

SCOMM

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Bannister
9/24/97

HOUSE BILL NO.**IN THE LEGISLATURE OF THE STATE OF ALASKA****TWENTIETH LEGISLATURE - SECOND SESSION****BY REPRESENTATIVE MARTIN**

Introduced:

Referred:

A BILL**FOR AN ACT ENTITLED**

1 "An Act relating to the use of space for military lounges in state-owned or state-
2 controlled airports."

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

4 * **Section 1.** AS 02.15.090(a) is amended to read:

5 (a) In operating an airport or air navigation facility owned or controlled by the
6 state, the department may enter into contracts, leases, and other arrangements covering
7 periods not exceeding 55 years with a person, municipality, or the United States,
8 granting the privilege of using or improving an airport or air navigation facility or a
9 portion of it or space in it for commercial, governmental, or other public purposes,
10 including private plane tie down; or conferring the privilege of supplying goods,
11 commodities, services, or facilities at an airport or air navigation facility. The
12 department may establish the terms and conditions and fix the charges, rentals, and
13 fees for the privileges or services that are reasonable and uniform for the same class
14 of privilege or service. Charges, rentals, or fees authorized by this subsection may be

1 fixed for the international airports by order of the commissioner or by negotiated or
2 competitively offered contract. Notwithstanding AS 37.10.050(a), the fixing of
3 charges, rentals, or fees as permitted under this subsection is not subject to the
4 adoption of regulation provisions of AS 44.62 (Administrative Procedure Act). The
5 terms, conditions, charges, rentals, and fees shall be established with due regard to the
6 property and improvements used and the expense of operation to the state. However,
7 use of state land and buildings by the Alaska Wing, Civil Air Patrol, and its squadrons
8 and the use of space in state-owned or state-controlled airports as lounges for
9 members of the United States armed forces, the Alaska National Guard, the
10 Alaska Naval Militia, or the Alaska State Militia shall be permitted without rental
11 charges. The department shall provide for public notice and an opportunity to
12 comment before a charge, rental, or fee is fixed by order of the commissioner as
13 permitted under this subsection. The public may not be deprived of its rightful, equal,
14 and uniform use of the airport, air navigation facility, or a portion of them.

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. HB 362

Revision Date _____	Dept. Affected <u>DOT&PF</u>
Title <u>Airport Military Lounges</u>	BRU <u>Office of the Commissioner</u>
Sponsor <u>HS. Spec. Cmte. MVA</u>	Component <u>Commissioner's Office</u>
Requester <u>HS. Spec. Cmte. MVA</u>	Component Serial No. <u>530</u>

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type)	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

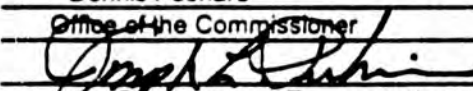
Estimate of any current year (FY98) cost: 0.0

POSITIONS

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

At this time, the Department has only one military lounge. It is located at Anchorage International Airport. The Department also currently has no requests to establish military lounges. This fiscal note assumes that any requests for a military lounge would be filled with available space. The Department also will not displace current airport tenants to establish military lounges.

Prepared by Dennis Poshard
 Division Office of the Commissioner
 Approved by: , Commissioner
 Agency Department of Transportation and Public Facilities

Phone 465-3904
 Date 2/20/98
 Date 2/20/98

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SPONSOR STATEMENT – HOUSE BILL 362

Regarding the Use of Military Lounges in State Owned & Controlled Airports

House Bill 362 amends A.S. 02.15.090(a) by adding language to allow the State of Alaska to provide space within its airports for use as military lounges free of rental charges, if those lounges are operated by non-profit agencies.

Even though only token rent is now being collected, this arrangement skirts on the periphery of FAA regulations. The Anchorage International Airport Director is doing a balancing act by dividing the square footage cost for the lounge between the other airport tenants. The Federal Aviation Administration frowns upon these arrangements and without codifying the "no rent" provision, the potential exists for this arrangement to change should the FAA decide to push the issue.

For many years, the Anchorage Armed Services YMCA have operated the Military Courtesy Lounge on Concourse B at the Anchorage International Airport. This operation is conducted at no expense to the State. More than 23,000 travelers took advantage of the lounge's services in 1996. A squadron booster clubs provide volunteers to staff the lounge.

Given that thousands of military personnel travel to and from Alaska each year, and that the total economic contribution to the State from military activities exceeds \$2.7 billion, it is the best interest of the State to protect the continued operation of rent free courtesy lounges in our state airports.

