

ALASKA STATE LEGISLATURE  
**SENATE TRANSPORTATION COMMITTEE**  
February 28, 2002  
1:41 p.m.

**MEMBERS PRESENT**

Senator John Cowdery, Chair  
Senator Jerry Ward, Vice Chair  
Senator Robin Taylor  
Senator Kim Elton

**MEMBERS ABSENT**

Senator Gary Wilken

**COMMITTEE CALENDAR**

SENATE BILL NO. 320

"An Act relating to certain motor vehicle repairs and prohibiting discrimination in motor vehicle insurance rates based on credit rating or credit scoring; and providing for an effective date."

MOVED CSSS 320 (TRA) OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

No previous action to record.

**WITNESS REGISTER**

Annette Skibinski  
Staff to Chairman John Cowdery  
State Capitol Rm 101  
Juneau, AK 99801-1182

**POSITION STATEMENT:** Introduced SB 320.

Michael Harrold, Northwest Regional Manager  
National Association of Independent Insurers  
9611 Rainer Ave. South  
Seattle WA 98118

**POSITION STATEMENT:** Opposes SB 320

David McCarter  
No address given  
Fairbanks, AK

**POSITION STATEMENT:** Supports SB 320

Tara Drennon  
No address given  
Fairbanks, AK  
**POSITION STATEMENT:** Supports SB 320

Steve Conn  
Alaska Public Interest Research Group  
507 E. St.  
Anchorage, AK  
**POSITION STATEMENT:** Supports SB 320

Suzanne Kelley, Owner  
Alaska Tab & Bind Printing Company  
510 West Fireweed Lane  
Anchorage, AK 99507  
**POSITION STATEMENT:** Supports SB 320

Dee Hubbard  
No address given  
Sterling, AK  
**POSITION STATEMENT:** Supports SB 320

Sarah McNair-Grove, Actuary P/C  
Dept of Community & Economic Development  
Division of Insurance  
P.O. Box 110805  
Juneau, AK 99811-0805  
**POSITION STATEMENT:** Testified on SB 320

Elizabeth Mocerri, Regional Counsel  
Allstate Insurance Company  
18911 N. Creek Parkway  
Bothell, WA 98102  
**POSITION STATEMENT:** Opposes SB 320

**ACTION NARRATIVE**

**TAPE 02-11, SIDE A**

**CHAIRMAN JOHN COWDERY** called the Senate Transportation Committee meeting to order at 1:41 p.m. Present were Senator Taylor, Senator Elton and Chairman Cowdery. Senator Ward arrived at 1:45 p.m.

# SB 320

**SB 320-MOTOR VEHICLE INSURANCE & REPAIRS**

CHAIRMAN COWDERY said the committee would take testimony on one

bill. The bill before the committee was SB 320.

SENATOR TAYLOR noted there was a proposed committee substitute (CS) in the packet. The CS cut the bill in half and addressed the credit rating portion of the bill. He moved and asked unanimous consent that the CS be considered the bill before the committee. The CS is labeled Work Draft Ford/J dated 2/26/02 (Version J).

CHAIRMAN COWDERY, hearing no objection, stated the bill before the committee was CSSB 320 (TRA) "An act prohibiting discrimination in insurance rates based on credit rating or credit scoring; and providing for an effective date."

MS. ANNETTE SKIBINSKI, staff to Chairman Cowdery, summarized the sponsor statement for CSSB 320 (TRA).

This bill relates to insurers using credit scoring and or rating in determining insurance policy rates and premiums. What does your credit score have to do with how much you pay for automobile insurance? Just about everything.

Currently Alaska allows credit scoring to be part of insurance company rating plans in which underwriting and rate setting is done. The Alaska Division of Insurance has a statutory mandate (AS 21.36.120) to protect the Alaska consumer against discrimination. Every car and home insurance company in Alaska, except one, uses credit scoring. Companies believe this method is a way to predict risk in determining potential insurance losses. Credit has nothing to do with risk. The practice of using this data discriminates against certain types of consumers.

First of all, credit scores and credit reports are many times inaccurate and contain errors in the information. They are also very difficult and cumbersome to correct.

There are currently about 25 states considering banning the use of credit history in determining insurance rates. Hawaii banned this insurance underwriting and rate setting practice 15 years ago and their premiums still today remain some of the lowest in the United States.

The insurance industry wants to utilize this easy method to raise rates. Because of epidemic credit problems throughout our society, this is an easy way to target consumers and raise their premiums. Why are we

punishing the 40 year old woman with a clean driving record who simply gets divorced and it changes her credit status? Why are we raising the premiums of a 70 year old man with a clean driving record whose medical bills affected his credit history? Your driving record alone should be the factor for rate setting.

The bottom line is common sense. We have mandatory insurance laws in this state. And by using credit scores we are making it even more difficult and expensive for the Alaskan consumer to obtain insurance. Simply, SB 320 prohibits insurance companies in Alaska from using credit scores in either underwriting or rate setting practices.

CHAIRMAN COWDERY, sponsor of SB 320, said that is the sponsor statement. He invited Michael Harrold to testify.

MR. MICHAEL HARROLD, Northwest Regional Manager, National Association of Independent Insurers, explained they are a property and casualty insurance rate association that represents over 690 member companies. He shared a handout with committee members.

MR. HARROLD said studies confirm the correlation between credit information and loss ratios. He wanted to walk the committee through the hand out to graphically illustrate the correlation that exists.

The credit information enables insurers to do a number of things including:

- Write more business, not less business.
- Renew more policies and accept more new business.
- More aggressively and competently write in urban markets.
- Offer the majority of policyholders lower insurance rates.
- Provide a more fair and equitable pricing structure by inter-matching rates with risk of loss.

Insurance use of credit information provides a more objective and unbiased tool for underwriting and rating insurance risk. For many years insurers were accused of being very subjective and eyeballing whoever walked into their office and deciding whether or not they may or may not have some type of characteristic whether that person might be their type of person etcetera - something that could be subjective. With credit scoring the whole process has become much more objective.

Credit based insurance scores supplement other sources

of underwriting and rating information that may be subject to errors, underreporting or misrepresentation. Driving records are notoriously inaccurate, sometimes as high as up to 40%. Records of accidents can also be terribly inaccurate. So credit scoring is another way to come in and supplement and augment that type of information and come up with a more predictive tool.

Insurance scores do not consider income, address, race, ethnicity, religion, gender, familial status, handicap, nationality, age or marital status. So once again, this is not something that's factored into an insurance score. No state insurance department, the departments have sanctioned an insurer on the grounds that credit based insurance scores discriminate against low income or minority consumers. In fact we find that consumers with incomes below \$30,000 and between \$30,000 and \$50,000 have insurance scores equivalent to consumers with incomes greater than \$50,000. That what we really find is that a credit based insurance score has nothing to do with how rich you are, it has nothing to do with where you live, has nothing to do with what your race may be. It simply has to do with how well you managed what you do have. And for that reason you can have - people are on - that are low income individuals can manage their money a lot better than somebody that's making over a \$100,000 that has the opportunity to have a lot more credit cards and is out buying a lot more things. It really comes down to personal responsibility and that personal responsibility translates into the way that people drive, how well they maintain their homes and consequently the types of losses that - that somebody may have being an insured of a particular company.

We simply would encourage legislators and regulators to be very wary of a negative impact that imposing restrictions on insurers use of credit information will have on the availability and the affordability of insurance.

MR HARROLD said one of NAIC's member companies did some predictions of the outcome if this bill is passed and the use of credit information is banned:

- 51% of their policyholders would receive rate increases and those rate increases would average about \$180 a year.
- 40% of their policyholder's rates would stay about the same because the use of credit information does not impact their rates.

- 9% of their policyholders are the holders most likely to suffer losses and would get discounts in their premium.

MR. HARROLD said they thought that was unfair. Hopefully what a consumer wants is to pay an insurance premium that is commensurate with the risk they represent and the loss they are going to have.

SENATOR TAYLOR asked him to repeat those numbers.

MR. HARROLD said 51% would go up by \$180 on average.

SENATOR TAYLOR said 40% stays the same. He said 9% of their policyholders, if they use credit rating, would pay whatever 51 times \$180 divided by 9 would equal.

MR. HARROLD said he assumed that might be the way that it would be.

SENATOR TAYLOR replied:

I don't know what round numbers you're working off of but if we only took the percentages under a credit rating policy, 9% of your policies that you have out there are paying an increase in their policy that would be equal to what 100 - excuse me, what 51% of that company's policyholders would pay at the rate of \$180. That must a huge number for the 9%. Can you tell me what - what amount the 9% are currently being subsidized today.

MR. HARROLD did not have that information. He said it isn't that the 9% are being subsidized. Currently 9% pay what is considered to be an appropriate premium.

