

**ALASKA STATE LEGISLATURE  
SENATE STATE AFFAIRS STANDING COMMITTEE**

January 25, 2022

3:35 p.m.

**MEMBERS PRESENT**

Senator Mike Shower, Chair  
Senator Lora Reinbold, Vice Chair  
Senator Mia Costello  
Senator Roger Holland  
Senator Scott Kawasaki

**MEMBERS ABSENT**

All members present

**OTHER LEGISLATORS PRESENT**

Representative Christopher Kurka

**COMMITTEE CALENDAR**

PRESENTATION(S): RANKED CHOICE VOTING

- HEARD

**PREVIOUS COMMITTEE ACTION**

No previous action to record

**WITNESS REGISTER**

GAIL FENUMIAI, Director  
Division of Elections  
Office of the Lieutenant Governor  
Juneau, Alaska

**POSITION STATEMENT:** Delivered a presentation on ranked choice voting.

NICK MURRAY, Policy Analyst  
Maine Policy Institute  
Portland, Maine

**POSITION STATEMENT:** Invited to participate in the discussion on ranked choice voting.

THOMAS FLYNN, Assistant Attorney General  
Civil Division  
Labor and State Affairs Section  
Department of Law  
Anchorage, Alaska

**POSITION STATEMENT:** Answered questions and provided information during the discussion on ranked choice voting.

**ACTION NARRATIVE**

[3:35:55 PM](#)

**CHAIR MIKE SHOWER** called the Senate State Affairs Standing Committee meeting to order at 3:35 p.m. Present at the call to order were Senators Kawasaki, Costello, Reinbold, Holland, and Chair Shower.

**PRESENTATION(S) : RANKED CHOICE VOTING**

[3:36:29 PM](#)

**CHAIR SHOWER** announced a presentation and discussion about ranked choice voting. He relayed that there would be additional hearings on this to ensure the public is educated. Both sides of the debate on this topic would be heard and his intention was to keep this at the forefront for this session.

**SENATOR KAWASAKI** pointed out that ranked choice voting is the law in Alaska so it does not need to be debated. He suggested that the path forward should be to educate the public about the new system that will be used in the upcoming election cycle to ensure voters are not disenfranchised.

**CHAIR SHOWER** said his goal is to hear from both the proponents and those who see pitfalls in the new system because he views that as part of educating the public.

[3:40:33 PM](#)

**SENATOR KAWASAKI** asked if the group that advocated for the initiative had been invited to talk about how the system works.

**CHAIR SHOWER** answered yes.

**SENATOR COSTELLO** pointed out that while other states do use ranked choice voting, Alaska will be just the second state in the country to use it in a statewide election. She said she appreciates the opportunity to learn more about this new system; it is the first opportunity for the Senate Majority to hear a presentation.

CHAIR SHOWER highlighted that the committee will also hear from the Princeton professor who reported on the data from close to 100 elections across the country that used ranked choice voting. He offered his belief that it is complicated.

SENATOR REINBOLD maintained that when the democrats are in charge, they do not allow the opportunity for debate on all sides of an issue. She said she has dozens of examples, and specifically mentioned the mask mandate on the capitol campus.

CHAIR SHOWER welcomed an example if it was germane to the topic of ranked choice voting.

[3:44:08 PM](#)

SENATOR KAWASAKI clarified that he said that the committee does not need to debate the merits or lack of merit of ranked choice voting because it is the law in Alaska. Rather, the committee and the legislature should try to educate the public about how it works.

CHAIR SHOWER opined that part of the education process is to hear from the experts. He listed the individuals who were invited to participate in the hearing.

[3:47:06 PM](#)

GAIL FENUMIAI, Director, Division of Elections, Office of the Lieutenant Governor, Juneau, Alaska, stated that she was before the committee to talk about how Ballot Measure 2 will be administered. The Division of Elections is a nonpartisan agency that is tasked with implementing the ballot initiative that passed by a margin of about 3,700 votes in the 2020 general election and took effect February 1, 2021. She clarified that she had no opinions to offer on the merits of this new system.

CHAIR SHOWER confirmed that that was the intent. Mr. Murray was not invited to counter her briefing but to talk about lessons learned in Maine.

MS. FENUMIAI responded that her comment was for the public.

