

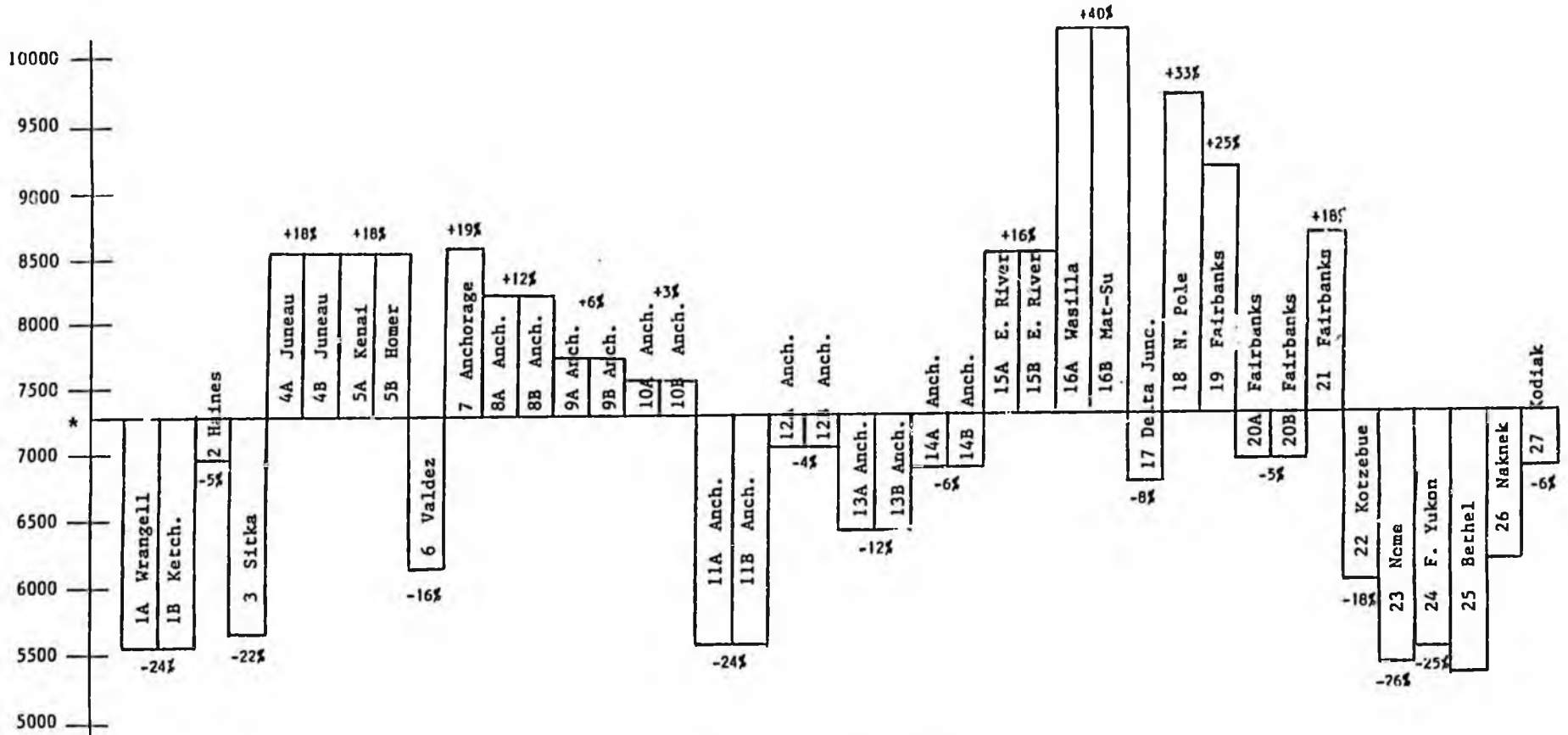
ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672

6144 HOUSE STATE AFFAIRS

548

DISPARITIES IN NUMBER OF REGISTERED VOTERS PER HOUSE SEAT  
1966 GENERAL ELECTION

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



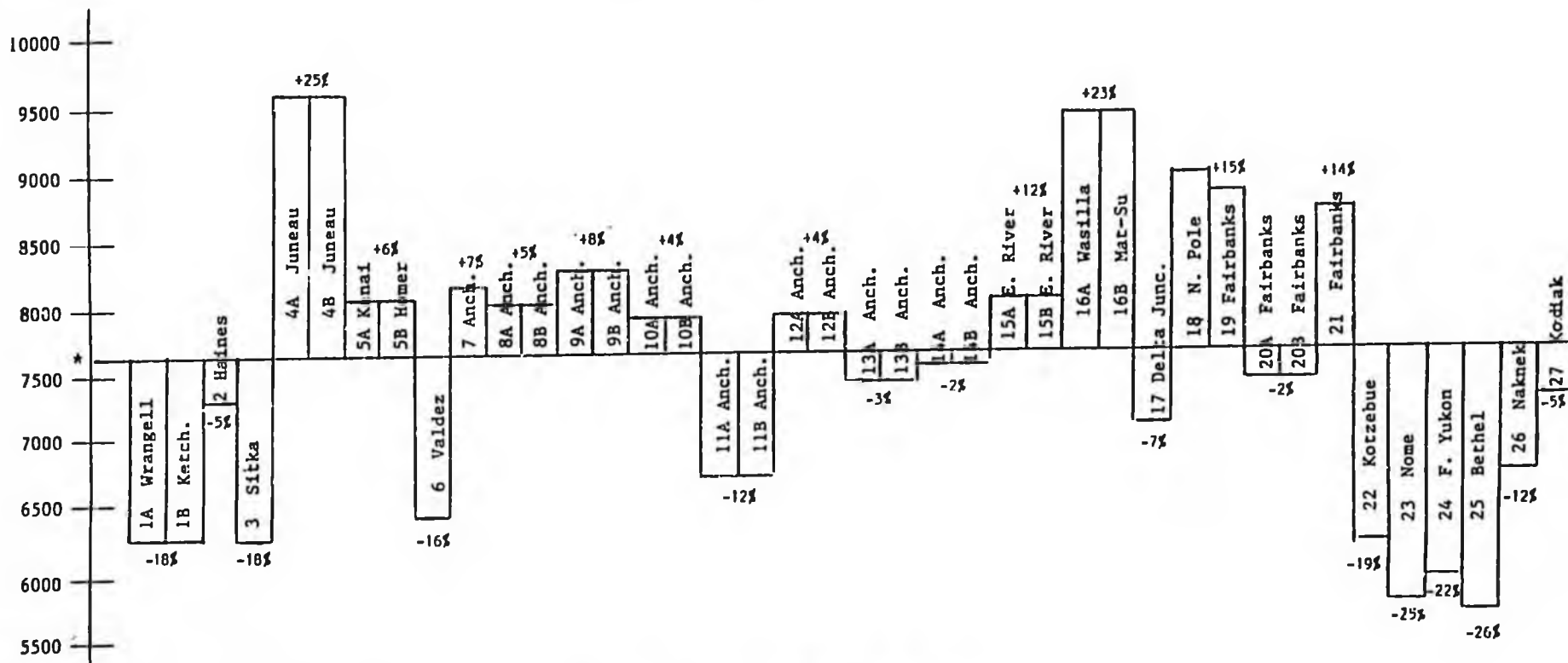
\* Ideal Seat Size is 7307

Average Positive Variance = 8588 or +18%

Average Negative Variance = 6259 or -14%

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

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

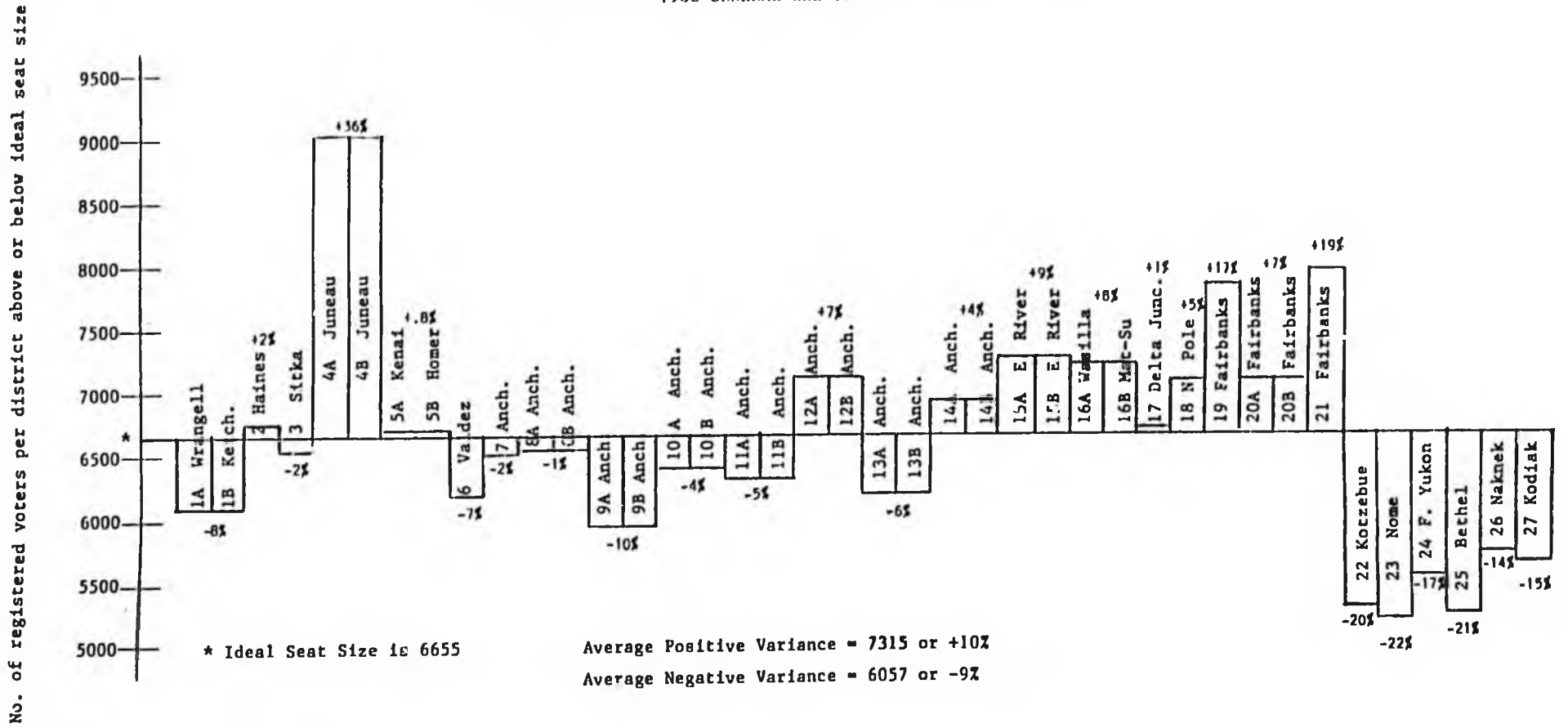


\* Ideal Seat Size is 7632

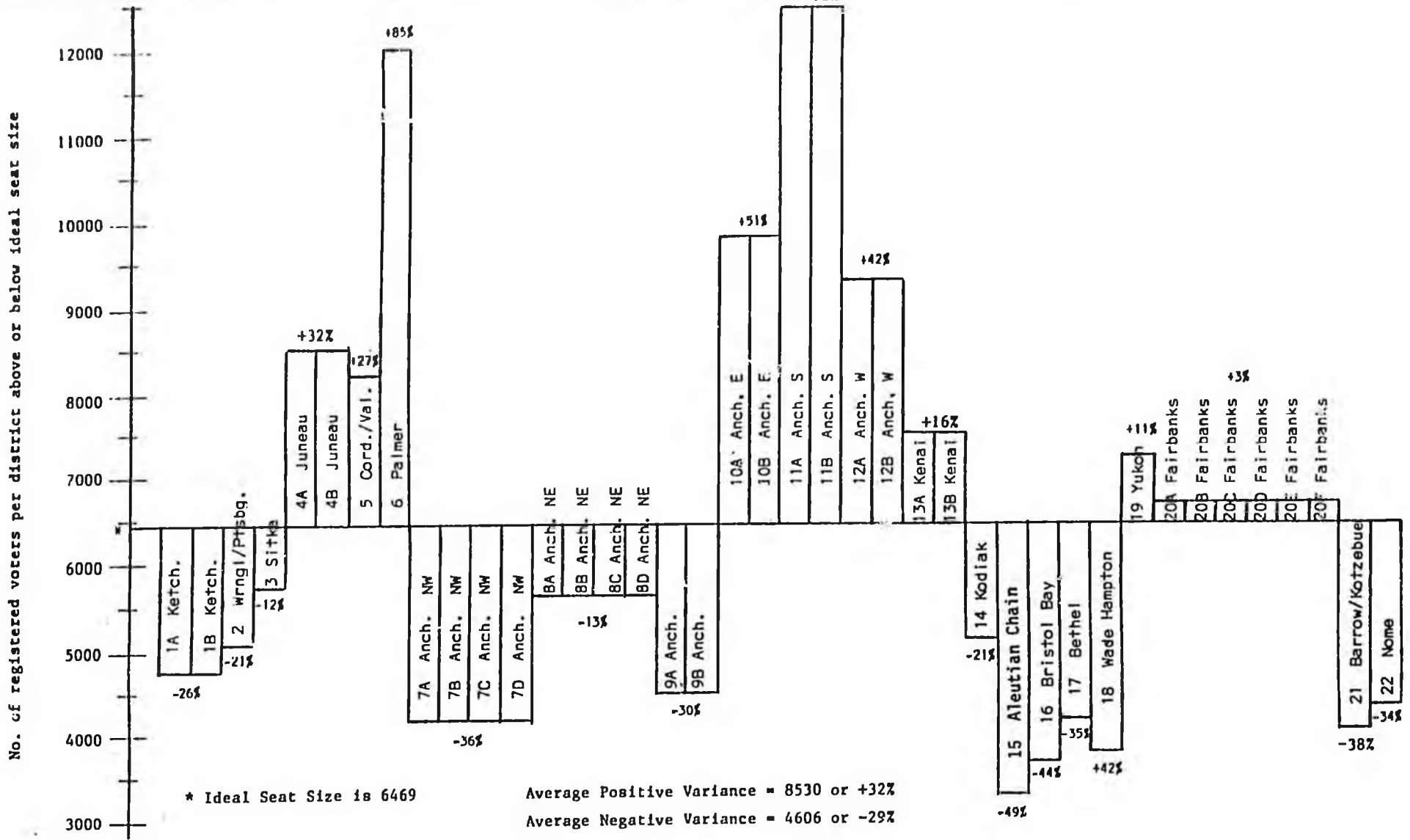
Average Positive Variance = 8501 or +11%

Average Negative Variance = 6762 or -11%

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



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



# Disparity In The Alaska House - 1989

(Based On Actual Votes Cast)

**Democrat  
24 seats**

**Republican**

**53.8% OF VOTE**

Sharp	5022
Miller	5084
Shultz	2930
Phillips	9078
Furnace	7441
Barnes	5715
Martin	4331
*	3546
Collins	6470
Hanley	6550
Leman	5998
Reiger	8705
Pettyjohn	8322
Zawacki	3723
Hudson	9353
C. Davis	3858
Taylor	4501

**16 Seats**

**44.6%  
OF  
VOTE**

Davidson	3115
Jacko	2320
Hoffman	2583
Wallis	1492
Foster	2854
MacLean	2390
Koponen	3307
Boyer	4274
M. Davis	3466
Larson	7040
Menard	6671
Cotten	6641
*	3549
Ellis	4367
Brown	4325
Gruenberg	2878
Donley	4234
Boucher	5408
Cato	2670
Swackhammer	5913
Navarre	6382
Ulmer	6916
Grussendorf	2674
Goll	3296

\* District 13B Seat held by Democrat pending outcome of new election

Not Shown: 3rd Party Candidates = 1.6% of vote

# Disparity In The Alaska House - 1989

(Based On Weighted Value Of Vote)

**Republican**  
**51% OF VOTE**

Sharp	2511
Miller	5084
Shultz	2930
Phillips	4539
Furnace	3720
Barnes	2857
Martin	2160
*	1773
Collins	3235
Hanley	3275
Lemar	2999
Reiger	4352
Pettyjohn	4161
Zawacki	3723
Hudson	4676
C. Davis	1929
Taylor	2250

**16 Seats**

**Democrat**  
**24 seats**

**47%**  
**OF**  
**VOTE**

Davidson	3115
Jacko	2320
Hoffman	2583
Wallis	1492
Foster	2854
MacLean	2390
Koponen	3307
Boyer	2137
M. Davis	3466
Larson	3520
Menard	3335
Cotten	3320
*	1774
Ellis	2183
Brown	2162
Gruenberg	1439
Donley	2117
Boucher	2704
Cato	2670
Swackhammer	2956
Navarre	3191
Ulmer	3458
Grussendorf	2674
Goll	3296

\* District 13B Seat held by Democrat pending outcome of new election

Note: Numbers for 2-Seat Districts are 1/2 of number actually cast  
Not Shown: 3rd Party Candidates = 2% of vote

# REP. TERRY MARTIN

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



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

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

March 9, 1990

## Alaska House of Representatives

### MEMORANDUM

To: Representative Red Boucher  
Chairman, House State Affairs

From: Representative Terry Martin *TAM*

Subject: HJR 4 - Reapportionment of the legislature

---

To follow up our recent conversation regarding the above-referenced resolution, and the possibility of a hearing in your committee, I am submitting the attached background matter.

