

HJR

39

HOUSE STATE AFFAIRS COMMITTEE

NEXT COMMITTEE: JUDICIARY

BILL: HJR 39

CURRENT VERSION:

SCHEDULED: APRIL 29, 1988

SPONSOR: MARTIN

PHONE NO: 3782

CONTACT FILE: \_\_\_\_\_

BILL SUBJECT: REAPPORTIONMENT OF THE LEGISLATURE

SPONSOR BACKUP: IN FILES

AFFECTED AGENCIES:

<u>DEPARTMENT</u>	<u>CONTACT/PHONE</u>	<u>COMMENT</u>
-------------------	----------------------	----------------

ELECTIONS	LINDA EDGEWORTH/4600	
-----------	----------------------	--

FISCAL NOTES

<u>AGENCY</u>	<u>REQUESTED</u>	<u>DATED</u>	<u>FY 88 AMT</u>	<u>FY 89 AMT</u>
ELECTIONS		4/28/88	-0-	\$2,200

ACTION

<u>DATE</u>	<u>COMMENT</u>
-------------	----------------

4/29/88	HEARING: PASSED FROM HOUSE STATE AFFAIRS
---------	--

STATE OF ALASKA  
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY  
LEGISLATIVE REFERENCE LIBRARY

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

*House State Affs:*

*4/29/88*



# REP. TERRY MARTIN

ELECTIVE DISTRICT 13  
MOUNTAIN VIEW  
RUSSIAN JACK SPRINGS  
NUNAKA VALLEY  
ELMENDORF A.F.B.  
CREEKSIDE  
EAST ANCHORAGE



HOME  
3960 REKA DRIVE-B6  
ANCHORAGE, AK 99508  
PHONE 333-6990

DURING SESSION  
P. O. BOX V  
STATE CAPITOL BUILDING  
JUNEAU, AK 99811  
PHONE 465-3783

## Alaska House of Representatives

### M E M O R A N D U M

DATE: January 13, 1988  
TO: All House Members  
FROM: Representative Terry Martin *JM*  
SUBJ: HJR 39 - REAPPORTIONMENT OF THE LEGISLATURE

Alaska's history of apportionment/reapportionment has been one of much concern to all Alaskans.

Since statehood, decisions on mal-apportionment made by past Reapportionment Boards and Governors have been challenged in court 5 times. In all cases, the plaintiff has been upheld by the Supreme Court, thus achieving the worst record of any state in the nation on reapportionment. In the past the court did reapportion the state, but more frequently it told the Governor to do it again and again and again until they get it right or until the public runs out of money, patience or time to fight the system.

If you believe in representative democracy as I do, then we must periodically evaluate our condition to ensure that the majority of Alaska's citizens are being represented proportionately. HJR 39 is the vehicle that we need to begin this process.

For your information, I have attached a copy of "Alaska: A History of Unequal Representation". I hope that this report gives you a better understanding of the history behind "representative government" and how that term applies to Alaska.

If you would like additional information on HJR 39, please contact Lydia Jones of my staff at 3782.

Thank you for your time and consideration.

/laj  
attachments

cc: Sen. Rick Halford



# STATE OF ALASKA THE LEGISLATURE

HOUSE STATE CAPITAL  
BUREAU ALASKA 99500  
907 463 3800

## LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

June 8, 1987

SUBJECT: Availability of Federal Remedies to Correct  
Malapportionment of a State Legislature  
(Work Order No. 15-1307)

TO: Representative Terry Martin

FROM: George Utermohle *GU*  
Legislative Counsel

You have asked whether there are federal remedies available to a citizen seeking reapportionment of a state legislature.

A qualified voter may challenge the constitutionality of a state's apportionment of seats in its state legislature in a federal court. A claim may be asserted under the equal protection clause of the Fourteenth Amendment that the right to vote of certain citizens was effectively impaired by the malapportionment of the legislature. Baker v. Carr 369 U.S. 186, 7 L.Ed 2d 663, 82 S. Ct. 691 (1962). The federal court may declare that the apportionment of the state legislature is unconstitutional under the Fourteenth Amendment and may issue an injunction restraining the state from conducting further elections under the apportionment. Id.

Legislative apportionment is primarily a matter for the state. Judicial intervention is appropriate only when a legislature fails to comply with federal constitutional requirements in a timely manner after having had an opportunity to do so. The U.S. Supreme Court has sustained intervention by federal courts in cases where there has been repeated judicial attempts to secure legislative reapportionment. Reynolds v. Sims, 377 U.S. 533, 12 L.Ed 2d, 84 S. Ct. 1362 (1964). Where the apportionment scheme for a state legislature has been found unconstitutional and the state has failed to adopt a constitutionally acceptable apportionment, the court may enjoin further elections under the invalid apportionment, may order the state to reapportion the legislature on a constitutional basis within a specified time, and if the state fails to take action, may proceed to reapportion the legislature under a plan adopted by the court. Id.

If I may be of further assistance, please contact me.

GU:csh  
20/052

"ALASKA"

A History of Unequal Representation

by

REPRESENTATIVE TERRY MARTIN

On the evening of September 17, 1787, as the delegates emerged from Independence Hall, the anxiety of the people was apparent. A resident of Philadelphia approached Benjamin Franklin, "Well Doctor," she asked, "What have we got, a republic or a monarchy?" "A republic," Franklin replied, "if you can keep it."

