

**ALASKA STATE LEGISLATURE**  
**SENATE LABOR AND COMMERCE STANDING COMMITTEE**

February 25, 2016

1:31 p.m.

**MEMBERS PRESENT**

Senator Mia Costello, Chair  
Senator Cathy Giessel, Vice Chair  
Senator Kevin Meyer  
Senator Gary Stevens

**MEMBERS ABSENT**

Senator Johnny Ellis

**COMMITTEE CALENDAR**

SENATE BILL NO. 72

"An Act relating to caregivers of patients after release or departure from a hospital; and providing for an effective date."

- MOVED CSSB 72(L&C) OUT OF COMMITTEE

SENATE BILL NO. 141

"An Act relating to possession of an electronic smoking device, e-liquid or e-liquid product, vapor product, or alternative tobacco product by a minor and to selling or giving an electronic smoking device, e-liquid or e-liquid product, vapor product, or alternative tobacco product to a minor."

- MOVED CSSB 141(L&C) OUT OF COMMITTEE

SENATE BILL NO. 127

"An Act relating to actions by insurers based on credit history or insurance score; and providing for an exception to consideration by an insurer of credit history or insurance score."

- HEARD & HELD

SENATE BILL NO. 149

"An Act relating to the dividends from the Alaska Industrial Development and Export Authority; relating to the meaning of 'mark-to-market fair value,' 'net income,' 'project or

development,' and 'unrestricted net income' for purposes of the Alaska Industrial Development and Export Authority; and providing for an effective date."

- HEARD & HELD

SENATE BILL NO. 152

"An Act relating to a money services business; relating to transmitting value that substitutes for money; relating to licensing requirements and registration through the Nationwide Multistate Licensing System and Registry; relating to surety bonding requirements; authorizing certain licensees to contract to use subdelegates for reloading funds onto stored-value cards; relating to record retention, reporting requirements, and enforcement provisions; relating to exemptions; relating to money services Internet activities; relating to definitions regarding the transmitting value, currency, and money transmission business activities; and providing for an effective date."

- BILL HEARING CANCELED

SENATE BILL NO. 118

"An Act relating to surveys required to be submitted to the Department of Natural Resources; relating to peer review by the State Board of Registration for Architects, Engineers, and Land Surveyors of required surveys submitted to the Department of Natural Resources; and providing for an effective date."

- BILL HEARING CANCELED

#### **PREVIOUS COMMITTEE ACTION**

BILL: SB 72

SHORT TITLE: DESIGNATED CAREGIVERS FOR PATIENTS

SPONSOR(s): SENATOR(s) GIESSEL

03/11/15	(S)	READ THE FIRST TIME - REFERRALS
03/11/15	(S)	HSS, L&C
04/10/15	(S)	HSS AT 1:30 PM BUTROVICH 205
04/10/15	(S)	Heard & Held
04/10/15	(S)	MINUTE(HSS)
02/01/16	(S)	HSS AT 1:30 PM BUTROVICH 205
02/01/16	(S)	Moved CSSB 72(HSS) Out of Committee
02/01/16	(S)	MINUTE(HSS)
02/03/16	(S)	HSS RPT CS 2DP 2NR NEW TITLE
02/03/16	(S)	DP: GIESSEL, STOLTZE

02/03/16 (S) NR: STEDMAN, ELLIS  
02/23/16 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)  
02/23/16 (S) Heard & Held  
02/23/16 (S) MINUTE(L&C)  
02/25/16 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 141

SHORT TITLE: E-CIGS: SALE TO AND POSSESSION BY MINOR  
SPONSOR(s): SENATOR(s) STEVENS

01/19/16 (S) READ THE FIRST TIME - REFERRALS  
01/19/16 (S) L&C, JUD  
02/04/16 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)  
02/04/16 (S) Heard & Held  
02/04/16 (S) MINUTE(L&C)  
02/18/16 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)  
02/18/16 (S) Heard & Held  
02/18/16 (S) MINUTE(L&C)  
02/25/16 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 127

SHORT TITLE: INSURER'S USE OF CREDIT HISTORY/SCORES  
SPONSOR(s): SENATOR(s) HUGGINS

01/19/16 (S) READ THE FIRST TIME - REFERRALS  
01/19/16 (S) STA, L&C  
02/11/16 (S) STA AT 9:00 AM BUTROVICH 205  
02/11/16 (S) Heard & Held  
02/11/16 (S) MINUTE(STA)  
02/16/16 (S) STA AT 9:00 AM BUTROVICH 205  
02/16/16 (S) Moved SB 127 Out of Committee  
02/16/16 (S) MINUTE(STA)  
02/17/16 (S) STA RPT 4DP 1AM  
02/17/16 (S) DP: STOLTZE, COGHILL, HUGGINS, MCGUIRE  
02/17/16 (S) AM: WIELECHOWSKI  
02/25/16 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 149

