

SCOMM

127:24

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: February 7, 2001

FURTHER REFERRALS: State Affairs

Date of Committee Action: 2/13/01

The HOUSE SPECIAL COMMITTEE ON MILITARY AND VETERANS' AFFAIRS Committee considered:
CSSJR 8(STA)

CS FOR SENATE JOINT RESOLUTION NO. 8(STA) VOTING SITES AT MILITARY INSTALLATIONS

Relating to supporting polling places at military installations.

Recommends it be replaced with H CS CSSJR8 (MLV) ☒ Same Title ☐ New Title
For Senate Bills with new title: ☐ Technical Title ☐ New Title: HCR_____

- [] attach amendments
[] add new referral to _____ Committee
[] Letter of Intent _____ Committee

*List of
Abbrev.
For
Depts.:*
ADM
CED
COR
CRT
EED
DEC
DFG
GOV
IISS
LAA
LAW
LWF
MVA
DNR
DPS
REV
DOT
UA

[illegible][illegible]

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
<i>John</i>	Murkowski	✓			
<i>Hayes</i>	Hayes	✓			
<i>Green</i>	Green	✓			
<i>Chenault</i>	Chenault	✓			
<i>Beverly Masek</i>	Masek	✓			
<i>Kott</i>	Kott	✓			
Chair:					
Chair:					

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSSJR 8(STA)
 (S) Publish Date: 2/2/01

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
 Title: Supporting polling places at military installations BRU: _____
 Sponsor: Senator Leman Component: _____
 Requester: _____ Component Number: _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
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 EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2001) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: SENATE STATE AFFAIRS COMMITTEE Phone 465-4522

Senator: /s/ SENATOR THERIAULT Date 2/1/01
Committee Chair

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SENATOR LOREN LEMAN

Northwest Anchorage

716 W 4th Ave, Ste 540, Anchorage AK 99501 258-8189

Session: State Capitol, Juneau AK 99801 465-2095

Memorandum

To: Representative Mike Chenault, Chairman
House Special Committee on Military & Veterans' Affairs

From: Senator Loren Leman *Loren Leman*

Date: February 7, 2001

Re: Hearing request for SJR 8 Voting Sites at Military Installations

Please schedule a committee hearing for SJR 8 at your earliest convenience.

SJR 8 expresses the Legislature's support for voting at military installations.

I have attached a copy of the sponsor statement and the original resolution. Please contact my staff aide Paul Roetman at extension 3712 if you require additional information.



SENATOR LOREN LEMAN

Northwest Anchorage

716 W 4th Ave, Ste 540, Anchorage AK 99501 258-8189

Session: State Capitol, Juneau AK 99801 465-2095

Sponsor Statement for CSSJR 8(STA)

“Relating to supporting polling places at military installations.”

SJR 8 expresses the Legislature’s support for locating polling places at military installations to provide convenient access for military men and women to vote. SJR 8 responds to a Department of Defense (DoD) directive issued before the last election that advised installation commanders not to allow their facilities to be used for polling places.

For many years polling places have been located at military bases, posts, armories and other installation facilities, such as elementary schools. Denying access to these facilities means denying a military voter convenient access to the ballot box.

The impact of the DoD directive on the last election was temporarily avoided. U.S. Senator Ted Stevens helped postpone the effective date of the DoD directive until December 31, 2000 through a congressional insert in an appropriations bill. That time has expired, and the DoD directive is now in full effect. Thousands of military men and women in Alaska, therefore, could be in jeopardy of being denied access to their traditional polling locations.

SJR 8 calls upon the President of the United States and Secretary of Defense to rescind the DoD directive so military men and women are able to freely exercise the same Constitutional right they defend for every American.

Prepared by Paul Roetman, Legislative Aide to Senator Loren Leman (907-465-3712)
Last updated: February 4, 2001



SENATOR LOREN LEMAN

Northwest Anchorage

716 W 4th Ave, Ste 540, Anchorage AK 99501 258-8189

Session: State Capitol, Juneau AK 99801 465-2095

Memorandum

To: Leona Oberts, Office of Representative Mike Chenault
House Special Committee on Military & Veterans' Affairs

From: Paul Roetman, Office of Senator Loren Leman

A handwritten signature in dark ink, appearing to read "PRt", written over the "From:" line.