Representative government was not easy to achieve at the Constitutional Convention. It is easy to understand how the small states feared being annihilated by the large states. They had become accustomed to the Articles of Confederation and the rules of the convention, under which the smaller states subjected the whole country to their wimphs. The delegates were much at each others throats on this issue, to the point where they needed correcting and calming of nerves through the fatherly wisdom of Ben Franklin.

What our modern U.S. Supreme Court advocates today and what most states implemented in their colonial constitutions is what the majority of the delegates wanted and had experienced in their state elections during the 1600 and 1700's. Delegate James Wilson of Pennsylvania explained it this way, "all authority" was derieved from the people, that "equal numbers of people ought to have equal number of representatives and different numbers of people different numbers of representatives." He continued, "This principle had been improperly violated in the Confederation owing to the urgent circumstance of the time." And if persons were the measure of suffrage, not property, then "are not the citizens of Pennsylvania equal to those of New Jersey? Does it not require 150 of the former to balance 50 of the latter?"

Do you not see the relevancy of this principle today in Alaska's mal-apportionment? Should the people of Bethel and the Koskokwim communities have larger proportionate representation than those of the Matanuaska-Susitna Borough because it is said their distance is greater? Should the people of Southeast Alaska have higher proportionate representation than the people of Kenai-Soldotna because of a so-called "traditional" representation which has been ruled as unconstitutional by the U.S. Supreme Court?

By the 1980 census, there was no justification for six representatives in Southeast Alaska. By the 1982 apportionment, Anchorage was cheated out of fair representation which today, based on the 1980 statistics should have 18 representatives and 9 senators. By the 1984 reapportionment, the "doughnut district" was created which further exaggerated the unfair representation of Kenai Peninsula residents and has been ruled to be unconstitutional by the Alaska State Supreme Court. But our state Supreme Court offers no relief for this grievance even though they are charged under the Civil Rights Act of 1965 to do so.

The people have been and may always be injured at the pleasure of any reapportionment board. "Without the ability of redress, 'the rights of suffrage', said James Wilson, there will always be misuse of powers to apportion." No one knows what the people want except through fair and equal apportionment of a representative legislature. Only through this method can a legislature evaluate what is right and necessary for the whole of the people.

Alaska - A History of Unequal Representation

Page 3

As a matter of democratic principle, it is simply not fair that a handful of state legislators representing sparsely populated areas can routinely frustrate the will of a clear majority of the people. Any popular government must, at bottom, be bound by the majority rule.

James Madison, often referred to as the "Father of our National Constitution", in the debates of and for a republican form of government said..."the great difficulty lies in the affair of representation; and if this could be adjusted, all others would be surmountable."

Article IV, Sec. 4, U.S. Constitution:

The United States shall guarantee to every state in this union a republican form of government, and shall protect each of them...

The term "republic" comes from the Latin meaning of "the people's affair or thing." The republican model of the Constitution demands continuous public control such as regular votes on representation, or on initiatives or referendums to provide concurrence on a concept. James Madison tells us in the Federalist #51 that, "In the republican government, the legislative authority necessarily predominates over the Executive and Judicians." The legislature then is the touchstone of the republican form of government.

For Alaskans and those interested in fair apportionment and a republic form of government, it is important to know that much of Article VI of the Alaskan Constitution on

legislative apportionment is obsolete. The Alaska Supreme Court has been obliged to rewrite provisions of our constitution under mandates received from the U.S. Supreme Court. The Alaska Supreme Court has invited the legislature to propose conforming amendments several times in its reapportionment decisions in 1966, 1974 and as late as 1983. The legislature refuses to act or to allow the people to vote on these necessary constitutional changes if we are to be in conformity with the U.S. Constitution and the Civil Rights Act of 1965 and if we are to have at least some resemblance of fair and equal representation.

Have you ever thought or perhaps asked a friend, "Why doesn't the majority of the legislature listen to the majority voice of the people and act on their behalf?" As these charts demonstrate, the majority of the legislature does not represent the majority of the citizens.

Alaska, although a young state--less than 30 years old--has a traumatic history of reapportionment. All six times the state has been reapportioned, the plans have been successfully challenged in the State's Supreme Court. One would think a state with the smallest population in the Union (400,000 in the 1980 census) and with the smallest House of Representatives of any state, (40 members), it would be easy to divide 40 into the census figure and come up with equal election districts.

Today Alaska must be the most mal-apportioned state in the nation. Our system of reapportionment, although

Alaska - A History of Unequal Representation

Page 5

considered by some as "modern and a model for other states to emulate", has proven to be a disaster in upholding the U.S. Supreme Court principle of "one person-one vote". The charts I have before you and in your packets show the unacceptable disparity by registered voters. Alaska has a very high rate of registered voters due to our Permanent Fund Dividend program, which is used to verify residency. Thus, percentage wise, the disparity of equality between districts can be acceptable whether using a population count or registered voters with the former being weaker due to out-dated census tracks.

Throughout the history of apportionment, the majority of testimony given to reapportionment boards during public hearings was in support of single member districts for state and local elections. The 1981 reapportionment board made major strides toward this goal, but it needs to be completed. The 1983 reapportionment board constantly expressed a preference for single member districts, but found adequate excuses or rationale why a particular multi member district should not be divided into a single member districts.

Be aware that the whole State of Alaska is under the Civil Rights Act of 1965. However, it has not benefited the majority of the citizens when considering fair and/or equal representation. "WHEN THE WHOLE SYSTEM FAILS TO PROTECT THE PEOPLE'S RIGHTS--WHAT IS LEFT OF DEMOCRACY?"

