then asked if there had been any complaints that had been found to be valid about the use of this tool and I think she said that there was still an instance under investigation.

TAPE 02-22, SIDE B

MR. LESSMEIER didn't think it was a significant problem in the State of Alaska. His third point was that this is a tool that is used differently by different insurers.

I think it's really important for you to understand that we in Alaska have a marketplace that is a competitive marketplace. It is also important that you understand that as it is used differently by different insurers and that how it's being used in rating today requires the approval of the Division of Insurance. To my knowledge there are very few companies that are using credit today for rating purposes. State Farm does not use credit for rating purposes, but if it is used for rating purposes, it must first be approved by the Division of Insurance that has the responsibility of insuring that the use of this tool does not result in a rate that is excessive. I think that is important.

A final point that I would make is that there are many tools that already exist in the law that would allow the Division of Insurance to address issues of credit. The first one of course is to the extent that it's being used in rating, that use has already been approved by the Division of Insurance. To the extent that it's being used in underwriting, if it results in unfair discrimination, the Division of Insurance already has the ability to investigate that to take significant action through the amendments to the Unfair Trade Practices Act that this legislature passed two years ago, Senator Donley's amendment. So, there are significant tools in the law right now to prevent the misuse of this tool.

MR. LESSMEIER thought the issue before them was if they could use this tool to identify those that present higher risk of future loss and shouldn't they be able to do that.

Isn't that better for the consumer as a whole? Isn't it better for people to be able to pay an insurance premium that is more in accord with the risk of loss that they present? Isn't that better policy? We say it is...

CHAIRMAN STEVENS asked him what other tools he uses in basing a customer's rates.

MR. LESSMEIER replied that as he understands it, the rates are based on frequency and severity of loss. When someone comes in to State Farm, they are asked about their loss experience, accidents and tickets for automobiles. Their underwriting tool looks at loss history, which has an aspect of credit. They do not use it to determine what rate they will pay, but who to accept and where to place them.

CHAIRMAN STEVENS asked how they handle a good ratepayer who hasn't had any losses and all of a sudden has bad credit for some reason that doesn't have to do with automobiles.

MR. LESSMEIER replied that they don't look at the data other than at the very beginning when they determine whether to write or not write.

CHAIRMAN STEVENS asked if they have ever gone back to rerate and if he knew of anyone who did.

MR. LESSMEIER replied that they had not used this tool in Alaska to do that.

CHAIRMAN STEVENS asked if he knew of any companies who write in Alaska that do a credit history with a renewal.

MR. LESSMEIER replied that he didn't know about other companies, but his didn't.

CHAIRMAN STEVENS asked if Mr. Harrold knew of any companies that did that in Alaska.

MR. HARROLD replied that he imagined some companies would use it as a tool.

Different companies treat it differently. Some companies do not once they get them through the door they don't look at it upon renewal. Other companies may look every year and try to reshuffle the deck so to say.

MR. LESSMEIER finished saying that they looked at 800,000 records, created a formula, and applied it to a control group of 500,000 and followed that control group for two years. They found that formula was very predictive of future loss and they then applied it to over one million new cases and found the same thing. As a tool for them it is very predictable and helps them in their goal of making sure that people pay a rate that is commensurate with the risk that they present. He thought it was important that the legislature does not place unnecessary restrictions on use of this important tool.

In response to some testimony there were two changes that deal with the issue of what happens to someone who doesn't have an accurate credit history. At State Farm Insurance the number of people who complain about having an inaccurate credit history is infinitesimally small. A good change is allowing the use of the credit model to be presented to the Division of Insurance under confidentiality giving them the tools they need to prevent any misuse of it.

SENATOR LEMAN moved on page 1, line 11, after "state" to insert "that consumers may obtain on request".

SENATOR DAVIS objected for purposes of explanation.

SENATOR LEMAN explained that the concern was that there is a substantial cost to doing this and many people probably won't necessarily want it. The amendment just says that when somebody asks for it, they have a right to get it.