Date: February 8, 2001

Re: Backup information for Committee Packets - SJR 8 Voting Sites at Military Installations

Here is backup material for SJR 8 Voting Sites at Military Installations. I have marked the different documents for your convenience.

Please call me at extension 3712 with any questions.

P 171731Z DEC 99
FM SECDEF WASHINGTON DC//OASD-PA/DPL//
TO AIG 8777
SECDEF WASHINGTON DC//LA/GC/WHS-FVAP//
CJCS WASHINGTON DC//LA//
OLA WASHINGTON DC
OSAF WASHINGTON DC//LA//
HQDA WASHINGTON DC//SALL//
CMC WASHINGTON DC//OLA//
INFO SECDEF WASHINGTON DC//OASD-PA/PDASD-PA/DPL/DDI/DPCR//
BT
UNCLAS

SUBJECT: PUBLIC AFFAIRS POLICY GUIDANCE - ELECTIONS FOR PUBLIC OFFICE

- A. SECDEF MSG 171527Z MAY 99, PUBLIC AFFAIRS POLICY GUIDANCE -- ELECTION YEAR 1999
 - B. DOD DIRECTIVE 1344.10, POLITICAL ACTIVITIES BY MEMBERS OF THE ARMED FORCES ON ACTIVE DUTY
 - C. 5 U.S.C. 7321 - 7326, HATCH ACT
 - D. 5 C.F.R. PART 734, POLITICAL ACTIVITIES OF FEDERAL EMPLOYEES
 - E. DOD DIRECTIVE 5230.9, CLEARANCE OF DEPARTMENT OF DEFENSE INFORMATION
 - F. DOD DIRECTIVE 1000.4, FEDERAL VOTING ASSISTANCE PROGRAM
 - G. DOD INSTRUCTION 5120.4, DOD NEWSPAPERS AND CIVILIAN ENTERPRISE PUBLICATIONS
 - H. DOD INSTRUCTION 1100.13, SURVEYS OF DEPARTMENT OF DEFENSE PERSONNEL
 - I. DOD DIRECTIVE 5120.20, ARMED FORCES RADIO AND TELEVISION SERVICE (AFRTS)
 - J. DOD REGULATION 5120.20-R, MANAGEMENT AND OPERATION OF ARMED FORCES RADIO AND TELEVISION SERVICE (AFRTS)
 - K. DOD DIRECTIVE 5410.18, COMMUNITY RELATIONS
 - L. DOD INSTRUCTION 5410.19, ARMED FORCES COMMUNITY RELATIONS
 - M. 2000-2001 VOTING ASSISTANCE GUIDE
 - N. DOD DIRECTIVE 1344.13, IMPLEMENTATION OF THE NATIONAL VOTER REGISTRATION ACT
1. THE FOLLOWING PUBLIC AFFAIRS POLICY GUIDANCE IS PROVIDED TO ASSIST COMMANDERS AND PUBLIC AFFAIRS OFFICERS (PAOS) IN HANDLING REQUESTS FOR SUPPORT OF ELECTIONS DURING THE ELECTION YEAR PERIOD, AS DEFINED IN PARAGRAPH D. COMMANDERS AND PAOS WILL COMPLY WITH THIS GUIDANCE IN THE CONDUCT OF ACTIVITIES ASSOCIATED WITH POLITICAL CAMPAIGNS FOR ELECTIONS

PROVIDING COMMERCIAL PROGRAMMING, WILL NOT CARRY ANY PARTISAN DISCUSSIONS, PROGRAMS, EDITORIALS, OR COMMENTARIES DEALING WITH POLITICAL CAMPAIGNS, CANDIDATES, OR ISSUES. THIS DOES NOT PRECLUDE THE ABOVE SYSTEMS, I.E., AFRTS AND NON-AFRTS MILITARY RADIO/TELEVISION SYSTEMS, FROM USING SPOT ANNOUNCEMENTS ENCOURAGING ARMED FORCES PERSONNEL AND THEIR ELIGIBLE FAMILY MEMBERS TO REGISTER AND VOTE, EITHER BY ABSENTEE BALLOT OR AT THE POLLS, PROVIDING THESE ANNOUNCEMENTS HAVE BEEN APPROVED BY THE FEDERAL VOTING ASSISTANCE PROGRAM (SEE SECTION 2 BELOW).

