

75

HLG

HB

785

-

SB

75

0072

1 leases and make conditional sales of selected land.

2 Sec. 29.76.090. DEVELOPMENT CITY COUNCIL. The city council of  
3 a development city has three members consisting of the director of the  
4 Local Affairs Agency and two members designated by the major developer  
5 corporation providing the industrial base of the city as measured by  
6 employment and capital investment. The designated councilmen need not  
7 be residents of the city during its development stage.

8 Sec. 29.76.100. TRANSITION. (a) When a development city has  
9 400 permanent residents, elections shall take place according to the  
10 following schedule:

11 (1) in the first year, two additional councilmen are  
12 elected for three-year terms;

13 (2) in the second year, a councilman is elected for a three-  
14 year term to replace one of the councilmen designated by the industrial  
15 developer;

16 (3) in the third year, a councilman is elected for a three-  
17 year term to replace the director of the Local Affairs Agency;

18 (4) in the fourth year, a councilman is elected for a three-  
19 year term to replace the remaining councilman designated by the indus-  
20 trial developer; a sixth councilman is elected for a three-year term;  
21 a mayor is elected; and an election is held on a proposed city charter  
22 which may be amended as provided by law or the charter.

23 (b) If, within a period of five years from the incorporation of  
24 a development city, the number of permanent residents does not equal  
25 400, the Local Affairs Agency shall order an election for city officials  
26 and designate a successor class of city based on population. If the  
27 agency designates a successor class of city, the provisions of this  
28 title relating to that class of city apply.

29 Sec. 29.76.110. PROCEDURES. The council may provide for  
HB 786

1 conference telephone or radiophone meetings at times determined by the  
2 council and shall determine its own rules and order of business.

3 Sec. 29.76.120. FILLING A VACANCY. If a vacancy occurs in the  
4 original designated city council, other than the director of the Local  
5 Affairs Agency, the major developer corporation shall designate a  
6 replacement during the five-year development stage of the city.

7 Sec. 29.76.130. POWERS AND DUTIES OF DEVELOPMENT CITY EXECUTIVE  
8 DIRECTOR. The council shall appoint an executive director of the  
9 development city, who may be one of its members, to serve at the pleasure  
10 of the council. The executive director shall have the powers and  
11 duties of a city officials set out in this title in order to develop  
12 the city under a comprehensive community development plan.

13 Sec. 29.76.140. POWERS AND DUTIES OF COUNCIL. The council shall  
14 have all the powers and duties of the city council of a home rule city.  
15 The council may exercise all the powers and duties of a school board  
16 if the city is not located within an organized borough.

17 Sec. 29.76.150. ADDITIONAL POWERS. A development city may, from  
18 the time of the appointment of the first city council for a period of  
19 10 years following the first election of councilmen,

20 (1) act as its own housing and urban renewal authority  
21 under AS 18.55;

22 (2) act as its own housing finance agency under AS 18.56.

23 Sec. 29.76.160. SALES AND USE TAX. The council may by ordinance  
24 assess and collect sales and use taxes not to exceed three per cent.

25 Sec. 29.76.170. PLANNING COMMISSION. The city council of a develop-  
26 ment city shall exercise the powers and duties of a planning commission  
27 under AS 29.33.080.

28 Sec. 29.76.180. DEVELOPMENT CITY GRANTS. (a) Development cities  
29 have a priority on all funds appropriated annually by the state not

1 specifically earmarked in the appropriation for

- 2 (1) sewers and sewage treatment facilities;
- 3 (2) harbors, wharves and other marine facilities;
- 4 (3) health and hospital facilities;
- 5 (4) water facilities;
- 6 (5) community center facilities;
- 7 (6) libraries;
- 8 (7) recreation;
- 9 (8) airports;
- 10 (9) highways;
- 11 (10) schools; and
- 12 (11) other public facilities supported by grants and shared
- 13 revenues.

14 (b)<sup>c</sup> State agencies shall disburse the maximum capital <sup>improvement</sup> grants  
15 allowable under state law to a development city which may, when possible,  
16 utilize funds for matching federal aid programs being secured as part  
17 of the overall development program.

18 (c) State agencies not authorized to disburse funds directly to  
19 a development city because of policies of the federal agencies adminis-  
20 tering the particular programs, shall reprogram priorities and take all  
21 steps necessary to meet the development plans of a development city.

22 (d) A development city shall receive shared revenue and other  
23 state funds on the same basis as a city or borough of the first class.

24 Sec. 29.76.190. APPLICABILITY OF OTHER PROVISIONS OF THIS TITLE.  
25 All relevant provisions of this title not in conflict with this chapter  
26 apply to development cities.

AG - deficiencies - Rick Gansel

1. B. lower, approval - too limited
2. " - - - - legal?"
2. Selection of fed land could "strawhat-sacked" state.
3. Provisions. How to determine? Certain %?
4. It full local govt power under control of sup.

Diff. between condition now in law and in this bill:

- (a) Condition provision more explicit in previous
- (b) Prov. establishes the local govt council.
- (c) Perhaps we should have majority report & petition

~~TD~~

Don Davis - Planning

1. Local master planning approach.
2. Councils - 10% not 50%
3. Technical staff to be retained by state
4. Local govt in control process, not law.
5. Power tag

M.

1. Councils
2. State involvement continuing

H B

7 9 0

STATE  
of ALASKA

**MEMORANDUM**  
OFFICE OF THE GOVERNOR

TO: [ The Honorable John E. Havelock  
Attorney General  
Department of Law

DATE : April 21, 1972

FROM: Byron I. Mallott  
Director  
Local Affairs Agency

SUBJECT: HB 790 and HB 791

House Bills 790 and 791 were the subject of a public hearing for the joint House and Senate Local Government Committees last Monday evening. During the course of the hearing, certain members of the Local Government Committees questioned the effect of repealing section 3 (d) of chapter 52, SLA 1963. This section provides for the exclusion of the base proper areas of military bases from the Greater Anchorage Area, Kenai Peninsula, Kodiak Island and Fairbanks North Star Boroughs until such time that the base proper areas are no longer subject to military reservation status at which time they would automatically be annexed to the respective organized boroughs.

The specific question posed was whether or not, by repeal of section 3 (d), the bases proper of all of the defined military reservations would automatically be included within the organized boroughs which currently surround them. The joint committees requested that the Local Affairs Agency secure an Attorney General's opinion on this matter at the earliest possible date. Accordingly, we transmit this request to your office and offer the following discussion as a means by which you may be acquainted with some of the facts which we consider relevant to the question.

DISCUSSION

While House Bills 790 and 791 were being drafted in your office, the question of the nature of the effect of the repeal of section 3 (d) was thoroughly explored. It was generally concluded that military bases other than Elmendorf Air Force Base and Fort Richardson military reservation which would be annexed to the Greater Anchorage Area Borough under HB 790, would remain part of the Unorganized Borough until such time that the boundaries of the organized borough surrounding them were changed to annex them in a manner provided by law. At least the agency's reasoning on this point was that, subsequent to incorporation of the organized boroughs listed in the mandatory Borough Act and in 1966 the Local Boundary Commission held public hearings and made recommendations to the Alaska State Legislature to conform the election district boundary descriptions to metes and bounds criteria. This action was taken, apparently, under authority vested in the Commission at AS 07.10.125 (Boundary Adjustments). This statute was enacted as section 7, ch 52, SLA 1963 and provided for Local Boundary Commission public hearings and subsequent recommendations to the Legislature

Memo to:  
Attorney General Havelock

-2-

April 21, 1972

to adjust organized borough boundaries. These boundary adjustments which are recommended by the Commission to the Legislature would become effective forty-five days after presentation or at the end of the session, whichever is earlier, unless disapproved by resolution concurred in by a majority of the members of each house.

Of the organized boroughs incorporated mandatorily, only the Fairbanks North Star Borough jurisdiction was materially changed by the Local Boundary Commission in 1966. The original Fairbanks North Star Borough boundaries were those of the Fairbanks Election District No. 19 as designated in Section 3, Article 14, of the State Constitution. This election district encompassed the entire Tanana River drainage system from the Alaska/Canada Border, northwest to and including Fairbanks and immediate environs. The Commission's redefinition of the borough boundaries restricted the borough to approximately 40% of its original size. With respect to the other mandated boroughs, the Commission, by and large, merely conformed election district descriptions to metes and bounds criteria. The Kodiak Island Borough incorporated by local action in 1963 and consequently, the Commission did not have to subsequently readjust or redefine the borough boundaries. In other words, Commission action with respect to boundaries of boroughs other than the Fairbanks North Star Borough appears to constitute ministerial change rather than substantive change.

Accordingly, the argument may be made that with respect to those mandated organized boroughs whose boundaries the Local Boundary Commission did not significantly alter from those specified in the mandatory Borough Act would automatically include military base areas immediately upon the effective date of the repeal of section 3 (d) of Chapter 52, SLA 1963. Obviously, this argument is incapable of any substantial measure of support, particularly since the statutes do not draw a distinction between redefinition of boundaries for conformity with metes and bounds criteria and redefinition for the purpose of annexing or detaching territory.

Several other problems have been brought to our attention concerning the repeal of section 3 (d). The military reservation status, both the Wildwood Air Force Station and the Kodiak Naval Station will be terminated on or about July 1 of this year. Assuming that we are correct in saying that the repeal of section 3 (d) will not automatically annex military bases to organized boroughs surrounding them we are confronted with the problem of whether or not the Wildwood and Kodiak Naval Station will end up in the Kenai Peninsula and Kodiak Island Boroughs, respectively, should House Bill 790 be enacted into law. As you know, the Air Force is de-activating the Wildwood Communications Station and the Department of the Navy is relinquishing the Kodiak Naval Station to the Department of Transportation, U. S. Coast Guard. Under the provision of section 3 (d), Wildwood and the Kodiak Naval Station will become parts of the

Memo to:  
Attorney General Havelock

-3-

April 21, 1972

respective boroughs surrounding them at the time when their military status is terminated. The unfortunate result which would take place with the repeal of section 3 (d) would be that these areas would remain outside of their respective organized boroughs until the Local Boundary Commission or the Legislature provided for their inclusion.

We suggest that the question (if there is one) be resolved by repealing only subsections 2 and 3 of section 3 (d) of Chapter 52, SLA 1963. This will allow enactment of House Bills 790 and 791 without disturbing the relationships and events occurring in the other organized boroughs.

BIM:SJS:pak

cc: The Honorable Mike Miller  
Chairman, House Local Government Committee

The Honorable John Rader  
Chairman, Senate Local Government Committee

# City of Anchorage

MEMORANDUM NO. 3456

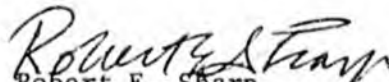
TO Files

DATE: April 24, 1972

FROM: City Manager

SUBJECT: H B 791- Education Powers on Military  
Reservations-

Mr. Brown of Representative Begich's office called on April 21, 1972 and advised that Mr. Begich had checked out the above bill with U. S. Office of Education Officials. These officials said they had no objections to the bill.

  
Robert E. Sharp  
City Manager

RES:al

cc: Chairman Miller, House Local Government Committee  
Chairman Rader, Senate Local Government Committee

May 10, 1972

Mr. Robert E. Sharp  
City Manager  
City of Anchorage  
P. O. Box 400  
Anchorage, Alaska 99510

Dear Bob:

Just a short note to send you a copy of the enclosed  
which I received from Colonel Castle.

All the best.

Sincerely,

Mike Miller, Representative  
District Four (Juneau)

enc: Letter from Colonel Castle

cc: Local Affairs Agency

HEADQUARTERS, ALASKAN COMMAND

APO SEATTLE 98742



REPLY TO  
ATTN OF: JA

8 APR 1972

SUBJECT: House Bill 790 and House Bill 791

TO: Honorable Mike Miller, Chairman  
House Local Government Committee  
Alaska State Legislature  
Juneau, Alaska 99801

Dear Mr. Miller

Mr. Robert E. Sharp, City Manager of Anchorage, forwarded to Lieutenant General Robert Ruegg, Commander in Chief, Alaskan Command, the readopted Council Resolution 32-R-72 adopted on 18 April 1972. The inference to be garnered from his letter to you was that the readoption would alleviate any disagreement the Commander in Chief had with the proposed annexation.