Passage of HB 362 will provide airport directors with the statutory justification to continue the "no rent" arrangements, which have served us so well in the past.

§ 02.15.080

AERONAUTICS

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Section

102. Use of airports for utilities
104. Relocation of utility facilities incident to airport projects
106. Encroachment permits
108. Relocation or removal of encroachment

Section

110. Unauthorized encroachments
112. Notice of removal of unauthorized encroachment
114. Removal at owner's expense after noncompliance; removal expenses

Collateral references. — 5 Am. Jur. 2d, Aviation, § 55-75.

Sec. 02.15.080. Establishment, operation and maintenance. The department may plan, establish, construct, enlarge, improve, maintain, equip, operate, regulate, protect, and police airports and air navigation facilities within the state. (§ 5 A ch 123 SLA 1949; am § 2 ch 68 SLA 1955)

NOTES TO DECISIONS

Applied in *Clark v. State*, 736 P.2d 772 (Alaska Ct. App. 1987).

Collateral references. — 5 Am. Jur. 2d, Aviation, §§ 17-19, 55 et seq.
2A C.J.S., Aeronautics and Aerospace, § 57 et seq.
Airport operations or flight of aircraft as nuisances. 79 ALR2d 952.

Airport operations liability insurance. 81 ALR3d 1267.

Sec. 02.15.070. Acquisition and disposal of property. (a) For the purposes specified in AS 02.15.080 the department may, by purchase, gift, devise, lease, condemnation, or otherwise, acquire real or personal property, or any interest in the property including easements in airport hazards or land outside the boundaries of an airport or airport site, necessary to permit the removal, elimination, obstruction-marking, or obstruction-lighting of airport hazards, or to prevent the establishment of airport hazards. The department may acquire existing airports and air navigation facilities in the same manner except it may not acquire or take over an airport or air navigation facility owned or controlled by a municipality or person without the consent of the municipality or person.

(b) The department may, by sale, lease, or otherwise, dispose of all, a portion of, or an interest in a property, airport, or air navigation facility described in (a) of this section. The proceeds of any disposition shall be used for the purposes set out in this chapter. (§ 5 A, B ch 123 SLA 1949; am § 2 ch 68 SLA 1955)

Collateral references. — 5 Am. Jur. 2d, Aviation, §§ 8-19, 52, 57.
2A C.J.S., Aeronautics and Aerospace, §§ 61, 65-67.
Plotting or planning in anticipation of improvement as taking or damaging of property affected. 57 ALR2d 127.

Zoning regulations limiting use of property near airport as taking of property. 19 ALR4th 542.
Operations or flight of aircraft as constituting taking or damaging of property. 28 ALR4th 949.

Sec. 02.15.090. Joint operations. The department may exercise the powers granted by AS 02.15.080 — 02.15.100 jointly with a person, municipality, or agency of the state, or with the United States. (§ 5 C ch 123 SLA 1949)

Sec. 02.15.090. Operation and use privileges. (a) In operating an airport or air navigation facility owned or controlled by the state, the department may enter into contracts, leases, and other arrangements covering periods not exceeding 55 years with

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ALASKA AERONAUTICS ACT OF 1949

§ 02.15.090

a person, municipality, or the United States, granting the privilege of using or improving an airport or air navigation facility or a portion of it or space in it for commercial, governmental, or other public purposes, including private plane tie down; or conferring the privilege of supplying goods, commodities, services, or facilities at an airport or air navigation facility. The department may establish the terms and conditions and fix the charges, rentals, and fees for the privileges or services that are reasonable and uniform for the same class of privilege or service. Charges, rentals, or fees authorized by this subsection may be fixed for the international airports by order of the commissioner or by negotiated or competitively offered contract. Notwithstanding AS 37.10.080(a), the fixing of charges, rentals, or fees as permitted under this subsection is not subject to the adoption of regulation provisions of AS 44.63 (Administrative Procedure Act). The terms, conditions, charges, rentals, and fees shall be established with due regard to the property and improvements used and the expense of operation to the state. However, use of state land and buildings by the Alaska Wing, Civil Air Patrol and its squadrons shall be permitted without rental charges. The department shall provide for public notice and an opportunity to comment before a charge, rental, or fee is fixed by order of the commissioner as permitted under this subsection. The public may not be deprived of its rightful, equal, and uniform use of the airport, air navigation facility, or a portion of them.

(b) The department may by contract or other arrangement, upon a consideration fixed by it, grant to a qualified municipality or person for a reasonable period of time the privilege of operating, as agent of the state or otherwise, an airport owned or controlled by the state. A municipality or person granted that privilege may not operate the airport other than as a public airport or enter into any contract, lease or other arrangement in connection with the operation that the department may not have undertaken under (a) or (c) — (e) of this section.