CHAIR SHOWER said he understands that the division is executing the law.

[3:49:11 PM](#)

SENATOR REINBOLD asked if she agreed that the measure passed by a small margin

MS. FENUMIAI replied that is correct.

SENATOR REINBOLD offered her belief that the people did not understand what they were voting for and that is why the initiative process needs clarification. She asked if Ballot Measure 2 underwent a forensic audit.

MS. FENUMIAI replied there was no forensic audit related to Ballot Measure 2, but a statewide a hand count of Ballot Measure 2 was conducted in Juneau. Public observers watched; the results of the hand count are on the division's website; and it did not overturn the outcome that was certified by the state review board.

CHAIR SHOWER said he looks forward to the briefing.

[3:50:47 PM](#)

MS. FENUMIAI began the presentation with the reminder that in addition to the new ranked choice voting system, there is also a new primary election system. She displayed the sample primary ballot on slide 2 and made the following points:

- There is one ballot that has all candidates. All voters, regardless of political affiliation, will receive this ballot.
- Voters will vote for one candidate in each race.  
[The sample ballot depicts four races: U.S. Senator; U.S. Representative; State Senator District A; and State Representative District 1.]
- The four candidates who receive the most votes [in each race] will advance to the general election.

CHAIR SHOWER asked how many candidates are allowed in the primary and whether write-ins are allowed.

MS. FENUMIAI answered that there is no statutory limitation on how many candidates can file to run for office and write-ins are not allowed in primary races.

CHAIR SHOWER asked if 20 candidates could be in the U.S. Senate race and that the four who receive the most votes would advance to the general election.

MS. FENUMIAI restated that as many candidates as like can file for the primary election by June 1. Voters select one candidate per race and the top four candidates in each race advance to the

general election. At that time there will be a space for a write-in candidate.

SENATOR COSTELLO asked why the state would go to the cost of holding a primary when there is ranked choice voting. The candidates who are eliminated in the primary could just as easily be narrowed to just four in the first phase of the ranked choice voting system.

[3:53:19 PM](#)

MS. FENUMIAI said primaries are in state law and it would be a policy call by the legislature to change that. She deferred further questions about the need for a primary to Tom Flynn from the Department of Law.

SENATOR COSTELLO offered her understanding that while the legislature cannot reverse a citizen's initiative, it can tweak it. She asked for a legal opinion as to whether eliminating the primary would uphold the spirit of the initiative.

[3:54:46 PM](#)

THOMAS FLYNN, Assistant Attorney General, Civil Division, Labor and State Affairs Section, Department of Law, Anchorage, Alaska, confirmed that under the Constitution of the State of Alaska, the legislature cannot repeal a citizen's initiative for two years but it can amend the initiative. He said he could not immediately answer whether or not doing away with the primary would constitute an amendment or a repeal because it is a factual question, but he could follow up with an answer.

CHAIR SHOWER asked him to follow up with an answer.

SENATOR COSTELLO asked if the one other state that uses ranked choice voting in the general election has a primary.

MR. FLYNN deferred the question to Mr. Murray.

[3:56:17 PM](#)

NICK MURRAY Policy Analyst, Maine Policy Institute, Portland, Maine, stated that Maine has ranked choice voting (RCV) for primaries and the general election for federal races but not state races.

SENATOR COSTELLO pointed out for the public that Alaska will have one race and one vote for the primary and ranked choice voting for the general election. She offered her belief that

eliminating the primary would be in line with what the voters wanted when they opted for RCV.

SENATOR HOLLAND asked if it matters to have a primary if there are four or fewer candidates because they will all go on to the general election.

MS. FENUMIAI replied it is state law to have a primary and if four or fewer candidates run, they will all advance to the general election.

SENATOR KAWASAKI reported that 900,000 people in the Bay area and 8.8 million people in New York City use RCV and also have a primary. He questioned whether it was going down a rabbit hole to talk about the need for a primary.

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CHAIR SHOWER shared that he is bothered by RCV. He asked Ms. Fenumiai if candidates are required to designate party affiliation in the primary and RCV.

MS. FENUMIAI said she would talk about that later in the presentation.

