

Introduced: 1/11/84
Referred: State Affairs and
Finance

BY SHULTZ, TISCHER,
UEHLING AND LISKA

1 IN THE HOUSE

2 HOUSE BILL NO. 506

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to payment for purchases by the
7 state; and providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 37.05 is amended by adding a new section to read:

10 Sec. 37.05.275. PAYMENT FOR STATE PURCHASES. (a) Payment for
11 purchases of goods or services provided a state agency must be made on
12 a required payment date that is

13 (1) the date on which payment is due under the terms of a
14 contract; or

15 (2) 30 days after receipt of a proper invoice for the
16 amount of the payment due, if a specific date on which payment is due
17 is not established by contract and if the invoice contains or is
18 accompanied by documents required by the contract or purchase order.

19 (b) If a seller offers a discount from the amount otherwise due
20 for property or services in exchange for payment within a specified
21 period of time, the state agency may make payment in an amount equal
22 to the discounted price only if payment is made within the specified
23 period of time.

24 (c) If payment for goods or services purchased by the state is
25 not made within 30 days of a required payment date under (a)(1) of
26 this section or on the required payment date specified in (a)(2) of
27 this section, the state shall pay interest on the unpaid balance from
28 the date of receipt of the invoice for the goods or services at the
29 rate of one and one-half percent a month unless an agreement exists

1 between the seller and the state that precludes the charging of inter-
2 est.

3 (d) This section does not apply

4 (1) if the cost of the goods or services purchased exceeds
5 \$500,000; or

6 (2) to payment for any specific goods or services in dis-
7 pute after a seller of goods or services receives notice from the
8 state official responsible for authorizing payment for goods and
9 services that the amount of the invoice or quality of specific goods
10 or services is in dispute and stating the reasons for the dispute.

11 (e) Interest paid under (c) of this section shall be charged to
12 the budget of the state agency which purchased the goods or services.

13 (f) In this section

14 (1) "dispute" means a determination by the state official
15 responsible for authorizing the payments for the purchase of goods or
16 services that the performance or price charged is not in compliance
17 with the terms of the contract or purchase order;

18 (2) payment is considered made on the date when the payment
19 is personally delivered to the seller or agent of the seller or on the
20 date the payment is mailed;

21 (3) "state agency" has the meaning given in AS 37.05.320
22 and also includes the legislative and judicial branches.

23 * Sec. 2. This Act does not apply to contracts entered into before the
24 effective date of this Act.

25 * Sec. 3. This Act takes effect October 1, 1984.

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: February 29, 1984

REQUEST

Bill/Resolution No.: HB 506
Title: Relating to Payment for
Purchases by the State
Sponsor: Shultz/Tischer/Uehling/Liska
Requestor: (s) State Affairs
Date of Request: May 16, 1984

FISCAL DETAIL

Agency Affected: A11
Program Category Affected: A11
BRU, Program or Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		600.0	618.0	650.0	650.0	650.0
200 TRAVEL		50.0	53.0	55.0	58.0	61.0
300 CONTRACTUAL		200.0	210.0	220.0	231.0	243.0
400 SUPPLIES		50.0	53.0	55.0	58.0	61.0
500 EQUIPMENT		100.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS	0					
800 MISCELLANEOUS						
TOTAL OPERATING	0	1,000.0	934.0	980.0	997.0	1,015.0
CAPITAL						
REVENUE						

FUNDING. (Thousands of Dollars)

GENERAL FUND	0	1,000.0	934.0	980.0	997.0	1,015.0
FEDERAL FUNDS						
OTHER						
TOTAL	0					

POSITIONS:

FULL-TIME		22	22	22	22	22
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Kenneth E. Bischoff *KEB A*
Division: Finance

Phone: 465-2240
Date: May 17, 1984

Approved by Commissioner: Lisa Rudd *LJR*
Agency: DEPARTMENT OF ADMINISTRATION

Date: May 17, 1984

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)
19/301/0516-09/2

House Bill 506
Fiscal Note Analysis
Prepared by Division of Finance
Department of Administration
May 16, 1984

This fiscal note is submitted for the fiscal impact on administrative costs only, as requested by the Senate State Affairs Committee.

To implement the provisions of this bill, State agencies will need to establish internal procedures as directed by the Department of Administration to administer vendor claims that are due interest. Additionally, more personal service resources will need to be devoted towards speeding up the payment processes without eliminating necessary review steps. Necessary review steps will still include verification that goods/services were as ordered, and as priced, and that invoicing meets requirements for payment.

The Department of Administration will need to strengthen its oversight role concerning vendor payments. Two positions will be required to perform such oversight directly in order to help resolve vendor concerns via the vendor HOTLINE, to resolve agency/vendor disputes, and to audit agency payment processes to determine if they can be streamlined. The Department of Administration will also need to develop more sophisticated computer programs to monitor the payment processes so that trouble areas can be identified early on. We do not currently have the resources to do this adequately.