The Commander in Chief appreciated the expression of good faith by the City Council of Anchorage, but he would like to reiterate that this Resolution resolves only the potential problems involving the City of Anchorage. It would not, however, resolve any difficulties with the Borough and would not preclude a potentially disagreeable situation arising in other areas of the State of Alaska where military reservations are located in the proximity of inhabited areas.

As I expressed to your committee, the Commander in Chief does not favor annexation. However, with suitable safeguards contained in the legislation, he would not oppose annexation.

Sincerely

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

ARNOLD C. CASTLE

Colonel, USAF

Staff Judge Advocate



May 10, 1972

Mr. Robert E. Sharp  
City Manager  
City of Anchorage  
P. O. Box 400  
Anchorage, Alaska 99510

Dear Bob:

Just a short note to send you a copy of the enclosed  
which I received from Colonel Castle.

All the best.

Sincerely,

Mike Miller, Representative  
District Four (Juneau)

enc: Letter from Colonel Castle

cc: Local Affairs Agency

# HEADQUARTERS, ALASKAN COMMAND

APO SEATTLE 98742



REPLY TO  
ATTN OF: JA

9 APR 1972

SUBJECT: House Bi'll 790 and House Bill 791

TO: Honorable Mike Miller, Chairman  
House Local Government Committee  
Alaska State Legislature  
Juneau, Alaska 99801

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

ARNOLD C. CASTLE  
Colonel, USAF  
Staff Judge Advocate





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*Polar air crossroads of the world*

# CITY OF ANCHORAGE



# ALASKA

POST OFFICE BOX 400  
ANCHORAGE, ALASKA  
99510

April 19, 1972

Honorable Mike Miller, Chairman  
House Local Government Committee  
Alaska State Legislature  
Juneau, Alaska 99801

Dear Mike:

The City Council passed and approved Resolution 32-R-72 on April 17, 1972. A copy of this resolution is enclosed.

Resolution 32-R-72 readopts Resolution 68-R-70 which was passed by Council in December 1970. Resolution 68-R-70 was enacted after consultation with the Military and it provides the record of intent of the City of Anchorage in the event that Elmendorf Air Force Base and Fort Richardson Military Reservation are annexed to the City of Anchorage. The Council readopted Resolution 68-R-70 to clarify for the benefit of the Alaska Command and subordinate Commands as to whether or not Resolution 68-R-70 is still in force and effect. You may recall that Colonel Castle, in testimony on House Bill 790 and House Bill 791 at the hearing before the joint Local Government Committees on April 17, 1972, raised some question in this regard because the annexation is being effected by passage of the above bills rather than by a report of action of the Local Boundary Commission. Although we feel that the procedure employed has no bearing whatsoever upon the effectiveness of Resolution 68-R-70, the City of Anchorage decided to readopt the resolution to remove any and all doubt. It is requested that Resolution 32-R-72 be made part of the permanent records of the Local Government Committees.

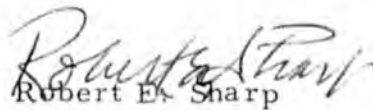
We urge prompt, favorable consideration of the passage of House Bill 790 and companion House Bill 791 annexing certain military reservation lands to the City of Anchorage. Passage of these bills will carry out the original action of the Local Boundary Commission in approving the annexation of these lands when the report of this Commission's action to the Legislature was



Honorable Mike Miller  
April 19, 1972  
Page 2

delayed to permit the State Administration to investigate the effect, if any, of the annexation on Federal school impact funds. House Bill 791 resolves all doubt concerning this matter, and under the terms of the bill the State Department of Education would continue to be responsible for the on-base schools although it could contract such operations with the local districts. I understand negotiations are now underway for such a contract.

Sincerely yours,



Robert E. Sharp

City Manager

RES:AFR

Enclosure

cc: Members, House Local Government Committee  
Base Commander, Elmendorf Air Force Base  
Post Commander, Fort Richardson  
City Attorney  
Commander in Chief, Alaskan Command  
Hon. William A. Egan  
Local Affairs Agency

CITY OF ANCHORAGE, ALASKA  
RESOLUTION NO. 32-R-72

A RESOLUTION OF THE CITY OF ANCHORAGE, ALASKA, CONCERNING JURISDICTION OVER THE ADJACENT MILITARY RESERVATIONS IN THE EVENT OF ANNEXATION.

WHEREAS, the City of Anchorage initiated action in 1970 to annex certain areas (hereinafter referred to as military reservations) of Elmendorf Air Force Base and Fort Richardson military reservations through the Local Boundary Commission; and

WHEREAS, the Commission approved the annexation of these military reservations; and

WHEREAS, Commission notification to the Legislature during the first ten days of this session was withheld at the request of the state administration to permit clarification of the effect of such annexation on federal school impact funds; and

WHEREAS, the state administration has introduced in the Alaska Legislature, House Bill No. 790 to accomplish the annexation to the City of Anchorage originally contemplated by the Commission, as well as to annex portions of these military reservations to the Greater Anchorage Area Borough; and

WHEREAS, the state administration has also introduced in the Alaska Legislature a companion bill, House Bill No. 791, prohibiting boroughs from exercising the education power in areas having military reservation status, unless exercise of such power is approved by the Department of Education; and

WHEREAS, it is the desire of the Council of the City of Anchorage, in view of the modification in the original proceedings to accomplish this annexation, to readopt Resolution No. 68-R-70 of the City of Anchorage to assure all concerned that the prior action applies in the circumstances of the procedure now being employed to annex military reservations.

NOW, THEREFORE, THE CITY OF ANCHORAGE RESOLVES:

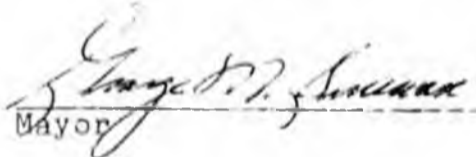
Section 1. Resolution 68-R-70 passed and approved on

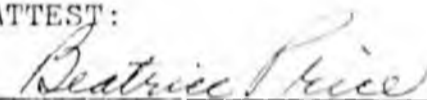
the 22nd day of December, 1970, a copy of which is attached hereto and made a part hereof, is hereby readopted.

Section 2. The Council directs the City administration to file copies of this resolution with the House and Senate Local Government Committees of the Alaska Legislature and the Local Boundary Commission of the State of Alaska as part of the record of the annexation proceedings to show the intent of the City of Anchorage in regard to this annexation of the military reservations.

Section 3. Publication of this resolution shall be made by posting a copy thereof on the City Hall Bulletin Board for a period of ten (10) days following its passage and approval.

Passed and approved by the City Council of the City of Anchorage, Alaska, this 18<sup>th</sup> day of April, 1972.

  
\_\_\_\_\_  
Mayor

ATTEST:  
  
\_\_\_\_\_  
City Clerk

CITY OF ANCHORAGE, ALASKA  
RESOLUTION NO. 68-R-70 \*

A RESOLUTION OF THE CITY OF ANCHORAGE, ALASKA, CONCERNING THE JURISDICTION OVER THE ADJACENT MILITARY RESERVATIONS IN THE EVENT OF ANNEXATION.

WHEREAS, the City of Anchorage is seeking to annex certain areas (hereinafter referred to as "military reservations to be annexed") of the Elmendorf Air Force Base and Fort Richardson military reservations in Alaska; and

WHEREAS, the City recognizes the federal function, purpose and control of these military reservations; and

WHEREAS, the City deems it in the best interest of the City to avoid any disputes over the applicability of City ordinances on the military reservations; and

WHEREAS, in seeking annexation of the military reservations to be annexed it is not the intent of the City to levy any ad valorem taxes on any property within the military reservations to be annexed, nor is it the intent of the City in the military reservations to be annexed to levy any poll, sales, use, license, or regulatory tax upon military property, upon military or military connected activities, or upon activities or property of military dependents; and

WHEREAS, the City understands that the United States Government on behalf of the military reservations concerned would continue not to have any opposition to such annexation if the City were not to levy the aforesaid taxes; and

WHEREAS, in establishing any differential taxation area, comprised solely of the military reservations to be annexed, further State or City legislative changes may be necessary, and the City intends to pursue the necessary legislative changes, if any, in order to permit the establishment of such a differential taxation within the military reservations to be annexed to the extent they remain Federal property; and

WHEREAS, as used above the terms "taxation" and "taxes" are intended to include, but not necessarily be limited to, any ad valorem, use, sales, regulatory, poll or licensing tax or fees:

NOW, THEREFORE, THE CITY OF ANCHORAGE RESOLVES:

Section 1. The City will seek to insure that no tax, whatsoever, is levied by the City within the military reservations to be annexed to the extent the military reservations to be annexed remain federal property, on property located on the military reservations to be annexed, nor on military or military connected activities, nor on property or activities upon the military reservations to be annexed of military dependents resident upon such reservations.

Section 2. That the City will hereafter enact no tax, or any type, applicable to the military reservations to be annexed to the extent that they remain federal property.

Section 3. That the City will hereafter enact no ordinance regulating military activities or military connected activities or activities upon the military reservations to be annexed of military dependents resident upon the reservations unless such regulation is expressly authorized by federal law.

Section 4. That no existing City ordinance or administrative regulation, or subsequently adopted ordinance or regulation, will be enforced on the military reservations without prior approval of the installation commander concerned.

Section 5. That the City will not revoke or declare this resolution invalid without first taking appropriate action to nullify any annexation to the City of the military reservations to be annexed.

Section 6. The City Council directs that this Resolution be filed with the State of Alaska Local Boundary Commission as part of the record in the annexation proceedings to show the intent of the City as to taxation upon property within the military reservations to be annexed.

Section 7. Publication of this resolution shall be made by posting a copy thereof on the City Hall Bulletin Board for a period of ten days following its passage and approval.

Passed and approved by the City Council of the City of Anchorage, Alaska, this 22<sup>nd</sup> day of December, 1970.

George M. Scollina  
Mayor

ATTEST:

[Signature]  
City Clerk



*International*

*Polar air crossroads of the world*

# CITY OF ANCHORAGE



# ALASKA

POST OFFICE BOX 400  
ANCHORAGE, ALASKA  
99510

April 19, 1972

Colonel Arthur H. Hughes  
Commanding Officer  
Elmendorf A. F. Base  
Alaska 99506

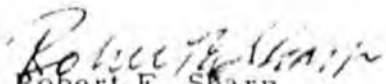
Dear Colonel Hughes:

I am enclosing copies of my letters of April 19, 1972 to the Chairmen of the House and Senate Local Government Committees of the Alaska Legislature. These letters transmit Resolution 32-R-72 of the City of Anchorage which readopts Resolution 68-R-70 passed in December 1970.

The purpose of passage of Resolution 32-R-72 is to clarify the fact that the City's original intent in regard to Elmendorf Air Force Base and Fort Richardson remains unchanged although the current method of annexation will be through legislative enactment rather than the procedure prescribed through the Local Boundary Commission. The effect of annexation remains the same regardless of the procedure used. However, to remove any doubt, we have asked Council and they have readopted, in Resolution 32-R-72, the resolution that was worked out between the military and the City of Anchorage in 1970.

If you should have any questions on this matter, please advise me.

Sincerely yours,

  
Robert E. Sharp  
City Manager

RES:AFR  
Enclosure

cc: House and Senate Local Government Committee  
City Attorney





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# CITY OF ANCHORAGE



# ALASKA

POST OFFICE BOX 110  
ANCHORAGE, ALASKA  
99510

April 19, 1972

Colonel John T. Turner  
Commanding Officer  
Fort Richardson, Alaska 99505

Dear Colonel Turner:

I am enclosing copies of my letters of April 19, 1972 to the Chairmen of the House and Senate Local Government Committees of the Alaska Legislature. These letters transmit Resolution 32-R-72 of the City of Anchorage which readopts Resolution 68-R-70 passed in December 1970.

