

HB

217

4-14-86

TESTIMONY OF RICHARD T. HALL
SENIOR VICE PRESIDENT, NATIONAL BANK OF ALASKA

Proposed 3CS CSHB-217 (Labor and Commerce)

Mr. Chairman, my name is Richard T. Hall. I am Senior Vice President of National Bank of Alaska. My remarks today pertain to a proposed Senate Committee substitute for CSHB-217.

There are three banks offering credit card services in Alaska (1st National, Alaska National Bank of the North and National Bank of Alaska), and while I can only speak for National Bank of Alaska, we have discussed this legislation over the years and find we have similar views and support passage of this bill in its current form but may approach any rate change from a different philosophy.

Approximately 150,000 Alaskans who have VISA and Mastercharge cards issued by Alaska banks are not getting the full benefits of falling interest rates, a result of the way Alaska's laws on credit card interest rates are structured.

What's more, current state laws are placing Alaska banks who offer charge card services at a competitive disadvantage with new competition from out-of-state banks who have recently captured about half the Alaska credit card market and who, ironically, charge substantially higher rates than the local banks.

This results in Alaska banks being disadvantaged, local jobs jeopardized, and in consumers paying higher rates and getting less service than would be the case if we adopt HB217. Passage of this bill will allow the open market to establish rates.

Current law leads to the opposite of state policy that should promote consumer protection, local employment, and business development in Alaska.

Alaska's law - the problem

Alaska is one of the five states with laws restricting interest rates on charge cards that are, on the average, less than what they would be in the open market. But the real problem is not so much the limit, but the way the limit is structured.

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Alaska has a "two-tier" limit, a top rate of 18% on the first \$1,000 owed on local bank cards, and a lower rate on balances over \$1,000 that "floats" at five points over the federal discount rate. Because the discount rate has been falling, this lower rate is now 12%.

Like any other price control, these limits create distortions and shortages in the marketplace. The shortage is in the ability of Alaska banks to offer lower-cost credit card services to local consumers, many of whom must turn to out-of-state cards which charge higher interest rates. Alaska law, therefore, results in service being denied to people the law is intended to protect. State laws do not apply to out-of-state banks who issue cards under more liberal laws of their home states. Some of these rates approach 20%. For example, Sears will charge 19.8% with its new "Cover" card and plans to aggressively promote the card nationwide in 1986. Bank of America charges 19.8% and even Citibank, the largest bank in the nation charges 19.8%.

But an almost bizarre distortion is this: The "two-tier" structure of the Alaska law creates a situation where a majority of card owners who carry relatively low balances on their cards pay the maximum 18% rate, while a minority of more affluent card owners can carry large balances at the lower 12% rate. In effect, they use the card as a source of cheap credit. In other words, the less affluent majority are subsidizing low credit card rates to a more affluent minority.

The solution

House Bill 217, now before you, would partly deregulate Alaska's limit on credit card interest rates by removing the lower limit on balances over \$1,000. While the 18% maximum rate would remain. Actual rates on this portion today would fall in the current interest rate environment. This has happened in the other states with one uniform interest rate limit. It is also demonstrated in Alaska where, due to a technicality in the federal credit union statute, a credit union in Alaska is able to charge up to a legal maximum of 21%.

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But in actuality, they are only charging 16.5%. This is one reason why, if current laws were changed, the majority of Alaskans with locally-issued bank cards could see a reduction, possibly to 16.5% or less.

But just as important, sufficient earnings would enable local banks to extend service to far more people. These are the people who would enjoy the greatest benefit under the change, since they would not have to buy or look for service to the more expensive or higher rate out-of-state cards.

With earnings now restricted, local banks are themselves restricted as to how widely they can offer card services. Credit card operations are much more complex and expensive to operate than conventional bank lending activity. Because of this, Alaska banks must be restrictive in the issuing of cards. The system results in people being turned away. Out-of-state banks, because they charge higher rates and have huge volumes, can afford to be less restrictive and, therefore, more competitive in Alaska.

