

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672

6220 SENATE COMMUNITY & REGIONAL AFFAIRS

624

ATTACHMENT B

SELDOVIA NATIVE ASSOCIATION / STATE OF ALASKA  
 LAND EXCHANGE ADL 224612

POWDER ISLAND IN SELDOVIA BAY

<u>Parcel</u>	<u>Legal</u>	<u>Approx Acres</u>
No. 1	T9S R14W, SM SEC 6: LOT 4	11.9
-	One acre public use site easement (for day use only) to be reserved on the nob at the west end of the island, along with the beach between this nob and the larger nob to the east.	

FORMER PLO 316 - JAKOLOF BAY

<u>Parcel</u>	<u>Legal</u>	<u>Approx Acres</u>
No. 1	T8S, R13W, SM: A PORTION OF TRACT "A" WITHIN SECS. 20, 29 AND 30 DESCRIBED BY METES AND BOUNDS IN PLO 316. PARCEL APPROX. 2640' X 5280' FRONTING ON JAKOLOF BAY; ACQUIRED UNDER MENTAL HEALTH GRANT MH-128.	320
ADL 39029 -	Letter of non-objection to public utility right-of-way fifty (50') feet in width for existing power line constructed by Homer Electric Association, Inc.	
ADL 37929 -	Letter permit for a public access road right-of-way 200 feet in width along existing roadway from Seldovia to Jakolof Bay through subject parcel.	
ADL 39789 -	Letter permit issued for an access road 100 feet in width (Alaska Project No. S-1190)	
ADL 224138-	Upland lease authorization (lease application) for approximately 0.25 acres at the end of Jakolof Bay airstrip to support mariculture activities associated with Tideland Use Permit ADL 224137 (Southcentral Region Finding and Decision dated October 31, 1988).	

Subject to valid existing rights (airstrip identified on state tidelands adjacent to parcel) and subject to a public use easement under AS 38.05.127.

Complete supplemental pool 1 - state subdivision lots	X	X	June 23, 1989
Complete supplemental pool 2 - other parcels, timber	X	X	July 19, 1989
Complete supplemental pool 3 - land sale contracts	X	X	August 9, 1989
Reclassification, Mineral Closure, Amendments to Management Plans	X		Sept. 30, 1989
Appraisals Completed and Approved	X	X	Oct. 7, 1989
Public Notice, Report, Finding	X		October 1989
Public Hearings (Seldovia, Homer, Soldotna, Anchorage)	X	X	Nov. 30, 1989
Negotiated Equalization of Values	X	X	Nov. 30, 1989
Completion of Reclassification and Mineral Closing Order, Amendments to Management Plan	X		Dec. 29, 1989
Final Exchange Agreement	X	X	Jan. 15, 1990
Submission to Alaska Legislature	X	X	Jan. 25, 1990
Execution of Exchange	X	X	

SELDOVIA NATIVE ASSOCIATION, INC.

DATE: June 30, 1989

By Fred H. Elvsaa  
Fred Elvsaa, President

TIMBER TRADING COMPANY

DATE: June 30, 1989

By Charles E. Nelson  
Its GENERAL MANAGER

STATE OF ALASKA

DATE: June 30, 1989

By Mary Gustafson  
Its DIRECTOR, DIVISION OF LAND  
AND WATER MANAGEMENT

Agmt. SNA



# Alaska State Legislature

Senator Mike Szymanski

While in Session:  
P.O. Box V  
Juneau, Alaska 99811  
(907) 465-4978

Interim:  
3111 C Street, Suite 510  
Anchorage, Alaska 99503  
(907) 561-7617

or  
165 E. Parks Highway  
Wasilla, Alaska 99687  
(907) 376-6453

April 25, 1990

## MEMORANDUM

TO: Senator Bettye Fahrenkamp, Chairman  
Senate Resources Committee

FROM: Senator Mike Szymanski *Mike*

RE: Request for Hearing

I respectfully request that you schedule SB 329, adding Powder Island to Kachemak Bay State Park, at the earliest possible date.

Thank you for your consideration.

# State calls for arbitration in Kachemak Bay land trade

By TOM KIZZIA  
Daily News reporter

HOMER — The state hopes an arbitrator can revive efforts to trade for Native-owned land inside Kachemak Bay State Park now that a deadline for completing an agreement has passed.

A final state appraisal of land in the park owned by the Seldovia Native Association was released this month. The total, around \$12 million, was so far below Seldovia's own appraisal of \$22.7 million that the state called off further negotiations and asked for arbitration.

At stake is 24,000 scenic acres in the heart of the park across Kachemak Bay from Homer. Timber rights on the parkland have been sold, but logging has been on hold as the state and the Native association try to work out a trade for state land and timber elsewhere.

The state's decision to cancel negotiations drew an angry response from Seldovia Native Association president Fred Elvsaas. Calling the state's appraisal faulty, he said the association will agree to arbitration only after the state appraises the land for its worth as protected wilderness — a category that he said should increase its value.

Dick Mylius, a negotiator for the Department of Natural Resources, defended the state's method and said the difference between the two appraisals made arbitration necessary. He said the state is required by law to trade for fair market value of land,

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*“We think that we've got more than enough timber to make up some of the difference (in the parkland appraisals).”*

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— Dick Mylius

so it could not negotiate for a figure substantially higher than the recommendation of its own appraiser.

“The department has to be solidly behind the number they come up with, because it's going to get a lot of scrutiny from the legislature,” said Rep. Mike Navarre, D-Kenai. Legislative approval is required for the trade.

The state and the association last year set 10 days after start of the legislative session as a goal for submission of a trade package to the legislature. Mylius said he now hopes to have a deal ready before early March.

Navarre said the land trade is “still do-able” if the state and the association can agree on a value for the land in the park by March.

The state is trying to gain title to 24,000 acres of coastline and old-growth forests that were part of the original Kachemak Bay State Park established in 1970. The Native association received rights to the land under the Alaska Native Claims Settle-

ment Act. The land, across the bay from the Homer Spit, is some of the most scenic and accessible in the park.

Efforts to trade for the parklands have sputtered along since 1979, but they gained steam in 1988 after the association sold timber rights to some of the land. Elvsaas has said that this will be the corporation's last effort to trade the park holdings for state land elsewhere.

The state has come up with a package of land parcels and state-owned timber to trade with the Native association and with Timber Trading Company, a logging company that holds timber rights to a portion of Seldovia's park land. Some of those lands are in southeast Alaska. Mylius said state appraisals set the value of Southeast timber parcels at more than \$50 million.

“We think that we've got more than enough timber to make up some of the difference (in the parkland appraisals),” Mylius said.

However, conservation groups in Petersburg and Ketchikan have raised objections to use of local state lands as trading stock to protect land in southcentral Alaska.

The state surprised the association with its sudden decision to call for arbitration, Elvsaas said. He said he had driven to Anchorage for what he thought was a negotiating session, only to be told the negotiations were on hold.

“We came up and they told us to take a

hike,” Elvsaas said. “We can't accept that any more.”

“There was definitely a misunderstanding about what was the purpose of that meeting,” Mylius said.

The state and the association agreed to a schedule that included possible arbitration when they signed an exchange agreement in 1989. Neither side would be forced by that agreement to proceed with the trade if they don't like the arbitrator's decision.

This week, both sides said finding a mutually acceptable arbitrator could be difficult.

Commissioner of Natural Resources Lennie Gorsuch said the Cowper administration remains committed to the trade effort. But she would not say whether the state will commit itself in advance to accepting an arbitrator's decision. Details of how arbitration will work are still being negotiated, she said.

Elvsaas said the two appraisals are so far apart chiefly because the state appraiser judged the Native holdings as inaccessible land with little development potential, while Seldovia's appraiser judged it for its value as permanent parkland.

Mylius said a big difference in the two appraising methods was that the association looked at the 24,000 acres as a single piece, while the state broke it into pieces of beachfront and mountaintop and then appraised the separate pieces.

**S B**

**331**

MEMORANDUM OF UNDERSTANDING  
1990 COMMERCIAL FISHERY SEASON  
Alaska Department of Fish and Game

and

Alaska Department of Environmental Conservation

I. PREAMBLE

On March 24, 1989, the oil tanker Exxon Valdez ran aground, spilling more than 10,500,000 gallons of crude oil into the waters of Prince William Sound. The spilled oil spread from Prince William Sound through the western Gulf of Alaska; it polluted and contaminated state waters and shoreline that support productive fisheries which are of immense economic and social value to the State of Alaska and its citizens.

The State of Alaska, through the Alaska Department of Fish and Game (ADF&G) is charged with managing fishery resources. Fisheries management directives and goals include: (1) to protect, maintain, improve and extend fishery resources; (2) to avoid depletion or waste of fishery resources; (3) to conduct fishing in state waters in an orderly fashion which promotes conservation, development, and utilization of fishery resources; and (4) to preserve the economic stability of the state's fishing industry.

The State of Alaska, through the Alaska Department of Environmental Conservation (ADEC) is charged with protecting the environment and the health, safety, and welfare of the public. Public protection directives and goals include: (1) to conserve, improve, and protect natural resources from oil pollution; and (2) to ensure that fish marketed from state waters are pure, safe, wholesome, and unadulterated.

Oil pollution [as defined in AS 46.03.90C(19)] in waters or on shoreline in or adjacent to an area where a fishery is conducted poses a risk of adulterating fisheries resources. Oil contamination also poses a risk of disruption of fisheries, including alteration of traditional

fishing patterns and Board of Fisheries' adopted fisheries management plans, by causing fishermen who are unable to acquire uncontaminated gear or vessels to forego their livelihoods, and by causing waste of fishery resources that have become adulterated by oil pollution in the water or by contact with oil contaminated gear or vessels.

If oil adulterated fish are introduced into fish processing facilities, it could cause disruption of fisheries and waste of fish product because processing activities would have to be suspended while oil contaminated processing equipment was cleaned, maintained, and inspected. Additional waste and adulteration of fish product could occur if uncontaminated fish were exposed to oil contaminated fish or equipment.

Because of the affects of weathering on oil, the time that has passed since the 1989 Exxon Valdez spill, and other factors, it is expected that the location and effect of oil from the Exxon Valdez spill will be substantially different in 1990 compared to 1989. ADF&G and ADEC anticipate that there will not be large floating oil slicks and mousse in fishing areas as existed in 1989. However, some beaches are expected to remain impacted and to continue to leach oil to adjacent waters.

Due to the residual effects of the 1989 oil spill, continued vigilance is necessary in the harvest and inspection of seafood from areas affected by the spill to ensure that no contaminated seafood products enter the marketplace.

Therefore, in order to carry out the management and public protection directives and goals with which the ADF&G and the ADEC are charged, the respective departments agree to conduct the following activities during the 1990 commercial fishing season.

## II. FISHERY MANAGEMENT ACTIVITIES

- A. Prior to the commercial season for each species or species group (e.g., herring, crab, shrimp, salmon), ADF&G will collect fish samples for analysis by ADEC.
- B. ADEC will evaluate these samples

organoleptically, determine bile levels, and send selected samples to the Federal Food and Drug Administration (FDA) or the National Marine Fisheries Service (NMFS) or other approved laboratories for chemical assay.

- C. A potential fishing area will remain closed if samples of fish taken from the area are found by ADEC to be adulterated by oil.
- D. Prior to the initial openings or subsequent fishing periods, ADF&G will survey areas for the presence of oil, and document the results of the surveys.
- E. A fishing area will remain closed if there is an indication of oil in the area or the proximity of the area (including beaches), such that there is an appreciable likelihood that gear will be fouled, fish harvest adulterated, or such that the conduct of an orderly fishery could not take place.
- F. If a fishing area contains some isolated pockets of oil but the oil does not pose an appreciable likelihood of contaminating fishing gear or product throughout the area, ADF&G will close only the specific portion of the area that is contaminated.
- G. ADF&G will be available to inspect areas where oil is reported and assess whether the area should be closed.
- H. After fishing areas are opened for commercial fishing, if ADEC inspection or evaluation indicates repeated oil adulteration of fish from a harvest area, designated representatives of ADEC and ADF&G will consult to determine whether a recurring contamination problem has developed. If so, ADF&G will close fishing in the area where the oil contamination occurred.
- I. ADEC will implement regulations regarding inspections, monitoring, and record-keeping for fishing vessels, tender vessels, and processors. ADEC will establish a vessel inspection system for vessels that work on oil spill related activities.
- J. ADEC will provide training for quality control personnel in processing facilities. ADEC will

daily inspect plants that receive fish from any areas affected in 1989-90 by the oil spill. ADEC will continuously sample and monitor seafood harvests throughout the season.

### III. AGENCY STAFF

Each agency will designate key contact people to implement this Memorandum of Understanding (MOU) and to facilitate the decision-making process during the 1990 commercial fishery season. The following are specific agency representatives for all purposes under this MOU:

ADF&G designates: David Cantillon  
Deputy Director  
Division of Commercial Fisheries  
(907) 465-4210

ADEC designates: Manny Soares  
Supervisor  
Seafood Inspection Program  
Division of Environmental Health  
(907) 563-0318

Because it may be necessary to make emergency closure decisions, in the event that either designated representative is unavailable, the alternative designated persons are:

ADF&G designates:

Prince William Sound  
Region: James Brady  
Area Biologist  
(907) 424-4213

and

Dennis Haanpaa  
Regional Management Biologist  
(907) 267-2104

Cook Inlet Region: John Hilsinger  
Regional Management Biologist  
(907) 267-104

Upper Cook Inlet: Paul Ruesch

Area Biologist  
(907) 262-9369

Lower Cook Inlet: Wesley Bucher  
Area Biologist  
(907) 235-8191

Westward Region: Larry Nicholson  
Regional Supervisor  
(907) 486-4791

and

Pete Probasco  
Regional Management Biologist  
(907) 486-4791

ADEC Region: Bill Krostek  
Field Inspection Supervisor  
(907) 563-0318

Agency staff will, to the maximum extent possible coordinate and channel all respective efforts through the designated staff member.

4.4.90

Date

Don Collinsworth

Don W. Collinsworth, Commissioner  
Alaska Department of Fish and Game

April 4, 1990

Date

Dennis D. Kelso

Dennis D. Kelso, Commissioner  
Alaska Department of Environmental  
Conservation

STATE OF ALASKA  
THE LEGISLATURE

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


LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 2, 1990

SUBJECT: Draft CSSB 331 (C&RA)

TO: Senator Mike Szymanski, Chair  
Senate Community and Regional Affairs  
Committee  
ATTN: Paula Ferril

FROM: Jack Chenoweth   
Legislative Counsel

You advised me not to spend a lot of time on this draft, and I took your good advice.

Despite this legislation's brevity, please note that --

(1) This measure carries a horrendous fiscal impact. Save only for the FY 91 operating and capital budgets, the measure probably sets the record this session for probable general fund appropriation required by a single bill. The committee either needs to develop a fiscal note indicating the \$50,000,000 estimate of money required to pay claims or develop and offer a companion appropriation to provide the money for deposit to the claims fund.

(2) For reasons we have discussed, the significant element of this measure almost certainly violates article IX, section 6 of the state constitution's stricture against withdrawal of funds from the state treasury "except for a public purpose." I am hard pressed to understand what "public purpose" attaches to the state's payment of claims based on loss of income, loss of means of producing income, or loss of economic benefit. The company is presumably strictly liable for these damages under AS 46.03.822 and 46.03.824. The court system is available to individuals having claims not satisfied by Exxon's interim payment practices and decisions.

(3) The combining of the claims provision (section 1) and the 10¢-per-barrel surcharge (section 2) may well be found

Senator Mike Szymanski

Page 2

April 2, 1990

to violate the "single subject" rule of article II, section 13. Unlike last year's nickel-per-barrel increment that "wedded" the incremental tax levy to state initiative to improve containment and clean-up preparedness, this measure does not so closely link the tax incidence and the claims payments. In this measure, claims are paid from existing money (the state general fund appropriation) while the revenue, receipt of which is forthcoming, replenishes the general fund. The two are not made to relate to one another.

\*

As a drafting matter, I intentionally did not give the provision an immediate effective date in order to give the commissioner of commerce and economic development time to develop necessary regulations. As offered, the measure would provide the claimants roughly one full fiscal year, or until June 30, 1991, to present claims. The claims provision is revoked July 1, 1991. The 10¢-per-barrel severance tax increment runs until the close of the calendar quarter following the quarter in which the tax yields at least \$50,000,000.

JBC:pl  
WKP4/007

# STATE OF ALASKA

## DEPARTMENT OF FISH AND GAME

### DIVISION OF COMMERCIAL FISHERIES

STEVE COWPER, GOVERNOR

P.O. BOX 3-2000  
JUNEAU, ALASKA 99802-2000  
PHONE: (907) 465-4210

## OILSPILL IMPACTS

This report lists commercial and subsistence fisheries impacted through April 5, 1990.

While thought to be comprehensive, it is not intended to represent a complete or final listing of all adjustments to commercial fisheries to date.

There have been several closures, cancellations, and postponements to commercial and subsistence fisheries in Alaska as a result of oil spilled from the "Exxon Valdez" on March 24, 1989. These include:

### COMMERCIAL

#### *Prince William Sound*

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Herring. The gillnet and purse seine sac roe and pound and wild roe-on-kelp fisheries were canceled April 3, 1989 prior to opening. The food and bait fishery began November 1, 1989 in the General Herring District. The harvest quota for this fishery was revised to conform with the 1990 spawning biomass estimate and was set at 1,760 short tons. However, because of existing market conditions, only 646.1 tons were harvested and the fishery was closed on November 12, 1989.

