

ALASKA STATE LEGISLATURE
SENATE LABOR AND COMMERCE STANDING COMMITTEE

January 28, 2016

1:32 p.m.

MEMBERS PRESENT

Senator Mia Costello, Chair
Senator Cathy Giessel, Vice Chair
Senator Kevin Meyer
Senator Johnny Ellis

MEMBERS ABSENT

Senator Gary Stevens

COMMITTEE CALENDAR

SENATE BILL NO. 121

"An Act relating to a security freeze on the consumer credit report of a minor."

- MOVED SB 121 OUT OF COMMITTEE

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 12(L&C)

"An Act relating to mortgage lending, mortgage loan originators, and depository institutions; and providing for an effective date."

- HEARD AND HELD

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 155(FIN)

"An Act repealing an exploration incentive credit; amending the calculation of adjusted gross income for purposes of the tax on gambling activities aboard large passenger vessels; repealing the amount that may be deducted from the motor fuel tax to cover the expense of accounting and filing for the monthly tax return; repealing a provision allowing an investigation expense under the Alaska Small Loans Act to be in place of a fee required under the Alaska Business License Act; repealing the amount that may be deducted from the tobacco excise tax to cover the expense of accounting and filing for the monthly tax return; repealing the discount on cigarette tax stamps provided as compensation for affixing the stamps to packages; and providing for an effective date."

- HEARD AND HELD

SENATE BILL NO. 111

"An Act relating to flame retardants and to the manufacture, distribution, and sale of products containing flame retardants; and providing for an effective date."

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 121

SHORT TITLE: SECURITY FREEZE ON MINOR'S CREDIT REPORT

SPONSOR(s): SENATOR(s) MEYER

01/19/16	(S)	PREFILE RELEASED 1/8/16
01/19/16	(S)	READ THE FIRST TIME - REFERRALS
01/19/16	(S)	L&C, JUD
01/26/16	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
01/26/16	(S)	Heard & Held
01/26/16	(S)	MINUTE (L&C)
01/28/16	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)

BILL: HB 12

SHORT TITLE: MORTGAGE LENDING AND LOAN ORIGINATORS

SPONSOR(s): REPRESENTATIVE(s) HUGHES

01/21/15	(H)	PREFILE RELEASED 1/9/15
01/21/15	(H)	READ THE FIRST TIME - REFERRALS
01/21/15	(H)	L&C
04/13/15	(H)	L&C AT 3:15 PM BARNES 124
04/13/15	(H)	Heard & Held
04/13/15	(H)	MINUTE (L&C)
04/15/15	(H)	L&C AT 3:15 PM BARNES 124
04/15/15	(H)	Moved CSHB 12(L&C) Out of Committee
04/15/15	(H)	MINUTE (L&C)
04/16/15	(H)	L&C RPT CS (L&C) NT 3DP 3NR
04/16/15	(H)	DP: TILTON, HUGHES, OLSON
04/16/15	(H)	NR: LEDOUX, KITO, JOSEPHSON
04/16/15	(H)	TRANSMITTED TO (S)
04/16/15	(H)	VERSION: CSHB 12(L&C)
04/16/15	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
04/16/15	(S)	Scheduled but Not Heard
04/17/15	(S)	READ THE FIRST TIME - REFERRALS
04/17/15	(S)	L&C
01/28/16	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)

BILL: HB 155

SHORT TITLE: FEES; WAIVERS; CREDITS; DEDUCTIONS; TAXES

SPONSOR(S): REPRESENTATIVE(S) THOMPSON

03/20/15 (H) READ THE FIRST TIME - REFERRALS
03/20/15 (H) FIN
04/02/15 (H) FIN AT 1:30 PM HOUSE FINANCE 519
04/02/15 (H) -- MEETING CANCELED --
04/03/15 (H) FIN AT 1:30 PM HOUSE FINANCE 519
04/03/15 (H) <Bill Hearing Canceled>
04/06/15 (H) FIN AT 1:30 PM HOUSE FINANCE 519
04/06/15 (H) Heard & Held
04/06/15 (H) MINUTE (FIN)
04/09/15 (H) FIN AT 1:30 PM HOUSE FINANCE 519
04/09/15 (H) Scheduled but Not Heard
04/13/15 (H) FIN RPT CS (FIN) NT 6DP 2NR
04/13/15 (H) DP: EDGMON, GATTIS, WILSON, PRUITT,
SADDLER, THOMPSON
04/13/15 (H) NR: MUNOZ, GUTTENBERG
04/13/15 (H) FIN AT 9:00 AM HOUSE FINANCE 519
04/13/15 (H) Moved CSHB 155(FIN) Out of Committee
04/13/15 (H) MINUTE (FIN)
04/16/15 (H) TRANSMITTED TO (S)
04/16/15 (H) VERSION: CSHB 155(FIN)
04/17/15 (S) READ THE FIRST TIME - REFERRALS
04/17/15 (S) L&C, FIN
01/28/16 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 111

SHORT TITLE: LIMIT FLAME RETARDANT ITEMS/FURNITURE

SPONSOR(S): SENATOR(S) WIELECHOWSKI

04/16/15 (S) READ THE FIRST TIME - REFERRALS
04/16/15 (S) L&C, JUD
01/28/16 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

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

POSITION STATEMENT: Answered questions related to SB 121 on behalf of the sponsor.