SENATOR DAVIS asked if it was an opt in/opt out situation. She withdrew her objection.

SENATOR AUSTERMAN asked if they would be given the option in the letter of adverse action.

SENATOR LEMAN explained that there would be directions in the letter to call an 800 number or return a post card - something like that and they would send it to them.

SENATOR DAVIS said she understood what it did, but felt that it needed to be discussed more. She asked if they were going to be sent a letter of adverse action, why the reason couldn't be stated in the one letter. "Everybody would get it."

SENATOR LEMAN withdrew his amendment.

CHAIRMAN STEVENS said that he would hold SB 320 at the sponsor's request.

SENATOR DAVIS said Mr. Niehaus from Progressive Insurance said they would not be withdrawing credit rating in the state of Washington and this bill says that it does.

MR. NIEHAUS explained that Senator Davis is under the impression that the bill passed in Washington disallows credit and he stated that the bill requires that the credit be filed with the office of the Insurance Commissioner and approved by them and it does specifically allow the use of credit saying, "Credit history shall not be used to determine personal insurance premiums or eligibility for coverage unless the insurance scoring models are filed with the commissioner."

CHAIRMAN STEVENS said he understood that the difference with Washington State is that it prohibits certain types of credit.

SENATOR DAVIS added that it would have to be filed [and approved].

CHAIRMAN STEVENS said he appreciated everyone's comments and held the bill.

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#SB252

SB 252-EMPLOYMENT AND TRAINING PROGRAM/BOARD

CHAIRMAN STEVENS announced SB 252 to be up for consideration.

MS. PAT DAVIDSON, Legislative Auditor, said they had just completed an audit on the State Training and Employment Program. There were a number of purposes for the audit - to review the administration of the STEP by the Alaska Human Resource Investment Council (ERIC) to determine the compliance of the STEP with state laws, to assess the impact of the STEP on the solvency

of the unemployment compensation fund and to calculate the employer and the calculation of the employers' insurance tax rates and to provide some detail expenditure information with regard to the STEP. Their conclusions are that the STEP was generally being administered in accordance with statutes with five main exceptions.

The first one is that STEP served only a portion of those that were eligible. We had found that there was no systematic marketing of the STEP program to all those that were eligible for the program. Secondly, we found that federal and possibly state training funds were being displaced by STEP. Basically, STEP was created to assist clients that failed to meet the federal or other programs and that it was intended to be the employment training program of last resort. We found that in the Municipality of Anchorage employment coordinators used STEP funds when clients were potentially eligible for the federal program, that STEP grantees were not being required to ascertain if the trainees were eligible for the federal programs when recruiting, that STEP funds were used even when the federal funding had not been exhausted - for example, the Municipality of Anchorage carried forward over \$650,000 in federal adult and dislocated worker funding and the balance of the state carried approximately \$2 million of that same type of federal funds - and that STEP funds may be displacing private funding through union training programs. While employment coordinators are pleased with the partnership between the unions and the STEP funds, we question whether STEP funds are being used to supplant private union training funds.

The third major exception was that there was a requirement to reimburse the Department for such things as tools, work-related clothing, safety gear or others and this was not being actively enforced. We found that the statutory program elements that define the STEP program do not include a category called "employment assistance." However, a lot of the funds were being spent under that categorization. We found that administrative costs exceeded the maximums defined in statute.

In FY01, the Federal Employment Training Program was substantially changed, the old one being JDEPA, the Job Training Partnership Act. The new federal program was a Workforce Investment Act and referred to as WIA. The

new federal program is more inclusive and more people are eligible for this program. Additionally, the new federal program allows for funding of industry specific training and, therefore, the purpose and need for STEP needs to be reevaluated so again it's in the position where it's the training funds of last resort - that you maximize the use of those federal funds first. We found that as a result of the funding mechanism for STEP and the Alaska technical vocational education programs that the financial benefits accruing back into the UI fund do not exceed their cost. The difference is borne by employers through increased UI taxes. It should be pointed out that while all Alaskans are eligible for the STEP program, not all employers will shoulder the burden of the net costs of the STEP and the ATVE programs.