As you know, the decennial census has begun, with the counting of residents in western Alaska. Currently, the governor has appointed an executive director for 1991 reapportionment and a committee. It would be valuable to them to know the past, present and future possibilities of reapportionment. When a new governor is elected, and a new reapportionment board is appointed, they will use the census information to redraw district lines. Due to our efforts over the past eight years, this information will be more detailed than ever before, and, among other things, will enable the boards to utilize computer-generated mapping to do their work. This upcoming reapportionment has the potential to be the most equitable yet, truly approaching the one-person, one vote mandate of federal law.

How much more helpful it would be to the reapportionment boards to have, imbedded in the constitution, an acceptable, constitutionally-sound amendment that guarantees one-person, one-vote and equality in representation. The boards will be under considerable political pressure, and this would defuse much of it.

There are many advantages to equality among districts, not the least of which is reducing the cost of campaigning. The updated information I have attached includes a compilation of the expenditures of the last election, which you might find interesting.

I hope you will be able to schedule HJR 4 as soon as possible, so that it can get through the process during the remaining 60 days. Thank you for your consideration. I also think it would be most valuable to have the current reapportionment board participate in the hearing by teleconference.

attachment



1988 GENERAL ELECTION RETURNS  
ALASKA HOUSE OF REPRESENTATIVES

<u>House Dist.</u>	<u>Rep.</u>	<u>Exp. Paid</u>	<u>Total Votes Received</u>	<u>% Votes</u>	<u>Cost/Vote</u>
1A-(R)	Taylor	\$45,131	4,501	59.1	\$10.03
1B-(R)	Davis, C.	21,349	3,858	50.7	5.53
2 -(D)	*Goll	17,071	3,296	96.4	5.18
3 -(D)	Grussendorf	28,632	2,674	63.8	10.71
4A-(R)	*Hudson	9,333	9,353	97.5	1.00
4B-(D)	Ulmer	63,529	6,916	57.6	9.19
5A-(D)	Navarre	51,759	6,382	58.5	8.11
5B-(D)	Swackhammer	40,344	5,913	54.3	6.82
6 -(D)	Cato	32,552	2,670	73.1	12.19
7 -(R)	Zawacki	57,017	3,723	63.3	15.31
8A-(R)	**Pettyjohn	34,676	8,322	97.4	4.17
8B-(R)	*Reiger	17,288	8,705	98.4	1.99
9A-(R)	Neman	66,483	5,998	57.4	11.08
9B-(R)	Hanley	43,556	6,550	62.9	6.65
10A-(D)	Boucher	67,216	5,408	56.7	12.43
10B-(R)	Collins	48,490	6,470	68.3	7.49
11A-(D)	Donley	32,433	4,234	81.9	7.66
11B-(D)	Gruenberg	49,560	2,878	52.5	17.22
12A-(D)	Brown	48,716	4,325	62.5	11.26
12B-(D)	Ellis	52,933	4,367	63.1	12.12
13A-(D)	+Finkelstein	97,603	3,549	49.9	27.50
13B-(R)	Martin	24,769	4,331	61.8	5.72
14A-(R)	Barnes	52,194	5,715	62.7	9.13
14B-(R)	*Furnace	14,208	7,441	98.7	1.91
15A-(D)	Cotten	44,387	6,641	55.3	6.68
15B-(R)	Phillips	10,441	9,078	77.3	1.15
16A-(D)	Menard	56,414	6,671	50.5	8.46
16B-(D)	Larson	24,695	7,040	53.5	3.51
17 -(R)	Shultz	32,240	2,930	66.0	11.00
18 -(R)	Miller	18,437	5,084	70.5	3.63
19 -(D)	Davis, M.	25,927	3,466	50.6	7.48
20A-(R)	Sharp	42,449	5,022	58.8	8.45
20B-(D)	Boyer	65,440	4,274	50.0	15.31
21 -(D)	Koponen	82,084	3,307	56.4	24.82
22 -(D)	MacLean	48,243	2,390	77.1	20.19
23 -(D)	*Foster	8,974	2,854	98.9	3.14
24 -(D)	Wallis	22,637	1,492	48.0	15.17
25 -(D)	*Hoffman	6,394	2,583	98.8	2.48
26 -(D)	Jacko	50,842	2,320	54.2	21.91
27 -(D)	*Davidson	32,295	3,115	97.3	10.37

\* Non-contested races

\*\* Non-contested general

+ Special election not included

BOLD represents double-member districts

1988 GENERAL ELECTION RETURNS  
ALASKA SENATE

<u>Senate Dist.</u>	<u>Senator</u>	<u>Exp. Paid</u>	<u>Total Votes Received</u>	<u>% Votes</u>	<u>Cost/Vote</u>
B-(R)	*Eliason	\$ 12,961	6,744	99.0	\$ 1.92
D-(R)	Fischer	130,778	5,771	52.6	22.66
E-(D)	Kerttula	143,585	13,829	60.4	10.38
F-(R)	*Sturgulewski	28,554	17,131	98.3	1.67
G-(R)	Pearce	174,682	9,041	55.9	19.32
H-(D)	Pourchot	111,549	7,772	55.0	14.35
I-(R)	**Halford	94,412	17,607	98.7	5.36
J-(R)	Coghill	112,434	8,659	73.8	12.98
K-(R)	Frank	161,642	11,371	52.1	14.22
L-(D)	*Adams	98,373	5,634	99.2	17.46
N-(D)	*Zharoff	15,162	6,359	98.1	2.38

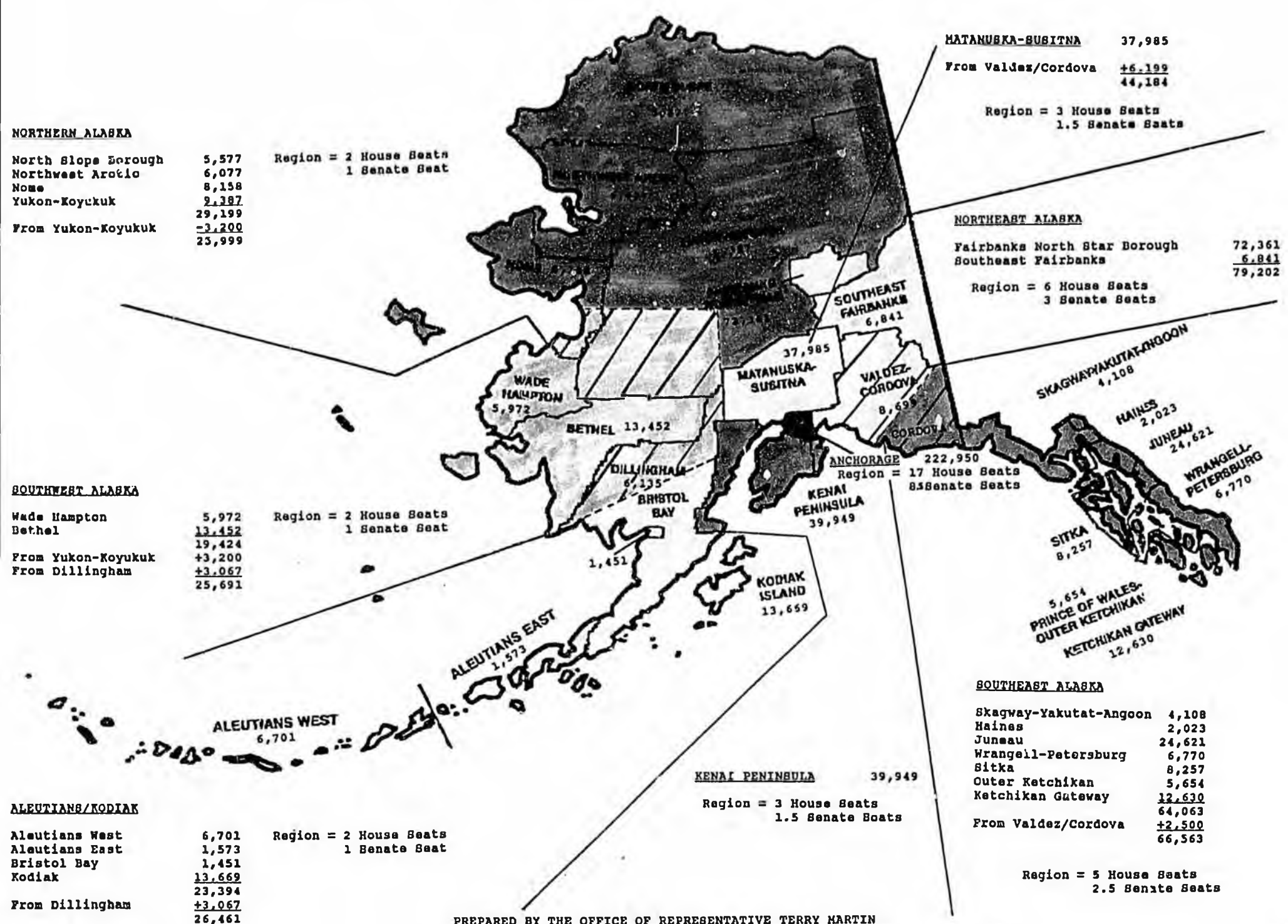
\* Non-contested races

\*\* Non-contested general

# 1990 REGIONAL APPORTIONMENT OF ALASKA HOUSE AND SENATE SEATS

13,300 Population equals one House Seat

26,600 Population equals one Senate Seat



## NORTHERN ALASKA

North Slope Borough	5,577
Northwest Arctic	6,077
Nome	8,158
Yukon-Koyukuk	<u>2,387</u>
	29,199
From Yukon-Koyukuk	<u>-3,200</u>
	25,999

Region = 2 House Seats  
1 Senate Seat

MATANUSKA-SUBITNA	37,985
From Valdez/Cordova	<u>+6,199</u>
	44,184

Region = 3 House Seats  
1.5 Senate Seats

## NORTHEAST ALASKA

Fairbanks North Star Borough	72,361
Southeast Fairbanks	<u>6,841</u>
	79,202

Region = 6 House Seats  
3 Senate Seats

## SOUTHWEST ALASKA

Wade Hampton	5,972
Bethel	<u>13,452</u>
	19,424
From Yukon-Koyukuk	<u>+3,200</u>
From Dillingham	<u>+3,067</u>
	25,691

Region = 2 House Seats  
1 Senate Seat

## ALEUTIANS/KODIAK

Aleutians West	6,701
Aleutians East	1,573
Bristol Bay	1,451
Kodiak	<u>13,669</u>
	23,394
From Dillingham	<u>+3,067</u>
	26,461

Region = 2 House Seats  
1 Senate Seat

## KENAI PENINSULA

39,949  
Region = 3 House Seats  
1.5 Senate Seats

## SOUTHEAST ALASKA

Skagway-Yakutat-Angoon	4,108
Haines	2,023
Juneau	24,621
Wrangell-Petersburg	6,770
Sitka	8,257
Outer Ketchikan	5,654
Ketchikan Gateway	<u>12,630</u>
	64,063
From Valdez/Cordova	<u>+2,500</u>
	66,563

Region = 5 House Seats  
2.5 Senate Seats

THE CITIZENS OF ALASKA  
TAKE CHARGE OF THE 1990 APPORTIONMENT AND REDISTRICTING  
By Representative Terry Martin  
October 12, 1989

The year nineteen hundred and ninety two will mark the 500th anniversary of the discovery of America by Christopher Columbus in 1492. Since this initial discovery of the Americas, we have many unique American discoveries to celebrate. I propose that each of you, in your heart set out to discover America all over again. I have tried to do just that in going back to the original thoughts of our founding fathers on representative government in a democratic environment. In this narrative I want to let you know what has happened in Alaska for equal representation, in general terms, over the past three decades, what you can do to protect, the system of equal representation and the principle of one person-one vote.

I am going to present to you a lot of materials to evaluate and make use of as I ask you to become the vanguard that protects the rights of equal representation for all Alaskans. First, I bring to your attention this discovery I came across three years ago in a local book store. It is entitled "The Genius of the People". It is a well researched compilation of the original writings and expressions of those common citizens who struggled throughout the long summer of 1787 to construct a constitution unique in the history of nations.

I hope that many Alaskans as individuals and in groups will struggle for the next eighteen months to see that the 1990 Alaska reapportionment and redistricting efforts, for the first time in Alaska's history become acceptable and constitutionally sound.

Reviewing the history of census taking tells us a lot about how we as people have opened our mind as human, social

Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Fifteenth Amendment (Ratified March 30, 1870)

Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

Nineteenth Amendment (Ratified August 26, 1920)

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any States on account of sex.

The Congress shall have power to enforce this article by appropriate legislation.

Today, even with our new found enlightenment there is still controversy over who should not be counted. Did you know, for instance, that in 1970 and 1980 Congress ordered that military personnel overseas shall not be counted in local censuses? What about migrant workers or undocumented aliens? Should they be counted? There are a number of policies in census taking that disturb the consciencious when considering the equality of all persons and the civil rights

# **CORRECTION**

**THIS DOCUMENT  
HAS BEEN REPHOTOGRAPHED  
TO ASSURE LEGIBILITY**

THE CITIZENS OF ALASKA  
TAKE CHARGE OF THE 1990 APPORTIONMENT AND REDISTRICTING  
By Representative Terry Martin  
October 12, 1989

The year nineteen hundred and ninety two will mark the 500th anniversary of the discovery of America by Christopher Columbus in 1492. Since this initial discovery of the Americas, we have many unique American discoveries to celebrate. I propose that each of you, in your heart set out to discover America all over again. I have tried to do just that in going back to the original thoughts of our founding fathers on representative government in a democratic environment. In this narrative I want to let you know what has happened in Alaska for equal representation, in general terms, over the past three decades, what you can do to protect, the system of equal representation and the principle of one person-one vote.

I am going to present to you a lot of materials to evaluate and make use of as I ask you to become the vanguard that protects the rights of equal representation for all Alaskans. First, I bring to your attention this discovery I came across three years ago in a local book store. It is entitled "The Genius of the People". It is a well researched compilation of the original writings and expressions of those common citizens who struggled throughout the long summer of 1787 to construct a constitution unique in the history of nations.

I hope that many Alaskans as individuals and in groups will struggle for the next eighteen months to see that the 1990 Alaska reapportionment and redistricting efforts, for the first time in Alaska's history become acceptable and constitutionally sound.

Reviewing the history of census taking tells us a lot about how we as people have opened our mind as human, social

and economic beings. Why is it that the founding fathers placed such heavy emphasis on census taking? What limitations were placed on counting the population? Why? Are there limitations today on who shall count in the census and who will not be counted?

Let's evaluate the original version of Article I, Paragraph 3 of the Constitution of the United States. "Representatives and direct taxes shall be apportioned among the several states which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to the service for a term of years and excluding Indians not taxed, three fifths of all other persons". Next evaluate how this has been changed by section two of the fourteenth amendment.

