

ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 8672

8679 HOUSE LABOR & COMMERCE





**HB**

**319**

# FISCAL NOTE

**STATE OF ALASKA**  
**1996 LEGISLATIVE SESSION**

**BILL NO. HB 319**

Revision Date: \_\_\_\_\_  
 Title: Regulation of Small Loan and Retail Installment Transactions  
 Sponsor: House Labor and Commerce  
 Requestor: House Labor and Commerce

Department: Commerce and Economic Development  
 BRU: Banking, Securities and Corporations  
 Component: Banking, Securities and Corporations

COMPONENT SERIAL NO. 1233

**Expenditures/Revenues**

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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<b>CHANGE IN REVENUES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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**FUND SOURCE**

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY 96) cost: \$ 0.0

**POSITIONS**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary)

Prepared by: Willis F. Kirkpatrick, Director *Willis F. Kirkpatrick* Phone: 465-2521  
 Division: Banking, Securities and Corporations Date: 1-17-96  
 Approved by Commissioner: William L. Hensley *William L. Hensley* Date: 1-17-96  
 Agency: Commerce and Economic Development

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CS FOR HOUSE BILL NO. 319(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered:

Referred:

Sponsor(s): HOUSE LABOR AND COMMERCE COMMITTEE BY REQUEST

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the regulation of small loan and retail installment  
2 transactions."

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

4 \* Section 1. AS 06.20.030(a) is amended to read:

5 (a) Investigation expenses incurred by the department in processing an  
6 application for licensure shall be charged to and paid by the applicant under  
7 AS 06.01.010. At the time of submitting the application to the commissioner, the  
8 applicant shall pay to the department \$1,000 [\$400] in partial payment of those  
9 investigation expenses incurred by the department. [IF THE INVESTIGATION  
10 EXPENSES INCURRED BY THE DEPARTMENT DO NOT EXCEED \$400, THE  
11 REMAINDER SHALL BE PROMPTLY REFUNDED TO THE APPLICANT.]

12 \* Sec. 2. AS 06.20.030(b) is amended to read:

13 (b) An applicant shall pay to the department at the time of submitting an  
14 application a sum, in addition to that specified in (a) of this section, of \$500 for a

1 single office license, or \$2,000 for a multiple office license [\$200] as an annual  
2 license fee for a period terminating on the last day of the current calendar year. [IF  
3 THE APPLICATION IS FILED AFTER JUNE 30, THE ADDITIONAL SUM IS  
4 \$100.]

5 \* Sec. 3. AS 06.20.040 is amended to read:

6 Sec. 06.20.040. LIQUID ASSETS REQUIRED. An applicant shall prove, in  
7 form satisfactory to the department, that the applicant has available for the operation  
8 of the business at the location specified in the application, liquid assets of at least  
9 \$25,000, or, in the case of a multiple office license, that the equivalent amount is  
10 available to each office from a central account maintained by the applicant  
11 [\$20,000].

12 \* Sec. 4. AS 06.20.050 is amended to read:

13 Sec. 06.20.050. BOND. The applicant shall file with the application a bond  
14 to be approved by the department in which the applicant shall be the obligor, in the  
15 sum of \$25,000 [\$5,000] with one or more sureties. Only one bond is required for  
16 an application for a multiple office license. The bond shall be for the use of the  
17 state and any person who may have a cause of action against the obligor under this  
18 chapter. The bond must state that the obligor will faithfully conform to and abide by  
19 the provisions of this chapter and of all regulations lawfully adopted by the  
20 department, and will pay to the state and to any person all money that may become  
21 due or owing to the state or to the person from the applicant under this chapter.

22 \* Sec. 5. AS 06.20.060 is amended to read:

23 Sec. 06.20.060. ISSUANCE OF LICENSE. Upon the filing of the application,  
24 the payment of the fees and the approval of the bond, the department shall issue a  
25 license to the applicant if it finds upon investigation that (1) the financial  
26 responsibility, experience, character, and general fitness of the applicant and of its  
27 members if the applicant is a copartnership or association, and of its officers and  
28 directors if the applicant is a corporation, are such as to command the confidence of  
29 the community and to warrant belief that the business will be operated honestly, fairly,  
30 and efficiently within the purposes of this chapter, and (2) allowing the applicant to  
31 engage in business at the location will provide accessibility and [PROMOTE THE]

1 convenience for borrowers of money [AND ADVANTAGE OF THE COMMUNITY  
2 IN WHICH THE BUSINESS IS TO BE CONDUCTED], and (3) the applicant has  
3 available for the operation of the business at the specific location liquid assets of at  
4 least \$25,000, or, in the case of a multiple office license, that the equivalent  
5 amount is available to each office from a central account maintained by the  
6 applicant [\$20,000]. The foregoing facts are conditions precedent to the issuance of  
7 a license under this chapter. The license permits the applicant to make loans in  
8 accordance with this chapter at the location or locations specified in the application.  
9 The license remains in full force and effect until it is surrendered by the licensee or  
10 revoked or suspended. If the department denies the application, it shall notify the  
11 applicant of the denial, bill the applicant for any outstanding expenses incurred by the  
12 department during the investigation and return the bond if those expenses have been  
13 paid. The department shall approve or deny every application for license within 60  
14 days from the filing of the application with the fees and the approved bond. If the  
15 application is denied, the department shall, within 20 days thereafter, serve upon the  
16 applicant a copy of the written decision and findings. The decision and findings may  
17 be reviewed in the manner provided in AS 44.62.560 and 44.62.570 (Administrative  
18 Procedure Act).

19 \* Sec. 6. AS 06.20.090 is amended to read:

20 Sec. 06.20.090. PLACES OF BUSINESS. (a) A licensee may maintain only  
21 one place of business under a single office [THE] license, or up to 10 places of  
22 business under each multiple office license. The department may issue more than  
23 one license to the same licensee upon compliance with the provisions of this chapter  
24 governing the original issuance of a license.

25 (b) If a licensee changes the place of business to another location within the  
26 same municipality, the licensee shall give written notice to the department in advance.  
27 Upon approval, the department shall issue an amended license for [THE  
28 DEPARTMENT SHALL ATTACH THE WRITTEN NOTICE OF THE CHANGE TO  
29 THE LICENSE TOGETHER WITH THE DATE. THEREAFTER THE LICENSEE  
30 MAY OPERATE THE BUSINESS UNDER THE LICENSE AT] the new location.  
31 A licensee may not change the place of business to a location outside the municipality

1 in which the licensee is authorized to do business.

2 \* Sec. 7. AS 06.20.180 is amended to read:

3 Sec. 06.20.180. BOOKS AND RECORDS OF LICENSEES. Each licensee  
4 shall keep and use in the licensed premises [BUSINESS] those books, accounts, and  
5 records that will enable the department to determine whether the licensee is complying  
6 with this chapter and with the regulations lawfully adopted by the department under  
7 this chapter. The maintenance of separate books and records for another business  
8 authorized by the department under AS 06.20.210 is not required. The method  
9 of tracking and numbering the loans shall be determined by the licensee, as long  
10 as the system enables the department to perform the department's obligations  
11 under this title. The licensee shall preserve the books, accounts, and records,  
12 including cards used in the card system, if any, for two years after making the final  
13 entry on any recorded loan.

14 \* Sec. 8. AS 06.20.240 is amended to read:

15 Sec. 06.20.240. LOANS FOR PURPOSE OF OBTAINING HIGHER  
16 INTEREST. [A LICENSEE MAY NOT INDUCE OR PERMIT A BORROWER TO  
17 SPLIT UP OR DIVIDE A LOAN.] A licensee may not induce or permit a person, or  
18 a husband and wife jointly or severally, to split up or divide a loan or to become  
19 obligated, directly or contingently or both, under more than one loan contract at the  
20 same time, for the purpose or with the result of obtaining a higher rate of interest than  
21 would otherwise be permitted by AS 06.20.230. However, a licensee may enter into  
22 new or different loan transactions with the borrower or the borrower's spouse at  
23 a different time so long as the purpose of the additional transaction does not  
24 violate this section.

25 \* Sec. 9. AS 06.20.250 is amended by adding new subsections to read:

26 (d) Loan contracts must provide for substantially equal payments, and the  
27 payments must be due at least once a month, with the first payment beginning not later  
28 than 45 days from the date the loan is made.

29 (e) If the irregular payment is confirmed in writing by the borrower, and the  
30 method of repayment is consistent with the maximum term and annual interest rate  
31 provided in this chapter, and if a borrower demonstrates sufficient seasonal or

1 extraordinary income to support repayment of a loan, the loan contract may provide  
2 for irregular payments and first payment loan extensions greater than 45 days from the  
3 date the loan is made.

4 \* Sec. 10. AS 06.20.260(a) is amended to read:

5 (a) A further or other charge or amount for an examination, service, brokerage  
6 commission, expense, fee, bonus, or other thing may not be directly or indirectly  
7 charged, contracted for, or received except

8 (1) lawful fees actually paid out by the licensee to a public officer for  
9 filing, recording, or releasing any instrument securing the loan, or premiums payable  
10 for insurance in lieu of perfecting a security interest if the premiums do not  
11 exceed the fees that would otherwise normally be incurred for perfecting, filing,  
12 recording, and releasing the security interest, or for transferring certificate of title  
13 to a motor vehicle securing the lien or noting a lien on that certificate;

14 (2) premiums actually paid out for insurance on any one or combination  
15 of the following: pledged property of the borrower, or consumer credit insurance; in  
16 this paragraph, "consumer credit insurance" has the meaning given in AS 21.57.160;

17 (3) taxable costs and expenses to which the licensee becomes entitled  
18 under general law in any court proceedings to collect a loan or to realize on the  
19 security after default;

20 (4) for loans of \$10,000 or less that are secured by an interest in  
21 real estate, reasonable costs and fees paid by a licensee for appraisals, surveys, and  
22 title insurance or reports [IF THE LOAN IS SECURED BY AN INTEREST IN REAL  
23 ESTATE];

24 (5) for loans over \$10,000, whether or not secured by an interest  
25 in real estate, reasonable costs and fees paid by a licensee for appraisals, surveys,  
26 title insurance or reports, and credit reports;

27 (6) a late payment fee of not more than 10 percent of the payment that  
28 is due or \$25 [\$15], whichever is less;

29 (7) a fee for dishonored checks not to exceed \$25 for each  
30 dishonored check;

31 (8) reasonable attorney fees, actual expenses, and costs incurred in

1 connection with the collection of a delinquent debt or a foreclosure if the  
2 collection or foreclosure is referred to an attorney who is not a salaried employee  
3 of the licensee and the balance then owing on the debt exceeds \$5,000;

4 (9) actual expenses and costs incurred in connection with a  
5 repossession.

6 \* Sec. 11. AS 06.20.287 is amended to read:

7 Sec. 06.20.287. CREDIT INSURANCE ON OPEN-END LOANS. (a) A  
8 licensee may obtain consumer credit, credit loss of income, and property insurance on  
9 open-end loans under this chapter. The consumer credit insurance obtained by a licensee  
10 shall satisfy the requirements of AS 21.57. The property insurance obtained by a  
11 licensee shall satisfy the requirements of AS 21.39 and AS 21.42. The licensee shall  
12 comply with AS 21.36.160 and 21.36.165 during all transactions with borrowers  
13 involving consumer credit, credit loss of income, and property insurance.

14 (b) The licensee shall calculate the charge for credit life, credit loss of income,  
15 or disability insurance in each billing cycle by adding to the unpaid balance in the  
16 borrower's account the current monthly premium rate for the coverage required at the  
17 rate set under AS 21.57, using the method specified in the loan agreement for  
18 determining the unpaid balance.

19 (c) A licensee may not cancel credit life, credit loss of income, or disability  
20 insurance obtained for an open-end loan if the borrower is delinquent in paying the  
21 monthly installments unless an installment is delinquent for 90 days or longer. The  
22 licensee shall advance to the insurer amounts necessary to keep the policy in force until  
23 the 90-day delinquency period has elapsed, and the borrower's account may be charged  
24 for the amounts advanced to the insurer.

25 \* Sec. 12. AS 45.10.070(b) is amended to read:

26 (b) Except when the service charge is computed on an add-on or simple  
27 interest basis, the [THE] amount of the refund credit shall be computed according to  
28 the "rule of 78ths"; that is, it shall represent at least as great a proportion of the original  
29 service charge over \$25 in case of a retail installment sale of a motor vehicle, or \$10 in  
30 case of a retail installment sales of goods other than a motor vehicle, as (1) the sum of  
31 the monthly or other periodic unpaid balances under the schedule of payments in the  
32 contract beginning as of the date after the prepayment that [WHICH] is the next

1 succeeding monthly or other periodic anniversary date of the due date of the first  
2 installment under the contract, or, if the prepayment is before the due date of the first  
3 installment under the contract, then as of the date after the prepayment that [WHICH]  
4 is the next succeeding monthly or other periodic anniversary date of the date of the  
5 contract bears to (2) the sum of all the monthly or other periodic unpaid balances under  
6 the schedule of installment payments in the contract.