She directed attention to the pink arrow at the top right of slide 3 that is pointing to a box that contains a statement that is required by Ballot Measure 2. It reads as follows:

PLEASE NOTE: 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.

CHAIR SHOWER asked what that means in plain English.

MS. FENUMIAI summarized that the primary election system is no longer a method for parties to nominate candidates to move forward to the general election.

CHAIR SHOWER asked if a candidate could identify as belonging to a party even though the party does not support or nominate that candidate.

[4:01:26 PM](#)

MS. FENUMIAI said a person who fills out their declaration of candidacy must indicate their party affiliation, including nonpartisan or undeclared, as it appears on their voter registration.

CHAIR SHOWER asked if that means the candidate does not need to be endorsed by their party.

MS. FENUMIAI answered that is correct; there is no longer a political party nomination process for candidates to advance to the general election.

CHAIR SHOWER said an issue he heard about this is that it takes away the right to associate.

MS. FENUMIAI added that for a candidate to be listed with a party affiliation, they must be registered as a member of that party with the Division of Elections.

CHAIR SHOWER reported hearing that some people were upset that a candidate could be registered with a particular party and that affiliation will show on the ballot even though the party may not support that candidate.

MS. FENUMIAI confirmed that a candidate's affiliation will be the same as on their declaration of candidacy.

[4:04:16 PM](#)

SENATOR KAWASAKI observed that it has always been the case that a candidate could register with the Division of Elections as one affiliation and later make the decision to change.

MS. FENUMIAI agreed that people have always been able to change party affiliation at any time. The Division of Elections accepts at face value whatever affiliation the person indicates.

[4:05:15 PM](#)

MS. FENUMIAI said slide 3 intends to show that in the primary, everybody who is running in the same race shows up on the same ballot. For example, the race for United States Senator has candidates who are running as a Registered Libertarian, Registered Republican, Nonpartisan, Registered Democrat, and Registered Alaska Independent. If a race has fewer than four candidates, they all advance to the general election.

[4:06:18 PM](#)

MS. FENUMIAI stated that the biggest change on the primary ballot is that the governor and lieutenant governor do not run separately. They must file by June 1 and run as a team.

SENATOR HOLLAND asked if the candidates would appear on the ballot based on a random draw.

MS. FENUMIAI answered yes, placement on the ballot is based on a random draw of the 26 letters in the alphabet.

SENATOR KAWASAKI said he understood that the names rotated.

MS. FENUMIAI replied it is a random drawing of the alphabet that rotates within the House district.

[4:08:28 PM](#)

SENATOR COSTELLO offered her experience that the last name is first, followed by a comma and the candidate's first name. She asked if that would change because that is not how candidates are listed on the sample ballot.

MS. FENUMIAI acknowledged that the sample was not accurately depicted. The last name will appear first, followed by the first name, middle initial, and Jr./Sr. designation if there is one.

SENATOR HOLLAND asked if she said that voters will get different randomized lists.

MS. FENUMIAI answered no. She restated that an alphabetized drawing establishes the first ballot for a House district. On the next ballot, the candidate listed first rotates to the bottom. She said that rotation continues on the ballots on that pad throughout that House district.

MS. FENUMIAI displayed slide 4 that outlines the Changes for Candidates in the ranked choice voting system.

- No nominating petition process

She explained that candidates previously were able to bypass the primary by filing a nominating petition and gathering sufficient signatures to appear on the ballot.

- All general election candidates must participate in the primary (unless a qualified write-in)

She noted that write-in candidates are qualified at least by the fifth day before the general election.

- No (prior) party or group registration needed
- Candidate chooses their affiliation that appears on the ballot (voter registration may be updated)
- Governor/Lieutenant Governor file together

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MS. FENUMIAI turned to the demonstration ballot for the general election on slide 5 and pointed out that the same notation she described on the sample primary ballot appears on the general election ballot. It alerts voters that the affiliation that appears next to a candidate's name does not mean that that party either nominated or endorsed that candidate.

CHAIR SHOWER commented that he was asking about that earlier.

MS. FENUMIAI continued to explain that the ballot is a grid style with the names of the candidates in rows [on the left of the grid] with a space for one write-in. Five columns appear to the right of each name so the voter is able to rank the candidates according to their order of preference and how many they want to rank. Judicial retention candidates and ballot measures remain either a "yes" or "no" vote. Responding to a question from the Chair, she confirmed that the fifth column allows for five choices to rank in the event the voter writes in candidate of their choice.