Pot Shrimp. This fishery was closed while in progress because of the high potential for direct contact of gear and catch with oil on noon, April 3, 1989. This closure was anticipated to run until the fishery was scheduled to reopen by regulation, August 15, 1989. However, aerial surveys from August 3 through 8 indicated the presence of oil in waters of the Traditional Harvest Area. The fishery remained closed until March 15, 1990 when the season opened by regulation. However, a small portion of the Traditional Harvest Area was closed on March 15 because of the presence of oil. The area includes waters near Knight, Eleanor, and Smith Islands.

Trawl Shrimp. Closed 12:00 noon, April 9, 1989. This fishery was scheduled to reopen August 15, but aerial surveys indicated the presence of oil in the areas where the fishery was scheduled to occur. The Port Wells area reopened March 1, 1990 and the remainder of the Sound will probably remain closed until weather improves in the spring and aerial surveys are possible.

Sablefish (black cod). Did not open as scheduled April 1, 1989

because of the oil spill. This fishery reopened in inside waters only, in conjunction with the halibut opening at noon on June 12. This fishery closed on December 31, 1989. Sablefish was not reopened during the remainder of 1989 in outside waters because the Gulf of Alaska sablefish quota had been filled. The 1990 season did open as scheduled April 1.

Northern Area Dungeness crab. Was closed April 30, 12:00 noon. It reopened on January 1, 1990.

#### King crab

The entire Prince William Sound Registration Area was closed to the commercial harvest of all species of king crab during the 1989-1990 fishing season on October 1, 1989. Aerial surveys located oil in Knight Island Passage and adjacent bays. Knight Island Passage is the primary harvest area for brown king crab in the Sound. The brown king crab fishery, like other crab fisheries, depends upon the capture by pots and subsequent live holding of legal size males before they are sold to processors. The live holding of male crabs requires a fresh supply of sea water to be supplied to the crabs until the fishing vessel reaches port. Due to the fact that winter storms can move oil into the fishing areas, monitoring the area on a timely basis is impractical. Due to oil, which persists in the area of known fishing for brown king crab, there is an appreciable likelihood that the adulteration of crab or fouling of gear and vessels will occur. The red and blue king crab fisheries will not occur due to low abundance.

Groundfish. This fishery was closed at noon on April 30, 1989. It reopened with the June 12 halibut opener. Incidental catches indicated no contamination, and this fishery remains open (except for bottom trawl gear) at this time.

Miscellaneous shellfish. On April 24, 1989, it was announced that no miscellaneous shellfish permits would be issued to harvest these species in Prince William Sound until the danger of oil contamination had passed. To date no requests have been received for permits to harvest miscellaneous shellfish in the Sound, and none are expected to be issued prior to mid-April 1990.

#### Salmon

Eshamy District commercial drift and set net salmon fishery (100,000 chum surplus to hatchery needs, plus harvests of other species) did not open for the 1989 season, as was announced May 19. This District did not open for the 1989 season.

Most waters of the Northern District surrounding Naked and Perry Islands remained closed due to beach oiling.

Most waters of the Culross Island Subdistrict (224-30 & 40) remained closed to salmon fishing during the 1989 season because of exposure to frequent oil sheen.

The Southwestern District did not open for the 1989 season due to oil.

The Montague District (227) remained closed for the 1989 season. This area includes the inside shoreline of the Montague District, 227-10 and 227-20.

All of the commercial salmon fisheries in the Prince William Sound Management Area closed at noon, September 30, 1989.

*Upper Cook Inlet*

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Salmon

With the exception of a very minor opening of a small portion of the Central District, the commercial drift gillnet season was cancelled because of oil. In addition, the Department closed setnets in that portion of the Upper Subdistrict south of the Kaslof River for the 12-hour regular fishing period on Friday July 7, 1989, because of presence of oil on the beaches. All other setnet fisheries and fishing periods were managed according to run strength.

The commercial salmon fisheries in Upper Cook Inlet closed in early September 1989.

*Lower Cook Inlet*

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Pot shrimp (Outer District). This fishery was closed at noon April 30 because of the presence of oil. It reopened at noon on July 7, 1989.

Miscellaneous shellfish. On April 24, 1989, it was announced that no miscellaneous shellfish permits would be issued to harvest these species in the Outer and Eastern Districts until the danger of oil contamination had passed. To date no requests have been received for permits to harvest miscellaneous shellfish from these two districts. All shellfish fisheries in the remaining districts of Cook Inlet are managed according to abundance, effort, and existing regulations.

Groundfish (Outer and Eastern Districts). This fishery was closed at noon on April 30, 1989 because of oil. It reopened to all species except sablefish, June 12 in conjunction with the 24-hour halibut period. Sablefish was not reopened in 1989 because the Gulf of Alaska sablefish quota had been filled.

Smelt Smelt was closed along with groundfish in the Outer and Eastern Districts at noon on April 30, 1989. When groundfish reopened, smelt fishing remained closed.

Herring Sac Roe (Outer and Eastern Districts). These fisheries did not open for the 1989 season because of the presence of oil. This was announced April 15, 1989, prior to the anticipated opening date of April 20.

Salmon. Kamishak District commercial salmon fishery. This seine fishery opened by regulation June 1, 1989 and was closed by emergency order on June 9 because of oil. Portions of the Kamishak District north of Contact Point were opened after July 20 based on run strength. The Tutka Bay Subdistrict north of the HEA powerlines was closed to seining at 6 a.m., July 10. It was reopened at noon the same day after further assessment showed the commercial fishery would not be impacted. The commercial salmon season in Lower Cook Inlet closed August 26, 1989.

#### Kodiak

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Herring Sac Roe. Approximately 34 of 56 management units closed during the duration of the fishing season, because of oil impacts. The 1989 Kodiak sac roe GHL was approximately 2,415 short tons.

Salmon. The commercial season was scheduled to get underway June 9, 1989. The fisheries were postponed until June 19, when only the setnet fishery in the Alitak District opened; there were approximately 114 days fished in this setnet fishery by 87 fishermen. The only other commercial opening to occur during the 1989 salmon season was a two day seine opening in Karluk Lagoon, on the west side of Kodiak Island, in mid-September. About five seiners took part in that fishery, netting fewer than 5,000 salmon. The entire Kodiak Management Area closed to commercial salmon fishing at the conclusion of the Lagoon fishery.

#### Chignik

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Salmon The Chignik fishery opened on Monday June 12, 1989 at 11:00 a.m. However, portions of the Eastern District were closed due to the presence or close proximity of oil in the Kilokak Rocks area, and in Imuya and Wide Bays. The Department announced a 24-hour fishing period beginning at 9:00 a.m. June 26 for a portion of the Chignik Bay District. The area was limited to a small portion of this district due to the presence of oil in surrounding areas. The documented presence of mousse and sheen in Chignik Bay near Anguvik Island, coupled with a minimal monitoring effort, justified the closure of the commercial salmon fishery effective 10:00 p.m., Monday, June 26 for the remainder of the announced period. Because of the presence of oil contaminants within Chignik Lagoon in sufficient quantities to pose a risk of contaminating gear and/or product, the commercial salmon fishing periods scheduled for Thursday, July 27 and Sunday, August 5 were cancelled. Commercial fishing opportunities remained restricted to Chignik Lagoon of the Chignik Bay District. Fisheries were held when sockeye escapements into the system justified them.

## **SUBSISTENCE/PERSONAL USE**

### *Prince William Sound*

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Much of the Southwestern District and the western shoreline of Green Island was closed to subsistence fishing June 6, 1989. The only areas remaining open to subsistence fishing for those residents domiciled in the Southwest District are Eshamy Lagoon, Jackpot Bay, and inside Sawmill and Crab Bays.

### *Cook Inlet, Kodiak, and Chignik*

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There have been no closures to subsistence fisheries because of oil. Subsistence fishermen have been cautioned to select fishing areas that show no signs of oil impact.



# Alaska State Legislature

## SENATE

Official Business

P.O. Box V  
State Capitol  
Juneau, Alaska 99811

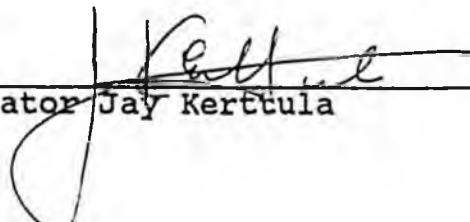
### SPONSOR STATEMENT

#### SENATE BILL 331 -- LOAN REFINANCING FOR VICTIMS OF THE OIL SPILL

Senate Bill 331 authorizes loan refinancing for the victims of the Exxon Valdez oil spill disaster. The need for this bill is crucial this year. Last year, the residents of Prince William Sound received cash in claims against Exxon as well as employment cleaning up the spill. Initially, people suffered hardship but not economic devastation. Some money was coming in. This year, area residents are facing much harder economic times: there is no more cleanup and no more cash settlements.

In the context of nationwide media attention and lawsuits involving massive amounts of money, it is too easy to overlook people's day-to-day economic needs. Defaulting on loans because of temporary hard-times has long-reaching economic consequences. Economic development in Prince William Sound needs to be carefully nurtured -- the sporadic nature of the region's economy mirrors Alaska's boom and bust economy. The people of Prince William Sound need this bill.

I urge your support of Senate Bill 331.

  
\_\_\_\_\_  
Senator Jay Kerttula

6-1416H  
Chenoweth  
4/2/90

Original sponsor(s): SEN. KERTTULA, Szymanski, Binkley

1 IN THE SENATE

BY THE C&RA COMMITTEE

2 CS FOR SENATE BILL NO. 331 (C&RA)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act establishing an emergency economic mainte-  
7 nance grant program for the benefit of certain per-  
8 sons and municipalities affected by the Exxon Valdez  
9 oil spill disaster; and imposing a surcharge to the  
10 oil and gas production tax to provide money for those  
11 grants."

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

13 \* Section 1. EMERGENCY ECONOMIC MAINTENANCE FUND ESTABLISHED. (a)

14 There is established in the Department of Commerce and Economic Development  
15 an emergency economic maintenance fund. The commissioner of commerce and  
16 economic development shall administer the fund.

17 (b) From appropriations made to the fund for the purpose, the commis-  
18 sioner shall pay claims, including interest on them, of

19 (1) persons who engage in commercial fishing and who are unable  
20 to fish commercially because traditional fishing areas have been closed by  
21 the Department of Fish and Game due to the oil spill caused by the  
22 March 24, 1989, grounding of the Exxon Valdez;

23 (2) municipalities whose receipt of fisheries business tax  
24 refunds under AS 43.75 are reduced because traditional fishing areas have  
25 been closed by the Department of Fish and Game due to the oil spill caused  
26 by the March 24, 1989, grounding of the Exxon Valdez.

27 (c) The commissioner shall adopt regulations applicable to receipt,  
28 review, evaluation, and payment of claims under this section. The regula-  
29 tions must require sufficient evidence of historical average catch data to

1 warrant payment of a claim.

2 \* Sec. 2. SURCHARGE ON SEVERANCE TAX. (a) Every producer of oil shall  
3 pay a surcharge of \$.10 per barrel of oil produced from each lease or  
4 property in the state, less any oil the ownership or right to which is  
5 exempt from taxation.

6 (b) The surcharge imposed by (a) of this section is in addition to  
7 and shall be paid in the same manner as the tax imposed by AS 43.55.

8 (c) A producer of oil shall make reports of production in the same  
9 manner and under the same penalties as required under AS 43.55.

10 (d) The commissioner of revenue shall deposit the proceeds of the  
11 surcharge levied by this section into the general fund.

12 (e) The commissioner of administration shall separately account for  
13 all proceeds of the surcharge that are deposited into the general fund.

14 \* Sec. 3. Section 1 of this Act is repealed July 1, 1991.

15 \* Sec. 4. Section 2 of this Act is repealed on the last day of the  
16 calendar quarter next following the date on which the commissioner of  
17 administration determines that receipts to the general fund from the sur-  
18 charge levied by that section equal or exceed \$50,000,000.

6-1416H  
Chenoweth  
4/2/90

Original sponsor(s): SEN. KERTTULA, Szymanski, Binkley

1 IN THE SENATE

BY THE C&RA COMMITTEE

2 CS FOR SENATE BILL NO. 331 (C&RA)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act establishing an emergency economic mainte-  
7 nance grant program for the benefit of certain per-  
8 sons and municipalities affected by the Exxon Valdez  
9 oil spill disaster; and imposing a surcharge to the  
10 oil and gas production tax to provide money for those  
11 grants."

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

13 \* Section 1. EMERGENCY ECONOMIC MAINTENANCE FUND ESTABLISHED. (a)  
14 There is established in the Department of Commerce and Economic Development  
15 an emergency economic maintenance fund. The commissioner of commerce and  
16 economic development shall administer the fund.

17 (b) From appropriations made to the fund for the purpose, the commis-  
18 sioner shall pay claims, including interest on them, of

19 (1) persons who engage in commercial fishing and who are unable  
20 to fish commercially because traditional fishing areas have been closed by  
21 the Department of Fish and Game due to the oil spill caused by the  
22 March 24, 1989, grounding of the Exxon Valdez;

23 (2) municipalities whose receipt of fisheries business tax  
24 refunds under AS 43.75 are reduced because traditional fishing areas have  
25 been closed by the Department of Fish and Game due to the oil spill caused  
26 by the March 24, 1989, grounding of the Exxon Valdez.

27 (c) The commissioner shall adopt regulations applicable to receipt,  
28 review, evaluation, and payment of claims under this section. The regula-  
29 tions must require sufficient evidence of historical average catch data to

1 warrant payment of a claim.

2 \* Sec. 2. SURCHARGE ON SEVERANCE TAX. (a) Every producer of oil shall  
3 pay a surcharge of \$.10 per barrel of oil produced from each lease or  
4 property in the state, less any oil the ownership or right to which is  
5 exempt from taxation.

6 (b) The surcharge imposed by (a) of this section is in addition to  
7 and shall be paid in the same manner as the tax imposed by AS 43.55.

8 (c) A producer of oil shall make reports of production in the same  
9 manner and under the same penalties as required under AS 43.55.

10 (d) The commissioner of revenue shall deposit the proceeds of the  
11 surcharge levied by this section into the general fund.

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CSSB 331(C&RA)

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**S B**

**387**

STEVE COWPER, GOVERNOR

**DEPARTMENT OF EDUCATION**

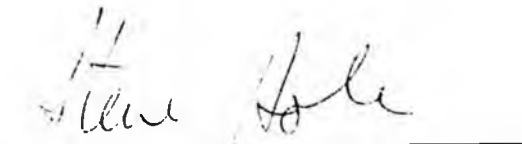
OFFICE OF THE COMMISSIONER

GOLDBELT PLACE  
801 WEST 10TH STREET  
P.O. BOX F  
JUNEAU, ALASKA 99811-0500

**Position Paper on SB 387**

Second Session  
16th Alaska Legislature

The Department of Education supports the concept of early funding appropriations for the components in the K-12 Support BRU.



William G. Demmert  
Commissioner



Date



# Alaska State Legislature

Senator Mike Szymanski

While in Session:  
P.O. Box V  
Juneau, Alaska 99911  
(907) 465-4978

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Interim:  
3111 C Street, Suite 510  
Anchorage, Alaska 99503  
(907) 561-7617

or  
165 E. Parks Highway  
Wasilla, Alaska 99687  
(907) 376-6453

POSITION PAPER

SENATE BILL 387

Senate Bill 387 embodies two familiar concepts regarding education: early funding and full funding.

\* As an appropriation measure, separate from the budget, SB 387 will provide full state funding at an earlier date for K-12 support and the school construction debt reimbursement program. This is critical to local communities for timely school district budgeting.

\* SB 387 provides full funding for: 1) the education foundation formula, 2) pupil transportation and 3) the school debt reimbursement program. Full funding for education programs is a concept supported by many legislators, and many constituent groups feel that the legislature should live up to its constitutional obligation.

\* Full funding means appropriating the amount required to provide foundation aid to school districts as outlined in AS 14.17.021. This funding would also be used to meet contract requirements for pupil transportation and to fulfill the state's obligation for school debt retirement.

\* There is strong public and private sector support for this approach to school funding. It allows school districts to complete their budgets early in the year and removes uncertainties regarding fluctuating funding levels.

Senate District E

Mat-Su Borough • Sitka Anchorage • Bar/Indian • Girdwood • Nikiski • Copper Landing • Hope • Seward • Prince William Sound

*Alaska*  
**MUNICIPAL**  
*League*


TELEPHONE  
(907) 586-1325  
FAX 463-5480

217 SECOND STREET, SUITE 200  
JUNEAU, ALASKA 99801

January 22, 1990

MEMORANDUM

TO: Senator Mike Szymanski, Chairman  
Members of the Senate Community and Regional Affairs Committee

FROM: Scott A. Burgess, Executive Director: 

SUBJECT: SB 387 - Education Funding

The Alaska Municipal League supports SB 387 and full funding for education as a legislative priority this year. Full funding should include the foundation formula and school debt reimbursement at the funding levels included in the bill as introduced.

I have attached a copy of our position paper on full funding from our Municipal Platform which has been distributed to all legislators. Thank you for hearing SB 387 and for your favorable consideration of the bill.

## **Full Funding for Education**

The Alaska Municipal League requests full funding for public education, including the Education Foundation Formula and the School Construction Debt Reimbursement Program, in recognition of the State's constitutional responsibility to provide education to all of Alaska's children.

Article VII, Section 1 of the Alaska Constitution provides that the State shall establish and maintain a system of public education open to all children living within Alaska. The equal protection clause of the Constitution, Article I, Section 1, provides that all persons are equal and entitled to equal rights, opportunities, and protection under the law. Taken together, these two provisions establish the fundamental constitutional duty of the State to establish and maintain a system of public schools and to provide school-age children with an equal education throughout Alaska.

Funding for education is the largest single item in the state budget, approximately 25 percent, and is the largest single transfer of funds from the State to local governments or, rather, through local governments. The State's transfer payments in support of education are simply payments of the State's share of the total cost of educating young Alaskans and are in addition to the local support required from municipal school districts and federal funding for various special programs.