Who wins? Who loses with passage of HB217

The winners would include most Alaska consumers and, yes, local banks who offer card services. The majority of those now holding Alaskan-issued bank cards would see a rate reduction. But the real winners are those now unable to get local cards who must buy cards from out-of-state banks. They would enjoy the most substantial gain.

Other winners would include those employees who work in the credit card and accounting departments of banks offering card services, whose jobs would be more secure because the banks can be more competitive against the out-of-state competition.

The losers? To some extent, a small number of those relatively more affluent Alaskans who can take advantage of the current system by using their credit cards as a source of inexpensive credit. For these people, rates would increase.

Other losers would include out-of-state banks, for certain. Alaska bank card services, with lower rates, would be able to serve far more people and capture back that portion of the market lost to the competition.

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A 17-year perspective

National Bank of Alaska brought the VISA card to Alaska 17 years ago. We brought it because consumers demanded it for the convenience of its use. It was a service to smaller merchants, who could be relieved of the burden of carrying expensive credit service or accounts receivable in competing with larger retailers. And by providing the service, the local banks had hoped to make a profit.

Unfortunately, times have changed. The program no longer benefits the consumer, many of whom are driven to buy out-of-state cards at higher interest rates. Alaska banks have not attained their profit objectives and, further, have been put into a disadvantaged position against out-of-state card issuers. While merchants have benefited, they could benefit even more through this legislation.

If ever there was a state policy contrary to the spirit of Alaska-hire, benefits to the consumer, and local preference, we are now in that position. We urge you to pass this committee substitute.



Official Business

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

SCS CSHB 217(L&C): Sectional Analysis (UPDATED TO REFLECT 5/2 CHANGES IN SCS)

- Section 1) Amends the Small Loans Act by requiring a lender who violates the interest rate provisions of that act to reimburse the extra interest and charges. In the case of repeated violations, the commissioner may, after a hearing, require the lender to reduce the interest and charges to 10.5% per annum.
- Section 2) Extends the same provisions of section 1 to the Premium Finance Act; i.e. reimbursal for interest charged in excess of the terms of that act, and after repeated violations, adjustment of the interest rate to 10.5%.
- Section 3) Increases the interest rate on judgements and decrees from 10.5% to 14%.
- Section 4) Repeals and reenacts the service charge provisions of the Retail Sales Installment Act by increasing the rate to 1.5% per month (18% per annum).
- The 5/2 SCS eliminates the 1.5% per month interest rate and, and replaces that figure with a 17% per year interest rate.
- Section 5) Concerns the "most favored lender doctrine" and states that Alaska declines to override the federal preemption provisions.
- Section 6) July 1, 1986 effective date.

CHAIRMAN'S INFORMATION: CSHB 217(Jud)

- 1) BILL TITLE: " An act relating to interest rates on judgements and decrees, interest rates on agreements subject to the provisions of AS 06 and AS 45, and certain interest rate preemptions by the federal government; and providing for an effective date."
 - a) Introduced: Duncan, Pearce, Ringstad, Boucher
 - b) Co-sponsors:
- 2) INTENT: The L&C CS amends the Small Loans Act and the Premium Finance Act, increases the interest rate on judgements and decrees from 10.5% to 14%, and increases the service charge provision of the Retail Installment Sales Act to 1.5% per month or 18% per annum.

Section 5 of the CS states that Alaska declines to override the federal "most favored lender doctrine".