The one million dollars required to cover the fiscal impacts of this bill should be allocated as follows:

1. \$300.0 to the Department of Administration to cover the cost of personal services of the two positions, and contractual services associated with programs needing to be developed to help us monitor the payment processes.
2. The remaining \$700.0 will be allocated to the agencies based largely upon volume of transactions processed, to help them administratively set up for the effects of this bill.

The breakout of costs by object code represents an estimate of how costs would be incurred by agencies. Personal services would be the costs for all departments and agencies for additional personnel necessary to track, review, and expeditiously process all vendor payments to assure none are held up. They will "bird-dog" each invoice, force officials to approve payments promptly, check and follow-up on all receiving documents, handle related phone calls and correspondence.

The \$600.0 represents approximately 22 full-time positions (average range 12). These would be distributed among all agencies. Their effort would be to heighten the pace of paper flow thru to prevent late payments. We presently handle in excess of 1,000,000 invoices per year. This means that if 5% of the bills need attending to, each new person has to handle 2,270 new invoices on a special basis each year, or approximately 12 new problems per day.

Travel costs are for agency personnel in all State agencies, to review and research problems related to billings for many remote sites. This often is the cause for late payments.

Contractual services are for related consultant, data processing services, etc., necessary to make old systems more efficient. Consultant services help provide new solutions for rapid processing where necessary. The actual use of these funds will be determined on a case-by-case basis.

Equipment is that related to institution, as necessary, of new methods to provide more rapid processing.

IT SHOULD BE NOTED THAT THE ABOVE COSTS WOULD BE INCURRED IN AN ATTEMPT TO AVOID PENALTIES. IF THEY ARE NOT APPROVED, THEN WE WILL SIMPLY HAVE TO PAY PENALTIES (INTEREST), WHICH IS COUNTER PRODUCTIVE AND DOES NOT SOLVE THE PROBLEM.



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503



February 9, 1984

Report on Interest Penalty Payments ..
Under the Prompt Payment Act
FY 1983

Gary Jenkins

Background

In 1978 the General Accounting Office reported that over 30 percent of the invoices paid by Federal departments and agencies were paid late. GAO estimated that late payments cost contractors between \$150 million and \$375 million a year in interest. In 1981 GAO did a followup study that showed little improvement since 1978.

The GAO reports indicated that late payments by the agencies were due to two major causes, (1) slow and inefficient processing of payments and (2) lack of Federal standards for insuring payment by specific due dates.

In September 1981 the Director of OMB wrote the heads of the departments and agencies calling for special efforts to improve the Government's bill paying practices. He instructed them to streamline administrative practices and to better adhere to guidance provided by OMB and the Treasury Department that required clear payment terms in contracts and effective cash management procedures to control the timeliness of disbursements.

Legislation

Because of continued problems of late payment by Federal agencies, Congress enacted Public Law 97-177, the Prompt Payment Act, in May 1982. The Act requires agencies to pay their bills on time, pay interest penalties when payments are late, and take discounts only when payments are made within the discount period. The Act established early payment provisions for contractors providing meat and meat food products and perishable agricultural commodities. Recently, the Supplemental Appropriations Act of 1984 extended the early payment provisions to poultry, fresh eggs, and perishable egg products.

Section 2(a) of the Act required the Director of OMB to issue implementing regulations and to report to the Congress on agency implementation.

Implementation

OMB Circular A-125, "Prompt Payment," was issued in August 1982, to implement the Prompt Payment Act. In announcing the Circular, the Director said "These rules made good on President Reagan's pledge that the government will not be a 'deadbeat'...the President is committed to bringing good businesslike practices to government, and to seeing to it that the government pays its bills just like any other business--on time."

In accordance with the Act, Circular A-125 requires Federal agencies to pay their bills on time--not early and not late, and requires that they pay an interest penalty if payment is late. To help insure that payment is made on time, the Circular requires that agency procurement officials include in all Federal contracts specific information to facilitate payment and to document and support the payment of any required interest penalties. In addition, it requires that contractors submit proper invoices to the Federal agencies, including specific information to assure payment of the invoice by the due date. Where no due date is established in the contract, the Circular provides that payment will be made 30 days after receipt of an invoice or acceptance of the goods. Federal agencies have issued their own directives implementing the OMB Circular.

OMB is currently reviewing the applicability of Circular A-125 to progress payments. These are payments made to contractors before receipt of goods or services. Comments in response to a September 1983 proposed revision of the Circular have been received and are being analyzed. OMB will publish a final revision as soon as that analysis is complete.

As part of the Administration's Reform '88 program, agencies reported quarterly the amount of interest penalties paid. Based on the quarterly reports, OMB followed up with agencies that were having implementation problems and assisted them in resolving the problems.