He explained that this company currently has five tiers in which it slots policyholders. If credit scoring is removed from the equation they would have to truncate that to three tiers and that is how they estimated the impact on rates. He said he could get more thorough information and a further breakdown with actual dollar amounts.

SENATOR TAYLOR said since Mr. Harrold had broken it down to how much the increase would be on the 51% he could only assume the 9% was paying that full amount presently in a credit rated policy.

MR. HARROLD said that was a fair assumption.

SENATOR TAYLOR said if the increase would be \$180 for 51% then

the average person receiving a bad credit rating is probably paying \$900 more to get insurance through the credit rated policy than the other people.

MR. HARROLD thought Senator Taylor's math was correct. He said insurers use a number of factors. They do not just use credit scoring but that certainly is one of the factors that would be in that equation. He did not think a \$900 difference between a better rate and a worse rate was uncommon.

SENATOR WARD asked if all states use credit for the basis of setting rates.

MR. HARROLD said all other states allow the use of credit ratings. He thought California, through Proposition 103, doesn't allow its use for automobile insurance.

Under the Fair Credit Reporting Act all insurers are allowed to do a credit check and pre-screen people for insurance. An insurer is allowed to pre-screen and to get a list of people who have a credit score over a certain number and they can extend an offer to those people. A credit card company might do that and then make an offer of a particular rate through the mail.

SENATOR WARD asked if all states and all insurance people, except the automobile insurance in California, are allowed to use credit ratings and are doing so.

MR. HARROLD said it is allowed and they are doing it.

SENATOR ELTON noted Mr. Harrold had said credit scoring is better than the eyeballing that used to happen when a customer walked in the office. He said Mr. Harrold could not possibly have meant the four insurance providers in Alaska, previous to the use of credit scoring, made a determination on who can purchase insurance based on eyeballing.

MR. HARROLD said it would not be just based on eyeballing. Looking back over the history of the criticisms of the insurance industry there was a time when people would make those types of subjective arguments. In Washington State an agent told him a fellow agent asked people how often they washed their car.

SENATOR ELTON asked if Mr. Harrold was just making an anecdotal comparison and not saying that was how the insurance industry operated.

MR. HARROLD said there would not be any basis in losses or ratios there.

SENATOR ELTON was glad Mr. Harrold cleared that up.

SENATOR WARD asked how the non-credit scoring in California for automobiles was working.

MR. HARROLD said from his understanding it is part of Proposition 103 so they are not allowed to use it on the rating. California has a very complicated system and is a bit of a mess.

SENATOR WARD asked if the rates went down in California.

MR. HARROLD did not know.

CHAIRMAN COWDERY said credit scoring had been banned in Hawaii. He referred to information in the packet that shows that Hawaii's rates had gone down over the previous three years. He asked if that was correct.

MR. HARROLD did not know Hawaii's year-by-year statistics. From his understanding Hawaii banned the use of credit scoring in ratings almost a decade ago. More recently, the Commissioner of Insurance in Hawaii told companies they were not able to use credit scoring for underwriting either. He understood that policy was in the courts at this time.

CHAIRMAN COWDERY said credit scoring proved to be a big problem for people getting insurance and for the cost of insurance in Hawaii.

MR. HARROLD said Hawaii was a "take all comers" state. Insurers are required to write.

CHAIRMAN COWDERY asked him to restate that.

MR. HARROLD explained that "take all comers" means essentially you have to write insurance for somebody if they come through the door.

CHAIRMAN COWDERY asked about the rates.

MR. HARROLD said hearing that Hawaii had some of the lowest rates in the country in the sponsor statement surprised him. He wanted to look at a NAIC receipt to verify that.

CHAIRMAN COWDERY said there was an article in the packet from the Wall Street Journal, dated February 20<sup>th</sup>, 2002. He said Indiana and Washington are likely to pass legislation to restrict the use of credit history in determining insurance rates, according to insurance officials. These states are among 25 that are considering or expected to consider bills to ban or limit the controversial issue.

MR. HARROLD said there are probably 25 states looking at the issue. It has certainly exploded on the scene as far as being looked at. He understood Indiana might not have legislation this year because there are different bills in the House and Senate and the respective sponsors are in a bit of a spat. Washington State is very close to enacting legislation.

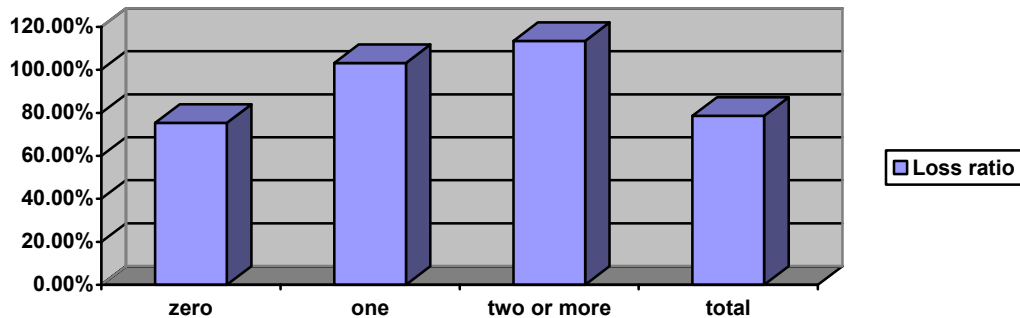
CHAIRMAN COWDERY asked if, except for Washington State, he was saying the other 25 states considering this legislation are not going to do it.

MR. HARROLD said no, that Chairman Cowdery had singled out Washington and Indiana. He said this is a process that is underway in states all across the country.

CHAIRMAN COWDERY asked him to leave all of his handouts for the record.

MR. HARROLD asked the committee to turn to his handout, which illustrates why insurers use this tool. Exhibit A looks at automobile insurance loss ratios.

Relationship of Loss Ratio to Number of Credit Lines  
60+ Days Delinquent in Last 24 Months



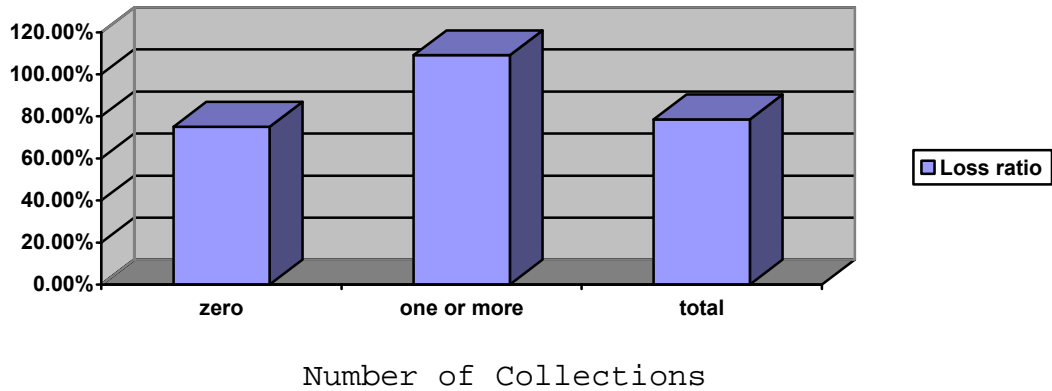
Number of Trade Lines 60+ Days  
Delinquent in Last 24 Months

MR. HARROLD explained trade lines in this instance are payments such as credit cards. A dollar paid for insurance would represent 100% of the loss ratio. The first column would be the people who have not had trade lines delinquent for 60+ days and they average a loss ratio of 75.4%. If a person has one trade line delinquent then their loss ratio jumps up to 103.2%. A person with two or more has a loss ratio of 113.5%.

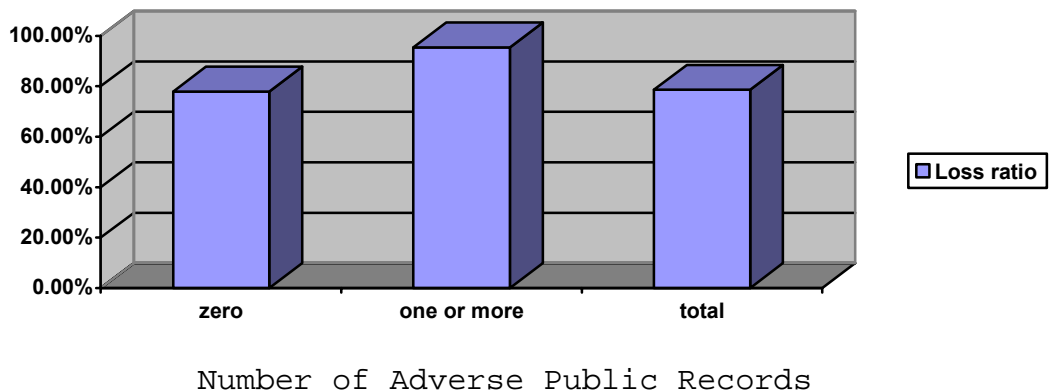
There is a very direct correlation. The column of people who have a zero number of trade lines delinquent or zero number of collections or zero number of adverse public records tend to be

about 86% to 96% of people. The overwhelming majority of people have what would be considered good credit. They do not fall into these categories.