E. INSTALLATION COMMANDERS SHOULD NOT PERMIT THE USE OF INSTALLATION FACILITIES BY ANY CANDIDATE (EITHER INCUMBENTS OR NEW OFFICE SEEKERS), MEMBERS OF THEIR STAFFS OR THEIR CAMPAIGN REPRESENTATIVES FOR: ASSEMBLIES OR MEETINGS; MEDIA EVENTS, INCLUDING SPEECHES; FUND-RAISING EVENTS FOR POLITICAL CANDIDATES, PARTIES, OR CAUSES REGARDLESS OF THE SPONSORSHIP; PRESS CONFERENCES; ANY OTHER ACTIVITY THAT COULD BE CONSTRUED AS POLITICAL IN NATURE.

(1) INSTALLATION COMMANDERS ARE ADVISED NOT TO ALLOW THEIR INSTALLATION FACILITIES TO BE USED FOR POLLING OR VOTING SITES. LOCATING POLLING OR VOTING PLACES ON A MILITARY INSTALLATION MAY RESULT IN CONDUCT WHICH COULD INADVERTENTLY VIOLATE ONE OR MORE OF THE FOLLOWING STATUTORY PROHIBITIONS, AMONG OTHERS: 18 U.S.C. (592, 593, 594, 596, 602, 603, 606, 607, 609). MORE INFORMATION ON THESE AND OTHER STATUTES MAY BE FOUND ON THE INTERNET AT [HTTP://USCODE.HOUSE.GOV/USC.HTM](http://USCODE.HOUSE.GOV/USC.HTM).

(2) MEMBERS OF CONGRESS, WHETHER OR NOT CANDIDATES FOR RE-ELECTION TO NATIONAL OFFICE, MAY VISIT MILITARY INSTALLATIONS TO RECEIVE BRIEFINGS, TOURS AND/OR INFORMATIONAL MATERIALS. IF THE CANDIDATE IS CURRENTLY A GOVERNMENT OFFICIAL AND HIS/HER DUTIES REQUIRE A VISIT TO AN INSTALLATION FOR RELATED OFFICIAL DUTIES, THE RESPONSE TO THE REQUEST FOR THE VISIT WILL INCLUDE A REMINDER THAT THE CANDIDATE MAY NOT USE THE VISIT AS A CAMPAIGN VEHICLE. OTHER CANDIDATES FOR NATIONAL OFFICE WHO ARE NOT CURRENT MEMBERS OF CONGRESS OR SERVING GOVERNMENTAL OFFICIALS MAY BE GIVEN THE SAME ACCESS TO INSTALLATIONS AS ANY OTHER UNOFFICIAL VISITOR. SERVICE CHIEFS OF LEGISLATIVE LIAISON SHOULD BE CONSULTED FOR SPECIAL INSTRUCTIONS/ADVICE IF THERE IS ANY DOUBT ON HOW TO HANDLE A SPECIFIC REQUEST.

(3) CANDIDATES, EITHER INCUMBENTS OR NEW OFFICE SEEKERS, FOR LOCAL AND/OR STATE OFFICES MAY BE GIVEN THE SAME ACCESS TO INSTALLATIONS AS ANY OTHER VISITOR.

(4) IN ALL CASES, COMMANDERS WILL INFORM CANDIDATES THAT WHILE ON A MILITARY INSTALLATION, ALL POLITICAL ACTIVITIES AND MEDIA EVENTS ARE PROHIBITED, INCLUDING ON-POST/BASE MEDIA COVERAGE OF THE CANDIDATE'S VISIT. (NOTE: IF THE CANDIDATE HAS BEEN INVITED TO A MILITARY INSTALLATION AS PART OF AN OFFICIAL INSTALLATION ACTIVITY WHICH INCLUDES MEDIA COVERAGE OF THAT ACTIVITY, THE CANDIDATE MAY BE ALLOWED TO APPEAR ON CAMERA AND IN PHOTOS AS AN OFFICIAL PARTICIPANT; HOWEVER, CANDIDATES WILL NOT BE ALLOWED TO MAKE STATEMENTS OR RESPOND TO QUERIES WHILE ON THE INSTALLATION.) IF ASKED FOR THE RATIONALE FOR THIS DECISION, THE FOLLOWING GUIDANCE IS APPROVED FOR USE: QUOTE: "DEPARTMENT OF DEFENSE POLICY HAS FOR MANY YEARS PROHIBITED THE USE OF MILITARY INSTALLATIONS FOR ANY ACTIVITY THAT COULD BE CONSTRUED AS POLITICAL IN NATURE, INCLUDING NEWS MEDIA COVERAGE OF ANY PORTION OF A POLITICAL CANDIDATE'S ACTIVITIES WHILE ON A MILITARY INSTALLATION REGARDLESS OF THE PURPOSE OF THE VISIT." END QUOTE. AN EXCEPTION TO THIS RULE PERMITS NEWS MEDIA COVERAGE OF CERTAIN PORTIONS OF VISITS TO MILITARY INSTALLATIONS BY THE PRESIDENT, VICE PRESIDENT, AND THE SPEAKER OF THE HOUSE AS EXPLAINED IN THE FOLLOWING