The purpose of passage of Resolution 32-R-72 is to clarify the fact that the City's original intent in regard to Elmendorf Air Force Base and Fort Richardson remains unchanged although the current method of annexation will be through legislative enactment rather than the procedure prescribed through the Local Boundary Commission. The effect of annexation remains the same regardless of the procedure used. However, to remove any doubt, we have asked Council and they have readopted, in Resolution 32-R-72, the resolution that was worked out between the military and the City of Anchorage in 1970.

If you should have any questions on this matter, please advise me.

Sincerely yours,

  
Robert E. Sharp  
City Manager

RES:AFR  
Enclosure

cc: House and Senate Local Government Committees  
City Attorney



File

THE

RCA TELEVISION SYSTEMS, INC.

JUNEAU, ALASKA 99801  
JUN 6 11 8 27

RECEIVED FROM

ANCHORAGE, ALASKA

MR. MIKE MILLER

JUN

EFFECTIVELY CORRECT YOUR ADDRESS IN YOURS 46792 AND

46791 OUT OF COMMUNITY

MILWAUKEE CITY COUNCIL

*File*

*LB 635 PJ*

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REP MIKE MILLER

JIN *0770*

REQUEST JOINT HEARINGS HOUSE AND SENATE LOCAL GOVERNMENT  
COMMITTEES ON HOUSE BILL 790 AUTHORIZING ANNEXATION  
OF ELMENDORF AND FORT RICHARDSON TO THE CITY OF  
ANCHORAGE SUGGEST AFTERNOON OR EVENING OF APRIL 17 1972  
MAYOR CITY ANAGER CITY ATTORNEY AND OTHER CITY ADMINISTRATIVE  
STAFF WILL PLAN TO PRESENT TESTIMONY ALSO REQUEST STATE  
ADMINISTRATION BE INVITED TO TESTIFY AT SAME TIME PLEASE  
ADVISE

ROBERT E SHARP CITY MANAGER CITY OF ANCHORAGE

790 17 1972

(18).

TELETYPE NO. *789-4051*  
TO *Mrs M.*  
*1207*  
*JP*  
*D. Jr.*

# STATE OF ALASKA

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

WILLIAM A. EGAN, GOVERNOR

POUCH K — STATE CAPITOL  
JUNEAU 99801

May 2, 1972

Byron I. Mallott, Director  
Local Affairs Agency  
Pouch AB  
Juneau, Alaska 99801

Re: Military Bases - Inclusion  
in Boroughs

Dear Mr. Mallott:

You have asked for our opinion on the affect of repeal of section 3(d) of chapter 52, SLA 1963. The question arises in connection with HB 790 and HB 791 which provide for annexation of Fort Richardson and Elmendorf AFB to the City and Borough of Anchorage. Section 3 (d) provides that enumerated military bases are excluded from the boroughs established by chapter 52, SLA 1963 until such time as the bases lose their military status.

In particular, you ask whether the repeal would cause all of the named bases automatically to become part of the boroughs in which they are located or whether repeal would simply remove the prohibition against inclusion in the borough. Under the latter interpretation, the base areas would remain unorganized until such time as the Boundary Commission specifically included them in the boroughs.

In our opinion, repeal of section 3(d) alone, without other legislative action, would automatically make the bases part of the surrounding boroughs. Section 3(d) is a specific exception to section 3(a) which incorporates eight boroughs within eight designated election districts. Removal of the exclusion would simply leave the boroughs as described in section 3(a) without any special treatment for military areas.

In our view, changes to the boundaries of the original boroughs do not affect this result. The possibility of boundary changes by Boundary Commission action is always present with respect to any borough. A boundary change does not affect the basic identity of the boroughs created under section 3(a).

Byron I. Mallott, Director

May 2, 1972

- 2 -

As summarized in 82 CJS Statutes, Section 384 p. 901:

An amended Act is ordinarily to be construed as if the original statute had been repealed, and a new and independent Act in the amended form had been adopted in its stead; or, as frequently stated by the courts, as far as any action after the adoption of the amendment is concerned, as if the statute had been originally enacted in its amended form.

Accordingly, we believe that if the intent of the legislature is to permit immediate annexation of Fort Richardson and Elmendorf Air Force Base to the City and Borough of Anchorage, but not to include other bases in their respective boroughs, only subsections 2 and 3 of section 3(d) 52 SLA, 1963 should be repealed.

To make the legal effect of the repeal clear beyond doubt, we also suggest the following amendment to section 3(a)(4) of chapter 52, SLA 1963:

- (4) Anchorage Election District #8, including Fort Richardson Army Base (base proper) and Elmendorf Air Force Base (base proper).

Sincerely,

JOHN E. HAVELOCK  
ATTORNEY GENERAL

BY: *Richard W. Garnett III*

Richard W. Garnett III  
Assistant Attorney General

RWG:fw

# Mike

Billis :

1. Precedent
2. Political "balance" (conservative vote)
- 3
4. Loss of 874 funds
5. Staffing - 5 steps to further review

Neil Parker :

1. wants to spend more per case

Jim G

1 / 6

UNITED STATES of America,  
 Plaintiff,  
 v.  
 CITY OF BELLEVUE, NEBRASKA,  
 et al., Defendants.  
 Civ. No. 63267.

United States District Court,  
 D. Nebraska.  
 Nov. 2, 1971.

Action by United States to enjoin enforcement of a city ordinance purporting to annex Offutt Air Force Base and Capehart Housing Area, both of which consisted of lands owned by the United States. The District Court, Richard E. Robinson, Chief Judge, held that the purported annexation was invalid as a matter of Nebraska law because undertaken solely for revenue purposes and that in any event the interests of the United States in providing for the national security without interference by individual states or their political subdivisions, outweighed any interests of the city of Bellevue, Nebraska, in acquiring the territory encompassed by the base and the housing area.

Permanent injunctive relief granted.

1. United States ⇨3

United States exercises exclusive legislative jurisdiction over that portion of real estate known as Offutt Air Force Base. U.S.C.A.Const. art. 1, § 8, cl. 17.

2. United States ⇨3

City of Bellevue, Nebraska had power and authority to annex both air force base, over which United States exercised exclusive legislative jurisdiction, and housing area which, although owned by United States, remained subject to legislative jurisdiction of state of Nebraska, and such power included power to tax and regulate in both areas to extent permitted by Congress. U.S.C.A.Const. art. 1, § 8, cl. 17.

331 F.Supp.—56

3. Courts ⇨260.4

Where basic principles of Nebraska's law of annexation were well established, and court discerned no "special circumstance" calling for application of abstention doctrine, court would not, in proceeding by United States for injunction, abstain from determining legality of annexation of lands owned by United States. U.S.C.A.Const. art. 1, § 8, cl. 17; R.R.S.Neb.1943, §§ 16-117 to 16-121.

4. Municipal Corporations ⇨33(9)

United States had no standing to contest validity of city's annexation of alleged agricultural lands which United States did not own and in which it had no interest, though, but for such annexation, lands of United States would not be lands contiguous to city, subject to annexation as such. R.R.S.Neb.1943, § 16-117.

5. Municipal Corporations ⇨29(3)

That city's annexation of lands owned by United States allegedly constituted "patent gerrymandering" did not establish invalidity of such annexation. R.R.S.Neb.1943, §§ 16-118 to 16-121.

6. Municipal Corporations ⇨33(9)

Where court could not say that it was impossible for city to provide to inhabitants of annexed housing area those benefits required by Nebraska statute to be provided by city within one year after annexation, action contesting annexation on ground of such inability was premature. R.R.S.Neb.1943, § 16-120.

7. Municipal Corporations ⇨29(3)

Where sole purpose of city's ordinance annexing air force base and housing area owned by United States was to increase city's revenue, annexation was invalid under Nebraska law. R.R.S.Neb. 1943, §§ 16-117 to 16-121.

8. United States ⇨3

Interests of United States in providing for national security without interference by individual states or their political subdivisions outweighed any in-

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 OPINION IN ITS ENTIRETY. VOLUME 334 OF THE FEDERAL SUPPLEMENT, PAGE 381

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4-17-72

Don Berry, EA, AML

Robert

Mendes

Ed } LAA  
Don }

Sue, son

Rader

Frank Sharp City, Mex

Chance

Paul Stone

Col. Castle, rep

Collette

Brook

General Gregory

~~Andrew~~

~~Ed Baker~~

Bob Sharp

HR 790 - rep. Millington & Co - ✓

HR 791 - ✓

HR 792 - ✓

HR 793 - ✓

HR 794 - ✓

HR 795 - ✓

HR 796 - ✓

HR 797 - ✓

HR 798 - ✓

HR 799 - ✓

HR 800 - ✓

HR 801 - ✓

HR 802 - ✓

HR 803 - ✓

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Geo. Sullivan  
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T. L.

John Spencer, Ancho City Atty.

Des Sullivan - Mayor

Earl H. Schmen, Deputy Chief of Police Ancho.

Sid Clark, Public Works Director, G.A.A.B.

STATEMENT OF THE CITY OF ANCHORAGE IN  
SUPPORT OF THE PASSAGE OF HOUSE BILL NO. 790,  
RELATING TO THE BOUNDARIES OF THE CITY OF  
ANCHORAGE AND GREATER ANCHORAGE AREA BOROUGH;  
AND COMPANION HOUSE BILL NO. 791 RELATING TO  
EDUCATION POWERS ON MILITARY RESERVATIONS

April 17, 1972

House Bill No. 790 provides for the annexation of all of Elmendorf Air Force Base and Ft. Richardson Military Reservations to the Greater Anchorage Area Borough and a portion of these reservations to the City of Anchorage. Companion House Bill No. 791 would reserve education powers on military reservations to the State unless delegated to local districts by the Alaska Department of Education.

The City of Anchorage, following constitutional and statutory provisions governing annexations petitioned the Local Boundary Commission in 1970 for the annexation of all of the military reservations not currently in the City limits, and certain lands on the northwest shore of Knik Arm. The Commission approved in early 1972 a portion of the petition, which is displayed on a map at this hearing and described in House Bill No. 790, and reserved its decision on the balance of the area contained in the petition. Just before the Commission's decision was to be reported to the Legislature during the first ten days of this session the State Administration asked the Commission to hold up the report so a check could be made on the effect the annexation might have on so-called "P. L. 874" federal school impact funds. The Commission complied with the request and recently the Attorney General issued an opinion on the matter. The Attorney General did not directly address the matter of school funds but indicated legal problems connected with a city being in both an organized borough and an unorganized borough. Since this opinion was issued the State Administration has introduced H. B. Nos. 790 and 791 to clear legal problems the Attorney General discussed in his opinion earlier this

year. Since the legislation proposed will accomplish the annexation of the area to the City of Anchorage that the Commission originally approved, any discussion of differing legal views would serve no purpose at this time.

The City of Anchorage in 1970 had a population of 48,029, according to the U. S. Bureau of Census. Of this total 6,544 resided on Elmendorf Air Force Base. The portion of Elmendorf and Ft. Richardson Military Reservations to be annexed to the City under H. B. No. 790 had a population of 16,769 in 1970. Combined the City/Bases population as of the 1970 census totaled 64,778. The last official estimate of the City on July 1, 1971 was 50,556. No current estimate of the population on Elmendorf and Ft. Richardson has been made, but it is probably slightly lower than 1970. Incidentally, the portion of the City which is part of Elmendorf Air Force Base Military Reservation was part of the original incorporation of the City of Anchorage in 1920, a period of almost 52 years ago.