Relationship of Loss Ratio to Number of Collections



Relationship of Loss Ratio to Number of Adverse Public Records



SENATOR TAYLOR asked what an adverse public record is.

MR. HARROLD said it could be a bankruptcy, foreclosure or collection.

SENATOR TAYLOR asked if it included domestic violence.

MR. HARROLD said they would not look at that.

SENATOR WARD asked if child support was included.

MR. HARROLD did not think insurers look at child support.

SENATOR TAYLOR said if they look at credit rating they must have been looking at child support. Child support is one of the biggest credit items. Alaska has a huge state collection agency that does nothing but collect child support and the information is turned over to credit reporting institutions. If child support was not current he thought that would show up on a credit report.

SENATOR WARD said it does show up.

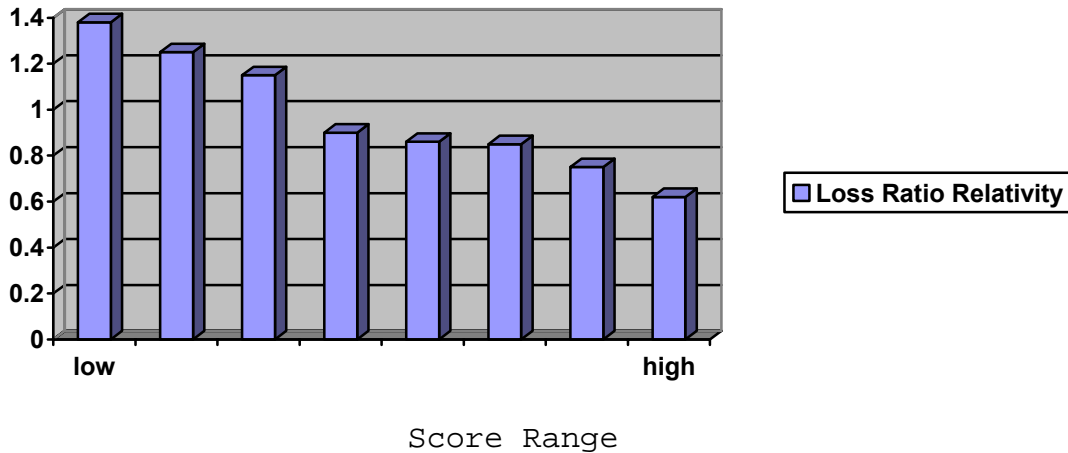
MR. HARROLD said there are four to five companies that have their own models. The Fair, Isaac Company and Choice Point are vendor companies that have models other companies use. They have a variety of models and the insurers choose one they would like to use. He said child support may be considered an adverse public record but they don't necessarily have to look at everything. They have taken the data and looked at the numbers and figured out what they think is going to be most predictive of an insurance loss. There is competition among insurers and vendors to figure out who can look at the data the best. They compete on how they look at all the other factors.

SENATOR TAYLOR said adverse public record includes bankruptcies and foreclosure on a car loan and that type of thing.

MR. HARROLD said he would skip Exhibit B but pointed out that for homeowner insurance the credit base scores are even more predictive than for auto insurance, although both are very predictive.

MR. HARROLD explained that Exhibit C compares the loss ratio relativity to credit score. A low credit score is negative and a high credit score is more positive. Losses are higher in the left hand column for individuals that have low credit scores and as credit scores get gradually higher and financial responsibility is reflected, they have fewer and fewer losses. This is something a non-statistician can look at and see why insurers are interested in the information and why they found it to be very effective in predicting loss.

Personal Auto Insurance



CHAIRMAN COWDERY asked if all insurance companies use this same method.

MR. HARROLD said they look at different records according to what they work best in. Allstate may look at different factors than Progressive. Fair, Isaac Company designs models that a number of insurers buy and use and they look at different factors as well. They all compete to try to look at the data in the most efficient manner.

CHAIRMAN COWDERY asked if they share this data with each other.

MR. HARROLD said no. They were very concerned about that data being public because they put a lot of time and effort into their models. He said it is the same way with companies that offer loans on credit cards or a loan for an automobile. They have their own methods of looking at the numbers in ways they think are going to be most predictive of who is going to be able to pay them back.

SENATOR ELTON asked Mr. Harrold to correct him if he was wrong. He thought it was important to point out that competing insurance companies may not share information, but companies like Fair, Isaac sell the credit scoring information. They will sell the information to other insurers, letting them know when somebody's policy is about ready to expire so the other insurance companies can start dumping information in the mail and making phone calls to people's homes. They may not share the data and how the formula was reached but they certainly share the information that is compiled because of credit scoring.

CHAIRMAN COWDERY said they had more information and examples they would be sharing with the committee.

SENATOR WARD asked if any of the people Mr. Harrold represented use bad credit on credit cards as one of the criteria.

MR. HARROLD said yes.

SENATOR WARD asked if insurance rates would go up for somebody with bad credit because of credit cards.

MR. HARROLD said that could be one of the factors that would go into a credit-scoring model. These are very sophisticated models so one thing is not going to send rates through the roof. Most people are going to have good characteristics and bad characteristics. Most people have a good credit history. Different types of activities vary in degree. Certainly somebody that has a bankruptcy and has reached the maximum limit on all of their credit cards would have a higher score.

SENATOR WARD said he knew of two families where the farther they went into debt with credit cards the more credit cards were sent and they used them. These people were not filing bankruptcy, they were working their way through that. He asked if their insurance rate would go up.

MR. HARROLD said it would depend on what other factors a particular insurer's model is taking into account because they don't just look at credit cards. They look at a wide spectrum of credit related activities.

SENATOR WARD asked if they would have a higher rate because of just credit cards.

MR. HARROLD said he could not tell him.

SENATOR WARD asked if the model gave a higher car insurance rate because of credit cards only. He said it was five or six credit cards and they were in a lot of financial trouble.

MR. HARROLD said from his understanding based on delinquent trade lines if they were in debt and had been delinquent on their credit cards there was a good chance they would have a lower credit score and a higher potential to be a risk of loss. They probably would have a higher insurance rate.

SENATOR WARD said they had a credit card and then started

acquiring other cards to pay off the first card.

MR. HARROLD said he was not trying to waffle or be ambiguous. Different insurers have different models. These are sophisticated models with a number of factors including non-credit related factors.

CHAIRMAN COWDERY said Mr. Harrold informed him earlier of how people feel stress because of debt on credit cards and this stress was a factor considered by insurers. They do not necessarily have to be delinquent to have this stress. Stress can be caused when they have reached the maximum limit and are only paying the interest.

He said soldiers are going off to war and have increasing stress and expenses. The spouses are left at home and are also feeling increased stress. He asked if that affected their rates. He said he failed to see where stress should affect insurance rates. He thought the job the legislature was doing was extremely stressful. He asked Mr. Harrold to make the connection between stress and insurance rates.

MR. HARROLD said the answer has two parts.

One is that when we were talking last week we were sort of talking about how, OK, we see a correlation in these numbers but what's the causation and so you begin to talk about that. And what we can tell is that first of all what's most important to an insurer is that their tool is predictive and that it works. That is the bottom line. Whether they can figure out the cause or not is another issue. What I then said is that there are a number of studies however that have been done in various fields that look at this type of issue. And the two things that tend to come up are that yes, people could be underneath more stress and that people that are stressed are going to have a higher chance of - of having a loss or they may be preoccupied with other aspects of their life so maybe their not paying so much attention to their driving, maintaining their car, taking care of their home, things of that nature.

And the other factor was that a consideration of causation is that these people may have more of a risk taking type of behavior. This may help us explain why the person that sees a yellow light and accelerates through it versus a person that sees a yellow light and stops. So it's the whole element of risk taking behavior can come into that as well and just before.

As far as the soldier, Senator, I would take note that one of our member companies is USAA and they are insurers for the armed services soldiers current, past and present. And I would say that they probably have one of the highest customer loyalty and opinions of how they are treated by their insurance company in the country of all insurers. And USAA is a company that is using credit scoring. It is helping them more appropriately charge people a premium that is commensurate with the risk. So I don't think that USAA would be treating their policyholders in a manner that would be considered prejudicial in that regard.

CHAIRMAN COWDERY said credit information is personal information therefore in all the policies, even the USAA policy, somewhere in the fine print the policyholder gives the insurer the privilege to check credit.

MR. HARROLD said he was not sure.

CHAIRMAN COWDERY said they couldn't just go check a person's credit without some consent.

MR. HARROLD said sure they can. He did not think when Chairman Cowdery received credit card offers in the mail they had called him up for his consent to check his credit rating. They had not called Mr. Harrold up when he got credit card offers in the mail.

