



# ALASKA STATE LEGISLATURE LEGISLATIVE COUNCIL

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**COMMITTEE CONTACT:****Session/Interim:**

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**Committee Aide:**

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## *AGENDA*

**Date: March 10, 2020**

**Time: 9:00 – 11:00 am**

**Location: Senate Finance Room 532**

- I. Call to Order
- II. Ranked-Choice Voting Initiative Hearing per AS 24.05.186
  - a. Cori Mills, Department of Law
  - b. Megan Wallace and Noah Klein, Legislative Legal
  - c. Gail Fenumiai, Division of Elections
- III. Adjourn

## **ALASKA'S BETTER ELECTIONS INITIATIVE**

### **AN INITIATIVE TO:**

**PROHIBIT THE USE OF DARK MONEY BY INDEPENDENT EXPENDITURE GROUPS WORKING TO INFLUENCE CANDIDATE ELECTIONS IN ALASKA AND REQUIRE ADDITIONAL DISCLOSURES BY THESE GROUPS; ESTABLISH A NONPARTISAN AND OPEN TOP FOUR PRIMARY ELECTION SYSTEM; CHANGE APPOINTMENT PROCEDURES FOR CERTAIN ELECTION BOARDS AND WATCHERS AND THE ALASKA PUBLIC OFFICES COMMISSION; ESTABLISH A RANKED-CHOICE GENERAL ELECTION SYSTEM; SUPPORT AN AMENDMENT TO THE UNITED STATES CONSTITUTION TO ALLOW CITIZENS TO REGULATE MONEY IN ELECTIONS; REPEAL SPECIAL RUNOFF ELECTIONS; REQUIRE CERTAIN NOTICES IN ELECTION PAMPHLETS AND POLLING PLACES; AND AMEND THE DEFINITION OF POLITICAL PARTY.**

### **A BILL BY INITIATIVE For an Act Entitled**

**"An Act prohibiting the use of dark money by independent expenditure groups working to influence candidate elections in Alaska and requiring additional disclosures by these groups; establishing a nonpartisan and open top four primary election system for election to state executive and state and national legislative offices; changing appointment procedures relating to precinct watchers and members of precinct election boards, election district absentee and questioned ballot counting boards, and the Alaska Public Offices Commission; establishing a ranked-choice general election system; supporting an amendment to the United States Constitution to allow citizens to regulate money in Alaska elections; repealing the special runoff election for the office of United States Senator and United States Representative; requiring certain written notices to appear in election pamphlets and polling places; and amending the definition of 'political party'."**

### **BE IT ENACTED BY THE PEOPLE OF THE STATE OF ALASKA:**

**\*Section 1. The uncoded law of the State of Alaska is amended by adding a section to read: FINDINGS AND INTENT. The People of the State of Alaska find:**

- (1) It is in the public interest of Alaska to improve the electoral process by increasing transparency, participation, access, and choice.**
- (2) The people of Alaska hold that political power and influence should not be allocated based on wealth. Instead, reasonable limits on the role of money in elections are necessary to secure the equal rights of Alaskans and to protect the integrity of Alaska elections. Several rulings of the United States Supreme Court have erroneously changed the meaning of the First Amendment to the United States Constitution so as to empower unlimited spending as "free speech" without proper consideration of factors such as the danger of corruption and the undermining of self-governance in Alaska by the undue influence of wealth, including from outside the state. These mistaken Supreme Court decisions have invalidated longstanding anti-corruption laws in Alaska. Alaska shall now affirm the rights and powers of its citizens by prohibiting the use of**

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dark money in its candidate elections and by supporting an amendment to the United States Constitution allowing citizens to regulate the raising and spending of money in elections.

- (3) The people of Alaska have the right to know in a timely manner the source, quantity, timing, and nature of resources used to influence candidate elections in Alaska. This right requires the prompt, accessible, comprehensible, and public disclosure of the true and original sources of funds used to influence these elections, and is essential to the rights of free speech, assembly, and petition guaranteed by the First Amendment to the United States Constitution and shall be construed broadly.
- (4) It is in the public interest of Alaska to adopt a primary election system that is open and nonpartisan, which will generate more qualified and competitive candidates for elected office, boost voter turnout, better reflect the will of the electorate, reward cooperation, and reduce partisanship among elected officials.
- (5) It is in the public interest of Alaska to adopt a general election system that reflects the core democratic principle of majority rule. A ranked-choice voting system will help ensure that the values of elected officials more broadly reflect the values of the electorate, mitigate the likelihood that a candidate who is disapproved by a majority of voters will get elected, encourage candidates to appeal to a broader section of the electorate, allow Alaskans to vote for the candidates that most accurately reflect their values without risking the election of those candidates that least accurately reflect their values, encourage greater third-party and independent participation in elections, and provide a stronger mandate for winning candidates.

**\*Sec. 2.** AS 15.10.120(c) is amended to read:

(c) An election supervisor shall appoint one nominee of the political party or political group with the largest number of registered voters at the time of the preceding gubernatorial election [OF WHICH THE GOVERNOR IS A MEMBER] and one nominee of the political party or political group with [THAT RECEIVED] the second largest number of registered voters at the time of [VOTES STATEWIDE IN] the preceding gubernatorial election. However, the election supervisor may appoint a qualified person registered as a member of a third political party or political group or as a nonpartisan or undeclared voter if [IF] a party district committee or state party central committee of the party or group with the largest number of registered voters [OF WHICH THE GOVERNOR IS A MEMBER] or the party or group with [THAT RECEIVED] the second largest number of registered voters at the time of [VOTES STATEWIDE IN] the preceding gubernatorial election fails to present the names prescribed by (b) of this section by April 15 of a regular election year or at least 60 days before a special primary election [, THE ELECTION SUPERVISOR MAY APPOINT ANY QUALIFIED INDIVIDUAL REGISTERED TO VOTE].

**\*Sec. 3.** AS 15.10.170 is amended to read:

**Sec. 15.10.170. Appointment and privileges of watchers.** (a) The precinct party committee, where an organized precinct committee exists, or the party district committee where no organized precinct committee exists, or the state party chairperson where neither a precinct nor a party district committee exists, may appoint one or more persons as watchers in each precinct and counting center for any election. Each candidate [NOT REPRESENTING A POLITICAL PARTY] may appoint one or more watchers for each precinct or counting center in the

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candidate's respective district or the state for any election. Any organization or organized group that sponsors or opposes an initiative, referendum, or recall may have one or more persons as watchers at the polls and counting centers after first obtaining authorization from the director. A state party chairperson, a precinct party committee, a party district committee, or a candidate [NOT REPRESENTING A POLITICAL PARTY OR ORGANIZATION OR ORGANIZED GROUP] may not have more than one watcher on duty at a time in any precinct or counting center. A watcher must be a United States citizen. The watcher may be present at a position inside the place of voting or counting that affords a full view of all action of the election officials taken from the time the polls are opened until the ballots are finally counted and the results certified by the election board or the data processing review board. The election board or the data processing review board may require each watcher to present written proof showing appointment by the precinct party committee, the party district committee, the organization or organized group, or the candidate the watcher represents [THAT IS SIGNED BY THE CHAIRPERSON OF THE PRECINCT PARTY COMMITTEE, THE PARTY DISTRICT COMMITTEE, THE STATE PARTY CHAIRPERSON, THE ORGANIZATION OR ORGANIZED GROUP, OR THE CANDIDATE REPRESENTING NO PARTY].

(b) In addition to the watchers appointed under (a) of this section, in a primary election or [,] special primary election or special election under AS 15.40.140, [OR SPECIAL RUNOFF ELECTION UNDER AS 15.40.141,] each candidate may appoint one watcher in each precinct and counting center.

**\*Sec. 4.** AS 15.13.020(b) is amended to read:

(b) The governor shall appoint two members of each of the two political parties or political groups with the largest number of registered voters at the time of [WHOSE CANDIDATE FOR GOVERNOR RECEIVED THE HIGHEST NUMBER OF VOTES IN] the most recent preceding general election at which a governor was elected. The two appointees from each of these two parties or groups shall be chosen from a list of four names to be submitted by the central committee of each party or group.

**\*Sec. 5.** AS 15.13.020(d) is amended to read:

(d) Members of the commission serve staggered terms of five years, or until a successor is appointed and qualifies. The terms of no two members who are members of the same political party or political group may expire in consecutive years. A member may not serve more than one term. However, a person appointed to fill the unexpired term of a predecessor may be appointed to a successive full five-year term.

**\*Sec. 6.** AS 15.13.040(j)(3) is amended to read:

(3) for all contributions described in (2) of this subsection, the name, address, date, and amount contributed by each contributor, [AND] for all contributions described in (2) of this subsection in excess of \$250 in the aggregate during a calendar year, the principal occupation and employer of the contributor, and for all contributions described in (2) of this subsection in excess of \$2,000 in the aggregate during a calendar year, the true source of such contributions and all intermediaries, if any, who transferred such funds, and a certification from the treasurer that the report discloses all of the information required by this paragraph.

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**\*Sec. 7.** AS 15.13.040 is amended by adding a new subsection to read:

(s) Every individual, person, nongroup entity, or group that contributes more than \$2,000 in the aggregate in a calendar year to an entity that made one or more independent expenditures in one or more candidate elections in the previous election cycle, that is making one or more independent expenditures in one or more candidate elections in the current election cycle, or that the contributor knows or has reason to know is likely to make independent expenditures in one or more candidate elections in the current election cycle shall report making the contribution or contributions on a form prescribed by the commission not later than 24 hours after the contribution that requires the contributor to report under this subsection is made. The report must include the name, address, principal occupation, and employer of the individual filing the report and the amount of the contribution, as well as the total amount of contributions made to that entity by that individual, person, nongroup entity, or group during the calendar year. For purposes of this subsection, the reporting contributor is required to report and certify the true sources of the contribution, and intermediaries, if any, as defined by AS 15.13.400(18). This contributor is also required to provide the identity of the true source to the recipient of the contribution simultaneously with providing the contribution itself.

**\*Sec. 8.** AS 15.13.070 is amended by adding a new subsection to read:

(g) Where contributions are made to a joint campaign for governor and lieutenant governor,

- (1) An individual may contribute not more than \$1,000 per year; and
- (2) A group may contribute not more than \$2,000 per year.

**\*Sec. 9.** AS 15.13.074(b) is amended to read:

(b) A person or group may not make a contribution anonymously, using a fictitious name, or using the name of another. Individuals, persons, nongroup entities, or groups subject to AS 15.13.040(s) may not contribute or accept \$2,000 or more of dark money as that term is defined in AS 15.13.400(17), and may not make a contribution while acting as an intermediary without disclosing the true source of the contribution as defined in AS 15.13.400(18).

**\*Sec. 10.** AS 15.13.074(c) is amended to read:

- (c) A person or group may not make a contribution
- (1) to a candidate or an individual who files with the commission the document necessary to permit that individual to incur certain election-related expenses as authorized by AS 15.13.100 when the office is to be filled at a general election before the date that is 18 months before the general election;
  - (2) to a candidate or an individual who files with the commission the document necessary to permit that individual to incur certain election-related expenses as authorized by AS 15.13.100 for an office that is to be filled at a special election or municipal election before the date that is 18 months before the date of the regular municipal election or that is before the date of the proclamation of the special election at which the candidate or individual seeks election to public office; or
  - (3) to any candidate later than the 45th day

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(A) after the date of the primary or special primary election if the candidate was [ON THE BALLOT AND WAS] not chosen to appear on the general or special election ballot [NOMINATED] at the primary or special primary election; or

(B) after the date of the general or special election, or after the date of a municipal or municipal runoff election.

**\*Sec. 11.** AS 15.13.090(c) is amended to read:

(c) To satisfy the requirements of (a)(1) of this section and, if applicable, (a)(2)(C) of this section, a communication that includes a print or video component must have the following statement or statements placed in the communication so as to be easily discernible, and in a broadcast, cable, satellite, internet or other digital communication the statement must remain onscreen throughout the entirety of the communication; the second statement is not required if the person paying for the communication has no contributors or is a political party:

This communication was paid for by (person's name and city and state of principal place of business). The top contributors of (person's name) are (the name and city and state of residence or principal place of business, as applicable, of the largest contributors to the person under AS 15.13.090(a)(2)(C)).

**\*Sec. 12.** AS 15.13.090 is amended by adding a new subsection to read:

(g) To satisfy the requirements of (a)(1) of this section and, if applicable, (a)(2)(C) of this section, a communication paid for by an outside-funded entity as that term is defined in AS 15.13.400(19) that includes a print or video component must have the following statement placed in the communication so as to be easily discernible, and in a broadcast, cable, satellite, internet or other digital communication the statement must remain onscreen throughout the entirety of the communication; the statement is not required if the outside entity paying for the communication has no contributors or is a political party: "A MAJORITY OF CONTRIBUTIONS TO (OUTSIDE-FUNDED ENTITY'S NAME) CAME FROM OUTSIDE THE STATE OF ALASKA."

**\*Sec. 13.** AS 15.13.110(f) is amended to read:

(f) During the year in which the election is scheduled, each of the following shall file the campaign disclosure reports in the manner and at the times required by this section:

(1) a person who, under the regulations adopted by the commission to implement AS 15.13.100, indicates an intention to become a candidate for elective state executive or legislative office;

(2) [A PERSON WHO HAS FILED A NOMINATING PETITION UNDER AS 15.25.140 - 15.25.200 TO BECOME A CANDIDATE AT THE GENERAL ELECTION FOR ELECTIVE STATE EXECUTIVE OR LEGISLATIVE OFFICE;

(3)] a person who campaigns as a write-in candidate for elective state executive or legislative office at the general election; and

~~(3)~~ [(4)] a group or nongroup entity that receives contributions or makes expenditures on behalf of or in opposition to a person described in (1) or (2) [(1) - (3)] of this subsection, except as provided for certain independent expenditures by nongroup entities in AS 15.13.135(a).