The City of Anchorage appreciates the economic activity generated by Elmendorf and Ft. Richardson. At the same time these bases have a direct impact on City governmental services and costs. The majority of local revenues are from property taxes and these bases are outside the City's taxing jurisdiction and the federal properties are tax exempt. Federal impact funds, with which the State Administration was properly concerned, are available for only school impact. However, P. L. 874 clearly recognizes the financial impact military and other federal establishments by their tax exempt status have on local and state governments. The annexation of these bases would be advantageous to the City in the receipt of State shared revenues which are computed on a per capita basis. Based on the 1970 census of the area to be annexed, the following tabulation reflects the State shared revenues affected:

Police Protection	@	\$10.00	X	16,769	=	\$167,690
Fire Protection	@	5.00	X	16,769	=	83,845
Parks & Recreation	@	5.00	X	16,769	=	83,845
Transportation Services	@	5.00	X	16,769	=	<u>83,845</u>
<u>Total</u>						<u>\$419,225</u>

We are completely convinced the City of Anchorage is entitled to the increased State shared revenues which would result from this annexation. We will later discuss not only the impact in the State shared revenue areas of service but other governmental services affected by the military establishment.

This is the age of rapid change in technology and defense and diplomatic strategy and other changes which have and can affect every military base in Alaska. Recent announcements reducing Naval forces at Kodiak, Air Force personnel at Wildwood, and Army forces throughout Alaska are clear evidence of the vulnerability of any Alaskan military base to not only reductions in force but deactivation. It is clearly in the State, and local interest, to annex all Alaskan military bases to the nearby cities. It is next to impossible to convert military installations to private use on a timely basis to avoid great economic voids without having a local government immediately available to supply police, fire, street, building, and a host of other governmental services necessary for a civilian community. If annexation and advance planning is done great adverse economic impact can be avoided or minimized in communities adjacent to major military installations. There is no reason why bases being curtailed in strength and adjacent communities cannot cooperate through annexation in the joint utilization of major facilities. Such facilities could include docks, airports, public buildings, recreation areas, and a host of other facilities for which compatible use plans could be mutually agreed upon by the

parties. It is no longer tenable for the federal government to over and under utilize a public facility on the one hand and on the other make federal grants to partially finance the same type facility in the same community. This is particularly true of docks and certain type airports. This is not to suggest the military mission should not remain paramount. It does suggest the possibility of much closer cooperation, joint use of facilities, and cooperative service agreements to permit both the military and civilian communities to better and more economically accomplish their respective missions and responsibilities.

Police protection is one of the most important local government services provided by the City, and the military bases have a great impact on this service and its cost. The City of Anchorage's 1972 budget for Police services (exclusive of Greater Anchorage Area Borough contract services in Spenard Service Area) totals \$2,686,550 (plus a pay adjustment not included in original budget) and authorized personnel totaling 153. For a City of 50,000 population both the amount and manpower employed is at least double what a City of comparable size in the other states would be spending unless surrounded by military bases and highly urbanized areas similar to the City of Anchorage situation. The Deputy Chief of Police, Earl Hibpshman, will present detailed testimony which will clearly demonstrate the military impact on all functional areas of the Police Department. After extensive research by Chief Hibpshman and staff officers it is conservatively estimated that departmental costs alone allocatable to military impact will total well over \$3~~00~~,000 a year. When you consider related expenses of prosecution, court, legislative and general administration the total would be still higher. This total is far in excess of increased State shared revenue which would result from this annexation for police protection.

The Traffic Engineering Department works closely with the Police Department. Chief Hibpshman will display maps showing the main entrances to Elmendorf and Ft. Richardson along with traffic volumes and traffic desire lines. The policing

of the daily movement of thousands of motor vehicles through the City to these bases is only one element of the military impact. Most all of these access routes are near or over capacity. Exhaustive engineering effort has and is going on to try to find the solution to the highway access to these bases. The City is spending thousands of man hours each year in its engineering, public works, property management and other City Administration personnel time working with State and Borough personnel trying to solve this problem. In the meantime, extraordinary street and traffic maintenance efforts are being expended to move the traffic as safely as possible to and from these bases.

The Port of Anchorage had the only dock standing in Southcentral Alaska after the disastrous 1964 Alaska earthquake. The important role played by this facility in the recovery period has continued to be as equally important in providing a regular but vital transportation service at reduced costs to shippers and consumers in particularly Southcentral and Central Alaska. Over 200,000 people benefit from this transportation facility. This relatively new transportation facility is still being developed both physically and financially. Although great progress has been made it is still supported substantially by Anchorage City taxpayers. This facility is of great benefit to the military bases. Sixteen (16) per cent or 300,000 tons of cargo destined for the two military bases crossed the docks in 1971. Landings for 1971 included five large tankers and twenty-eight (28) barges carrying P.O.L. products and seventy-four (74) vessels carrying general cargo. After all port revenues had been expended, the City general fund, largely supported by property taxes, paid \$2,094,000 during the period 1967-1971 in principal and interest on General Obligation Bonds issued to build the Port of Anchorage. In 1972 the debt service to be paid from the General Fund will amount to over \$400,000. At a time when port revenues are becoming available for transfer to the General Fund the increased cargo requires an outlay of over \$15 million in the next few years to add both P.O.L. and general cargo berths and related facilities. The benefit of

this facility is not limited to the military bases but to a much wider area of Alaska, including parts of Central, Northwestern and Southcentral Alaska. The City feels the increased State shared revenues from among the bases is justified. In addition there is justification under the State shared revenue program to include in the calculation the population of the area served by the Port of Anchorage which totals some 200,000 people.

This figure is broken down as follows:\*

Greater Anchorage	123,631
Matanuska-Susitna	6,425
Fairbanks (two census districts)	48,171
Kenai-Cook Inlet	14,053
Kodiak	<u>9,235</u>
<u>Total</u>	<u>201,515</u>

\*Source: TAMS Engineering Report, October, 1970.

We would urge this Committee and the Legislature to give serious consideration to amending the State shared revenue program to include all people served in cases of this kind.

Merrill Field is another transportation facility owned and operated by the City which is open to military personnel, and it is used by flying clubs from both bases. However, this usage constitutes an impact of less than five per cent of the over 250,000 or more operations a year.

The City and Elmendorf water systems are interconnected on Government Hill to provide back-up in case of a conflagration in the City or on the base. This intertie was made in the early 1950's. At about the same time a mutual aid fire agreement was entered into and cooperative fire service efforts have continued in the 20 years or more since the initial agreements. The City's Class 3 fire rating adequately demonstrates the excellent water system and Fire Department back-up provided through

the mutual and cooperative agreements mentioned.

The City of Anchorage spends annually over \$1.3 million in operations and maintenance of its Department of Parks and Recreation facilities and programs and almost \$0.5 million on capital improvements. These facilities and programs are open to everyone, and they are used by everyone in the entire Greater Anchorage Area. The enclosed copy of the 1972 Spring-Summer program exemplifies this program which is so important to living in this area. It will be noted that most facilities and activities are free, and when charges are made they are nominal and normally designed to recover part of the direct out-of-pocket type costs normally recovered in this manner. Total revenues are insignificant compared with the budget.

Until this year, the City was the only agency in the area with a comprehensive Parks and Recreation program open to the general public. This is the reason the City's budget is almost double per capita for a City of this size. Records are not maintained of all visitors or participants. However, department supervisors thoroughly familiar with the facilities' use and recreation program estimate an over-all military impact of ten (10) per cent, with team sports ranging up to thirty (30) per cent. The military are very much a part of the civilian community.

Demand on the Parks and Recreation facilities continue to mount each year. The City will consider this year on funding another long-range capital improvement program. A bond proposition of substantial amount will probably be placed before the voters at the General Municipal Election in October of this year since the prior authorization has been used.

The impact of military bases on contiguous or adjacent cities has been recognized. The federal school impact funds is an example already cited. A number of states, including California and Washington as examples, recognize the impact and have authorized or permitted annexation of military bases so state shared programs of these cities could be increased to at least partially offset the impact on local property taxes. The City of Anchorage feels the Alaska Legislature should

adopt a similar policy. Therefore, we urge the prompt passage of H.B. No. 790 and the companion education measure, H.B. No. 791.

SWIMMING  
(Summer)

WEST HIGH POOL

Instruction 9 am - 12 Noon  
Recreation Swim 1-10 pm

ADMISSION

Children (under 18) \$ .50  
Adults 1.00  
Instruction (10 lessons) 5.00

\* \* \*

GOOSE LAKE

Recreation Swim 11 am-8 pm  
Admission Free



GOLF

RUSSIAN JACK SPRINGS PARK

9 Holes -- Astroturf Tees and Greens

Playing Hours - 7 am-10 pm  
For information concerning  
Green Fees, contact Parks and  
Recreation Office 274-2525 or  
the Golf Course 333-9595.



SEASON TICKETS AVAILABLE

GREENHOUSE

RUSSIAN JACK SPRINGS PARK

Open Daily 8 am-4 pm  
Open Weekends 8 am-4 pm

ANCHORAGE

HISTORICAL AND FINE ARTS MUSEUM

Permanent exhibits of archaeological, ethnological and historical materials illustrate the prehistoric, Russian and American periods in Alaska, and historic and contemporary native art. Temporary art exhibitions change monthly.

Summer Exhibitions-1972

June - Festival of Native Arts  
July - Contemporary Sioux Indian  
Painting

August - Alaska's Vanishing Totems

Summer Hours (Memorial Day to Labor Day)

Tuesday thru Saturday: 9 am-8 pm  
Sunday: 1 pm-5 pm  
Monday: Closed

CITY OF ANCHORAGE  
PARKS AND RECREATION DEPARTMENT

STATEMENT OF MISSION: To fulfill the basic need of the community for Park and Open Space lands in accordance with City Council established standards, the Parks and Recreation Department is charged with the responsibility to plan, acquire, develop, improve and maintain such land. Contingent upon these five responsibilities is the added obligation of administering a comprehensive, diversified, all-age, year around program of active and passive recreational activities.

HISTORY: The City Council, in 1948, established an Improvement District encompassing the entire City and an Advisory Board of Parks and Playgrounds. The first operations under the direction of this Board were conducted by a single Playground Supervisor. Further action by the City Council in 1953 created a Parks and Recreation Advisory Board and a Parks and Recreation Department, then comprised of only the Director and one other employee. From this nucleus has grown the present system encompassing over 1,400 acres valued at approximately \$35.8 million and operated by over 100 permanent and temporary employees plus a varying number of enrollees from several Federal Manpower Programs.

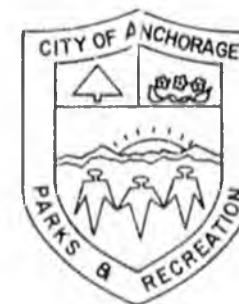
OPEN INVITATION: The Parks are yours to enjoy; with your considerate use they will become even more beautiful for future generations. Participate in the activities presented, as they are for your recreation and the enrichment of the Anchorage way of life.

B. W. Creighton, Director  
Parks and Recreation Dept.



Invitation  
to  
Leisure

Spring - Summer  
1972



## SUMMER PLAYGROUND PROGRAMS

Theme: "American Heritage"  
June 13, 1972 to August 11, 1972. The following locations will have supervised recreation for youngsters ages 6 through 12, Monday through Friday:  
10 a.m. to 12 noon - 1 p.m. to 4 p.m.

Airport Heights School  
2765 East 16th Avenue

Fairview School  
1327 Nelchina Street

Inlet View School  
1219 N Street

Rogers Park School  
1400 E. Northern Lights Blvd.

Mt. View Recreation Center  
Peterkin and Price Streets

Turnagain School  
3500 W. Northern Lights Blvd.

Williwaw School  
712 South Bragaw Street

1 p.m. to 5 p.m. only

Government Hill Recreation Center  
Loop Road and Harvard Drive

Central Recreation Center  
10th and E Streets

### TEEN CENTERS

Youth entering junior high or older are welcome to attend a teen center at the following locations Monday through Friday. Dances are held at various times and Centers.