SHORT TITLE: AIDEA:DIVIDEND TO STATE;INCOME;VALUATION  
SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

01/21/16 (S) READ THE FIRST TIME - REFERRALS  
01/21/16 (S) L&C, FIN  
02/25/16 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

**WITNESS REGISTER**

JANE CONWAY, Staff  
Senator Cathy Giessel  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Provided an explanation of changes for SB 72.

TIM LAMKIN, Staff  
Senator Gary Stevens  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Provided a sectional analysis for the committee substitute for SB 141.

SENATOR CHARLIE HUGGINS  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Sponsor of SB 127.

LAUREN RASMUSSEN, Staff  
Senator Charlie Huggins  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Provided an overview of SB 127 on behalf of the sponsor.

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

**POSITION STATEMENT:** Answered questions related to SB 127.

KRISTIE BABCOCK, Agent  
State Farm Insurance  
Kenai, Alaska

**POSITION STATEMENT:** Testified in support of SB 127.

GARY STRANNIGAN  
Safeco and Liberty Mutual Insurance

**POSITION STATEMENT:** Testified in support of SB 127.

MARK CHOATE, representing himself  
Juneau, Alaska

**POSITION STATEMENT:** Testified on SB 127.

DANIEL LYNCH, representing himself  
Kenai, Alaska

**POSITION STATEMENT:** Testified in support of SB 127.

TIM MAUDSLEY, President  
Alaska USA Insurance Brokers  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of SB 127.

ARMAND FELICIANO  
Property Casualty Insurers Association of America  
California

**POSITION STATEMENT:** Testified in support of SB 127.

CINDA SMITH  
Geico Insurance Company  
Maryland

**POSITION STATEMENT:** Stated support for SB 127.

JEFFERY KINSEY  
State Farm Insurance  
Bloomington, Illinois

**POSITION STATEMENT:** Testified in support of SB 127.

GENE THERRIAULT, Policy Director  
Alaska Industrial Development and Export Authority (AIDEA)  
Anchorage, Alaska

**POSITION STATEMENT:** Introduced SB 149.

MICHAEL LAMB, Chief Financial Officer  
Alaska Industrial Development and Export Authority (AIDEA)  
Anchorage, Alaska

**POSITION STATEMENT:** Delivered a PowerPoint relating to SB 149.

#### **ACTION NARRATIVE**

[1:31:58 PM](#)

**CHAIR MIA COSTELLO** called the Senate Labor and Commerce Standing Committee meeting to order at 1:31 p.m. Present at the call to order were Senators Giessel, Stevens, and Chair Costello. Senator Meyer arrived during the introductory remarks.

#### **SB 72-DESIGNATED CAREGIVERS FOR PATIENTS**

[1:32:32 PM](#)

**CHAIR COSTELLO** announced the consideration of SB 72. She noted that public testimony was closed on 2/23/16, and asked for a motion to adopt the work draft committee substitute (CS).

[1:32:53 PM](#)

SENATOR GIESSEL moved to adopt the work draft CS for SB 72, labeled 29-LS0047\L, as the working document.

[1:33:07 PM](#)

CHAIR COSTELLO objected for an explanation.

[1:33:24 PM](#)

JANE CONWAY, Staff, Senator Cathy Giessel, said these changes were made working in conjunction with the Alaska Nurses Association and the Alaska State Hospital and Nursing Home Association (ASHNHA). She read from the following prepared explanations of changes: [Original punctuation provided.]

1. Deletes the word "lay" in these places:

**Page 1, line 8, 11, 14**

**Page 2, line 1, 3, 7, 18**

Explanation: Eliminates use of term "lay caregiver" as a defined term (which we've deleting from the definitions) and uses the term we're using which is "designated caregiver."

2. On page 1, line 9:

**Delete "in the patient's home"**

**Insert "in a private residence"**

Explanation: Patients may not always receive aftercare in their home, but perhaps in a sibling's or child's home.