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**\*Sec. 14.** AS 15.13.110 is amended by adding a new subsection to read:

(k) Once contributions from an individual, person, nongroup entity, or group to an entity that made one or more independent expenditures in one or more candidate elections in the previous election cycle, that is making one or more independent expenditures in one or more candidate elections in the current election cycle, or that the contributor knows or has reason to know is likely to make independent expenditures in one or more candidate elections in the current election cycle exceed \$2,000 in a single year, that entity shall report that contribution, and all subsequent contributions, not later than 24 hours after receipt. For purposes of this subsection, the entity is required to certify and report the true source, and all intermediaries if any, of the contribution as defined by AS 15.13.400(18).

**\*Sec. 15.** AS 15.13.390(a) is amended to read:

(1) A person who fails to register when required by AS 15.13.050(a) or who fails to file a properly completed and certified report within the time required by AS 15.13.040, 15.13.060(b) — (d), 15.13.110(a)(1), (3), or (4), (e), or (f) is subject to a civil penalty of not more than \$50 a day for each day the delinquency continues as determined by the commission subject to right of appeal to the superior court. A person who fails to file a properly completed and certified report within the time required by AS 15.13.110(a)(2) or 15.13.110(b) is subject to a civil penalty of not more than \$500 a day for each day the delinquency continues as determined by the commission subject to right of appeal to the superior court;

(2) A person who, whether as a contributor or intermediary, delays in reporting a contribution as required by AS 15.13.040(s) is subject to a civil penalty of not more than \$1,000 a day for each day the delinquency continues as determined by the commission subject to right of appeal to the superior court;

(3) A person who, whether as a contributor or intermediary, misreports or fails to disclose the true source of a contribution in violation of AS 15.13.040(s) or AS 15.13.074(b) is subject to a civil penalty of not more than the amount of the contribution that is the subject of the misreporting or failure to disclose. Upon a showing that the violation was intentional, a civil penalty of not more than three times the amount of the contribution in violation may be imposed. These penalties as determined by the commission are subject to right of appeal to the superior court;

(4) A person who violates a provision of this chapter, except [A PROVISION REQUIRING REGISTRATION OR FILING OF A REPORT WITHIN A TIME REQUIRED] as otherwise specified in this section, is subject to a civil penalty of not more than \$50 a day for each day the violation continues as determined by the commission, subject to right of appeal to the superior court[.];  
and

(5) An affidavit stating facts in mitigation may be submitted to the commission by a person against whom a civil penalty is assessed. However, the imposition of the penalties prescribed in this section or in AS 15.13.380 does not excuse that person from registering or filing reports required by this chapter.

**\*Sec. 16.** AS 15.13.400(4) is amended to read:

(4) "contribution"

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(A) means a purchase, payment, promise or obligation to pay, loan or loan guarantee, deposit or gift of money, goods, or services for which charge is ordinarily made, and includes the payment by a person other than a candidate or political party, or compensation for the personal services of another person, that is rendered to the candidate or political party, and that is made for the purpose of

- (i) influencing the nomination or election of a candidate;
- (ii) influencing a ballot proposition or question; or
- (iii) supporting or opposing an initiative proposal application filed with the lieutenant governor under AS 15.45.020;

(B) does not include

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a political party, candidate, or ballot proposition or question;

(ii) ordinary hospitality in a home;

(iii) two or fewer mass mailings before each election by each political party describing members of the party running as candidates for public office in that election [THE PARTY'S SLATE OF CANDIDATES FOR ELECTION], which may include photographs, biographies, and information about the [PARTY'S] candidates;

(iv) the results of a poll limited to issues and not mentioning any candidate, unless the poll was requested by or designed primarily to benefit the candidate;

(v) any communication in the form of a newsletter from a legislator to the legislator's constituents, except a communication expressly advocating the election or defeat of a candidate or a newsletter or material in a newsletter that is clearly only for the private benefit of a legislator or a legislative employee;

(vi) a fundraising list provided without compensation by one candidate or political party to a candidate or political party; or

(vii) an opportunity to participate in a candidate forum provided to a candidate without compensation to the candidate by another person and for which a candidate is not ordinarily charged;

**\*Sec. 17.** AS 15.13.400 is amended by adding a new paragraph to read:

(17) "dark money" means a contribution whose source or sources, whether from wages, investment income, inheritance, or revenue generated from selling goods or services, is not disclosed to the public. Notwithstanding the foregoing, to the extent a membership organization receives dues or contributions of less than \$2,000 per person per year, the organization itself shall be considered the true source.

**\*Sec. 18.** AS 15.13.400 is amended by adding a new paragraph to read:

(18) "true source" means the person or legal entity whose contribution is funded from wages, investment income, inheritance, or revenue generated from selling goods or services. A person or legal entity who derived funds via contributions, donations, dues, or gifts is not the true source, but rather an intermediary for the true source. Notwithstanding the foregoing, to



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the extent a membership organization receives dues or contributions of less than \$2,000 per person per year, the organization itself shall be considered the true source.

**\*Sec. 19.** AS 15.13.400 is amended by adding a new paragraph to read:

(19) "outside-funded entity" means an entity that makes one or more independent expenditures in one or more candidate elections and that, during the previous 12-month period, received more than 50 percent of its aggregate contributions from true sources, or their equivalents, who, at the time of the contribution, resided or had their principal place of business outside Alaska.

**\*Sec. 20.** AS 15.15 is amended by adding a new section to read:

**Sec. 15.15.005. Top four nonpartisan open primary.** A voter qualified under AS 15.05 may cast a vote for any candidate for each elective state executive and state and national legislative office, without limitations based on the political party or political group affiliation of either the voter or the candidate.

**\*Sec. 21.** AS 15.15.030(5) is amended to read:

(5) The names of the candidates [AND THEIR PARTY DESIGNATIONS] shall be placed in separate sections on the state general election ballot under the office designation to which they were nominated. If a candidate is registered as affiliated with a political party or political group, the [THE] party affiliation, if any, may [SHALL] be designated after the name of the candidate, upon request of the candidate. If a candidate has requested designation as nonpartisan or undeclared, that designation shall be placed after the name of the candidate. If a candidate is not registered as affiliated with a political party or political group and has not requested to be designated as nonpartisan or undeclared, the candidate shall be designated as undeclared. The lieutenant governor and the governor shall be included under the same section. Provision shall be made for voting for write-in [AND NO-PARTY] candidates within each section. Paper ballots for the state general election shall be printed on white paper.

**\*Sec. 22.** AS 15.15.030 is amended by adding new paragraphs to read:

(14) The director shall include the following statement on the ballot:

A candidate's designated affiliation does not imply that the candidate is nominated or endorsed by the political party or group or that the party or group approves of or associates with that candidate, but only that the candidate is registered as affiliated with the political party or political group.

(15) Instead of the statement provided by (14) of this section, when candidates for President and Vice-President of the United States appear on a general election ballot, the director shall include the following statement on the ballot:

A candidate's designated affiliation does not imply that the candidate is nominated or endorsed by the political party or political group or that the political party or political group approves of or associates with that candidate, but only that the candidate is registered as affiliated with the party or group. The election for President and Vice-President of the United States is different. Some candidates for President and Vice-President are the official nominees of their political party.

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(16) The director shall design the general election ballots so that the candidates are selected by ranked-choice voting.

(17) The director shall design the general election ballot to direct the voter to mark candidates in order of preference and to mark as many choices as the voter wishes, but not to assign the same ranking to more than one candidate for the same office.

**\*Sec. 23.** AS 15.15.060 is amended by adding a new subsection to read:

(e) In each polling place, the director shall require to be posted, in a location conspicuous to a person who will be voting, the following notice, written in bold:

A candidate's designated affiliation does not imply that the candidate is nominated or endorsed by the political party or group or that the party or group approves of or associates with that candidate, but only that the candidate is registered as affiliated with the party or group.

**\*Sec. 24.** AS 15.15.350 is amended by adding new subsections to read:

(c) All general elections shall be conducted by ranked-choice voting.

(d) When counting ballots in a general election, the election board shall initially tabulate each validly cast ballot as one vote for the highest-ranked continuing candidate on that ballot or as an inactive ballot. If a candidate is highest-ranked on more than one-half of the active ballots, that candidate is elected and the tabulation is complete. Otherwise, tabulation proceeds in sequential rounds as follows:

(1) if two or fewer continuing candidates remain, the candidate with the greatest number of votes is elected and the tabulation is complete; otherwise, the tabulation continues under (2) of this subsection;

(2) the candidate with the fewest votes is defeated, votes cast for the defeated candidate shall cease counting for the defeated candidate and shall be added to the totals of each ballot's next-highest-ranked continuing candidate or considered an inactive ballot under (g)(2) of this section, and a new round begins under (1) of this subsection.

(e) When counting general election ballots,

(1) a ballot containing an overvote shall be considered an inactive ballot once the overvote is encountered at the highest ranking for a continuing candidate;

(2) if a ballot skips a ranking, then the election board shall count the next ranking. If the next ranking is another skipped ranking, the ballot shall be considered an inactive ballot once the second skipped ranking is encountered; and

(3) In the event of a tie between the final two continuing candidates, the procedures in AS 15.15.460 and AS 15.20.430 - 15.20.530 shall apply to determine the winner of the general election. In the event of a tie between two candidates with the fewest votes, the tie shall be resolved by lot to determine which candidate is defeated.

(f) The election board may not count an inactive ballot for any candidate.

(g) In this section,

(1) "continuing candidate" means a candidate who has not been defeated;

(2) "inactive ballot" means a ballot that is no longer tabulated, either in whole or in part, by the division because it does not rank any continuing candidate, contains an

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overvote at the highest continuing ranking, or contains two or more sequential skipped rankings before its highest continuing ranking;

(3) "overvote" means an instance where a voter has assigned the same ranking to more than one candidate;

(4) "ranking" or "ranked" means the number assigned by a voter to a candidate to express the voter's choice for that candidate; a ranking of "1" is the highest ranking, followed by "2," and then "3," and so on;

(5) "round" means an instance of the sequence of voting tabulation in a general election;

(6) "skipped ranking" means a blank ranking on a ballot on which a voter has ranked another candidate at a subsequent ranking.

**\*Sec. 25.** AS 15.15.360(a) is amended to read:

(a) The election board shall count ballots according to the following rules:

(1) A voter may mark a ballot only by filling in, making "X" marks, diagonal, horizontal, or vertical marks, solid marks, stars, circles, asterisks, checks, or plus signs that are clearly spaced in the oval opposite the name of the candidate, proposition, or question that the voter desires to designate. In a general election, a voter may mark a ballot that requires the voter to vote for candidates in order of ranked preference by the use of numerals that are clearly spaced in one of the ovals opposite the name of the candidate that the voter desires to designate.

(2) A failure to properly mark a ballot as to one or more candidates does not itself invalidate the entire ballot.

(3) [IF A VOTER MARKS FEWER NAMES THAN THERE ARE PERSONS TO BE ELECTED TO THE OFFICE, A VOTE SHALL BE COUNTED FOR EACH CANDIDATE PROPERLY MARKED.

~~(4)~~ [(5)] The mark specified in (1) of this subsection shall be counted only if it is substantially inside the oval provided, or touching the oval so as to indicate clearly that the voter intended the particular oval to be designated.

~~(5)~~ [(6)] Improper marks on the ballot may not be counted and do not invalidate marks for candidates properly made.

~~(6)~~ [(7)] An erasure or correction invalidates only that section of the ballot in which it appears.

~~(7)~~ [(8)] A vote marked for the candidate for President or Vice-President of the United States is considered and counted as a vote for the election of the presidential electors.

(9) [REPEALED]

(10) [REPEALED]

(11) [REPEALED]

(12) [REPEALED]

**\*Sec. 26.** AS 15.15.370 is amended to read:

**Sec. 15.15.370. Completion of ballot count; certificate.** When the count of ballots is completed, and in no event later than the day after the election, the election board shall make a certificate in duplicate of the results. The certificate includes the number of votes cast for

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each candidate, including, for a candidate in a general election, the number of votes at each round of the ranked-choice tabulation process under AS 15.15.350, and the number of votes for and against each proposition, yes or no on each question, and any additional information prescribed by the director. The election board shall, immediately upon completion of the certificate or as soon thereafter as the local mail service permits, send in one sealed package to the director one copy of the certificate and the register. In addition, all ballots properly cast shall be mailed to the director in a separate, sealed package. Both packages, in addition to an address on the outside, shall clearly indicate the precinct from which they come. Each board shall, immediately upon completion of the certification and as soon thereafter as the local mail service permits, send the duplicate certificate to the respective election supervisor. The director may authorize election boards in precincts in those areas of the state where distance and weather make mail communication unreliable to forward their election results by telephone, telegram, or radio. The director may authorize the unofficial totaling of votes on a regional basis by election supervisors, tallying the votes as indicated on duplicate certificates. To ensure [ASSURE] adequate protection, the director shall prescribe the manner in which the ballots, registers, and all other election records and materials are thereafter preserved, transferred, and destroyed.

**\*Sec. 27.** AS 15.15.450 is amended to read:

**Sec. 15.15.450. Certification of state ballot counting review.** Upon completion of the state ballot counting review, the director shall certify the person receiving the largest number of votes for the office for which that person was nominated or elected, as applicable, [A CANDIDATE AS ELECTED TO THAT OFFICE] and shall certify the approval of a justice or judge not rejected by a majority of the voters voting on the question. The director shall issue to the elected candidates and approved justices and judges a certificate of their election or approval. The director shall also certify the results of a proposition and other question except that the lieutenant governor shall certify the results of an initiative, referendum, or constitutional amendment.