Conclusion

In accordance with the requirements of the Prompt Payment Act and OMB Circular A-125, 38 departments and agencies reported to OMB on interest penalty payments made during FY 1983. The reports indicate that the late payment problem has been all but eliminated. They show 99 percent of the Government's bills being paid on time. The major agencies reported paying approximately \$2.9 million in interest penalties (see Attachment A). Seventy-one percent of the interest penalties paid were made by the Department of Defense, mostly by the Navy.

Total interest penalties resulted from making about 180,000 payments late out of a total of more than 23 million payments. About 60 percent of all payments were made by the Department of Defense. The primary reasons for late payment were delays in receipt of receiving reports and proper invoices.

Despite the fine record agencies have achieved in the first year of implementation, further improvement in bill payment practices is needed. OMB continues to receive inquiries from individual firms that have not been paid on time. As Mr. Kenton Pattie, Vice President, International Communications Industries Association, said in a recent statement to a House Small Business Subcommittee, "all has not been perfect. Each week I receive phone calls and letters from vendors who are not getting paid promptly." He added, however, that "Company executives usually tell me they have seen a major improvement since the Act went into effect October 1, 1982."

Summary of Major Department and Agency
FY 1983 Reports Under the Prompt Payment Act

<u>TOP 10: RANK BY %</u>	<u>%</u>	<u>Interest Penalties Paid</u>	<u>TOP 10: RANK BY %</u>	<u>Number of Interest Penalties Paid</u>	<u>%</u>	<u>Percent Frequency</u>	<u>Major Reasons for Interest Penalties 1/</u>
<u>Department/ Agency</u>							
5 Agriculture	3.85%	111,171	(4)	10,009	5.6%	.72	b
Commerce		4,736		502		.24	a
1 Defense	71.1%	2,051,121	(1)	120,782	67.3%	.88	c
Education		1,349		123		1.09	b
7 Energy	2.2%	63,723	(9)	2,354	1.3%	2.08	c
EPA		29		6		.00	b
8 GSA	2.0%	56,927	(8)	2,374	1.3%	.10	c
6 HHS	3.1%	89,220	(5)	6,276	3.5%	.46	a
HUD		422		39		.06	a
4 Interior	4.1%	119,396	(7)	3,082	1.7%	.37	a
9 Justice	1.8%	52,672	(6)	3,706	2.1%	.59	b
Labor		5,641		455		.93	b
NASA		4,389		233		.16	a
NSF		37		1		.02	c
OPM		338		30		.09	c
SBA		4,786		203		.54	b
State		4,180		160		.06	a
2 DOT	6.2%	178,923	(2)	15,761	8.8%	1.75	a
10 Treasury	.5%	16,111	(10)	1,073	.6%	.18	a
3 VA	4.1%	119,861	(3)	12,245	6.3%	.25	a
Summary		\$2,885,032		179,414		.65	

1/ Reasons for Interest Penalties

- (a) Delay in receipt of receiving report by paying office.
- (b) Delay in receipt of proper invoice by paying office.
- (c) Other



NAVA, the International
Communications Industries Association
3150 Spring Street, Fairfax, Virginia 22031 703.273-7200

Kenton Pattie
Senior Staff Vice President

STATE OF ALASKA
FISCAL NOTE

12/4

Revision Date: February 29, 1984

I. REQUEST

Bill/Resolution No.: HB 506
 Title: Relating to Payment for
Purchases by the State
 Sponsor: Shultz/Tischer/Uehling/Liska
 Requestor: State Affairs and Finance
 Date of Request: _____

II. FISCAL DETAIL

Agency Affected: All
 Program Category Affected: All
 BRU, Program of Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC	0	2,700.0	2,700.0	2,700.0	2,700.0	2,700.0
TOTAL OPERATING	0	2,700.0	2,700.0	2,700.0	2,700.0	2,700.0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	2,700.0	2,700.0	2,700.0	2,700.0	2,700.0
FEDERAL FUNDS						
OTHER (Specify Source)						
TOTAL	0	2,700.0	2,700.0	2,700.0	2,700.0	2,700.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Ken Bischoff *KCB*
 Division: Finance

Phone: 465-2240
 Date: February 29, 1984

Approved by Commissioner: Lisa Rudd *A. Steen*
 Department: ADMINISTRATION

Date: 2-29-84

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

3/8/83

Analysis

HB 506

The issue of timely payment for State purchases has been before the Legislature for several sessions. It is clearly desirable that the State pay for its purchases as promptly as prudently possible. This proposal will cause the State to choose between properly verifying invoiced charges to avoid questionable payments, and short-cutting proper review procedures to avoid penalty interest payments.

Currently, the overall 12-month average payment time for the State is 25 days computed as between the vendors invoicing date and the paying warrant date. Generally, those agencies which have a past record showing payment time in excess of 30 days are:

- 1. Military Affairs
- 2. Fish and Game
- 3. Corrections
- 4. Alaska Court System

These four agencies have a wide distribution network of field locations causing delays in verification time and subsequent transmission time of the invoice for payment.