Fourteenth Amendment (Ratified July 28, 1868)

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States,

Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Fifteenth Amendment (Ratified March 30, 1870)

Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

Nineteenth Amendment (Ratified August 26, 1920)

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any States on account of sex.

The Congress shall have power to enforce this article by appropriate legislation.

Today, even with our new found enlightenment there is still controversy over who should not be counted. Did you know, for instance, that in 1970 and 1980 Congress ordered that military personnel overseas shall not be counted in local censuses? What about migrant workers or undocumented aliens? Should they be counted? There are a number of policies in census taking that disturb the consciencious when considering the equality of all persons and the civil rights

of one person equals one vote. Should there be adjustments of 3 or 4% because of undercounting of minorities who do not respond as well as the white class to the census taking? What about counting the homeless people?

Evaluate Article 6, Sec. 3 of the Constitution of Alaska, "Representation shall be based upon civilian population." Is this contrary to the original intent of the founding fathers? Why should the military residents of Alaska be denied equal representation? If equal representation is based on the counting of civilian people only, then is Section 6 of Alaska's Constitution out of date? Evaluate this clause in Alaska's Constitution. "Each new district so created shall be formed of contiguous and compact territory containing as nearly as practicable a relatively intergrated socio-economic area." How has this been used to gerrymander people to protect incumbent candidates?

It is always good to know what the Constitution states but the most important thing to do before applying the principles is to get an accurate count. Thus I would like to ask you to take an active roll in helping the State of Alaska, the Municipality of Anchorage and the U.S. Census Bureau to obtain the most accurate information possible for the 1990's.

This 21st census, celebrating the 200th anniversary of counting Americans, will be most revolutionary in the use of modern technology. Imagine, computerizing the entire nation on 375,000 basic maps. Imagine using software, in color, that shows the entire State of Alaska and by pushing a few buttons on the computer, your city, election district, neighborhood or village shows up on the screen.

Alaska will be tabulated from 43,500 enumerated census blocks. This super detailing of Alaska's population will give the most exact information on the movements of people, their ages, race, relationship and many other details necessary to understand social and economic status of districts such as how long the residents have lived in the home, how many bedrooms, plumbing facilities, kitchen, phone, vehicles, fuel, water, age of residence (building), etc.

New information sought in the 1990 census questionnaire will distinguish a householder's stepchildren from natural-born or adopted children. This change will help researchers estimate how many of the nation's families are the products of divorce and remarriage. This census also asks whether a household uses solar energy for heating, but it no longer asks whether a home is air-conditioned. The 1990 census will provide better data on the economic status of the elderly, because it asks about pension incomes. It will also provide better data on people with disabilities than any previous census. The 1990 census will collect data on second mortgages for the first time, as well as mobile home and condominium fees. And it will find out not only how long it takes people to get to work but also what time they leave for work. It even counts how many people commute to work by ferryboat.

There are many values in taking a census. The original reason was equal representation in national and state legislatures. Today the census is also used to determine the allocation to states of federal funds and in Alaska sharing state revenues to local governments and school districts. In short, dollars and votes. The census information has immense political and economic impact on virtually all aspects of society.

For the 1990 census, the Bureau of Census will be surveying over 106 million housing units and 250 million people on a short form that asks seven questions on population and seven on housing. There are 20% more housing units to check and 25 million more people to count for 1990 census than there were 10 years ago. The Bureau's budget for the 1990 census is \$2.6 billion. It costs \$10 for every American counted or \$1.00 per year for the decade. A second form of twenty-six questions by the Census Bureau will go to 17% sample of the population. This form had thirty questions in 1980. Was Big Brother asking too many questions?

On March 25, 1990, the Bureau will send out the short questionnaires to nearly every housing unit. In 1980, almost 85% mailed back their census forms, an extraordinarily high rate of return for a mail survey. This short form has seven questions less than the total included in the 1980 census.

Just imagine the magnitude of the job. The Bureau will interview about a half million people before hiring the 300,000 it needs. Adding to that count are the 450 temporary district offices and \$80 million for computers. 10% of the budget is to update address lists -- 30,000 people will be temporarily employed to compile addresses of 106 million housing units.

The Census Bureau must deliver census figures, broken down to the block level (approximately 43,500 in Alaska) by April 1, 1991 to the states to enable the redrawing of legislative districts.

Starting February 1, 1990, in Alaska the Bureau will conduct special personal counting and interviewing of rural areas for the first time. This is to insure the most accurate

count Alaska's native people have ever had and during a time when rural people will more likely be home and not out hunting and fishing.

Between May 1 and June 15, census takers will try to track down non-respondents, first by telephone, and if that doesn't work, by stopping by for personal interviews. If this doesn't work, Bureau officials will add the number of people in non-responding households by neighbors observation and their own evaluation.

The new revolution in mapping has begun. A new heaven on earth for geographers. Over 375,000 different base maps and nearly seven million actual maps to produce for collection purposes. The 1990 census will interlace latitude and longitude with every street corner in the nation, plus pinpoint many other geographical features through a system to be known as TIGER.

TIGER -- computerized maps to cover the entire United States. The computer can run off maps covering a single block for individual census takers, and of larger areas for supervisors. The maps include all important boundaries and landmarks to help census takers, such as roads, railroads, rivers, town, city and borough lines, native corporation boundaries, lakes, mountains and streams and they can be easily updated by entering new information on the computer. This gigantic innovation will not only save time, increase accuracy and reduce clerical workloads, but lends itself to instant information to reapportionment boards, political parties as well as elective candidates and the market world. If apportionment were a simple matter of arithmetic, a computer could do the job in a few minutes. In Alaska, divide 40 into the total population and let the computer draw up 40 equal districts.

Let me draw your attention to the attached Regional Map for 1990 apportionment. There is little growth expected for 1989 and counting starts on April 1st for urban areas and February 1st for rural communities. This is my estimation, admittedly arbitrary, but logical, reasonable and regional. Take a look at the color map. According to current population statistics, Anchorage will get 17 House seats and Fairbanks will get 6 House seats. After apportioning the State by regional population, you can then draw your local district lines.

For Alaska, by my calculations, preliminary indications are that Fairbanks North Star, Mat-Su and the Kenai Boroughs will be the winner of one house seat each. Mat-Su Borough will increase in representation but it should have had three representatives on its own merits for the 1980's. By reaching east into current District 17, this area should make a nice homogenous region for four house seats and two senate seats.

The striped areas on the map indicate areas that will be in a tug of war for regional representation.

Kenai will and should fight for Nikiski and Seward to guarantee three house and one and one half senate seats, all within the borough boundaries. Local areas will become more feisty when they see the advantage of single member districts that give better representation. Too many games can be played by incumbents and reapportionment boards with multi-seat districts.

The big losers of two representatives and one senator each will be Prince William Sound coupled with South East Alaska and the Northwest, Arctic and North Central areas of Alaska. The dramatic changes in regional representation, not so

ALASKA REGISTERED VOTERS - STATEWIDE  
SEPTEMBER 5, 1989

<u>REGION I (Southeast)</u>		<u>Rep.</u>	<u>Demo.</u>	<u>Ind.</u>
<u>District 1</u> (Ketchikan)	10,911 (2) = 5,505 each			
<u>District 2</u> (Haines)	6,596 (1)			
<u>District 3</u> (Sitka)	5,482 (1)			
<u>District 4</u> (Juneau)	14,840 (2) = 7,420 each			
<u>District 5</u> (Kenai/Soldotna)	14,869 (2) = 7,434 each			
<u>District 6</u> (Valdez)	5,732 (1)			
<hr/>				
REGION I - TOTAL	58,430 (9) = 6,492 each			

<u>REGION II (Southcentral)</u>		<u>Rep.</u>	<u>Demo.</u>	<u>Ind.</u>
<u>District 7</u> (Southeast Anch/Nikiski)	8,017 (1)			
<u>District 8</u> (Campbell/Hillside)	15,522 (2) = 7,761 each			
<u>District 9</u> (Turnagain/Sand Lake)	14,665 (2) = 7,332 each			
<u>District 10</u> (Midtown)	14,482 (2) = 7,241 each			
<u>District 11</u> (Spenard)	8,623 (2) = 4,311 each			
<u>District 12</u> (Downtown)	10,590 (2) = 5,295 each			
<u>District 13</u> (Mt. View/Elmendorf)	11,623 (2) = 5,811 each			
<u>District 14</u> (Muldoon)	12,832 (2) = 6,416 each			
<u>District 15</u> (Eagle River, Chugiak, Ft. Richardson)	17,842 (2) = 8,921 each			
<u>District 16</u> (Palmer, Mat-Su)	18,635 (2) = 9,317 each			
<hr/>				
REGION II - TOTAL	132,831 (19) = 6,991 each			

ALASKA REGISTERED VOTERS - STATEWIDE  
(Continued)

REGION III (Interior)

		<u>Rep.</u>	<u>Demo.</u>	<u>Ind.</u>
<u>District 17</u> (Delta Junction/Tok)	6,479 (1)			
<u>District 18</u> (North Pole)	10,779 (1)			
<u>District 19</u> (Outer Fairbanks)	9,984 (1)			
<u>District 20</u> (Fairbanks-City)	12,798 (2) = 6,399			
<u>District 21</u> (West Fairbanks)	7,776 (1)			
<u>District 24</u> (Ft. Yukon/Interior Rivers)	5,107 (1)			
<hr/>				
REGION III - TOTAL	52,923 (7) = 7,560			

REGION IV (Western)

		<u>Rep.</u>	<u>Demo.</u>	<u>Ind.</u>
<u>District 22</u> (Barrow)	5,915 (1)			
<u>District 23</u> (Nome)	5,022 (1)			
<u>District 25</u> (Lower Kuskokwim/Bethel)	4,791 (1)			
<u>District 26</u> (Bristol Bay/Aleutian Islands)	7,098 (1)			
<u>District 27</u> (Kodiak/East AK Peninsula)	6,572 (1)			
<hr/>				
REGION IV - TOTAL	29,398 (5) = 5,880			

STATEWIDE TOTAL            273,582 (40) = 6,840

\*NOTE: For your own computer system, the number of registered voters per district is important and should be broken down to the number of republicans democrats and independents.

Compiled from information furnished by the Alaska Division of Elections  
Prepared by the office of Representative Terry Martin

much because of substantial proportional increases of population but due to more accurate information that would be available to challenge a reapportionment board. Equal apportionment in 1980 was 9,200 persons per house seat but for 1990 it will be about 13,300, thus percentage of growth was relatively small compared to central Alaska.

The big fear that Anchorage will gain at the expense of others will not materialize. This is thanks largely to cheating the Municipality of its 18 house seats in 1981 and the determined efforts of no-growth Democrats that severely limited capital improvement appropriations to Anchorage and thus demolished the private unions from employment for their members who have left town.

What will happen in the 1990's for equal representation is what should have been the situation during the 1980's. For instance, Southeast Alaska in no constitutional way deserved six representatives. Now we can project, according to the official 1988 population to retain five representatives, Southeast will have to include three-fourths of the Prince William Sound. As seen from 1988 statistics (see map of current election district population), one vote in rural Alaska is worth three votes for representation in urban areas. In Anchorage one person in the Downtown district or the Spenard district is worth two persons votes in Eagle River or Kenai. Some senate districts are worse in comparison. When one compares the number of registered voters the disparities are unforgiving.

I noticed in recent issues of political newsletters and daily newspapers, articles on costs of political campaigns. In Alaska I believe the two major steps needed to decrease costly campaigns is to develop single member districts for the

House and Senate and to begin the 1992 election with an equal number of population. Take a look at some of the current discrepancies on the enclosed tables and maps.

Senate District E -- Mat-Su Valley with Prince William Sound, South Anchorage and North Kenai has 64,933 people for two senators. This is a dual-member district which means a candidate must write to, visit and advertise to all constituents in the area. On the other hand, the three senators of Arctic, North Slope, Western Alaska and the Aleutian Islands have approximately 75,500 residents but because they are single member districts the candidate must reach an average of 25,000 people. The cost of campaigning has to do with number of voters a candidate has to reach. Evaluate the disparities of current house districts from information obtained from the Division of Election - September 5, 1989.

Some organizations seeking headlines on reform of political campaign costs have developed simplistic formulas such as \$20,000 per house seat and \$40,000 per senate seat. To them it doesn't matter that some house members may have twice as many voters to reach as some candidates for senate. Single member districts and equal member districts are the first major steps to take in campaign costs reform and giving the average citizen a fair chance to get into politics to represent his or her neighbors.

East Anchorage clearly is a gainer for increased representation without enlarging areas. Eagle River and Chugiak have enough to merit three house seats. A big factor will be how the military is counted. The U.S. Government has determined that the 1990 census will count overseas military personnel as local residents.

You can see by the attached map of Anchorage there will be major shifts in district boundaries. The Downtown and Spenard areas are grossly over-represented at the expense of the rest of the city. Here again, single member districting will decrease the gerrymandering and protection of incumbents.

Few people, especially local government officials realize over the past seven years how the majority of the Alaska citizens have been cheated out of equal representation in the state legislature during the 1980's and how untold millions of dollars were not received in the communities serving the larger populated areas. Fear of losing money lead to losing money. I say this because Anchorage and Mat-Su would not join in the constitutional challenge brought by Kenai-Soldotna of the 1983 apportionment.

Again, Anchorage feels it is not getting its fair share. To a lesser degree Fairbanks and Mat-Su rightly feel they are undercut in equal representation and fair appropriations per population but they did nothing about it. "We have learned, don't take complaints to the State Supreme Court but directly to the Federal District Court for immediate action."

Over the past three decades it seems that legislative reapportionment and drawing of political district lines were considered strictly the sole power of the Governor and a selected group of dealers of turf protection. The myth that the Board of Reapportionment is a sacred cow that is super sensitive to upholding the highest principles of equal representation and is not susceptible to influence is quickly dispelled when one reviews its history. All six times that Alaska has been reapportioned, the end products have been declared unconstitutional.

What a difference a decade makes. Because of many legal decisions based on an enlightened review and interpretation of the fourteenth amendment guaranteeing equal protection and the great innovation of computer development of geographic information systems, anyone can get involved in checking out what the Reapportionment Board is doing.

I know you will find it very rewarding, intriguing, mysterious and challenging if you believe in the principle of equal representation.

Some say it would be nice to have a Republican or Democratic Governor for 1990 to insure favoritism of party candidates. But if you do the necessary homework and keep everything fair and equal, the question of who is Governor will not matter. The state will benefit greatly and you will have served the principle of representative government well. Why should political party's go out of their way to control reapportionment? If they have the best candidates to offer to the public he or she will win. Do they really need control of redistricting to give their candidates a favored advantage?

For those who are really interested in the new techniques of census taking and recording, I suggest that you visit the Anchorage School District to see how they use Geographic Information Systems and visit Borough facilities on Tudor Road and the Hill Building to see a really modern updated usage of GIS. Maybe by now Alaska TIGER maps are in the Office of Demography at the Hill Building. Be first to get an insight into enumerating the Anchorage area.

As you get more deeply involved you will naturally look into many questions of conscience such as how the military will be treated locally and statewide for each level of

elections. We count them for purposes of the federal money they bring into the state but some don't want them to have representation. Is adjustment needed? What about illegal aliens? What about the homeless?