There are two types of school districts in Alaska: municipal school districts and Regional Education Attendance Areas (REAs). Municipal districts are required to contribute to the operating costs of their school districts (see below) as well as to provide financial security for debt incurred for school building construction. Regional Education Attendance Areas, on the other hand, receive all their funding, for both operations and capital expenditures, directly from the State.

Local governments already bear the burden for a significant share of the costs of operating Alaska's schools (26 percent, statewide). It is the responsibility of the State Legislature to provide full funding for its share of the cost of education, including both the Education Foundation Formula (for operating expenses) and the School Construction Debt Reimbursement Program.

### **Education Foundation Formula**

The Alaska Municipal League requests full funding for the Education Foundation Formula for FY 91, an estimated \$512,771,092, to make it possible for Alaska's municipalities to provide basic education for all children.

The main component of the state government's support of education for all Alaskan children is the Foundation Formula. This formula distributes funds to local school districts and the Regional Education Attendance Areas (REAs) at a rate of \$60,000 per instructional unit. Minimum state aid to city and borough districts is now defined as 65

percent of basic need (with local governments required to contribute 35 percent of basic need or a 4-mill equivalency, whichever is less). The REAAs, on the other hand, are funded by the State Legislature at 100 percent of basic need.

**Table 4: School Foundation Formula Funding**

Fiscal Year	Entitlement	State Appropriation	% <sup>a</sup>
1986	\$491,159,214	\$491,159,214	100.0
1987	451,529,200	414,729,423	91.9
1988	437,438,385	437,438,385	100.0
1989	454,094,843	454,094,843	100.0
1990	494,782,860 <sup>b</sup>	475,398,100	96.1 <sup>c</sup>
1991	512,771,092 <sup>b</sup>	512,771,092 <sup>d</sup>	100.0

<sup>a</sup> Ratio of state appropriation (reimbursement to municipalities) to entitlement.

<sup>b</sup> Estimated

<sup>c</sup> The intent of the Legislature was to fully fund the program. It is anticipated that a supplemental appropriation will be made during the 1990 session.

<sup>d</sup> Requested. This amount includes \$485,131,892 from the General Fund and \$27,639,200 from the Alaska Public School Fund and federal PL 874 funds.

Source: Department of Education

On a statewide basis in FY 88, approximately 67 percent of the cost of operating Alaska's schools was funded by the State, 26 percent by local governments, and 7 percent by the federal government with PL 874 grants for federally impacted school districts.

#### **School Construction Debt Reimbursement Program**

The Alaska Municipal League requests full funding for the School Construction Debt Reimbursement Account for FY 91, at an estimated cost of \$131,500,000.

In 1970, the Legislature established a program to reimburse municipalities for a portion of their school construction debt in recognition of the requirement of the Alaska Constitution that the State provide education for its children. Under this program (AS 14.11.100), sixteen municipalities have issued bonds for the entire cost of a school construction project and have been reimbursed annually for a portion of the cost of their debt service.

Over the years, the program has changed several times. At one time, the percentage of debt reimbursement was 100 percent. Currently, municipalities are eligible for reimbursement of from 80 to 100 percent of their costs, depending on when their projects were originally approved. However, because of the continuing underfunding of the program, not only are they not being reimbursed at their entitlement level, but they do not know what the reimbursement level will be until after the Legislature completes its annual appropriation process. As the table below shows, in the last five years the reimbursement has ranged from 92.2 to 96.9 percent of the districts' statutory entitlement.

Municipalities and their voters have made financial decisions based on the reimbursement rate in effect when they proposed bonding for school construction, and long-range budget decisions and financial plans have been based on this obligation and commitment

of the State. Nevertheless, as state resources have shrunk in recent years and the Legislature has underfunded this entitlement program, those plans and decisions have been undermined by uncertainty. The funds available for the debt reimbursement program have been prorated to eligible communities, and the municipal budget process has been upset because the debt service than was anticipated and budgeted for.

The unpredictability of reimbursement rates has been especially critical in the areas of Alaska with high growth during the early 1980s. It will continue to be a major problem during the lifetime of the bonds issued for construction in these areas if full funding of the entitlement is not guaranteed.

**Table 5: School Debt Reimbursement**

Fiscal Year	Entitlement	State Appropriation	Shortfall/ Cost to Municipalities	% <sup>a</sup>
1986	\$109,707,963	\$106,315,600	\$3,392,363	96.9
1987	125,272,615	115,845,000	9,427,615	92.4
1988	118,701,313	109,472,700	9,228,613	92.2
1989	118,446,601 <sup>b</sup>	109,472,700	8,973,901	92.4
1990	114,759,609 <sup>b</sup>	107,831,000	6,928,609	94.0
1991	131,500,000 <sup>b</sup>	131,500,000 <sup>c</sup>	0	100.0

<sup>a</sup> Ratio of state appropriation (reimbursement to municipalities) to the districts' full entitlement.

<sup>b</sup> Estimated

<sup>c</sup> Requested

Source: Department of Education

As the table shows, the FY 89 shortfall in funding to fully reimburse local governments for school construction debt service amounted to \$8,973,901; in FY 90, the shortfall is estimated at nearly \$7.0 million.



ALASKA ASSOCIATION OF ELEMENTARY SCHOOL PRINCIPALS  
ALASKA ASSOCIATION OF SECONDARY SCHOOL PRINCIPALS  
ALASKA ASSOCIATION OF SCHOOL ADMINISTRATORS

• ALASKA COUNCIL OF SCHOOL ADMINISTRATORS •  
326 Fourth St., Suite 408 Juneau, Alaska 99801 586-9702

## POSITION PAPER

### SB387

The Alaska Council of School Administrators supports SB 387 with the recommendation to increase the amount of the foundation program to reflect a 10% increase in the instructional unit value.

We believe the increase only reinstates funds which have been eliminated from the program since 1986 and allows school districts to meet the demands placed upon school districts today.

We support the full funding outlined in SB 387 for tuition and debt retirement in addition to the other categorical funds listed in the bill and commend the sponsors for their willingness to address the issue of fully funding the state's share of providing a public education for Alaska.

Please find attached Resolution 89-90-4 supporting the request for increasing the foundation instructional unit and further justification for our request.



ALASKA ASSOCIATION OF ELEMENTARY SCHOOL PRINCIPALS  
ALASKA ASSOCIATION OF SECONDARY SCHOOL PRINCIPALS  
ALASKA ASSOCIATION OF SCHOOL ADMINISTRATORS

• ALASKA COUNCIL OF SCHOOL ADMINISTRATORS •  
326 Fourth St., Suite 408 Juneau, Alaska 99801 586-9702

HOW DO WE JUSTIFY REQUESTING A 10% INCREASE?

The Governor's proposed budget does have a request for an increase to the foundation fund to maintain the instructional unit at \$60,000. While we appreciate his willingness to at-least maintain, we feel that an increase is necessary if we are to meet the growing demands places of the public educational system the Alaska.

If the instructional unit remains the same, it will be the fourth year. Meanwhile, if the districts desire to maintain their current level of instruction, the local effort must increase to make up the increase in cost. It is wishfull thinking to assume if you keep the state support the same the cost of doing business will stay the same. This is not true.

Since the beginning of the current formula additional financial burdens have been placed on the local district. Fuel prices have increased, health insurance has increased significately, the price of text books and teaching materials have continued to increase over the past four years. School districts have assumed the full contribution rate to teachers retirement. Even without negotiated salary increases, districts must meet their obligation to pay teachers who move vertically and horizontally on their salary scale. Although the average teacher's salary is \$42,000 the past four years of the National CPI are calculated into the average, the real average has changed from 1986 with the average of \$39,447 to 1990 average of \$36,146. If this trend continues, it will not be long before Alaska loses its ability to attract the best available talent to its classrooms.

A number of adverse impacts have been felt in school districts throughout the state. Class sizes have increased. Staffs are being reduced and programs have been eliminated. At the same time, more demands are being placed upon our schools. Various reports and studies have identified critical needs in a number of areas: At Risk Students, Suicide Prevention, Early Childhood Education, Alcohol and Substance Abuse, Child Abuse Prevention, AIDS Education and Pupil Teacher Ratios/Class size.

We believe the foundation formula is the place for creating the funding for meeting the additional needs. Any special appropriation will be at the whim of the future legislatures or could be seen as a one time appropriation only. Placing adequate funds within the foundation funding formula could provide an opportunity to address these issues over a period of several years.

Local communities cannot continue to increase local effort. It is time the State of Alaska provide more relief than just the maintenance of the current value of the instructional unit.

We cannot settle for a status quo. There are justifiable needs which can only be met with additional funding within the foundation formula.



• ALASKA COUNCIL OF SCHOOL ADMINISTRATORS •  
326 Fourth St., Suite 408 Juneau, Alaska 99801 586-9702

RESOLUTION 89-90-4  
FOUNDATION FUNDING FOR DISTRICTS

The Alaska council of School Administrators requests that the Alaska State Legislature and the Governor increase the value of the instructional unit by a minimum of \$6,000.

RATIONALE:

The value of the instructional unit has not increased in three years. However, the cost of providing education in individual school districts has continued to increase due to increased cost of utilities, and overall continued increases in maintenance, operations, supplies, and equipment and personnel costs. Local school districts have adsorbed the increases by increased local support, by budget reductions, closing of facilities, and cut backs in program(s).

The Alaska Constitution mandates the establishment and maintenance of a system of public education open to all children. It is the State's responsibility to provide a quality educational program.



# NEA-ALASKA

AFFILIATED WITH THE NATIONAL EDUCATION ASSOCIATION

## ANCHORAGE REGIONAL OFFICE

1411 W. 33RD AVENUE  
ANCHORAGE, ALASKA 99503  
(907) 274-0536

## JUNEAU OFFICE

105 MUNICIPAL WAY, SUITE 302  
JUNEAU, ALASKA 99801  
(907) 586-3090

## FAIRBANKS REGIONAL OFFICE

2118 CUSHMAN STREET  
FAIRBANKS, ALASKA 99701  
(907) 456-4435

January 22, 1990

To: Sen. Mike Szymanski, Chair  
Members, Community & Regional Affairs Committee

Re: Senate Bill No. 387  
"An Act making appropriations to the Department of Education for K-12 support and school construction debt retirement; and providing for an effective date."

NEA-Alaska strongly supports SB 387 and we encourage quick and favorable action by the Committee.

We request however, that the Foundation Program figure on line 23 of page 1 be increased to reflect an Instructional Unit value of \$66,000, a 10% increase over the current \$60,000 funding level.

This amendment is critical if SB 387 is to address in a meaningful way the current needs of public education in Alaska.

In August, 1986, with the drop in oil prices state support for public education was reduced by 10%. Subsequently, the current foundation formula was implemented using an instructional unit value of \$60,000. Neither this figure nor the total funding levels have since been increased to reflect inflation. It is also arguable that the basic overall need has since been under-funded as well. Additionally, in 1987 the State share of the TRS contribution of nearly \$30 million was passed along as an additional cost to local school districts.

It is time to restore some level of the funding which has recently been lost to public education in Alaska.

We are encouraged that the Committee is dealing with this critical issue early in the Session. We hope that you will restore the financial support which is so urgently needed in our public schools.

Thank you for your consideration of our position.

Respectfully submitted,

Bob Manners  
Executive Director

Don Oberg  
President

cc: Alaska Association of School Boards  
Alaska Council of School Administrators

tion of the responsibilities requested. After receipt of a request by a regional school board under this subsection, the department may provide for the assumption of the responsibilities requested.

(b) If a municipality that is a school district or a regional educational attendance area assumes the responsibilities under this section, the department shall grant to the municipality or regional educational attendance area money appropriated for the school or education-related facility. The department may transfer the appropriations to a special construction account in the state treasury. Under the fiscal control of the department, a municipality or regional educational attendance area that assumes responsibilities for the project as provided in this section may draw on the account for costs of the project.

(c) The construction management costs of a project assumed under this section may not exceed four percent of the amount of appropriations for the facility if the amount of appropriations is \$500,000 or less. The construction management costs of a project assumed under this section may not exceed three percent of the amount of appropriations for the facility if the amount of appropriations is over \$500,000 but less than \$5,000,000. The construction management costs of a project assumed under this section may not exceed two percent of the amount of appropriations for the facility if the amount of appropriations is \$5,000,000 or more. For purposes of this subsection "construction management" means management of the project's schedule, quality, and budget during any phase of the planning, design, and construction of the facility by a private contractor engaged by the municipality or regional educational attendance area.

(d) The commissioner shall adopt necessary regulations implementing this section, and setting out the requirements for agreements between the department and a municipality or regional educational attendance area relating to the assumption by the municipality or regional educational attendance area of responsibilities for the planning, design, and construction of a project. (§ 3 ch 92 SLA 1982)

Revisor's notes. — Enacted as AS 14.07.190. Renumbered in 1982.

**Sec. 14.11.100. State aid for costs of school construction debt.**

(a) During each fiscal year, the state shall allocate to a municipality that is a school district, the following sums:

- (1) payments made by the municipality during the fiscal year two years earlier for the retirement of principal and interest on outstanding bonds, notes or other indebtedness incurred before July 1, 1977 to pay costs of school construction;
- (2) 90 percent of

(A) payments made by the municipality during the fiscal year two years earlier for the retirement of principal and interest on outstanding bonds, notes or other indebtedness incurred after June 30, 1977 and before July 1, 1978 to pay costs of school construction;

(B) cash payments made after June 30, 1976 and before July 1, 1978 by the municipality during the fiscal year two years earlier to pay costs of school construction;

(3) 90 percent of

(A) payments made by the municipality during the fiscal year two years earlier for the retirement of principal and interest on outstanding bonds, notes or other indebtedness incurred after June 30, 1978 and before January 1, 1982 to pay costs of school construction projects approved under AS 14.07.020(11);

(B) cash payments made after June 30, 1978 and before July 1, 1982 by the municipality during the fiscal year two years earlier to pay costs of school construction projects approved under AS 14.07.020(11);

(4) subject to (h) and (i) of this section up to 90 percent of

(A) payments made by the municipality during the current fiscal year for the retirement of principal and interest on outstanding bonds, notes or other indebtedness incurred after December 31, 1981, and authorized by the qualified voters of the municipality before July 1, 1983, to pay costs of school construction, additions to schools, and major rehabilitation projects that exceed \$25,000 and are approved under AS 14.07.020(11); and

(B) cash payments made after June 30, 1982, and before July 1, 1983, by the municipality during the fiscal year two years earlier to pay costs of school construction, additions to schools, and major rehabilitation projects that exceed \$25,000 and are approved under AS 14.07.020(11); and

(C) payments made by the municipality during the current fiscal year for the retirement of principal and interest on outstanding bonds, notes, or other indebtedness to pay costs of school construction, additions to schools, and major rehabilitation projects that exceed \$25,000 and are submitted to the Department of Education for approval under AS 14.07.020(11) before July 1, 1983, and approved by the qualified voters of the municipality before October 15, 1983, not to exceed a total project cost of (i) \$6,600,000 if the annual growth rate of average daily membership of the municipality is more than 7 percent but less than 12 percent, or (ii) \$20,000,000 if the annual growth rate of average daily membership of the municipality is 12 percent or more; payments made by a municipality under this paragraph on total project costs that exceed the amounts set out in (i) and (ii) of this paragraph are subject to (a)(5)(A) of this section.

(5) subject to (h), (i), and (j) of this section, 80 percent of

(A) payments made by the municipality during the fiscal year for the retirement of principal and interest on outstanding bonds, notes or other indebtedness authorized by the qualified voters of the municipality after June 30, 1983, to pay costs of school construction, additions to schools, and major rehabilitation projects that exceed \$25,000 and are approved under AS 14.07.020(11); and

(B) cash payments made after June 30, 1983, by the municipality during the fiscal year two years earlier to pay costs of school construction, additions to schools, and major rehabilitation projects that exceed \$25,000 and are approved under AS 14.07.020(11).

(b) The commissioner shall administer the program of reimbursement authorized under this section and shall provide by regulation for the filing of applications for reimbursement, the form of proof of costs for which application for reimbursement is made, and other regulations necessary to administer the program. The commissioner shall exclude from the total school construction cost of the local district all state and federal funds included in these costs except funds provided under this section and AS 43.50.140. In approving applications for reimbursement, the commissioner shall offset against the amount of reimbursement authorized the amount of any funds distributed to the borough or city in the second preceding fiscal year from the school fund provided for in AS 43.50.140.

(c) The school construction account is established. Funds to carry out the provisions of this section may be appropriated annually by the legislature to the account. If amounts in the account are insufficient for the purpose of providing the share to which a borough or city is entitled under this section, those funds that are available shall be distributed pro rata among the eligible local governments except that the legislature may direct that additional debt service on refunding bonds that exceeds the total debt service on the refunded bonds be disregarded in whole or in part.

(d) Money in the school construction account which, at the end of the fiscal year for which the money is appropriated, exceeds the amount required for the allocations authorized in this section reverts to the general fund.

(e) The commissioner shall annually provide a report to the legislature on allocations of state aid made under this section, including but not limited to, the amount of state aid paid on a per capita and per student basis and the resultant effect on the rate of levy of taxes by the municipality for educational purposes.

(f) *[Repealed, § 17 ch 147 SLA 1978.]*

(g) *[Repealed, § 47 ch 6 SLA 1981.]*

(h) An allocation under (a)(4) or (5) of this section for school construction begun after July 1, 1982, shall be reduced by the amount of money used for the construction of residential space, hockey rinks, planetariums, saunas, and other facilities for single purpose sporting

or recreational uses that are not suitable for other activities and the money used for construction that exceeds the amount needed for construction of a facility of efficient design as determined by the department. An allocation under (a)(4) or (5) of this section may not be reduced by the amount of money used for construction of a small swimming pool, tank, or water storage facility used for water sport. However, an allocation shall be reduced by the difference between the amount of money used to construct a swimming pool that exceeds the standards adopted by the department and the amount of money that would have been used to construct a small swimming pool, tank, or water storage facility, as determined by the commissioner.