3. On page 2, lines 8-9:

**After "patient", delete ".",**

**insert "," and the following new language:**

**"including professional follow-up as specified in the discharge plan."**

Explanation: The purpose of the addition is to explicitly acknowledge that often follow up will be required by the patient's primary care provider or a specialized care provider.

4. Page 2, line 29 deletes "an instruction contractor" and adds

" a person who contracts with the hospital to provide instruction to a designated caregiver"

5. Page 3, line 7 deletes "individual" and inserts "patient"

6. On page 3, line 16 deletes the word "lay" and adds "in a private residence" after the word "patient"

Explanation: This clarifies that the caregiving will not be occurring in a healthcare facility.

7. Page 3, line 22-24 Adds the definition of "private residence":

"private residence does not include a rehabilitative facility, a hospital, a nursing home, an assisted living facility, a group home or another licensed health care facility."

8. On page 3, lines 20-21 of version F  
Delete the definition of "lay caregiver"

Explanation: Keeping this in as a definition is confusing and redundant with definition of "designated lay caregiver" in this same section. There's no need to define the term.

[1:37:32 PM](#)

SENATOR STEVENS asked if the bill defines the training the hospital will provide to caregivers.

MS. CONWAY replied there was a specific list initially, but this version directs hospitals to write their own policies using best practice methods. This gives hospitals more latitude to write their policies and provide training that is pertinent to a patient's particular needs.

SENATOR STEVENS said he'd like more specific direction regarding what the hospital is being asked to do.

SENATOR GIESSEL said the Centers for Medicaid and Medicare Services already have checklists that hospitals use for discharge planning so the very specific list in the initial bill raised concern. Most hospitals already provide discharge training and this bill is intended to ensure that all hospitals do that.

[1:40:01 PM](#)

CHAIR COSTELLO removed her objection and version L was before the committee. Finding no further questions, she solicited a motion.

[1:40:12 PM](#)

SENATOR GIESSEL moved to report the CS for SB 72, labeled 29-LS0047\L, from committee with individual recommendations and attached fiscal note(s).

[1:40:25 PM](#)

CHAIR COSTELLO announced that without objection, CSSB 72(L&C) is reported from the Senate Labor and Commerce Standing Committee.

[1:40:28 PM](#)

At ease

**SB 141-E-CIGS: SALE TO AND POSSESSION BY MINOR**

[1:41:42 PM](#)

CHAIR COSTELLO reconvened the meeting and announced the consideration of SB 141. She noted that public testimony was closed on 2/18/16, and asked for a motion to adopt the work draft committee substitute (CS).

[1:42:07 PM](#)

SENATOR GIESSEL moved to adopt the work draft CS for SB 141, labeled 29-LS1258\P, as the working document.

CHAIR COSTELLO objected for discussion purposes.

[1:42:38 PM](#)

TIM LAMKIN, Staff, Senator Gary Stevens, Alaska State Legislature, sponsor of SB 141, reminded the committee that this bill is about protecting Alaska's youth and it treats e-cigarettes and all their components the same as tobacco. Similar to tobacco, vendors would be required to get a business license endorsement to sell electronic smoking products of any kind. The requirements relating to vending machines, signage, and penalties for violating the statutes also would be the same as for tobacco. The definition for electronic smoking product is consolidated to keep any loophole from being exploited regarding what these products really are.

He displayed a short video to illustrate the possible dangers of these products.

MR. LAMKIN provided the following sectional analysis for version P:

Section 1: AS 11.76.105(a) Adds to existing law that, as with prohibiting minors from possessing cigarettes or tobacco, to also prohibit possession of electronic cigarettes and any component thereof.

Section 2: AS 11.76.107(a) Adds to existing law that, as with tobacco product vending machines, vending machines dispensing electronic cigarette or nicotine products must also be supervised.

Section 3: AS 11.76.109(a) Adds to existing law that a minor may not sell tobacco or nicotine products, nor sell electronic cigarettes, or any related component thereof.

Section 4: AS 11.76.109(b) Provides an exception for persons to sell or give E-cigarettes to a minor, provided the minor is using an e-cigarette for an approved medical purpose, such as smoking cessation, and is provided by a parent or prescribed by a doctor.

Section 5: AS 11.76.109(f) adds a new subsection that is consistent with existing law regarding placement of vending machines dispensing tobacco products; that the same requirements are applied to vending machines dispensing E-cigarette or nicotine products.

Section 6: AS 11.81.900(b) Makes new definition for "electronic smoking product," summarized as follows:  
(67) a device designed to aerosolize and inhale nicotine, a synthetic of nicotine, or other a potentially hazardous substance that "may have an adverse effect" on the person inhaling it.

