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STATE OF ALASKA THE LEGISLATURE

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May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

House Judiciary	4/24/85	1:30 pm.
" "	1/23/86	1:30 pm
" "	1/28/86	1:30 pm
" "	1/30/86	1:30 pm
" "	2/12/86	1:30 pm

2/17

COMMITTEE REPORT
HOUSE

(7)

FURTHER: FINANCE

4/9/85

Date: _____

The Committee on JUDICIARY has had HE 284
"An Act relating to elections."

under consideration and recommends:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HB 284 (700) same title
 new title
- and recommends _____
- AND attaches a "Letter of Interest" New Fiscal Note Sup 36
- reports it back without recommendation Zero Fiscal Note Attached
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

John T. ...
John T. ...
John T. ...

CHAIRMAN

Bradley
2/13/86

Original sponsor: Boucher, Hurley
and Navarre

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 284 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to elections; and providing for an
7 effective date."

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

9 * Section 1. AS 15.05.030 is amended to read:

10 Sec. 15.05.030. LOSS AND RESTORATION OF VOTING RIGHTS. (a) A
11 person convicted of a crime that constitutes a felony involving moral
12 turpitude under state law may not vote in a state or a municipal
13 election from the date of the conviction through the date of the
14 [RESTORATION OF VOTING RIGHTS UNDER THIS SECTION. THE RIGHT TO VOTE
15 WITHDRAWN UNDER THIS SECTION IS AUTOMATICALLY RESTORED UPON THE]
16 unconditional discharge of the person. Upon the unconditional dis-
17 charge, the person may register under AS 15.07.

18 (b) The commissioner of corrections shall establish procedures
19 by which a person unconditionally discharged is advised of the voter
20 registration requirements and procedures [RESTORATION OF VOTING RIGHTS
21 WITHDRAWN BY A CONVICTION].

22 * Sec. 2. AS 15.07.135 is amended to read:

23 Sec. 15.07.135. CANCELLATION [SUSPENSION] OF REGISTRATION OF
24 CONVICTED PERSONS. The director shall make reasonable efforts to ob-
25 tain the names of persons convicted of a felony involving moral turpi-
26 tude. [THE DIRECTOR SHALL ALSO MAKE REASONABLE EFFORTS TO OBTAIN THE
27 NAMES OF PERSONS UNCONDITIONALLY DISCHARGED FROM CUSTODY.] The direc-
28 tor shall cancel [SUSPEND] the registration of a person convicted of a
29 felony involving moral turpitude. Upon presenting proof that [UNTIL]

1 the person is unconditionally discharged from custody, the person may
2 register. The director shall make reasonable efforts to verify the
3 unconditional discharge of persons applying for registration under
4 this section.

5 * Sec. 3. AS 15.07.160(a) is amended to read:

6 (a) Except as provided in AS 15.07.135, it [IT] is unlawful for
7 a registration official to refuse to register a person who is qual-
8 ified to vote under provisions of AS 15.05.010(1) - (4).

9 * Sec. 4. AS 15.07.160(b) is repealed and reenacted to read:

10 (b) It is unlawful for a person knowingly lacking the qualifica-
11 tions of a voter to register under AS 15.07.030 to vote.

12 * Sec. 5. AS 15.10.180 is amended to read:

13 Sec. 15.10.180. APPOINTMENT OF PARTY REPRESENTATIVES FOR STATE
14 BALLOT COUNTING REVIEW. The director shall appcint [TWO] persons from
15 each political party to serve on teams to participate in the state
16 ballot counting review. The director may determine the number of
17 teams to be appointed but each team must have members from at least
18 two political parties. Each person who is appointed and serves is
19 entitled to compensation as provided in AS 15.15.380. Each political
20 party may present to the director a list of three or more names from
21 which the director shall select the persons to represent the party.
22 The list of names may be submitted in writing at least 30 days before
23 the date of the election. The persons to represent the party on the
24 state ballot counting review board may be selected by the state party
25 central committee or in any other manner prescribed by the bylaws of
26 the party. The list of names shall be certified by the chair [CHAIR-
27 MAN] of the state central committee of the party or by the person
28 authorized by the party bylaws to act in the absence of the chairman.

29 * Sec. 6. AS 15.13.120(a) is amended to read:

1 (a) A person who violates a provision of this chapter is guilty
2 of a misdemeanor and, upon conviction, is punishable by imprisonment
3 for not more than one year or by a fine of not more than \$5,000. A
4 violation includes but is not limited to any of the following acts or
5 omissions:

6 (1) failing to make a statement or report required to be
7 made under this chapter, or failing to make a statement or report at
8 the time the statement or report is required to be made under this
9 chapter;

10 (2) [MAKING A CAMPAIGN CONTRIBUTION OR EXPENDITURE WHICH
11 EXCEEDS THE LIMITATIONS OF AS 15.13.070(f);

12 (3)] making a false statement or report under this chapter;

13 (3) [(4)] giving or furnishing money to another person or
14 group for the purpose of making a contribution or expenditure any-
15 mously, in a fictitious name, or in the name of another, or contri-
16 buting in violation of AS 15.13.090;

17 (4) [(5)] making a communication to support or defeat a
18 candidate without identification of sponsorship, in violation of
19 AS 15.13.090;

20 (5) [(6)] knowingly accepting a contribution in violation
21 of AS 15.13.070.

22 * Sec. 7. AS 15.15.070(c) is amended to read:

23 (c) Public notice shall also be given by posting notices in two
24 or more conspicuous places in each election precinct. The posted
25 notice shall specifically include but is not limited to the date of
26 election, [THE BOUNDARY OF THE PRECINCT,] the location of the polling
27 place, the hours between which the polling places will be open, the
28 offices to which candidates are to be nominated or elected, and the
29 subject of the propositions and questions which are to be voted on.

1 * Sec. 8. AS 15.15.440 is amended to read:

2 Sec. 15.15.440. DATES FOR OPENING AND CLOSING STATE BALLOT
3 COUNTING REVIEW. The state ballot counting review shall begin no
4 later than 11 [EIGHT] days after the election and be continued daily
5 until completed. The director may designate the hours each day during
6 which the state ballot counting review board is to conduct its ballot
7 counting review. The director shall close the review when the direc-
8 tor [HE] is satisfied that no missing precinct certificate of election
9 would, if received, change the result of the election. If no election
10 certificate has been received from a precinct, the director may secure
11 from the election supervisors and may count a certified copy of the
12 duplicate election certificate of the precinct. If no election mate-
13 rials have been received, but election results have been received by
14 telephone, telegram or radio, the director shall count the election
15 results so received. If the director has reason to believe that a
16 missing precinct certificate, if received, would affect the result of
17 the election, the director shall await the receipt of the certificate
18 until the close of business on [FOUR O'CLOCK IN THE AFTERNOON OF] the
19 15th day after the date of election. A certificate not actually
20 delivered to the director by the close of business [FOUR O'CLOCK] on
21 the 15th day after the election may [SHALL] not be counted at the
22 state ballot counting review.

23 * Sec. 9. AS 15.20.030 is amended to read:

24 Sec. 15.20.030. PREPARATION OF BALLOTS, ENVELOPES, AND OTHER
25 MATERIAL. The director shall provide ballots for use as absentee
26 ballots in all districts. The director shall provide a small envelope
27 in which the voter shall initially place the marked ballot, and shall
28 provide a larger envelope, with the prescribed voter's certificate on
29 the back, in which the small envelope with ballot enclosed shall be

1 placed. The director shall prescribe the form of and prepare the
2 voter's certificate, envelopes, and other material used in absentee
3 voting. The voter's certificate shall include an oath, for use when
4 required, that the voter is a qualified voter in all respects, a blank
5 for the voter's signature, [A CERTIFICATION THAT THE AFFIANT PROPERLY
6 EXECUTE THE MARKING OF THE BALLOT AND IDENTIFIED HIMSELF, BLANKS FOR
7 THE ATTESTING OFFICIAL OR WITNESSES,] and a place for recording the
8 date the envelope was sealed and signed [WITNESSED].

9 * Sec. 10. AS 15.20.061(a) is amended to read:

10 (a) A qualified voter may apply in person for an absentee ballot
11 to the following election officials at the times specified:

12 (1) to an absentee voting official in the election district
13 in which the voter resides on or after the 15th day before an election
14 up to and including the day before the date of the election;

15 (2) to an election supervisor

16 (A) after a date announced by the director under
17 AS 15.20.048(b); and

18 (B) on or after the 15th day before an election up to
19 and including the date of the election;

20 (3) to an absentee voting official at an absentee voting
21 station designated under AS 15.20.045(b) at any time when the absentee
22 voting station is operating;

23 (4) to an absentee voting official in the precinct in which
24 the voter resides when distances preclude easy access to the polling
25 place on or after the 15th day before an election up to and including
26 election day;

27 (5) to an absentee voting official in the precinct in which
28 no volunteers can be located to serve on the election board on or
29 after the 15th day before an election up to and including election

1 day;

2 (6) to an absentee voting official in a municipality with
3 at least 2,000 residents, for eight hours a day for each day including
4 Saturday and Sunday for the week that precedes a primary or general
5 election of the state or that precedes a special statewide election.

6 * Sec. 11. AS 15.20.061(c) is amended to read:

7 (c) On receipt of an absentee ballot in person, the voter shall
8 proceed to mark the ballot in secret, to place the ballot in the small
9 envelope, to place the small envelope in the larger envelope, and to
10 sign the voter's certificate on the back of the larger envelope [IN
11 THE PRESENCE OF THE ELECTION OFFICIAL WHO SHALL SIGN AS ATTESTING
12 OFFICIAL AND DATE HIS SIGNATURE]. The election official shall then
13 accept the ballot.

14 * Sec. 12. AS 15.20.071(c) is amended to read:

15 (c) The personal representative shall deliver the absentee
16 ballot to the voter as soon as practicable. Upon receipt of an absen-
17 tee ballot through a personal representative, the voter shall proceed
18 to mark the ballot in secret, to place the ballot in the small enve-
19 lope, to place the small envelope in the larger envelope, and to sign
20 the voter's certificate on the back of the envelope in the presence of
21 the personal representative who shall witness and date the signature
22 of the voter [SIGN AS ATTESTING WITNESS AND DATE HIS SIGNATURE]. The
23 voter shall then return the absentee ballot to the [HIS] personal
24 representative who shall deliver the ballot to the election official
25 who provided the ballot. The absentee ballot must be returned to the
26 election official within three days from the date it is obtained but
27 not later than 8:00 p.m. on election day. An absentee ballot that is
28 not returned to the election official by the close of business on the
29 third day from the day it is obtained may not be counted but the voter

1 may vote in the election.

2 * Sec. 13. AS 15.20.081(d) is amended to read:

3 (d) Upon receipt of an absentee ballot by mail, the voter [, IN
4 THE PRESENCE OF A NOTARY PUBLIC, COMMISSIONED OFFICER OF THE ARMED
5 FORCES INCLUDING THE NATIONAL GUARD, DISTRICT JUDGE OR MAGISTRATE,
6 UNITED STATES POSTAL OFFICIAL, OR OTHER PERSON QUALIFIED TO ADMINISTER
7 OATHS,] may proceed to mark the ballot in secret, to place the ballot
8 in the small envelope, to place the small envelope in the larger
9 envelope, and to sign the voter's certificate on the back of the
10 larger envelope [IN THE PRESENCE OF AN OFFICIAL LISTED IN THIS SUB-
11 SECTION WHO SHALL SIGN AS ATTESTING OFFICIAL AND SHALL DATE THE SIGNA-
12 TURE. IF NONE OF THE OFFICIALS LISTED IN THIS SUBSECTION IS REASON-
13 ABLY ACCESSIBLE, AN ABSENTEE VOTER SHALL HAVE THE BALLOT WITNESSED BY
14 TWO PERSONS OVER THE AGE OF 18 YEARS AND, IN ADDITION, SHALL PROVIDE
15 THE CERTIFICATION PRESCRIBED IN AS 09.63.020].

16 * Sec. 14. AS 15.20.081(e) is amended to read:

17 (e) An absentee ballot must be marked [AND ATTESTED] on or
18 before the date of the election. The absentee voter may return the
19 marked ballot by any appropriate means. Except as provided in (h) of
20 this section, a [IF THE] voter who returns the ballot by mail [, HE]
21 shall use the most expeditious mail service and mail the ballot not
22 later than the day of the election to the election supervisor for the
23 [IN HIS] election district in which the voter seeks to vote. The
24 ballot may not be counted unless it is received by the close of busi-
25 ness on the sixth day after the election. If the ballot is post-
26 marked, it must be postmarked on or before election day.

27 * Sec. 15. AS 15.20.081 is amended by adding a new subsection to read:

28 (h) An absentee ballot returned by mail from outside the United
29 States or from a military APO or FPO address that has been marked and

1 mailed not later than election day may not be counted unless the
2 ballot is received by the election supervisor not later than the close
3 of business [4:00 P.M.] on the 10th day following the election.