Our State Supreme Court has recommended and forwarded to the State Legislature, necessary changes in our Constitution and Statutes to insure compliance with the U.S. Supreme Court decision of one person-one vote. The Legislature has virtually ignored these recommendations.

## Alaska - A History of Unequal Representation

Page 6

Legislation has been introduced to have our Constitution amended to conform with the Civil Rights Act of 1965, but a majority of Alaska legislators have refused to pass an initiative to be placed on the ballot for voter approval. In 1984, the ex-governor of Alaska recommended waiting until after the Supreme Court acted on current cases--particularly the doughnut district. Now, 3 1/2 years later, they rule the "Doughnut District" unconstitutional but refuse relief for the people. "IF THE SYSTEM FAILS AND ALL ALTERNATIVES HAVE BEEN TRIED, STOPPED OR BLOCKED, WHAT DO WE HAVE?"

The 1984 plan was also contested by the Metlakatla Indians under the Civil Rights Act: to the U.S. Justice Department. It didn't take them long to realize how costly it is for a citizen or group of minorities to defend their voting rights. Obstinate, they withdrew their case because they did not have the finances to pursue litigation for what they felt had been their unjustifiable removal from their adjacent neighbors living across the river in Ketchikan which forced them to choose a representative 600 miles away. You must become aware, in Alaska the average citizen is not protected by our Attorney General's office. It has become quite clear over the years that the major purpose of the Department of Law and the appointed Attorney General is to protect the Governor and his Administration. In this case it is widely speculated that considerable pressure was exerted on the leaders of the Metlakatla Indians to withdraw their complaint from the office of the Governor as well as the Attorney General's office. The issues raised by the Metlakatla Indians are still very valid and many feel that the U.S. Justice Department should have continued the suite on behalf of this small Indian tribe.

Alaska - A History of Unequal Representation

Page 7

The people of Alaska have suffered under two elections of the 1984 plan and is about to suffer a third. It has not benefited the public at large to be under the protection of the 1965 Civil Rights Act.

The cost to the citizens, both public and private in contesting the 1984 reapportionment is well above \$500,000, with no end in sight. Many have given up, with hope that the new 1990 census with fair election block boundary tracks may be established. Do not give in. Ask your local government to pass a resolution to go directly to the U.S. Justice Department under the Civil Rights Act to seek justice in fair representation for the remainder of this decade. Do you want three more elections under the very bad apportionment plan of 1984?

The most important role of an elected official is to constantly be on guard to protect the freedom of the citizens one represents. This principle, I believe is too often taken for granted. We have some major decisions that will be made in the upcoming session. Will your voice be heard? Should the legislature reinstate the personal income tax or start a statewide sales tax? What about equal representation of the people? Should a simple majority of the legislators impose a tax on the majority of the people they do not represent?

If you believe in representative democracy, then you must periodically evaluate if the majority voice of the State's citizenry is being represented proportionately. I have concluded Alaska is not well, democratically speaking. The majority of the legislators do not represent the majority of the citizens or registered voters.

A good citizen involved in the daily battles of defending democracy at all levels of government is just as important to the freedoms that we all take for granted, as the American soldier who over the past 214 years has given his life to free the people from the tyranny of an oppressive government.

The purity of democracy that exists in Alaska is limited, expanded or stopped in direct proportion to the peoples faith in the system and their direct involvement.

I believe the republic/democratic form of government has a bright future in Alaska. I am reminded of the statement of Dr. Benjamin Franklin upon signing the Constitution of the United States, he said..."I have the happiness to know that democracy is a rising and not a setting of the sun." In Alaska this is very true, but WE MUST ALWAYS STAND ON GUARD.

