

LEG. FINANCE - BILLS 1985 - 1986 2180

SB 94 cont. - SB 100 2180

Healthy Alaska Coalition  
January 24, 1985  
Page 3

Association, the Alaska Health Educators Consortium, the Alaska Native Health Board, the Municipal Health Commission of Anchorage, the Alaska Council on Smoking or Health, and the Alaska State Medical Society.

"The response from the organizations we have approached has all been positive," Curtis Mekemson, Executive Director of the Alaska Lung Association stated, "We're in the process of reaching out to every organization in the State that might have an interest in health promotion. It is important that these organizations support the legislation and even more important that they have an opportunity to participate in its implementation."

State of Alaska  
Department of Education

CIGARETTE TAX DISTRIBUTION  
1984-85 Fiscal Year

SCHOOL DISTRICT	Basic Allotment	1983-84 Final ADM	ADM Allotment @ 15.6059	1983-84 Prof. Staff	Prof. Staff Allotment @ 214.3665	Entitlement	Entitlement Per ADM
Anchorage	3,000	35,632	556,069	2,425.75	519,999	1,079,068	30
Bristol Bay	3,000	201	3,137	24.50	5,252	11,389	57
Cordova	3,000	395	6,164	39.00	8,360	17,524	44
Craig	3,000	137	2,138	19.00	4,073	9,211	67
Dillingham	3,000	411	6,414	50.00	10,718	20,132	49
Fairbanks	3,000	9,790	152,782	706.50	151,450	307,232	31
Galena	3,000	146	2,278	22.50	4,823	10,101	69
Haines	3,000	366	5,712	40.00	8,575	17,287	47
Hoonah	3,000	228	3,558	23.00	4,930	11,488	50
Hydaburg	3,000	100	1,561	15.00	3,215	7,776	78
Juneau	3,000	4,360	68,042	277.50	59,487	130,529	30
Kake	3,000	204	3,184	24.70	5,295	11,479	56
Kenai	3,000	7,225	112,753	506.75	108,630	224,383	31
Ketchikan	3,000	2,401	37,470	173.57	37,208	77,678	32
King Cove	3,000	97	1,514	19.00	4,073	8,587	88
Klawock	3,000	135	2,107	19.00	4,073	9,180	68
Kodiak	3,000	2,116	33,022	168.10	36,035	72,057	34
Mat-Su	3,000	6,903	107,728	428.85	91,931	202,659	29
Nenana	3,000	115	1,795	21.50	4,609	9,404	82
Nome	3,000	781	12,188	65.00	13,934	29,122	37
North Slope	3,000	1,043	16,277	156.00	33,441	52,718	50
Pelican	3,000	54	843	7.00	1,501	5,344	99
Petersburg	3,000	591	9,223	45.50	9,754	21,977	37
Sand Point	3,000	107	1,670	13.00	2,787	7,457	70
Sitka	3,000	1,582	24,689	117.00	25,081	52,770	33
Skagway	3,000	152	2,372	15.00	3,215	8,587	56
St. Mary's	3,000	109	1,701	17.00	3,644	8,345	77
Tanana	3,000	75	1,170	14.00	3,001	7,171	96
Unalaska	3,000	144	2,247	21.00	4,502	9,749	68
Valdez	3,000	811	12,656	72.50	15,542	31,198	38
Wrangell	3,000	453	7,070	41.50	8,896	18,966	42
Yakutat	3,000	158	2,466	18.50	3,966	9,432	60
TOTALS	96,000	77,022	1,202,000	5,607.22	1,202,000	2,500,000	32

9/5/85

State of Alaska  
Department of Education

CIGARETTE TAX DISTRIBUTION  
1983-84 Fiscal Year

District School	Basic Allotment	1982-83 ADM	ADM Allotment @ 16.2659	1982-83 Professional Staff	Prof. Staff Allotment @ 229.6171	Entitlement	Entitlement Per ADM
Anchorage	3,000	34,602	562,832	2,191.5	503,206	1,069,038	31
Bristol Bay	3,000	212	3,448	24.0	5,511	11,959	56
Cordova	3,000	430	6,994	37.7	8,657	18,651	43
Craig	3,000	146	2,375	19.2	4,409	9,784	67
Dillingham	3,000	375	6,100	44.0	10,103	19,203	51
Fairbanks	3,000	9,375	152,493	656.8	150,813	306,306	33
Galena	3,000	142	2,310	21.5	4,937	10,247	72
Haines	3,000	380	6,181	40.5	9,299	18,480	49
Hoonah	3,000	237	3,855	23.0	5,281	12,136	51
Hydaburg	3,000	93	1,513	12.0	2,755	7,268	78
Juneau	3,000	4,332	70,464	264.6	60,619	134,083	31
Kake	3,000	191	3,107	22.2	5,098	11,205	59
Kenai	3,000	6,744	109,697	490.0	112,512	225,209	33
Ketchikan	3,000	2,364	38,453	187.0	42,938	84,391	36
King Cove	3,000	103	1,675	19.0	4,363	9,038	88
Klawock	3,000	139	2,261	20.5	4,707	9,968	72
Kodiak	3,000	2,128	34,614	162.8	37,382	74,996	35
Mat-Su	3,000	5,672	92,260	361.6	83,030	178,290	31
Nenana	3,000	125	2,033	24.0	5,511	10,544	84
Nome	3,000	731	11,890	63.8	14,650	29,540	40
North Slope	3,000	1,028	16,721	149.0	34,213	53,934	52
Pelican	3,000	48	781	8.5	1,952	5,733	119
Petersburg	3,000	572	9,304	46.7	10,723	23,027	40
Sand Point	3,000	124	2,017	15.0	3,444	8,461	68
Sitka	3,000	1,583	25,749	120.1	27,577	56,326	36
Skagway	3,000	169	2,749	20.2	4,638	10,387	61
St. Mary's	3,000	107	1,740	21.5	4,937	9,677	90
Tanana	3,000	97	1,578	12.0	2,755	7,333	76
Unalaska	3,000	171	2,781	20.7	4,753	10,534	62
Valdez	3,000	842	13,696	75.0	17,221	33,917	40
Wrangell	3,000	480	7,808	41.0	9,414	20,222	42
Yakutat	3,000	155	2,521	20.0	4,592	10,113	65
<b>TOTALS</b>	<b>96,000</b>	<b>73,897</b>	<b>1,202,000</b>	<b>5,234.8</b>	<b>1,202,000</b>	<b>2,500,000</b>	<b>34</b>

State of Alaska  
Department of Education  
CIGARETTE TAX DISTRIBUTION  
1982-83 Fiscal Year

District School	Basic Allotment	1981-82 ADM	ADM Allotment @ 49.1797	1981-82 Professional Staff	Prof. Staff Allotment @ 688.0305	Entitlement	Entitlement Per ADM	1st Paymt Prorated @87.1749%	Final Payment
Anchorage	3,000	33,307	1,638,028	2,084.7	1,434,337	3,075,365	92	2,680,946	394,419
Bristol Bay	3,000	208	10,229	25.2	17,338	30,567	147	26,647	3,920
Cordova	3,000	413	20,311	42.7	29,379	52,690	128	45,932	6,758
Craig	3,000	171	8,410	23.5	16,169	27,579	161	24,042	3,537
Dillingham	3,000	372	18,295	49.0	33,713	55,008	148	47,953	7,055
Fairbanks	3,000	8,851	435,289	615.5	423,483	861,772	97	751,249	110,523
Galena	3,000	135	6,639	20.0	13,761	23,400	173	20,399	3,001
Haines	3,000	371	18,246	39.5	27,177	48,423	130	42,213	6,210
Hoonah	3,000	225	11,065	24.0	16,513	30,578	136	26,656	3,922
Hydaburg	3,000	88	4,329	12.0	8,256	15,585	177	13,586	1,999
Juneau	3,000	3,979	195,686	277.0	190,584	389,270	98	339,346	49,924
Kenai	3,000	188	9,246	24.0	16,513	28,759	153	25,071	3,688
Ketchikan	3,000	6,289	309,291	465.7	320,416	632,707	101	551,562	81,145
King Cove	3,000	2,331	114,638	184.9	127,217	244,855	105	213,452	31,403
Klawock	3,000	132	6,492	17.0	11,697	21,189	160	18,471	2,718
Kodiak	3,000	97	4,771	11.5	7,912	15,683	162	13,672	2,011
Kodiak	3,000	2,026	99,638	164.7	113,319	215,957	107	188,260	27,697
Mat-Su	3,000	4,835	237,784	296.0	203,657	444,441	92	387,441	57,000
Menana	3,000	202	9,934	19.0	13,073	26,007	129	22,672	3,335
Nome	3,000	690	33,934	77.5	53,322	90,256	131	78,681	11,575
North Slope	3,000	1,041	51,196	148.0	101,828	156,024	150	136,014	20,010
Pelican	3,000	51	2,509	5.5	3,784	9,293	182	8,101	1,192
Petersburg	3,000	556	27,344	50.2	34,539	64,883	117	56,562	8,321
Sand Point	3,000	106	5,214	16.0	11,008	19,222	181	16,757	2,465
Sitka	3,000	1,634	80,360	128.1	88,137	171,497	105	149,502	21,995
Skagway	3,000	190	9,344	20.2	13,898	26,242	138	22,876	3,366
St. Mary's	3,000	90	4,427	20.5	14,105	21,532	239	18,770	2,762
Unalaska	3,000	177	8,705	20.5	14,105	25,810	146	22,500	3,310
Valdez	3,000	830	40,819	78.5	54,010	97,829	118	85,282	12,547
Wrangell	3,000	485	23,852	40.5	27,865	54,717	113	47,699	7,018
Yakutat	3,000	152	7,475	18.0	12,385	22,860	150	19,928	2,932
<b>TOTALS</b>	<b>93,000</b>	<b>70,222</b>	<b>3,453,500</b>	<b>5,019.4</b>	<b>3,453,500</b>	<b>7,000,000</b>	<b>100</b>	<b>6,102,242</b>	<b>897,758</b>

(nd 1/10/83)

(nd.5/11/83)

**CHAPTER 36.  
CIGARETTE TAX ADMINISTRATION**

## Section

## 10. Cigarette tax distribution

**4 AAC 36.010. CIGARETTE TAX DISTRIBUTION.** (a) The term "rehabilitation, construction, and repair" of school facilities, as used in the Cigarette Tax Act, refers to major repair projects, and cigarette tax funds may not be used for projects which are properly considered as normal operating and maintenance expenses of the school districts. The commissioner has discretion to disapprove expenditures which he determines should not be made from cigarette tax funds.

(b) Purchase of equipment shall not be approved unless it is in connection with a construction or major repair or rehabilitation project. Prior approval, by the commissioner, of the projects shall be obtained if reasonable question appears as to whether or not they may be approved.