equal to the fair market value of the drydock at the time of the sale, as determined by the Secretary.

SEC. 120. Subsection (b) of section 509 of title 38, United States Code, is amended by striking "Federal" and inserting "Department of Defense".

SEC. 121. USE OF DEPARTMENT OF DEFENSE FACILITIES AS POLLING PLACES. (a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Defense shall not prohibit the designation or use of any Department of Defense facility, currently designated by a State or local election official, or used since January 1, 1996, as an official polling place in connection with a local, State, or Federal election, as such official polling place.

(b) EFFECTIVE DATE.—The prohibition under subsection (a) shall apply to any election occurring on or after the date of the enactment of this section and before December 31, 2000.

SEC. 122. Section 8114 of the Department of Defense Appropriations Act, 1999 (Public Law 105-262; 112 Stat. 2326), is amended—

(1) in the matter preceding the first proviso, by striking "\$20,000,000" and inserting "\$30,000,000"; and

(2) in the second proviso, by inserting after "property damages" the following: ", and for other claims under applicable Status-of-Forces Agreements,".

RESCINDINGS

SEC. 123. Of the funds provided in Department of Defense Appropriations Acts, the following funds are hereby rescinded as of the date of the enactment of this Act, from the following accounts in the specified amounts:

Under the heading "Shipbuilding and Conversion, Navy, 1989/1993":

DDG-51 destroyer program, \$9,100,000;

T-AO fleet oiler program, \$6,645,000;

T-AGOS surveillance ship program, \$3,420,000;

Outfitting and post delivery, \$1,293,000;

Research, Development, Test and Evaluation, Air Force, 1999/2000, \$7,000,000;

Military Personnel, Army, 2000, \$98,700,000;

Military Personnel, Navy, 2000, \$49,127,000;

Military Personnel, Air Force, 2000, \$82,000,000;

Reserve Personnel, Air Force, 2000, \$4,500,000; and

National Guard Personnel, Army, 2000, \$24,826,000.

24. Funds appropriated by this Act, or made available by or of funds in this Act, for intelligence activities are be specifically authorized by the Congress for purposes of the National Security Act of 1947 (50 U.S.C. 414).

25. The following provisions of law are repealed: sections 8176 of the Department of Defense Appropriations Act, 1999 (Public Law 106-79), as amended by sections 214 and 215, re- of H.R. 3425 of the 106th Congress (113 Stat. 1501A- enacted into law by section 1000(a)(5) of Public Law 106-

26. Any amount appropriated in this chapter that is designated by the Congress as an emergency requirement pursuant to (b)(2)(A) of the Balanced Budget and Emergency Deficit Act of 1985, as amended, shall not be available for obliga-

15.15.090

Prohibition to use polling places on military installations – comments by Shelly Growden, Region III Election Supervisor

Precincts Affected in Region III

32-225 Fort Wainwright – 7,205 registered voters
2000 gen turnout = 1545 + 572 questioned voters
1998 gen turnout = 871 + 162 questioned voters
1996 gen turnout = 1088 + 299 questioned voters

34-065 Eielson – 6,087 registered voters
2000 gen turnout = 1700 + 291 questioned voters
1998 gen turnout = 1083 + 119 questioned voters
1996 gen turnout = 1425 + 263 questioned voters

Regional Perspective

I first learned of the policy on April 26, 2000 by reading the Election Administration Reports newsletter. We contacted Eielson and Fort Wainwright on April 28th and they did not know about the DOD directive and had already signed and returned our polling place agreement. We asked them to please confirm if we would be able to use our existing polling places on base. For Region III, it was extremely difficult getting a firm decision from the bases. After numerous attempts, I requested the division director to obtain assistance from Sen. Steven's office.