4 * Sec. 16. AS 15.20.201(a) is amended to read:

5 (a) No less than seven days [ON THE SEVENTH DAY] preceding the
6 day of election, the election supervisor [OR HIS DESIGNEE], in the
7 presence and with the assistance of the district absentee ballot
8 counting board, shall review all voter certificates of absentee bal-
9 lots received by that date. The review of absentee ballots shall
10 continue at times designated by the election supervisor until complet-
11 ed [AND SHALL INCLUDE ALL ABSENTEE BALLOTS RECEIVED IN THE OFFICE OF
12 THE ELECTION SUPERVISOR BY 4:00 P.M. ON THE SEVENTH DAY FOLLOWING THE
13 DAY OF THE ELECTION].

14 * Sec. 17. AS 15.20.201(c) is amended to read:

15 (c) On the 10th [EIGHTH] day following the day of the election,
16 the district absentee ballot counting board shall certify the absentee
17 ballot review.

18 * Sec. 18. AS 15.20.201(d) is amended to read:

19 (d) Absentee ballots received in the office of an election
20 supervisor after the 10th [SEVENTH] day following the day of the
21 election shall be forwarded immediately to the director by the most
22 expeditious service.

23 * Sec. 19. AS 15.20.203(b) is amended to read:

24 (b) An absentee ballot may not be counted if

25 (1) the voter has failed to properly execute the certifi-
26 cate;

27 (2) [AN OFFICIAL OR THE WITNESSES AUTHORIZED BY LAW TO
28 ATTEST THE VOTER'S CERTIFICATE FAIL TO EXECUTE THE CERTIFICATE;

29 (3) THE VOTER FAILS TO ENCLOSE THE MARKED BALLOT INSIDE THE

1 SMALL ENVELOPE;

2 (4)] the ballot is not signed [ATTESTED] on or before the
3 date of the election; or

4 (3) [(5)] the ballot, if postmarked, is not postmarked on
5 or before the date of the election.

6 * Sec. 20. AS 15.20.203(g) is amended to read:

7 (g) Upon completion of the absentee ballot review, the election
8 supervisor shall prepare an election certificate for execution by the
9 district absentee ballot counting board and shall forward the original
10 certificate and other returns to the director no later than the 11th
11 [NINTH] day following the election.

12 * Sec. 21. AS 15.20.205(c) is amended to read:

13 (c) The district questioned ballot counting board shall certify
14 the questioned ballot totals as soon as the count is completed but no
15 later than the 10th [EIGHTH] day following the election.

16 * Sec. 22. AS 15.20.207(b) is amended to read:

17 (b) A questioned ballot may not be counted if
18 [(1)] the voter has failed to properly execute the certifi-
19 cate [;

20 (2) AN OFFICIAL OR THE WITNESSES AUTHORIZED BY LAW TO
21 ATTEST THE VOTER'S CERTIFICATE FAIL TO EXECUTE THE CERTIFICATE; OR

22 (3) THE VOTER DID NOT ENCLOSE THE MARKED BALLOT INSIDE THE
23 SMALL ENVELOPE].

24 * Sec. 23. AS 15.20.440(a) is amended to read:

25 (a) The application shall state in substance the basis of the
26 belief that a mistake has been made, the particular election precinct
27 or election district for which the recount is to be held, the particu-
28 lar office, proposition, or question for which the recount is to be
29 held, and that the person making the application is a candidate or

1 that the 10 persons making the application are qualified voters. The
2 candidate or persons making the application shall designate by full
3 name and mailing address two persons who shall represent the applicant
4 and be present and assist during the recount. Any person may be named
5 representative, including the candidate [HIMSELF] or any person sign-
6 ing the application [, AND THE REPRESENTATIVES SHALL BE PAID IN THE
7 SAME AMOUNT AND MANNER AS ELECTION JUDGES]. Applications by 10 qual-
8 ified voters shall also include the designation of one of the number
9 as chair [CHAIRMAN]. The candidate or persons making the application
10 shall sign the application and shall print or type their full name and
11 mailing address.

12 * Sec. 24. AS 15.20.450 is amended to read:

13 Sec. 15.20.450. REQUIREMENT OF DEPOSIT. The application shall
14 include a deposit in cash, by certified check, or by bond with a
15 surety approved by the director. The amount of the deposit is \$300
16 [\$50] for each precinct, \$750 [\$250] for each election district, and
17 \$10,000 [\$2,000] for the entire state. If [HOWEVER, IF] the recount
18 includes an office for which candidates received a tie vote, or the
19 difference between the number of votes cast was 20 [10] or less or was
20 less than .5 percent of the total number of votes cast for the two
21 candidates for the contested office, or a question or proposition for
22 which there was a tie vote on the issue, or the difference between the
23 number of votes cast in favor of or opposed to the issue was 20 [10]
24 or less or was less than .5 percent of the total votes cast in favor
25 of or opposed to the issue, the application need not include a deposit
26 and the state shall bear the cost of the recount. If, on the recount,
27 a candidate other than the candidate who received the original elec-
28 tion certificate is declared elected, or if the vote on recount is
29 determined to be four percent or more in excess of the vote reported

1 by the state review for the candidate applying for the recount or in
2 favor or opposed to the question or proposition as stated in the
3 application, the entire deposit shall be refunded. If the entire
4 deposit is not refunded, the director shall refund any money remaining
5 after the cost of the recount has been paid from the deposit.

6 * Sec. 25. AS 15.20.480 is amended to read:

7 Sec. 15.20.480. PROCEDURE FOR RECOUNT. In conducting the re-
8 count, the director [OR HIS APPOINTED REPRESENTATIVE] shall review all
9 ballots whether the ballots were counted at the precinct or by comput-
10 er or by the district absentee counting board or the questioned ballot
11 counting board to determine which ballots, or part of ballots, were
12 properly marked and which ballots are to be counted in the recount,
13 and shall check the accuracy of the original count, the precinct
14 certificate and the review. The director shall check the number of
15 ballots and questioned ballots cast in a precinct against the regis-
16 ters and shall check absentee ballots voted against absentee ballots
17 distributed. [THE DIRECTOR SHALL COUNT ABSENTEE BALLOTS RECEIVED
18 AFTER 4:00 P.M. ON THE 15TH DAY FOLLOWING THE ELECTION AND BEFORE THE
19 COMPLETION OF THE RECOUNT.] For administrative purposes, the director
20 may join and include two or more applications in a single review and
21 count of votes. The rules in AS 15.15.360 governing the counting of
22 hand-marked ballots and the rules in AS 15.20.730 governing the count-
23 ing of punch-card ballots shall be followed in the recount. The
24 ballots and other election material shall remain in the custody of the
25 director during the recount and the highest degree of care shall be
26 exercised to protect the ballots against alteration or mutilation.
27 The recount shall be completed within 10 days. The director may
28 employ additional personnel necessary to assist in the recount.

29 * Sec. 26. AS 15.20 is amended by adding a new section to article 5 to

1 read:

2 Sec. 15.20.580. SUPERVISION OF PUNCH-CARD VOTING. In accordance
3 with AS 15.15.010, the director shall supervise punch-card voting
4 procedures and the counting of punch-card ballots.

5 * Sec. 27. AS 15.20.620(d) is repealed and reenacted to read:

6 (d) During the tabulation by computer at main computer counting
7 sites, a manual count shall be made of a statistical sample of ballots
8 for all races in at least one precinct picked at random for each
9 election district counted at the site, under regulations adopted by
10 the director. The director shall check the results of the manual
11 count against those of the system.

12 * Sec. 28. AS 15.25.050(a) is amended to read:

13 (a) At the time the declaration is filed, each candidate shall
14 pay a nonrefundable filing fee to the director. The filing fee for
15 candidates for office of governor, lieutenant governor, United States
16 senator, and United States representative is \$100. The filing fee for
17 candidates for office of state senator and state representative is
18 \$30. [SUBJECT TO LEGISLATIVE APPROPRIATION, THE DIRECTOR SHALL PAY
19 THE FILING FEE COLLECTED FROM A CANDIDATE UNDER THIS SECTION TO THE
20 CENTRAL COMMITTEE OF THE POLITICAL PARTY OF THAT CANDIDATE.]

21 * Sec. 29. AS 15.25.160 is amended to read:

22 Sec. 15.25.160. REQUIRED NUMBER OF SIGNATURES FOR STATEWIDE
23 OFFICE. Petitions for the nomination of candidates for the office of
24 governor, lieutenant governor, United States senator and United States
25 representative shall be signed by qualified voters of the state equal
26 in number to at least one [THREE] percent of the number of voters who
27 cast ballots [VOTES CAST] in the preceding general election. Candi-
28 dates for the office of governor and lieutenant governor shall file
29 jointly.

1 * Sec. 30. AS 15.25.170 is amended to read:

2 Sec. 15.25.170. REQUIRED NUMBER OF SIGNATURES FOR DISTRICT-WIDE
3 OFFICE. Petitions for the nomination of candidates for the office of
4 state senator or state representative shall be signed by qualified
5 voters of the election or senate district in which the proposed nomi-
6 nee desires to be a candidate equal in number to at least one [THREE]
7 percent of the number of voters who cast ballots [VOTES CAST] in the
8 proposed nominee's [HIS] respective election or senate district in the
9 preceding general election. A [, PROVIDED THAT NO] nominating peti-
10 tion [NEED CONTAIN MORE THAN 200 SIGNATURES NOR] may not [IT] contain
11 less than 50 signatures for any district.

12 * Sec. 31. AS 15.30.025(a) is amended to read:

13 (a) A limited political party may be organized for the purpose
14 of selecting candidates for electors of President and Vice President
15 of the United States by filing [A PETITION] with the director at least
16 90 days before a presidential general election a petition signed by
17 qualified voters of the [THIS] state equaling in number at least one
18 [THREE] percent of the number of voters who cast ballots [ALASKA'S
19 TOTAL VOTE] for President at the last presidential election. The
20 petition shall state that the signers intend to organize a limited
21 political party, that they intend to select candidates for electors of
22 President and Vice-President of the United States at the next succeed-
23 ing presidential election, and the name of the limited political
24 party.

25 * Sec. 32. AS 15.30.025(c) is amended to read:

26 (c) A limited political party organized under this section
27 ceases [SHALL CEASE] to be a limited political party if [WHENEVER] its
28 presidential candidate fails to receive at least three [10] percent of
29 the number of voters who cast ballots [TOTAL ALASKAN VOTE CAST] for

1 the office of President at a presidential election.

2 * Sec. 33. AS 15.40.100 is amended to read:

3 Sec. 15.40.100. REQUIREMENTS OF PETITION FOR NO-PARTY CANDI-
4 DATES. Petitions for the nomination of candidates not representing a
5 political party shall be signed by qualified voters of the state equal
6 in number to at least one [THREE] percent of the number of voters who
7 cast ballots [NUMBERS OF VOTES CAST] in the preceding general elec-
8 tion, and shall state in substance that which is required in petitions
9 for nomination for general elections provided in AS 15.25.180.

10 * Sec. 34. AS 15.40.190 is amended to read:

11 Sec. 15.40.190. REQUIREMENTS OF PETITION FOR [OF] NO-PARTY
12 CANDIDATES. Petitions for the nomination of candidates not represent-
13 ing a political party shall be signed by qualified voters of the state
14 equal in number to at least one [THREE] percent of the number of
15 voters who cast ballots [VOTES CAST] in the preceding general election
16 and shall state in substance that which is required for nomination
17 petitions by AS 15.25.180.

18 * Sec. 35. AS 15.40.280 is amended to read:

19 Sec. 15.40.280. REQUIREMENTS OF PETITION FOR [OF] NO-PARTY
20 CANDIDATES. Petitions for the nomination of candidates not represent-
21 ing a political party shall be signed by qualified voters of the state
22 equal in number to at least one [THREE] percent of the number of
23 voters who cast ballots [VOTES CAST] in the preceding general elec-
24 tion, shall include nominees for the office of governor and lieutenant
25 governor, and shall state in substance that which is required for
26 nomination petitions by AS 15.25.180.

27 * Sec. 36. AS 15.40.440 is amended to read:

28 Sec. 15.40.440. REQUIREMENTS OF PETITION FOR NO-PARTY CANDI-
29 DATES. Petitions for the nomination of candidates not representing a

1 political party shall be signed by qualified voters equal in number to
2 at least one [THREE] percent of the number of voters who cast ballots
3 [VOTES CAST] in the proposed nominee's [HIS] respective election or
4 senate district in the preceding general election. A [, PROVIDED THAT
5 NO] nominating petition [NEED CONTAIN MORE THAN 200 SIGNATURES NOR]
6 may not [IT] contain less than 50 signatures for any district, and
7 shall state in substance that which is required in petitions for
8 nomination for general elections provided in AS 15.25.180.

