

ALASKA LEGISLATURE COMMITTEE FILES 1900-1900 00/2

4365 SSTA SB 310 - SB 350

244



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11/24/89  
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COMMITTEE REPORT  
SENATE

FURTHER: FINANCE

5/6/85

Date 2/26/84

Mr. President

The Committee on STATE AFFAIRS considered SB 310

establishing the Alaska Natural Hazards Safety Commission.

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 310 (SA)
- 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

\_\_\_\_\_

*[Signature]*

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*[Signature]*

Chairman

*[Signature]*

Chairman recommendation

# GEOLOGIC-HAZARDS MITIGATION IN ALASKA

A Review of Federal, State, and Local Policies

By R.A. Combellick

---

Division of Geological & Geophysical Surveys  
Special Report 35



Fairbanks, Alaska  
1986

# CONTENTS

|   | Page |
|---|------|
| Executive summary . . . . .   | 1    |
| Introduction . . . . .  | 2    |
| Natural disasters in Alaska . . . . .   | 2    |
| Lessons from the 1964 Great Alaska Earthquake . . . . .                                     | 5    |
| Hazard mitigation . . . . .   | 6    |
| Hazard evaluation . . . . .   | 9    |
| Risk assessment . . . . .   | 10   |
| Risk reduction . . . . .  | 11   |
| Land use . . . . .  | 11   |
| Construction technology . . . . .   | 11   |
| Protection works . . . . .  | 15   |
| Warning systems . . . . .   | 16   |
| Combinations of approaches . . . . .  | 17   |
| Subdivisions . . . . .  | 18   |
| Excavations and grading . . . . .   | 18   |
| Commercial facilities . . . . .   | 18   |
| Places of assembly . . . . .  | 19   |
| Lifelines and critical facilities . . . . .   | 19   |
| The hazard-mitigation process . . . . .   | 19   |
| Roles of different levels of government . . . . .   | 19   |
| Geologic-hazard-mitigation programs in other states . . . . .                               | 20   |
| California . . . . .  | 20   |
| State planning and zoning law: General plan . . . . .                                       | 22   |
| Alquist-Priolo Special Studies Zones Act . . . . .  | 23   |
| Field, Garrison, and Green Acts: School buildings . . . . .                                 | 26   |
| Hospital Seismic Safety Act . . . . .   | 28   |
| Riley Act . . . . .   | 29   |
| Dam Safety Act . . . . .  | 30   |
| Strong-motion Instrumentation Program . . . . .   | 31   |
| Other programs in California . . . . .  | 31   |
| Statutory authority for California agencies engaged in geologic-hazard mitigation . . . . . | 34   |
| Division of Mines and Geology . . . . .   | 34   |
| State Mining and Geology Board . . . . .  | 34   |
| Seismic Safety Commission . . . . .   | 35   |
| State Board of Registration for Geologists and Geophysicists . . . . .                      | 35   |
| Colorado . . . . .  | 37   |
| Colorado land-use-planning laws . . . . .   | 37   |
| Subdivision law . . . . .   | 37   |
| State-level project reviews . . . . .   | 37   |
| Minimum qualifications for professional geologists . . . . .                                | 37   |
| Statutory authority for the Colorado Geological Survey . . . . .                            | 37   |
| Other states . . . . .  | 37   |
| Federal hazard-mitigation programs in Alaska . . . . .                                      | 37   |
| Disaster relief . . . . .   | 37   |
| Regional studies . . . . .  | 37   |
| Basic research . . . . .  | 37   |
| Prediction and warning . . . . .  | 37   |
| Construction technology . . . . .   | 37   |
| State and local geologic-hazard programs in Alaska . . . . .                                | 37   |
| Disaster preparedness, warning systems, and protection works . . . . .                      | 37   |
| Alaska planning law and local land-use regulation . . . . .                                 | 37   |
| Geologic hazards in local planning and zoning . . . . .                                     | 37   |
| State land-use planning and classification . . . . .  | 37   |
| Alaska Coastal Management Program . . . . .   | 37   |
| Subdivision law . . . . .   | 37   |
| Siting, design, and construction . . . . .  | 37   |
| State and local building codes . . . . .  | 37   |
| Critical facilities . . . . .   | 37   |
| Public facilities and state-funded capital-improvement projects . . . . .                   | 37   |
| Project reviews by state agencies . . . . .   | 37   |
| Professional registration . . . . .   | 37   |

## CONTENTS (con.)

|  | Page |
|--|------|
| Research and technical services . . . . .  | 56   |
| Division of Geological and Geophysical Surveys . . . . .   | 56   |
| University of Alaska . . . . .   | 58   |
| Alaska Council on Science and Technology . . . . .   | 59   |
| Conclusions . . . . .  | 59   |
| Recommendations from the workshop on evaluation of regional and urban earthquake hazards and risk in Alaska . . . . .  | 60   |
| Recommendation 1 - Alaska Natural Hazards Safety Commission . . . . .  | 60   |
| Recommendation 2 - State policy for hazard mitigation . . . . .  | 60   |
| Recommendation 3 - Hazard-monitoring program . . . . .   | 61   |
| Recommendation 4 - Amendments to the Municipal Code and other statutes to promote local-government action in hazard mitigation . . . . .   | 61   |
| Recommendation 5 - State regulation of construction and major alteration of critical facilities. . . . .   | 61   |
| Recommendation 6 - Hazard-mitigation requirements for certain capital-construction projects. . . . .   | 61   |
| Recommendation 7 - Conditional availability of disaster-relief funds to promote hazard mitigation. . . . .   | 62   |
| Recommendation 8 - Improved capabilities for state agencies to provide technical assistance to other agencies and local governments in hazard mitigation and disaster preparedness . . . . . | 62   |
| Recommendation 9 - State hazard-notification system . . . . .  | 62   |
| Acknowledgments . . . . .  | 62   |
| References cited . . . . .   | 63   |
| Appendix A - Senate Bill No. 310: An act establishing the Alaska Natural Hazards Safety Commission . . . . .   | 66   |
| Appendix B - Glossary . . . . .  | 68   |
| Appendix C - Acronyms . . . . .  | 71   |

## FIGURES

|   |    |
|---|----|
| Figure 1. Photograph of downtown Fairbanks during the Chena River flood (1967) . . . . .  | 3  |
| 2a-b. Photographs of Lituya Bay before and after the July 9, 1958, earthquake, which triggered a massive rock slide at the head of the bay . . . . .                | 4  |
| 3. Population growth in Alaska, 1880 to 1982 . . . . .  | 5  |
| 4. Photograph of homes destroyed by a massive landslide in Turnagain Heights subdivision, Anchorage, during the Great Alaska Earthquake of March 27, 1964 . . . . . | 5  |
| 5. Photograph of buildings in unstable areas on and near the L Street slide in downtown Anchorage. . . . .  | 5  |
| 6. Photograph of the old Valdez townsite taken after a tsunami destroyed port facilities and most of the downtown area on March 27, 1964 . . . . .                  | 9  |
| 7. Photograph of the new Valdez townsite near Mineral Creek, 3.5 mi northwest of the old townsite (1970) . . . . .  | 10 |
| 8. Flow diagram of study objectives in hazard mitigation . . . . .  | 11 |
| 9. Diagram showing the relationship between risk and hazard mitigation . . . . .  | 12 |
| 10. Seismic-zone map from the Uniform Building Code . . . . .   | 15 |
| 11. Photograph of a floodgate in the Chena Lakes Flood Control Project, about 20 mi east of Fairbanks. . . . .  | 17 |
| 12. Diagram showing the hazard-mitigation process. . . . .  | 18 |
| 13. Example of a Special Studies Zones map . . . . .  | 20 |
| 14. Photograph of John Muir School, Long Beach, California, damaged by the March 10, 1933, earthquake. . . . .  | 27 |
| 15. Photograph of Olive View Hospital, Sylmar, California, damaged by the San Fernando earthquake on February 9, 1971 . . . . .                                     | 29 |
| 16. Diagram showing functional relationships between the Seismic Safety Commission and other organizations and activities in California . . . . .                   | 36 |
| 17. Map showing areas of Alaska for which surficial-geologic maps were available in 1983 at scales useful for land-use planning. . . . .                            | 37 |

## TABLES

|   |    |
|---|----|
| Table 1. Significant geologic hazards in Alaska . . . . .   | 12 |
| 2. Suggested roles of federal, state, and local governments in hazard mitigation and disaster preparedness. . . . . | 21 |
| 3. Summary of responsibilities and functions under the Alquist-Priolo Special Studies Zones Act. . . . .            | 24 |
| 4. Functions of local and state agencies regarding geologic-hazard areas under Colorado House bill 1041. . . . .    | 16 |

# GEOLOGIC-HAZARDS MITIGATION IN ALASKA

## A Review of Federal, State, and Local Policies

By  
R.A. Combellick<sup>1</sup>

### EXECUTIVE SUMMARY

Earthquakes and volcanic eruptions occur frequently in Alaska. Because the climate is dynamic, topographic variation is extreme, and thousands of miles of coastline are exposed to the open ocean, Alaska will continue to be affected by these and other natural phenomena such as landslides, snow avalanches, floods, tsunamis, and many localized or chronic events that may be as costly over the long term as major events. Because development is rapidly expanding into areas where geologic hazards once had little effect, the same events may now cause major property damage.

Technology is available to identify natural hazards, determine their probable severity, and reduce their potential effects on people and property. On the basis of this review of national and state policies, 10 issues were identified in which possible improvements could substantially benefit public safety from natural hazards in Alaska:

1. Policy guidance and coordination of state and local hazard-mitigation programs.
2. Availability of basic technical information on hazards for land-use planning and construction.
3. Continuation of many federally funded hazards studies in Alaska that are being terminated or substantially reduced.
4. Incentives and guidelines to consider geologic hazards in local plans and ordinances.
5. Hazard mitigation in siting, design, and construction of critical facilities.
6. Hazard mitigation in siting, design, and construction of many state-funded public facilities.
7. The relationship between hazard mitigation and eligibility for disaster-relief funds.
8. Capability of state agencies to provide adequate technical services, assistance, and project reviews on geologic hazards for other agencies and local governments.
9. Standards of experience and education for geologists who prepare reports required by state or local laws for siting or designing facilities.

10. State capability to issue formal state notices of serious geologic hazards and coordinate the response by state and local agencies.

A comprehensive review of existing programs in California, Colorado, and the federal government suggests that some common attributes are responsible for the success and public acceptance of many hazard-mitigation programs. These attributes include central policy guidance and coordination; availability of current technical information; incentives and guidelines to consider geologic hazards in local ordinances; immunization of local governments from hazards-related liability under certain circumstances; availability of guidelines and state assistance to recognize and mitigate hazards at the local level; centralized review of design and construction plans for critical and public facilities; appropriate standards for design and construction of facilities that are subject to review for hazard safety; adequate training and experience for reviewers; incentives for hazard mitigation as part of disaster-relief programs; and the ability of programs to be self-supporting through special revenue programs.

The 10 policy issues listed above were discussed by participants at a workshop entitled "Evaluation of regional and urban earthquake hazards and risk in Alaska." The workshop was organized by the U.S. Geological Survey and took place September 5-7, 1985, in Anchorage. Participants included seismologists, geologists, engineers, planners, emergency coordinators, policymakers, and educators that represented levels of government, the private sector, and academia. The participants unanimously adopted nine recommendations for improvements in state policy:

1. Establishment of an Alaska Natural Hazards Safety Commission to provide policy guidance for the Governor and Legislature and to help coordinate agency programs in natural hazards.
2. Development of state policies for hazard mitigation in Alaska that establish long-term commitments and goals.
3. Establishment of a hazard-monitoring program that ensures availability of basic data needed to evaluate hazards.
4. Amendments to the municipal code and other

<sup>1</sup>Alaska Division of Geological and Geophysical Surveys, 794 University Ave. (Basement), Fairbanks, Alaska 99709.

- statutes to promote local-government action in hazard mitigation.
5. State regulation of construction and major alterations of critical facilities to ensure that they are reasonably protected from natural disasters.
  6. Establishment of hazard-mitigation requirements for certain capital-construction projects financed by the State.
  7. Establishment of incentives or requirements for local governments to implement hazard-mitigation measures as a condition for receiving disaster-relief funds.
  8. Improvement in capabilities of state agencies to participate in reviews and to assist other agencies and local governments in problems that relate to hazard mitigation and disaster preparedness.
  9. Establishment of a state hazard-notification system to supplement that of the U.S. Geological Survey and help coordinate responses by state and local agencies.

## INTRODUCTION

Many processes that are responsible for Alaska's scenic beauty and abundant resources are also responsible for the wide variety of physical conditions and natural hazards that challenge the human presence. Earthquakes and volcanoes are as active in Alaska as anywhere else in the world, the climate is severe, topographic variation is extreme, and thousands of miles of coastline are exposed to the open ocean. Thus, Alaska is subject to major earthquakes, volcanic eruptions, landslides, snow avalanches, floods, tsunamis, and many local or chronic hazards, such as permafrost, that can be costly for property owners over a long period of time. Effective mitigation efforts have greatly reduced these costs in other states.

Although the number of major natural events in the recent past is high, few events have significantly affected the general public because of Alaska's relatively sparse population and vast, thinly inhabited areas. Major events will continue to occur intermittently as in the recent geologic past, and with increasing development, the probability will increase that people, businesses, property, and critical facilities will be affected.

Experience in other states demonstrates that local ordinances are among the most effective means of mitigating natural hazards. State governments generally provide guidelines, technical information, and the requirement or incentives for local adoption of risk-reduction measures. All municipalities in Alaska have zoning authority that can incorporate hazard-mitigation measures. Flood-plain-management ordinances have been adopted in at least 20 cities and boroughs. Other hazards have been only generally addressed. A few local governments have recently begun to independently act on

specific issues of local concern. Most major municipalities have adopted the Uniform Building Code published in 1982 by the International Conference of Building Officials (ICBO). Although this code provides detailed requirements for earthquake-resistant design and construction, it does not provide comprehensive construction and siting requirements for other hazards.

The purposes of this report are fourfold: 1) review geologic-hazard issues in Alaska from an historical perspective; 2) discuss various approaches to hazard mitigation; 3) evaluate hazard-mitigation programs in other states (their strengths, weaknesses, and applicability in Alaska); and 4) review existing state, federal, and local programs dealing with hazards in Alaska. This report also includes a summary of policy recommendations developed in September 1985 during an interagency workshop on earthquake hazards in Alaska. Because major programs of disaster preparedness and response already exist and operate under the Division of Emergency Services and local agencies, these activities are not discussed in detail. This report focuses primarily on activities that reduce the likelihood of injury or damage from natural hazards. Greater emphasis on knowledge of the hazards, public awareness, and effective mitigation measures will reduce vulnerability to hazards and consequently reduce dependence on post-disaster response and relief.

## NATURAL DISASTERS IN ALASKA

From 1964 to 1981, there were seven presidential declarations of disaster in Alaska, an average of one every 2.5 yr. These natural disasters included one major earthquake, three floods, one heavy rain and landslide, one severe freeze, and a major fire during a severe freeze. Although a total of about \$76 million in federal aid was provided, it was far short of the total estimated damages. For example, of the \$350 million estimated damages that resulted from the 1964 Great Alaska Earthquake in 1964, about \$56 million in federal aid was provided. Except for restoration work performed directly by the U.S. Army Corps of Engineers, the remaining burden fell on state and local governments, private businesses, and individuals. Following the Chena River flood in Fairbanks in August 1967 (fig. 1), which resulted in damages that totaled about \$84 million (Pewe, 1982), the federal government provided \$7.3 million in direct financial aid (Federal Emergency Management Agency, 1982).