Section 7: AS 43.50.105(b) is amended for conformity, changing "tobacco" endorsement to "business license" endorsement, for purposes of shipping or transport of cigarettes. It also sets up conformity for the following Section 8 of the bill, relating to a required business license endorsement for selling E-cigarette or nicotine products.

Section 8: AS 43.70.075(a) amends existing law requiring a special business license endorsement in order to lawfully sell tobacco products, by including the same licensing requirements for lawfully selling E-cigarette or nicotine products.

Section 9: AS 43.70.075(d) amends existing law relating to selling tobacco to minors, by adding the same penalty provisions, including graduated fines, for selling E-cigarette or nicotine products to minors.

Section 10: AS 43.70.075(f) amends existing law requiring signage when selling tobacco products, to also require signage for selling E-cigarette or nicotine products. The signage must read "The sale of electronic smoking products or products containing nicotine to a person under the age of 19 without a prescription is illegal."

Section 11: AS 43.70.07(i) amends existing enforcement provisions that, as with tobacco sales, to allow the State to seize a vendors' business license endorsement and E-cigarette or nicotine products in the event of such products being sold to minors.

Section 12: AS 43.70.075(l) is amended for conformity that, as with tobacco sales, to allow one business license endorsement to serve as an umbrella if a vendor has multiple locations they are selling E-cigarette or nicotine products, and to shut down only the offending vending machine or outlet location in the event of a violation.

Sections 13 through Sections 18: AS 43.70.075(m), (r), (t), (v), (w), and (x) are amended for conformity that, as with tobacco sales, to allow an evidentiary and administrative hearing, appeal process, and penalties in the event of violations of these statutes, involving the sale of E-cigarette or nicotine products to minors.

Section 19: AS 43.70.075(y) is added for consistency, linking the definitions of "electronic smoking products," and distinguishing between traditional cigarette (tobacco) products and other modern nicotine alternatives.

Section 20: AS 43.70.105(b) is amended for conformity that, as with tobacco products, a vendor must have the appropriate business license endorsement in order to lawfully sell E-cigarette or nicotine products.

Section 21: AS 44.29.092 is amended for conformity that, as with tobacco sales, providing the Dept. of Health and Social Services the authority to issue citations for violating state law regarding minors buying, selling or possessing E-cigarette or nicotine products.

Section 22: Is the applicability and effective date, applying to offenses committed only after the effective date of the bill, which would be 90 days after the bill is enacted.

CHAIR COSTELLO noted the individuals available to answer questions.

[1:53:29 PM](#)

CHAIR COSTELLO removed her objection and version P was before the committee.

[1:53:37 PM](#)

SENATOR GIESSEL moved to report the CS for SB 141, labeled 29-LS1258\P, from committee with individual recommendations and attached fiscal note(s).

[1:53:52 PM](#)

CHAIR COSTELLO announced that without objection, CSSB 141(L&C) is reported from the Senate Labor and Commerce Standing Committee.

[1:53:55 PM](#)

At ease

### **SB 127-INSURER'S USE OF CREDIT HISTORY/SCORES**

[1:55:25 PM](#)

CHAIR COSTELLO reconvened the meeting and announced the consideration of SB 127. She noted this is the first hearing.

[1:56:00 PM](#)

SENATOR CHARLIE HUGGINS, Alaska State Legislature sponsor of SB 127, said the bill relates to renewing insurance for an auto or

home mortgage. He explained that Alaska is the only state that allows credit scoring to be used when the initial insurance policy is written, but not upon renewal. SB 127 very simply allows credit scoring to be used on renewal, which is more convenient for the policyholder.

[1:57:50 PM](#)

LAUREN RASMUSSEN, Staff, Senator Charlie Huggins, provided an overview of SB 127 on behalf of the sponsor, speaking to the following sponsor statement.

When Alaskans apply for personal auto and homeowners insurance, there are several variables of which companies take into consideration to assess risk. Factors such as motor vehicle record, good student discount, marital status, age, and credit history are allowable by statute; however, when an Alaskan consumer considers renewing a policy with the same company, the business is not allowed to use credit history. Under current law, insurers must strip out credit information after two years and may only include it with request from the policy holder.