7 \* Sec. 13. AS 45.10.080(a) is amended to read:

8 (a) If authority to do so is contained in the contract or agreement. the [THE]  
9 holder of a retail installment contract or retail charge agreement may [NOT] collect  
10 any delinquency, [OR] collection or dishonored check charges. [CHARGE OTHER  
11 THAN] attorney fees, court costs, and disbursements [UNLESS THE CONTRACT SO  
12 PROVIDES]. In this case, the charge must [SHALL] be reasonable, and no attorney fee  
13 may be recovered unless the contract is referred for collection to an attorney not a  
14 salaried employee of the holder.

15 \* Sec. 14. AS 45.10.120 is repealed and reenacted to read:

16 Sec. 45.10.120. EXTENT OF SERVICE CHARGE. (a) Notwithstanding any  
17 other law, the service charge included in a retail installment contract, retail charge  
18 agreement, revolving charge agreement, or other retail charge agreement must be at the  
19 rate agreed upon by the retail seller and the buyer.

20 (b) This section does not limit or restrict the method of computing the service  
21 charge, whether by way of add-on, simple interest, or otherwise, so long as that method  
22 is disclosed in the contract and agreed upon by the retail seller and the buyer.

23 \* Sec. 15. AS 45.10.220(3) is amended to read:

24 (3) "official fees" means the amount of the fees set by law for filing,  
25 recording, or otherwise perfecting and releasing or satisfying a retained title, lien, or  
26 other security interest created by a retail installment transaction or premiums payable  
27 for insurance in lieu of perfecting a security interest if the premiums do not exceed  
28 the fees that would otherwise normally be incurred for perfecting, filing, recording,  
29 or otherwise perfecting and releasing or satisfying a retained title, lien, or other  
30 security interest;

# Retail Credit (2 Party)

## States That Authorize Late Payment Fee



Late payment fee permitted



Late fee of \$10.00 or greater permitted



No late fee authorized

RETAIL CREDIT (2 PARTY)

<u>State</u>	<u>Maximum Late Payment Fee Authorized</u>
Arizona	Not to exceed \$5.00 for installment less than \$25.00, \$10.00 for over \$25.00.
Arkansas	No statutory limit. Must equal that assessed in at least one other state
California	Not to exceed \$10.00
Colorado	Not to exceed \$15.00
Connecticut	Lesser of 5% of monthly payment or \$10.00
District of Columbia	Not to exceed \$10.00
Florida	Not to exceed \$10.00
Georgia	Maximum of \$10.00
Hawaii	Lesser of 5% of monthly payment or \$50.00
Idaho	Greater of 5% of payment or \$5.00
Illinois	Not to exceed \$10.00
Indiana	Not to exceed \$15.00 adjusted yearly
Iowa	Not to exceed \$10.00
Kansas	Not to exceed \$10.00 or 5% of monthly payment with a \$25.00 maximum \$5.00 for installment less than \$25.00, \$10.00 for over \$25.00.
Kentucky	Ceiling unspecified
Louisiana	Parity with late fees being exported into state by out of state banks
Maine	Lesser of \$10.00 or 5% of delinquent installment
Maryland	No statutory limit
Massachusetts	Not to exceed the lesser of 10% of balance or \$10.00
Michigan	No statutory limit
Minnesota	Equal to fee permitted by National Banks under MN law (greater of 5% or \$5.00)
Mississippi	Maximum of \$10.00
Missouri	Not to exceed \$5.00 for installments less then \$25.00, \$10.00 for installments over
Montana	Lesser of 5% of monthly payment or \$15.00
Nebraska	The greater of 5% of installment or \$5.00
Nevada	Agreed upon amount, no statutory limit
New Hampshire	Agreed upon amount
New Jersey	Not to exceed \$10.00
New York	Agreed upon amount, no statutory limit
North Carolina	\$5.00 on balance of less then \$100.00 and \$10.00 on balance of \$100 or greater
Ohio	Lesser of 5% of monthly payment or \$3.00
Oklahoma	Greater of 5% of the monthly payment or \$12.50
Oregon	No Statutory limit other then the charge be reasonable
Pennsylvania	Not to exceed \$12.00
Rhode Island	Not to exceed \$12.00
South Carolina	5% of payment not to exceed \$10.00 or 40% of \$10.00
South Dakota	Agreed upon amount
Tennessee	Ceiling unspecified
Texas	Not to exceed \$10.00
Utah	Greater of 5% of monthly payment or \$20.00
Virginia	Agreed upon amount
Washington	No statutory limit other than amount must be reasonable
West Virginia	Lesser of 5% of monthly payment or \$5.00
Wisconsin	Not to exceed of \$10.00

**Not intended as legal advise, opinion of local counsel should be obtained**

JCPENNEY  
GOVERNMENT RELATIONS  
Fax Transmission Cover Sheet  
January 22, 1996

PLEASE DELIVER TO:

 GEORGE DOZIER JERRY REINWAND WILLIAM DOSS SUSAN BIZÉ

TRANSMISSION FROM: JOHN H. ANDREW

Fax Telephone Number: (916) 441-1626

Voice Telephone Number: (916) 441-2796

PROFS Identification: JANDREW

 For your information As you requested Please call me to discussNumber of pages: 17 including this cover sheet.

MAY BE SENT TO TWO OR MORE TRANSMISSIONS

*1201 K Street, #1950, Sacramento, California 95814-3924*

# JCPenney

January 22, 1996

VIA FACSIMILE

Mr. George Dozier  
House Labor and Commerce Committee  
State Capitol  
Juneau, Alaska

Re: House Bill No. 319

Dear Mr. Dozier:

At the request of Mr. Jerry Reinwand, I am faxing the accompanying materials for the use of the committee members at the hearing on House Bill No. 319 scheduled for Wednesday, January 24th.

Sections 10 and 11 of House Bill No. 319 would amend the Alaska Retail Installment Sales Act which governs the Penney Company's retail credit arrangements with its Alaska customers. The enclosed materials relate to those amendments. They include, with respect to Section 10:

1) A chart titled "Alaska Retail Credit Grantors - Current Service, Delinquency and Dishonored Check Charges;"

2) A paper titled "The Case for Late Fees for Alaska Retail Credit Grantors;"

3) A chart titled, "Retail Credit (2 Party) - Maximum Late Payment Fee Authorized; and

4) A map titled "Retail Credit (2 Party) - States That Authorize Late Payment Fee."

They also include, with respect to Section 11:

A) A chart titled "Retail Credit Service Charges - Government Imposed Rate Ceilings;"

B) A chart titled "Retail Revolving Credit (2 Party) - Open Competitive Credit Market States;" and

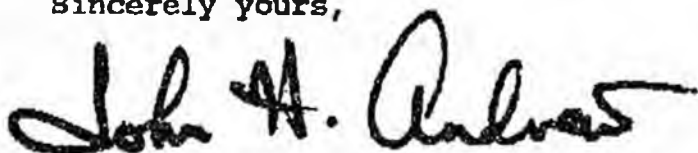
C) Portions of a report titled "The Economic Impacts of Revolving Credit Regulation in Wisconsin, April 1995, including pages 30-32, and Appendix C, Table 2, and Table 3 which are referred to in those pages of the report and the bibliography of the report. This report, which was prepared

Mr. George Dozier  
Alaska House Committee on Labor and Commerce  
January 22, 1996  
Page 2

for Governor Tommy Thompson and the Wisconsin Legislature and will be used to support of legislation with the same intent as Section 11 of H.B. 319 which will be introduced in the current session of the Wisconsin legislature. In our experience the conclusions in the "Merchant Credit" section of that report are as relevant to Alaska as they are to Wisconsin.

Your assistance in distributing these materials to the committee members for their consideration is appreciated.

Sincerely yours,



John H. Andrew  
Senior Government Relations Counsel

Enclosures

cc: Jerry Reinwand (w/encl.)  
William J. Doss " [JCPenney, Anchorage]  
Fred C. Lugar "  
Susan Walters Bizé "

**ALASKA RETAIL CREDIT GRANTORS  
CURRENT SERVICE, DELINQUENCY AND DISHONORED CHECK CHARGES**

RETAILER	STATE LAW GOVERNING ACCOUNTS	LEGAL SERVICE CHARGE RATE	SERVICE CHARGE RATE IN ALASKA	DELINQUENCY CHARGE IN ALASKA	DISHONORED CHECK CHARGE IN ALASKA
Chevron	Alaska	18% to \$1,000; 10% above	18% to \$1,000; 8% above		
Firestone	Ohio	25%	21.84%	-0-	-0-
Lamonta	Ohio	25%	19.8%	\$10	\$10
Fred Meyer	South Dakota	No statutory rate limit	22.44%	Lesser of \$10 or 5% of missed payment	\$15
Nordstrom	Colorado	21%	18% to \$1,000; variable above	\$10	\$10
JCPenney	Alaska	18% to \$1,000; 10% above	18% to \$1,000; 7.92% above	-0-	\$10
Radio Shack	Tennessee	24%	22.3%	\$15	\$10
Sears	Arizona	No statutory rate limit	21%	-0-	\$10
Texaco	Nebraska	No statutory rate limit	21%	Lesser of \$5 or 5% of missed payment	\$15
Zales	Alaska	18% to \$1,000; 10% above	18% to \$1,000; 8% above	-0-	-0-

The information in this chart is based upon credit applications collected in 1994 and 1995.

January 22, 1996

JAN 22 1996 12:38 PM JUP 3011 BELT LINE 916441606 10 1907485815 2:04:17

## THE CASE FOR LATE FEES FOR ALASKA RETAIL CREDIT GRANTORS

### BACKGROUND FOR ALASKA HOUSE BILL NO. 319

A "late fee" or "delinquency charge" is a fee imposed by a credit grantor on an overdue account. Retail credit customers who fail to remit their monthly minimum payment by the agreed due date cause the retailer to incur additional costs in attempting to collect the past due accounts. These collection costs are in addition to the normal costs incurred in extending credit and servicing the credit customer. (One retail credit grantor operating under Alaska law estimates those costs to average approximately \$7.80). These additional costs, if not recouped by the credit grantor, may show up in higher merchandise prices, meaning that cash customers and those who properly make their payments provide a subsidy to those who don't adhere to agreed payment terms. Besides allowing the retailer to offset the additional costs incurred, late payment fees also provide an incentive for the customer not to miss the payment in the first place.

The best public policy response to this situation is to allow retailers to assess a late payment fee on delinquent credit customers at an amount which encourages the customer to make timely payment and enables the retailer to recover the additional costs which it incurs when the customer does not do so. Thus the Alaska Retail Installment Sales Act (RISA) has, since its enactment in 1962, authorized reasonable late fees on retail installment contracts; that is, closed-end (single purchase) credit contracts. However, unlike the law in over three-quarters of the states in the country, the Alaska act is silent with respect to the imposition of late fees on the now-prevalent revolving credit accounts.

Under federal law, some credit grantors can and do charge late fees on retail charge agreements. Such retailers extend credit through a federally-chartered "credit card bank" or through a national or state bank located in another state under whose laws they can legally impose late charges on delinquent accounts in Alaska. Several such retailers are currently imposing late fees on Alaska resident customers. This puts retailers operating under the Alaska RISA at a competitive disadvantage because customers will first pay those bills with a late fee. As a result, the bills from retailers operating under Alaska law go to the bottom of the stack and those from out-of-state creditors get paid first.

### PROPOSED LEGISLATION - ALASKA HOUSE BILL NO. 319

The proposed legislation, House Bill No. 319, would (in Section 10) correct the current inequity in the Alaska Retail Installment Sales Act by allowing the imposition of a reasonable delinquency fee not only when a payment on a retail installment contract is late, but also when a payment on a retail charge agreement is late. House Bill No. 319 restores fairness to creditors operating under Alaska's law and the vast majority of credit accountholders who pay their bills on time and should not be required to subsidize those who do not.