20

19 REGISTERED VOTERS  
(IN THOUSANDS)

18

17

16

15

14

13

12

11

10

9

8

7

6

5

4

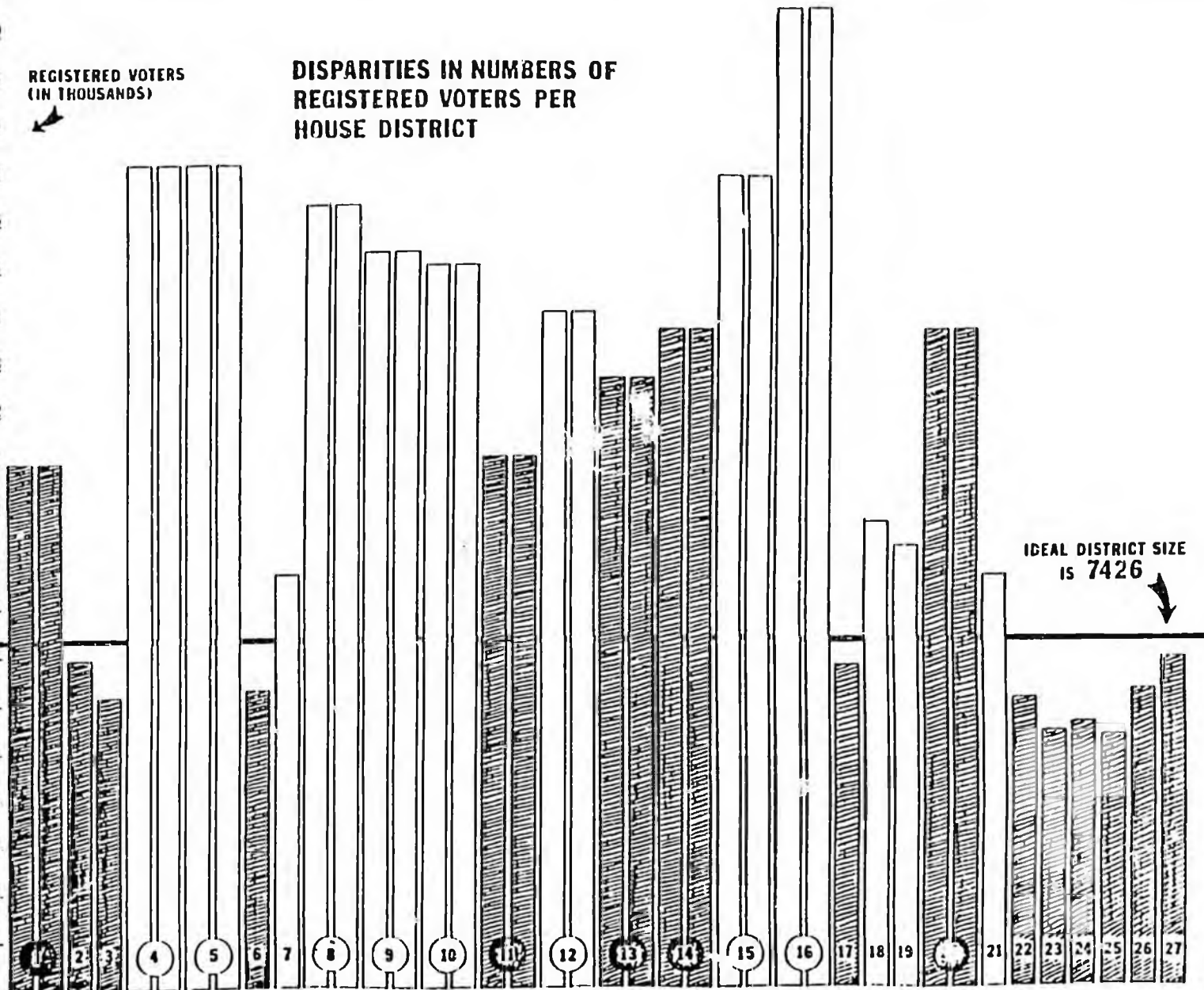
3

2

1

### DISPARITIES IN NUMBERS OF REGISTERED VOTERS PER HOUSE DISTRICT

IDEAL DISTRICT SIZE IS 7426



HOUSE DISTRICTS

APRIL 1987

DISTRIBUTED FOR YOUR INFORMATION BY REP. TERRY MARTIN

MUNICIPAL LEAGUE ASSOCIATION

1986 MUNICIPAL AND LOCAL POPULATION STATISTICS

<u>AREA</u>	<u>POPULATION</u>	<u>REPRESENTATION</u>
Municipality of Anchorage	248,263	13-1/2 Members
Fairbanks/North Star Borough (City of Fairbanks = 25,511/North Pole = 1,640)	74,176	5-3/4 Members
Kenai Peninsula Borough	38,913	3 Members
Matanuska-Susitna Borough	44,230	3-1/2 Members
City and Borough of Juneau	<u>29,370</u>	<u>2-1/4 Members</u>
TOTAL	435,008	33 Members of the House
North Slope Borough	8,308	(Barrow = 3,075)
Northwest Arctic Borough	6,696	(Kotzebue = 3,594)
Kodiak Island Borough	13,952	
Ketchikan Gateway Borough	14,314	(City of Ketchikan = 8,414)
Haines Borough	1,847	
Bristol Bay Borough	1,271	
City and Borough of Sitka	8,221	
Valdez	3,687	
Seward	2,279	
Cordova	<u>2,520</u>	
Subtotal	63,095	
	+ 30,000	maximum of all other villages
TOTAL	93,095	7 Members of the House