In addition to disaster declarations by the President, for which federal relief funds are available, the Governor of Alaska is authorized to make disaster declarations for which state relief funds are provided, generally through the Alaska Division of Emergency Services (ADES). State funds may supplement federal-relief funds for presidentially declared disasters, but more often are used to provide relief after events that are not declared disasters at the federal level. From January 1973 to February 1982, no disasters were declared in Alaska by

11241 00

Opinion

# Anchorage Daily News



Winner, 1976 Pulitzer Prize Gold Medal for Public Service

Gerald E. Grilly  
Publisher

Howard Weaver  
Managing Editor

Suzan Nightingale  
Editorial Page Editor

Katherine Fanning, Editor and Publisher 1971 to 1983  
Lawrence Fanning, Editor and Publisher 1967 to 1971

Alaska's Only Morning Newspaper • Founded In 1946 by Norman C. Brown

## Learn from lesson of 1964 earthquake

Experience is the best teacher, it's difficult to understand why Anchorage has not learned more from the catastrophic 1964 earthquake. The Good Friday quake destroyed a multitude of homes and businesses before its destructive powers were spent. Yet seismic experts believe Anchorage has left important work undone to prepare for another major earthquake — and they are certain another large quake will come.

Alaska is the most active earthquake area in the United States. Quakes are routine here. But in the past 15 years Anchorage buildings have been constructed on areas known to be earthquake risks, such as unstable landslide areas or clay soil that could liquify during a quake. Furthermore, while Anchorage has adopted a Comprehensive Development Plan and numerous zoning ordinances, pressure has grown — not diminished — to build on unstable areas along the shoreline.

During the past few months, the municipality has initiated an earthquake safety study to analyze hazard data, and asked for a Geotechnical Advisory Commission review of projects in high risk zones. Both measures are commendable. But information gathering must be backed by political will — and the voices of an informed public demanding protection from earthquake hazards. The Planning and Zoning Commission recently ruled that proposed construction in earthquake-scarred Turnagain Heights must conform to stringent geotechnic safety measures before it will be approved; that decision is now being appealed to the Anchorage Assembly, where political pressures will be brought to bear.

Seismic experts already recognize that the vagaries of politics can be more of an impediment to earthquake safety than inadequate information. The assembly, though, should support the Planning and Zoning Commission's ruling — not just in Turnagain Heights, but in any area where the burden of safety hasn't been met. Turnagain's dramatic history only demonstrates a threat that can be found in varying degrees around the Anchorage bowl.

# Alaska less prepared for an earthquake than in 1964

By LIDIA SELKREGG

An evaluation of current disaster mitigation practices in Alaska, part of a study funded by the National Science Foundation and prepared by faculty of the University of Alaska, shows that in terms of the number of people, the amount of property, and the number of economic facilities exposed to risk, Alaska is more vulnerable today than it was decades ago.

Two major earthquakes were to occur today, Alaska would be no better prepared than on March 27, 1964. In fact, as a result of increased population and development in upper Cook County, many scientists, planners and administrators believe that another earthquake would have even greater impact on commerce and industry than in 1964. Destruction of transportation systems and commerce in Anchorage, the state's major city and distribution center, would affect the entire state economy.

Measures which were recommended to reduce the damage from earthquake and tsunami after the March 27, 1964 earthquake have not been instituted and lands designated as "high risk" after the earthquake have, in many instances, been developed for industrial, commercial and residential use.

Although the overall technical expertise to develop safe development in earthquake prone areas has been refined since 1964, many of

the technicians and policy-makers interviewed in several communities in Southcentral Alaska are pessimistic about the prospect of improved risk mitigation efforts. They often cite fragmentation of responsibility, lack of support from the general public and interest groups, inadequate commitment of financial and human resources, exaggerated social and public policy commitment to private property and personal rights, uncertainty about the level of risk and potential of social and economic loss, and an overall weakness in the planning and implementation process at the local, state and federal levels.

Many recommendations related to seismic risk have been offered over the last 21 years. They cover all disciplines from geology and engineering to planning and political science. The recommendations in the recently completed report — called "Seismic Hazard Mitigation: Planning and Policy Implementation — An Alaska Case" — are new only in the sense that they are made within the context of a comprehensive planning and administrative process. This model provides federal, state and local governments a framework within which the public and private sectors can include risk mitigation as part of a comprehensive planning development process.

The model implies that effective risk mitigation planning must take place before dis-



aster strikes. It proposes that risk mitigation studies become an integral part of the data base evaluated as part of the comprehensive planning process, ensuring that mitigation is integrated into future urban and regional development plans and projects.

If a planning process is to be successful, it must include: 1) development of comprehensive goals and objectives based on the understanding of the physical, social and economic makeup of the regional/urban system; and 2) development of a master plan for implementation through team building.

Any plan including seismic risk mitigation must reflect shared responsibility among all levels of government and must be based on a strong public commitment to public safety. So far the public has not shown concern for seismic risk. This is reflected in the lack of citizen participation at public hearings related

to redevelopment of "high risk" areas. Even the experts whose recommendations we should implement have not testified at public hearings in the past. The public has neglected this issue — complacent and sure that an earthquake will not happen again, at least not in our lifetime.

The Great Alaska Earthquake of March 27, 1964, tells us that an earthquake can affect everyone, not just the people who live in specific districts. Utilities, transportation, ports, airports and human services are affected when disasters occur. The economy of the entire state is impacted — and everyone suffers.

Now is the time to chart a course of action to guide future seismic planning efforts. Public and legislative commitments should be directed to 1) research of seismic risk causes and effects; 2) effective emergency preparedness and public education; and 3) application of risk mitigation technology to urban regional growth and development.

□ Lidia Selkregg is professor of resource economics and planning at the University of Alaska, Anchorage, and a former member of the Anchorage Assembly. She was principal investigator for "Seismic Hazards Mitigation: Planning and Policy Implementation — An Alaska Case."

4830  
11/7/85

RESOLUTION NO. 85-080

A RESOLUTION IN SUPPORT OF THE ESTABLISHMENT  
OF AN ALASKA NATURAL HAZARDS SAFETY COMMISSION

WHEREAS, natural processes will continue to cause potentially damaging events in Alaska, such as earthquakes, floods, volcanic eruptions, tsunamia, and landslides, and

WHEREAS, CONTINUED POPULATION GROWTH AND DEVELOPMENT IN Alaska increase the likelihood that people and property will be adversely affected by these events; and

WHEREAS, technology is available to identify natural hazards, determine their probable severity, and reduce their adverse effects on people and property; and

WHEREAS, public safety and economic security from natural hazards in Alaska would benefit substantially from improvements in state and local policies to mitigate hazards through proper land-use and construction practices; and

WHEREAS, numerous federal, state, local, academic, and private organizations perform research or have other responsibilities related to hazard mitigation or disaster preparedness in Alaska without an established means of coordination; and

WHEREAS, there exists a general lack of public awareness of natural hazards in Alaska and a lack of understanding of means to alleviate their adverse effects; and

WHEREAS, improved policy guidance, coordination of activities, and promotion of public education in hazard mitigation and disaster preparedness are best accomplished through a state-level commission composed of members from the public and private sectors,

NOW, THEREFORE, BE IT RESOLVED that the Assembly of the Fairbanks North Star Borough supports enactment of Senate Bill 310 (1985), "An Act establishing the Alaska Natural Hazards Safety Commission", and

BE IT FURTHER RESOLVED that this resolution be offered to the 1985 Alaska Municipal League convention for further support.

PASSED AND APPROVED THIS \_\_\_\_ DAY OF NOVEMBER, 1985.

\_\_\_\_\_  
Presiding Officer

ATTEST:

\_\_\_\_\_  
Clerk of the Assembly

MUNICIPALITY OF ANCHORAGE  
GEOTECHNICAL ADVISORY COMMISSION RESOLUTION  
NOVEMBER 21, 1985

A RESOLUTION IN SUPPORT OF SENATE BILL 310 (1985): "AN ACT ESTABLISHING THE ALASKA NATURAL HAZARDS SAFETY COMMISSION".

---

WHEREAS, natural processes will continue to cause potentially damaging events in Alaska, such as earthquakes, floods, volcanic eruptions, tsunamis, and landslides, and

WHEREAS, continued population growth and development in Alaska increase the likelihood that people and property will be adversely affected by these events, and

WHEREAS, technology is available to identify natural hazards, determine their probable severity, and reduce their adverse effects on people and property, and

WHEREAS, public safety and economic security from natural hazards in Alaska would benefit substantially from improvements in state and local policies to mitigate hazards through proper mitigation and construction practices, and

WHEREAS, numerous federal, state, local, academic, and private organizations perform research or have other responsibilities related to hazard mitigation or disaster preparedness in Alaska without an established means of coordination, and

WHEREAS, there exists a general lack of public awareness of natural hazards in Alaska and a lack of understanding of means to alleviate their adverse effects, and

WHEREAS, improved policy guidance, coordination of activities, and promotion of public education in hazard mitigation and disaster preparedness are best accomplished through a state-level commission composed of members from the public and private sectors.

NOW, THEREFORE, BE IT RESOLVED, by the Municipal Geotechnical Advisory Commission that the Commission supports enactment of Senate Bill 310 (1985), "An Act establishing the Alaska Natural Hazards Safety Commission".

PASSED AND APPROVED by the Municipal Geotechnical Advisory Commission this 21st day of November, 1985.

---

David A. Cole, Chairman  
Don Bruggers  
Lidia Selkregg  
John Aho  
Tom Smith  
Alan Krause  
John Lambe  
Rupert Tart  
Alex Sisson



# AMERICAN INSTITUTE OF PROFESSIONAL GEOLOGISTS

December 17, 1985

Our ref: A/85/163

Senator Arliss Sturgulewski  
Chairman, Senate Resource Committee  
2957 Sheldon Jackson Street  
Anchorage, Alaska 99501

RE: SENATE BILL NUMBER SD 310 (1985)  
ACT ESTABLISHING A COMMITTEE ON NATURAL HAZARDS

Dear Senator:

On behalf of the Alaska Section of the American Institute of Professional Geologists (AIPG) I would like to express our organization's support for the above referenced Senate bill. Professional organization which represents over 100 registered geologists in Alaska, AIPG believes the formation of a commission on natural hazards is a positive first step in providing state and local governments with valuable information regarding planning and development in potentially hazardous areas across the state. If this bill is successfully passed, the Alaska section of AIPG urges the selection of professional geologists to the commission to provide input in areas such as earthquakes, landsliding, avalanches, geohydrology, subsidence, volcanic eruptions, etc...

While the population of Alaska is small in comparison to the vast size of the State, the major population centers are situated in areas which have in the past experienced devastating disasters precipitated by natural hazards. The formation of a natural hazard commission will be an important step in addressing state-wide natural hazards with the goal of reducing future loss of property and life.

Respectfully submitted,

AMERICAN INSTITUTE OF PROFESSIONAL GEOLOGISTS

A handwritten signature in cursive script, reading "Alan J. Krause", is written over the typed name.

Alan J. Krause, P.G.  
President, Alaska Section

cc: Rod Combellick, DGGS

AJK:bb

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 25, 1986

SUBJECT: CSSB 310 (State Affairs)  
(Alaska Natural Hazards Commission)

TO: Senator Mitch Abood  
Chairman, State Affairs Committee

FROM: Teresa B. Cramer *TBC*  
Legislative Counsel

Enclosed is the draft Committee Substitute for CSSB 310. After conferring with your staff, I have the following comments.

1. Appointment of the Director of Geological and Geophysical Services to the Commission.

It is not customary to appoint division directors to membership on commissions in the statutes. If the governor were to exercise the power granted under Article III, Section 23 of the state Constitution and reorganize the department, the division might cease to exist. The question of who was to represent the department on the commission would then be unclear. If your committee wishes, we can specify that the representative to the commission from the Department of Natural Resources is the director of geological and geophysical services.

2. Appointment of representatives from departments.

It is more usual to appoint the commissioner of the department to serve on a commission or board and then to permit the commissioner to delegate membership should that be desirable. This is a matter of choice for the committee.

3. Changes to commission membership.

In making the changes to the membership of the commission, the substitution of the representative from the Department

Senator Mitch Abood  
Page 2  
February 25, 1986

of Community and Regional Affairs for a representative from local government does not reduce the number of public members. The representative from local government was not treated as a public member in SB 310. The addition of the representative from the Department of Public Facilities and Transportation does reduce the number of public members from six to five.

4. Initial terms for public members.

I have redrafted section 4 of the bill to limit its application to public members and to specifically refer to members who serve the statutory term of three years as well as those who serve a term of different length. Since the departmental representatives are not named as the commissioners, it might be appropriate to stagger their terms as well.

If I may be of further assistance, please advise.

TC:mkr  
m3/076

Enclosure

# STATE OF ALASKA

## DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

POUCH M  
JUNEAU, ALASKA 99811  
PHONE: 907-465-2400

February 20, 1986

The Honorable Mitch Abood  
Alaska State Senate  
Juneau, Alaska 99810

Dear Senator Abood:

I am writing with regard to SB 310, establishing the Alaska Natural Hazards Commission, which is in the State Affairs Committee for hearing today.

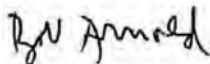
The Department recognizes the great importance of understanding and preparing against natural hazards in Alaska. Our history is replete with examples of natural disasters with loss of life and property in many areas of the state. Fortunately there appears to be growing awareness of the threat of natural hazards in many of our communities and to some degree we are able to plan appropriately against future losses.

The commendable intent of SB 310 is to increase understanding and preparedness for natural hazards. However, the creation of a new commission is recommended at a time when the Legislature and the Governor have been attempting to reduce the number of State boards.

Whether or not the Legislature decides to establish the new commission, our department will continue to attempt to provide natural hazards information and coordination for the public, as our budget will allow.

The Department has no changes to recommend in the body of the bill. A fiscal note is attached.

Sincerely,



Robert D. Arnold  
Deputy Commissioner

cc: Senator Arliss Sturgulewski  
Senator Vic Fischer  
Senator Fred Zharoff

# STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

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

**REQUEST**

Bill/Resolution No. : SB 310  
 Title : Natural Hazards Safety Comm.

Sponsor : Senator Sturgulewski  
 Requestor : Senate Resources  
 Date of Request : 02-18-86

**FISCAL DETAIL**

Agency Affected : Natural Resources  
 BRU : Resource Appraisal

Components : \_\_\_\_\_

**EXPENDITURES/REVENUES : (Thousands of Dollars)**

| OPERATING              | FY 86 | FY 87      | FY 88      | FY 89      | FY 90      | FY 91      |
|------------------------|-------|------------|------------|------------|------------|------------|
| PERSONAL SERVICES      |       |            |            |            |            |            |
| TRAVEL                 |       | 6.0        | 6.0        | 7.0        | 7.0        | 7.0        |
| CONTRACTUAL            |       |            |            |            |            |            |
| SUPPLIES               |       | 1.0        | 1.0        | 1.5        | 1.5        | 1.5        |
| EQUIPMENT              |       |            |            |            |            |            |
| LAND & STRUCTURES      |       |            |            |            |            |            |
| GRANTS, CLAIMS         |       |            |            |            |            |            |
| MISCELLANEOUS          |       |            |            |            |            |            |
| <b>TOTAL OPERATING</b> |       | <b>7.0</b> | <b>7.0</b> | <b>8.5</b> | <b>8.5</b> | <b>8.5</b> |

|         |  |  |  |  |  |  |
|---------|--|--|--|--|--|--|
| CAPITAL |  |  |  |  |  |  |
|---------|--|--|--|--|--|--|

|         |  |  |  |  |  |  |
|---------|--|--|--|--|--|--|
| REVENUE |  |  |  |  |  |  |
|---------|--|--|--|--|--|--|

**FUNDING : (Thousands of Dollars)**

|               |  |            |            |            |            |            |
|---------------|--|------------|------------|------------|------------|------------|
| GENERAL FUND  |  | 7.0        | 7.0        | 8.5        | 8.5        | 8.5        |
| FEDERAL FUNDS |  |            |            |            |            |            |
| OTHER         |  |            |            |            |            |            |
| <b>TOTAL</b>  |  | <b>7.0</b> | <b>7.0</b> | <b>8.5</b> | <b>8.5</b> | <b>8.5</b> |

**POSITIONS :**

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

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

Fiscal note calculations assume an eleven member board with three meetings per year in Anchorage.

Prepared by: Rodney Combellick *RC* Phone: 474-7147  
 Division: Geological & Geophysical Surveys Date: 02-19-86

Approved by Commissioner: Wm D. Arnold Date: \_\_\_\_\_  
 Agency: Natural Resources

Distribution (by Agency preparing fiscal note):

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

BILL SHEFFIELD  
GOVERNOR



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

MEMORANDUM

TO: The Honorable Mitch Abood  
Alaska State Legislature  
Senate

DATE: February 21, 1986

FROM: Barbara A. Dale  
Special Staff Assistant  
to the Governor  
Boards and Commissions

SUBJECT: SB 310

It is the long standing policy of the Governor's office of Boards and Commissions not to support the creation of new boards or commissions. Governor Sheffield's policy of not supporting the creation of new boards and commissions is primarily based on budget considerations.