RETAIL CREDIT (2 PARTY)

<u>State</u>	<u>Maximum Late Payment Fee Authorized</u>
Arizona	Not to exceed \$5.00 for installment less than \$25.00, \$10.00 for over \$25.00.
Arkansas	No statutory limit. Must equal that assessed in at least one other state
California	Not to exceed \$10.00
Colorado	Not to exceed \$15.00
Connecticut	Lesser of 5% of monthly payment or \$10.00
District of Columbia	Not to exceed \$10.00
Florida	Not to exceed \$10.00
Georgia	Maximum of \$10.00
Hawaii	Lesser of 5% of monthly payment or \$50.00
Idaho	Greater of 5% of payment or \$5.00
Illinois	Not to exceed \$10.00
Indiana	Not to exceed \$15.00 adjusted yearly
Iowa	Not to exceed \$10.00
Kansas	Not to exceed \$10.00 or 5% of monthly payment with a \$25.00 maximum \$5.00 for installment less than \$25.00, \$10.00 for over \$25.00.
Kentucky	Ceiling unspecified
Louisiana	Parity with late fees being exported into state by out of state banks
Maine	Lesser of \$10.00 or 5% of delinquent installment
Maryland	No statutory limit
Massachusetts	Not to exceed the lesser of 10% of balance or \$10.00
Michigan	No statutory limit
Minnesota	Equal to fee permitted by National Banks under MN law (greater of 5% or \$5.00)
Mississippi	Maximum of \$10.00
Missouri	Not to exceed \$5.00 for installments less then \$25.00, \$10.00 for installments over
Montana	Lesser of 5% of monthly payment or \$15.00
Nebraska	The greater of 5% of installment or \$5.00
Nevada	Agreed upon amount, no statutory limit
New Hampshire	Agreed upon amount
New Jersey	Not to exceed \$10.00
New York	Agreed upon amount, no statutory limit
North Carolina	\$5.00 on balance of less then \$100.00 and \$10.00 on balance of \$100 or greater
Ohio	Lesser of 5% of monthly payment or \$3.00
Oklahoma	Greater of 5% of the monthly payment or \$12.50
Oregon	No Statutory limit other then the charge be reasonable
Pennsylvania	Not to exceed \$12.00
Rhode Island	Not to exceed \$12.00
South Carolina	5% of payment not to exceed \$10.00 or 40% of \$10.00
South Dakota	Agreed upon amount
Tennessee	Ceiling unspecified
Texas	Not to exceed \$10.00
Utah	Greater of 5% of monthly payment or \$20.00
Virginia	Agreed upon amount
Washington	No statutory limit other than amount must be reasonable
West Virginia	Lesser of 5% of monthly payment or \$5.00
Wisconsin	Not to exceed of \$10.00

Not intended as legal advice, opinion of local counsel should be obtained



A

## RETAIL CREDIT SERVICE CHARGES GOVERNMENT-IMPOSED RATE CEILINGS

<u>STATE</u>	<u>ANNUAL RATE CEILING</u>
1. Arizona	Competitive Market Rate (No Government-imposed Ceiling)
2. California	Competitive Market Rate
3. Connecticut	Competitive Market Rate
4. Delaware	Competitive Market Rate
5. Idaho	Competitive Market Rate
6. Illinois	Competitive Market Rate
7. Kentucky	Competitive Market Rate
8. Maine	Competitive Market Rate
9. Montana	Competitive Market Rate
10. Nevada	Competitive Market Rate
11. New Hampshire	Competitive Market Rate
12. New Jersey	Competitive Market Rate
13. New Mexico	Competitive Market Rate
14. New York	Competitive Market Rate
15. North Dakota	Competitive Market Rate
16. Oregon	Competitive Market Rate
17. Rhode Island	Competitive Market Rate
18. South Carolina	Competitive Market Rate
19. South Dakota	Competitive Market Rate
20. Utah	Competitive Market Rate
21. Virginia	Competitive Market Rate
22. Washington	Competitive Market Rate
23. Florida	Parity (highest rate imported into state by out-of-state bank)
24. Louisiana	Parity
25. Ohio	25%
26. Hawaii	24%
27. Maryland	24%
28. Colorado	21%
29. Georgia	21%
30. Indiana	21%
31. Mississippi	21%
32. Oklahoma	21%
33. Tennessee	21%
34. Vermont	21%
35. Wyoming	21%
36. Texas	Parity (with maximum of 21%)
37. North Carolina	21% on first \$800 of balance, 18% on remaining balance
38. Alabama	21% on first \$750 of balance, 18% on remaining balance
39. Kansas	21% on first \$1,000 of balance, 14.4% on remaining
40. Nebraska	21% on first \$500 of balance, 18% on remaining
41. Michigan	20.4%
42. Missouri	20.04%
43. Iowa	19.8%
44. Massachusetts	18%
45. Minnesota	18%
46. Pennsylvania	18%
47. West Virginia	18%
48. Wisconsin	18%
49. Alaska	18% on first \$1,000 of balance, 5% plus the Federal Discount Rate (currently 5¼%) on remaining balance
50. Arkansas	5% plus the Federal Discount Rate (currently 5¼%) [Constitutional provision]

Note: Legislation which would remove government-imposed rate ceilings is currently pending in Alaska, Indiana and Missouri.

1/22/96

B

**RETAIL REVOLVING CREDIT (2 PARTY)****OPEN COMPETITIVE CREDIT MARKET STATES  
(NO STATUTORY FINANCE CHARGE RATE CEILING)**

ARIZONA  
CALIFORNIA  
CONNECTICUT  
DELAWARE  
IDAHO  
ILLINOIS  
KENTUCKY  
MAINE  
MONTANA  
NEVADA  
NEW HAMPSHIRE  
NEW JERSEY  
NEW MEXICO  
NEW YORK  
NORTH DAKOTA  
OREGON  
RHODE ISLAND  
SOUTH CAROLINA  
SOUTH DAKOTA  
UTAH  
VIRGINIA  
WASHINGTON

**"PARITY" STATES"**

**(IN-STATE RETAILERS MAY USE HIGHEST RATE  
BEING IMPORTED INTO STATE BY OUT-OF-STATE BANKS)**

FLORIDA  
LOUISIANA

**Note: Legislation which would remove government-imposed rate ceilings is currently pending in Alaska, Indiana and Missouri.**

1/22/96

C

**The Economic Impacts of Revolving Credit  
Regulation in Wisconsin**

**April 1995**

**James M. Johannes  
Professor and Chair  
Department of Finance, Investment & Banking  
School of Business  
University of Wisconsin-Madison**

## Appendix C

### Government and Academic Studies of Usury Laws: Sample Conclusions

"In general, various empirical studies on consumer credit and mortgages support the idea that when usury ceilings are binding the volume of loans declines, lenders try to upgrade quality to the detriment of lower income individuals and noninterest methods of compensation increasingly are employed." (James Van Horne, *Financial Market Rates and Flows*, p. 222).

"Interest rates have always been an object of suspicion. No longer is lending at interest a crime but in most place a maximum rate is set by law. Unfortunately, the ceiling is often far below what would be set by the competitive supply and demand market after account is taken of riskiness and administrative expense connected with small loans. The result? Funds dry up. The cheap money you can't get does you little good. Veterans who tried to get mortgages learned this in the 1950's. College students trying to get tuition loans...learned this in the 1960's and 1970's." (Paul Samuelson, *Economics*, 11th ed., p. 370)

"We have learned too slowly and painfully that while government interest rate ceilings may hold down the cost of a loan, they frequently result in a customer's getting no loan at all." (Peter S. Rose, *Money and Capital Markets*, p. 360).

"A significant finding by this government sponsored study (*Report of the National Commission on Consumer Finance, 1972*) is that 'state legislation especially has tended to restrain competition and unnecessarily segment the consumer credit market'...the commission studied numerous other aspects of consumer lending in terms of their overall effect on the public. Generally, the legislation (such as usury laws) which seeks one improvement produces undesirable side effects such as reduced credit availability or service...In addition to advocating the repeal of restrictive state legislation the commission recommended improving consumer knowledge and industry competition." (Robert Edmister, *Financial Institutions, Markets and Management*, pp. 262-3)

"Nevertheless, a number of states have succeeded in liberalizing their usury laws, in some cases tying the ceiling rate to a market rate. However, other states have encountered serious difficulties in obtaining revision, and their consumers have suffered as a consequence." (*Economic Perspectives*, Federal Reserve Bank of Chicago, Sept/Oct 1980, p. 17)

Table 2

Cost and Revenue Ratios for Selected Types of Bank Credit, 1991<sup>1</sup>

Item	Credit Card		Installment		Real estate mortgage		Commercial and other	
	Percent of outstanding balances <sup>2</sup>	Percentage distribution	Percent of outstanding balances <sup>2</sup>	Percentage distribution	Percent of outstanding balances <sup>2</sup>	Percentage distribution	Percent of outstanding balances <sup>2</sup>	Percentage distribution
<b>Revenue</b>								
Interest	14.9	57	11.5	97	10.2	95	10.0	97
Noninterest <sup>3</sup>	11.0	42	.4	3	.5	5	.3	3
Total Revenue	26.0	100	11.9	100	10.7	100	10.3	100
<b>Cost</b>								
Operating	13.1	57	3.4	33	1.4	18	2.1	23
Credit losses	3.5	15	.7	7	.3	4	.8	9
Cost of funds	6.2	27	6.2	60	6.3	79	6.2	68
Total Cost	22.8	100	10.3	100	8.0	100	9.1	100
<b>Net earnings before taxes</b>	3.1	...	1.7	...	2.7	...	1.1	...

1. Data reflect averages of cost and revenue categories weighted by average outstanding balances for three size groups presented in the 1991 National Average Report. Components may not sum to totals because of rounding.
2. Outstanding balances are average amounts outstanding for the year.
3. For credit cards, includes merchant discounts, and penalty and cash advance fees.

Source: Federal Reserve Bulletin, September 1992

**Table 3**

**Cost and Revenue Ratios for Merchant Provided Credit 1992**

<u>Revenue</u>	<u>Percent of Outstandings</u>	<u>Percent Contribution</u>
Interest	15.10	100
Noninterest	-	
Total	15.10	100
 <u>Cost</u>		
Operating	7.28	41
Credit Losses	3.45	20
Cost of Funds	6.94	39
Total	17.67	100
 Net Earnings before taxes	 -2.57	

Source: Ray McAlister. "Consumer Credit: An Introduction," University of North Texas

## VI. Merchant Credit

This study, like many others, has focused primarily on the bankcard market. Another significant player in the revolving credit market is retail stores. Retail open-end credit, or "merchant credit," is different than bankcard credit.

As Table 5 illustrates, retail credit accounts for about 19% of all outstanding open-end credit, but 48% of all outstanding open-end accounts. The penetration of retail accounts in this market attests to the importance of availability of open end credit to consumers and merchants. One reason 48% of the accounts make up only 19% of the outstanding balances is that balances carried on retail credit cards are typically much smaller. GE Capital, for example, reports average outstanding balances on retail credit it issues for firms like Montgomery Ward, Casual Corner and American TV of about \$230. A recent study by Professor Ray McAlister at the University of North Texas [8] reports that over 80% of retail customers sampled in California had outstanding balances less than \$200.

As mentioned in Section II, there are several significant differences between bankcard and retail card revenues and expenses. Tables 2 and 3 show that retailers receive little fee income and rely primarily, if not exclusively, on finance charges for revenue. They also show that on the expense side, interest expense is typically higher than it is on bankcards because retailers must borrow money from banks.

Less revenue and higher expenses imply that retailers have a very difficult time running profitable credit operations when all they can charge is 18%. Unprofitable operations create three problems. The first is that merchants attempt to recover losses on credit operations not by charging higher fees but by charging higher prices. The problem this creates is that all purchasers, not just credit users, pay the higher prices. As a result, cash payers subsidize credit users. This phenomenon is well-known as the last quote in Appendix C from a Federal Reserve Study of Retail Credit attests.

The second problem is that this can put local merchants at a serious competitive disadvantage when they, because of usury ceilings, cannot charge the market clearing rate for retail open-end credit. In this situation, local merchants must raise prices to cover credit losses such as those illustrated in Table 3. National merchants, who import rates from National Banks they have set up in other States, charge market clearing rates at which their credit programs are profitable. Because the credit operations of those national merchants at least break even at the higher rates, they do not have to charge higher prices to recover losses on credit operations. Hence their prices are lower and put them at a competitive advantage over local merchants.

A third problem usury limits create for merchants is that merchants abandon in house credit in favor of bankcards and thereby lose an important tool to create customer allegiance. In the process consumers lose a local source of credit.

Table 18 illustrates the fact that many national chains operating in Wisconsin are currently importing these higher rates through their banking affiliates. This raises an important issue. Local merchants who do not want to play this cash price subsidy game can always contract with a national bank to offer credit from a neighboring state. The problem with this is that it results in the export of credit operations and jobs to neighboring states, consumers are denied access to local credit, and local residents just end up paying the higher rate anyway. As interest rates in the economy are again rising, several banks have indeed positioned themselves to provide these credit services from states where finance charges are deregulated. Household Bank, Illinois, for example, issues these "private label" cards for companies like Builders Square. GE Credit issues Home Depot private label cards through its affiliate Monogram Bank in Georgia. The list of merchants they provide credit for in regulated States is growing.

Like the bankcard discussion above, however, it is important to consider two issues. Is there enough competition in retail credit to ensure that consumers will pay a fair price for retail credit, and, what has the experience been on the retail side when retail rates are deregulated?