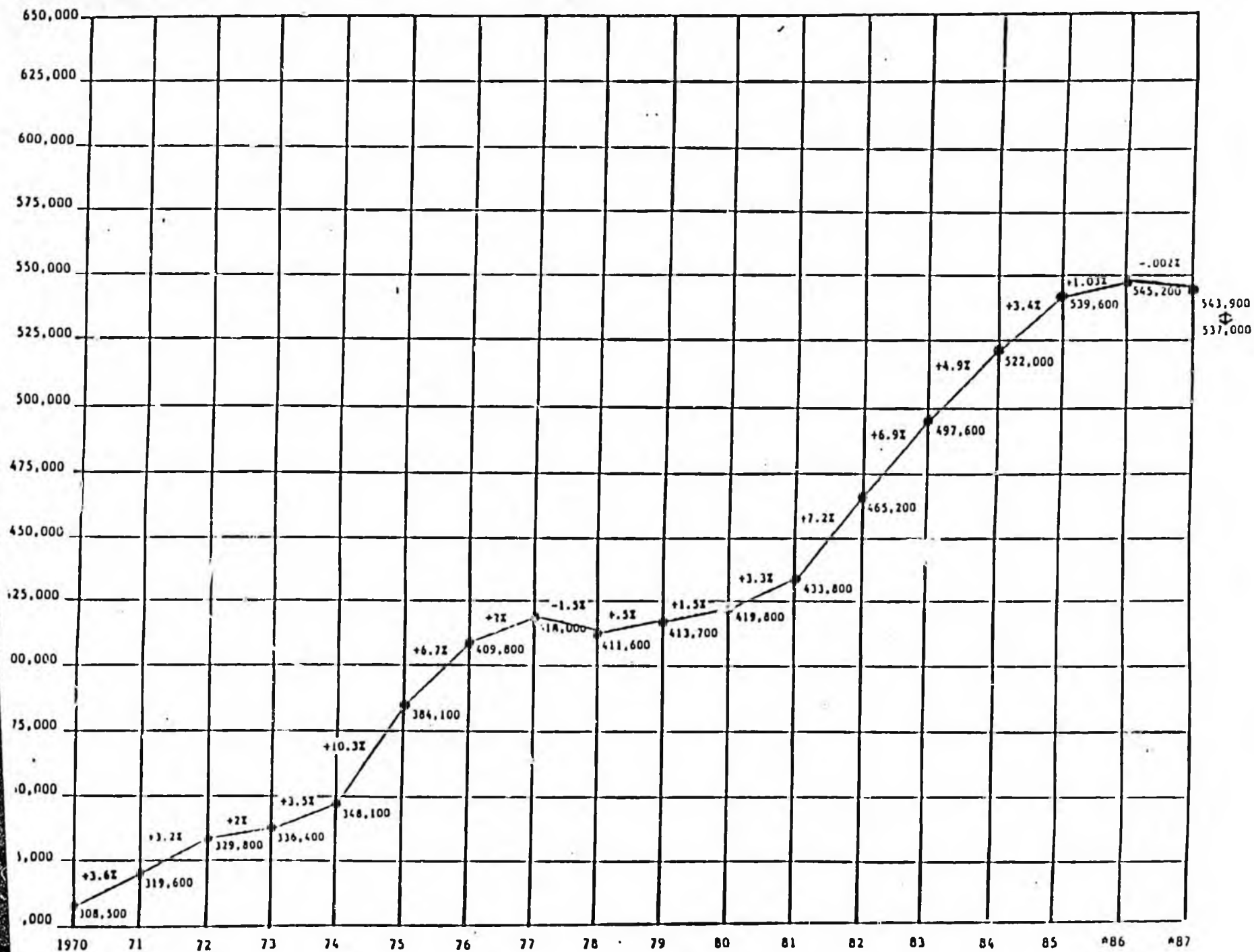
Equal representation should be for 1986: 13,386 per House Seat (535,479 divided by 40 = 13,386. Next divide what the population of the area should be, if they had proper population, i.e., Southeastern - 6 Representatives x 13,386 = 80,316, this area would be lucky to have 58,000.

Per call to Department of Revenue they received 362,655 adult permanent fund applications and 167,612 child application for 1986-Total 530,267. If these figures can be used as a indicator of the true verifiable population in the State of Alaska, then these figures can be compared to the total number of registered voters and local municipal tabulations. It is interesting to note that there are approximately 65,600 less registered voters than the total adults who have received permanent fund dividend checks! Why? When verification of residency is so important.