To decrease the amount of penalties under this legislation, State agencies will incur additional costs for increased staff efforts to track and pay all purchase invoices within this legislation's time constraints. It is hard to arrive at a definite cost for this legislation, but by using various assumptions, such that \$1,120.0 million of a \$4.2 billion dollar budget is for vendor payments and that 5% fall under the interest penalty provisions, and that all penalty payments are made within 60 days of receipt of invoice, then an estimated interest penalty cost of \$1.7 million ($\$1,120.0 \text{ million} \times .05 \times .15 \times 2 \text{ mos.}$) would occur. It is estimated that additional effort required by the agencies to track and make timely payments for purchases would cost the state about \$1.0 million additional.

It is difficult to improve payment times under existing payment systems without incurring significant additional costs. The new State accounting system currently under development is targeted for July 1, 1985 implementation. This system is designed to improve the ability of geographically disbursed agencies to submit their payments more timely through remote terminals. The system is designed to speed up turnaround and reflect status changes on an overnight basis. These features will allow agencies to be more responsive to their creditors.

All costs of this legislation would be 100% State funds. The U.S. Office of Management and Budget has advised us that the Prompt Payment Act (P.L. 970177) prohibits use of Federal grant funds for payment of interest penalties and disallows the use of any non-Federal funds expended for such interest penalty toward any matching requirement applicable to any Federal grant.

304

Additional Analysis

It appears to us that this Bill is not consistent. In Section 1(c), to pay interest from the date of receipt of the invoice is not consistent with another provision that allows us a period of 30 days to make payment without penalty. The penalty should start accruing on the 30th day after receipt of the invoice.

Also, the interest rate should not be a fixed rate but should be tied into applicable commercial lending rates for the period.

4/8/84

Computation of Vendor Payments Basis

1. Enacted Budget for Fiscal Year 1984	<u>\$4,185,000,000.</u>
Less 2. Permanent Fund Dividends	(179,000,000.)
3. Grants & Claims	(1,165,637,600.)
4. University of Alaska Payments	(244,700,000.)
5. State Salaries	(801,100,000.)
6. Loans	(201,900,000.)
7. Debt Service	(180,600,000.)
8. University of Alaska Capital	(52,000,000.)
9. Chapter 10 and other Supplemental Legislation	<u>(240,000,000.)</u>
	<u>(3,064,937,600.)</u>
	<u>\$1,120,062,400.</u>

1,120,062,400 x .05 x .015 x 2 = 1,680,094 or 1.7 million

From FY 84 Legislature's Summary of Appropriation as annotated

1. Lead page - Enacted (less Governor's Vetos) Total Column
2. FCC page 8, CH 107, page 14, line 11
3. FCC page I, Objects of Expenditure Grants, Claims
4. FCC page 65, CH 107, page 128, line 16
5. FCC page I, Objects of Expenditure, Personal Services line, CC column
6. Lead page - Loans line, Enacted (less Governor's Vetos) Total Column
7. FCC page I, State Bond Committee line, CC column
8. FCC page 45 to 46, CH 107, page 87, line 10 through page 90, line 9
9. Other Chapters (10, 21, 24, 34, 53)

Prepared By: Ken Buschhoff Phone: 465-2240
 Division: Finance Date: 2/29/84
 Approved by Commissioner: LISA RUDD Date: 2-29-84
 Department: Administration

STATE OF ALASKA
FISCAL NOTE

Revision Date: January 30, 1984

10/4

I. REQUEST

Bill/Resolution No.: HB 506
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200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC	0	3,800.0	3,800.0	3,800.0	3,800.0	3,800.0
TOTAL OPERATING	0	3,800.0	3,800.0	3,800.0	3,800.0	3,800.0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	3,800.0	3,800.0	3,800.0	3,800.0	3,800.0
FEDERAL FUNDS						
OTHER (Specify Source)						
TOTAL	0	3,800.0	3,800.0	3,800.0	3,800.0	3,800.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Ken Bischoff *Ken Bischoff* A
 Division: Finance

Phone: 465-2240
 Date: January 30, 1984

Approved by Commissioner: Lisa Rudd *LSR*
 Department: ADMINISTRATION

Date: 1/31/84

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These four agencies have a wide distribution network of field locations causing delays in verification time and subsequent transmission time of the invoice for payment.

The Department of Administration is opposed to the bill because of costs which will accrue from it. To decrease the amount of penalties under this legislation, State agencies will incur additional costs for increased staff efforts to track and pay all purchase invoices within this legislation's time constraints. It is hard to arrive at a definite cost for this legislation, but by using various assumptions, such that \$1,869.2 million of a \$4.2 billion dollar budget is for vendor payments and that 5% fall under the interest penalty provisions, and that all penalty payments are made within 60 days of receipt of invoice, then an estimated interest penalty cost of \$2.8 million ($\$1,869.2 \text{ million} \times .05 \times .015 \times 2 \text{ mos.}$) would occur. It is estimated that additional effort required of the agencies to track and make timely payments for purchases would cost the State about \$1.0 million additional.