We found that the STEP program does provide a direct, though not precisely measurable, benefit to the UI fund through either reduced UI benefit payments or larger wage base. The ATVE program doesn't have that direct measurable benefit.

In our opinion the STEP program should be reauthorized. Our recommendation was for four years. The new Federal Employment Training Program addresses many of the reasons STEP was originally created and, therefore, STEP needs to be realigned to fill the missing gaps. In this report, we made seven recommendations to the Department and they include:

- The need for additional outreach to those that are actually eligible for the STEP program.
- To improve the monitoring of STEP grantees
- That legislation that directs the unexpended, unobligated balance of the STEP funds to lapse into the UI fund
- To actively monitor that admin costs to not exceed 15% of total STEP expenditures
- That UI accounting costs that are charged to STEP and ATVE are done in an equitable and supported manner
- That the programmatic data be collected and reported in a manner that demonstrates legal compliance with the statutes
- And that labor and staff work together to ensure that STEP does not replace federal, private or other public training funds.

MS. REBECCA GAMEZ, Deputy Commissioner, Department of Labor and Workforce Development, said she wanted to comment after she had a chance to read the amendments.

SENATOR LEMAN asked why they changed the name to ERIC.

MS. GAMEZ replied that under the Workforce Investment Act that replaces the Job Training Partnership Act on the federal level the name change - Alaska Workforce Board - falls in line with the local workforce board name. "It's kind of a naming protocol, if you will."

SENATOR TORGERSON stated that he wouldn't move amendment #1, labeled GS2052\A.2, because the report said there was some concern about money going to the union training programs. He didn't have enough information to do a total ban on it. They are asking for reports to come back to the legislature next year to see if they have adjusted.

SENATOR TORGERSON offered amendment A.4:

22-GS2052\A.4
Craver
10/1/02

A M E N D M E N T

OFFERED IN THE SENATE

BY SENATOR TORGERSON

TO: SB 252

Page 1, line 2, following "membership;":

Insert "**providing that lapsing employment assistance and training program account funds may be appropriated to the Alaska technical and vocational education program;**"

Page 15, following line 9:

Insert a new bill section to read:

"* **Sec. 11.** AS 23.15.625 is amended to read:

Sec. 23.15.625. Employment assistance and training program account. The employment assistance and training program account is established in the general fund. The commissioner of administration shall separately account for money collected under AS 23.15.630 that the department deposits in the general fund. The annual estimated balance in the account may be appropriated by the legislature to the department to implement AS 23.15.620 - 23.15.660. The [LEGISLATURE MAY APPROPRIATE THE] lapsing balance of the **employment assistance and training program** account **may be appropriated** to the **Alaska technical and vocational education program established in AS 23.15.820 - 23.15.850** [UNEMPLOYMENT COMPENSATION FUND ESTABLISHED IN AS 23.20.130]."

Renumber the following bill sections accordingly.

Page 28, line 20:

Delete "sec. 52"

Insert "sec. 53"

SENATOR DAVIS objected for purposes of explanation.

SENATOR TORGERSON explained that the auditor suggested that there are currently about \$2 million left of unobligated funds in the STEP and, "We created this program to train people, not to sit around in the bank for these guys. I didn't want it to go back to the UI trust because we're actually formally intercepting this money, the one tenth of one percent, and putting it back in there and taking it out again, so I would suggest this lapse into the Alaska Training and Vocational Educational Program, which is currently in a grant mode for one more year and then it will go into a new vocational education program. He asked his staff, Ms. Mary Jackson, to explain that.

MS. MARY JACKSON, Staff to Senator Torgerson, said he was correct that this would lapse directly into the ATVE program. The Department is currently promulgating regulations for the program and it should be in place shortly.

CHAIRMAN STEVENS asked if there were any objections to amendment #2. There were none and it was adopted.