(c) Cigarette tax moneys are distributed to city and borough school districts in accordance with the following formula:

$$C_a = \frac{C_s - E_s}{2}$$

$$C_p = \frac{C_s - E_s}{2}$$

$$C_i = \frac{C_a}{A_i} \times A_i + \frac{C_p}{P_i} \times P_i + E_i$$

C Cigarette tax  
s Participating school districts

A Average daily membership  
E Basic allotment or equalization fund  
I Any individual school district  
Cs Total state cigarette tax allocated to school districts  
Ci Any individual district's share of cigarette tax  
At Total ADM in participating school districts  
Pt Total professional workers in participating district schools  
Cp Portion of total tax to be allotted on basis of professional workers  
Pi Number professional workers in any individual school district  
Ei Basic allotment of \$3,000 per year to each participating school district  
Ca Portion of cigarette tax to be allotted on basis of ADM

(d) Other conditions:

(1) Collection periods run from July 1 to June 30, inclusive, of each year. Distribution is based on the total sum available in each collection period;

(2) To be eligible to participate in a distribution for a given collection period, the applicant shall meet the following requirements:

(A) A district must have been in operation as a district school for the entire collection period for which distribution is sought;

(B) Within 21 days following the closing of the collection period, all participating districts must submit to the commissioner a "Letter of Application" on forms to be provided by the commissioner. The "Letter of Application" shall include a full explanation of the intended use of cigarette tax funds or justification of the need of the funds;

(C) All districts which have had a previous distribution shall submit within 45 days following the closing of the collection period, a complete "Statement of Expenditures," on forms to be provided by the commissioner. Assurance must be given that state and local sales taxes, and federal transportation, long distance, or telegram taxes were not paid;

(D) Income derived from the investment of cigarette tax funds shall become cigarette tax funds and shall be accounted for in the same manner;

(E) All districts shall submit any other reports on cigarette tax funds as may be prescribed from time to time by the commissioner;

(3) Repealed 5/10/78;

(4) All cigarette tax disbursements shall be made only upon the specific authorization of the local school board and the minutes of the board shall include a listing of the expenditures as approved. Custody of cigarette tax funds is the responsibility of the school board and funds shall not be turned over to any other body unless a specific obligation must be met;

(5) Each district school shall maintain a separate bank account for cigarette tax moneys and shall file with the commissioner the name of the cigarette tax account and the name of the bank in which the account is kept;

(6) If a district school disincorporates, any unobligated balance owed to or remaining in their cigarette tax account shall be forwarded to the commissioner to be deposited to the cigarette tax fund and shall be included in the funds of the collection period in which returned;

(7) The average daily membership of schools operated under contract for the department is not included for the purpose of determining a district's cigarette tax share. (In effect before 7/28/59; rewrite (no changes made concerning intent) 4/17/68, Reg. 24; am 5/10/78, Reg. 66; am 9/22/84, Reg. 91)

Authority: AS 43.50.140  
AS 14.07.020(1)

## CHAPTER 39. DIPLOMAS UNDER SPECIAL CONDITIONS

### Article

1. Eighth Grade and Adult Education Diplomas  
(4 AAC 29.010—4 AAC 29.040)
2. High School Equivalency Test  
(4 AAC 29.110—4 AAC 29.190)

### ARTICLE 1. EIGHTH GRADE AND ADULT EDUCATION DIPLOMAS

#### Section

10. (Repealed)
20. (Repealed)
30. (Repealed)
40. Delegation of authority to issue diplomas in connection with adult education programs

4 AAC 39.010. VETERANS. Repealed 12/30/77.

4 AAC 39.020. SPECIAL EXAMINATIONS. Repealed 3/1/78.

4 AAC 39.030. EIGHTH GRADE DIPLOMAS. Repealed 5/10/78.

4 AAC 39.040. DELEGATION OF AUTHORITY TO ISSUE DIPLOMAS IN CONNECTION WITH ADULT EDUCATION PROGRAMS. District school boards offering secondary education programs for adults may issue certificates of completion or diplomas provided the program standards for graduation meet those prescribed by the commissioner. (In effect before 7/28/59; am 9/24/65, Reg. 24; am 10/14/68, Reg. 27)

Authority: AS 14.07.060  
AS 44.27.020(1)

### ARTICLE 2. HIGH SCHOOL EQUIVALENCY TEST

#### Section

110. High school equivalency test
120. Eligibility
130. Official test sites
140. State GED program office
150. (Repealed)
190. Definitions

Introduced: 1/24/85  
Referred: Health, Education & Social Services  
and Finance

1 IN THE SENATE

BY V. FISCHER

2

SENATE BILL NO. 94

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act increasing the excise tax on cigarettes; and  
7 providing for an effective date."

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

9 section 1. INTENT. (a) It is the intent of the legislature that the  
10 excise tax on cigarettes levied by this Act be used principally to fund  
11 health promotion and education programs to enhance wellness, good nutri-  
12 tion, and physical and mental fitness and to encourage the avoidance of  
13 unnecessary health risks, including smoking and use of alcohol and other  
14 drugs.

15 (b) The health promotion and education programs shall include  
16 promoting the implementation of school health education programs statewide  
17 for all grades; distributing and coordinating grants for statewide and  
18 local health promotion and education programs; and developing a five-year  
19 health promotion and education plan for the state, including one-year plans  
20 of operation.

21 \* Sec. 2. AS 43.50.190(a) is amended to read:

22 (a) There is levied an excise tax of five [ONE] and one-half  
23 mills on each cigarette imported or acquired in this state.

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

COMMITTEE REPORT  
SENATE

FURTHER:

FINANCE

1/24/85

Date 2-20-85

Mr. President

The Committee on HESS considered SB 94  
increasing the excise tax on cigarettes; efd.

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for SB 94 (HESS)  
 new title
- same title and recommends may DO PASS
- and attached a "LETTER OF INTENT"  NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to \_\_\_\_\_ Committee

MEMBERS SIGNING

DO PASS

Julius Sturgulson  
~~George~~  
Edw. H. Vines  
Paul A. Frank  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

MEMBERS HAVING

OTHER RECOMMENDATIONS

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Lettie Fahrenkamp  
Chairman

Chairman recommendation

COMMITTEE REPORT  
HOUSE

(11)

FURTHER:

3/27/85

Date: 4-9-85

The Committee on FINANCE has had CSB 94 (House)

"An Act increasing the price of liquor licenses; and providing for an effective date."

under consideration and recommends:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for CSB 14 (H)  same title  
 new title
- and recommends DO PASS
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation  Zero Fiscal Note Attached
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

Robert L. ...

...

Pat Pouchot

...

...

...

...

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\_\_\_\_\_

Robert L. ...  
CHAIRMAN

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

REQUEST FIN  
 Bill/Resolution No: HCS CSSB 94 (HESS)  
 Title: An Act increasing the excise tax on cigarettes  
 Sponsor: Fisher, Ferguson  
 Requestor: Health Ed. & Social Svcs  
 Date of Request: March 30, 1985

Revision Date \_\_\_\_\_  
 FISCAL DETAIL  
 Agency Affected: Revenue  
 Program Category Affected: \_\_\_\_\_  
 BRU, Program of Subprogram(s) Affected: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES	-	-	-	-	-	-
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	-	-	-	-	-
400 SUPPLIES	-	-	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LANDS & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS	-	-	-	-	-	-
800 MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	-	-	-	-	-
CAPITAL	-	-	-	-	-	-
REVENUE	-	4,099.2	5,600.0	5,600.0	5,600.0	5,600.0

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: Attach a separate page for analysis.

It is assumed that the number of net taxable cigarettes will reach a level of 1.4 billion annually and remain at that level for the forecast period. This bill raises the General Fund portion of the cigarette tax from a rate of 1-1/2 mills (\$.0015) to 5-1/2 mills (\$.0055) per cigarette. The school fund also receives 2-1/2 mills (.0025) per cigarette, a rate not changed by the legislation. The FY 86 figure is adjusted to account for the fact that the new tax would apply to only part of that year.

Prepared By: David R. Tonko<sup>ET</sup>  
 Division: Revenue - Research Section  
 Approved by Commissioner: [Signature]  
 Agency: [Signature]

Phone: 5-2173  
 Date: 4/1/85  
 Date: 4/3/85

Distribution (by Agency preparing fiscal note):

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

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date 4-2-85

REQUEST

Bill/Resolution No: HCS CSSB 94 (FIN)  
 Title: Cigarette Tax Increase  
 Sponsor: V. Fischer, Ferguson  
 Requestor: HESS  
 Date of Request: March 30, 1985

FISCAL DETAIL

Agency Affected: Department of Revenue  
 Program Category Affected: Collection and Management  
 BRU, Program of Subprogram(s) Affected: Audit Division

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-	0-	-0-	-0-	-0-
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER	-0-	-0-	-0-	-0-	-0-	-0-
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

ANALYSIS: This bill will not require an increase in expenditure for this BRU.

Prepared By: Martin J. Richard, Director Phone: 465-2320  
 Division: Audit Division Date: April 2, 1985

Approved by Commissioner: [Signature] Date: 4/1/85  
 Agency: Revenue

Distribution (by Agency preparing fiscal note):

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

Original sponsors: V.Fischer and Ferguson

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 94 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

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7 providing for an effective date."

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

9 \* Section 1. INTENT. (a) It is the intent of the legislature that the  
0 excise tax on cigarettes levied by this Act be used principally to fund  
1 health care, health research, and health promotion and education programs.

2 (b) The health care programs shall consist of those health programs  
3 traditionally funded by the state including nursing, family health, commu-  
4 nity health grant, and mental health grant programs.

5 (c) The health promotion and education programs shall include  
6 promoting the implementation of school health education programs for all  
7 grades to enhance wellness, good nutrition, and physical and mental fitness  
8 and to encourage the avoidance of unnecessary health risks, including  
9 smoking and use of alcohol and other drugs.

10 \* Sec. 2. AS 43.50.190(a) is amended to read:

1 (a) There is levied an excise tax of five [ONE] and one-half  
2 mills on each cigarette imported or acquired in this state.

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

Offered: 3/29/85  
Referred: Finance

Original sponsors: V.Fischer and Ferguson

1 IN THE SENATE  
2 HOUSE CS FOR CS FOR SENATE BILL NO. 94 (HESS)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 FOURTEENTH LEGISLATURE - FIRST SESSION  
5 A BILL  
6 For an Act entitled: "An Act increasing the excise tax on cigarettes; and  
7 providing for an effective date."  
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:  
9 \* Section 1. INTENT. (a) It is the intent of the legislature that the  
10 excise tax on cigarettes levied by this Act be used principally to fund  
11 health care, health research and health education programs.  
12 (b) The health care programs shall consist of those health programs  
13 traditionally funded by the state including nursing, family health, commu-  
14 nity health grant, and mental health grant programs.  
15 (c) The health education programs shall include promoting the imple-  
16 mentation of school health education programs for all grades to enhance  
17 wellness, good nutrition, and physical and mental fitness and to encourage  
18 the avoidance of unnecessary health risks, including smoking and use of  
19 alcohol and other drugs.  
20 \* Sec. 2. AS 43.50.190(a) is amended to read:  
21 (a) There is levied an excise tax of five [ONE] and one-half  
22 mills on each cigarette imported or acquired in this state.  
23 \* Sec. 3. This Act takes effect October 1, 1985.

Offered: 2/22/85  
Referred: Finance

Original sponsors: V.Fischer and Ferguson

1 IN THE SENATE  
2  
3 CS FOR SENATE BILL NO. 94 (HESS) am  
4 IN THE LEGISLATURE OF THE STATE OF ALASKA  
5 FOURTEENTH LEGISLATURE - FIRST SESSION  
6 A BILL  
7 For an Act entitled: "An Act increasing the excise tax on cigarettes; and  
8 providing for an effective date."  
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:  
10 \* Section 1. INTENT. (a) It is the intent of the legislature that the  
11 excise tax on cigarettes levied by this Act be used principally to fund  
12 health promotion and education programs to enhance wellness, good nutri-  
13 tion, and physical and mental fitness and to encourage the avoidance of  
14 unnecessary health risks, including smoking and use of alcohol and other  
15 drugs.  
16 (b) The health promotion and education programs shall include promot-  
17 ing the implementation of school health education programs statewide for  
18 all grades; distributing and coordinating grants for statewide and local  
19 health promotion and education programs; and developing a five-year health  
20 promotion and education plan for the state, including one-year plans of  
21 operation.  
22 \* Sec. 2. AS 43.50.150(a) is repealed and reenacted to read:  
23 (a) If the federal excise tax on cigarettes under 26 U.S.C.  
24 5701(b) is equal to or greater than 8 mills per small cigarette or  
25 16.8 mills per large cigarette, then there is levied an additional  
26 state excise tax on each cigarette imported or acquired in the state  
27 of 1.5 mills. If the federal excise tax is less than 8 mills per  
28 small cigarette or 16.8 mills per large cigarette, then there is  
29 levied an excise tax in an amount sufficient to make the total of the  
federal tax and the additional state tax levied by this section on

1       each cigarette imported or acquired in this state equal to

2       (1) 9.5 mills on each small cigarette; and

3               (2) 18.3 mills on each large cigarette.

4       \* Sec. 3. AS 43.50.190 is amended by adding a new subsection to read:

5               (c) In this section, "small cigarette" and "large cigarette"

6       have the same meanings given in 26 U.S.C. 5701(b).

7       \* Sec. 4. This Act takes effect October 1, 1985.

Offered: 2/22/85  
Referred: Finance

Original sponsors: V.Fischer and Ferguson

1 IN THE SENATE BY THE HEALTH, EDUCATION  
AND SOCIAL SERVICES COMMITTEE

2 CS FOR SENATE BILL NO. 94 (HESS)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act increasing the excise tax on cigarettes; and  
7 providing for an effective date."

