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Official Business

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

April 13, 1981

COMMITTEE MEETING MINUTES

The meeting was called to order at 3:07 P.M. by Chairman Mulcahy. Those present were: Senators Hohman, Ziegler, Fahrenkamp and Rodey.

First on the agenda was SB 278 "An Act relating to savings associations."

Chairman Mulcahy entertained a motion to move SB 278 out of Committee.

Next on the agenda was SB 279 " An Act relating to the general powers of the Department of Commerce and Economic Development."

Mr. Kirkpatrick, Director, Division of Banking testified in favor of SB 279. (tape reading 025 to 092)

Chairman Mulcahy entertained a motion to move SB 279 out of committee.

Next on the agenda was SB 280 "An Act relating to credit unions."

Mr. Kirkpatrick continued his testimony, addressing SB 280. (tape reading 100 to 134)

Chairman Mulcahy entertained a motion to move SB 280 out of committee.

The meeting was adjourned by Chairman Mulcahy at 3:16 P.M.

COMMITTEE REPORT

SENATE

3/13/81

FURTHER: None

Date: April 13, 1981

Mr. President:

The Committee on LABOR & COMMERCE has had SB 280

credit unions

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Patrick Rodan
Bob Mulcahy

MEMBERS HAVING
OTHER RECOMMENDATIONS:

John ...
... N. ...
John ... N. ...

Bob Mulcahy
CHAIRMAN



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SUMMARY SB 280:

Provides authority for the establishment of credit unions, to make available the benefits of credit unions which are cooperative, non-profit corporations. The Legislature intends to vest in the Dept. of Commerce and Econ Dev. the authority to allow by regulation those powers possessed by State Chartered credit unions in other states which the Dept. determines have demonstrated will aid in the achievement of their goals.

The commissioner may by regulation define the powers of state chartered credit unions and adopt regulations to carry out their purposes.

Loans to members shall be made in conformity with regulations adopted by the commissioner, except that the rate of interest may not exceed 15% per year or the rate specified in AS 45.45.110(b).

Loans shall be made in conformity with regulations adopted by the commissioner except that the total dollar amount of real estate loans and mobile home loans outstanding may not exceed 25% of the assets of the credit union without the written approval of the commissioner.

Without the approval of the commissioner, a credit union with less than \$3,000,000 assets may not make real estate loans with maturities in excess of 15 years.

Allows a credit union to establish share draft accounts.

Credit unions shall participate in insurance of member accounts under a program offered by the National Credit Union Administration Board, or a program of comparable insurance approved by the commissioner.



Michael S. Lynch, President
P. O. Box 240 Anchorage, Alaska 99510 907/277-5661

PAGE 2 RELATES TO
SB 980

RECEIVED

March 17, 1981

MAR 23 1981

Senator Patrick Rodey
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Rodey:

You have asked the Legislative Affairs Committee of the Alaska Bankers Association to respond in writing to various bills now before the legislature. After examining the bills and discussing them, both in the Legislative Affairs Committee and with other members of the Alaska Bankers Association, we have the following comments:

Senate Bill 135: We support the bill in its present form. We are concerned that the funds for Alaska Housing Finance Corporation reach them as soon as possible. Based on current projections by the members of our association, the public has already or will soon make applications to the financial institutions in Alaska in an amount that would utilize those funds along with the monies Alaska Housing Finance Corporation has remaining from its last bond issue.

Also, we understand that it may be the desire of the legislature to change the rate at which Alaska Housing Finance Corporation makes loans to homeowners. While this is an area that deserves study, we believe it should be considered as part of any program starting in July 1981, not this supplemental appropriation.

Senate Bill 278: This is a bill to amend the Savings and Loan Association's statutes and we concur in the amendments except Section 3. We believe this level of debt from a single borrower would be imprudent. It would mean that the entire net worth of an association could be wiped out by one bad loan. Commercial banks are limited to 10% of capital to a single borrower and history has shown that this is a good benchmark.

Senator Patrick Rodey

Page 2

March 17, 1981

Senate Bill 280: This is a bill amending various sections of the Credit Union's statutes. All sections seem designed to bring the State Credit Union laws in line with Federal Credit Unions and other financial institutions, and we support all amendments. We do believe, however, that an increase of rate to 15% is not enough and 18% would be better.

Amendment to AS 06.01.020: This the amendment to make workable what is called "The Wild Card" provision and we support this amendment.

