

**ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE**

March 9, 2018

1:03 p.m.

MEMBERS PRESENT

Representative Andy Josephson, Co-Chair
Representative Geran Tarr, Co-Chair
Representative John Lincoln, Vice Chair
Representative Harriet Drummond
Representative Justin Parish
Representative Chris Birch
Representative George Rauscher
Representative David Talerico

MEMBERS ABSENT

Representative DeLena Johnson
Representative Mike Chenault (alternate)
Representative Chris Tuck (alternate)

COMMITTEE CALENDAR

HOUSE BILL NO. 27

"An Act relating to chemicals that are of high concern for children and to the manufacture and sale of products containing certain flame retardant chemicals; relating to an interstate chemicals clearinghouse; adding an unlawful act to the Alaska Unfair Trade Practices and Consumer Protection Act; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 355

"An Act relating to the crime of criminally negligent burning; relating to protection of and fire management on forested land; relating to prohibited acts and penalties for prohibited acts on forested land; and providing for an effective date."

- MOVED CSHB 355 (RES) OUT OF COMMITTEE

HOUSE BILL NO. 330

"An Act authorizing the commissioner of natural resources to disclose confidential information in an investigation or proceeding, including a lease royalty audit, appeal, or request

for reconsideration and issue a protective order limiting the persons who have access to the confidential information."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 27

SHORT TITLE: HIGH-RISK CHEMICALS FOR CHILD EXPOSURE

SPONSOR(S): REPRESENTATIVE(S) TARR

01/18/17	(H)	PREFILE RELEASED 1/9/17
01/18/17	(H)	READ THE FIRST TIME - REFERRALS
01/18/17	(H)	RES, L&C
03/09/18	(H)	RES AT 1:00 PM BARNES 124

BILL: HB 355

SHORT TITLE: FIRE; FOREST LAND; CRIMES; FIRE PREVENTION

SPONSOR(S): REPRESENTATIVE(S) GUTTENBERG

02/16/18	(H)	READ THE FIRST TIME - REFERRALS
02/16/18	(H)	RES, JUD
02/28/18	(H)	RES AT 1:00 PM BARNES 124
02/28/18	(H)	Heard & Held
02/28/18	(H)	MINUTE(RES)
02/28/18	(H)	RES AT 6:00 PM BARNES 124
02/28/18	(H)	Heard & Held
02/28/18	(H)	MINUTE(RES)
03/05/18	(H)	RES AT 1:00 PM BARNES 124
03/05/18	(H)	Heard & Held
03/05/18	(H)	MINUTE(RES)
03/09/18	(H)	RES AT 1:00 PM BARNES 124

BILL: HB 330

SHORT TITLE: DNR: DISCLOSURE OF CONFIDENTIAL INFO

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

02/05/18	(H)	READ THE FIRST TIME - REFERRALS
02/05/18	(H)	JUD, RES
02/16/18	(H)	JUD AT 1:00 PM GRUENBERG 120
02/16/18	(H)	Heard & Held
02/16/18	(H)	MINUTE(JUD)
02/21/18	(H)	JUD AT 1:00 PM GRUENBERG 120
02/21/18	(H)	Heard & Held
02/21/18	(H)	MINUTE(JUD)
02/23/18	(H)	JUD AT 1:30 PM GRUENBERG 120
02/23/18	(H)	Heard & Held

02/23/18 (H) MINUTE (JUD)
02/26/18 (H) JUD AT 1:00 PM GRUENBERG 120
02/26/18 (H) Moved CSHB 330 (JUD) Out of Committee
02/26/18 (H) MINUTE (JUD)
02/28/18 (H) JUD RPT CS NT 1DP 5NR 1AM
02/28/18 (H) DP: CLAMAN
02/28/18 (H) NR: EASTMAN, KOPP, STUTES, LEDOUX,
REINBOLD
02/28/18 (H) AM: KREISS-TOMKINS
03/09/18 (H) RES AT 1:00 PM BARNES 124

WITNESS REGISTER

VEENA SINGLA, Scientist; PhD
University of California San Francisco (UC San Francisco)
San Francisco, California
POSITION STATEMENT: Testified in support during discussion of
HB 27.

ALEX BOYD, Assistant Chief
Anchorage Fire Department (AFD)
Alaska Fire Chiefs Association (AFCA)
Anchorage, Alaska
POSITION STATEMENT: Testified in support of HB 27.

JEFF TUCKER, President
Alaska Fire Chiefs Association (AFCA)
Kenai, Alaska
POSITION STATEMENT: Testified in support of HB 27.

ALISON TALLEY
Learning Disabilities Association of Alaska (LDAA)
Juneau, Alaska
POSITION STATEMENT: Testified in support of HB 27.

KRISTI APANGALOOK
Alaska Community Against Toxins (ACAT)
Gambell, Alaska
POSITION STATEMENT: Testified in support of HB 27.

ABEL BULT-ITO, Professor; PhD
University of Alaska Fairbanks (UAF)
Fairbanks, Alaska
POSITION STATEMENT: Testified in support of HB 27.

THOMAS OSIMITZ
American Chemistry Council (ACC)

Charlottesville, California

POSITION STATEMENT: Testified during discussion of HB 27.

EMMA PATE

Norton Sound Health Corporation (NSHC)

Nome, Alaska

POSITION STATEMENT: Testified in support of HB 27.

PATTI SAUNDERS

Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 27.

JOHN KENNISH

Anchorage, Alaska

POSITION STATEMENT: Testified in support during discussion of HB 27.

JASMINE JEMEWOUK, Board Member

Alaska Community Action on Toxics

Anchorage, Alaska

POSITION STATEMENT: Testified in support during discussion of HB 27.

JENNIFER GIBBONS, Vice President

State Governmental Affairs

The Toy Association

Sacramento, California

POSITION STATEMENT: Testified during discussion of HB 27.

OLIVIA OLSON

Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 27.

McJUN NOBLEZA

Barrow, Alaska

POSITION STATEMENT: Testified during the discussion of HB 27.

ZEB SHELDON

Palmer, Alaska

POSITION STATEMENT: Testified in support of HB 27.

PAMELA MILLER, Executive Director

Alaska Community Action on Toxics (ACAT)

Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 27.

SU CHON

Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 27.

JACICA KIM

Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 27.

JOHN "CHRIS" MAISCH, Director & State Forester

Division of Forestry

Department of Natural Resources (DNR)

Fairbanks, Alaska

POSITION STATEMENT: Answered questions during discussion of HB 355.

TIM BISSON, Audit Section Manager

Central Office

Division of Oil and Gas

Department of Natural Resources

Anchorage, Alaska

POSITION STATEMENT: Presented a PowerPoint titled "Protective Orders" and answered questions during discussion of HB 330.

KARA MORIARTY, President/CEO

Alaska Oil & Gas Association (AOGA)

Anchorage, Alaska

POSITION STATEMENT: Testified during discussion of HB 330.

ACTION NARRATIVE

[1:03:18 PM](#)

CO-CHAIR GERAN TARR called the House Resources Standing Committee meeting to order at 1:03 p.m. Representatives Tarr, Josephson, Lincoln, Talerico, Rauscher, Birch, Parish, and Drummond were present at the call to order.

HB 27-HIGH-RISK CHEMICALS FOR CHILD EXPOSURE

[1:04:45 PM](#)

CO-CHAIR TARR announced that the first order of business would be HOUSE BILL NO. 27, "An Act relating to chemicals that are of high concern for children and to the manufacture and sale of products containing certain flame retardant chemicals; relating to an interstate chemicals clearinghouse; adding an unlawful act

to the Alaska Unfair Trade Practices and Consumer Protection Act; and providing for an effective date."

[1:05:00 PM](#)

CO-CHAIR JOSEPHSON moved to adopt the proposed committee substitute (CS) for HB 27, labeled 30-LS0264\D, Bannister, 3/5/18, as the working draft.

CO-CHAIR TARR objected for discussion.

[Co-Chair Tarr passed the gavel to Co-Chair Josephson.]

[1:05:36 PM](#)

REPRESENTATIVE TARR, as sponsor of HB 27, stated that the title, "Toxic Free Children's Act," would address some of the chemicals used in our environment. She presented a PowerPoint, titled "Toxic Free Children's Act." She referred to slide 1, "Regulation of Chemicals in Our Environment," which read as follows [original punctuation provided]:

- Federal Laws
 - Federal Insecticide, Fungicide, and Rodenticide Act (passed in 1910, pesticides)
 - Federal food, Drug, and Cosmetic Act (passed in 1938, drugs, cosmetics, foods, food additives)
 - Toxics Substances Control Act (passed in 1976)
 - Updated in 2016 with Frank Lautenberg Chemical Safety for the 21st Century Act

REPRESENTATIVE TARR spoke to the weaknesses of the laws, noting the first two laws listed passed in 1910 and 1938, respectively. She acknowledged these federal laws were quite old. She noted the final law, the Toxic Substances Control Act, which passed in 1976, was just updated in 2016.