REPRESENTATIVE SHELLEY HUGHES

Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Sponsor of HB 12.

GINGER BLAISDELL, Staff
Representative Shelley Hughes
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Delivered a sectional analysis for HB 12 on behalf of the sponsor.

KEVIN ANSELM, Director
Division of Banking and Securities
Department of Commerce, Community and Economic Development
Anchorage, Alaska

POSITION STATEMENT: Answered fiscal questions related to HB 12.

TRACY RENO, Financial Institutions Examiner
Division of Banking and Securities
Department of Commerce, Community and Economic Development
Anchorage, Alaska

POSITION STATEMENT: Answered fiscal questions related to HB 12.

KRISTIE BABCOCK
Independent State Farm Agent
Kenai, Alaska

POSITION STATEMENT: Testified in support of HB 12.

ROGER BAINBRIDGE, In House Counsel
State Farm Bank (FSB)
Bloomington, Illinois

POSITION STATEMENT: Spoke in support of HB 12.

STEVE P. ASHMAN, Division Manager
Public Health Initiatives and Partnerships (PHIP)
Health and Human Services Department
Municipality of Anchorage

POSITION STATEMENT: Testified on HB 12 in support of the exemption for government agencies.

REPRESENTATIVE STEVE THOMPSON
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Sponsor of HB 155

BRODIE ANDERSON, Staff
Representative Steve Thompson

Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Introduced HB 155 on behalf of the sponsor.

BRANDON SPANOS, Deputy Director
Tax Division, Department of Revenue (DOR)
Anchorage, Alaska

POSITION STATEMENT: Discussed the fiscal note for HB 155.

DANIEL STICKEL, Assistant Chief Economist
Tax Division
Department of Revenue (DOR)
Juneau, Alaska

POSITION STATEMENT: Discussed the fiscal note for HB 155.

SENATOR BILL WIELECHOWSKI
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Sponsor of SB 111.

THOMAS "TJ" PRESLEY, Staff
Senator Bill Wielechowski

POSITION STATEMENT: Provided an overview of SB 111 on behalf of the sponsor.

MAUREEN SWANSON, Director
Learning Disabilities Association of America (LDA)
Pittsburg, Pennsylvania

POSITION STATEMENT: Testified in strong support of SB 111.

JENNIFER GIBBONS, Senior Director
State Government Affairs
Toy Industry Association Inc.

POSITION STATEMENT: Expressed concerns with the SB 111.

DAVID LEVINE, Co-founder and CEO
American Sustainable Business Council
Washington, D.C.

POSITION STATEMENT: Testified in support of SB 111.

CURTIS THAYER, President and CEO
Alaska State Chamber of Commerce
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to SB 111.

TIM SHESTEK
American Chemistry Council

POSITION STATEMENT: Testified in opposition to SB 111.

ACTION NARRATIVE

[1:32:39 PM](#)

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

SB 121-SECURITY FREEZE ON MINOR'S CREDIT REPORT

[1:34:21 PM](#)

CHAIR COSTELLO announced the consideration of SB 121. [This is the second hearing and public testimony is closed.]

[1:34:45 PM](#)

EDRA MORLEDGE, staff to Senator Kevin Meyer, sponsor of SB 121, stated that she provided a supplemental packet based on the questions that were asked during the previous meeting. She recapped the following questions and answers:

Q. Senator Stevens inquired as to the meaning of "has not had the disabilities of a minor removed...: and asked if there might be a better way to state that.

A. The specific wording on lines 9-10 of the bill directly references Alaska Statute 09.55.590, and refers to minors that have been emancipated. As the bill sponsor, I do not object to different terminology if it allows for a clearer reading and understanding of the legislation, if the drafters are able to do so within their drafting guidelines.

Q. Senator Ellis inquired as to where the idea for the legislation came from.

A. A constituent of Senate District M, Laura Hughes, brought the idea for the legislation to my office last summer. Since that time, we've discovered a number of states with similar laws on the books or in the process of passing similar legislation. SB 121 is modeled after legislation as researched through the National Council of State Government.

Q. Senator Ellis asked if Alaska would be the fifth state to adopt this legislation.

A. The most current data available from the NCSL website lists:

- 27 states allow "any consumer" to request a security freeze on their credit report,
- 4 states use the terminology "any consumer that is a resident,"
- 4 states allow a parent or guardian of a minor under 18 to request a freeze,
- 20 states specifically allow a parent or guardian of a minor under age 16 to request a freeze,
- 19 states specifically allow a parent or guardian of a "protected" or an "incapacitated" person to request a freeze,
- 5 states specify the individual for whom the freeze is requested has been a victim of identity theft, and
- 2 states allow for a credit freeze only in the case of identity theft (Mississippi and South Dakota).

Aside from the states that only specify "a consumer," or "a victim of identity theft," the rest are a mixture of the remaining criteria listed above.

Q. Senator Stevens inquired as to the process for lifting a credit freeze.

A. The specific section of Alaska's Personal Information Protection Act that governs removal of security freeze is AS 45.48.140. This section states that the consumer can request the removal of the freeze by contacting the agency by mail or in accordance with other established procedures (electronic means), and provide information required to establish identity. At that point, the consumer credit reporting agency has 3 business days to remove the freeze.