**\* Sec. 28.** AS 15.20.081(a) is amended to read:

(a) A qualified voter may apply in person, by mail, or by facsimile, scanning, or other electronic transmission to the director for an absentee ballot under this section. Another individual may apply for an absentee ballot on behalf of a qualified voter if that individual is designated to act on behalf of the voter in a written general power of attorney or a written special power of attorney that authorizes the other individual to apply for an absentee ballot on behalf of the voter. The application must include the address or, if the application requests delivery of an absentee ballot by electronic transmission, the telephone electronic transmission number, to which the absentee ballot is to be returned, the applicant's full Alaska residence address, and the applicant's signature. However, a person residing outside the United States and applying to vote absentee in federal elections in accordance with AS 15.05.011 need not include an Alaska residence address in the application. A person may supply to a voter an absentee ballot application form with a political party or group affiliation indicated only if the voter is already registered as affiliated with the political party or group indicated. [ONLY THE VOTER OR THE INDIVIDUAL DESIGNATED BY THE VOTER IN A WRITTEN POWER OF ATTORNEY UNDER THIS SUBSECTION MAY MARK THE VOTER'S CHOICE OF PRIMARY BALLOT ON AN

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APPLICATION. A PERSON SUPPLYING AN ABSENTEE BALLOT APPLICATION FORM MAY NOT DESIGN OR MARK THE APPLICATION IN A MANNER THAT SUGGESTS CHOICE OF ONE BALLOT OVER ANOTHER, EXCEPT THAT BALLOT CHOICES MAY BE LISTED ON AN APPLICATION AS AUTHORIZED BY THE DIVISION.] The application must be made on a form prescribed or approved by the director. The voter or registration official shall submit the application directly to the division of elections. For purposes of this subsection, "directly to the division of elections" means that an application may not be submitted to any intermediary that could control or delay the submission of the application to the division or gather data on the applicant from the application form. However, nothing in this subsection is intended to prohibit a voter from giving a completed absentee ballot application to a friend, relative, or associate for transfer to the United States Postal Service or a private commercial delivery service for delivery to the division.

**\*Sec. 29.** AS 15.20.081(h) is amended to read:

(h) Except as provided in AS 15.20.480, an absentee ballot returned by mail from outside the United States or from an overseas voter qualifying under AS 15.05.011 that has been marked and mailed not later than election day may not be counted unless the ballot is received by the election supervisor not later than the close of business on the

- (1) 10th day following a primary election or special primary election under AS 15.40.140; or
- (2) 15th day following a general election [, SPECIAL RUNOFF ELECTION,] or special election, other than a special primary election described in (1) of this subsection.

**\*Sec. 30.** AS 15.20.190(a) is amended to read:

(a) Thirty days before the date of an election, the election supervisors shall appoint, in the same manner provided for the appointment of election officials prescribed in AS 15.10, district absentee ballot counting boards and district questioned ballot counting boards, each composed of at least four members. At least one member of each board must be a member of the same political party or political group with the largest number of registered voters at the time of the preceding gubernatorial election [OF WHICH THE GOVERNOR IS A MEMBER], and at least one member of each board must be a member of the political party or political group with the second largest number of registered voters at the time of [WHOSE CANDIDATE FOR GOVERNOR RECEIVED THE SECOND LARGEST NUMBER OF VOTES IN] the preceding gubernatorial election. The district boards shall assist the election supervisors in counting the absentee and questioned ballots and shall receive the same compensation paid election officials under AS 15.15.380.

**\*Sec. 31.** AS 15.20.203(i) is amended to read:

(i) The director shall mail the materials described in (h) of this section to the voter not later than

- (1) 10 days after completion of the review of ballots by the state review board for a primary election [,] or [FOR] a special primary election under AS 15.40.140 [THAT IS FOLLOWED BY A SPECIAL RUNOFF ELECTION];

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(2) 60 days after certification of the results of a general election [,SPECIAL RUNOFF ELECTION,] or special election other than a special primary election described in (1) of this subsection.

**\*Sec. 32.** AS 15.20.203(j) is amended to read:

(j) The director shall make available through a free access system to each absentee voter a system to check to see whether the voter's ballot was counted and, if not counted, the reason why the ballot was not counted. The director shall make this information available through the free access system not less than

(1) 10 days after certification of the results of a primary election [,] or a special primary election under AS 15.40.140 [THAT IS FOLLOWED BY A SPECIAL RUNOFF ELECTION]; and

(2) 30 days after certification of the results of a general or special election, other than a special primary election described in (1) of this subsection.

**\*Sec. 33.** AS 15.20.207(i) is amended to read:

(i) The director shall mail the materials described in (h) of this section to the voter not later than

(1) 10 days after completion of the review of ballots by the state review board for a primary election [,] or [FOR] a special primary election under AS 15.40.140 [THAT IS FOLLOWED BY A SPECIAL RUNOFF ELECTION];

(2) 60 days after certification of the results of a general or special election, other than a special primary election described in (1) of this subsection.

**\*Sec. 34.** AS 15.20.207(k) is amended to read:

(k) The director shall make available through a free access system to each voter voting a questioned ballot a system to check to see whether the voter's ballot was counted and, if not counted, the reason why the ballot was not counted. The director shall make this information available through the free access system not less than

(1) 10 days after certification of the results of a primary election [,] or a special primary election under AS 15.40.140 [THAT IS FOLLOWED BY A SPECIAL RUNOFF ELECTION]; and

(2) 30 days after [THE] certification of the results of a general or special election, other than a special primary election described in (1) of this subsection.

**\*Sec. 35.** AS 15.20.211(d) is amended to read:

(d) The director shall mail the materials described in (c) of this section to the voter not later than

(1) 10 days after completion of the review of ballots by the state review board for a primary election [,] or [FOR] a special primary election under AS 15.40.140 [THAT IS FOLLOWED BY A SPECIAL RUNOFF ELECTION];

(2) 60 days after certification of the results of a general or special election, other than a special primary election described in (1) of this subsection.

**\*Sec. 36.** AS 15.20.211(f) is amended to read:

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(f) The director shall make available through a free access system to each voter whose ballot was subject to partial counting under this section a system to check to see whether the voter's ballot was partially counted and, if not counted, the reason why the ballot was not counted. The director shall make this information available through the free access system not less than

(1) 10 days after certification of the results of a primary election [,] or a special primary election under AS 15.40.140 [THAT IS FOLLOWED BY A SPECIAL RUNOFF ELECTION]; and

(2) 30 days after [THE] certification of the results of a general or special election, other than a special primary election described in (1) of this subsection.

**\*Sec. 37.** AS 15.25.010 is amended to read:

Sec. 15.25.010. Provision for primary election. Candidates for the elective state executive and state and national legislative offices shall be nominated in a primary election by direct vote of the people in the manner prescribed by this chapter. The primary election does not serve to determine the nominee of a political party or political group but serves only to narrow the number of candidates whose names will appear on the ballot at the general election. Except as provided in AS 15.25.100(d), only the four candidates who receive the greatest number of votes for any office shall advance to the general election [THE DIRECTOR SHALL PREPARE AND PROVIDE A PRIMARY ELECTION BALLOT FOR EACH POLITICAL PARTY. A VOTER REGISTERED AS AFFILIATED WITH A POLITICAL PARTY MAY VOTE THAT PARTY'S BALLOT. A VOTER REGISTERED AS NONPARTISAN OR UNDECLARED RATHER THAN AS AFFILIATED WITH A PARTICULAR POLITICAL PARTY MAY VOTE THE POLITICAL PARTY BALLOT OF THE VOTER'S CHOICE UNLESS PROHIBITED FROM DOING SO UNDER AS 15.25.014. A VOTER REGISTERED AS AFFILIATED WITH A POLITICAL PARTY MAY NOT VOTE THE BALLOT OF A DIFFERENT POLITICAL PARTY UNLESS PERMITTED TO DO SO UNDER AS 15.25.014].

**\*Sec. 38.** AS 15.25.030(a) is amended to read:

(a) A person [MEMBER OF A POLITICAL PARTY] who seeks to become a candidate [OF THE PARTY] in the primary election or a special primary election shall execute and file a declaration of candidacy. The declaration shall be executed under oath before an officer authorized to take acknowledgments and must state in substance

- (1) the full name of the candidate;
- (2) the full mailing address of the candidate;
- (3) if the candidacy is for the office of state senator or state representative, the house or senate district of which the candidate is a resident;
- (4) the office for which the candidate seeks nomination;
- (5) the [NAME OF THE] political party or political group with whom the candidate is registered as affiliated, or whether the candidate would prefer a nonpartisan or undeclared designation placed after the candidate's name on the ballot [OF WHICH THE PERSON IS A CANDIDATE FOR NOMINATION];
- (6) the full residence address of the candidate, and the date on which residency at that address began;
- (7) the date of the primary election or special primary election at which the candidate seeks nomination;

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- (8) the length of residency in the state and in the district of the candidate;
  - (9) that the candidate will meet the specific citizenship requirements of the office for which the person is a candidate;
  - (10) that the candidate is a qualified voter as required by law;
  - (11) that the candidate will meet the specific age requirements of the office for which the person is a candidate; if the candidacy is for the office of state representative, that the candidate will be at least 21 years of age on the first scheduled day of the first regular session of the legislature convened after the election; if the candidacy is for the office of state senator, that the candidate will be at least 25 years of age on the first scheduled day of the first regular session of the legislature convened after the election; if the candidacy is for the office of governor or lieutenant governor, that the candidate will be at least 30 years of age on the first Monday in December following election or, if the office is to be filled by special election under AS 15.40.230 - 15.40.310, that the candidate will be at least 30 years of age on the date of certification of the results of the special election; or, for any other office, by the time that the candidate, if elected, is sworn into office;
  - (12) that the candidate requests that the candidate's name be placed on the primary or special primary election ballot;
  - (13) that the required fee accompanies the declaration;
  - (14) that the person is not a candidate for any other office to be voted on at the primary or general election and that the person is not a candidate for this office under any other declaration of candidacy or nominating petition;
  - (15) the manner in which the candidate wishes the candidate's name to appear on the ballot;
  - (16) if the candidacy is for the office of the governor, the name of the candidate for lieutenant governor running jointly with the candidate for governor; and
  - (17) if the candidacy is for the office of lieutenant governor, the name of the candidate for governor running jointly with the candidate for lieutenant governor.
- [(16) THAT THE CANDIDATE IS REGISTERED TO VOTE AS A MEMBER OF THE POLITICAL PARTY WHOSE NOMINATION IS BEING SOUGHT].

**\*Sec. 39.** AS 15.25.060 is repealed and reenacted to read:

**Sec. 15.25.060. Preparation and distribution of ballots.** The primary election ballots shall be prepared and distributed by the director in the manner prescribed for general election ballots except as specifically provided otherwise for the primary election. The director shall prepare and provide a primary election ballot that contains all of the candidates for elective state executive and state and national legislative offices and all of the ballot titles and propositions required to appear on the ballot at the primary election. The director shall print the ballots on white paper and place the names of all candidates who have properly filed in groups according to offices. The order of the placement of the names for each office shall be as provided for the general election ballot. Blank spaces may not be provided on the ballot for the writing or pasting in of names.

**\*Sec. 40.** AS 15.25.100 is repealed and reenacted to read:

**Sec. 15.25.100. Placement of candidates on general election ballot.** (a) Except as provided in (b)-(g) of this section, of the names of candidates that appear on the primary



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election ballot under AS 15.25.010, the director shall place on the general election ballot only the names of the four candidates receiving the greatest number of votes for an office. For purposes of this subsection and (b) of this section, candidates for lieutenant governor and governor are treated as a single paired unit.

(b) If two candidates tie in having the fourth greatest number of votes for an office in the primary election, the director shall determine under (g) of this section which candidate's name shall appear on the general election ballot.

(c) Except as otherwise provided in (d) of this section, if a candidate nominated at the primary election dies, withdraws, resigns, becomes disqualified from holding office for which the candidate is nominated, or is certified as being incapacitated in the manner prescribed by this section after the primary election and 64 days or more before the general election, the vacancy shall be filled by the director by replacing the withdrawn candidate with the candidate who received the fifth most votes in the primary election.

(d) If the withdrawn, resigned, deceased, disqualified, or incapacitated candidate was a candidate for governor or lieutenant governor, the replacement candidate is selected by the following process:

(1) if the withdrawn, resigned, deceased, disqualified, or incapacitated candidate was the candidate for governor, that candidate's lieutenant governor running mate becomes the candidate for governor, thereby creating a vacancy for the lieutenant governor candidate;

(2) when any vacancy for the lieutenant governor candidate occurs, the candidate for governor shall select a qualified running mate to be the lieutenant governor candidate and notify the director of that decision.

(e) The director shall place the name of the persons selected through this process as candidates for governor and lieutenant governor on the general election ballot.

(f) For a candidate to be certified as incapacitated under (c) of this section, a panel of three licensed physicians, not more than two of whom may be of the same party, shall provide the director with a sworn statement that the candidate is physically or mentally incapacitated to an extent that would, in the panel's judgment, prevent the candidate from active service during the term of office if elected.

(g) If the director is unable to make a determination under this section because the candidates received an equal number of votes, the determination may be made by lot under AS 15.20.530.

**\*Sec. 41. AS 15.25.105(a) is amended to read:**

(a) If a candidate does not appear on the primary election ballot or is not successful in advancing to the general election and wishes to be a candidate in the general election, the candidate may file as a write-in candidate. Votes for a write-in candidate may not be counted unless that candidate has filed a letter of intent with the director stating

(1) the full name of the candidate;

(2) the full residence address of the candidate and the date on which residency at that address began;

(3) the full mailing address of the candidate;

(4) the [NAME OF THE] political party or political group with whom the candidate is registered as affiliated, or whether the candidate would prefer a

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nonpartisan or undeclared designation. [OF WHICH THE CANDIDATE IS A MEMBER, IF ANY];

(5) if the candidate is for the office of state senator or state representative, the house or senate district of which the candidate is a resident;

(6) the office that the candidate seeks;

(7) the date of the election at which the candidate seeks election;

(8) the length of residency in the state and in the house district of the

candidate;

(9) the name of the candidate as the candidate wishes it to be written on the ballot

by the voter;

(10) that the candidate meets the specific citizenship requirements of the office for

which the person is a candidate;

(11) that the candidate will meet the specific age requirements of the office for which the person is a candidate; if the candidacy is for the office of state representative, that the candidate will be at least 21 years of age on the first scheduled day of the first regular session of the legislature convened after the election; if the candidacy is for the office of state senator, that the candidate will be at least 25 years of age on the first scheduled day of the first regular session of the legislature convened after the election; if the candidacy is for the office of governor or lieutenant governor, that the candidate will be at least 30 years of age on the first Monday in December following election or, if the office is to be filled by special election under AS 15.40.230 - 15.40.310, that the candidate will be at least 30 years of age on the date of certification of the results of the special election; or, for any other office, by the time that the candidate, if elected, is sworn into office;

(12) that the candidate is a qualified voter as required by law; and

(13) that the candidate is not a candidate for any other office to be voted on at the general election and that the candidate is not a candidate for this office under any other nominating petition or declaration of candidacy.