The answer to the first question is that most merchants accept bankcards as well. If the merchant's rate is not competitive, consumers will just use bankcards to purchase goods. This is true of many major retailers like Penney's, Sears, Goodyear, Marshall Field's, Limited, etc. In other words, for the most part, this market is just as competitive as the bankcard market because they are typically one and the same market.

As for experience with deregulation, a recent study by McAlister [8] found that two years after Washington deregulated open end credit in 1992, nearly 75% of retailers had not changed their finance charge even though State law allowed them to do so. Indeed only one of the largest eight companies raised its finance rate. This evidence is entirely consistent with the view that competition dictates the finance charges on revolving credit, not State Statutes.

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H. Lee Rowell  
Vice President  
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Government Affairs



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January 31, 1996

**FAXED**  
1/31/96

Members of the Alaska State Legislature  
State Capitol  
Juneau, Alaska 99801

Re: HB-319 and SB-157

Dear Members of the Legislature:

Arco Financial Services, who is headquartered in Costa Mesa, California but has an operating branch located in Anchorage, supports HB-319 and SB-157. These bills make certain positive changes by updating the Alaskan Statutes that affect small loans and retail installment transactions. If passed into law, these bills will help both the industry and the consumer. Their passage will also allow further expansion of our services within the State of Alaska.

I want to thank the members for considering these bills and would like to urge their passage.

Sincerely,

H. Lee Rowell

HLR:cb

cc: Mr. John Higgins

9-LS1095C  
Bannister  
1/16/96

CS FOR HOUSE BILL NO. 319(L&C)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered:  
Referred:

Sponsor(s): HOUSE LABOR AND COMMERCE COMMITTEE BY REQUEST

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the regulation of small loan and retail installment  
2 transactions."

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

4 \* Section 1. AS 06.20.030(a) is amended to read:

5 (a) Investigation expenses incurred by the department in processing an  
6 application for licensure shall be charged to and paid by the applicant under  
7 AS 06.01.010. At the time of submitting the application to the commissioner, the  
8 applicant shall pay to the department \$1,000 [\$400] in partial payment of those  
9 investigation expenses incurred by the department. [IF THE INVESTIGATION  
10 EXPENSES INCURRED BY THE DEPARTMENT DO NOT EXCEED \$400, THE  
11 REMAINDER SHALL BE PROMPTLY REFUNDED TO THE APPLICANT.]

12 \* Sec. 2. AS 06.20.030(b) is amended to read:

13 (b) An applicant shall pay to the department at the time of submitting an  
14 application a sum, in addition to that specified in (a) of this section, of \$500 for a

1 single office license, or \$2,000 for a multiple office license [\$200] as an annual  
2 license fee for a period terminating on the last day of the current calendar year. [IF  
3 THE APPLICATION IS FILED AFTER JUNE 30, THE ADDITIONAL SUM IS  
4 \$100.]

5 \* Sec. 3. AS 06.20.040 is amended to read:

6 Sec. 06.20.040. LIQUID ASSETS REQUIRED. An applicant shall prove, in  
7 form satisfactory to the department, that the applicant has available for the operation  
8 of the business at the location specified in the application, liquid assets of at least  
9 \$25,000, or, in the case of a multiple office license, that the equivalent amount is  
10 available to each office from a central account maintained by the applicant  
11 [\$20,000].

12 \* Sec. 4. AS 06.20.050 is amended to read:

13 Sec. 06.20.050. BOND. The applicant shall file with the application a bond  
14 to be approved by the department in which the applicant shall be the obligor, in the  
15 sum of \$25,000 [\$5,000] with one or more sureties. Only one bond is required for  
16 an application for a multiple office license. The bond shall be for the use of the  
17 state and any person who may have a cause of action against the obligor under this  
18 chapter. The bond must state that the obligor will faithfully conform to and abide by  
19 the provisions of this chapter and of all regulations lawfully adopted by the  
20 department, and will pay to the state and to any person all money that may become  
21 due or owing to the state or to the person from the applicant under this chapter.

22 \* Sec. 5. AS 06.20.060 is amended to read:

23 Sec. 06.20.060. ISSUANCE OF LICENSE. Upon the filing of the application,  
24 the payment of the fees and the approval of the bond, the department shall issue a  
25 license to the applicant if it finds upon investigation that (1) the financial  
26 responsibility, experience, character, and general fitness of the applicant and of its  
27 members if the applicant is a copartnership or association, and of its officers and  
28 directors if the applicant is a corporation, are such as to command the confidence of  
29 the community and to warrant belief that the business will be operated honestly, fairly,  
30 and efficiently within the purposes of this chapter, and (2) allowing the applicant to  
31 engage in business at the location will provide accessibility and [PROMOTE THE]

1 convenience for borrowers of money [AND ADVANTAGE OF THE COMMUNITY  
2 IN WHICH THE BUSINESS IS TO BE CONDUCTED], and (3) the applicant has  
3 available for the operation of the business at the specific location liquid assets of at  
4 least \$25,000, or, in the case of a multiple office license, that the equivalent  
5 amount is available to each office from a central account maintained by the  
6 applicant [\$20,000]. The foregoing facts are conditions precedent to the issuance of  
7 a license under this chapter. The license permits the applicant to make loans in  
8 accordance with this chapter at the location or locations specified in the application.  
9 The license remains in full force and effect until it is surrendered by the licensee or  
10 revoked or suspended. If the department denies the application, it shall notify the  
11 applicant of the denial, bill the applicant for any outstanding expenses incurred by the  
12 department during the investigation and return the bond if those expenses have been  
13 paid. The department shall approve or deny every application for license within 60  
14 days from the filing of the application with the fees and the approved bond. If the  
15 application is denied, the department shall, within 20 days thereafter, serve upon the  
16 applicant a copy of the written decision and findings. The decision and findings may  
17 be reviewed in the manner provided in AS 44.62.560 and 44.62.570 (Administrative  
18 Procedure Act).

19 \* Sec. 6. AS 06.20.090 is amended to read:

20 Sec. 06.20.090. PLACES OF BUSINESS. (a) A licensee may maintain only  
21 one place of business under a single office [THE] license, or up to 10 places of  
22 business under each multiple office license. The department may issue more than  
23 one license to the same licensee upon compliance with the provisions of this chapter  
24 governing the original issuance of a license.

25 (b) If a licensee changes the place of business to another location within the  
26 same municipality, the licensee shall give written notice to the department in advance.  
27 Upon approval, the department shall issue an amended license for [THE  
28 DEPARTMENT SHALL ATTACH THE WRITTEN NOTICE OF THE CHANGE TO  
29 THE LICENSE TOGETHER WITH THE DATE. THEREAFTER THE LICENSEE  
30 MAY OPERATE THE BUSINESS UNDER THE LICENSE AT] the new location.  
31 A licensee may not change the place of business to a location outside the municipality

1 in which the licensee is authorized to do business.

2 \* Sec. 7. AS 06.20.180 is amended to read:

3 Sec. 06.20.180. BOOKS AND RECORDS OF LICENSEES. Each licensee  
4 shall keep and use in the licensed premises [BUSINESS] those books, accounts, and  
5 records that will enable the department to determine whether the licensee is complying  
6 with this chapter and with the regulations lawfully adopted by the department under  
7 this chapter. The maintenance of separate books and records for another business  
8 authorized by the department under AS 06.20.210 is not required. The method  
9 of tracking and numbering the loans shall be determined by the licensee, as long  
10 as the system enables the department to perform the department's obligations  
11 under this title. The licensee shall preserve the books, accounts, and records,  
12 including cards used in the card system, if any, for two years after making the final  
13 entry on any recorded loan.

14 \* Sec. 8. AS 06.20.240 is amended to read:

15 Sec. 06.20.240. LOANS FOR PURPOSE OF OBTAINING HIGHER  
16 INTEREST. [A LICENSEE MAY NOT INDUCE OR PERMIT A BORROWER TO  
17 SPLIT UP OR DIVIDE A LOAN.] A licensee may not induce or permit a person, or  
18 a husband and wife jointly or severally, to split up or divide a loan or to become  
19 obligated, directly or contingently or both, under more than one loan contract at the  
20 same time, for the purpose or with the result of obtaining a higher rate of interest than  
21 would otherwise be permitted by AS 06.20.230. However, a licensee may enter into  
22 new or different loan transactions with the borrower or the borrower's spouse at  
23 a different time so long as the purpose of the additional transaction does not  
24 violate this section.

25 \* Sec. 9. AS 06.20.250 is amended by adding new subsections to read:

26 (d) Loan contracts must provide for substantially equal payments, and the  
27 payments must be due at least once a month, with the first payment beginning not later  
28 than 45 days from the date the loan is made.

29 (e) If the irregular payment is confirmed in writing by the borrower, and the  
30 method of repayment is consistent with the maximum term and annual interest rate  
31 provided in this chapter, and if a borrower demonstrates sufficient seasonal or

1 extraordinary income to support repayment of a loan, the loan contract may provide  
2 for irregular payments and first payment loan extensions greater than 45 days from the  
3 date the loan is made.

4 \* Sec. 10. AS 06.20.260(a) is amended to read:

5 (a) A further or other charge or amount for an examination, service, brokerage  
6 commission, expense, fee, bonus, or other thing may not be directly or indirectly  
7 charged, contracted for, or received except

8 (1) lawful fees actually paid out by the licensee to a public officer for  
9 filing, recording, or releasing any instrument securing the loan, or premiums payable  
10 for insurance in lieu of perfecting a security interest if the premiums do not  
11 exceed the fees that would otherwise normally be incurred for perfecting, filing,  
12 recording, and releasing the security interest, or for transferring certificate of title  
13 to a motor vehicle securing the lien or noting a lien on that certificate;

14 (2) premiums actually paid out for insurance on any one or combination  
15 of the following: pledged property of the borrower, or consumer credit insurance; in  
16 this paragraph, "consumer credit insurance" has the meaning given in AS 21.57.160;

17 (3) taxable costs and expenses to which the licensee becomes entitled  
18 under general law in any court proceedings to collect a loan or to realize on the  
19 security after default;

20 (4) for loans of \$10,000 or less that are secured by an interest in  
21 real estate, reasonable costs and fees paid by a licensee for appraisals, surveys, and  
22 title insurance or reports [IF THE LOAN IS SECURED BY AN INTEREST IN REAL  
23 ESTATE];

24 (5) for loans over \$10,000, whether or not secured by an interest  
25 in real estate, reasonable costs and fees paid by a licensee for appraisals, surveys,  
26 title insurance or reports, and credit reports;

27 (6) a late payment fee of not more than 10 percent of the payment that  
28 is due or \$25 [\$15], whichever is less;

29 (7) a fee for dishonored checks not to exceed \$25 for each  
30 dishonored check;

31 (8) reasonable attorney fees, actual expenses, and costs incurred in

1 connection with the collection of a delinquent debt or a foreclosure if the  
2 collection or foreclosure is referred to an attorney who is not a salaried employee  
3 of the licensee a ~~the~~ balance then owing on the debt exceeds \$5,000:

4 (9) actual expenses and costs incurred in connection with a  
5 repossession.

6 \* Sec. 11. AS 06.20.287 is amended to read:

7 Sec. 06.20.287. CREDIT INSURANCE ON OPEN-END LOANS. (a) A  
8 licensee may obtain consumer credit, credit loss of income, and property insurance on  
9 open-end loans under this chapter. The consumer credit insurance obtained by a licensee  
10 shall satisfy the requirements of AS 21.57. The property insurance obtained by a  
11 licensee shall satisfy the requirements of AS 21.39 and AS 21.42. The licensee shall  
12 comply with AS 21.36.160 and 21.36.165 during all transactions with borrowers  
13 involving consumer credit, credit loss of income, and property insurance.

14 (b) The licensee shall calculate the charge for credit life, credit loss of income,  
15 or disability insurance in each billing cycle by adding to the unpaid balance in the  
16 borrower's account the current monthly premium rate for the coverage required at the  
17 rate set under AS 21.57, using the method specified in the loan agreement for  
18 determining the unpaid balance.

19 (c) A licensee may not cancel credit life, credit loss of income, or disability  
20 insurance obtained for an open-end loan if the borrower is delinquent in paying the  
21 monthly installments unless an installment is delinquent for 90 days or longer. The  
22 licensee shall advance to the insurer amounts necessary to keep the policy in force until  
23 the 90-day delinquency period has elapsed, and the borrower's account may be charged  
24 for the amounts advanced to the insurer.