SENATOR TORGERSON moved amendment #3, GS2052\A.4:

22-GS2052\A.4
Craver
10/1/02

A M E N D M E N T

OFFERED IN THE SENATE

BY SENATOR TORGERSON

TO: SB 252

Page 1, line 2, following "membership;":

Insert "**providing that lapsing employment assistance and training program account funds may be appropriated to the Alaska technical and vocational education program;**"

Page 15, following line 9:

Insert a new bill section to read:

"* **Sec. 11.** AS 23.15.625 is amended to read:

Sec. 23.15.625. Employment assistance and training program account. The employment assistance and training program account is established in the general fund. The commissioner of administration shall separately account for money collected under AS 23.15.630 that the department deposits in the general fund. The annual estimated balance in the account may be appropriated by the legislature to the

department to implement AS 23.15.620 - 23.15.660. The [LEGISLATURE MAY APPROPRIATE THE] lapsing balance of the employment assistance and training program account may be appropriated to the Alaska technical and vocational education program established in AS 23.15.820 - 23.15.850 [UNEMPLOYMENT COMPENSATION FUND ESTABLISHED IN AS 23.20.130]."

Renumber the following bill sections accordingly.

Page 28, line 20:
Delete "sec. 52"
Insert "sec. 53"

Page 28, line 22:
Delete "secs. 1 - 45"
Insert "secs. 1 - 46"

Page 29, line 13:
Delete "Section 49(a)"
Insert "Section 50(a)"

Page 29, line 14:
Delete "sec. 51"
Insert "sec. 52"

MS. JACKSON explained that the intent of this amendment is to rectify the problem that was identified by the audit concerning the 15% limitation on administrative expenses. There are two conflicting statutes and this clarified the intent, which is that it be 15% of program expenses.

CHAIRMAN STEVENS asked if there were any objections to amendment #3. There were none and it was adopted.

SENATOR TORGERSON moved amendment #4, GS2052\A.3:

22-GS2052\A.3
Craver
10/1/02

A M E N D M E N T

OFFERED IN THE SENATE BY SENATOR TORGERSON
TO: SB 252

Page 1, line 2, following "membership;":
Insert "**relating to repayment on promissory notes for work-related items paid for by grant programs;**"

Page 15, following line 9:
Insert a new bill section to read:

"* **Sec. 11.** AS 23.15.640(c) is amended to read:

(c) The department shall [, TO THE EXTENT ECONOMICALLY FEASIBLE FOR THE INDIVIDUAL,] require an individual who participated in a program that was funded at least in part by a grant under AS 23.15.651 and that included as a program element the provision of necessary tools, work-related clothing, safety gear, or other necessities to obtain or retain employment under (a)(6) of this section to reimburse the department for the portion of the grant that was spent on an element listed in (a)(6) of this section. **Repayment shall begin no later than six months after the individual completes or leaves the state training and employment program and may not be less than \$25 each calendar month.** The department shall separately account for receipts under this subsection. The annual estimated receipts may be used by the legislature to make appropriations to the department to the employment assistance and training program account (AS 23.15.625) for grants under AS 23.15.651. **The department shall institute collection procedures on outstanding promissory notes for amounts due under this subsection. Collection procedures must include obtaining a judgment for default on a promissory note. The department shall seek satisfaction of the judgment from an individual's permanent fund dividend to the extent possible under AS 43.23.065 until the judgment has been satisfied.** The department shall implement this subsection by regulation."

Renumber the following bill sections accordingly.

Page 28, line 20:

Delete "sec. 52"

Insert "sec. 53"

Page 28, line 22:

Delete "secs. 1 - 45"

Insert "secs. 1 - 46"

Page 29, line 13:

Delete "Section 49(a)"

Insert "Section 50(a)"

Page 29, line 14:

Delete "sec. 51"

Insert "sec. 52"

MS. JACKSON explained that this was also identified as an issue in the audit. The program provides for the STEP monies to be used for individuals to purchase tools, for example. It has always been if you purchase these tools and you get a job, you're supposed to reimburse the program. The audit found there was no mechanism in place to make that take effect. This amendment

specifies procedures for that reimbursement to be accommodated.