2 p.m. to 5 p.m. and 6 p.m. to 10 p.m.

Wendler Junior High School  
2905 Lake Otis Parkway

Clark Junior High School  
150 South Bragaw Street

Romig Junior High School  
3600 Minnesota Drive

6 p.m. to 10 p.m. only

Government Hill Recreation Center  
Loop Road and Harvard Drive

Central Recreation Center  
10th and E Streets

Tues-Sat 3 p.m. to 11 p.m., Closed Sun & Mon.

Community Center  
6th and G Streets (Basement)

## SPECIAL PROGRAMS

"Concerts In The Park"  
9th & O St (Delaney Park)

Wednesday, June 7, 8-9 p.m.  
U. S. Army Alaska Band and  
Alaskan Air Command Band

Wednesday, June 14, 8-9 p.m.  
Alaskan Air Command Band

Wednesday, June 21, 8-9 p.m.  
U. S. Army Alaska Band

Wednesday, June 28, 8-9 p.m.  
Alaskan Air Command Band

Wednesday, July 5, 8-9 p.m.  
U. S. Army Alaska Band

Wednesday, July 12, 8-9 p.m.  
Alaskan Air Command Band

Wednesday, July 19, 8-9 p.m.  
U. S. Army Alaska Band

Wednesday, July 26, 8-9 p.m.  
Alaskan Air Command Band

Wednesday, August 2, 8-9 p.m.  
U. S. Army Alaska Band

Wednesday, August 9, 8-9 p.m.  
Alaskan Air Command Band

Wednesday, August 16, 7:30 - 9 p.m.  
"Grand Finale" - U. S. Army Alaska Band &  
Alaskan Air Command Band.

Second Annual Children's Parade. Wednesday,  
August 9, 6:30 p.m. Theme: "American Heritage".  
Open to all children. Call Parks & Recreation  
Department 274-2525 Ext. 365 for information.

Baton Twirling: Classes to be scheduled. Call  
Susan Shrieve, 865-3152 or Lyia Bonney, 272-3970  
for information.

Art Classes: Instruction in charcoal, polymer  
acrylics, oil and pastel. Call Robert Hayes,  
344-6408 for information.

Tap Dancing: Call Susan Shrieve, 865-3152  
for information.

Adult and Teen Ballroom Dance: Call Jerry Neerin,  
279-2224 for information.

Guitar Lessons: Call Mary Wagner, 277-6804  
or Wayne Mason, 272-2892 for information

## SUMMER ATHLETICS

### BASEBALL

Anchorage Baseball Club, Inc. - Glacier Pilots  
Mulcahy Park, 16th and Cordova Street  
June 1, to July 15. For schedule and ticket  
prices call 274-3627.

Boy's Club - American Legion - Sports Complex  
Diamond #1, Monday through Friday.

Boy's Club - Babe Ruth - Lake Otis Parkway,  
9th & B Street, Sports Complex Diamonds #3 and  
#4, Monday - Friday, June 1 through summer.

Little League - 16th & E Street, Nichols,  
Tikishla and Lynary, Monday through Friday,  
May through July.

### SOFTBALL

May 15, through summer at Delaney Park.  
Women's Fastpitch - Diamond #1 (9th & C) Mon-Fri  
Women's Slowpitch - Diamond #1 (9th & C) Mon-Fri  
Men's Fastpitch - Diamond #2 (9th & E) Mon-Thur  
Men's Slowpitch - Diamond #3 (9th & F) Mon-Fri  
Men's Slowpitch - Diamond #4 (9th & G) Mon-Fri  
Men's Slowpitch - Diamond #5 (9th & H) Mon-Fri  
Men's Slowpitch - Diamond #2, Sports Complex  
Monday - Friday

### SOCCER

Anchorage Soccer Association, May 15 through  
Summer  
Delaney Park (9th & L) Tues-Thurs.  
Anchorage Stadium (16th & Cordova St.) Mon-Fri  
Buttress Area (3rd & B) Junior Soccer, Mon-Fri

### TENNIS

Municipal Courts - 9th & C, Sports Complex,  
Goose Lake and Lynary Parks. Lessons to be  
scheduled. Call Parks & Recreation office  
274-2525, Ext. 365 for information.

### GYMNASIUM

Community Center, 6th and G Street.  
Monday through Friday, 8 a.m. to 11 p.m.  
Saturdays, 1 p.m. to 11 p.m.  
Sunday - Closed.

The Parks and Recreation  
Department cooperates with  
many organizations to aid  
in presenting and coordinating  
an all-age diversified pro-  
gram for the citizens of  
Anchorage.



Statement by Earl W. Hibpslman  
Deputy Chief  
Anchorage Police Department

IN SUPPORT OF HOUSE BILL 790 - ANNEXING PORTIONS OF ELEMENDORF AIR FORCE BASE  
AND FORT RICHARDSON MILITARY RESERVATION TO THE CITY OF ANCHORAGE

Date of Hearing - April 17, 1972

The Anchorage Police Department's authorized strength is one hundred, thirty-four (134) personnel. The following is an outline of our manpower distribution within our organization:

Administration	Three (3) Officers One (1) Secretary One (1) Clerk
Jail	One (1) Officer One (1) Warden Six (6) Jailers Five (5) Matrons
Records & Communications	Six point five (6.5) Officers Two (2) I D Technicians Eight (8) Record Clerks Fifteen (15) Communication Clerks
Traffic	Ten (10) Officers Six (6) Meter Maids
Training & Community Relations	Two (2) Officers
Patrol	Forty-two point five (42.5) Officers
Juvenile	Three (3) Officers
Investigators	Fifteen (15) Officers
Service Section	Four (4) Warrent Officers Two (2) Clerks

In addition to the above, the City of Anchorage contracts with the Greater Anchorage Borough to supply Police services for the Spenard Service District, which lies adjacent to the city on the south. The Spenard Service area operating budget is \$706,740, and the function is manned by thirty-two (32) Officers.

The percentages which are dealt with in this document are only those of the City of Anchorage and do not reflect percentages of the Spenard Contract Budget.

In preparing this document, I have personally directed research to be done and have contacted the various Field Commanders reference to the needed material.

Deputy Chief Hibpshman  
House Bill 790  
Page two

The Anchorage Police Department is charged with the enforcement of Federal, state, and local statutes within the corporate limits. At this time the military does not furnish twon patrols for the city.

The Anchorage Police Department furnishes information and assistance to the military as requested; but the control of military, off base, is the responsibility of the Anchorage Police Department.

Th military bases are situated very close to the city, and in the case of Elemendorf, the city and base have a common boundary. Two of the main roads leading from the base lead directly into the central business district and the distances are short. The distance from Elemendorf Government Hill into the central business district is 1.6 miles and the distance from the Post Road route into the central business district is 2.3 miles.

The central business district of the city is attractive to many of the young men from both military bases. Located here are the shops and bars and businesses that attract them. Many of these young men, as young men everywhere, seek pleasure and excitement.

Wherever there are concentrations of men there is also a concentration of those elements of society who seek to peddle their wares or take all they can from the men.

Patrol Commanders estimate that on week nights, thirty (30) per cent of the persons in the central business district are military, on a regular weekend night, fifty (50) per cent are military and on a weekend following a military payday, as high as eighty (80) per cent are military.

This central business district is by far the highest crime rate area of the city, and certainly the high concentration of military personel is a major contribution factor. This is not to say that the soldiers and airmen are committing all of this crime. To the contrary, on many occasions they are victims of crimes: however, regardless of who is the victim or the perpatrator, this area demands a great concentration of Police equipment and manpower.

Primarily, two of the Patrol shifts are affected and these are the afternoon and night shifts. The standard Patrol assignment breakdown allots two (2) uniform Patrol vehicles primarily to the central business district area, and one footpatrol to the central business district. On payday weekend nights, one additional footpatrol is assigned. In addition to the Patrolmen, the shift supervisor watches this area as often as possible. This is not the only place where military go, but it is by far, the greatest concentration. When we compare this concentrated effort with other military related contacts throughout the city, we estimate that fifteen (15) per cent of our uniformed Patrol function is military related.

Deputy Chief Hibpshman  
House Bill 790  
Page three

The military men also comprise the highest percentage of those who are the contacts with prostitutes and they, therefore, are the most frequent victim of assaults and rollings committed by those persons. A recent study was made to determine the percentage of military involved in those incidents. This study shows that thirty (30) per cent of these incidents involve military personel.

In the area of drugs, there is no way to determine what percent of military use some type of drugs. There are estimates that the percentage run somewhere near ten (10) per cent, and this estimate is by investigations working in the field. Another factor is that of those using drugs most are obtaining them from contacts within the city and most of these contacts are made in the city. Therefore, the Police drug effort is determined at ten (10) per cent of the function.

In the area of Police contacts with citizens, research shows that the Anchorage Police make personal contacts on the average of one hundred (100) persons per day, of which twenty-nine (29) are military related. Contacts with persons are only part of the Police function, so this does not mean that twenty-nine (29) per cent of the work is military. It only means that that portion of the work dealing with personal contact is found to be twenty-nine (29) per cent. This, when the Record Section is considered, constitutes an estimated fifteen (15) per cent of the Records function.

When we consider jail costs, we arrive at the figure by finding the percentage of total arrests which are known to be military. This examination shows that 5.9 per cent of those arrested are military.

It is estimated that fifteen (15) per cent of the communications costs is military related.

Another support section is training and community relations, where again, the percentage is estimated at fifteen per cent (15).

In the area of Police investigations, our research reveals fifteen (15) per cent of the overall function is directly related to military personel, either as subjects who have committed crimes, or as victims or witnesses of crimes.

Another area of Police concentration and cost is that dealing with moving and nonmoving traffic violations. A review of our records shows about ten (10) per cent of the total number are military. Figuring at ten (10) per cent of the total citations, we determined that during 1971, there were 15,600 nonmoving violations and 1,034 moving violations given to military personel. In researching the records of the traffic section, we found that nine point five (9.5) per cent of the DWI, accidents and traffic incidents, in these categories involved military personal.

The Juvenile Section costs is the most difficult to estimate. The percentage of military-juvenile dependant cases is estimated to be very small, at around two (2) per cent of the total. However, serious problems do frequently arrive because runaway or missing juvenile civilian females are frequently in contact with or assisted by military personel. It is only roughly estimated that the military contributes about five (5) per cent of the juvenile section functions.

Deputy Chief Hibpshman  
House Bill 790  
Page four

The Warrant Section is that function dealing with service of traffic warrants, subpoenas and summonses, on those persons who fail to appear relating to traffic violations. It is estimated that ten (10) per cent of these documents are directed toward military.

The Administrative time costs which can be contributed to the military is estimated at ten (10) per cent.

The combined Police Department costs only as related in this document amounts annually to \$306,306.

The Anchorage Police Department does now, and has always had, excellent relations with the offices of the Provost Marshalls, Service Police and Investigative Units, and Military Intelligence, on the local military bases. The primary problems arise from young men being away from home. Some of these commit crime and many become the victims of crimes. This, in turn, generates a major Police function.

Cost tabulations are furnished on a separate sheet for your consideration.

Earl W. Hibpshman  
Deputy Chief  
Anchorage Police Department

EWH/nla



\* COL. CASTLE Representing Gen. Ruess (?)

- Unless resolution comes from legislators (similar to AAC res), military opposes,
- Military sees no ~~advantage~~ advantage to arm action.
- Similar federal case in Washington, Court does not grant remedy.
- For veterans, some are in military medical history.
- Subj. call for law that tax a contractor. (Ex. - some tax on contractors, perhaps on the public contract.)
- Subject P opposition to military activities.

OXON ABBOTSINGTON -

✓ 18M ...  
 5450M to AAC  
 55/95M to BORO

\* SUB PLAN - AAC BORO - expenses unless capturing but could benefit.