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

9 \* Section 1. INTENT. (a) It is the intent of the legislature that the  
10 excise tax on cigarettes levied by this Act be used principally to fund  
11 health promotion and education programs to enhance wellness, good nutri-  
12 tion, and physical and mental fitness and to encourage the avoidance of  
13 unnecessary health risks, including smoking and use of alcohol and other  
14 drugs.

15 (b) The health promotion and education programs shall include promot-  
16 ing the implementation of school health education programs statewide for  
17 all grades; distributing and coordinating grants for statewide and local  
18 health promotion and education programs; and developing a five-year health  
19 promotion and education plan for the state, including one-year plans of  
20 operation.

21 \* Sec. 2. AS 43.50.190(a) is amended to read:

22 (a) There is levied an excise tax in an amount sufficient to  
23 make the total of the federal tax and the additional state tax levied  
24 by this section on each cigarette imported or acquired in this state  
25 equal to

26 (1) 9.5 mills on each small cigarette; and

27 (2) 18.3 mills on each large cigarette [OF ONE AND ONE-HALF  
28 MILLS ON EACH CIGARETTE IMPORTED OR ACQUIRED IN THIS STATE].

29 \* Sec. 3. AS 43.50.190 is amended by adding a new subsection to read:

1           (c) In this section, "small cigarette" and "large cigarette"  
2           have the same meanings given in 26 U.S.C. 5701(b).  
3           \* Sec. 4. This Act takes effect October 1, 1985.

Introduced: 1/24/85  
Referred: Health, Education & Social Services  
and Finance

1 IN THE SENATE

BY V.FISCHER

2

SENATE BILL NO. 94

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act increasing the excise tax on cigarettes; and  
7 providing for an effective date."

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

9 \* Section 1. INTENT. (a) It is the intent of the legislature that the  
10 excise tax on cigarettes levied by this Act be used principally to fund  
11 health promotion and education programs to enhance wellness, good nutri-  
12 tion, and physical and mental fitness and to encourage the avoidance of  
13 unnecessary health risks, including smoking and use of alcohol and other  
14 drugs.

15 (b) The health promotion and education programs shall include  
16 promoting the implementation of school health education programs statewide  
17 for all grades; distributing and coordinating grants for statewide and  
18 local health promotion and education programs; and developing a five-year  
19 health promotion and education plan for the state, including one-year plans  
20 of operation.

21 \* Sec. 2. AS 43.50.190(a) is amended to read:

22 (a) There is levied an excise tax of five [ONE] and one-half  
23 mills on each cigarette imported or acquired in this state.

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

**COMMITTEE REPORT**  
**SENATE**

FURTHER:

2/28/86

Date \_\_\_\_\_

Mr. President

The Committee on FINANCE considered SB 95  
supervision of safety of dams and reservoirs; efd.

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for \_\_\_\_\_
- new title
- same title and recommends \_\_\_\_\_
- and attached a "LETTER OF INTENT"  NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS

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\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Chairman recommendation

COMMITTEE REPORT  
SENATE

FURTHER: FINANCE

3/28/85

Date 2/27/86

Mr. President

The Committee on JUDICIARY considered SB 95  
supervision of safety of dams and reservoirs; efd.

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

- do pass
- do pass with attached amendment(s)
- replace with or adopt CS for SB 95 JUD
- new title
- same title and recommends \_\_\_\_\_
- and attached a "LETTER OF INTENT"  NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

2 3 4

3 4

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13 14

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19 20

MEMBERS, HAVING  
OTHER RECOMMENDATIONS

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20

no rec

Patrick R. Kelly

Chairman

no rec

Chairman recommendation

COMMITTEE REPORT  
SENATE

1/25/85

FURTHER: Judiciary  
Finance

Date

3/27/85

Mr. President

The Committee on RESOURCES considered SB 95  
supervision of safety of dams and reservoirs; efd.

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for SENATE BILL 95 (RESOURCES)
- new title
- same title and recommends \_\_\_\_\_
- and attached a "LETTER OF INTENT"  NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

[Signature]  
[Signature]  
[Signature]

MEMBERS HAVING  
OTHER RECOMMENDATIONS

3: Battara, Fakhry, No Res  
2: Kish, Hefner Do Not Pass  
3: [Signature] No Res.

Chairman

Chairman recommendation

[Signature]  
Do Pass

Offered: 2/28/86  
Referred: Finance

Original sponsor: Rules/Governor

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 CS FOR SENATE BILL NO. 95 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to supervision of safety of dams and  
7 reservoirs; and providing for an effective date."

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

9 \* Section 1. AS 11.56.800(a) is amended to read:

10 (a) A person commits the crime of making a false report if the  
11 person knowingly

12 (1) gives false information to a peace officer with the  
13 intent of implicating another in a crime;

14 (2) makes a false report to a peace officer that a crime  
15 has occurred or is about to occur; [OR]

16 (3) makes a false report or gives a false alarm that a fire  
17 or other incident dangerous to life or property calling for an emer-  
18 gency response has occurred or is about to occur; or

19 (4) makes a false report to the Department of Natural  
20 Resources concerning the condition of a dam or reservoir under AS 46.-  
21 17.

22 \* Sec. 2. AS 46 is amended by adding a new chapter to read:

23 CHAPTER 17. SUPERVISION OF SAFETY OF DAMS AND RESERVOIRS.

24 Sec. 46.17.010. PURPOSE. It is the purpose of this chapter to  
25 provide for the regulation, supervision, and periodic inspection by  
26 the commissioner of privately or state owned dams, reservoirs, and  
27 appurtenant works in order to ensure that the design, construction,  
28 enlargement, alteration, repair, maintenance, operation, and removal  
29 of dams and reservoirs is consistent with the protection of life and  
S

1 property.

2           Sec. 46.17.020. ADMINISTRATION AND STAFFING. The supervision of  
3 the safety of dams or reservoirs is the responsibility of the commis-  
4 sioner. The commissioner shall employ a licensed and qualified engi-  
5 neer, experienced in the design and construction of dams and reser-  
6 voirs, and other employees necessary for performing the duties out-  
7 lined in this chapter. The commissioner may contract with engineering  
8 consultants not employed by the state when necessary to assist in the  
9 performance of duties under this chapter.

10           Sec. 46.17.030. REGULATIONS AND ORDERS. The commissioner shall  
11 adopt regulations and issue orders necessary for carrying out the  
12 provisions of this chapter.

13           Sec. 46.17.040. APPROVAL REQUIRED. (a) Except in the perfor-  
14 mance of routine maintenance and operations not affecting structure  
15 safety, a person may not construct, enlarge, repair, alter, remove,  
16 maintain, operate or abandon a dam or reservoir without the approval  
17 of the commissioner.

18           (b) The owner of a dam or reservoir that was constructed or was  
19 in operation before the effective date of this Act shall file an  
20 application with the commissioner for the approval of the dam or  
21 reservoir, in accordance with regulations adopted by the commissioner.

22           (c) This chapter does not exempt an applicant under this section  
23 from the requirements of other statutes.

24           Sec. 46.17.050. INSPECTIONS. At least once every five years,  
25 the commissioner shall inspect every dam and reservoir subject to this  
26 chapter. The commissioner may inspect a dam or reservoir more fre-  
27 quently than every five years to protect public safety.

28           Sec. 46.17.060. ENTRY UPON PRIVATE PROPERTY. In taking an  
29 action under this chapter, the commissioner, after giving two weeks'

1 written notice and being refused the right of entry, may seek a search  
2 warrant to allow inspection of a dam or reservoir. The commissioner,  
3 after being refused inspection of drawings, operational records, or  
4 other information concerning a dam or reservoir, may seek an adminis-  
5 trative subpoena compelling production of the drawings, operational  
6 records, or other information. If the commissioner has reason to  
7 believe the dam or reservoir may be unsafe or presents an imminent  
8 threat to life or property, the commissioner may enter the dam or  
9 reservoir premises without notice.

10 Sec. 46.17.070. DETERMINING DANGER. In determining whether a  
11 dam or reservoir or proposed dam or reservoir constitutes or would  
12 constitute a danger to life or property, the commissioner shall, at a  
13 minimum, consider the possibility that the structural integrity of the  
14 dam or reservoir might be endangered by overtopping, seepage, settle-  
15 ment, erosion, cracking, earth movement, earthquakes, or the failure  
16 of bulkheads, flashboards, gates, or conduits. Upon determining that  
17 the dam or reservoir is unsafe, the commissioner shall order the owner  
18 to take action the commissioner considers necessary to ensure the  
19 protection of life and property.

20 Sec. 46.17.080. INJUNCTION AND DAMAGES. With the assistance of  
21 the attorney general, the commissioner may seek an injunction and dam-  
22 ages in the enforcement of the commissioner's orders or the provisions  
23 of this chapter.

24 Sec. 46.17.090. JUDICIAL REVIEW. A final action of the commis-  
25 sioner under this chapter is subject to judicial review as provided in  
26 the Administrative Procedure Act (AS 44.62).

27 Sec. 46.17.100. VIOLATION OF THIS CHAPTER IS A MISDEMEANOR. A  
28 person who knowingly violates a provision of this chapter, or know-  
29 ingly violates the terms of an approval, order, regulation, or

1 requirement of the commissioner made under this chapter, or knowingly  
2 obstructs, hinders, or prevents the commissioner's agents or employees  
3 from performing duties under this chapter, is guilty of a class A  
4 misdemeanor; upon conviction, the person is punishable by imprisonment  
5 under AS 12.55.135(a), or by a fine of not more than \$10,000, or by  
6 both. Each day that a violation continues constitutes a separate  
7 offense.

8 Sec. 46.17.110. OTHER GOVERNMENT AGENCIES. (a) A municipality  
9 organized under AS 29 may not regulate, supervise, inspect, or provide  
10 for the regulation, supervision, or inspection of a dam or reservoir  
11 in this state, or provide for the construction, maintenance, opera-  
12 tion, or removal or abandonment of them, or limit the size of a dam or  
13 reservoir or the amount of water that may be stored in them, if its  
14 action would conflict with the powers and duties vested in the commis-  
15 sioner. The commissioner may enter into cooperative agreements with  
16 municipalities and other state and federal agencies to carry out the  
17 purpose of this chapter.

18 (b) This chapter does not apply to a federally owned or operated  
19 dam or reservoir.

20 (c) This chapter does not affect the powers of the Department of  
21 Environmental Conservation or the Department of Fish and Game.

22 Sec. 46.17.120. ACTION AGAINST STATE FOR DAMAGES. (a) Except  
23 as provided in (b) of this section, a person may not bring an action  
24 against the state, the commissioner, or agents or employees of the  
25 state, for the recovery of damages caused by the partial or total  
26 failure of a dam or reservoir, or by the operation of a dam or reser-  
27 voir, or by an act or omission in connection with any of the follow-  
28 ing:

29 (1) approval of the construction of a dam or reservoir, or

1 approval of flood-handling plans during or after construction;

2 (2) issuance or enforcement of orders relating to mainte-  
3 nance or operation of the dam or reservoir;

4 (3) control or regulation of the dam or reservoir;

5 (4) measures taken to protect against failure of the dam or  
6 reservoir during an emergency; or

7 (5) investigations or inspections authorized under this  
8 chapter.

9 (b) A person may bring an action against the state for the  
10 recovery of damages caused by an action undertaken by a dam owner that  
11 was negligently ordered by the state over the owner's objection.

12 Sec. 46.17.139. DUTIES OF OWNER. This chapter does not relieve  
13 an owner of a dam or reservoir of the duties or liabilities incident  
14 to the ownership or operation of the dam or reservoir.

15 Sec. 46.17.900. DEFINITIONS. In this chapter, unless the con-  
16 text requires otherwise,

17 (1) "alterations" or "repairs" means only those alterations  
18 or repairs that may directly affect the safety of the dam or reser-  
19 voir, as determined by the commissioner;

20 (2) "appurtenant works" includes structures such as spill-  
21 ways, either in a dam or separate from it; a reservoir and its rim;  
22 low level outlet works; and water conduits such as tunnels, pipelines,  
23 or penstocks, whether running through the dam or through its abut-  
24 ments;

25 (3) "commissioner" means the commissioner of natural re-  
26 sources;

27 (4) "dam" includes any artificial barrier and appurtenant  
28 works that may impound or divert water and that

29 (A) has or will have an impounding capacity at maximum

1 water storage elevation of 50 acre-feet and is at least 10 feet  
2 in height measured from the lowest point at either toe of the dam  
3 to the crest of the dam;

4 (B) Is at least 20 feet in height measured from the  
5 lowest point at either toe of the dam to the crest of the dam; or

6 (C) poses a threat to lives and property as determined  
7 positively by the commissioner;

8 (5) "enlargement" means an alteration to an existing dam or  
9 reservoir that raises or is capable of raising the water storage  
10 elevation of the water, or that increases the quantity of water im-  
11 ponded by the dam or reservoir;

12 (6) "owner" means a person who owns, controls, operates,  
13 maintains, manages, or proposes to construct a dam or reservoir, and  
14 includes the following:

15 (A) the state and its agencies and political subdivi-  
16 sions;

17 (B) a public utility; and

18 (C) the appointed or authorized agents, employees,  
19 leasees, receivers or trustees of any owner;

20 (7) "person" has the meaning given in AS 01.10.060, and, in  
21 addition, includes the state and its agencies and political subdivi-  
22 sions;

23 (8) "reservoir" means a basin appurtenant to a dam that may  
24 impound water.

