

SENATE BILL NO. 99

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE SENATE RULES COMMITTEE

Introduced: 3/11/99

Referred: Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act to clarify the meaning of 'decennial census of the United States' in
2 Article VI, Constitution of the State of Alaska, and to prevent discrimination in
3 the redistricting of the house of representatives and the senate."

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

5 * **Section 1. FINDINGS.** The legislature finds that

6 (1) the United States Bureau of the Census has traditionally conducted an
7 actual enumeration of the American people and reported the results of that actual enumeration,
8 without statistical adjustment, to the states for purposes of redistricting;

9 (2) the United States Bureau of the Census has announced plans to use
10 sampling and estimates to adjust the actual population counts in the 2000 census;

11 (3) the United States Supreme Court, in Department of Commerce v. United
12 States House, 119 S.Ct. 765 (1999), has interpreted existing federal law to prohibit the use of
13 adjusted or estimated figures in reapportioning the seats in the United States House of
14 Representatives among the states;

1 (4) the United States Supreme Court, in *Department of Commerce v. United*
 2 *States House*, 119 S.Ct. 765 (1999), declined to address the constitutionality of the use of
 3 sampling and estimates by the census bureau in developing decennial census counts;

4 (5) the United States Supreme Court's decision in *Department of Commerce*
 5 *v. United States House*, 119 S.Ct. 765 (1999), did not resolve the issue of whether the census
 6 bureau may supply states with adjusted or estimated census figures for use in redistricting;

7 (6) each decade since statehood, Alaska's redistricting plan has been the
 8 subject of expensive litigation;

9 (7) Alaska's redistricting plans are subject to ongoing review by the United
 10 States Department of Justice under the Voting Rights Act;

11 (8) in the past, Alaska's redistricting boards have sometimes relied on surveys
 12 and population estimates in order to remove Alaska's military population from the decennial
 13 census figures in order to comply with the former wording of art. VI, secs. 3 and 5,
 14 Constitution of the State of Alaska, which referred to the "civilian population";

15 (9) although recent amendments to the Constitution of the State of Alaska have
 16 removed the reference to "civilian" population, court precedent regarding the exclusion of non-
 17 resident military personnel and civilian "transients" remains (see *Egan v. Hammond*, 502 P.2d
 18 856, 869 (Alaska 1972); *Groh v. Egan*, 526 P.2d 863, 869-874 (Alaska 1974); *Carpenter v.*
 19 *Hammond*, 667 P.2d 1204, 1210-1213 (Alaska 1983); *Hickel v. Southeast Conference*, 846
 20 P.2d 38, 54-56 (Alaska 1992)).

21 * **Sec. 2.** INTENT. It is the intent of the legislature to eliminate confusion in the event
 22 the census bureau's report of the decennial census includes more than one population figure
 23 for Alaska, to facilitate the work of the redistricting board by identifying the appropriate
 24 census figures to be used in developing a redistricting plan, to avoid litigation over the board's
 25 redistricting plan, and to prevent discrimination against any segment of Alaska's population.

26 * **Sec. 3.** AS 15.10 is amended by adding a new section to read:

27 **Article 2. Census.**

28 **Sec. 15.10.200. Definition of "decennial census of the United States" and**
 29 **use of census numbers by redistricting board.** (a) In art. VI, Constitution of the
 30 State of Alaska, reference to the official decennial census of the United States is a
 31 reference to the census enumeration used to establish apportionment among the several

1 states.

2 (b) The redistricting plan adopted under art. VI, Constitution of the State of
3 Alaska, may not use census numbers that are estimates or that have been adjusted
4 based on sampling, nor may the redistricting plan exclude or discriminate among
5 persons counted based on race, religion, color, national origin, sex, age, occupation,
6 military or civilian status, or length of residency.