**\*Sec. 42.** AS 15.25.105(b) is amended to read:

(b) If a write-in candidate is running for the office of governor, the candidate must file a joint letter of intent together with a candidate for lieutenant governor. [BOTH CANDIDATES MUST BE OF THE SAME POLITICAL PARTY OR GROUP.]

**\*Sec. 43.** AS 15.30.010 is amended to read:

**Sec. 15.30.010. Provision for selection of electors.** Electors of President and Vice President of the United States are selected by election at the general election in presidential election years[.] , in the manner and as determined by the ranked-choice method of tabulating votes described in AS 15.15.350—15.15.370.

**\*Sec. 44.** AS 15.40.140 is amended to read:

**Sec. 15.40.140. Condition of calling special primary election and special election.**

When a vacancy occurs in the office of United States senator or United States representative, the governor shall, by proclamation, call a special primary election to be held on a date not less

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than 60, nor more than 90, days after the date the vacancy occurs, to be followed by a special election on the first Tuesday that is not a state holiday occurring not less than 60 days after the special primary election [UNDER AS 15.40.142(a)]. However, in an election year in which a candidate for that office is not regularly elected, if the vacancy occurs on a date that is not less than 60, nor more than 90, days before [OR IS ON OR AFTER] the date of

(1) the primary election, ~~the~~ [IN THE GENERAL ELECTION YEAR DURING WHICH A CANDIDATE TO FILL THE OFFICE IS REGULARLY ELECTED, THE GOVERNOR MAY NOT CALL A] special ~~primary~~ election shall be held on the date of the primary election with the subsequent special election to be held on the date of the general election; or

(2) the general election, the special primary election shall be held on the date of the general election with the subsequent special election to be held on the first Tuesday that is not a state holiday occurring not less than 60 days after the special primary and general election.

\*Sec. 45. AS 15.40.160 is amended to read:

Sec. 15.40.160. Proclamation. The governor shall issue the proclamation calling the special primary election and special election at least 50 days before the

~~[(1)]~~ special ~~primary~~ election [; AND

(2) IF A SPECIAL RUNOFF ELECTION IS REQUIRED UNDER AS 15.40.141(a), SPECIAL RUNOFF ELECTION].

\*Sec. 46. AS 15.40.165 is amended to read:

Sec. 15.40.165. Term of elected senator. At the special election, [OR, AS PROVIDED BY AS 15.40.141, AT THE SPECIAL RUNOFF ELECTION,] a United States senator shall be elected to fill the remainder of the unexpired term. The person elected shall take office on the date the United States Senate meets, convenes, or reconvenes following the certification of the results of the special election [OR SPECIAL RUNOFF ELECTION] by the director.

\*Sec. 47. AS 15.40.170 is amended to read:

Sec. 15.40.170. Term of elected representative. At the special election, [OR, AS PROVIDED BY AS 15.40.141, AT THE SPECIAL RUNOFF ELECTION,] a United States representative shall be elected to fill the remainder of the unexpired term. The person elected shall take office on the date the United States house of representatives meets, convenes, or reconvenes following the certification of the results of the special election [OR SPECIAL RUNOFF ELECTION] by the director.

\*Sec. 48. AS 15.40.190 is amended to read:

Sec. 15.40.190. Requirements of petition for [NO-PARTY] candidates. Petitions for the nomination of candidates must be executed under oath, [NOT REPRESENTING A POLITICAL PARTY SHALL BE SIGNED BY QUALIFIED VOTERS OF THE STATE EQUAL IN NUMBER TO AT LEAST ONE PERCENT OF THE NUMBER OF VOTERS WHO CAST BALLOTS IN THE PRECEDING GENERAL ELECTION AND SHALL] state in substance that which is required for a declaration of candidacy

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under AS 15.25.030, and include the fee required under AS 15.25.050(a) [NOMINATION PETITIONS BY AS 15.25.180].

**\*Sec. 49.** AS 15.40.220 is amended to read:

**Sec. 15.40.220.** General provisions for conduct of the special primary election and special [RUNOFF] election. Unless specifically provided otherwise, all provisions regarding the conduct of the primary election and general election shall govern the conduct of the special primary election and [THE] special [RUNOFF] election of the United States senator or United States representative, including provisions concerning voter qualifications; provisions regarding the duties, powers, rights, and obligations of the director, of other election officials, and of municipalities; provision for notification of the election; provision for payment of election expenses; provisions regarding employees being allowed time from work to vote; provisions for the counting, reviewing, and certification of returns; [PROVISION FOR RUNNING AS, VOTING FOR, AND COUNTING BALLOTS FOR A WRITE-IN CANDIDATE;] provisions for the determination of the votes and of recounts, contests, and appeal; and provision for absentee voting.

**\*Sec. 50.** AS 15.40.230 is amended to read:

**Sec. 15.40.230.** Condition and time of calling special primary election and special election. When a person appointed to succeed to the office of lieutenant governor succeeds to the office of acting governor, the acting governor shall, by proclamation, call a special primary election to be held on a date not less than 60, nor more than 90, days after the date the vacancy in the office of the governor occurred and a subsequent special election to be held on the first Tuesday that is not a state holiday occurring not less than 60 days after the special primary election. However, if the vacancy occurs on a date that is less than 60 days before or is on or after the date of the primary election in years in which a governor is regularly elected, the acting governor shall serve the remainder of the unexpired term and may not call a special election.

**\*Sec. 51.** AS 15.40.240 is amended to read:

**Sec. 15.40.240.** Conditions for holding special primary election and special election with primary or general election. If the vacancy occurs on a date not less than 60, nor more than 90, days before the date of the primary election in an election year in which a governor is not regularly elected, the acting governor shall, by proclamation, call the special primary election to be held on the date of the primary election and the special election to be held on the date of the general election, [IN YEARS IN WHICH A GOVERNOR IS REGULARLY ELECTED] or, if the vacancy occurs on a date not less than 60, nor more than 90, days before the date of the [PRIMARY ELECTION OR] general election in election years in which a governor is not regularly elected, the acting governor shall, by proclamation, call the special primary election to be held on the date of the [PRIMARY ELECTION OR] general election with the subsequent special election to be held on the first Tuesday that is not a state holiday occurring not less than 60 days after the special primary and general election.

**\*Sec. 52.** AS 15.40.250 is amended to read:

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**Sec. 15.40.250. Proclamation of special primary election and special election.** The acting governor shall issue the proclamation calling the special primary election and special election at least 50 days before the special primary election.

**\*Sec. 53.** AS 15.40.280 is amended to read:

**Sec. 15.40.280. Requirements of petition for [NO-PARTY] candidates.** Petitions for the nomination of candidates must be executed under oath, [NOT REPRESENTING A POLITICAL PARTY SHALL BE SIGNED BY QUALIFIED VOTERS OF THE STATE EQUAL IN NUMBER TO AT LEAST ONE PERCENT OF THE NUMBER OF VOTERS WHO CAST BALLOTS IN THE PRECEDING GENERAL ELECTION, SHALL INCLUDE NOMINEES FOR THE OFFICE OF GOVERNOR AND LIEUTENANT GOVERNOR, AND SHALL] state in substance that which is required for a declaration of candidacy under AS 15.25.030, and include the fee required under AS 15.25.050(a) [NOMINATION PETITIONS BY AS 15.25.180].

**\*Sec. 54.** AS 15.40.310 is amended to read:

**Sec. 15.40.310. General provisions for conduct of the special primary election and special election.** Unless specifically provided otherwise, all provisions regarding the conduct of the primary and general election shall govern the conduct of the special primary election and special election of the governor and lieutenant governor, including provisions concerning voter qualifications; provisions regarding the duties, powers, rights, and obligations of the director, of other election officials, and of municipalities; provision for notification of the election; provision for payment of election expenses; provisions regarding employees being allowed time from work to vote; provisions for the counting, reviewing, and certification of returns; provisions for the determination of the votes and of recounts, contests, and appeal; and provision for absentee voting.

**\*Sec. 55.** AS 15.40.330 is amended to read:

**Sec. 15.40.330. Qualification and confirmation of appointee.** (a) The appointee shall meet the qualifications of a member of the legislature as prescribed in Sec. 2, art. II, of the state constitution, and, if the predecessor in office was a member of a political party or political group at the time of the vacancy, (1) shall be a member of the same political party or political group as [THAT WHICH NOMINATED] the predecessor in office; [,] and (2) shall be subject to confirmation by a majority of the members of the legislature who are members of the same political party or political group as [WHICH NOMINATED] the predecessor in office and of the same house as was the predecessor in office. If the predecessor in office was not a member of [NOMINATED BY] a political party or political group at the time of the vacancy or, if no other member of the predecessor's political party or political group is a member of the predecessor's house of the legislature, the governor may appoint any qualified person. If the appointee is not a member of a political party or political group, as provided in (b) of this section, the appointment is not subject to confirmation. If the appointee is a member of a political party or political group, the appointment is subject to confirmation as provided by (b) of this section for the confirmation of political party or political group appointees.

(b) A member of a political party or political group is a person who supports the political program of a political party or political group. The absence of a political party or political group designation after a candidate's name on an election ballot [FILING FOR OFFICE OF A

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CANDIDATE AS AN INDEPENDENT OR NO-PARTY CANDIDATE] does not preclude a candidate from being a member of a political party or political group. Recognition of a [AN INDEPENDENT OR NO-PARTY] candidate as a member of a political party or political group caucus of members of the legislature at the legislative session following the election of the [INDEPENDENT OR NO-PARTY] candidate is recognition of that person's political party or political group membership for the purposes of confirmation under this section [AT THE TIME FILINGS WERE MADE BY PARTY CANDIDATES FOR THE PRECEDING GENERAL ELECTION].

**\*Sec. 56.** AS 15.40.380 is amended to read:

**Sec. 15.40.380. Conditions for part-term senate appointment and special election.** If the vacancy is for an unexpired senate term of more than two years and five full calendar months, the governor shall call a special primary election and a special election by proclamation, and the appointment shall expire on the date the state senate first convenes or reconvenes following the certification of the results of the special election by the director.

**\*Sec. 57.** AS 15.40.390 is amended to read:

**Sec. 15.40.390. Date of special primary election and special election.** The special primary election to fill a vacancy in the state senate shall be held on the date of the first primary [GENERAL] election held more than 60 days [THREE FULL CALENDAR MONTHS] after the senate vacancy occurs, and the special election shall be held on the date of the first general election thereafter.

**\*Sec. 58.** AS 15.40.400 is amended to read:

**Sec. 15.40.400. Proclamation of special primary election and special election.** The governor shall issue the proclamation calling the special primary election and special election at least 50 days before the special primary election.

**\*Sec. 59.** AS 15.40.440 is amended to read:

**Sec. 15.40.440. Requirements of petition for [NO-PARTY] candidates.** Petitions for the nomination of candidates [NOT REPRESENTING A POLITICAL PARTY SHALL BE SIGNED BY QUALIFIED VOTERS EQUAL IN NUMBER TO AT LEAST ONE PERCENT OF THE NUMBER OF VOTERS WHO CAST BALLOTS IN THE PROPOSED NOMINEE'S RESPECTIVE HOUSE OR SENATE DISTRICT IN THE PRECEDING GENERAL ELECTION. A NOMINATING PETITION MAY NOT CONTAIN LESS THAN 50 SIGNATURES FOR ANY DISTRICT, AND] must be executed under oath, state in substance that which is required in a declaration of candidacy under AS 15.25.030, and include the fee required under AS 15.25.050(a) [PETITIONS FOR NOMINATION BY AS 15.25.180].

**\*Sec. 60.** AS 15.40.470 is amended to read:

**Sec. 15.40.470. General provision for conduct of the special primary election and special election.** Unless specifically provided otherwise, all provisions regarding the conduct of the primary election and general election shall govern the conduct of the special primary election and special election of state senators, including provisions concerning voter qualifications; provisions regarding the duties, powers, rights, and obligations of the director, of other election officials, and of municipalities; provision for notification of the election; provision for payment of election expenses; provisions regarding employees being allowed time from

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work to vote; provisions for the counting, reviewing, and certification of returns; provisions for the determination of the votes and of recounts, contests, and appeal; and provision for absentee voting.

**\*Sec. 61.** AS 15.45.190 is amended to read:

**Sec. 15.45.190. Placing proposition on ballot.** The lieutenant governor shall direct the director to place the ballot title and proposition on the election ballot of the first statewide general, special, special **primary** [RUNOFF], or primary election that is held after

- (1) the petition has been filed;
- (2) a legislative session has convened and adjourned; and
- (3) a period of 120 days has expired since the adjournment of the legislative session.

**\*Sec. 62.** AS 15.45.420 is amended to read:

**Sec. 15.45.420. Placing proposition on ballot.** The lieutenant governor shall direct the director to place the ballot title and proposition on the election ballot for the first statewide general, special, special **primary** [RUNOFF], or primary election held more than 180 days after adjournment of the legislative session at which the act was passed.

**\*Sec. 63.** AS 15.58.010 is amended to read:

**Sec. 15.58.010. Election pamphlet.** Before each state general election, and before each state primary, special, or special **primary** [RUNOFF] election at which a ballot proposition is scheduled to appear on the ballot, the lieutenant governor shall prepare, publish, and mail at least one election pamphlet to each household identified from the official registration list. The pamphlet shall be prepared on a regional basis as determined by the lieutenant governor.

**\*Sec. 64.** AS 15.58.020(a) is amended by adding a new paragraph to read:

- (13) the following statement written in bold in a conspicuous location:

Each candidate may designate the political party or political group that the candidate is registered as affiliated with. A candidate's political party or political group designation on a ballot does not imply that the candidate is nominated or endorsed by the party or political group or that the party or group approves of or associates with that candidate.