Q. Senator Costello asked what the national average is for child identity theft.

A. The national figure for child identity theft varies depending on the source, but generally it is reported at between 10-11 %.

MS. MORLEDGE noted that the packets also contain communications from the Department of Law (DOL) indicating that they do not have an issue with the current wording of the bill.

CHAIR COSTELLO asked the sponsor if he had any comments.

[1:37:52 PM](#)

SENATOR MEYER said he is pleased that the constituent brought the issue forward and his staff summarized the bill nicely.

[1:38:09 PM](#)

SENATOR GIESSEL motioned to report SB 121, labeled 29-LS1129\A, from committee with individual recommendations and attached fiscal note(s).

CHAIR COSTELLO announced that without objection, SB 121 is reported from the Senate Labor and Commerce Standing Committee.

[1:38:27 PM](#)

At ease

HB 12-MORTGAGE LENDING AND LOAN ORIGINATORS

[1:39:50 PM](#)

CHAIR COSTELLO reconvened the meeting and announced the consideration of HB 12. [This is the first hearing and CSHB 12(L&C) is before the committee.]

[1:40:03 PM](#)

REPRESENTATIVE SHELLEY HUGHES, Alaska State Legislature, Juneau, Alaska, sponsor of HB 12, introduced the legislation speaking to the following sponsor statement:

House Bill 12 improves the mortgage lending industry by equalizing the licensing requirements for mortgage loan originators and mortgage loan brokers according to the kind of work conducted rather than a business structure or anomaly in current statute. Licensing the level of professional duties and the level of liability in the lending process helps create a more equitable and friendly statutory environment for business in Alaska.

The bill would also exempt Alaska Housing Finance Corporation and any government agency participating in the Federal HUD (Housing and Urban Development) program from the State mortgage lender/broker licensure requirement. The government agencies would be responsible to ensure that their mortgage loan originators meet standards equivalent to the federal SAFE Act requirements.

HB 12 helps create a more level playing field in the mortgage lending industry by eliminating unnecessary layers of licensure and reduces the administrative burden and costs to these businesses.

[1:43:38 PM](#)

SENATOR COSTELLO asked Ms. Blaisdell to walk through the sectional for the bill.

[1:43:56 PM](#)

GINGER BLAISDELL, Staff to Representative Shelley Hughes, sponsor of HB 12, provided the following sectional analysis for HB 12:

Section 1: Allows for an individual to be licensed as a mortgage loan originator if he/she works under "an exclusive contract for a registered depository institution" or "be sponsored by a registered depository institution under AS 06.60.014." Sponsored means to conduct business under the supervision of a mortgage licensee or registered depository.

This section creates a supervisor to employee-type of relationship with contractors.

Section 2: Adds a new section that outlines the requirements for a depository institution to be eligible to sponsor a mortgage loan originator.

Section 3: Adds exemptions for "a federal, state, or local government agency, including an agency that arranges or provides financing for mortgage loans." In doing this the state of Alaska recognizes these agencies under the final rulings of the SAFE Act effective 8/30/2011. Agencies that will be affected are AHFC that offers HUD loans and the Anchorage HUD Program.

MS. BLAISDELL stated that the section exempting non-profits from certain licensing requirements, but that section was removed because some non-profits are venturing into a competitive market place so oversight is warranted.

[1:46:46 PM](#)

SENATOR COSTELLO pointed out that the fiscal note needed to be updated because it mentions an exemption for non-profits.

MS. BLAISDELL continued the sectional analysis.

Section 4 adds registered depository institutions to the banks that must have a surety bond.

Section 5 adds registered depository institutions that cover more than one location are not required to file more than one bond.

Section 6 adds registered depository institutions to the banks that must bond for three years.

Section 7 adds registered depository institutions to the banks for which the department can determine that the bond is unsatisfactory.

Section 8 requires a registered depository institution to follow the same reporting requirements as a mortgage licensee and be subject to the same penalties if the report is not filed as required.

Sections 9-13 add registered depository institutions in the requirements for managing mortgage records.

Section 14 references the availability of out-of-state records for registered depository institutions. If a bank is located outside Alaska, the Division of Banking and Securities can go to that other state to conduct an audit or review.

Section 15 allows the department investigation and examination authority for registered depository institutions.

Section 16 adds a new subsection that defines a "person" as a contractor who is working for the registered depository institution.

Section 17 allows the department the authorization to censure, suspend or bar a depository institution in the same manner as a mortgage licensee.

Section 18 adds the applicability of administrative procedures to hold administrative hearings and issue disciplinary orders on RDIs for registered depository institutions.

Section 19 adds a new definition of a registered depository institution. That is a bank located outside the state of Alaska registering as the supervisor of these independent contractors.

MS. BLAISDELL said the effective date will be corrected to reflect January 1, 2017.

[1:50:29 PM](#)

SENATOR GIESSEL asked if the bill would affect any business other than State Farm Bank.

MS. BLAISDELL replied State Farm Bank and its contractors are the primary businesses that would be affected, but there may be others with a similar business model.

SENATOR GIESSEL asked if conducting fewer audits will have a positive fiscal impact on the division.