HB

ooz

# STATE OF ALASKA

WILLIAM A. EGAN, GOVERNOR

## OFFICE OF THE GOVERNOR

RURAL DEVELOPMENT AGENCY / POUCH A — JUNEAU 99801

March 24, 1972

The Honorable Mike Miller  
House of Representatives  
Pouch V  
Capitol Building  
Juneau, Alaska 99801

Dear Representative Miller:

This office has summarized for the first time the total 14-year history of the Rural Development Agency grant program.

We have broken down the state-wide totals into the five recognized geographical areas in which we have field offices. I hope this will be convenient for you to review the grant history of rural communities in your district.

The following resume is intended to acquaint you with our funding procedures as outlined under AS 44.19.610 and in using our policy guidelines to administer grants.

Grants are made to communities with village or fourth-class status under 2,500 populations or cities of a higher class under 2,000 population. A single annual grant cannot exceed \$10,000 and the average is \$6,000. Preference is given to low-income communities with an inadequate tax base that cannot fund their own small public works projects, nor obtain them from other sources.

We prefer the proposed project to be of a community-development nature that we hope will foster and encourage the learning process in the smaller communities to become more astute in local government and become more acquainted with other agency programs.

In most communities that have received RDA grants, we are the single source of funding for whatever local improvements have been made. Small community halls, boardwalks, garbage pits, sanitary land fills, some small airstrips, boat landing facilities, improvements to simple community-owned electrical distribution systems, and sawmill operations are but a few of the examples of programs funded.

Labor grants have been made for digging drainage ditches, bank or beach erosion control, to help construct facilities where materials may have been supplied by another agency, and for projects such as sawmill operation training.

Grants are made upon receipt of application from the community if the project appears feasible and if we have available funds. From 1972 fiscal year funds of \$339,500, 62 grants have been made to date and the balance is nearly exhausted. Most applications were funded this year.

A different picture appears evident for this next fiscal year. We anticipate 150 to 200 applications from communities and less than half of these can be given grants in the \$5,000 to \$6,000 range. This program is becoming increasingly popular and there has been a substantial increase of community awareness of the program.

This is not a make-work program, nor is it designed to perpetuate itself. We who work with it feel that it is a most viable operation and is the only source of public works-grant funds for most of Alaska's small communities.

A total of \$3,739,439.89 has been provided for 185 community grantees in 887 separate grants since Fiscal Year 1959. We serve a rural population of approximately 75,000, or one-fourth the State's total population. This total amount is less than today's costs of 50 miles of new gravel roads or a small airport, yet the impact has been significant.

In addition to the RDA grant program, we administer three separate Neighborhood Youth Corps contracts (OEO funded) through the United States Department of Labor and an adult work-experience program called Operation Mainstream with the same funding source.

Last summer 2,200 youth and adults received work-experience training through our federally funded programs, and more than 500 adults worked on RDA grant projects. All of these combined programs have a very limited amount of hours per person and for the adults, earnings serve to supplement other seasonal income.

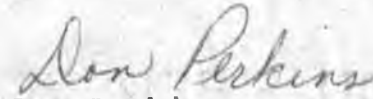
Representative Miller

-3-

March 24, 1972

As this is but a brief narrative, I hope you will seek us out for additional information if you have any questions. We are enthusiastic and see a great potential in the future of rural Alaska. Development will become more noticeable and more significant when land claims funds become available.

Sincerely,



Don Perkins  
Director

March 3, 1972

S O U T H E A S T

Grantees Name	Number of Grants	Population	Amount
Hoonah	10	748	\$81,216.00
Hydaburg	13	214	75,000.00
Angoon	11	205	69,700.00
Kake	9	448	66,337.70
Craig	8	272	60,075.00
Klawock	8	213	58,500.00
Saxman	8	135	53,500.00
Yakutat	10	190	53,390.00
Klukwan	11	103	44,869.89
Port Chilkoot	8	220	40,500.00
Metlakatla	6	1,050	38,560.00
Wrangell	4	2,029	31,000.00
Petersburg	3	2,042	21,000.00
Baranof	2	under 25	11,163.22
Tenekee Springs	4	86	8,000.00
Kasaan	2	30	5,500.00
Haines	1	463	5,000.00
Elfin Cove	1	49	5,000.00
Pelican	1	133	5,000.00
19	120		\$733,311.81

Total Number of Grantees 19

Number of Grants 120

Current Eligible rural population 7,100

Total Amount of Grants \$733,311.81

Average Single Grant \$6,110

Amount per Capita \$79

N O R T H W E S T E R N

Grantees Name	Number of Grants	Population	Amount
Stebbins	8	231	\$49,088.00
Kiana	10	278	48,472.17
Kivilina	10	188	39,307.20
Kotzebue	9	1696	37,130.00
St. Michael	8	207	35,890.88
Wainwright	7	315	34,000.00
Point Hope	9	386	33,570.00
Shishmaref	9	267	33,074.00
Nootak	7	293	29,460.00
Savoonga	7	364	29,200.00
Shaktolik	10	151	28,614.20
Earrow	3	2104	28,000.00
Gambell	6	372	27,450.00
Elim	10	174	26,668.80
Wales	9	131	25,600.00
Golovin	8	117	25,302.36
Anaktuvuk	6	99	24,420.00
Selawik	7	429	23,400.00
Brevig Mission	8	123	23,207.00
Noorvik	7	462	23,120.00
Unalakleet	5	434	20,836.00
Koyuk	8	122	18,025.60
Teller	6	220	17,921.00
Nome	2	2488	17,000.00
Deering	8	85	16,380.00
White Mountain	7	87	15,692.00
Buckland	7	104	15,230.00
Ambler	7	169	15,227.62
King Island	1	(Nome)	10,000.00
Little Diomed	3	84	9,500.00
Shungnak	2	215	4,885.00
<hr/> 31	<hr/> 214		<hr/> \$785,672.33

Total Number of Grantees 31

Number of Grants 214

Current Eligible Rural Population 10,358

Total Amount of Grants \$785,672.33

Average Grant \$3,671

Amount Per Capita \$75

S O U T H C E N T R A L

Grantees Name	Number of Grants	Population	Amount
Cordova	5	1,164	\$38,500.00
English Bay	11	58	37,740.00
Port Graham	6	107	25,500.00
Copper Center	4	206	22,524.30
Unalaska	4	336	22,000.00
Old Harbor	3	290	20,076.00
Ouzinkie	4	160	19,000.00
Tatitlek	3	111	17,500.00
Karluk	4	98	16,971.23
Atka	5	88	16,176.00
Tyonek	4	232	16,000.00
Whittier	2	130	13,000.00
Larsen Bay	3	109	12,946.50
Ahkiok	3	115	10,724.00
Kodiak (59-60)	1	3,798	10,000.00
Palmer	1	1,140	10,000.00
Willow	2	38	10,000.00
Mentasta	4	68	9,740.00
Port Lions	3	227	9,500.00
Goose Creek	1	No Census	7,500.00
Chenega	2	Moved to Tatitlek	7,000.00
Wasilla	2	300	7,000.00
Chistochina	2	33	6,500.00
Ivanof Bay	1	48	6,500.00
Kenney Lake	2	No Census	6,234.00
Seldovia	1	437	5,250.00
Akutan	1	101	5,000.00
Butte	1	448	5,000.00
Eklutna	2	25	5,000.00
Perryville	2	94	4,264.00
Cantwell	2	62	3,500.00
Chignik Lake	1	117	3,500.00
Belkofski	1	59	2,500.00
Chignik	1	83	1,500.00
Chignik Lagoon	1	Unavailable	1,500.00
Knik	1	Unavailable	1,500.00
Sutton	3	76	10,200.00
<hr/>			
37	99		\$426,846.03

Total Number of Grantees 37  
 Number of Grants 99  
 Current Eligible Population 32,000  
 Total Amount of Grants \$426,846.03  
 Average Grant \$4,311  
 Amount Per Capita \$13

C E N T R A L

Grantees Name	Number of Grants	Population	Amount
Fort Yukon	9	440	\$55,000.00
Nulato	7	308	34,000.00
Minto	7	168	32,112.00
Nenana	4	362	30,500.00
Galena	5	302	30,416.00
Venetie	7	112	29,836.00
Northway	5	40	26,742.00
Tanacross	5	84	26,480.00
Koyukuk	6	124	26,184.00
Kaltag	8	206	23,214.50
Tanana	4	406	20,700.00
Chalkyitsik	6	130	20,551.20
Allakaket	6	174	20,497.60
Tetlin	8	114	19,920.00
Arctic Village	5	85	17,350.00
Stevens Village	3	74	16,800.16
Tok	4	214	14,000.00
Ruby	3	145	10,500.00
Beaver	3	101	6,250.00
Eagle Village	2	Under 25	5,500.00
Birch Creek	1	Under 25	5,000.00
Huslia	1	159	5,000.00
Dot Lake	1	42	4,000.00
Eagle City	1	36	3,000.00
Canyon Village	3	Under 25	2,800.00
Rampart	2	36	2,200.00
Kaktovik	1	123	1,000.00
27	117		\$489,553.46

Total Number of Grantees 27

Number of Grants 117

Current Rural Eligible Population 8,700

Total Amount of Grants \$489,553.46

Average Size Grant \$8,766

Amount Per Capita \$55

W E S T E R N

Grantees Name	Number of Grants	Population	Amount
Dillingham	7	914	\$46,800.00
Bethel	7	2416	43,940.00
Fortuna Ledge	10	175	38,324.25
Holy Cross	6	199	37,000.00
Chevak	7	387	33,610.00
St. Mary's	5	384	32,800.00
Koleganik	7	142	30,798.00
Kwethluk	6	406	30,500.00
Ekwok	9	103	30,296.00
Nondolton	7	184	30,264.00
Kotlik	6	228	30,204.00
Anvik	8	83	29,172.00
Pedro's Point	5	70	28,676.80
Mountain Village	6	419	28,440.00
Clark's Point	7	95	28,183.02
Hooper Bay	8	490	27,534.00
Quinhogok	7	340	26,280.00
Manokotak	8	214	26,000.00
Shageluk	6	167	25,704.00
New Stuyahok	6	216	25,096.00
Toksook Bay	7	257	24,570.00
Russian Mission	6	146	22,800.00
Tuntutuliak	7	158	21,428.20
Akiachak	5	312	21,236.00
Napakiak	6	270	20,000.00
Napaskiak	6	259	20,000.00
Grayling	4	139	18,952.00
Goodnews Bay	8	Not Available	18,522.80
Nikolai	6	112	18,250.00
Aniak	3	205	18,000.00
Kongiganek	2	190	18,000.00
Tununak	6	274	17,921.00
Emmonak	5	439	17,563.00
Akiak	4	171	17,560.00
Tuluksak	5	195	17,480.00
Pilot Station	4	290	17,264.00
Kipnuk	5	325	16,903.50
Egegik	3	148	16,880.00
Aleknagik	3	128	16,864.00
Lower Kalskag	6	183	16,500.00
Kasiglik	4	Not Available	16,272.00
South Naknek	5	154	16,156.80
Nunapitchuk	4	Not Available	16,137.00
Russian Mission	2	120	16,000.00
Kwillingok	5	148	15,500.00

W E S T E R N

Grantees Name	Number of Grants	Population	Amount
Chefornak	6	146	14,135.89
Scammon Bay	6	166	13,600.00
Kokhanok	5	85	13,500.00
Newhalen	5	88	13,264.00
Alakanuk	3	265	13,100.00
Kalskag	5	122	12,500.00
Mekoryuk	5	249	11,420.00
Pedro Bay	6	65	10,892.00
Atonautluak	2	Not Available	10,480.00
Eek	5	186	10,421.00
Akolmuit	1	526	10,000.00
Stony River	2	74	10,000.00
Newtok	3	114	9,500.00
Togiak	3	383	9,264.00
Crooked Creek	3	59	7,836.00
Levelock	3	74	7,440.00
Pilot Point	3	61	7,176.00
Andreafski	1	Not Available	6,528.00
Nightmuit	1	127	5,480.00
Naknek	1	187	5,532.00
Ugashik	3	Under 25	3,966.00
Iguigig	2	36	3,000.00
Chgsenahale	1	80	3,000.00
Port Heiden	1	66	3,000.00
Platinum	1	55	1,500.00
Ekuk	1	51	1,088.00
71	337		\$1,304,055.26