In each race, you may vote for any candidate listed. If a primary election was held for a state office, United States senator, or United States representative, the four candidates who received the most votes for the office in the primary election advanced to the general election. However, if one of the four candidates who received the most votes for an office at the primary election died, withdrew, resigned, was disqualified, or was certified as incapacitated 64 days or more before the general election, the candidate who received the fifth most votes for the office advanced to the general election.

At the general election, each candidate will be selected through a ranked-choice voting process and the candidate with the greatest number of votes will be

## ALASKA'S BETTER ELECTIONS INITIATIVE

elected. For a general election, you must rank the candidates in the numerical order of your preference, ranking as many candidates as you wish. Your second, third, and subsequent ranked choices will be counted only if the candidate you ranked first does not receive enough votes to continue on to the next round of counting, so ranking a second, third, or subsequent choice will not hurt your first-choice candidate. Your ballot will be counted regardless of whether you choose to rank one, two, or more candidates for each office, but it will not be counted if you assign the same ranking to more than one candidate for the same office.

**\*Sec. 65.** AS 15.58.020(b) is amended to read:

(b) Each primary, special, or special primary [RUNOFF] election pamphlet shall contain only the information specified in (a)(6) and (a)(9) of this section for each ballot measure scheduled to appear on the primary, special, or special primary [RUNOFF] election ballot.

**\*Sec. 66.** AS 15.58.020 is amended by adding a new subsection to read:

(c) Notwithstanding (a) of this section, if a pamphlet is prepared and published under AS 15.58.010 for a

(1) primary election, the pamphlet must contain the following statement written in bold in a conspicuous location, instead of the statement provided by (a)(13) of this section:

In each race, you may vote for any candidate listed. The four candidates who receive the most votes for a state office, United States senator, or United States representative will advance to the general election. However, if, after the primary election and 64 days or more before the general election, one of the four candidates who received the most votes for an office at the primary election dies, withdraws, resigns, is disqualified, or is certified as incapacitated, the candidate who received the fifth most votes for the office will advance to the general election.

Each candidate may designate the political party or political group that the candidate is registered as affiliated with. A candidate's political party or political group designation on a ballot does not imply that the candidate is nominated or endorsed by the party or group or that the party or group approves of or associates with that candidate;

(2) a special primary election, the pamphlet must contain the following statement written in bold in a conspicuous location, instead of the statement provided by (a)(13) of this section:

In each race, you may vote for any candidate listed. The four candidates who receive the most votes for a state office or United States senator will advance to the special election. However, if, after the special primary election and 64 days or more before the special election, one of the four candidates who received the most votes for a state office or United States senator at the primary election dies, withdraws, resigns, is disqualified, or is certified as incapacitated, the



## ALASKA'S BETTER ELECTIONS INITIATIVE

candidate who received the fifth most votes for the office will advance to the general election. Each candidate may designate the political party or political group that the candidate is registered as affiliated with. A candidate's political party or political group designation on a ballot does not imply that the candidate is nominated or endorsed by the party or group or that the party or group approves of or associates with that candidate.

**\*Sec. 67.** AS 15.58.030(b) is amended to read:

(b) Not [NO] later than July 22 of a year in which a state general election will be held, an individual who becomes a candidate for the office of United States senator, United States representative, governor, lieutenant governor, state senator, or state representative under AS 15.25.030 [OR 15.25.180] may file with the lieutenant governor a photograph and a statement advocating the candidacy. [AN INDIVIDUAL WHO BECOMES A CANDIDATE FOR THE OFFICE OF UNITED STATES SENATOR, UNITED STATES REPRESENTATIVE, GOVERNOR, LIEUTENANT GOVERNOR, STATE SENATOR, OR STATE REPRESENTATIVE BY PARTY PETITION FILED UNDER AS 15.25.110 MAY FILE WITH THE LIEUTENANT GOVERNOR A PHOTOGRAPH AND A STATEMENT ADVOCATING THE CANDIDACY WITHIN 10 DAYS OF BECOMING A CANDIDATE.]

**\*Sec. 68.** AS 15.80.010(9) is amended to read:

(9) "federal election" means a general, special, special primary [RUNOFF], or primary election held solely or in part for the purpose of selecting, nominating, or electing a candidate for the office of President, Vice-President, presidential elector, United States senator, or United States representative;

**\*Sec. 69.** AS 15.80.010(27) is amended to read:

(27) "political party" means an organized group of voters that represents a political program and

(A) that [NOMINATED A CANDIDATE FOR GOVERNOR WHO RECEIVED AT LEAST THREE PERCENT OF THE TOTAL VOTES CAST FOR GOVERNOR AT THE PRECEDING GENERAL ELECTION OR] has registered voters in the state equal in number to at least three percent of the total votes cast for governor at the preceding general election;

(B) if the office of governor was not on the ballot at the preceding general election but the office of United States senator was on that ballot, that [NOMINATED A CANDIDATE FOR UNITED STATES SENATOR WHO RECEIVED AT LEAST THREE PERCENT OF THE TOTAL VOTES CAST FOR UNITED STATES SENATOR AT THAT GENERAL ELECTION OR] has registered voters in the state equal in number to at least three percent of the total votes cast for United States senator at that general election; or

(C) if neither the office of governor nor the office of United States senator was on the ballot at the preceding general election, that [NOMINATED A CANDIDATE FOR UNITED STATES REPRESENTATIVE WHO RECEIVED AT LEAST THREE PERCENT OF THE TOTAL VOTES CAST FOR UNITED STATES REPRESENTATIVE AT THAT GENERAL ELECTION OR] has registered voters in the state equal in number to at least three percent of the total votes cast for United States representative at that general election;

**\*Sec. 70.** AS 15.80.010 is amended by adding a new paragraph to read:

## **ALASKA'S BETTER ELECTIONS INITIATIVE**

(46) "ranked-choice voting" means, in a general election, the method of casting and tabulating votes in which voters rank candidates in order of preference and in which tabulation proceeds in sequential rounds in which (a) a candidate with a majority in the first round wins outright, or (b) last-place candidates are defeated until there are two candidates remaining, at which point the candidate with the greatest number of votes is declared the winner of the election.

**\*Sec. 71.** AS 39.50.020(b) is amended to read:

(b) A public official or former public official other than an elected or appointed municipal officer shall file the statement with the Alaska Public Offices Commission. Candidates for the office of governor and lieutenant governor and, if the candidate is not subject to AS 24.60, the legislature shall file the statement under AS 15.25.030 [OR 15.25.180]. Municipal officers, former municipal officers, and candidates for elective municipal office, shall file with the municipal clerk or other municipal official designated to receive their filing for office. All statements required to be filed under this chapter are public records.

**\*Sec. 72.** AS 15.25.014, 15.25.056, 15.25.110, 15.25.120, 15.25.130, 15.25.140, 15.25.150, 15.25.160, 15.25.170, 15.25.180, 15.25.185, 15.25.190, 15.25.200; AS 15.40.141, 15.40.142, 15.40.150, 15.40.200, 15.40.210, 15.40.290, 15.40.300, 15.40.450, and 15.40.460 are repealed.

**\*Sec. 73.** The provisions of this act are independent and severable. If any provision of this act, or the applicability of any provision to any person or circumstance, shall be held to be invalid by a court of competent jurisdiction, the remainder of this act shall not be affected and shall be given effect to the fullest extent possible.

**\*Sec. 74.** The uncoded law of the State of Alaska is amended by adding a new section to read:

### **TRANSITION; VOTER EDUCATION AS TO CHANGES MADE TO STATE ELECTION SYSTEMS THROUGH ADOPTION OF A RANKED-CHOICE VOTING SYSTEM.**

For a period of not less than two calendar years immediately following the effective date of this Act, the director of elections shall, in a manner reasonably calculated to educate the public, inform voters of the changes made to the state's election systems in this Act.



Lieutenant Governor Kevin Meyer  
STATE OF ALASKA

August 30, 2019

Jason Grenn  
4611 Caravelle Drive  
Anchorage, Alaska 99502

Mr. Grenn:

On July 3, 2019, I received your application for the following initiative that you entitled:

*"An Act prohibiting the use of dark money by independent expenditure groups working to influence candidate elections in Alaska and requiring additional disclosures by these groups; establishing a nonpartisan and open top four primary election system for election to state executive and state and national legislative offices; changing appointment procedures relating to precinct watchers and members of precinct election boards, election district absentee and questioned ballot counting boards, and the Alaska Public Offices Commission; establishing a ranked-choice general election system; supporting an amendment to the United States Constitution to allow citizens to regulate money in Alaska elections; repealing the special runoff election for the office of United States Senator and United States Representative; requiring certain written notices to appear in election pamphlets and polling places; and amending the definition of 'political party'."*

I forwarded the application to the Division of Elections for verification of signatures and to the Department of Law for legal review.

The Division of Elections determined that 159 of the 162 signatures submitted were those of qualified voters. Therefore, the application has a sufficient number of sponsors to qualify for circulation of a petition under AS 15.45.030. The petition statistics report prepared by the Division of Elections is enclosed.

The Department of Law reviewed the application for compliance with AS 15.45.040 and recommends that I decline to certify this initiative on the grounds that the bill violates the single-subject rule. Based on this recommendation, and in accordance with AS 15.45.080, I am denying certification of your initiative application. A copy of the Department of Law opinion dated August 29, 2019 regarding the application is enclosed.

Please be advised that under AS 15.45.240, "any person aggrieved by a determination made by the lieutenant governor under AS 15.45.010 - AS 15.45.220 may bring an action in the superior court to have the determination reviewed within 30 days of the date on which notice of the determination was given."

If you have further questions, please contact April Simpson in my office at (907) 465-4081.

Sincerely,

A handwritten signature in blue ink that reads "Kevin Meyer".

Kevin Meyer  
Lieutenant Governor

Director's Office  
240 Main Street Suite 400  
P.O. Box 110017  
Juneau, Alaska 99811-0017  
☎ 907-465-4611 ☎ 907-465-3203  
elections@alaska.gov



Elections Offices ☎  
Absentee-Petition 907-270-2700  
Anchorage 907-522-8683  
Fairbanks 907-451-2835  
Juneau 907-465-3021  
Nome 907-443-5285  
Mat-Su 907-373-8952

STATE OF ALASKA  
Division of Elections  
Office of the Lieutenant Governor

Date: July 23, 2019

To: The Honorable Kevin Meyer  
Lieutenant Governor

From: Gail Fenumiai, Director  
Division of Elections 

Subject: **19AKBE – Alaska's Better Elections Initiative**

The Division of Elections reviewed the sponsor signatures submitted in the application for the above referenced initiative petition.

We have determined that 159 of the 162 signatures submitted to be those of qualified voters. The application has a sufficient number of sponsor signatures to qualify for circulation of a petition under AS 15.45.030(2).

A copy of the computer printout listing the status of each sponsor for this petition application is attached.

Attachment: 19AKBE – Application Petition Signers Report

cc: Carol A. Thompson, Absentee and Petition Manager  
Cori M Mills, Assistant Attorney General, Department of Law



THE STATE  
*of* **ALASKA**

GOVERNOR MICHAEL J. DUNLEAVY

**Department of Law**

OFFICE OF THE ATTORNEY GENERAL

1031 West Fourth Avenue, Suite 200  
Anchorage, AK 99501  
Main: (907) 269-5100  
Fax: (907) 269-5110

August 29, 2019

*Via Email and U.S. Mail*

The Honorable Kevin Meyer  
Lieutenant Governor  
P.O. Box 110015  
Juneau, Alaska 99811-0015

Re: *19AKBE Ballot Measure Application Review*  
AGO No. 2019200578

Dear Lieutenant Governor Meyer:

You asked us to review an application for an initiative bill entitled:

An Act prohibiting the use of dark money by independent expenditure groups working to influence candidate elections in Alaska and requiring additional disclosures by these groups; establishing a nonpartisan and open top four primary election system for election to state executive and state and national legislative offices; changing appointment procedures relating to precinct watchers and members of precinct election boards, election district absentee and questioned ballot counting boards, and the Alaska Public Offices Commission; establishing a ranked-choice general election system; supporting an amendment to the United States Constitution to allow citizens to regulate money in Alaska elections; repealing the special runoff election for the office of United States Senator and United States Representative; requiring certain written notices to appear in election pamphlets and polling places; and amending the definition of 'political party'. (19AKBE).

Our role in reviewing initiatives is to ensure they meet all constitutional and statutory requirements. We do not opine on the merits of the policy choices presented or any administrative or implementation issues that could arise if the initiative bill was

enacted. Because 19AKBE addresses more than one subject in violation of the Alaska Constitution, we recommend that you decline to certify the application.

**I. The proposed initiative bill.**

This bill proposed by this initiative would both overhaul Alaska's elections process and alter its campaign finance laws by requiring additional campaign finance disclosures and disclaimers. The most significant change would be to abolish the state's mandatory primary election or petition process and establish an open nonpartisan primary system in which all candidates—regardless of party affiliation or non-affiliation—would run in a single primary election. All candidates would appear on one ballot, and each candidate could choose to have his or her political party or group affiliation listed by the candidate's name or choose to be listed as undeclared or nonpartisan. The top-four candidates with the most votes in the primary election would then have their names placed on the general election ballot. The ballots, polling places, and election pamphlets would include notices explaining that the identification of a candidate's political party or group affiliation on the ballot is not an endorsement of the candidate by that political party or group.

The act would also establish a ranked-choice general election. Under this new ranked-choice framework, each voter would be allowed to "rank" the four listed candidates. A "1" ranking would reflect the voter's first choice candidate, a "2" the voter's second choice candidate, and so on. The Division of Elections would then tally the votes for each candidate by counting every ballot's first-ranked candidate. If there were more than two candidates and no candidate received a majority of the first-ranked votes, then the candidate with the least amount of votes would be considered defeated and removed from counting. Any ballot that had selected the removed candidate as the first-ranked candidate would then be counted for voter's second-ranked candidate. This process would repeat until there were only two candidates remaining or one candidate received a majority of the votes.