There are currently over 140 official boards, commissions, councils, and task forces which accommodate in excess of 1,245 participants.

Cramer

2/25/86 ✓

Original sponsors: Sturgulewski, V. Fischer,  
Rodey and Zharoff

1 IN THE SENATE

BY THE STATE AFFAIRS COMMITTEE

2 CS FOR SENATE BILL NO. 310 (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 establishing the Alaska Natural Hazards  
7 Safety Commission."

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

9 \* Section 1. FINDINGS. The legislature finds that

10 (1) there is a pressing need to provide a consistent policy  
11 framework and a means for continuing coordination of hazard-related pro-  
12 grams and public safety practices at all governmental levels and in the  
13 private sector; this need is not being addressed by any continuing state  
14 government organization;

15 (2) through concerted efforts coordinated by a Natural Hazards  
16 Safety Commission, the state can make long-term progress toward mitigating  
17 the effects of natural hazards on persons and property, thereby reducing  
18 the costs of responding to and recovering from natural hazards.

19 \* Sec. 2. AS 44.37 is amended by adding new sections to read:

20 ARTICLE 2. ALASKA NATURAL HAZARDS SAFETY COMMISSION.

21 Sec. 44.37.200. COMMISSION ESTABLISHED. The Alaska Natural  
22 Hazards Safety Commission is established in the Department of Natural  
23 Resources.

24 Sec. 44.37.210. MEMBERSHIP. (a) The commission is composed of  
25 11 members appointed by the governor for terms of three years. A  
26 member holds office until a successor is appointed and confirmed. A  
27 vacancy is filled for the unexpired term. The governor shall appoint  
28 to the commission a representative from the University of Alaska, a  
29 representative from the Department of Community and Regional Affairs,

1 a representative from the Department of Natural Resources, a represen-  
2 tative from the Department of Military and Veterans' Affairs, a rep-  
3 resentative from the Department of Transportation and Public Facil-  
4 ities, a representative from an appropriate federal agency and shall  
5 appoint the remaining five members from members of the public who are  
6 knowledgeable in the fields of geology, seismology, hydrology, geo-  
7 technical engineering, structural engineering, emergency services, or  
8 planning. In making appointments to the commission, the governor  
9 shall consider the need for representation from all parts of the  
10 state.

11 (b) The commission shall elect annually from its members a  
12 chairman and vice-chairman. A majority of the commission may vote to  
13 replace an officer of the commission.

14 (c) Six members constitute a quorum.

15 (d) Commission members receive no compensation but are entitled  
16 to travel and per diem authorized for boards and commissions under  
17 AS 39.20.180.

18 Sec. 44.37.220. POWERS AND DUTIES. (a) The commission shall

19 (1) recommend goals and priorities for hazard mitigation to  
20 the public and private sectors;

21 (2) annually recommend policies to the governor and the  
22 legislature, including needed research, mapping, and monitoring pro-  
23 grams;

24 (3) offer advice on coordinating disaster preparedness and  
25 hazard-mitigation activities of government at all levels, review the  
26 practices for recovery and reconstruction after a natural disaster,  
27 and recommend improvements to mitigate losses from similar future  
28 events;

29 (4) gather, analyze, and disseminate information of general

1 interest on hazard mitigation;

2 (5) establish and maintain necessary working relationships  
3 with other public and private agencies;

4 (6) review predictions and warnings issued by the federal  
5 government, research institutions, and other organizations and persons  
6 and suggest appropriate responses at the state and local level; and

7 (7) review proposed hazard notifications and supporting  
8 information from state agencies, evaluate possible socioeconomic  
9 consequences, recommend that the governor issue formal hazard noti-  
10 fications when appropriate, and advise state and local agencies of  
11 appropriate responses.

12 (b) The commission may

13 (1) advise the governor and the legislature on disaster  
14 preparedness and hazard mitigation and on budgets for those activi-  
15 ties, and recommend legislation or policies to improve disaster pre-  
16 paredness or hazard mitigation;

17 (2) conduct public hearings;

18 (3) appoint committees from its membership and appoint  
19 external advisory committees of ex-officio members; and

20 (4) accept grants, contributions, and appropriations from  
21 public agencies, private foundations, and individuals.

22 Sec. 44.37.230. DEFINITIONS. In AS 44.37.200 - 44.37.230

23 (1) "commission" means the Alaska Natural Hazards Safety  
24 Commission;

25 (2) "disaster preparedness" means establishing plans and  
26 programs for responding to and distributing funds to alleviate losses  
27 from a disaster as defined in AS 26.23.230;

28 (3) "hazard mitigation" or "mitigation" mean activities  
29 that prevent or alleviate the harmful effects of natural hazards to

1 persons and property, including identification and evaluation of the  
 2 hazards, assessment of the risks, and implementation of measures to  
 3 reduce potential losses before a damaging event occurs.

4 \* Sec. 3. AS 44.66.010(a) is amended by adding a new paragraph to read:  
 5 (13) Alaska Natural Hazards Safety Commission (AS 44.37.200)  
 6 -- June 30, 1990.

7 \* Sec. 4. Notwithstanding AS 44.37.210 enacted by sec. 2 of this Act,  
 8 two of the initial public members of the Alaska Natural Hazards Safety  
 9 Commission shall serve terms of two years, two initial public members of  
 10 the commission shall serve terms of three years and one initial public  
 11 member shall serve a term of four years.

12 \* Sec. 5. Nothing in this Act is intended to transfer to the commission  
 13 the authorities and responsibilities of other state agencies, boards,  
 14 councils, or commissions or of local governments.

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# Alaska State Legislature



SENATOR

**ARLISS STURGULEWSKI**

Chairman, Senate Resources Committee

Vice Chairman, Senate Health, Education and Social Services Committee

Member, Senate Community and Regional Affairs Committee

2957 SHELDON JACKSON STREET  
ANCHORAGE, ALASKA 99508

Whose in Juneau

POUCH V

JUNEAU, ALASKA 99801

(907) 465-3818

## Senate

MEMORANDUM

19 February 1986

TO: Senate State Affairs Committee

FROM: Senator Arliss Sturgulewski

RE: Senate Bill 310, Natural Hazards Safety Commission

Senate Bill 310 creates a commission to provide policy advice to the governor regarding hazard-related programs and public safety practices and is designed to fill a gap in public safety services in Alaska.

As the bill is currently drafted, the 11 members of the commission are appointed by the Governor, and include a representative from the University of Alaska, a representative from local government, a representative from the Department of Military Affairs, and a representative from an appropriate federal agency. The remaining six members are public members knowledgeable in the fields of geology, seismology, hydrology, geotechnical engineering, structural engineering, emergency services, or planning.

Earthquake Hazard Mitigation, Planning and Policy Implementation, the Alaska Case, completed in 1984 by the University of Alaska, Anchorage and Urban Regional Research, is a major report designed to look at progress made since the 1964 Earthquake regarding natural hazard risk mitigation. Among the recommendations included in the study are:

1. Develop and institute programs of public education, information, and disclosure to obtain a social commitment to seismic risk mitigation.
2. Renewed commitment at all levels of government to evaluate risk and its effects by supporting the continued development of socioeconomic and physical-biological data bases.
3. Government should support the integration of risk into the comprehensive planning process.
4. Develop guidelines for defining high seismic risk areas as standard for state and local earthquake zoning and for land use decision processes.

5. Establish local, state, and federal institutions to provide for an administrative mandate, intra- and inter-governmental relations, and focus public and governmental attention on seismic risk.

Powers and duties of the commission include:

1. Recommend goals and priorities for hazard mitigation to the public and private sectors.

2. recommend policies to the governor and legislature, including needed research, mapping, and monitoring programs.

3. offer advice on coordinating disaster preparedness and hazard-mitigation activities of government at all levels, review practices for recovery and reconstruction after a natural disaster, and recommend improvements to mitigate losses from similar future events.

4. gather, analyze and disseminate information of general interest on hazard mitigation.

5. establish and maintain necessary working relationships with other public and private agencies.

6. review predictions and warnings issued by the federal government, research institutions, and other organizations and persons and suggest appropriate responses at the state and local level.

7. review proposed hazard notifications and supporting information from state agencies, evaluate possible socioeconomic consequences, recommend that the governor issue formal hazard notifications when appropriate, and advise state and local agencies of appropriate responses.

We have received suggestions from the Administration which would include a representative from the Department of Transportation and Public Facilities and a representative from the Department of Community and Regional Affairs. This would change the number of public members from six to four.

It has been suggested that the quorum requirement of eight members be changed to six members for a quorum.

Also suggested is that the list of fields in which public members are knowledgeable be expanded to include business.



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

February 18, 1986

The Honorable Arliss Sturgulewski  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99811

Dear Senator Sturgulewski:

I have reviewed Senate Bill 310 and agree with the intent. In an article by R.A. Combellick of the Alaska Department of Natural Resources, reference is made to a recent workshop organized by the U.S. Geological Survey in Anchorage September 5-7, 1985. Recommendations from the workshop were unanimously adopted and are as follows:

1. Establishment of an Alaska Natural Hazards Safety Commission to provide policy guidance for the Governor and Legislature and to help coordinate agency programs in natural hazards.
2. Development of state policies for hazard mitigation in Alaska that establish long-term commitments and goals.
3. Establishment of a hazard-monitoring program that ensures availability of basic data needed to evaluate hazards.
4. Amendments to the municipal code and other statutes to promote local-government action in hazard mitigation.
5. State regulation of construction and major alterations of critical facilities to ensure that they are reasonably protected from natural disasters.
6. Establishment of hazard-mitigation requirements for certain capital-construction projects financed by the State.

The Honorable Arliss Sturgulewski -2-  
Alaska State Senate

February 18, 1986

7. Establishment of incentives or requirements for local governments to implement hazard-mitigation measures as a condition for receiving disaster-relief funds.
8. Improvement in capabilities of state agencies to participate in reviews and to assist other agencies and local governments in problems that relate to hazard mitigation and disaster preparedness.
9. Establishment of a state hazard-notification system to supplement that of the U.S. Geological Survey and help coordinate responses by state and local agencies.

A copy of the article is enclosed for your information.  
(First two pages only as article is incomplete.)

The establishment of a Commission is good. My concern is though with the numbers. I don't believe that a Commission this size will be any more effective than a Commission of five (5).

Sincerely,



Richard A. Neve'  
Senior Science Advisor

RAN:mac  
Enclosure

# GEOLOGIC-HAZARDS MITIGATION IN ALASKA

## A Review of Federal, State, and Local Policies

By

R.A. Combellick<sup>1</sup>

### EXECUTIVE SUMMARY

Earthquakes and volcanic eruptions occur frequently in Alaska. Because the climate is dynamic, topographic variation is extreme, and thousands of miles of coastline are exposed to the open ocean, Alaska will continue to be affected by these and other natural phenomena such as landslides, snow avalanches, floods, tsunamis, and many localized or chronic events that may be as costly over the long term as major events. Because development is rapidly expanding into areas where geologic hazards once had little effect, the same events may now cause major property damage.

Technology is available to identify natural hazards, determine their probable severity, and reduce their potential effects on people and property. On the basis of this review of national and state policies, 10 issues were identified in which possible improvements could substantially benefit public safety from natural hazards in Alaska:

1. Policy guidance and coordination of state and local hazard-mitigation programs.
2. Availability of basic technical information on hazards for land-use planning and construction.
3. Continuation of many federally funded hazards studies in Alaska that are being terminated or substantially reduced.
4. Incentives and guidelines to consider geologic hazards in local plans and ordinances.
5. Hazard mitigation in siting, design, and construction of critical facilities.
6. Hazard mitigation in siting, design, and construction of many state-funded public facilities.
7. The relationship between hazard mitigation and eligibility for disaster-relief funds.
8. Capability of state agencies to provide adequate technical services, assistance, and project reviews on geologic hazards for other agencies and local governments.
9. Standards of experience and education for geologists who prepare reports required by state or local laws for siting or designing facilities.

10. State capability to issue formal state notices of serious geologic hazards and coordinate the response by state and local agencies.

A comprehensive review of existing programs in California, Colorado, and the federal government suggests that some common attributes are responsible for the success and public acceptance of many hazard-mitigation programs. These attributes include central policy guidance and coordination; availability of current technical information; incentives and guidelines to consider geologic hazards in local ordinances; immunization of local governments from hazards-related liability under certain circumstances; availability of guidelines and state assistance to recognize and mitigate hazards at the local level; centralized review of design and construction plans for critical and public facilities; appropriate standards for design and construction of facilities that are subject to review for hazard safety; adequate training and experience for reviewers; incentives for hazard mitigation as part of disaster-relief programs; and the ability of programs to be self-supporting through special revenue programs.

The 10 policy issues listed above were discussed by participants at a workshop entitled 'Evaluation of regional and urban earthquake hazards and risk in Alaska.' The workshop was organized by the U.S. Geological Survey and took place September 5-7, 1985 in Anchorage. Participants included seismologists, geologists, engineers, planners, emergency coordinators, policymakers, and educators that represented levels of government, the private sector, and academia. The participants unanimously adopted nine recommendations for improvements in state policy:

1. Establishment of an Alaska Natural Hazards Safety Commission to provide policy guidance for the Governor and Legislature and to help coordinate agency programs in natural hazards.
2. Development of state policies for hazard mitigation in Alaska that establish long-term commitments and goals.
3. Establishment of a hazard-monitoring program that ensures availability of basic data needed to evaluate hazards.
4. Amendments to the municipal code and other

<sup>1</sup>Alaska Division of Geological and Geophysical Surveys, 794 University Ave. (Basement), Fairbanks, Alaska 99709.

- statutes to promote local-government action in hazard mitigation.
5. State regulation of construction and major alterations of critical facilities to ensure that they are reasonably protected from natural disasters.
  6. Establishment of hazard-mitigation requirements for certain capital-construction projects financed by the State.
  7. Establishment of incentives or requirements for local governments to implement hazard-mitigation measures as a condition for receiving disaster-relief funds.
  8. Improvement in capabilities of state agencies to participate in reviews and to assist other agencies and local governments in problems that relate to hazard mitigation and disaster preparedness.
  9. Establishment of a state hazard-notification system to supplement that of the U.S. Geological Survey and help coordinate responses by state and local agencies.

## INTRODUCTION

Many processes that are responsible for Alaska's scenic beauty and abundant resources are also responsible for the wide variety of physical conditions and natural hazards that challenge the human presence. Earthquakes and volcanoes are as active in Alaska as anywhere else in the world, the climate is severe, topographic variation is extreme, and thousands of miles of coastline are exposed to the open ocean. Thus, Alaska is subject to major earthquakes, volcanic eruptions, landslides, snow avalanches, floods, tsunamis, and many local or chronic hazards, such as permafrost, that can be costly for property owners over a long period of time. Effective mitigation efforts have greatly reduced these costs in other states.

Although the number of major natural events in the recent past is high, few events have significantly affected the general public because of Alaska's relatively sparse population and vast, thinly inhabited areas. Major events will continue to occur intermittently as in the recent geologic past, and with increasing development, the probability will increase that people, businesses, property, and critical facilities will be affected.

Experience in other states demonstrates that local ordinances are among the most effective means of mitigating natural hazards. State governments generally provide guidelines, technical information, and the requirement or incentives for local adoption of risk-reduction measures. All municipalities in Alaska have zoning authority that can incorporate hazard-mitigation measures. Flood-plain-management ordinances have been adopted in at least 20 cities and boroughs. Other hazards have been only generally addressed. A few local governments have recently begun to independently act on

specific issues of local concern. Most major municipalities have adopted the Uniform Building Code published in 1982 by the International Conference of Building Officials (ICBO). Although this code provides detailed requirements for earthquake-resistant design and construction, it does not provide comprehensive construction and siting requirements for other hazards.