CHAIR SHOWER said his point was that a voter who did not write in a candidate would only rank their choices first through fourth.

MS. FENUMIAI agreed and added that the initiative did not alter the law that allows a voter to write in only one name for each race on the general election ballot. The voter then ranks the write-in first through fifth, according to their preference.

SENATOR REINBOLD asked if a candidate who was not in the top four in the primary could file as a write-in for the general election, but voters could only write in one name.

MS. FENUMIAI restated that somebody could file as a qualified write-in no later than the fifth day before the general election.

CHAIR SHOWER asked if anybody could file as a write-in and the voter could write that name in and rank them as their first choice.

MS. FENUMIAI confirmed that anybody can file as a write-in candidate.

SENATOR REINBOLD asked what constitutes a qualified write-in candidate.

MS. FENUMIAI replied it means they filed a letter of intent to be a write-in candidate with the Division of Elections no later than the fifth day prior to the general election.

[4:13:41 PM](#)

CHAIR SHOWER asked if RCV requires a candidate to get 50 percent of the vote to win.

MS. FENUMIAI clarified that the law stipulates 50 percent plus one vote to win.

CHAIR SHOWER offered his belief that that applies to the first round. He asked what happens if nobody wins in the first round.

MS. FENUMIAI replied the counting continues until a candidate reaches the 50 percent plus one threshold or just two candidates are left in the race.

CHAIR SHOWER observed that it is possible, for example, for a candidate to win the election with just 40 percent of the overall vote.

MS. FENUMIAI suggested Mr. Flynn answer the question because she was not certain.

CHAIR SHOWER offered his understanding that in many RCV races, the winning candidate does not have to receive a plurality of the vote. Rather, they could be declared the winner with less than 50 percent plus one vote after the computer algorithm is applied. He asked if that was a true or false statement.

[4:15:31 PM](#)

MR. FLYNN explained the two types of counting in ranked choice voting. The first count is of the first choice votes. If a candidate has a majority of the first choice rankings, they win. If no candidate wins in the first round, the process continues until two candidates remain in the race. The candidate with the

most votes wins. As was discussed last week, he said the denominator can change over time because voters may have ranked fewer than four candidates [or five candidates if the voter writes in a candidate.] Once just two candidates are left in the race, he said it is numerically possible that the winner will not receive a majority of all the votes cast in that race. The winner will have received a majority of the votes counted in the final round for the two candidates.

CHAIR SHOWER said he pointed this out because people may not be aware that the winner may not receive a plurality of the vote. He recalled some data indicated that most of the time the winning candidate did not win a majority of the vote. Additionally, this is without consideration of exhausted ballots. He asked Mr. Murray to offer his thoughts.

MR. MURRAY agreed with Mr. Flynn that the winner is the candidate who receives a plurality of the votes in the final round. He also confirmed that research from the Maine Policy Institute shows that in over 60 percent of RCV elections the winner does not receive more than 50 percent of the total votes cast because of the exhausted ballot phenomenon. He noted that exhausted ballots are those that are not counted through the last round, so the winner is the candidate who has a plurality of votes counted in the last round.

CHAIR SHOWER commented that the discussion is not entirely germane since winners in the past may not have received 50 percent plus one vote either.

SENATOR REINBOLD summarized the demonstration ballot on slide 5 and posed the following hypothetical example:

Let's just say there was 10 people that originally ran and you said that they all could end up becoming write-ins. My question then is could a whole bunch more people as well and then just everyone is forced to pick their top five of say 15 candidates?

MS. FENUMIAI asked if she was asking if only one space is allowed for write-ins in the general election.

SENATOR REINBOLD replied she wondered whether there could be 15 spots for a write-in even though voters are only able to rank five candidates.

MS. FENUMIAI replied there could be multiple candidates who file as write-ins, but only one spot is available for a write-in on the general election ballot.

SENATOR REINBOLD asked, "Can you explain how that's chosen?"

MS. FENUMIAI deferred the question to Mr. Flynn.