25 \* Sec. 12. AS 45.10.070(b) is amended to read:

26 (b) Except when the service charge is computed on an add-on or simple  
27 interest basis, the [THE] amount of the refund credit shall be computed according to  
28 the "rule of 78ths"; that is, it shall represent at least as great a proportion of the original  
29 service charge over \$25 in case of a retail installment sale of a motor vehicle, or \$10 in  
30 case of a retail installment sales of goods other than a motor vehicle, as (1) the sum of  
31 the monthly or other periodic unpaid balances under the schedule of payments in the  
32 contract beginning as of the date after the prepayment that [WHICH] is the next

1 succeeding monthly or other periodic anniversary date of the due date of the first  
2 installment under the contract, or, if the prepayment is before the due date of the first  
3 installment under the contract, then as of the date after the prepayment that [WHICH]  
4 is the next succeeding monthly or other periodic anniversary date of the date of the  
5 contract bears to (2) the sum of all the monthly or other periodic unpaid balances under  
6 the schedule of installment payments in the contract.

7 \* Sec. 13. AS 45.10.080(a) is amended to read:

8 (a) If authority to do so is contained in the contract or agreement, the [THE]  
9 holder of a retail installment contract or retail charge agreement may [NOT] collect  
10 any delinquency, [OR] collection or dishonored check charges, [CHARGE OTHER  
11 THAN] attorney fees, court costs, and disbursements [UNLESS THE CONTRACT SO  
12 PROVIDES]. In this case, the charge must [SHALL] be reasonable, and no attorney fee  
13 may be recovered unless the contract is referred for collection to an attorney not a  
14 salaried employee of the holder.

15 \* Sec. 14. AS 45.10.120 is repealed and reenacted to read:

16 Sec. 45.10.120. EXTENT OF SERVICE CHARGE. (a) Notwithstanding any  
17 other law, the service charge included in a retail installment contract, retail charge  
18 agreement, revolving charge agreement, or other retail charge agreement must be at the  
19 rate agreed upon by the retail seller and the buyer.

20 (b) This section does not limit or restrict the method of computing the service  
21 charge, whether by way of add-on, simple interest, or otherwise, so long as that method  
22 is disclosed in the contract and agreed upon by the retail seller and the buyer.

23 \* Sec. 15. AS 45.10.220(3) is amended to read:

24 (3) "official fees" means the amount of the fees set by law for filing,  
25 recording, or otherwise perfecting and releasing or satisfying a retained title, lien, or  
26 other security interest created by a retail installment transaction or premiums payable  
27 for insurance in lieu of perfecting a security interest if the premiums do not exceed  
28 the fees that would otherwise normally be incurred for perfecting, filing, recording,  
29 or otherwise perfecting and releasing or satisfying a retained title, lien, or other  
30 security interest;

# Alaska State Legislature House of Representatives

## COMMITTEE ASSIGNMENTS:

LABOR & COMMERCE, CHAIRMAN  
MILITARY & VETERANS AFFAIRS, CHAIRMAN  
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10928 EAGLE RIVER ROAD, SUITE 141  
EAGLE RIVER, AK 99577  
PHONE (907) 694-8944  
FAX 604-894-8745

SESSION:  
STATE CAPITOL  
JUNEAU, AK 99801-1182  
PHONE (907) 465-3777  
FAX (907) 465-2819

## SPONSOR STATEMENT HB 319

Alaska's Small Loan Act (AS 6.20) was initially adopted in 1955 and has not significantly been amended since 1982. Our Retail Installment Sales Act was adopted even earlier, and its last significant amendment occurred in 1980.

Over the years, practices within the credit industry have undergone immense changes. However, Alaska's law has not kept pace, thereby unfairly burdening this industry vis a vis outside competitors. As a consequence of our archaic approach to credit and lending transactions, Alaskan businesses suffer a competitive disadvantage. HB 319 is intended to remedy this situation by updating certain provisions that are no longer relevant to contemporary business practices. Among other things, this bill would accomplish the following:

### Small Loan Act

It increases application and annual fees requirements applicable to licensed lending institutions.

It increases the liquid asset requirements that lending institutions must satisfy to do business from \$20,000 to \$25,000.

It increases the bonding requirements imposed on lending institutions from \$5000 to \$25,000.

It allows licensees to maintain books and records consistent with contemporary data processing methods.

It authorizes irregular payments when borrowers have a seasonal incomes.

It authorizes lending institutions to operate several branches under a single license, provided that the licensee maintains liquid assets in the amount of \$25,000 for each office it operates.

It broadens the scope of non-interest fees that lenders may charge borrowers.

### Retail Installment Sales Act

HB 319 clarifies and broadens the scope of fees and charges that may be imposed in connection with transactions.

It increases service charges to 1.5% per month ( 18% per year). In so doing, it removes the present cumbersome system based on graduated rates.

It respectfully is submitted that HB 319 removes several anachronisms in Alaska law and serves to make Alaska credit businesses more competitive with outside firms.



Representative *Don Watt*

*Sponsor Statement*



# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
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STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

## MEMORANDUM

November 17, 1995

**SUBJECT:** Sectional Summary of HB 319 (Work Order No. 9-LS1095A)

**TO:** Representative Pete Kott  
Attn: George Dozier

**FROM:** *TB*  
Theresa Bannister  
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

**Section 1.** Increases to \$1,000 (from \$400) the amount that an applicant is to pay with the application to the Department of Commerce and Economic Development as part payment for the department's expenses of investigating an application for a license under the Alaska Small Loans Act. Deletes a refund requirement.

**Section 2.** Increases the annual license fee to be paid to the department for a license under the Alaska Small Loans Act. Establishes a higher fee for a multiple office license.

**Section 3.** Increases to \$25,000 from \$20,000 the value of the liquid assets that a person applying for a license under the Alaska Small Loans Act must have available to operate the business. A person having multiple offices must demonstrate that an equivalent amount is available to each office from a central account maintained by the applicant.

**Section 4.** Increases to \$25,000 from \$5,000 the amount of the bond required for an applicant for a license under the Alaska Small Loans Act to file with the department.

**Section 5.** Conforms the language in the license issuance section to the new liquid assets requirements established in sec. 3 of the bill. Also requires the department to determine that allowing the applicant to engage in business at the location will provide accessibility and convenience for borrowers.

**Section 6.** Allows a licensee to maintain one place of business under a single office license or up to 10 places of business under a multiple office license. Directs the department to issue

*Sectional*

Representative Pete Kott

November 17, 1995

Page 2

an amended license to a licensee after approving a change of location for the licensee's place of business within the same municipality.

**Section 7.** States that a licensee is not required to maintain separate books and records for another business operated by the licensee on the premises and authorized by the department. States that the licensee is to determine the method of tracking and numbering the loans as long as the system enables the department to perform the department's obligations under AS 06.

**Section 8.** Adds certain requirements for the loan contracts. The contracts must provide for substantially equal payments, payments due at least monthly, and a first payment not later than 45 days from when the loan is made. Allows a loan contract to provide for irregular payments and a later first payment if certain listed conditions are met ("first payment loan extensions" should read "first payment extensions").

**Section 9.** Allows a fee to be charged for certain insurance premiums under certain conditions in place of perfecting a security interest. Allows, for loans over \$10,000, a charge for reasonable costs and fees for appraisals, surveys, title insurance or reports, and credit reports. Changes the late payment fee that can be charged. Allows a fee to be charged for dishonored checks in an amount established by the department based on existing commercial rates. Allows a charge for reasonable attorney fees, actual expenses, and costs incurred in connection with the collection of a delinquent debt, a repossession, or a foreclosure under certain conditions.

**Section 10.** Authorizes the holder of a retail installment contract or retail charge agreement to collect certain delinquency, collection or dishonored check charges, attorney fees, court costs, and disbursements, if the contract or agreement allows this and the parties agreed to it.

**Section 11.** Conforms (a) of the section to certain changes made in sec. 10 of the bill. Changes the service charge that a seller or holder of a retail installment contract may collect to an amount that may not exceed one and one-half percent a month of the unpaid balance. Changes the service charge that a seller or holder of a retail charge agreement may collect to an amount that may not exceed one and one-half percent a month computed on outstanding monthly balances.

**Section 12.** includes certain insurance premiums in the definition of "official fees."

If I may be of further assistance, please advise.

TLB:lmb:pl  
95-269.lmb

## SUMMARY OF CONTENTS

### SB 157

"An Act relating to the regulation of small loan  
and retail installment transactions"

#### Alaska Small Loan Act

Adopted into law in 1955; last significant amendment in 1982.

Principal changes:

1. Application fee increased from \$400 to \$1,000 and annual fee increased from \$200 to \$500; multiple office license created with \$2,000 annual fee for 10 offices.
2. Liquid Asset and bond requirements increased to \$25,000 each from \$20,000 and \$5,000, respectively.
3. Standards for books and records made consistent with modern data processing concepts.
4. Irregular repayments authorized for Alaskans with seasonal income, e.g., fishermen or construction workers.
5. Loan agreements include cost of credit reports, \$25 late payment fee and costs incurred in collections.

#### Alaska Retail Installment Sales Act ("ARISA")

Adopted into law in 1962; last significant amendment in 1980.

Principal changes:

1. Clarifies appropriate costs to be included in loans.
2. Amends service charges for fixed term and revolving charge agreements to 1 1/2% per month or 18% per year, simplifying the current complex rate structure.

*Backup*

STATUTORY SERVICE CHARGES FOR CONSUMER CREDIT  
(Interest Rates on Consumer Loans)

CURRENT ANNUAL RATES IN ALL 15 WESTERN STATES  
In Effect in April 1995

<u>State</u>	<u>Revolving Credit Loan</u> <u>Assume \$3.000 balance</u>	<u>Fixed Term Auto Loan</u> <u>Assume \$10.000 balance</u>
Arizona	No Limit	No Limit
California	No Limit	19.2%
Colorado	21.0%	16.4%
Hawaii	24.0%	24.0%
Idaho	No Limit	No Limit
Montana	No Limit	No Limit
Nevada	No Limit	No Limit
New Mexico	No Limit	No Limit
North Dakota	No Limit	No Limit
Oregon	No Limit	No Limit
South Dakota	No Limit	No Limit
Utah	No Limit	No Limit
Washington	No Limit (exp. 6-30-95)	No Limit (exp. 6-30-95)
Wyoming	21.0%	22.5%
<u>Alaska:</u>		
Current Law	12.8%	14.5%
SB 157 Proposal	18.0%	18.0%
Industry Request	24.0% or No Limit	24.0% or No Limit

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REVOLVING RETAIL CREDIT**

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2. California	Competitive Market Rate, Deregulated (No Imposed Rate Ceiling)
3. Connecticut	Competitive Market Rate, Deregulated (No Imposed Rate Ceiling)
4. Delaware	Competitive Market Rate, Deregulated (No Imposed Rate Ceiling)
5. Idaho	Competitive Market Rate, Deregulated (No Imposed Rate Ceiling)
6. Illinois	Competitive Market Rate, Deregulated (No Imposed Rate Ceiling)
7. Kentucky	Competitive Market Rate, Deregulated (No Imposed Rate Ceiling)
8. Montana	Competitive Market Rate, Deregulated (No Imposed Rate Ceiling)
9. Nevada	Competitive Market Rate, Deregulated (No Imposed Rate Ceiling)
10. New Hampshire	Competitive Market Rate, Deregulated (No Imposed Rate Ceiling)
11. New Jersey	Competitive Market Rate, Deregulated (No Imposed Rate Ceiling)
12. New Mexico	Competitive Market Rate, Deregulated (No Imposed Rate Ceiling)
13. New York	Competitive Market Rate, Deregulated (No Imposed Rate Ceiling)
14. North Dakota	Competitive Market Rate, Deregulated (No Imposed Rate Ceiling)
15. Oregon	Competitive Market Rate, Deregulated (No Imposed Rate Ceiling)
16. South Carolina	Competitive Market Rate, Deregulated (No Imposed Rate Ceiling)
17. South Dakota	Competitive Market Rate, Deregulated (No Imposed Rate Ceiling)
18. Utah	Competitive Market Rate, Deregulated (No Imposed Rate Ceiling)
19. Virginia	Competitive Market Rate, Deregulated (No Imposed Rate Ceiling)
20. Washington	Competitive Market Rate, Deregulated (No Imposed Rate Ceiling)
21. Florida	Parity (Highest rate imported into state by out of state lenders)
22. Louisiana	Parity
23. Texas	Parity
24. Ohio	25%
25. Hawaii	24%
26. Maryland	24%
27. Colorado	21%
28. Georgia	21%
29. Indiana	21%
30. Mississippi	21%
31. Oklahoma	21%
32. Tennessee	21%
33. Vermont	21%
34. Wyoming	21%
35. North Carolina	21% on 1st \$800, 18% there after.
36. Alabama	21% on 1st \$750, 18% there after.
37. Kansas	21% on 1st \$1000, 14.4% there after.
38. Nebraska	21% on 1st \$500, 18% there after.
39. Michigan	20.4%
40. Missouri	20%
41. Iowa	19.8%
42. Massachusetts	18%
43. Maine	18%
44. Minnesota	18%
45. Pennsylvania	18%
46. Rhode Island	18%
47. West Virginia	18%
48. Wisconsin	18%
49. Alaska	18% on 1st \$1000, Federal Discount rate plus 5 points there after. (currently 10.25% there after.)
50. Arkansas	Federal Discount rate plus 5 points. (currently 10.25%)

## SB 157

**Purpose:** To modernize the Alaska Small Loan Act and to allow Alaska lenders to compete with out-of-state lenders doing business in Alaska.