SENATOR AUSTERMAN asked how much that would offset the actual money.

SENATOR TORGERSON said he understands that they hadn't collected any yet. He said there could be a cost for collections; he was sure it would take another employee.

CHAIRMAN STEVEN asked if anyone objected to amendment #4. There were none and amendment #4 was adopted.

MS. EDEN LARSON said the issue that concerns the builders and contractors is the funding of the union training programs to the exclusion of open shop construction train programs.

SENATOR TORGERSON responded that he doesn't have enough information to act on that and it's a concern of the auditors.

MS. LARSON said in the interim the language that's currently in this bill prohibits people training in the construction trades that are non-union from applying for grants under the STEP. For another year they would be concerned about that.

CHAIRMAN STEVENS said the intent today was to adopt the amendments and circulate the new CS and then bring it up again at a later date.

MS. LARSON said she would save her comments until she could see the CS.

SENATOR TORGERSON moved amendment #5, GS2052\A.6:

22-GS2052\A.6
Craver
10/1/02

A M E N D M E N T

OFFERED IN THE SENATE
TO: SB 252

BY SENATOR TORGERSON

Page 1, line 2:
Delete "**repealing**"
Insert "**extending**"

Page 27, lines 24 and 25:
Delete all material and insert:
"*** Sec. 46.** The uncodified law of the State of Alaska enacted in sec. 6, ch. 116, SLA 1996, as amended by sec. 9, ch. 85, SLA 1998, is amended to read:
Sec. 6. AS 23.16.620, 23.15.625, 23.15.630, 23.15.635,

23.15.640, 23.15.645, 23.15.651, and 23.15.660 are repealed June 30, 2003 [2002]."

Page 29, following line 12:

Insert new bill sections to read:

"* **Sec. 51.** The uncodified law of the State of Alaska is amended by adding a new section to read:

RETROACTIVITY OF SEC. 46. If sec. 46 of this Act takes effect after June 29, 2002, sec. 46 of this Act is retroactive to June 29, 2002.

* **Sec. 52.** Section 46 of this Act takes effect June 29, 2002."

Renumber the following bill sections accordingly.

Page 29, line 14:

Delete "sec. 51"

Insert "secs. 52 and 53"

He explained that this repeals the sunset clause and puts a one-year extension in. He added that the next amendment is requesting all the reports to come back, which is how they are trying to handle the auditor's issue so it didn't have to drag on for years.

CHAIRMAN STEVENS asked if there were any objections to adopting amendment #5. There were no objections and it was adopted.

CHAIRMAN TORGERSON moved amendment #6, GS2052\A.7:

22-GS2052\A.7
Craver
10/1/02

A M E N D M E N T

OFFERED IN THE SENATE

BY SENATOR TORGERSON

TO: SB 252

Page 27, following line 25:

Insert a new bill section to read:

"* **Sec. 47.** The uncodified law of the State of Alaska is amended by adding a new section to read:

REPORT TO THE LEGISLATURE. The Department of Labor and Workforce Development shall present a written report to the legislature on the state training and resources program within 10 days of the beginning of the First Regular Session of the Twenty-Third Alaska State Legislature. The report must include

- (1) an outreach plan for the state training and resources program;
- (2) a certification verification plan;
- (3) the department's recommendations on allowable nonadministrative costs for program expenses;

- (4) a data collection and reporting plan;
- (5) the status of the governor's discretionary fund for statewide activities established as part of the 1999 Alaska Human Resource Investment Council action plan;
- (6) facts supporting the need for the state training and resources program;
- (7) the department's recommendations on including reimbursable employers in the state training and resources program, and excluding current and former employees of reimbursable employers from the program; and
- (8) an analysis of the reasons for decreased public training institution funding in relation to the increase in union training program funding."

Renumber the following bill sections accordingly.