[1:07:03 PM](#)

REPRESENTATIVE TARR shared some history of environmental pollution, such as when the Cuyahoga River [in Ohio] caught on fire on June 22, 1969. She quoted an old saying, "The solution to pollution is dilution." Frequently, chemicals were just dumped into water and air. Some people may recall an image of a sewage pipe that directly emptied into a waterbody. That disposal method was commonly used to handle human waste.

REPRESENTATIVE TARR commented that between 1938 and 1976, many chemicals were developed to be used for warfare. These chemicals, organophosphates and organochlorines, were repurposed in insecticides, food production and personal care products. She characterized this as a "chemical revolution," with little understanding, oversight or testing. She pointed out the Toxic Substances Control Act happened about the same time that the polluted Cuyahoga River caught fire. The beginnings of the Ohio Environmental Protection Act predated the national EPA [Environmental Protection Act] of 1970.

[1:09:13 PM](#)

REPRESENTATIVE TARR directed attention to slide 2, "Regulation of Chemicals in Our Environment," which read as follows [original punctuation provided]:

- Federal Laws
 - Consumer Product Safety Improvement Act of 2008
 - Use children as the benchmark for safety
 - Included the Lead Free Toys Act
 - Status - "CPSC has and is continuing to implement regulations based on CPSIA."

[1:11:22 PM](#)

REPRESENTATIVE TARR turned to slide 3, "Frank R. Lautenberg Chemical Safety for the 21st Century Act," which consisted of two tables. The first table, "TSCA as reformed by the Frank R. Lautenberg Chemical Safety for the 21st Century Act," and the second table, "TSCA pre-reform, which read as follows:

TSCA as reformed by TSCA as reformed by the Frank R. Lautenberg Chemical Safety for the 21st Century Act

Mandatory duty on EPA to evaluate existing chemicals with clear and enforceable deadlines

Chemicals assessed against a risk-based safety standard

Unreasonable risks identified in the risk evaluation must be eliminated

Expanded authority to more quickly require development of chemical information when needed

TSCA pre-reform

No duty to review, no deadlines for action

Risk-benefit balancing standard

Significant risks might not be addressed due to cost/benefit balancing and no mandate to act

Testing on existing chemicals required lengthy rulemaking

REPRESENTATIVE TARR stated that this slide provided a comparison of the TSCA and TSCA pre-reform laws. She contrasted the first item on the two tables, "No duty to review, no deadlines for actions" with the reformed TSCA requirement, "Mandatory duty on EPA to evaluate existing chemicals with clear and enforceable deadlines." The latter rationale explained why chemicals have been in use in our environment for decades without being fully assessed for the long-term health and environmental impacts.

[1:11:46 PM](#)

REPRESENTATIVE TARR gave an example, noting TSCA pre-reform was so weak that asbestos, a known carcinogen, could not be banned under the law.

REPRESENTATIVE TARR reviewed the second item, "Chemicals assessed against a risk-based safety standard" and contrasted it with a "Risk-benefit balancing standard," which illustrated a dramatic change in evaluating chemicals in the regulatory context. The risk-benefit award reviewed risk by stating that one in 100,000 people might be impacted and concluded that risk was an acceptable one. She said, "You might be that one person in 100,000 that gets cancer." However, she did not find that to be a fully-satisfactory regulatory risk, since she did not want to be the one person to get cancer. She compared that to the "chemicals assessed against a risk-based safety standard," which was definitely an improvement. Many people wanted to move to a "precautionary principle." Under this principle, people would not introduce chemicals into the environment until certainty was obtained that the chemicals would not pose adverse human health effects or long-term environmental impacts. She directed attention to the last bullet, which compared "Expanded authority to more quickly require development of chemical information when needed," to the TSCA pre-reform standard that "Testing on existing chemicals required lengthy rulemaking." She emphasized

this demonstrated the reason this law was so weak in terms of responding to new safety information.

[1:13:28 PM](#)

REPRESENTATIVE TARR directed attention to slide 4, "The Point," stating much needs to be done and much needs to be learned. People often talk in absolutes. She related that there is a difference between causation and correlation. In a policy context, this often meant that people seek an exact causation relationship; for example, exposure to chemical "A" leads to a specific health problem associated with it. She pointed out one issue, such that scientists do not test on humans. She emphasized that will not change. She offered her belief that scientists do not knowingly expose humans to potentially harmful chemicals for the purposes of science. Instead, scientists performed lab studies on lower organisms. This meant that it could take longer to learn about the human health impacts. Certainly, testing would not be done on developing fetuses, she opined. Instead, scientists performed studies on breast blood samples to learn the effects of chemicals on developing fetuses and milk samples were taken to test breast milk to assess any impacts on infants.

[1:14:45 PM](#)

REPRESENTATIVE TARR reminded members that scientists just completed the Human Genome Project in 2003, which provided significant breakthroughs in understanding human health. She characterized the project as a reference library for human health conditions. She emphasized the importance to have references as society works to understand the relationship between exposure to chemicals and genetics. For example, doctors can now say that some breast cancers are linked to environmental exposures and some link to genetic markers, she said. The Human Genome Project has provided the resource to do so; however, keep in mind how recent this discovery was made.

[1:15:25 PM](#)

REPRESENTATIVE TARR said scientists and researchers have knowledge today that can be acted on, but research provides ongoing new information. She reported that even very low level exposure can result in adverse health effects. The results can be varied since each person has different genetics and lifestyles, including food and diet. She pointed out in isolated instances causation relationships can be determined,

such as that farm workers in California's Central Valley were exposed to high levels of pesticide and suffered adverse health effects. She highlighted that people often rely on the federal government to regulate chemicals and believe these products are safe to use, but they should not. She emphasized that so much more needs to be done.

[1:16:54 PM](#)

REPRESENTATIVE TARR directed attention to slide 5, "Health Concerns Due to Exposure to Chemicals," which read as follows [original punctuation provided]:

- Cancer
- Reproductive Health disorders
- Developmental delays or cognitive impairment
- Birth defects
- Endocrine disruption
- Respiratory disorders
- Neurodevelopmental disorders

REPRESENTATIVE TARR said the list on slide 5 identified some adverse health impacts linked to exposure to chemicals. She offered to discuss some of the health problems associated with exposure to chemicals, for example, the leading cause of cancer for firefighters was exposure to [polybrominated diphenyl ethers or] PBDE flame retardants. She reviewed the list, noting that it was important to be concerned about chemicals humans are exposed to in their environment.

[1:17:29 PM](#)

REPRESENTATIVE TARR directed attention to slide 6, "3 Ways for Exposure," noting humans become exposed to chemicals in three main ways

- Absorption
 - Personal Care Products (directly to skin)
- Inhalation
 - Flame Retardants (in dust and burning)
- Eating
 - Pesticides on fruits and vegetables, in milk and meat

[1:18:11 PM](#)

REPRESENTATIVE TARR directed attention to slide 7, "Flame Retardants (PBDEs)," which read as follows [original punctuation provided]:

- Used in children's products, furniture, electronics, plastics, building materials, motor vehicles, airplanes, and textiles
- Exposure is from ingestion of food and inhalation
- Chemical composition: Polybrominated diphenyl ether
 - Structurally similar to PCBs
 - Family of chemicals can make over 200 related chemicals

REPRESENTATIVE TARR said that PBDEs were widely used in personal care products and she would like to discuss the policy alternatives can be taken to address these concerns. She reported that PBDEs are structurally similar to PCBs [polychlorinated biphenyl], noting the committee has previously discussed abandoned WWII sites in Alaska and PCB exposure. She emphasized that these chemicals should be thought about structurally as a family of chemicals in terms of their impact on human health.

[1:19:30 PM](#)

REPRESENTATIVE TARR directed attention to slide 8, "Flame Retardants (PBDEs),"

- Chemicals bioaccumulate in blood, breast milk, and fat tissues
- Health impacts include thyroid hormone disruption, permanent learning and memory impairment, behavioral changes, and more
- Leading cause of cancer in Firefighters

REPRESENTATIVE TARR defined bioaccumulate to mean that with each exposure chemicals add up or accumulate over time; for example, animals at the top of the food chain have the most highly concentrated levels of chemicals. This has implications for those who rely on subsistence food sources, she said.