25 \* Sec. 3. This Act takes effect immediately in accordance with AS 01.-  
26 10.070(c).

Offered: 3/28/85  
Referred: Judiciary and Finance

Original sponsor: Rules/Governor

1 IN THE SENATE BY THE RESOURCES COMMITTEE  
2 CS FOR SENATE BILL NO. 95 (Resources)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 FOURTEENTH LEGISLATURE - FIRST SESSION  
5 A BILL

6 For an Act entitled: "An Act relating to supervision of safety of dams and  
7 reservoirs; and providing for an effective date."

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

9 \* Section 1. AS 11.56.800(a) is amended to read:

10 (a) A person commits the crime of making a false report if the  
11 person knowingly

12 (1) gives false information to a peace officer with the  
13 intent of implicating another in a crime;

14 (2) makes a false report to a peace officer that a crime  
15 has occurred or is about to occur; [OR]

16 (3) makes a false report or gives a false alarm that a fire  
17 or other incident dangerous to life or property calling for an emer-  
18 gency response has occurred or is about to occur; or

19 (4) makes a false report to the Department of Natural  
20 Resources concerning the condition of a dam or reservoir under AS 46.-

21 17.

22 \* Sec. 2. AS 46 is amended by adding a new chapter to read:

23 CHAPTER 17. SUPERVISION OF SAFETY OF DAMS AND RESERVOIRS.

24 Sec. 46.17.010. PURPOSE. It is the purpose of this chapter to  
25 provide for the regulation, supervision, and periodic inspection by  
26 the commissioner of privately or state owned dams, reservoirs, and  
27 appurtenant works in order to ensure that the design, construction,  
28 enlargement, alteration, repair, maintenance, operation, and removal  
29 of dams and reservoirs is consistent with the protection of life and  
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1 property.

2 Sec. 46.17.020. ADMINISTRATION AND STAFFING. The supervision of  
3 the safety of dams or reservoirs is the responsibility of the commis-  
4 sioner. The commissioner shall employ a licensed and qualified engi-  
5 neer, experienced in the design and construction of dams and reser-  
6 voirs, and other employees necessary for performing the duties out-  
7 lined in this chapter. The commissioner may contract with engineering  
8 consultants not employed by the state when necessary to assist in the  
9 performance of its duties under this chapter.

10 Sec. 46.17.030. REGULATIONS AND ORDERS. The commissioner shall  
11 adopt regulations and issue orders necessary for carrying out the  
12 provisions of this chapter.

13 Sec. 46.17.040. APPROVAL REQUIRED. (a) Except in the perfor-  
14 mance of routine maintenance and operations not affecting structure  
15 safety, a person may not construct, enlarge, repair, alter, remove,  
16 maintain, operate or abandon a dam or reservoir without the approval  
17 of the commissioner.

18 (b) The commissioner shall adopt regulations under AS 46.17.030  
19 to establish minimum safety standards for specified classes of low  
20 hazard dams up to 20 feet high, including mining dams. Dams in these  
21 classes constructed to the minimum standards do not require separate  
22 prior approval.

23 (c) The owner of a dam or reservoir that was constructed or was  
24 in operation before the effective date of this Act shall file an  
25 application with the commissioner for the approval of the dam or  
26 reservoir, in accordance with regulations adopted by the commissioner.

27 (d) Nothing in this chapter exempts an applicant under this  
28 section from the requirements of other statutes.

29 Sec. 46.17.050. INSPECTIONS. The commissioner shall inspect at

1 least once every five years every dam and reservoir subject to this  
2 chapter. Upon receipt of a written complaint alleging that the person  
3 or property of the complainant is endangered by the construction,  
4 enlargement, repair, alteration, maintenance, or operation of a dam or  
5 reservoir, the commissioner shall physically inspect the dam or reser-  
6 voir, unless the data, records, and inspection reports on file with  
7 the commissioner are adequate to determine that the complaint has no  
8 foundation.

9 Sec. 46.17.060. ENTRY UPON PRIVATE PROPERTY. In taking an  
10 action under this chapter the commissioner, after giving two weeks'  
11 written notice to the owner, may enter the dam or reservoir premises  
12 as necessary for inspection purposes. If the commissioner has reason  
13 to believe the dam or reservoir may be unsafe or presents an imminent  
14 threat to life or property, the commissioner may enter the dam or  
15 reservoir premises without notice.

16 Sec. 46.17.070 DETERMINING DANGER. In determining whether a  
17 dam or reservoir or proposed dam or reservoir constitutes or would  
18 constitute a danger to life or property, the commissioner shall, at a  
19 minimum, consider the possibility that the structural integrity of the  
20 dam or reservoir might be endangered by overtopping, seepage, settle-  
21 ment, erosion, cracking, earth movement, earthquakes, or the failure  
22 of bulkheads, flashboards, gates, or conduits. If the commissioner  
23 determines that the dam or reservoir is unsafe, it shall order the  
24 owner to take action the commissioner considers necessary to ensure  
25 the protection of life and property.

26 Sec. 46.17.080. INJUNCTION AND DAMAGES. With the assistance of  
27 the attorney general, the commissioner may seek an injunction and dam-  
28 ages in the enforcement of the commissioner's orders or the provisions  
29 of this chapter.

1           Sec. 46.17.090. JUDICIAL REVIEW. A final action of the commis-  
2 sioner under this chapter is subject to judicial review as provided in  
3 the Administrative Procedure Act, AS 44.62.

4           Sec. 46.17.100. VIOLATION OF THIS CHAPTER IS A MISDEMEANOR. A  
5 person who knowingly violates a provision of this chapter, or knowing-  
6 ly violates the terms of an approval, order, regulation, or require-  
7 ment of the commissioner made under this chapter, or knowingly ob-  
8 structs, hinders, or prevents the commissioner's agents or employees  
9 from performing duties under this chapter, is guilty of a class A  
10 misdemeanor; upon conviction, the person is punishable by imprisonment  
11 under AS 12.55.135(a), or by a fine of not more than \$10,000, or by  
12 both. Each day that a violation continues constitutes a separate  
13 offense.

14           Sec. 46.17.110. OTHER GOVERNMENT AGENCIES. (a) A municipal  
15 corporation organized under AS 29 may not regulate, supervise, in-  
16 spect, or provide for the regulation, supervision, or inspection of a  
17 dam or reservoir in this state, or provide for the construction,  
18 maintenance, operation, or removal or abandonment of them, or limit  
19 the size of a dam or reservoir or the amount of water that may be  
20 stored in them, if its action would conflict with the powers and  
21 duties vested in the commissioner. The commissioner may enter into  
22 cooperative agreements with municipal corporations and other state and  
23 federal agencies to effectuate the purpose of this chapter.

24           (b) This chapter does not apply to a federally owned or operated  
25 dam or reservoir.

26           (c) Nothing in this chapter affects the powers of the Department  
27 of Environmental Conservation or the Department of Fish and Game.

28           Sec. 46.17.120. ACTION AGAINST STATE FOR DAMAGES. A person may  
29 not bring an action against the state, the commissioner, or agents or

1 employees of the state, for the recovery of damages caused by the par-  
2 tial or total failure of a dam or reservoir, or by the operation of a  
3 dam or reservoir, or by an act or omission in connection with any of  
4 the following:

5 (1) approval of the construction of a dam or reservoir, or  
6 approval of flood-handling plans during or after construction;

7 (2) issuance or enforcement of orders relating to mainte-  
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9 (3) control or regulation of the dam or reservoir;

10 (4) measures taken to protect against failure of the dam or  
11 reservoir during an emergency; or

12 (5) investigations or inspections authorized under this  
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14 Sec. 46.17.130. DUTIES OF OWNER. Nothing in this chapter re-  
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22 (2) "appurtenant works" includes structures such as spill-  
23 ways, either in a dam or separate from it; a reservoir and its rim;  
24 low level outlet works; and water conduits such as tunnels, pipelines,  
25 or penstocks, whether running through the dam or through its abut-  
26 ments;

27 (3) "dam" includes any artificial barrier and appurtenant  
28 works that may impound or divert water and (A) that has or will have  
29 an impounding capacity at maximum water storage elevation of 50 acre-

1 feet or more, or (B) that is or will be 10 feet or more in height  
2 measured from the lowest elevation at the downstream toe of the arti-  
3 ficial barrier to the crest elevation of the barrier but excluding any  
4 spillway;

5 (4) "commissioner" means the commissioner of natural re-  
6 sources;

7 (5) "enlargement" means an alteration to an existing dam or  
8 reservoir that raises or is capable of raising the water storage  
9 elevation of the water, or that increases the quantity of water  
10 impounded by the dam or reservoir;

11 (6) "owner" means a person who owns, controls, operates,  
12 maintains, manages, or proposes to construct a dam or reservoir, and  
13 includes the following:

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15 sions;

16 (B) a public utility; and

17 (C) the appointed or authorized agents, employees,  
18 lessees, receivers or trustees of any owner;

19 (7) "person" has the meaning given in AS 01.10.060, and, in  
20 addition, includes the state and its agencies and political subdivi-  
21 sions;

22 (8) "reservoir" means a basin appurtenant to a dam that may  
23 impound water.

24 \* Sec. 3. This Act takes effect immediately in accordance with AS 01.-  
25 10.070(c).

Introduced: 1/25/85  
Referred: Resources, Judiciary  
and Finance

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

1 IN THE SENATE

2 SENATE BILL NO. 95

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to supervision of safety of dams and  
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8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 \* Section 1. AS 11.56.800(a) is amended to read:

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21 17.010 -- 46.17.140.

22 \* Sec. 2. AS 46 is amended by adding a new chapter to read:

23 CHAPTER 17. SUPERVISION OF SAFETY OF DAMS AND RESERVOIRS.

24 Sec. 46.17.010. PURPOSE. It is the purpose of this chapter to  
25 provide for the regulation, supervision, and periodic inspection by  
26 the department of privately or state owned dams, reservoirs, and  
27 appurtenant works in order to ensure that the design, construction,  
28 enlargement, alteration, repair, maintenance, operation, and removal  
29 of dams and reservoirs is consistent with the protection of life and

1 property.

2       Sec. 46.17.020. ADMINISTRATION AND STAFFING. The supervision of  
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15 safety, no person may construct, enlarge, repair, alter, remove,  
16 maintain, operate or abandon a dam or reservoir without the approval  
17 of the department.

18       (b) The owner of a dam or reservoir that was constructed or was  
19 in operation before the effective date of this Act shall file an  
20 application with the department for the approval of the dam or reser-  
21 voir, in accordance with regulations adopted by the department.

22       (c) Nothing in this chapter exempts an applicant under this  
23 section from the requirements of other statutes.

24       Sec. 46.17.050. INSPECTIONS. The department shall inspect at  
25 least once every five years every dam and reservoir subject to this  
26 chapter. Upon receipt of a written complaint alleging that the person  
27 or property of the complainant is endangered by the construction,  
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16 protection of life and property.

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26 violates the terms of an approval, order, regulation, or require-  
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29 from performing duties under this chapter, is guilty of a class A

1 misdemeanor; upon conviction, the person is punishable by imprisonment  
2 under AS 12.55.135(a), or by a fine of not more than \$10,000, or by  
3 both. Each day that a violation continues constitutes a separate  
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5 Sec. 46.17.110. OTHER GOVERNMENT AGENCIES. (a) A municipal  
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10 the size of a dam or reservoir or the amount of water that may be  
11 stored in them, if its action would conflict with the powers and  
12 duties vested in the department. The department may enter into co-  
13 operative agreements with municipal corporations and other state and  
14 federal agencies to effectuate the purpose of this chapter.

