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## SPONSOR STATEMENT

### SENATE BILL 99

“An Act to clarify the meaning of ‘decennial census of the United States’ in Article VI, Constitution of the State of Alaska, and to prevent discrimination in the redistricting of the house of representatives and the senate.”

This legislation was introduced to end discrimination against members of the Armed Forces in legislative redistricting and insure that future redistricting plans are based on census figures derived from an actual count of every Alaskan.

Senate Bill 99 will eliminate confusion by placing in our statutes clear answers to two major questions as we prepare for the United States census in the year 2000 and the subsequent redrawing of legislative district boundaries. It will end the discriminatory practices of previous redistricting boards and direct that census numbers derived from estimates or adjustments based on statistical sampling will not be used to redraw district lines.

The 1959 Alaska Constitution directed that only the “civilian” population be considered when the boundaries for State House and State Senate districts were drawn. During the 1960s, reapportionment boards ignored the presence of members of the Armed Forces completely, while later boards assigned various percentage values to service members.

In 1970, each soldier, sailor, airman, marine and coast guardsman in Alaska was counted as 11% of a resident, while in the 1980 redistricting they were counted as 35% of other Alaskans. That’s even worse discrimination than used before the Civil War when slaves were counted at only 60% of a person for Congressional apportionment. The redistricting board of 1990 was the only one to count members of the military equally with other residents.

Today, Alaskans recognize that occupational discrimination is just as wrong as discrimination based on race, religion, sex, age, color, or national origin and that is why the voters removed the word “civilian” from the Alaska Constitution at the 1998 election. But, court decisions from old legal challenges to previous redistricting boards might still be used as an excuse to undercount our neighbors in the military. Senate Bill 99 will establish a

statutory bar to future redistricting discrimination and insure the men and women serving here in our Armed Forces will not be treated as second-class Alaskans.

SB 99 will also clarify questions regarding which numbers from the United States Bureau of the Census will be used by future redistricting boards to reapportion Alaska's Legislature.

Some people have been actively arguing that statistical sampling and estimates replace the actual head count of every American in the decennial census. Earlier this year, the U.S. Supreme Court prohibited the use of adjusted or estimated figures in reapportioning the seats in the U.S. House of Representatives among the states. But that decision left the door open for the Census Bureau to develop figures through sampling and estimates and make them available to the states along with the results of the traditional count. This bill will close that door in Alaska for purposes of Legislative reapportionment.

If the Census Bureau's report of the decennial census includes more than one set of figures for Alaska, SB 99 will facilitate the work of the redistricting board and avoid litigation over the plan they they produce . SB 99 would prohibit them from using any numbers produced by estimates or sampling adjustments and directs them to use only the results of the actual count of Alaska population, just as the nation has been doing for 210 years.

FISCAL NOTE

STATE OF ALASKA  
1999 Legislative Session

Bill Version: CS98 99 (FIN)  
(S) Publish Date: 3-22-99

4/12

Revision Date: 03/22/99  
Title: Redistricting Board/Census Figures  
Sponsor: (S) Rules  
Requester: Senate Rules Committee

Dept. Affected Law  
BR# Civil Division  
Component Government Affairs Section  
Component Serial No. \_\_\_\_\_

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 00	FY01	FY02	FY03	FY04	FY05
Personal Services	0.0					
Travel	0.0					
Contractual	0.0					
Supplies	0.0					
Equipment	0.0					
Land & Structures	0.0					
Grants & Claims	0.0					
Miscellaneous	0.0					
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
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FUND SOURCE

(Thousands of Dollars)

FUND SOURCE	FY 00	FY01	FY02	FY03	FY04	FY05
1002 Federal Receipts	0.0					
1003 GF Match	0.0					
1004 GF	0.0					
1005 GF/Program Receipts	0.0					
1037 GF/Mental Health	0.0					
1091 Designated Program Receipts	0.0					
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY99) costs: 0.0