MS. BLAISDELL said the fiscal note is zero and she didn't believe that the Division of Banking and Securities anticipated additional costs. The state will see efficiencies if it only audits State Farm Bank as opposed to the 19 audits it conducts now.

[1:53:29 PM](#)

KEVIN ANSELM, Director, Division of Banking and Securities, Department of Commerce, Community and Economic Development (DCCED), Anchorage, Alaska, introduced herself.

CHAIR COSTELLO asked if the administration has a position on the bill.

MS. ANSELM reported that the administration is neutral on HB 12.

CHAIR COSTELLO asked if she wanted to comment on the potential efficiencies or any of Senator Giessel's questions.

MS. ANSELM offered that the bill would have a zero fiscal impact to the division because they will conduct one larger examination of the employing depository as opposed to individual agents.

CHAIR COSTELLO asked if there are any consumer protection issues related to the bill.

[1:54:52 PM](#)

TRACY RENO, Financial Institutions Examiner, Division of Banking and Securities, Department of Commerce, Community and Economic Development (DCCED), Anchorage, Alaska, said the division will be able to discuss enforcement or supervisory issues with State Farm Bank directly. The division does not have access to those reports right now because they deal with the individual agents.

[1:55:28 PM](#)

CHAIR COSTELLO opened public testimony for HB 12.

[1:55:44 PM](#)

KRISTIE BABCOCK, Independent State Farm Agent, Kenai, Alaska, stated that she is an independent contractor State Farm agent. She has been an agent and small business owner in Kenai for the past 16 years and has eight employees. She markets insurance and bank products to Alaskans exclusively on behalf of State Farm Insurance companies and State Farm Bank.

She stated that as an originator, she processes initial applications and is required to be licensed and follow all the regulations for mortgage loan originators (MLO). HB 12 doesn't change or reduce that requirement, but it will change the requirement for her to carry a mortgage broker license and serve as her own sponsor and supervisor. Instead, State Farm Bank will be able to step in and register with the State of Alaska as her sponsor and supervisor. The bank assumes all the liabilities, responsibilities and oversight of a mortgage broker. This makes sense because the bank is the lender and she is an originator. It also avoids the circumstance of sponsoring and supervising herself.

MS. BABCOCK reported that 26 other states have passed legislation similar to HB 12 and several other states are considering it. She closed emphasizing that HB 12 does not result in any less regulation for MLOs.

[2:00:01 PM](#)

SENATOR MEYER commented that it sounds as though other states have had this problem and passed similar laws to address the problem.

MS. BABCOCK agreed.

[2:01:11 PM](#)

ROGER BAINBRIDGE, In House Counsel, State Farm Bank (FSB), Bloomington, Illinois, spoke in support of HB 12. He said Ms. Babcock summarized the issues nicely and anything he added would

be redundant. Addressing the question of whether this pertained only to State Farm Bank, he clarified that the bill addresses independent contractors who work exclusively in mortgage origination on behalf of a federally chartered bank. Thus, it would apply to anybody that has the same business model as State Farm Bank and meets the definitions that have been added to this legislation.

[2:02:20 PM](#)

STEVE P. ASHMAN, Division Manager, Public Health Initiatives and Partnerships (PHIP), Health and Human Services Department, Municipality of Anchorage, stated that PHIP manages pass-through programs from the federal government such as Housing and Urban Development (HUD) and falls under both the federal and state SAFE acts. Due to 2011 clarifications of the SAFE Act, HUD determined that state employees are not required to obtain state licenses and registration for any loan origination under a government housing assistant program. As currently written, HB 12 will mirror the federal law and the department is in support of the exemption for government agencies, he said.

[2:05:18 PM](#)

CHAIR COSTELLO closed public testimony and held HB 12 in committee awaiting updates to the fiscal note and effective date.

HB 155-FEES; WAIVERS; CREDITS; DEDUCTIONS; TAXES

[2:05:51 PM](#)

CHAIR COSTELLO announced the consideration of HB 155. [This is the first hearing and CSHB 155(FIN) is before the committee.]

[2:06:05 PM](#)

REPRESENTATIVE STEVE THOMPSON, Alaska State Legislature, Juneau, Alaska, sponsor of HB 155, introduced the legislation stating the following:

In the 28th Legislature, legislation was passed that defined indirect expenditures as foregone revenue. The legislation also set forth a requirement that certain reports identify potential loss of foregone revenue by the department. The Legislative Finance Indirect Expenditure Report reviewed the departments of Commerce, Community and Economic Development, Fish and Game, Health and Social Services and Revenue. The report identified certain credits, fees, discounts, and deductions that should be terminated. House Bill 155 repealed some of these expenditures with an

estimated increase of revenue of approximately \$450,000.

He requested that his staff walk through the bill.

[2:07:02 PM](#)

BRODIE ANDERSON, Staff, Representative Steve Thompson, Alaska State Legislature, sponsor of HB 155, stated that the bill is the next step in addressing the foregone revenue to the state identified in the 2015 Indirect Expenditure Report. HB 155 will repeal the following indirect expenditures:

- Small Loan Company Business License Exemption
- The Exploration Incentive Credit
- Tobacco Product Tax Deduction for Timely Filing
- Cigarette Tax Stamp Discount
- Motor Fuel Tax Timely Filing
- Large Passenger Vessel Gambling Tax Deduction

MR. ANDERSON explained that the bill repeals the exemptions, credits, deductions and discounts in Section 10. The remainder of the sections provide cleanup language to the portions of statute that reference those statutory repeals. He provided the following sectional analysis:

Sections 1-2 repeal references to the Exploration Incentive Credit from AS 41.09.010(a) and (b).