Page 28, line 20:

Delete "sec. 52"

Insert "sec. 53"

Page 29, line 13:

Delete "Section 49(a)"

Insert "Section 50(a)"

Page 29, line 14:

Delete "sec. 51"

Insert "sec. 52"

He explained that this is the laundry list of things that came out of the audit report and says that we want to have a report 10 days after the beginning of the first session of the 23rd Alaska Legislature and the report must include all of this. He didn't have a report ready to address the union concern with the private money and this is where he anticipated inserting that language.

MS. JACKSON pointed out a technical amendment on lines 16 and 18. It should not say "training and resources", but "training and employment".

SENATOR TORGERSON moved an amendment to the amendment to delete "resources" on lines 16 and 18 and insert "employment". There were no objections and it was adopted.

CHAIRMAN STEVENS asked if there were any objections to adopting amendment #6 amended. There were no objections and it was so ordered.

SENATOR TORGERSON moved amendment #7, GS2052\A.1:

22-GS2052\A.1
Craver
10/1/02

A M E N D M E N T

OFFERED IN THE SENATE
TO: SB 252

BY SENATOR TORGERSON

Page 3, lines 30 - 31:

Delete "The commissioner of administration is a nonvoting member of the board."

Page 4, lines 2 - 3:

Delete ", and the commissioner of administration under (b) of this section"

Page 4, lines 9 - 10:

Delete "and the commissioner of administration under AS 23.15.550(b)"

Page 5, line 4:

Delete "or (b),"

SENATOR TORGERSON said he has had many discussions with Mr. Andrews about the size of this group. "It's a herd of turtles that they're so damn big that they can't get anything done. I don't want to add to that."

He didn't see any advantage to having the commissioner of Administration as another part of this.

CHAIRMAN STEVENS asked if there were any commissioners on it now.

SENATOR TORGERSON replied that there are, the Commissioner of the Department of Labor and Department of Community and Economic Development.

CHAIRMAN STEVENS asked if there were any objections to amendment #7. There were none and it was adopted.

SENATOR TORGERSON moved amendment #8, GS2052\A.8:

22-GS2052\A.8
Craver
10/1/02

A M E N D M E N T

OFFERED IN THE SENATE
TO: SB 252

BY SENATOR TORGERSON

Page 5, lines 16 - 17:

Delete "[NOT MORE THAN THREE TIMES IN A CALENDAR YEAR]"
Insert "not more than three times in a calendar year"

He explained that the Governor's bill took out the requirement that they couldn't meet more than three times a year and although he wanted to limit it to two, he thought they could just leave the language that's already in statute - three times per year.

CHAIRMAN STEVENS asked if there were any objections to amendment #8. There were none and it was adopted. He asked Ms. Gamez if she had enough time to read the amendments and she indicated she was ready to testify now.

MS. GAMEZ said it was helpful to delay her testimony for the amendments. She was surprised that a few of the amendments went against the recommendations they both agreed on.

On amendment #2, recognizing that amendment #1 has some work that Senator Torgerson would like to take care of, both the legislative audit report and the Department concurred that the lapsed money should go back into the UI trust funds. I think that that is more appropriate for the lapsing. There have been some problems with expenditures of STEP monies. Part of it was an appropriations problem and part of it was with one of the local workforce boards in terms of expending funds. So that has been a challenge.

On amendment #3, we, too, would like to clarify the 15%. I did have an opportunity to talk with Ms. Jackson about this and if the language said Program Awards as opposed to expenses, we would be in the position of defining what is programmatic and what isn't programmatic expenses. For example, on something that the audit counted as an administrative cost it is necessary for us to have a STEP program in this state and I would argue that that would be programmatic cost. Because without that function in the data collection piece, we wouldn't be able to have a program. So I would argue that that's not administrative, that that would be a programmatic, but I think we could probably work those differences out now that we're hammering out the disagreement in those two statutes.

MS. GAMEZ said if there were a three-year funding period that would be in line with the federal WIA funds, it would be easier for them to agree with this.

Business statistics show that there are a certain amount of administrative costs regardless of program expenditures to a certain degree. Some of the sub-

grantee adjustments affect expenditures and those can occur after the year-end. So, the accurate year-end expenditures aren't always known until the process is completed.