9 * Sec. 37. AS 15.60.010(20) is amended to read:

10 (20) "political party" means an organized [A] group of
11 [ORGANIZED] voters that [WHICH] represents a political program and
12 that [WHICH] nominated a candidate for governor who received at least
13 three [10] percent of the number of voters who cast ballots [TOTAL
14 VOTE CAST] at the preceding general election for governor;

15 * Sec. 38. AS 15.13.070(f) and (g), AS 15.20.160, 15.20.201(d) and
16 AS 15.25.180(10) are repealed.

17 * Sec. 39. This Act takes effect immediately in accordance with AS 01.-
18 10.070(c).

Testifying 2-13-86

Concerns to ensure sanctity of vote.

Position: Sec. Rep. party responsible for securing vote

Disclaimer

I was absentee/airport State Review.

1. Certifying Problems

Our election to office on an April 16th. We were told our selections of election workers did not have to be adhered to because we did not meet their deadline for response which was several weeks before our election.

a. I remonstrated, saying one of the workers in computer room was a person who had publicly displayed her dissatisfaction with the party & we had to have our say to protect the ^{sanctity} vote. We also had persons who had been active in the party & wanted the job. They had ^{some} people who had declared Rep but had never had never paid their dues or contributed to the party in any way & we could not vouch for them.

b. We submitted a list which included replacing a Republican judge who had moved out of district with a ^{new} Republican judge. We were told we had to let a Democrat who had been wanting that judgeship for some time to have it. I remonstrated & told the person we'd selected to not give up her judgeship. The election dept. turned to the newly appointed Republican judge & told her how badly the Democrat judge wanted that judgeship & persuaded her to give it up, thus

the party doesn't certify can put self interest in name + worse

circumventing the party's obligation to ensure balance in the precinct judgeships since judges took ballots home the night before elections

c. On the most recent list I was given, several people ^{names} who worked elections do not appear, including my own and I was ^{also} told ^{and} the other person who is concerned about the possible "look of improp. etc" they would not work with again as she was impossible to work with. Again, I have to question - is the party responsible for this kind of decision, or the election office? Are only those who "make waves" eliminated?

Training Concerns:

a. I was trained and many others by a person who we could barely understand. Those counting votes need to understand thoroughly what they are to do.

b. On final review board I ^{a Rep} was trained by an "experienced" democrat. I suggested, since new workers needed meticulous detailed training, that a step-by-step procedural manual be developed. Those of us who had recently worked thru the

problems encountered volunteered to develop that manual while things were still fresh in our minds, but there was no response. We ended up "learning by doing". (Each party should agree to procedure a specific incidents. As it was the supervisor gave a "judgement call". What party is helped)

c. Many ~~precincts~~ districts did peculiar things, even as in one where they tore the ballots in half & they had to be pieced together.

incidences occurred such as ① no names or votes recorded in tally book by a district, so review board can't count the voters, but you end up having to sign for it being o.k.

② there were no tally books for absentee or questioned voters for final count. So we would have to take the vote off the computer list, which we discovered had keypunch errors and non-pro errors

③ tally books weren't all labeled so didn't know if these books were run thru the computer or not.

④ On questioned ballot there are two places to sign. Quite a few voters signed in only one place, so their vote had to be thrown out. The same with the word witness. The envelope said for The witness to sign but the vote was invalid unless witnesses signed, so could not count the vote.

D. Two or 3 times precincts put questioned voters names with regular voters who also signed in on questioned register. So how could the review board tell which 2 are questioned & voted. Maybe their vote shouldn't have counted.

E I have other notes, but the delayed time has dimmed my memory as to their meaning, other than the broad generalization, that there must be stronger attention to thorough training of all workers to ensure the vote.

Great deal of problem determining eligibility.

1535 40.30

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date : 2/11/86

REQUEST

Bill Resolution No. : CSHB 284
Title : An Act relating to Elections

Sponsor : Boucher, Hurley & Navarre
Requestor : House Judiciary
Date of Request : 2/10/86

FISCAL DETAIL

Agency Affected : Office of Governor
BRU : Division of Elections

Components : Primary and General Elections

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL		76.2		76.2		76.2
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		76.2		76.2		76.2
CAPITAL						
REVENUE						

FUNDING : (Thousands of Dollars)

GENERAL FUND		76.2		76.2		76.2
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Most sections of this bill have no fiscal impact. The costs reflected in this fiscal note relate specifically to Sections 5, 9, 15, 16 and 20. What follows is a breakdown of the separate costs to be incurred implementing the provisions of each of these sections.

Prepared by : Linda Edgeworth
Division : Division of Elections

Phone : 465-4611
Date : 2/11/86

Approved by Commissioner : *Michael...*
Agency : Division of Elections

Date : 2/11/86

Distribution (by Agency preparing fiscal note) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB 284

Section 5 - Increasing the size of the State Review Board from 4 members to 8.

\$9,600	(4 members x 12.50/hr x 8 hrs/day x 24 days)
x 2	(Primary and General Elections)
<u>\$19,200</u>	

Section 9 - Mandating absentee in person voting in communities with over 2000 population, 8 hours per day for 7 days.

\$ 540	(18 sites x \$30/day space rental x 7 days)
+ 11,520	(2 persons/site x \$8/hr x 18 sites x 8 hrs x 5 days)
+ 6,912	(2 persons/site x \$12/hr x 18 sites x 8 hrs x 2 days)
+ 900	(18 sites x \$50 misc., admin. costs)
<u>\$19,872</u>	
x 2	(Primary and General Elections)
<u>\$39,744</u>	

Sections 15, 16 and 20 - Extending regional review boards from 7 days to 10 days.

\$ 8,640	(36 person x \$10/hr x 8 hrs x 3 days)
x 2	(Primary and General Elections)
<u>\$ 17,280</u>	

SUMMARY:	\$19,200	(SECTION 5)
	39,744	(SECTION 9)
	17,280	(SECTION 15, 16, 20)
	<u>\$76,224</u>	

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB 284

Special note should be made that the bill also would result in increased fees paid to the state for recounts of election returns. Those fees do not impact the division's operating budget and therefore are not indicated on the face of this fiscal note. However, additional monies deposited to the general fund would be substantially increased. A comparison is provided noting the increase.

	<u>Current Statutes</u>	<u>CSHB 284</u>
Primary Election Recounts	3 @ \$250 = \$ 750	3 @ \$750 = \$2,250
General Election Recounts	5 @ \$250 = \$1,250	5 @ \$750 = \$3,750
	_____	_____
TOTAL FEES TO GENERAL FUND	\$2,000	\$6,000

In fiscal years FY87 and FY89, based on these assumed number of recounts the net increase benefitting the state would be \$4,000 each year.

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date : 2/3/86

REQUEST
Bill Resolution No. : CS HB 284
Title : An act relating to elections
Sponsor : Representative Boucher
Requestor : House Judiciary
Date of Request :

FISCAL DETAIL
Agency Affected : Office of Governor
BRU : Division of Elections
Components : 1 Primary & General
Elections
2 Elections

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL		76.7	25.6	76.7	25.6	76.7
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	76.7	25.6*	76.7	25.6*	76.7

CAPITAL						
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REVENUE						
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FUNDING : (Thousands of Dollars)

GENERAL FUND		76.7	25.6	76.7	25.6	76.7
FEDERAL FUNDS						
OTHER						
TOTAL	0	76.7	25.6*	76.7	25.6*	76.7

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

SEE ATTACHED

Prepared by: Sherry Valentine, Deputy Director Phone: 465-4611
 Division: Elections Date: 2/3/86
 Approved by Commissioner: *Sandra J. Steul* Date: 2/3/86
 Agency: Office of Lt. Governor, Elections

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Editor's notes. — The repealed sections SLA 1966; § 19, ch. 136, SLA 1966; derived from §§ 4.09-4.15, ch. 83, SLA §§ 30-32, ch. 116, SLA 1972; § 10, ch. 38, 1960; § 1, ch. 22, SLA 1966, § 3, ch. 24, SLA 1974; §§ 21, 22, ch. 197, SLA 1975.

Sec. 15.20.160. Fee prohibited. No person may receive a fee from the voter for attesting to any voter's certificate required in voting absentee. (§ 4.16 ch 83 SLA 1960)

Sec. 15.20.170. Disposition of ballots. Each absentee voting official shall transmit the dated envelopes containing the marked ballots by the most expeditious mail service to the election supervisor for his district. Upon receipt of the absentee ballots the election supervisor shall stamp on the envelope the date on which the ballot is received. (§ 4.17 ch 83 SLA 1960; am § 18 ch 228 SLA 1968; am § 23 ch 197 SLA 1975; am § 88 ch 100 SLA 1980)

Effect of amendments. — The 1980 amendment rewrote the section.

NOTES TO DECISIONS

The purpose of former AS 15.20.150 and this section was to provide methods by which to insure that absentee ballots have been cast on or before election day. *Hammond v. Hickel*, Sup. Ct. Order (File Nos. 4281, 4282, 4283, 4284, 4285, 4291), 588 P.2d 256 (1978), cert. denied, 441 U.S. 907, 99 S. Ct. 1998, 60 L. Ed. 2d 376 (1979).

Satisfaction of requirement that ballots be marked on or before election day. — The mandatory requirement of former AS 15.20.150 that ballots be marked on or before election day was satisfied by a date received stamp, or a postmark, or the date of witnessing of the voter certificate, or any combination of these. *Hammond v. Hickel*, Sup. Ct. Order

(File Nos. 4281, 4282, 4283, 4284, 4285, 4291), 588 P.2d 256 (1978), cert. denied, 441 U.S. 907, 99 S. Ct. 1998, 60 L. Ed. 2d 376 (1979).

The failure of the absentee ballot to be properly postmarked or dated when received by an election official was not included as a violation of the absentee ballot statute mandating the canvass board to invalidate the ballot. *Hammond v. Hickel*, Sup. Ct. Order (File Nos. 4281, 4282, 4283, 4284, 4285, 4291), 588 P.2d 256 (1978), cert. denied, 441 U.S. 907, 99 S. Ct. 1998, 60 L. Ed. 2d 376 (1979). Under the 1980 amendment, the election supervisor is to stamp on envelopes the date of receipt. — Ed. note.

Sec. 15.20.180. Names of absentee voters to be made available. The election supervisors and election officials shall have available for public inspection the names and addresses of persons who voted absentee. (§ 4.18 ch 83 SLA 1960; am § 19 ch 228 SLA 1968; am § 24 ch 197 SLA 1975)

Sec. 15.20.190. Appointment, duties, and compensation of district counting boards. (a) Thirty days prior to the date of an election, the election supervisors shall appoint, in the same manner provided for the appointment of election judges prescribed in AS 15.10.150, district absentee ballot counting boards and district questioned ballot counting

LA 1966;
O. ch. 38,
LA 1975.

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boards, each composed of four members, two from each political party. The district boards shall assist the election supervisors in counting the absentee and questioned ballots and shall receive the same compensation paid election judges under AS 15.15.380.

(b) The election supervisor shall appoint a counting team or teams to aid the district absentee ballot counting board in counting absentee ballots and the district questioned ballot counting board in counting questioned ballots. There shall be four counters on each counting team, no more than two of whom may be members of the same political party. (§ 4.19 ch 83 SLA 1960; am § 20 ch 228 SLA 1968; am § 89 ch 100 SLA 1980)

Effect of amendments. — The 1980 amendment substituted "counting" for "canvassing" preceding "boards" near the middle of the first sentence of subsection (a), inserted "and district questioned ballot counting boards, each" near the middle of the first sentence of subsection (a), deleted "major" preceding "political party" near the end of the first sentence of subsection

(a), substituted "boards" for "board" near the beginning of the second sentence of subsection (a), deleted "and canvassing" preceding "the absentee" near the middle of the second sentence of subsection (a), inserted "and questioned" near the middle of the second sentence of subsection (a), added "under AS 15.15.380" at the end of subsection (a), and added subsection (b).

Sec. 15.20.200. Time of district canvass and for counting absentee ballots.

Repealed by § 231 ch 100 SLA 1980.

Cross references. — For present provisions, see AS 15.20.201.
Editor's notes. — The repealed section

derived from § 4.20, ch. 83, SLA 1960; § 17, ch. 80, SLA 1963; § 21, ch. 228, SLA 1968.

Sec. 15.20.201. Time of district absentee ballot counting review. (a) On the seventh day preceding the day of election, the election supervisor or his designee, in the presence and with the assistance of the district absentee ballot counting board, shall review all voter certificates of absentee ballots received by that date. The review of absentee ballots shall continue at times designated by the election supervisor until completed and shall include all absentee ballots received in the office of the election supervisor by 4:00 p.m. on the seventh day following the day of the election.

