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CS for House Bill 66 (Version N) – Election, Voting, Ballots

Sectional Analysis

"An Act relating to elections; relating to voters; relating to the crimes of unlawful interference with voting, unlawful interference with an election, election fraud, and election official misconduct; and providing for an effective date."

Section 1 – Removes language from AS 15.05.010 requiring a qualified voter to register before an election as stipulated under AS 15.07. Removing this requirement is necessary to allow voters to register to vote within 30 days of an election.

Section 2 – Amends AS 15.07.060 (a) to allow a person registering or re-registering as a voter to apply using an electronic image of the applicant's signature submitted in the format and according to the process specified by the Division of Elections in regulation. This section requires a person registering to vote to sign an acknowledgment that if they were previously registered in another jurisdiction, the Director of the Division of Election will notify the jurisdiction that the person has registered to vote in Alaska and request cancellation of the person's registration in that jurisdiction. This section also defines procedures for individuals registering to vote within 30 days of an election, requiring that they sign an affidavit attesting to residency requirements for voting, and provide identification establishing residency.

Section 3 – Amends AS.07.060 to add a new subsection to allow those that register to vote in Alaska to designate a language preference for a ballot and election materials among the written languages required for election materials under federal law. Once a person designates a language preference, the Division of Elections will continue to provide the person with materials in that language until the person's registration is inactivated or canceled, or language coverage expires under federal law.

Section 4 – Amends 15.07.070 (d) to stipulate that a qualified voter registering on the day of or within 30 days of an election may vote only an absentee in-person, special needs, or questioned ballot. Qualified voters that register to vote within 30 days of an election shall not vote on a regular ballot.

Section 5 – Amends AS 15.07.070 (h) requiring the Division of Elections to design the voter's certificate appearing on the envelope that is used for voting an absentee in-person, special needs, or questioned ballot to include all the information needed to register to vote. Section 5 no longer includes language allowing a voter to register as nonpartisan, as undeclared, or as affiliated with a political party or a political group.

Section 6 – Amends AS 15.07.090 (b) to stipulate that a person who has re-registered under this subsection may vote only an absentee in-person, special needs, or questioned ballot until the next election that occurs at least 30 days after the date of re-registration.

Section 7 – Amends AS 15.07.090 (c) to require a person who has moved to a new precinct to vote only an absentee in-person, special, needs, or questioned ballot.

Section 8 – Amends AS 15.07.090 (d) stipulating that a person for whom no evidence of registration in the precinct can be found may only vote an absentee in-person, special needs, or questioned ballot.

Section 9 – Amends AS 15.07 to add a new section titled “Voter fraud mitigation policy.” The section details that it is the policy of the state to reduce voting fraud by using reasonable and affordable tools and technology to mitigate the potential for voting fraud, including reviewing voter registration applications and master register for the names of the deceased, felons ineligible to vote, non-citizens, and individuals voting unlawfully.

Section 10 – Amends AS 15.07.130 (e) to rename “absentee voting stations” as “early voting stations.”

Section 11 – Amends AS 15.07.130 to add a new subsection requiring the Division of Elections to adopt regulations providing for regular review and updates of the master voter registration list. The regulations must provide for review of the list for data breaches, the number of registered voters compared to eligible voters, the names of deceased voters, persons convicted of a felony involving moral turpitude, persons not qualified to vote under AS 15.05, and persons registered in other states. The regulations must specify the records and databases for review, including the United States Postal Service national change of address database, an electronic registration information center dedicated to improving the integrity of voter rolls and maintained by a nonprofit membership organization of which the state is a member, state motor vehicle records, records of the state programs of corrections, property and sales tax records, municipal assessor databases, the United States Social Security Administration death index, other records of the federal social security system, the alien database maintained by the United States Department of Homeland Security, and jury duty records.

Section 11 includes a new subsection requiring the Division of Elections to adopt a voter registration system that applies best practices to improve identity matching when comparing voter registration lists with the records and databases used to review the master register. Further, the Division of Elections is required to develop a written maintenance schedule and guideline manual for the system. Additionally, the Division of Elections must provide a report on the system to the Senate secretary and the chief clerk of the House of Representatives on or before the first day of the first regular session of each legislature.