The purposes of this report are fourfold: 1) review geologic-hazard issues in Alaska from an historical perspective; 2) discuss various approaches to hazard mitigation; 3) evaluate hazard-mitigation programs in other states (their strengths, weaknesses, and applicability in Alaska); and 4) review existing state, federal, and local programs dealing with hazards in Alaska. This report also includes a summary of policy recommendations developed in September 1985 during an interagency workshop on earthquake hazards in Alaska. Because major programs of disaster preparedness and response already exist and operate under the Division of Emergency Services and local agencies, these activities are not discussed in detail. This report focuses primarily on activities that reduce the likelihood of injury or damage from natural hazards. Greater emphasis on knowledge of the hazards, public awareness, and effective mitigation measures will reduce vulnerability to hazards and consequently reduce dependence on post-disaster response and relief.

## NATURAL DISASTERS IN ALASKA

From 1964 to 1981, there were seven presidential declarations of disaster in Alaska, an average of one every 2.5 yr. These natural disasters included one major earthquake, three floods, one heavy rain and landslide, one severe freeze, and a major fire during a severe freeze. Although a total of about \$76 million in federal aid was provided, it was far short of the total estimated damages. For example, of the \$350 million estimated damages that resulted from the 1964 Great Alaska Earthquake in 1964, about \$56 million in federal aid was provided. Except for restoration work performed directly by the U.S. Army Corps of Engineers, the remaining burden fell on state and local governments, private businesses, and individuals. Following the Chena River flood in Fairbanks in August 1967 (fig. 1), which resulted in damages that totaled about \$84 million (Pewé, 1982), the federal government provided \$7.3 million in direct financial aid (Federal Emergency Management Agency, 1982).

In addition to disaster declarations by the President, for which federal relief funds are available, the Governor of Alaska is authorized to make disaster declarations for which state relief funds are provided, generally through the Alaska Division of Emergency Services (ADES). State funds may supplement federal-relief funds for presidentially declared disasters, but more often are used to provide relief after events that are not declared disasters at the federal level. From January 1973 to February 1982, no disasters were declared in Alaska by

RESOLUTION OF THE ALASKA MUNICIPAL LEAGUE

RESOLUTION NO. 86-14

A RESOLUTION IN SUPPORT OF THE ESTABLISHMENT  
OF AN ALASKA NATURAL HAZARDS SAFETY COMMISSION.

WHEREAS, natural processes will continue to cause potentially damaging events in Alaska, such as earthquakes, floods, volcanic eruptions, tsunamis, and landslides, and

WHEREAS, continued population growth and development in Alaska increase the likelihood that people and property will be adversely affected by these events, and

WHEREAS, technology is available to identify natural hazards, determine their probable severity, and reduce their adverse effects on people and property, and

WHEREAS, public safety and economic security from natural hazards in Alaska would benefit substantially from improvements in state and local policies to mitigate hazards through proper land-use and construction practices, and


WHEREAS, numerous federal, state, local, academic, and private organizations perform research or have other responsibilities related to hazard mitigation or disaster preparedness in Alaska without an established means of coordination, and

WHEREAS, there exists a general lack of public awareness of natural hazards in Alaska and a lack of understanding of means to alleviate their adverse effects, and


WHEREAS, improved policy guidance, coordination of activities, and promotion of public education in hazard mitigation and disaster preparedness are best accomplished through a state-level commission composed of members from the public and private sectors;

NOW, THEREFORE, BE IT RESOLVED that the Alaska Municipal League supports enactment of Senate Bill 310 (1985), "An Act establishing the Alaska Natural Hazards Safety Commission".

Adopted this 16th day of November 1985

  
LEO B. RASMUSSEN, President

ATTEST:

  
SCOTT A. BURGESS, Executive Director

RESOLUTION NO. 85-080

A RESOLUTION IN SUPPORT OF THE ESTABLISHMENT  
OF AN ALASKA NATURAL HAZARDS SAFETY COMMISSION

WHEREAS, natural processes will continue to cause potentially damaging events in Alaska, such as earthquakes, floods, volcanic eruptions, tsunamis, and landslides; and

WHEREAS, CONTINUED POPULATION GROWTH AND DEVELOPMENT IN Alaska increase the likelihood that people and property will be adversely affected by these events; and

WHEREAS, technology is available to identify natural hazards, determine their probable severity, and reduce their adverse effects on people and property; and

WHEREAS, public safety and economic security from natural hazards in Alaska would benefit substantially from improvements in state and local policies to mitigate hazards through proper land-use and construction practices; and

WHEREAS, numerous federal, state, local, academic, and private organizations perform research or have other responsibilities related to hazard mitigation or disaster preparedness in Alaska without an established means of coordination; and

WHEREAS, there exists a general lack of public awareness of natural hazards in Alaska and a lack of understanding of means to alleviate their adverse effects; and

WHEREAS, improved policy guidance, coordination of activities, and promotion of public education in hazard mitigation and disaster preparedness are best accomplished through a state-level commission composed of members from the public and private sectors,

NOW, THEREFORE, BE IT RESOLVED that the Assembly of the Fairbanks North Star Borough supports enactment of Senate Bill 310 (1985), "An Act establishing the Alaska Natural Hazards Safety Commission", and

BE IT FURTHER RESOLVED that this resolution be offered to the 1985 Alaska Municipal League convention for further support.

PASSED AND APPROVED THIS \_\_\_\_ DAY OF NOVEMBER, 1985.

\_\_\_\_\_  
Presiding Officer

ATTEST:

\_\_\_\_\_  
Clerk of the Assembly



# AMERICAN SOCIETY OF CIVIL ENGINEERS ALASKA SECTION

Branches at  
Anchorage  
Fairbanks  
Juneau

P.O. Box 73354  
Fairbanks, AK 99707  
January 24, 1986

Governor Bill Sheffield  
State of Alaska  
Pouch A  
Juneau, Alaska 99811

Dear Gov. Sheffield:

Senate Bill 310 is for an act establishing the Alaska Natural Hazards Safety Commission. Believing that such a commission would help prevent destruction of life and property, the Fairbanks Branch of the American Society of Civil Engineers passed a resolution in favor of the act. We request your support for SB 310. A copy of the bill and our resolution are attached.

Yours truly,

Marilyn Olson, P.E.  
Fairbanks Branch President

RESOLUTION IN SUPPORT OF SENATE BILL 310 (1985):

"AN ACT ESTABLISHING THE  
ALASKA NATURAL HAZARDS SAFETY COMMISSION"

WHEREAS, natural processes will continue to cause potentially damaging events in Alaska, such as earthquakes, floods, volcanic eruptions, tsunamis, and landslides; and

WHEREAS, continued population growth and development in Alaska increase the likelihood that people and property will be adversely affected by these events; and

WHEREAS, technology is available to identify natural hazards, determine their probable severity, and reduce their adverse effects on people and property; and

WHEREAS, public safety and economic security from natural hazards in Alaska would benefit substantially from improvements in state and local policies to mitigate hazards through proper land-use and construction practices; and

WHEREAS, numerous federal, state, local, academic, and private organizations perform research or have other responsibilities related to hazard mitigation or disaster preparedness in Alaska without an established means of coordination; and

WHEREAS, there exists a general lack of public awareness of natural hazards in Alaska and a lack of understanding of means to alleviate their adverse effects; and

WHEREAS, improved policy guidance, coordination of activities, and promotion of public education in hazard mitigation and disaster preparedness are best accomplished through a state-level commission composed of members from the public and private sectors;

NOW, THEREFORE, BE IT RESOLVED that *the Fairbanks Branch of the American Society of Civil Engineers* strongly supports enactment of Senate Bill 310 (1985), "An Act establishing the Alaska Natural Hazards Safety Commission", and

BE IT FURTHER RESOLVED that copies of this resolution be sent to Governor Sheffield and all state legislators.

PASSED AND APPROVED THIS 20th DAY OF Dec., 1985.

*Marilyn Olson*  
President

# STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

## DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

February 25, 1986

POUCH B  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-4700

949 E. 36TH AVENUE, SUITE 400  
ANCHORAGE, ALASKA 99508  
PHONE: (907) 563-1073

### POSITION PAPER

RE: SB 310

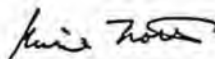
SPONSORS: Senators Sturgulewski, Fischer,  
and Zharoff

Effects of Bill: This bill would establish a Natural Hazards Safety Commission composed of eleven members to address hazards mitigation and disaster preparedness issues.

Comments: The Department of Community and Regional Affairs supports the bill as a rational way to address the vital need to coordinate the activities of hazard-related programs and public safety practices at all governmental levels and in the private sector.

Flooding is one of the major natural hazards that regularly occurs in Alaska. Major rivers almost on an annual basis produce floods which cause significant property damage and threaten the health and safety of Alaskan residents. The Department of Community and Regional Affairs is the coordinating office of the National Flood Insurance Program. The potential flood hazard mitigation and post-disaster floodplain management duties of the proposed Commission would benefit greatly our Department's floodplain management community assistance program.

Because of the Department's interest and active involvement in the area of natural hazard mitigation and management, the Department believes SB 310 should be amended to provide for a representative from the Department of Community and Regional Affairs. Even though the existing bill provides for a local government representative, the addition of a DCRA representative would enhance the link between local governments and the hazard mitigation functions of the Natural Hazards Safety Commission.

  
\_\_\_\_\_  
Emil Notti, Commissioner

S B

5 2 3

Introduced: 1/13/86  
Referred: State Affairs  
and Judiciary

1 IN THE SENATE

BY RAY

2

SENATE BILL NO. 323

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 suspension and revocation of a  
7 minor's license to drive and the definition of driv-  
8 er's license; and providing for an effective date."

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

10 \* Section 1. AS 28.15 is amended by adding a new section to read:

11 Sec. 28.15.163. ADMINISTRATIVE SUSPENSION OF A MINOR'S LICENSE.

12 (a) In addition to any other authority in this chapter to cancel,  
13 suspend or revoke a driver's license, the department shall suspend a  
14 minor's license to drive upon receipt of a record of conviction or  
15 adjudication of a violation of an offense listed in AS 28.15.185(a).  
16 The department shall impose the suspension as follows:

17 (1) for a first conviction or adjudication, the suspension  
18 shall be for one year or until the person reaches 17 years of age,  
19 whichever is longer.

20 (2) for a second or subsequent conviction or adjudication,  
21 the suspension shall be for one year or until the person reaches 18  
22 years of age, whichever is longer.

23 (b) If the department receives notice from a court that it has  
24 restored a minor's license to drive under AS 28.15.185(b), the depart-  
25 ment shall immediately reinstate a driver's license that has been  
26 suspended under this section.

27 \* Sec. 2. AS 28.15 is amended by adding a new section to read:

28 Sec. 28.15.185. COURT REVOCATION OF A MINOR'S LICENSE TO DRIVE.

29 (a) A person who is at least 13 years of age, but not older than 17

1 years of age who is convicted, or adjudicated by a juvenile court, of  
2 having committed one of the following offenses shall have the person's  
3 driver's license revoked:

4 (1) misconduct involving a controlled substance (AS 11.71);

5 (2) possession or consumption of alcohol (AS 04.16.050).

6 (b) Upon conviction or adjudication of an offense listed in (a)  
7 of this section the court may, upon petition of the person, review the  
8 revocation and may restore the driver's license, except a court may  
9 not restore the driver's license for a period of

10 (1) 90 days for the first conviction or adjudication;

11 (2) one year for second or subsequent convictions or adju-  
12 dications.

13 \* Sec. 3. AS 28.40.100(a)(5) is amended to read:

14 (5) "driver's license" or "license" when used in relation  
15 to driver licensing, means a license, permit or privilege to obtain a  
16 driver's license, whether or not a person holds a valid license issued  
17 in this or another jurisdiction, to drive a motor vehicle under the  
18 laws of this state;

19 \* Sec. 4. AS 47.10.080(g) is amended to read:

20 (g) Except for purposes of driver's licensing under AS 28.15.-  
21 163, an [NO] adjudication under this chapter upon the status of a  
22 child may not operate to impose any of the civil disabilities ordi-  
23 narily imposed by conviction upon a criminal charge, nor may a minor  
24 afterward be considered a criminal by the adjudication, nor may the  
25 adjudication be afterward deemed a conviction, nor may a minor be  
26 charged with or convicted of a crime in a court, except as provided in  
27 this chapter. The commitment and placement of a child and evidence  
28 given in the court are not admissible as evidence against the minor in  
29 a subsequent case or proceedings in any other court, nor does the

1 commitment and placement or evidence operate to disqualify a minor in  
2 a future civil service examination or appointment in the state.

3 \* Sec. 5. AS 47.10.090(a) is amended to read:

4 (a) The court shall make and keep records of all cases brought  
5 before it. The court's official records may be inspected only with  
6 the court's permission and only by persons having a legitimate inter-  
7 est in them. All information and social records pertaining to a minor  
8 and prepared by an employee of the court or by a federal, state or  
9 city agency in the discharge of the employee's or agency's official  
10 duty, are privileged and may not be disclosed directly or indirectly  
11 to anyone without the court's permission. However, a state or city  
12 law-enforcement agency shall disclose information regarding a case  
13 which is needed by the person or agency charged with making a prelimi-  
14 nary investigation for the information of the court. The court shall  
15 forward a record of adjudication of a violation of an offense listed  
16 in AS 28.15.185(a) to the Department of Public Safety. Within 30 days  
17 of the date of a minor's 18th birthday or, if the court retains juris-  
18 diction of a minor past the minor's 18th birthday, within 30 days of  
19 the date on which the court relinquishes jurisdiction over the minor,  
20 the court shall order sealed all the court's official records, infor-  
21 mation and social records pertaining to that minor, as well as records  
22 of all criminal proceedings against the minor and punishments assessed  
23 against the minor except for traffic offenses. A person may not use  
24 these sealed records for any purpose except that the court may order  
25 their use for good cause shown or may order their use by an officer of  
26 the court in making a presentencing report for the court.

27 \* Sec. 6. This Act takes effect September 1, 1986.

## Senate Bill 323

This bill is modeled after the State of Oregon law titled "Youth Substance Abuse and Driving Accident Prevention". A young person (between the ages of 13-17) is denied driving privileges for alcohol or controlled substance violations. Suspension for the first conviction or adjudication is one year or until the person reaches 17. Suspension for the second conviction or adjudication is one year or until the person reaches 18.

### Section 1

Adds new language- after an adjudicative hearing (all minors do not go to court for violations) for specific violations, a minor's drivers license, permit, or privilege to obtain a license, will be suspended.

### Section 2

Adds new language- the court can revoke a minor's drivers license, permit, or privilege to obtain a license for specific violations.

### Section 3

Adds new language to the definition of driver's license or license. (Fixes a loophole in the definition a license, because of the successful lawsuit of Roberts vs the State of Alaska, the state could not suspend the right to drive if there is no license to suspend)

### Section 4

Adds new language for consistency within the statute.

### Section 5

Adds new language- that the Court can forward the names of juveniles who are adjudicated for certain violations to the Department of Public Safety

### Section 6

Effective date clause

AK - Good Idea!



CITY/BOROUGH OF JUNEAU  
★ ALASKA'S CAPITAL CITY

10002 Glacier Hwy., Rm. 201  
Juneau, AK 99801 (907) 789-4889

September 11, 1985

Senator Bill Ray  
Alaska State Capitol  
Pouch Y  
Juneau, AK 99811

Dear Senator Ray:

What can we do to help stop our youth from drinking and driving?

The state of Oregon has found the answer! In 1984 they adopted a law called "Youth Substance Abuse and Driving Accident Prevention". Since the law was adopted in September of 1984 the Division of Motor Vehicles of Oregon has denied driving privileges to more than 1,292 youths. (See attachments)

As supervisor of the local alcohol/drug abuse clinic I know there is an extremely high correlation between youths receiving minor consuming charges and a year or two later showing up at the clinic with a DWI. I feel this type of legislation has a twofold beneficial effect: it will initially make our roads safer and secondly it will help to impact the severity of drinking and driving on our youth.

Please give this legislation your careful attention!

If I can be of any assistance please call on me!