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All costs of this legislation would be 100% State funds. The U.S. Office of Management and Budget has advised us that the Prompt Payment Act (P.L. 970177) prohibits use of Federal grant funds for payment of interest penalties and disallows the use of any non-Federal funds expended for such interest penalty toward any matching requirement applicable to any Federal grant.

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5. State Salaries	(801,100,000.)
6. Loans	(201,900,000.)
7. Municipal Grants	(166,000,000.)
8. Debt Service	(180,600,000.)
9. University of Alaska Capital	<u>(52,000,000.)</u>
	<u>(2,315,800,000.)</u>
	<u>\$1,869,200,000.</u>

1,869,200,000 x .05 x .015 x 2 = 2,803,800 or 2.8 million

From FY 84 Legislature's Summary of Appropriation as annotated

1. Lead page - Enacted (less Governor's Vetos) Total Column
2. FCC page 8, CH 107, page 14, line 11
3. FCC page 8, CH 107, page 14, line 16, line 25
4. FCC page 65, CH 107, page 128, line 16
5. FCC page I, Objects of Expenditure, Personal Services line, CC column
6. Lead page - Loans line, Enacted (less Governor's Vetos) Total Column
7. FCC pages 46 through 62, CH 107 page 90, line 11 through page 122, line 18
8. FCC page I, State Bond Committee line, CC column
9. FCC page 45 to 46, CH 107, page 87, line 10 through page 90, line 9

Prepared By: Ken Bischoff Phone: 465-2240
 Division: Finance Date: January 30, 1984
 Approved by Commissioner: W. J. Rudd Date: January 30, 1984
 Department: Administration

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

FINANCE DIVISION
POUCH WF-STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3795

MEMORANDUM

DATE: February 28, 1984

TO: Representative Al Adams, Chairman
House Finance Committee

FROM: Marylou Burton, Fiscal Analyst
Legislative Finance Division

SUBJ: HB 506 - Fiscal Note dated 1/31/84

HB 506 would require the State to make interest payments on invoices not paid within 30 days of receipts. These payments would be charged to the budget of the purchasing State agency.

The Department of Administration has submitted a \$3800.0 (all GF) fiscal note on this bill. I have several questions about this fiscal note:

1. HB 506 provides that interest payments shall be charged to the budget of the purchasing agency. A good case can be made, then, that no new funds are involved and that a zero fiscal note is appropriate.
2. Even given that some new funds will be involved, DOA's \$3800.0 is greatly overstated.

This figure was developed by taking total FY 84 appropriations and backing out items that are clearly not vendor payments (such as Foundation Program, salaries, loans, etc.). The balance was then assumed to represent vendor payments, and certain assumptions were made about how much of this would result in interest penalty payments.

The problem is that total FY 84 appropriations were not reduced by several items that also are not vendor payments. For example:

- a) Only \$494,361.6 of the \$1,165,637.6 appropriated as "grants" in the operating budget was backed out.
- b) Only Municipal Grants appropriated in Ch. 107/SLA 83 were backed out -- Municipal Grants from Ch. 10/SLA 83 were not.

- c) Agency pass-through capital appropriations (such as those through APBC, Education, H&SS) were not backed out at all.

I do not know the dollar effect of the above items but estimate that DOA's figure could be cut by at least 50%.

- 3. The fiscal note includes \$1,000.0 for "additional effort required of the agencies to track and make timely payments". This is an arbitrary figure with no basis on fact.

MB:ro
(hb506)

prepared by
Rep. Shultz's
Office

BACKGROUND ON HB 506

This bill has been supported by 92% of the 3600 Alaskan members of the National Federation of Independent Business. The State of Alaska is notorious for late payment of its invoices and statements. This neglect by State agencies has caused many small business' to borrow money to supplement their normal cash flow. Since the products or merchandise were purchased on a bid basis the profit margin was probably wiped out by the high interest rate charged by the loan institution.

Mr. Leonard Lemon, Comptroller of the U.S. Army at Fort Greely advised that their paying of invoices has become more routine and simplified since their compliance with the Prompt Payment Act--Public Law 97-177. This public law is now incorporated in Army regulations. The Prompt Payment Act carried 133 sponsors when it was introduced in Congress.

An argument put forth by the Administration is that only a small percentage of vendors are victims of this inattention but regardless of whether the bill is \$1000 or \$10000--if it is past due 60,90 or 120 days the financial position of that business caused by this lack of good faith can be devastating. The State has put a high annual fiscal cost to this bill-- this is just a good indication of what the vendors are carrying in past due accounts. There are many Alaskan business' that will not give our State agencies credit because of its poor paying habits.

This bill is needed in Alaska and it is supported by a large majority of Alaskan and other businesspersons.