Section 3 removes references from the Exploration Incentive Credit from AS 43.20.043(g).

Section 4 amends AS 43.55.210 to disallow the deduction for federal taxes for the purposes of calculating the state tax on large passenger cruise ship gambling activity.

Section 5 amends AS 43.40.010(c) by removing language that allowed motor fuel dealers to retain a portion of the motor fuel tax due to cover expenses for filing motor fuel tax return.

Section 6 removes references to the Cigarette Tax Stamps from AS 43.50.590(a).

Sections 7, 8 and 9 remove references from the Exploration Incentive Credit from AS 43.55.011(m), 43.55.020(a) and 43.55.023(l).

Section 10 repeals AS 06.20.030(c) The Small Loan Company License; AS 38.05.180(i) The Exploration Incentive Credit; AS 41.09.030 The Exploration Incentive Credit; AS 43.50.330(b) The Excise Tax on Tobacco Products; 43.50.540(c) The Cigarette Tax Stamps; and 43.50.540(h) the discount for the stamps.

Section 11 provides transition language relating to the Exploration Incentive Credit.

Section 12 contains the effective date of January 1, 2016 for the gambling tax activities.

Section 13 provides an effective date of July 1, 2015 for the other sections in order to comply with the State of Alaska fiscal calendar year and all other related fees, discounts and deductions that are calculated monthly.

[2:10:47 PM](#)

CHAIR COSTELLO questioned the reason for the indeterminate fiscal note when the anticipated additional revenue is approximately \$450,000.

MR. ANDERSON deferred the question to Brandon Spanos.

[2:11:29 PM](#)

BRANDON SPANOS, Deputy Director, Tax Division, Department of Revenue (DOR), Anchorage, Alaska, explained that DOR doesn't collect information needed to estimate the impact of all the provisions of the bill. The estimated increased revenue of approximately \$450,000 is based on the money forgone for affixing stamps to cigarette packs and other tobacco products, the motor fuel credit and large passenger gaming. "Those are numbers we can quantify and that's where that \$450,000 comes from," he said.

[2:12:59 PM](#)

DANIEL STICKEL, Assistant Chief Economist, Tax Division, Department of Revenue (DOR), Juneau, Alaska, added that DOR currently does not collect information about the deduction for federal taxes so there may be some revenue impact from the Large Passenger Vessel Gambling Tax but the amount of benefit is unclear. "The \$450,000 is probably the floor. The actual revenue benefit might be higher than that but it is the lack of

information on the gambling taxes is the reason we put an indeterminate on the revenue."

CHAIR COSTELLO asked if this money would go into the general fund.

MR. SPANOS indicated that was correct.

CHAIR COSTELLO noted that the sponsor was nodding his head in the affirmative.

REPRESENTATIVE THOMPSON offered that these credits are taken against corporate taxes so the business would pay more tax to the state, which he assumes would go to the general fund.

CHAIR COSTELLO noted that the fiscal note says the regulations would go into effect the last day of 2016. She asked if that will cause a problem.

MR. ANDERSON said he spoke with her staff about the need for a committee substitute to reflect new dates. "The 2016 date would be 2017 and the 2015 dates would turn into 16."

CHAIR COSTELLO asked if there has been discussion about emergency regulations to maintain the current timeline.

MR. ANDERSON answered no, but it is a conversation the sponsor could have with the department.

[2:16:21 PM](#)

SENATOR MEYER expressed appreciation for the legislation.

[2:16:33 PM](#)

CHAIR COSTELLO opened public testimony. Finding none, she closed public testimony and held HB 155 in committee.

[2:17:47 PM](#)

At ease

SB 111-LIMIT FLAME RETARDANT ITEMS/FURNITURE

[2:19:39 PM](#)

CHAIR COSTELLO reconvened the meeting and announced the consideration of SB 111. [This is the first hearing.]

[2:19:48 PM](#)

SENATOR BILL WIELECHOWSKI, Alaska State Legislature, Juneau, Alaska, sponsor of SB 111, said he has been working on this issue for eight years for these reasons:

Imagine that the cribs that your baby slept in are full of toxic chemicals. They are.

Imagine if the high chairs your kids sat in are full of toxic chemicals. They are.

Imagine if the furniture in your home was full of toxic chemicals. It is.

The seats, toys, kids clothing is all full of toxic chemicals. A toxic cocktail that is in our mattresses, that is in our furniture, not measured by ounces but by pounds in many cases. These chemicals cause neurological deficits, prenatal damage, hypothyroidism, [and] breast cancer. [They are] chemicals that bio accumulate in animals and fish and are poisoning Alaskans, especially those that live a subsistence lifestyle. [They are] chemicals that are poisoning firefighters who fight fires and breath in these toxic substances.

Do you believe we should take some sort of action to protect Alaskans from these chemicals?