(i) For the purposes of (a)(4) and (5) of this section

(1) an indebtedness for bonds is incurred after the bonds are sold

(2) reimbursement for a cash payment may only be made after the payment is made to a vendor; and

(3) payments may not be made for costs that are incurred under a contract after the contract has been released.

(j) Except as provided in (i) of this section, the state may not allocate money to a municipality for a school construction project under (a)(5) of this section unless the municipality complies with the requirements of (1) — (4) of this subsection, the project is approved by the commissioner before the local vote on the bond issue for the project, and the local vote occurs before July 1, 1987, or after June 30, 1988. In approving a project under this subsection, the commissioner shall require

(1) the municipality to include on the ballot for the bond issue the estimated total cost of each project including estimated total interest, estimated annual operation and maintenance costs, the estimated amounts that will be paid by the state and by the municipality, and the approximate amount that would be due in annual taxes on \$100,000 in assessed value to retire the debt;

(2) that the bonds may not be refunded unless the annual debt service on the refunding issue is not greater than the annual debt service on the original issue;

(3) that the bonds must be repaid in approximately equal annual principal payments or approximate equal debt service payments over a period of at least 10 years;

(4) the municipality to demonstrate need for the project by establishing that the school district has

(A) projected long-term student enrollment that indicates the district has inadequate facilities to meet present or projected enrollment; or

(B) facilities that require repair or replacement in order to meet health and safety laws or regulations or building codes.

(k) An amount equal to the interest earned on the investment of the proceeds of bonds issued for a school construction project shall be used by the municipality to

- (1) pay the costs of the project;
- (2) pay accrued interest on the bond issue;
- (3) redeem all or part of the bonds; or
- (4) pay the costs of issuing the bonds.

(l) Bonds may be refunded without compliance with (j)(2) and (3) of this section if the refunding bonds are issued after June 30, 1987, and before January 1, 1989, and the time remaining for repayment on the original bonds is more than five years. The repayment term on refunding bonds may not exceed 20 years. For the purposes of determining the level of reimbursement, refunding bonds are considered to be issued as of the date of the first issue of bonds, notes, or other indebtedness or of the bonds that refund the bonds, whichever is later.

(m) In this section, "outstanding bonds, notes, or other indebtedness" includes bonds issued to refund bonds, notes, or other indebtedness issued to pay costs of school construction or to refund the bonds. Refunded bonds, notes, or other indebtedness are not considered outstanding. (§ 1 ch 249 SLA 1970; am § 1 ch 93 SLA 1971; am § 2 ch 137 SLA 1972; am § 1 ch 28 SLA 1973; am § 47 ch 127 SLA 1974; am §§ 1 — 3 ch 120 SLA 1977; am §§ 12, 17 ch 147 SLA 1978; am § 25 ch 168 SLA 1978; am §§ 8 — 10 ch 92 SLA 1982; am §§ 1 — 3 ch 82 SLA 1983; am § 47 ch 6 SLA 1984; am §§ 1-5 ch 78 SLA 1985; am §§ 1 — 3 ch 73 SLA 1987)

**Revisor's notes.** — Formerly AS 43.18.100. Renumbered in 1983.

Subsection (m) of this section was enacted as a part of (l). Reorganized and renumbered in 1987.

**Cross references.** — For present provisions of former subsection (g) of this section, see AS 14.11.135(3).

**Effect of amendments.** — The 1983 amendment in paragraph (a)(4), inserted "up to" in the introductory language, inserted "and authorized by the qualified voters of the municipality before July 1, 1983" in (A), inserted "and before July 1, 1983" in (B), added "and" to the end of (B), and added (C). The amendment also added paragraph (a)(5) and subsection (j).

The 1984 amendment repealed former subsection (g), which defined "commissioner" and "cost of school construction."

The 1985 amendment in the introductory language of paragraph (5) of subsection (a) inserted "and (j)" and made related stylistic changes and substituted "80" for "50"; in subsection (h) in the first sentence inserted "or (5)" near the begin-

ning of the sentence and at the end of the sentence added the language beginning "and by the money used," inserted "or (5)" in the second sentence, and in the last sentence substituted "exceeds the standards adopted by the department" for "is competition size or larger"; inserted "and (5)" in the introductory language of (i); in subsection (j) inserted "municipality complies with the requirements of (1) — (4) of this subsection and the," inserted "including estimated annual operation and maintenance costs" in paragraph (1), and re-wrote paragraph (4); and added subsection (k).

The 1987 amendment added the language beginning "except that the legislature may direct" at the end of subsection (c), in subsection (j) in the introductory language substituted "Except as provided in (l) of this section, the" for "The" at the beginning, added "and the local vote occurs before July 1, 1987, or after June 30, 1988" at the end of the first sentence, and made a related stylistic change, and in paragraph (1) inserted "estimated total

interest" and added the language beginning "and the approximate amount" at the end of the paragraph and made a related stylistic change, and added subsections (h) and (m).

**Editor's notes.** — Section 10(a), ch. 78,

SLA 1985 provides that the 1985 amendments to (j) of this section apply only to school construction projects approved by the commissioner of education after July 1, 1985.

**Sec. 14.11.102. Evaluation of projects.** The department shall evaluate projects for which retirement of school construction debt is requested by school districts in accordance with the procedures set out in AS 14.11.010. A request for an allocation of funds under AS 14.11.100 must be submitted to the department by the school district no later than October 15 of the fiscal year before the fiscal year for which the request is made. (§ 6 ch. 78 SLA 1985)

**Sec. 14.11.105. Public school facilities construction advance account.** The public school facilities construction advance account is established. The account consists of appropriations for distribution under AS 14.11.105 — 14.11.135 to boroughs and cities which are school districts to assist in paying the costs of public school facilities projects approved under AS 14.07.020(11) for which construction is commenced after June 30, 1978 and for which no bonding, notes, or other indebtedness was incurred before July 1, 1978. (§ 13 ch 147 SLA 1978)

**Revisor's notes.** — Formerly AS 43.18.105. Renumbered in 1983.

**Sec. 14.11.110. Eligibility.** Eligibility of a proposed construction project for funding assistance under AS 14.11.105 — 14.11.135 shall be determined by the department based on standards and criteria established by regulation. The standards and criteria to be considered in determining eligibility include the following:

- (1) emergency requirements;
- (2) number of unhoused students;
- (3) new elementary or secondary programs;
- (4) existing community and school facilities and their condition; and
- (5) economic and social stability of the community. (§ 13 ch 147 SLA 1978)

**Revisor's notes.** — Formerly AS 43.18.110. Renumbered in 1983.

**Chapter 15. School Districts and City Schools.**

*[Repealed, § 59 ch 98 SLA 1966.]*

**Chapter 17. Public School Foundation Program.**

**Article**

1. State Aid to Local School Districts (§§ 14.17.010 — 14.17.061)
2. Preparation of Public School Foundation Budget (§§ 14.17.080 — 14.17.150)
3. Procedure for Payment of Public School Foundation Funds to Districts (§§ 14.17.160 -- 14.17.190)
4. General Provisions (§§ 14.17.200 — 14.17.250)

**Cross references.** — For applicability of this chapter to state aid for regional educational attendance areas formed under § 2, ch. 66, SLA 1985, see § 3, ch. 66, SLA 1985 in the Temporary and Special Acts.

**Article 1. State Aid to Local School Districts.**

Section	Section
10. Public school foundation account	43. Vocational education instructional units
21. State foundation aid	45. Special education instructional units
22. Money for centralized correspondence study	47. Bilingual education instructional units
25. Local contributions	51. Area cost differential
31. Allowable instructional units	56. Instructional unit value
41. Elementary and secondary instructional units	

**Collateral references.** — 68 Am. Jur. 2d Schools, §§ 85-98.  
 79 C.J.S. Schools and School Districts, §§ 331-353, 376-413.  
 Right of school district to maintain ac-

tion based on misapportionment of school money. 105 ALR 1273.  
 Determination of school attendance, enrollment, or pupil population for purpose of apportionment of funds. 80 ALR2d 953.

**Sec. 14.17.010. Public school foundation account.** (a) The public school foundation account is established. The account consists of appropriations for distribution to districts and for centralized correspondence study programs under this chapter.

(b) The money of the account may be used only in aid of public schools, including community school programs, and for centralized correspondence study programs as provided by this chapter. (§ 1.08 ch 164 SLA 1962; am § 11 ch 95 SLA 1969; am § 2 ch 190 SLA 1975; am § 1 ch 91 SLA 1987)

**Effect of amendments.** — The 1987 amendment substituted "and" for "or" following "districts" in the second sentence of subsection (a) and substituted "including community school programs, and" for "or" in subsection (b).

**NOTES TO DECISIONS**

**Legislature decides what types of education are to be publicly supported.** — In Alaska the power of deciding what types of education are to be publicly supported, either under the School Foundation Act or by tax exemption, is vested with the legislature. *McKee v. Evans*, Sup. Ct. Op. No. 740 (File No. 1382), 490 P.2d 1226 (1971).

*Sec. 14.17.020. State aid. [Repealed, § 1 ch 238 SLA 1970.]*

**Sec. 14.17.021. State foundation aid.** (a) The amount of state foundation aid for which a school district may qualify in a fiscal year is calculated by subtracting from the basic need defined in (b) of this section the required local contributions under AS 14.17.025(a) and 90 percent of eligible federal impact aid for that fiscal year.

(b) The basic need of a school district is determined by multiplying the area cost differential of the district under AS 14.17.051 by the number of instructional units in the district under AS 14.17.031 and then multiplying that product by the instructional unit value in AS 14.17.056. (§ 4 ch 238 SLA 1970; am §§ 1, 2 ch 81 SLA 1975; am §§ 1, 2 ch 173 SLA 1976; am §§ 2, 3 ch 90 SLA 1977; am §§ 3, 4 ch 26 SLA 1980; am § 2 ch 75 SLA 1986; am § 2 ch 91 SLA 1987)

**Cross references.** — For additional state foundation aid applicable to fiscal years 1988 — 1990, see § 24, ch. 91, SLA 1987 in the Temporary and Special Acts.

**Effect of amendments.** — The 1986 amendment rewrote this section. The 1987 amendment rewrote this section.

**NOTES TO DECISIONS**

**That the legislature has seen fit to delegate certain educational functions to local boards in order that Alaska schools might be adapted to meet the varying conditions of different localities** does not diminish constitutionally mandated state control over education under Alaska Const., art. VII, § 1. *Macauley v. Hildebrand*, Sup. Ct. Op. No. 741 (File No. 1550), 491 P.2d 120 (1971).

**Sec. 14.17.022. Money for centralized correspondence study.** Money for providing centralized correspondence study programs for students not enrolled in an approved school district correspondence study program includes an allocation from the public school foundation account in an amount calculated by multiplying the instructional unit value in AS 14.17.056 by the total number of instructional units, as determined by applying the number of correspondence students to the formula for elementary schools in AS 14.17.041(b)(1), then multiplying that product by 65 percent. (§ 3 ch 190 SLA 1975; am § 3 ch 91 SLA 1987)

**Effect of amendments.** — The 1987 amendment substituted "Money" for "Funds" in the catchline and in the first sentence, "includes" for "shall include," "allocation" for "appropriation" and "the formula for elementary schools in AS

14.17.041(b)(1), then multiplying that product by 65 percent" for "AS 14.17.041(a)," deleted "have" preceding "instructional units," and inserted "value in AS 14.17.056."

*Sec. 14.17.023. Secondary formula account. [Repealed, § 25 ch 91 SLA 1987.]*

**Sec. 14.17.025. Local contributions.** (a) Local contributions to a city or borough school district shall include at least the lesser of

(1) the equivalent of a four mill tax levy on the full and true value of the taxable real and personal property in the district as of January 1 of the second preceding fiscal year, as determined by the Department of Community and Regional Affairs under AS 14.17.140 and AS 29.45.110; or

(2) 35 percent of the district's basic need for the preceding fiscal year, as determined under AS 14.17.021(b).

(b) In addition to the local contributions required under (a) of this section, local contributions to a city or borough school district in a fiscal year may include no more than the greater of

(1) the equivalent of a two mill tax levy on the full and true value of the taxable real and personal property in the district as of January 1 of the second preceding fiscal year, as determined by the Department of Community and Regional Affairs under AS 14.17.140 and AS 29.45.110; or

(2) the product obtained by multiplying

(A) 21 percent of the instructional unit value in AS 14.17.056;

(B) the number of instructional units approved for the district for the fiscal year; and

(C) the area cost differential of the district under AS 14.17.051.

(c) The department may by regulation reduce the maximum local contribution specified in (b) of this section if necessary to keep revenue or expenditure disparities among school districts in the state in compliance with federal equalization requirements under sec. 5(d) — (2) of P.L. 81-874 (20 U.S.C. 240(d)(2)), as amended, and regulations adopted under it.

(d) Local contributions are not required in a regional educational attendance area. Interest earnings and other local revenue in a regional educational attendance area are not considered local revenue for current operating expenditures, and are subject to regulation and disposition by the department.

(e) A state foundation aid payment may not be made to a city or borough school district in which the requirements of (a) of this section have not been met.

(f) For the first two fiscal years in which a district is subject to this section, local contributions may be less than the amount that would

otherwise be required under (a) of this section. However, local contributions must be at least the greater of

(1) the local contributions, excluding any federal impact aid, for the previous fiscal year; or

(2) the sum of 10 percent of the district's eligible federal impact aid for that year and, for the first year, the equivalent of a two mill tax levy and for the second year, the equivalent of a three mill tax levy, on the full and true value of the taxable real and personal property in the district as of January 1 of the second preceding fiscal year, as determined by the Department of Community and Regional Affairs under AS 14.17.140 and AS 29.45.110.

(g) A school district is eligible for additional state aid in the amount by which the local contributions that would otherwise have been required under (a) of this section exceed the district's actual local contributions under (f) of this section. (§ 4 ch 91 SLA 1987)

**Cross references.** — For provisions applicable to the calculation of required local contributions for fiscal year 1988, see § 24(a), ch. 91, SLA 1987 in the Temporary and Special Acts.

*Sec. 14.17.027. Revenue adjustment. [Repealed, § 25 ch 91 SLA 1987.]*

*Sec. 14.17.030. Required local effort. [Repealed, § 11 ch 95 SLA 1969.]*

**Sec. 14.17.031. Allowable instructional units.** (a) The department shall adopt regulations defining funding communities within each district which reflect geographic and attendance area factors. For the purpose of determining instructional units, students are counted in the district and the funding community from which they receive educational services. The total number of instructional units in a school district is the sum of the following units for each funding community within the district, as determined by the department

(1) the number of units for elementary and secondary students determined under AS 14.17.041(a) or (b);

(2) the number of units for vocational education determined under AS 14.17.043;

(3) the number of units for special education determined under AS 14.17.045; and

(4) the number of units for bilingual education determined under AS 14.17.047.

(b) For purposes of (a)(1) of this section, in fiscal years beginning after July 1, 1987, 90 percent of the district's total elementary and secondary instructional units for the preceding fiscal year is used if that number is greater than the district's total under (a)(1) of this section for the current fiscal year. (§ 4 ch 238 SLA 1970; am § 3 ch 81

*Sec. 14.17.070. Attendance center allotment. [Repealed, § 1 ch 238 SLA 1970.]*

*Sec. 14.17.071. Required local effort. [Repealed, § 21 ch 26 SLA 1980.]*

*Sec. 14.17.075. Supplemental allocation. [Repealed, § 1 ch 238 SLA 1970.]*

**Article 2. Preparation of Public School Foundation Budget.**

<p><b>Section</b>                  80. Student count estimates                  82. Fund balance in school operating fund                  139. New school districts</p>	<p><b>Section</b>                  140. Determination of full and true value by Department of Community and Regional Affairs</p>
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*Collateral references.* — 68 Am. Jur. 2d Schools, §§ 91-108.  
 78 C.J.S. Schools and School Districts, §§ 83, 90; 79 C.J.S. Schools and School Districts, §§ 325-331.

**Sec. 14.17.080. Student count estimates.** Each district shall prepare and submit to the department, by October 15 of each fiscal year, in the manner and on forms prescribed by the department, an estimate of its average daily membership and other student count data for the succeeding fiscal year, upon which computations can be made of the amount of estimated state foundation aid for which the district will be eligible under AS 14.17.021 in that fiscal year. In making this estimate, the district shall consider its average daily membership, other student count data, the pattern of growth or decline in preceding years, and other pertinent information available to the district. The preliminary reports required by this section are the basis for estimating the need for state foundation aid for the next fiscal year. (§ 2.01 ch 164 SLA 1962; am § 5 ch 238 SLA 1970; am § 49 ch 6 SLA 1984; am § 9 ch 75 SLA 1986; am § 10 ch 91 SLA 1987)

*Effect of amendments.* — The 1986 amendment rewrote this section. The 1987 amendment rewrote this section.

*Sec. 14.17.081. Minimum expenditure for instruction. [Repealed, § 15 ch 75 SLA 1986.]*

**Sec. 14.17.082. Fund balance in school operating fund.** (a) A district may not accumulate in a fiscal year an unreserved portion of its year-end fund balance in its school operating fund, as defined by department regulations, that is greater than 10 percent of its expenditures for that fiscal year.

(b) The department shall review the annual audit of each district for the preceding fiscal year to ascertain its year-end operating fund balance. The amount by which the unreserved portion of that balance exceeds the amount permitted in (a) of this section shall be deducted from the state foundation aid that would otherwise be paid to the district in the current fiscal year. (§ 15 ch 26 SLA 1980; am § 11 ch 91 SLA 1987)

*Effect of amendments.* — The 1987 amendment rewrote this section.