15 (b) This chapter does not apply to a Federally owned or operated  
16 dam or reservoir.

17 (c) Nothing in this chapter affects the powers of the Department  
18 of Environmental Conservation or the Department of Fish and Game.

19 Sec. 46.17.120. ACTION AGAINST STATE FOR DAMAGES. No person may  
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23 dam or reservoir, or by an act or omission in connection with any of  
24 the following:

25 (1) approval of the construction of a dam or reservoir, or  
26 approval of flood-handling plans during or after construction;

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20 an impounding capacity at maximum water storage elevation of 50 acre-  
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22 measured from the lowest elevation at the downstream toe of the arti-  
23 ficial barrier to the crest elevation of the barrier but excluding any  
24 spillway;

25 (4) "department" means the Department of Natural Resources;

26 (5) "enlargement" means an alteration to an existing dam or  
27 reservoir which raises or is capable of raising the water storage  
28 elevation of the water, or which increases the quantity of water  
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9           (7) "person" means the same as in AS 01.10.060, and, in  
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12           (8) "reservoir" means any basin appurtenant to a dam, which  
13 may impound water.

14       " Sec. 3. This Act takes effect immediately in accordance with AS 01.-  
15 10.070(c).

BILL SHEFFIELD  
GOVERNOR



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

January 24, 1985

The Honorable Don Bennett  
President of the Senate  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

Dear Senator Bennett:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to dam safety. The bill comes as a result of the Alaska Water Resources Board resolution 84-4, dated March 14, 1984, recommending review of the existing statutory authority under which dams in the state are regulated by the Department of Natural Resources, division of land and water management.

Currently there are 175 dams on Alaska's dam inventory. In 1981 the U.S. Department of the Army, Corps of Engineers, ended its dam safety program for non-federal dams in Alaska. There are but 20 federal dams in Alaska. The remaining dams are covered under a minimal dam safety program the Department of Natural Resources, division of land and water management, established through regulations. The department adopted 11 AAC 93 under a provision of the Alaska Water Use Act, at AS 46.15.080, which gives the commissioner authority to regulate water diversions. About half of the 50 states have enacted specific dam safety legislation, but most of these states did so in response to dam failures resulting in loss of life and extensive property damage. Clearly it would be advantageous for Alaska to have a well-founded, comprehensive dam safety statutory scheme and program in effect to prevent such tragedies from occurring here. The attached bill is based on the Model Law for State Supervision of Safety of Dams and Reservoirs drafted by the United States Committee on Large Dams of the International Commission on Large Dams.

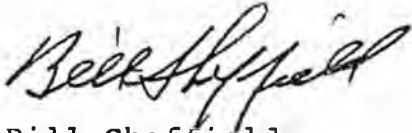
Section 2 contains the body of the bill, which creates a new chapter 17 for AS 46. New AS 46.17.010 first states the purpose of the chapter. It then makes the supervision

of safety of dams and reservoirs the responsibility of the Department of Natural Resources, which is directed to employ a qualified engineer experienced in the design and construction of dams and reservoirs to direct the dam safety program. A new AS 46.17.040 would make it unlawful for anyone to construct, enlarge, repair, alter, remove, maintain, operate or abandon any dam or reservoir, as defined in the bill, except upon application to and approval of the department. To ensure that dams and reservoirs remain safe once constructed, the department is directed in a new AS 46.17.050 to inspect dams and reservoirs covered under the bill at least once every five years. To ensure that it can make adequate inspections, the department is given authority to enter the private property on which the dam or reservoir is located as might be necessary to make the inspection. In addition, the department is allowed in a new AS 46.17.110 to enter into cooperative management agreements with municipal corporations and other state and federal agencies to effectuate its responsibilities under the bill. To ensure that the state's action in inspecting and regulating the operation of dams or reservoirs does not shift the liability of the private owner to the state for loss of life or property damage due to the dam's or reservoir's failure, AS 46.17.120 bars any action against the state based on any purported act or omission of a state agent or employee connected with the dam safety program.

Section 1 of the bill amends AS 11.56.800(a), dealing with the crime of making a false report. A new paragraph (4) will make it a crime to file a false report with the Department of Natural Resources concerning the condition of a dam or reservoir. Additional criminal sanctions are also contained in sec. 2 of the bill in a new AS 46.17.100, which would make it a class A misdemeanor to violate any provision of AS 46.17 or lawful order the department issues under AS 46.17.

Given the importance of a good dam safety program to the citizens of Alaska, I urge your favorable action on this measure.

Sincerely,



Bill Sheffield  
Governor

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

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

REQUEST

Bill/Resolution No.: 95  
Title: Dam Safety

FISCAL DETAIL

Agency Affected: Natural Resources  
Program Category Affected: NRMEC

Sponsor: \_\_\_\_\_  
Requestor: \_\_\_\_\_  
Date of Request: \_\_\_\_\_

BRU, Program or Subprogram(s) Affected:  
Land and Water Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

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

<b>REVENUE</b>						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

The legislation, which establishes in statute dam safety authorities, does not require new funding.

Prepared By: Ned Farquhar *Ned Farquhar* Phone: 465-2400  
Division: Commissioner's Office Date: 4 January 1985

Approved by Commissioner: NAMES D. ARMSTRONG, Deputy Date: 4 January 1985  
Agency: Natural Resources

Distribution (by Agency preparing fiscal note):  
Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)

7/1/84

1802

Gov. letter  
of 4 note

ALASKA STATE LEGISLATURE

14TH Legislature FIRST Session

SENATE BILL NO. 95

By THE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

"An Act relating to supervision of safety of dams and reservoirs; and providing for an effective date."

Introduced in the Senate 1/25, 1935

HISTORY IN THE SENATE

19 85	Read first time and referred to Committee on										
1 25	Resources, Judiciary and Finance										
3 24	Reported back with <i>Researched</i> recommendation that <i>replace w/CS - 4 copies 3 more to go</i>										
19 86											
2 28	<i>Jud: replace w/CS, 2 do pass, 2 more to finance. Fin:</i>										
	Read second time and										
	Read third time and										
	<table border="0"> <tr><td>PASS</td><td>Effective Date</td></tr> <tr><td>Yeas</td><td>Yeas</td></tr> <tr><td>Nays</td><td>Nays</td></tr> <tr><td>Absent</td><td>Absent</td></tr> <tr><td>Excused</td><td>Excused</td></tr> </table>	PASS	Effective Date	Yeas	Yeas	Nays	Nays	Absent	Absent	Excused	Excused
PASS	Effective Date										
Yeas	Yeas										
Nays	Nays										
Absent	Absent										
Excused	Excused										
	Reconsideration										
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PASS	Effective Date										
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Nays	Nays										
Absent	Absent										
Excused	Excused										
	Reported correctly engrossed										
	Signed by President										
	Sent to House										
	SECRETARY OF THE SENATE										

HISTORY IN THE HOUSE

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	Reported back with recommendation that										
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	Signed by Speaker										
	Returned to Senate										
	CHIEF CLERK OF THE HOUSE										

HISTORY IN THE SENATE

19	Received from House
	To enrolling
	Reported correctly enrolled
	Sent to Governor
	..... by Governor
	Filed with Lt Governor
	Chapter No. ....

Introduced: 1/25/85  
Referred: Resources, Judiciary  
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6 lieves an owner of a dam or reservoir of the duties or liabilities  
7 incident to the ownership or operation of the dam or reservoir.

8           Sec. 46.17.900. DEFINITIONS. In this chapter, unless the con-  
9 text requires otherwise,

10                   (1) "alterations" or "repairs" means only those alterations  
11 or repairs which may directly affect the safety of the dam or reser-  
12 voir, as determined by the department;

13                   (2) "appurtenant works" includes structures such as  
14 spillways, either in a dam or separate from it; a reservoir and its  
15 rim; low level outlet works; and water conduits such as tunnels,  
16 pipelines, or penstocks, whether running through the dam or through  
17 its abutments;

18                   (3) "dam" includes any artificial barrier and appurtenant  
19 works which may impound or divert water and (A) which has or will have  
20 an impounding capacity at maximum water storage elevation of 50 acre-  
21 feet or more, or (B) which is or will be 10 feet or more in height  
22 measured from the lowest elevation at the downstream toe of the arti-  
23 ficial barrier to the crest elevation of the barrier but excluding any  
24 spillway;

25                   (4) "department" means the Department of Natural Resources;

26                   (5) "enlargement" means an alteration to an existing dam or  
27 reservoir which raises or is capable of raising the water storage  
28 elevation of the water, or which increases the quantity of water  
29 impounded by the dam or reservoir;

1           (6) "owner" means a person who owns, controls, operates,  
2 maintains, manages, or proposes to construct a dam or reservoir, and  
3 includes the following:

4                   (A) the state and its agencies and political subdivi-  
5 sions;

6                   (B) a public utility; and

7                   (C) the appointed or authorized agents, employees,  
8 lessees, receivers or trustees of any owner;

9           (7) "person" means the same as in AS 01.10.060, and, in  
10 addition, includes the state and its agencies and political subdivi-  
11 sions;

12           (8) "reservoir" means any basin appurtenant to a dam, which  
13 may impound water.

14 \* Sec. 3. This Act takes effect immediately in accordance with AS 01.-  
15 10.070(c).

Offered: 3/28/85  
Referred: Judiciary and Finance  
Original sponsor: Rules/Governor

1 IN THE SENATE

CS FOR SENATE BILL NO. 95 (Resources)

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - FIRST SESSION

A BILL

6 For an Act entitled: "An Act relating to supervision of safety of dams and  
7 reservoirs; and providing for an effective date."

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

9 \* Section 1. AS 11.56.800(a) is amended to read:

10 (a) A person commits the crime of making a false report if the  
11 person knowingly

12 (1) gives false information to a peace officer with the  
13 intent of implicating another in a crime;

14 (2) makes a false report to a peace officer that a crime  
15 has occurred or is about to occur; [OR]

16 (3) makes a false report or gives a false alarm that a fire  
17 or other incident dangerous to life or property calling for an emer-  
18 gency response has occurred or is about to occur; or

19 (4) makes a false report to the Department of Natural  
20 Resources concerning the condition of a dam or reservoir under AS 46.-  
21 17.

22 \* Sec. 2. AS 46 is amended by adding a new chapter to read:

23 CHAPTER 17. SUPERVISION OF SAFETY OF DAMS AND RESERVOIRS.

24 Sec. 46.17.010. PURPOSE. It is the purpose of this chapter to  
25 provide for the regulation, supervision, and periodic inspection by  
26 the commissioner of privately or state owned dams, reservoirs, and  
27 appurtenant works in order to ensure that the design, construction,  
28 enlargement, alteration, repair, maintenance, operation, and removal  
29 of dams and reservoirs is consistent with the protection of life and

1 property.

2 Sec. 46.17.020. ADMINISTRATION AND STAFFING. The supervision of  
3 the safety of dams or reservoirs is the responsibility of the commis-  
4 sioner. The commissioner shall employ a licensed and qualified engi-  
5 neer, experienced in the design and construction of dams and reser-  
6 voirs, and other employees necessary for performing the duties out-  
7 lined in this chapter. The commissioner may contract with engineering  
8 consultants not employed by the state when necessary to assist in the  
9 performance of its duties under this chapter.

10 Sec. 46.17.030. REGULATIONS AND ORDERS. The commissioner shall  
11 adopt regulations and issue orders necessary for carrying out the  
12 provisions of this chapter.

13 Sec. 46.17.040. APPROVAL REQUIRED. (a) Except in the perfor-  
14 mance of routine maintenance and operations not affecting structure  
15 safety, a person may not construct, enlarge, repair, alter, remove,  
16 maintain, operate or abandon a dam or reservoir without the approval  
17 of the commissioner.

18 (b) The commissioner shall adopt regulations under AS 46.17.030  
19 to establish minimum safety standards for specified classes of low  
20 hazard dams up to 20 feet high, including mining dams. Dams in these  
21 classes constructed to the minimum standards do not require separate  
22 prior approval.

23 (c) The owner of a dam or reservoir that was constructed or was  
24 in operation before the effective date of this Act shall file an  
25 application with the commissioner for the approval of the dam or  
26 reservoir, in accordance with regulations adopted by the commissioner.

27 (d) Nothing in this chapter exempts an applicant under this  
28 section from the requirements of other statutes.