Sincerely,

W J PLATTE  
Clinical Supervisor

WJP/bjl

*Henry*

Enrolled

# House Bill 2975

Sponsored by Representatives LOMBARD, AGRONS, ANDERSON, BELLAMY, BROGOITTI, CALOURI, DeBOER, FARMER, FORD, HARPER, MARKHAM, MILLER, PARKINSON, VAN VLIET, VanLEEUWEN, YOUNG, ZAJONC, Senator THORNE, Representatives BURROWS, JOHNSON, D. JONES, Senators HANNON, HEARD (at the request of Wes Smith, Principal, Ashland Jr. High School)

CHAPTER.....

## AN ACT

Relating to driving privileges; creating new provisions; and amending ORS 482.470.

Be It Enacted by the People of the State of Oregon:

SECTION 1. (1) Whenever a person who is 17 years of age or younger, but not younger than 13 years of age, is convicted of any offense described in this subsection or determined by a juvenile court to have committed one of the described offenses, the court in which the person is convicted shall prepare and send to the Motor Vehicles Division, within 24 hours of the conviction or determination, an order of denial of driving privileges for the person so convicted. This section applies to any crime, violation, infraction or other offense involving the possession, use or abuse of alcohol or controlled substances.

(2) If a court has issued an order of denial of driving privileges under this section, the court, upon petition of the person, may review the order and may withdraw the order at any time the court deems appropriate except as provided in the following:

(a) A court may not withdraw an order for a period of 90 days following the issuance of the order if it is the first such order issued with respect to the person.

(b) A court may not withdraw an order for a period of one year following the issuance of the order if it is the second or subsequent such order issued with respect to the person.

SECTION 2. Section 3 of this Act is added to and made a part of ORS chapter 482.

SECTION 3. (1) In addition to any other authority to suspend driving privileges under this chapter, the division shall suspend all driving privileges of any person upon receipt of an order of denial of driving privileges under section 1 of this 1983 Act. The suspension shall be imposed without hearing. The driving privileges of the person shall be suspended as provided in the following:

(a) Upon receipt of the first order denying driving privileges, the division shall impose a suspension for one year, or until the person so suspended reaches 17 years of age, whichever is longer.

(b) Upon receipt of a second or subsequent order denying driving privileges, the division shall suspend for one year or until the person reaches 18 years of age, whichever is longer.

(2) If the division receives notice from a court that it has withdrawn an order issued under section 1 of this 1983 Act, the division shall immediately reinstate any driving privileges that have been suspended under this section because of the issuance of the order.

SECTION 4. ORS 482.470 is amended to read:

482.470. (1) The division shall not suspend a license for a period of more than one year except:

- (a) As provided in ORS 482.430 (3) and (4) and section 3 of this 1983 Act;
- (b) As provided in ORS 482.440 in the case of offenses which, if committed by a driver under ORS 482.430, would result in mandatory suspension or revocation for more than one year;
- (c) When the suspension results from failure to obtain medical clearance when requested to do so under ORS 482.260 (1)(d)(B);
- (d) When the driver fails to complete reexamination as required under ORS 482.260 (4); or
- (e) When the driver fails to complete a requirement of ORS 482.850.

(2) When the operator's or chauffeur's license of any person has been suspended, the division shall not issue an operator's or chauffeur's license to the person prior to the expiration of the suspension period, except as otherwise provided in this chapter.

(3) When any license is suspended or revoked it shall be surrendered to and retained by the division. Upon the conviction of any operator or chauffeur for any offense which by this chapter is cause for mandatory suspension or revocation, the court in which the conviction was had shall issue an order of suspension or revocation, take up the operator's or chauffeur's license and immediately forward the license and a copy of the order to the division. When necessary to give full effect to this section, the court shall issue a temporary operator's permit, on a form provided by the division, to the convicted person which shall be valid until midnight of the day of the conviction. At the end of the period of suspension upon a license so surrendered, it shall be returned to the licensee upon request being made to the division by the licensee. However, the division may require the licensee to furnish evidence to the effect that the licensee is qualified to continue as an operator or chauffeur under this chapter, before returning the license.

SECTION 5. Section 6 of this Act is added to and made a part of ORS chapter 482.

SECTION 6. Notwithstanding any suspension of driving privileges under section 3 of this 1983 Act, the division may issue a special temporary permit described under ORS 482.160 (2) to a person whose driving privileges are suspended under section 3 of this 1983 Act if the person qualifies for the special temporary permit. For purposes of this section an emergency situation that leaves the applicant with no alternative means to travel to and from school is an emergency for purposes of ORS 482.160 (2) in addition to other emergency situations.

SECTION 7. If House Bill 2965 becomes law, section 6 of this Act is repealed and section 8 of this Act is enacted in lieu thereof.

SECTION 8. Notwithstanding any suspension of driving privileges under section 3 of this 1983 Act or ORS 165.805 or 471.430, the division may issue a special temporary permit described under ORS 482.160 (2) to a person whose driving privileges are suspended under section 3 of this 1983 Act or under ORS 165.805 or 471.430 if the person qualifies for the special temporary permit. For purposes of this section an emergency situation that leaves the applicant with no alternative means to travel to and from school is an emergency for purposes of ORS 482.160 (2) in addition to other emergency situations.

Passed by House June 16, 1983

Repassed by House July 15, 1983

\_\_\_\_\_  
Chief Clerk of House

\_\_\_\_\_  
Speaker of House

Passed by Senate July 11, 1983

\_\_\_\_\_  
President of Senate

Received by Governor:

..... M., ..... 1983

Approved:

..... M., ..... 1983

.....  
Governor

Filed in Office of Secretary of State:

..... M., ..... 1983

.....  
Secretary of State

## 600 denied privileges

More than 600 Oregon youths between the ages of 13 and 17 were denied driving privileges during the first six months in 1985, according to Motor Vehicles Division.

Denials are based on court convictions involving alcohol or drug

possession, use or abuse. Courts then order DMV to deny licenses.

Most of the 627 denials ordered during the first six months of this year were for alcohol offenses. Minors in possession of alcohol or drugs accounted for 577, or 92 percent of the total. Twenty-seven denials were for having an open container or drinking alcohol in a motor vehicle, and eight were for driving under the influence.

Fifteen denials were ordered for miscellaneous alcohol and drug offenses, such as theft, delivery or manufacturing of a controlled substance.

Males accounted for 74 percent of the 627 total.

Denials of driving privileges for first offenders is one year or until the person becomes 17, whichever is longer. Repeat offenders are suspended for a year or until the person becomes 18, whichever is longer.

DMV statistics show 62 second denials and four third denials (all males) during the first six months of 1985.



# Licenses revoked

*Myrtle Point, Oregon 10/31/84*

Seventy-one young people were denied driving privileges by court order during September. Denials were based on violations of alcohol or drug laws by young people between the ages of 13 and 17.

Most of the young people (48) who were denied driving privileges last month were males. The most frequent reason for denial was "minor

in possession of alcohol" which, alone, accounted for 76 percent (54) of the court ordered denials.

The Motor Vehicles Division's administrator, David P. Moonaw, said that the September figure brings the number of denials so far this year to 692. The law took effect late in 1983.

Other grounds for denial last month were minor in possession of drugs, 11; having an open container of an alcoholic beverage in a motor vehicle, 4; and intoxicated minor (not related to driving), 2.

Three denials were for 13-years olds. Five were 14 years old; 10 were 15 years old; 21 were 16 years old and 32 were 17 years old.

Under the law, denial means no license can be issued or a license already issued must be taken away for one year or until the person becomes 17, whichever is longer. Repeat offenders, however, are suspended or denied a license for one year or until the person becomes 18, whichever is longer.

and when they supply convey a certain impression of unreliability, and it is proper to demand that some evidence of their credibility and reliability be shown. One practical way of making such a showing is to point to accurate information which they have supplied in the past.

*Erickson*, 507 P.2d at 517 (footnote omitted).

[4] Somewhat surprisingly, courts faced with anonymous informants in contexts similar to this one have been willing to characterize the informant as a citizen informant. See, e.g., *Campbell v. State Department of Licensing*, 31 Wash.App. 533, 644 P.2d 1219, 1220 n. 1 (1982). Upon closer examination, however, the reason becomes clear. Informants from the criminal milieu are distrusted because they often give evidence against the defendant: (1) for pay; (2) for immunity from punishment; or (3) for personal advantage or vindication. See *Evans v. State*, 550 P.2d 830, 843 & n. 35 (Alaska 1976). Since the informant here is anonymous and his tip conveyed by phone through a police dispatcher, it is unlikely that he gave information in expectation of any one of these rewards. While the possibility of an anonymous informant's hostility to the defendant motivating a false claim is always present, it is of less significance in the context of a R.E.D. D.I. report than other considerations. A primary reason for distrusting anonymous informants is the fear that there will in fact be no informant and that the officer will utilize a fictional informant to account for information which in fact was illegally obtained or to justify a search or seizure based on an unsupported hunch that ultimately proved accurate. The court must always be sensitive to the risk that an alleged informant is fictitious. Where the circumstances reduce the risk that the police have fabricated an informant in order to base a search or seizure on illegally obtained evidence or to justify a successful hunch, courts are more likely to classify an anonymous informant as a "citizen informant." See, e.g., *Commonwealth v. An-*

[P]olice at the Boston Greyhound terminal were summoned by a dispatcher and handed a note saying that there was a black man wearing a blue hat carrying a brown paper bag who had a gun and narcotics on the bus from New York to Boston. The dispatcher explained that the note had been given by a bus driver, who in turn received it from a man in a toll booth who said he had been thrown into the booth by someone on a New York to Boston bus, who passed the other bus and arrived at the terminal ahead of it. The bus from which the note had been thrown then arrived, and the first passenger to exit was a black man with a blue hat carrying a brown paper bag, who walked briskly when he saw the police on the scene. In upholding the stop which was then made, the court properly emphasized (i) that the police could not be faulted for not having more details, and (ii) that there was no risk of fabrication.

LaFave then quotes from the case:

In this case we are of the opinion that there exists indicia of reliability to sustain the police officer's actions. First, the inference could be drawn from the note that the informant was on the same bus as the defendant and very probably based his information on personal observations. The brevity and the lack of detail of the note are explainable by a need to act quickly in getting the message to the toll booth operator for the authorities. It is not unimportant that the message was in writing and was passed on by some disinterested citizen, thus eliminating the possibility of a police fabrication which is a principal concern in assessing the propriety of a threshold inquiry launched by an anonymous tip.

3 W. LaFave, *supra*, § 9.3, at 102-03, quoting *Anderson*, 318 N.E.2d at 838. The facts here are substantially similar to those in *Anderson*. The informant reported

is that he observed Effenbeck and reached the conclusion that Effenbeck was intoxicated based on that observation. The brevity and lack of detail in the description are explainable by the informant's need to act quickly to get the message to the police so that they could intercept Effenbeck before he injured someone. Finally, the circumstances virtually eliminate the possibility of police fabrication.

A further comment by Professor LaFave aptly:

Finally, it must be acknowledged that stoppings for investigation are not all of one kind and that in some instances the need for immediate action may be so great that substantial doubts about the reliability of the informant or his information cannot be permitted to stand in the way of prompt police action. But the fact that this is so in certain extraordinary situations is not to suggest that the same sacrifice of reliability must be made across the board in stopping-for-investigation cases.

3 W. LaFave, *supra*, § 9.3, at 103. LaFave goes on to distinguish cases such as this one where police action is necessary to intercept and prevent injurious conduct and cases where an investigatory stop is made to seize drugs or gambling paraphernalia. *Id.* at 103-04. In Alaska, our supreme court has essentially limited investigatory stops to the first situation. See *Ebona v. State*, 577 P.2d 698, 700 (Alaska 1978); *Coleman v. State*, 553 P.2d 40, 43 (Alaska 1976). Given the information the officer had, corroborated in part by his observing Effenbeck leaving a bar parking lot, we are satisfied that the exigencies of this situation warranted the investigatory stop.

The judgment of the district court is AFFIRMED.

\* Johnstone, Superior Court Judge, sitting by assignment made pursuant to article IV, section

Roberts

v.  
STATE of Alaska, Appellee.

No. A-312.

Court of Appeals of Alaska.

May 31, 1985.

Defendant was convicted of driving while his license was suspended, and defendant filed motion for postconviction relief. The District Court, Third Judicial District, Anchorage, Natalie K. Finn, J., denied motion, and defendant appealed. The Court of Appeals, Bryner, C.J., held that defendant who did not have valid driver's license in any jurisdiction when State purported to suspend his privilege to drive could not be convicted of offense of driving while license was suspended.

Reversed.

Automobiles §326

Defendant who did not have valid driver's license in any jurisdiction when State purported to suspend his privilege to drive could not be convicted of offense of driving while license was suspended. AS 28.15.011(a), 28.15.291, 28.35.230(b)(now AS 28.40.050(b).

James L. Johnston, Anchorage, for appellant.

Russell S. Babcock, Asst. Dist. Atty., Victor C. Krumm, Dist. Atty., Anchorage, and Norman C. Gorsuch, Atty. Gen., Juneau, for appellee.

OPINION

Before BRYNER, C.J., SINGLETON, J., and JOHNSTONE, Superior Court Judge.

16 of the Constitution of Alaska.

700 P 4 815

of driving while his license was suspended (DWLS), in violation of AS 28.15.291. He later filed a motion for post-conviction relief, seeking to set aside his conviction based on this court's decision in *Francis v. Anchorage*, 641 P.2d 226 (Alaska App.1982). District Court Judge Natalie K. Finn denied the motion. Roberts has appealed, claiming that the District Court erred in failing to vacate his DWLS conviction. We reverse.

Roberts has apparently never had an Alaska driver's license. It is uncontested that his California driver's license expired sometime during or prior to 1981. In 1982 and 1983 the State of Alaska purported to suspend Roberts' driver's license or privilege to drive based on (1) a conviction for driving while intoxicated, (2) an accumulation of points, and (3) failure to provide proof of financial responsibility.

Subsequently, on June 8, 1983, Roberts was arrested for DWLS. After being convicted of that offense, Roberts moved to have the conviction vacated. He argued that, since he did not have a valid driver's license in any jurisdiction when the state purported to suspend his privilege to drive in 1982-1983, he had no license or driving privilege to suspend. Accordingly, Roberts

1. At the time of Roberts' offense, AS 28.15.291 provided in relevant part:

*Driving while license cancelled, suspended, or revoked, or in violation of limitation.*

(a) No person may drive a motor vehicle on a highway or vehicular way or area in this state at a time when his driver's license, or privilege to drive in this state if he is licensed in another jurisdiction, has been cancelled, suspended or revoked, or when he is driving in violation of the limitation placed upon his license, even when he is driving under a license issued in another jurisdiction....

2. We have previously held, as a matter of policy, that an attack to the validity of an administrative license suspension could not properly be raised for the first time collaterally, in a prosecution for DWLS. See *McClain v. State*, 641 P.2d 1245 (Alaska App.1982). Our decision in *McClain*, however, involved a non-judicial challenge—one that did not implicate the authority of the suspending agency. We note that cases from other jurisdictions have drawn distinctions between collateral challenges involv-

ing the District Court of his post conviction motion, Roberts appeals, reasserting the argument he raised below.<sup>2</sup>

In *Francis v. Anchorage*, 641 P.2d 226 (Alaska App.1982), we considered a claim which was similar to the one raised by Roberts. *Francis* involved a fifteen-year old driver who was convicted of DWLS under section 9.12.010(B) of the Anchorage Municipal Code.<sup>3</sup> Prior to Francis' DWLS arrest, the state had suspended his driving privilege for failure to furnish proof of financial responsibility following an accident. Francis argued that he could not properly be convicted of DWLS because, at the time the state purported to suspend his driving privilege, he had no license or privilege to suspend. In reversing Francis' conviction, we expressly ruled that a driver's license or privilege to drive cannot properly be suspended unless the driver was in fact licensed or otherwise actually privileged to drive a motor vehicle within the state. Specifically, we held:

In the context of the municipal ordinances and the state's driver's licensing scheme, we conclude that "privilege to drive" must mean some kind of legal authorization to drive. The privilege in this sense follows issuance of a driver's

ing jurisdictional and non-jurisdictional arguments against the validity of a driver's license suspension. See, e.g., *State v. Putman*, 137 Vt. 410, 407 A.2d 161 (1979). Ultimately, we need not decide whether a collateral attack raising jurisdictional questions should generally be adjudicated on its merits in cases such as the present one. Roberts' claim is clearly jurisdictional in nature. Judge Finn ruled on the merits of Roberts' argument below, and the state has not contended, either below or on appeal, that a collateral attack should not be considered in this case. Under these circumstances, we have deemed it appropriate to decide Roberts' claim despite its collateral nature.