(c) Notwithstanding the right of the public to rightful, equal, and uniform use under (a) of this section, before the expiration of a land lease, including the termination of a lease in holdover status, entered into under this section, the lessee may apply for a new lease, or for an extended term under the existing lease, for the same land. The commissioner shall approve the application for a new land lease or an extended term under this section without offering the land to other persons for leasing if

(1) the lessee is in compliance with the terms and conditions of the existing or holdover lease; and

(2) the continued use of the leasehold is consistent with written airport operation policies and is in the state's best interest.

(d) A land lessee owns title to the permanent improvements that the lessee constructed or purchased during the term of the lease, unless the lease expressly provides that the state is the owner of the permanent improvements.

(e) At the expiration, termination, or cancellation of a land lease entered into under this section,

(1) a lessee who owns the improvements under (d) of this section shall continue to own the permanent improvements that the lessee constructed or purchased on a leasehold if the lessee is granted under (c) of this section a new lease or an extended term for the same land;

(2) a lessee may sell the permanent improvements owned by the lessee to a succeeding lessee of the same land;

(3) at the option of the lessee, the permanent improvements owned by the lessee may be sold by the state at public auction with the proceeds from the sale of the improvements going to the lessee, less administrative costs of the auction and obligations owed under the lease to the state; the successful bidder has the same right to enter into a new lease under (c) of this section without the department offering the land to other persons for leasing;

(4) after notice by the department, the permanent improvements owned by the lessee shall be removed at the lessee's sole expense if

§ 02.15.091

AIRCRAFT

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(A) the permanent improvements do not comply with written airport operational policies or are not in the state's best interest;

(B) the permanent improvements are not sold under (e)(2) or (3) of this section; or

(C) the department makes written findings that the permanent improvements are a hazard to the public health and safety;

(K) title to the permanent improvements vests in the department if the state purchases or otherwise contracts for the ownership of the permanent improvements, or if the lessee abandons the permanent improvements. (§ 5 E ch 123 SLA 1949; am § 1 ch 117 SLA 1950; am § 3 ch 24 SLA 1990; am § 1 ch 23 SLA 1993; am §§ 2, 3 ch 105 SLA 1996)

Cross references. — For legislative findings and purposes concerning the enactment of subsections (c)-(e) in § 3, ch. 105, SLA 1990, see § 1, ch. 105, SLA 1990 in the Temporary and Special Acts.

Effect of amendments. — The 1990 amendment, effective May 12, 1990, in subsection (a), substituted "commercial, governmental, or other public purposes, including private plans to down" for "commercial or governmental purposes" in the first sentence, added the fourth (now sixth) sentence and made grammatical changes.

The 1993 amendment, effective May 26, 1993, in subsection (a), added the present third, fourth, and seventh sentences and made a stylistic change in the last sentence.

The 1996 amendment, effective September 21, 1996, inserted a section reference near the end of subsection (b) and added subsections (c)-(e).

Editor's note. — Section 3, ch. 32, SLA 1993 makes the 1990 amendment to (a) of this section retroactive to January 1, 1991.

NOTES TO DECISIONS

State cannot be indemnified for own negligence. — Administrative regulation requiring that all airport terminal leases contain an indemnity provision was invalid to the extent that it required airport lessees to indemnify the state for its own negligence in the operation, maintenance or design of the taxiways and runways of Anchorage International Airport. *State v. Korean Air Lines Co.*, 778 P.2d 315 (Alaska 1989).

Public duty exception to rule allowing indemnification of an indemnitee for its own negligence prevented the state from seeking indemnification from an airline

terminal lease for the state's own negligence in the operation, maintenance or design of the taxiways and runways of Anchorage International Airport. *State v. Korean Air Lines Co.*, 778 P.2d 315 (Alaska 1989).

Legislative intent. — By enacting AS 02.15.120, 02.15.160, and this section, the legislature intended to insure that airport facilities would be made available, on a priority basis, to that segment of society for which those facilities are designed. Those persons operating aircraft or machinery used incidentally to the operation of aircraft. *Flanck v. State*, 693 P.2d 855 (Alaska 1985).

Collateral references. Airport operations or flight of aircraft as nuisance. 79 ALR3d 253.

Sec. 02.15.091. Sale and delivery of in-bond merchandise at international airports. (a) Under (b) and (c) of this section, the department shall allow the sale and delivery of in-bond merchandise at an international airport only by an exclusive contract.