(b) Counting of absentee ballots which have been reviewed shall begin at 8:00 p.m., local time, on the day of the election at places designated by each election supervisor and shall continue until all absentee ballots reviewed and eligible for counting have been counted. The counting teams shall report the count of absentee ballots to the district absentee ballot counting board. An election supervisor or an election official may not remove absentee ballots from the small, inner envelopes before 8:00 p.m., local time, on the day of the election. Counting of the absentee ballots shall continue at times designated by the election supervisor until all absentee ballots are counted.

(c) On the eighth day following the day of the election, the district absentee ballot counting board shall certify the absentee ballot review.

(d) Absentee ballots received in the office of an election supervisor after the seventh day following the day of the election shall be forwarded immediately to the director by the most expeditious service. (§ 90 ch 100 SLA 1980)

Sec. 15.20.203. Procedure for district absentee ballot counting review. (a) The district absentee ballot counting board shall examine each absentee ballot envelope and shall determine whether the absentee voter is qualified to vote at the election and whether the absentee ballot has been properly cast.

(b) An absentee ballot may not be counted if

(1) the voter has failed to properly execute the certificate;

(2) an official or the witnesses authorized by law to attest the voter's certificate fail to execute the certificate;

(3) the voter fails to enclose the marked ballot inside the small envelope;

(4) the ballot is not attested on or before the date of the election; or

(5) the ballot, if postmarked, is not postmarked on or before the date of the election.

(c) Any person present at the district absentee ballot counting review may challenge the name of an absentee voter when read from the voter's certificate on the back of the large envelope if he has good reason to suspect that the challenged voter is not qualified to vote, is disqualified, or has voted at the same election. The person making the challenge shall specify the basis of the challenge in writing. The district absentee ballot counting board by majority vote may refuse to accept and count the absentee ballot of a person properly challenged on grounds listed in (b) of this section.

(d) If an absentee ballot is rejected, the election supervisor shall send a copy of the statement of the challenge to the absentee voter. The election supervisor shall place all rejected absentee ballots in a separate envelope with the statements of challenge. The envelope shall be labeled "rejected absentee ballots" and shall be forwarded to the director with the election certificates and other returns.

(e) If an absentee ballot is not rejected, the large envelope shall be opened and the small envelope containing the absentee ballot shall be placed in a container and mixed with other small envelopes.

(f) The small envelopes shall be drawn from the container, opened, and the absentee ballots counted at the times specified in AS 15.20.201 and according to the rules for determining properly marked ballots in AS 15.15.360.

(g) Upon completion of the absentee ballot review, the election supervisor shall prepare an election certificate for execution by the district absentee ballot counting board and shall forward the original certificate and other returns to the director no later than the ninth day following the election. (§ 90 ch 100 SLA 1980)

Cross references. — As to manner and date of filing declaration, see AS 15.25.040.

Effect of amendments. — The 1980 amendment substituted "director" for "lieutenant governor" following "with the"

near the beginning of the section, and substituted "to the director by registered or certified mail return receipt requested" for "by certified mail" near the middle of the first sentence.

Sec. 15.25.160. Required number of signatures for statewide office. Petitions for the nomination of candidates for the office of governor, lieutenant governor, United States senator and United States representative shall be signed by qualified voters of the state equal in number to at least three percent of the number of votes cast in the preceding general election. Candidates for the office of governor and lieutenant governor shall file jointly. (§ 5.53 ch 83 SLA 1960; am § 138 ch 100 SLA 1980)

Effect of amendments. — The 1930 amendment substituted "qualified voters of the state equal in number to at least three percent of the number of votes cast in

the preceding general election" for "not less than 1,000 qualified voters" at the end of the first sentence.

Sec. 15.25.170. Required number of signatures for district-wide office. Petitions for the nomination of candidates for the office of state senator or state representative shall be signed by qualified voters of the election or senate district in which the proposed nominee desires to be a candidate equal in number to at least three percent of the number of votes cast in his respective election or senate district in the preceding general election, provided that no nominating petition need contain more than 200 signatures nor may it contain less than 50 signatures for any district. (§ 5.54 ch 83 SLA 1960; am § 139 ch 100 SLA 1980)

Effect of amendments. — The 1980 amendment substituted "three" for "five"

preceding "percent" near the middle of the section.

Sec. 15.25.180. Requirements for petition. The petition shall state in substance

- (1) the full name of the candidate,
- (2) the full resident address of the candidate,
- (3) the full mailing address of the candidate,
- (4) the name of the political group supporting the candidate,
- (5) if the candidacy is for the office of state senator or state representative, the election or senate district of which the candidate is a resident,
- (6) the office for which the candidate is nominated,
- (7) the date of the election at which the candidate seeks election,
- (8) that the candidate meets, or will meet, as required by law, the specific requirements of the office for which he is a candidate,

(9) that the subscribers are qualified voters of the state or election or senate district in which the candidate resides,

(10) that the subscribers intend to vote for the candidate at the general election,

(11) that the subscribers request that the candidate's name be placed on the ballot,

(12) that the proposed candidate accepts the nomination and will serve if elected, with the statement signed by the proposed candidate,

(13) if the candidacy is for the office of the governor, the name of the candidate for lieutenant governor running jointly with him,

(14) the name of the candidate as he wishes it to appear on the ballot, and

(15) that the candidate is not a candidate for any other office to be voted on at the primary or general election and that he has not filed another nominating petition or declaration of candidacy for the office for which this petition is filed. (§ 5.55 ch 83 SLA 1960; am § 22 ch 80 SLA 1963; am § 140 ch 100 SLA 1980)

Effect of amendments. — The 1980 amendment added paragraphs (14) and (15).

Sec. 15.25.190. Placement of names on general election ballot. The director shall place the names and the political group affiliation of persons who have been properly nominated by petition on the general election ballot. (§ 5.56 ch 83 SLA 1960; am § 141 ch 100 SLA 1980)

Effect of amendments. — The 1980 "lieutenant governor" at the beginning of amendment substituted "director" for the section.

Sec. 15.25.200. Withdrawal of candidate's name. If a candidate nominated by petition dies or withdraws after the petition has been filed and before September 1 of the election year, the director shall not place the name of the candidate on the general election ballot. (§ 5.57 ch 83 SLA 1960; am § 142 ch 100 SLA 1980)

Effect of amendments. — The 1980 "lieutenant governor" near the middle of amendment substituted "director" for the section.

Article 3. Presidential Party Primary Election.

Section	Section
220. Presidential party primary election	250. Selection of delegates
230. Placing recognized names on the ballot	260. Delegates pledged
240. Petition for presidential candidate	270. No other elections on the same date
	280. Procedures for conduct of election

STATE OF ALASKA
THE LEGISLATURE

FOURTH STATE CENTER
JUNEAU, ALASKA 99801
907 465 1800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

February 8, 1986

SUBJECT: Felons as voters
(Work Order No. 14-1764)

TO: Representative Don Clocksin

FROM: Richard A. Bradley
Legislative Counsel

You have requested our comments on several questions regarding the authority of a felon convicted of a crime involving moral turpitude to vote under the constitution and laws of the state.

Your questions require that article V, sec. 2 of the Alaska Constitution be construed and applied. The provision provides:

SECTION 2. DISQUALIFICATIONS. No person may vote who has been convicted of a felony involving moral turpitude unless his civil rights have been restored.

The question becomes: What is a crime "involving moral turpitude"? The election code provides some insight into the question. AS 15.60.010 provides, in part:

Sec. 15.60.010. DEFINITIONS. In this title, unless the context otherwise requires,

* * *

(8) "felony involving moral turpitude" includes those crimes which are immoral or wrong in themselves such as murder, sexual assault, robbery, kidnapping, incest, arson, burglary, theft, and forgery;

* * *

It seems fair to say, therefore, that a "felony involving moral turpitude" is a crime that is "malum in se" and not merely "malum prohibitum." The list of crimes cited as involving "moral turpitude" uniquely fit that description and, I note, the legislature uses that very phrase: "wrong in themselves." I have reviewed the crimes in AS 11 briefly and while I believe that each felony described in AS 11 probably qualifies as a "malum in se" crime, I believe that a felony violation of the village liquor laws (AS 04.16.200) or a felony banking violation (AS 06.05.490), for example, would not fall within the description that the legislature has used to implement art. V, sec. 2 of the Alaska Constitution.

Your second question notes that the opinion from the Attorney General concludes that felons convicted of a felony involving moral turpitude who are on SIS, suspended sentences, or parole may vote. I must disagree with the conclusion; I note that the law has changed at least once since the opinion was written and its implementation of the Constitution is now clearer than it may have been to Mr. Mahoney. I note that AS 15.05.030(a) addresses this question directly; the provision provides:

Sec. 15.05.030. LOSS AND RESTORATION OF VOTING RIGHTS. (a) A person convicted of a crime that constitutes a felony involving moral turpitude under state law may not vote in a state or a municipal election from the date of the conviction through the date of the restoration of voting rights under this section. The right to vote withdrawn under this section is automatically restored upon the unconditional discharge of the person.

Since I take it as clear that a person under SIS, suspended sentence, or parole has not been "unconditionally discharge(d)", the person would not be able to vote.

I assume that the current practice of the division of elections would comply with the current law though the evidence is mixed. The "oath" that a voter subscribes to does state the law accurately though the larger print information and instructions for the voter on the "voter registration" form misstates the law badly: while it addresses the question of voter disqualification for "conviction of a felony", it fails to note that only those convicted of a felony involving moral turpitude" are disqualified; it would also be

Representative Clocksin
Page 3
February 8, 1986

useful and simple to state that voting rights are automatically restored on the unconditional discharge of the person.

While I understand that the judicial opinions implementing similar constitutional provisions are not a model of clarity and that (even) attorneys have difficulties defining the term otherwise, the legislature has provided a reasonable definition, at least for the purposes of the election code, and it should be reflected on the voter registration card.

If I may be of additional assistance, please advise.

RAB:csh
c5/057

REP. TERRY MARTIN

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



HOME
3960 REKA DRIVE B6
ANCHORAGE, AK 99508
PHONE 333-6990

DURING SESSION
POUCH V
STATE CAPITOL BUILDING
JUNEAU, AK 99811
PHONE 465-3783

Alaska House of Representatives

MEMORANDUM

Date: February 7, 1986

To: Representative Mike Miller, Chairman
Hous Judiciary Committee

From: Representative Terry Martin *T.M.*

Subject: Election Laws--
Proposed Amendments to HB 284/HB 110

I would like to offer three amendments to HB 284 for your consideration before moving this bill out of committee. These are designed to tighten up voter registration procedures, residency requirements for candidates, and balloting for overseas and military voters.

Amendment Number 1:

This amendment would enable voter registrars to request proof of a voter applicant's residency, in much the same manner as a registrar can request proof of identity. It requires the person registering to sign a statement verifying residency of both the state and the election district, and empowers the Division of Elections to investigate residence when statements seem to conflict (for instance, if a voter's mailing or residence address are outside the district in which the voter is registering). This amendment would also enable the Division of Elections to make use of information obtained from other State agencies, such as the Division of Motor Vehicles or Department of Fish and Game.

Amendment Number 2:

This amendment would enable the Division of Elections to carry out the Constitution's mandate that "a member of the legislature shall be a qualified voter who has been a resident of Alaska for at least three years and of the district from which elected for at least one year, immediately preceding his filing for office." (Article II, Section 2.)

At present, there is no state agency--not even the Alaska Public Offices Commission--which is authorized to verify a candidate's claim of residency, should there be a question. I refer you to the attached Memorandum from



Rodger Pegues, Assistant Attorney General, to Terry Miller, Lieutenant Governor, dated January 22, 1980. This memorandum states that the Election Code makes no provision for election officials to reject an application which is valid on its face; and that if a candidate states that he is not sure he does meet residency requirements, but later repudiates that statement, that even then the Division has no authority to question the candidate's residency, because the candidate might be wrong.

I find this mightily confusing. We are charged to uphold the Constitution of this state, yet we have given no agency the power to do so. Your passage of this amendment will be a great step toward protecting the voter, ensuring that a candidate appearing on the ballot has fulfilled the legal requirements of residency for elective office.

Amendment Number 3:

Alaska's overseas and military voters need a simple process and adequate time to apply for, receive and return absentee ballots. This amendment accomplishes both.

First, it backs up in statute procedures already established by the Division of Elections which a) allow an absentee voter to send in one form to request absentee ballots for all state elections occurring in the following year, and b) permit the voter to register to vote on the same form.

Second, the amendment sets up a procedure so that absentee ballots can be mailed out to voters earlier, giving military and overseas voters enough time to apply for, receive and return their ballots in time that their votes can be counted. A special absentee ballot will be prepared for each state election. This ballot will show all ballot propositions or questions. In addition, all candidates that are sure to appear on the regular ballot will be listed, and blanks left for those candidates whose races are undecided (this is useful basically for the general election, should there be difficulties certifying some races). The voter can either vote for the names appearing or write in names on the blanks; or the voter can vote a straight party ticket by checking a box provided at the top of the form.

