

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CSHB30 (Fin)
Title: Payment for purchases

FISCAL DETAIL

Agency Affected: All
Program Category Affected: All

Sponsor: Representative Shultz
Requestor: House Finance
Date of Request: 2/26/85

BRU, Program or Subprogram(s) Affected:
All

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FI 85	FI 86	FI 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES		-0-				
200 TRAVEL		-0-				
300 CONTRACTUAL		-0-				
400 SUPPLIES		-0-				
500 EQUIPMENT		-0-				
500 LAND & STRUCTURES		-0-				
700 GRANTS, CLAIMS		-0-				
800 MISCELLANEOUS		-0-				
TOTAL OPERATING		-0-				
CAPITAL		-0-				
REVENUE		-0-				

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-				
FEDERAL FUNDS	-0-				
OTHER	-0-				
TOTAL	-0-				

POSITIONS:

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

ANALYSIS: Attach a separate page if necessary. The purpose of this legislation is to encourage state agencies to pay bills on time. It would be contrary to this purpose to appropriate funds for interest payments or related staff costs. It is the House Finance Committee's intent that any funds needed be absorbed within an agency's existing budget.

Prepared By: Al Adams - Chairman
Division: House Finance Committee

Phone: 465-3706
Date: 2/26/85

Approved by Commissioner: _____
Agency: _____

Date: _____

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

7/1/84

Original sponsor: Shultz

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CE FOR HOUSE BILL NO. 30 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST 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 by
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 billing for the
16 amount of the payment due, if a date on which payment is due is not
17 established by contract and if the billing contains or is accompanied
18 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 on or before a required payment date under (a) of this sec-
26 tion, the state shall pay interest on the unpaid balance from the
27 required payment date at the rate of 1.5 percent a month, unless an
28

1 interest-bearing period of time is either (1) a fraction of a month or
2 (2) one or more full months plus a fraction of a month, the state
3 agency shall pay the same amount of interest for the fraction of a
4 month as it would pay for a full month.

5 (d) This section does not apply

6 (1) if the cost of the goods or services purchased exceeds
7 \$500,000;

8 (2) to payment for specific goods or services in dispute
9 after a seller of goods or services receives notice from the state
10 official responsible for authorizing payment for goods and services
11 that the amount of the invoice or quality of specific goods or ser-
12 vices is in dispute and stating the reasons for the dispute; the state
13 agency shall pay for the specific goods or services in dispute within
14 30 days after resolution of the dispute; or

15 (3) to a contract covered by AS 36.90.001.

16 (e) Interest paid under (c) of this section shall be charged to
17 the budget of the state agency that purchased the goods or services.

18 (f) In this section

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

23 (2) payment is considered made on the date when the payment
24 is personally delivered to the seller or agent of the seller or on the
25 date the payment is mailed;

26 (3) "state agency" has the meaning given in AS 37.05.400
27 and also includes the legislative and judicial branches.

* Sec. 3. This Act takes effect October 1, 1985.

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Original sponsor: Shultz

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12 [ON] a required payment date that is

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14 contract; or

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16 amount of the payment due, if a date on which payment is due is not
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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 [within 30 days of] not made on or before a required payment date under (a) of this sec-

26 tion, the state shall pay interest on the unpaid balance from the
27 [date of receipt of the proper invoice for the goods or services at the
28 required payment date at the rate of 1.5 percent a month, unless an
29 rate provided by AS. 45.45.010 (a)] agreement exists between the seller and the state that establishes a

lower rate of interest or precludes the charging of interest. If the

1 interest-bearing period of time is either (1) a fraction of a month or
2 (2) one or more full months plus a fraction of a month, the state
3 agency shall pay the same amount of interest for the fraction of a
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24 is personally delivered to the seller or agent of the seller or on the
25 date the payment is mailed;

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27 and also includes the legislative and judicial branches.

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

1 * Sec. 3. This Act takes effect October 1, 1985.
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CSHB 30 (Finance)

The Finance Committee substitute makes changes from the State Affairs committee substitute as follows:

1. The Finance substitute specifies that if the payment date is not established by contract, then the payment is due "30 days after receipt of a proper billing for the amount of payment due".
2. The Finance substitute requires that if payment is not made by the due date, then interest accrues at the rate of 1.5 percent a month beginning on the day after payment was due.

The interest is calculated at the rate of 1.5 percent on the unpaid balance regardless of whether payment is one day or 30 days past due. If the bill goes for 31 days past the due date, another 1.5 percent is added.