**Result:** To create and retain jobs in Alaska's financial industry and to expand the availability of credit to the Alaska consumer.

### Alaska Small Loan Act

Adopted into law in 1955; last significant amendment in 1982.

Principal changes:

1. Application fee increased from \$400 to \$1,000 and annual fee increased from \$200 to \$500; multiple office license created with \$2,000 annual fee for 10 offices.
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1. Clarifies appropriate costs to be included in loans.
2. Amends service charges for fixed term and revolving charge agreements to 1 1/2% per month or 18% per year, simplifying the current complex rate structure.

**MAXIMUM SERVICE CHARGES ALLOWED FOR  
CONSUMER CREDIT**

**(Interest Rates on Consumer Loans)**

**CURRENT ANNUAL RATES IN ALL 15 WESTERN STATES  
In Effect in April 1995**

<u>State</u>	<u>Revolving Credit Loan Assume \$3.000 balance</u>	<u>Fixed Term Auto Loan Assume \$10.000 balance</u>
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New Mexico	No Limit	No Limit
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Oregon	No Limit	No Limit
South Dakota	No Limit	No Limit
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 <u>Alaska:</u>		
Current Law	12.8%	14.5%
SB 157 Proposal	18.0%	18.0%
Industry Request	24.0% or No Limit	24.0% or No Limit



**HB**

**328**

HOUSE BILL NO. 328

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Introduced: 5/2/95

Referred: Labor and Commerce

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to reduced fees and group discounts for visits to the state  
2 museum and its branches; and providing for an effective date."

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

4 \* Section 1. AS 14.57.010(c) is amended to read:

5 (c) The department may establish by regulation, and collect, reasonable user  
6 fees and other fees for services provided by the department under this chapter. The  
7 department may negotiate reduced fees or group discounts with, or offer reduced  
8 fees or group discounts to, persons who bring groups of people to visit the  
9 museum or a branch of the museum.

10 \* Sec. 2. This Act takes effect immediately under AS 01.10.070(c).

# MEMORANDUM

item # 5

## State of Alaska

Department of Law

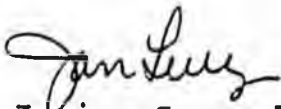
TO: Karen Crane, Director  
Libraries, Archives & Museums  
Department of Education

DATE: October 20, 1994

FILE NO: 663-94-0603 and  
993-95-0057

TEL. NO: 465-3603

SUBJECT: Change in Museum Fees

FROM:   
Janice Gregg Levy  
Assistant Attorney General  
Human Services-Juneau

I spoke with Bruce Kato the last week in September regarding the proposed changes to the regulation addressing museum fees. As you know, the State Board approved the regulatory changes to go out to public comment. Bruce familiarized me with the museum practices and sent me a copy of a fee schedule that the museum has apparently used for some time. After doing additional research and speaking with Regulations Attorney Deborah E. Behr, I believe the agency must revise the proposed language and provide a newer version to go before the Board at the next meeting, scheduled for November 28-30 in Anchorage.

The amendments to subsection (a) increasing the maximum admission fee from \$2 to \$3 per visit would probably be approvable, except that the information from Bruce on the museum's practice suggests that more specificity is advisable. Deborah Behr stated that if the agency knows it intends to charge a different fee at one museum than another, it should so state in the regulation. If your agency knows that it intends to charge \$2.00 per visit to Sheldon Jackson and \$3.00 per visit to the Alaska State Museum, the most direct approach would be to simply state those fees in the regulation.

Bruce explained that the museum wanted the flexibility to be able to set group rates, resulting in a lower per person admission. It also wanted to continue its practice of not charging for students and offering certain free admission days. These policy decisions are supportable and well within the department's statutory authority, but should be made specific in the regulation. The regulation could provide, for example, that no admission fees will be charged for students under the age of 18, and that during the months of (specify months), no admission will be charged on Saturday. As to group rates, the regulation could provide that admission fees may be discounted for group rates, but the museum must specify some basis for determining the discount. It cannot simply negotiate with a company.

Karen Crane, Director  
Libraries, Archives & Museums  
663-94-0603/993-95-0057

October 20, 1994  
Page 2

Subsection (b) increases the maximum rate per hour for staff time to \$40. This amendment poses no problems, so long as the fee actually charged does "not exceed the estimated actual costs of the state agency in administering the activity or providing the service[.]" AS 37.10.050(a). In other words, notwithstanding the \$40 cap, if an employee who is paid at the rate of \$10 per hour performs the service, the museum may not charge \$40 per hour staff time. You may wish to consider deleting the word "extraordinary" from the regulation as well. I'm not sure how that is meant to be distinguished from other professional services. There is clear statutory authority for charging "for services provided by the department under this chapter." AS 14.57.010(c). The services need not be "extraordinary."

Proposed subsection (c) presents another problem. While there is authority to establish reasonable user fees and other fees for services, the museum does not have statutory authority to negotiate different fees for different parties. The statutes authorizing fees and the Administrative Procedures Act require consistency, and an opportunity for notice and comment on the department's fee structure. The department could, however, set a fee rental schedule in regulation that is based upon length of loan and perhaps the numbers of people expected to use education learning kits. This would seem to be defensible because presumably the more "users" of the kits, the more wear and tear on the kits, thus increasing material costs. If that assumption is not correct, then perhaps those factors are not proper considerations. As noted above, however, the fee actually charged may "not exceed the estimated actual costs of the state agency in administering the activity or providing the service[.]" AS 37.10.050(a).

I am attaching two pages of a fee schedule recently adopted by the Board of Education setting fees that may be charged by ARMS, the state archives and records management services. As you can see, it is fairly detailed. While there is considerable effort necessary to provide for each of these different types of charges, the advantages outweigh that initial effort. When the process is completed it is clear that the agency has the authority to charge the fees, there has been notice to the public and opportunity to comment, and little effort is required to administer the fee schedule. The museum's photographic fee schedule and photographic policy which you forwarded to me should be provided for in regulation, and, again, the fees may not exceed actual costs in administering the activity or providing the service. The fee schedule cannot be "subject to change without notice."

I would be happy to review a draft regulation that specifies the fees policies the division seeks. Please do not

Karen Crane, Director  
Libraries, Archives & Museums  
663-94-0603/993-95-0057

October 20, 1994  
Page 3

hesitate to contact me regarding any other aspect of this  
regulation project.

JGL/bap

Attachment

cc: Bruce Kato  
Harry Gamble

## HOUSE LABOR AND COMMERCE COMMITTEE

### HB 328 SPONSOR STATEMENT

Historically, the Alaska State Museum regularly negotiated agreements providing for reduced admission fees and group discounts. This has generated a benefit to both the State of Alaska, through increased admissions, and to many museum visitors, by according them an opportunity to learn about our unique state.

Recently, the Department of Law advised the Department of Education, which administers the museum, that it lacked authority to negotiate reduced or discount rates with organizations. HB 328 is intended to correct this problem by granting specific statutory authority to the Department to negotiate or offer group discounts or reduced rates.

I urge your support.

05/05/95

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM

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PUBLIC HEARING

HOUSE LABOR & COMMERCE

LOCATION:SITKA

HB 328

JOHN

LITTEN

TESTIFY



# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO. HB 328

Revision Date: \_\_\_\_\_

Department Affected: Education

Title: Discount for Museum Visit by Groups

BRU: Alaska State Museum

Component: Museum Operations

Sponsor: House Labor and Commerce Committee

Requester: House Labor and Commerce Committee

COMPONENT SERIAL NO. 210

**Expenditures/Revenues:**

(Thousands of Dollars)

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0

<b>CAPITAL</b>						
----------------	--	--	--	--	--	--

<b>REVENUE FUND SOURCE:</b>						
-----------------------------	--	--	--	--	--	--

**FUNDING:**

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY95) impact: \$ 0.0

**ANALYSIS: (Attach a separate page if necessary.)**

House Bill 328 will allow the department to negotiate group rates or to offer group rates to groups of people to visit the state museum or a branch of the museum. The department recently adopted regulations to provide for an increase in museum fees. However, the additional revenue from admission fees will be lost, offset by a decrease in group visits, if groups rates cannot be negotiated or offered.

Prepared by: Karen Crane, Director

Phone: 465-2910

Division: Libraries, Archives, and Museums

Date: May 3, 1995

Approved by Commissioner: \_\_\_\_\_

*Shirley J. Holloway*  
Shirley J. Holloway, Ph. D.

Agency: Education

Date: May 3, 1995

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# HOUSE COMMITTEE REPORT

(7)

Date Referred: May 2, 1995

FURTHER REFERRALS:

Date of Committee Action: 5-5-95

The LABOR AND COMMERCE Committee considered:

HB 328

HOUSE BILL NO. 328

DISCOUNT FOR STATE MUSEUM VISIT BY GROUPS

"An Act relating to reduced fees and group discounts for visits to the state museum and its branches; and providing for an effective date."

recommends it be replaced with the following committee substitute \_\_\_\_\_  the same title  a new title

additional referral to \_\_\_\_\_ Committee

attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_

APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_

fiscal note(s) \_\_\_\_\_

fiscal note(s) \_\_\_\_\_

zero fiscal note(s) Education

zero fiscal note(s) \_\_\_\_\_

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Ann Kelly</i>	✓			
<i>K. S. [unclear]</i>			✓	
<i>Diane Kubisa</i>	✓			
<i>Beverly Masek</i>			✓	
<i>Jim Sanders</i>			✓	
<i>Pete [unclear]</i>	✓			

CHAIR'S SIGNATURE *Pete [unclear]*

**HB**

**345**

Revision Date: \_\_\_\_\_ Dept. Affected: Revenue  
 Title: An Act Relating to The Procurement of BRU: Revenue Operations  
Investment and Brokerage Services by ASPIB Component: Alaska State Pension Investment Board  
 Sponsor: Foster  
 Requestor: State Affairs COMPONENT SERIAL NO. 1961

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	145.0	125.0	125.0	125.0	125.0	125.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>145.0</b>	<b>125.0</b>	<b>125.0</b>	<b>125.0</b>	<b>125.0</b>	<b>125.0</b>
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ( )						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1024 Public Employees' Trust Fund	92.8	80.0	80.0	80.0	80.0	80.0
1034 Teachers' Trust Fund	52.2	45.0	45.0	45.0	45.0	45.0
<b>TOTAL</b>	<b>145.0</b>	<b>125.0</b>	<b>125.0</b>	<b>125.0</b>	<b>125.0</b>	<b>125.0</b>

Estimate of any current year (FY96) cost \$ \_\_\_\_\_

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Brokerage fees are incurred by the investment managers and are a component of the cost (or proceeds) of the buy (or sell) transaction. Managers are encouraged to use brokerage firms who have offices in Alaska, if their use will not result in a decreased benefit to the system beneficiaries (i.e. through increased cost or poor execution). Generally, our managers are trading for many large institutional investors and often do so through bulk lot buys and sells. To specifically trade through an Alaska broker would require the Alaska trades to be handled after all bulk trading, and at higher cost.

Our fiscal note reflects \$125,000 per year in consultant fees to first quantify the cost associated with these trades, and secondly to monitor the managers to ensure that they are directing the required amount of activity through Alaska brokers. Additionally, there is \$20,000 included in the first year to perform a manager search in Alaska. For purposes of this analysis we are assuming Alaskan investment manager's fees will be competitive with those of the institutional managers currently utilized by the board.

Prepared by: Betty Martin, Comptroller *Betty Martin*  
 Division: Treasury  
 Approved by Commissioner: Ross A. Kinney, Deputy Commissioner *Ross A. Kinney*  
 Agency: Department of Revenue

Phone: 465-2350  
 Date: March 19, 1996  
 Date: March 19, 1996

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8030 N. Douglas Hwy.  
Juneau, Ak. 99801  
March 25, 1996

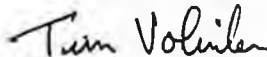
re: House Bill 345

I am opposed to House Bill 345, in particular Section 2 a. (10). It is an attack upon the integrity of the Pension Investment Board's purpose, which is to protect the principal of retirement funds and earn money to pay for pensions. I support the independence of the Pension Investment Board. No strings should be attached to the ability of the Board to hire managers and advisers which it believes to be the best people to provide investment returns which will meet the future financial obligations of paying for teachers and state workers retirement.