[1:20:19 PM](#)

REPRESENTATIVE TARR directed attention to slide 9, "Why Flame Retardants?" This slide depicted an historical timeline of flame retardants used in household products from 1975 to 2016. She directed attention to 1975, when California passed a furniture flammability standard that led furniture manufacturers to use large amounts of flame retardant chemicals in foam cushioning sold throughout the United States. She highlighted that the timeline depicted recent happenings in terms of scientific understanding.

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REPRESENTATIVE TARR explained the rationale for using flame retardants was to address increasing numbers of home fires due to cigarette use that unextinguished cigarettes ignited sofas or beds. However, since cigarette manufacturers have changed how cigarettes are made and while cigarettes are not completely extinguishable, they do not tend to cause the types of fires that occurred in 1975. She pointed out that statistics have shown the number of residential fires caused by cigarettes has gone down significantly. It has raised the question of whether these chemicals are really necessary, she said.

REPRESENTATIVE TARR reported that this slide was developed by the Environmental Working Group (EWG), a non-profit organization that does research in this area. In 2016, the EWG detected carcinogenic PBDE replacements in Californian children at levels 15 times higher than those of their moms. As consumers become aware of the increased risks, the demand to remove chemicals from products has increased, she said.

1:22:30 PM

REPRESENTATIVE TARR directed attention to slide 10, "How are We Exposed?" The slide depicted a mom and baby in a living room surrounded by products containing flame retardants, including upholstered furniture, plastic encasing for electronics and carpet padding with recycled foam. She emphasized that contaminated dust was problematic in Alaska since homes are closed up for extended periods of time during long, cold winters. This could result in less air flow and a higher level of dust accumulation in homes. This tends to pose problems for babies and toddlers since they touch and put everything into their mouths, she said.

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REPRESENTATIVE TARR directed attention to slide 11, "Children's Exposure is a Major Concern," and related children are exposed to flame retardants in foam products in mattresses, nap mats, changing pads, foam insulation, and nursing pillows.

[1:23:50 PM](#)

REPRESENTATIVE TARR directed attention to slides 12 and 13, "Endocrine System & Endocrine Disruption." She said it was upsetting to her to learn that firefighters who spend their careers in lifesaving work were subject to shorter lifespans due to chemical exposure. She directed attention to the slide showing a diagram of the endocrine system, which represents the hormone system. She characterized the endocrine system as an on-demand system since hormones are produced by the system when the body needs them.

[1:24:54 PM](#)

REPRESENTATIVE TARR described the pituitary gland as the control center, informing other glands to make hormones needed by the body. She said during endocrine disruptions those messages are not delivered. She explained the process, such that hormones provide a key that fits into a cell receptor, but only a specific hormone should fit into a specific receptor. However, with endocrine disrupting chemicals, the chemicals mimic the ones produced by the body and interfere by taking the place of the natural hormone. This could lead to underproduction or overproduction of hormones, or it could lead to the hormone being released at the wrong time, she said.

[1:25:57 PM](#)

REPRESENTATIVE TARR directed attention to the picture on the righthand side of the slide that depicted both a normal endocrine system response and a chemically-induced mimic of one. She said chemicals that fit in where they do not belong in our bodies cause bad health outcomes. She related examples of health issues, including thyroid-related disorders that interfere with metabolism.

[1:27:27 PM](#)

REPRESENTATIVE TARR directed attention to slide 14, "Policy Solutions." She explained that HB 27 would restrict the use of known chemicals of concern, such as PBDEs that have been

substantiated to cause harm. The bill would also restrict possible substitutes since these chemicals might pose substantial risks, as well. She stated that the family of chemicals can make over 200 related chemicals which could cause the same problems. The bill also has provisions related to conducting research in Alaska. Some work has already been conducted by testing breast milk of Alaska Native women. In addition, Canada has conducted some research in the far north regions of the Northwest Territories. The Canadian study showed incidences of chemicals not found in the region, ones used in other countries that were transported to Canada via water or wind. She said this was similar to the way acid rain was transmitted by wind. This bill would also call on Alaska to collaborate with other states to gain knowledge from their work since it is costly to conduct health research.

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REPRESENTATIVE BIRCH asked if it was safe to say she was not satisfied with the protections provided by the federal government. He expressed concern that the program proposed in HB 27 would be expensive to implement. He said reviewed articles in Consumer Reports and the reporting acknowledged issues with fire retardants but recognized that with their use fewer children suffered burns. He asked the reason to implement this now and why Alaska should be the state to become involved in restricting flame retardants in children's clothing.

REPRESENTATIVE TARR, in response, said that Alaska was not alone. She reported that 30 other states were also considering similar legislation. She said people have been dissatisfied with the length of time it has taken to get reforms through the federal government. Some regulations date back to over a hundred years ago and need updating since so much has changed in terms of the information on developmental health and with the completion of the Human Genome Project. Significant gains in human health knowledge has occurred in the last 10-15 years. She expressed concern that some chemicals were grandfathered in without testing for adverse human health or environmental issues.

REPRESENTATIVE TARR viewed the bill as developing a partnership so work performed at the state level could be shared with the federal government. She said by working collaboratively Alaska could get the important health information that it needs.

[1:32:34 PM](#)

REPRESENTATIVE TARR offered her belief that this bill could offer an opportunity for new product development using the kind of research and ingenuity that it took to develop new products initially. She argued that safer alternatives exist for the current flame retardants and it was just a matter of transitioning into the safer ones. Although it has not been possible to make significant gains in the regulatory framework on BPA or bisphenol A, known to have adverse human health effects, it would currently be difficult to find any plastic bottles containing BPA. She attributed this to public pressure to remove the harmful chemical from products the used daily. She remarked that BPAs were contained in baby bottles and other products small children used. As the public gained awareness through blogs and other information, it has affected consumer behavior and companies responded. Local, state, and federal governments, researchers and consumers must all work together to figure out how to move forward, she said.

[1:33:56 PM](#)

REPRESENTATIVE BIRCH said he has four grade school aged grandchildren who often sleep over. He remarked that he was very comfortable to have them in their fire retardant pajamas. He looked forward to learning more but it seemed as though the issue was flame retardant versus adverse consequences and it seemed reasonable to have these products in our lives.

REPRESENTATIVE TARR pointed out that flame retardants were taken out of pajamas because they were found to be dangerous for children; however, these PBDEs are used in other products in homes. She said a wool rug was naturally fire resistant, but consumers could choose to use synthetic fibers that require flame retardants. In addition, consumers could be more careful with cigarettes and candles to reduce fire danger.

[1:35:20 PM](#)

CO-CHAIR JOSEPHSON asked whether the legal analysis was similar to the GMO [genetically modified] labeling issue. He referred to Section 2, to the requirement that manufacturers must label items contain chemical flame retardants. He asked for further clarification on whether that was possible.

REPRESENTATIVE TARR responded that the state can regulate labeling. She related that some interstate commerce clauses indicate what chemicals can be used, but the state can regulate

what products can be sold and whether those products need to be labeled.

[1:36:04 PM](#)

REPRESENTATIVE PARISH asked if the other 30 states were considering action. He asked whether any states currently restrict flame retardant chemicals.

REPRESENTATIVE TARR answered yes; that Rhode Island was among several. She offered to provide a list of states to the committee that have passed similar laws. She said that Rhode Island, like Alaska, was trying to address a class of chemicals rather than list banned chemicals, because substitutions are a big issue.

[1:37:10 PM](#)

REPRESENTATIVE PARISH asked whether the committee would hear testimony that provides more causative relationships.

REPRESENTATIVE TARR responded yes. She pointed to the handout in members' packets from Safer States that discusses toxic flame retardants. She referred to a map in the handout. She reported that 22 current policies exist in 14 states and 13 states have adopted 33 policies.

[1:38:16 PM](#)

CO-CHAIR JOSEPHSON related his understanding of considerable interest and support from Western Alaska. He reported hearing a "lunch and learn" yesterday about the ocean pathways of distribution and the impacts of chemicals left behind by the US Department of Defense (DOD). He noted that the communities of Savoonga and Elim and areas of the Seward Peninsula have expressed concern about chemicals.

REPRESENTATIVE TARR remarked that the phenomenon of chemicals traveling to the Arctic was often referred to as the "grasshopper" effect due to the amplification of effects of colder temperatures. She highlighted that research has been done on St. Lawrence Island and other places with abandoned US DOD sites that have high rates of cancer in a small population, infertility and miscarriages or abnormalities in subsistence foods. Hunters have noticed changes in subsistence animal organs. She characterized these observations and the oral tradition as important and powerful.

[1:41:04 PM](#)

REPRESENTATIVE DRUMMOND shared an anecdote of firefighter deaths in Anchorage. These firefighters died from exposure to chemicals in their work. She was glad to hear that HB 27 was targeting chemicals that impact firefighters.