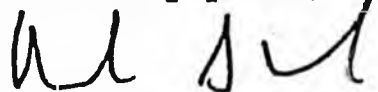
"An Act Relating to Interest Rates":

Section 1 - Amendment to AS 06.20.230 (b): This is an amendment to the Small Loan Act. It allows their rate limit to move daily and, therefore, more nearly reflect the true market. We support this amendment.

Section 2 - Amendment to AS 09.55.440 (a): While this is an amendment unrelated to banking, we support the philosophy of paying market rates and, therefore, we support this amendment.

Section 3 and 4 - These sections take Alaska out from under the federal usury laws and put it back under the existing state statute. The existing state statute is more restrictive than the federal laws and, therefore, we oppose sections 3 and 4. We feel that by reducing controls on interest rates all sectors of the market will be better able to freely compete for lendable funds. These two sections without a new state usury statute would be a step backwards.

Sincerely yours,



Michael S. Lynch
President

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examination or investigation has been completed. All assessments shall be paid to and received by the department by each institution within 30 days after receipt of notice of the assessment.

(c) Any financial institution which fails to make the payments required by the commissioner under (a) and (b) of this section within the time specified is subject to a penalty of not more than \$100 each day it is late. The penalty, together with the amount due under (a) of this section, may be recovered in a civil action brought by the department. (§ 42 ch 169 SLA 1978)

Sec. 06.01.020. General powers of department. The commissioner may by regulation authorize financial institutions, except licensees subject to ch. 20 of this title, to exercise any of the powers conferred upon a federally chartered bank, trust company, savings association, or other federally chartered institution doing business in this state which is subject to the regulations of the United States Comptroller of the Currency, the Federal Reserve Board, the Federal Home Loan Bank Board, the Federal Deposit Insurance Corporation or the successor or successors of them, if the commissioner finds that the exercise of the power both:

- (1) serves the public convenience and advantage; and
- (2) equalizes and maintains the quality of competition between state-chartered financial institutions and corresponding federally chartered financial institutions. (§ 42 ch 169 SLA 1978)

Sec. 06.01.030. Order. and injunctions; notice and hearings; regulations. (a) Whenever it appears to the commissioner that a person has engaged in an act or practice in violation of any provision of this title or of a regulation adopted under it, the commissioner may

(1) if he considers it to be in the public interest, issue an order directing the person to stop the act or practice; reasonable notice and an opportunity for a hearing must be given before issuing the order; however, the commissioner may issue a temporary order pending the hearing which remains in effect until 10 days after the hearing is held and which becomes final if the person to whom the notice is addressed does not request a hearing within 15 days after receipt of the notice; or

(2) bring an action in the superior court to enjoin the acts or practices and to enforce compliance with this title or a regulation adopted under it; upon a proper showing, the department is entitled to the appropriate remedy, and a receiver or conservator may be appointed for the defendant or the defendant's assets; the commissioner is not required to post a bond.

(b) Except as provided in (a) of this section, the department shall give public notice of each proposed action, but it is not required to hold a hearing before taking the action unless it receives written opposition to the proposed action. Written opposition must be filed with the department within the time specified by the department. In cases

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§ 06.45.010 BANKS AND FINANCIAL INSTITUTIONS § 06.45.020

Section	Section
130. Applications for membership	250. Insurance of member accounts
140. Powers and duties of credit committee	260. Liquidity facility participation
150. Loan restriction	270. Conflict of interest
160. Security	280. Merger
170. Powers and duties of supervisory committee	290. Branch offices
180. Reserves	300. Unauthorized conduct of credit union business
190. Dividends	310. Transfer of credit union's property to preferred creditor is void
200. Expulsion and withdrawal	320. Unlawful deceit of commissioner or examiners
210. Minors or trusts	330. Receipt of deposits while insolvent
220. Suspension	340. Limitations on credit unions
230. Exemption from taxation	400. Definitions
240. Conversions	

Effective date of chapter. — Section 4, ch. 47, SLA 1980, makes this chapter effective July 1, 1980.

Sec. 06.45.010. Responsibility of commissioner. (a) The commissioner shall administer this chapter.

(b) The commissioner may adopt regulations for the administration of this chapter.

(c) The commissioner may delegate any authority, power, or function granted by this chapter.

(d) The records of credit unions shall be kept and reports shall be made in accordance with regulations approved by the commissioner.