Moving to amendment #4 that was adopted on the repayment of promissory notes, the point was brought up by one of the committee members here that there may be costs to the department to collect those funds. The STEP program is not a loan program. We do, however, have signed promissory notes for people who have received monies for tools or boots or other items that they may need. Collections will also represent an increased cost to the department for record keeping, tracking and accounting.

TAPE 02-23, SIDE B

MS. GAMEZ said that amendment #5 caused them concern because it's very difficult to think ahead if you have such a short period of time in which to make changes.

On amendment #6 she was glad that Ms. Jackson caught the typo, because they would have to start calling it the STREP program and it would truly be unpopular with certain folks at the table.

We are working on an outreach plan and I would like to make the comment that we have a certification verification plan for classroom training only and that is a recommendation that we have. When I was reading over Ms. Jackson's overview to Senator Torgerson, I think there was a typo and I would like the opportunity to talk with Ms. Jackson after the hearing because we already insure that there's authorization of training ACPE and the department will require certification of all classroom training..

She said it would be helpful to see a comprehensive package with the CS and hoped she would be invited to staff discussions regarding the department's concerns before a CS is adopted.

SENATOR AUSTERMAN asked her if she had concerns about the amendments, why didn't she speak up before they were adopted.

MS. GAMEZ said she didn't realize she was in a position to disagree with the amendments until they were on the table.

SENATOR TORGERSON said he wouldn't deviate a whole lot from what they have, but he wants to make it work. He wouldn't have gone

with the sunset if it weren't for the reporting requirements.

CHAIRMAN STEVENS said he had a concern on page 47, which is a summary of the type of vendors or clients served, and asked her for a short definition of the six categories.

MS. GAMEZ said she would like to invite Mike Shiffer who is more technically versed in those things.

MR. MIKE SHIFFER, Program Coordinator, Workforce Investment Office, responded that examples of a private training institution would be a charter college; the unions would be like the operating engineers who run a training program. Public training institutions would be things like the Alaska Vocational Technical School in Seward; Native organizations would be training programs such as the one run out of the Bristol Bay Native Association. He was drawing a blank on "other" kinds of training programs, but client reimbursements would be expenses paid directly back to an institute directly on behalf of a participant.

CHAIRMAN STEVENS said he was confused about the difference between a private training institution and a public training institution.

MR. SHIFFER explained that a public training institution would be things that the legislature appropriates directly to the University of Alaska and the Alaska Vocational Technical Center.

CHAIRMAN STEVENS asked what the process was for the distribution of the money on an annual basis.

MR. SHIFFER replied that in general the funds are distributed in two methods. The first is through direct client services - an individual comes in and is identified for services and goes to school - and the other option is through grant funds. Grants are announced and let out and training providers compete for the funds and provide training programs.

CHAIRMAN STEVENS said he was concerned with the number of clients served and asked why the numbers have changed from public and private losses to gains with the unions. He asked if the funding mechanism inserting the money into the program has changed in correspondence with the change to the number of people that are receiving the benefit.

MR. SHIFFER replied no. They rely on information received from research and analysis and there is a great deal of effort being focused on the areas of construction, the trades and things like that. They target the funds towards those areas where they see the most opportunity for creating employment opportunities for folks. Currently, those tend to rest with training programs that

happen to parallel with union type training programs.

SENATOR TORGERSON asked what the fund balance was right now of the STEP program.

MR. SHIFFER replied that he didn't know that right now.

SENATOR TORGERSON asked if he told him it was over \$2 million, could he tell him why.

MR. SHIFFER replied that a number of things contribute to that.

First of all, when the appropriations were occurring, Ms. Gamez referred to that at one point where we were sort of chasing our tails. Each appropriation would occur and the amount that was available from the fund would exceed the appropriation and so we saw ourselves chasing after money that was increasing faster than we were using it.