Section 12 – Amends AS 15.07 to add a new subsection that requires the Division of Elections to develop a process for voters to voluntarily cancel their voter registration. Cancellation can be done either in person or electronically. Further,

the Division of Elections must prominently display in each polling place detailed instructions on how to cancel voter registration.

Section 13 – Amends AS 15.10.170 to allow an organization sponsoring or opposing a ballot proposition or recall in a general election, special election, or special primary election to have one or more watchers at polls and counting centers once authorized by the Director of the Division of Elections. The election board or the data processing review board may require each watcher to present written proof of an appointment that is signed by the respective chairperson of the precinct party committee, party district committee, state party chairperson, organization, organized group, or candidate.

Section 14 – Amends AS 15.15.030 to add a new paragraph requiring the Division of Elections to develop regulations requiring official ballots to include a watermark, seal, or other identifiers. Unless the Director of the Division of Elections provides for a limited exception, the Division may not count a ballot that does not include the identifier.

Section 15 – Amends AS 15.15 to add new sections requiring the Director of the Division of Elections to issue regulations for a system for ballot security and chain of custody for all ballots, certificates, envelopes, and the paper record of an electronically generated ballot from the time of printing until 22 months after the applicable election is certified. The ballot security system must include an envelope-based barcode or other mechanisms sufficient to account for a ballot at all times the ballot is outside Division custody. The Division of Election shall continually update the system adopted under this section to ensure that state election practices and procedures are consistent with best practices and procedures to protect the integrity of state elections. A signed ballot chain-of-custody document must accompany a ballot or group of ballots in the division's possession. An election official shall sign the document immediately upon receiving or releasing a ballot or group of ballots. Additionally, the Division of

Election shall adopt regulations to develop a process to void all unused ballots, spoiled ballots, and unopened packs of ballots.

Sec. 15.15.057 requires the Division of Election to establish a toll-free election offense hotline to receive reports of election offenses. The section requires the Division of Elections to encourage the public to provide information related to voter misconduct or other election offenses.

Section 16 – Amends AS 15.15.060 to add a new subsection requiring the Division of Elections to provide language assistance at polling places for languages required by federal law. At each polling place, an election supervisor shall post information requiring the availability of language assistance in English and all other languages for which language assistance is required by federal law.

Section 17 – Amends the title of AS 15.15.210 to detail how to make a questioned ballot declaration. The section allows election officials, watchers, and voters to question a person attempting to vote if the questioner has good reason to suspect that the questioned person is not qualified under AS 15.05. A questioned person shall complete the questioned ballot declaration. If the questioned person refuses to execute the declaration, the person may not vote.

Section 18 – Amends AS 15.15.210 to add a new subsection requiring each person voting a questioned ballot to complete a declaration attesting that the person is a qualified voter and has not voted in the same election. The person voting a questioned ballot must certify that they understand that a false statement on the declaration may subject the person to prosecution under this title or for perjury. For state and local elections, the voter must identify the voter's place of residence for the 30 days immediately preceding the election.

Section 19 – Amends AS 15.15.215 (a) to clarify that a voter casting a questioned ballot must complete the declaration required by Section 18.

Section 20 – Amends AS 15.15 to add a new section requiring the Division of Elections to conduct a risk-limiting audit of election results for each state election

prior to certification. The Division of Elections must adopt regulations to implement and administer the risk-limiting audits, including a procedure for selecting which election results to audit. As part of adopting the regulation, the Division of Elections shall consult recognized statistical experts, equipment vendors, and municipal clerks. The Division must also consider best practices for conducting risk-limiting election audits.

Section 21 – Amends AS 15.20.020 to require the Division of Elections to make instructions regarding the online system for tracking absentee ballots available to absentee voters.