*Sec. 14.17.090. Estimated average daily membership. [Repealed, § 25 ch 91 SLA 1987.]*

*Secs. 14.17.100 — 14.17.120. Computation of teachers' salary allotment, average daily membership allotment, and attendance center allotment. [Repealed, § 2 ch 238 SLA 1970.]*

*Sec. 14.17.130. Computation of required local effort. [Repealed, § 11 ch 95 SLA 1969.]*

**Sec. 14.17.139. New school districts.** Notwithstanding any other provision of law, a new school district may not be formed if the total number of pupils for the proposed school district is less than 250 unless the commissioner of education determines that formation of a new school district with less than 250 pupils would be in the best interest of the state and the proposed school district. (§ 10 ch 75 SLA 1986)

**Sec. 14.17.140. Determination of full and true value by Department of Community and Regional Affairs.** (a) To determine the amount of local effort under AS 14.17.025 and to aid the department and the legislature in planning, the Department of Community and Regional Affairs, in consultation with the assessor for each district, shall determine the full value of the taxable real and personal property in each city or borough district. If there is no local assessor or current local assessment for a district, then the Department of Community and Regional Affairs shall make the determination of full value from information available. In making the determination, the Department of Community and Regional Affairs shall be guided by AS 29.45.110. The determination of full value shall be made by October 1 and sent by certified mail, return receipt requested, on or before

that date to the president of the school board in each district. Duplicate copies shall be sent to the commissioner. The governing body of a borough or city that is a school district may obtain judicial review of the determination. The superior court may modify the determination of the Department of Community and Regional Affairs only upon a finding of abuse of discretion or upon a finding that there is no substantial evidence to support the determination.

(b) Motor vehicles subject to the motor vehicle registration tax under AS 28.10.431 shall be treated as taxable property under this section. (§ 2.07 ch 164 SLA 1962; am § 2 ch 95 SLA 1969; am § 6 ch 238 SLA 1970; am § 9 ch 200 SLA 1972; am § 1 ch 218 SLA 1976; am § 2 ch 256 SLA 1976; am § 14 ch 147 SLA 1978; am § 12 ch 94 SLA 1980; am § 50 ch 6 SLA 1984; am § 31 ch 74 SLA 1985; am § 11 ch 75 SLA 1986; am § 22 ch 14 SLA 1987; am § 12 ch 91 SLA 1987)

*Effect of amendments.* — The 1984 amendment, in subsection (a), deleted "To determine the equalized percentage to be applied to basic need under AS 14.17.021, and the matching ratio for required local effort under AS 14.17.071" at the beginning of the first sentence and changed the internal reference in the second sentence.

The 1985 amendment in subsection (a) substituted "AS 29.45.110" for "AS 29.53.060" at the end of the third sentence and "municipality that" for "borough or city which" in the next-to-last sentence.

The 1986 amendment rewrote this section.

The 1987 amendment, in subsection (a), in the first sentence substituted "amount of local effort under AS 14.17.025 and to

aid the department and the legislature in planning" for "equalized percentage to be applied to basic need under AS 14.17.021" and inserted "city or borough," deleted the former second sentence, which read: "Exemptions granted under ch. 129, SLA 1957, known as the Alaska Industrial Incentive Act (AS 43.25), shall be honored," in the fourth sentence substituted "by" for "before" and inserted "on or," in the sixth sentence substituted "a borough or city that is a school" for "the borough or city which is the," and in the last sentence substituted "of" for "or" following "abuse"; and in subsection (b) substituted "AS 28.10.431" for "AS 28.10.255" and "under" for "for purposes of (a) of."

*Sec. 14.17.150. Duty of commissioner to examine and tabulate computations. [Repealed, § 25 ch 91 SLA 1987.]*

**Article 3. Procedure for Payment of Public School Foundation Funds to Districts.**

<p><b>Section</b> 160. Student counting periods 170. Distribution of state foundation aid 190. Restrictions governing receipt and</p>	<p>expenditure of money from public school foundation account</p>
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*Collateral references.* — 79 C.J.S. Schools and School Districts, §§ 423-427.  
Right of school district to maintain action based on misapportionment of school money. 105 ALR 1273.

Determination of school attendance, enrollment, or pupil population for purpose of apportionment of funds. 80 ALR2d 953.

**Sec. 14.17.160. Student counting periods.** (a) Within two weeks after the end of the 20-school-day period ending the fourth Friday in October, each district shall transmit a report to the department that, under regulations adopted by the department, reports its average daily membership for that counting period, and other student count information that will aid the department in making a determination of its state foundation aid. If it makes the district eligible for more state foundation aid, a district may transmit, within two weeks after the 20-school-day period ending the second Friday in February, a similar report for that counting period. For centralized correspondence study, the October report shall be based on the period from July 1 through the fourth Friday in October, except that summer school students shall be counted as a proportionate fraction as determined by the department. The department may make necessary corrections in the report submitted, and shall notify the district of changes made. The commissioner shall notify the governor of additional appropriations the commissioner estimates to be necessary to fully fund the public school foundation program for the current fiscal year.

(b) Upon written request and for good cause shown, the commissioner may permit a district to use a 20-school-day county period other than the periods set out in (a) of this section. However, the counting period must be 20 consecutive school days. (§ 3.01 ch 164 SLA 1962; am § 3 ch 95 SLA 1969; am § 8 ch 238 SLA 1970; am § 13 ch 91 SLA 1987)

*Effect of amendments.* — The 1987 amendment rewrote this section.

**Sec. 14.17.170. Distribution of state foundation aid.** (a) The department shall determine the state foundation aid for each school district in a fiscal year on the basis of the district's data reported under AS 14.17.160 for the counting period that makes the district eligible for the greatest number of instructional units. On or before the 15th day of each of the first nine months of each fiscal year, 1/12 of each district's state foundation aid shall be distributed on the basis of the data reported for the preceding fiscal year. On or before the 15th day of each of the last three months of each fiscal year, 1/3 of the balance of each district's state foundation aid shall be distributed, after the balance has been recomputed on the basis of student count and other data reported for the current fiscal year.

(b) If a district receives more state aid money than it is entitled to receive under this chapter, it shall immediately remit the amount of overpayment to the commissioner, to be returned to the public school foundation account. Upon an adequate showing of a cash flow shortfall, and in the discretion of the commissioner, the department may

make advance payments to a school district. The total of advance payments may not exceed the amount of state foundation aid for which the district is eligible for the fiscal year. (§ 3.02 ch 164 SLA 1962; am § 1 ch 169 SLA 1968; am § 4 ch 95 SLA 1969; am § 9 ch 238 SLA 1970; am § 1 ch 135 SLA 1975; am § 12 ch 75 SLA 1986; am § 14 ch 91 SLA 1987)

**Effect of amendments.** — The 1986 amendment rewrote this section. The 1987 amendment rewrote this section.

*Sec. 14.17.180. Payment under final computation. [Repealed, § 25 ch 91 SLA 1987.]*

**Sec. 14.17.190. Restrictions governing receipt and expenditure of money from public school foundation account.** (a) The public school foundation money distributed to a district during a year shall be received, held, and expended by the district subject to the provisions of law and regulations adopted by the department.

(b) Each district shall maintain complete financial records of the receipt and disbursement of public school foundation money, money acquired from local effort, and other money received by the district. The records must be in the form required by the department and are subject to audit by the department at any time. (§ 3.04 ch 164 SLA 1962; am § 5 ch 98 SLA 1966; am § 6 ch 95 SLA 1969; am § 15 ch 91 SLA 1987)

**Effect of amendments.** — The 1987 amendment, in subsection (b), in the first sentence inserted "complete," substituted a comma for "and" preceding "money acquired," and added "and other money received by the district," and in the last sentence substituted "department" for "commissioner" in the first instance and "department" for "commissioner or the board" in the second instance.

**NOTES TO DECISIONS**

**Administrative hearing deadline.** — The Department of Education's regulation providing for a 30-day deadline for an administrative hearing on a final action of the department, 4 AAC 40.040, is merely directory; the department's substantial compliance with the regulation is sufficient absent significant prejudice to the other party. *Cooper River School Dist. v. State, Dep't of Educ., Sup. Ct. Op. No. 2945 (File No. S-488), 702 P.2d 625 (1985).*

**Article 4. General Provisions.**

<b>Section</b>	<b>Section</b>
200. Regulations	225. Construction and implementation of chapter
210. State aid to newly established district schools	250. Definitions
220. Purpose	

**Collateral references.** — Validity of legislative delegation of taxing power to school districts in absence of express constitutional provision authorizing such delegation. 113 ALR 1416.

Extent of area within tax exemption extended to property used for educational, religious, or charitable purposes. 134 ALR 1176.

Tax exemption of educational institutions as extending to athletic fields or property used for social or recreation purposes. 143 ALR 274.

Tax exemption of property of religious, educational, or charitable body as extending to property or income thereof used in publication or sale of literature. 154 ALR 895.

Rescission of vote authorizing school district expenditure or tax. 68 ALR2d 1041.

Exemption of public school property

from assessments for local improvements. 15 ALR3d 847.

Garage or parking lot as within tax exemption extended to property of educational, charitable or hospital organizations. 33 ALR3d 938.

Validity of basing public school financing system on local property taxes. 41 ALR3d 1220.

Charitable or educational organization from sales or use taxes. 53 ALR3d 748.

Property of educational body tax exempted extending to property used by personnel as living quarters. 55 ALR3d 485.

Validity, under state constitution and laws, of issuance by state or state agency of revenue bonds to finance or refinance construction projects at private religious-affiliated colleges or universities. 95 ALR3d 1000.

What are educational institutions or schools within state property tax exemption provisions. 34 ALR4th 698.

**Sec. 14.17.200. Regulations.** The department shall adopt regulations to implement this chapter. (§ 4.01 ch 164 SLA 1962; am § 6 ch 98 SLA 1966)

*Sec. 14.17.205. State aid to districts operating approved school food service programs. [Repealed, § 25 ch 91 SLA 1987.]*

**Sec. 14.17.210. State aid to newly established district schools.** (a) A regional educational attendance area school which becomes a city or borough district school is considered a regional educational attendance area school for purposes of financial support until the expiration of a complete fiscal year after the date on which the school becomes a city or borough district school. This subsection does not prevent a local government from spending money to contribute to the financial support of a regional educational attendance area school which becomes a city or borough district school.

(b) For each subsequent fiscal year, the state shall disburse to the city or borough school district only the money to which the district is entitled under the public school foundation program. (§ 5.02 ch 164 SLA 1962; am § 25 ch 53 SLA 1973; am § 13 ch 124 SLA 1975)

*Sec. 14.17.215. State aid to districts affected by state activities. [Repealed, § 20 ch 26 SLA 1980.]*

**Sec. 14.17.220. Purpose.** It is the intention of the legislature, in enacting this public school foundation program, to assure an equitable level of educational opportunities for those in attendance in the public schools of the state. Except for the limitations of AS 14.17.025, this chapter may not be interpreted as preventing a public school district from providing educational services and facilities beyond those assured by the foundation program. (§ 1.01 ch 164 SLA 1962; am § 16 ch 91 SLA 1987)

**Effect of amendments.** — The 1987 amendment substituted "equitable" for "adequate" in the first sentence and "Except for the limitations of AS 14.17.025, this chapter may" for "This chapter shall" at the beginning of the last sentence.

**Sec. 14.17.225. Construction and implementation of chapter.**

(a) This chapter does not create a debt of the state. Each district shall establish, maintain, and operate under a balanced budget. The state is not responsible for the debts of a school district.

(b) Money to carry out the provisions of AS 14.17.010 — 14.17.190 may be appropriated annually by the legislature into the public school foundation account. If amounts in the account are insufficient to meet the allocations authorized under AS 14.17.010 — 14.17.190 for a fiscal year, each district's basic need shall be reduced pro rata as necessary to make the funds available sufficient to meet the allocations for that fiscal year. (§ 8 ch 95 SLA 1969; am § 1 ch 79 SLA 1971; am § 12 ch 90 SLA 1977; am § 51 ch 6 SLA 1984; am § 17 ch 91 SLA 1987)

**Effect of amendments.** — The 1984 amendment repealed former subsection (d), relating to the average daily membership allotment supplemental account. The 1987 amendment rewrote this section.

*Secs. 14.17.230 — 14.17.240. Transition; repealer. [Repealed, § 2 ch 71 SLA 1972.]*

**Sec. 14.17.250. Definitions.** In this chapter, unless the context otherwise requires

(1) "ADM full-time equivalent" means the aggregate class periods of pupil membership in specified classes for the student counting period for which a determination is being made, divided by the total number of all class periods in the student counting period;

(2) "average daily membership" or "ADM" means the aggregate days of membership of pupils divided by the actual number of days in session for the counting period for which a determination is being made;

(3) "commissioner" means the commissioner of the Department of Education;

(4) "district" means any city or borough school district or regional educational attendance area;

(5) "eligible federal impact aid" for a fiscal year means the amount of federal aid received by the district as of March 1 of the fiscal year as payment for its entitlement for the application submitted during the preceding fiscal year, including advance payments, and adjustments received since March 1 of the preceding fiscal year from prior year applications, under secs. 2, 3, and 4 of P.L. 81 — 874 (20 U.S.C. 237 — 239), as amended, except payments received under sec. 3(d)(3)(B)(ii) of that Act (20 U.S.C. 238(d)(3)(B)(ii)), to the extent the state may consider that aid as local resources under that Act and the regulations adopted under it;

(6) "fiscal year" means the year beginning July 1 and ending June 30 for which allotments and entitlements are computed or distributed;

(7) "local contributions" means appropriations to the school operating fund by the city or borough, interest earnings that a district is allowed to keep and spend on school operations, state tuition payments, the value of in-kind services performed by the city or borough, and 10 percent of the district's eligible federal impact aid.

(8) "pre-fiscal year" means the year immediately before the fiscal year;

(9) "public school foundation account" means the account created by AS 14.17.010 for use in financing education in public elementary and secondary schools;

(10) "taxable real and personal property" means all real and personal property taxable under the laws of the state. (§ 4.02 ch 164 SLA 1962; am §§ 7, 8 ch 98 SLA 1966; am § 3 ch 153 SLA 1966; am § 18 ch 69 SLA 1970; am §§ 3, 11 ch 238 SLA 1970; am § 2 ch 40 SLA 1971; am § 14 ch 124 SLA 1975; am § 8 ch 115 SLA 1978; am §§ 17, 18 ch 26 SLA 1980; am §§ 13, 14 ch 75 SLA 1986; am §§ 18 — 21, 25 ch 91 SLA 1987)

**Revisor's notes.** — Reorganized in 1986 and 1987 to alphabetize the defined terms.

**Effect of amendments.** — The 1986 amendment rewrote former paragraphs (5) and (10), which defined "elementary school" and "secondary school".

The 1987 amendment rewrote paragraph (1); in paragraph (2), inserted "or

ADM" and substituted "counting period for which a determination is being made" for "school term"; deleted "but does not include household goods and personal effects" at the end of paragraph (10), added paragraphs (5) and (7), and repealed the paragraphs defining "elementary school," "instructional unit," "secondary school," and "weighted ADM."

Amend Title to following:

"An Act making appropriations to the Department of Education for K-12 support and school construction and school construction debt retirement; and providing for an effective date."

Add new section 2: The sum of \$80,914,600 is appropriated from the general fund to the Department of Education to be allocated to the following school districts in the amounts and for the purposes that follow:

Ketchikan Gateway Borough School District-	
Ketchikan High New Building/Asbestos Removal	21,188,000
Cordova City School District -	
Mt. Eccles School Renovation Phase I	1,073,000
Nome City School District -	
Nome-Beltz Life Safety Upgrade/Asbestos Removal	3,850,000
Lake and Peninsula School District-	
Newhalen-Iliamna Elementary School	750,000
Annette Island School District-	
Elementary/Middle School Fire Sprinkler System	285,000
Iditarod Area School District -	
McGrath School Reroof	603,000
Lower Yukon School District-	
Emmonak Elementary School Replacement	5,000,000
Southeast Island School District-	
Thorne Bay School Relocation/Final Phase	3,467,300
Lower Kuskokwim School District-	
Kasigluk Elementary School Replacement	4,779,000
Lower Kuskokwim School District-	
Nunapitchuk Elementary School	4,856,200
Lower Kuskokwim School District-	
Chefornak Elementary School Addition	3,265,400
Yukon Koyukuk School District-	
Instructional Center/Office Code Upgrade	130,000
Lower Yukon School District-	
Mountain Village Ph II, Elementary Replacement	2,653,000
Northwest Arctic Borough School District	
Selawik Elementary School Addition	2,019,700

Copper River School District	
Glenallen Secondary School Final Phase	5,028,200
Southwest Region School District	
Togiak School Addition	2,195,700
Yupiiit School District	
Akiachak Elementary Replacement/Renovation	5,400,000
Bering Straits School District	
Gambell Elementary School	3,000,000
Yukon Koyukuk School District	
Allakaket School Addition	1,051,600
Pribilof School District	
St. George-Media Center & Kitchen Addition	540,000
Southeast Island School District	
Edna Bay School Construction	890,700
Southeast Island School District	
Kasaan School Addition	691,800
Bering Straits School District	
Stebbins School Replacement	8,197,000

Renumber existing other sections of bill accordingly.

Add final section 5:

Appropriation made in section 2 of this Act are for capital projects and lapse under AS 37.25.020.