29 Sec. 46.17.050. INSPECTIONS. The commissioner shall inspect at

1 least once every five years every dam and reservoir subject to this  
2 chapter. Upon receipt of a written complaint alleging that the person  
3 or property of the complainant is endangered by the construction,  
4 enlargement, repair, alteration, maintenance, or operation of a dam or  
5 reservoir, the commissioner shall physically inspect the dam or reser-  
6 voir, unless the data, records, and inspection reports on file with  
7 the commissioner are adequate to determine that the complaint has no  
8 foundation.

9 Sec. 46.17.060. ENTRY UPON PRIVATE PROPERTY. In taking an  
10 action under this chapter the commissioner, after giving two weeks'  
11 written notice to the owner, may enter the dam or reservoir premises  
12 as necessary for inspection purposes. If the commissioner has reason  
13 to believe the dam or reservoir may be unsafe or presents an imminent  
14 threat to life or property, the commissioner may enter the dam or  
15 reservoir premises without notice.

16 Sec. 46.17.070. DETERMINING DANGER. In determining whether a  
17 dam or reservoir or proposed dam or reservoir constitutes or would  
18 constitute a danger to life or property, the commissioner shall, at a  
19 minimum, consider the possibility that the structural integrity of the  
20 dam or reservoir might be endangered by overtopping, seepage, settle-  
21 ment, erosion, cracking, earth movement, earthquakes, or the failure  
22 of bulkheads, flashboards, gates, or conduits. If the commissioner  
23 determines that the dam or reservoir is unsafe, it shall order the  
24 owner to take action the commissioner considers necessary to ensure  
25 the protection of life and property.

26 Sec. 46.17.080. INJUNCTION AND DAMAGES. With the assistance of  
27 the attorney general, the commissioner may seek an injunction and dam-  
28 ages in the enforcement of the commissioner's orders or the provisions  
29 of this chapter.

1           Sec. 46.17.090. JUDICIAL REVIEW. A final action of the commis-  
2 sioner under this chapter is subject to judicial review as provided in  
3 the Administrative Procedure Act, AS 44.62.

4           Sec. 46.17.100. VIOLATION OF THIS CHAPTER IS A MISDEMEANOR. A  
5 person who knowingly violates a provision of this chapter, or knowing-  
6 ly violates the terms of an approval, order, regulation, or require-  
7 ment of the commissioner made under this chapter, or knowingly ob-  
8 structs, hinders, or prevents the commissioner's agents or employees  
9 from performing duties under this chapter, is guilty of a class A  
10 misdemeanor; upon conviction, the person is punishable by imprisonment  
11 under AS 12.55.135(a), or by a fine of not more than \$10,000, or by  
12 both. Each day that a violation continues constitutes a separate  
13 offense.

14           Sec. 46.17.110. OTHER GOVERNMENT AGENCIES. (a) A municipal  
15 corporation organized under AS 29 may not regulate, supervise, in-  
16 spect, or provide for the regulation, supervision, or inspection of a  
17 dam or reservoir in this state, or provide for the construction,  
18 maintenance, operation, or removal or abandonment of them, or limit  
19 the size of a dam or reservoir or the amount of water that may be  
20 stored in them, if its action would conflict with the powers and  
21 duties vested in the commissioner. The commissioner may enter into  
22 cooperative agreements with municipal corporations and other state and  
23 federal agencies to effectuate the purpose of this chapter.

24           (b) This chapter does not apply to a federally owned or operated  
25 dam or reservoir.

26           (c) Nothing in this chapter affects the powers of the Department  
27 of Environmental Conservation or the Department of Fish and Game.

28           Sec. 46.17.120. ACTION AGAINST STATE FOR DAMAGES. A person may  
29 not bring an action against the state, the commissioner, or agents or

1 employees of the state, for the recovery of damages caused by the par-  
2 tial or total failure of a dam or reservoir, or by the operation of a  
3 dam or reservoir, or by an act or omission in connection with any of  
4 the following:

5 (1) approval of the construction of a dam or reservoir, or  
6 approval of flood-handling plans during or after construction;

7 (2) issuance or enforcement of orders relating to mainte-  
8 nance or operation of the dam or reservoir;

9 (3) control or regulation of the dam or reservoir;

10 (4) measures taken to protect against failure of the dam or  
11 reservoir during an emergency; or

12 (5) investigations or inspections authorized under this  
13 chapter.

14 Sec. 46.17.130. DUTIES OF OWNER. Nothing in this chapter re-  
15 lieves an owner of a dam or reservoir of the duties or liabilities  
16 incident to the ownership or operation of the dam or reservoir.

17 Sec. 46.17.900. DEFINITIONS. In this chapter, unless the con-  
18 text requires otherwise,

19 (1) "alterations" or "repairs" means only those alterations  
20 or repairs that may directly affect the safety of the dam or reser-  
21 voir, as determined by the commissioner;

22 (2) "appurtenant works" includes structures such as spill-  
23 ways, either in a dam or separate from it; a reservoir and its rim;  
24 low level outlet works; and water conduits such as tunnels, pipelines,  
25 or penstocks, whether running through the dam or through its abut-  
26 ments;

27 (3) "dam" includes any artificial barrier and appurtenant  
28 works that may impound or divert water and (A) that has or will have  
29 an impounding capacity at maximum water storage elevation of 50 acre-

1 feet or more, or (B) that is or will be 10 feet or more in height  
2 measured from the lowest elevation at the downstream toe of the arti-  
3 ficial barrier to the crest elevation of the barrier but excluding any  
4 spillway;

5 (4) "commissioner" means the commissioner of natural re-  
6 sources;

7 (5) "enlargement" means an alteration to an existing dam or  
8 reservoir that raises or is capable of raising the water storage  
9 elevation of the water, or that increases the quantity of water  
10 impounded by the dam or reservoir;

11 (6) "owner" means a person who owns, controls, operates,  
12 maintains, manages, or proposes to construct a dam or reservoir, and  
13 includes the following:

14 (A) the state and its agencies and political subdivi-  
15 sions;

16 (B) a public utility; and

17 (C) the appointed or authorized agents, employees,  
18 lessees, receivers or trustees of any owner;

19 (7) "person" has the meaning given in AS 01.10.060, and, in  
20 addition, includes the state and its agencies and political subdivi-  
21 sions;

22 (8) "reservoir" means a basin appurtenant to a dam that may  
23 impound water.

24 \* Sec. 3. This Act takes effect immediately in accordance with AS 01.-  
25 10.070(c).

Offered: 2/28/86  
Referred: Finance

Original sponsor: Rules/Governor

1 IN THE SENATE BY THE JUDICIARY COMMITTEE

2 CS FOR SENATE BILL NO. 95 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to supervision of safety of dams and  
7 reservoirs; and providing for an effective date."

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

9 \* Section 1. AS 11.56.800(a) is amended to read:

10 (a) A person commits the crime of making a false report if the  
11 person knowingly

12 (1) gives false information to a peace officer with the  
13 intent of implicating another in a crime;

14 (2) makes a false report to a peace officer that a crime  
15 has occurred or is about to occur; [OR]

16 (3) makes a false report or gives a false alarm that a fire  
17 or other incident dangerous to life or property calling for an emer-  
18 gency response has occurred or is about to occur; or

19 (4) makes a false report to the Department of Natural  
20 Resources concerning the condition of a dam or reservoir under AS 46.-  
21 17.

22 \* Sec. 2. AS 46 is amended by adding a new chapter to read:

23 CHAPTER 17. SUPERVISION OF SAFETY OF DAMS AND RESERVOIRS.

24 Sec. 46.17.010. PURPOSE. It is the purpose of this chapter to  
25 provide for the regulation, supervision, and periodic inspection by  
26 the commissioner of privately or state owned dams, reservoirs, and  
27 appurtenant works in order to ensure that the design, construction,  
28 enlargement, alteration, repair, maintenance, operation, and removal  
29 of dams and reservoirs is consistent with the protection of life and

1 property.

2 Sec. 46.17.020. ADMINISTRATION AND STAFFING. The supervision of  
3 the safety of dams or reservoirs is the responsibility of the commis-  
4 sioner. The commissioner shall employ a licensed and qualified engi-  
5 neer, experienced in the design and construction of dams and reser-  
6 voirs, and other employees necessary for performing the duties out-  
7 lined in this chapter. The commissioner may contract with engineering  
8 consultants not employed by the state when necessary to assist in the  
9 performance of duties under this chapter.

10 Sec. 46.17.030. REGULATIONS AND ORDERS. The commissioner shall  
11 adopt regulations and issue orders necessary for carrying out the  
12 provisions of this chapter.

13 Sec. 46.17.040. APPROVAL REQUIRED. (a) Except in the perfor-  
14 mance of routine maintenance and operations not affecting structure  
15 safety, a person may not construct, enlarge, repair, alter, remove,  
16 maintain, operate or abandon a dam or reservoir without the approval  
17 of the commissioner.

18 (b) The owner of a dam or reservoir that was constructed or was  
19 in operation before the effective date of this Act shall file an  
20 application with the commissioner for the approval of the dam or  
21 reservoir, in accordance with regulations adopted by the commissioner.

22 (c) This chapter does not exempt an applicant under this section  
23 from the requirements of other statutes.

24 Sec. 46.17.050. INSPECTIONS. At least once every five years,  
25 the commissioner shall inspect every dam and reservoir subject to this  
26 chapter. The commissioner may inspect a dam or reservoir more fre-  
27 quently than every five years to protect public safety.

28 Sec. 46.17.060. ENTRY UPON PRIVATE PROPERTY. In taking an  
29 action under this chapter, the commissioner, after giving two weeks'

1 written notice and being refused the right of entry, may seek a search  
2 warrant to allow inspection of a dam or reservoir. The commissioner,  
3 after being refused inspection of drawings, operational records, or  
4 other information concerning a dam or reservoir, may seek an adminis-  
5 trative subpoena compelling production of the drawings, operational  
6 records, or other information. If the commissioner has reason to  
7 believe the dam or reservoir may be unsafe or presents an imminent  
8 threat to life or property, the commissioner may enter the dam or  
9 reservoir premises without notice.

10 Sec. 46.17.070. DETERMINING DANGER. In determining whether a  
11 dam or reservoir or proposed dam or reservoir constitutes or would  
12 constitute a danger to life or property, the commissioner shall, at a  
13 minimum, consider the possibility that the structural integrity of the  
14 dam or reservoir might be endangered by overtopping, seepage, settle-  
15 ment, erosion, cracking, earth movement, earthquakes, or the failure  
16 of bulkheads, flashboards, gates, or conduits. Upon determining that  
17 the dam or reservoir is unsafe, the commissioner shall order the owner  
18 to take action the commissioner considers necessary to ensure the  
19 protection of life and property.

20 Sec. 46.17.080. INJUNCTION AND DAMAGES. With the assistance of  
21 the attorney general, the commissioner may seek an injunction and dam-  
22 ages in the enforcement of the commissioner's orders or the provisions  
23 of this chapter.

24 Sec. 46.17.090. JUDICIAL REVIEW. A final action of the commis-  
25 sioner under this chapter is subject to judicial review as provided in  
26 the Administrative Procedure Act (AS 44.62).

27 Sec. 46.17.100. VIOLATION OF THIS CHAPTER IS A MISDEMEANOR. A  
28 person who knowingly violates a provision of this chapter, or know-  
29 ingly violates the terms of an approval, order, regulation, or

1 requirement of the commissioner made under this chapter, or knowingly  
2 obstructs, hinders, or prevents the commissioner's agents or employees  
3 from performing duties under this chapter, is guilty of a class A  
4 misdemeanor; upon conviction, the person is punishable by imprisonment  
5 under AS 12.55.135(a), or by a fine of not more than \$10,000, or by  
6 both. Each day that a violation continues constitutes a separate  
7 offense.

8 Sec. 46.17.110. OTHER GOVERNMENT AGENCIES. (a) A municipality  
9 organized under AS 29 may not regulate, supervise, inspect, or provide  
10 for the regulation, supervision, or inspection of a dam or reservoir  
11 in this state, or provide for the construction, maintenance, opera-  
12 tion, or removal or abandonment of them, or limit the size of a dam or  
13 reservoir or the amount of water that may be stored in them, if its  
14 action would conflict with the powers and duties vested in the commis-  
15 sioner. The commissioner may enter into cooperative agreements with  
16 municipalities and other state and federal agencies to carry out the  
17 purpose of this chapter.