Section 22 – Amends AS 15.20.030 to require the return envelope for an absentee ballot to be postage-paid. This section also removes the witness requirement for absentee ballots, as this bill separately requires signature verification for mail ballots.

Section 23 – Amends AS 15.20.045 (b) to rename “absentee voting stations” as “early voting stations.” AS 15.20.045 (b) is further amended to stipulate that a location designated as an early voting station will remain an early voting station for subsequent elections unless the location is no longer available for use, or the Director of the Division of Elections determines that the location is no longer appropriate. The section requires the Director to make a determination that a location is no longer appropriate for use as an early voting station available to the public in writing.

Section 24 – Amends AS 15.20.045 (c) to rename “absentee voting stations” as “early voting stations.”

Section 25 – Amends AS 15.20.045 to add a new subsection requiring the Division of Elections to appoint at least one registration official to serve in each early voting station during early voting hours and allow appointed election officials to also serve as registration officials.

Section 26 – Amends AS 15.20.050 to rename “absentee voting stations” as “early voting stations.”

Section 27 – Amends AS 15.20.061 (a) to rename “absentee voting stations” as “early voting stations.”

Section 28 – Amends AS 15.20.064 (b) to require that election officials verify that when a voter appears for early voting, the voter’s residence address, as it appears on the registration list for the election where the voter appears, is current.

Section 29 – Amends AS 15.20.064 to add a new subsection stipulating that if a voter’s eligibility cannot be immediately verified by an election official, the voter shall cast an absentee ballot in the manner provided in AS 15.20.061. The voter’s eligibility to vote will be determined when the absentee ballot is evaluated for counting.

Section 30 – Amends AS 15.20 to add a new section stipulating that the Division of Elections may not mail an absentee ballot application to an eligible voter unless the voter expressly requests an application. An application may not be distributed if a part of the application is filled out for the voter, except as permitted under AS 15.20.081(a). Absentee ballot applications must prominently display who sent the application and prominently display “Application only/Not a ballot” on the exterior address side of the envelope.

Section 31 – Amends AS 15.20.072 (b) to rename “absentee voting stations” as “early voting stations.”

Section 32 – Amends AS 15.20.081 (b) to require absentee ballot applications to permit the person to declare a political affiliation if any. Additionally, an absentee ballot application submitted by electronic transmission under this section shall include a provision that permits a person to register to vote under AS 15.07.070.

Section 33 – Amends AS 15.20.081 (d) to eliminate the witness requirement for absentee ballots.

Section 34 – Amends AS 15.20.081 (e) to allow a ballot received after election day to be accepted if it includes a U.S. Postal Service tracking barcode that verifies that the ballot was mailed on or before election day, notwithstanding the absence of a postmark or a postmark after election day.

Section 35 – Amends AS 15.20.081 to add a new subsection (m) that requires an absentee ballot application to include an option for a voter to choose to receive absentee ballots by mail for future regularly scheduled state elections. The new subsection stipulates that the director of the Division of Elections may require a voter to reapply to receive an absentee ballot by mail if the voter has not voted an absentee ballot for a period of four years or the voter's previous absentee ballot was returned as undeliverable. Additionally, subsection (n) stipulates that if a voter, at least 45 days before an election, requests to receive a mail ballot in a language other than English required by federal law, the Division of Elections shall provide the ballot and election materials in the language requested.

Section 36 – Amends AS 15.20.201 (a) to allow absentee ballot certificates and envelopes to be reviewed beginning 10 days before election day, as opposed to seven days before election day under current law. This section also clarifies that an absentee ballot may not be counted until the accompanying voter certificate has been reviewed.

Section 37 – Amends AS 15.20.203 (b) to stipulate that, in addition to reasons provided under existing law, an absentee ballot may be rejected if the voter has failed to properly sign the certificate or the ballot is delivered by mail after election day and is not postmarked on or before election day or does not have a U.S. Postal Service tracking barcode that verifies mailing on or before election day. An absentee ballot may also be rejected if the signature on the certificate is not consistent with the signature in the voter's registration record. This section also removes the basis for rejecting an absentee ballot due to a lack of a witness or the attesting official's signature.