(e) A person appointed or elected by a credit union to a position requiring the receipt, payment, or custody of money or personal property owned by a credit union or in its custody or control as collateral or otherwise shall give bond in a corporate surety company approved by the commissioner on a form approved by the commissioner and in an amount prescribed by the commissioner. The commissioner may approve the use of a form of schedule or blanket bond which covers all the officers and employees of a credit union whose duties include the receipt, payment, or custody of money or other personal property for or on behalf of the credit union. The commissioner may approve the use of a form of excess coverage bond under which a credit union may obtain coverage in excess of the basic surety coverage. (§ 2 ch 47 SLA 1980)

Sec. 06.45.020. Formation of credit union. (a) Seven or more natural persons who desire to form a credit union shall subscribe before an officer competent to administer oaths articles of incorporation in duplicate which shall state

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BANKS AND FINANCIAL INSTITUTIONS

§ 06.45.060

(4) for an examination under AS 06.45.050.

(b) Failure of a credit union to pay a fee required by (a)(2), (3), or (4) of this section within 30 days of receipt of billing from the commissioner is grounds for the revocation of the certificate of authority of the credit union. (§ 2 ch 47 SLA 1980)

Sec. 06.45.050. Reports and examinations. A credit union organized under this chapter is under the supervision of the commissioner and shall make an annual financial report to the commissioner and shall make other financial reports required by regulations adopted by the commissioner. A credit union is subject to examination by the commissioner. (§ 2 ch 47 SLA 1980)

Sec. 06.45.060. Powers of a credit union. A credit union has succession in its corporate name during its existence and may

- (1) enter into a contract;
- (2) sue and be sued;
- (3) adopt, use, and alter a common seal;
- (4) purchase, hold, and dispose of property;
- (5) make loans, the maturities of which may not exceed 12 years except as provided in this chapter, and extend lines of credit to its members, to other credit unions, and to credit union organizations and participate with other credit unions, credit union organizations, or financial organizations in making loans to credit union members in accordance with the following:

(A) loans to members shall be made in conformity with regulations adopted by the commissioner, except that

(i) a residential real estate loan which is made to finance the acquisition of a one-to-four-family dwelling for the principal residence of a credit union member which is secured by a first lien on the dwelling may have a maturity not exceeding 30 years;

(ii) a loan to finance the purchase of a mobile home, which is secured by a first lien on the mobile home, to be used as the residence of a credit union member, or for the repair, alteration, or improvement of a residential dwelling which is the residence of a credit union member shall have a maturity not to exceed 15 years unless the loan is insured or guaranteed under (iii) of this subparagraph;

(iii) a loan secured by the insurance or guarantee of the federal government, of a state government, or an agency of either may be made for the maturity and under the terms and conditions specified in the law under which the insurance or guarantee is provided;

(iv) a loan or aggregate of loans to a director or member of the supervisory or credit committee of the credit union making the loan which exceeds \$5,000 plus pledged shares shall be approved by the board of directors;

(v) loans to other members for which directors or members of the supervisory or credit committee act as guarantor or endorser shall be

approved by the board of directors when the loans standing alone or when added to an outstanding loan or loans of the guarantor or endorser exceed \$5,000;

(vi) the rate of interest may not exceed one percent a month on the unpaid balance inclusive of all service charges;

(vii) the taking, receiving, reserving, or charging of a rate of interest greater than is allowed by this subsection, when knowingly done, is considered a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid on the note, bill, or other evidence of debt; if a greater rate of interest has been paid, the person by whom it has been paid or his legal representatives may recover back from the credit union taking or receiving it the entire amount of interest paid, but the action must be commenced within two years from the time the usurious collection was made;

(viii) a borrower may repay a loan before maturity in whole or in part on any business day without penalty;

(ix) loans shall be paid or amortized under regulations adopted by the commissioner which consider the needs or conditions of the borrowers, the amounts and duration of the loans, the interests of the members and the credit union, and other factors established in regulations adopted by the commissioner;

(x) the total dollar amount of real estate loans and mobile home loans outstanding may not exceed 25 percent of the paid-in and unimpaired capital and surplus of the credit union without the written approval of the commissioner;

(xi) a credit union with a paid-in and unimpaired capital and surplus of less than \$3,000,000 may make real estate loans with maturities in excess of 15 years only with the approval of the commissioner;

(B) a self-replenishing line of credit to a borrower may be established to a stated maximum amount on terms and conditions which may be different from terms and conditions established for another borrower;

(C) loans to other credit unions require the approval of the board of directors of the loaning credit union;

(D) loans to credit union associations require the approval of the board of directors of the credit union and may not exceed one percent of the paid-in and unimpaired capital and surplus of the credit union;