By not being able to include credit when it benefits consumers, increases in renewal rates can often be significant, causing unnecessary market disruption and consumer complaints. This occurrence leads consumers to seek new insurance companies which means they may not secure the benefits of being a long-term policy holder. Senate Bill 127 would allow for insurance companies to include credit history at the time of policy renewal.

The passage of Senate Bill 127 would also require insurers to make exceptions to a consumer's rate when the consumer's credit is unfavorably impacted by extraordinary life circumstances. This applies to the time of policy inception and policy renewal. An extraordinary life circumstance clause is a safeguard for consumers. Unforeseen circumstances include incidents such as death of an immediate family member, military deployment, suffering a catastrophic event, and divorce.

[2:01:13 PM](#)

LORI WING-HEIER, Director, Division of Insurance, Department of Commerce, Community and Economic Development (DCCED), Anchorage,

Alaska, described credit scoring as an emotional topic and said this bill is written to be neutral and that is the administration's position on it.

She confirmed that Alaska is the only state that removes the use of credit scoring to effect a discount or lower insurance rate upon renewal. A policyholder can, however, receive a discount by applying for one through their insurance agent or company representative. Because some people may suffer from the use of credit scoring, the bill is written so that it cannot impact someone who might have a lesser credit score than as if credit scoring were not used at all. She noted that provision was added when the bill was redrafted last year.

MS. WING-HEIER reported that the division receives complaints from consumers whose renewed homeowner or auto policy had increased as much as 70 percent. Their option is to find a new agent or broker. The consumer got into this situation because they either didn't understand that for renewals credit scoring is not automatically allowed in the underwriting practice or they didn't agree with the use of credit scoring and didn't complete the form.

She clarified that credit scoring is not based on income, but how the consumer uses credit and how timely they pay their bills. She said there is a statistical correlation between a credit score and the number of claims a person is likely to have, and that provides an underwriting guideline.

SENATOR GIESSEL asked if a consumer could pay the higher premium one year and sign the form to use credit scoring for the next renewal.

MS. WING-HEIER said the consumer would probably be better off looking for a new insurance company to get started back on using a credit score in their portfolio.

[2:06:01 PM](#)

CHAIR COSTELLO opened public testimony.

[2:06:10 PM](#)

KRISTIE BABCOCK, State Farm Agent, Kenai, Alaska, testified in support of SB 127. She described the impact of the current law on her customers and why SB 127 offers a solution. Current law allows the agent to use certain credit components in the original rate, but after two years those characteristics are stripped out. The result is a significant increase in the

premium unless the agent is able to get the policyholder's written permission to use their credit. If the customer doesn't sign the form in time for the annual renewal, existing law prohibits the use of credit for subsequent renewals on that policy. She shared the experiences of several customers that are all paying more than they should.

SB 127 will alleviate the dramatic swing in rates; eliminate the frustration and cumbersome process of getting a manual waiver signed at each renewal; and allow consumers to shop with confidence, knowing that there is stability in the rating factors.

[2:11:40 PM](#)

SENATOR STEVENS asked how someone is affected if their credit rate fluctuates.

MS. BABCOCK explained that the policy will be written based on the consumer's credit at the time. If their credit has improved when the policy is due for renewal they may see a better premium. If their credit doesn't improve or worsens, they may want to do more shopping.

[2:12:52 PM](#)

GARY STRANNIGAN, Safeco and Liberty Mutual Insurance, testified in support of SB 127. He shared Safeco's experience conforming to the current statute. He related that the cost to program software to comply with the current statute was \$1.25 million. That becomes a barrier to entry in the broader marketplace given the size of the market.

[2:14:32 PM](#)

MARK CHOATE, representing himself, Juneau, Alaska, testified on SB 127. He questioned why credit scoring should be used for something that is mandatory. He further questioned why, after two years of proven use, the policyholder's credit score has anything to do with the risk the insurance company is taking in terms of their driving or maintaining their home.

He claimed that the insurance companies are creating a false paradigm to create the situation. They factor in credit scores on buying the policies and then pull that out of the algorithm for renewal, but they don't consider anything else. What they should do is reweight other factors, he said.

He suggested the Division of Insurance should look at the algorithm because there's no reason that two years of driving history shouldn't be the basis for calculating the premium.

[2:18:24 PM](#)

DANIEL LYNCH, representing himself, Kenai, Alaska, testified in support of SB 127. He is completely opposed to using credit scores to determine insurance rates at any time. He shared his personal story of having no credit score. Through choice he has had no credit cards or loans for 40 years. He maintains his old vehicle and is a good driver, yet his auto rates go up every renewal. He urged the committee to go old school and base insurance rates on driving history, vehicle value, and distance driven, not a credit rating.