Now imagine if we had safer alternatives that are already being widely used.

Imagine that some states in the United States have already banned or enacted restrictions against these toxic chemicals. They have.

Imagine if the European Union has banned these chemicals. They have.

Should we continue to sit back and do nothing? Do we not have an obligation to our constituents and to the people of Alaska to do something? I believe we do.

The Alaska Constitution tells us what our obligation is. Article VII, Section 4 says very clearly, "The legislature shall provide for the promotion and protection of public welfare." That is exactly what we

are doing with this bill, protecting the public health.

I've heard all the industry arguments against this bill over the years. They come from the chemical industry and the phony Astroturf organizations they've set up over the years to defeat bills just like this, and bills like this all over the country. They've spent hundreds of thousands of dollars just in Alaska and millions of dollars across the country defeating bills like this. Those are some harsh statements but I believe they're 100 percent warranted.

Let me tell you just how far these organizations in the chemical industry has gone over the years to defeat bills like this. To defeat this bill, in fact. Many members will remember hearings on this bill back in 2010 and 2012. We heard from a Dr. David Heimbach who testified three times in front of the legislature. He presented himself as an eminently qualified doctor. In fact, he was the former head of the Harborview Medical Center burn unit in Seattle.

He told the tragic story of a six-week old baby girl whose life would have been saved had flame retardants been used in her crib. He shared pictures of burn victims. Legislators were concerned. The bill passed the Senate but it was defeated in the House.

Several months later it turned out that nearly all of Dr. Heimbach's testimony was a lie. In a six-day front page spread, the Chicago Tribune dug into the stories and claims of Dr. Heimbach and found the claims and patients he had testified about across the country were, in fact, non-existent. The Alaska Dispatch News, which was then the Anchorage Daily News, did stories on the fraud Dr. Heimbach and these organizations committed against the legislature. This one dated March 19, 2014, "Washington Physician Accused of Deception Testified Three Times on Alaska Bills." This one, "Seattle Burn Doctor Accused of Dishonesty in Legislative Testimony Surrenders License."

The opponents of this bill will bring up the same old tired complaints and arguments against this bill. That the EPA should regulate it. Since when does Alaska want to turn over authority to the EPA to regulate

this? The EPA has had 25 years to do something on this. They've done nothing. That the presence of chemicals in furniture in and of itself is not dangerous. Hundreds of academic and scientific studies say otherwise. We've provided you with copies of numerous studies; we're happy to get you more.

The chemical industry will argue that Congress is working on some legislation dealing with this. They've had decades to do this. Nothing. Further, in the legislation that is currently being proposed, states retain the right under that proposed federal legislation to continue to regulate harmful substances in their own states. Please don't buy it this time. They have a vested financial interest in killing this bill. These are dangerous chemicals that have no place in our homes. There are safer alternatives that are just as inexpensive that are available.

CHAIR COSTELLO asked if this is the same bill that he introduced previously.

MR. WIELECHOWSKI replied it is virtually the same.

[2:25:24 PM](#)

THOMAS "TJ" PRESLEY, Staff, Senator Bill Wielechowski, sponsor of SB 111, informed the committee that he would provide a brief overview of the bill, its history, and the growing amount of literature on the danger of polybrominated diphenyl ethers (PBDEs) to human and animal health. Finally, he would review the substantive contents of the packet.

He stated that SB 111 does two things. First, the bill prohibits the manufacture, sale, or distribution of upholstered furniture and children's items that contain more than 100 parts per million of certain harmful flame retardants. Second, it requires manufacturers to alert consumers to the presence of these chemical flame retardants by labeling the products. The bill provides civil penalties for violating this law that start small and are capped for each company in one calendar year. SB 111 also contains a definition section and exemptions for people who may sell these products from one person to another, such as on Craigslist.

MR. PRESLEY reported that the sponsor has requested a committee substitute (CS), based on advice from the Department of Labor and Workforce Development (DOLWD), to move the penalties

provision from Chapter 18 to the Consumer Protection Division within the Department of Law. Chapter 18 only directs DOLWD to inspect schools that have evidence of asbestos.

MR. PRESLEY reminded the members that in 2012, Dr. Heinbach's tragic story and pictures he shared with members stopped the bill in its tracks. A few months later evidence proved that his stories were untrue and Washington State prosecuted him for fraud. As a result, he willingly surrendered his medical license. Subsequent investigative reporting established a connection between Citizens for Fire Safety that spent \$230,000 to defeat the bill in 2012, Dr. Heinbach and the American Chemical Council that opposes this bill today. The former executive director for the now defunct Citizens for Fire Safety and a former employee for the American Chemical Council, Grant David Gillam, made headlines for breaking ranks after learning about payments to Dr. Heinbach. Mr. Gillam eventually testified in support of a full flame retardant ban in California that passed in 2014.

MR. PRESLEY stated that Dr. Vytenis Babrauskas was the first person in the world to be awarded a Ph.D. in fire protection engineering. When he learned that his work was being used to defend the use of flame retardants, he wrote a paper titled "Flame Retardants in Furniture Foam: Benefits and Risks." The conclusion is summarized as follows:

Since 1975, hundreds of millions of kilograms of pentaBDE and its replacements have been used to meet California TB117. A fire safety benefit has not been established. Research suggests that this standard should be reevaluated in light of the fire science and health information discussed above. Prior to implementing new flammability standards, decision makers should evaluate the potential fire safety benefit as well as the health and environmental impacts of the chemicals, materials, or technologies likely to be used. Special scrutiny should be given to small open-flame standards that are likely to be met by adding organohalogen flame retardants to foam or plastic in consumer products.