Section 38 – Amends AS 15.20.203 to add a new subsection that provides guidelines for the district absentee counting board to conduct signature verification on absentee ballot envelope certificates. The Division of Elections is required to develop regulations for the use of signature comparison software. The new subsection stipulates that an election official may not determine that the signature on a voter's return envelope does not match the signature stored in the voter's registration record solely on the substitution of initials or the use of a common nickname. The Division of Elections is required to provide training in signature comparison and the use of signature comparison software to election officials who compare signatures under this section.

Section 39 – Amends AS 15.20.220 (b) to require that absentee ballots properly cured under AS 15.20.222 be counted.

Section 40 – Amends AS 15.20 to add a new section requiring the Division of Elections to establish or procure an online ballot tracking system, through which a voter may track the sending, delivery, and receipt of the voter's ballot. The ballot tracking system must also detail if the ballot has been reviewed and counted. Additionally, the online system must indicate to a voter the process by which the voter may cure the lack of signature or verify the voter's identity. The online system must also indicate the process to cure a ballot if the signature on the voter's ballot was missing or was determined to not match the signature in the voter's registration record under AS 15.20.203 (K). The Division of Elections may not charge a fee to use the online system and the system shall allow a voter to easily access the information through a mobile electronic device.

Sec. 15.20.222 establishes cure procedures where a voter whose ballot is rejected due to a defect with the certificate envelope must be notified of the defect and provided an opportunity to cure the ballot defect by providing identification and a signature within 14 days after election day. This section requires the Division of Elections to send a notice of deficiency by first-class mail to the address indicated in the voter's registration record and by email if an email address is provided by

the voter. Additionally, if the voter has provided a telephone number, the Division of Elections may attempt to notify the voter of the deficiency by telephone call or text message. A notice of deficiency must include a form for the voter to confirm that the voter returned a ballot to the Division of Elections, provide a copy of a form of identification accepted by the Division, and provide a signature for verification. The Division of Elections is required to make the form available in a format that can be completed and returned electronically.

A voter's rejected ballot may not be counted, and the Division of Elections shall, if applicable, send copies of the signature on the voter's return envelope and the signature stored in voter registration records to the attorney general for investigation if the voter returns the form and the form indicates that the voter did not return a ballot to the Division of Elections. Additionally, the Division of Elections is required to update the signature stored in voter registration records if the voter provides a copy of an acceptable form of identification and provides a signature.

Section 41 – Amends AS 15.20.800 (a) to allow the Division of Elections to conduct an election by mail in an unincorporated community with a population of 750 or less if the Division of Elections determines that facilitating organized in-person voting in the community is unreasonable. Elections by mail may also be conducted in areas affected by a disaster while a disaster declaration is in effect. The section stipulates that a disaster can include an outbreak of disease or a credible threat of an imminent outbreak of disease, an enemy or terrorist attack, or a credible threat of an imminent enemy or terrorist attack. An all-mail election may also be held if it is conducted at a time other than when the general, primary, or municipal election is held.

Section 42 – Amends AS 15.20.900 to add new subsections that require the Division of Elections to conduct a forensic examination of each precinct tabulator before and after each election, and to develop and apply strict chain-of-custody protocols for precinct tabulators and storage devices. Precinct tabulators may not

be connected to the Internet or a cellular network from 24 hours prior to polls opening until 14 days after the polls close.

Section 43 – Amends AS 15.20.910 to require the Director of the Division of Elections to only approve a voting machine or vote tally system if the machine or system meets the United States Election Assistance Commission’s voluntary voting system guidelines and is certified by the commission. An approved voting machine or vote tally system must only use open-source software technology or commercial off-the-shelf software and firmware and satisfy the requirements of AS 15.15.032 (c).

Section 44 – Amends AS 15.20.910 to add a new subsection defining “commercial off-the-shelf” and “open-source software technology.”

Section 45 – Amends AS 15.56.030 (d) to exclude the postage-paid return envelopes required by the bill from being considered an “other valuable thing” under AS 15.56.030 (a).