SENATOR TAYLOR said they were all rotating around the same issue, but they really hadn't talked about the issue yet.

The issue is those of us lay people that aren't involved in the insurance industry, we assume that causation has something to do with rates - if you cause accidents that your rates will be higher. If you don't cause accidents your rates will be lower. But there is absolutely no correlation between causation and many other factors. I don't know of any relationship here where causation can be established off of this. There is a correlation. Now that's a term we use in statistics. But statistics are fascinating things.

SENATOR TAYLOR said they take a million people in America and find out everything they can about them. They find weird anomalies that just occur in statistics. The insurance industry looks at everything. They have people called actuaries that study demographics and statistics they can base things on. One of the biggest things they use in demographics is age. A 16 year old person could be the most responsible 16 year old in the world but they are still going to be rated very high and pay an exorbitant

premium because statistically people that are young and inexperienced get in more accidents and have more problems than someone in an older age group. Mr. Harrold had testified there were some areas they didn't use. Senator Taylor said that didn't mean they didn't look at those areas as a company but they were not using them.

MR. HARROLD said it did mean they don't look at those areas.

SENATOR TAYLOR said at one point in time some statistician did.

MR. HARROLD said some of these factors are things that insurers do look at. Insurers do look at gender. They find males tend to have more accidents than females do.

CHAIRMAN COWDERY asked if that was per mile and whether males drive more miles than females.

SENATOR TAYLOR said they don't care about miles they are just looking at gender.

MR. HARROLD said marital status is another factor. A 30 year old married person is considered to have fewer accidents than a 30 year old that is single. They are not just considered to have more accidents the numbers show that is the case.

SENATOR TAYLOR said there is a correlation.

MR. HARROLD explained when he pointed to these various factors that they are simply looking at the way finances are handled and are not looking at those individual factors as far as putting that into the credit score.

SENATOR TAYLOR said it is only one part of an overall package. He asked what other characteristics they use besides age, gender and marital status.

MR. HARROLD said they could use things like prior insurance. There are studies that show people who have not had insurance in the past tend to have higher losses.

SENATOR TAYLOR asked if they used race.

MR. HARROLD said no.

SENATOR TAYLOR asked if he was sure.

MR. HARROLD said yes.

SENATOR TAYLOR asked what if there is a correlation.

MR. HARROLD said it still is not something that should be used.

SENATOR TAYLOR asked why. He said if age is okay and gender is okay and they want to know about his marital status maybe his race gets in more wrecks than Mr. Harrold's race does.

MR. HARROLD said it was very possible there could be a correlation there but as a society it is something they do not look at.

SENATOR TAYLOR asked about religion and whether Catholics are more dangerous drivers than Muslims or more dangerous than Hindus or Baptists.

MR. HARROLD said it would be the same answer.

SENATOR TAYLOR asked why.

MR. HARROLD replied, "That's something that as a society we decided we should not look at."

SENATOR TAYLOR said that was the point they were trying to get to. Society would be offended if they started doing racial profiling.

MR. HARROLD said correct.

SENATOR TAYLOR said society would probably be really offended if they were doing religious profiling or profiling based on national origin or color. He said those would all be very offensive. He said he did not know that insurers were not doing that. He did not think any of them were going to know if insurers were doing it or not doing it until someone put a proposal before a legislature that said absolutely don't do this and have auditors for the Insurance Commission make sure they are not. He said they all assume that to be a public policy and no company would do that.

MR. HARROLD said those are factors they are not allowed to look at.

SENATOR TAYLOR asked even if there were a tremendous correlation, the only justification for looking at credit is correlation.

MR. HARROLD said correct.

SENATOR TAYLOR said there is no causation they could speak to here.

MR. HARROLD said the insurers are interested in the fact that more accidents and more claims are filed. He could watch Michael

Jordan sink a jump shot and could not explain it as a physicist but a physicist probably could. What they are interested in is the fact that Michael Jordan makes a jump shot. It is the same type of thing.

SENATOR TAYLOR said there is a correlation between the number of times he shoots and the number of times it goes through the basket.

SENATOR TAYLOR said there are areas where public policy did not care if there is a correlation. He thought it was worth the discussion and debate to talk about whether or not someone's credit should be used adversely against them for the purpose of setting rates.

MR. HARROLD understood that was at issue. The insurance industry thinks it is well within bounds because the consumer wants to pay a premium that is reflective of the loss they may have. Credit information is used in many other facets of daily lives. Acquiring a loan gives people opportunity but the bank is not going to give them the loan if they don't have good credit.

SENATOR TAYLOR asked what insurers do in regard to significant others in a same sex relationship. He asked if they received credit for marital status under insurance programs or non-marital status and paid a higher rate.

MR. HARROLD said he had never been asked that question before and was not sure.

SENATOR TAYLOR said maybe it is don't ask, don't tell. Insurers inquire about marital status when he purchases insurance.

MR. HARROLD said Vermont was the one state that passed such a law and several other states have had partnership laws that apply to health insurance and other things. He did not know whether that applies to auto insurance.

SENATOR TAYLOR said it might be very interesting and they could find a tremendously high correlation. He asked if they found a correlation like that whether they would be using it.

MR. HARROLD said it would be considered off limits.

SENATOR TAYLOR asked if that had been considered yet.

MR. HARROLD said it had not been considered yet and it was very interesting.

SENATOR WARD said a person living beyond their means who had trouble with credit cards would be looked at as having bad credit

and maybe have a higher rate. He said the State of Alaska is self insured and had been living off credit from their account for ten years. An airline in Anchorage just went into Chapter 11. They did not pay their bills and their rates did not go up. He said the insurance company was treating the airline differently than his cousin that ran the bill up.

MR. HARROLD said that would be a commercial account.

SENATOR WARD said the ability to pay is one criterion. Enron still has a fleet of vehicles. Even though they may have had a little downturn in their bottom line, their insurance rates would not be suffering. He asked if that was correct.

MR. HARROLD said he was not sure that was the case. The ability to pay is not something that is looked at. It isn't one of the factors. With commercial insurance the use of credit information or financial information has been a staple for years. Only more recently it has begun to be looked at on the personal lines level.

SENATOR WARD said the airline company is privately owned and they filed for protection. Their insurance rates have not gone up. He asked if they should go up if they are equal to the person living in Mountain View in Anchorage.

MR. HARROLD asked if he was saying if it is fair for one, it is fair for the other.

SENATOR WARD said no, he was wondering what the insurance industry would do. He did not know if it was fair or not. He did not know if it was fair that people kept sending credit cards to people that were already in trouble. He said he always had a hard time deciding between somebody that is a business and commercial and somebody that is non-commercial and a citizen because he felt the citizen had more rights. He asked if the commercial business would be treated differently.

MR. HARROLD said it was a question he could put to people and ask how that would be treated in a commercial context. He did not know whether in most cases commercial rates would go up.

SENATOR WARD said most commercial businesses are corporations and a corporation is considered an entity. They have the right to be sued and sue, to incur debt and not to incur debt and they also have the right to file bankruptcy just like an individual does. He did not understand why that entity would be treated differently.

MR. HARROLD said the bottom line is a dollar and cents question for both an individual and a corporation.

SENATOR WARD asked if the ability to pay would be the factor.

MR. HARROLD said he was talking about the potential for loss not a matter of how much money they have. They are going to look at that corporation in the context of are they going to have losses. They charge a premium that is appropriate for the losses they may have. It would be the same with an individual. It was a dollar and cents question, not a matter of rich or poor but whether or not they are going to have losses.

SENATOR ELTON said they needed to move along but he had a series of questions and was going to phrase them in such a way that Mr. Harrold could answer them yes, no, or I don't know.

SENATOR ELTON assumed with the data shown on the chart, credit scoring reduces risk for the insurer therefore it should have some net affect on gross rates for consumers.

MR. HARROLD said not gross in the sense of overall amount. It is helping insurers better apportion the premiums.

SENATOR ELTON said Progressive is one of the major carriers in Alaska. Progressive began using credit scoring in 1998. Since 1998, in a series of rate requests to the Division of Insurance, they have raised rates 18.8%. He asked if it made sense that they used a more efficient way of determining risk and rates would go up that much in a period of four years.

MR. HARROLD answered yes it does. The fact that payment rates go up doesn't mean how accurately they are going to predict how they go up - it is a separate issue.

SENATOR ELTON asked if he had testified on credit scoring in Idaho.

MR. HARROLD answered yes.

SENATOR ELTON asked if he remembered who sponsored the legislation.

MR. HARROLD said John Goedde.

SENATOR ELTON asked what his occupation was.

MR. HARROLD said he was an insurance agent.

SENATOR ELTON asked if Senator Goedde was a Republican.

MR. HARROLD answered yes.