The Pension Investment Board was set up to give employees a voice and some control over the investment decisions regarding our retirement funds. The junk bond investments of Executive Life went sour, which put SBS funds at risk of huge losses. That is the reason that the Pension Investment Board was set up in the first place. The Legislature should not make the Pension Investment Board hire local managers, or invest a certain percentage in Alaska, for that matter. The Board concept is working well in actuality, and it should be allowed to continue in its present form. The Board is free to hire Alaskan managers if it chooses, but only if it chooses freely without political mandates or pressure.

Teacher and state employee pension funds should be managed for the sole benefit of employee retirement funds. They should not be seen as another pot of money for the Legislature to earmark for job creation, economic development, or infrastructure projects in Alaska. Those projects should be funded with general fund money or the AIDEA. Pension funds are compensation for many years of dedicated service to Alaskans by teachers and state employees. Prudent independent investment decisions by the Pension Investment Board will result in money being delivered to retirees who can then spend it themselves to help Alaska's economy.

Sincerely,



Tim Volwiler, vested member  
Teacher's Retirement System

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101


130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

## MEMORANDUM

April 11, 1996

**SUBJECT:** CSHB 345(L&C) (Work Order No. 9-LS1179\K, 4-11-96)

**TO:** Representative Pete Kott, Chair  
House Labor and Commerce Committee  
Attn: George Dozier

**FROM:**  Theresa Bannister  
Legislative Counsel

This memo accompanies the draft CSHB 345(L&C) that you requested.

The requirement that a majority of the employees of a business be located in the state in order for the business to be eligible for the preference may raise an issue with the privileges and immunities provision of the federal constitution (sec. 2, art. IV). The clause is intended to guarantee citizens of one state the right to do business in another state on terms of substantial equality with the citizens of that state. Toomer v. Witsell, 334 U.S. 385, 395-96, 68 S.Ct. 1156, 1161-1162, 92 L.Ed. 1460, 1471 (1948). The primary purpose of this clause is to prevent states from enacting measures which discriminate against non-residents for reasons of economic protectionism. Supreme Court of New Hampshire v. Piper, 105 S.Ct. 1272, 1279 n. 18, 84 L.Ed.2d 205 (1985).

Although the state is allowed some leeway to prefer its own when obtaining services for itself, it is unclear in this situation whether the requirement goes beyond this leeway. Requiring a majority of the employees working on the services to be in-state increases the possibility that this leeway will be exceeded. However, the fact that the workers merely need to be located in the state (as opposed to being residents of the state) and the fact that the percentage of increase is not specified may help alleviate the possible problem. It is unclear whether or not this in-state employee requirement would be a significant problem for the bill, but I wanted you to be aware of it.

If I may be of further assistance, please advise.

TLB:lmb:glc  
96-076.lmb

Enclosure

9-LS1179K  
Bannister  
4/10/96

**CS FOR HOUSE BILL NO. 345(L&C)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**NINETEENTH LEGISLATURE - SECOND SESSION**

**BY THE HOUSE LABOR AND COMMERCE COMMITTEE**

**Offered:  
Referred:**

**Sponsor(s): REPRESENTATIVES FOSTER, Ivan**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the utilization of investment and brokerage services by the  
2 Alaska State Pension Investment Board; and relating to the investments of the  
3 Alaska State Pension Investment Board."

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 \* Section 1. LEGISLATIVE FINDINGS AND PURPOSE. (a) The legislature finds that

6 (1) the existence of a strong and healthy free enterprise system is directly  
7 related to the well-being and competitive strength of businesses in the state and to the  
8 opportunity for businesses in the state to grow and expand;

9 (2) the state needs to examine its purchasing practices in order to ensure that  
10 state agencies support businesses in the state by making every reasonable effort to identify  
11 services available in the state and to foster bidding by local and resident businesses.

12 (b) The legislature declares that the purpose of this Act is to foster a procurement  
13 process where businesses in the state obtain a fair proportion of the state's total procurement  
14 contracts.

1 \* Sec. 2. AS 37.10.220(a) is amended to read:

2 (a) The board shall

3 (1) hold regular and special meetings ~~at~~ the call of the chair or of at  
4 least four members;

5 (2) establish investment policies for the funds for which it is  
6 responsible after reviewing recommendations from the investment advisory council and  
7 the Department of Revenue;

8 (3) submit long-range and quarterly investment reports to the  
9 Legislative Budget and Audit Committee;

10 (4) report to the governor and employers participating in the retirement  
11 systems by the first day of each regular legislative session concerning the investment  
12 of funds for which the board is responsible, including financial and investment policies  
13 established by the board, and enclose a summary of the most recent performance  
14 evaluations of the funds managed by the board: the board shall notify the legislature  
15 that the report is available;

16 (5) contract with external performance evaluators to review the  
17 performance of each fund for which the board is responsible and report each year on  
18 the fund's condition to the board of trustees and to the other appropriate boards;

19 (6) engage independent certified public accountants to perform an  
20 annual audit of each of the funds for which the board is responsible and to report to  
21 the board with the results of the audit;

22 (7) review the actuarial earnings assumption for each fund for which  
23 the board is responsible every two years and report its findings and recommendations  
24 to the appropriate board or agency;

25 (8) after reviewing the recommendations from the Department of  
26 Revenue and the advisory council, select and retain the external investment managers  
27 and custodians for the funds managed by the board:

28 (9) develop an annual operating budget plan and present it to the  
29 Department of Revenue and the office of management and budget; the board shall  
30 notify the legislature that the plan is available;

31 (10) increase the board's utilization of brokerage and investment

1 services provided by in-state businesses, if the in-state businesses can provide the  
2 services without materially sacrificing competency or performance, or without  
3 materially increasing the cost to the board; in this paragraph, "in-state business"  
4 means a business that is located in this state if the majority of the individuals in  
5 the business who participate in providing the services to the board are located in  
6 the state; and

7 (11) invest the funds for which the board is responsible in in-state  
8 investments to the extent in-state investments are available and if the in-state  
9 investments

10 (A) have a risk level and expected yield equal to or more  
11 favorable than alternate investment opportunities; and

12 (B) are consistent with the investment policies established by  
13 the board under (2) of this subsection.

9-LS1179AG

Bannister

3/29/96

CS FOR HOUSE BILL NO. 345( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY

Offered:

Referred:

Sponsor(s): REPRESENTATIVES FOSTER, Ivan

A BILL

FOR AN ACT ENTITLED

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 2 Alaska State Pension Investment Board; and relating to the investments of the  
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 10 state agencies support businesses in the state by making every reasonable effort to identify  
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21 the board with the results of the audit;

22 (7) review the actuarial earnings assumption for each fund for which  
23 the board is responsible every two years and report its findings and recommendations  
24 to the appropriate board or agency;

25 (8) after reviewing the recommendations from the Department of  
26 Revenue and the advisory council, select and retain the external investment managers  
27 and custodians for the funds managed by the board;

28 (9) develop an annual operating budget plan and present it to the  
29 Department of Revenue and the office of management and budget; the board shall  
30 notify the legislature that the plan is available;

31 (10) increase the board's utilization of brokerage and investment

1 services provided by persons located in the state to a level up to seven percent of  
2 the investment services that the board procures by contract, and seven percent of  
3 the brokerage services utilized by the board or its designee, unless the board  
4 makes a written finding that the board is unable to meet this goal because there  
5 is an insufficient number of persons with the requisite skill in the state to perform  
6 the investment or brokerage services;

7 (1) invest the funds for which the board is responsible in in-state  
8 investments to the extent in-state investments are available and if the in-state  
9 investments

10 (A) have a risk level and expected yield comparable to  
11 alternate investment opportunities; and

12 (B) are consistent with the investment policies established by  
13 the board under (2) of this subsection.



# NEA-ALASKA

*Affiliated with the National Education Association*

## **HB 345 Restricts Latitude of Pension Board**

Under provisions of HB 345 the Pension Investment Board will be required to secure 7% of its investment services from Alaska companies. NEA-Alaska opposes mandating specific service or investment levels. Our pension system should be free to select the best investments based on the least risk and best return and secure investment services based on the best quality for least cost whether the investment or service is in or outside the state.

Pls FAX to. 465-4822

Karen - Rep. Masek's office

Stella Anderson

was unable to write

anything further before

3pm. today. But this

is what we put in

our Friday bulletin.

**Michael J. Kirk**

P.O. Box 20844  
Juneau, Alaska 99802

April 1, 1996

Pete Kott, Chair  
House Labor & Commerce Committee  
Room 432  
State Capitol  
Juneau, Alaska 99811

Re: HB 345

Dear Representative Kott:

I am vitally concerned about House Bill 345, which is scheduled for a hearing in your committee on April 3rd. I view this bill as a blatant "pension raid", an attempt to use pension fund monies to benefit a few well-off members of the investment community at the expense of retired teachers and other retirees.

Enclosed are two letters I have written which explain my concerns. I would appreciate it if you would make them part of the committee record on this bill and distribute them to the committee members before the hearing next week.

Thank you.

Sincerely,

  
Michael J. Kirk

**Michael J. Kirk**

**P.O. Box 20844  
Juneau, Alaska 99802**

March 11, 1996

Editor  
The Alaska Journal of Commerce  
3710 Woodland Drive, Suite 2100  
Anchorage, Alaska 99517

Re: Robin E. Ward's opinion column of February 5, 1996

Dear Editor:

In your February 5th issue you printed an opinion essay which advocated investing the Alaska Permanent Fund and the pension funds of the Public Employees and Teachers Retirement Systems in mortgage investments offered by Alaskan brokers. As a retired teacher, I can only speak to use of the Teachers Retirement System fund: Hands off the hard-earned life savings of Alaskan pensioners!

The PERS, TRS, and smaller public employee pension funds are invested by the Alaska State Pension Investment Board. That Board has an excellent record of stewardship. It has brought in high earnings in safe investments by strictly abiding by the legal requirement that pension funds be invested solely for the benefit of the beneficiaries, the retired workers. This important principle is even enshrined in the Alaska Constitution, which mandates that the benefits of the retirement systems "shall not be diminished or impaired" (Art. XII, Sec. 7).

There is good reason to pay attention to this wise provision. All across the United States we have seen unscrupulous attempts to loot private and public employee pension funds by using them for purposes other than to optimize the benefit to the pension beneficiaries. There have been attempts to fund state operations with pension funds and even to steer investments to politically well-connected private interests. So far we have avoided these pension funds raid in Alaska, but for how long?

At least one mortgage investment broker is now lobbying intensively for passage of legislation which would require that the State Pension Investment Board and the Permanent Fund invest in instruments offered by Alaskan brokers. Perhaps, some day, such investments may become sound enough to be in the best interests of the beneficiaries, but for now the State Pension Investment Board has concluded that it would be unwise. That judgment must be respected and not interfered with by politicians and by investment advisors who stand to make money from a shift in fund investments.

Pension funds are not public money. Nor do the funds belong to private

investment brokers to use for their own benefit. The pension funds belong solely to me and my fellow beneficiaries who worked hard for our pensions and who depend on them. Hands off my life savings!

Sincerely,

Michael J. Kirk

## **What Is Mine Is Yours?**

A bill has been introduced in the Legislature which is the first step in a blatant raid on the public employee (PERS) and teacher (TRS) pension funds. This bill (HB No. 345) is entitled "An Act relating to the procurement of investment and brokerage services by the Alaska State Pension Investment Board". It requires the Board to "... increase the board's utilization of brokerage and investment services provided by persons located in the state to at least seven percent of the brokerage and investment services that the board procures by contract ...". This is a quota that handicaps the ability of the Pension Board to obtain the best investment advice at the least cost. Our pensioners deserve the best advice and security they can get. They have worked long and hard to make Alaska a better place for all of us to live.

When the State procures goods and services for itself, it does not use a quota system. Instead, it uses an in-state bidder's preference allowing in-state providers of goods and services to be 5% more expensive than out-of-state providers, and yet still be competitive. This is a balancing act that helps to promote in-state businesses, while at the same time fostering competition to keep the price the state pays down. A quota system as proposed in HB No. 345 flies in the face of that competition. When the procurement of goods and services are restricted to a small group, that group does not have to be anywhere near as competitive on either price or quality of services as when it is competing against a bigger group.

As mentioned above, this is just the first step in a raid on PERS and TRS. The next steps are laid out quite clearly by Robin E. Ward (Legislative Chair of the Alaska State Home Builders Association) in her guest editorial "Time to Invest in Alaska Instruments" (Alaska Journal of Commerce, Feb. 5, 1996). She calls for the investment of PERS and TRS funds in projects in Alaska that are not considered good investments by the Permanent Fund. She implies this should be done out of a sense of duty to the State. She states that this investment can be facilitated by using in-state financial advisors. For some reason she believes an investment advisor's time of residence is more important than his or her investment track record. One can only wonder at her motivation.