FISCAL NOTE: 0

- 3) ADDITIONAL REFERRALS: Finance and Rules
- 4) PUBLIC HEARINGS:
 - a) Sponsor:
 - b) Public Witnesses:
- 5) BILL ACTION:
 - a) Hold in committee?
 - b) Assign to sub committee for further review?
 - c) Move from committee?
 - d) Close public hearings?
- 6) COMMITTEE ACTION?
 - a) amendments?
 - b) CS adoption? Need to adopt Senate L&C CS

SCS 5/2 CHANGE
Pg line 16

Bannister
5/2/86 ✓

Original sponsors: Duncan, Pearce,
Ringstad and Boucher

1 IN THE HOUSE

BY THE LABOR AND
COMMERCE COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 217 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to interest rates on judgments and
7 decrees, interest rates on agreements subject to the
8 provisions of AS 06 and AS 45, and certain interest
9 rate preemptions by the federal government; and
10 providing for an effective date."

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

12 * Section 1. AS 06.20.320(a) is amended to read:

13 (a) A licensee or lender who, in the making or collection of a
14 loan contract, does any act that [WHICH] violates AS 06.20.230 -
15 06.20.260 or 06.20.280 - 06.20.310 shall at the option of the commis-
16 sioner reimburse the portion of the interest and charges in excess of
17 that provided in those sections, or, in the case of repeated vio-
18 lations of those sections by the licensee, the commissioner may, upon
19 a hearing, require the licensee to adjust the loan contract interest
20 or other charges down to 10.5 percent a year [THE CONTRACT INTEREST
21 LIMITATION SPECIFIED IN AS 45.45.010(a)].

22 * Sec. 2. AS 06.40.160(a) is amended to read:

23 (a) A lender who, in the making of any contract, loan or premium
24 finance agreement or the collection of interest or charges, does any
25 act that [WHICH] violates AS 06.40.010, 06.40.020, 06.40.090, or
26 06.40.110 - 06.40.130 shall at the option of the commissioner reim-
27 burse that portion of the interest and charges in excess of that
28 provided in those sections, or, in the case of repeated violations of
29 those sections by the lender, the lender shall adjust the contract,

1 loan, or premium finance agreement interest and other charges down to
2 10.5 percent a year [THE CONTRACT INTEREST LIMITATION SPECIFIED IN
3 AS 45.45.010(a)].

4 * Sec. 3. AS 09.30.070 is amended to read:

5 Sec. 09.30.070. INTEREST ON JUDGMENTS. The rate of interest on
6 judgments and decrees for the payment of money is 14 [10.5] percent a
7 year, except that a judgment or decree founded on a contract in writ-
8 ing, providing for the payment of interest until paid at a specified
9 rate not exceeding the legal rate of interest for that type of con-
10 tract, bears interest at the rate specified in the contract if the
11 interest rate is set out in the judgment or decree.

12 * Sec. 4. AS 45.10.120(c) is repealed and reenacted to read:

13 (c) A seller or holder of a retail charge agreement, revolving
14 charge agreement or other retail charge agreement may charge, receive
15 and collect a service charge computed on the outstanding balance from
16 month to month at a monthly rate that ^{REPHRASED} results in 17 percent a year.
17 If the service charge so computed is less than \$1 for any month, then
18 the service charge is \$1. The service charge may be computed on a
19 schedule of fixed amounts if as so computed it is applied to all
20 amounts of outstanding balances equal to the fixed amount minus a
21 differential of not more than \$5 provided that it is also applied to
22 all amounts of outstanding balances equal to the fixed amount plus at
23 least the same differential.

24 * Sec. 5. AS 45.45 is amended by adding a new section to read:

25 Sec. 45.45.015. ELECTION NOT TO OVERRIDE FEDERAL PRZEMPTION. In
26 accordance with Section 525 of P. L. 96-221 (the Depository Institu-
27 tions Deregulation and Monetary Control Act of 1980), the state de-
28 clines to override the federal interest rate preemption provisions
29 contained in Sections 521, 522, and 523 of that act.

1 * Sec. 6. This Act takes effect July 1, 1986.