Prepared by
Rep. Shultz's
Office

ANALYSIS OF HB 506

"An Act relating to payment for purchase by the State; and providing for an effective date".

Section 1 (a) Requires the agency to pay on a required payment date as defined under terms of a contract or 30 days after receipt of proper invoice.

Subsection (b) Provides for the State to take advantage of any discounts offered by a vendor and if invoice is paid on time, the State agency will deduct the amount of the discount offered from the total amount of the invoice.

Subsection (c) Establishes the rate of interest at 1.5% per month that must be paid by the State for past due balance -- also provides for the exclusion of interest in the event the seller and the State have mutual agreement.

Subsection (d) 1. Exempts purchases of more than \$500,000 from the provisions of the bill.

Subsection (d) 2. Provides for an exemption in the event the State notifies the vendor or seller of a dispute in the invoice.

Subsection (e) Provides that any interest incurred by lack of prompt payment will be charged to the budget of the department involved.

Subsection (f) 1. Defines dispute as non-compliance, in performance or price, with the terms of the contract, as determined by administering State Officer.

Subsection (f) 2. Defines when payment is made.

Subsection (f) 3. Defines a state agency

Section 2. Exempts and contracts entered into before the effective date from this Act's provisions.

Section 3. Provides an effective date of July 31, 1983.



NFIB® National Federation
of Independent Business

The Guardian of Small Business.

February 13, 1984

The Honorable Richard Shultz
Alaska House of Representatives
Pouch V
Juneau, AK 99811

Dear Representative Shultz:

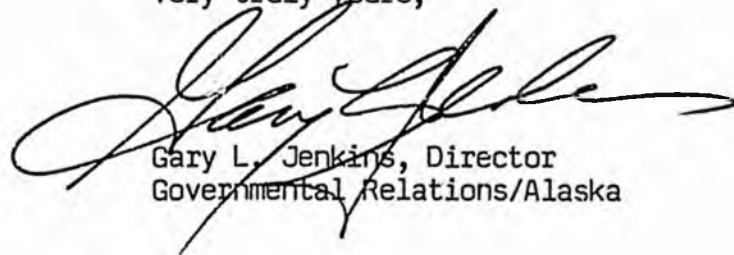
Small business continues to be the largest generator of new jobs in the United States, however, the number of jobs which are created often are significantly effected by state legislative actions. To ensure that legislators have the benefit of knowing how existing law and proposed legislation affects small business, the National Federation of Independent Business has been working with, not only the Alaska Legislature, but state legislatures nationwide for several years.

In Alaska, NFIB currently has a membership in excess of 3,600 which means that we usually represent a significant majority of the retail and service businesses in each city in Alaska. Each year we send a ballot to all of our members requesting their input on issues of current interest in Alaska. This ballot permits each member to express their feelings on these issues and gives me direction regarding which issues should be pursued legislatively. I do not take a position on an issue for NFIB unless the members have voted on it and a majority favor the position being taken.

Enclosed for your information is a copy of our 1983 State Ballot showing the vote of the membership on the various issues. The issues which received strong support are ones which I will be discussing with legislators during this and subsequent legislative sessions.

If I can provide you any additional information on NFIB or if you would like to know our position on a particular issue, feel free to contact me.

Very truly yours,



Gary L. Jenkins, Director
Governmental Relations/Alaska

NFIB/ALASKA
Legislative Office
P.O. Box 194
Auke Bay, AK 99821
907/586-4100

Dear NFIB Member:

This Ballot is solicited by NFIB Research and Education Foundation to gather information pertaining to small business issues in your state.

Your answers are valuable and will enhance the survey.

Please return the entire Ballot. Thank you.

Very truly yours,

John E. Sloan, Jr., President
NFIB Research and Education Foundation

GENERAL BUSINESS

Interest Rates

1. Should interest rate ceilings be repealed on: (vote on each)

a. Bank loans of \$25,000 or less
32% Favor 60% Oppose 8% Undecided 11

b. Savings and loan association loans of \$25,000 or less
34% Favor 58% Oppose 8% Undecided 13

c. Retail installment contracts
36% Favor 54% Oppose 10% Undecided 13

d. Retail open-ended charge accounts
34% Favor 56% Oppose 10% Undecided 14

e. Credit card revolving accounts
33% Favor 58% Oppose 9% Undecided 15

f. State chartered credit unions
35% Favor 55% Oppose 10% Undecided 16

g. Small loan finance company loans of \$10,000 or less
33% Favor 58% Oppose 9% Undecided 17

BACKGROUND: HB 246, presently in the Senate Labor and Commerce Committee proposes to remove all limitations on all types of credit in Alaska. The measure would permit each financial institution and all businesses extending credit to charge whatever interest rate they wish, subject only to competition of the marketplace and negotiation with each individual customer.