Lastly, the act would modify state campaign law by requiring new and additional disclosures. It would require additional disclosures for contributions of more than \$2,000 to independent expenditure groups. It would also require disclaimers on any paid communications by an independent expenditure group, when a majority of contributors to the group reside outside Alaska.

In total, 19AKBE contains 74 sections, and provides as follows:

**Section 1** would add a new section to the uncodified law. It would list findings and intent supporting the substantive law changes made in the initiative bill and state that

Alaska supports a constitutional amendment allowing citizens to regulate the raising and spending of money in elections.

**Section 2** would change the requirements for two of the three election board members appointed by the election supervisor. Under current law, the election supervisor shall appoint one nominee from the political party of which the governor is a member and one nominee of the political party that received the second largest number of votes statewide. Section 2 would change the requirement to include political party “or political group with the largest number of registered voters at the time of the preceding gubernatorial election” and political party “or political group with the second largest number of registered voters at the time of the preceding gubernatorial election.”

**Section 3** would allow each candidate, regardless of party affiliation or party nomination, to appoint one or more poll watchers. Section 3 would also make a conforming change because of the repeal of the special runoff election under AS 15.40.141 proposed in Section 72 of the initiative bill.

**Section 4** would change the qualifications of certain appointees to the Alaska Public Offices Commission by allowing the governor to appoint a member of “political groups with the largest number of registered voters” as of the most recent preceding general election at which a governor was elected.

**Section 5** would make a conforming change necessitated by the change in Section 4.

**Section 6** would add disclosure requirements relating to the “true source” of contributions to a nongroup entity in excess of \$2,000 annually.

**Section 7** would add a new subsection requiring certain disclosures from every individual, person, nongroup entity, or group that contributes more than \$2,000 annually to an independent expenditure group.

**Section 8** would change the contribution limits for governor and lieutenant governor to a joint campaign limit of \$1,000 annually for an individual and \$2,000 annually for a group. This reflects the proposed changes to the primary election whereby the governor and lieutenant governor would run jointly on a single ticket.

**Section 9** would add disclosure requirements for contributions to independent expenditure groups, including a requirement that contributions to independent expenditure groups may not annually total \$2,000 or more of “dark money,” as defined in Section 17.

**Section 10** would make conforming changes necessitated by the repeal of the special runoff election under AS 15.40.141 as proposed in Section 72 of the initiative bill and the change to an open primary system.

**Section 11** would require that certain existing disclaimers on paid political advertisements be shown throughout the entirety of the communication if in a broadcast, cable, satellite, internet or other digital format.

**Section 12** would add a new subsection to require an additional disclaimer on paid political advertisements funded by an outside-funded entity, as defined in Section 19.

**Section 13** would make conforming changes necessitated by the repeal of the nominating petition process under AS 15.25.140-15.25.200 as proposed in Section 72 of the initiative bill.

**Section 14** would require disclosure by contributors whose contributions to independent expenditure groups, or a group the contributor knows or has reason to know will make independent expenditures, exceed \$2,000 annually.

**Section 15** would create new fines for failure to disclose certain contributions to independent expenditure groups as required by Section 7 and failure to disclose the “true source” of a contribution as required by Sections 7 and 9.

**Section 16** would make conforming changes necessitated by the change to an open primary.

**Sections 17-19** would define the new terms in the campaign finance sections, including “dark money,” “true source,” and “outside-funded entity.”

**Section 20** would establish an open primary system.

**Section 21** would allow each candidate to have his or her party affiliation designated after the candidate's name on the ballot, or choose the designation of nonpartisan or undeclared.

**Sections 22-23** would require additional notices on the ballot and at each polling place letting voters know that a candidate's designated party affiliation on the ballot does not signify the political party or political group's approval or endorsement of that candidate.

**Section 24** would establish ranked-choice voting for the general election, whereby each voter may rank all of the candidates. This section would provide how the ranked-



choice votes should be counted, starting with the number “1” ranking on all ballots. If there are more than two candidates and none of the candidates gets a majority of the total votes, the candidate with the least amount of votes would be removed from the count, and ballots that ranked that candidate as “1” would then be counted for the second ranked candidate on those ballots. This would continue until a candidate obtains a majority or there are only two candidates remaining, at which point the candidate with the highest number of votes wins.

**Section 25-27** would make conforming changes to account for ranked-choice voting on the general election ballot and the open primary system.

**Section 28** would make conforming changes necessitated by the change to an open primary system.

**Section 29** would make conforming changes necessitated by the repeal of the special runoff election under AS 15.40.141 as proposed in Section 72 of the initiative bill and the change to an open primary system.

**Section 30** would change the requirements for two of the four district absentee ballot counting board members and two of the four district questioned ballot counting board members. Under current law, the election supervisor shall appoint one nominee from the political party of which the governor is a member and one nominee of the political party that received the second largest number of votes statewide. Section 30 would change the requirement to include political party “or political group with the largest number of registered voters at the time of the preceding gubernatorial election” and political party “or political group with the second largest number of registered voters at the time of the preceding gubernatorial election.”

**Sections 31-36** would make conforming changes necessitated by the repeal of the special runoff election under AS 15.40.141 as proposed in Section 72 of the initiative bill and the change to an open primary system.

**Section 37** would adopt an open primary system. The primary would no longer serve to determine the nominee of a political party or political group. Instead, the primary would narrow the number of candidates whose name would appear on the general election ballot to four.

**Section 38** would amend the candidate declaration to require that candidates for governor and lieutenant governor include the name of the candidate’s running partner, since the governor and lieutenant governor would run jointly in the primary. This section would also make other conforming changes.

**Section 39** would repeal and reenact the statute establishing the process for preparation and distribution of ballots to account for the open primary system where there would only be one primary ballot.

**Section 40** would repeal and reenact the statute that establishes which candidates will be placed on the general election ballot to account for the open primary system. This would include a process for filling a vacancy that occurs after the primary election.

**Section 41** would allow a write-in candidate at the general election to designate his or her political party or political group affiliation, or be designated as undeclared or nonpartisan.

**Section 42** would eliminate the requirement for write-in candidates that a candidate for governor run jointly with a candidate for lieutenant governor from the same political party or group.

**Section 43** would provide that the ranked-choice method of voting in the general election applies to the election of electors of President and Vice President.

**Sections 44-49** would amend the special election process for filling a vacancy in the office of United States senator or United States representative to provide for a special primary, conducted as an open primary, followed by a special election. These sections would also make conforming changes necessitated by the repeal of the special runoff election under AS 15.40.141 and the party petition process under AS 15.40.200-15.40.210 as proposed in Section 72 of the initiative bill.

**Section 50-54** would amend the special election process for filling a vacancy in the office of the governor to provide for a special primary, conducted as an open primary, followed by a special election.

**Section 55** would amend the statute providing for the qualifications and the confirmation process for an appointee to a vacant legislative office to include “political group” along with “political party.” Under the existing statute, being a member of a specific “political party” becomes one of the qualifications for appointment. This section would include “political group” as a qualification, if the predecessor in office was a member of a “political group” but not a “political party.”

**Sections 56-60** would amend the special election process for filling a vacancy in the state senate to provide for a special primary, conducted as an open primary, followed by a special election.

**Sections 61-63** would make conforming changes necessitated by the repeal of the special runoff election under AS 15.40.141 as proposed in Section 72 of the initiative bill and the change to an open primary system.

**Sections 64-66** would require the election pamphlets for the general election and the primary election to include a notice to voters that the any political party or political group affiliation listed next to a candidate does not represent the political party or group's endorsement or nomination. The election pamphlets would also include an explanation of the open primary system. Lastly, the general election pamphlet would explain the ranked-choice voting method.

**Section 67** would make conforming changes necessitated by the repeal of the party petition process under AS 15.25.110 and the no-party nomination petition process under AS 15.25.180 as provided in Section 72 of the initiative bill.

**Section 68** would make conforming changes necessitated by the repeal of the special runoff election under AS 15.40.141 as proposed in Section 72 of the initiative bill and the change to an open primary system.

**Section 69** would amend the definition of "political party" by deleting language referring to the "nomination" of a candidate by the group seeking to be recognized as a political party. Instead, political party status would only be determined by the number of registered voters the group has, not the number of votes a prior nominated candidate received.

**Section 70** would add a definition of "ranked-choice voting."

**Section 71** would make conforming changes necessitated by the repeal of the no-party candidate petition process under AS 15.25.180 as provided in Section 72 of the initiative bill.

**Section 72** would repeal statutes relating to party petitions, no-party candidates, and special-runoff elections.

**Section 73** is a severability clause.

**Section 74** would add a new section of uncodified law to require the director of elections for two years to make efforts to inform voters of the changes made to the state's elections process under this initiative bill.

## **II. Analysis.**

Under AS 15.45.070, the lieutenant governor must review an application for a proposed initiative bill within 60 calendar days of receipt and “certify it or notify the initiative committee of the grounds for denial.” The application for the 19AKBE initiative was filed with the Division of Elections on July 3, 2019. The sixtieth calendar day after the filing of the initiative is Sunday, September 1, 2019.

Under AS 15.45.080, certification shall be denied only if: “(1) the proposed bill to be initiated is not confined to one subject or is otherwise not in the required form; (2) the application is not substantially in the required form; or (3) there is an insufficient number of qualified sponsors.”

### **A. Form of the proposed initiative bill.**

In evaluating an application for an initiative bill, you must determine whether the application is in the “proper form.”<sup>1</sup> Specifically, you must decide whether the application complies with “the legal procedures for placing an initiative on the ballot, and whether the initiative contains statutorily or constitutionally prohibited subjects which should not reach the ballot.”<sup>2</sup>

The form of an initiative bill is prescribed by AS 15.45.040, which requires four things: (1) that the bill be confined to one subject; (2) that the subject be expressed in the title; (3) that the bill contain an enacting clause stating: “Be it enacted by the People of the State of Alaska”; and (4) that the bill not include prohibited subjects. The list of prohibited subjects is found in article XI, section 7 of the Alaska Constitution and AS 15.45.010. An initiative includes a prohibited subject when it makes or repeals appropriations; enacts local or special legislation; dedicates revenue; or creates courts, defines their jurisdiction, or prescribes their rules.<sup>3</sup> You may deny certification only if the measure violates one or more of these restrictions, or if “controlling authority establishes its unconstitutionality.”<sup>4</sup>

In reviewing this initiative bill, we identified two potential concerns that we carefully reviewed. First, we considered whether the bill violates the single-subject rule because it makes significant changes to distinct democratic processes; it establishes an

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<sup>1</sup> Alaska Const. art. XI, § 2.

<sup>2</sup> *McAlpine v. Univ. of Alaska*, 762 P.2d 81, 87 n.7 (Alaska 1988).

<sup>3</sup> AS 15.45.010; *see also* Alaska Const. art. XI, § 7 (prohibiting dedicating revenue, creating courts, defining court jurisdiction or prescribing court rules).

<sup>4</sup> *Kodiak Island Borough v. Mahoney*, 71 P.3d 896, 900 n. 22 (Alaska 2003).

open primary, moves to a ranked-choice general election, and changes campaign finance disclosure laws. Second, we evaluated whether the change to an open primary system and the new campaign finance disclosure requirements were clearly unconstitutional under existing authority. As explained further below, we conclude that the bill violates the single-subject rule because it contains more than one subject. We further conclude that although the bill is constitutionally suspect, there is no controlling authority directly on point such that the proposed provisions could be deemed clearly unconstitutional.

Thus, the initiative bill meets only three of the four requirements of AS 15.45.040. The subjects of the bill are expressed in the title, the bill has the required enacting clause, and the bill does not include any of the prohibited subjects and is not clearly unconstitutional under existing authority. But the bill fails to meet the requirement that the bill be confined to one subject.

**i. The initiative bill violates the single-subject rule.**

Article II, section 13 of the Alaska Constitution requires that “[e]very bill shall be confined to one subject.” The single-subject rule requires that all parts of a bill “fall under some one general idea” and “be so connected with or related to each other, either logically or in popular understanding, as to be parts of, or germane to, one general subject.”<sup>5</sup> The court will only strike down a bill for violating this rule if the violation is “substantial and plain.”<sup>6</sup>

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<sup>5</sup> *Croft v. Parnell*, 236 P.3d 369, 372-373 (Alaska 2010); *Gellert v. State*, 522 P.2d 1120, 1123 (Alaska 1974) (quoting *Johnson v. Harrison*, 50 N.W. 923, 924 (Minn. 1891)).

<sup>6</sup> *Croft*, 236 P.3d at 373.

Despite the “considerable breadth” the Alaska Supreme Court has afforded the single-subject rule,<sup>7</sup> the Court has also made clear that the will of the voter has profound importance in any single-subject analysis.<sup>8</sup> In the context of initiative bills, the single-subject rule is intended to protect “the voters’ ability to effectively exercise their right to vote by requiring that different proposals be voted on separately.”<sup>9</sup> Confining initiative bills to one subject assures both that voters can “express their will through their votes more precisely,” and “prevents the adoption of policies through stealth or fraud, and prevents the passage of measures lacking popular support by means of log-rolling.”<sup>10</sup> Log-rolling, the Court has explained, “consists of deliberately inserting in one bill several dissimilar or incongruous subjects in order to secure the necessary support for passage of the measure.”<sup>11</sup>

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<sup>7</sup> *Id.* See also *See Suber v. Alaska State Bond Committee*, 414 P.2d 546, 557 & n. 23 (Alaska 1966) (criminal penalty for false statements in application for earthquake relief funds “fairly incidental to the general subject ... of grants to homeowners”); *Gellert*, 522 P.2d at 1123 (Alaska 1974) (flood control projects and small boat harbors “all part of a cooperative water resources development program”); *North Slope Borough v. SOHIO*, 585 P.2d 534, 545–46 (Alaska 1978) (various provisions on municipal and state taxes all “relate directly to state taxation”); *Short v. State*, 600 P.2d 20, 22–24 & n. 2 (Alaska 1979) (purposes of new correctional facilities “sufficiently related to the purposes” of new buildings for “state troopers, fish and wildlife protection, a motor vehicles division, [and] a fire prevention division”); *State v. First Nat’l Bank of Anchorage*, 660 P.2d 406, 414–15 (Alaska 1982) (provisions regulating sale of private land, and provisions on state’s power to lease state-owned land and zone private lands all “in some respect concern[ ] land”); *Yute Air v. McAlpine*, 698 P.2d 1173, 1175, 1181 (Alaska 1985) (repeal of regulations of “motor and air carriers in Alaska,” prohibition on further similar regulation, and requirement that governor seek repeal of federal statute that, among other things, regulates shipping by sea, all embraced by “[t]he subject ‘transportation’ ”); *Evans v. State*, 56 P.3d 1046, 1049, 1070 (Alaska 2002) (changes to damages recoverable for torts, changes to tort statutes of limitations, change to allocation of fault between parties in tort suits, change to offer of judgment rules, and grant of partial immunity to hospitals all “within the single subject of ‘civil actions’ ”).