Total Number of Grantees 71

Number of Grants 337

Current Eligible Rural Population 18,434

Total Amount of Grants \$1,304,055.26

Average Grant \$3,869

Amount Per Capita \$70

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LOCATION	GROSS SQ. FT.	NET SQ. FT.	COST/YR. 20 YR. AMORIZATION & JANITORIAL, HEAT ELEC. ETC.	CAPITAL COST	CURRENT LEASE COSTS/YR.	COST/SQ. FT. TO OWN/YR.	ESTIMATED COST/SQ. FT FOR COMPARABLE RENTAL SPACE/YR.
<u>Juneau</u>							
Records Center	17,951	16,156	114,747	822,035		6.40	6.00
Public Safety & Trans. Bldg.	116,941	96,000	1,081,321	8,246,277		9.25	9.60
Regional Office Bldg.	126,941	104,000	1,379,278	10,188,710		10.00	9.60
[.452]	(57,446)	(47,065)	(551,482)	(4,421,084)			
<b>TOTALS JUNEAU</b>	<b>261,833</b>	<b>216,156</b>	<b>2,575,346</b>	<b>19,257,022</b>	<b>1,051,950</b>		
<u>Anchorage</u>							
*Public Works Main Bldg.	19,355	18,000	91,410	618,527		4.72	6.00
**Testing Lab. Bldg.	8,252	7,674	53,705	360,296		6.51	12.00
*Airport Bldg.	61,176	52,000	517,242	4,072,383		8.45	9.60
**Regional Office Bldg.	185,176	154,000	1,583,542	12,525,793		8.55	9.60
**Public Safety/ Mil. Affairs Bldg.	41,667	37,500	316,417	2,346,076		7.59	9.60
**Labor Bldg.	36,978	31,432	322,838	2,584,318		8.73	9.60
[100.0]	(36,978)	(31,432)	(309,924)	(2,480,945)			

LOCATION	GROSS SQ. FT.	NET SQ. FT.	COST/YR. 20 YR. AMORIZATION & JANITORIAL, HEAT ELEC ETC.	CAPITOL COST	CURRENT LEASE COSTS/YR.	COST/SQ. FT. TO OWN/YR.	ESTIMATED COST/SQ. FT. FOR COMPAPBLE RENTAL SPACE/YR.
TOTALS ANCHORAGE	352,604	300,606	2,885,154	22,507,393	1,182,260		
<u>Fairbanks</u>							
Regional Office Bldg.	54,941	45,000	545,895	4,155,369		9.93	10.80
[.183]	(10,039)	(8,264)	(96,176)	(730,015)			
Public Safety Bldg.	10,000	9,000	103,850	817,830		10.38	10.80
TOTALS FAIRBANKS	64,941	54,000	649,745	5,973,199	159,655		
<u>Kenai</u>							
Combined Facility	33,000	21,400	314,606	2,302,185	*61,826	9.53	9.60
[.068]	(2,237)	(1,451)	(20,465)	(150,286)			
<u>Kodiak</u>							
Regional Office Bldg.	18,353	15,600	146,009	1,074,890	31,362	7.96	9.50
[.051]	(945)	(804)	(7,221)	(52,626)			

LOCATION	GROSS SQ. FT.	NET SQ. FT.	COST/YR. 20 YR. AMORIZATION & JANITORIAL, HEAT ELEC. ETC.	CAPITOL COST	CURRENT LEASE COSTS/YR.	COST/SQ. FT. TO OWN/YR:	ESTIMATED COST/SQ. FT. FOR COMPARABLE RENTAL SPACE/YR.
<u>Sitka</u>					44,971		
Court & Office Bldg.	27,164	18,200	213,077	1,576,090		7.84	8.40
[.033]	(1,525)	(1,023)	(11,484)	(84,730)			
Public Safety Main Bldg.	22,750	18,200	177,325	1,311,188		7.79	8.40
Phys. Ed. Bldg.	18,016	16,215	105,593	665,264		5.86	7.20
<b>TOTALS SITKA</b>	<b>67,930</b>	<b>52,615</b>	<b>495,995</b>	<b>3,552,542</b>	<b>44,971</b>		
<b>GRAND TOTAL</b>	<b>798,661</b>	<b>660,377</b>	<b>7,066,855</b>	<b>54,667,231</b>	<b>2,532,024</b>		
			<b>-(996,752)</b>	<b>-(7,919,686)</b>			
			<b>6,070,103</b>	<b>46,747,545</b>			

\*\*Either State or City Land

\* Includes Kenai, Homer & Soldotna

[ ] Denote % use of Buildings by Department of Labor

NOTE: Figures shown in ( ) denote Department of Labor space which will be funded by Federal Manpower Administration.

HJR

59

Pouch V,  
State Capitol Bldg.  
Juneau, Alaska 99801  
April 6, 1971

Miss Celia M. Hunter  
Backwoods Trail,  
Fairbanks, Alaska

Dear Celia:

Thanks so much for sending along a copy of your letter to Rep. Dick McVeigh re House Joint Resolution 59. I certainly concur with your comments and appreciate you taking the time to transmit them.

Best personal regards,

Mike Miller, Representative  
District Four, (Juneau)

Backwoods Trail, Fairbanks, Ak.  
April 2, 1971

Richard McVeigh, Chairman  
House State Affairs Committee  
Pouch V  
Juneau, Alaska 99801

Dear Mr. McVeigh:

RE: House Joint Resolution No. 59  
Relating to Federal Highway Trust  
Funds

I wish to be put on record as favoring passage of this resolution at the earliest opportunity. The federal legislation now before Congress to permit use of Highway Trust Funds for other forms of public transportation other than construction of highways is vital to the improvement of living conditions for millions of American citizens.

The tyranny exercised by the highway builders over the lives of American citizens must be broken. In the early days of automobiles, this legislation restricting use of gasoline taxes for construction of highways may have made sense, but it is totally anachronistic today. With mounting pollution from private automobiles, with demands for parking space beyond any hope of adequate supply, and with the urgent need for speedy mass transit systems to relieve the congestion of urban areas, the restriction of these funds for highway use only is criminal.

Here in Alaska, we have so many varied needs for transportation, with our marine highway system, our bush airfields, and the use of snow machines in many of our bush areas requiring some assistance in maintaining trails between villages for them, we need the greater flexibility of transportation which a liberalizing of the rules governing the Trust Funds would allow.

I urge you to report this resolution out with a "do pass" recommendation, as soon as possible.

Sincerely,

*Celia M. Hunter*

(Miss) Celia M. Hunter

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FD

The Constitutional Validity of Preferential Hiring Requirements

Under Proposed Alaska State Oil and Gas Leases

Introduction

Residential hiring legislation like Senate Bill No. 53 (Seventh Legislature, First Session, 1971), would be susceptible to constitutional attack on the ground that it violated (1) the privileges and immunities clause of Article IV, (2) the equal protection clause of the 14th Amendment; and (3) interfered with interstate commerce within the meaning of Article I, Section 8. Because a successful constitutional argument on either ground would invalidate the legislation, an analysis of each is offered, first in the context of the preferential hiring requirements of SB No. 53 (1971), then in the context of other preferential hiring proposals.

Section 38.05.177 of SB No. 53 would require the inclusion into every oil and gas lease to which Alaska is a party a provision requiring the hiring of bona fide residents of Alaska at prescribed percentages of the lessee-employer's work force. The preferential hiring requirements would also apply to the lessee's assignees, sublessees, contractors, and any persons doing lease-related work for or in conjunction with the lessee.

Both the equal protection clause of the 14th Amendment and the privileges and immunities clause of Article IV, Section 2 prohibit certain

forms of discrimination by a State. Compared with the 14th Amendment's equal protection clause, the distinctive quality of the privileges and immunities clause is its inapplicability to cases involving discrimination by a State against its own citizens. It does not follow, however, that the 14th Amendment's equal protection clause has no applicability to controversies involving discrimination against citizens of other States. Hence, that provision of the Constitution bears on the problem for discussion. Of the two anti-discrimination constitutional provisions, however, the privileges and immunities clause is more specific, narrower in scope, and more particularly related to the subject of preferential hiring as contemplated by your Legislature.

#### The Privileges and Immunities Clause

##### History

The privileges and immunities clause of the Constitution is contained in Article IV, Section 2, which provides in relevant part:

The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.

While different theories have supported the purpose of the clause, only one persists today: Since the Slaughter-House Cases in 1873, the clause has been interpreted as forbidding a State to discriminate against citizens of other States and in favor of its own citizens. Slaughter-House Cases, 16 Wall. 36 (1873).<sup>1</sup>

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1. Three other theories concerning the purpose of the clause have lost

In 1947, the primary purpose of the privileges and immunities clause was described by Chief Justice Vinson, speaking for the Court in Toomer v. Witsell, 334 U.S. 385, 395 (1948), as follows:

The primary purpose of this clause, like the clauses between which it is located--those relating to full faith and credit and to interstate extradition of fugitives from justice--was to help fuse into one Nation a collection of independent, sovereign States. It was designed to insure to a citizen of State A who ventures into State B the same privileges which the citizens of State B enjoy. For protection of such equality the citizen of State A was not to be restricted to the uncertain remedies afforded by diplomatic processes and official retaliation. 'Indeed, without some provision of the kind removing from the citizens of each State the disabilities of alienage in the other States, and giving them equality of privilege with citizens of those States, the Republic would have constituted little more than a league of States; it would not have constituted the Union which now exists.' Paul v. Virginia, 8 Wall. 168, 180 (1868).

#### Prohibited Discrimination

If all discrimination by a State in favor of its citizens and against citizens of other States were prohibited by the privileges and immunities clause, preferential hiring as proposed by your Legislature would be unconstitutional. Without question, the import of the proposed legislation is discriminatory. But a long line of Supreme Court cases hold that the clause is not an absolute. The question is this, as in all privileges

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their validity with the passage of time. They are: (1) the clause guarantees to citizens of different States equal treatment by Congress, a theory recognized in part by the Dred Scott case, 19 How. 393 (1857), but now obsolete; (2) citizens of each State enjoy all the privileges and immunities enjoyed in any State by its citizens, a view rejected in McKane v. Durston, 153 U.S. 684, 687 (1894); (3) a State must guarantee to a visiting citizen from another State all the privileges and immunities enjoyed by that citizen in his home State, a view rejected in Detroit v. Osborne, 135 U.S. 492, 498-9 (1891).

and immunities clause cases, is whether there is a substantial reason for the discrimination against citizens of other States "beyond the mere fact that they are citizens of other States." Toomer v. Witsell, 334 U.S. 385, 396 (1948).

In Toomer, the test described by Chief Justice Vinson for the Court is as follows:

The inquiry in each case must be concerned with whether such reasons do exist and whether the degree of discrimination bears a close relation to them. The inquiry must also, of course, be conducted with due regard for the principle that the States should have considerable leeway in analyzing local evils and in prescribing appropriate cures. 334 U.S. at 396.

Applying that test, the Supreme Court has held unconstitutional under the privileges and immunities clause, a State's discriminatory imposition of a fishing license fee of \$25.00 for residents and \$2,500 for nonresidents; Toomer v. Witsell, supra; a \$50 commercial fishing license fee for nonresidents and a \$5.00 commercial license fee for residents, Mullaney v. Anderson, 342 U.S. 415; the denial to nonresidents of a tax exemption allowed residents of the State, Travis v. Yale & Towne Mfg. Co., 252 U.S. 60 (1920); the taxation of nonresidents for the privilege of selling within the State goods produced in other States, Ward v. Maryland, 12 Wall. 418, 424 (1871). These are some examples of unconstitutional types of extreme discrimination by a State against noncitizens, with no rational basis apart from the fact of noncitizenship in the State imposing the discrimination.