POSITIONS


Full-time	FY 00	FY01	FY02	FY03	FY04	FY05
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared By: SENATE FINANCE COMMITTEE

  
SENATOR SEAN PARNELL, CO-CHAIR

Date: 3/11/99  
Phone: 465-2995

  
SENATOR JOHN TORGERSON, CO-CHAIR

Date: 3/11/99  
Phone: 465-2828

4/12

HOUSE CS FOR CS FOR SENATE BILL NO. 99( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY

Offered:  
Referred:

Sponsor(s): SENATE RULES COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act providing for preparation for redistricting before appointment of the  
2 Redistricting Board; relating to preclearance under the Voting Rights Act of 1965,  
3 as amended; clarifying the meaning of 'decennial census of the United States' in  
4 art. VI, Constitution of the State of Alaska; prohibiting discrimination and use  
5 of census numbers that are estimates or that have been adjusted based on  
6 sampling in the redistricting of the house of representatives and the senate; and  
7 prohibiting expenditures of public funds for population surveys or sampling for  
8 certain purposes relating to legislative redistricting without an appropriation."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 \* Section 1. FINDINGS. The legislature finds that

11 (1) a fair and impartial redistricting requires

12 (A) the assimilation, compilation, and analysis of large amounts of data

1 and maps;

2 (B) complex statistical analysis; and

3 (C) a thorough consideration of legal issues under the Constitution of  
4 the State of Alaska and the Constitution of the United States;

5 (2) there is an enormous amount of preparatory work that must be done before  
6 the appointment of the Redistricting Board if the Redistricting Board is to adopt a fair and  
7 impartial plan within 30 days after receiving redistricting data from the United States Bureau  
8 of the Census;

9 (3) Alaska's redistricting plan will be subject to review by the United States  
10 Department of Justice under 42 U.S.C. 1973 - 1973i (Voting Rights Act of 1965, as amended);

11 (4) ensuring that the redistricting plan complies with the provisions of 42  
12 U.S.C. 1973 - 1973i, as amended, will require in-depth analysis of voting patterns over the  
13 past decade;

14 (5) the United States Bureau of the Census has traditionally conducted an  
15 actual enumeration of the American people and reported the results of that actual enumeration,  
16 without statistical adjustment, to the states for purposes of redistricting;

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

19 (7) the United States Supreme Court, in *Department of Commerce v. United*  
20 *States House*, 119 S.Ct. 765 (1999), has interpreted existing federal law to prohibit the use of  
21 adjusted or estimated figures in reapportioning the seats in the United States House of  
22 Representatives among the states;

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

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

29 (10) each decade since statehood, Alaska's redistricting plan has been the  
30 subject of expensive litigation;

31 (11) in the past, Alaska's redistricting boards have sometimes relied on surveys

1 and population estimates in order to remove Alaska's military population from the decennial  
2 census figures in order to comply with the former wording of art. VI, secs. 3 and 5,  
3 Constitution of the State of Alaska, which referred to the "civilian population"; and

4 (12) although recent amendments to the Constitution of the State of Alaska  
5 have removed the reference to "civilian" population, court precedent regarding the exclusion  
6 of nonresident military personnel and civilian "transients" remains (see Egan v. Hammond,  
7 502 P.2d 856, 869 (Alaska 1972); Groh v. Egan, 526 P.2d 863, 869-874 (Alaska 1974);  
8 Carpenter v. Hammond, 667 P.2d 1204, 1210-1213 (Alaska 1983); Hickel v. Southeast  
9 Conference, 846 P.2d 38, 54-56 (Alaska 1992)).

10 \* Sec. 2. PURPOSE. It is the purpose of the legislature to eliminate confusion in the  
11 event the census bureau's report of the decennial census includes more than one population  
12 figure for Alaska. to facilitate the work of the Redistricting Board by identifying the  
13 appropriate census figures to be used in developing a redistricting plan, to avoid litigation over  
14 the board's redistricting plan, to prevent discrimination against any segment of Alaska's  
15 population in redistricting, to make necessary preparations for redistricting in a timely, fair,  
16 and impartial fashion, and to make tools needed for the task of redistricting available to the  
17 Redistricting Board as soon as that body is appointed.