REPRESENTATIVE DRUMMOND related her understanding that bioaccumulation occurred in blood, breast milk, and fat tissues. She asked whether these substances can be reduced or if there was any way to clear them out of the system.

[1:42:33 PM](#)

REPRESENTATIVE TARR, in response, said that metabolism allows chemicals to be released. She pointed out that whaling occurs in some rural communities and bioaccumulation of chemicals occurred in whale fat being eaten since whales are at top of the food chain. Each point along the food chain concentrates the bioaccumulation, she said.

[1:43:33 PM](#)

REPRESENTATIVE DRUMMOND asked how someone metabolizes their own fat stores.

REPRESENTATIVE TARR explained that when someone was in the process of weight loss, the body looks to the fat tissue as an energy source.

[1:44:24 PM](#)

The committee took a brief at-ease.

[Co-Chair Josephson returned the gavel to Co-Chair Tarr]

[1:44:47 PM](#)

CO-CHAIR TARR opened invited testimony on HB 27.

[1:45:01 PM](#)

VEENA SINGLA, Scientist; PhD, University of California San Francisco (UC San Francisco) stated that she is a scientist in the program on reproductive health in the environment. She said her program's mission is to create a healthier environment for

human reproduction and development through advancing scientific inquiries, clinical care, and health policies that prevent exposures to harmful chemicals in our environment. She reported that flame retardants in furniture and children's products has been found to be ineffective and unnecessary for slowing and preventing fires. Research at the Consumer Products Safety Commission and the California Bureau of Home Furnishings found no difference in fire behavior of furniture with or without flame retardants. She said that flame retardants are not needed in children's products.

[1:45:52 PM](#)

DR. SINGLA stated in 2016, she published a study that 10 organohalogen flame retardants were widespread in the indoor dusts of our homes, schools, and other buildings. These chemicals pose health hazards, including cancer, reproductive and developmental toxicity.

DR. SINGLA explained that flame retardant chemicals were added to children's products and furniture, but these chemicals migrate and contaminate indoor air and dust. This contaminated air and dust are ingested when people breathe. She pointed out that children are more vulnerable and at risk for flame retardant exposure. They breathe more for their body size than adults and have closer contact with baby products and contaminated dust when they crawl on floors. They have three to 15 times greater times of flame retardants in their bodies compared to their moms, she said.

[1:47:04 PM](#)

DR. SINGLA reported that infants with more baby products in the home tend to have higher flame retardant levels, up to 100 times greater than their moms. This posed a serious concern because children's brains and bodies are uniquely vulnerable to the effects of toxic chemicals. She pointed out that some chemicals, such as lead are particularly poisonous to children while their brains are developing. She reported that her programs published a comprehensive review of PBDEs last year which found that flame retardant exposure before birth was associated with lower IQs in children. Furthermore, early life exposures to cancer-causing chemicals could increase cancer risk for a person's entire life span. She related that data from numerous studies has shown use of fewer flame retardant products in rooms resulted in lower levels of chemicals in air, dust, and people.

DR. SINGLA stated that limiting flame retardants in products is an effective and evidence-based approach to reduce harmful chemicals in our children's bodies. She thanked members for the opportunity to testify.

[1:48:14 PM](#)

REPRESENTATIVE PARISH asked if she was aware of any studies or experiments - not conducted on humans - that have found causal relationship exists.

DR. SINGLA, in response, answered that flame retardants have had toxicological testing establishing toxicities, for example, the neurodevelopmental toxicity of PBDE flame retardants or the cancer-causing properties of other flame retardants. She reported that the National Toxicology Program has done extensive testing on a number of flame retardants to determine health hazards. In response to Co-Chair Tarr, she offered to provide copies of any studies.

[1:49:48 PM](#)

REPRESENTATIVE BIRCH pointed out the committee spent nearly an hour rolling out this proposal. He asked when she would conclude public testimony [since it was lengthy testimony and others needed to an opportunity to testify].

REPRESENTATIVE TARR clarified that the testifiers were invited participants.

REPRESENTATIVE BIRCH asked if there were any divergent opinions on the bill.

[1:50:49 PM](#)

ALEX BOYD, Assistant Chief, Anchorage Fire Department (AFD), Alaska Fire Chiefs Association (AFCA), stated that he signed on, as did many of his colleagues, to assist his community. They have found that firefighters were two to six times more likely to be diagnosed with cancer. According to some studies, firefighters' lifespans have been 25-30 years shorter than the average person.

MR. BOYD offered his belief that exposure to organohalogenes was not solely responsible but contributed to the higher incidence

of exposure to flame retardants when fighting fires. He spoke on behalf of the Fire Chiefs Association in support of HB 27.

[1:52:05 PM](#)

JEFF TUCKER, President, Alaska Fire Chiefs Association (AFCA), spoke in support of HB 27. He reiterated that flame retardants were used in the 1970s. Fire protection from the flame retardants did not occur and studies have shown these chemicals contain highly toxic carcinogens. Today's firefighters suffer ever more increasing exposure from toxic atmospheres in today's homes. Firefighters dying from occupational-related cancers now nationally count for over half of the line-of-duty deaths each year. The Alaska legislature has recognized the risk firefighters face by enacting legislation that provides presumptive coverage for disabilities from diseases, including certain cancers directly linked to flame retardants. The firefighters have been taking proactive steps to reduce exposure to carcinogens by instituting new procedures and adopting the technologies to protect firefighters. However, that was not enough, he said.

[1:54:02 PM](#)

MR. TUCKER pointed out that Representative Tarr mentioned earlier fire-safe cigarettes. The fire-safe cigarette initiatives were state initiatives that began in the early 2000s. In 2007, Alaska adopted Senate Bill 84 and in 2012 all 50 states enacted legislation for fire-safe cigarettes. He remarked that this bill was also a state proposal rather than a federal initiative. On behalf of the Alaska Fire Chiefs Association and firefighters across the state, he urged members to pass HB 27 to protect firefighters who serve communities from cancer-causing chemicals. He thanked members.

[1:55:02 PM](#)

REPRESENTATIVE DRUMMOND related his understanding that consumers can now avoid chemically-laden products for their homes. She asked how consumers can rid themselves of existing chemicals in our homes. She characterized Alaska as the end of the line for products with furnishings clearly ensconced in people's homes.

MR. TUCKER said he was unsure. He explained that the fire service has taken proactive steps and now treats structure fires differently. He related that firefighters treat fires as a hazardous material [HAZMAT] response. The departments have

started initiating procedures to decontaminate firefighters on scene and provide protective gear such as hoods that provide toxin protections. He reiterated that he was not sure how to rid homes of these chemicals other than through attrition. He emphasized that not putting chemically-laden products in our homes would be a positive step Alaskans could make.

REPRESENTATIVE DRUMMOND said she has observed firefighters cleaning personal equipment after a fire call. She asked whether the cleaning system has a limited effect or if their processes remove a significant portion of the chemicals.

MR. TUCKER said that the commercial washing machines did a good job of removing these chemicals. Some fire departments have started to purchase two sets of gear for firefighters to allow the used set of gear to be decontaminated. He related that on-site exposure included skin contact as well as respiratory exposure. Fire departments have been working to implement proactive measures.

[1:58:56 PM](#)

ALISON TALLEY, Learning Disabilities Association of Alaska (LDAA), paraphrasing from a prepared statement, thanked members for the opportunity to speak in support of HB 27. She stated that she is the mother of three adopted children, all of them born in Alaska. Two of her children have learning disabilities. She also volunteers with the Learning Disabilities Association of Alaska. She offered to provide members with her written testimony in support of HB 27. She encouraged members to read the source materials cited in her letter.

MS. TALLEY provided statistics, such as one reported in an article published in Pediatrics [Official Journal of the American Academy of Pediatrics] and cited by the CDC [Centers for Disease Control and Prevention] noting that one in six children in the United States has a reported learning or developmental disability, such as autism or an attention deficit hyperactivity disorder (ADHD). This represents a 17 percent increase in 10 years, she said. She reported that between 1997-2008, the prevalence of ADHD rose by 33 percent and autism rose by 290 percent.

[2:00:44 PM](#)

MS. TALLEY further reported that the National Academy of Science (NAS) indicated environmental factors, including toxic chemicals

like flame retardants contribute to or cause 28 percent of these disabilities. Over one-quarter of disabilities like learning problems, ADHD, and autism were caused in part by exposure to toxic chemicals that are found in everyday household products, she said. Science clearly shows that even low levels of toxic chemicals such as flame retardants can affect and change babies' brains. Those disabilities last a lifetime, she said.

MS. TALLEY stated that homework time at her house was not frustrating but heartbreaking. Her children felt they were not as smart, worthwhile or as good as other children. It took all their courage every day just to go to school and it took all of hers to send them, she said. She wondered whether exposure to toxic chemicals might have contributed even a small amount to the heartbreak present at her dining room table. She remarked that she did not wish this to happen to any family.