When the regular ballots are prepared, the Division will send one out to each voter who received a special ballot. As this regular ballot will be complete, containing all the candidates' names, this ballot would be counted in preference to the special ballot if received back in time. If the second ballot is not returned in time, the first (special) ballot would be counted.

Although this may seem like an imposition on the Division of Elections, I should clearly state that the Federal Elections Commission (FEC) informed me that there are many states who hold primaries much closer to the general election than Alaska does; yet those states manage to prepare and distribute their absentee ballots a minimum of 40 days before the general election. It was suggested to me that, if our state can't manage this with an August primary, it would behoove us to examine our election procedures and find out why we have such an incredible delay. Additionally, the FEC went on to say

House Judiciary Committee
February 7, 1986
Page 3

that Mr. Henry Valentino, from whom you may have received a letter or two, has successfully sued states which provide less than 45 days lead time for absentee ballots. Do we want to be sued for disenfranchising the absentee voter of the right to vote?

* * *

Your careful consideration and passage of these amendments would greatly enhance and protect the electoral process in Alaska. Thank you for your attention.

OFFICE OF THE LIEUTENANT GOVERNOR

Rod Pegues
Assistant Attorney General
Dept. of Law

January 18, 1980

Terry Miller
Lieutenant Governor

Constitutional Residency
Requirements for Filing
for Office

Rod, as you already know, my office has had many requests for the necessary forms for filing for office for the 1980 elections. Along with these requests have been several questions regarding the residency requirements outlined in the State Constitution. For example, one gentleman has lived in California since 1977; however, he has maintained a permanent residence address in Alaska and has voted by absentee ballot. According to the constitution, he qualifies as being a resident of the state for three years and a resident of the district for one year although in reality he no longer lives here.

I am requesting an opinion from the Department of Law on the residency requirement, what my position is in accepting an individual's declaration base on these requirements, and what the appropriate response may be to individuals in this situation.

I would appreciate your prompt attention to this matter.

Thanks!

STATE
of ALASKA

MEMORANDUM

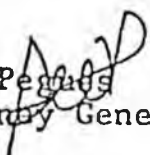
LIEUTENANT GOVERNOR

TO: Honorable Terry Miller
Lieutenant Governor

DATE January 23 1980

FILE NO. J-66-412-80

TELEPHONE NO.

FROM AVRUM M. GROSS
ATTORNEY GENERALSUBJECT: Constitutional resi-
dency requirements
for elective state
officeBy: 
Rodger W. Pegans
Assistant Attorney General

You have asked what you, as Lieutenant Governor and the state's chief election officer, should do with respect to the application of the constitution's residency requirements to those who file for elective state office.

As a general rule, you should accept filings which are valid on their face, and it is neither your duty nor your function to question their validity.

Under the Alaska Constitution, one who files for elective public office must have been a resident of the State (and, for legislators, of the election district) for a prescribed period. */ A candidate's eligibility for filing is determined "immediately preceding his filing for office." Alaska Const., art. II, § 2, art. III, § 2. The requisite information is entered on the declaration of candidacy which is filed by the candidate. AS 15.25.030(8).

The Election Code makes no provision for the election officials to reject an application which is valid on its face and timely filed. Under AS 15.25.040, an untimely filed declaration of candidacy clearly must be rejected. But there is no similar provision for rejecting a declaration which substantially complies with the prescribed requirements for filing for office. With respect to residency, those requirements are that, in substance, the candidate states that he meets "the specific residency requirements of the office for which he is a candidate." AS 15.25.030(8). Given substantial compliance by the candidate, his name must

*/ For the legislature, three years in the State and one in the district is required. Alaska Const., art. II, § 2. For governor and lieutenant governor, seven years in the State is required. Alaska Const., art. III, §§ 2, 7.

Honorable Terry Miller
January 22, 1980
Page #2

be placed on the ballot. AS 15.25.060.

For the most part, the Alaska Election Code, like many others, depends upon the adversarial nature of the election process for enforcement. The law reasonably assumes that a candidate's opponents will be the first to raise complaints against any false or fraudulent filing. Residence (domicile) is an elusive legal concept. Proof of residence consists of both objective facts and subjective feelings. A determination requires a full blown hearing and an independent, nonpartisan decision maker. The Election Code quite wisely does not provide for the election officials to make such determinations.

Of course, if a declared or would-be candidate states to the election officials that in his own mind he does not believe he is a resident of the state or of the election district or that he believes that he no longer meets the constitution's residency requirements, then the officials -- on the basis of that admission -- may reject a declaration of candidacy from that person unless it is preceded or accompanied by a withdrawal or repudiation of the admission of disqualification. While election officials have no duty to question or determine residency, they are not compelled to ignore admissions of disqualification. However, whether one is qualified or not is a legal question and an admission of disqualification could be dead wrong. Therefore, the election officials must honor any subsequent withdrawal or repudiation of such an admission. And, indeed, if they are convinced at the outset that a candidate's admission of disqualification is in error, they can and should disregard it and accept a timely and properly filed declaration of candidacy from the candidate.

RWP/pjg

LEY S. HANNAH, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 463-3500

July 8, 1982

The Honorable Terry Martin
3960 Reka Drive-B6
Anchorage, Alaska 99504

Re: ██████████'s candidacy
Our file 366-029-83

Dear Representative Martin:

In a letter dated June 24, 1982 (received in this office on June 28, 1982), you requested that we review certain aspects of ██████████'s candidacy for the office of Representative from Election District 13, Seat B. Although you pose a number of specific questions, you appear to have two primary concerns: (1) was ██████████ a resident of Election District 13 for one year, as required by Article II, Section 2 of the Alaska Constitution, at the time she refiled her declaration of candidacy on June 1, 1982; and (2) because she was not properly a candidate before June 1, 1982, having not been a resident for a full year in Election District 13, must her campaign committee (or, in the alternative, contributors to that committee) repay to the state any campaign contribution refunds under AS 43.20.013(a)?

In brief, the Attorney General's office cannot make the residency determination you desire. We are the attorney for the Division of Elections, and as such have no greater powers than the division possesses to make such inquiries. As you note in your letter, the division cannot go beyond the statements in the declaration of candidacy. If you have a disagreement with the statements in that declaration of candidacy, one remedy which you may pursue is to file a lawsuit in the Superior Court. The answer to your question regarding repayment to the state for refunds given to campaign contributors is not as clear. However, on the basis of our research and consideration of the facts presented, we believe it is extremely unlikely that a court would require contributors to repay the refunds, and even more unlikely that the court would require the campaign committee to do so. A more detailed analysis of these issues follows.

Martin

#1

pg 1 of 2

A M E N D M E N T

** Sec. __. AS 15.07.060 is amended by adding new subsections to read:

(e) The director ~~may~~ ^{shall} require an applicant to provide proof of eligibility to vote. The director may use information available from other state departments or agencies to determine the eligibility of an applicant to vote.

(f) The director shall prescribe and furnish an application form for registration as a voter. The application must contain a statement of eligibility in substantially the following form:

I certify that

() I am currently registered in another precinct in Alaska; or
() I am a resident of the state and of the election district in which I seek to vote on the date of this application or I will be a resident of the state and of the election district in which I seek to vote for at least 30 days immediately preceding the date of the next election; or

() I claim eligibility to vote as an overseas voter under AS 15.05.011; or

() I claim eligibility to vote in a presidential election under AS 15.05.012 and 15.05.014.

I understand that a false claim of eligibility in an application

for registration as a voter is a criminal offense and is subject to criminal penalties imposed by law.

(signature of applicant)

(g) The director shall investigate a claim of eligibility to vote under this chapter if information provided by the voter is or seems inconsistent with other information regarding eligibility of the applicant.

* Sec. . AS 15.07.070(a) is amended to read:

(a) The director may adopt regulations under the Administrative Procedure Act (AS 44.62) relating to the registration of voters consistent with the requirements of this section and AS 15.07-060."

Renumber remaining sections accordingly.

Martin
#2

A M E N D M E N T

"* Sec. __. AS 15.25 is amended by adding a new section to read:

Sec. 15.25.031. VERIFICATION OF RESIDENCY OF CANDIDATE. (a)

The director shall verify that each candidate who files a declaration of candidacy under AS 15.25.030 meets the specific residency requirements for the office for which the declaration is filed.

(b) The director shall adopt regulations establishing procedures for the verification of residency under this section."

"* Sec. __. AS 15.25 is amended by adding a new section to read:

Sec. 15.25.181. VERIFICATION OF RESIDENCY OF CANDIDATE. (a)

The director shall verify that each candidate who files a petition for nomination under AS 15.25.180 meets the specific residency requirements for the office for which the petition is filed.

(b) The director shall adopt regulations that establish the procedures for the verification of residency."

Renumber remaining sections accordingly.

Martin

3
pg 1 of 3

A M E N D M E N T

"* Section __. AS 15.07.070 is amended by adding a new subsection to read:

(g) In preparing forms necessary to achieve the purposes of this chapter, the director shall ensure that a form used by a voter to apply for an absentee ballot also permits the person to register to vote and the director may accept a single application from a person that requests absentee ballots for each state election to be held that year."

"* Sec. __. AS 15.20 is amended by adding a new section to read:

Sec. 15.20.082. ABSENTEE VOTING BY MAIL FROM OUTSIDE THE UNITED STATES. (a) The director shall prepare special absentee ballots under this section for use in a state primary election, a state general election, and a state special election when the voter expects to be living, working, or traveling outside the United States at the time of the election and anticipates being unable to return the ballot by air mail within the time otherwise required by this chapter. The

director shall prepare the ballot so that it may be sent to the absentee voter 60 days before the date of the election.

(b) A special state absentee ballot prepared for use under (a) of this section shall contain each ballot proposition or question scheduled to appear on the particular ballot.

(c) A special state absentee ballot prepared for the state general election or for a state special election shall, if the names of candidates are not yet certified, permit a voter to cast a ballot for all the candidates of a particular political party that expects to have candidates appear on the ballot; for this purpose, the director shall place the names of the candidates that have been certified in columns by political party and permit the voter to cast a vote for the identified and unidentified candidates of that party by marking a box at the head of the column; if a mark is placed in the box at the head of a column, a vote has been cast for each candidate actually nominated by that party on the ballot prepared for use in the district and a vote cast for an individual candidate in another party may not be counted. The ballot shall indicate that marking the box constitutes a vote for each candidate of that party whose name appears on the official ballot.

(d) Notwithstanding AS 15.25.070, a special absentee ballot prepared for a state primary election that fails to list the name of each candidate seeking nomination at the primary election shall permit the absentee voter to write in the names of individual candidates and the director shall count, in addition to votes cast for a candidate whose name is printed on the special primary election ballot, the

names of individual candidates who are written in under this subsection.

(e) The director shall prepare the regular absentee ballots as soon as is reasonably possible and shall send the regular absentee ballot to each person receiving a special absentee ballot under this section. The director shall, if the regular absentee ballot is received within the time required by law, count the regular absentee ballot in preference to the special absentee ballot."

Renumber remaining bill sections accordingly.

Recommended Housekeeping Revisions
To House Bill 284

Division of Elections
April 23, 1985

The following recommendations are offered merely as housekeeping measures, and make no substantive changes in the intent of HB 284. They address minor modifications to related sections of Title 15 not specifically addressed by the bill, but impacted by it. The changes we propose only serve make these sections consistent with the provisions proposed in HB 284.

1. Page 1, Line 8 - Add amendment to AS 15.15.440

AS 15.15.440 is amended to read:

AS 15.15.440 Dates for opening and closing state ballot counting review. The state ballot counting review shall begin no later than eleven [EIGHT] days after the election and be continued daily until completed. The director may designate the hours each day during which the state ballot counting review board is to conduct its ballot counting review. The director shall close the review when he or she is satisfied that no missing precinct certificate of election would, if received, change the result of the election. If no election certificate has been received from a precinct, the director may secure from the election supervisors and may count a certified copy of the duplicate election certificate of the precinct. If no election materials have been received, but election results have been received by telephone, telegram or radio, the director shall count the election

results so received. If the director has reason to believe that a missing precinct certificate, if received, would affect the results of the election, the director shall await the receipt of the certificate until four o'clock in the afternoon of the 15th day after the date of election. A certificate not actually delivered to the director by four o'clock on the 15th day after the election shall not be counted at the state ballot counting review.

2. Page 3, Line 1 - Change wording.

(a) No less than seven days [ON THE SEVENTH DAY]

3. Page 3, Line 14 - Add amendment to AS 15.20.201(g)

AS 15.20.201(g) is amended to read:

(g) Upon completion of the absentee ballot review, the election supervisor shall prepare an election certificate for execution by the district absentee ballot counting board and shall forward the original certificate and other returns to the director no later than the eleventh [NINTH] day following the election.