(E) participation loans with other credit unions, credit union associations, or financial organizations shall be made in accordance with written policies of the board of directors of the credit union, except that a credit union which originates a loan for which participation arrangements are made in accordance with this section shall retain an interest not less than 10 percent of the face amount of the loan;

(6) receive from its members and from others payments on shares which may be issued at varying dividend rates, and payments on share

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§ 06.45.060 BANKS AND FINANCIAL INSTITUTIONS § 06.45.060

certificates which may be issued at varying dividend rates and maturities, subject to terms, rates, and conditions as may be established by the board of directors of the credit union, within limitations prescribed by the commissioner;

(7) invest its funds

(A) in loans exclusively to members;

(B) in obligations of the United States or securities fully guaranteed as to principal and interest by the United States;

(C) in loans to other credit unions in the total amount not exceeding 25 percent of its paid-in and unimpaired capital and surplus in accordance with regulations adopted by the commissioner;

(D) in shares or accounts of savings and loan associations or mutual savings banks which are insured by the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation;

(E) in obligations issued by banks for cooperatives, federal land banks, federal intermediate credit banks, federal home loan banks, the Federal Home Loan Bank Board, or a corporation designated in 31 U.S.C., § 846 as a wholly owned federal government corporation; in obligations, participations, or other instruments of or issued by or fully guaranteed as to principal and interest by the Federal National Mortgage Association or the Government National Mortgage Association; in mortgages, obligations, or other securities which are or have been sold by the Federal Home Loan Mortgage Corporation under § 305 or § 306 of the Federal Home Loan Mortgage Corporation Act; or in obligations or other instruments or securities of the Student Loan Marketing Association;

(F) in participation certificates evidencing beneficial interests in obligations, or in the right to receive interest and principal collections from obligations, which have been subjected by one or more federal agencies to a trust or trusts for which an executive department, agency, or instrumentality of the United States or its head has been named to act as trustee;

(G) in shares or deposits of a central credit union in which such investments are authorized by the board of directors of the credit union making the investment;

(H) in shares, share certificates, or share deposits of federally insured credit unions;

(I) in the shares, stocks, or obligations of another organization providing services which are associated with the routine operations of credit unions, up to one percent of the total paid-in and unimpaired capital and surplus of the credit union with the approval of the commissioner; and

(J) in the capital stock of the National Credit Union Central Liquidity Facility;

(8) make deposits in national banks and in state banks, trust companies, and mutual savings banks operating in accordance with the laws of the state;

(9) borrow in accordance with regulations adopted by the commissioner from any source, in an aggregate amount not exceeding 50 percent of its paid-in and unimpaired capital and surplus, except that a credit union may discount with or sell to a federal intermediate credit bank an eligible obligation up to the amount of its paid-in and unimpaired capital;

(10) levy late charges, in accordance with the bylaws, for failure of members to meet promptly their obligations to the credit union;

(11) levy and enforce a lien upon the shares and dividends of a member to the extent of a loan made to, and any dues or charges payable by, the member;

(12) in accordance with regulations adopted by the commissioner, sell to members negotiable checks, travelers checks, and money orders, and cash checks and money orders for members, for a fee which does not exceed the direct and indirect costs incident to providing the service;

(13) in accordance with regulations adopted by the commissioner, purchase, sell, pledge, discount, or otherwise receive or dispose of, in whole or in part, eligible obligations of its members and purchase from a liquidating credit union notes made by individual members of the liquidating credit union at prices agreed upon by the board of directors of the liquidating credit union and the board of directors of the purchasing credit union; a purchase may not be made under authority of this paragraph if, upon the making of the purchase, the aggregate of the unpaid balances of notes purchased under authority of this paragraph exceeds five percent of the unimpaired capital and surplus of the credit union;

(14) sell all or a part of its assets to another credit union, purchase all or part of the assets of another credit union, and assume the liabilities of the selling credit union and those of its members subject to regulations of the commissioner; and

(15) exercise incidental powers as are necessary or required to enable it to carry on effectively the business for which it is incorporated. (§ 2(c), SLA 1980)

Sec. 06.45.04. Membership. Credit union membership consists of the incorporators and other persons and incorporated and unincorporated organizations, to the extent permitted by regulations adopted by the commissioner, elected to membership. Each member shall subscribe to at least one share of the stock of the credit union and pay the initial installment on the stock and a uniform entrance fee if required by the board of directors of the credit union. Credit union membership is limited to groups having a common bond of occupation or association, or to groups within a well-defined neighborhood, community, or rural district. Shares may be issued in joint tenancy with right of survivorship with a person designated by the credit union member. A joint tenant may not be permitted to vote, obtain loans, or

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Sec. 45.45.010. Legal rate of interest.