Another issue is that there has been several changes in terms of how services were delivered and that resulted in one of the local areas not expending the funds as greatly as they had done in the past. And other funds came into the state that were unexpected and in the form of an unusually large award for dislocated workers and for funds that related to foreign worker certification. Those large amount of funds that came into the program have served people who potentially could have been eligible for services here.

SENATOR TORGERSON asked what they were going to do with that money.

It upsets me that it's not out in the street and that we're not training people. We went in there a couple of years ago and took \$4 million out of there. Now you've got \$2 million again. If you're not going to use the damn money, let's do away with the program. Put it in the ATV program. That's where I'm coming from on this...

MR. SHIFFER replied that they have an opportunity to utilize those funds by looking at the way they're distributing the funds by focusing on the opportunities for spending the STEP funds as a last resort. "We'd be happy to work with you on clarifying how that goes."

SENATOR TORGERSON replied, "Don't work with me. Work with the University...or work with others out there who are wondering why

they can't get into this pot of money."

SENATOR AUSTERMAN said he wanted to see a good description of how the grant program works - who sets it up, etc. - that might be helpful in figuring out exactly why there are institutions that want to train people, but can't get the funds.

MR. SHIFFER said he would be happy to provide that information.

MR. MIKE ANDREWS, Alaska Works Partnership, Inc., said they are a statewide construction job training organization that's formed in partnership with Alaska's construction trade unions and sponsors a statewide apprenticeship program that is not a union program. They have a lot of experience across the board with some of these issues. He thanked Senator Torgerson for withdrawing the one amendment until more information came forward in terms of why there is a discrepancy between union and non union training programs. He thought they could give them some reasoning behind that.

MR. ANDREWS supported continuing the STEP program and said he used to work as director of the Alaska Human Resource Investment Council and worked very closely with the Senate Majority and Senator Torgerson on a lot of these issues of how to make a very hard-to-understand workforce development system in this state, particularly that is mostly federally funded, work well for Alaskans. "How do we align job training with the University of Alaska, with AVTEC, with Alaska Technical Center and also with private sector training that occurs in the state."

With this kind of background, Mr. Andrews said he thought he had some things he could add and he would like to come back and add them. One of the problems that needs to be looked at is that STEP has been a pilot program for 10 years. It's reauthorized every two years and in 1997, when they did the major reform, they aligned STEP performance with the Job Training Partnership Act and other performance measures that the majority wanted to see in their performance based budgeting. Now there's quite an extensive performance report on all these programs. They can look at the performance of STEP, which is a high performing program, in terms of short-term less-expensive training that put people to work and keeps them employed.

One of the problems they have reached with reauthorization is that STEP has always had a two-year timeline.

Federal programs allow two or more years for a rollover for the ability to monitor and spend funds. STEP has always fought this battle of getting reauthorized and then trying to basically lurch out there again as a pilot, be a low priority on someone's table, because

it's a pilot and try to function as well. We have worked hard, the state, the legislature, and people involved to cap administrative cost, to bring those costs down from 20% to 15% and to really understand what line items go into a program and what would go into actual admin. I would say just in general that's a good move to cap that, but that does also make it harder for some of the public institutions that have indirect cost fees that have administrative fees set who can't reach that barrier. They cannot necessarily apply for training because of that cap. I'm not saying remove that cap, but that may be one of the reasons why we're seeing more of the grants go out to private sector training vendors. For example, the union apprenticeship training programs are private sector programs funded by labor and management and they are one of the programs that has received more recently. To compete for that on the open market, announce bids, etc. One of the reasons I think is the actual nature of STEP being reauthorized on a two-year basis and then between that, there's all kinds of things added on in terms of performance and measuring and other things that people want to see done that add a cost to the system. I think what we really need to focus in on is, are we putting Alaskans to work? Are we increasing Alaska hire as a result of STEP? Are they getting more income in their pockets and are they paying less unemployment with this? Let's all work together so that we can have the best workforce in Alaska...

CHAIRMAN STEVENS thanked him for his testimony and adjourned the meeting at 3:30 pm.