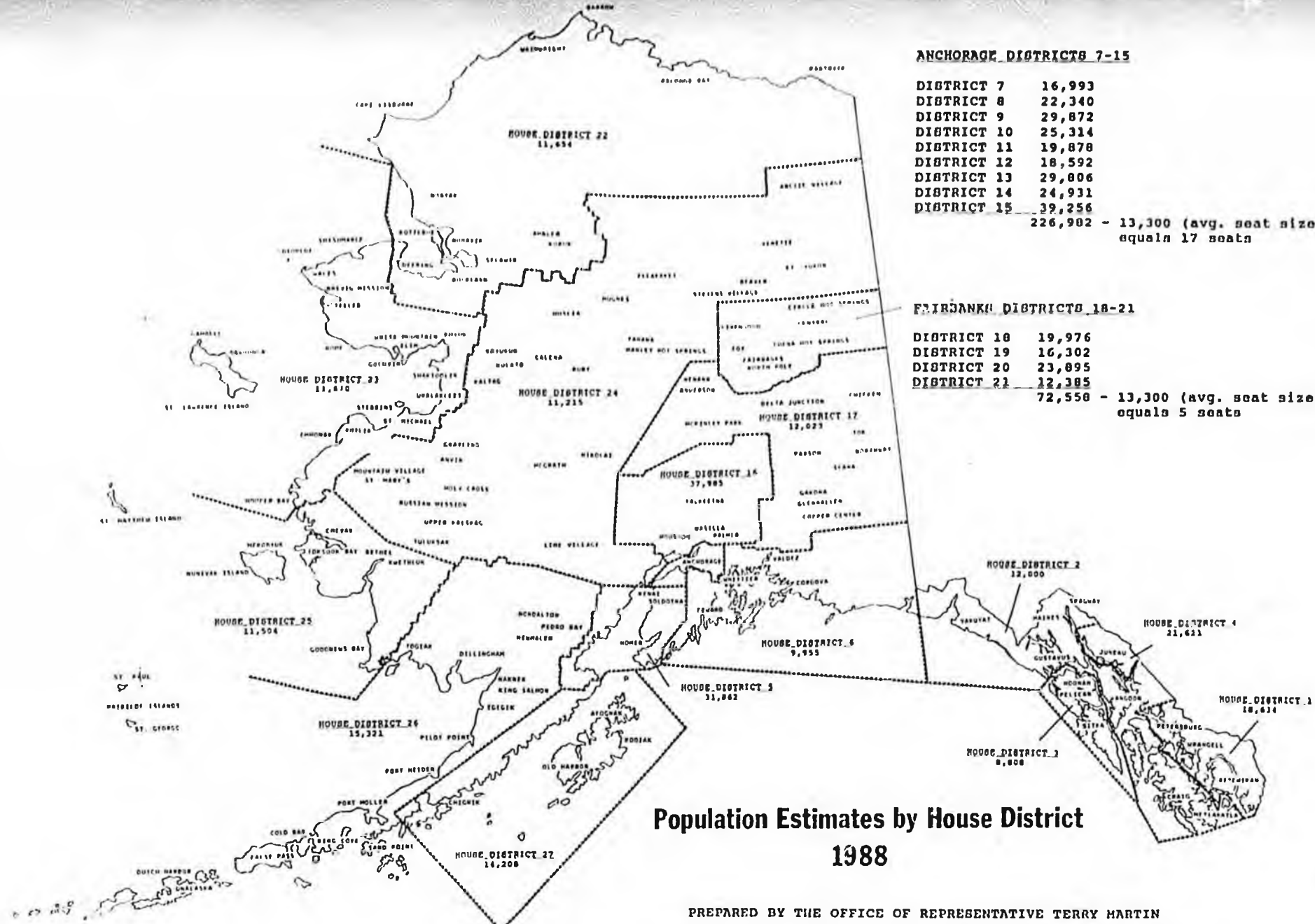
For local governments, political candidates, special interest groups, invest the necessary dollars for software. The cost is small compared to another decade of rule by a majority of legislators who do not represent the majority of the people. There is much more information available to assist you in establishing your own task force on reapportionment.

Another suggestion: Get our friends in Washington, D.C. (our Congressional Delegation) to get Alaska's report for 1990 Census to the Governor as early in 1991 as possible. We don't want any unnecessary delays to be used to keep the public in the dark and have games played for the advantage of the opposing party.

The turnout -- 57% of the voting age population -- in last year's (1988) national general election was the lowest voting rate recorded by the Census Bureau since it began taking this survey in 1964. The rate declined for all age groups except those 65 and older, whose 69% turnout did not change significantly from 1984. The turnout for those aged 25 to 44 dropped from 58% to 54%, while for those 18 to 24, the rate dropped from 41% in 1984 to 36% in 1988. The survey showed that 58% of women and 56% of men said they voted. People with four or more years of college had the highest turnout among educational categories, at 78%. The employed were more likely to vote than the unemployed. By region, Midwesterners had the highest turnout at 63%.

In Anchorage we see a variance of 61.1% in the Spenard/Turnagain area to 72.9% in the South Anchorage district in the election of November 1988. The average for all Anchorage districts was 68.9% which is really very high compared to the national voting patters.

It is really shameful when you consider how dedicated Alaskans are compared to the rest of the nation and yet they suffer with such disparity. There is little wonder why so many ask, "Whats the use of voting?"



## Population Estimates by House District 1988

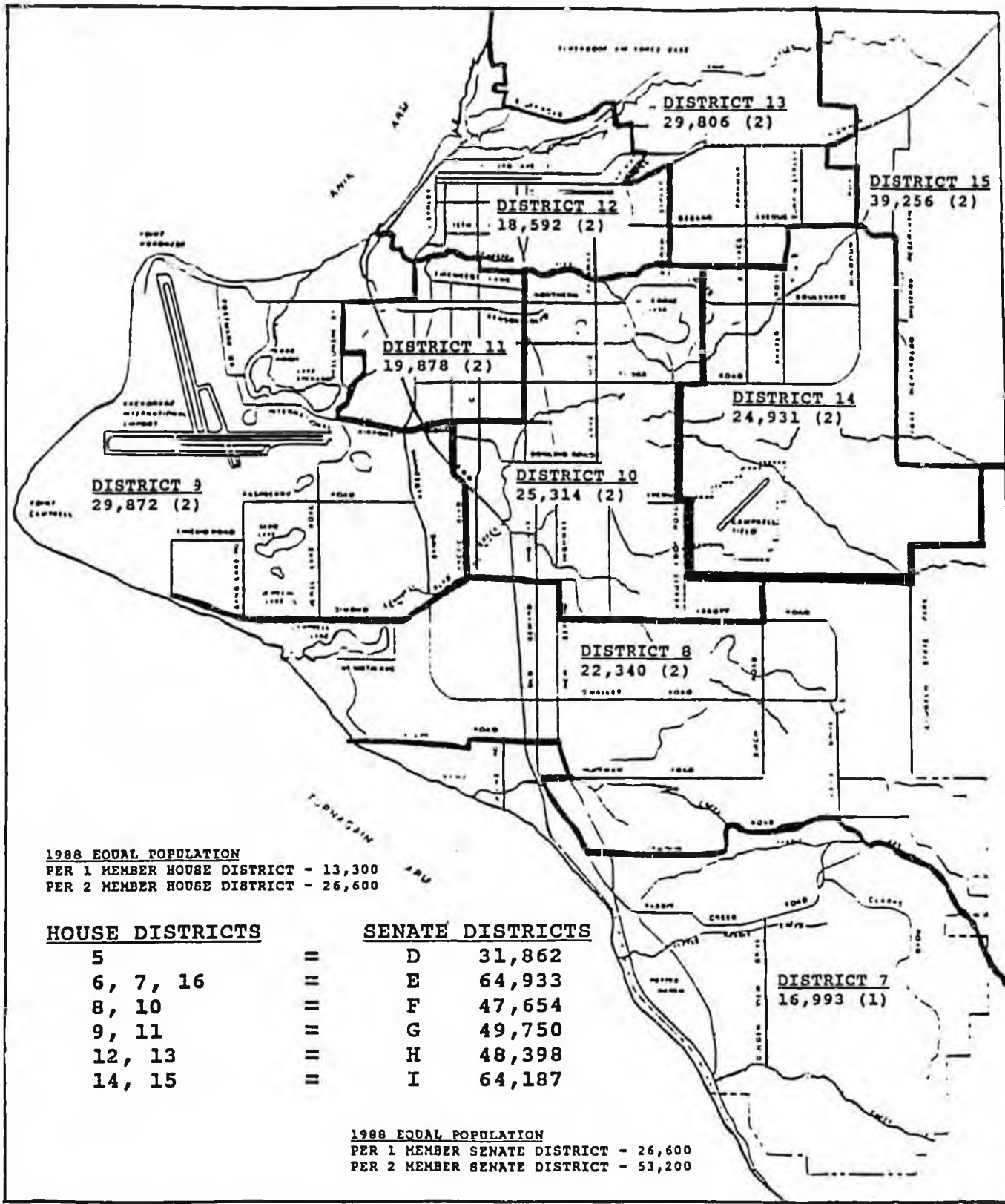
PREPARED BY THE OFFICE OF REPRESENTATIVE TERRY MARTIN  
POPULATION STATISTICS OBTAINED FROM AK DEPT. OF LABOR 9/11/89

**ANCHORAGE ELECTION DISTRICTS  
1988 POPULATION**

**REP. TERRY MARTIN**

Pouch V - State Capitol Building  
Juneau, Alaska 99811

Home Address 3960 Reka Drive - B6, Anchorage, AK 99504  
Home Phone (907) 333-6990 - In Juneau (907) 465-3783



**1988 EQUAL POPULATION**  
 PER 1 MEMBER HOUSE DISTRICT - 13,300  
 PER 2 MEMBER HOUSE DISTRICT - 26,600

<u>HOUSE DISTRICTS</u>	=	<u>SENATE DISTRICTS</u>	Population
5	=	D	31,862
6, 7, 16	=	E	64,933
8, 10	=	F	47,654
9, 11	=	G	49,750
12, 13	=	H	48,398
14, 15	=	I	64,187

**1988 EQUAL POPULATION**  
 PER 1 MEMBER SENATE DISTRICT - 26,600  
 PER 2 MEMBER SENATE DISTRICT - 53,200

HJR

7

# HOUSE COMMITTEE ON STATE AFFAIRS

## RECAP OF HJR 7

### *Right To Keep and Bear Arms*

Received January 9, 1989

by Reps. Donley, Boucher, Menard, Gruenberg and  
Leman

Heard February 7, 1989

Heard February 8, 1989

Committee Substitute adopted February 8, 1989

Passed Out of Committee February 8, 1989

4 Do Pass

3 Do Not Pass Without Amendment

## TABLE OF CONTENTS

### HJR 7: Right to Keep and Bear Arms

- Item 1:** HJR 7 by Donley, Boucher, Menard, Gruenberg  
and Leman  
CS HJR 7 (SA)
- Item 2:** Fiscal Note and Analysis
- Item 3:** Position Papers from Department of Public Safety  
and Department of Law
- Item 4:** Letters from Interested Parties
- Item 5:** Amendment by Rep. Donley
- Item 6:** Amendment by Rep. Spohnholz

# HOUSE COMMITTEE REPORT

(5)

Date Referred: January 9, 1989

FURTHER REFERRALS: JUDICIARY

Date of Committee Action: \_\_\_\_\_

The STATE AFFAIRS Committee recommends that:

HOUSE JOINT RESOLUTION NO. 7 [RIGHT TO KEEP AND BEAR ARMS]  
Proposing an amendment to the Constitution of the State of Alaska relating to individual right to keep and bear arms.

be replaced with CS HJR 7 (SA)  the same title  
 a new title

have attached amendment(s)

do pass  
 do not pass  
 no recommendation  
 individual recommendations  
 additional referral to the Finance Committee

ADOPTS: \_\_\_\_\_ letter of intent

ATTACHES NEW FISCAL NOTE(S):

APPROVES PREVIOUS:

fiscal impact Elections 1/10/89  
 zero fiscal note  
 zero with analysis

fiscal note(s) published: \_\_\_\_\_  
 zero fiscal notes(s) published: \_\_\_\_\_

SIGNING DO PASS:

SIGNING OTHER THAN DO PASS:  
(Do Not Pass, No Recommendation, Amend)

David Donley  
Sam Johnson  
Jim Alloua Alaskans  
to express their opinion and  
vote for their personal right  
D. A. Bush

Wayne Bentley do not pass  
without amendment  
Carl Spohrer do not pass  
without amendment  
Eileen P. Meador do not pass  
without amendment

D. A. Bush  
Chairman's signature

To Ann  
Date 2/8 Time 4:20

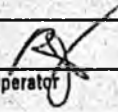
**WHILE YOU WERE OUT**

M Edith  
of Chief Clerk's Office  
Phone \_\_\_\_\_

Area Code	Number	Extension
TELEPHONED		PLEASE CALL
CALLED TO SEE YOU		WILL CALL AGAIN
WANTS TO SEE YOU		URGENT

RETURNED YOUR CALL

Message HTR 7 - will have  
a further referral to  
Chance. If you have  
a question call her

\_\_\_\_\_  
Operator 

Introduced: 1/9/89  
Referred: State Affairs and  
Judiciary

Item 1  
6-0341A

1 IN THE HOUSE

BY DONLEY, BOUCHER, MENARD,  
GRUENBERG AND LEMAN

2

HOUSE JOINT RESOLUTION NO. 7

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - RST SESSION

5

Proposing a. amendment to the Constitu-

6

tion of the State of Alaska relating to

7

the individual right to keep and bear

8

arms.

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

10 \* Section 1. Article I, sec. 19, Constitution of the State of Alaska,  
11 is amended to read:

12 SECTION 19. RIGHT TO KEEP AND BEAR ARMS. The individual [A  
13 WELL-REGULATED MILITIA BEING NECESSARY TO THE SECURITY OF A FREE  
14 STATE, THE] right [OF THE PEOPLE] to keep and bear arms shall not be  
15 denied or infringed by the state or a political subdivision of the  
16 state.

17 \* Sec. 2. The amendment proposed by this resolution shall be placed  
18 before the voters of the state at the next general election in conformity  
19 with art. XIII, sec. 1, Constitution of the State of Alaska, and the  
20 election laws of the state.

Original sponsors: Donley, Boucher,  
Menard, et al.

1 IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE  
2 CS FOR HOUSE JOINT RESOLUTION NO. 7 (State Affairs)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 Proposing an amendment to the Constitu-  
6 tion of the State of Alaska relating to  
7 the individual right to keep and bear  
8 arms.

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

10 \* Section 1. Article I, sec. 19, Constitution of the State of Alaska,  
11 is amended to read:

12 SECTION 19. RIGHT TO KEEP AND BEAR ARMS. The individual [A  
13 WELL-REGULATED MILITIA BEING NECESSARY TO THE SECURITY OF A FREE  
14 STATE, THE] right [OF THE PEOPLE] to keep and bear arms shall not be  
15 denied or infringed by the state or a political subdivision of the  
16 state. The use or possession of arms by individuals convicted of a  
17 crime and the carrying of concealed weapons on the person may be  
18 regulated by the legislature.

19 \* Sec. 2. The amendment proposed by this resolution shall be placed  
20 before the voters of the state at the next general election in conformity  
21 with art. XIII, sec. 1, Constitution of the State of Alaska, and the  
22 election laws of the state.  
23  
24  
25  
26  
27  
28  
29

**FISCAL NOTE**

**REQUEST:**

Revision Date: \_\_\_\_\_  
Title: Const. Amendment - Right  
To Keep and Bear Arms  
Sponsor: Donley  
Requestor: Donley

Agency Affected: Office of the Governor  
BRU: Division of Elections  
Components: I Elections

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	-0-	-0-	2.2*	-0-	-0-	-0-
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>-0-</b>	<b>-0-</b>	<b>2.2*</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

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

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

**FUNDING: (Thousands of Dollars)**

GENERAL FUND	-0-	-0-	2.2*	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	<b>-0-</b>	<b>-0-</b>	<b>2.2*</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS : (Attach a separate page if necessary)**

\* Costs included cover 2 to 3 pages in each Official Elections Pamphlet, for printing and typesetting, and costs estimated to cover computer program-ing requirements for vote (Continued)

Prepared by: Linda Edgeworth  
Division: Elections

Phone: 465-4611  
Date: 1/17/89

Approved by Commissioner: *Linda Edgeworth*  
Agency: Division of Elections

Date: 1/17/89

- Distribution (by preparer):
- Legislative Finance
  - Legislative Sponsor
  - Requestor
  - Office of Management and Budget
  - Imnciated Agency(ies)

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HJR 7

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

BILL NO: SJR 4

DATE: January 30, 1989

TITLE: "Proposing an amendment... relating to the right to keep and bear arms."