(b) While the exclusive contracts for the sale and delivery of in-bond merchandise at international airports that exist on June 15, 1982 are in effect, the department may not permit or confer a right on any other person to offer to sell, sell, or deliver in-bond merchandise at an international airport.

(c) After the exclusive contracts existing on June 15, 1982 are no longer in effect, the department shall enter into one exclusive contract and, on its expiration, additional successive exclusive contracts for the sale and delivery of in-bond merchandise at each international airport. Except under the existing and future exclusive contracts described in this section, the department may not permit or confer a right upon any person to offer to sell, sell, or deliver in-bond merchandise at an international airport.

(d) The department shall offer the exclusive contracts required by this section by competitive bid or by competitive proposals. If the department offers the exclusive contracts by competitive bid, the department shall award the contracts after considering the generation of maximum revenue for the International Airports Revenue Fund established by AS 07.15.430. If the department offers the exclusive contracts by competitive proposals, the department shall award the contracts after considering factors



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NEWS RELEASE

March 23, 1998

House Bill 362 Passes the House

The Alaska State House of Representatives today demonstrated its support for Alaska's military service men and women by passing HB 362 – "an Act relating to the use of space in state-owned airports for military lounges."

Sponsored by the House Special Committee on Military & Veterans' Affairs, HB 362 puts into statute a provision, which ensures that whenever a military courtesy lounge is operated by a non-profit agency in a state-owned or controlled airport, the State must provide that space at no charge.

Each year, more than 20,000 military service men and women and their dependents use the Anchorage International Airport's military lounge. The AIA's lounge is operated at no cost to the State by the Anchorage Armed Services YMCA.

"This bill demonstrates the commitment by the State of Alaska to make sure our military service men and women will always feel welcome as they travel through Alaska," stated Representative Masek, Chair of the House Special Committee on Military and Veterans' Affairs.

House Bill 362 is now headed for hearings in the Alaska State Senate.

For more information contact: Don Stolworthy at (907)465-2679 or fax (907)465-4822.

ALASKA STATE LEGISLATURE

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Jerry Ritter
Press Secretary
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For Immediate Release: April 17, 1998

Contact: Rep. Beverly Masek
(907) 465-2679

Senate Joins House In Support For Servicemen and -women Airport Courtesy Lounges Would Be Rent-Free

(JUNEAU) -- The Alaska Senate Friday unanimously passed House Bill 362, sponsored by the House Special Committee on Military and Veterans' Affairs. HB 362 would require that whenever an airport military courtesy lounge is operated by a non-profit agency in a state-owned or -controlled airport, the State must provide that space at no charge.

"This bill demonstrates a commitment by the State to make sure our military servicemen and -women will always have a place where they'll feel welcome as they travel through Alaska," said Representative Beverly Masek (R-Willow), Chair of the Military and Veterans' Affairs Committee. "Each year, more than 20-thousand servicemen and -women and their dependents use the Anchorage International Airport Military Lounge, which is operated at no cost to the State by the Anchorage Armed Services YMCA. And that's just one airport of many," Masek said.

House Bill 362, "an Act relating to the use of space in state-owned airports for military lounges," now goes to the governor for signature.

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Vice Chair, Transportation

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HOUSE SPECIAL COMMITTEE FOR MILITARY & VETERANS' AFFAIRS

To: Senator ~~Tim Kelly~~, Chair
Senate Rules Committee *Beverly*
Fr: Representative Masek, Chair
Re: Request for Hearing on CSHB 362 (STA)
Dt: March 31, 1998

Please consider this my formal request for a hearing on Committee Substitute for House Bill 362 (STA) as soon as possible. It would be appreciated if this bill could be heard sometime during the week of April 6, 1998.

CSHB 362 (STA) amends AS 02.15.090(a) by adding language to allow the State of Alaska the authority to provide space within its airports for use as military lounges free of rental charges, if those lounges are operated by non-profit agencies, and if space is available.

HB 362 passed out of the House Special Committee for Military & Veterans' Affairs with unanimous consent on February 24, 1998 and passed the House State Affairs Committee on March 7, 1998. On March 23, 1998, HB 362 passed the Alaska State House of Representatives by unanimous vote. On March 31, 1998, HB 362 was passed out of the Senate State Affairs Committee.

Should you have any questions, contact Don Stolworthy in my office at extension 2811.