[4:19:35 PM](#)

MR. FLYNN explained that the write-in statutes were unchanged by Ballot Measure 2, but in combining the two the division decided to limit the opportunity for a write-in to just one name. He agreed with Ms. Fenumiai that there could be multiple qualified write-in candidates, but the voters could only write in one name and rank that candidate however they chose to do so.

SENATOR REINBOLD asked where the voters would get the list of qualified write-in candidates and if they would have to hand write the name on the ballot.

MS. FENUMIAI replied the list of certified write-in candidates is on the division's website and it is available at the polling places.

[4:20:55 PM](#)

MS. FENUMIAI displayed slide 6 to show how to correctly mark an RCV ballot. She clarified that it is up to the voter to decide how many of the candidates on the ballot they want to rank. They could choose to rank just one candidate or up to five if they write in a candidate. In the example, she said the ballot for United States Senator illustrates a ballot that the precinct scanner would accept. The three examples below with the red X's illustrate rankings that the scanner would not accept. If the scanner does not accept a ballot, the voter can decide whether they want to correct their ballot or let it go through as marked.

CHAIR SHOWER asked if opting for a new ballot would count as one of the three ballots a voter is allowed.

MS. FENUMIAI answered yes.

MS. FENUMIAI directed attention to the box in the lower left of the slide that shows that the voter ranked all four candidates in the 1st Choice column. She described this as a straight over vote that the scanner would return to the voter. If the voter opts not to cure their ballot, none of the votes would count for

any candidate in that race because it is not clear what the voter intended.

CHAIR SHOWER asked, "They could have every other one filled out correctly in the other races and just one over vote or under vote and that one will be returned, correct?"

MS. FENUMIAI confirmed that it would identify what race was over or under voted.

CHAIR SHOWER asked how a voter would correct their mistake without turning the spoiled ballot in and starting over.

MS. FENUMIAI answered that the voter would have to turn their spoiled ballot in and ask for a fresh ballot.

[4:23:21 PM](#)

SENATOR COSTELLO suggested that the center example on the bottom of the slide is not clear. It intends to communicate that the voter must rank candidates consecutively but it might give the impression that a voter may only rank two candidates or that they must rank all four candidates. If the voter wants to rank just two candidates, it has to be consecutive. One candidate would be ranked 1st Choice and the other would be ranked 2nd Choice. She suggested the division add an example that shows a 1st Choice, 2nd Choice, and 3rd Choice, but no 4th or 5th Choice. That ballot would have a green check indicating it was marked correctly.

MS. FENUMIAI said the point is well taken. She added that when the division makes a presentation about ranked choice voting they explain the different circumstances even though they are not on the slides.

CHAIR SHOWER asked if the examples in the presentation were on the website.

MS. FENUMIAI said she believes so but she would take Senator Costello's suggestion into consideration and add more examples.

CHAIR SHOWER asked Mr. Murray to respond to Senator Costello's point.

[4:27:11 PM](#)

MR. MURRAY asked Senator Costello to restate the point.

SENATOR COSTELLO said her concern is that the bottom center example does not make it clear that the voter must make consecutive choices. It is okay to make just a 1st Choice or a 1st Choice and 2nd Choice but it is not okay to make a 1st Choice and then skip to a 4th Choice. She said she also had a comment on an earlier conversation.

CHAIR SHOWER asked Mr. Murray to respond and include information about what he had seen in Maine elections that might highlight any issues.

MR. MURRAY said he did not have data regarding how many votes were declared undervotes. Responding to Senator Costello's point, he said that in Maine the Secretary of State delineated rules in such circumstances. A voter who ranks their 1st Choice, skips two columns, and ranks their 4th Choice, will have their ballot counted as though they only marked the 1st Choice. If the voter only skipped one column, the later rankings would move up to fill the gap. He asked Ms. Fenumiai to comment.

[4:30:38 PM](#)

MS. FENUMIAI explained that the law states that a voter may not skip two or more sequential rankings, so the ballot becomes inactive at the point that this happens. In the center bottom example, Candidate A would get one 1st Choice vote and the ballot would become inactive for that particular race. Marking the ballot with just the 1st and 4th Choices would trigger a message to the voter that there was a problem with the ballot and that they could opt to fix it.