MS. TALLEY urged members to act and prevent damage by toxic chemicals to developing brains. She urged members to adopt the Toxic Free Children Act. Please protect Alaska's children from flame retardants that put them at higher risk for developmental and learning disabilities. She thanked members for the opportunity to testify.

[2:03:00 PM](#)

CO-CHAIR TARR opened public testimony on HB 27.

[2:03:59 PM](#)

KRISTI APANGALOOK, Alaska Community Against Toxins (ACAT), stated that she was calling from St. Lawrence Island. She was calling to testify on behalf of ACAT. She said she was the mother of a six-year-old boy and was expecting another child. She offered her belief that flame retardants should be banned. She offered that she lives in an isolated village on St. Lawrence Island. She said that residents were often cooped up inside during winter storms suffering exposure to flame retardants contained in furniture. She spoke in support of HB 27. She said it was scary to be expecting a child and buying furniture that likely contained flame retardants. She thanked the committee for its time.

[2:05:30 PM](#)

ABEL BULT-ITO, Professor; PhD, University of Alaska Fairbanks (UAF), stated that he is a professor of neurobiology and

anatomy. He offered to speak on behalf of himself, as an expert in behavioral neuroscience in strong support of HB 27.

DR. BULT-ITO, responding to earlier questions, spoke about many studies that showed causal effects. He said that very low dosages of zebra fish treated with flame retardants will dramatically affect their behavior in larvae and in adults. He reported that flame retardants at comparable levels to humans have shown to decrease attention span in rats and affected neural development in mice. He reiterated that a host of studies showed flame retardants are harmful to developing animals and - he assumed - for people as well. He reiterated his strong support for HB 27. He hoped the legislature would pass HB 27.

[2:07:12 PM](#)

REPRESENTATIVE PARISH asked if he could forward the studies on rats and mice. He also asked whether he could provide a more comprehensive list of chemicals with clearly indicated adverse consequences that were not on a federally-restricted list.

DR. ABUL-ITO agreed to provide the studies and additional information to the committee. He suggested one source he has used was the National Institute of Health PubMed website [<https://www.ncbi.nlm.nih.gov/pubmed/>]. He stated that a search for flame retardants and brain developments would provide numerous articles and papers that show the effects of these toxic chemicals.

[2:08:35 PM](#)

THOMAS OSIMITZ, American Chemistry Council (ACC), offered to comment on two things. He suggested that thinking about hazards was important; however, the most important thing to consider was the actual chemical exposure to children and people. He said it was important to bring the concept of risk into the decision-making process of which chemicals should be regulated. For example, some chemicals that have undergone extensive reviews include flame retardants known as TCPP, [commonly used in mattresses and upholstered furniture] have been found to have no adverse effects. Similarly, TCPP does not fall on a list of chemicals of high concern, that it was not neurotoxic, not classified as a carcinogen, or endocrine disrupter, he said. He emphasized that members should think very clearly about the exposure and not just the hazard associated with the chemical, to use a risk assessment to prioritize what should be regulated.

He argued against calling out specific chemicals unless they have gone through a rigorous decision-tree. He said he was speaking as a toxicologist who has looked at these chemicals for quite a few years.

[2:10:41 PM](#)

REPRESENTATIVE BIRCH asked about halon as a fire suppressor. He asked for further clarification on the operative chemical in fire extinguishers.

MR. OSIMITZ responded it was not his area of expertise, but he offered his belief that some bromine molecules and other chemicals are likely used to suppress fires.

[2:11:38 PM](#)

REPRESENTATIVE DRUMMOND shared about the concern for calling out specific chemicals or classes of chemicals. She asked for a source.

MR. OSIMITZ referred to the specific chemicals in HB 27, noting that they had different properties and toxicology. He specified that TCPP was not a PBT [polybutylene terephthalate] or a carcinogen and it is not considered to have any of those bad hazard properties that have been listed or identified chemicals as high concerns for children. He said that alone illustrated the point of why it was important to look at each chemical individually as opposed to making broad sweeping statements. He referred to earlier testimony, with respect to HBCDs [hexabromocyclododecane], while it was true for diphenyl ethers, it was not remotely related in biological effects to some of the other flame retardants. He objected to grouping the whole flame retardant category since it did not fit the science or make good public policy. He said it was important not just to start with the criteria, which is reasonable, but to be aware that exposure is what matters. The exposure level would be the tool legislators could use to prioritize what chemicals are most important to regulate because it would bring the biggest public health improvement, he said. He suggested that as the bill was currently written a lot of energy would be misspent listing chemicals that would have no effect on exposure to people and would not result in any public health benefit.

[2:14:11 PM](#)

REPRESENTATIVE PARISH asked about the process a chemical goes through, including animal trials, to determine safety for a consumer product.

MR. OSIMITZ deferred to others to speak to the details regarding current regulations; however, he offered his belief that the chemicals such as TCPP have gone through extensive testing. He said that many of the newer chemicals have extensive data. He offered to provide the committee with one of the EPA alternate assessments on various flame retardant chemicals. He thought that was a pretty good compendium of what the EPA has available or has predicted. He remarked that extensive work has been done in the past 20 years. He said the due diligence and care that goes into developing new molecules has changed in the past 10 years.

[2:15:54 PM](#)

EMMA PATE, Norton Sound Health Corporation (NSHC), stated she was born and raised in the Bering Strait Region, an area that NSHC serves. The NSHC strongly advocates for HB 27 to protect the health and safety of Alaskan children. She said that reviewing the facts provided by the Alaska Community Action on Toxics, the organohalogen flame retardants have immediate and long term effects on Alaskan children who are most vulnerable to toxins. She urged Alaskans who have the capacity to protect children need to do so. Firefighters need protection from these chemicals.

MS. PATE stated the NSHC also submitted a letter of support from Angie Gorn, NSHC's president and chief executive officer (CEO). She thanked members for their time.

[2:17:49 PM](#)

PATTI SAUNDERS, on behalf of herself, read from a prepared statement, as follows:

I am very fortunate to have many children in my life. I'm a grandmother, an honorary aunt, and a special friend to my amazing four-year-old neighbor. I love them all beyond measure.

[2:18:10 PM](#)

MS. SAUNDERS remarked that she did not want to be a researcher with PhD level investigative skills to make sure the toys and

other gifts she purchases will not cause harm because of toxic ingredients that cause neurological defects and adult reproductive difficulties. She said she was deeply offended by the suggestion of the American Chemistry Council representative that the state should defer regulation of unnecessary and ineffective chemicals until proven harmful or that Alaska should not protect its children from those chemicals. She urged members to please support HB 27 to start fixing the problems of organohalogen flame retardants.

[2:20:39 PM](#)

JOHN KENNISH, on behalf of himself, stated he is a retired professor and an experienced chemist. He stated that he worked as a chemist for 50 years. He worked on flame retardants years ago as well as on studies of metabolism distribution of these chemicals in rats. He explained that the net result of these compounds is they break down rapidly to produce free radicals and one of the free radicals is halogen - either chlorine or bromine - and react to oxygen to terminate the actual flame by removing oxygen from the flame. The problem with these compounds, these free radicals, is that will react to cell tissue in the body, he said. These compounds can be absorbed through the skin and that means there are some levels of those compounds in children sleeping in flame retardant clothing, so everyone was being exposed.

[2:21:52 PM](#)

MR. KENNISH remarked that chemicals also become absorbed when people sit on furniture. It was found that chemicals were absorbed fastest around the stomach area, which was why it was problematic for children wearing flame retardant treated pajamas. He said non-toxic materials were available for clothing. He suggested eliminating chemicals that are absorbed metabolically converted and reacting in cells with other non-toxic materials.

[2:22:37 PM](#)

MR. KENNISH recalled several years ago people in Anchorage analyzed these chemicals and lawyers were likely affected since they sat in treated chairs while at work. He concluded it was not just children who were exposed but everyone was being exposed at some level to highly-reactive compounds. He said once the flame retardant chemicals were in the body, the free radicals react in the tissue. He pointed out firefighters

become exposed to really toxic reactive chemicals once free radicals are exposed to flames.

[2:23:32 PM](#)

REPRESENTATIVE DRUMMOND asked if he participated in the investigations he remarked on today.

MR. KENNISH said that he worked on these chemicals at the Oregon Health Sciences Center and Department of Physiology & Pharmacology from 1977 through 1980 and some summers working on studying metabolism and distribution of chemicals to tissues.

REPRESENTATIVE DRUMMOND asked for the most recent citations for the most recent work.

MR. KENNISH said he provided information to the sponsor. He offered to provide more specific information to the committee.