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Bannister
4/7/86

Original sponsors: Duncan, Pearce,
Ringstad and Boucher

1 IN THE HOUSE

BY THE LABOR AND
COMMERCE COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 217 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to interest rates on judgments and
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16 sioner reimburse the portion of the interest and charges in excess of
17 that provided in those sections, or, in the case of repeated vio-
18 lations of those sections by the licensee, the commissioner may, upon
19 a hearing, require the licensee to adjust the loan contract interest
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26 06.40.110 - 06.40.130 shall at the option of the commissioner reim-
27 burse that portion of the interest and charges in excess of that
28 provided in those sections, or, in the case of repeated violations of
29 those sections by the lender, the lender shall adjust the contract,

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 2 10.5 percent a year [THE CONTRACT INTEREST LIMITATION SPECIFIED IN
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 8 ing, providing for the payment of interest until paid at a specified
 9 rate not exceeding the legal rate of interest for that type of con-
 10 tract, bears interest at the rate specified in the contract if the
 11 interest rate is set out in the judgment or decree.

12 * Sec. 4. AS 45.10.120(c) is repealed and reenacted to read:

13 (c) A seller or holder of a retail charge agreement, revolving
 14 charge agreement or other retail charge agreement may charge, receive
 15 and collect a service charge at a rate of 1.5 percent a month computed
 16 on the outstanding balance from month to month. If the service charge
 17 so computed is less than \$1 for any month, then the service charge is
 18 \$1. The service charge may be computed on a schedule of fixed amounts
 19 if as so computed it is applied to all amounts of outstanding balances
 20 equal to the fixed amount minus a differential of not more than \$5
 21 provided that it is also applied to all amounts of outstanding bal-
 22 ances equal to the fixed amount plus at least the same differential.

23 * Sec. 5. AS 45.45 is amended by adding a new section to read:

24 Sec. 45.45.015. ELECTION NOT TO OVERRIDE FEDERAL PREEMPTION. In
 25 accordance with Section 525 of P. L. 96-221 (the Depository Institu-
 26 tions Deregulation and Monetary Control Act of 1980), the state de-
 27 clines to override the federal interest rate preemption provisions
 28 contained in Sections 521, 522, and 523 of that act.

29 * Sec. 6. This Act takes effect July 1, 1986.

*4000 small bus in AK
 @ the business: increase
 interest rates? other change
 40% No change
 15-20% change*

*Current 12%
 5 pts
 Fed. Ind. rate*

*Small loan ??
 set -
 of penalties & most
 favored set. lender*

Offered: 4/23/85
Referred: Rules

Original sponsors: Duncan, Pearce,
Ringstad and Boucher

1 IN THE HOUSE OF REPRESENTATIVES BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 217 (Judiciary)
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 interest rates on judgments and
7 decrees, interest rates on agreements subject to the
8 provisions of AS 06 and AS 45, and certain interest
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10 providing for an effective date."

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15 06.20.260 or 06.20.280 - 06.20.310 shall at the option of the commis-
16 sioner reimburse the portion of the interest and charges in excess of
17 that provided in those sections, or, in the case of repeated vio-
18 lations of those sections by the licensee, the commissioner may, upon
19 a hearing, require the licensee to adjust the loan contract interest
20 or other charges down to 10.5 percent a year [THE CONTRACT INTEREST
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26 06.40.110 - 06.40.130 shall at the option of the commissioner reim-
27 burse that portion of the interest and charges in excess of that
28 provided in those sections, or, in the case of repeated violations of
29 those sections by the lender, the lender shall adjust the contract,

1 loan, or premium finance agreement interest and other charges down to
2 10.5 percent a year [THE CONTRACT INTEREST LIMITATION SPECIFIED IN
3 AS 45.45.010(a)].