CONTACT: Gayle A. Horetski Deputy Commissioner 465-4322

DEPARTMENT OF PUBLIC SAFETY

If passed by the legislature, SJR 4 would place a proposed constitutional amendment before the voters at the next general election. The resolution contains an amendment to article I, section 19 of the state constitution, relating to a citizen's right to keep and bear arms.

The stated purpose of the proposed amendment is twofold:

- 1) to establish that the right to keep and bear arms under the state constitution is an individual right, rather than a collective one; and
- 2) to preclude local regulation of the possession or use of firearms. (At present, local regulations regarding firearms may differ from state law.)

I am concerned that the present language of the amendment, if adopted by the voters at the next election, might allow later constitutional challenge to some existing state statutes. Present law, for example, prohibits a convicted felon from possessing a concealable firearm, prohibits possession of certain weapons such as bombs, hand grenades, silencers, and sawed-off shotguns, prohibits possession of a firearm while intoxicated, the discharge of a firearm from, on, or across a highway, the carrying of a concealed weapon, possession of a loaded firearm on licensed premises, or possession of a firearm by a minor without parental consent. (See AS 11.61.200-11.61.220.)

These statutes promote public safety by restricting the possession of especially dangerous weapons or weapons carried in an especially dangerous manner or place. If any of these laws were to be struck down by the courts as violative of the amended language of article I, section 19 of the constitution, the ability of the state to regulate the possession of deadly weapons could be seriously impaired. This, in turn, could present a serious threat to the safety of innocent persons.

The Department of Public Safety sees no compelling need to change the existing language in Alaska's Constitution. The Department of Public Safety therefore opposes SJR 4.

*Arthur English*  
Arthur English  
Commissioner

STEVE COWPER, GOVERNOR

**DEPARTMENT OF PUBLIC SAFETY**

COUNCIL ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT

P.O. BOX N  
JUNEAU, ALASKA 99811-1200  
PHONE (907) 465-4356

OFFICE ADDRESS: 450 WHITTIER STREET

January 31, 1989

The Honorable Jan Faiks, Chair  
Senate Judiciary Committee  
P. O. Box V  
Juneau, AK 99811

Re: Senate Joint  
Resolution 4

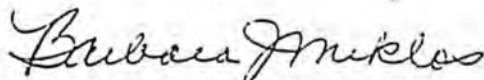
Dear Senator Faiks:

I am writing on behalf of the Council on Domestic Violence and Sexual Assault. The Council opposes Senate Joint Resolution 4. Of particular concern is the lack of any language in S.J.R. 4 which explicitly preserves the state's right to regulate firearms. We strongly believe the state must retain the right to regulate firearms. Recent incidents in Alaska and in other states demonstrate that unlimited access to firearms by everyone, including the mentally unstable and convicted felons, can lead to tragedies like the death last April of the woman in an insurance office in Anchorage, and the more recent shootings of children on a school playground in Stockton, California.

The mission of the Council is to provide for planning and coordination of services to victims of domestic violence. We believe this proposed resolution directly affects victims of domestic violence. In 1987, 51 murders occurred in Alaska. 36% of the victims in these murders were either family members or in a boyfriend/girlfriend relationship. Furthermore, firearms were used in 61% of the murders.

If this proposed amendment is approved, we urge that it be amended to add a phrase preserving the state's ability to reasonably regulate the possession and use of firearms.

Sincerely,



Barbara Miklos  
Executive Director

# STATE OF ALASKA

## DEPARTMENT OF LAW

### CRIMINAL DIVISION

January 29, 1989

The Honorable Jan Faiks  
Alaska State Senator  
P.O. Box V  
Juneau, Alaska 99811

Dear Senator Faiks:

Thank you for the opportunity to review SJR 4, relating to a proposed amendment to the constitutional right to bear arms in Alaska. After considerable research regarding the law in Alaska and other states on this issue, it is our opinion that the existing constitutional provision protecting the right to bear arms should not be, nor does it need to be, amended.

In summary, our analysis is:

1. In Alaska, the right of the people to bear arms for legitimate purposes has never been infringed. In the absence of a specific need to amend the constitution, it may be wise to follow the adage "If it ain't broke, don't fix it."

2. In a wide variety of contexts, the Alaska Supreme Court has interpreted individual rights under the state constitution more broadly than the federal constitution, and there is no reason to believe the court would not interpret the existing right to bear arms provision in an equally broad manner.

STEVE COWPER, GOVERNOR

REPLY TO

✓ CRIMINAL DIVISION CENTRAL OFFICE  
P.O. BOX KC  
JUNEAU, ALASKA 99811-0310  
PHONE: (907) 465-3428

☐ OFFICE OF SPECIAL PROSECUTIONS  
AND APPEALS  
1031 WEST 4TH AVENUE, SUITE 318  
ANCHORAGE, ALASKA 99501-5993  
PHONE: (907) 279-7424

3. The legal effects of the proposed constitutional amendment can not be predicted with any degree of certainty. The recent experiences of West Virginia illustrate the unreliability of political statements made by proponents of this type of amendment.

4. The only effect of the amendment that can be stated with certainty is that it transfers power currently in the hands of the legislature to the judiciary. A similar and well-known example of such a power transfer occurred when the constitution was amended to specifically mention the right of privacy. The legislature is still struggling with the resulting supreme court opinion which recognized a constitutional right to use marijuana.

5. Based on the broad reading the Alaska court gives to the provisions of our constitution, and the lack of any language in the amendment giving the legislature the authority to regulate the exercise of the constitutional right, it is more likely that portions of Alaska's statutes regulating firearms will be declared unconstitutional. Case authority exists as legal precedent for invalidating, or seriously weakening, both the state statute prohibiting all felons from having firearms, and the Anchorage municipal ordinance against carrying concealed weapons in automobiles.

6. If the Legislature decides to approve a constitutional amendment modifying the right to bear arms in Alaska, the language of the amendment should affirmatively state

that the legislature continues to have the authority to reasonably regulate firearms by law.

1. The Right to Keep and Bear Arms in Alaska

The Alaska Constitution addresses the right of the people to keep and bear arms at Article I, Section 19. It provides: "A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed." Although this section of the constitution has never been interpreted by the Alaska Supreme Court, existing law grants Alaskans broad and relatively unrestricted rights to keep and bear arms.

Alaska's right to bear arms provision is virtually identical to language found in the Second Amendment to the United States Constitution. However, as noted by Legislative Counsel Tamara Brandt Cook in her memorandum to Senator Rodey dated April 14, 1983, "the [United States] Supreme Court has never directly considered whether the Second Amendment provides any protection to the private ownership of arms for lawful purposes." There is ample legal authority for the proposition that protection of the individual right to bear arms is provided by the language of both the Second Amendment and Section 19 of the Alaska Constitution.

For example, in one scholarly article,<sup>1</sup> the author demonstrated that the amendments guarantee the individual right to keep and bear arms for the following purposes: (1) to enable the individual to perform militia duties; (2) to deter governmental oppression; (3) to maintain public order; and (4) to enable the individual to exercise the right to self-defense. The author concluded his analysis by clearly stating that, under language identical to the Alaska Constitution, common and traditional users of private firearms are protected and that it would be unconstitutional to enact

(1) any law that infringes the right of the people (excepting those people who fall into a traditional high-risk category, such as felons, the mentally deficient, and infants) to keep any arms commonly used for personal protection or any of the modern equivalent of arms that were fairly commonly possessed by the people at the adoption of the Constitution, or (2) any law that infringes the right to bear those arms for traditional lawful purposes.<sup>2</sup>

---

<sup>1</sup>Dowlut, "The Right to Arms: Does the Constitution or the Predilection of Judges Reign?," 36 Oklahoma Law Review 65 (1983).

<sup>2</sup>Id. at 101. The following articles have been cited as authority for the proposition that the Second Amendment guarantees an individual right to bear arms: S.P. Halbrook, That Every Man Be Armed: The Evolution of a Constitutional Right (Univ. of N. Mex. Press 1984); Dowlut, "The Current Relevancy of Keeping and Bearing Arms," 15 U. Balt. L. F. 32 (1984); Kates, "Handgun Prohibition and the Original Meaning of the Second Amendment," 82 Mich. L. Rev. 204 (1983); Malcolm, "The Right of the People to Keep and Bear Arms: The Common Law Tradition," 10 Hastings Const. L. Q. 285 (1983); Caplan, "The Right of the Individual to Bear Arms: A Recent Judicial Trend," 1982 Detroit Col. L. Rev. 789; Shalhope, "The Ideological Origins of the Second Amendment," 69 J. Am. History 599 (1982); Halbrook, "To Keep and Bear Their Private Arms: The Adoption of the Second Amendment, 1787-1791," 10 N. Ky. L. Rev. 13 (1982); Gardiner, "To Preserve Liberty--A Look at The Right to Keep and Bear Arms," 10 N. Ky. L. Rev. 63 (1982); Halbrook, "The

An analysis of the constitutional right to bear arms in Alaska must of necessity consider the history of gun regulation in the state.<sup>3</sup> The right of the people to bear arms for legitimate purposes is widely recognized in Alaska, and has never been

---

Jurisprudence of the Second and Fourteenth Amendments," 4 Geo. Mason U.L. Rev. 1 (1981); Cantrell, "The Right to Bear Arms," 53 Wis. Bar Bull. 21 (Oct. 1980); Caplan, "Handgun Control: Constitutional or Unconstitutional?," 10 N.C. Central L. J. 53 (1978); Caplan, "Restoring The Balance: The Second Amendment Revisited," 5 Fordham Urban L.J. 31 (1976); Whisker, "Historical Development and Subsequent Erosion of the Right to Keep and Bear Arms," 78 W. Va. L. Rev. 171 (1976); Weiss, "A Reply to Advocates of Gun Control Law," 52 Jour. Urban Law 577 (1974); Hardy & Stompoly, "Of Arms and the Law," 51 Chi.-Kent L. Rev. 62 (1974); McClure, "Firearms and Federalism," 7 Idaho L. Rev. 197 (1970); Levine & Saxe, "The Second Amendment: The Right to Bear Arms," 7 Houston L. Rev. 1 (1969); Olds, "The Second Amendment and The Right to Keep and Bear Arms," 46 Mich. St. Bar. J. 15 (Oct. 1967); Comment, "The Right to Keep and Bear Arms: A Necessary Constitutional Guarantee or an Outmoded Provision of the Bill of Rights?," 31 Albany L. Rev. 74 (1967); Sprecher, "The Lost Amendment," 51 Am. Bar Assn. J. 554 and 665 (1965); and Hays, "The Right to Bear Arms: A Study in Judicial Misinterpretation," 2 Wm. & Marv L. Rev. 381 (1960).

<sup>3</sup>See, e.g., Hootch v. Alaska State-Operated School System, 536 P.2d 793, 800 (Alaska 1975): "In determining the scope of a constitutional right, the focus of the court's inquiry is not, however, on the question of whether there is a burden on the exercise of that right. We must look to the intent of the framers of the constitution concerning the nature of the right itself, the problems which they were addressing and the remedies they sought. While prior practice and the framers' purposes are not necessarily conclusive, an historical perspective is essential to an enlightened contemporary interpretation of our constitution."

infringed.<sup>4</sup> Alaska and Vermont share the distinction of having the least restrictive firearms laws in United States.<sup>5</sup>

Proponents of the amendment indicate it is not proposed to rectify a current injustice nor to overturn existing guns laws or regulations, but to protect the rights of individuals to keep and bear arms against the caprice of an irresponsible legislature. We believe the protection of the existing constitution and the respect and restraint historically shown by the Alaska legislature and courts for the people's right to bear arms renders the proposed amendment unnecessary, and worse, the amendment interjects the uncertainty of judicial interpretation into a new and uncharted area.

## 2. Constitutional Interpretation in Alaska

It is often difficult to predict how a court will interpret the scope and effect of a new constitutional amendment, and how the power of the legislature will thereafter be limited. This unpredictability is very familiar to Alaskans. In 1972, the

---

<sup>4</sup>In previous years, a 1983 informal Attorney General's opinion has been cited as proof of the need for a constitutional amendment. The opinion addressed whether a landlord could prohibit a tenant from having firearms. This analysis of the right to bear arms, rendered in the context of a contractual relationship between private parties, did not comprehensively address the issue of governmental regulation of arms.

<sup>5</sup>Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, State Laws and Published Ordinances: Firearms (18th Ed. 1988).

people explicitly recognized the right to privacy in Alaska by approving a constitutional amendment. In the first major case interpreting the privacy amendment, the Alaska Supreme Court in Ravin v. State,<sup>6</sup> struck down the law that criminalized possession of marijuana in the home for personal use. The legislature has been struggling for many years to deal with this unique interpretation of our constitution.<sup>7</sup>

Ravin is only one example of the propensity of the state supreme court to interpret the Alaska constitution as giving broader protection to individual rights than similar constitutional provisions in other jurisdictions. As a result, the judicial decisions of other states interpreting individual rights cannot be

---

<sup>6</sup>537 P.2d 494 (Alaska 1975).

<sup>7</sup>Although other states, including Arizona, California, Florida, Hawaii, Louisiana, Montana, South Carolina, and Washington, have adopted similar constitutional provisions recognizing the right to privacy, the Alaska court stands alone in its conclusion that the right to privacy protects the right to possess marijuana in the home.

heavily relied upon in predicting what will happen when the Alaska courts are asked to analyze identical issues.<sup>8</sup>

With respect to the actions of individual citizens, Alaska court decisions frequently rely on the privacy amendment to justify constitutional interpretations that are significantly broader than those reached by other courts. Our court has repeatedly determined that the effect of the right of privacy is to amplify the protections afforded by other constitutional rights. The complexity of anticipating the court's interpretation of a right to bear arms is compounded by the potentially augmenting effect of the explicit right to privacy.

For example, the Alaska constitutional guarantee against unreasonable searches and seizures is held to be broader in scope than identical guarantees under the federal constitution, in part because of the right to privacy.<sup>9</sup> Despite considerable authority

---

<sup>8</sup>In addition to the cases discussed below, the Alaska Supreme Court has held that the Alaska Constitution provides greater protection in areas ranging from the free exercise of one's religious beliefs, Frank v. State, 604 P.2d 1068 (Alaska 1979) (defendant entitled to exemption from fish and game regulations on account of his religious beliefs even though the charges against defendant would have been upheld under the federal constitution) to the right to counsel, Resek v. State, 706 P.2d 288 (Alaska 1985) ("the right to counsel under the Alaska Constitution is more expansive than the corresponding right under the sixth amendment to the United States Constitution.").

<sup>9</sup>Reeves v. State, 599 P.2d 727, 734 (Alaska 1979). In this case, the court reversed a conviction for possession of heroin. The defendant had been arrested for driving while intoxicated, and a correctional officer discovered the heroin inside a balloon in

to the contrary in other jurisdictions, the Alaska court has held that the state constitution prohibits warrantless administrative inspections of private business premises.<sup>10</sup> The warrantless monitoring of private conversations with the consent of one participant, acceptable under federal constitutional standards, is held in Alaska to be an unreasonable search and seizure in light of the combined effect of the Alaska constitutional prohibition against unreasonable searches and seizures, and the Alaska constitutional right of privacy.<sup>11</sup>

The Alaska court has also forged new legal ground in interpreting the equal protection clause of the state constitution. This amendment provides additional protection for the exercise of constitutional rights such as the right to bear arms because it is used by the court in evaluating whether legislation is

---

the defendant's pocket. Although it was permissible for the officer to take the balloon away from the defendant before he was booked into the jail, the court held that the defendant's right to privacy and right to be free from unreasonable searches and seizures was violated when the officer looked inside the balloon.

<sup>10</sup>Woods & Rohde, Inc. v. State, 565 P.2d 138 (Alaska 1977).