SENATOR ELTON asked if he was there when Senator Goedde said he had heard of homeowner insurance rates shooting up 300% and said the biggest losers are the elderly, the very young and members of minority groups when credit scoring is used.

MR. HARROLD was not sure that was exactly what Senator Goedde said on the day he was there. He said Senator Goedde could have said it.

SENATOR ELTON asked if Republican Representative Bill Deal of Nampa, Idaho was involved in the hearings when Mr. Harrold was there.

MR. HARROLD said Representative Deal was not there, he is on the House side.

SENATOR ELTON asked if it would surprise Mr. Harrold and did he know his background.

MR. HARROLD said Representative Deal was an insurance agent.

SENATOR ELTON asked if it surprised Mr. Harrold to hear Representative Deal say that using credit scores to judge existing customers is very inequitable and morally wrong.

MR. HARROLD said, "I read the same quote. I think that was the article in which the comment that I made was taken out of context as well."

SENATOR ELTON asked if he thought it was taken out of context.

**TAPE 02-11, SIDE B**

MR. HARROLD said he could tell them that Representative Deal is probably close to supporting legislation that does not do nearly what was on the table there.

SENATOR ELTON said there were very few Democrats in the Idaho Legislature so he was assuming that any legislator from Idaho that is quoted is going to be a Republican. He was struck by this Republican Representative's statement that it was very inequitable and morally wrong.

SENATOR ELTON thought Mr. Harrold could find it easy to prove there is a correlation between credit scoring and risk. He asked if his employers had ever looked at correlations between credit scoring and discrimination. He was speaking specifically of the study in Maryland they spoke about a couple of weeks previously. He asked if Mr. Harrold had reviewed the Maryland report.

MR. HARROLD said he had seen the Maryland report. It's very

incomplete because it does not have a column on there that talks about what the losses were. It says people in this area pay higher insurance premiums than people in this other area but it does not say it is because of the losses in this area. Territorial rating is one of those components where certain territories are looked at as a group, just like other factors.

SENATOR ELTON said he did not want to badger Mr. Harrold and apologized. He said that wasn't a question that was easily answered by yes or no.

MR. HARROLD said Commissioner Larson of Maryland would not seek to disallow territorial rating.

SENATOR ELTON said during the conversation they had a couple of weeks ago, Mr. Harrold had indicated it was possible to look at insurance rates by zip code in Alaska. The conversation involved trying to determine whether or not credit scoring had an inequitable effect between zip codes. He thought he remembered Mr. Harrold saying they had that capability.

MR. HARROLD thought they had the capability, the data is there. He had not been able to get the data because the companies and the government relations people he worked with were very busy at that time. To get that level of detail, if it was maybe a couple of states looking into the issue, he could probably ask and get that information.

SENATOR ELTON said it might be helpful. He said he had a feeling that Chairman Cowdery was going to want to move the bill so he did not know how that would reprioritize the work of that unit but it might be helpful.

SENATOR ELTON asked, if using credit scoring, it is likely that car insurance or health insurance would go up for an Enron employee who lost his or her job and missed a utility payment.

MR. HARROLD said it could be possible.

SENATOR ELTON asked if it were possible a Washington State farmer who was hammered by the drought last year and missed a credit card payment would see his health insurance premium go up.

MR. HARROLD said a credit score is a snap in time. It may be very likely that during the time that person had a credit problem and there was a drought an insurer would not even be looking at that information. Anything is possible.

SENATOR ELTON asked if it was possible that a recently divorced woman who has to separate her bank account from her previous spouse's bank account, applied for auto insurance, her rate would

be higher than it would have been before the divorce.

MR. HARROLD said it is possible.

SENATOR ELTON said what bothered him was they knew all of these things were possible. He did not disagree there was some kind of link between credit scoring and risk. He had a letter from someone in the insurance business in Alaska and this person talked about two customers. He explained:

- One is a woman who had no accidents or violations and had prior insurance. She drives to work and has one vehicle. She does not own a home but rents. Her premium almost doubled to over \$1000 for six months because of credit scoring.
- Another is a male in his 50's. He has a good income, is married and owns a home. He owns the same make, model and year of car. He has a Driving While Intoxicated (DWI) conviction and was involved in a DWI accident five and half years ago. The insurance agent suggested that as a new customer he would have never gotten insurance but because of his credit score his insurance rate is half the woman's rate. The woman had no claim.

He asked Mr. Harrold if that sounded like an unusual outcome.

MR. HARROLD said it did sound like an unusual outcome.

SENATOR ELTON asked why that would be if the preponderance of the underwriting or rating decisions were because of credit scoring.

MR. HARROLD said he did not know what the other factors were with that person. He did not know what weight the insurer put on credit scoring.

SENATOR ELTON asked if, before credit scoring, it would have been more likely than not that the male driver would have had to pay more for auto insurance than the female driver.

MR. HARROLD said yes. It was also more likely prior to credit scoring that insurers would not insure a host of people because they did not have the confidence to do so because they would not know what their losses might be. That is why they are seeing insurers insure more people, not less.

SENATOR ELTON said perhaps. He said there are people in rural Alaska that do not use credit the same way he or Mr. Harrold do. They don't have an opportunity to use credit the same way and they often pay by cash or a cashier's check for major things. If he had a twin that had the same characteristics would it be likely his twin would pay more for insurance simply because he

lived in a different kind of environment.

MR. HARROLD said had heard from insurers that some people that don't have a credit history in some cases might actually have better credit than the average person. In some cases they might have average credit and there are other examples where their loss experience is far more severe if they don't have any credit.

SENATOR ELTON asked if his brother converted to a religion that had a basic precept, would it be likely his brother would pay more for home or health insurance than he would pay.

MR. HARROLD said he did not know about the health insurance.

SENATOR ELTON asked if it would be more likely than not that his brother would pay more for auto insurance than himself even though they had a similar driving record.

MR. HARROLD said it would depend on the company and the history.

SENATOR ELTON said he did not understand that answer. It would be helpful if Mr. Harrold would give them a formula on how they use credit scoring and how they get to the credit scoring.

CHAIRMAN COWDERY said they talked about religion. There are people who do not believe in credit for religious reasons. They don't have a credit rating. He quoted a statement made by Mr. Harrold from the December 26, 2001 issue of the Seattle Times:

We're not penalizing anybody but they - that's the people without credit history - won't get a reward for having good credit.

He asked Mr. Harrold if he said that.

MR. HARROLD said those were his words.

SENATOR WARD said due to no fault of their own there are a lot of people in the timber industry no longer able to make a living because of actions by government. On top of that, especially in his district, some of those very same people were involved in the commercial fishing industry and they are no longer able to make a living. They would now have a higher rate because they were behind in payments on their credit cards and other things. He asked if that was correct.

MR. HARROLD said it is very possible. In all the examples, it is possible they will pay more and if credit scoring is as predictive as insurers say, the reason they will pay more is because they are going to have higher losses. The flip side of the question could just as easily be should the person that is

not going to have the loss pay more insurance to cover the loss those people are going to have. That is the equation they are dealing with, that is really what they are doing.

SENATOR ELTON said he would rather subsidize a good driver with no claim history who might not have a good credit score, based on a formula that nobody is willing to share with anybody, than subsidize a fellow that has a record of DWI accidents. He found it a little bit off-putting to suggest there is a subsidy that goes one way but doesn't go the other way.

CHAIRMAN COWDERY asked to his knowledge if there was any effort when they use credit reports or scoring to determine if the reports are in fact accurate. Mr. Harrold had stated earlier that driving records are not accurate.

MR. HARROLD said they do not take each individual record and look at them because what comes to an insurer has gone through a credit bureau that had the formula on file. The record runs through that model and what comes to an insurer is the score. Insurers are not looking at the personal data of any insured. If there is an adverse action taken, if somebody has a higher rate or they are cancelled or non-renewed, then under the Fair Credit Reporting Act that individual has the right to contact the credit bureau and get their credit report for free. At that point if the individual came back to the insurer they could try to correct that information. Certainly that is something the industry is willing to do. The industry is more than willing to have more disclosure to give people an opportunity to find out if the information is correct and to then go back and re-rate or re-underwrite the policy to give them the characteristics that are most important in impacting their credit score. There are a lot of things the insurance industry is willing to do to help people better understand the process. That example is not something they can do with each report that comes through.

MR. DAVID MCCARTER, Fairbanks resident, explained he had a couple of tickets on his record but no accidents. He worked hard over three years to make sure he didn't get any more tickets. He used his turn signal and stopped at yellow lights because he thought he was going to reap the rewards. He and his wife purchased new vehicles and thought their premiums would come down. They have a 2001 diesel Ford pick-up and a 2001 Buick Regal. Their premium was \$2430 for the two vehicles. Three days before their insurance expired he went to almost every insurance company in town. He discovered if he cancelled with his current company and moved to another, the very cheapest insurance rate available would have been \$4890 for the two vehicles.