18 (b) This chapter does not apply to a federally owned or operated  
19 dam or reservoir.

20 (c) This chapter does not affect the powers of the Department of  
21 Environmental Conservation or the Department of Fish and Game.

22 Sec. 46.17.120. ACTION AGAINST STATE FOR DAMAGES. (a) Except  
23 as provided in (b) of this section, a person may not bring an action  
24 against the state, the commissioner, or agents or employees of the  
25 state, for the recovery of damages caused by the partial or total  
26 failure of a dam or reservoir, or by the operation of a dam or reser-  
27 voir, or by an act or omission in connection with any of the follow-  
28 ing:

29 (1) approval of the construction of a dam or reservoir, or

- 1 approval of flood-handling plans during or after construction;
- 2 (2) issuance or enforcement of orders relating to mainte-
- 3 nance or operation of the dam or reservoir;
- 4 (3) control or regulation of the dam or reservoir;
- 5 (4) measures taken to protect against failure of the dam or
- 6 reservoir during an emergency; or
- 7 (5) investigations or inspections authorized under this
- 8 chapter.

9 (b) A person may bring an action against the state for the

10 recovery of damages caused by an action undertaken by a dam owner that

11 was negligently ordered by the state over the owner's objection.

12 Sec. 46.17.130. DUTIES OF OWNER. This chapter does not relieve

13 an owner of a dam or reservoir of the duties or liabilities incident

14 to the ownership or operation of the dam or reservoir.

15 Sec. 46.17.900. DEFINITIONS. In this chapter, unless the con-

16 text requires otherwise,

17 (1) "alterations" or "repairs" means only those alterations

18 or repairs that may directly affect the safety of the dam or reser-

19 voir, as determined by the commissioner;

20 (2) "appurtenant works" includes structures such as spill-

21 ways, either in a dam or separate from it; a reservoir and its rim;

22 low level outlet works; and water conduits such as tunnels, pipelines,

23 or penstocks, whether running through the dam or through its abut-

24 ments;

25 (3) "commissioner" means the commissioner of natural re-

26 sources;

27 (4) "dam" includes any artificial barrier and appurtenant

28 works that may impound or divert water and that

29 (A) has or will have an impounding capacity at maximum

1 water storage elevation of 50 acre-feet and is at least 10 feet  
2 in height measured from the lowest point at either toe of the dam  
3 to th crest of the dam;

4 (B) is at least 20 feet in height measured from the  
5 lowest point at either toe of the dam to the crest of the dam; or

6 (C) poses a threat to lives and property as determined  
7 positively by the commissioner;

8 (5) "enlargement" means an alteration to an existing dam or  
9 reservoir that raises or is capable of raising the water storage  
10 elevation of the water, or that increases the quantity of water im-  
11 pounded by the dam or reservoir;

12 (6) "owner" means a person who owns, controls, operates,  
13 maintains, manages, or proposes to construct a dam or reservoir, and  
14 includes the following:

15 (A) the state and its agencies and political subdivi-  
16 sions;

17 (B) a public utility; and

18 (C) the appointed or authorized agents, employees,  
19 lessees, receivers or trustees of any owner;

20 (7) "person" has the meaning given in AS 01.10.060, and, in  
21 addition, includes the state and its agencies and political subdivi-  
22 sions;

23 (8) "reservoir" means a basin appurtenant to a dam that may  
24 impound water.

25 \* Sec. 3. This Act takes effect immediately in accordance with AS 01.-  
26 10.070(c).

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

092 #  
SB 95

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

REQUEST

Bill/Resolution No.: \_\_\_\_\_

Title: Dam Safety

Sponsor: \_\_\_\_\_

Requestor: \_\_\_\_\_

Date of Request: \_\_\_\_\_

FISCAL DETAIL

Agency Affected: Natural Resources

Program Category Affected: NRMEC

BRU, Program or Subprogram(s) Affected:  
Land and Water Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

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

<b>REVENUE</b>						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

The legislation, which establishes in statute dam safety authorities, does not require new funding.

Prepared By: Ned Farquhar Ned Farquhar

Phone: 465-2400

Division: Commissioner's Office

Date: 4 January 1985

Approved by Commissioner: Ninos D. Arnold, Deputy

Date: 4 January 1985

Agency: Natural Resources

Distribution (by Agency preparing fiscal note):

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

7/1/84

COMMITTEE REPORT

SENATE

FURTHER: FINANCE

3/28/85

Date 2/27/86

Mr. President

The Committee on JUDICIARY considered SB 95 supervision of safety of dams and reservoirs; efd.

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

- [ ] do pass
[ ] do pass with attached amendment(s)
[X] (replace with) or adopt CS for SB 95 JUD
[ ] new title
[X] same title and recommends
[ ] and attached a "LETTER OF INTENT" [ ] NEW FISCAL NOTE
[ ] reports it back without recommendation
[ ] recommends referral to Committee

MEMBERS SIGNING DO PASS

2 [Signatures]
2 [Signatures]

MEMBERS HAVING OTHER RECOMMENDATIONS

1 [Signature] no rec

[Signature]
Chairman
no rec
Chairman recommendation

COMMITTEE REPORT  
SENATE

1/25/85

FURTHER: Judiciary  
Finance

Date 3/27/85

Mr. President

The Committee on RESOURCES considered SB 95  
supervision of safety of dams and reservoirs; efd.

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for SENATE BILL 95 (RESOURCES)
- new title
- same title and recommends \_\_\_\_\_
- and attached a "LETTER OF INTENT"  NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

*[Handwritten signature]*  
\_\_\_\_\_  
*[Handwritten signature]*  
\_\_\_\_\_  
*[Handwritten signature]*  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

MEMBERS HAVING  
OTHER RECOMMENDATIONS

*3 Bottoms, Fabunkeji No Rec*  
*2 Kirk Hefner Do Not Pass*  
\_\_\_\_\_  
*3 [Handwritten] No Rec.*  
\_\_\_\_\_  
\_\_\_\_\_

*[Handwritten signature]*  
Chairman  
*[Handwritten signature]*  
Chairman recommendation

COMMITTEE REPORT  
SENATE

FURTHER:

3/14/86

Date 4/10/86

Mr. President

The Committee on FINANCE considered SB 100  
prohibiting salaries for certain employees from exceeding the  
governor's salary; efd.

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for SB 100 (SA)
- new title
- same title and recommends Do Pass
- and attached a "LETTER OF INTENT"  NEW FISCAL NOTE  
DOA 3/31/86
- reports it back without recommendation
- recommends referral to \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

Rich Halford

Paul Greche

Jensen

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

MEMBERS HAVING  
OTHER RECOMMENDATIONS

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Co-Chairman Jan Fair

do pass

Chairman recommendation

STATE OF ALASKA 1986 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: 4/1/86

REQUEST

Bill/Resolution No.: CSSB 100(SA)  
 Title: Prohibiting salaries for certain employees from exceeding the governor's salary  
 Sponsor: P. Fischer, Coghill, et al.  
 Requestor: P. Fischer  
 Date of Request: March 27, 1986

FISCAL DETAIL

Agency Affected: A11  
 BRU: A11  
 Components: A11

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
<b>OPERATING</b>						
PERSONAL SERVICES	(23.9)	(143.4)	(143.4)	(143.4)	(143.4)	(143.4)
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>(23.9)</b>	<b>(143.4)</b>	<b>(143.4)</b>	<b>(143.4)</b>	<b>(143.4)</b>	<b>(143.4)</b>
<b>CAPITAL</b>						
<b>REVENUE</b>						

FUNDING: (Thousands of Dollars)

GENERAL FUND	(23.9)	(143.4)	(143.4)	(143.4)	(143.4)	(143.4)
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	<b>(23.9)</b>	<b>(143.4)</b>	<b>(143.4)</b>	<b>(143.4)</b>	<b>(143.4)</b>	<b>(143.4)</b>

POSITIONS:

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

ANALYSIS: Attach a separate page if necessary

See continuation.

Prepared By: *Richard P. McMullen* Phone: 465-2200  
 Division: Commissioner's Office Date: \_\_\_\_\_  
 Approved by Commissioner: *Eleanor Andrews* Date: 3/31/86  
 Agency: Department of Administration

Distribution (by Agency preparing fiscal note):  
 Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management and Budget  
 Impacted Agency(ies)

CONTINUATION of FISCAL NOTE ANALYSIS

For CSSB 100(SA)

CSSB 100(SA) would limit basic salaries of employees to not more than the salary of the Governor. The Fiscal Note assumes that the effective date will be May 1, 1986. It reflects 29 employees in the Executive Branch who are currently paid more than the Governor, i.e., more than \$81,648 per year. No assumptions are made for future years, so the amount is shown as a constant savings.

The full year savings are currently distributed as follows:

Department of Administration:	\$ 1.5
" " Law	68.8
" " Revenue	3.1
" " Education	2.9
" " Health and Social Services	13.0
" " Commerce and Economic Develp.	1.2
" " Natural Resources	8.6
" " Public Safety	.9
" " Transportation and Public Facilities	43.5
	<u>\$143.4</u>

We note that there are no employees of the Legislature who would be affected by this bill. The effect on the Court System would not be realized until there are vacancies on the bench due to prohibitions on reducing judges' salaries during their tenure, unless the reduction is applied generally to all employees.

We do not have information available to estimate the impact on other entities affected by the bill:

University of Alaska  
Alaska Railroad  
Other quasi-public corporations that process  
their own payroll  
Grantees

83

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_ Page 1 of 1

REQUEST

Bill/Resolution No.: SB 100  
 Title: Prohibiting salaries from exceeding Governor's salary.  
 Sponsor: P. Fischer, et al  
 Requestor: Senate State Affairs  
 Date of Request: January 31, 1985

FISCAL DETAIL

Agency Affected: Administration  
 Program Category Affected: Centralized Administrative Services  
 BRU, Program or Subprogram(s) Affected: Personnel

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

There are no positions in this division that would be subject to this bill.

Prepared By: Frank Raye *Frank Raye FR*  
 Division: Personnel

Phone: 465-4430

Date: 2/1/85

Approved by Commissioner: Lisa Rudd *LR*  
 Agency: Department of Administration

Date: 2/1/85

Distribution (by Agency preparing fiscal note):

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

Rev. 7/1/84

Offered: 3/14/86  
Referred: Finance

Original sponsors: P.Fischer, Coghill,  
Bennett, et al

1 IN THE SENATE BY THE STATE AFFAIRS COMMITTEE  
2 CS FOR SENATE BILL NO. 100 (State Affairs)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act prohibiting salaries for certain employees  
7 from exceeding the governor's salary; and providing  
8 for an effective date."

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

10 \* Section 1. AS 22.05.140(c) is amended to read:

11 (c) Except as provided in AS 39.20.095, in [IN] addition to  
12 annual salary, each justice is entitled to receive a geographic cost-  
13 of-living adjustment, based on the location of the primary office  
14 assignment, equal to 3.5 percent of the [HIS] annual salary times the  
15 number of pay step increases provided under AS 39.27.020 for a state  
16 employee working in the same election district in those districts for  
17 which AS 39.27.020 specified zero-to-five pay step increases. In an  
18 election district for which AS 39.27.020 specifies more than five pay  
19 steps, the number of pay step increases under this section is limited  
20 to five. Any retirement benefits to which a justice may be entitled  
21 shall be computed only on the annual salary.

22 \* Sec. 2. AS 22.07.090(a) is amended to read:

23 (a) Except as provided in AS 39.20.095, the [THE] monthly salary  
24 of a judge of the court of appeals is equal to Step E, Range 29 of the  
25 salary schedule in AS 39.27.011(a) for Juneau, Alaska. The compensa-  
26 tion of a judge may not be diminished during the term of office,  
27 unless by general law applying to all salaried officers of the state.

28 \* Sec. 3. AS 22.10.190(c) is amended to read:

29 (c) Except as provided in AS 39.20.095, in [IN] addition to

1 annual salary, a superior court judge is entitled to receive a geo-  
2 graphic cost-of-living adjustment, based on the location of the  
3 judge's primary office assignment, equal to 3.5 percent of the judge's  
4 [HIS] annual salary times the number of pay step increases provided  
5 under AS 39.27.020 for a state employee working in the same election  
6 district in those districts for which AS 39.27.020 specifies zero-to-  
7 five pay step increases. In an election district for which AS 39.27.-  
8 020 specifies more than five pay steps, the number of pay step in-  
9 creases under this section is limited to five. Any retirement bene-  
10 fits to which a superior court judge may be entitled shall be computed  
11 only on the annual salary.