4. Page 3, Line 14 (Continuing) - Add amendment to AS 15.20.205(c)

AS 15.20.205(c) is amended to read:

(c) The district questioned ballot counting board shall certify the questioned ballot totals as soon as the count is completed but no later than the tenth [EIGHTH] day following the election.

STATE OF ALASKA

OFFICE OF THE GOVERNOR

DIVISION OF ELECTIONS
POUCH AF
JUNEAU, ALASKA 99811-9974

May 3, 1985

PHONE: (907) 586-6181

The Honorable Mike Miller, Chairman
House Judiciary Committee
Alaska State House of Representatives
Pouch AF
Juneau, Alaska 99811

Dear Representative Miller and Members of the Committee:

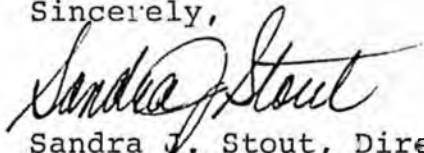
SUBJECT: House Bill 284

Pursuant to my letter of April 26, 1985, I am forwarding to you the results of our research based on actual absentee ballots cast in the 1984 general election. Our investigation was prompted by your specific questions raised in the hearing of House Bill 284 last week. It is our hope that the findings we are presenting address your concerns and that they will assist you in your prompt consideration of the bill.

We know that as the legislature races toward the end of this year's session, it becomes more and more difficult to return to issues which have required additional consideration. However, because the division must prepare for a major election year so far in advance, your action on this and other election bills referred to your committee, is very important to us.

Please count on me and my staff for any assistance or support which we may provide in the waning days of this session.

Sincerely,



Sandra J. Stout, Director
Division of Elections

Enclosure

cc: The Honorable Max Gruenberg
The Honorable Don Clocksin
The Honorable Fritz Pettyjohn
The Honorable Randy Phillips
The Honorable John Sund
The Honorable Robin Taylor
The Honorable Red Boucher

STATE OF ALASKA

OFFICE OF THE GOVERNOR

DIVISION OF ELECTIONS
POUCH AF
JUNEAU, ALASKA 99811-9974

PHONE: (907) 586-6181

Response to Committee Concerns House Bill 284

Prepared by
Division of Elections
May 2, 1985

Definitive questions were raised in committee as to the feasibility and fairness of requiring absentee ballots to be received by the Division of Elections not later than close of polls on election day in order to be counted. Concern was expressed that based on the number of ballots received after election day in the 1984 General Election the more restrictive deadline would result in a large number of disenfranchised voters. With this concern in mind, the division has reviewed over 1800 actual ballots from last year's election. The results of that review, combined with other statutory and administrative changes currently anticipated, reinforce our position that a more restrictive deadline is appropriate and reasonable. What follows is a summary of the specific questions raised by the committee and responses based on our findings.

QUESTION: Is it feasible to require postmarks on absentee ballots, rather than tightening the return deadline?

ANSWER: NO.

Such a requirement would result in thousands of otherwise legitimately cast ballots being rejected.

1. 29.6% of all ballots reviewed had no postmark at all, or had a postal cancellation with no readable date.
2. 15% of all unpostmarked ballots were also received after election day.

QUESTION: Is there evidence that would indicate that many ballots received after election day are a result of voter procrastination?

ANSWER: YES.

Procrastination seems evident in both the application process, and the mailing of ballots back to the division.

1. 43% of the sampled ballots received after election day had been applied for in such a time frame that the requests were received by the division in the last 5 days of the 6 month application period.
2. 37% of the sampled absentee ballots received after election day were applied for earlier than 4 weeks prior to the election, but returned late.

QUESTION: Is the mail delivery time too slow to meet a more restrictive deadline?

ANSWER: NO.

Results of our review indicate that normal mail delivery time is faster than expected. Our findings also indicate that an election day deadline would not require a substantially earlier posting by voters as was imagined.

1. 98% of all postmarked ballots reviewed were delivered to the division in 6 days or less.
2. 70% of all postmarked ballots reviewed were delivered to the division in less than 4 days.

QUESTION: Is a 10 day extension, as provided for in this bill, sufficient to accommodate military voters?

ANSWER: YES.

There is evidence that the 10 day extension for military voters is adequate to assure that military voters can exercise their right to vote and return their ballots in time to be counted.

1. 18% of the 1857 ballots sampled were returned by military personnel.
2. 98.5% of the military ballots reviewed were delivered to the division in less than 10 days of postmark or date attested.

QUESTION: Are other changes being effected which will further assure that the new deadline proposed by this bill can be met?

ANSWER: YES.

Several changes are being made administratively which will ease the time constraints of the absentee-by-mail process. In addition, certain

statutory amendments have passed the Senate which will have positive impact on the ramifications of this bill.

1. The division is currently converting to a direct, on-line data system which will streamline the entire absentee by mail process. This conversion will allow for greater speed in responding to absentee ballot requests, by eliminating much of the manual processing which has been required in previous years. The conversion includes direct computer entry of voter data, and a pre-stuffed, computer processed mailing packet which will drastically improve the outgoing mail schedule.
2. Administratively, and with statutory support from Senate Bill 252 which has passed the Senate and has been referred to House State Affairs and Judiciary, the division is changing its processing structure, to allow absentee applications to also serve as registration forms. In the past, an applicant for an absentee ballot, who was found to be not properly registered, had to complete up to 4 separate mailings to be processed. Our new system will allow us to handle the entire process in a single mailing resulting in greater convenience to the voter, and faster response time.
3. Senate Bill 252 will also require that absentee requests be submitted 14 days prior to election day rather than 7 days prior. This earlier deadline will dramatically improve the possibility for ballots to be returned by election day, especially given the normal mail delivery time as illustrated by the findings of our ballot review.

QUESTION: Would changing the witnessing requirements under the provisions of this bill benefit the voter?

ANSWER: YES.

There is evidence that the current witnessing requirements are too complex or demanding on the voter.

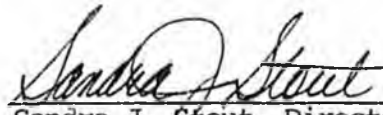
1. 43% of all challenged and uncounted

ballots were rejected because of improper or insufficient witnessing.

CONCLUSION

We feel that our recent findings further support our contention that the provisions of this bill are worthy of legislative endorsement. Only about 6 states have extended deadlines for receipt of absentee ballots, and none are even remotely as liberal as Alaska's current 15 day provision. Even Puerto Rico allows only 5 extra days, while the Virgin Islands adhere to an election day deadline. All evidence points to the fact that 15 days is exorbitant and unnecessary. Not only does it potentially increase the opportunity for fraudulent voting, especially as the campaign interest in absentee voting increases, but it complicates and delays the certification process. This delay is especially critical because of our late primary. Passage of this bill will improve our efficiency in certifying primary results more quickly. This in itself will assist in assuring voter's receipt of general election ballots in time to meet the new deadline imposed.

The division hopes the findings we have presented here assist the committee in its deliberations of this bill, and look forward to the legislature's favorable support.



Sandra J. Stout, Director

STATE OF ALASKA

OFFICE OF THE GOVERNOR

DIVISION OF ELECTIONS
POUCH AF
JUNEAU, ALASKA 99811-9974

PHONE: (907) 586-6181

April 26, 1985

The Honorable Mike Miller, Chairman
House Judiciary Committee
Alaska State House of Representatives
Pouch AF
Juneau, Alaska 99811

Dear Representative Miller and Members of the Committee:

We appreciate the conscientious interest you've taken in House Bill 284, relating to elections and specifically to absentee voting. Your committee's review of this bill brought to light some concerns which we feel need our additional attention. In response to those concerns, and for your further deliberations we will be continuing to research answers to some of your specific questions and will provide additional information which we hope will be helpful.

One of those issues which received extensive discussion was the feasibility of a postmark requirement. Enclosed is a copy of research done on this issue prepared for Representative Hurley and made available to you through her courtesy. It was on the basis of this research that this option was rejected as a feasible requirement on absentee return envelopes.

Another issue discussed in committee was the concern about voters whose ballots were received after election day during the 1984 Election. Perhaps we should consider the fact that these voters were submitting their ballots in conformity with the deadline announced in their instructions. Whether applying for the permanent fund, filing a tax return, or sending in a ballot, some individuals will wait until the last minute to meet any deadline, no matter how much time is given. We believe that with instructions enclosed in the voter packet stipulating the election day deadline, most of these voters would have sent their ballots back earlier to have them in on time.

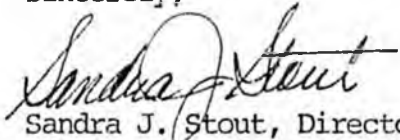
But the questions in this regard raised by the committee, warrant our further investigation. We are currently examining a random sample of actual absentee ballot envelopes from the last election. From this research we hope to provide more definitive information which can help resolve some of the questions raised and assist you in your deliberations of this bill. We will also give you a list of some of the administrative and other statutory changes the division anticipates will ease some of the time crunch affecting absentee voters in general. We hope to have this work completed within the next day or so.

Honorable Mike Miller
April 26, 1985
Page 2

The major concern that we share with the sponsors is that the 15 days provided by current statute is too liberal to assure protection against potential fraud. It also cause substantial delay in the certification process and compounds its complexity.

The amendment proposed by this bill has a tried and true track record across the United States. We look forward to assisting you in any way we can in your work on this bill.

Sincerely,

A handwritten signature in cursive script that reads "Sandra J. Stout". The signature is written in dark ink and is positioned above the typed name.

Sandra J. Stout, Director
Division of Elections

Enclosure

cc: The Honorable Max Gruenberg
The Honorable Don Clocksin
The Honorable Fritz Pettyjohn
The Honorable Randy Phillips
The Honorable John Sund
The Honorable Robin Taylor
The Honorable Red Boucher

STATE OF ALASKA

DIVISION OF ELECTIONS
POUCH AF
JUNEAU, ALASKA 99811-9974

OFFICE OF THE GOVERNOR

PHONE: (907) 586-6181

REQUIRED POSTMARKS: ABSENTEE BALLOTS BY MAIL

Prepared For

The Honorable Katie Hurley
Alaska State House of Representatives

February 20, 1985

Current Absentee By Mail Procedures

Under current election policies and procedures in Alaska, voters wishing to vote by mail are required to have their ballots marked and attested on or before the date of the election. Further, it is provided in AS 15.20.081(e), that the voter who returns the ballot by mail will use the most expeditious mail service, and mail the ballot not later than the date of the election. Finally, this statute mandates that "if the ballot is postmarked, it must be postmarked on or before election day."

Concern has been expressed that in the last part of the provision, the statute as written creates a potential for fraudulent or unethical use of the system. Specifically, since this part of the law only requires the election date stamped, if the ballot is postmarked, but does not require the postmark on all mailed absentee ballots, candidates could respond to election night returns by soliciting absentee voters who have not mailed in their ballots to do so in the few days right after the election. Because no postmark is required for counting, and because absentee ballots may be received in the mail for 15 days after the election, these late voters could still cast their ballots after the legal deadline. The concern has been raised that the division would have no way of knowing that the ballots were cast after election day. In the instances of close races these late ballots might have an impact on the outcome.

The division's first response to this concern is that both the voter and the attesting witnesses are required to stipulate the date of their signing the absentee affidavit. When no postmark appears on the envelope, it is this date that is

used to verify that the ballot was cast on or before election day. Assuming that in all other ways the ballot appears to be legitimately cast, and that it is received within the 15 day period, the ballot is counted.

U.S. Postal Service Policy

According to Mabel O'Connell, Assistant General Counsel, General Administrative Law, for the Postmaster General in Washington, D.C., current regulations require that on all first class mail, a postmark be affixed which by law will include full name of the post office handling the piece, state abbreviation, zip code, date of mailing, and a.m. or p.m. There are exceptions with regard to the first class mail requirement. Mail that is prepaid with a postal permit, even though it is for first class postage, will not be postmarked. Rather the post office processing the prepaid piece merely cancels the letter. This cancellation serves as a registration of postal usage for which the entity owning the permit will be charged for postage. Under this system the permit owner is charged only for the mail actually returned. Current estimates indicate that 27% of the ballots requested by mail in Alaska are not returned at all.

It has been the policy in Alaska to prepay return postage under a first class permit. Therefore, for the most part we would not expect a postmark on the majority of ballots submitted by mail.

Required Postmarks

In order to assure that to the greatest degree possible, all mailed absentee ballots are postmarked, the State would have to change its procedures to include requiring affixing a postage stamp to the return envelopes, rather than pre-printing the postal permit stamp as is currently being done. Two options are available.