MR. MCCARTER said they have pretty good credit. They own two houses and one is a rental. In 2001 while buying their house,

they discovered some inaccuracies on their credit report. They were able to clear that up with the bank but have been fighting with an attorney to get it off their record and it was not an easy thing to do. He found, had he changed insurers, his insurance policy would have more than doubled because of credit scoring. Insurance companies were saying they were promoting good driving. He thought the problem was there is no motivation to drive decently. He really has good credit but was told he had to submit it to an underwriter who would look at it but there were no guarantees. State Farm and Allstate would not even write him a policy. Geico would write a policy but the price was really outrageous. He thought it was an unfair and discriminatory practice.

MS. TARA DRENNON, Fairbanks resident, explained she was a victim of identification (ID) theft. They found out about the theft last year and notified her insurance company when she renewed their auto policy. The insurer was not sure he could renew her auto insurance. They had life insurance, homeowner insurance and renter insurance through that company for four years and were told that could work for her. Her credit check came back bad. The only reason they stayed with that company was because of the three other policies. They now pay an increased rate because of her ID theft on her credit report. ID theft is becoming one of the number one criminal offenses. She does not see how insurers can single people out by their credit report not knowing these people had an ID theft. There are individuals that don't know an ID theft occurred.

MR. STEVE CONN, Alaska Public Interest Research Group (AkPIRG), said he had attended meetings on credit scoring with national and local consumer groups. He was glad they were addressing it head on in Alaska.

The principle reason why many questions raised by the Senators could not be answered by the representative of the insurance industry and, in fact, can't be answered by any insurance agent when these crazy rate hikes come up is because they are based on computer models - not just the credit report but computer models that the companies will not share. In other words, the result in these little black boxes cannot be verified and cannot be replicated. And we're just supposed to believe that you feed in information into this little black machine and on the other end comes an answer that even your local agent who's known you all his life or her life cannot change.

Bob Hunter, who is the Director of Insurance for the Consumer Federation, said it's like a black box and he says they haven't verified that minorities, people with

disabilities and the poor aren't discriminated against by this system. I mean what you're left with wondering Senator, is whether or not this new proposal that is now sweeping the country is going to be used as a cover for illegal discrimination that has already taken place or will be used as a cover for prospective discrimination that might take place. And I think many of the Senators reached that in their - with their information.

Personal information, real life information about a person is better than laying them up against a statistical model. This very clearly will lead to a kind of discrimination that works directly against Alaska public policy not only statutorily.

But we have easily 14,000 licensed drivers that don't have insurance. If we move, if we allow this to happen here, to what degree are we going to discourage them from getting insurance and have to carry uninsured on our own.

MR. CONN maintained the only correlation he saw is on the part of the insurance companies between their greed and their ingenuity. Insurance companies know they are not getting the investments they used to in the stock market so they are trying to take it out of the customers with a pig in a poke that can't be verified.

MS. SUZANNE KELLEY, owner Alaska Tab & Bind Printing Company, said when she heard about this issue she talked to about 50 people who were unaware their rates were based on a credit score. Everyone she had talked with was shocked.

She found out when she got an annual rate increase of about \$600, which was well over a 40% increase. She called the insurance company and asked what the rate increase was about. Progressive told her the State of Alaska required a credit check every 36 months. They told her it was in statute. She asked them for the law and they could not cite it for her.

She called other insurance companies and received quotes and all were based on credit scoring. Premiums were not based on her driving ability. She had not been in an accident or made a claim on her policy.

MS. KELLEY said her homeowner insurance doubled so she changed companies. She said the only thing that had changed was she had purchased a home and expanded her business. She uses her own line of credit and is self-employed and pays her bills on time.

MS. KELLEY said this is discrimination. There are people that are

poor and young who are not going to pay \$3000 per year for insurance just because they don't have credit while working at Wal-Mart. "This is discrimination. I can pay, they can't."

She checked rates everywhere and talked to every agent she had received a quote from and the agents had an issue with this. The agents are working for companies they are not in agreement with but have no choice because those are the laws and they do not even understand the laws.

CHAIRMAN COWDERY pointed out the agents are agents of insurance companies and do not set the rates. They are working on a commission.

MS. KELLEY said the agents are not aware of the rates or how they are set. The agents are not in agreement with credit scoring and have seen many areas where it appears to be discriminatory. They will admit that.

MS. DEE HUBBARD, Sterling resident, was in support of SB 320. She found out about credit scoring from a friend two years earlier and began exploring it. She found no one who could tell her whether credit scoring was being used or not. Last year she talked to a gentleman at the National Consumer Insurance Hotline. He told her in his 40 years of working in the insurance company business he had never heard of anyone using credit scoring.

She was surprised the legislature had three bills relating to credit scoring and hoped one of the bills would pass. She said SB 1408, which is being considered in Idaho, goes a little bit further than SB 320. It will not allow an insurer to charge a higher premium and in addition the insurer cannot cancel, non-renew or decline to issue a property or casualty policy or coverage based primarily on an individual's credit rating or credit history. With SB 1408, a person cannot be denied insurance, be told their policy will not be renewed or have their insurance cancelled strictly because of credit rating or credit scoring. She thought that might be something the Transportation Committee would consider as an amendment that would make it stronger. She would back anything that would make it stronger.

MS. HUBBARD said as a consumer she is tired of being the one that has to prove she has done nothing wrong. When Wells Fargo bought her bank, four checks bounced due to bank error and it took seven hours to get it squared away. She said people who think it is easy to get a credit report changed should try it one time and they would change their tune.

CHAIRMAN COWDERY said they had a copy of the Idaho legislation. He told her the bill would be heard in other committees.

SENATOR ELTON said in one way Chairman Cowdery's bill is stronger than the Idaho bill. The Idaho bill provides that insurers cannot charge a higher premium or cancel a policy or coverage based primarily upon credit scoring. They define base primarily as meaning that the weight given by the insurer to an individual's credit rating or credit history exceeds the other weight given by the insurer. The Idaho bill would allow credit scoring as long as it doesn't count for more than 49% of the decision making process.

MS. HUBBARD said Senator Elton was right. She did not necessarily like the wording that was used in the Idaho bill but she liked the thrust of not allowing a cancellation or a non-renewal or someone being declined insurance.

MS. SARAH MCNAIR-GROVE, Property/Casualty Actuary, Division of Insurance, said the Alaska Division of Insurance agrees with Chairman Cowdery that additional regulation in the area of credit scoring by insurance companies is appropriate. However, how far to go, including whether it should be a total prohibition they believe is a policy call but they did support the efforts in the area. She told members:

The Division's responsibility is to review auto insurance rates and to approve them if they meet the statutory requirements. And those statutory requirements are the rates not be excessive, they not be inadequate and that they not be unfairly discriminatory. As has already been mentioned here, one of the first approvals of the use of credit information in a rate filing occurred approximately four and a half - five years ago with Progressive's filing. We spent over a year looking at that filing, gathering information, looking at the statistical support for its use, asked many of the same questions that have been asked here and felt that by the time that was over, they had provided the information necessary to meet the statutory requirements and so we approved the filing.

Since then we have approximately seven insurance companies who have specific filings approved to use credit information in the rating process. Since December of 2000, we have also received another eleven filings requesting to use credit information in the rating process. Those have been significantly questioned. Four, actually six of those filings were withdrawn or the insurer removed the credit information because they could not provide the information that we needed. Two of the filings were approved and those are the USAA filings that were also just recently mentioned here. The other filings are still either under review

or were disapproved because we could not get the supporting information that we needed. We have also four homeowner filings but since we weren't dealing with those I won't mention those.

CHAIRMAN COWDERY said this bill covers all insurance.

MS. MCNAIR-GROVE said they have four homeowner filings. Three of those removed the credit information because they could not get the credit information needed.

An insurer may also use credit scoring in the underwriting process and the division does not have prior approval over the underwriting process so we don't see that criteria before insurers use it. But other insurers besides these that have rate filings I believe are using it.

As the use of credit scoring has increased in Alaska, the division has continued to receive questions, inquiries and complaints from consumers regarding the use of credit information similar to the ones that we have just heard. And it has been very difficult for us to get good answers from the insurance companies that consumers can understand as to why credit information is an appropriate rating tool and how it has affected their rates.

CHAIRMAN COWDERY asked if there was effort by the Division of Insurance to verify the accuracy of the credit references insurers use.

MS. MCNAIR-GROVE said they do not. One of the questions they have asked insurers that use credit scoring is what opportunities they provide consumers to get information corrected. Most of them responded that they follow the Fair Credit Reporting Act.

CHAIRMAN COWDERY said on his own credit report there was something that was absolutely false. He was completely unaware of it until he applied for a loan. The loan was approved but he did not accept it because he was not happy about the false information. A person could get a traffic ticket driving another person's car. The owner is unaware of it and it goes to a collection agency and enters the system.