[2:21:25 PM](#)

TIM MAUDSLEY, President, Alaska USA Insurance Brokers, Anchorage, Alaska, testified in support of SB 127. He said the change embodied in SB 127 will provide consumers with a fair and accurate rate on insurance renewals and eliminate the confusion due to policy cancellations and the burden of changing carriers to maintain insurance and rate discounts. He opined that this legislation will likely open the door for more insurance carriers to come to Alaska. This means lower premiums for consumers.

[2:23:20 PM](#)

ARMAND FELICIANO, Property Casualty Insurers Association of America, California, testified in support of SB 127. This legislation will allow consumers to receive the full benefit of credit scoring. He suggested the committee look at what has happened in Arkansas since it started allowing credit scoring. Over 40 percent of policyholders have seen their premiums decrease. The number of policyholders that have seen their premiums increase has held steady at about 14 percent. A good number of policyholders have been unaffected since 2011.

[2:24:54 PM](#)

CINDA SMITH, Geico, Maryland, echoed previous testimony and stated support for SB 127.

[2:25:44 PM](#)

JEFFERY KINSEY, State Farm Insurance, Bloomington, Illinois, testified in support of SB 127. He said State Farm insures 1 in 4 autos in Alaska and 1 in 3 homes. He leads a team of predictive modelers that develop insurance risk scores using credit-related information. Their analysis and other studies

show that certain credit-related variables are highly predictive of future insurance losses. Using this information benefits consumers but neither adds to nor reduces an insurer's profit. Because it is such a proven effective tool, credit information is allowed in 47 states including Alaska.

He clarified that the credit information that insurance companies use is not a FICO score. Those were developed to estimate a person's ability to repay debt. An insurance risk score uses credit related variables that have been shown to be predictive of future insurance losses. He further clarified that current Alaska law requires all insurance companies to consider the absence of credit history as rate neutral.

MR. KINSEY said many low-income policyholders benefit from the use of credit-related information initially, but based on current Alaska law they are not allowed to continue to enjoy those benefits after two years with a company. Approximately 60 percent of State Farm personal auto and homeowners policyholders entering their third year of coverage would receive a rate increase if their credit information is stripped out at renewal.

State Farm supports SB 127 because it will lead to a healthier insurance market and increase the affordability of insurance for Alaskans, he said.

[2:29:12 PM](#)

CHAIR COSTELLO asked if he heard Mr. Lynch's testimony.

MR. KINSEY said yes.

CHAIR COSTELLO asked if current law allows the absence of credit history to be considered rate neutral.

MR. KINSEY said that's correct; existing law requires insurers to treat the lack of credit history as rate neutral.

CHAIR COSTELLO asked for clarification that a person's credit is considered when the initial policy is written, but upon renewal it's absent from the analysis.

MR. KINSEY confirmed that without the waiver, insurance companies are required to strip out any credit variables that were used as new business. He recalled that requirement was the result of a court case.

SENATOR STEVENS asked for help understanding risk and credit score in the context of insurance.

MR. KINSEY explained that a credit score is oftentimes geared toward banking and whether or not an individual will repay debt, whereas an insurance risk score is geared toward insurance and the likelihood an individual will file a future claim.

CHAIR COSTELLO asked him to put that into an email and send it to her office.

MR. KINSEY agreed.

SENATOR STEVENS asked if he's saying that a poor credit rating is predictive of a future insurance claim.

MR. KINSEY said the credit score itself isn't predictive of future losses, but individual elements from a credit report are predictive of future losses.

SENATOR STEVENS asked what elements are predictive of future losses.

MR. KINSEY said they vary by company but generally fall into four broad categories: performance on credit obligations, credit seeking behavior, consumer's use of credit such as outstanding balance to available credit, and length of the credit history.

[2:34:47 PM](#)

At ease

[2:35:22 PM](#)

CHAIR COSTELLO reconvened the meeting and asked Ms. Wing-Heier if she had any comment on the testimony today.

MS. WING-HEIER said the comments have all been valid including those from Mr. Lynch.

SENATOR MEYER asked if it matters to the division that the bill has no effective date. He would prefer it became effective immediately.

MS. WING-HEIER said it makes no difference to the division.

SENATOR MEYER asked about the process for an insurance company to consider a consumer's extraordinary life circumstances.