Section 46 – Amends AS 15.56.035 (a) to provide that a person commits the crime of unlawful interference with voting in the second degree if the person knowingly pays, offers to pay, or causes to be paid money or other valuable thing to a person who is not an election official, mail carrier, or person acting as a representative under AS 15.20.072 to collect a voter’s ballot.

Section 47 – Amends AS 15.56.035 to add a new subsection defining the word “collect” and the phrase “other valuable thing.”

Section 48 – Amends AS 15.56.060 (a) to stipulate that a person commits the crime of unlawful interference with an election if the person intentionally opens or tampers with a signed absentee ballot certificate, sealed absentee ballot envelope, or package of ballots without express authorization from the Director of the Division of Elections. A person also commits the crime of unlawful interference with an election if they intentionally breach, hack, alter, or tamper with election machinery, including a tabulator, a program, a system, a server, or

software used to verify identity, count or tabulate, or manage or control an election function.

Section 49 – Amends AS 15.56 to add a new section that provides that a person commits the crime of election fraud if the person violates AS 15.56.060 and the violation changes the outcome of an election. Election fraud is a class B felony.

Section 50 – Amends AS 15.56.070 (a) to provide that an election official commits the crime of election official misconduct in the first degree if they knowingly disclose, share, or report election results or any confidential election data before the polls close on election day.

Section 51 – Amends AS 15.56.199 (l) to specify that the definition of “election” includes any election conducted by the Division of Election, not just state elections.

Section 52 – Amends AS 15.80 to add a new section requiring the Division of Elections to create a cybersecurity program to defend voter registration records against cyber-attacks and data breaches. The cybersecurity program must enable the Division of Elections to detect and recover from cyber-attacks. Additionally, the program must include cybersecurity training for election officials.

Subsection (b) requires the Division of Elections to develop a nonpublic list of registered voters whose numerical identifiers have been released by a breach of data maintained by the Division of Elections. The Division must exercise caution to protect the list from disclosure. If the Division of Elections identifies a cyberattack, the Director of the Division of Elections must exercise caution to protect election integrity.

Section 53 – Amends AS 15.80 to increase the minimum compensation for all election workers to at least \$15.00 an hour.

Section 54 – Amends AS 29.20.380 (c) to authorize a municipal clerk to act as an absentee voting official for an early voting station under AS 15.20.045 (b).

Section 55 – Amends AS 29.26.050 to add a new subsection providing that a person who has lived within a municipality for at least 30 days but has not registered 30 days before a municipal election, may only vote an absentee, special needs, or questioned ballot in the municipal election, not a regular ballot.

Section 56 – Repeals provisions requiring notice of rejected absentee ballots to be provided to voters within 10 days of certification of a primary election and 30 days of certification of a general election. This section also repeals a provision requiring that registration for municipal elections be made 30 days prior to an election.

Section 57 – Amends the uncodified law of the State of Alaska by adding a new section providing that the provisions of the Act on election crimes, specifically Sections 46, 48, 49, and 50, apply to offenses committed on or after the effective date of the Act.

Section 58 – Amends the uncodified law of the State of Alaska to add a new section that permits the Alaska Department of Revenue and the Alaska Division of Elections to adopt regulations necessary to implement the changes in the Act. The regulations take effect under the Administrative Procedures Act, but not before the effective date of the law implemented by the regulation.

Section 59 – Specifies that Sections 43 and 44 of this Act take effect on January 1, 2024. Section 43 provides that the Division of Elections may only approve a voting machine or vote tally system that meets the United States Election Assistance Commission’s voluntary voting system guidelines and is certified by the commission. Further, Section 43 requires the use of only open-source software technology or commercial off-the-shelf software and firmware.

Section 60 – Specifies that Section 58 takes effect immediately. Section 58 allows the Department of Revenue and the Division of Elections to adopt regulations necessary to implement the changes in the Act.

Section 61 – Specifies that the remaining provision of the Act takes effect on January 1, 2023.