She said the division will add the example that Senator Costello suggested, which is that the voter selected a 1st Choice and skipped the second column and selected a 3rd Choice and 4th Choice. In that circumstance if the voter's 1st Choice is eliminated, their 3rd Choice becomes their 2nd Choice in the tabulation rounds.

CHAIR SHOWER questioned whether that would be tantamount to changing a person's vote.

[4:32:00 PM](#)

MR. FLYNN said language in Ballot Measure 2 talks about highest ranked candidate, but it does not talk about candidates ranked first, second, and third. For example, if a voter fills in the bubble for just one candidate and it is in the 4th Choice column that would be counted as the voter's first choice. He agreed with Ms. Fenumiai that voters can skip one column and the

subsequent selections are counted in numerical order, but if two columns are skipped, nothing after the second skipped column is counted.

CHAIR SHOWER commented that it seems as though that is moving the voter's choices. He asked if the voter has the option to leave the ballot as is.

MR. FLYNN said he didn't know that a 3rd Choice ranking makes sense if there isn't a 2nd Choice before it.

CHAIR SHOWER asked, 1) Is it right to count a 3rd Choice vote as 2nd Choice when the voter did not fill out the second column; and 2) What happens for absentee ballots in that circumstance?

MS. FENUMIAI said that same situation can happen now if a voter overvotes a candidate. The division will also send information on how the voter can correct their ballot if they do not have time to receive and vote a replacement ballot.

CHAIR SHOWER asked if she agrees that somebody's vote would not count if their absentee ballot was incorrectly filled out and it arrived on day 10 after the election.

MS. FENUMIAI replied that situation exists now.

CHAIR SHOWER said his point is that the RCV system is complicated. He asked if the part of the absentee ballot that is filled out incorrectly will be exhausted.

[4:36:27 PM](#)

MS. FENUMIAI answered that if there is an over vote or two sequentially skipped rankings, that ballot for that race would be inactive.

MR. FLYNN advised that AS 15.15.350 talks about "highest ranked continuing candidate."

CHAIR SHOWER asked Mr. Murray if there have been any challenges to that.

MR. MURRAY replied he was not aware of any specific challenge to that. He said to think about it as though each ballot ranks candidates in a particular order and not that they are dedicated to a particular round of counting.

He directed attention to the example on the bottom right of slide 6. He asked in that example if the 3rd Choice and 4th Choice would move up to 2nd and 3rd Choice.

MS. FENUMIAI replied in that example, if Candidate A is eliminated in Round 1, the next choice vote would go to Candidate B.

SENATOR REINBOLD opined that there should be three or four examples of correct ways to fill out a ballot as well as an explanation of why the three examples at the bottom of slide six are wrong.

SENATOR COSTELLO commented that this discussion highlights the importance of passing measures in election bills regarding ballot curing. She explained for the public that ballot curing is the process of correcting a ballot that is incomplete or filled out incorrectly. She said ballot curing brings integrity to elections. She voiced support for both ballot tracking and ballot curing. She said her concern is that it seems that voters who vote in person have an advantage because they have the option to correct their ballot whereas people who vote by mail do not have that opportunity.

She commented on the need for ballot curing with ranked choice voting and suggested that the legislature should pull out pieces that are must haves for ranked choice voting.

[4:42:28 PM](#)

CHAIR SHOWER referenced the bottom center example on slide 6 and asked if [Candidate A] would count as a 1st Choice 1st in the first round but in the second round that ballot would be exhausted.

MS. FENUMIAI replied that ballot is determined inactive after the first round because the voter skipped two sequential rankings.

CHAIR SHOWER agreed with previous comments that extra examples would be helpful. He asked what happens to a ballot when a voter selects Candidate A as their 1st, 2nd, 3rd, and 4th Choice.

MS. FENUMIAI replied their ballot becomes inactive after the first round of counting.

CHAIR SHOWER observed that the terms inactive and exhausted both mean that the ballot does not count.

MS. FENUMIAI clarified that the ballot is inactive for that race.

CHAIR SHOWER shared that he is highlighting this because he has heard on social media and the radio that a voter "fill it all the way across and it's going to count." But it will only count for Round 1 unless that candidate wins a majority in the first round.

He suggested that the examples on the division's website should be updated as soon as possible.