A M E N D M E N T

OFFERED IN HOUSE FINANCE:

BY: REPRESENTATIVE RIEGER

TO: CS HB 30

PAGE: 1

LINE: 28

Delete "of receipt of the proper invoice"

Insert, after the word "date", "payment is required"

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

Page 1 of 4

REQUEST

Bill/Resolution No.: CS HB30 (SA)

Title: Relating to Payment for
Purchases by the State

Sponsor: Schultz

Requestor: House State Affairs

Date of Request: February 15, 1985

FISCAL DETAIL

Agency Affected: All

Program Category Affected: All

BRU, Program or Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS	0	2,700.0	2,700.0	2,700.0	2,700.0	2,700.0
800 MISCELLANEOUS						
TOTAL OPERATING	0	2,700.0	2,700.0	2,700.0	2,700.0	2,700.0

CAPITAL						
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REVENUE						
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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						
TOTAL	0	2,700.0	2,700.0	2,700.0	2,700.0	2,700.0

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

Prepared By: Kenneth E. Bischoff *KES*

Division: Finance

Phone: 465-2240

Date: February 15, 1985

Approved by Commissioner: Lisa Rudd *A. Rudd*

Date: 2-18-85

Agency: Department of Administration *for*

Distribution (by Agency preparing fiscal note):

Legislative Finance

Legislative Sponsor

Requestor

Office of Management and Budget

Impacted Agency(ies)

Fiscal Note Analysis

CS HB 30

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 possible. This proposal will cause the State to have to choose between verifying invoiced charges to avoid questionable payments, and short-cutting review procedures to avoid penalty interest payments.

Currently, the average payment time for the State is 25 days from the vendors' invoicing date to the paying warrant date. Generally, those agencies which show 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 network of field locations, causing delays in verification and transmission of invoices.

To decrease the penalties under this legislation, State agencies will incur costs for increased staff 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 as that \$1,997.2 million of a \$4.7 billion dollar budget is for vendor payments and that 5% will 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 ($\$1,997.2 \text{ million} \times .05 \times 10.5\% / 12 \text{ mos.} \times 2 \text{ mos.}$) 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.

It would be difficult to improve payment times under existing payment systems without incurring significant additional costs. The new State accounting system is targeted for July 1, 1985 implementation. This system will improve the ability of geographically disbursed agencies to submit their payments more timely through remote terminals. The system will 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.

Additional Fiscal Note Analysis - CS HB 30

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.

Fiscal Note Analysis - CS HB-30
Computation of Vendor Payments Basis

1. Enacted Budget for Fiscal Year 1984	<u>\$4,691,603,187.</u>
Less 2. Permanent Fund Dividends	(2,409,200.)
3. Grants & Claims	(469,850,200.)
4. University of Alaska Payments	(272,468,600.)
5. State Salaries	(844,676,700.)
6. Loans	(146,125,000.)
7. Debt Service	(270,089,474.)
8. Capital	(306,971,179.)
9. Energy Program	<u>(381,800,000.)</u>
	<u>\$1,997,212,834.</u>

1,997,212,334 x .05 x 10.5%/12 mos. x 2 = 1,747,560 or 1.7 million

From FY 85 Legislature's Summary of Appropriation as annotated

1. Lead page - Enacted (less Governor's Vetos) Total Column
2. FCC page 7, CH 122, page 13, line 10
3. FCC page I, Objects of Expenditure Grants, Claims
4. FCC page 41, CH 122, page 80, line 10
5. FCC page I, Objects of Expenditure, Personal Services line, CC column
6. Lead page - Loans & Grants line, Enacted (less Governor's Vetos) Total Column
7. FCC Lead page, Debt Service line, Enacted less Governor's Vetoes
8. Lead page enacted less Governor's Vetoes
9. Lead page enacted less Governor's Vetoes

BACKGROUND ON HB NO. 30

This bill has been requested by numerous vendors that do business with the State of Alaska. The State has become notorious for late payment of invoices, forcing many private vendors to borrow money to supplement their cash flow. This reduces their profit, and in some cases even eliminates it as the profit on articles is very marginal.

The bill is patterned after a federal law entitled "The Prompt Payment Act--Public Law 97-177". The Prompt Payment Act became effective October 1, 1982 and when it was introduced in Congress, it carried 133 sponsors.

The U. S. Army Comptroller in Fort Greely, Mr. Leonard Lemon, advised the Prompt Payment Act has improved their payment schedule and payment of invoices has become routine and very prompt.

In a poll conducted by the National Federation of Independent Business, 3312 businesses in Alaska were in favor of this bill.

In the past the State has placed a very high fiscal note on this bill and the State Administration claims it will have to completely reorganize its accounting system in order to fulfill the requirements set forth in this bill. If this is so, then it should be done as this is an indicator our State's method of handling accounts payable is inefficient and needs modifying.

Businessmen in Alaska need this bill--they have requested it. Their request is not unreasonable and should be supported by elected representatives of their community.