MR. PRESLEY directed attention to the packets that contain more literature on the effects of PBDEs on human and animal health and offered to provide more if any members desired. "But suffice to say, the dangers to human health include risks of neuro developmental processes in young children being slowed or

changed, passage of the dangerous chemical through the umbilical cord from mother to child, cancer, infertility, attention deficit disorders among others," he said.

He said SB 111 is the start of a process to purge PBDEs from the food supply because studies have established that these chemicals are in the blood of many fish stocks. High levels of these chemicals are beginning to show in the autopsies of birds and animals that feed on these stocks. The entrance of PBDEs into the food supply is a great concern for Alaskans generally and those living a subsistence lifestyle and in rural communities in particular.

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CHAIR COSTELLO asked if he wanted to comment on the short title being broader than what is in the bill.

MR. PRESLEY replied the sponsor's intent is for the bill to be limited to upholstered furniture and children's items. He added that he could speak to the drafter to ensure that is reflected in the short title.

CHAIR COSTELLO said she had two questions about the labeling statement on page 2, line 24. First, is the label itself an admission that the manufacturer is breaking the law? Second, how do you differentiate between a flame retardant that's listed in the bill and one that is not harmful?

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MR. PRESLEY clarified that the bill does not ban PBDEs; it limits their use in upholstered furniture and children's items to less than 100 parts per million. Responding to the second question, he said evidence shows that there are safer alternatives for flame retardants that are not related to the chemical compound addressed in the bill. He added that a number of large Fortune 500 companies including Ashley Furniture, Walmart, Macys, Pier I Imports, and Ikea have pledged not to buy office furniture with these flame retardants and have begun to produce flame retardant fabrics that do not have the harmful chemicals listed in the bill. He provided information about the chemicals they are using, which are widely available in other states.

CHAIR COSTELLO asked if that is why the effective date is July 2017.

MR. PRESLEY explained that the delayed effective date is an attempt to give industry time to understand the bill and take action accordingly.

CHAIR COSTELLO asked how the bill will affect Alaska businesses that may have affected inventory.

MR. PRESLEY said he did not have that information, but would work to find out.

CHAIR COSTELLO asked where the list of chemicals in Section 1 came from.

MR. PRESLEY replied it was compiled in consultation with a number of scientific groups like Alaska Community Actions on Toxics.

SENATOR MEYER asked if limiting the use of these chemicals through federal law had been pursued.

MR. PRESLEY replied the inaction by the EPA and the federal government over the past 25 years is what prompted states to take action. He added that the U.S. Senate currently is working on the Toxic Substances Act, which allows states to apply for a waiver to enact more restrictive standards than the federal minimum. The proposed Act also allows a state to take action on a chemical while it is under study by the EPA.

SENATOR MEYER asked if there have been lawsuits against the manufacturers of PBDEs.

MR. PRESLEY offered to follow up with an answer.

SENATOR MEYER asked if Washington State has passed a similar law.

MR. PRESLEY replied a bill was introduced this session but he didn't know if it had passed.

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CHAIR COSTELLO opened public testimony on SB 111.

[2:39:43 PM](#)

MAUREEN SWANSON, Director, Healthy Children's Project, Learning Disabilities Association of America (LDA), Pittsburg, Pennsylvania, testified in support of SB 111 reading from prepared testimony.

LDA is the oldest and largest national volunteer organization advocating for children and adults with learning disabilities. We have chapters and members throughout the country, including in Alaska. We are witnessing an alarming increase in neuro developmental disorders that cannot be fully explained by changes in awareness or diagnosis. One in six children in the United States has a reported developmental disability including autism, attention deficit hyperactivity disorder and other learning and developmental delays.

The National Academy of Sciences has stated that environmental factors, including exposure to toxic chemicals, in combination with genetics contribute to at least one-quarter of all neuro developmental disabilities in the United States. During fetal development and early childhood the brain is especially at risk from toxic chemicals, even at extremely low exposure levels. Scientific evidence clearly demonstrates that babies and young children are regularly exposed to halogenated flame retardant chemicals including the flame retardants named in SB 111. These exposures pose an elevated risk of serious and lasting problems with learning and behavior, including ADHD and autism.

These flame retardants cross the placenta to the fetus and are detected in umbilical cord blood and in breast milk. Because of their size and weight, rapid rate of growth and development, metabolism and behaviors, babies and children are likely to experience higher chronic exposures to flame retardants than adults.

These chemicals migrate from furniture and children's products into dust and then are ingested by young children. A 2011 study of baby products found that 80 percent of the items tested contained flame retardant chemicals while a 2014 study of 40 daycares and preschools found toxic flame retardants in 100 percent of dust samples at the facilities. What do these constant exposures to toxic flame retardant chemicals mean to the fetus and young children? In the last five years, three public studies of hundreds of pregnant women and children have resulted in strikingly similar findings. Children more highly exposed to PBDE flame retardants prenatally, have lower IQ scores, cognitive

delays, and attention problems. The decrements in IQ persist throughout the children's school years.