MS. FENUMIAI confirmed that the PowerPoint would be updated to include more examples, starting tomorrow.

4:45:20 PM

MR. FLYNN added that a ballot that is marked for Candidate A for the 1st, 2nd, 3rd, and 4th Choice would count for that candidate, even if the candidate were to lose. It is the same as casting a losing vote for a candidate in a single choice election.

CHAIR SHOWER commented that he was trying to use plain English because he found it confusing.

SENATOR REINBOLD commented that she sees Alaskans with an attitude, and that Mr. Flynn's point was important. She summarized her understanding of what he said.

MS. FENUMIAI restated that all voters' 1st Choice vote will count and the vote will continue to count as long as the candidate is in the top four.

CHAIR SHOWER reiterated the importance of educating the public about voting an RCV ballot.

4:49:11 PM

SENATOR COSTELLO agreed with Senator Kawasaki that it is legislators' job to help educate Alaskans about how RCV ballots work. She said she had never heard the term "overvote" before and she would suggest that it makes more sense to tell voters to vote consecutively.

SENATOR HOLLAND observed that if a voter selects Candidate A for their 1st through 4th Choice, their vote will count in all rounds as long as that candidate is among the top two. He asked

for confirmation that there will be no hand counts in an RCV election.

MS. FENUMIAI confirmed that it is extremely complicated to do a hand count in an RCV election.

CHAIR SHOWER noted that the lieutenant governor said the same thing during a meeting last year.

MS. FENUMIAI said it looks like that now, but the division is still working on procedures.

CHAIR SHOWER related that administration officials informed him that a forensic audit would not be possible in an RVC election. He asked if that is true.

MS. FENUMIAI replied she did not know about a forensic audit but there are ways to put the data into an open source code tabulation system to verify the accuracy of the votes.

CHAIR SHOWER relayed a recent conversation with a professor who said he found it very complicated to look at Maine's second district election based on the deidentified voter data he was able to get. He asked if the data would even be available for a forensic audit.

MS. FENUMIAI replied she is not an expert on forensic audits, but open sourced software modules are available to validate RCV software.

CHAIR SHOWER said there should be a conversation about that so the entire process is transparent.

SENATOR REINBOLD stated support for talking about the software and voting machines, voter security, safety, and cybersecurity. It is a critical part of gaining the support and trust of the people.

CHAIR SHOWER asked Ms. Fenumiai to continue with the final two slides.

[4:54:18 PM](#)

MS. FENUMIAI advised that slides 7 and 8 are about tabulation. The example in slide 7 shows four candidates and 20 total votes. In ranked choice voting, 11 votes are needed to win. In Round 1, no candidate received 50 percent plus one vote so tabulation moves to Round 2. Candidate C received the least votes in Round

1 and was eliminated and the candidate's 3 votes were distributed to the remaining three candidates.

CHAIR SHOWER asked why the remaining candidates A, B, and D each received just one of Candidate C's votes. He observed that it would not always be an equal redistribution of the losing candidate's votes.

MS. FENUMIAI replied they received the 2nd Choice votes for the ballots where Candidate C was marked as the 1st Choice.

[4:55:33 PM](#)

SENATOR COSTELLO suggested it would be helpful to explain in more detail what happens in Round 2, not just that the candidate with the fewest votes is eliminated. In fact, for people who voted for Candidate C as their 1st Choice, their 2nd choices are redistributed as 1st Choices in Round 2. She observed that the example appears to show that there is not a winner until Round 3 when there could actually be a winner in Round 1 or Round 2.

MS. FENUMIAI said the slide shows that and she just spoke too quickly.

CHAIR SHOWER commented:

But it would be possible in her case there if let's say the third person that's eliminated. All of the 1st Choice votes for them went to the first person. They could actually end up with 10 votes. And they could win.

MS. FENUMIAI agreed. She restated that the example is intended to be simple and to show more than two rounds.

SENATOR COSTELLO added that the example also shows 11 votes to win.

MS. FENUMIAI said the example shows that no candidate received 50 percent plus one vote in Round 2, so Round 3 is required. Candidate D received 5 votes [in Round 2] so [in Round 3] the 3rd Choice votes on the ballot for Candidate D will be added to the total for Candidate A and Candidate B. In the example, four 3rd Choice votes went to Candidate B and one 3rd Choice vote went to Candidate A. Candidate B therefore became the winner with 11 votes.