18 \* Sec. 3. AS 15.10 is amended by adding new sections to read:

19 **Article 2. Census and Population.**

20 **Sec. 15.10.200. Definition of "decennial census of the United States" and**  
21 **use of census numbers by redistricting board.** (a) In art. VI, Constitution of the  
22 State of Alaska, reference to the official decennial census of the United States is a  
23 reference to the census enumeration used to establish apportionment among the several  
24 states.

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

30 (c) A qualified voter may bring an action in the superior court against the  
31 redistricting board to enforce the provisions of (b) of this section.

1           **Sec. 15.10.210. Expenditures for population surveys or sampling**  
2 **prohibited.** An expenditure of public funds may not be made for a population survey  
3 or sampling conducted for purposes of redistricting the legislature without an express  
4 appropriation by the legislature for that purpose.

5           **Sec. 15.10.220. Voting Rights Act review.** The independent legal counsel for  
6 the Redistricting Board provided for in art. VI, sec. 9, Constitution of the State of  
7 Alaska, shall

8                   (1) submit the board's redistricting plan for preclearance to the United  
9 States Department of Justice or the United States District Court for the District of  
10 Columbia under 42 U.S.C. 1973c; and

11                   (2) represent the state in all matters concerning redistricting until a final  
12 plan for redistricting and a proclamation of redistricting have been adopted and all  
13 challenges to them brought under art. VI, sec. 11, Constitution of the State of Alaska,  
14 have been resolved after final remand or affirmation.

15 \* **Sec. 4.** AS 24.20 is amended by adding a new section to read:

16           **Sec. 24.20.085. Preparation for legislative redistricting.** (a) The Alaska  
17 Legislative Council may seek assistance as necessary from the Department of Law, the  
18 Department of Labor, and the division of elections before the appointment of the  
19 Redistricting Board.

20                   (b) The legislative council may make arrangements for office space for the  
21 Redistricting Board and its staff before the convening of the Redistricting Board,  
22 including the leasing of appropriate facilities and office equipment.

23                   (c) The legislative council shall compile and provide to, or contract with a  
24 third party to compile and provide to, the redistricting board the information necessary  
25 to implement a successful redistricting plan, including

26                           (1) paper maps or a computer data base received from the United States  
27 Bureau of the Census describing all units of census geography;

28                           (2) a computer data base of election and voter registration information  
29 from the division of elections to assist the Redistricting Board in determining  
30 compliance with 42 U.S.C. 1973-1973i (Voting Rights Act of 1965, as amended) and  
31 other statutory and constitutional requirements;

1 (3) information indicating the location of cultural, economic,  
2 geographic, demographic, and trade area factors in the state; and

3 (4) information or analysis of state and federal court decisions  
4 concerning reapportionment.

5 (d) The legislative council is responsible for developing a computerized system  
6 that uses census data and maps to prepare plans for state senate and house districts in  
7 conformity with statutory and constitutional criteria and within applicable time  
8 constraints. The legislative council may contract for the acquisition of the computer  
9 software and hardware and for the provision of computer services that are necessary  
10 to prepare for redistricting. The computer system must be developed so that it can be  
11 made available for use by the Redistricting Board immediately upon the Redistricting  
12 Board's convening.

13 (e) The legislative council

14 (1) shall prepare a budget and an accounting procedure for the  
15 Redistricting Board; and

16 (2) may, upon request of the Redistricting Board, prepare and submit  
17 supplemental appropriation requests for the work of the board.

18 \* Sec. 5. SEVERABILITY. Under AS 01.10.030, if a provision of this Act or the  
19 application of this Act to any person or circumstance is held invalid, the invalidity does not  
20 affect other provisions of the Act that can be given effect without the invalid provision.

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Kurtz ✓

4/5/99

*never presented*

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