<sup>8</sup> *Croft*, 236 P.3d. at 372.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Gellert*, 522 P.2d at 1122; see also Proceedings of the Alaska Constitutional Convention at 1746–47 (discussion of the single-subject requirement and the concern over log-rolling).

The Alaska Supreme Court's approach to the single-subject test reflects its increasing misgivings with the breadth of the rule under past cases. In *State v. First National Bank of Anchorage*, for example, the Court concluded that bill sections related to the Uniform Land Sales Practices Act and the Alaska Land Act both fell under the single subject of "land."<sup>12</sup> The Court's discussion, however, illuminated its dissatisfaction with the test's expansiveness, which effectively hamstrung its ruling. The Court acknowledged:

Were we writing on a clean slate, we would be inclined to find this subject impermissibly broad. Permitting such breadth under the one-subject rule could conceivably be misconstrued as a sanction for legislation embracing the whole body of law. Nevertheless, while the issue is indeed close, we are unable to say that the legislature has transgressed the limits of article II, section 13 established by prior decisions of this court.<sup>13</sup>

A few years later, the Court reiterated its dissatisfaction with the single-subject test and the unique risks it posed in the initiative context. In *Yute Air Alaska, Inc. v. McAlpine*,<sup>14</sup> a per curiam court determined that an initiative titled "Reducing Government Regulation of Transportation," satisfied the single-subject test even though the bill sought to repeal statutes regulating motor and air carriers in Alaska, open the carrier business further, prohibit municipal regulation of such activities, and require the governor to repeal the federal statute requiring the use of United States vessels for shipping goods between U.S. ports.<sup>15</sup> But the Court once again expressed the reservations it first raised in *First National*.<sup>16</sup> And in writing his dissent, Justice Moore noted that the court had "mistakenly continued to give the rule such an extremely liberal interpretation that the rule has become a farce," leading it to become "almost meaningless,"<sup>17</sup> whereby even the most disparate subjects could be "enfolded within the cloak of a broad generality."<sup>18</sup>

Justice Moore aptly recognized that application of the single-subject rule is to some degree context specific.<sup>19</sup> For example, when a bill becomes a law through an

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<sup>12</sup> 660 P.2d 406, 414-15 (Alaska 1982).

<sup>13</sup> *Id.* at 415.

<sup>14</sup> 698 P.2d 1173 (Alaska 1985).

<sup>15</sup> *Id.* at 1174.

<sup>16</sup> *Id.*

<sup>17</sup> *Id.* at 1182 (Moore, J., dissenting).

<sup>18</sup> *Id.* at 1183.

<sup>19</sup> *Id.* at 1184.

initiative, “the problems the single-subject rule was designed to prevent are exacerbated,” and “[t]here is a greater danger of logrolling, the deliberate intermingling of issues to increase the likelihood of an initiative’s passage, and there is a greater opportunity for “inadvertence, stealth and fraud” in the enactment-by-initiative process.”<sup>20</sup>

Years later, the Alaska Supreme Court decided *Croft v. Parnell*, and recognized that the concerns Justice Moore articulated with the single-subject test are particularly salient in the initiative context. In *Croft*, the Court held that an initiative bill that sought to publicly fund state elections by increasing the oil production tax violated the single-subject rule.<sup>21</sup> In reviewing the bill, the Court recognized that the single-subject rule protects voters’ ability to effectively exercise their right to vote and assures that measures passed secure popular support.<sup>22</sup> It then held that the initiative “directly implicate[d] one of the main purposes of the single-subject rule—the prevention of log-rolling—in two ways.”<sup>23</sup> First, “coupling the approval of a new oil production tax with approval of a program to publicly fund elections deprives the voters of an opportunity to send a clear message on each subject encompassed by the Sponsor’s initiative.”<sup>24</sup> And second, “offering the chance of increased Permanent Fund Dividend payments runs the risk of garnering support for the clean elections program from voters who are otherwise indifferent—or even unsupportive—of public funded campaigns.”<sup>25</sup>

*Croft* thus recognizes the acute dangers of log-rolling in the initiative context, and the Alaska Supreme Court’s interest in preventing the harms the single subject rule was designed to combat. When confronted with an initiative, voters have only one opportunity to provide an up or down vote, regardless of their feelings on any of the distinct proposed provisions.<sup>26</sup> Unlike legislators, they cannot deliberate, propose amendments, and compromise on the relative merits of dissimilar provisions. In this context, it is therefore critical for voters to have a clear choice. They must be allowed to vote on different bills covering different subjects separately. The single-subject rule protects them from having to struggle with how to express their political will through a vote on an overly complex initiative bill covering disjointed subjects.

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<sup>20</sup> *Id.*

<sup>21</sup> *Croft*, 236 P.3d at 374.

<sup>22</sup> *Id.* at 372-33.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> *Id.* at 373 (recognizing that proposing new government program and creation and “soft dedication” of a new revenue source “does not provide the voters with an opportunity to express their approval or disapproval of each distinct proposal.”).



Like the initiative bill at issue in *Croft*, 19AKBE runs afoul of these principles and directly implicates the main purposes of the single subject rule in the initiative context. It “deprives voters of an opportunity to send a clear message” by covering at least two, if not three, discrete and important subjects. As presented, 19AKBE would force voters to accept or reject as a whole: (1) the elimination of the party primary system and the establishment of an entirely new nonpartisan primary; (2) a new ranked-choice voting process that amends how candidates in the general election are elected and how votes are counted; and (3) additional campaign finance disclosure and disclaimer requirements. These subjects are, each in their own right, of significant import to Alaskans. And they directly implicate at least three constitutional rights—the right to advocate for the election or defeat of candidates through monetary contributions;<sup>27</sup> the associational right of political parties and political groups to select a standard-bearer;<sup>28</sup> and the right to vote.<sup>29</sup>

The *Croft* court’s focus on the will of the voter also takes on profound importance when one considers the diversity, complexity, and sheer scope of 19AKBE. The subjects at issue in 19AKBE involve core decisions regarding democracy, the right to free speech, and the right to association under the First Amendment. There is nothing more foundational to our democracy than voting and electing our leaders. How that process should work, how a person’s vote is counted, and what role political parties play in that process are questions that impact every Alaskan. To combine those issues in a single initiative with yet another controversial question concerning what burdens should be placed on a person’s or entity’s right to support or oppose specific candidates is a bridge too far under the single-subject rule.

The subjects presented in this initiative also engender understandable passion, controversy and strong opinions. One could easily imagine a voter passionately wanting an open primary, yet zealously opposing more robust campaign finance requirements due to First Amendment concerns. Forcing both of these subjects into a single bill deprives that voter of the opportunity to express their will on either. Making voters take such an all or nothing approach thus compromises voters’ ability “to effectively exercise their right to vote,”<sup>30</sup> on critical questions that go to the very core of government. It could also result in “the passage of measures lacking popular support by means of log-rolling,” where

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<sup>27</sup> See *Citizen's United v. Federal Election Commission*, 558 U.S. 310 (2010).

<sup>28</sup> See *Washington State Grange v. Washington State Republican Party*, 552 U.S. 442 (2008); *State v. Alaska Democratic Party*, 426 P.3d 901.

<sup>29</sup> See *Sonneman v. State*, 969 P.2d 632, 637 (Alaska 1998) (“voting is unquestionably a fundamental right”).

<sup>30</sup> *Id.* at 372.

some groups might well support the significant changes to the primary and general elections but oppose increased campaign finance reform—or vice versa.<sup>31</sup>

Despite the breadth afforded the single-subject rule, 19AKBE embodies many of the concerns identified in *Craft*, and for that reason it violates the single-subject rule. Whether the changes proposed in 19AKBE are good or bad policy will ultimately be up to the people or the legislature. But because an initiative must be in the proper form in order to be certified and 19AKBE violates the single-subject rule, we recommend denial of certification.

**ii. 19AKBE is not clearly unconstitutional under existing authority**

We also considered whether any of the provisions in 19AKBE were clearly unconstitutional such that the petition must be rejected. The Alaska Supreme Court generally “refrain[s] from giving pre-enactment opinions on the constitutionality of statutes, whether proposed by the legislature or by the people through their initiative power, since an opinion on a law not yet enacted is necessarily advisory.”<sup>32</sup> But the Court has also articulated two grounds on which a petition may be rejected before circulation: (1) “if it violates the subject matter restrictions” discussed above; or (2) if it “proposes a substantive ordinance whereby controlling authority establishes its unconstitutionality.”<sup>33</sup> The second ground is considered as “an exception to the rule that judicial review of an initiative’s constitutionality may not be obtained until after the voters have enacted the initiative.”<sup>34</sup> The Court provided an example of a “clearly unconstitutional” initiative bill as one that would require segregation in schools in violation of *Brown v. Board of Education of Topeka, Kansas*, 349 U.S. 294 (1955).<sup>35</sup> In 2006, the Alaska Supreme Court applied this framework when it affirmed the Lieutenant Governor’s decision not to certify an initiative bill that called for Alaska’s secession from the United States, upon concluding that “secession is clearly unconstitutional.”<sup>36</sup>

We evaluated 19AKBE in this light, and conclude that despite the questionable nature of many of the significant proposed changes in this initiative, it does not rise to the level of being “clearly unconstitutional.” 19AKBE includes provisions that would (1) eliminate the political party primary, which plainly implicate the freedom of association

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<sup>31</sup> *Ibid.*

<sup>32</sup> *Kohlhaas v. State*, 147 P.3d 714, 717 (2006).

<sup>33</sup> *Id.*

<sup>34</sup> *Id.* at 717-18.

<sup>35</sup> *Id.* at 718 and n.17.

<sup>36</sup> *Id.* at 717-18.

rights of political parties and political groups; and (2) require additional campaign finance disclosures relating to independent expenditure groups, which implicate free speech rights.

As to the first issue, 19AKBE would significantly alter the manner in which candidates advance to the general election by creating an open, non-partisan primary, thereby implicating the associational rights of political parties. The U.S. Supreme Court has acknowledged a party's interest in the process by which a party selects its standard bearer. In *California Democratic Party v. Jones*, the Court invalidated California's blanket primary, whereby all parties' primary races to nominate party candidates were included on the same ballot, and every voter could vote for any candidate.<sup>37</sup> The Court held that the scheme violated the parties' First Amendment rights by infringing on a party's ability to exclude voters from voting to nominate the parties' candidate for the general election.

The Alaska Supreme Court has also recognized a political party's associational rights to choose its nominees in a recent case involving the Democratic Party's challenge to a state statute that prohibited a political party from allowing nonmembers to run in the party primary.<sup>38</sup> In *State v. Alaska Democratic Party*, the Court repeatedly acknowledged that the party had a "right to choose its general election nominees." It ultimately invalidated the state's party-membership provision, concluding that the statute severely burdened the party's right and was not narrowly tailored to achieve the state's interests.<sup>39</sup>

Nevertheless, the U.S. Supreme Court has also upheld a state open primary system similar to that proposed by 19AKBE, concluding that the law on its face did not "impose a severe burden on political parties' associational rights."<sup>40</sup> Therefore, while the U.S. Supreme Court upheld an open primary system from a facial constitutional attack—though leaving open the question of how any later as-applied challenge might be resolved—the Alaska Supreme Court has not yet had an opportunity to directly review this issue.

The Alaska Constitution does protect political party associational rights more robustly than the federal constitution.<sup>41</sup> Accordingly, it is possible that the Alaska

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<sup>37</sup> *California Democratic Party v. Jones*, 530 U.S. 567, 575 (2008).

<sup>38</sup> *State v. Alaska Democratic Party*, 426 P.3d 901 (Alaska 2018).

<sup>39</sup> *Id.* at 909-915.

<sup>40</sup> *Washington State Grange v. Washington State Republican Party*, 552 U.S. 442, 444 (2008).

<sup>41</sup> *Alaska Democratic Party*, 426 P.3d at 909.

Supreme Court could decline to follow the reasoning of *Washington State Grange*<sup>42</sup> and could conclude that 19AKBE violates a political party's speech and/or associational rights as protected by the Alaska Constitution. The Court could reach this conclusion because 19AKBE would permit a candidate to declare party affiliation on the primary and general election ballot and would permit voters unaffiliated with a party to vote on whether to pass the party's candidate on to the general ballot, while denying the party itself the ability to identify its standard bearer on the general election ballot. Regardless of how valid these arguments might appear, however, it cannot be said at this time that they demonstrate a "clear unconstitutionality" of 19AKBE.

19AKBE would create an open primary similar to the one that was facially upheld by the U.S. Supreme Court. Essentially under 19AKBE, the state would not be involved in political party nominations of candidates. Instead, a political party would be free to endorse whichever candidate it chooses in the open primary and general election, and it would be up to the political parties as to how that nomination or endorsement occurred. This type of open primary raises unique constitutional concerns that implicate a party's rights of association. But under the highly deferential pre-enactment standard of review, there is no clear legal authority directly on point such that the open primary system contemplated under 19AKBE can be deemed "clearly unconstitutional."