MS. WING-HEIER said the onus would be on the consumer to explain to the insurer why their credit score was impacted.

[2:38:25 PM](#)

SENATOR MEYER asked if this covers more than auto and home insurance policies. He mentioned his wife's lost diamond ring.

MS. WING-HEIER replied this is for all personal lines, not commercial. It would be auto, home, and could extend to watercraft, equipment, artwork, the loss described, and umbrellas.

SENATOR MEYER asked about discrimination. He noted that his insurance increased when his daughter started driving.

MS. WING-HEIER said insurers are not allowed to discriminate and their research has found it has not been a factor in credit scoring.

[2:40:36 PM](#)

CHAIR COSTELLO closed public testimony and held SB 127 in committee.

**SB 149-AIDEA: DIVIDEND TO STATE;INCOME;VALUATION**

[2:40:56 PM](#)

CHAIR COSTELLO announced the consideration of SB 149. She noted that this is the first hearing.

[2:41:32 PM](#)

GENE THERRIAULT, Policy Director, Alaska Industrial Development and Export Authority (AIDEA), introduced himself.

[2:41:51 PM](#)

At ease

[2:42:26 PM](#)

CHAIR COSTELLO reconvened the meeting.

MR. THERRIAULT directed attention to the word "excluding" on page 2, lines 3 and 21, of the bill to help explain the presentation. The exclusions were added by the legislature in recognition that certain things needed to be excluded from the determination of available net income in order to calculate the dividend AIDEA pays the state. Some new accounting rules are becoming problematic and AIDEA would like the legislature to consider adding things to the exclusion. He said Mr. Lamb will

have examples of the new rules, the impact they are having on the dividend, and the proposed solution.

He said the PowerPoint would cover the dividend: history (which he just summarized), goal, statutory language, and two accounting problems they are working to solve.

He displayed a chart showing the AIDEA dividends that have been paid starting in FY1997 since AIDEA was capitalized with a little more than \$300 million. Since then, AIDEA has repaid just under \$380 million. The bill is intended to bring a little more predictability to that income stream going forward. He turned the discussion over to Mr. Lamb.

[2:46:33 PM](#)

MICHAEL LAMB, Chief Financial Officer, Alaska Industrial Development and Export Authority (AIDEA), explained that the state receives an annual dividend based on AIDEA's operations and SB 149 seeks to make that dividend more stable and predictable. This has become an issue because accounting rules have changed since the statute was written. This matters because the dividend is based on the statutorily defined net income which is based on the financial audit. As the audit numbers change, the statutory net income number changes which changes the dividend.

Three types of transactions affect the financial statements that affect the dividend. The first type are entries from "real transactions" that occurred. Examples are booking what was paid for an asset, revenue that is generated, payroll that is paid, taxes paid, and what cash was received and why. There isn't a problem with this type of transactions.

The second type of transactions are entries from "estimates and allocations." Examples are booking depreciation and amortization expenses which recognizes and records that an asset used up some of its estimated useful life over the period of operations. There isn't a problem with this type of transactions.

The third type of transactions are entries from "market value adjustments." These are entries related to transactions that did not happen, but the statute requires them to be recorded for the audit as though they did occur. [The statute requires compliance with GASB (Generally Accepted Auditing Standards) and GAAP (Generally Accepted Auditing Principles).] He clarified that market value adjustments have a purpose for an audit or to read a financial statement, but it's a policy decision as to whether

they should be used to compute the dividend or excluded like other things.

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MR. LAMB summarized the pertinent language in the existing Sec. 44.88.088 relating to the payment of the dividend:

The authority shall adopt a policy for payment of a dividend to the state each year. The amount of which may not be less than 25 percent nor more than 50 percent of the net income for the base fiscal year. The meaning of "net income" is the change in net position, or the equivalent term under GAAP as set out in the audited financial statements of the authority for the base fiscal year, excluding amounts attributable to intergovernmental transfers, capital contributions, grants, or impairment losses on development projects financed under AS 44.88.172.

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CHAIR COSTELLO asked why "market value adjustment" doesn't appear in the bill.

MR. LAMB replied it's part of the proposed new language.

He displayed a chart to illustrate how the dividend is calculated. It is based on the statutorily defined "net income," which comes from the audited financial statements that the board approves. Those board-approved audited statements must include applicable "market value" and/or "write-down/loss" entries. GAAP requires those entries and that all applicable GASB statements are implemented.

SB 149 would modify the existing excluded language such that "net income" would not include any market value adjustments and/or state or federal write-down activity when calculating the dividend.