3. At the time of Francis' offense, AMC 9.12.010(B) provided:

No person may violate a condition or privilege of such license, nor may any person drive a vehicle while such license is suspended, revoked, refused or cancelled....

requirement. We reject the interpretation suggested by the city that privilege to drive means nothing more than privilege to apply for a driver's license. While we recognize that at age fourteen, Francis had the opportunity under state law to apply for two categories of licenses, such an opportunity gave him no privilege to drive a vehicle on the public streets; that privilege is earned only by successfully completing the application process, including passing a written test, driving test, and eye test.

641 P.2d at 227 (citations omitted).

The only arguably significant distinction we perceive between the present case and *Francis* is that Roberts was convicted of DWLS under state law, while *Francis* was convicted under the Anchorage Municipal Code. Although the state relies on this distinction in urging us not to apply our decision in *Francis* to the present case, we decline to do so. As we noted in our opinion, the DWLS ordinance in *Francis* was analogous to the Alaska Statutes. *Francis*, 641 P.2d at 227. Moreover, while *Francis* was convicted under the municipal DWLS ordinance, it was the state, not the municipality, that had previously purported to suspend Francis' license. The validity of the state suspension was thus the legal issue on which Francis' claim ultimately turned. Since Francis' driving privileges had been suspended under state law rather than city ordinance, our holding in that case was necessarily based on an interpretation of both state and municipal law.

The state nevertheless requests that we consider overruling *Francis*. It advances two arguments in support of this request. Initially, the state relies on former AS 28.35.230(b) (renumbered AS 28.40.050), which states:

(b) A person convicted of a misdemeanor for a violation of a provision of this title for which another penalty is not specifically provided is punishable by a fine of not more than \$500, or by imprisonment for not more than ninety days, or

may be suspended or revoked. (emphasis added).

The state points out that the penalties specified in this statute are applicable to the offense of DWLS, since no penalties are otherwise expressly provided for that offense. See AS 28.15.011(b). The state's argument is that, since a license suspension is expressly authorized under former AS 28.35.230(b), and since that provision applies to persons convicted of DWLS, then it must follow that it is possible to suspend the license, or "privilege to drive," of an unlicensed driver.

The state's argument might seem plausible if former AS 28.35.230(b) were a penalty provision dealing specifically with the offense of DWLS. Yet it is not. Instead, former AS 28.35.230(b) is a generic penalty provision, broadly applicable to violations of all Title 28 provisions for which the specific penalties are given. Consequently, inclusion of license suspension as a possible penalty in AS 28.35.230(b) gives little realistic insight to whether the legislature actually intended unlicensed drivers to be subject to license suspensions.

The state's second statutory argument is based on AS 28.15.011(a), which provides:

(a) No person shall be denied the privilege to drive a motor vehicle upon a highway in this state, except as prescribed by law.

The state argues that the effect of this statute is to confer on all citizens of Alaska a "privilege to drive," which can be restricted only by law. Under this interpretation, all persons—presumably including infants and children—are privileged drivers, and, hence, their driving privileges can be suspended before they are licensed.

The state's interpretation of AS 28.15.011(a) was implicitly rejected by our holding in *Francis*. In our view, the provisions of AS 28.15.011(a) constitute a broad statement of the legislature's intent, in enacting the motor vehicle code, to adopt a statutory scheme that deals with the licensing of Alaska drivers in a comprehensive and uni-

form manner. We do not read this subsection as a legislative commitment to the philosophical concept of an innate privilege to drive.<sup>4</sup>

In short, we discern no basis for holding that this case is not wholly governed by our decision in *Francis*, nor are we convinced of any sound reason for overruling that precedent.

We are not insensitive to the fact that the current statutory scheme governing suspension of driver's licenses and the offense of DWLS, as interpreted by this court in *Francis*, may in certain instances lead to undesirable results. We emphasize, however, that *Francis* comports with Alaska's current statutory language and reflects the result reached in other jurisdictions that have addressed similar issues

4. In any event the state's reading of AS 28.15.011(h) ultimately fails to advance its argument. Assuming that the statute originally vested Roberts with a broad "privilege to drive," it is manifest that, under the provisions of the motor vehicle code, the privilege was extinguished by Roberts' failure to renew his California driver's license or to apply for an Alaska license. Thus, even under the state's theory it would be possible to conclude, that prior to the state's action to suspend driving privilege, his "privilege to drive" had in effect been denied "as prescribed by law." AS 28.15.011(a).

under similar statutory language. See *Francis*, 641 P.2d at 228.

At this stage we believe that the solution for any problems stemming from the current statutory language should properly be resolved through legislative action rather than by the process of judicial interpretation.<sup>5</sup>

The conviction is REVERSED.

COATS, J., not participating.



5. The New York legislature has apparently recently dealt with this issue and remedied prior legislation by expressly providing for suspension of "the privilege to obtain a license." Moreover, for the purposes of the offense of DWLS, New York Statutes expressly define an expired driver's license to fall within the definition of "license." See *People v. Rivera*, 95 Misc.2d 933, 408 N.Y.S.2d 723 (N.Y.Crim.Ct. 1978); *People v. Goodenough*, 89 Misc.2d 455, 391 N.Y.S.2d 940 (N.Y. Justice's Ct. 1977).

Jerry JONES and Sandra Jones, husband and wife, Plaintiffs/Appellees,

v.

PAK-MOR MANUFACTURING COMPANY, Defendant/Appellant.

No. 17412-PR.

Supreme Court of Arizona,  
En Banc.

Jan. 17, 1985.

Garbage collector brought product liability action against manufacturer of garbage compactor for injuries he sustained while riding on exterior of compactor. The Superior Court, Pima County, No. 179374, Robert B. Buchanan, J., entered verdict in favor of plaintiff, and defendant appealed. The Court of Appeals, 700 P.2d 830, affirmed, and defendant petitioned for review. The Supreme Court, Feldman, J., held that: (1) in product liability cases involving a claim of defective design, trial court has discretion to admit evidence of safety history concerning both existence and nonexistence of prior accidents, provided that the proponent establishes the necessary predicate for the evidence, but (2) testimony of manufacturer's president that manufacturer had had no reports of any injuries similar to that sustained by plaintiff was inadmissible.

Opinion vacated in part and approved in part.

1. Products Liability  $\approx$ 81

In products liability actions, although trial court has discretion to admit evidence of prior accidents, rule relating to inadmissibility of evidence of absence of prior accidents is a per se rule.

2. Products Liability  $\approx$ 81

3. Products Liability  $\approx$ 74

In product liability actions based on defective design, relevant issues may include whether defendant should have foreseen the potential danger from use of the product as designed, whether a defect existed, and whether a particular danger was unreasonable, including the likelihood of its causing serious injury. 17A A.R.S. Rules of Evid., Rules 401, 402.

4. Products Liability  $\approx$ 81

In product liability cases involving a claim of defective design, whether based on negligence, strict liability, or both, trial court has discretion to admit evidence of safety history concerning both existence and nonexistence of prior accidents, provided that the proponent establishes the necessary predicate for the evidence. 17A A.R.S. Rules of Evid., Rule 403.

5. Products Liability  $\approx$ 81

In product liability cases involving a claim of defective design, evidence of safety history is admissible on issues pertaining to whether design caused the product to be defective, whether the defect was unreasonably dangerous, whether it was a cause of the accident, or, in negligence cases, whether defendant should have foreseen that the design of the product was not reasonably safe for its contemplated uses. 17A A.R.S. Rules of Evid., Rule 403.

6. Products Liability  $\approx$ 81

In cases involving a manufacturing flaw, fact that product as a whole has a demonstrated safety history is irrelevant. 17A A.R.S. Rules of Evid., Rule 403.

7. Products Liability  $\approx$ 81

In products liability action brought by garbage collector against manufacturer of garbage compactor, testimony of manufacturer's president that during period of time compactor had been in use, manufacturer had received no reports of any injuries similar to those sustained by plaintiff was inadmissible to show product was not de-

POSITION PAPER

SENATE BILL 323

"An Act relating to suspension and revocation of a minor's license to drive and the definition of driver license; and providing for an effective date."

Discussion

Senate Bill 323 will attempt to reduce drinking and drug use by minors, persons under age eighteen, by placing time restrictions on the minor's privilege to obtain or retain a driver's license, if the minor is convicted of misconduct involving a controlled substance or possession or consumption of alcohol. The suspension period for a first offense is one year or until a person reaches the age of 17, whichever is longer, and the suspension period for a second offense is one year or until a person reaches the age of 18, whichever is longer.

This bill is patterned after an Oregon law that was enacted in July, 1983. In 1985, 1510 Oregon youth were denied driving privileges under the provision of this law. Of this number, 94% or 1414 denials were for the offense of possession of alcohol or drugs; 46 denials were for open container violations, 14 for driving under the influence, and 36 were for miscellaneous offenses. Of the 1510 convictions, 1352 were first offenses. 1985 was the second year of experience with this law. It has been reported in the Oregon press that judges in metropolitan areas have been ignoring this law because of heavy case loads or a belief that the penalty is too harsh for the offense.

Drinking and drug use among youth is a serious problem in Alaska. In the six year period of 1979-1984, 42 youth 0-18 years of age have died as a result of alcohol related motor vehicle accidents. According to the 1983 Crime in Alaska report, 1146 minors were arrested for liquor law violations; 336 for drug offenses; 234 for vandalism; and 97 for driving under the influence. Drinking and drug use account for a high number of school suspensions and family discord.

Position

The Department of Health and Social Services is supportive of the approach taken in SB 323 towards the prevention of drinking and drug use by Alaska youth. The privilege to obtain or retain a driver's license is held in high regard by this age group and it is hoped that this strategy will be an effective deterrent indiscriminate use of chemicals. The Department recognizes that the majority of youth drinking and drug use is experimental in nature, nevertheless the strong influence of "peer pressure" upon this age group often results in unplanned use during social interactives. This legislation may serve as a constant reminder that the privilege driving must be earned through responsible behavior. There are statistical indications that a number of Alaska youth have serious problems with chemicals. In 1985, 882 youth 17 years of age and younger had diagnosed problems severe enough to warrant treatment for alcoholism and drug abuse in State funded programs. The Department would like the committee to consider one

possible addition to the bill, a provision that convicted youth be required to undergo a screening process to determine the need for education or treatment. A process similar to the present Alcohol Safety Action Program (ASAP) and state treatment system could be used for this purpose. This process would impact the high risk youth with a more intensive response while providing relevant education to an offender.

The Department will be pleased to provide additional information on drinking and drug use among youth upon request.

Recommended by:

*Matthew C. Felix*  
*Geo. Munday*

Matthew C. Felix  
Coordinator  
Office of Alcoholism/  
Drug Abuse

Date:

1/20/86

Approved by:

*John R. Pugh*

John R. Pugh  
Commissioner  
Department of Health  
& Social Services

Date:

1/22/86

# STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

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

**REQUEST**

Bill/Resolution No. : Senate Bill 323  
 Title : An Act relating to suspension and revocation of a minor's licence to drive  
 Sponsor : Senator Ray  
 Requestor : N/A  
 Date of Request : N/A

**FISCAL DETAIL**

Agency Affected : Health & Social Services  
 BRU : Alcoholism & Drug Abuse  
 Components : Alcohol Abuse Grants

**EXPENDITURES/REVENUES : (Thousands of Dollars)**

| OPERATING         | FY 86 | FY 87 | FY 88 | FY 89 | FY 90 | FY 91 |
|-------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES |       |       |       |       |       |       |
| TRAVEL            |       |       |       |       |       |       |
| CONTRACTUAL       |       |       |       |       |       |       |
| SUPPLIES          |       |       |       |       |       |       |
| EQUIPMENT         |       |       |       |       |       |       |
| LAND & STRUCTURES |       |       |       |       |       |       |
| GRANTS, CLAIMS    |       |       |       |       |       |       |
| MISCELLANEOUS     |       |       |       |       |       |       |
| TOTAL OPERATING   | -0-   | -0-   | -0-   | -0-   | -0-   | -0-   |

|         |     |     |     |     |     |     |
|---------|-----|-----|-----|-----|-----|-----|
| CAPITAL | -0- | -0- | -0- | -0- | -0- | -0- |
|---------|-----|-----|-----|-----|-----|-----|

|         |     |     |     |     |     |     |
|---------|-----|-----|-----|-----|-----|-----|
| REVENUE | -0- | -0- | -0- | -0- | -0- | -0- |
|---------|-----|-----|-----|-----|-----|-----|

**FUNDING : (Thousands of Dollars)**

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

**POSITIONS :**

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

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

Prepared by : Matthew C. Felix  
 Division : Alcoholism/ Drug Abuse

Phone : 586-6201

Date : 1/20/86

Approved by Commissioner : Jon R. Berg  
 Agency : Health and Social Services

Date : 1/22/86

Distribution (by Agency preparing fiscal note):

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

DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER - SB 323

Neutral

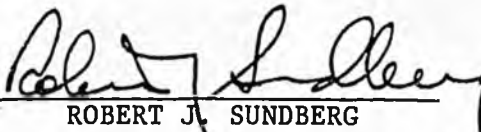
January 20, 1986

SB 323. An Act relating to suspension and revocation of a minor's license to drive and the definition of driver's license.

It appears the bill was drafted by using Oregon law as a model, and not taking into account the difference in how the Courts and DMV operate in the two states. In Alaska the Court is generally empowered with the authority to revoke a driver's license at the time of sentencing for a criminal offense (ie: DWI, Hit & Run, etc.). It is recommended Section 1 of the bill be deleted, and the data be incorporated in Section 2. The bill would then specify the court imposes the revocation, whether it be 90 days, one year, or until a specific age. This would be more in line with current Alaska law, and would eliminate the need for DMV to offer an administrative hearing before the administrative suspension is imposed.

Lines 10 and 11 of Section 5 indicate information concerning the license action could not be disclosed. This would prevent enforcement of the action, thus making it meaningless. In order to allow DMV to enter the license action on the defendant's record line 23 of Section 5 should be amended to reflect ".... except for traffic offenses or license action taken under AS 28.15.163 or AS 28.15.185.".

As a point of information, current law (AS 28.20.240) will require the individual to file and maintain proof of financial responsibility for the future (SR-22 insurance) for three years. If the SR-22 is not filed the license action will continue for that additional three year period.

  
ROBERT J. SUNDBERG  
Commissioner

# STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

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

**REQUEST**

Bill/Resolution No. : SB 323  
 Title : An Act relating to suspension  
and revocation of a minor's  
license to drive....  
 Sponsor : Ray  
 Requestor : Senate State Affairs  
 Date of Request : 1/16/86

**FISCAL DETAIL**

Agency Affected : Public Safety  
 BRU : Motor Vehicles  
 Components : Driver Services

**EXPENDITURES/REVENUES : (Thousands of Dollars)**

| OPERATING              | FY 86 | FY 87       | FY 88       | FY 89       | FY 90       | FY 91       |
|------------------------|-------|-------------|-------------|-------------|-------------|-------------|
| PERSONAL SERVICES      |       | 21.2        | 29.6        | 31.1        | 32.7        | 34.3        |
| TRAVEL                 |       |             |             |             |             |             |
| CONTRACTUAL            |       | 6.8         | 8.4         | 8.8         | 9.2         | 9.7         |
| SUPPLIES               |       | .5          | .6          | .6          | .7          | .7          |
| EQUIPMENT              |       | 8.2         |             |             |             |             |
| LAND & STRUCTURES      |       |             |             |             |             |             |
| GRANTS, CLAIMS         |       |             |             |             |             |             |
| MISCELLANEOUS          |       |             |             |             |             |             |
| <b>TOTAL OPERATING</b> |       | <b>36.7</b> | <b>38.6</b> | <b>40.5</b> | <b>42.6</b> | <b>44.7</b> |

|         |  |  |  |  |  |  |
|---------|--|--|--|--|--|--|
| CAPITAL |  |  |  |  |  |  |
|---------|--|--|--|--|--|--|

|         |  |      |      |       |       |       |
|---------|--|------|------|-------|-------|-------|
| REVENUE |  | 10.0 | 70.0 | 150.0 | 170.0 | 180.0 |
|---------|--|------|------|-------|-------|-------|

**FUNDING : (Thousands of Dollars)**

|               |  |      |      |      |      |      |
|---------------|--|------|------|------|------|------|
| GENERAL FUND  |  | 36.7 | 38.6 | 40.5 | 42.6 | 44.7 |
| FEDERAL FUNDS |  |      |      |      |      |      |
| OTHER         |  |      |      |      |      |      |
| <b>TOTAL</b>  |  |      |      |      |      |      |

**POSITIONS :**

|           |  |   |   |   |   |   |
|-----------|--|---|---|---|---|---|
| FULL-TIME |  | 1 | 1 | 1 | 1 | 1 |
| PART-TIME |  |   |   |   |   |   |
| TEMPORARY |  |   |   |   |   |   |

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

One clerical position will be necessary to handle additional work load, including preparing file, entry of license action on computer, preparing certified copies, notifying individual, maintaining proof of insurance file, preparation of records for microfilm, entry of data on microfilm retrieval system, etc. Cost breakdown attached.