POPULATION GROWTH IN ALASKA  
1970 - 1987

TOTAL % OF GROWTH  
1970 - 1987 = 58.5%

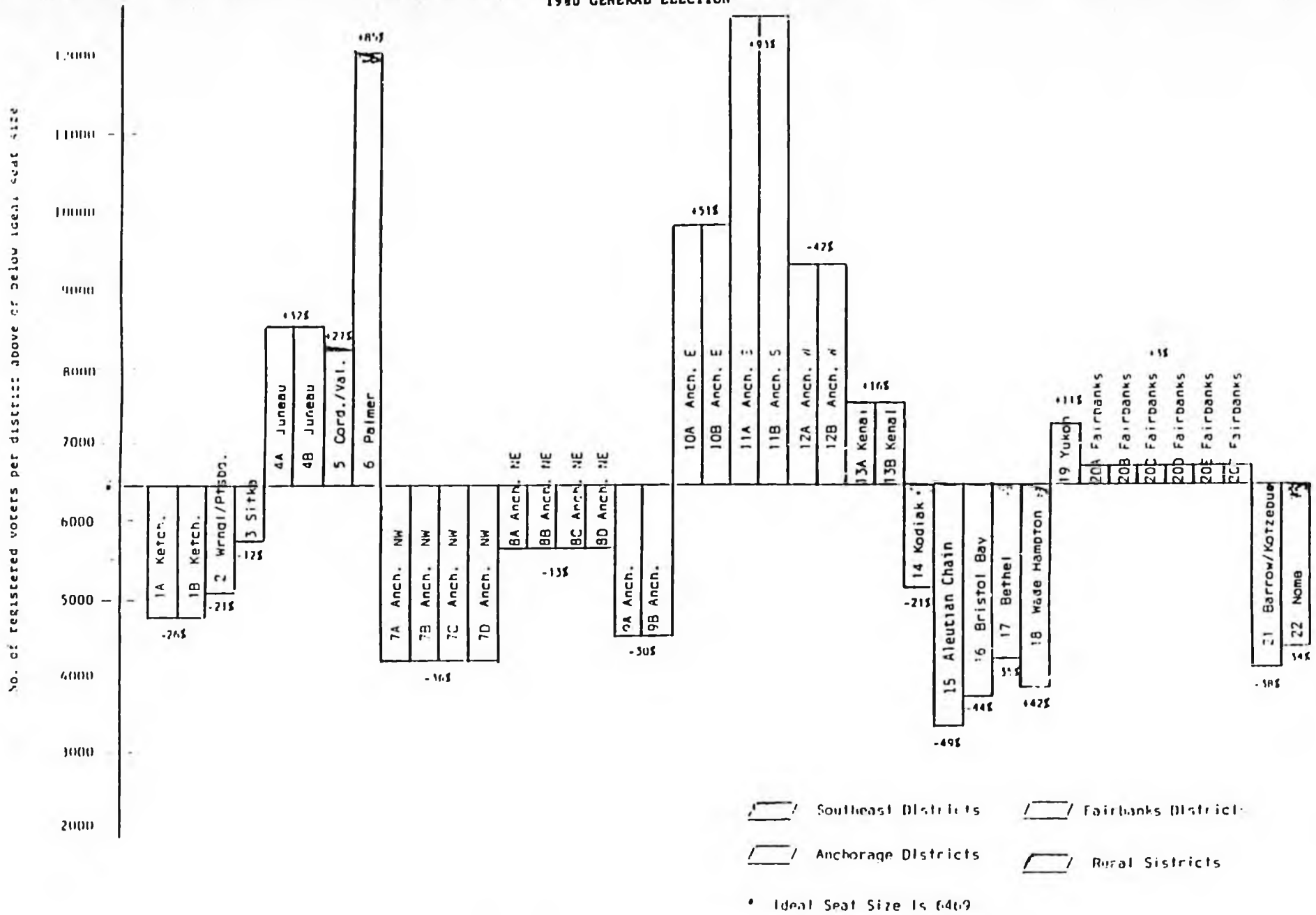
% OF GROWTH  
1979 - 1987 = 28.2%



PREPARED AND DISTRIBUTED BY REPRESENTATIVE TERRY MARTIN

\*PROJECTED

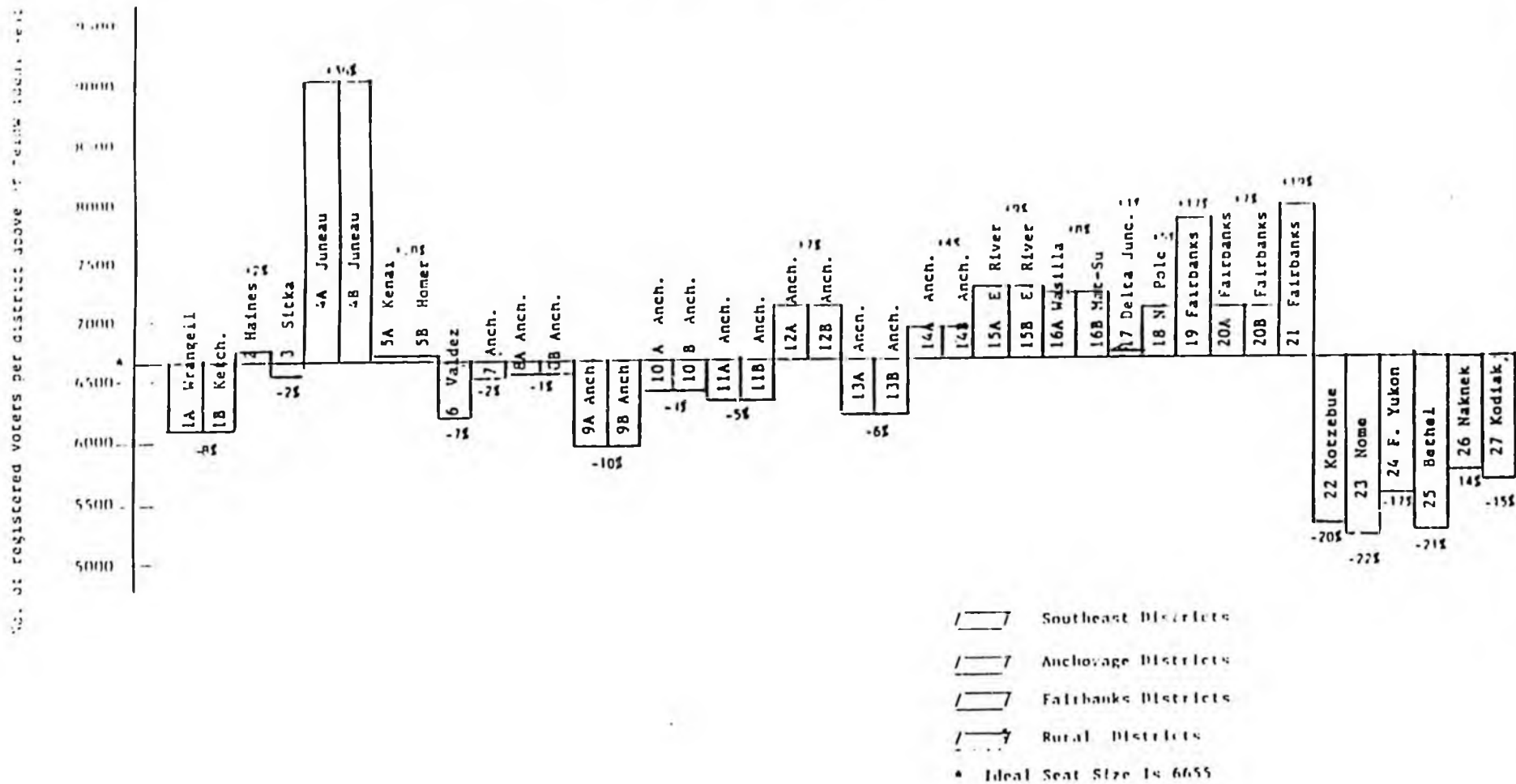
DISPARITIES IN NUMBER OF REGISTERED VOTERS PER HOUSE SEAT  
1980 GENERAL ELECTION