To move a polling place, we have to submit preclearance to DOJ, which can take up to 60 days. We also notify each registered voter of the polling place change. I informed the installation voting officers of AS 15.15.170 which prohibits political persuasion within 200 feet of the polling place. The military precincts are wholly contained meaning that only voters living on base are assigned to the precinct. I also passed along my concerns that we would adversely be affecting voter turnout among military voters if we moved the polling place off base. We try to make voting very easy and encourage the military to vote in local and state elections, not just presidential elections.

Moving these voters to another polling place off base would be difficult. All of the public facilities near the base are already being used. It would be difficult to merge another polling place into these facilities. It causes voter confusion when more than one precinct is in a polling place. I am also concerned about transportation to the polling place if a close facility could not be found and/or used.

Timelines

On Fort Wainwright – received word on June 4th that we could use a location on base, but wanted the polling place moved to the school instead of the post library. This gave

us plenty of time to submit for preclearance and notify the voters. The school has actually worked out to be a better polling location.

On Eielson – July 6, 2000 the staff judge advocate told the installation voting officer that we could not have a polling place on base. I passed along this information to the division director who passed it along to Steven's office. This late time frame did not allow enough time for Elections to receive preclearance for a new polling place. When I relayed my concerns to the voting officer, he was going to bring to the commander's attention, however we wouldn't be able to get the commander's decision until July 17th. Again, only voters residing on Eielson are assigned to the Eielson voting precinct. On July 20th, the installation voting officer called to say that General DeQuire(?) said we could not have a polling place on Eielson. I let him know that the President had just signed the appropriations bill, which prohibited DOD from not allowing the use of polling places on military installations. July 21st the voting officer called back and said YES we could use the polling place.

The amendment to the appropriations bill was only effective until December 31, 2000. In 2001, we have municipal elections in Anchorage and Fairbanks North Star Borough. Alaska needs to know if our military installations will allow the use of polling places on base.

January 26, 2001

Military Polling Place Review

Currently the Region II Elections office is responsible for two military installations. Elmendorf Air Force Base, District 14 Precinct 297, has approximately 7,025 registered voters and Fort Richardson, District 23 Precinct 425, has approximately 5,808 registered voters.

Region II became aware of the DoD directive in April of 2000. At the time we became aware of the DoD directive, we had just mailed out our polling place agreement letters on April 20, 2000. The agreement for Elmendorf AFB was sent to our 1999 contact for the Talkeetna Theatre. The request to use Ursa Major Elementary school, Fort Richardson's polling place, was sent to the Anchorage School District. We received a Facilities Use Permit from the Anchorage School District on May 16, 2000.

In May of 2000 we did not receive a response from our contact for the use of the Talkeetna Theatre and thus we began attempting to contact our contact person. At that time, we learned of a new contact person for the Talkeetna Theatre and a new agreement was duly mailed. As a side note, it was not unusual for Region II to have some difficulty in acquiring the use of the Talkeetna Theatre facility on Elmendorf AFB.

After sending the second agreement we received a telephone call from the new contact person who informed us that we were unable to use the Talkeetna Theatre because of a prior commitment to use the facility by another entity. At that point, we immediately began researching a new facility to use on base by conducting the necessary accessibility requirements and determined that Mt Spurr Elementary school would meet our needs. On June 22 and June 23 a request was sent to the Anchorage School District, minority contacts were informed of the recommended polling place change and the necessary paperwork was sent to the director's office for submission to the Department of Justice for preclearance.

On July 31, 2000 change of polling place notifications were sent to the registered voters in Precinct 297.

At the first of August Region II received a telephone call from the Anchorage School District who had received a call from Elmendorf AFB informing them that there was a problem in the division using the facilities on base, specifically Mt. Spurr. Region II contacted the person who had contacted the school district and

we were told that it was a problem for us to use the polling place location on base, once again, specifically Mt. Spurr.

Region II did not pursue this issue with the contact person. Since the Director of Elections had resolved the Eielson AFB issue we contacted the director to request that a telephone call be made to her contact person on base. The issue was resolved.