<sup>11</sup>In the cases of Coffey v. State, 585 P.2d 514 (Alaska 1978) (court reversed conviction of marijuana dealer); Aldridge v. State, 584 P.2d 1105 (Alaska 1978) (court reversed conviction of heroin dealer); State v. Glass, 583 P.2d 872 (Alaska 1978) (court agreed charges against heroin dealer should be dismissed), the decisions were based on the court's broad interpretation of Alaska's constitutional rights to privacy and to be free from unreasonable searches and seizures. Federal courts faced with the same issues have interpreted similar federal constitutional guarantees relating to searches and seizures differently, and would have upheld the convictions.

constitutional. In developing its own equal protection analysis, our court rejected the deferential test applied by the United States Supreme Court, holding instead that the Alaska Constitution requires social and economic legislation to pass a more rigorous test.<sup>12</sup>

In Herrick's Aero-Auto-Agua Repair v. DOT, 754 P.2d 1111 (1988), the court explained its expansive equal protection analysis as follows:

In reviewing equal protection claims under the Alaska constitution ... the minimum burden that the state must meet when defending legislation challenged on equal protection grounds under the Alaska constitution is greater than that required under the United States Constitution. The burden on the state increases in proportion to the primacy of the interest involved. Eventually this burden reaches the functional equivalent of the federal compelling state interest test in those cases where fundamental rights and suspect categories are at issue.<sup>13</sup>

Another liberal interpretation of Alaska's constitution was set out in Vogler v. Miller, 651 P.2d 1 (Alaska 1982). In this case the court invalidated statutes relating to ballot access by

---

<sup>12</sup>Isakson v. Rickey, 550 P.2d 359 (Alaska 1976).

<sup>13</sup>754 P.2d at 1114. The court in Herrick also pointed to an additional burden placed on the state in defending against an equal protection challenge. "[T]he rational basis test articulated by the Supreme Court allows a court to 'hypothesize' facts. Under that test, a party challenging legislation on equal protection grounds, cannot prevail so long as 'it is evident from all the considerations presented to [the legislature], and those of which we may take judicial notice, that the question is at least debatable.'" Minnesota v. Clover Leaf Creamery Co., 449 U.S. 456, 464 (1981). In Alaska, the court will not hypothesize facts.

candidates of small parties. The court relied on the free speech and equal protection provisions of the Alaska constitution, and acknowledged that the statutes would have been upheld under the interpretation the federal courts have given to identical provisions of the United States constitution. The court declared that Alaska restrictions on the right to associate in pursuit of political beliefs are permissible only where the government is able to show that the restrictions are justified by compelling governmental interests. Further, the restrictions must be no broader than needed to accomplish the governmental interests which justify them.<sup>14</sup>

Thus, any effort to predict the interpretation of any amendment relating to an individual right in the Alaska court must be mindful of the court's tendency to interpret individual rights broadly, in often unexpected contexts, and the court's frequent insistence that regulatory schemes satisfy a compelling state interest test.

### 3. The West Virginia Experience

Despite Alaska's unique constitution and the willingness of our court to adopt novel legal interpretations, we have also considered the experience of other states with right to bear arms amendments. For example, based on its newly-enacted right to bear

---

<sup>14</sup>651 F.2d at 5.

arms amendment, the West Virginia Supreme Court recently struck down a statute that prohibited carrying dangerous or deadly weapons without a license.

Proponents of the amendment had argued during legislative hearings that existing laws would not be affected by the amendment, but when an existing law was challenged, the proponents switched positions and argued for the unconstitutionality of the West Virginia law. This case shows the dangers that arise when a legislature approves a constitutional amendment that does not spell out in plain language its precise intent. A detailed description of what happened in West Virginia is therefore important because many of the same issues are currently being discussed in the context of your consideration of SJR4.

a. Legislative History

In 1986, West Virginia amended its constitution to expand the right to keep and bear arms. The new constitutional provision stated, "A person has the right to keep and bear arms for the defense of self, family, home and state, and for lawful hunting and recreation use."

Despite the popularity of the right to keep and bear arms amendment in the West Virginia legislature, the legislative process "failed to give the amendment's language any real definition beyond

a general sense that passage of the amendment would leave undisturbed current law and constitutionalize existing state law prohibiting municipal governments from banning the ownership of weapons or ammunition. The very popularity of the concept seemed to insulate the proposed amendment from the 'hard look' analysis appropriate for amendments to a constitution."<sup>15</sup>

No significant statement of legislative intent was prepared by any of the committees that considered the proposal, nor was any substantive research done by the legislative committees that recommended the measure for passage. As a result, there was little in the legislative history to assist the court in fixing any specific meaning to the words, phrases, or the intent of the amendment. In researching the legislative history, McNeely concluded, "All that can be said without question was that legislative proponents consistently took the position that the amendment, if adopted, would not change existing laws, and that legislative opponents consistently attempted, with no ultimate success, to amend the measure to assure that the state would retain its ability to maintain the existing state of the law."<sup>16</sup>

---

<sup>15</sup>McNeely, "The Right of Who to Bear What, When, and Where - West Virginia's Firearms Law v. The Right-To-Bear-Arms Amendment," 89 West Virginia Law Review 1125 (1987) at 1160.

<sup>16</sup>McNeely at 1152.

In an analysis provided to the West Virginia legislature by the National Rifle Association, the proponents argued that under the amendment the bearing of constitutionally-protected arms "may be regulated." The analysis described the various statutes that the NRA believed would be upheld if the proposed amendment were adopted, and specifically stated that "a license may be required to carry a pistol away from one's home, place of business, or land."<sup>17</sup>

In attempting to predict the effect the court would give to the amendment, McNeely predicted that,

Given the legislature's failure to provide clear legislative intent in any formal sense, it shall be up to the judicial branch of the state to interpret the amendment consistent with its language and demonstrated intent. With that interpretation, the court may continue the state's traditional legal attitude toward firearms by finding the amendment consistent with state law, or it may embark the state on an uncharted course of repeal and revision of long-standing statutes and case law ... It is, perhaps, ironic that such a lack of legislative research and formal legislative findings, coupled with the broad, unqualified

---

<sup>17</sup>The National Rifle Association "Analysis of Proposed West Virginia Constitutional Guarantee to Keep and Bear Arms" is set out as Appendix H to the McNeely article at 1176-78. It is virtually identical to the "Analysis of Proposed Alaska Constitutional Guarantee to Keep and Bear Arms" contained in the Senate Judiciary file for SJR4.

In addition, at least one advertisement by the NRA for the amendment in West Virginia contained "a prominent statement that no existing federal or state law would be repealed by passage, with the statement reading 'Amendment 1 keeps Federal and State firearms laws the law.'" McNeely at 1148.

language of Amendment No. 1, have combined to place the future of firearms regulation, heretofore primarily a legislative activity, in the hands of the judicial branch of state government.<sup>18</sup>

b. Princeton v. Buckner

The case of Princeton v. Buckner<sup>19</sup> began when a police officer searched a drunk driver who had been placed under arrest, and found a .22 caliber automatic pistol concealed in the driver's pocket. Under existing West Virginia law, a license was required to carry a concealed weapon. Although the drunk driver did not have a license, the magistrate refused to issue charges for illegally carrying a firearm because he concluded that the licensing law was unconstitutional under the newly-enacted right to bear arms amendment to the West Virginia Constitution.

Despite the assertions during the legislative and public debates that existing West Virginia firearms laws would not be affected, the challengers to the law in Buckner lost little time in proving the non-binding nature of such statements.<sup>20</sup> In their analysis of legislative intent, the challengers pointed to the

---

<sup>18</sup>McNeely at 1162.

<sup>19</sup>Case No. CC972, West Virginia Supreme Court of Appeals, July 1, 1988, reconsideration denied December 20, 1988.

<sup>20</sup>The National Rifle Association filed an amicus brief in the Buckner case on behalf of its West Virginia members, which concluded: "... the licensing statute is unconstitutional because it frustrates rather than regulates the right to bear arms."

legislature's refusal to modify the amendment to specifically state that the legislature retained the power to regulate firearms.

For example, in his brief to the Supreme Court, Buckner argued as follows:

The State, in its brief, concludes that "it is clear that the Right to Keep and Bear [Arms] Amendment to the West Virginia Constitution was not meant to nullify existing laws." This conclusion is without factual support or logic. Had the efforts of Delegate McNeely to add the word "lawful" and had the efforts of Delegate Knight to make the amendment subject to the "police power" of the State, or either of these efforts, been successful, then the argument of the State might bear some logic. The fact that both of these efforts were specifically turned down by the Legislature indicates clearly that the Legislature had no such intent as stated by the State. Had that been the clear intent of the Legislature in passing the resolution, it could have simply added language to that effect, or adopted on of the amendments referred to. (emphasis added) Brief of Respondent Buckner at 4.

The basis of the argument of the State is that the proponents took the position that the right to bear arms amendment did not change existing laws. The fact of the matter is that the opponents of the amendment took the position that it would, in fact, change existing law and the Legislature refused, although given opportunity to do so, to word the amendment in such a fashion so as to deal with that question. (emphasis added) Brief of Respondent Buckner at 5.

In addition to pointing out that the legislature refused to address the extent to which it retained the power to pass firearms legislation, the challengers concluded that the

legislature and the people must have wanted to place restraints on the legislature. At page 6 of his brief, Buckner argued that if the constitutional amendment "means anything, it has to mean that the people of the State wanted to change the law in existence at the time, and place restraints upon the Legislature. Any other conclusion is illogical and would render the act of the Legislature and the people in adopting the constitutional provision an exercise in futility." In other words, it doesn't matter what the supporters of the bill said; it only mattered what the legislature itself said in the language of the amendment.

The West Virginia Supreme Court accepted the arguments presented by the challengers, and held that a "constitutional amendment will supersede any inconsistent portions of antecedent constitutional or statutory provisions, as 'the latest expression of the will of the people.'"<sup>21</sup> The court rejected the position taken by the state that "West Virginia's licensing statute evinces an intent to control, but not prohibit, carrying weapons, such as handguns, which are both easily concealable and deadly."<sup>22</sup>

---

<sup>21</sup>Princeton v. Buckner, at page 10.

<sup>22</sup>Brief of Petitioner State of West Virginia, at 15.

On December 20, 1988, the West Virginia Supreme Court reaffirmed its holding that the statute was unconstitutional. The opinion did not isolate the specific provisions of this statute, or the related licensing requirements, which rendered the statute violative of the right to keep and bear arms amendment. Instead, the court declared that the prohibition against carrying a dangerous or deadly weapon for defensive purposes without a license or other statutory authorization was overly broad.

c. Current Status of West Virginia Gun Law

Similar to the current situation in Alaska where the legislature is trying to pass a constitutional statute prohibiting people from possessing marijuana in their homes, the West Virginia legislature is now working on developing a constitutional statute relating to the carrying of deadly and dangerous weapons.<sup>23</sup> In the meantime, unless a person commits a separate criminal offense with a firearm, West Virginia law enforcement authorities are prohibited from arresting persons for, or protecting persons from, carrying concealed weapons, regardless of whether the offender is carrying the weapon for defensive or other purposes. (Source--West Virginia Department of Public Safety)<sup>24</sup>

---

Although the court acknowledged that the legislature "may, through the valid exercise of its police power, reasonably regulate the right of a person to keep and bear arms in order to promote the health, safety and welfare of all citizens of this State, provided that the restrictions or regulations imposed do not frustrate the constitutional freedoms guaranteed by...the Right to Keep and Bear Arms Amendment," the court recognized that each statute regulating firearms would need to be evaluated in light of the new constitutional provisions. The court cautioned that "a governmental purpose to control or prohibit certain activities, which may be constitutionally subject to state regulation under the police power, may not be achieved by means which sweep unnecessarily broadly and thereby invade the realm of protected freedoms, such as the right to keep and bear arms guaranteed by our State Constitution." (emphasis added)

<sup>23</sup>Telephone conversation, Steve Hernden, West Virginia Assistant Attorney General.

<sup>24</sup>Petition for Reconsideration of Remedy filed by the State of West Virginia at pages 1-2.

4. The Proposed Alaska Amendment

The proposed amendment to the Alaska constitution states that "The individual right to keep and bear arms shall not be denied or infringed by the state or a political subdivision of the state."

The first and most significant effect of the constitutional amendment proposed in SJR4 is to limit the legislative authority to regulate the right to bear arms. The amendment takes authority away from the people's elected representatives as to what policies the state will follow concerning the right to keep and bear arms and, shifts to the courts the ultimate authority to decide state policy through the uncertain course of constitutional interpretation.

The sweeping but ambiguous language of the proposed amendment means that, if passed, it can be expected to trigger a great deal of litigation in a number of different contexts. If the courts were to construe the amendment in a fashion that the Legislature felt was harmful to the public interest, the only way that the law could be changed, without inducing the court to change its own position, would be through another constitutional amendment. Thus, the amendment would give the courts a much greater role in interpreting the regulatory authority of the Legislature than it has at present.

As discussed above, relying on legal precedents from the courts of other states to predict what the Alaska court may decide under the proposed amendment is fraught with difficulty. Although proponents of amending Alaska's constitution argue that at least 42 states have constitutional provisions guaranteeing a right to bear arms, and that all firearms laws have been upheld in every state, this assertion is incorrect and misleading, as discussed below.

Most constitutional provisions enacted by other states differ from SJR4 because they either define the circumstances in which the constitutional right applies, or they expressly recognize that the constitutional provision is subject to legislative regulation.<sup>25</sup> Only Rhode Island has a constitutional provision, like SJR4, that grants an apparently unfettered right to keep and bear arms.<sup>26</sup>

Each of the 50 state supreme courts interpret its own constitutional provisions consistent with the legal precedents of that state. Decisions made by courts of sister states may be

---

<sup>25</sup>See R. Dowlut & J. Knoop, "State Constitutions and the Right to Keep and Bear Arms," 7 Okla. City U.L. Rev. 177, 236-240 (1982).

<sup>26</sup>We have been unable to find any cases in which the Rhode Island Supreme Court has directly interpreted this constitutional provision.

informative, yet are not persuasive or conclusive authority from which one can predict the result in a different jurisdiction. For example, the West Virginia court struck down its licensing statute after considering and rejecting an Indiana Supreme Court decision that reached the opposition conclusion.<sup>27</sup> In the Indiana decision, the dissent noted that "The decisions from other jurisdictions are not uniform on the right to keep and bear arms any more than the constitutional provisions are stated in the same language."

---

<sup>27</sup>An Indiana statute which imposed licensing requirements on handguns similar to those of West Virginia was addressed in Matthews v State, 148 N.E. 2d 334 (1958). As in West Virginia, the Indiana statute placed no restrictions on possessing or carrying a weapon on one's own premises, but to carry a gun elsewhere required a license conditioned on a showing that, among other things, "the applicant has a proper reason for carrying a pistol and is of good character and reputation and a suitable person to be so licensed." 148 N.E.2d at 336. The Indiana constitution provided that "the people shall have a right to bear arms, for the defense of themselves and the State." The Matthews court affirmed the statute and held that the licensing statute was a legitimate exercise of the legislative power to provide for the public safety and welfare.

In a subsequent case, Schubert v. DeBard, 398 N.E.2d 1339 (Indiana App. 1980), the Indiana court relied on the constitutional right to bear arms provision in reversing the denial of a license to carry a handgun made by an applicant who claimed he needed a gun for self-defense. The authorities had denied the license after reviewing evidence showing that the applicant "was a 'chronic liar' suffering from a 'gigantic police complex.'" Evidence also showed that when the applicant had previously held a license, he "had carried and displayed his pistol at inappropriate times." Other witnesses testified that the applicant had "mental problems."

The Schubert court reiterated that establishing a licensing procedure for handguns is not violative of the constitution. However, the court ruled that once a person makes the claim that a gun is needed for self-defense, the constitutional right to bear arms provision prohibits authorities from withholding the license, or even making a factual determination as to whether the person actually needs a gun.