(a) The rate of interest in the state is 10.5 percent a year and no more on money after it is due except as provided in (b) of this section.

(b) No interest may be charged by express agreement of the parties in a contract or loan commitment dated after June 4, 1976 which is more than five percentage points above the annual rate charged member banks for advances by the 12th Federal Reserve District that prevailed on the 25th day of the month preceding the commencement of the calendar quarter during which the contract or loan commitment is made. A contract or loan commitment in which the principal amount exceeds \$100,000 is exempt from the limitation of this subsection.

(c) Repealed by § 3 ch 84 SLA 1973.

(d) Notice of the annual rate charged member banks for advances by the 12th Federal Reserve District prevailing on the 25th day of the month preceding the commencement of each calendar quarter required for the maximum interest rate computation under (b) of this section shall be provided by the Department of Commerce and Economic Development.

(e) Repealed by § 4 ch 146 SLA 1974.

(f) No bank, savings and loan institution, pension fund, insurance company or mortgage company may require or accept any per cent of ownership or profits above its interest rate.

(g) Loan contracts and commitments covering one- to four-family dwellings may be prepaid without penalty, except federally insured loans that require a prepayment penalty.

(h) If the limitations on interest rates provided for in this section are inconsistent with the provisions of any other statute covering maximum interest, service charges or discount rates then the provisions of the other statute prevail. (§ 25-1-1 ACLA 1949; am § 20 ch 143 SLA 1968; am § 2 ch 69 SLA 1969; am §§ 1, 2 ch 94 SLA 1969; am §§ 1, 2 ch 239 SLA 1970; am §§ 1 — 3 ch 84 SLA 1973; am §§ 1 — 4 ch 146 SLA 1974; am § 1 ch 110 SLA 1976; am § 1 ch 159 SLA 1976; am § 2 ch 107 SLA 1980)

Cross references. — As to rate of interest under Alaska Small Loans Act, see AS 06.20. As to premium finance act, see AS 06.40.120. As to credit union loans, see AS 06.45.060. As to judgments, see AS 09.30.070. As to commercial fishing loans, see AS 16.10.320(a). As to housing development revolving loan fund, see AS 18.54.060. As to Alaska housing finance, see AS 18.56.098. As to insurance policy loans, see AS 21.45.080. As to veterans' loans, see AS 26.15.040. As to residential care facility loans, see AS 44.33.350(b). As to temperate social activities facilities loans, see AS 44.47.340(e). As to retail installment sales, see AS 45.10.120. As to collection of advance interest, see AS 45.45.080. As to Alternative Technology

and Power Resource loans, see AS 88.030(e). As to tourism loans, see AS 45.90.030(c). As to small business loans, see AS 45.95.020. As to historic district loans, see AS 45.98.010(4).

Effect of amendments. — The first 1976 amendment substituted "five percentage points" for "four percentage points" in the first sentence of subsection (b).

The second 1976 amendment rewrote subsection (a).

The 1980 amendment substituted "10.5" for "eight" near the beginning of subsection (a), and deleted the former second sentence of subsection (a), which read: "The rate of interest in the state is six per cent a year and no more on (1)

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FISCAL NOTE

I. REQUEST
 Bill/Resolution No. SB 280
 Title An Act relating to State chartered credit unions.
 Requested by Senate Labor and Commerce Date 3/19/81

II. FISCAL DETAIL Department of Commerce & Economic Development
 Agency Affected _____
 Program Category Affected Consumer Protection
 BRU, Program, or Subprogram(s) Affected Financial Institutions
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES	0	0	0	0	0	0
200 TRAVEL	0	0	0	0	0	0
300 CONTRACTUAL	0	0	0	0	0	0
400 COMMODITIES	0	0	0	0	0	0
500 EQUIPMENT	0	0	0	0	0	0
600 LAND & STRUCTURES	0	0	0	0	0	0
700 GRANTS, CLAIMS, ETC.	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER (Specify Fund Source)	0	0	0	0	0	0

POSITIONS

FULL TIME	0	0	0	0	0	0
PART TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

IV. DATE 3/19/81 PREPARED BY Willis F. Kirkpatrick, Director of Banking
 AGENCY Department of Commerce & Economic Development
 PHONE 465-2521
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)