[2:25:03 PM](#)

REPRESENTATIVE BIRCH asked whether someone from the Toy Association would testify.

CO-CHAIR TARR answered yes.

[2:25:21 PM](#)

JASMINE JEMEWOUK, Board Member, Alaska Community Action on Toxics, stated she was also student at the University of Alaska from Elim, Alaska. She offered her belief that HB 27 would protect Alaskan children from exposure to flame retardants that were known to cause adverse health effects. She stated that children in Alaska were disproportionately exposed to flame retardants due to being confined indoors during long winters. She offered her belief that keeping flame retardants out of products was crucial for Alaska's public health. She thanked the committee for the opportunity to testify.

[2:26:41 PM](#)

JENNIFER GIBBONS, Vice President, State Governmental Affairs, The Toy Association, explained that she represents over 950 members of toy retailers and manufacturers in North America. She offered to highlight a few concerns with HB 27.

MS. GIBBONS said that toy manufacturers typically do not add flame retardants to toys; however, some of the chemical substances may be found in the structural make up of toys in the internal electronic components. She stated that flame retardants could be found in electronic circuit boards and electronic assemblies in toys. These components were inaccessible to children and the flame retardants used in these components were critical to product safety. While there may be alternatives for other uses of flame retardants, in this application there was not any consistent and reliable alternative, she said.

[2:27:34 PM](#)

MS. GIBBONS stated that banning flame retardants in electronic components may result in electrical risks not currently present. Other states have recognized this and have exempted electronic or inaccessible components in flame retardant restrictions. She thanked the committee for its consideration.

[2:28:01 PM](#)

REPRESENTATIVE BIRCH asked how widespread this was within toys.

MS. GIBBONS answered that the problematic area would be banning electronic components since companies must meet federal and international flammability standards. She offered her belief it was critical to the safety of toys that the flame retardants be present.

REPRESENTATIVE PARISH asked if all other states with similar legislation have this exemption.

MS. GIBBONS spoke to the specifics of bills she was familiar with that related to children's products since some states have enacted flame retardant legislation specific to furniture. She was not familiar with those bills. She stated that with respect to flame retardant restrictions in children or juvenile products there are exemptions for consumer electronics or inaccessible components.

REPRESENTATIVE PARISH asked for confirmation that to best of her knowledge there were not any restrictions to inaccessible components in children's products.

MS. GIBBONS answered no.

[2:30:01 PM](#)

OLIVIA OLSON stated she was 16 years old. She expressed her concerns about flame retardant products. She has two younger brothers who constantly touch and play with toys. She was concerned about the health effects [flame retardants] would have on her family. She offered her strong support for HB 27 because she should not have to worry about her family getting cancer, learning disabilities, or immune disorders from exposure to these chemicals. She thanked the sponsor for introducing the bill and taking a leadership role for a healthier Alaska.

[2:31:09 PM](#)

McJUN NOBLEZA shared a personal anecdote about being an uncle of the cutest baby. He spoke about families and wanting to protect all children at risk from these chemicals. He offered his belief that this bill would lower the negative effects of the majority of consumer products [contain flame retardants]. He stated that he cares for young children and for future generations. He thanked the bill sponsor for introducing HB 27.

[2:32:27 PM](#)

ZEB SHELDON spoke in support of HB 27. He said he has a three-year-old baby sister who still runs, plays, and crawls. He expressed concern about the danger of flame retardants in children's toys since they pose a higher risk to children that can lead to cancer, neurological and developmental delays. Even though these highly toxic flame retardants do not provide a fire safety benefit they are still contained in items used in households on a daily basis. He thanked the sponsor for introducing HB 27.

[2:33:39 PM](#)

PAMELA MILLER, Executive Director, Alaska Community Action on Toxics (ACAT), speaking on behalf of ACAT, said statewide environmental health research and advocacy organization of scientists and public health professionals and community advocates that conducts research and provides educational programs and training. She stated that ACAT has conducted research in the Norton Sound region and she offered to provide the scientific studies to the committee. She shared that ACAT just published papers concerning the endocrine disrupting effects of these chemicals. The ACAT has found high levels of flame retardant chemicals in household dust, blood serum, and

traditional foods of people in the Northern Bering Sea on St. Lawrence Island. She said the levels were high enough to cause thyroid disruption.

[2:34:44 PM](#)

MS. MILLER countered what was said by the Toy Industry Association. She said it really was not true that these flame retardants are not in toys. She has participated in an international study of polyvinyl chloride toys, including rubber duckies, jump ropes, and other types of plastic toys. Many of these toys contained very high levels of flame retardant chemicals because they are made from recycled plastics that were recycled from electronics. She stated that the entire class of organohalogen flame retardants were associated with a range of adverse health effects. Some were previously mentioned but she asked to mention several, including cancer, neurodevelopmental and reproductive toxicity. She pointed out that the developing brain was very sensitive to these toxic chemicals and learning deficits persist throughout life.

[2:35:36 PM](#)

MS. MILLER reported that the Consumer Product Safety Commission (CPSC), as recently as 2017, issued an important warning, recommending that manufacturers, importers, and retailers stop selling or using products containing the class of related chemical flame retardants known as organohalogens, which are included in HB 27. This warning was issued because this entire class of chemicals has been associated with adverse health effects. She cautioned that it was not possible to regulate on a chemical-by-chemical basis. These chemicals are very similar at a molecular level and affect human bodies in a similar way, she said. She reiterated the importance of taking a class approach for these flame retardants since these chemicals have serious effects. Many states have taken the lead in advance of federal rulemaking and are taking the CPSC's warning seriously by instituting policies.

[2:36:35 PM](#)

MS. MILLER explained that these flame retardants do not break down so high levels of chemicals have been found in fish, wildlife, and people on the St. Lawrence Island in the Bering Sea. She respectfully asked members to pass this crucial public health measure. This bill, HB 27, has been receiving strong support from health care providers, firefighters, Native tribes,

organizations and agencies that serve those people with learning and developmental disabilities. She offered her belief that this needed to be taken seriously. She thanked members for allowing her to testify.

[2:37:19 PM](#)

SU CHON stated she was born and raised in Alaska. She offered her belief that the state government has an obligation to protect its citizens when the federal government is slow to act. She wanted to ensure that her home was safe to live. She reported that Alaskans are disproportionately affected by flame retardant chemicals. It was scary to learn that Alaska has the highest rate of birth defects in the nation. Even when factoring in alcohol and cigarette use, the numbers cannot be explained, and the state needs to find the root problem, she said. She stated that 13 states have already adopted policies to rid flame retardants and 18 additional states are in the process of adopting similar policies. The name "flame retardants" was a misnomer. These chemicals do not provide fire safety benefits and instead flame retardants make fires more toxic, which was the reason firefighters support the bill, she said. Alaskans and their children's health deserve to be taken seriously. She said, "When Alaskans are pleading to protect us, please protect us." She thanked the sponsor for taking the initiative to protect the health of Alaskans by sponsoring HB 27.

[2:39:28 PM](#)

JACICA KIM spoke in support of HB 27. She stated that HB 27 would phase out flame retardant chemicals in everyday products. Flame retardants did little to prevent fires, yet they are added to everything consumers use from couches to computers. This meant that everyone, including family, friends, and grandchildren would be exposed to highly toxic chemicals known to be linked to cancer, hormone disruptions, and neurodevelopmental delays. Major retailers including IKEA, Walmart, Ashley Furniture, and Target have already committed to eliminating flame retardants because of consumer response. She offered her belief that Alaska can act now and take proactive action to phase out flame retardants since the federal government will not, to protect Alaskans and future generations. She thanked the committee and sponsor.

[2:41:00 PM](#)

CO-CHAIR TARR stated she would leave public testimony open and announced she would hold the bill over. She removed her objection; therefore, Version D was before the committee as the working draft.

[HB 27 was held over.]

HB 355-FIRE;FOREST LAND; CRIMES;FIRE PREVENTION

[2:41:37 PM](#)

CO-CHAIR TARR announced that the next order of business would be HOUSE BILL NO. 355, "An Act relating to the crime of criminally negligent burning; relating to protection of and fire management on forested land; relating to prohibited acts and penalties for prohibited acts on forested land; and providing for an effective date." [Version D]

[2:42:09 PM](#)

REPRESENTATIVE RAUSCHER withdrew Amendments 1, 2, and 3.

[2:42:25 PM](#)

The committee took a brief at-ease.

[2:42:59 PM](#)

CO-CHAIR TARR clarified that Amendment 1 was withdrawn, but that Amendments 2 and 3 were not offered.