Since the analysis of each case turns on the precise wording of each constitutional provision, it is difficult to use the cases for purposes of comparison. For example, the court's reasons for upholding a challenged statute in State v. Grob, 690 P.2d 951 (Idaho App. 1984) are illustrative of the limited precedential value out-of-state decisions would have in Alaska. In this case, the defendant argued that a statute providing a mandatory sentence for using a firearm while engaged in kidnapping or aggravated battery violated his constitutional right to bear arms. Since Idaho's constitutional right to bear arms provision was amended in 1978, the court looked to the language of both the pre-1978 and post-1978 constitutions. The court found that the statute was constitutional under the pre-1978 language because the provision specifically stated "the legislature shall regulate the exercise of this right by law." Similarly, the statute was found to be constitutional under the post-1978 language based on the specific authorization given the legislature to prescribe "minimum sentences for crimes committed while in possession of a firearm" and to punish the unlawful "use of a firearm."<sup>28</sup>

5. The Risk to Specific Alaska Statutes

a. Constitutionality of Concealed Weapons Statutes

Despite the assertions of supporters of this amendment, it is by no means certain that a new right to bear arms amendment

---

<sup>28</sup>State v. Grob, 690 P.2d 951, 953-54 (Idaho App. 1984)

would leave current Alaska statutes prohibiting the carrying of concealed weapons untouched. If the Alaska courts interpreted the amendment to permit the carrying of concealed weapons, AS 11.61.220(a)(1) would be unconstitutional. On the other hand, it cannot be said that the Alaska Supreme Court would hold that this was an area beyond legislative regulation. The matter is simply uncertain.

An article published by Robert Dowlut, General Counsel for the National Rifle Association,<sup>29</sup> gives rise to concern about the constitutionality of an Anchorage municipal ordinance, if the proposed amendment to the Alaska constitution were approved. Dowlut asserts that the right to keep and bear arms includes the right to carry weapons in private vehicles,<sup>30</sup> something which is now prohibited by Anchorage Municipal Code 8.05.070(A), as interpreted in Municipality of Anchorage v. Lloyd, 679 P.2d 486 (Alaska App. 1984).<sup>31</sup>

---

<sup>29</sup>Dowlut & Knoop, "State Constitutions and the Right to Keep and Bear Arms," 7 Oklahoma City University Law Review 177 (1982).

<sup>30</sup>Id. at 220.

<sup>31</sup>Support for amending Alaska's constitutional right to bear arms provision has been predicated on an unwarranted assumption that the amendment will not have an effect on existing state or municipal laws. For example, Resolution No. AR 87-238, dated September 29, 1987 and passed by the Anchorage Assembly, included the bald assertion that the amendment "will not invalidate existing municipal public safety measures regulating the use and possession of firearms."

In the document entitled "Analysis of Proposed Alaska Constitutional Guarantee to Keep and Bear Arms," which was written by Dowlut and provided to members of the Senate Judiciary Committee, the assertion is made that "concealed carrying statutes ... are routinely upheld." A review of the cases cited in support of this proposition highlights the problems involved in relying on judicial decisions in jurisdictions outside the state of Alaska to predict how our court would interpret the proposed constitutional amendment.

For example, Dowlut cites Holland v. Commonwealth, 294 S.W.2d 83 (Ky. 1956) as standing for the proposition that concealed weapons statutes are constitutional despite the broadly drafted language of SJR4. However, a review of the case shows that the Kentucky constitution explicitly declares that the right to bear arms is "subject to the power of the General Assembly to enact laws to prevent persons from carrying concealed weapons," a phrase not included SJR4. The court upheld the concealed weapons statute because it found that "the meaning of the constitutional provision is plain and the legislature has exercised the power granted to it by enacting [the concealed weapons statute]." Id. at 85.

Similarly, Dowlut claims that State v. Kessler, 614 P.2d 94, 99 (Oregon 1980) is another case in which a concealed weapons statute was "routinely upheld." In fact, the court in Kessler

struck down a statute that prohibited possessing billy clubs. Despite Dowlut's claim, the court did not address the constitutionality of concealed weapons laws, although it noted in passing that the court in State v. Hart, 157 P.2d 72 (Idaho 1945) upheld a concealed weapons statute.

In Hart the Idaho court specifically based its decision to uphold the ordinance on the language of Idaho's constitutional right to bear arms provision. At the time Hart was decided, the Idaho constitution stated "The people have the right to bear arms for their security and defense; but the legislature shall regulate the exercise of this right by law."

The final case cited by Dowlut to support his claim that Alaska's courts will uphold concealed weapons statutes is State v. McAdams, 714 P.2d 1236 (Wyo. 1986). However, once again, the constitutional provision that was analyzed in McAdams is significantly narrower than the proposed amendment contained in SJR4. The Wyoming constitution provides, "The right of citizens to bear arms in defense of themselves and of the state shall not be denied." The court upheld the concealed weapons statute because it did not believe that the law placed unnecessary restraints on the right to possess arms for self defense: "We are cognizant of the fact that our concealed deadly weapons statute imposes some limitation on a person's right to bear arms in defense of himself;

but, when balanced against the object of the statute, we do not find the limitation unreasonable." Id. at 1238.

b. Constitutionality of Felon in Possession Statutes

It is also by no means certain that the Alaska Supreme Court would uphold current laws controlling or prohibiting convicted felons from owning or possessing weapons if SJR4 were adopted. Felons convicted of bootlegging or drug dealing would be allowed to possess firearms with impunity if the opinion expressed by the General Counsel of the National Rifle Association, and discussed below, were adopted in this state. Moreover, the Colorado Supreme Court has interpreted its constitutional right to bear arms as providing a defense to the charge of felon in possession. If the Alaska courts reached a similar interpretation, the ability to prosecute felons for possessing firearms would certainly be impaired.

The supporters of SJR4 have provided you with the "Analysis of Proposed Alaska Constitutional Guarantee to Keep and Bear Arms" which implies that Alaska's felon in possession statute would withstand constitutional scrutiny. However, Robert Dowlut, General Counsel for the National Rifle Association, has previously published contrary statements. In a law review article, he stated, "To prevent the people from being disarmed by the expedient of classifying regulatory offenses as felonies, the disqualification

for felons should be restricted to common law felonies and their modern equivalents and to offenses requiring some state of mind above strict liability which are inherently inimical to life and property."<sup>32</sup> (emphasis added). Thus, under Dowlut's view, felons charged with drug dealing and bootlegging, which are not "common law felonies," could legally carry weapons.

Under current AS 11.61.200, all persons convicted of any felony are prohibited from possessing a firearm capable of being concealed on the person, and this law applies to persons convicted of regulatory offenses such as bootlegging and drug dealing, as well as the common law felonies such as murder, assault or kidnapping. If Dowlut's interpretation were adopted, Alaska's statute would be overbroad, and struck down as unconstitutional.

A conviction for being a felon in possession of a firearm was reversed by the Colorado Supreme Court in People v. Ford, 568 P.2d 26 (Colorado 1977), based on the "right to bear arms" provision of the Colorado Constitution. The court held that the constitutional protection extends to a defendant "who presents competent evidence showing that his purpose in possessing weapons was the defense of his home, person, and property" and that this type of evidence provides a complete defense to a felon-in-

---

<sup>32</sup>Dowlut & Knoop at 192.

possession charge.<sup>33</sup> Once the defendant has raised the issue as a defense, the prosecution must prove, beyond a reasonable doubt, that the defendant's purpose in possessing firearms was not for defense. Thus, unless the felon is committing a crime with the gun, it is virtually impossible to prove that the weapon was not for "defense." As a practical matter, the teeth have been taken out of the law because of the problems of proving that a felon in possession of a gun at the felon's home, on the felon's person, or on the felon's property is using it other than for defense.

As with the concealed weapons statutes, there are problems in relying on the judicial decisions of other states in reaching the conclusion that Alaska's statute would withstand constitutional scrutiny. For example, in the North Dakota case distributed to the Senate Judiciary Committee, State v. Ricehill<sup>34</sup>, the statute only prohibited persons "convicted anywhere for a felony involving violence or intimidation" from owning firearms. Unlike current Alaska law, North Dakota's narrower felon in possession statute would fall within the category of felon in possession statutes that Dowlut considers to be constitutional, in

---

<sup>33</sup>The court noted at page 28 that this affirmative defense is available in cases involving the charge of carrying a concealed weapon.

<sup>34</sup>415 N.W.2d 481 (N.D. 1987).

that it only prohibits felons convicted of common law felonies from having firearms.<sup>35</sup>

Other state courts have upheld felon in possession statutes based on express constitutional language that preserved the right of the legislature to regulate arms. In Landers v. State, 299 S.E 2d 707 (Ga. 1983), the court affirmed the conviction of a felon charged with possessing a firearm, and held "Where a State constitution in terms provides, in connection with the right to bear arms, that the State may regulate this right, or may regulate the manner of bearing arms, these words expressly

---

<sup>35</sup>See also, Dickerson v. State, 517 So.2d 625 (Ala. Cr. App. 1986), Bristow v. State, 418 So.2d 927 (Ala. Cr. App. 1982) and Mason v. State, 103 So.2d 337 (Ala.App. (1956), aff'd 103 So.2d 341 (1958) (Statute prohibited "a person who has been convicted of a crime of violence from owning or possessing a pistol); State v. Krantz, 164 P.2d 453 (Wash. 1945) and State v. Tully, 89 P.2d 517 (Wash. 1939) (Statute prohibited possession of a firearm after having been convicted of a crime of violence); Carfield v. State, 649 P.2d 865 (Wyo. 1982) (Statute prohibited persons convicted of "murder, voluntary manslaughter, assault to commit murder, aggravated assault, robbery, burglary or sexual assault in the first or second degree, or mayhem" to possess any firearms.); State v. Noel, 414 P.2d 162 (Ariz. 1966) and State v. Rascon, 519 P.2d 37 (Ariz. 1974) (Statute prohibited any person convicted of a crime of violence from possessing a pistol); Sheppard v. State, 586 S.W.2d 500 (Tex. Crim. App. 1979), McGuire v. State, 537 S.W.2d 26 (Tex. Cr. App. 1976) and Webb v. State, 439 S.W.2d 342 (Tex. Cr. App. 1969) (Statute prohibited persons convicted of "a felony involving an act of violence or threatened violence to a person or property" from possessing firearms "away from the premises where he lives."); State v. Cartwright, 418 P.2d 822 (Ore. 1966) (Statute prohibited possession where convicted of "a felony against the person or property of another."

recognize the police power in direct connection with the constitutional declaration as to the right."<sup>36</sup>

Similarly, in Nelson v. State, 195 So. 2d 853 (Fla. 1967), the conviction for possession of a pistol by a defendant who had previously been convicted of a felony was upheld. Although the statute applied to persons convicted of all felonies, Florida's constitutional provision said "The right of the people to keep and bear arms in defense of themselves and of the lawful authority of the state shall not be infringed, except that the manner of bearing arms may be regulated by law."

The court in Amos v. State, 343 So.2d 166 (La. 1977) upheld charges for felon in possession of a firearm because the "purpose [of the statute] is to limit the possession of firearms by person who, by their past commission of certain specified serious felonies, have demonstrated a dangerous disregard for the law and present a potential threat of further or future criminal activity." However, two justices of the Louisiana Supreme Court dissented from the opinion, believing that the statute impermissibly infringed on the right to bear arms.

---

<sup>36</sup>Georgia's constitution states "The right of the people to keep and bear arms shall not be infringed but the General Assembly shall have power to prescribe the manner in which arms may be borne."

The reasoning of the two dissenting justices in Amos is important, since if this position were adopted in Alaska, AS 11.61.200 would be struck down. The dissenters stated that the felon in possession statute "impermissibly limits the affirmative constitutional guarantee and as such is not a valid exercise of the police power." The dissenters looked at other state decisions upholding felon in possession laws and concluded "These states, however, have constitutional provisions different from ours. Every one of these constitutions link the right to bear arms to the need for a militia. Unlike these provisions, the Louisiana Constitution of 1974 expressly grants to each citizen the 'right to keep and bear arms,' a right which 'no law' shall abridge. This constitutional guarantee is not limited by linking it to a militia or a defense for the people as a whole. It is limited only by one state exception: the legislature has the authority to prohibit the concealment of weapons on the person. Otherwise, the legislature lacks the authority to nullify the right of Louisiana citizens to keep and bear arms."

An analysis of the effect the proposed right to bear arms amendment will have on the state's felon in possession statute must be undertaken with both the right to privacy and the Alaska Supreme Court's expansive equal protection standard in mind. Alaska law prohibits all felons, including persons convicted of non-violent felonies such as embezzlement and certain sex offenses, from

possessing firearms. If SJR4 were adopted, the court would require the state to prove that the law is based on a compelling state interest. In relation to non-violent felons, it is not unlikely that the state would be unable to meet the burden of proving it had a compelling state interest in prohibiting the possession of firearms by non-violent felons.

c. Constitutionality of Prohibited Weapons Statutes

The possession of certain classes of weapons is prohibited in Alaska.<sup>37</sup> Included in the category of prohibited weapons are switchblades, gravity knives, and metal knuckles. Under SJR4, this law would be unconstitutional, if the court in this state accepted the analysis of the Oregon Supreme Court in State v. Delgado, 692 P.2d 610 (Ore. 1984); State v. Blocker, 630 P.2d 824 (Ore. 1981); and State v. Kessler, 614 P.2d 94 (Ore. 1980).

In Delgado, the Oregon court held that a statute prohibiting mere possession of a switchblade was unconstitutional under the right to bear arms provision of the Oregon constitution.<sup>38</sup> The court first determined that the drafters of Oregon's constitution "intended that the private citizen have the

---

<sup>37</sup>AS 11.61.200(e).

<sup>38</sup>Article I, section 27, of the Oregon Constitution provides: "The people shall have the right to bear arms for the defence of themselves, and the State..."

right to possess arms for the defense of person and property."<sup>39</sup> Next, the court reasoned that switchblades were arms, and as a result, possession of a switchblade is a constitutionally protected in Oregon and the statute making such possession a crime is unconstitutional.

d. Constitutionality of Game Regulations

Alaska's regulatory scheme relating to the lawful methods of taking game is potentially at risk if the proposed amendment is adopted.<sup>40</sup> Since each of the game regulations infringes on the right to bear a particular type of arm, in order for the regulation to withstand constitutional scrutiny, the state would need to prove that it had a compelling state interest for adopting the regulation.

For example, under 5 AAC 92.100(a)(1), it is illegal to shoot waterfowl with a rifle or pistol. The purpose of the regulation is to make hunting waterfowl less efficient, and more

---

<sup>39</sup>Delgado at 611.

<sup>40</sup>5 AAC 92.075 (the permissible weapons for taking big game are a shotgun, a muzzle-loading rifle, or a rifle or pistol using a center-firing cartridge); 5 AAC 92.080 (it is prohibited to take game with the use or aid of a machine gun, set gun, or a shotgun larger than 10 gauge); and 5 AAC 92.100 (it is prohibited to take waterfowl, snipe and cranes with a rifle or pistol, a shotgun larger than 10 gauge, or a shotgun not plugged to a three shell capacity).

sporting.<sup>41</sup> However, many biologists have argued that the regulation is unnecessary as it doesn't matter how a bird is killed, it only matters how many animals are shot, and whether the appropriate bag limit was exceeded.<sup>42</sup> In the face of this type of expert testimony, it is not unlikely that a court would strike down 5 AAC 92.100(a)(1) as an infringement of the right to bear arms.

6. The Legislature Should Affirmatively State Its Intent

The State, through exercise of its police power, is vested with the authority to enact laws, within constitutional limits, to promote the general welfare of its citizenry. The Alaska Supreme Court examined the state's police power in light of express constitutional limitations on regulatory authority in Matthews v. Quinton.<sup>43</sup> In this case, the court analyzed whether a statute providing for the transportation of children to nonpublic schools at public expense was in contravention of a constitutional prohibition against the appropriation of public funds for the support of private schools. Since the statute had been on the books before the constitutional provision was adopted, the court

---

<sup>41</sup>Telephone conversation with James Sheridan, Assistant Special Agent in Charge, Law Enforcement, Alaska Region, United States Fish and Wildlife Service.

<sup>42</sup>Id.

<sup>43</sup>362 P.2d 932, app. dism., cert. den. 82 S.Ct. 530, 368 U.S. 517, 7 L.Ed.2d 522 (Alaska 1961)

considered the effect of subsequently adopted constitutional provisions on existing statutes.

The court concluded that for a constitutional provision to operate retrospectively to validate antecedent legislation in the face of claimed unconstitutionality, "the validating constitutional provision must make some reference, however slight or inferential, to the statute intended to be validated." The statute authorizing transportation of private school pupils was declared void because the newly adopted constitutional provision did "not show by the language used, either directly or by necessary implication, that it was intended to operate retrospectively so as to validate [the statute]." Id. at 939.