Current law limits banks and savings and loan associations to a maximum interest rate of 5% over the federal discount rate in effect at the time of the loan on any loan of \$25,000 or less. There are no interest rate limitations on loans in excess of \$25,000. During the past few months, the federal discount rate has been 8.5%, thereby setting the maximum allowable interest rate at 13.5%.

A retail business selling merchandise on a retail installment contract is presently limited to a maximum interest rate of 10% per year on the first \$1,000 of credit extended, and 8% on credit in excess of \$1,000. However, for retail businesses as well as credit card companies extending open-ended revolving charge accounts, the maximum interest rate is 18% per year on the first \$1,000 of credit extended and the federal discount rate plus 5% on credit in excess of \$1,000. A state chartered credit union is presently limited to 15% or 5% over the federal discount rate, whichever is higher on loans of any amount. Small loan finance companies can now levy a maximum interest rate of 36% per year on the first \$850 of credit extended and 24% on credit up to \$10,000.

Proponents of the removal of all interest rate limitations argue that many financial institutions and businesses lost money on their credit transactions during the period of very high interest rates and, further, the limits are no longer necessary. If the limitations were removed, the marketplace, i.e., competition for the financing, would set the rates at reasonable levels in line with the risks inherent in the particular credit transaction.

Opponents argue that Alaska does not have a well developed marketplace and there are many communities where no competition exists either for banking or retail credit. The removal of all limits would permit the charging of unreasonably high rates. Further, it has also been pointed out that in the case of consumer loans and small business loans under \$25,000, the marketplace seems to react very slowly when interest rates are falling in general. For example during the first few months in 1983 in California, where there are no interest rate limitations, interest rates being charged on small loans by banks were running at 20% to 25%, while rates in Alaska were about 14%.

Interest Rates

2. Should interest rates on balances of \$1,000 or less that are limited to a maximum, such as the 18% for business credit or credit card companies, be modified so the maximum rate could be increased with the federal discount rate, once the federal discount rate reached a pre-set level?

39% Favor 52% Oppose 9% Undecided 18

BACKGROUND: Proponents of this concept feel that businesses extending financing and credit should not be so limited in the rates they charge that they lose money; therefore, the limitations should be allowed to rise when interest rates are generally high. It has been proposed that the maximum rate on accounts with balances of \$1,000 or less be set at 18%, or 6% over the federal discount rate, whichever is higher.

Opponents argue that the federal discount rate does not necessarily indicate the cost of funds to financial institutions or businesses. A variety of other factors affect the cost of funds to a particular entity. They argue, therefore, that it is more appropriate to remove all limitations and let market conditions establish the rates.

Bad Check Penalties

3. Do you favor or oppose increased civil and/or criminal penalties as an effective deterrent to the writing of bad checks?

$\frac{95\%}{1}$ Favor $\frac{4\%}{2}$ Oppose $\frac{1\%}{3}$ Undecided $\frac{19}{19}$

BACKGROUND: It is well established that bad checks are a problem that every business must deal with to some degree. However, the question has been raised whether the laws of Alaska are presently adequate to deal with the problem. It has been suggested that either or both the civil or criminal penalties should be made stronger to attempt to reduce the impact of this problem.

Bad Check Civil Penalties

4. Should legislation be adopted to require that bad-check writers repay not only the face value of the check and any court costs incurred by the receiver but also civil damages of \$100 (minimum) or triple the amount of the check?

$\frac{86\%}{1}$ Favor $\frac{10\%}{2}$ Oppose $\frac{4\%}{3}$ Undecided $\frac{20}{20}$

BACKGROUND: Law enforcement officials frequently do not pursue those who write bad checks for small amounts. Thus, the only deterrent to writing a bad check is the receiver's (merchant) collection efforts. Checks written for small amounts, which together may represent a deep cut in a business's profit, frequently cost more to collect than they are worth.

If the merchant was allowed to collect from the bad-check writer a minimum of \$100 or triple the amount of the check as damages, in addition to the base value of the check and any court costs incurred, there would be a real incentive for the merchant to collect and a deterrent to bad-check writing.

Check Information

5. Should financial institutions be required to number checks on new accounts beginning at #101 and display on the face of the check the month and year the account was opened?

$\frac{41\%}{1}$ Favor $\frac{49\%}{2}$ Oppose $\frac{10\%}{3}$ Undecided $\frac{21}{21}$

5A. Should banks be allowed to disclose to merchants the bank account information of those who issue checks which are returned because of insufficient funds? Such information might include account status, current address, phone number, and history of returned checks.

$\frac{66\%}{1}$ Favor $\frac{33\%}{2}$ Oppose $\frac{1\%}{3}$ Undecided $\frac{22}{22}$

BACKGROUND: In the United States, approximately 400,000 worthless checks are written every day. Eighty percent of those checking accounts are six months old or less. Numerical listing and date of account opening would alert merchants to new accounts and to take care in deciding whether to accept those checks. Additionally, several states have given financial institutions permission to disclose account information to either law enforcement officials or merchants who receive a worthless check.