Prepared by : Bill Brown Phone : 465-2650  
 Division : Motor Vehicles Date : 1-16-86

Approved by Commissioner : [Signature] Date : 1-16-86  
 Agency : \_\_\_\_\_

**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 Bill/Resolution No. SB 323

DETAIL

|     |                                  |      |            |
|-----|----------------------------------|------|------------|
| 100 | Personal Services                |      |            |
|     | One Document Processing Clerk II | 21.2 | 21.2       |
| 300 | Contractual                      |      |            |
|     | 310 Postage                      | 2.9  |            |
|     | 382a DP line charges - 1 CRT     | 1.7  |            |
|     | DP data circuit - 1 CRT          | 1.3  |            |
|     | Maintenance - 1 CRT              | .5   |            |
|     | Maintenance - 1 printer          | .4   |            |
|     |                                  | 6.8  | 6.8        |
| 400 | Commodities                      |      |            |
|     | Normal office supplies           | .5   | .5         |
| 500 | Equipment                        |      |            |
|     | 1 CRT terminal                   | 3.0  |            |
|     | 1 CRT feature board              | .8   |            |
|     | 1 printer                        | 1.8  |            |
|     | 1 typewriter                     | 1.2  |            |
|     | 1 desk                           | .6   |            |
|     | 1 chair                          | .2   |            |
|     | 1 file cabinet                   | .3   |            |
|     | 1 CRT table                      | .3   |            |
|     |                                  | 8.2  |            |
|     |                                  |      | 8.2        |
|     |                                  |      | TOTAL 36.7 |

INFORMATION

With the effective date being September 1, 1986, documents will not start being received from the Court until around October 1, 1986. Therefore, personal services for FY87 reflect a nine month period with the employee being hired October 1, 1986. Other items are budgeted accordingly with the first full year being FY88.

FY88 and subsequent years reflect a 5% inflation factor.

REVENUE:

Statutes require payment of a \$100.00 reinstatement fee prior to issuance of a driver's license following a suspension or revocation. The revenue indicated is based on an estimation of the number of minor's whose driving privileges were taken away under this legislation who would not have otherwise lost those privileges, and who will apply for a license and pay the \$100.00 fee.




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# State Legislatures

APR 2 1986

March 1986

The National Conference of State Legislatures 

## SHAPING UP STATE TAX POLICIES: THE PRESSURE IS ON



Preachers and Politics • Purchasing a Computer System  
Child Abuse and the Law

# Taxing Problems Spark State Reforms

By Steven D. Gold

*Ironically, the odds for improving tax policy could increase if state fiscal conditions worsen.*

A guiding principle in many legislative arenas is, "if it ain't broke, don't fix it." Applied to tax policy, however, this dictum can cause serious problems because often a provision is considered "broke" only when important constituents decide it is. Although benign neglect is not necessarily the best policy, it often seems to reign in tax deliberations.

But this attitude may be changing. During the past decade, extreme strain was placed on state tax systems by a set of problems that either are continuing or could resurface in the near future: the tax revolt, the severest recession since the Great Depression, federal aid cutbacks and interstate tax competition.

On top of these carry-over concerns, a new one has emerged during the past two years—federal tax reform, which could have profound impacts on the climate in which states must raise money.

State tax systems are much stronger today than they were 30 years ago. In the 1950s, '60s and '70s, states took major steps to improve the fairness and productivity of their tax systems by adopting many new income and sales taxes. These actions were responses to fiscal crises caused in part by the passage of the baby boomers through public education systems.

But since the early 1970s, many of the important changes in tax structures have occurred through inertia. Inflation, rising income and shifting production and consumption patterns have had perhaps more to do with the level and distribution of taxes than deliberate new policies.

Five crucial facts about state tax systems stand out.

They bring in a great deal of revenue. During the current fiscal

year, state tax collections should top \$225 billion, more than 10 times as much as in 1962 and 3½ times as much as in 1972.

Their growth can be likened to a roller coaster. Tax revenue rose faster than personal income for a quarter century, from the end of World War II to the early 1970s, as states assumed new responsibilities in the federal system. The growth of revenue plunged when the tax revolt hit in the late 1970s and then recovered in 1983 as three-fourths of the states raised tax rates. Since then tax cuts have predominated.

Every state tax system is different.

incomes. Tax levels also differ a great deal. The ratio of state tax revenue to personal income is more than twice as high in 30 states as it is in New Hampshire.

Local taxes are also major parts of state tax systems. States dictate which taxes cities, counties and school districts may use and also influence the level of local taxes by giving financial aid or by paying for local functions. Local tax revenue this fiscal year will be close to \$140 billion. The role of localities in raising revenues differs greatly from one state to another, with local taxes representing only 16 percent of total state and

**State and Local Tax Revenue per \$100 of Personal Income, 1970 to 1985**

| Fiscal Year | Total   | State  |        |                       |               |                 |
|-------------|---------|--------|--------|-----------------------|---------------|-----------------|
|             |         | State  | Local  | Property <sup>1</sup> | General Sales | Personal Income |
| 1985        | \$11.45 | \$7.08 | \$4.37 | \$3.43                | \$2.27        | \$2.11          |
| 1984        | 11.71   | 7.22   | 4.49   | 3.53                  | 2.30          | 2.16            |
| 1983        | 11.07   | 6.69   | 4.38   | 3.47                  | 2.09          | 1.94            |
| 1982        | 11.07   | 6.79   | 4.28   | 3.41                  | 2.10          | 1.91            |
| 1981        | 11.31   | 6.95   | 4.36   | 3.47                  | 2.15          | 1.90            |
| 1980        | 11.57   | 7.13   | 4.45   | 3.55                  | 2.24          | 1.93            |
| 1979        | 12.03   | 7.34   | 4.69   | 3.80                  | 2.32          | 1.92            |
| 1978        | 12.75   | 7.49   | 5.26   | 4.37                  | 2.33          | 1.93            |
| 1977        | 12.81   | 7.39   | 5.42   | 4.55                  | 2.26          | 1.86            |
| 1976        | 12.47   | 7.13   | 5.34   | 4.53                  | 2.18          | 1.71            |
| 1975        | 12.28   | 6.99   | 5.29   | 4.47                  | 2.16          | 1.64            |
| 1974        | 12.36   | 7.05   | 5.31   | 4.51                  | 2.15          | 1.62            |
| 1973        | 11.95   | 7.31   | 5.65   | 4.84                  | 2.13          | 1.68            |
| 1972        | 11.81   | 7.02   | 5.67   | 4.92                  | 2.07          | 1.52            |
| 1971        | 11.81   | 6.48   | 5.40   | 4.74                  | 1.95          | 1.28            |
| 1970        | 11.81   | 6.47   | 5.19   | 4.57                  | 1.91          | 1.24            |

<sup>1</sup>At least 95 percent of property tax revenue is raised by local governments but some state governments also levy a property tax, usually on specific classes of property.

Source: U.S. Census Bureau

Alaska and New Hampshire manage to get along without either a general sales or a personal income tax. Eleven other states have only one or the other. The remaining 37 states levy both but each in its own way. In total, 26 states rely on the sales tax more than the income tax, and 22 get more from the tax on

local revenue in Alaska but 50 percent or more in Colorado, New Hampshire and New York.

The shape of state and local tax systems has changed considerably in the past 15 years. The property tax has been sharply de-emphasized, declining from 4.9 percent of personal in-

Steven D. Gold is director of NCSL's Fiscal Studies program.

come in 1972 to 3.4 percent in 1984. One of the main reasons for this trend was increased reliance on personal income taxes, which jumped from 1.2 percent of personal income to 2.1 percent between 1970 and 1985. States used much of their new income tax money to boost aid for local schools and assume other financial burdens from localities, such as welfare programs.

**D**espite the diversity in taxes, some important developments are occurring that are common to most states—interstate tax competition, erosion of tax bases, increasing instability and reduced responsiveness to economic growth.

State and local governments seem to be competing with each other more avidly than in the past to make themselves attractive to industrial investment. This intensified competition has arisen from many sources, including the especially high unemployment of the early 1980s, the decline of heavy industry in the Rust Belt and agriculture in the Farm Belt, and the increased exposure to international competition everywhere.

Interstate tax competition has resulted in a proliferation of exemptions for business and downward pressure on personal income tax rates. For example, at least a dozen states have exempted inventories from the property tax since 1980. Most of the states with the highest income taxes have been cutting them recently. As Lowell Norland, majority leader of the Iowa House of Representatives, says, "Because of our overriding economic development crusade, we're afraid to be out of step in taxation with other states."

Erosion of tax bases undermines the productivity of tax systems just as soil erosion reduces the yields from farmland. One source of tax base erosion

is new exemptions granted by states, particularly from the sales, property and income taxes. Economic trends may also erode the tax base. Two examples: A portion of pension income is often exempt from income tax; as the population ages, pension income tends to grow faster than wages. Most services are usually exempt from the sales tax; as the service economy develops, exempt sales

tend to grow more rapidly than taxable sales. Result: an eroded tax base. John Mikesell, a sales-tax expert at the University of Indiana, estimates that each penny of sales tax levied in 1984 yielded only 85 percent as much as it did in 1960, per dollar of personal income.

Ben Rose, assistant House minority leader in Ohio, helped put together a proposal for substantially broadening

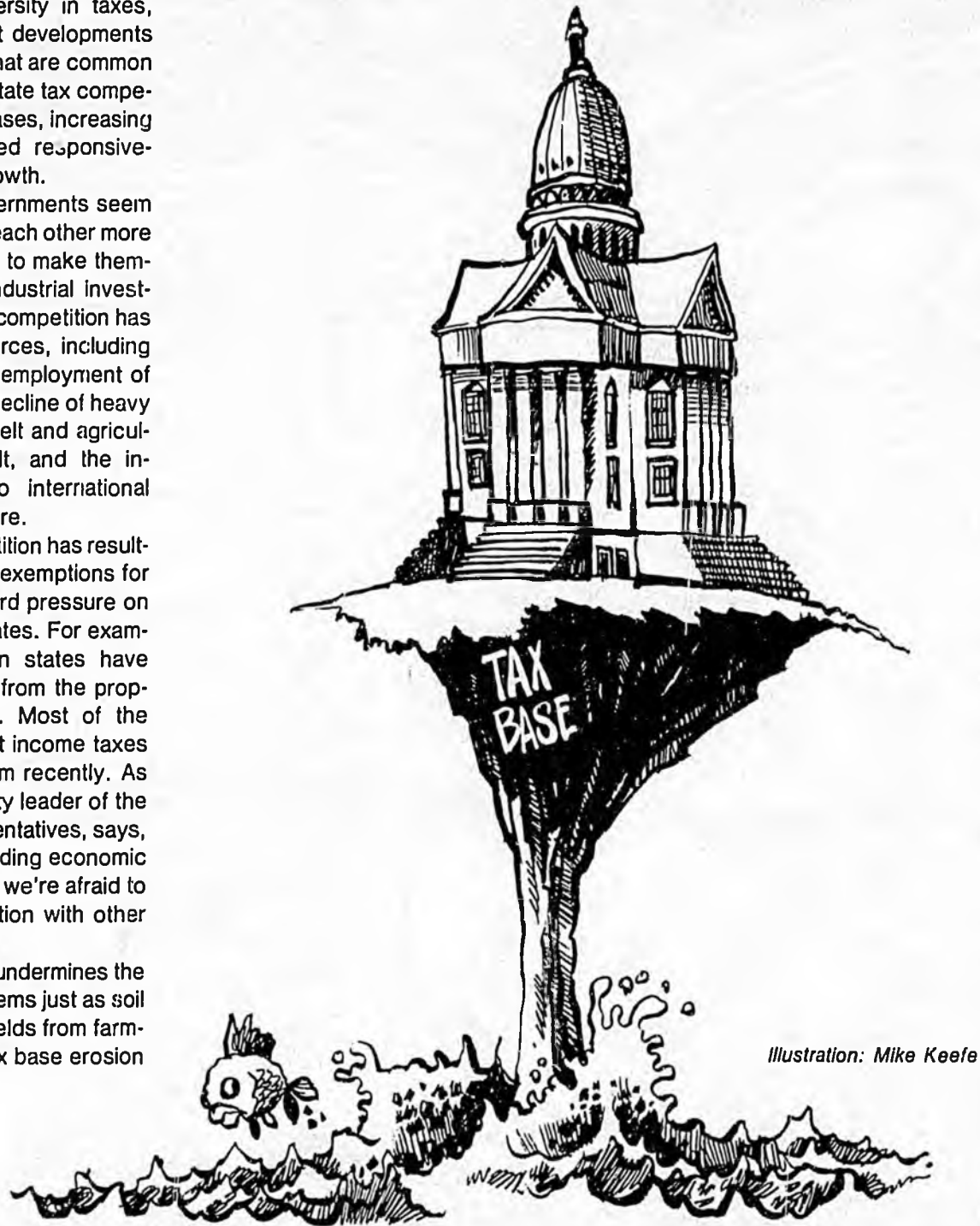


Illustration: Mike Keefe

*Erosion of tax bases—from such factors as exemptions granted by states from sales, property and income taxes as well as from larger economic trends—undermines the productivity of tax systems just as soil erosion reduces the yields from farmland.*

the sales-tax base several years ago. Ohio eventually did extend the sales tax to repairs and data processing services. He warns that trying to tax services is "a tough political thicket," and that interstate tax competition limits the extent to which services can be taxed.

Erosion of the sales-tax base has led to exemption of food and utility outlays in about two-thirds of the sales-tax states and prescription drugs in virtually all states. The result of exempting these and other "necessities" has been to increase the instability of state tax revenue. Formerly when the economy went into a recession, the sales tax continued to produce revenue from such "necessities" while sales of discretionary products plummeted. Now this firm base is no longer taxable in most states.

State tax revenue does not respond as strongly to economic growth as it did in the 1970s because, among other reasons, 10 states adopted income tax indexation, marginal tax rates for high income taxpayers were reduced and exempt income grew relatively rapidly. The U.S. Treasury Department estimates that each 10 percent increase in personal income now produces only 14 percent growth in personal income tax revenue as opposed to 16 percent before 1978.

**B**ecause of these problems, as well as the severe fiscal problems experienced in the early 1980s, nearly half of the states have recently conducted major studies of their tax systems. Despite high hopes for these studies, they have not yet resulted in significant reform in most states.

Why has the implementation of tax reform been so poor?

First of all, reforming state tax systems is not as easy as it used to be. In the 1950s and 1960s the solution to a state's fiscal problems was usually obvious—adopt an income or a sales tax, whichever the particular state was missing. Most states followed that prescription, and now the answers are not so simple.

Secondly, tax reform produces losers as well as winners. Tax commis-

sions often recommend broadening the base of the income and sales taxes and lowering tax rates. These steps tend to even out the tax burden and "provide a level playing field" for business and individuals. But the beneficiaries of tax exemptions that would be eliminated frequently put up a stiff fight in defense of their tax breaks, while the winners from reducing exemptions and lowering rates tend to be silent for two reasons: They may not realize that they are winners, and there are many small winners and a small number of big losers. The political calculus makes it tough to broaden tax bases. Nowhere is this more evident than in extending the sales tax to services. Many legislators and governors contemplated such a policy in the 1980s, but when the dust settled, little had been done to change the status quo. "Politically, you don't want to create any losers, but it's next to impossible to have reform without some losers," says Bill Schreiber, chair of Minnesota's House Tax Committee.