State Pays Postage: If the State is to continue paying for postage on ballot returns, manual stamping will incur some additional costs. The process of preparing mailing packets for the voter (even before addressing, inserting ballots, coding, sealing and mailing occurs) consists of collating instructions, secrecy envelopes and manually folded return envelopes, which are then inserted in the outer mailer. These packets are also sorted by regional office to which the voter will eventually mail his or her ballots.

In keeping with its conversion to an automated data entry system which will take place by fall of 1985, the division is in the process of researching and designing

a computerized pull apart self-mailer which would eliminate most of the steps associated with the manual system used in the past. As a computerized mailing packet, there would be no need for any of the manual preparation steps described. The computer would automatically print the mailing address, and district and precinct of the voter, as well as the return of the appropriate regional supervisor based on the voting district, on the self-mailer in which all required materials are already enclosed. All that would be necessary at that point is to slip the ballots inside, and seal.

Requiring the manual placement of a postage stamp on the return envelope in order to assure that the ballot is postmarked would eliminate the possibility of using this streamlined and computerized mailer. Below are some of the costs incurred in the postage and manual preparation of the mailing packet based on an estimated 25,000 absentee by mail applicants anticipated for the 1986 General Election.

Printing of Materials	\$ 3,318
Postage @ .25 each	6,250*
Labor - manual preparation based on 50 packets per hour per employee @ Range 8 = 500 man hours	4,683
	<hr/>
	\$ 14,251

* With an estimated 27% of the ballots never returned, there is a waste of \$1,687 in postage not actually used for voting.

On the other hand, the computerized self-mailer would incur the following estimated costs.

Printing of Mailer Form	\$ 7,000
Postage based on a 73% return rate actually billed by Post Office	4,562
	<hr/>
	\$ 11,562

This represents a savings in just the preparation phase of \$2,599 over the manual system.

In addition, because the computer system would be linked directly to the mainframe registration program, the potential error factor would be reduced especially in the area of districting and precincting.

Voter Pays Postage: While this policy has not been utilized by the State of Alaska in the past, it should be explored for adoption in the future. Research indicates that in most states this is the norm. According to the Federal Election Commission in Washington, D.C. the vast majority of states require the voter to pay the postage. Of the western states contacted directly only California prepays postage.

Adopting this policy would obviously save the state from \$4,683 to \$6,250 based on 25,000 absentee applicants.

It should be noted however that many states require only civilian and in-country voters to pay their own postage, while military and overseas voters are allotted prepay returns. States making these allowances often do so under the provisions of the Overseas Citizens Voting Rights Act of 1975, which appears generally as 42 USCS ss 1973dd et sec, which provides that voting and other election materials may be mailed from any Armed Forces post office in an overseas area, unless otherwise prohibited by a treaty or other agreement, free of postage. It stipulates that such ballots may be segregated from other forms of mail and placed in special bags marked with special tags printed and distributed by the Postmaster General for this purpose.

At the present moment Alaska does not record the numbers of military voters voting by mail, as this information is not required on registration documents and no other system has been implemented for tracking this data. Even if the state were to continue to prepay ballot postage, use of this Federal provision would result in savings to the State.

Potential Impact of Voter Paid Postage on Ballot Return Rate

Consideration should be given to determining if there would be any negative impact resulting from voter paid postage requirements. As of the 1984 General Election, a sampling of a cross section of diversified districts throughout the State indicates that Alaska is averaging a 73% return rate of the absentee by mail ballots requested. It is difficult to say how this figure would decline if the voter was required to pay the postage, however, discussions with other states

indicate that this has not been detrimental.

While the Federal Election Commission reports that there are no solid figures recorded on the nationwide level, direct contact with western states does give us some information. Washington and Oregon for example, required voter paid postage. Each of them reports to us, however, an 85% to 90% return rate on absentee by mail ballots. California, on the other hand, prepays the postage. However in Los Angeles County, which they feel is representative of the state, they experienced a 35% return rate. It should be noted that about one month before the election, California sends each registered voter an application for an absentee ballot. Because of this mass mailing, their numbers of applicants are exaggerated to well beyond what would be considered average. Most of the states we contacted experienced an applicant rate of approximately 10%. In California it is believed that because they receive an application in the mail, more voters return them than actually intend or need to vote by mail. That could account for the low return rate of ballots.

Irregularities in Post Office Procedure

One of the elements which would have to be considered if the state were to require a postmark on all absentee by mail ballots as prerequisite for counting, is the lack of uniformity in the postmarking procedures actually implemented by individual post offices across the nation. There is no doubt that even on mail hand stamped with a postage stamp, there is a very good chance that no readable postmark will appear. In some cases it will merely be an omission on the part of the postal clerk, on others a voter will pay full postage but stamp it though a postage machine, while on still others a particular postal station just doesn't postmark at all. Based on discussions with the Federal Election Commission there is even a general understanding that the use of a date bearing postmark may be on the way out altogether.

No matter what the circumstances, attention would have to be given to the countability of ballots on which no readable postmark appears. We would have to ask ourselves if the postmark was a criteria for counting the ballot, how many legitimate voters would be disenfranchised through no fault of their own. One option would be to revert back to the verification of the date signed and attested by the voter and the witnesses, as we are currently doing.

Impact of Legislation Currently Being Considered in Congress

It should be noted that on January 24, 1985, House Resolution 639, and House Resolution 640 were introduced in Congress

which would amend the Federal election laws to provide that all absentee ballots be mailed free of postage. It calls for "any envelope or other cover containing such a ballot shall bear the words "Free Postage--Absentee Ballot" (or words to that effect specified by the Postal Service) in the upper right-hand corner". While this wording is duplicated in both, other issues are addressed in each of the separate resolutions.

If either of these resolutions were to pass, the free postage imprint on the envelope would most likely circumvent the necessity of any postmark as defined by current post office policy, therefore voiding our use of such a mark as a verification of timely mailing and a criteria for counting.

Alternative Safeguards to Assure Timely Voting

As an option to the required postmark as verification of timely voting which may only prove marginally feasible, we might want to give some thoughtful consideration to a more substantive change in our current election laws. That change would be in the deadline by which an absentee ballot would have to be received by the division, in order to be eligible for counting.

Specifically, the most sure way of avoiding the potential for fraudulent or unethical submission of late ballots which initiated our research into this area, is to require that all absentee ballots be received in the elections office by the close of the polls on election day. There is input from other states which supports this action as a reasonable and acceptable requirement.

With the exception of Washington, all other western states contacted directly reported that the election day deadline was a requirement in their statutes. Confirmation was also received from the Federal Election Commission, that this is the case in the vast preponderance of all states, and that extended deadlines such as that afforded voters in Alaska is the rare exception.

One consideration which seems relevant in determining the feasibility of this more restrictive deadline in Alaska is the possible impact of mail turnaround time, based on our very late primary election and the availability of general election ballots for distribution. It appears that most states regardless of their primary date, mail out their ballots in relatively the same time period as we do in Alaska, specifically, 3 to 4 weeks before the election.

In Oregon, for example, even with the tight deadline, they enjoy a 90% return rate.

It would be difficult to say how our own 73% return rate would be impacted by such a change in our laws, however, a cursory estimate from our regional supervisors indicates that even with our extended deadlines, approximately 80-85% of our absentee ballots are received by election day. In Anchorage it appeared that the percentage may be slightly lower. Of those ballots received after election day, there is no way to anticipate with accuracy how many are sent later specifically because of the extended deadline, or how many of them would be mailed earlier if the election day deadline for receipt were mandated.

Extended Deadline for Military and Overseas Voters Only

It is important to note an exception which appears to be becoming the trend across the nation. Because of test cases through the court brought by the Department of Defense, it is becoming clear that exceptions to the election day deadline will be built into the statutes of states requiring such a restriction. For example, Colorado whose statutes are very clear about the election day deadline is currently under a restraining order to extend the deadline for military and overseas voters by ten days. While Colorado has been reluctant to make such an exception many other states are embracing it willingly. Because of the slow turnaround mail time we experience for overseas and APO/FPO voters, Alaska would probably want to incorporate this exception into its laws if we were to adopt an election day deadline.

Advantages to an Election Day Deadline

The major advantages to such a deadline change are two. First, the possibility of untimely ballots being included in the count would be eliminated. Secondly, the new deadline would certainly enhance the faster announcement of election results. The two week delay while we await the receipt of absentee ballots would no longer exist. Candidates, particularly in close races, would know the outcome much more quickly. In addition, the certification process could also be completed many days sooner.

Absentee Deadlines Involved in Recounts

If changes were considered in the deadlines for receipt of absentee ballots, another area which should be reviewed is that of absentee ballots which under current law may be included in recount totals if received even later than the 15 day extended deadline, but before a recount. In very close races where one, two or three votes may separate the candidates, the inclusion of these very late ballots add all

new data to the recounted totals. In such races, the winner may be decided based on the sole impact of these previously uncounted ballots received too late to be included in certified results. If the purpose of a recount is to verify the accuracy of the vote count just completed, some thought might be given to the appropriateness of changing those results by introducing new data.

Original sponsors: Boucher, Hurley
and Navarre

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 284 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to elections; and providing for an
7 effective date."

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

9 * Section 1. AS 15.05.030 is amended to read:

10 Sec. 15.05.030. LOSS AND RESTORATION OF VOTING RIGHTS. (a) A
11 person convicted of a crime that constitutes a felony involving moral
12 turpitude under state law may not vote in a state or a municipal
13 election from the date of the conviction through the date of the
14 [RESTORATION OF VOTING RIGHTS UNDER THIS SECTION. THE RIGHT TO VOTE
15 WITHDRAWN UNDER THIS SECTION IS AUTOMATICALLY RESTORED UPON THE]
16 unconditional discharge of the person. Upon the unconditional dis-
17 charge, the person may register under AS 15.07.

18 (b) The commissioner of corrections shall establish procedures
19 by which a person unconditionally discharged is advised of the voter
20 registration requirements and procedures [RESTORATION OF VOTING RIGHTS
21 WITHDRAWN BY A CONVICTION].

22 * Sec. 2. AS 15.07.135 is amended to read:

23 Sec. 15.07.135. CANCELLATION [SUSPENSION] OF REGISTRATION OF
24 CONVICTED PERSONS. The director shall make reasonable efforts to ob-
25 tain the names of persons convicted of a felony involving moral turpi-
26 tude. [THE DIRECTOR SHALL ALSO MAKE REASONABLE EFFORTS TO OBTAIN THE
27 NAMES OF PERSONS UNCONDITIONALLY DISCHARGED FROM CUSTODY.] The direc-
28 tor shall cancel [SUSPEND] the registration of a person convicted of a
29 felony involving moral turpitude. Upon presenting proof that [UNTIL]

1 the person is unconditionally discharged from custody, the person may
2 register. The director shall make reasonable efforts to verify the
3 unconditional discharge of persons applying for registration under
4 this section.

5 * Sec. 3. AS 15.07.160(a) is amended to read:

6 (a) Except as provided in AS 15.07.135, it [IT] is unlawful for
7 a registration official to refuse to register a person who is qual-
8 ified to vote under provisions of AS 15.05.010(1) - (4).

9 * Sec. 4. AS 15.07.160(b) is repealed and reenacted to read:

10 (1) It is unlawful for a person knowingly lacking the qualifica-
11 tions of a voter to register under AS 15.07.030 to vote.

12 * Sec. 5. AS 15.10.180 is amended to read:

13 Sec. 15.10.180. APPOINTMENT OF PARTY REPRESENTATIVES FOR STATE
14 BALLOT COUNTING REVIEW. The director shall appoint [TWO] persons from
15 each political party to serve on teams to participate in the state
16 ballot counting review. The director may determine the number of
17 teams to be appointed but each team must have members from at least
18 two political parties. Each person who is appointed and serves is
19 entitled to compensation as provided in AS 15.15.380. Each political
20 party may present to the director a list of three or more names from
21 which the director shall select the persons to represent the party.
22 The list of names may be submitted in writing at least 30 days before
23 the date of the election. The persons to represent the party on the
24 state ballot counting review board may be selected by the state party
25 central committee or in any other manner prescribed by the bylaws of
26 the party. The list of names shall be certified by the chair [CHAIR-
27 MAN] of the state central committee of the party or by the person
28 authorized by the party bylaws to act in the absence of the chairman.

29 * Sec. 6. AS 15.15.070(c) is amended to read:

1 (c) Public notice shall also be given by posting notices in two
2 or more conspicuous places in each election precinct. The posted
3 notice shall specifically include but is not limited to the date of
4 election, [THE BOUNDARY OF THE PRECINCT,] the location of the polling
5 place, the hours between which the polling places will be open, the
6 offices to which candidates are to be nominated or elected, and the
7 subject of the propositions and questions which are to be voted on.