[4:57:51 PM](#)

MS. FENUMIAI stated that slide 8 is intended to illustrate what to expect on election night and over the next two weeks.

- On election night, only 1st Choice votes are counted and reported. This will include some early votes, precinct votes, and absentee by mail votes that have been reviewed and the board has deemed appropriate for counting.
- Eligible absentee and question ballots will continue to be counted through day 15 and the division will continue to release new rounds of unofficial votes for 1st Choice votes only. The division made a collective decision not to do tabulations during the middle period because it would be difficult to explain what appear to be conflicting candidate eliminations to the public during intermediate counting.
- November 23, once all eligible absentee and questioned ballots have been counted, the division will look at the unofficial results and determine the races where no candidate has received 50 percent plus one vote and ranked choice voting tabulation is required. The tabulation will take place and the results for each round will be posted on the division's website. This will show what happened with each race, what candidates were eliminated, and how their votes were redistributed to the remaining candidates.
- The numbers will be unofficial until the State Review Board certifies the election. That typically takes about one week.

CHAIR SHOWER asked if it would create less confusion to wait until all the ballots have been collected before the tabulation is run. "Why do we want to put out a result knowing it may change?"

MS. FENUMIAI replied that happens now and the division thinks it is best to continue the practice to release that information. That way people will know where their candidates stands on election night. On November 23 the division will post the results of each tabulation round. It will go quickly.

CHAIR SHOWER continued to press the point, acknowledging it was his opinion.

SENATOR HOLLAND said he imagines the reason to count the first round is that it gives people an initial idea of how the election is going.

[5:02:37 PM](#)

SENATOR COSTELLO asked how many days Maine voters wait until the election results are final.

MR. MURRAY recalled that it has taken about a week or up to 10 days to get the result of the final tabulation.

SENATOR COSTELLO asked how Alaska could get closer to 10 days rather than two weeks.

MR. MURRAY said it comes down to how quickly and securely the election data can be transferred to a central location. In Maine the voter data, which is on something like an Excel spreadsheet, is transferred to a flash drive and moved by private couriers to the state capital where under the Secretary of State's purview the tabulation for ranked choice voting can occur. He acknowledged that this may present a problem for remote communities in Alaska and cautioned against electronic transfer of ballot data. He said for large states he could imagine it taking two weeks. To Senator Shower and Senator Holland's point, he suggested that the tabulation should take place with everything in one place because the results could change as more ballot data comes in.

SENATOR COSTELLO asked if Maine checks USPS change of address requests and verifies voter signatures during the 10-day window.

MR. MURRAY replied voter signatures are only verified for mail in ballots and his belief is that Maine uses the USPS change of address requests. He added that in Maine, ballots are accepted up until the end of the day on Election Day.

[5:06:15 PM](#)

MS. FENUMIAI advised that Alaska law allows the receipt of by-mail ballots up to 15 days after the election. The final tabulation cannot be done until all the ballots have been received (including those from the more than 130 hand-count precincts) and scanned to capture the cast vote record (CVR).

[5:07:25 PM](#)

SENATOR KAWASAKI asked if there were remaining funds from the money that was set aside for the Division of Elections to educate the public on RCV.

MS. FENUMIAI agreed to follow up with the information.

SENATOR HOLLAND thanked Ms. Fenumiai for giving concrete answers.

SENATOR COSTELLO said her response to the last question clarified that it is not possible to go beyond Round 1 until all the ballots are in. She stressed the importance of educating voters and improving integrity.

CHAIR SHOWER asked what the provision in the law about dark money affects. He offered his understanding that it is more for candidates but not ballot initiatives.

MS. FENUMIAI said that is outside the division's purview.

MR. FLYNN said that was outside his purview and he would need to ask the attorney who advises the Alaska Public Offices Commission (APOC).

CHAIR SHOWER requested he get an answer so it can be part of the record since the discussion is about Ballot Measure 2.

MR. FLYNN agreed to follow up with the information.

[5:11:56 PM](#)

There being no further business to come before the committee, Chair Shower adjourned the Senate State Affairs Standing Committee meeting at 5:11 p.m.