The second issue involves campaign finance disclosure laws relating to independent expenditure groups. The most concerning provisions relate to "dark money" restrictions and additional disclosures for "outside-funded entities." Campaign finance laws, which regulate political speech, by their very nature implicate the First Amendment and are subject to constitutional challenge. Courts may be called upon to determine whether the government's interest in disclosure laws, which are intended to ensure transparent and fair elections, is outweighed by the burdens the initiative bill would place on the core First Amendment right to engage in political speech. However, the question here is simply are these provisions clearly unconstitutional. Despite the potential challenges that could be raised against the initiative once enacted, there is no existing authority under which the campaign finance disclosure requirements in 19AKBE can be deemed unconstitutional under the Alaska Supreme Court's legal framework for pre-enactment review.

In fact, the U.S. Supreme Court upheld campaign finance disclosure requirements in *Citizens United v. Federal Election Commission*,<sup>43</sup> and described the existing precedent authorizing disclosure requirements as follows:

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<sup>42</sup> *Washington State Grange*, 552 U.S. at 444.

<sup>43</sup> 558 U.S. 310 (2010).

Disclaimer and disclosure requirements may burden the ability to speak, but they impose no ceiling on campaign-related activities or prevent anyone from speaking. The *Buckley* Court explained that disclosure can be justified by a governmental interest in providing the electorate with information about election-related spending sources . . . . However, the Court acknowledged that as-applied challenges would be available if a group could show a reasonable probability that disclosing its contributors' names would subject them to threats, harassment, or reprisals from either Government officials or private parties.<sup>44</sup>

For the reasons described above, none of the provisions in 19AKBE are clearly unconstitutional under existing authority.

**B. Form of the application.**

The form of an initiative application is prescribed by AS 15.45.030, which provides that the application must include the

- (1) proposed bill;
- (2) printed name, the signature, the address, and a numerical identifier of not fewer than 100 qualified voters who will serve as sponsors; each signature page must include a statement that the sponsors are qualified voters who signed the application with the proposed bill attached; and
- (3) designation of an initiative committee consisting of three of the sponsors who subscribed to the application and represent all sponsors and subscribers in matters relating to the initiative; the designation must include the name, mailing address, and signature of each committee member.

The application on its face meets the first requirement, as well as the latter portion of the second requirement regarding the statement on each signature page. With respect to the first clause of the second requirement, we understand the Division of Elections has reviewed the sponsor signatures and determined that the application contains the signatures and addresses of—159 qualified voters. The application also includes a designation of an initiative committee, who subscribed to the application, thus satisfying the third requirement. Therefore, the application is in the proper form.

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<sup>44</sup> *Id.* at 885 (internal quotations and citations omitted).

### **III. Conclusion.**

The single-subject rule serves an important constitutional purpose in the initiative context by protecting voters' ability to have their voices heard. But 19AKBE, if certified, would force voters into an all or nothing approach on multiple important policy choices, all of which implicate their fundamental constitutional rights in different ways. Because we conclude that the initiative bill violates the single-subject rule, we recommend that you decline to certify the initiative application.

If you decide to reject the initiative, we suggest that you give notice to all interested parties and groups who may be aggrieved by your decision.<sup>45</sup> This notice will trigger the 30-day appeal period during which these persons must contest your action.<sup>46</sup>

Please contact us if we can be of further assistance to you on this matter.

Sincerely,



Kevin G. Clarkson  
Attorney General

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<sup>45</sup> AS 15.45.240.

<sup>46</sup> AS 15.25.240; *McAlpine*, 762 P.2d at 86.

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Attorneys for Plaintiff Alaskans for Better Elections

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

ALASKANS FOR BETTER ELECTIONS, )

Plaintiff, )

v. )

KEVIN MEYER, LIEUTENANT )  
GOVERNOR OF THE STATE OF )  
ALASKA and the STATE OF ALASKA, )  
DIVISION OF ELECTIONS, )

Defendants. )

Case No. 3AN-19-09704 CI

**ORDER GRANTING UNOPPOSED MOTION FOR EXPEDITED  
CONSIDERATION OF PARTIES' STIPULATION #2**

Upon review of this Unopposed Motion for Expedited Consideration of Parties' Stipulation, it is ordered that the Motion is GRANTED. The Court will review and approve the Parties' Stipulation as soon as possible.

DATED at Anchorage, Alaska this 10<sup>th</sup> day of September, 2019.

  
Yvonne Lamoureux  
Superior Court Judge

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 9<sup>th</sup> day of  
September 2019, a true and correct copy  
of the foregoing was sent to the following  
via U.S. Mail and Email:

Cori M. Mills, Esq.  
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Juneau, AK 99811  
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margaret.paton-walsh@alaska.gov

  
Brian Fontaine

I certify that on 9-10-19  
a copy was mailed to each of the following  
at their address of record: S. Lindemuth / S. Kendall,  
C. Mills / M. Paton-Walsh

  
Judicial Administrative Assistant



Scott M. Kendall  
Alaska Bar No. 0405019  
Jahna M. Lindemuth  
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Attorneys for Plaintiff Alaskans for Better Elections

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

ALASKANS FOR BETTER ELECTIONS, )

Plaintiff, )

v. )

KEVIN MEYER, LIEUTENANT )  
GOVERNOR OF THE STATE OF )  
ALASKA and the STATE OF ALASKA, )  
DIVISION OF ELECTIONS, )

Defendants. )

Case No. 3AN-19-09704 CI

**STIPULATION**

Plaintiff and Defendants, by and through counsel, hereby agree, and request that the court approve, the following stipulated order:

1) Plaintiff has reviewed and does not object to the Division of Election's summary for the Alaska Better Elections Initiative ("19AKBE") that will accompany the petition booklets under AS 15.45.090(2).

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2) Defendants agree to send the 19AKBE signature petition booklets to the printers on September 9, 2019 with the goal of making them available to the Plaintiff by September 23, 2019.

3) Plaintiff acknowledges that the Defendants are willing to move forward prior to the merits of the case being decided because application of the single-subject rule is the only disputed issue in the case, which applies to an initiative as a whole. Plaintiff also agrees to post a bond in the amount of \$1,500.00 to cover the costs of the petition booklets.

4) The parties anticipate an appeal to the Alaska Supreme Court, regardless of the court's decision. In order to promptly decide the legal issues of the case and provide sufficient time for consideration by the Alaska Supreme Court prior to next year's election season, the parties have agreed to the following briefing schedule and request for an expedited decision:

- a. September 30, 2019 both parties file Cross-Motions for Summary Judgment;
- b. October 21, 2019 both parties file Responses to the Cross-Motions;
- c. Oral argument is requested for the week of October 28;
- d. An expedited decision from the court is requested by December 1, 2019.

SEP 09 2019

Date: 9/9/19

HOLMES WEDDLE & BARCOTT, P.C.  
Attorneys for Plaintiff

By: [Signature]  
Scott M. Kendall  
Alaska Bar. No. 0405019  
Jahna Lindemuth  
Alaska Bar. No. 9711068

Date: 9/9/19

ATTORNEY GENERAL'S OFFICE  
Attorneys for Defendants

By: [Signature]  
Cori Mills  
Alaska Bar No. 1212140  
for: Margaret Paton-Walsh  
Alaska Bar No. 0411074

ORDER

Having considered the proposed stipulated order, IT IS SO ORDERED that the stipulation is approved. Oral argument will occur at 9:00 am on Nov. 1, 2019 in Courtroom 301.

DATED at Anchorage, Alaska this 10<sup>th</sup> day of September, 2019.

[Signature]  
Yvonne Lamoureux  
Superior Court Judge

I certify that on 9-10-19  
a copy was mailed to each of the following  
at their address of record: S. Lindemuth/S. Kendall,  
C. Mills/M. Paton-Walsh

[Signature]  
Judicial Administrative Assistant

**Estimate of Costs to the State of Alaska for Implementation of the Voter Initiative 19MALA:  
An Initiative Requiring Meetings of the Alaska Legislature to be Held in Anchorage**

**Multi Agency Cost Summary**

<b>Agency</b>	<b>Cost</b>
Legislative Affairs Agency	***
Executive Branch Operations	\$1,322,000
Office of the Lieutenant Governor	\$9,000
Office of the Lieutenant Governor, Division of Elections	\$49,685
<b>TOTAL</b>	<b>***</b>

**Estimate of Costs to the Legislative Affairs Agency to Implement the Ballot Initiative**

As required by AS 15.45.090(a)(4), the Alaska Legislative Affairs Agency has prepared the following statement of costs to implement the proposed ballot initiative. Section one of the proposed initiative requires that “all regular and special meetings” be held in Anchorage, and it is fundamentally unclear whether that is intended to include all regular and special sessions of the legislature. For the purpose of this estimate, it is assumed the court would interpret “meetings” to mean “sessions.”

The costs to relocate “all regular and special meetings of the Alaska Legislature” from the State Capital of Juneau to the Municipality of Anchorage are indeterminate. There are infinite variables and numerous decisions that must first be made. This estimate addresses the easily quantifiable costs of implementing this ballot initiative, and additional costs are certain.

This estimate does not address the economic and social impacts to Juneau and Southeast Alaska, nor does it address the costs of maintaining any buildings left vacant in Juneau.

**Estimate by Category**

Staff relocation costs	\$910,000
Equipment and office relocation costs	\$150,000
Office space acquisition costs*	***
<b>TOTAL</b>	<b>***</b>

\*\*\*Indeterminate: Office space acquisition costs shows a range that reflects the need for 140,000 square feet at rental costs from \$3.30/square foot to build costs at \$300/square foot. The cost of remodeling existing space is not included in this range. Without further information and investment of resources into evaluating available space, the range in costs for year one could be anywhere from \$462,000-\$42,000,000 (\$3.30 x 140,000) (\$300 x 140,000).

**Analysis of Fiscal Impact of Ballot Initiative**

Moving full time legislative personnel:

Relocating the session to Anchorage effectively relocates the base of operations for the Legislative Affairs Agency, the Offices of the Chief Clerk and Senate Secretary, Senate and House Records, as well as Legislative Finance. It is assumed that the need for efficiency and ease of operations would result in offering some or all the support staff a moving allowance to relocate, providing continuity and retention of institutional knowledge. Approximately 135 Juneau-based employees could be transferred to Anchorage to provide services necessary to support the operations of the legislature; it is assumed 65 people and their families would elect to relocate to Anchorage. Estimated cost to the legislature based on 65 staff moving is \$910,000 (65 x \$14,000).

**Freight:**

Moving furniture and equipment in legislative offices from Juneau to Anchorage is estimated to take 22 full size vans at a cost of \$150,000.

**Office Space:**

Prior space studies estimated a need for approximately 140,000 square feet (sq. ft.). Anchorage Municipal Code requires one parking spot per 350 gross sq. ft., which equates to 400 parking spaces. The existing Anchorage Legislative Office Building provides approximately 42,000 sq. ft. of office space, none of which is currently suitable for legislative chambers, committee rooms, and necessary support staff. Current office space cost estimates \$300/sq. ft. for building to suit (furnishings, equipment, etc., not included) and \$3.30/sq. ft. for Class A lease space (not including necessary renovations). Without further information and investment of resources into evaluating available space, the range in costs could be anywhere from \$462,000-\$42,000,000 (\$3.30 x 140,000) (\$300 x 140,000) and thus remains indeterminate.

**Estimate of Costs to the Executive Branch to Implement the Ballot Initiative**

As required by AS 15.45.090(a)(4), the Office of Management and Budget (OMB) has prepared the following statement of costs to implement the proposed ballot initiative. If approved, the initiative would take effect 90 days following election certification. This statement encompasses anticipated fiscal impact to the 13 executive branch agencies and the Office of the Governor. The costs that would be incurred by the Lieutenant Governor's Office and the Division of Elections, related to holding hearings and placing the initiative on the ballot, are accounted for separately.

**Estimate by Category**

<u>Travel</u>	<u>\$1,322,000</u>
TOTAL	\$1,322,000

**Analysis of Fiscal Impact of Ballot Initiative**

In order to provide cost estimates for implementation of 19MALA, OMB evaluated position locations for job classes that would be expected to relocate for legislative session. By moving session from Juneau to Anchorage, there would be an anticipated result of 40 additional staff relocations for the duration of a 121-day session. The cost for per diem and housing is estimated at \$30,250 per

position (\$250/day x 121 days). The cost of four round trip tickets between Juneau and Anchorage for each of those staff is estimated to total \$112,000 (\$700 x 4 x 40). Total cost to the Executive branch is estimated to be \$1,322,000. This analysis assumes that adequate office space exists in Anchorage leases to absorb the increased staff in existing agency footprints.

### **Estimate of Costs to the Office of the Lieutenant Governor and the Division of Elections for the Ballot Initiative**

As required by AS 15.45.090(a)(3), the Alaska Office of the Lieutenant Governor has prepared the following statement of minimum costs associated with the proposed ballot initiative. If approved, the initiative would take effect 90 days following election certification.

#### **Office of the Lieutenant Governor**

Assuming the initiative is placed on the ballot, the minimum cost to conduct public hearings concerning the initiative in two communities in each of four judicial districts is estimated to be \$9,000.

#### **Estimate by Category**

<u>Travel</u>	<u>\$ 9,000</u>
TOTAL	\$ 9,000

#### **Analysis of Fiscal Impact of Ballot Initiative**

Travel: Estimated travel expenses include round-trip air transportation, per diem and other associated travel costs for the Lieutenant Governor and staff to travel to seven communities in Alaska. It is assumed one of the hearings would be in Anchorage, which would not involve travel costs.

#### **Division of Elections**

As required by AS 15.45.090(a)(3), the Division of Elections has prepared the following statement of costs to implement the proposed ballot initiative.

The minimum cost to the Division of Elections associated with certification of the initiative application and review of the initiative petition, excluding legal costs to the state and the costs to the state of any challenge to the validity of the petition, is estimated to be \$61,689.

#### **Estimate by Category**

Personal Services	\$60,389
<u>Printing Services</u>	<u>\$1,300</u>
TOTAL	\$61,689

#### **Analysis of Fiscal Impact of Ballot Initiative**

Personal Services: Six temporary employees to review signatures for 2,520 hours.

Estimated cost: \$44,555.

Certification of the initiative application and review of the initiative petition estimated for 504 hours.  
Estimated cost: \$15,834.

Printing Services: Printing service expenses associated with certification of the initiative application  
and review of initiative petition.  
Printing of voter booklets: \$1,300