[2:43:12 PM](#)

REPRESENTATIVE RAUSCHER moved to adopt proposed Amendment 4, labeled 30-LS1382\D.6, Radford, 3/2/18, which read:

Page 1, line 3, following "land;":

Insert "**requiring the Alaska Supreme Court to establish a bail schedule;**"

Page 6, line 17, through page 7, line 14:

Delete all material and insert:

"**Sec. 41.15.960. Bail schedules.** The supreme court shall establish by rule or order a schedule of bail amounts for offenses under this chapter or under regulations adopted under this chapter that allow the disposition of a citation without a court appearance.

The bail amount may not exceed the maximum fine authorized by law for that offense."

Page 7, following line 21:

Insert a new bill section to read:

"* **Sec. 24.** The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION: SCHEDULE OF BAIL AMOUNTS.
Notwithstanding AS 41.15.960, enacted by sec. 21 of this Act, the supreme court shall establish the bail schedule required under sec. 21 of this Act within 120 days after the effective date of sec. 21 of this Act."

Renumber the following bill sections accordingly.

Page 7, line 22:

Delete "Section 23 of this Act takes"

Insert "Sections 23 and 24 of this Act take"

Page 7, line 23:

Delete "sec. 24"

Insert "sec. 25"

[2:43:17 PM](#)

CO-CHAIR TARR objected for the purpose of discussion.

REPRESENTATIVE RAUSCHER explained that Amendment 4 would require the Alaska Supreme Court to establish a bail schedule.

[2:43:59 PM](#)

JOHN "CHRIS" MAISCH, Director & State Forester, Division of Forestry, Department of Natural Resources (DNR), said the division reviewed Amendment 4, consulted with the Department of Law. The DOL previously consulted with the Alaska Court System. He stated his support for Amendment 4.

[2:44:28 PM](#)

CO-CHAIR TARR removed her objection to Amendment 4.

[2:44:30 PM](#)

CO-CHAIR JOSEPHSON asked whether any technical or legal issues remain with Amendment 4.

MR. MAISCH offered a technical suggestion on page 2, line 5, which read, "insert Section 25," which he believed should read, "insert Section 26."

[2:45:18 PM](#)

CO-CHAIR TARR directed attention to Amendment 4 to the renumbering, which contained a typo.

[2:45:45 PM](#)

CO-CHAIR JOSEPHSON moved to adopt Conceptual Amendment 4, page 2 line 5, to remove "insert Section 25" and insert the language "insert Section 26."

REPRESENTATIVE RAUSCHER said he had no objection.

There being no further objection, Conceptual Amendment 4 was adopted.

[2:46:15 PM](#)

CO-CHAIR JOSEPHSON moved to adopt Amendment 5, labeled 30-LS1382\D.7, Radford, 3/2/18, which read:

Page 5, lines 1 - 2:

Delete "of not more than \$5,000"

Insert "under AS 12.55"

CO-CHAIR TARR objected for discussion.

[2:46:32 PM](#)

CO-CHAIR JOSEPHSON spoke to Amendment 5, labeled 30-LS1382\D.7, Radford, 3/2/18. He related his understanding that because the penalty could be adjusted it was more seamless and cleaner to simply refer to AS 12.55.

[2:47:07 PM](#)

MR. MAISCH agreed. The bail schedules currently in state law were about a maximum of \$500 so that would align with the bail schedules and adjust the amount through misdemeanor or felony charges, as appropriate, he said.

[2:47:49 PM](#)

REPRESENTATIVE TALERICO objected for the purpose of discussion.

CO-CHAIR JOSEPHSON explained.

[2:48:55 PM](#)

CO-CHAIR TARR and Representative Talerico removed their objections. There being no further objection, Amendment 5 was adopted.

[2:49:16 PM](#)

REPRESENTATIVE RAUSCHER declined to offer Amendment 6.

[2:49:36 PM](#)

REPRESENTATIVE RAUSCHER moved to adopt Amendment 7, labeled 30-LS1382\D.9, Radford, 3/6/18, which read:

Page 2, line 12:

Delete "at any time"

Insert ", when responding to a wildland fire or suspected fire or administering the provisions of this chapter, [AT ANY TIME]"

[2:49:36 PM](#)

CO-CHAIR TARR objected for the purpose of discussion.

REPRESENTATIVE RAUSCHER said Amendment 7 was similar to an earlier amendment, but it addressed the basic argument. The amendment would preserve public property rights when forestry officials can enter onto private property. Deleting the language on page 2, line 12, "at any time" and inserting "when responding to wildland fire or suspected fire or administering the provisions of this chapter," would remove the need for "any time." This would allow forestry officials to investigate the reasons for a wildland fire, to look at other properties that could be affected, but would preserve the homeowner's property rights to be notified prior to entering the property for other reasons. He offered his belief that it would solve the problem.

[2:51:50 PM](#)

MR. MAISCH stated his support for proposed Amendment 7.

[2:52:12 PM](#)

REPRESENTATIVE PARISH suggested that the existing language was lengthy and difficult to understand, which would only be worsened with the additional language. He said the language in [AS 41.15.040] begins with, "Upon approval by the commissioner or an authorized agent" He hoped that they would not do these things frivolously. He deferred to the department.

[2:52:46 PM](#)

CO-CHAIR TARR advised members that this bill has another committee of referral, so the language could be reviewed further.

CO-CHAIR TARR removed her objection. There being no further objection, Amendment 7 was adopted.

[2:53:02 PM](#)

CO-CHAIR TARR brought HB 355 back to the committee for discussion.

[2:53:09 PM](#)

REPRESENTATIVE RAUSCHER said there was a peace officer matter he would like to pursue but he would do so in another committee. He appreciated the expediency.

[2:53:28 PM](#)

REPRESENTATIVE PARISH stated that the definition of forested land was not what one would guess, but is any land supporting natural burnable materials and covers everything from a forest to lichen. He did not wish to sidetrack the committee.

[2:54:10 PM](#)

CO-CHAIR JOSEPHSON moved to report HB 355, Version 30-LS1382\D, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 355(RES) was moved from the House Resources Standing Committee.

HB 330-DNR: DISCLOSURE OF CONFIDENTIAL INFO

[2:54:35 PM](#)

CO-CHAIR TARR announced that the final order of business would be CS FOR HOUSE BILL NO. 330(JUD), "An Act authorizing the commissioner of natural resources to disclose confidential information during a royalty or net profit share audit or appeal and issue a protective order limiting the persons who have access to the confidential information."

[2:55:19 PM](#)

TIM BISSON, Audit Section Manager, Central Office, Division of Oil and Gas, Department of Natural Resources, shared a PowerPoint titled "Protective Orders." He stated that he works with a team of nine auditors to audit state royalties, net profit share payments, and federal royalties for the Alaska Department of Revenue.

[2:55:38 PM](#)

MR. BISSON reviewed slide 3, "Royalty Audit Section," which read as follows [original punctuation provided]:

- The Royalty Audit Section conducts audits of state royalty and net profit payments, as well as Federal royalties received from leases within Alaska.
- Since FY03, the section has conducted 91 audits and collected an additional \$270.6 million as a result of audited payments
- The most common audit issues found during a royalty audit include incorrect marine/pipeline deductions, incorrect starting values, and "higher of" calculation

MR. BISSON said that the "higher of" calculation was the reason for HB 330.

[2:56:11 PM](#)

MR. BISSON referred to slide 3, "Computing Royalties," which read as follows [original punctuation provided]:

- Oil and Gas leases determine the royalty rate and the method for calculating royalty payments to the state
- Statutory minimum royalty rate is 12.5%
- All leases define value in relation to the sales of other producers'

- DNR's royalty is the higher of several values under the lease terms, including the lessee's field price, the posted field price and an average value which includes other lessees' field prices.
- Higher of calculations use other producers confidential sales information

MR. BISSON stated that in order to arrive at the average of the other producer's field prices, the division uses confidential sales information.

[2:57:00 PM](#)

MR. BISSON referred to slide 4, "WHY HB 330," which read as follows [original punctuation provided]:

- Royalty Audit Section relies on confidential price information from other producers
- Lease provisions require producers to share price information with the Division
- When an audit is appealed to the Commissioner, access to confidential sales information by the audited producer is necessary to provide the auditee with the higher of audit calculation
- Other producers have refused to voluntarily allow the Division to share confidential price information with the audited producer in connection with audits even when a confidentiality agreement would protect the information and limits its disclosure
- Currently seven royalty audits totaling \$39.2 million are pending due to confidentiality concerns

[2:57:26 PM](#)

MR. BISSON reviewed slide 4, noting that the Royalty Audit Section used confidential price information from producers when it conducted audits. The lease provisions require producers to submit their sales contract invoices and other data to be verified. Once the audit was finished, if it had a "higher up" claim, the audited lessee would naturally ask to examine the supporting audit information, which often contained confidential sales data in the calculation, he said. He indicated he would refer to the audited

producer as the "audited lessee" and to the other producers as the "disclosing lessee," since it is the disclosing lessee's information that the division will be disclosing.