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CHAIR COSTELLO asked how the dividend would have been affected if this change had been in statute in previous years.

MR. LAMB said he would point that out later in the presentation.

MR. THERRIAULT clarified that AIDEA will continue to follow all GAAP and GASB rules to get the audited financial statement.

AIEDA is asking the legislature to back out market value adjustments only for the purpose of calculating the dividend.

MR. LAMB added that the question is whether or not the components that now make up the audit are appropriate for the calculation of the dividend.

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MR. LAMB restated the problems that arises when market value adjustments are factored into calculating the dividend. Entries that did not happen are booked as though they did. This causes AIDEA's net income to swing, which also causes the dividend to the state to swing. When the swings are material it makes a material difference in the size of the dividend. It's a problem for AIDEA when it has to pay a dividend based on cash it hasn't actually earned, and a problem for the state when AIDEA pays a dividend based on unrealized losses, not the cash it earned.

He drew an analogy to an individual taxpayer who has to use market value adjustments in their tax return. The individual had W-2 earnings of \$100,000, interest and dividend income of \$7,500, and a permanent fund dividend of \$1,500 for total income of \$109,000. If the taxpayer's income calculation had to include hypothetical unrealized GASB 31, 68, 72, and 75 market value adjustments, the total income would be \$169,000. That figure presumes the taxpayer sold the assets when in fact he did not. He noted that while the analogy shows more income than was actually earned, it could just as easily go the other direction.

MR. LAMB displayed a chart showing 25 years of AIDEA's audited net income pre-GASB 31 market value adjusting entries. He noted that the year-to-year changes are not large. The next chart superimposes net income calculations after GASB 31 mark-to-market adjustments started in 1997. Including unrealized revenues and losses results in dramatic swings in net income from year to year. This causes the dividend to swing just as dramatically. He pointed to the number of times that AIEDA has paid a dividend based on unrealized income. For example, in 2010 the dividend was based on nearly \$20 million in unrealized income. Assuming a 50 percent dividend, AIDEA would have paid \$10 million more in dividends than it actually earned. The situation reversed in 2013 when AIDEA paid a dividend based on about \$20 million in unrealized losses. The cost to the state was \$10 million less in the dividend.

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CHAIR COSTELLO asked how he would describe the public policy value of the bill.

MR. LAMB said tying the dividend to the cash that AIDEA actually earned from its operations provides much more stability and predictability for both AIDEA and the state.

SENATOR MEYER asked if it's safe to say that this change doesn't necessarily mean the state will get more of a dividend or less of a dividend.

MR. LAMB said we could be better off in some instances and not in others.

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MR. LAMB said the bill also seeks to fix the potential for a dividend penalty. When the value of a project has been determined to have been permanently reduced, GAAP requires an adjusting entry to be booked to reduce and/or remove some or all of the value of the asset or project from AIDEA's balance sheet. The resulting entry reduces net income, which either reduces the dividend or stacks the dividend AIDEA pays due to the adjusting entry reducing value. The dividend penalty for an adjusting entry could be 25 percent to 50 percent. He discussed a hypothetical example.

If the state funded a project with \$8.8 million and it were to go away, the \$25.3 million in net income that the dividend would have been based on would be reduced by \$8.8 million so the net income would be \$16.5 million. The \$8.8 million has no value and the dividend is reduced by 50 percent or \$4.4 million. He displayed a visual to discuss the same example. AIDEA believes this should be fixed, he said.

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He reviewed the new statutory language proposed in SB 149. The language on page 1, lines 10-11, would fix the first problem, and the language on page 2, lines 5-8, would fix the second problem.

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MR. THERIAU summarized that the bill adds to the excluded items, accommodates the new GASB rules, and ensures that projects that are written off won't drag the dividend down. The policy of the bill is to add predictability to the dividend. Referring to Senator Meyer's question, he said these changes will smooth the impact to the dividend.

CHAIR COSTELLO asked what precipitated the bill.

MR. LAMB said part of it was that the board wanted the ability to explain why the dividend had shrunk to the legislature. Also, as he became more familiar with the statutory language he realized it needed to be fixed. The third reason is that new GASB rules are coming and there is a compounding effect.

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CHAIR COSTELLO held SB 149 in committee.

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CHAIR COSTELLO recessed the Senate Labor and Commerce Standing Committee. [The meeting adjourned at 6:00 p.m. when the next scheduled meeting was convened.]