12 \* Sec. 4. AS 22.15.220(d) is amended to read:

13 (d) Except as provided in AS 39.20.095, in [IN] addition to  
14 annual salary, a district court judge is entitled to receive a geo-  
15 graphic cost-of-living adjustment, based on the location of the  
16 judge's [HIS] primary office assignment, equal to 3.5 percent of the  
17 judge's annual salary times the number of pay step increases provided  
18 under AS 39.27.020 for a state employee working in the same election  
19 district in those districts for which AS 39.27.020 specifies zero-to-  
20 five pay step increases. In an election district for which AS 39.27.-  
21 020 specifies more than five pay steps, the number of pay step in-  
22 creases under this section is limited to five. Any retirement bene-  
23 fits to which a district court judge may be entitled shall be computed  
24 only on the annual salary.

25 \* Sec. 5. AS 37.05 is amended by adding a new section to read:

26 Sec. 37.05.330. LIMITATIONS ON CERTAIN GRANTS. (a) A state  
27 agency may not grant state money to an organization or entity to which  
28 this section applies unless the organization or entity agrees to  
29 comply with the salary limit established in AS 39.20.095 during the

1 life of the grant. If an organization or entity violates an agreement  
2 to comply with AS 39.20.095, it shall return any state money it has  
3 received for that year and shall be ineligible to receive further  
4 funding under the grant.

5 (b) This section applies to grants to a person, organization, or  
6 entity that received at least 50 percent of its annual budget from the  
7 state treasury during the previous fiscal year or that projects that  
8 it will receive at least 50 percent of its budget from the state  
9 treasury during the current fiscal year.

10 (c) When an amount is appropriated or allocated as a grant under  
11 AS 37.05.316, 37.05.317, or 37.05.318, the department responsible for  
12 administering the grant shall notify the person or entity named as  
13 recipient of the requirements of this section. The department shall  
14 request the person, organization, or entity to file its agreement to  
15 comply with AS 39.20.095 if the person, organization, or entity meets  
16 the requirements of (b) of this section. If the department is re-  
17 questing proposals from other qualified persons, organizations, or  
18 entities under AS 37.05.316 or 37.05.317, the department shall also  
19 notify them of the requirements of this section. The department shall  
20 request them to file an agreement to comply with AS 39.20.095 if they  
21 meet the requirements of (b) of this section.

22 (d) In this section "state" has the meaning given in AS 39.20.-  
23 095.

24 \* Sec. 6. AS 39.20 is amended by adding a new section to read:

25 Sec. 39.20.095. SALARY LIMIT FOR CERTAIN PUBLIC EMPLOYEES. (a)  
26 Notwithstanding the provisions of the Public Employment Relations Act  
27 (AS 23.40) and AS 14.20.550 - 14.20.610, the state may not pay an  
28 officer or employee a basic salary that is greater than the salary of  
29 the governor set out in AS 39.20.010.

1 (b) For purposes of this section,

2 (1) "basic salary" is a person's salary including cost-of-  
3 living adjustments, geographical differentials, length-of-service  
4 increases, and adjustments in the nature of incentive, performance,  
5 and year-end bonuses; "basic salary" does not include overtime  
6 compensation, shift differentials, hazardous duty pay, travel per  
7 diem, or travel allowances;

8 (2) "state" includes the executive, legislative, and judi-  
9 cial branches of state government; the University of Alaska; school  
10 districts; political subdivisions of the state, including  
11 municipalities; and state instrumentalities, boards, commissions, and  
12 authorities if the instrumentality, board, commission, or authority  
13 receives at least 50 percent of its annual budget from the state  
14 treasury.

15 \* Sec. 7. AS 39.27 is amended by adding a new section to read:

16 Sec. 39.27.027. SALARY LIMIT. Notwithstanding AS 39.27.020 and  
17 39.27.022, the state may not pay an officer or employee a salary that  
18 exceeds the salary limit under AS 39.20.095.

19 \* Sec. 8. AS 42.40.110 is amended by adding a new subsection to read:

20 (c) If the corporation receives at least 50 percent of its  
21 yearly budget by direct appropriation or grant from the state trea-  
22 sury, the board may not fix a basic salary for the chief executive  
23 officer or approve basic salaries for other executive officers that  
24 exceed the basic salary of the governor set out in AS 39.20.010. For  
25 purposes of this subsection, "basic salary" has the meaning given in  
26 AS 39.20.095.

27 \* Sec. 9. Nothing in this Act terminates or modifies a collective  
28 bargaining agreement or other contract if the agreement or contract is in  
29 effect on the effective date of this Act. However, the state may not renew

1 or extend a contract after the effective date of this Act unless the con-  
2 tract complies with this Act.

3 \* Sec. 10. Nothing in this Act infringes on the independence of the  
4 University of Alaska except the provisions of secs. 5 - 7 that impose a  
5 salary limit on employees of certain state grant recipients and on certain  
6 public employees.

7 \* Sec. 11. This Act takes effect immediately in accordance with AS 01.-  
8 10.070(c).

Position Paper  
SB 100

Senate Bill 100 would limit salaries to not more than the salary of the Governor. The limit would apply to all employees of the State; all political subdivisions; other instrumentalities, boards, commissions, and authorities that receive at least 50 percent of their annual budget from the State treasury; grant recipients that receive 50 percent of their annual budget from the State treasury; and the Alaska Railroad Corporation if it receives at least 50 percent of its budget by direct appropriation or grant from the State treasury. Current collective bargaining agreements are not affected, but any new agreement or extension must comply with the provisions of this bill.

There is a technical drafting problem with SB 100. The "notwithstanding" provisions on page 2, lines 10-14, cite collective bargaining statutes. It fails to also cite the geographic differential and longevity provisions (AS 39.27.020 and AS 39.27.022) that place some executive branch salaries above the Governor's salary. It also fails to cite provisions that place the salaries of some judges above the Governor's salary. See AS 22.05.140(c) and AS 22.10.190(c). We believe these citations should be added to avoid any confusion of the bill's applicability to a given situation.

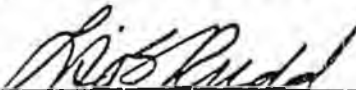
This bill would reverse long standing public policy in this State. Geographic differentials have been a matter of law since at least 1966. Longevity increments have been a matter of law since 1972. This bill would limit each of these when they operate to provide a salary greater than the Governor's salary.

The Governor's salary is set on a different basis than those subject to the State's classification and pay plans created under AS 39.250.150(a) and (b). Setting of the Governor's salary is essentially a political decision for political office. In addition to the salary, the Governor receives housing through the budget for the Executive Mansion. The salary of jobs subject to the classification plan are based on a "fair and reasonable compensation for services rendered, and reflect the principle of like pay for like work" (AS 39.25.150(b)). Geographic differentials and longevity increments have been enacted as legitimate amendments to the basic pay plan to recognize legitimate public purposes in the career service. This bill would override these provisions.

The Division of Personnel urges that serious consideration be given to the questions of geographic differentials and longevity increments before these public policies are reversed by this bill.

  
\_\_\_\_\_  
Frank Kaye, Director  
Division of Personnel

2/1/85  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Commissioner Lisa Rudd  
Department of Administration

2/6/85  
\_\_\_\_\_  
Date

# STATE OF ALASKA

## DEPARTMENT OF ADMINISTRATION

### DIVISION OF PERSONNEL

BILL SHEFFIELD, GOVERNOR

POUCH C (MS 0201)  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-4430

February 21, 1985

Honorable Mitchell F. Abood, Jr.  
Chairman  
Senate State Affairs Committee  
Pouch V (MS 3100)  
Juneau, AK 99811

Dear Mr. Chairman:

Senate Bill 100 was heard before your Committee on February 6. During my testimony, Committee members asked me to provide additional specific information on salaries of certain employees. I have now gathered the information and am pleased to transmit it to you.

Senator Vic Fischer requested a list of the Executive Branch employees whose "basic salary" (as defined in SB 100) exceeded the salary of the Governor. Attachment 1 lists the eleven (11) employees who fall into this category.

Senator Bill Kay requested a similar list of the Judges and Justices whose "basic salary" exceeded the salary of the Governor. Edna Caldwell, the State Payroll Supervisor, had informed Senator Paul Fischer that 14 Judges and Justices fell into this category. However, there are only ten (10) whose salary exceeds the Governor. There are also four (4) Justices whose salary equals the Governor's. These are Justices who receive no geographic cost-of-living adjustment. See AS 22.05.140(a) and (c). Attachment 2 lists the nine (9) Judges and a Justice whose basic salary exceeds the Governor's.

Senator Vic Fischer requested a listing of all employees whose total compensation exceeded the Governor's. Attachment 3 is such a listing of all employees paid through the Division of Finance, Department of Administration for calendar year 1984. It does not include the University of Alaska, the Alaska Railroad Corporation, nor any other quasi-public corporation that processes its own payroll. I have also excluded those employees in Attachments 1 and 2 to avoid duplication. I have indicated in the Comment column the reason for several employees' salaries to exceed the Governor's on a one-time basis. The salaries of the other employees may be expected to repeatedly exceed the Governor's due to overtime, stand-by, shifts differential, sea duty and other forms of premium pay.

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FEB 25 1985

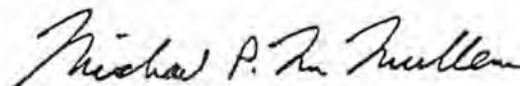
Honorable Mitchell F. Abcod, Jr.

-2-

February 21, 1985

I would be happy to answer any questions you may have about this data. I will make every effort to attend your Committee meeting when SB 100 is next scheduled for hearing to answer any questions from other members of the Committee.

Sincerely,



Michael P. McMullen  
Deputy Director

MPM/cfm

1/4D1/0219-04

Enclosures

cc: Honorable Paul Fischer  
Alaska State Senator  
Pouch V (MS 3100)  
Juneau, AK 99811

## ATTACHMENT 1

Executive Branch Employees Whose Base Salary Exceeds the Governor's

<u>LAST NAME</u>	<u>FIRST NAME</u>	<u>PCN</u>	<u>PAY RATE</u> <sup>1</sup>	<u>SCHEDULE</u>	<u>RANGE</u>	<u>STEP</u>	<u>CLASS TITLE</u>	<u>LOCATION</u>
Davis	Harry L.	031003	7,074.00	E	25	K	Attorney V	Fairbanks
Merriner	Charles M.	031191	8,169.00	F	25	L	Attorney V	Dillingham
Wood	Larry D.	030006	6,818.00	E	25	J	Attorney V	Fairbanks
Wardell	Thomas M.	031044	6,852.00	D	25	L	Attorney V	Kenai
Gould	James V.	031005	7,870.00	H	25	F	Attorney V	Nome
Doogan	James P.	031057	6,818.00	E	25	J	Attorney V	Fairbanks
Romesburg	Kerry D.		6,834.00	A	28	K	*	Juneau
Fraser	Robert	061001	7,339.00	A	29	L	Dir Public Health	Juneau
Conrad	Harold T.	065285	6,900.00	9	29	F	Medical Supt., API	Anchorage
Springer	Heinrich K.	258701	7,870.00	H	26	E	Division Director	Nome
Glenzer	Hubert	255634	7,055.00	E	28	E	Deputy Commissioner	Fairbanks

\*Executive Director, Alaska Commission on Post-secondary Education

<sup>1</sup>The Governor's monthly pay rate is \$6,804.00.

## ATTACHMENT 2

Judges and Justices Whose Base Salary Exceeds the Governor's

<u>LAST NAME</u>	<u>FIRST NAME</u>	<u>LOCATION</u>	<u>MONTHLY SALARY</u>
Blair	James	Fairbanks	6,994.00
Bosshard	John	Valdez	7,209.00
Cooke	Christopher	Bethel	7,209.00
Hodges	Jay	Fairbanks	6,994.00
Jeffrey	Michael I.	Barrow	7,209.00
Jones	Paul B.	Kotzebue	7,209.00
Rabinowitz	Jay A. (Justice)	Fairbanks	7,757.00
Taylor	Warren W.	Fairbanks	6,994.00
Tunley	Charles R.	Nome	7,209.00
VanHoomissen	Gerald	Fairbanks	6,994.00