Overall, Region II did not feel the potential impact of losing a polling place on base in comparison to Region III. However, always in the back of our mind was the thought of the potential of losing polling place on base. For Elmendorf AFB the impact would not have been as great as Fort Richardson since other facilities are just outside of the gates into Elmendorf AFB. Fort Richardson, on the other hand, is a distance from Anchorage and Eagle River area facilities. These voters would have needed to travel an extended distance to their polling place location in order to vote since there are not any facilities outside of the main gate onto the base.



GENERAL COUNSEL

GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
1600 DEFENSE PENTAGON
WASHINGTON, D. C. 20301-1600

OCT 10 2000

RECEIVED

00 OCT 11 PM 5:13

COMMITTEE ON
HOUSE ADMINISTRATION

26316
RB
DK

The Honorable William M. Thomas
Chairman
Committee on Administration
U.S. House of Representatives
Washington, DC 20515-0157

Dear Mr. Chairman:

This is in response to your request for the views of the Department of Defense on H.R. 5174, 106th Congress, a bill "To amend titles 10 and 18, United States Code, and the Revised Statutes to remove the uncertainty regarding the authority of the Department of Defense to permit buildings on military installations and reserve component facilities to be used as polling places in Federal, State, and local elections for public office."

The Department of Defense opposes this legislation.

The Department has a longstanding policy prohibiting the use of military installations as polling sites for elections. This policy is based on sound public policy of maintaining strict separation between the military and the political process. The policy of separating the military and partisan politics is critically important to maintaining public support for and confidence in our Armed Forces, as well as maintaining good order and discipline within military ranks.

The principle of separating the military from the political process is also reflected in two federal criminal statutes. 18 U.S.C. § 592 provides that:

[w]hoever, being an officer of the Army or Navy, or other person in the civil, military or naval service of the United States, orders, brings, keeps, or has under his authority or control any troops or armed men at any place where a general or special election is held, unless such force be necessary to repel armed enemies of the United States, shall be fined under this title or imprisoned not more than five years or both. . . .

Similarly, 18 U.S.C. § 593 subjects members of the Armed Forces to criminal penalties if they "impose or attempt to impose any regulations for conducting any general or special election in a State, different from those prescribed by law," or "interfere in any manner with an election officer's discharge of his duties." Placement of voting sites on military installations in which "troops or armed men" are likely to come into close contact with voters is fundamentally incompatible with the concept of maintaining separation between the military and politics.



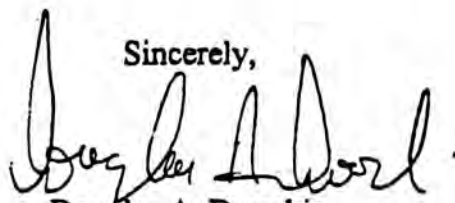
If enacted, H.R. 5174 would reverse Department of Defense policy by authorizing the use of military installations as polling places. We strongly disagree that it is appropriate for the fundamental political activity of voting to take place at locations that the Department of Defense strives to make politically neutral and nonpartisan. The proposed legislation also would not effectively amend the criminal statutes referenced above to relieve military personnel from potential criminal liability. Specifically, the amendments to the criminal statutes proposed in section 1(c) of H.R. 5174 would only clarify that it is not a crime for polling places to be placed on military installations. It would not address at all the placement of troops or armed men at polling places. It would not be practical simply to prohibit military personnel from approaching or entering a polling place on a military installation during voting hours. The commander of a military installation must at all times have complete control over the facilities within his or her authority. It is possible that circumstances could arise that would require a commander to order military personnel to enter a building designated as a polling site if that building is located on a military installation. We believe it is therefore prudent to retain the prohibition on the use of military buildings as polling places.

We recognize that some installations have overlooked the Department's policy on this issue in the past and that some military facilities have been used as polling places in some localities. In some cases, short-term waivers of the policy have been granted if an alternative location could not be identified in time to avoid disruption to an upcoming election. In such cases, local election officials have been advised to designate a new polling place as soon as possible. Furthermore, section 121 of the Military Construction Appropriation Act for Fiscal Year 2001 requires that military facilities that have been used as polling places over recent years must be permitted to be used as polling places for the November election. Enactment of H.R. 5174 is not necessary, therefore, to relieve any possible inconvenience to voters in the November election resulting from enforcement of the Department of Defense policy.

Finally, we want to point out that our policy does not apply to National Guard armories or other Guard facilities. These buildings are subject to the control of state Governors through their Adjutant Generals, not the Department of Defense.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report for consideration of the Committee.