State Natural Resources

When the State has a proprietary interest in tangible natural resources within the State, legislation limiting the depletion of those resources to citizens of the State is sometimes sustained on the theory that the natural resource constitutes a property right held for the use of the State's citizens. First stated in the landmark case of Corfield v. Coryell, 6 Fed., Cas. 546 (1823), the theory has been followed and applied to wild game, Greer v. Connecticut, 161 U.S. 519 (1896), and the running water of a State, Hudson Water Co. v. McCarter, 209 U.S. 349 (1908). While Corfield v. Coryell, supra, was a Circuit Court decision, its rationale was followed in McCready v. Virginia, 94 U.S. 391 (1877), a landmark case often referred to in privileges and immunities clause literature as the "McCready exception to the privilege and immunities clause." In the McCready case, the Supreme Court upheld a Virginia statute which prohibited nonresidents from planting or fishing for oysters in the inland waters of the State, on the theory that the resource was owned by the State.

Toomer v. Witsell, supra, and Mullaney v. Anderson, supra, which arose in Alaska, appear not to follow the McCready doctrine, but are in fact clearly distinguishable for the reason that the State in both cases attempted to impose a discriminatory licensing fee on fishing in the marginal sea, thus introducing into those cases an element of State control over the channels of commerce among the States and accompanying overtones of an unconstitutional interference with interstate commerce. Inasmuch as the proposed pipeline will be constructed entirely within the State of

Alaska, it is not possible to equate the pipeline with free-swimming fish in the marginal waters of a State. From a proprietary standpoint, the State-owned land on which the pipeline will be constructed is clearly an intrastate resource; and there are no overtones here of an unconstitutional interference with interstate commerce insofar as control of the State's proprietary interest is concerned.<sup>2</sup> (This observation should be carefully distinguished from the subject of a possible interference with the interstate travel of potential out-of-state employees seeking work at pipeline construction sites. This is discussed, infra.)

Separate and independently-prepared memoranda by your Honorable State Attorney General<sup>3</sup>, and by Avrum M. Gross, Esq. of the Juneau law firm of Faulkner, Banfield, Boochever, and Doogan, for the Alaska Oil & Gas Association<sup>4</sup>, comment upon the proprietary-interest theory. Both conclude that the theory is not sufficiently broad to sustain the valid-

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2. The proposed North Slope pipeline will traverse about 130 miles of State land, 640 miles of federal land, and about 30 miles of privately owned land. Letter from Senator Croft to Professor Alleyne, dated November 2, 1971.

Under Senate Bill No. 294 (Seventh Legislature, Second Session, 1972), the Alaska Leasing Board created by that bill would lease or acquire for pipeline purposes easements on land belonging to the United States, and in turn lease the land so acquired to carriers for pipeline right-of-way. Sec. 38.40.200, SB No. 294 (1972).

3. Opinion letter to Senator Josephson dated April 19, 1971. The Attorney General has apparently taken the opposite position in defending the State Department of Labor in Knutson v. State of Alaska, in the Alaska Superior Court on cross motions for summary judgment. No. 71-2941. Memorandum brief dated October 26, 1971.
4. Opinion letter to Alaska Oil & Gas Association dated April 1, 1971.

ity of the proposed legislation. I am not in agreement with the conclusions reached by both on their respective analyses of the proprietary-interest concept. Your Attorney General's memorandum does not discuss what is perhaps the most compelling reason for concluding that preferential hiring, as proposed by Senate Bill No. 53 of 1971, is not unconstitutional: namely, the separate and distinct theory of a State's power to discriminate between citizens and noncitizens in the terms of a lease of public land.

#### The Proprietary Interest Rationale

First, on the proprietary interest theory as established by the McCready case, the Attorney General's memorandum appears to recognize the Supreme Court's distinction between state-owned resources within a State and a resource like free-swimming fish located in a State's marginal waters. Yet, the Attorney General concludes, without saying why, that notwithstanding these distinctions, "as presently drafted, Senate Bill 53 would probably be found to be unconstitutional on several grounds." While he mentions "several grounds" of unconstitutionality, his memorandum discusses only the privileges and immunities clause.

The Gross memorandum states that if McCready v. Virginia, 94 U.S. 391 (1877), were still the law, "the statute before the Alaska legislature would clearly be valid." It concludes, however, that McCready is no longer the law, "insofar as it approves State 'ownership' as a valid justification for discrimination." Mr. Gross quotes the following passage from the Toomer decision in support of his conclusion that McCready is no longer the law:

The whole ownership theory, in fact, is now generally regarded as but a fiction expressive in legal shorthand of the importance to its people that a State have power to preserve and regulate the exploitation of an important resource. And there is no necessary conflict between that vital policy consideration and the constitutional command that the State exercise that power, like its other powers, so as not to discriminate without reason against citizens of other States.

The quoted language does not reject McCready, but regards the "ownership theory" as but another name for a State's power to preserve, regulate, and exploit a natural resource. By citing the ownership theory as a short-hand name for the state power described, the Court, in Toomer, necessarily recognizes the existence of a State's power over, and its ability to discriminate in appropriate cases against, noncitizens in the protection of that resource. The quote from Toomer, in short, is a re-affirmation of the principle that the privileges and immunities clause's restrictions are not absolute.

The discrimination in Toomer was held invalid because of the high degree of discrimination inherent in the imposition of a noncitizens shrimp boat license fee one hundred times greater than the fee for citizens, and the location of the shrimp in the marginal sea as distinguished from the inland waters of the State.

In the paragraph following the portion of the Toomer decision quoted by the Gross memorandum, the Court notes that the McCready exception "should not be expanded to cover this case". Clearly, the refusal to expand a constitutional concept does not mean that the concept has been repudiated. The Gross memorandum almost concedes as much by noting that it is possible to construe Toomer as "still authorizing State restriction

over fully 'owned' property as opposed to areas simply controlled by the State."

I agree with the latter statement, insofar as it relates to property "owned" by the State. Questions concerning mere "control" are not relevant here, inasmuch as the proposed legislation, the Right of Way Leasing Act, SB No. 294 (1972), and the preferential hiring requirements of SB No. 53 (1971), apply only to State-owned land. Ownership necessarily connotes the power to impose some degree of control; and it is the State's right to control through the leasing power that makes Alaska's proprietary interest so strong. But before developing further the relationship between Alaska's interest as owner of the lands in question and Alaska's power to establish through the terms of a lease some form of preferential hiring for Alaska residents, a further comment is in order on the Gross memorandum position that there is no longer a viable distinction between inland and marginal waters in privileges and immunities clause cases.

The Gross memorandum cites one federal district court case in support of the view that there is no longer a viable distinction between inland and marginal waters in cases arising under the privileges and immunities clause. It states (p.4) that in *Brown v. Anderson*, 202 F. Supp. 96 (Alas., 1962), "Ehe Court specifically rejected an argument that the restriction was valid in the inland waters of the State..."<sup>5</sup> I am un-

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5. The law firm of which Mr. Gross is a member was counsel for the plaintiffs attacking the licensing provision in Brown v. Anderson.

able to follow this reasoning, inasmuch as Brown v. Anderson dealt with the issue of salmon fishing in marginal waters and dealt not at all with salmon fishing in inland waters with no access to the sea. The court stated, probably by way of judicial notice since the fact is so obvious, that "Salmon are migrating, free-swimming fish which are caught in the marginal seas of Alaska", 202 F. Supp. at 98; and that the "Alaska marginal waters are divided into ten general areas with specific geographical boundaries." Emphasis added. 202 F. Supp. at 98. Challenged and held unconstitutional in that case was Chapter 62 of the Alaska Session Laws of 1961, which, among other things, authorized the Alaska Board of Fish and Game "to withdraw from nonresidents the right to take salmon from the marginal seas in certain areas, under certain conditions." Emphasis added. 202 F. Supp. at 101. Thus, both the facts and the applicable law in Brown v. Anderson relate solely to fishing in marginal waters. Accordingly, it is not possible to say that the case is inconsistent with McCready.

It is true that the court in Brown v. Anderson read the Toomer decision as abrogating the McCready "ownership" concept. But inasmuch as both Toomer and Brown were marginal-sea cases, the Brown court's comments citing Toomer as overruling McCready can only be regarded as dictum.

For reasons noted above in the comments on the Gross memorandum's analysis of Toomer, I think the dictum is incorrect. Again, Toomer distinguishes but does not overrule McCready. Toomer merely recasts the McCready test in a different semantic mold. It emphasizes the severity of the discrimination in that case and the absence of any compelling reasons,

apart from noncitizenship, to justify the discrimination against non-resident fishermen fishing in marginal waters off the coast of South Carolina. Where, on the other hand, a discriminatory license fee is not flagrantly discriminatory and where, at the same time, the fishing waters in question are not marginal but inland, a discriminatory license fee is valid. See, for this proposition, and for comparison with Brown v. Anderson, the federal district court opinion in American Commuters Association v. Levitt, 279 F. Supp. 40 (S.D.N.Y., 1967), citing and distinguishing Toomer, Mullaney v. Anderson (Alaska fish case), and Brown v. Anderson:

Plaintiffs do not raise a substantial constitutional question because a nonresident is charged a fee of \$5.50 for a noncommercial fishing license...while a resident is charged a fee of \$3.25. No showing has been made that the difference in fee is not justified by added enforcement burdens and conservation programs supported by taxes paid by residents...Decisions such as Toomer v. Witsell...Anderson v. Mullaney, 191 F.2d 123... (9th Cir. 1951), aff'd, 342 U.S. 415 (1952)...Brown v. Anderson ...are distinguishable since they dealt with commercial fishing rights involving interstate commerce. /Emphasis added./  
American Commuters Association v. Levitt, 279 F. Supp. at 48.

#### Leasing Power Implications: The Heim-Crane Doctrine

An attempt by Alaska to restrict all hiring by all employers in the State to residents of Alaska, or to require that those employers prefer Alaska citizens in hiring, would undoubtedly be unconstitutional. Truax v. Raich, 239 U.S. 33 (1915), for example, invalidated an Arizona law which effectively excluded aliens from work by requiring employers of five or more persons to hire eighty per cent qualified electors or native-born citizens of the United States. The Supreme Court held that the alien attacking the statute, having been lawfully admitted into the United States

under federal immigration laws, had a federal privilege to enter and abide in "any State in the Union" and to enjoy the equal protection of the laws under the 14th Amendment; that the privilege to enter in and abide in any State carried with it the "right to work for a living in the common occupations of the community." One month later, Heim v. McCall, 239 U.S. 175 (1915), and Crane v. New York, 239 U.S. 195 (1915), companion cases, were decided. At issue was the constitutional validity of Section 14 of the New York Labor Law, a preferential hiring law for public works employment. It provided as follows:

Preference in employment of persons upon public works.--In the construction of public works by the State or a municipality, or by persons contracting with the state or such municipality, only citizens of the United States shall be employed; and in all cases where laborers are employed on any such public works, preference shall be given citizens of the State of New York. In each contract for the construction of public works a provision shall be inserted, to the effect that, if the provisions of this section are not complied with, the contract shall be void. (Emphasis added.)<sup>7</sup> Laws 1909, ch. 36, Consol. Laws, ch. 31.

The Supreme Court sustained the statute as applied to the hiring of employees for the construction of New York City's subway system. The Court rejected contentions that Section 14 of the New York Labor Law violated the equal protection clause, the privileges and immunities clause, and the due process clause, basing its decision on the State's power to prescribe the conditions upon which it will permit public work to be done on its behalf, or on behalf of its municipalities. 239 U.S. 175, at 192, 193. The legislation was sustained with respect to hiring by a public agency and as applied to private contractors working under public-agency contracts.