Whether the statute was a valid exercise of the police power of the state was also considered in Matthews. The court noted that "the police power -- broad and comprehensive though it is -- may not be exercised in contravention of plain and unambiguous constitutional inhibitions." Although the state has "inherent and reserved police power to enact laws to promote the safety, health and general welfare of society," the court emphasized that "this power must be exercised within constitutional limits." Id. at 944.

During the Fourteenth and Fifteenth Legislatures, versions of the right to bear arms amendment contained a general statement of "legislative intent" indicating that the constitutional amendment, if adopted, "should not be construed to preclude the regulation of the manner in which arms may be borne, carried, or used." We are concerned that this indirect statement of legislative intent will not be effective to preserve the present power to reasonably regulate the possession and use of weapons.

As a general rule, a statute or constitutional provision will be interpreted according to the plain meaning of the language on its face. If the intent behind the adoption of the amendment were to later become an issue, it is the intent of the voters who adopted the measure that will be relevant, rather than the intent of the legislators who drafted it. Although last session's resolution directed the Legislative Affairs Agency to consider the stated "legislative intent" when preparing its neutral summary for the election pamphlet, the intent language would not appear on the ballot itself, and might not be contained verbatim in the election pamphlet. See art. XIII, sec. 1 of the Alaska Constitution and AS 15.58.010.

#### Conclusion

It is our belief that the present provision of the Alaska constitution and the traditional restraint of the legislature in

regulating firearms adequately protect the right to bear arms. However, if the legislature believes this issue should be placed before the people in the form of a constitutional amendment, that amendment should be drafted to explicitly recognize the legislature's regulatory authority with regard to arms.

Both legal principles and common sense dictate that a well-drafted statute or constitutional provision should reduce uncertainty and disputes about interpretation. Statements of "legislative intent" are not an adequate substitute for clear, unambiguous language in the proposed constitutional amendment. A more precisely drafted amendment would minimize the possibility that a criminal defendant would later be able to successfully convince a court, as has been done in other that states, that a statute, regulation, or ordinance is unconstitutional.

As alternatives to SJR4, we suggest language such as:

The individual right to keep and bear arms shall not be denied or infringed by the state or a political subdivision of the state, except that the state or a political subdivision of the state may regulate the manner in which arms may be kept, borne, or used.

or

The individual right to keep and bear arms shall not be denied or infringed by the state or a political subdivision of the state, except that the exercise of this right may be regulated by law.

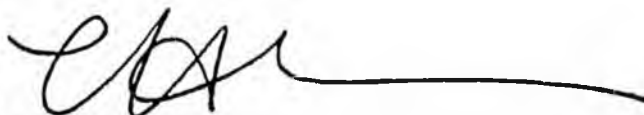
The Honorable Jan Faiks  
SJR4 - Right to Keep and Bear Arms

January 29, 1989  
Page 38

We appreciate your consideration of our comments, and trust that we can work together to accomplish your goals in a way that does not detrimentally affect our ability to prosecute activities that we all agree should be against the law.

Respectfully submitted,

GRACE BERG SCHAIBLE  
ATTORNEY GENERAL

By:   
Laurie H. Otto  
Assistant Attorney General

cc: The Honorable Pat Rodey  
The Honorable Peter Goll  
The Honorable Max Gruenberg  
The Honorable Dave Donley  
Grace Berg Schaible  
Bob Evans

# Alaska Association Chiefs of Police

MICHAEL L. DAUGHERTY, PRESIDENT  
4060 HEATH STREET, HOMER, ALASKA 99603



January 16, 1989

DEPARTMENT OF PUBLIC SAFETY  
COMMISSIONER'S OFFICE  
Juneau, Alaska

JAN 17 1989

Senator Jan Faika, Chairman  
Senate Judiciary Committee  
PO Box V, Mail Stop 3100  
Juneau, AK 99811

RE: S. J. R. #4

Dear Senator Faika;

The Alaska Association of Chiefs of Police is opposed to Senate Joint Resolution #4. We are concerned that shifting the existing constitutional collective right to bear arms to an undeniable, unfringable individual right will place our existing weapon laws in jeopardy. This amendment could ultimately extend an individual constitutional guarantee to convicted felons, the mentally deranged or otherwise incompetent persons to possess firearms.

The issues of concealed weapons and prohibited weapons has not been adequately addressed. It is virtually impossible to accurately predict how the courts will interpret the intent of this amendment when these issues are raised, and we can rest assured they will be. We simply do not need more litigation in this area.

By no means is our association an anti-gun group, but we believe in and advocate responsible use, possession, and ownership of firearms. The existing law adequately protects the good citizens of Alaska.

We request that this position be made part of the record in front of your committee.

Respectfully,

A handwritten signature in cursive script that reads "Michael L. Daugherty".

Michael L. Daugherty  
President

MLD/dla



ALASKA CHAPTER  
NATIONAL ASSOCIATION OF  
SOCIAL WORKERS

8923 Tanis Drive  
Juneau, Alaska 99801  
(907) 789-7099

Executive Director  
William Diebels, ACSW

January 31, 1989

The Honorable Jan Faiks, Chair  
Senate Judiciary Committee  
P. O. Box Y  
Juneau, AK 99811

Re: S.J.R. 4

Dear Senator Faiks:

The Alaska Chapter of the National Association of Social Workers is opposed to Senate Joint Resolution 4. We believe that to delete the provisions in the existing constitution that give the state the right to regulate the use and possession of firearms would create serious problems in a state that already has such high rates of violent deaths and accidents which are caused by firearms.

The National Association of Social Workers represents more than 300 professional social workers throughout the state. As a group working daily with a wide range of social problems, we urge you to consider the potential negative effects of this proposed Constitutional amendment.

Our organization is not opposed to the responsible use of firearms for hunting or sport. However, we believe that it is in the best interests of all the citizens of Alaska that the state retain the power to regulate the purchase and possession of weapons. If this amendment were to pass, the state could not prohibit convicted felons and mentally deranged individuals from purchasing and possessing weapons.

We do not believe there is a need to change the existing provision in the Constitution. However, if S. J. R. 4 is adopted, we strongly urge that you add a clause to the amendment that will allow the state to continue to regulate the use of firearms, such as "except that this right may be regulated by state law or municipal ordinance".

Sincerely,

Alaska Chapter  
National Association of Social Workers

BOARD OF DIRECTORS

PRESIDENT—1990  
Cheryl Mann, ACSW  
Anchorage

VICE—PRESIDENT—1990  
Cecelia Esparza, ACSW  
Kodiak

SECRETARY—1990  
Diane DiSanto, BSW  
Anchorage

TREASURER—1990  
Theresa Givoda, ACSW  
Chugiak

PAST—PRESIDENT—1989  
Yvonne Chase, ACSW  
Juneau

NORTHERN REPRESENTATIVE—1989  
Sharon Bullock, MSW  
Fairbanks

SOUTHCENTRAL REPRESENTATIVE—1989  
Jan MacCarrance, ACSW  
Anchorage

SOUTHCENTRAL REPRESENTATIVE—1990  
Ken Fallon, ACSW  
Palmer

SOUTHEASTERN REPRESENTATIVE—1990  
Nina Kinney, MSW  
Juneau

WESTERN REPRESENTATIVE—1990  
Nan Bayov, ACSW  
Bethel

AT-LARGE REPRESENTATIVE—1990  
Carol Bartz, ACSW  
Homer

STUDENT REPRESENTATIVE—1990  
Colleen Boyd  
Anchorage

# Nebraskans Vote For Firearm Right

A state question to amend Nebraska's constitution to include the guaranteed right to keep and bear arms gained voter approval by a margin of 65 to 35%. Nebraska is the

43rd state to adopt such a measure. Six others have done so this decade.

The week before the vote, members of Nebraska Sportsmen's Rights Committee (NSRC), headed by NRA Director Dr. James Carlson, and NRA officials toured the state, speaking to hunting and shooting clubs, along with the news media. As on previous visits, the warm reception told organizers to expect the best on election day. But they

weren't sure the strong support in the western two-thirds of the state would carry over into the east, especially in Omaha.

NSRC Chairman Carlson said the question carried in all 93 counties in the state. He is not surprised by the firearms mandate from citizens.

The Nebraska vote means local ordinances, more restrictive than the state law, will be preempted. ■

## Financial Supporters Of The Maryland Handgun Ban

NATIONAL gun prohibition groups, Maryland businesses, and political organizations put their financial muscle against Maryland firearms owners who sought to overturn the Maryland handgun ban by referendum in the November election. According to the October 1988 filing to the Maryland State Administrative Board of Elections, the "Citizens for Eliminating Saturday Night Specials," which opposed the private ownership of handguns in Maryland, listed the following businesses and groups as donors to their anti-gun campaign:

### SERVICE CONTRIBUTORS:

Baltimore's Child Magazine Baltimore (\$160.00)	The Commercial Refinery Baltimore (\$78.75)
Ed Early Printing Co. Baltimore (\$120.00)	Producer's Video Corp. Baltimore (\$1,026.50)
Farrar Network Baltimore (\$1,150.00)	Winston Network, Inc. Baltimore (\$10,640.00) (Donation made at request of the Maryland Transit Authority)
National Coalition To Ban Handguns Washington, D.C. (\$4,375.00)	

### FINANCIAL CONTRIBUTORS:

Adell Plastics, Inc. Baltimore (\$500.00)	Eleanor & Franklin Roosevelt Democratic Club Bowie (\$200.00)	Laurel Racing Ass'n Laurel (\$10,000.00)	Poor, Bowen, Barlett, Kennedy Baltimore (\$100.00)
American Ambulance & Oxygen Service Baltimore (\$5,000.00)	Environmental Elements Corp. Baltimore (\$100.00)	Laurel Sand & Gravel, Inc. Laurel (\$5,000.00)	Prem & Dumier Baltimore (\$50.00)
American Bank Stationery Co. Baltimore (\$1,000.00)	Equitable Bank National Ass'n Baltimore (\$10,000.00)	Legum Chevrolet-Nissan Baltimore (\$1,000.00)	Quille-Crown Parking, PMC Management MD, Inc. Baltimore (\$500.00)
American Trading & Production Corp. Baltimore (\$5,000.00)	Fairbrook Park Apartments Baltimore (\$100.00)	Levan, Schimel, Richman & Belman Columbia (\$100.00)	Quille's Parking Co. No. 4 Baltimore (\$500.00)
Americans for Democratic Action Washington, D.C. (\$100.00)	Fidelity & Deposit Co. Baltimore (\$1,000.00)	Louis J. Grasmick Lumber Co., Inc. Baltimore (\$1,000.00)	RCM & D Baltimore (\$250.00)
Automatic Rolls, Inc. Baltimore (\$2,500.00)	First National Bank of Maryland Baltimore (\$10,000.00)	Loyola Federal Savings & Loan Baltimore (\$1,000.00)	Redwood Tower Associates Baltimore (\$100.00)
Baltimore Annual Conference United Methodist Church Baltimore (\$1,800.00)	Genstar Stone Products Co. Hunt Valley (\$5,000.00)	Macks & Macks, Inc. Baltimore (\$1,000.00)	Ritz Camera Centers, Inc. Beltsville (\$50.00)
Baltimore Equitable Society Baltimore (\$5,000.00)	Group Dental Service North Bethesda (\$300.00)	Manekin Corp. Baltimore (\$1,000.00)	Rummel, Klepper & Kahl Eng. Baltimore (\$1,000.00)
Baltimore Gas & Electric Baltimore (\$15,000.00)	Handgun Control, Inc. Washington, D.C. (\$60,000.00)	Mars Super Markets, Inc. Baltimore (\$200.00)	R.E. Michel Co., Inc. Glen Burnie (\$7,000.00)
Bereano & Resnick, P.A. (Law Offices) Annapolis (\$9,000.00)	Hechinger Landover (\$3,000.00)	Maryland Cab Ass'n Kensington (\$1,000.00)	Samuel Meisel & Co., Inc. Glen Burnie (\$100.00)
Britam Development Group, Inc. Columbia (\$100.00)	Hittman Materials & Medical Components, Inc. Columbia (\$250.00)	Maryland Legislative Black Caucus Landover (\$2,000.00)	Schulman & Treem, PA Baltimore (\$100.00)
Broadway-Payne, Inc. Baltimore (\$1,000.00)	Hylton & Gonzales Baltimore (\$400.00)	Maryland State Teachers Ass'n Baltimore (\$7,000.00)	Stone & Associates, Inc. Baltimore (\$250.00)
Chase Bank of Maryland Baltimore (\$1,000.00)	H&S Bakery, Inc. Baltimore (\$2,500.00)	Meridian Healthcare, Inc. Towson (\$1,250.00)	Sun Furniture, Inc. Forestville (\$25.00)
Cohen's Clothiers Cockeysville (\$25.00)	Inner City Realty Co. II Baltimore (\$150.00)	Meridian, Inc. Towson (\$3,750.00)	The Bank of Baltimore Baltimore (\$5,000.00)
Coles Colonial Limited Partners Baltimore (\$250.00)	Jonathan Melnick Auctioneers, Inc. Baltimore (\$1,000.00)	Micro Machining Baltimore (\$500.00)	Thomas Baines, Baines Construction Annapolis (\$20.00)
Concord Associates, Inc. Baltimore (\$100.00)	Kamanitz, Uhlfelder & Permisio Pikesville (\$500.00)	Noxell Corp. Hunt Valley (\$20,000.00)	Time Management Group Baltimore (\$15,000.00)
Crown Central Petroleum Baltimore (\$10,000.00)	Koren Furniture, Inc. Baltimore (\$15.00)	Number Ten Foundation, Inc. Baltimore (\$500.00)	T. Talbott & Ann Bond Ruxton (\$200.00)
Dachary and Partnership Baltimore (\$1,000.00)	Lakein Jewelry Co., Inc. Baltimore (\$50.00)	N. Hess' Sons, Inc. Baltimore (\$500.00)	United Methodist Mission Baltimore (\$1,600.00)
Dryden Baltimore (\$300.00)	Landow & Co. Bethesda (\$5,000.00)	Perini Construction Inc. Hagerstown (\$1,000.00)	White Ridgely & Associates, Inc. Towson (\$25.00)
Esner Baltimore (\$50.00)	Langenfelder & Son, Inc. Contractors Baltimore (\$500.00)	PHP Healthcare Corp. Alexandria, Va (\$1,000.00)	Whiting-Turner Contracting Baltimore (\$10,000.00)
		Pioneer City Realty Co. 1 Baltimore (\$150.00)	Windsor House Appts. Franklin Park Apt. Co. Baltimore (\$300.00)
		Pioneer City Realty Co. 3 Baltimore (\$300.00)	Woman's Suburban Democratic Club Bethesda (\$500.00)
		Piper & Marbury Baltimore (\$5,000.00)	

Amendment HJR 7

By Donley

line 16 after "state." add:

The use or possession of arms by individuals convicted of a crime and the carrying of weapons concealed on the person may be regulated by the legislature.

AMENDMENT

By Spohnholz

Suggested Language for HJR 7:

SECTION 19. RIGHT TO KEEP AND BEAR ARMS. The individual [A WELL-REGULATED MILITIA BEING NECESSARY TO THE SECURITY OF A FREE STATE, THE] right [OF THE PEOPLE] to keep and bear arms for lawful purposes shall not be denied or infringed, except that the manner of keeping and bearing arms may be regulated by law.

January 25, 1989

Mr. Richard Ross  
Chief of Police  
Kenai Police Department  
107 S. Willow St.  
Kenai, AK 99611

Dear Rick:

Thank you for your Public Opinion Message regarding House Joint Resolution 7, concerning the right to keep and bear arms. I have forwarded your request to Representative Red Boucher, who chairs the House State Affairs Committee, to which the resolution is currently assigned.

If you wish to contact Representative Boucher directly, his telephone number is 465-4931; his address is Box V, Juneau, 99801. Meanwhile, I will keep tabs on this resolution to ensure that it undergoes a legal review before it reaches the House floor.

Thank you for bringing this matter to my attention. I appreciate hearing from you.

Sincerely,

Mike Navarre  
Representative