4 * Sec. 3. AS 06.45.060(5)(A)(vi) is amended to read:

5 (vi) the rate of interest may not exceed [THE
6 GREATER OF 15 PERCENT A YEAR OR] the rate specified in
7 AS 45.45.010(b);

8 * Sec. 4. AS 09.30.070 is amended to read:

9 Sec. 09.30.070. INTEREST ON JUDGMENTS. The rate of interest on
10 judgments and decrees for the payment of money is 14 [10.5] percent a
11 year, except that a judgment or decree founded on a contract in writ-
12 ing, providing for the payment of interest until paid at a specified
13 rate not exceeding the legal rate of interest for that type of con-
14 tract, bears interest at the rate specified in the contract if the
15 interest rate is set out in the judgment or decree.

16 * Sec. 5. AS 45.10.120(c) is repealed and reenacted to read:

17 (c) A seller or holder of a retail charge agreement, revolving
18 charge agreement or other retail charge agreement may charge, receive
19 and collect a service charge at a rate of 1.5 percent a month computed
20 on the outstanding balance from month to month. If the service charge
21 so computed is less than \$1 for any month, then the service charge is
22 \$1. The service charge may be computed on a schedule of fixed amounts
23 if as so computed it is applied to all amounts of outstanding balances
24 equal to the fixed amount minus a differential of not more than \$5
25 provided that it is also applied to all amounts of outstanding bal-
26 ances equal to the fixed amount plus at least the same differential.

27 * Sec. 6. AS 45.45.010(b) is amended to read:

28 (b) Interest may not [NO INTEREST MAY], be charged by express
29 agreement of the parties in a contract or loan commitment which for

1 loans of \$10,000 or under is more than six and one-half [FIVE] per-
2 centage points and for loans over \$10,000 and not more than \$25,000 is
3 more than 10 percentage points above the annual rate charged member
4 banks for advances by the 12th Federal Reserve District on the day on
5 which the contract or loan commitment is made. A contract or loan
6 commitment in which the principal amount exceeds \$25,000 is exempt
7 from the limitation of this subsection.

8 * Sec. 7. AS 45.45 is amended by adding a new section to read:

9 Sec. 45.45.015. ELECTION TO OVERRIDE FEDERAL PREEMPTION. In
10 accordance with Section 525 of Public Law 96-221 (the Depository
11 Institutions Deregulation and Monetary Control Act of 1980), the state
12 declares that it overrides the federal interest rate preemption pro-
13 visions contained in the following sections of that act:

14 (1) section 521, which amends the Federal Deposit Insurance
15 Act (12 U.S.C. 1811-1832) with respect to the interest rate that may
16 be taken, received, reserved, or charged on a loan or discount made,
17 or on a note, bill of exchange, or other evidence of debt, by foreign
18 bank branches and state-chartered banks that are insured in accordance
19 with that act;

20 (2) section 522, which amends subchapter IV of the National
21 Housing Act (12 U.S.C. 1724-1730g) with respect to the interest rate
22 that may be taken, received, reserved, or charged on a loan or dis-
23 count made, or on a note, bill of exchange, or other evidence of debt,
24 by institutions that are insured under that subchapter; and

25 (3) section 523, which amends section 205 of the Federal
26 Credit Union Act (12 U.S.C. 1785) with respect to the interest rate
27 that may be taken, received, reserved, or charged on a loan by a
28 credit union that is insured in accordance with subchapter II of the
29 Federal Credit Union Act (12 U.S.C. 1781 - 1790).

1 * Sec. 8. This Act takes effect July 1, 1985.

STATE OF ALASKA 1985 LEGISLATIVE SESSION

FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 217
 Title: An Act relating to
interest rates
 Sponsor: Duncan, et al
 Requestor: House Special Committee on
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Commerce & Econ. Dev
 Program Category Affected: _____
Public Protection
 BRU, Program or Subprogram(s) Affected:
Loans Banking and Securities

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						
500 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: Attach a separate page if necessary

Prepared By: N. T. Lusk Phone: 465-2521
 Division: Banking, Securities and Corporation Date: _____

Approved by Commissioner: Loren H. Lounsbury Date: 3/7/85
 Agency: Commerce and Economic Development

Distribution (by Agency preparing fiscal note):

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

7/1/84