ANALYSIS OF HB NO. 30

"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.

3. Exempts public works contracts.

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.

Chapter 45. Trade Practices.

Article

1. Interest (§ 45.45.010)
2. Collection of Advance Interest (§ 45.45.080)
5. Regulation of Motor Vehicle Repairs (§ 45.45.240)
6. Motor Vehicle Warranties (§§ 45.45.300 — 45.45.360)

Article 1. Interest.

Section

10. Legal rate of interest

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 which is more than five percentage points above the annual rate charged member banks for advances by the 12th Federal Reserve District on the day on which the contract or loan commitment is made. A contract or loan commitment in which the principal amount exceeds \$25,000 is exempt from the limitation of this subsection.

(c) *[Repealed, § 3 ch 84 SLA 1973.]*

(d) *[Repealed, § 2 ch 94 SLA 1981.]*

(e) *[Repealed, § 4 ch 146 SLA 1974.]*

(f) No bank, credit union, savings and loan institution, pension fund, insurance company or mortgage company may require or accept any percent of ownership or profits above its interest rate. This subsection does not apply to a loan if the principal amount of the loan is \$1,000,000 or more and the term of the loan is five years or more.

(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; am §§ 1, 2 ch 94 SLA 1981; am § 1 ch 56 SLA 1982)

Cross references. — As to alternate technology and power resource loans, see AS 45.88.030(e).

Effect of amendments. — The 1981 amendment, in subsection (b), deleted "dated after June 4, 1976" following "contract or loan commitment" and substi-

tuted "on the day on" for "that prevailed on the 25th day of the month preceding the commencement of the calendar quarter during" preceding "which the contract" in the first sentence and substituted "\$25,000" for "\$100,000" preceding "is exempt" in the second sentence. The

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Cross references. — As to limitation of home rule power regarding municipal exemption on contractor bond requirements, see AS 29.13.100(38). As to requirement that a municipality use ordinances to exempt contractors from compliance with general requirements relating to certain bonds, see AS 29.48.130(a)(12).

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Collateral references. — Right of municipal corporation to recover back from contractor payments made under contract violating competitive bidding statute. 33 ALR3d 397.

Liability of municipality on quasi contract for value of property or work furnished without compliance with bidding requirements. 33 ALR3d 1164.

Municipal property as subject to mechanic's lien. 51 ALR3d 657.

Chapter 90. Miscellaneous Provisions.

Section

01. Public construction contract payments

Sec. 36.90.001. Public construction contract payments. (a) The state shall initiate procedures to pay the contractor under a public construction or public work contract within 15 days after the contractor submits to the state a bill for materials provided or services performed and a sworn statement that all employees employed on the project by the contractor and all subcontractors have been paid not less than the established prevailing rate of pay as determined and published by the Department of Labor.

(b) If the state fails to make a payment due the contractor under this section within 30 days after receiving a contractor's billing, the state shall pay interest to the contractor under AS 45.45.010(a) on the amount due.

(c) The state or a political subdivision of the state is liable to a contractor registered under AS 08.18 for interest at the rate provided in AS 45.45.010(a) on retainage on a contract for public works or public construction. Interest on retainage accrues from the date of approval of a pay estimate until the date of payment to the contractor. A contract provision purporting to waive the interest provisions of this subsection is void as contrary to public policy.

(d) A political subdivision that has a population of 500 or less is exempt from the payment of interest provided in (c) of this section.

(e) A political subdivision that receives a state grant for a public construction or public works project may use money from the state grant to pay the interest on retainage under contracts for the project as required by (c) of this section. (§ 1 ch 85 SLA 1982)

Editor's notes. — Section 3, ch. 85, SLA 1982, provides: "The provisions of this Act

apply to contracts entered into after the effective date of this Act [July 1, 1982]."

Offered: 2/20/85
Referred: Finance

Original sponsor: Shultz

1 IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE
2 CS FOR HOUSE BILL NO. 30 (State Affairs)
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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 proper invoice for the goods or services at
29 the rate provided by AS 45.45.010(a) 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;

6 (2) to payment for specific goods or services in dispute
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23 date the payment is mailed;

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25 and also includes the legislative and judicial branches.

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

28 * Sec. 3. This Act takes effect October 1, 1985.

Introduced: 1/14/85
Referred: State Affairs and
Finance

1 IN THE HOUSE

BY SHULTZ

2

HOUSE BILL NO. 30

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to payment for purchases by the
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(c) If payment for goods or services purchased by the state is
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17 services that the performance or price charged is not in compliance
18 with the terms of the contract or purchase order;

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

22 (3) "state agency" has the meaning given in AS 37.05.400
23 and also includes the legislative and judicial branches.

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

26 * Sec. 3. This Act takes effect October 1, 1985.