Alaska State Legislature

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HOUSE SPECIAL COMMITTEE FOR MILITARY & VETERANS' AFFAIRS

Lyda,
To: Senator Lyda Green, Chair
Senate State Affairs Committee
Fr: Representative *Beverly* Masek, Chair
Re: Request for Hearing on CSHB 362 (STA)
Dt: March 24, 1998

Please consider this my formal request for a hearing on Committee Substitute for House Bill 362 (STA) as soon as possible. It would be appreciated if this bill could be heard sometime during the week of March 30 – April 3, 1998.

CSHB 362 (STA) amends AS 02.15.090(a) by adding language to allow the State of Alaska the authority to provide space within its airports for use as military lounges free of rental charges, if those lounges are operated by non-profit agencies.

HB 362 passed out of the House Special Committee for Military & Veterans' Affairs with unanimous consent on February 24, 1998 and passed the House State Affairs Committee on March 7, 1998. On March 23, 1998, HB 362 passed the Alaska State House of Representatives by unanimous vote.

Should you have any questions, contact Don Stolworthy in my office at extension 2811.



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HOUSE SPECIAL COMMITTEE FOR MILITARY & VETERANS' AFFAIRS

To: Representative ~~Pete Kott~~ ^{Pete}, Chair
House Rules Committee ^{Beverly}
Fr: Representative Masek, Chair
Re: Request for Hearing on CSHB 362 (STA)
Dt: March 9, 1998

Please consider this my formal request for a hearing on Committee Substitute for House Bill 362 (STA) as soon as possible.

CSHB 362 (STA) amends AS 02.15.090(a) by adding language to allow the State of Alaska the authority to provide space within its airports for use as military lounges free of rental charges, if those lounges are operated by non-profit agencies.

HB 362 passed out of the House Special Committee for Military & Veterans' Affairs with unanimous consent on February 24, 1998 and passed the House State Affairs Committee on March 7, 1998.

Should you have any questions, contact Don Stolworthy in my office at extension 2811.



ANCHORAGE
ARMED SERVICES YMCA OF THE USA

Post Office Box 272
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Telephone: (907) 753-2121
FAX (907) 552-4651



Honorary
Life Member
Robert B. Atwood
Alvin H. Fetherwood

February 2, 1998

Representative Beverly Masek
State Capitol
Juneau, AK 99801-1182

Dear Representative Masek,

For more years than anyone knows, the Armed Services YMCA has been quietly and competently serving the traveling military through the Military Courtesy Lounge located on Concourse B at Anchorage International Airport. A safe and secure place has been dedicated to the Armed Forces, at no expense to the State or to the Military. Reaching over 22,000 visitors in 1997, squadron booster clubs provide volunteers to staff this lounge 365 days a year, meeting the needs of domestic and international traveling military members and their families. Alaska continues to be of strategic importance in the training of our military and defense of the nation. The military has always been there for us, we should not shirk our duties to them.

The existing statute does not allow the Armed Services YMCA to provide these services without a rental charge. So that we may continue to meet the needs of the traveling military in Alaska, the Armed Services YMCA supports House Bill No. 362, "An Act relating to the use of space for military lounges in state-owned or state-controlled airports" with the amended changes to Section 1. AS 02.15.090(a).

This change will allow us to continue our work and at the same time, authorize the Anchorage International Airport to offer the space rent free.

Please contact us if the "Y" can offer any assistance.

Serving Those Who Serve America

Tom Morgan
Executive Director

ja/tm

We're in the MILITARY PEOPLE Business



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Honorary
Life Member
Robert B. Atwood
Alvin H. Fleetwood

*Copy for
Beverly*

August 5, 1997

Representative Terry Martin
716 West 4th Ave. Suite 650
Anchorage, AK 99501

Dear Representative Martin,

For more years than anyone knows, the Armed Services YMCA has been quietly and competently serving the traveling military through the Military Courtesy Lounge located on Concourse B at Anchorage International Airport. At no expense to the State, a safe and secure place has been dedicated to the Armed Forces. Reaching over 23,000 visitors in 1996, squadron booster clubs provide volunteers to staff this lounge 365 days a year, meeting the needs of domestic and international traveling military members and their families. Alaska continues to be of strategic importance in the training of our military and defense of the nation. The military has always been there for us, we should not shirk our duties to them.

So that we may continue to meet the needs of the traveling military, we therefore request that Sec. 02.15.090(a) be reworded to read "However, use of state land and buildings by the Alaska Wing, Civil Air Patrol and its squadrons and the **Armed Services YMCA** shall be permitted without rental charges."

Thank you for your generous support. We appreciate any help you might provide in this area.

Serving Those Who Serve America

Tom Morgan
Executive Director