Finally, it takes time to develop a consensus for a major tax change. States don't tinker with the fundamentals of their tax systems very often, so it is not surprising that it could take four or five years to build a coalition for a big tax change. Many of the new income and sales taxes of the 1950s, '60s and early '70s were adopted only after such a prolonged period of discussion, education and controversy.

Recent experience demonstrates that reform is not impossible. Last year two states did enact important reforms: Wisconsin simplified its income tax and West Virginia overhauled its business taxes. The chairman of the West Virginia House Finance Committee, George E. Farley, reports that it took three years of research and persuasion, a lot of patience and an "exorbitant" number of meetings" to push reform through. Even with all that effort, the proposal appeared to be a "long shot" before it was enacted.

The biggest battle in the state tax wars now is not about restructuring taxes, but rather about the role of the personal income tax. Because of tax rollbacks and reductions effective in

1984, income tax revenue rose only an estimated 7.5 percent in fiscal year 1985 compared with an estimated 10.5 percent rise in sales tax revenue. On top of that, 14 states lowered their income taxes during 1985 legislative sessions. Many of these reductions were rollbacks of increases in 1982 or 1983, but four were in states where tax rates had not been increased in the 1980s and three were reductions in rates to below the pre-1982 levels. By contrast, Connecticut was the only state to lower its sales tax, by exempting clothing priced at \$75 or less.

The income tax cuts of 1985 were concentrated in the states with the highest income taxes. Seven of the eight states with the top effective rates reduced their income taxes last year. These actions were at least partly in response to the growing belief that high income taxes deter business investment. While there is some empirical support for this belief, many economists and state officials question the strength of the adverse impact of income taxes on the economy. Special attention is often focused on the highest marginal income tax rate in the state. Wisconsin trimmed its highest rate from 10 percent to 7.9 percent; Delaware's went from 10.7 percent to 9.7 percent; Minnesota's fell from 16 to 14 percent (equivalent to 7 percent for high-bracket taxpayers because federal taxes are deductible) and New York's dipped from 10 percent to 9 percent on earned income over three years.

The flight from income taxes is worrisome to some legislators because the personal income tax is the only major state revenue source that is progressive. Reducing the income tax implies shifting the tax burden away from the well-to-do. Another progressive tax, on inheritances, has also been repealed or reduced recently in a large number of states. New York and Massachusetts targeted special relief to low-income families as part of their income tax cuts, but most states did not do so.

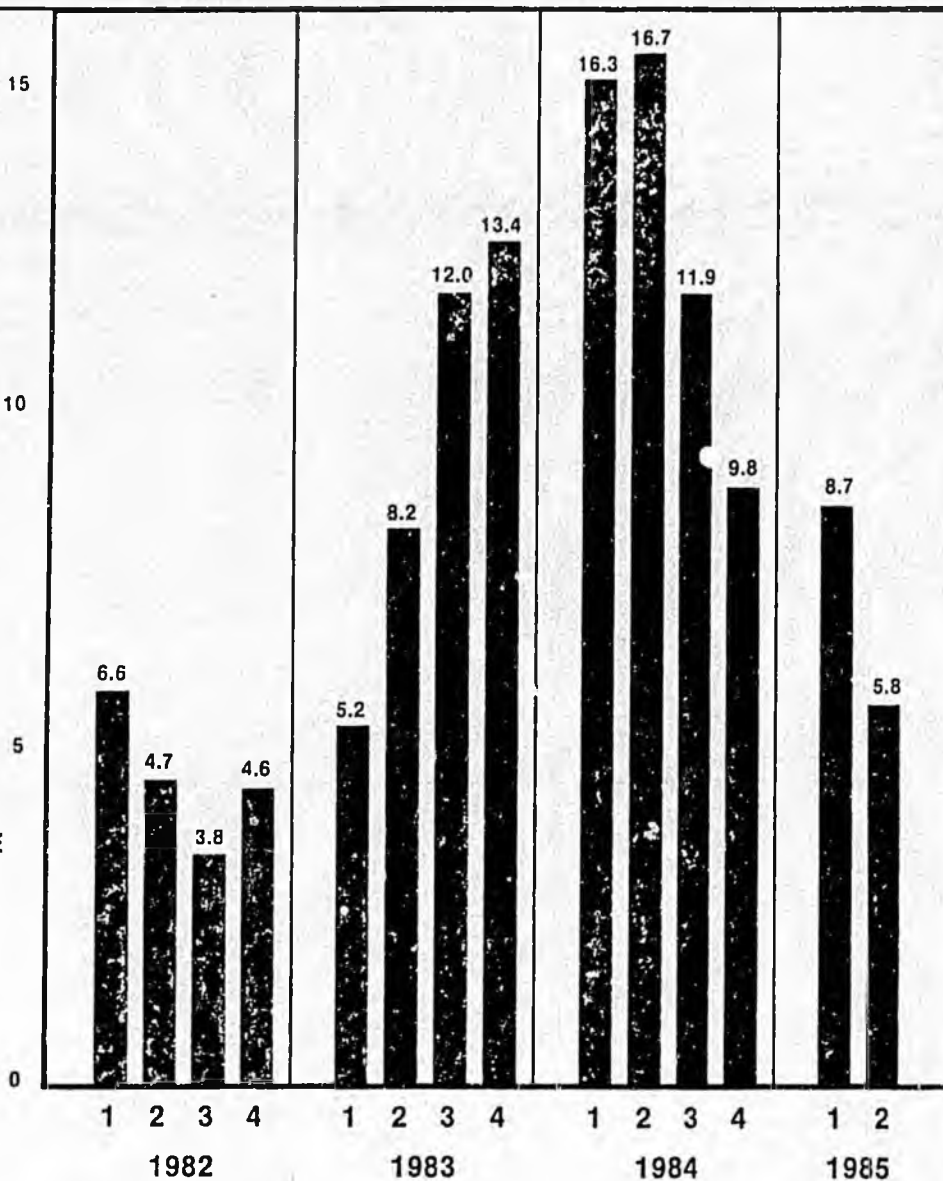
**A**re there any grounds for optimism that states will begin to take tax reform more seriously

## Instability of State Tax Revenue

The chart demonstrates the instability of state tax revenue over the past few years by showing the percentage increase in each three-month period from the beginning of 1982 to the middle of 1985, compared to the corresponding period a year earlier. The growth rate of total state tax revenue fell in early 1982 because of the recession, bottomed out in the third quarter of 1982 and then rose steadily until it peaked at 16.7 percent in the second quarter of 1985. These ups and downs reflect two factors—the speedups and slowdowns of the economy and the imposition and later the lifting of a tax rate increase.

PERCENTAGE INCREASE

YEAR AND QUARTER



—abandoning the path of eroding tax bases and allowing tax systems to develop by inertia? Ironically, the odds for improving tax policy could increase if state fiscal conditions worsen. Adverse factors can still place stress on state tax systems.


The tax revolt, for instance, is not dead but dormant and contributed to the decision to lower income taxes last year. The economy is sure to experience another recession at some point, and it could be a serious one because of the fragility of the domestic and international financial systems. In addition, federal-aid cutbacks could become more severe than they have been since 1982.

Another source of stress is the intense interstate tax competition, which shows no signs of abating. Federal tax reform also could create new dilemmas for states by curtailing, or eliminating, the deduction for state and local taxes or simply by reducing tax rates. If federal tax rates are lowered significantly, the importance of interstate tax rate differentials would grow, spurring even greater competition among states, particularly to lower the income tax.

In such an environment, interest in tax policy might well increase because the importance of finding revenue to fund popular programs shows no signs of lessening. As Joe Clarke, the chair

of the Kentucky House Appropriations and Revenue Committee, observes, "There is a growing recognition on the part of legislators that taxes have been enacted or modified in a manner that has no rhyme or reason. Like Topsy, the changes have just grown. These decisions have been based on politics rather than on any coherent policy."

The chairman of Ohio's House Ways and Means Committee, Dean Conley, adds, "When there are budgetary problems, the interest in tax policy is much greater."

With all the potential fiscal problems on the horizon, taxes may have their day in the spotlight before long. 



# CITY OF KOTZEBUE

P.O. BOX 46, KOTZEBUE, ALASKA 99752

ALL AMERICA  
CITY

442-3401 CITY HALL  
442-3157 DAY CARE CENTER  
442-3816 GEORGE FRANCIS MEMORIAL LIBRARY  
442-3500 MUNICIPAL WATER PLANT  
442-3465 PLANNING DEPARTMENT  
442-3351 POLICE DEPARTMENT

442-3465 PUBLIC WORKS DEPARTMENT  
442-3066 RECREATION CENTER  
442-3921 REGIONAL FIRE TRAINING CENTER  
442-3779 TEEN CENTER  
442-3404 VOLUNTEER FIRE DEPARTMENT

January 24, 1986

The Honorable Senator F. Ferguson  
The State Senate  
Pouch V  
Juneau, Alaska 99811

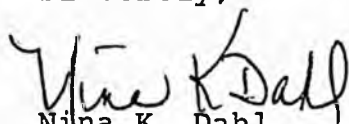
Dear Senator Ferguson;

The Kotzebue City Council is responding to Senate Bill #326; A bill for an act entitled "An Act making a special appropriation to the Office of Management and Budget for study of tax policy; and providing for an effective date.

We strongly support the above bill and encourage the passage of Senate Bill #326.

Should you require any information or need our assistance please contact us at your convenience.

Sincerely,

  
Nina K. Dahl  
Mayor  
City of Kotzebue

cc: File

"GATEWAY TO NORTHWEST ALASKA"

Anchorage Daily News 1-30-86

## Hey, wait — more study *is* needed

The phrase "more study needed" is guaranteed to produce a yawn from most people. But Sen. Frank Ferguson is on target with his bill calling for a comprehensive study of state tax policy. Legislators should embrace the proposal to take a hard look at where and how the state raises its money.

The Kotzebue Democrat wants to spend \$500,000 to analyze how well existing state taxes, tax credits, licenses and user fees serve Alaska. He also wants to know if there is uniformity of taxation among taxpayers. And what about the relationship, and there must be one, between taxes and the state's economic health? Assumptions and prejudices about the important issue abound, but where are the facts?

Declining oil revenues is a hot topic in Juneau this year. And there's plenty of talk about higher oil taxes, altered tax methods, and even a return to the income tax. A comprehensive study, developed by the Office of Management and Budget and supplemented by private consultants, seems essential for formulating a tax policy that provides the state with broad, stable, and measurable revenue sources. After all, if Alaskans don't know how their taxes affect the economy today, how can they determine a realistic tax policy for tomorrow?

Actually, tax review is so fundamental it's hardly a novel government innovation. During the past three years, six states have instituted tax policy studies.

The Alaska State Senate typically moves at a glacial pace. Sometimes the senators get brickbats thrown their way because studies are viewed as expensive but effective delaying tactics. But this is one occasion when senators should join together in support of Sen. Ferguson's proposal and fast-track it.



Official Business

# Alaska State Legislature

Senate

*(Handwritten mark)*

Pouch V  
State Capitol  
Juneau, Alaska 99811

**RECEIVED**  
APR 07 1986

## MEMORANDUM

TO: Senator Abood  
Alaska State Senator

FROM: Frank R. Ferguson *FRF*  
Alaska State Senator

DATE: April 7, 1986

SUBJECT: Information on Senate Bill 326

Attached is additional information concerning Senate Bill 326.

As the session is drawing nearer, I believe it is important to have a hearing on this matter.

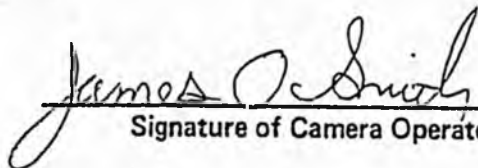
If you should have any questions, please contact my office.

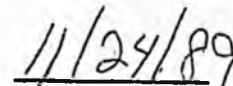
FRF/cc



# RECORDS CERTIFICATION

I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

  
\_\_\_\_\_  
Signature of Camera Operator

  
\_\_\_\_\_  
Date

S B

3 5 0

Introduced: 1/20/86  
Referred: State Affairs  
and Finance

1 IN THE SENATE

BY RAY

2 SENATE BILL NO. 350

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act providing for an advisory vote as to whether  
7 the permanent fund dividend program should be con-  
8 tinued."

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

10 \* Section 1. The lieutenant governor shall place before the qualified  
11 voters of the state at the next general election the following question,  
12 advisory to the legislature. The question shall appear on the ballot in  
13 substantially the following form:

14 Q U E S T I O N

15 A substantial portion of the income of the Alaska  
16 permanent fund has been used each year for payment of  
17 permanent fund dividends to residents of the state.  
18 Should the permanent fund dividend program be continued  
19 and should a portion of the income from the Alaska  
20 permanent fund continue to be paid as dividends to  
21 residents?

22 Yes [ ] No [ ]

23  
24  
25  
26  
27  
28  
29  
S COMMITTEE COPY

STATE OF ALASKA 1986 LEGISLATIVE SESSION  
FISCAL NOTE

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

**REQUEST**  
 Bill/Resolution No. : SB350  
 Title : Advisory Vote/Permanent Fund  
 \_\_\_\_\_  
 Sponsor : RAY  
 Requestor : Senate State A-fairs  
 Date of Request : 2/12/86

**FISCAL DETAIL**  
 Agency Affected : Office of Governor  
 BRU : Elections  
 \_\_\_\_\_  
 Components : Primary and General  
Elections

**EXPENDITURES/REVENUES : (Thousands of Dollars)**

| OPERATING              | FY 86 | FY 87       | FY 88 | FY 89 | FY 90 | FY 91 |
|------------------------|-------|-------------|-------|-------|-------|-------|
| PERSONAL SERVICES      |       |             |       |       |       |       |
| TRAVEL                 |       |             |       |       |       |       |
| CONTRACTUAL            |       | 3.3*        |       |       |       |       |
| SUPPLIES               |       |             |       |       |       |       |
| EQUIPMENT              |       |             |       |       |       |       |
| LAND & STRUCTURES      |       |             |       |       |       |       |
| GRANTS, CLAIMS         |       |             |       |       |       |       |
| MISCELLANEOUS          |       |             |       |       |       |       |
| <b>TOTAL OPERATING</b> |       | <b>3.3*</b> |       |       |       |       |

|         |  |  |  |  |  |  |
|---------|--|--|--|--|--|--|
| CAPITAL |  |  |  |  |  |  |
|---------|--|--|--|--|--|--|

|         |  |  |  |  |  |  |
|---------|--|--|--|--|--|--|
| REVENUE |  |  |  |  |  |  |
|---------|--|--|--|--|--|--|

**FUNDING : (Thousands of Dollars)**

|               |  |      |  |  |  |  |
|---------------|--|------|--|--|--|--|
| GENERAL FUND  |  | 3.3* |  |  |  |  |
| FEDERAL FUNDS |  |      |  |  |  |  |
| OTHER         |  |      |  |  |  |  |
| <b>TOTAL</b>  |  |      |  |  |  |  |

**POSITIONS :**

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

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

\* Costs included cover 2 to 3 additional pages in each Official Election Pamphlet, for printing and typesetting, and estimated costs of computer programming requirements for vote counting. However, these costs are based on the assumption that all (cont.)

Prepared by : Linda Edgeworth Phone : 465-4611  
 Division : Elections Date : 2/12/86  
 Approved by Commissioner : Linda Edgeworth, Sandra Stet Date : 2/13/86  
 Agency : Elections

**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 Bill/Resolution No. SB 350

candidates and issues will fit on three ballot cards which is the norm. It should be noted that should the inclusion of this issues require a 4th ballot card to be printed, to cost would increase by the following:

|   |               |                 |
|---|---------------|-----------------|
|   | 320,000       | ballots         |
| x | \$ <u>.16</u> | cost per ballot |
|   | \$ 51,200     |                 |

Under these circumstances the fiscal note would be:

\$ 54,5