Priority One Projects  
for Fiscal Year 1991

<u>District</u>	<u>Project</u>	<u>Enrollment</u>	<u>Amount (in thousands)</u>
Ketchikan Gateway Borough Schools	Ketchikan High Major New Bldg./Asbestos	620	21,188.0
Cordova City Schools	Mt. Eccles School Renovation Phase I	423	1,073.0
Nome City Schools	Nome-Beltz Life Safety Upgrade/Asbestos	278	3,850.0
Lake & Peninsula Schools	Newhalen-Iliamna Elementary School	73	750.0
Annette Island Schools	Elementary/Middle Fire Sprinkler System	310	285.0
Iditarod Area Schools	McGrath School Reroof	158	603.0
Lower Yukon Schools	Emmonak Elementary School Replacement	150	5,000.0
Southeast Island Schools	Thorne Bay School Relocation/Final Phase	143	3,467.3
Lower Kuskokwim Schools	Kasigluk Elementary School Replacement	126	4,779.0
Lower Kuskokwim Schools	Nunapitchuk Elementary School	97	4,856.2
Lower Kuskokwim Schools	Chefornak Elementary School Addition	78	3,265.4
Yukon/Koyukuk Schools	Instructional Center/Office Code Upgrade	10	<u>130.0</u>
		Total	49,246.9
<u>NOTE:</u>			
*Lower Yukon Schools	Mt. Village/Phase II/Elementary Replace	117	2,653.0

Although this project was not listed as a priority 1 or 2 it is a phased project, partially funded by previous legislation, and under HB37 should be considered as a top priority. Highlighted on these two pages are the other two phased projects which should be included in this consideration.

Priority Two Projects  
for Fiscal Year 1991

<u>District</u>	<u>Project</u>	<u>Enrollment</u>	<u>Amount (in thousands)</u>
Northwest Arctic Borough	Selawik Elementary Addition	188	2,019.7
Copper River Schools	Glennallen Secondary School Final Phase	250	5,028.2
Southwest Region Schools	Togiak School Addition	158	2,195.7
Yupit Schools	Akiachak Elementary Replace/Renovate	141	5,400.0
Bering Strait Schools	Gambell Elementary	120	3,000.0
Yukon/Koyukuk Schools	Allakaket School Addition	43	1,051.6
Pribilof School District	St. George/Media Center & Kitchen Add.	37	540.0
Southeast Island Schools	Edna Bay School Construction	20	890.7
Southeast Island Schools	Kasaan School Addition	11	691.8
Bering Straits Schools	Stebbins School Replacement	138	<u>8,197.0</u>
	Total		29,014.7

The total of priority one and two projects with the addition of Mt. Village is: \$80,914,600.

**S B**

**398**

# Alaska State Legislature

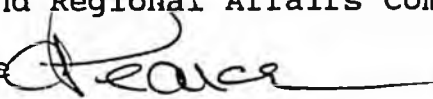
3111 C Street, Suite 150  
Anchorage, Alaska 99503  
(907) 561-2038

During Session:  
P.O. Box V  
Juneau, Alaska 99811  
(907) 465-4993

**Senator Drue Pearce**  
District G

## MEMORANDUM

TO: Senator Mike Szymanski, Chair  
Senate Community and Regional Affairs Committee

FROM: Senator Drue Pearce 

RE: Request for Hearing - SB 398

DATE: January 29, 1990

I request that a hearing be scheduled for Senate Bill 398 "An Act relating to day care programs and child care grants."

Currently two other bills that I sponsored, SB 307 and SB 308, are scheduled for February 15th before your committee. I would appreciate having SB 398 scheduled on the same day.

DP:jf



# Alaska State Legislature

Senator Mike Szymanski

While in Session:  
P.O. Box V  
Juneau, Alaska 99811  
(907) 465-4978

Interim:  
3111 C Street, Suite 510  
Anchorage, Alaska 99503

SB 398: "AN ACT RELATING TO DAY CARE PROGRAMS AND CHILD CARE GRANTS."

SPONSOR: PEARCE

(907) 566-7617  
OF  
165 E. Parks Highway  
Wasilla, Alaska 99687  
(907) 376-6453

The next bill before the committee is SB 398, an act relating to day care programs and child care facilities. This bill would expand the state's ability to contract with local entities, including non-profit and for-profit organizations, to provide day care program administration. SB 398 also changes the payment cycle for child care grants from monthly to quarterly, and revises the existing formula for the allocation of daycare positions to Daycare Assistance Program participants by a child care facility. Finally, the bill would amend the definition of "developmentally disabled" to reflect the federal definition.

TESTIFYING:

Jim Plasman, DCRA

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU ALASKA 99811  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

February 5, 1990

SUBJECT: Sectional Description  
(SB 398)

TO: Senator Mike Szymanski

FROM: Terri Lauterbach *TL*  
Legislative Counsel

Following is a brief sectional description of SB 398.

Sec. 1. Clarifies the authority of DC&RA to contract for day care program administration.

Sec. 2. Technical amendment to conform to changes made in sec. 1.

Sec. 3. Technical amendment to conform to changes made in sec. 1.

Sec. 4. Provides for day care grants to be on a quarterly, rather than monthly, basis.

Sec. 5. Modifies provisions under which child care facilities that receive grants must reserve space for children of families who are eligible for day care assistance from the state. Deletes a complicated formula and establishes, instead, a 20 percent minimum number of spaces.

Sec. 6. Raises the age of children eligible for day care assistance.

Sec. 7. Redefines the term "developmental disability."

Please let me know if you have further specific questions about the bill.

TL:pl  
WKP1/101

## FISCAL NOTE

**REQUEST:**

Revision Date: \_\_\_\_\_  
 Title: "An Act..day care programs and child care grants."  
 Sponsor: Senators Pearce, Duncan, etc.  
 Requestor: \_\_\_\_\_

Agency Affected: Community & Regional Affairs  
 BRU: Child Assistance  
 Components: Child Care

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

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL</b>						
<b>REVENUE</b>						

**FUNDING:** (Thousands of Dollars)

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

**POSITIONS:**

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

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

There is no fiscal effect for FY 90.

Prepared by: Brenda Knapp, Deputy Director  
 Division: Rural Development/Division  
 Approved by Commissioner: [Signature]  
 Agency: Department of Community & Regional Affairs

Phone: 465-4890  
 Date: 2/28/90  
 Date: 2-28-90

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

SB 398

Amendment proposed by Senator Pearce

Beginning on page 1, line 13 and ending on page 1, line 23:

"(2) contract with other entities [MUNICIPALITIES, OR, IF NECESSARY, WITH DAY CARE FACILITIES,] to perform duties of the department under AS 44.47.250 - 44.47.310 within an area specified by the department; the department shall give priority to contracting under this paragraph to municipalities and other entities in descending order of priority [THAT MUNICIPALITY; WITH THE APPROVAL OF THE DEPARTMENT, THE MUNICIPALITY MAY SUBCONTRACT WITH ANOTHER ORGANIZATION IN THE COMMUNITY TO PERFORM ADMINISTRATIVE DUTIES, OR, IF NECESSARY, THE DEPARTMENT MAY CONTRACT WITH ANOTHER ORGANIZATION TO PERFORM ADMINISTRATIVE DUTIES;"

2/6/90

# MEMORANDUM

## State of Alaska

Community and Regional Affairs

TO: Bob Evans  
Legislative Liaison  
Office of the Governor


DATE: December 28, 1989

FILE NO: 0644Q/DGH/JP/do/604

TELEPHONE NO: 465-4700

THRU:

SUBJECT: Day Care Assistance  
Program Legislation

FROM: David G. Hoffman  
Commissioner 

As a result of an internal audit which has just been completed, some problems with existing statutory language for this program have arisen. We have attached some draft language which will address these problems, as well as some other program administration issues which arose as part of the review of the program. As you are aware, this program has a fairly high profile and is one which has been of interest to legislators, particularly from the funding aspect. At least in part because of this interest, the department undertook the audit. For your information, Legislative Audit has been requested to review the program as well, but has been waiting for the completion of our audit before commencing its audit. This provides a certain amount of momentum to address the problems revealed by the audit during this session.

Attached is some draft language developed by program staff to address the problems. An explanation of the various provisions follows:

1. Amend AS 44.47.250(b)(2); repeal AS 44.47.250(4).

It has been the experience of the program that often day care facilities lack the necessary administrative capacity to deal with the administrative requirements of the program. The proposed language allows the department to grant funds to entities which can demonstrate the ability to appropriately administer the funds. The priority set out recognizes the preference to deal first with a local governmental institution, then with a non-profit corporation and finally, if there is no other alternative, a for-profit corporation.

Bob Evans  
December 28, 1989  
Page Two

2. Amend AS 44.47.260.

Language is amended to reflect the changes made to 250(b)(2).

3. Amend AS 44.47.300(b).

This change is made to be consistent with the change made in 250(b)(2).

4. Amend AS 44.47.305(g).

The existing formula set out in this subsection for allocation of space by participating facilities to day care assistance eligible children results in some cases in a negative number. This clearly is not the intent of the program. Instead of the complicated and flawed formula set out in the existing statute, the amendment replaces it with a simple 20 percent minimum, which is consistent with existing practice.

5. Amend AS 44.47.310(1).

A "child" is defined for the purposes of this program to be below age 13, rather than the current age of 11. While typically children this age do not require day care, there are some shift workers who require care for children at night. Because of the limited number expected to be affected, no fiscal impact is anticipated.

6. Amend AS 44.47.310(6)

The change to the definition of developmental disability is in keeping the federal definition used in FSA matters. The definition expands the coverage of the statute to developmental disabilities beyond mental retardation. This allows for physical disorders which are debilitating and allows us to pay additional costs for these children and assist them to an older age.

DCAP Statute Change:

Section 1. Amend AS 44.47.250(b)(2) to read (and repeal 250(b)(4)) as follows:

Priority in granting funds for Day Care Assistance Program administration within a specified area will go to municipalities, non-profits, and for-profits, in this respective order.

Section 2. Amend AS 44.47.260 to read:

When a grant is made under AS 44.47.250(b)(2) between the department and an entity, the department shall pay to the grantee the greater of

(1) an amount equal to 10 percent of the total annual day care benefits paid to day care facilities in the geographic area administered by the grantee; or

(2) [stays as is]

Section 3. Amend AS 44.47.300(b) to read:

Benefits shall be paid by the department directly to the entity contracting with the day care facility.

Section 4. Amend AS 44.47.305(g) to read:

Each child care facility receiving a grant under (a) or (d) of this section shall assure a minimum of 20 percent of their child care positions are available to children eligible for day care assistance under AS 44.47.250-44.47.310, whose parents or guardians wish to pay for care based on attendance only.

Section 5. Amend AS 44.47.310(1) to read:

"child" means a person below 13 years of age, or a minor who has a developmental disability;

Section 6. Amend AS 44.47.310(5) to read:

"developmental disability" means a minor who is incapable of caring for himself or herself, as verified based upon determination by a physician or a licensed or certified psychologist.

6-1953E  
Lauterbach  
2/12/90

SEN. Szymanski

Original sponsor(s): SEN. PEARCE, Duncan, Kelly, Sturgulewski

1 IN THE SENATE

BY THE C&RA COMMITTEE

2 CS FOR SENATE BILL NO. 398 (C&RA)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to day care programs and child care  
7 grants."

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

9 \* Section 1. AS 44.47.250(b) is amended to read:

10 (b) The department may

11 (1) adopt regulations necessary for the performance of its  
12 duties under AS 44.47.250 - 44.47.310;

13 (2) contract with other entities [MUNICIPALITIES, OR, IF  
14 NECESSARY, WITH DAY CARE FACILITIES,] to perform duties of the depart-  
15 ment under AS 44.47.250 - 44.47.310 within an area specified by the  
16 department; the department shall give priority in contracting under  
17 this paragraph to municipalities, nonprofit organizations, and for-  
18 profit organizations serving the specified area, in descending order  
19 of priority [THAT MUNICIPALITY; WITH THE APPROVAL OF THE DEPARTMENT,  
20 THE MUNICIPALITY MAY SUBCONTRACT WITH ANOTHER ORGANIZATION IN THE  
21 COMMUNITY TO PERFORM ADMINISTRATIVE DUTIES, OR, IF NECESSARY, THE  
22 DEPARTMENT MAY CONTRACT WITH ANOTHER ORGANIZATION TO PERFORM ADMINIS-  
23 TRATIVE DUTIES;

24 (3) REPEALED;

25 (4) CONTRACT WITH DAY CARE FACILITIES OUTSIDE OF MUNICIPAL-  
26 ITIES; TO PROVIDE MORE EFFECTIVE ADMINISTRATION OF PROGRAMS IN THE  
27 UNORGANIZED BOROUGH, THE DEPARTMENT MAY CONTRACT WITH ANOTHER ORGANI-  
28 ZATION IN THE COMMUNITY OR WITH AN ORGANIZATION SERVING THE REGION IN  
29 WHICH THE COMMUNITY IS LOCATED TO PERFORM ADMINISTRATIVE DUTIES].

1 \* Sec. 2. AS 44.47.260 is amended to read:

2       Sec. 44.47.260. PAYMENTS TO MUNICIPALITY OR ORGANIZATION. When  
3 a contract is made under AS 44.47.250(b)(2) [OR (b)(4)] between the  
4 department and a municipality or an organization, the department shall  
5 pay to that municipality or organization the greater of

6           (1) an amount equal to 10 percent of the total annual day  
7 care benefits paid to day care facilities in the geographic area  
8 administered by that municipality or organization under the contract;  
9 or

10           (2) \$1,000 per year.

11 \* Sec. 3. AS 44.47.300(b) is amended to read:

12       (b) Benefits shall be paid by the department directly to the  
13 municipality or organization contracting with the day care facility  
14 [OR, OUTSIDE OF A MUNICIPALITY, TO THE FACILITY UPON RECEIPT OF A  
15 BILLING FROM A MUNICIPALITY OR FACILITY].

16 \* Sec. 4. AS 44.47.305(f) is amended to read:

17       (f) A grant under (a) of this section may [SHALL] be made quar-  
18 terly or monthly and shall be based on the average daily full-time  
19 equivalent enrollment in the child care facility [DURING THE CALENDAR  
20 MONTH PRECEDING THE DATE ON WHICH APPLICATION FOR A GRANT IS MADE].

21 \* Sec. 5. AS 44.47.305(g) is amended to read:

22       (g) Each child care facility receiving a grant under (a) or (d)  
23 of this section shall assure that at least 20 percent or one, whichev-  
24 er is greater, of their child care positions [A SPECIFIED NUMBER OF  
25 CHILD CARE POSITIONS] are available to children eligible for day care  
26 assistance under AS 44.47.250 - 44.47.310, whose parents or guardians  
27 wish to pay for care based on attendance only [THE NUMBER OF FULL-TIME  
28 EQUIVALENT DAYS THE CHILD ATTENDS THE FACILITY. ALL CHILD CARE POSI-  
29 TIONS NOT MADE AVAILABLE UNDER A PAYMENT SCHEDULE BASED ON ENROLLMENT

1 SHALL BE MADE AVAILABLE UNDER A PAYMENT SCHEDULE BASED ON ATTENDANCE  
2 AND AT LEAST ONE FULL-TIME EQUIVALENT POSITION SHALL BE MADE AVAILABLE  
3 BASED ON ATTENDANCE RATHER THAN ENROLLMENT. THE MAXIMUM NUMBER OF  
4 CHILD CARE POSITIONS IN EACH FACILITY THAT MAY BE MADE AVAILABLE UNDER  
5 A PAYMENT SCHEDULE BASED ON ENROLLMENT SHALL BE DETERMINED EACH MONTH  
6 UNDER THE FOLLOWING FORMULA:

7 M = (T+E) - (A+B) WHERE

8 M = MAXIMUM NUMBER OF POSITIONS AVAILABLE UNDER AN ENROLL-  
9 MENT-BASED FEE SCHEDULE;

10 T = THE TOTAL NUMBER OF FULL-TIME EQUIVALENT CHILD CARE  
11 POSITIONS IN THE FACILITY;

12 E = NUMBER OF FULL-TIME EQUIVALENT POSITIONS DURING THE  
13 MONTH BEFORE COMPUTATION WITH AN ENROLLMENT-BASED FEE SCHEDULE;

14 A = AVERAGE DAILY FULL-TIME EQUIVALENT ATTENDANCE DURING THE  
15 MONTH BEFORE COMPUTATION IN POSITIONS WITH AN ENROLLMENT-BASED  
16 FEE SCHEDULE;

17 B = MAXIMUM DAILY FULL-TIME EQUIVALENT ATTENDANCE DURING THE  
18 MONTH BEFORE COMPUTATION IN POSITIONS WITH AN ATTENDANCE-BASED  
19 FEE SCHEDULE].

20 \* Sec. 6. AS 44.47.310(1) is amended to read:

21 (1) "child" means a person below 13 [11] years of age, or a  
22 minor who has a developmental disability;

23 \* Sec. 7. AS 44.47.310(6) is repealed and reenacted to read:

24 (6) "developmental disability" means a disability under  
25 which a person is incapable of self-care, as verified by a physician  
26 or licensed or certified psychologist who has examined the person;  
27  
28

**S B**

**403**

ALASKA STATE LEGISLATURE · SENATE

SENATOR RICHARD I. ELIASON

LABOR & COMMERCE COMMITTEE, CHAIRMAN  
RESOURCES COMMITTEE  
RULES COMMITTEE  
SPECIAL COMMITTEE ON HIGH SEAS  
SALMON INTERCEPTION  
SELECT COMMITTEE ON  
LEGISLATIVE ETHICS



P.O. BOX 143  
SITKA, ALASKA 99835

P.O. BOX V  
JUNEAU, ALASKA 99811  
(907) 465-4916

FAX (907) 465-4928

M E M O R A N D U M

TO: Sen. Szymanski, Chairman  
Senate Community and Regional Affairs Committee

FROM: Sen. Eliason *Richard I. Eliason*

DATE: January 26, 1990

RE: Scheduling of SB 403

This week I introduced SB 403, an act establishing the Stan Price Wildlife Sanctuary at Pack Creek on Admiralty Island. The bill has been referred to your committee. I would very much appreciate your scheduling of this legislation by the CRA committee at your earliest convenience.