Opponents of the numbering system believe it would create problems for individuals and businesses who for continuity purposes want to continue to number checks from where the old account left off.

LABOR

Mandatory Overtime Wages

6. Should existing law be repealed which requires a business with four or more employees to pay overtime to an employee who works more than 8 hours in one day, but does not work over 40 hours per week?

$\frac{73\%}{1}$ Favor $\frac{24\%}{2}$ Oppose $\frac{3\%}{3}$ Undecided $\frac{13}{13}$

BACKGROUND: Most small businesses require that a particular job be accomplished within a certain period. This may require an employee to work more than 8 hours on a particular day. However, the employee is given time off on other days of the week so as not to work more than 40 hours that particular week. Proponents of a change

say that law is particularly unfair to smaller businesses whose workload is heavy at certain times and slack on other days of the week. This flexibility of worker time should not impose an additional financial burden on smaller businesses.

Opponents to changing the law argue that employees working more than 8 hours in any one day should be given extra compensation in the form of overtime pay, whether they worked voluntarily or were required to do so by their employer. They feel daily overtime pay should be independent of the requirement to pay overtime to an employee who works more than 40 hours a week.

GOVERNMENT

Permanent Fund Income

7. Should the unused portion of the income from the Permanent Fund not allocated to the Dividend Program be authorized for the following?

a. The Longevity Bonus Program for the elderly

$\frac{41\%}{1}$ Favor $\frac{51\%}{2}$ Oppose $\frac{8\%}{3}$ Undecided $\frac{24}{24}$

Municipal Assistance Program

$\frac{24\%}{1}$ Favor $\frac{66\%}{2}$ Oppose $\frac{10\%}{3}$ Undecided $\frac{25}{25}$

BACKGROUND: During the 1983 Legislative Session bills were introduced which would require that part of the income of the Permanent Fund be held to finance the Longevity Bonus program and/or finance the municipal revenue sharing program. In the past, funding for such programs has been from the state's General Fund.

Proponents of using the income from the Permanent Fund to provide funds for these programs contend that this would not violate the intent of the Permanent Fund financing activities to benefit the maximum number of residents of the state. They argue that programs like the municipal assistance program are helping all communities of the state directly and thus benefit the residents of the various communities indirectly by reducing local taxation and providing needed services.

Opponents argue that the Legislature is merely looking for new sources to fund the expensive programs they have created the past few years which they do

Introduced: 1/11/84
Referred: State Affairs and
Finance

BY SHULTZ, TISCHER,
UEHLING AND LISKA

1 IN THE HOUSE

2 HOUSE BILL NO. 506

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to payment for purchases by the
7 state; and providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 37.05 is amended by adding a new section to read:

10 Sec. 37.05.275. PAYMENT FOR STATE PURCHASES. (a) Payment for
11 purchases of goods or services provided a state agency must be made on
12 a required payment date that is

13 (1) the date on which payment is due under the terms of a
14 contract; or

15 (2) 30 days after receipt of a proper invoice for the
16 amount of the payment due, if a specific date on which payment is due
17 is not established by contract and if the invoice contains or is
18 accompanied by documents required by the contract or purchase order.

19 (b) If a seller offers a discount from the amount otherwise due
20 for property or services in exchange for payment within a specified
21 period of time, the state agency may make payment in an amount equal
22 to the discounted price only if payment is made within the specified
23 period of time.

24 (c) If payment for goods or services purchased by the state is
25 not made within 30 days of a required payment date under (a)(1) of
26 this section or on the required payment date specified in (a)(2) of
27 this section, the state shall pay interest on the unpaid balance from
28 the date of receipt of the invoice for the goods or services at the
29 rate of one and one-half percent a month unless an agreement exists

1 between the seller and the state that precludes the charging of inter-
2 est.

3 (d) This section does not apply

4 (1) if the cost of the goods or services purchased exceeds
5 \$500,000; or

6 (2) to payment for any specific goods or services in dis-
7 pute after a seller of goods or services receives notice from the
8 state official responsible for authorizing payment for goods and
9 services that the amount of the invoice or quality of specific goods
10 or services is in dispute and stating the reasons for the dispute.

11 (e) Interest paid under (c) of this section shall be charged to
12 the budget of the state agency which purchased the goods or services.

13 (f) In this section

14 (1) "dispute" means a determination by the state official
15 responsible for authorizing the payments for the purchase of goods or
16 services that the performance or price charged is not in compliance
17 with the terms of the contract or purchase order;

18 (2) payment is considered made on the date when the payment
19 is personally delivered to the seller or agent of the seller or on the
20 date the payment is mailed;

21 (3) "state agency" has the meaning given in AS 37.05.320
22 and also includes the legislative and judicial branches.

23 * Sec. 2. This Act does not apply to contracts entered into before the
24 effective date of this Act.

25 * Sec. 3. This Act takes effect October 1, 1984.