Average positive variance is 8530 (+32%)

Average negative variance is 4606 (-29%)

DISPARITIES IN NUMBER OF REGISTERED VOTERS PER HOUSE SEAT  
1982 GENERAL ELECTION

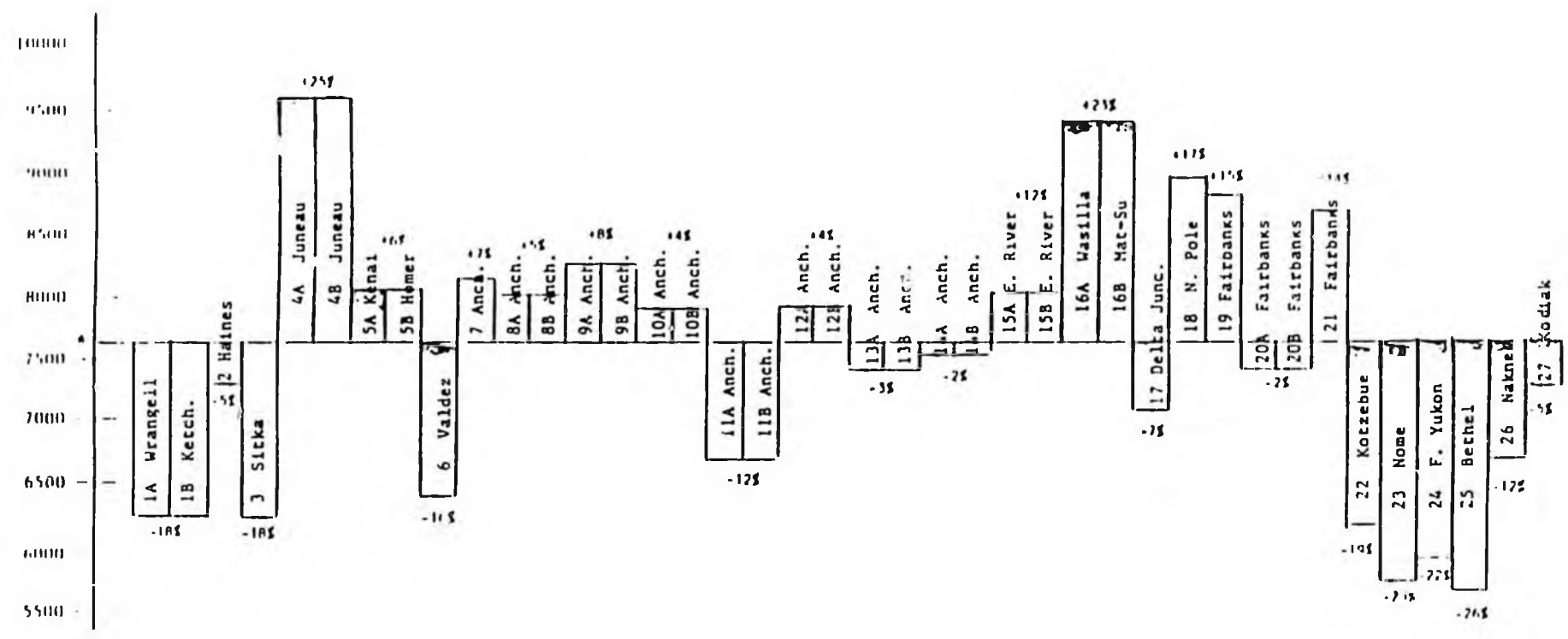


Average positive variance is 7315 (+10%)

Average negative variance is 6057 (-9%)

DISPARITIES IN NUMBER OF REGISTERED VOTERS PER HOUSE SEAT  
1984 GENERAL ELECTION

No. of registered voters per district above or below ideal seat size



- Southeast Districts
- Anchorage Districts
- Fairbanks Districts
- Rural Districts