Sincerely,



Douglas A. Dworkin

cc: The Honorable Steny H. Hoyer
Ranking Member

Congress of the United States

Washington, DC 20515

October 17, 2000

Secretary of Defense William Cohen
U.S. Department of Defense
Room 3E966, The Pentagon
Washington, D.C. 20301

Dear Secretary Cohen:

We are writing to ask that you reconsider the Department of Defense (DOD) opposition to H.R. 5174, a bill to clarify DOD's authority to permit buildings located on military installations and reserve component facilities to be used as polling places in Federal, State and local elections. As you are aware, the House adopted H.R. 5174 by an overwhelmingly bipartisan 297 to 114 vote.

The attached letter from the DOD General Counsel, expressing the Department's opposition to H.R. 5174, came to us less than one hour before consideration of the bill on the floor of the House, despite correspondence to DOD on September 8th and September 18th providing copies of the bill and indicating our intent to bring this legislation to the floor. Since we had no opportunity before the floor consideration to address the concerns and issues raised by it, we wish you would consider the following in your review.

We believe that the ability of citizens to vote in elections is a fundamental tenet of democracy and that the act of voting is, at its heart, a non-partisan activity. Thus H.R. 5174 seeks to facilitate the participation in the electoral process of those who serve our country in uniform, consistent with the historical concerns about ballot secrecy and freedom from intimidation. Moreover, H.R. 5174 seeks to facilitate voting in places where suitable alternative non-DOD facilities do not exist – a likely occurrence given that, in some cases, DOD has assigned people to isolated and difficult posts for the purpose of defending the nation.

We note that the General Counsel cites a Civil War era law, 18 U.S.C. § 592, as the basis for DOD's decision to suddenly end the current practice of locating voting sites on DOD property. We would like to point out that the cited provision also states: "This section shall not prevent any office or member of the armed forces of the United States from exercising the right of suffrage in any election district. . . ." We think that without the clarifying, discretionary authority of H.R. 5174, DOD will find itself, in some circumstances, hindering or denying "the right of suffrage" in some election districts.

Furthermore, we conclude that while the provision cited by the General Counsel was intended to prevent intimidation of voters at polls by the military, it does not prohibit

merely the location of a voting site on DOD property. In our view, H.R. 5174 recognizes that when election officials voluntarily locate sites on DOD property, and voters voluntarily choose to vote there, there is no coercion or intimidation. In fact, by enabling DOD to offer voters an easy way to cast their ballots in the privacy of a voting booth at a facility of their choosing, H.R. 5174 enhances both ballot secrecy and freedom from intimidation.

Allowing and even encouraging people to exercise their right to vote does not involve the military in "partisan politics" as the General Counsel alleges. In fact, we are surprised that any DOD counsel would make such an argument in view of DOD's active and well-regarded voter assistance program. Helping military personnel and families, whether stationed overseas or in the U.S., to vote certainly does not involve the military in politics.

Finally, H.R. 5174 provides ample discretion to the Department in choosing to allow these election operations when they are compatible with the facilities' mission. The practice of some base commanders who have made facilities available for service men and women, their families, and support staff is commendable especially in isolated areas. It shows that the idea already works. If, however, for national security reasons, DOD must remove an election site from DOD property, H.R. 5174 gives the Department that authority.

We would like to stress that citizens serving our country in the armed services and their families deserve to vote just like anyone else. We think that H.R. 5174 facilitates that democratic tenet, and we urge you to reconsider the Department's position on H.R. 5174.



Bob Stump, Chairman
Veterans' Affairs Committee



Bill Thomas, Chairman
House Admin. Committee



Floyd Spence, Chairman
Armed Services Committee



SENATOR LOREN LEMAN

Northwest Anchorage

716 W 4th Ave, Ste 540, Anchorage AK 99501 258-8189

Session: State Capitol, Juneau AK 99801 465-2095

SJR 8 – VOTING SITES AT MILITARY INSTALLATIONS

Witness List

Tuesday, February 13, 2001
3:30p.m.

Senator Loren Leman, SPONSOR,

465-2095

Shelly Growden, Election Supervisor,
(Region III Election Office,
Division of Elections, Fairbanks

Fairbanks LIO 452-4448
contact: (907) 451-2835

Carol Thompson, Election Supervisor,
Region II Election Office,
Division of Elections, Anchorage

Anchorage LIO 269-0111
contact: (907) 522-8683