The flame retardant chemicals named in SB 111 are structurally similar to thyroid hormones, which are essential for healthy brain development. In 2015, scientists with the Endocrine Society concluded that PBDE exposures interfere with thyroid. Recent studies of flame retardants that have replaced PBDEs show these chemicals can also disrupt thyroid hormones and pose serious risks to brain development.

In plain English, the chemicals named in SB 11 change babies brains. I'd like to highlight briefly several specific examples. The chlorinated tris flame retardant chemicals are notorious. In the late 1970s, TDCPP was one of several tris flame retardants banned from use in children's pajamas because of grave risks to children's health. Instead of halting production and use of TDCPP, manufacturers instead added this toxic chemical to other children's products and to furniture. A recent study found that TDCPP was the most commonly detected flame retardant in baby products containing polyurethane foam. In 2011, scientists found that TDCPP as well as other tris flame retardants may affect brain development with similar or even greater potency than chemicals already known to be neurotoxic. Fire Master 550 is the second most commonly detected flame retardant in polyurethane foam. It's used in furniture and baby products including nursing pillows and changing pads. Two of Fire Master 550's main components, TBD and TBPH are brominated compounds that migrate from products into dust. In 2012, research implicated Fire Master 550 as an endocrine disrupting chemical with adverse effects at levels much lower than the no observable adverse effect level reported by the manufacturer. The study suggests that Fire Master 550 disrupts thyroid hormones and harms the developing brain.

In conclusion, the toxic flame retardants that are named in the Toxic Free Children Act migrate from furniture and children's products into dust and are ingested by young children. They cross the placenta, build up in the body, and in breast milk. These flame retardants are structurally similar to PCB and also to thyroid hormones. These chemicals put Alaska's

children at greater risk of learning and development disorders including ADHD and autism. The Learning Disabilities Association of America urges that the Senate pass the Toxic Free Children's Act to protect children's minds and bodies from these toxic flame retardants.

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JENNIFER GIBBONS, Senior Director of State Government Affairs, Toy Industry Association Inc., stated that while TIA shares the sponsor's desire to ensure the safety of children, they do have concerns with the bill as drafted. TIA's preference is to have regulation at the federal level because unique state regulations are challenging for manufacturers that sell in multiple states. She said the network of existing federal regulations could address these issues. In fact, the Consumer Product Safety Commission is evaluating the use of flame retardants in children's products and whether new restrictions are warranted.

She stated that toy manufacturers typically do not add flame retardants to toys, but their internal components and electronic circuit boards may contain trace amounts of flame retardants. While these components would be inaccessible to a child, she said they are critical to the safety of the product.

[2:48:32 PM](#)

DAVID LEVINE, Co-founder and CEO, American Sustainable Business Council (ASBC), Washington, D.C. testified in support of SB 111. This is a growing network of business organizations and companies that work to grow businesses, create new jobs, provide benefits to communities, and protect their health. He also represents companies that are committed to advancing safer chemicals in products. He said we believe it is important to pass the Toxic Free Children's Act because scientific research continues to find connections between toxic chemicals and childhood diseases. This is eroding consumer confidence and motivating companies to identify safer alternatives to these toxic chemicals. He continued:

We believe it is time to take action on these products," he said. ASBC commissioned a study that found that safer chemicals are proving to be more important to growing the economy than traditional chemicals. Polling shows that 73 percent of small business owners overwhelmingly support reform and strengthening chemical legislation. Now is the time to have a predictable, consistent set of regulations that

will enable business to innovate and drive growth and job creation. "As business leaders we're saying we can work together with public and private sector, create the economy of tomorrow today...in which all parents can rest assured that the only choice is a healthy one.

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CURTIS THAYER, President and CEO, Alaska State Chamber of Commerce, Anchorage, Alaska, stated opposition to SB 111, but support for protecting public health and the environment. Given the interdependence of commerce in the U.S., regulatory certainty across the states is necessary, he said. While the bill is well-intended, it needlessly threatens the availability of goods and the viability of business. He pointed out that the EPA currently is assessing several flame retardants included in the bill. "At a minimum, Alaska should be informed of those scientific assessments before they pass [this] bill."

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TIM SHESTEK, American Chemistry Council (ACC), testified in opposition to SB 111. He stated that ACC supports the attempt to develop a uniform regulatory system. The EPA is conducting assessments of all the flame retardants included in SB 111, as well as others, and he would encourage the committee to be informed by that information before moving to restrict any chemical compound under this legislation. He pointed out that this debate is not about whether there are organizations that do or do not support safe chemicals. "Our companies have a responsibility to produce safe products. We certainly understand that and we're a part of the effort to ensure that the products we make and their intended use are safe for consumers." He said ACC is providing as much information as possible to the EPA to help with their assessments. He noted that ACC submitted detailed testimony that touches on some of the science issues identified in the bill.

CHAIR COSTELLO held SB 111 in committee with public testimony open.

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There being no further business to come before the committee, Chair Costello adjourned the Senate Labor and Commerce Standing Committee meeting at 2:56 p.m.