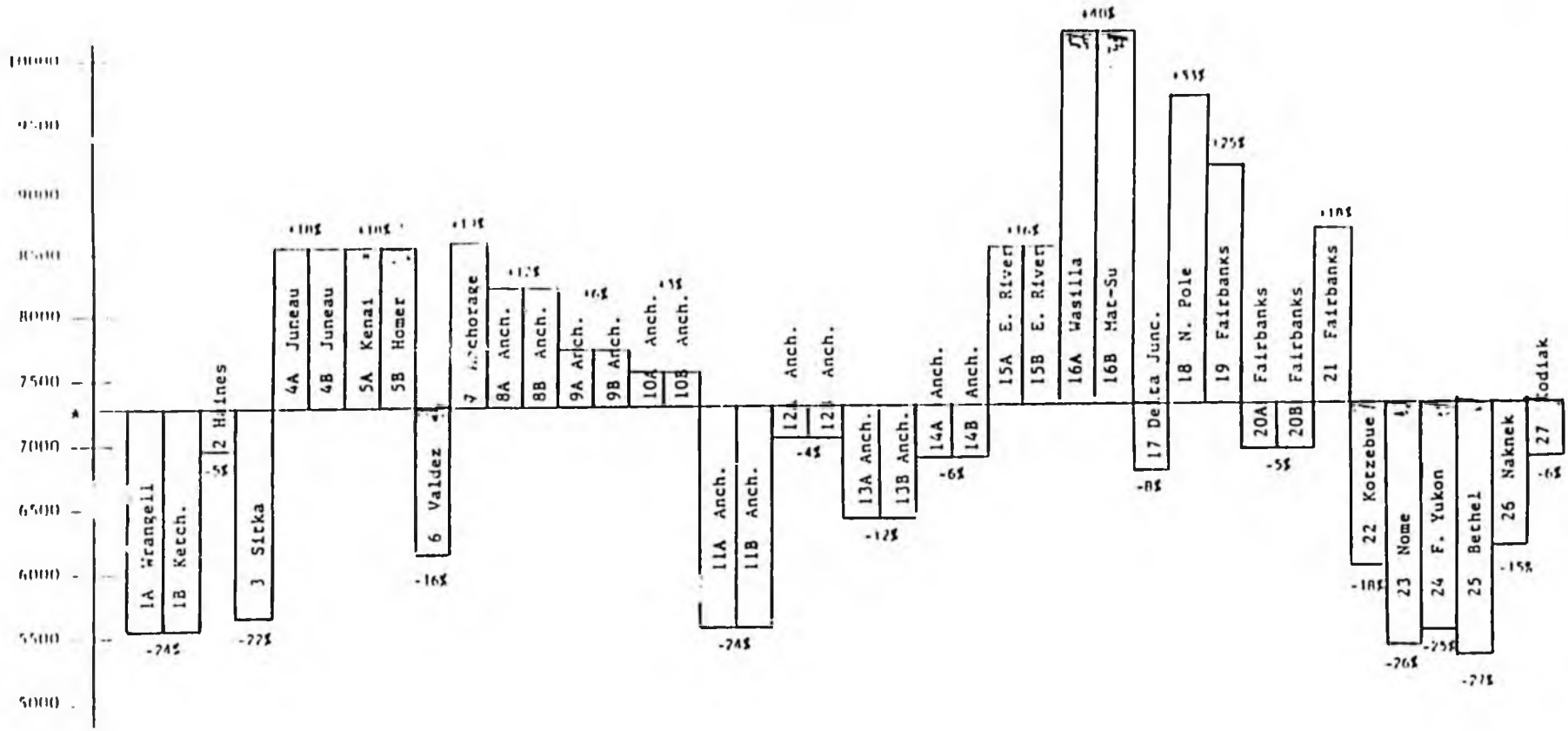
\* Ideal Seat Size is 7632

Average positive variance is 8501 (+11%)

Average negative variance is 6762 (-8.9%)

DISPARITIES IN NUMBER OF REGISTERED VOTERS PER HOUSE SEAT  
1986 GENERAL ELECTION

No. of registered voters per district above or below ideal seat size



- Southeast Districts
- Anchorage Districts
- Fairbanks Districts
- Rural Districts

\* Ideal Seat Size Is 7307

Average positive variance is 8588 (+18%)

Average negative variance is 6259 (-14%)

STATE OF ALASKA  
1988 LEGISLATIVE SESSION

BILL VERSION: HJR 39  
PUBLISH DATE: 1/11/88

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
Title: Relating to reapportionment of the State.  
Sponsor: Martin & Menard  
Requestor: House State Affairs

Agency Affected: Office of the Governor  
BRU: Division of Elections  
Components: I - Elections  
II - Primary & General

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL		2.2*	**	**	**	**
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		2.2*	**	**	**	**

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		2.2*	**	**	**	**
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

See attached

Prepared by: Linda Edgeworth  
Division: Division of Elections

Phone: 465-4611  
Date: 4/28/88

Approved by Commissioner: [Signature]  
Agency: Office of the Governor

Date: 4/28/88

Distribution (by preparer): 4/23/88  
Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HJR 39

\* Costs included cover 2 to 3 additional pages in each Official Election Pamphlet, for printing and typesetting, and costs estimated to cover computer programming requirements for vote counting purposes. However, these costs are based on the assumption that all candidates and issues will fit on three ballot cards, which is the norm. It should be noted, however, that should the inclusion of this issue require a 4th ballot to be printed, the cost increase would have to be calculated at 16 cents per ballot x approximately 320,000 voters. The total cost of printing the additional ballot card would be \$51.2. Under these circumstances the fiscal note would be: 53.4.

\*\* After FY89, the fiscal impact of this bill would be contingent on the passage of the constitutional amendment by the voters in the 1988 General Election. If the constitutional amendment were to pass there would be "one-time" costs incurred at the time of reapportionment after the 1990 Census which would directly impact the Division of Elections. (FY82 costs incurred by the Division for reapportionment came to 128.1 with additional costs expended in FY83. These costs were in addition to FY81 funding of 314.2 to the Office of the Governor.) The Division would require funding to cover:

Temporary staffing for programming and data entry to realign precincts, inputting gifts, cross-REAA/CRSA district alignments and voters on VREMS.

Printing and postage for new voter ID cards to affected voters (approximately \$290/M).

Statewide advertising.

Mapping services (cartography and reproduction).

Rewrite of district and precinct legal boundary descriptions.

Additionally, passage of the constitutional amendment would result in an increase in the overall costs of Primary and General Elections to accommodate extra printing charges and computer count programming for 13 additional House Districts.

2.5 per district x 13 districts x 2 elections (Primary and General): 65.0

Ballot printing and rotation plates

Primary: 13 districts with average of 3 candidates (39 plates): 6.2

General: 13 districts with average of 2 candidates (26 plates): 4.2

75.4