I am attaching some background information about Stan Price, the purpose of the proposed sanctuary, maps of the area to be included, and so on. I have requested fiscal notes and position papers from Fish and Game and DNR and will send those on to you as soon as I receive them. If you would like any further information please let me know.

Again, your consideration of scheduling SB 403 would be much appreciated.

# STATE OF ALASKA

## DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

400 WILLOUGHBY AVE.  
JUNEAU, ALASKA 99801-1796  
PHONE: (907) 465-2400

February 5, 1990

The Honorable Al Adams  
Chair, Community and Regional  
Affairs Committee  
Alaska State Senate  
P.O. Box V  
Juneau, AK 99811

Dear Senator Adams:

Subject: Senate Bill 403 would establish the Stan Price State Wildlife Sanctuary on state tide and submerged land.

Position: DNR supports this legislation.

Background: This legislation would provide permanent protection for brown bears and other fish and wildlife. The legislation affects tide and submerged land already managed by the U.S. Forest Service and the Department of Fish and Game through a cooperative agreement from this department. We feel that the establishment of this sanctuary is in the public's interest. The uplands are managed by the U.S. Forest Service and are designated wilderness.

To ensure consistency with other established sanctuaries (Walrus Island State Game Sanctuary and McNeil River State Game Sanctuary) and to clarify management responsibilities between Fish and Game and DNR, the following language should be added:

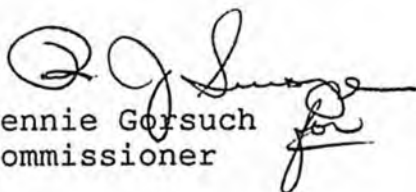
Applicability of other laws. The provisions of AS 16.20.130-140 relating to administration, multiple use and sale and lease apply also to the Stan Price State Wildlife Sanctuary.

This language is included in the McNeil River State Game Sanctuary statute (Sec. 16.20.170)

February 5, 1990

It is appropriate that the sanctuary be named after Mr. Price, the long-term Alaskan who inhabited this area for so many years and had a deep affection for the wildlife in the area. Please contact me or my staff if you have questions regarding this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lennie Gorsuch".

Lennie Gorsuch  
Commissioner

cc: Bill Sponsor  
Committee Members  
Bob Evans, Legislative Liaison  
Office of the Governor  
Denby Lloyd, Special Staff Assistant  
Office of the Governor  
Gary Gustafson, Director  
Division of Land and Water Management  
Department of Natural Resources

# Bear Man of Admiralty Dies at Age 90

JUNEAU, Alaska (AP) — Admiralty Island's Stan Price, the longtime "bear man of Pack Creek," has died. He was 90.

Price, who lived for 40 years along the shores of Pack Creek on the island's northeast side, was renowned for his relationship with brown bears that roamed the creek, and he became a symbol of peaceful coexistence between humans and the huge animals.

Thousands of people visited the area about 30 miles south of Juneau to see brown bears in the wild. But Price himself also was an attraction — a small, white-haired man who casually strolled among the fearsome-looking bruins with nothing more than a walking stick for protection.

Price died Tuesday at the home of his great-nephew, Gary Lingle of Juneau, where he had been living since October. He suffered from cancer.

A native of Missouri, Price arrived in southeast Alaska in 1927 in a sailboat he had built in Seattle. In 1928, he set up a mining and logging operation at Windham Bay not far from Pack Creek. He also worked as a mechanic, fisherman and fox farmer.

Lingle, who moved to Juneau in 1970 from Portland, Ore., was a regular visitor to Pack Creek to see his

great-uncle. He said he bought a plane and learned to fly so he could supply Price with fresh food and mail. During the summer, Lingle would fly out twice a week with supplies and help with firewood and other chores associated with cabin life.

Price was married twice. Edna, his wife of 50 years, died of cancer in 1973. In 1975 he married Esther, an old childhood friend. She is still living but suffers from Alzheimer's disease and lives with a daughter in Arkansas, Lingle said.

In the 20 years that he regularly visited his great-uncle, Lingle said, he always felt safe walking with Price because of the special relationship he had with the Pack Creek bears.

"He (Price) always said if you're friends with the bears, the bears will be friends with you," Lingle said. "He had a mutual respect with the bears and the proof is that he lived there for 40 years with only one incident."

That incident occurred on a narrow path between Price's woodshed and his house on the beach. Price and a brown bear surprised each other and a face off began with neither backing down. The big brownie finally swatted Price, breaking his collarbone. It was the only time he was hurt by a

bear, Lingle said.

Despite living in close quarters with some 25 brown bears that roam the Pack Creek drainage, Price never carried a rifle. A quick hop on the nose with his walking stick was usually sufficient if a bear got testy.

As word of Price's special relationship with the bears spread, films, television shows and magazines began spreading his story. During the 1980s, the number of visitors to Pack Creek increased dramatically.

In 1987, the U.S. Forest Service and the Alaska Department of Fish and Game began to restrict visitation in the area and the Pack Creek Cooperative Management area was set up. Visitor permits now are required and an armed guard is provided during the summer months.

Lingle said these restrictions rankled Price.

"It won't be the same without Stan out there," Lingle said. "They (the Forest Service) had an opportunity to include him in their plans but instead they did everything they could to alienate and isolate him."

Juneau wildlife filmmaker and Alaska Board of Game member Joel Bennett knew Price for 21 years. He credits Price with helping to lead him to a career in film. In fact, Price was

featured in a Turner Broadcasting special last year filmed by Bennett.

"He had a gentleness and a special way of communicating with the bears," Bennett said. "He didn't subscribe to the theory that they were marauding killers lurking behind every tree."

Bennett was also a frequent visitor to Pack Creek to film Price and his bears. He said Price would walk to within six or eight feet of the animals and talk to them.

Price also had an affinity with other animals. Bennett filmed deer surrounding Price's cabin and actually coming inside to eat.

"Stan loved all creatures. He's most well known for the bears of course but he had a similar reverence with all other life forms," Bennett said.

Visitation to Pack Creek will probably drop off since people came there as much to see Price as the bears, Bennett said.

"This is the passing of a grand old man that represents a unique part of the heritage of Alaska," Bennett said. "His legacy is that people can coexist with wildlife peacefully if we try. He taught that by example."

STATE OF ALASKA  
1990 LEGISLATIVE SESSION

BILL VERSION : SB 403  
PUBLISH DATE : \_\_\_\_\_

FISCAL NOTE

REQUEST:

Revision Date: 1-Feb-90 Agency Affected: Natural Resources  
 Title: An Act establishing the Stan Price ERU: Land and Water Management  
State Wildlife Sanctuary.  
 Sponsor: Eliason and Duncan Components: Land and Water Mgmt  
 Requestor: C&RA

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

\_\_\_\_\_

Prepared by: Janet Burleson Phone: 465-3400  
 Division: Land and Water Management Date: 1-Feb-90

Approved by Commissioner: Lennie Gorsuch Date: 1-Feb-90  
 Agency: Department of Natural Resources

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

# **CORRECTION**

**THIS DOCUMENT  
HAS BEEN REPHOTOGRAPHED  
TO ASSURE LEGIBILITY**

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1990 LEGISLATIVE SESSION

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PUBLISH DATE : \_\_\_\_\_

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REQUEST:

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LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0


POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

\_\_\_\_\_

Prepared by: Janet Burlison Phone: 465-3400  
 Division: Land and Water Management Date: 1-Feb-90

Approved by Commissioner:  Lennie Gorsuch Date: 1-Feb-90  
 Agency: Department of Natural Resources

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



United States  
Department of  
Agriculture

Forest  
Service

Region 10  
Tongass National Forest

Chatham Area  
204 Siginaka Way  
Sitka, Alaska 99835  
(907) 747-6671

Reply To: 1510-7

Date: February 2, 1990

Honorable Richard Eliason  
Alaska State Senate  
P.O. Box V  
Juneau, AK 99811  
Attn: Mary McDowell

Dear Senator Eliason:

Senate Bill 403 was recently introduced for consideration. The bill would establish the Stan Price State Wildlife Sanctuary on State land at Pack Creek on Admiralty Island. Per discussion between your staff and the Admiralty Island National Monument Manger, I would submit the following as the Forest Service's statement concerning the proposed legislation.

The Alaska Dept. of Fish and Game (ADF&G) and Admiralty Island National Monument, Chatham Area, Tongass National Forest, have been cooperating in the management of Pack Creek for a number of years. Since 1987 we have completed two joint planning efforts, resulting in effective management guidelines for the area. In May, 1988, the Pack Creek Cooperative Management Area was established to provide a unique recreational opportunity for visitors while protecting both the bears and their habitat.

The Forest Service, as well as the State of Alaska, have had a long relationship with Stan Price. His longevity, relationship with the bears, and popularity with visitors at Pack Creek made him a memorable individual. I believe the naming of the State Sanctuary would be an appropriate way of recognizing Stan.

Enactment of this legislation will allow for the continued cooperative management between the ADF&G and the Forest Service of an extremely important area; while memorializing a significant Alaskan citizen.

Thank you for the opportunity to comment on this bill.

Sincerely,

GARY A. MORRISON  
Forest Supervisor

cc:  
ADF&G  
ANM

900129 1300 ANM 1517 PS





STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
BILL ANALYSIS

DEPARTMENT Fish and Game	DIVISION Habitat	BILL NUMBER SB403	SPONSOR Senator Eliason
SHORT TITLE OF BILL An Act establishing the Stan Price Wildlife Sanctuary			
DEPARTMENT POSITION Support			
PREPARED BY Frank Rue, Director	DATE 2-2-90	COMMISSIONER'S SIGNATURE <i>Arum Riley</i>	DATE 2/2/90

SUMMARY

OTHER AGENCIES AFFECTED BY BILL Department of Natural Resources	CONSTITUENT GROUP(S) AFFECTED BY BILL Local recreationalists and wildlife viewers
ORGANIZATIONAL SUPPORT FOR BILL Local Environmental Groups	ORGANIZATIONAL OPPOSITION TO BILL None

FISCAL IMPACT:  NONE  FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT  
The purpose of the bill is to establish the Stan Price State Wildlife Sanctuary and to provide permanent protection for brown bears, other fish and wildlife populations and their habitats

- ANALYSIS OF BILL PROGRAM EFFECTS
1. Establish the Stan Price Wildlife Sanctuary.
  2. Provide permanent protection for brown bears, other fish and wildlife populations, and their habitats.
  3. Provide for a board to adopt regulations governing uses and activities affecting natural habitat and fish and wildlife.
  4. Direct the Commissioner to manage the sanctuary compatibly with adjacent uplands management and allow for management through cooperative agreements.

AMENDMENTS PROPOSED

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

STATE OF ALASKA  
1990 LEGISLATIVE SESSION

BILL VERSION: SB403  
PUBLISH DATE: \_\_\_\_\_

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
Title: All Act Establishing the State  
Price State Wildlife Sanctuary  
Sponsor: Senator Eliason  
Requestor: \_\_\_\_\_

Agency Affected: ADF&G  
BRU: Habitat & Wildlife Conservation  
Components: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	0					
TRAVEL	0					
CONTRACTUAL	0					
SUPPLIES	0					
EQUIPMENT	0					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0					
CAPITAL	0					
REVENUE	0					

FUNDING (Thousands of Dollars)

GENERAL FUND	0					
FEDERAL FUNDS	0					
OTHER	0					
TOTAL	0					

POSITIONS:

FULL-TIME	-					
PART-TIME	-					
TEMPORARY	-					

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Frank Rue, Director  
Division: Habitat  
Approved by Commissioner: *Walter W. Wiley*  
Agency: Alaska Department of Fish and Game

Phone: \_\_\_\_\_  
Date: 2/1/90  
Date: 2/2/90

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

# Pack Creek Map

Camp in sites marked ▲

Refer to USGS map: Sitka D-1 Quad



Observatory (out of use)

Pack Creek

Pack Creek Trail (1 mi.)