SENATOR ELTON said they heard testimony that a consumer was told state law or state regulations require that Progressive do a credit score periodically. He asked if there is any law or regulation that requires an insured's carrier to do that.

MS. MCNAIR-GROVE said there is no law or regulation. She believed

the testifier was referring to an insurance company's rating plan. When an insurance company files with the Division of Insurance and details how they are going to use the rating plan and list the criteria they are going to use to determine the appropriate rate, they must follow that plan. Progressive has said how they are going to use credit information and people with a certain credit score get placed in a certain tier. So in that sense they are following their approved rating plan but there is no requirement that they use credit information.

SENATOR ELTON said it would probably be an insurer's choice to do that because that would give them the opportunity to raise rates if in fact there has been a change in credit history.

He asked if the Division of Insurance reviews the credit scoring formulas used by insurance carriers in the State of Alaska.

MS. MCNAIR-GROVE said they had tried to do that. That was the reason why some of the recent filings were withdrawn because they could not get that information. When they reviewed Progressive's filing Progressive did their own in-house model and there was not a third party although they had the same confidentiality concerns. The division required them to list all of the pieces of information they used off of the credit report. They did not require them to give the division the specific weighting, for example where this piece of information gets two percent and this piece of information gets minus five percent. The division did not require that.

SENATOR ELTON said one of the reasons he liked SB 320 was because the Division of Insurance feels they may have some authority over the setting of rates because of statutory language that says unfairly discriminatory. But the division feels they have no authority over the underwriting component when it comes to credit scoring. He asked if that was true.

MS. MCNAIR-GROVE explained she would not say they had no authority. They did not have prior approval authority and they would have to look at the underwriting process through their Unfair Trade Practices Law and it would be a market conduct type exam.

SENATOR TAYLOR thought the Division of Insurance was to protect the public from outrageous gouging being done by the industry. To do that they would go through and review claims and the amount paid out in the form of claims, defense of claims and cost of handling claims would be a number and that would be how much money they took in from premiums. Then there would be how much money they paid out in claims. There would also be how much profit they made off of investing in a bull market like the last ten years. The Division of Insurance would look at that and would

say that is a reasonable new rate the insurance companies are applying for or it is not a reasonable rate. Apparently there is something else figured in there, which is some level of profit margin the division believes the insurance companies have to make.

He said they went through all that during the tort reform movement when he found out his personal insurance as an attorney on malpractice had gone up about three or four thousand percent. There had been no increase in claims in a five-year period. His insurance commissioners had approved all those increases. At that point he had lost faith in how much protection he was getting.

On this issue of credit as a factor in the process I'm concerned that we seemed to have drifted a long ways away from evaluating an appropriate level of premium based on claims. And now we seem to determine that an appropriate level of premium is based on a person's sex, their gender, based on their age, based on their marital status and now based on their credit report. None of which have anything to do with driving a car but have correlations statistically that may show that they're a greater risk or a smaller risk. Is that what we're turning into now is we're going to go to a system where you'll be pigeon holed and the amount you have to pay for insurance will depend upon what your credit is, how old you are, whether or not your married and whatever other things that they may want. Is that the kind of system we're moving into now?

MS. MCNAIR-GROVE responded:

I would say that we do look at exactly the kinds of things that you look at. And you heard discussion of loss ratios earlier and that is a relationship of how much you take in in premium compared to how much you pay out in losses. So we do look at those. We do not ignore those and look strictly at these models and various other things. That is part of the process and we try to be sure that that those match as closely as possible.

In terms of the other factors, we have been using them and they have - are what traditionally acceptable, should we say that, the gender and the age and sex those have been used for a long time. The credit report is a new one that's just added to the pot.

SENATOR TAYLOR asked the following questions.

When you said you were unable to get information about

credit reports and how they compile them whether they verified it was good information or not and so on, how do you know as a - as a insurance commissioner in this state, how do you know that they are not utilizing any other aspect in determining whether or not to either sell a policy or not to sell one or what rate or what pigeon hole to put someone in? How do I know that the insurance industry isn't racially profiling. How did I know that they're not using religion? How do I know they're not using sexual preference as a guide? How would I be assured of that?

MS. MCNAIR-GROVE said they review the filings in which the insurance company tells them the criteria they are going to use. The insurance company must then follow the filing as filed with the division. As the division approves the filing if there are questions or consumer complaints saying the company is not doing the right thing then the division has a market conduct process. They actually go out and review what the companies are doing and see if they are doing what was approved for them to do.

SENATOR TAYLOR asked if they sent somebody out that actually pretended they were a buyer and went to an agent and sat down with them or do they just go out and audit.

MS. MCNAIR-GROVE said probably more of an audit process. We audit their claim files and look at various pieces of information.

SENATOR TAYLOR said he was very concerned about identity theft. The legislature may need to address that if it is a factor and component. He said he passed a bill that made it a more serious offense. He had not realized how that information might be misused and abused by people within the insurance industry. He wanted to talk with Ms. McNair-Grove about that at another time.

SENATOR TAYLOR said each of his children decided to live with someone for a couple of years before they were married. During the period of time when they were living with someone they would have been classed as single and paid a higher rate. He asked if the Division of Insurance approved that.

MS. MCNAIR-GROVE said it was possible. Whether they paid a higher rate could depend upon the definition of marital in their company's filing. If a company would choose to say a long relationship would fall under the marital category and provide a statistic that showed they would have the same characteristics as someone who is married the Division of Insurance could approve that. It would be the company's choice as to whether or not they would want to do that.

SENATOR TAYLOR asked if those people who choose not to marry but

live together for a lengthy period of time are paying a single rate and the Division of Insurance approved that as a factor the insurance company could use.

MS. MCNAIR-GROVE answered yes.

SENATE TAYLOR said the division does not ask the insurance company to do these things. They wait for the companies to come in and volunteer.

MS. MCNAIR-GROVE said it was the companies' responsibility to make rate filings and set the rating plan.

SENATOR ELTON said it is important to note that a credit report is different than a credit score. It is relatively easy for a consumer to have access to their credit report and make corrections but they don't know how those corrections affect a credit score. The credit score is a proprietary tool used by the insurance companies and they don't tell the Division of Insurance what that formula is. He asked if that was correct.

MS. MCNAIR-GROVE response was inaudible.

MS. ELIZABETH MOCERI, Regional Counsel, Allstate Insurance Company, testified in opposition to SB 320. She said she was there to talk about the benefits of credit scoring and why Allstate Insurance Company uses credit scoring. She said they had heard a lot of negatives.

MS. MOCERI said their goal is to use credit scoring in rating in Alaska. With credit scoring, Allstate will provide lower prices, lower rates and accept more policyholders into their market. They currently use credit scoring in underwriting in Alaska. Credit information is predictive of loss history and it's very accurate. They saw a predictive correlation between credit scoring information and future loss.

**TAPE 02-12, SIDE A**

MS. MOCERI said Allstate was one of the companies that withdrew their filing as Ms. McNair-Grove had indicated. They withdrew not because they did not want to share their algorithms with the Division of Insurance but because they could not guarantee its confidentiality. They are still working with the Division of Insurance and would like to have some requirement that their algorithms would be confidential so the Division of Insurance could review it.

In our states that we do use credit scoring in rating our policy prices are, our rates, are very competitive. In the states of Washington and Idaho and Oregon our

agents are - have increased their productivity, their writing more insurance policy and offering very competitive rates. And, for example, you mentioned Idaho. We recently, an Allstate agent testified in support of credit scoring at the Idaho Senate hearing and she gave examples, she's marketing to Lithuanian and Russian and Hispanic immigrants. This group of policyholders has credit and are receiving - receiving our best rates. And she feels that she's being very competitive with State Farm and Progressive and the other carriers.

MS. MOCERI said two Allstate agents testified in Washington State in support of credit scoring. They gave examples where using credit scoring allowed janitors and some medical care professionals to receive the best rate while other medical professionals did not receive their most favorable tier. She said those were examples that you can't tell a book by its cover. There had been evidence where some people were being disadvantaged by credit scoring but with Allstate 70% of policyholders benefit by credit scoring. Allstate gave a very good discount with credit scoring and was able to give that discount because of the confidence they have. Not allowing credit scoring would deprive the majority of policyholders of having this discount.

CHAIRMAN COWDERY asked if in her opinion the majority of people, if they understood credit scoring, would approve of it.

MS. MOCERI said she did. She thought the industry had done a terrible job explaining the use of credit scoring. It is a very emotional issue and the assumption is that it is negative. Their scoring model looks at positives and negatives but it is a holistic approach.

She said they were not going to show the committee the algorithm because it is proprietary and makes them more competitive. She said it was not that she didn't want Chairman Cowdery to see it, she did not want State Farm and Progressive to see it because she is able to offer a lower rate because of its predictive value. It is more predictive than tickets.