As Ms. Ward points out, there has been an ongoing debate in this State over the wisdom of using public funds to invest in private sector projects. Private funds are available for projects that are believed by investors (the "market") to have sufficient yield to compensate for the perceived risk. Some people argue that public funds should be used for riskier private sector projects such as commercial hanger expansion at the Anchorage airport because of the benefit to the State to complete a given project. Other projects using public funds, such as the Delta barley project, have not been as successful. As a matter of policy to aid the private sector with public funds, the State has created several entities including the Alaska Housing Finance Corporation, the Alaska Industrial Development Export Authority, and the Alaska Science and Technology Foundation. Also, as Ms. Ward points out, the Permanent Fund has been directed to

What Is Mine Is Yours?

3

invest in State projects where the risk and yield are at least the same as available investments elsewhere. A common thread in all of these investment activities using public funds is the sharing of risk by all Alaskans.

Ms. Ward evidently believes it is appropriate to expect our pensioners to bear all of the risk on investments other investors will not make. This is asking a small segment of the citizens of the State to bear the risk for the supposed good of all the State. Is it fair to <sup>require</sup> ~~demand~~ <sup>a small segment of the population</sup> that our pensioners <sup>life savings</sup> risk their financial security for <sup>the</sup> ~~our~~ <sup>of others</sup> benefit? ~~Further, it should be noted that~~ ~~The~~ dollars in the pension funds are not public funds. Courts have consistently declared that State pension funds, like all other pension funds, are not public funds, but belong only to the pensioners they cover and no one else.

Both PERS and TRS have the ability to invest in sound projects in Alaska along with the rest of the "market". Prudent investors gravitate naturally to sound investments. To expect our pensioners to gamble with their financial futures in projects in which others would not invest is both unreasonable and unwise.

Help stop this raid on our pensioner's futures. Contact your legislators and tell them you are opposed to HB No. 345.

Sincerely,

Michael J. Kirk

8030 N. Douglas Hwy.  
Juneau, Ak. 99801  
March 25, 1996

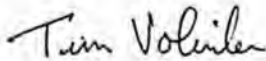
re: House Bill 345

I am opposed to House Bill 345, in particular Section 2 a. (10). It is an attack upon the integrity of the Pension Investment Board's purpose, which is to protect the principal of retirement funds and earn money to pay for pensions. I support the independence of the Pension Investment Board. No strings should be attached to the ability of the Board to hire managers and advisers which it believes to be the best people to provide investment returns which will meet the future financial obligations of paying for teachers and state workers retirement.

The Pension Investment Board was set up to give employees a voice and some control over the investment decisions regarding our retirement funds. The junk bond investments of Executive Life went sour, which put SBS funds at risk of huge losses. That is the reason that the Pension Investment Board was set up in the first place. The Legislature should not make the Pension Investment Board hire local managers, or invest a certain percentage in Alaska, for that matter. The Board concept is working well in actuality, and it should be allowed to continue in its present form. The Board is free to hire Alaskan managers if it chooses, but only if it chooses freely without political mandates or pressure.

Teacher and state employee pension funds should be managed for the sole benefit of employee retirement funds. They should not be seen as another pot of money for the Legislature to earmark for job creation, economic development, or infrastructure projects in Alaska. Those projects should be funded with general fund money or the AIDEA. Pension funds are compensation for many years of dedicated service to Alaskans by teachers and state employees. Prudent independent investment decisions by the Pension Investment Board will result in money being delivered to retirees who can then spend it themselves to help Alaska's economy.

Sincerely,



Tim Volwiler, vested member  
Teacher's Retirement System

---

## Dynamic Capital Management, Inc.



March 20, 1996

Chairperson and Committee Members  
House State Affairs Committee

Dear Members of the Committee:

My name is David Gottstein. I am the president of Dynamic Capital Management, an Alaskan based Investment Advisory firm specializing in large capitalization equities. I am in the market to manage other peoples' money for a fee. This includes government pension assets. On the surface, because I might gain materially from its passage, you might assume that I would favor HB 345 as it is currently written. You would be very wrong. I am also a life-long Alaskan, and I do not think the bill as written serves the residents of Alaska or would accomplish the goals intended.

Even though the intent of the proposed legislation should gain wide approval within the state, the mechanism used is fundamentally flawed on a number of issues. With more focused analysis, a much better formula could be devised.

As members of the legislature, you are charged with the difficult task of balancing your fiduciary obligations to grow and to protect the pension and other assets of state government with your obligations, as citizens charged with the general welfare of your constituencies, to seek the growth of employment opportunities for Alaska's residents. I believe the solution would be to adopt a legitimate prejudice to hire firms that can show that the bulk of their human resources, wherever possible, are located in Alaska, and that services are provided without materially sacrificing competency, performance, or competitiveness in the area of fees, charges or commissions. There are several reasons why a quota system would not establish a system of checks and balances to accomplish the goal of having a legitimate prejudice to hire such Alaskan firms. For example:

1. The legislation, currently written establishing a quota system, could result in disaster. It is important that the decision makers assigning contracts feel ownership in the outcome and performance of their decisions. By focusing the decision making process on a mandate to hire Alaskans, state decision makers are forced to abdicate their primary responsibility as fund protectors to become job creators. If a bad performance ensues from one of the marginally qualified Alaskan contractors, fiduciaries cannot be held accountable, because they were forced by statute to select from a limited pool. It would be better for all if competency did not have to take a back seat in the decision-making process. Can you imagine a standard so low that one is required to hire someone unless they are determined to be unqualified? Do you know what one calls the person who graduates last in his or her medical class? He or she is called Doctor. This path is laced with potential mines.

2. The second flaw lies within the language, not the intent. The language in part says "services provided by persons located in the state...". The potential problem here is that legally a "person" can mean a human or an entity. A company with an office in Alaska, with only an order taker, might qualify, even though personnel in other states were actually getting paid for the services. Brokerage services might appear to go through an Anchorage or Fairbanks office, but actually be credited to an institutional New York broker when determining commission income and bonuses.

3. There is also a human factor. It is obvious from the way the legislation is written that the drafters have given up on the state bureaucracy's ability to contract services without a prejudice *against* local hire. They have no incentive to do so. They would rather go to Phoenix to check up on a money manager than Anchorage. Attempting to beat them into submission by expecting them to adopt a new agenda and to perform it appropriately and with enthusiasm is, quite frankly, naive. Perhaps a better approach would be to convince the procurement officers that Alaskan employment "will" be a secondary, but a legitimate criteria in the selection process. Rather than cramming a process down their throats that they don't believe in, getting input from them on how to accomplish both goals simultaneously would yield better results.

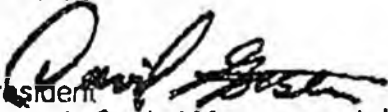
4. I believe the main challenge here is to devise a method whereby the state does not suffer from using local hire but rather supports and fosters growth in an immature but potentially significant industry. Current requirements sometimes preclude the state from nurturing a promising financial services industry. Therefore, in part, we may have to deal with certain regulatory or policy issues that act to discriminate against local hire because of company size and age, or amount of assets under management. Nascent industries need help most in their early stages of development. They often don't need much business to help them significantly. Let me next suggest two different approaches that may work better than a quota system.

Instead of quota standards that set a minimum percentage as a goal, a peer review qualification test could be maintained that requires, at a minimum, above average competency. This could be done by inserting the language I used previously such as "to institute a legitimate prejudice policy to hire firms who can show that the bulk of the human resources engaged in providing purchased services are located in Alaska, and that services are provided without materially sacrificing competency, performance, or cost." This does not require Alaskan companies to be the best or the cheapest, but they would have to be competitive. Fiduciaries could then be required to manage the execution of the policy.

Another approach, not dissimilar from that which other institutions use as a matter of course, would be to craft a farm team program for investment managers with a relatively modest dollar commitment. This would require the trustees to engage local hire farm or test teams under guidelines they deem appropriate. The quota system recommendation came as a result of frustration within the industry. A better approach would be to tell fiduciaries that they must engage in an affirmative action plan without dictating to them how to do it. A quota system could result in significant performance issues with a marginally-performing service provider, discrediting the whole intent of the legislation.

These are just a few words on what might be a delicate subject. I would be happy to answer questions from the committee members.

David Gottstein



President  
Dynamic Capital Management, Inc.



**CITY OF FAIRBANKS**  
*James C. Hayes, Mayor*  
800 ~~410~~ CUSHMAN STREET  
FAIRBANKS, ALASKA 99701-4083  
OFFICE: 907-459-6798  
HOME OFFICE: 907-456-8637



March 20, 1996

The Honorable Jeanette James  
State Capitol, Room 102  
Juneau, Alaska 99801-1182

Delivered by Fax No. (907) 465-2381

Re: HB No. 345

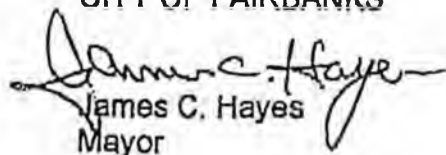
Dear Representative James:

I am writing to you in support of moving HB No. 345 on to the House Finance Committee. This bill can and will have a very beneficial impact on the private sector in Fairbanks and the rest of Alaska. Private sector financing stimulated by partnership with state government will force financial markets outside Alaska to allow the state realistic interest rates. It is critical to the long term growth of this city and the state as a whole to reconnect Alaska to the financial markets of Wall Street. The impact of reducing interest rates from Prime + 3, to a fixed interest rate tied to the 30 year T Bond, will stimulate business by lowering the cost of occupancy through a reduction in debt service.

Please study this program and appreciate that while Alaskans should be encouraged to buy Alaska, Alaskans should also be encouraged to invest in Alaska. The best way for this to happen is for the State of Alaska to lead the way with an investment of a portion of its 30 billion dollar investment funds. Alaskans need to help themselves before outside financial markets are going to invest in Alaska. The State needs show leadership.

Sincerely,

CITY OF FAIRBANKS

  
James C. Hayes  
Mayor

JCH:bss

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## Alaska Valuation Service, Inc.

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February 29, 1996

Mr. Jim Crawford  
City Commerce Corporation  
3201 C Street  
Anchorage, Alaska

Dear Jim,

This letter is in response to our conversation relative to rates found in the real estate market in Alaska which are used in the capitalization process. You inquired as to reasons why the Alaska capitalization rates appear to be consistently higher than those demonstrated in similar markets in the other states as evidenced by your conversations with stateside lenders and national statistics.

We too often receive comments and queries from outside lenders who read the appraisals and ask for clarification on the rates because in most states a lower rate means a higher value and Alaska real estate looks like a real bargain. The fact is that over the 30 years I have been a fee appraiser, all of the various markets in Alaska have consistently shown yields and rates of return at higher levels than are required by investors in other states.

Part of this may be due to the fact that Alaska for many decades was considered the "frontier" and in such environments the risk is perceived to be greater, therefore the reward needs to be higher. The reward is of course the rate of return, and that is demonstrated both by the cash flow and the rate of capitalization. Even though the risk is now no greater than in comparable areas of the other states, the higher rates of return have remained. This higher yield requirement has been maintained by a variety of ways, most importantly is the relative lack of reasonable term and cost financing on commercial properties. Because of the loan terms and interest rates, fewer purchasers are able to participate in the commercial market, and those that are able to purchase have been able to require investment yields well above like property returns in other states.

Even in the best of times here capitalization rates rarely get as low as 10%, and most often are in the 11 to 12% range. This does make for excellent personal investments if you have the ability to participate in the market. The lack of financing however has had an effect on the ability of property to be absorbed when the

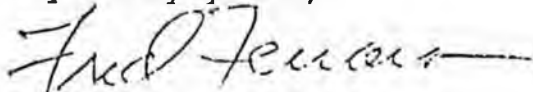
market slows. Buyers who see prices softening want to purchase to secure long term investment properties at better prices but are not able to get financing. As a result, market declines have the potential to become more pronounced than they would be if the real estate market had more liquidity by virtue of having more users and investors able to participate.

An example of what lack of liquidity can do in a market was demonstrated in our condominium market in the late 1980's when most of the loans were non assumable, and buyers were not able to find reasonable financing. Buyers would have assumed many of the loans were they able, but could not, and the properties declined in value until they were purchased at fire sale prices for cash.

In conclusion, high capitalization rates and their subsequent higher investment yields to commercial property owners has been present in Alaska markets for many years. We believe the somewhat limited availability of financing for such properties is part of the reason for that. Another reason however is that investors have gotten used to higher yields in real estate, and I believe that slightly higher yields will continue in this state even if better financing were available. The disparity in rates between Alaska and the other states would not be as stark if property were more easily financed.

These comments are of course my view of the market, but I believe you will find general consensus from other appraisers and Realtors in this area.

Very truly yours,



Alfred J. Ferrara, MAI, SRA