Prise Residence

Long Cabin

South Garden

Food Cache

Viewing Sand Spit

Tidal Flat

South Sand Spit

Anchor

Small Boat Outfall

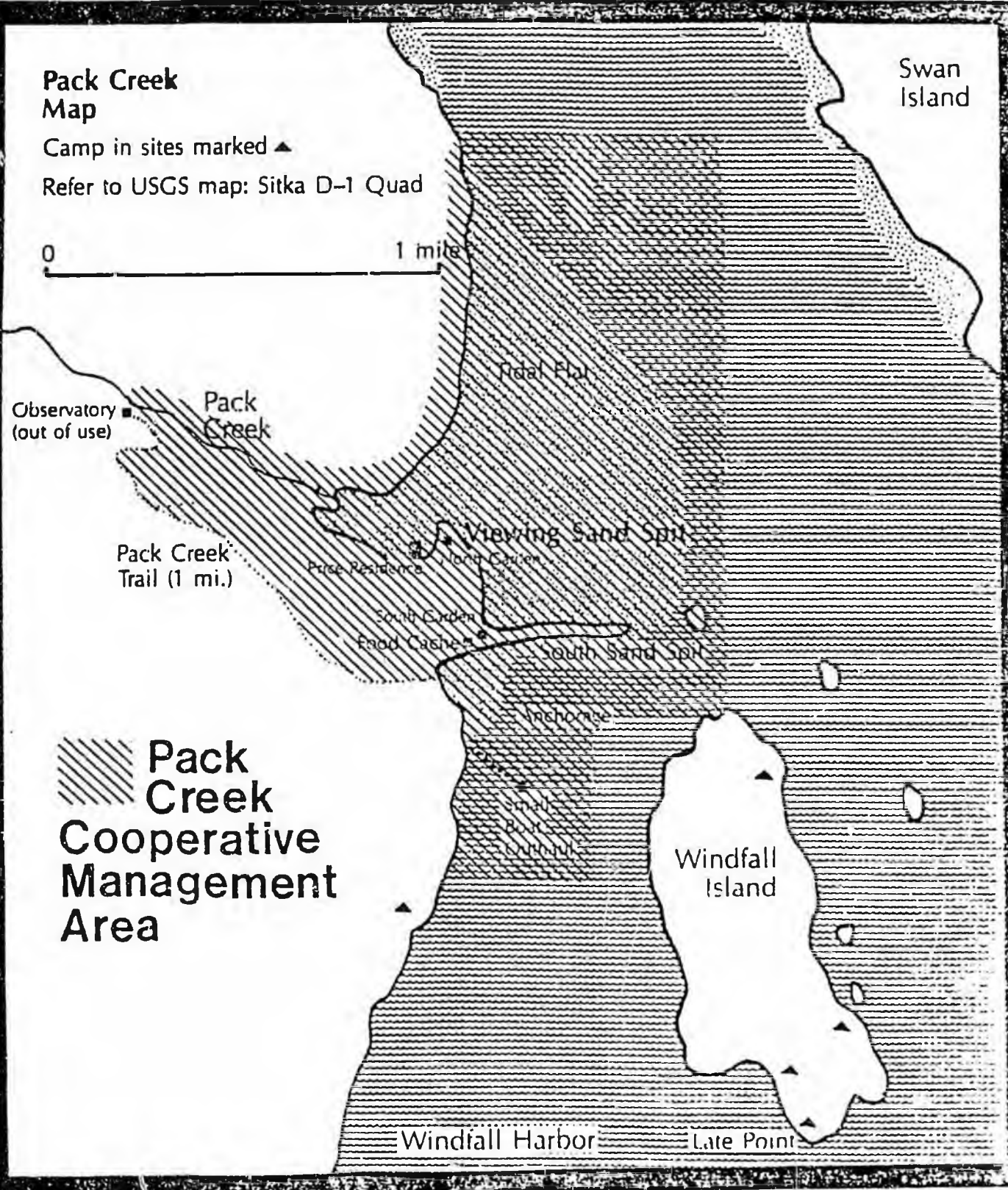
Swan Island

Windfall Island

Windfall Harbor

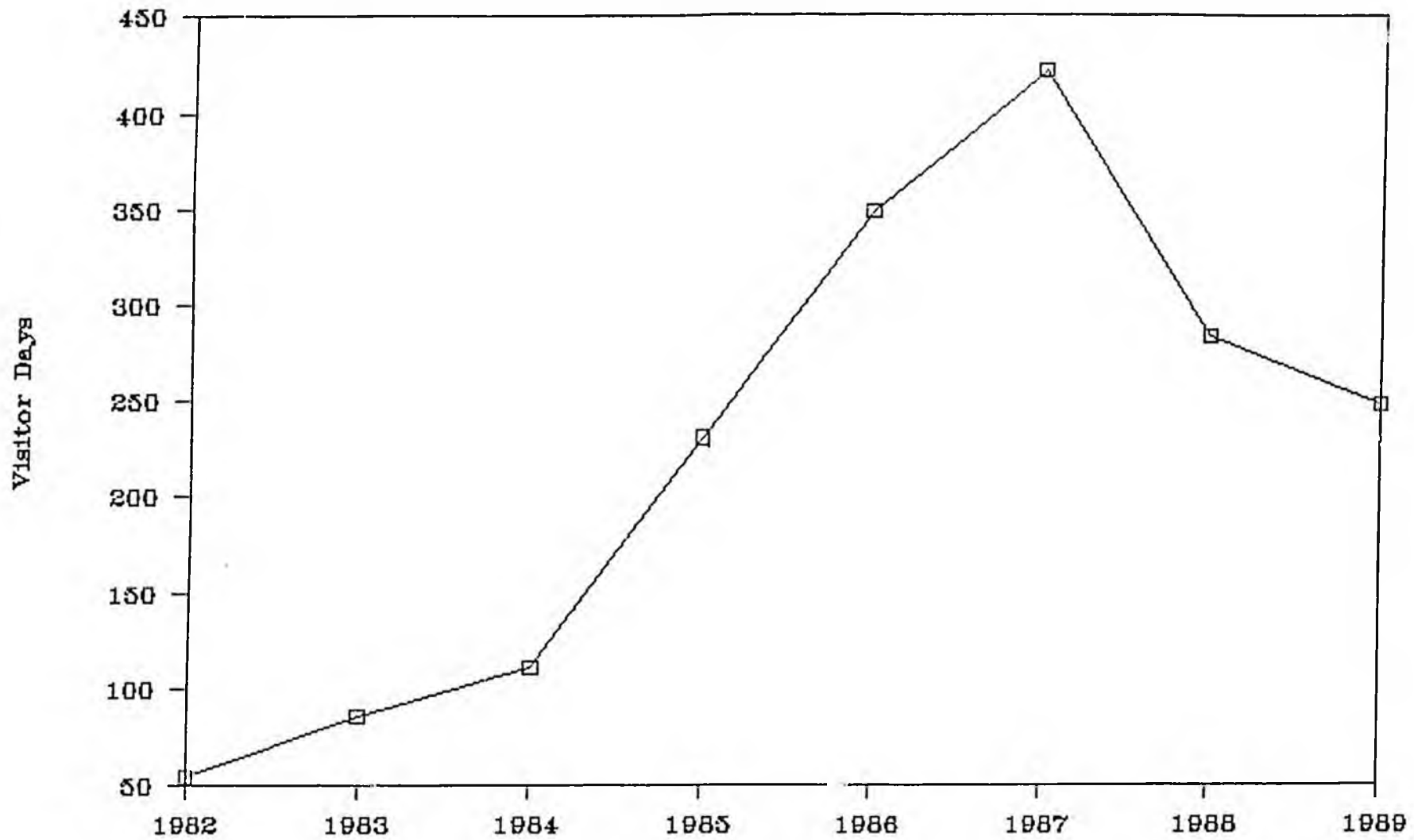
Late Point

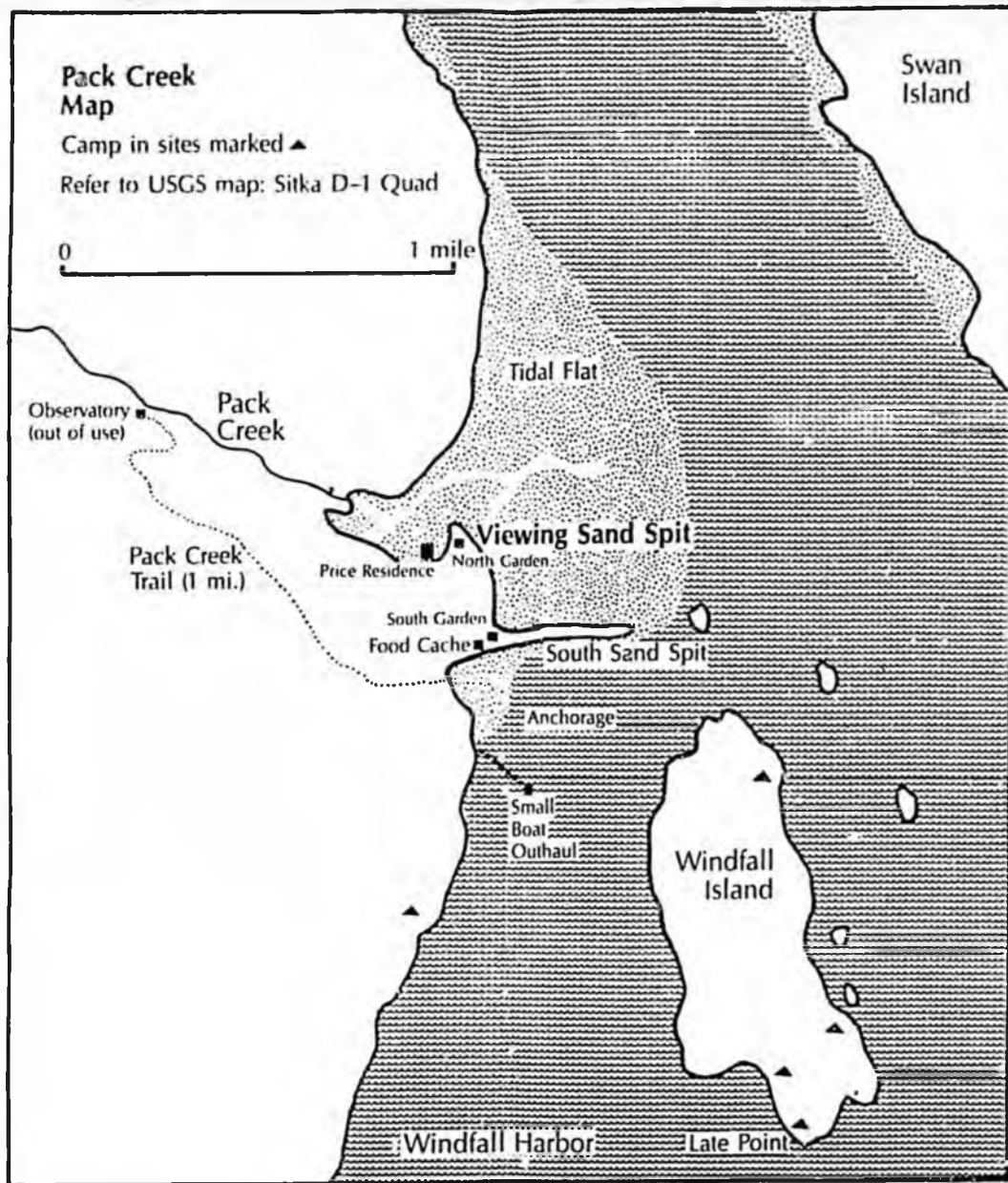
 Pack Creek Cooperative Management Area



# PACK CREEK VISITOR USE

1982 - 1989





### Pack Creek Safety

Pack Creek bears are habituated to humans, but they aren't tame. A few bears have tasted human food and will boldly approach you in search of more. While they may seem unaggressive, use some common sense. Follow these precautions:

- **Leave your food behind.**  
 A bucket cache is provided near the south sand spit (see Pack Creek Map). Do not carry food in your pack. Never feed any bear or leave any pack unattended. Intentionally leaving food unattended and accessible to bears is a violation of Alaska law. Even packs with no food in them are attractive to curious bears.
- **Stay near the viewing sand spit.**  
 Moving into the meadow herds the bears out of photo range for other visitors. Bears will approach the viewing spit if you have patience. Use a telephoto lens for closeup shots. Bears may allow you to approach closely but will show their displeasure through subtle signs not easily recognized by most visitors. If you are too close, you leave no room for error and you are inviting a charge.
- **Camp only in designated sites.**  
 The best camps are on Windfall Island. No camping is allowed near the estuary or food cache.

### For further information

Admiralty National Monument  
 8465 Old Dairy Road  
 Juneau, AK 99801  
 Phone: (907) 789-3111

Alaska Department of Fish and Game  
 Phone: Juneau (907) 465-4265  
 Sitka (907) 747-5449



## Bear Viewing

Pack Creek, Swan Cove and Windfall Harbor



United States  
 Department of  
 Agriculture

PREPARED BY  
 Forest  
 Service

Alaska Region  
 Leaflet No.  
 R10-RC-12

### Swan Cove and Windfall Harbor

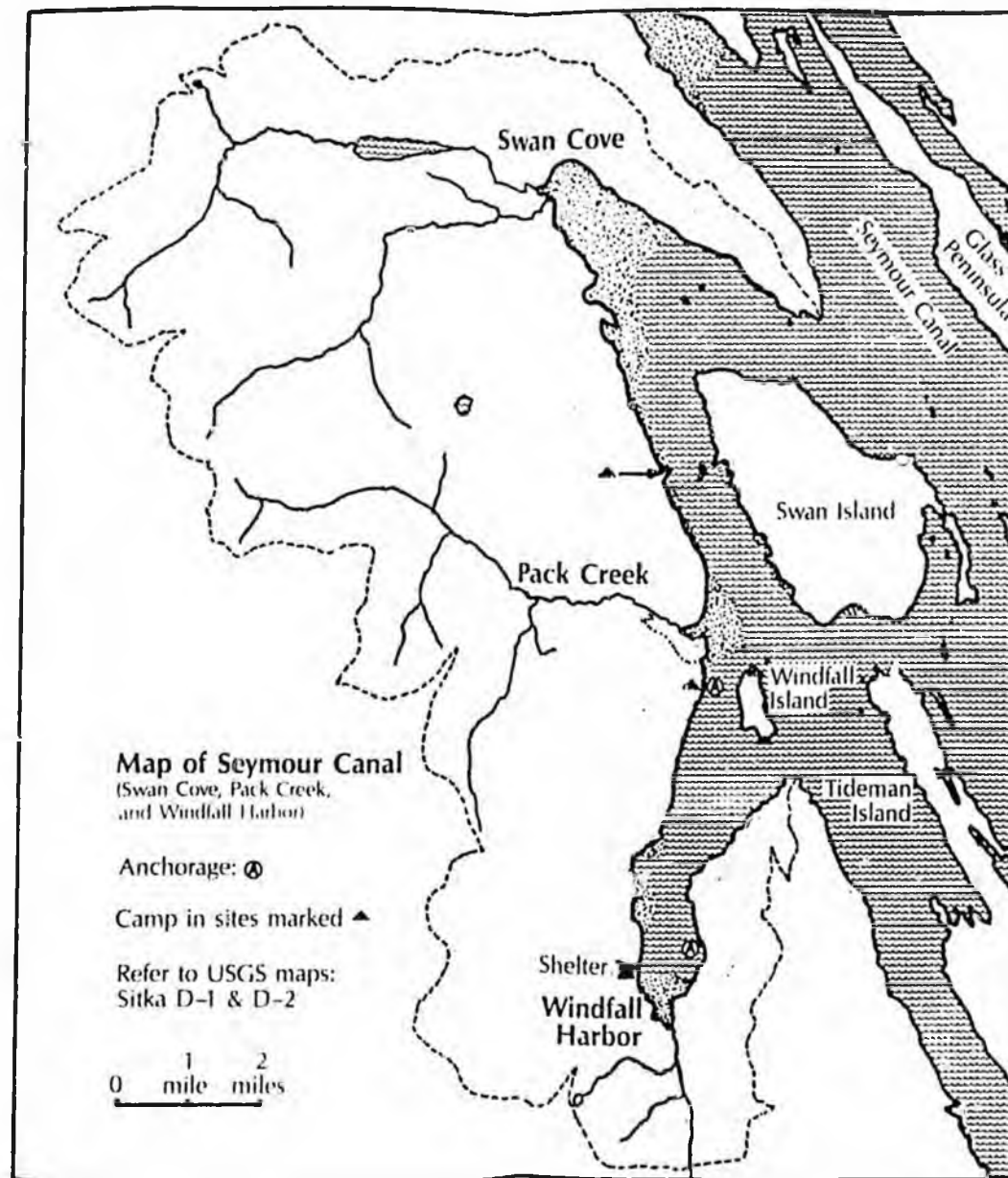
These large bays have extensive tideflats with good populations of brown bear, few human visitors, and few facilities. Bears are most abundant in July and August, and to a lesser extent in June and September. These wild bears are unaccustomed to humans and should be treated with respect (see **BEAR SAFETY** section). Boat anchorages are possible in the areas indicated on the map but consult the local area tide tables for the timing and height of high and low tides, and when going ashore remember that large tidal variations on shallow tideflats can easily strand a boat ashore. Windfall Harbor has a three-sided shelter to camp near and a good site shown for Swan Cove. Other sites are available on Swan Island. Always keep a clean camp and hang food high at night.

### Pack Creek

Pack Creek has been closed to bear hunting since the mid-1980s and several bears are habituated to the presence of humans. The opportunity to see bears is high because of this but some of the bears have obtained human food and have lost their fear of humans. This is a dangerous situation that warrants special precautions (see **PACK CREEK SAFETY**). A floathouse near the estuary has been occupied by Stan Price since the late 1950s. A few bears allow him to approach closely, but you should use some common sense and keep your distance. Bears have destroyed boats left on the beach and daypacks left in the meadow and on the viewing spit, and there have been several dangerous incidents involving visitors who approach too close.

### Management

The Windfall, Pack Creek, Swan Cove and Swan Island area is managed as part of the Admiralty National Monument and is administered by the USDA Forest Service. The Alaska Department of Fish and Game has jurisdiction over the bears and both agencies cooperate in managing the area for its wilderness values and non-consumptive uses. In 1984 the Alaska Board of Game extended the boundaries of the original Pack Creek bear refuge to include the entire area shown on the map of Seymour Canal.



### Bear Safety

Whenever in bear country you should act responsibly with food and respect the territorial nature of bears.

- **Keep your distance.**

It takes experience to know how close you can come to a bear, and the best advice is to stay back at least 100 feet. Staying out in the open where the bear can clearly see you is advisable. It is not wise to wander up a salmon creek where the noise of water and tree cover screens your approach and surprises a bear. Bears sometimes communicate to other animals and to humans through body posture.



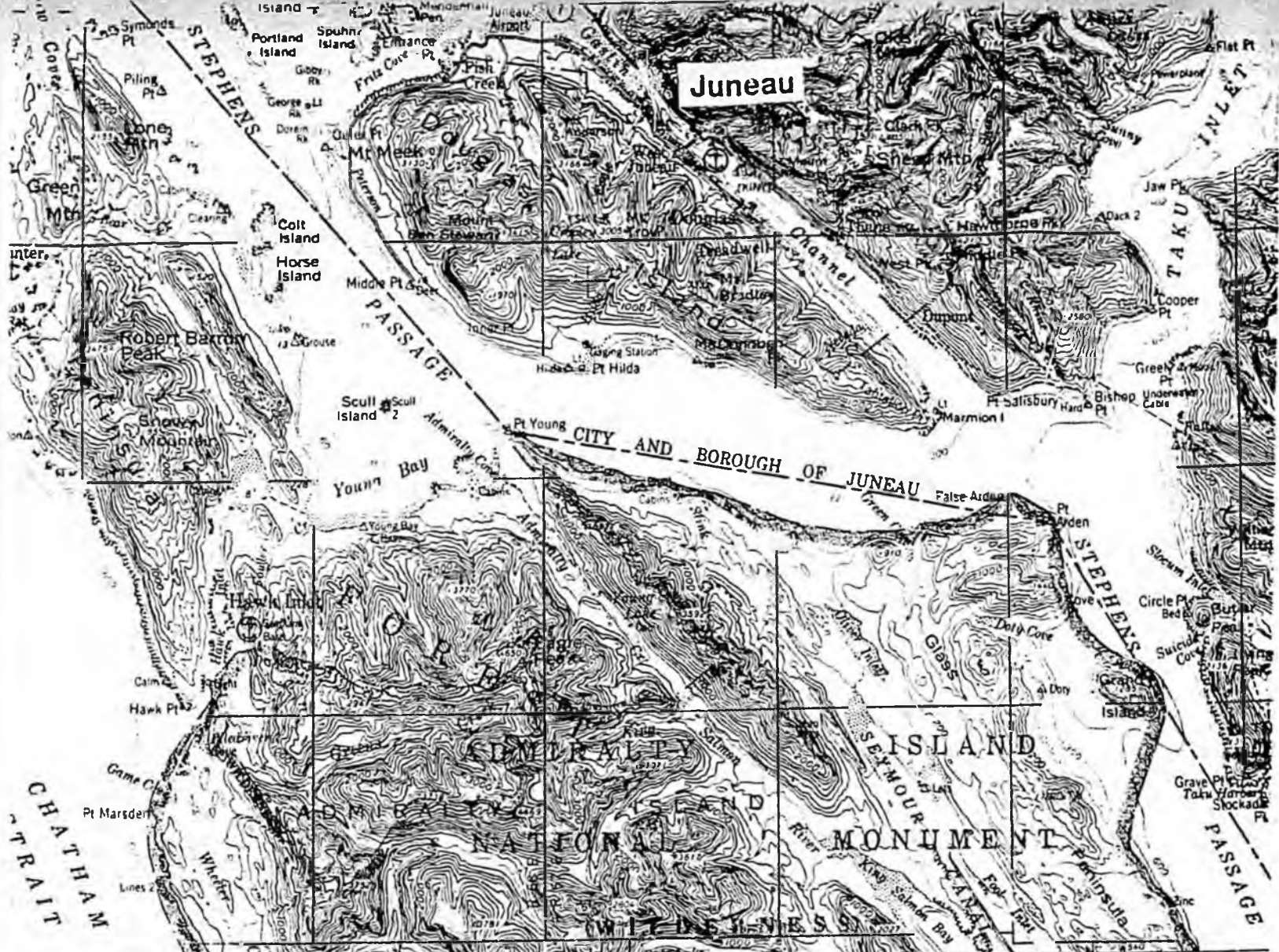
Standing in profile to you, head lowered, and "passively" looking toward the distance may be the bear's way of showing you his size, a polite way of telling you to move out of his space. Aggression is signaled by teeth chatter, hair raised on the hump and back, and ears laid back along the sides of the head.



Standing erect on hind legs is usually not an aggressive posture. When the bear's head and nose are raised with ears forward, the animal may only be trying to identify human noises and smells.

- **Keep a clean camp.**

No site, even those on small islands, is safe from a bear visit. Set the tent up well away from the cooking area and do not take food near it. Thoroughly burn all food scraps and refuse to remove smells and pack out whatever remains. People who use the site after you will appreciate you not burying or leaving anything behind that will attract bears into their camp. Hang food 12 feet above the ground when not in use. Remember, intentionally leaving food unattended and accessible to bears is considered feeding and is a violation of Alaska law. Be sure to down your campfire. Many sites are destroyed by campfires that people thought "couldn't possibly spread."



**Proposed Stan Price State Wildlife Sanctuary**

Scale: 1" = 4 Miles