MR. BISSON described the audit process, such that the division would talk to the disclosing lessee and ask them if the division can disclose the information using a confidentiality agreement to the audited lessee. Often times the [disclosing lessee] would object. He said the division does not have a really great way forward from there. The audit division believes that HB 330 would provide the division with a good solution, he said.

MR. BISSON reported that currently, the division has seven royalty audits in the appeal process with "higher up" claims of roughly \$39.2 million and as more audits are completed, the figures will increase.

[2:58:34 PM](#)

MR. BISSON referred to slide 5, "What are Protective Orders," which read as follows [original punctuation provided]:

- Protective orders are common tools used by courts, arbitrators, and certain agencies (Administration, Revenue)
- A typical protective order limits:
 - Access - who can view/access the information
 - Use - what the specific use of the information may be
 - Distribution - narrows distribution of the information
 - Disposition at the end of use - directs return or destruction of information
- Under HB330:
 - Commissioner determines disclosure is necessary
 - Notice is given to the owner of the information
 - Commissioner issues protective order w/ limits

MR. BISSON said the solution was a protective order to be issued by the commissioner of the Department of Natural Resources. He read slide 5, which discusses protective orders. He explained that the Department of Revenue (DOR),

for oil and gas tax production purposes has a similar right to issue protective orders with similar lessees.

MR. BISSON added that the protective order would be limited to providing a solution to the audit with a narrow scope to those working on the resolution. At the end the information would be sent back or destroyed, he said. Under HB 330, the commissioner would determine disclosure was needed, when an audited lessee wanted to see backup used for the "higher up" claim. The audit division would give notice to the disclosing lessee informing the lessee the information the audit division intended to disclose. It would give the disclosing lessee an opportunity to be heard, he said. The disclosing lessee would file any objections and the audit section of the oil and gas division would work through them. The commissioner would ultimately issue the protective order describing any limits, he said.

[3:00:01 PM](#)

MR. BISSON referred to slide 6, "HJUD Amendments," which read as follows [original punctuation provided]:

Two amendments were adopted in the House Judiciary committee

1. Technical changes, to

- limit the applicability of this power to oil and gas issues,
- to clarify that the word "lease" does not modify the words "appeal" or "request for reconsideration," (this change was mooted by amendment 2) and
- to ensure that net profit share audits are captured by this section, as net profit share payments are not considered royalty payments

2. Narrowed the scope of the bill to royalty audits only.

- The bill previously included geologic and geophysical data under protective order

MR. BISSON reviewed slide 6, stating that the initial bill was for the whole department and the House Judiciary

Committee adopted two amendments. The House Judiciary Committee narrowed the scope in Amendment 1 to oil and gas issues. It clarified the meaning of "lease" to ensure it did not modify "appeal" or "request for reconsideration." It added the term "net profit share payments" to be certain those were also captured.

MR. BISSON stated that Amendment 2 narrowed the scope of the bill to royalty audits only. Previously it could have been used for geological or physical data, he said.

[3:00:51 PM](#)

MR. BISSON referred to slide 7, "HB330," which read as follows [original punctuation provided]:

Section 1:

New provision adding to the Commissioner of Natural Resources duties and powers to include determining whether a disclosure is required for a royalty or NPSL audit, appeal or reconsideration

Mandates that if the commissioner determines disclosure is necessary, notice and opportunity to be heard must be provided to those affected Allows the commissioner to issue a protective order limiting the persons who may have access to the information and the purposes for which it must be used

Section 2:

Conforming language to allow protective order to be issued as it relates to cost data and financial information submitted in support of applications, bonds, leases and similar items

Section 3:

Conforming language to statutes dealing with punishment for divulging confidential information allowing for protective orders to view confidential information during royalty or NPSL audits or appeals

MR. BISSON paraphrased the section-by-section analysis of the bill as reflected on slide 7.

[3:01:44 PM](#)

REPRESENTATIVE BIRCH asked how the calculation worked for "royalty in kind." He related his understanding that the state reserves an option to have barrels of oil rather than a check.

MR. BISSON explained that this only applied to royalty-in-value barrels. The royalty-in-kind was totally separate and covered by contract.

[3:02:19 PM](#)

REPRESENTATIVE BIRCH mused that it was a different arrangement depending on the location, contract, and producer.

MR. BISSON responded that the royalty-in-kind contract requires the division to do nominations for those barrels; and everything remaining outside the royalty-in-kind contract would be taken in value. The companies sell the barrels and pay the state its royalties, he said.

[3:02:46 PM](#)

CO-CHAIR JOSEPHSON directed attention to slide 4, bullet 4, which read as follows [original punctuation provided]:

- Other producers have refused to voluntarily allow the Division to share confidential price information with the audited producer in connection with audits even when a confidentiality agreement would protect the information and limits its disclosure

CO-CHAIR JOSEPHSON recalled him stating that other producers have not voluntarily allowed the sharing of confidential price information. He asked if they could be compelled or was the bill about assuaging their concerns with proprietary information, so everyone agrees by consent to do so.

MR. BISSON responded that the solutions the Royalty Audit Section currently has would require them to obtain a protective order in court and the audit section of the oil and gas division does not want to do so because it takes up the court, the division, and the company's time. The proposed HB 330 provides the preferred method, he said.

[3:03:58 PM](#)

CO-CHAIR JOSEPHSON asked if everyone was on the same page. He asked whether there was any prearrangement as to the language.

MR. BISSON explained that the audit section of the oil and gas division has used some confidentiality agreements in the past and has used language that has been acceptable to companies.

[3:04:42 PM](#)

REPRESENTATIVE PARISH asked about the \$39.2 million in pending audits on slide 4 and if any were concerned about geological or geophysical data.

MR. BISSON answered no; that the auditors do not use geological or geophysical data for the "higher up" claims.

[3:05:07 PM](#)

REPRESENTATIVE DRUMMOND asked if the state would realize more revenue if the bill passed and issue was resolved.

MR. BISSON answered that the bill would create an opportunity to resolve the audits. He acknowledged that other issues exist, so he could not answer. He offered his belief that the bill would remove a current hurdle for auditors.

REPRESENTATIVE DRUMMOND acknowledged that HB 330 would help resolve audits.

MR. BISSON said he hoped so.

[3:05:53 PM](#)

REPRESENTATIVE PARISH asked if outstanding royalty monies collected interest.

MR. BISSON answered yes.

[3:06:19 PM](#)

KARA MORIARTY, President/CEO, Alaska Oil & Gas Association (AOGA), stated that AOGA, a private trade association, represented the majority of oil and gas producers, explorers, refiners and transporters of oil and gas. She said AOGA recognizes the administration's efforts to address the potential issues surrounding royalty audits and appeals.

[3:07:09 PM](#)

MS. MORIARTY said unfortunately, the AOGA does not support HB 330 in its current form and has conveyed the two concerns to the Department of Natural Resources. If these concerns were addressed, it would provide further clarity for the stakeholders while preserving the administration's intent as expressed in the transmittal letter and by today's presentation, she said.

MS. MORIARTY highlighted two concerns: HB 330 should have language to exempt royalty settlement agreements from being included as part of these efforts. The reason AOGA would like this was because these agreements are contractual agreements between the state and the company and vary based on terms of agreement. Royalty settlement agreements often contain other legal restrictions regarding the disclosure of confidential information to a party not subject to the contractual agreement. She offered her belief that exempting royalty settlement agreements would not interfere with what DNR is trying to achieve.

[3:08:31 PM](#)

MS. MORIARTY explained the second concern, such that it was in regard to which individuals from the parties involved under the protective order would have access to confidential information during a royalty audit or appeal. The AOGA believes that HB 330 should limit release of confidential information to only those individuals who are directly involved in the royalty audit or appeal and not those individuals who may work outside of such matters. She suggested that the language should be tightened up to limit the release of the confidential information during these types of audits or appeals to those people who are actually working on the protective order. The AOGA has kept an open dialogue with the DNR since the bill was introduced. She reiterated that AOGA cannot support the current version of the bill but would like to continue to work toward resolution of these two issues, she said.

[3:09:52 PM](#)

CO-CHAIR JOSEPHSON asked if those concerns had been brought to House Judiciary Standing Committee.

MS. MORIARTY answered no; because the House Judiciary Standing Committee hearing happened pretty quickly, and the member

companies had not fully analyzed the bill at that time public testimony was scheduled.

CO-CHAIR JOSEPHSON understood how that could happen.

[HB 330 was held over.]

[3:11:31 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 3:11 p.m.