MS. MOCERI said she wanted to talk about Hawaii. She said Hawaii is a great place to visit but it is a terrible place to emulate on legislation. The insurance commissioner asked all the carriers to voluntarily cease using credit in underwriting and they did. Allstate agents' production is down 12% because they had to tighten other underwriting guidelines. If someone has a ticket in Hawaii they cannot get insurance with Allstate for three years. That is what would happen in Alaska. Allstate would have to turn more people away and they want to bring in more people.

SENATOR WARD said Hawaii doesn't allow weighing rates by bad credit so Allstate's rates have gone up. He asked if that was correct.

MS. MOCERI said their rates have not gone up but they are turning people away. It is an availability issue.

SENATOR WARD said Mr. Harrold had said because of an initiative they can no longer use credit in California. He asked if Allstate's rates had gone up in California since that proposition passed.

MS. MOCERI believed they were filing for rate increases in California.

SENATOR WARD asked if it had gone up.

MS. MOCERI said Allstate Insurance Company had filed for rate increases in California.

SENATOR WARD asked if that was because of not being able to have credit weighed into rates.

MS. MOCERI said she could not speak to California. She said she was not familiar with the laws. She knew California was a very unique and complicated situation. Because each state has different guidelines and different requirements and there are 56,000 insurance regulations, it is very difficult to compare states.

SENATOR WARD asked what percentage of people in Hawaii applying for insurance are being denied since they did away with credit scoring.

MS. MOCERI said it was too early to tell. She thought the carriers would have to tighten down the underwriting guidelines. Credit is a very valid and predictive tool. When they are deprived from using that tool they have to use other less reliable tools. Hawaii is a very unique state and has a unique take all comers history. Several years ago Hawaii had tort reform. She said she only remarked on Hawaii because the Senator talked about it. Hawaii had a mandatory roll back of rates. It was not voluntary by the carriers it was required by law. She said there were other reasons why rates went down.

CHAIRMAN COWDERY reiterated there were about 25 other states currently considering banning the use of credit scoring. In Hawaii they have had about 15 years of this practice and the premiums are currently some of the lowest rates in the states.

Hawaii not only banned credit they banned almost everything else to use in rating. He asked if that was correct.

MS. MOCERI said they were also considering a law that would not allow certain traffic tickets to be reported to insurance companies.

SENATOR ELTON said he could understand the witness's aversion to talking about Hawaii. He asked if Allstate had lost any judgments in Hawaii in the last two years. He asked if they had lost a judgment where a court affirmed and ordered them to cease using a person's length of driving experience in premium calculations.

MS. MOCERI said they do not comment on pending litigation. There is pending litigation regarding the use of credit in underwriting in the State of Hawaii.

SENATOR ELTON said the information he had was that they had lost. A judge had ruled against Allstate.

MS. MOCERI said there was a pending case with the Hawaii Supreme Court.

SENATOR ELTON asked if a judge had also ruled that Allstate had violated Hawaii's provision that prohibits the use of credit rating in setting premiums.

MS. MOCERI said there was a pending case in the Hawaii Supreme Court of Allstate vs. Metcalfe. They do have pending litigation.

SENATOR ELTON said he could understand her aversion of talking about Hawaii because it seemed her company might have a few problems there.

CHAIRMAN COWDERY said in defense of Allstate he had been with Allstate for 40 years or more. He has a good agent, is satisfied with him and receives good rates.

He said his daughter is 47 years old and in the last ten years she had driven 187,000 miles in her pickup truck. She recently got insurance through Progressive and he believed her premium was set at \$2400 or \$2700. He thought that was ridiculous so she cancelled her policy and he asked his agent to put her on his policy, which cost approximately \$700.

MS. MOCERI said the distinction there is again using credit in the underwriting side and the rating side. Allstate would like to resubmit their filing with the state if their algorithm would be confidential. Under that scenario they have a rate for everyone. Allstate has a rate for people who don't have a credit history. In their algorithm people with bankruptcies in their past record

still are eligible for some of their best rates. Seventy percent of people are getting a credit discount. When they ban credit they are banning the ability to give that discount to those people. Those are people that do not cause losses. Credit is predictive of losses. The people who benefit from banning it are the people who cause the majority of the losses.

CHAIRMAN COWDERY said his daughter is a single parent and owns a home worth \$180,000 to \$200,000. She doesn't owe money on her home and is current on her credit cards and her insurance rate was a total shock. He couldn't understand the differential between that rate and adding her to his policy.

SENATOR TAYLOR said Chairman Cowdery's daughter had some credit problems and it was the credit problems that Progressive was using to figure out her rate. That is why her policy rate was almost \$2000 higher. He said that was the concern he had. He stated:

I love the positive approach you know. It's you really want to do this because if we get to credit rate people we'll gouge the heck out of the guy with the bad credit rating but we're going then to be able to give 70% of the people a discount off of that. Because on the other side of your coin you just said 70%. The other 30% are paying through the nose aren't they?

MS. MOCERI said the 30% that are paying through the nose as Senator Taylor coined it are the people who are causing the losses.

SENATOR TAYLOR said she had no evidence of causation. He said she had a whole lot of evidence and a lot of computer runs that statistically show there is a correlation. He said she didn't have anything on causation.

MS. MOCERI said in states where they use credit scoring they know by tiers who causes losses. "The people with the least favorable, in our least favorable tier do cause in homeowner's rates 100% of the losses are caused by the least favorable tier." They see a very strong correlation and the information they received was information based on their own studies. She thought the people who benefit if they ban credit scoring are people who cause the claims. They are trying to predict for the future. They are trying to look at how they can be competitive. The insurance market is a very competitive environment. Allstate wants to provide the most competitive price.

SENATOR TAYLOR said the only way they can pass on any savings to anyone is if they get more money from the other people. He said her numbers are 70%/30%. Mr. Harrold's numbers were around 50%

getting a benefit of \$180 by using this system. He thought Mr. Harrold had agreed that 9% of the people would see a \$900 increase in their premium all based on the correlation between credit rating, not the causation, the correlation. He said Ms. Mocerri wanted to keep using those terms interchangeably and they certainly are not interchangeable either through statistics or through the rating schedules and systems they are working under.

SENATOR TAYLOR was reminded of an old establishment in Anchorage and it operated on the basis: "We cheat the other guy and pass the savings on to you." He thought that was happening. They are going to define who the higher risk is through this obtuse thing called credit rating and then they are going to make certain that group will pay enough money so Allstate can become "more competitive in the market and be excited about having 12% more sales." They can charge less than the other company that probably isn't invading somebody's privacy to get their credit rating but is charging rates based upon other factors. He said he didn't think the law went far enough and suggested they amend it and eliminate age, gender, marital status and length of driving experience just like Hawaii did and maybe they will have as low of premiums as Hawaii.

SENATOR ELTON said he should have checked to see who his auto insurer was before the hearing. He was pleased to hear Ms. Mocerri believed if allowed to use credit scoring Allstate anticipated the net effect would be directly opposite the experience of Progressive where rates went up 19%. Allstate would expect rates to drop below what they are charging now.

MS. MOCERRI said under their rating plan they are able to offer very competitive rates because they are able to predict how that group will perform in the future. Because of their confidence in that prediction, they are able to offer a very competitive rate.

SENATOR ELTON said he understood the competitive nature of their formulas. He asked if it was true that a lot of insurance companies just buy a formula from Fair, Isaac Company and there is no competitive advantage because they are using the same formula.

MS. MOCERRI said some companies do use a company like Fair, Isaac Company to do their own models and they run different models for different companies. Allstate has its own model and is big enough to do studies and research. They spent a lot of time looking at this issue because their competitors were doing it. If their competitors were doing it and it wasn't predictive then they would not use it. Allstate found from their studies it is predictive.

CHAIRMAN COWDERY asked who paid for their studies.

MS. MOCERI said they have a planning and research center.

CHAIRMAN COWDERY said the outcome is not influenced by who paid for the studies.

MS. MOCERI said they had a billion dollars in premiums from policyholders in the United States. They did a blind study and compared credit information against loss history. They saw a strong correlation.

Insurance looks at groups and how they perform as a group. It is fair discrimination. When they look at groups there is correlation. There always will be exceptions to the group just like an exception to a ticket. Not all 16 year old boys are bad drivers. They would think a 16 year old might be a good driver because they are young, have good eyesight and have better reflexes but they are worse drivers. They offer good student discounts and someone could argue that might be discriminatory but it is something they offer.

SENATOR ELTON moved CSSB 320 (TRA) from committee with attached fiscal note and individual recommendations. There being no objection, the motion carried.

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CHAIRMAN COWDERY explained the other part of this issue that involved collision insurance was introduced as SB 348 and would be heard the following week. He adjourned the meeting at 3:33 p.m.