8 * Sec. 7. AS 15.15.440 is amended to read:

9 Sec. 15.15.440. DATES FOR OPENING AND CLOSING STATE BALLOT
10 COUNTING REVIEW. The state ballot counting review shall begin no
11 later than 11 [EIGHT] days after the election and be continued daily
12 until completed. The director may designate the hours each day during
13 which the state ballot counting review board is to conduct its ballot
14 counting review. The director shall close the review when the direc-
15 tor [HE] is satisfied that no missing precinct certificate of election
16 would, if received, change the result of the election. If no election
17 certificate has been received from a precinct, the director may secure
18 from the election supervisors and may count a certified copy of the
19 duplicate election certificate of the precinct. If no election mate-
20 rials have been received, but election results have been received by
21 telephone, telegram or radio, the director shall count the election
22 results so received. If the director has reason to believe that a
23 missing precinct certificate, if received, would affect the result of
24 the election, the director shall await the receipt of the certificate
25 until the close of business on [FOUR O'CLOCK IN THE AFTERNOON OF] the
26 15th day after the date of election. A certificate not actually
27 delivered to the director by four o'clock on the 15th day after the
28 election shall not be counted at the state ballot counting review.

29 * Sec. 8. AS 15.20.030 is amended to read:

1 Sec. 15.20.030. PREPARATION OF BALLOTS, ENVELOPES, AND OTHER
2 MATERIAL. The director shall provide ballots for use as absentee
3 ballots in all districts. The director shall provide a small envelope
4 in which the voter shall initially place the marked ballot, and shall
5 provide a larger envelope, with the prescribed voter's certificate on
6 the back, in which the small envelope with ballot enclosed shall be
7 placed. The director shall prescribe the form of and prepare the
8 voter's certificate, envelopes, and other material used in absentee
9 voting. The voter's certificate shall include an oath, for use when
10 required, that the voter is a qualified voter in all respects, a blank
11 for the voter's signature, [A CERTIFICATION THAT THE AFFIANT PROPERLY
12 EXECUTED THE MARKING OF THE BALLOT AND IDENTIFIED HIMSELF, BLANKS FOR
13 THE ATTESTING OFFICIAL OR WITNESSES,] and a place for recording the
14 date the envelope was sealed and signed [WITNESSED].

15 * Sec. 9. AS 15.20.061(a) is amended to read:

16 (a) A qualified voter may apply in person for an absentee ballot
17 to the following election officials at the times specified:

18 (1) to an absentee voting official in the election district
19 in which the voter resides on or after the 15th day before an election
20 up to and including the day before the date of the election;

21 (2) to an election supervisor

22 (A) after a date announced by the director under
23 AS 15.20.048(b); and

24 (B) on or after the 15th day before an election up to
25 and including the date of the election;

26 (3) to an absentee voting official at an absentee voting
27 station designated under AS 15.20.045(b) at any time when the absentee
28 voting station is operating;

29 (4) to an absentee voting official in the precinct in which

1 the voter resides when distances preclude easy access to the polling
2 place on or after the 15th day before an election up to and including
3 election day;

4 (5) to an absentee voting official in the precinct in which
5 no volunteers can be located to serve on the election board on or
6 after the 15th day before an election up to and including election
7 day;

8 (6) to an absentee voting official in a municipality with
9 at least 2,000 residents, for eight hours a day for each day including
10 Saturday and Sunday for the week that precedes a primary or general
11 election of the state or that precedes a special statewide election.

12 * Sec. 10. AS 15.20.061(c) is amended to read:

13 (c) On receipt of an absentee ballot in person, the voter shall
14 proceed to mark the ballot in secret, to place the ballot in the small
15 envelope, to place the small envelope in the larger envelope, and to
16 sign the voter's certificate on the back of the larger envelope [IN
17 THE PRESENCE OF THE ELECTION OFFICIAL WHO SHALL SIGN AS ATTESTING
18 OFFICIAL AND DATE HIS SIGNATURE]. The election official shall then
19 accept the ballot.

20 * Sec. 11. AS 15.20.071(c) is amended to read:

21 (c) The personal representative shall deliver the absentee
22 ballot to the voter as soon as practicable. Upon receipt of an absen-
23 tee ballot through a personal representative, the voter shall proceed
24 to mark the ballot in secret, to place the ballot in the small enve-
25 lope, to place the small envelope in the larger envelope, and to sign
26 the voter's certificate on the back of the envelope in the presence of
27 the personal representative who shall witness and date the signature
28 of the voter [SIGN AS ATTESTING WITNESS AND DATE HIS SIGNATURE]. The
29 voter shall then return the absentee ballot to the [HIS] personal

1 representative who shall deliver the ballot to the election official
2 who provided the ballot. The absentee ballot must be returned to the
3 election official within three days from the date it is obtained but
4 not later than 8:00 p.m. on election day. An absentee ballot that is
5 not returned to the election official by the close of business on the
6 third day from the day it is obtained may not be counted but the voter
7 may vote in the election.

8 * Sec. 12. AS 15.20.081(d) is amended to read:

9 (d) Upon receipt of an absentee ballot by mail, the voter [, IN
10 THE PRESENCE OF A NOTARY PUBLIC, COMMISSIONED OFFICER OF THE ARMED
11 FORCES INCLUDING THE NATIONAL GUARD, DISTRICT JUDGE OR MAGISTRATE,
12 UNITED STATES POSTAL OFFICIAL, OR OTHER PERSON QUALIFIED TO ADMINISTER
13 OATHS,] may proceed to mark the ballot in secret, to place the ballot
14 in the small envelope, to place the small envelope in the larger
15 envelope, and to sign the voter's certificate on the back of the
16 larger envelope [IN THE PRESENCE OF AN OFFICIAL LISTED IN THIS SUB-
17 SECTION WHO SHALL SIGN AS ATTESTING OFFICIAL AND SHALL DATE THE SIGNA-
18 TURE. IF NONE OF THE OFFICIALS LISTED IN THIS SUBSECTION IS REASON-
19 ABLY ACCESSIBLE, AN ABSENTEE VOTER SHALL HAVE THE BALLOT WITNESSED BY
20 TWO PERSONS OVER THE AGE OF 18 YEARS AND, IN ADDITION, SHALL PROVIDE
21 THE CERTIFICATION PRESCRIBED IN AS 09.63.020].

22 * Sec. 13. AS 15.20.081(e) is amended to read:

23 (e) An absentee ballot must be marked [AND ATTESTED] on or
24 before the date of the election. The absentee voter may return the
25 marked ballot by any appropriate means. Except as provided in (h) of
26 this section, a [IF THE] voter who returns the ballot by mail [, HE]
27 shall use the most expeditious mail service and mail the ballot not
28 later than the day of the election to the election supervisor for the
29 [IN HIS] election district in which the voter seeks to vote. The

1 ballot may not be counted unless it is received by the close of busi-
2 ness on the sixth day after the election. If the ballot is post-
3 marked, it must be postmarked on or before election day.

4 * Sec. 14. AS 15.20.081 is amended by adding a new subsection to read:

5 (h) An absentee ballot returned by mail from outside the United
6 States or from a military APO or FPO address that has been marked and
7 mailed not later than election day may not be counted unless the
8 ballot is received by the election supervisor not later than the close
9 of business [4:00 P.M.] on the 10th day following the election.

10 * Sec. 15. AS 15.20.201(a) is amended to read:

11 (a) No less than seven days [ON THE SEVENTH DAY] preceding the
12 day of election, the election supervisor [OR HIS DESIGNEE], in the
13 presence and with the assistance of the district absentee ballot
14 counting board, shall review all voter certificates of absentee bal-
15 lots received by that date. The review of absentee ballots shall
16 continue at times designated by the election supervisor until complet-
17 ed [AND SHALL INCLUDE ALL ABSENTEE BALLOTS RECEIVED IN THE OFFICE OF
18 THE ELECTION SUPERVISOR BY 4:00 P.M. ON THE SEVENTH DAY FOLLOWING THE
19 DAY OF THE ELECTION].

20 * Sec. 16. AS 15.20.201(c) is amended to read:

21 (c) On the 10th [EIGHTH] day following the day of the election,
22 the district absentee ballot counting board shall certify the absentee
23 ballot review.

24 * Sec. AS 15.20.201(d) is amended to read:

25 Absentee ballots received in the office of an election
26 super or after the 10th [SEVENTH] day following the day of the
27 election shall be forwarded immediately to the director by the most
28 expeditious service.

29 * Sec. 18. AS 15.20.203(b) is amended to read:

1 (b) An absentee ballot may not be counted if

2 (1) the voter has failed to properly execute the certifi-
3 cate;

4 (2) [AN OFFICIAL OR THE WITNESSES AUTHORIZED BY LAW TO
5 ATTEST THE VOTER'S CERTIFICATE FAIL TO EXECUTE THE CERTIFICATE;

6 (3) THE VOTER FAILS TO ENCLOSE THE MARKED BALLOT INSIDE THE
7 SMALL ENVELOPE;

8 (4)] the ballot is not signed [ATTESTED] on or before the
9 date of the election; or

10 (3) [(5)] the ballot, if postmarked, is not postmarked on
11 or before the date of the election.

12 * Sec. 19. AS 15.20.203(g) is amended to read:

13 (g) Upon completion of the absentee ballot review, the election
14 supervisor shall prepare an election certificate for execution by the
15 district absentee ballot counting board and shall forward the original
16 certificate and other returns to the director no later than the 11th
17 [NINTH] day following the election.

18 * Sec. 20. AS 15.20.205(c) is amended to read:

19 (c) The district questioned ballot counting board shall certify
20 the questioned ballot totals as soon as the count is completed but no
21 later than the 10th [EIGHTH] day following the election.

22 * Sec. 21. AS 15.20.207(b) is amended to read:

23 (b) A questioned ballot may not be counted if

24 [(1)] the voter has failed to properly execute the certifi-
25 cate [;

26 (2) AN OFFICIAL OR THE WITNESSES AUTHORIZED BY LAW TO
27 ATTEST THE VOTER'S CERTIFICATE FAIL TO EXECUTE THE CERTIFICATE; OR

28 (3) THE VOTER DID NOT ENCLOSE THE MARKED BALLOT INSIDE THE
29 SMALL ENVELOPE].

1 * Sec. 22. AS 15.20.440(a) is amended to read:

2 (a) The application shall state in substance the basis of the
3 belief that a mistake has been made, the particular election precinct
4 or election district for which the recount is to be held, the particu-
5 lar office, proposition, or question for which the recount is to be
6 held, and that the person making the application is a candidate or
7 that the 10 persons making the application are qualified voters. The
8 candidate or persons making the application shall designate by full
9 name and mailing address two persons who shall represent the applicant
10 and be present and assist during the recount. Any person may be named
11 representative, including the candidate [HIMSELF] or any person sign-
12 ing the application [, AND THE REPRESENTATIVES SHALL BE PAID IN THE
13 SAME AMOUNT AND MANNER AS ELECTION JUDGES]. Applications by 10 qual-
14 ified voters shall also include the designation of one of the number
15 as chair [CHAIRMAN]. The candidate or persons making the application
16 shall sign the application and shall print or type their full name and
17 mailing address.

18 * Sec. 23. AS 15.20.450 is amended to read:

19 Sec. 15.20.450. REQUIREMENT OF DEPOSIT. The application shall
20 include a deposit in cash, by certified check, or by bond with a
21 surety approved by the director. The amount of the deposit is \$300
22 [\$50] for each precinct, \$750 [\$250] for each election district, and
23 \$10,000 [\$2,000] for the entire state. If [HOWEVER, IF] the recount
24 includes an office for which candidates received a tie vote, or the
25 difference between the number of votes cast was 20 [10] or less or was
26 less than .5 percent of the total number of votes cast for the two
27 candidates for the contested office, or a question or proposition for
28 which there was a tie vote on the issue, or the difference between the
29 number of votes cast in favor of or opposed to the issue was 20 [10]

1 or less or was less than .5 percent of the total votes cast in favor
2 of or opposed to the issue, the application need not include a deposit
3 and the state shall bear the cost of the recount. If, on the recount,
4 a candidate other than the candidate who received the original elec-
5 tion certificate is declared elected, or if the vote on recount is
6 determined to be four percent or more in excess of the vote reported
7 by the state review for the candidate applying for the recount or in
8 favor or opposed to the question or proposition as stated in the
9 application, the entire deposit shall be refunded. If the entire
10 deposit is not refunded, the director shall refund any money remaining
11 after the cost of the recount has been paid from the deposit.

12 * Sec. 24. AS 15.20.480 is amended to read:

13 Sec. 15.20.480. PROCEDURE FOR RECOUNT. In conducting the re-
14 count, the director [OR HIS APPOINTED REPRESENTATIVE] shall review all
15 ballots whether the ballots were counted at the precinct or by comput-
16 er or by the district absentee counting board or the questioned ballot
17 counting board to determine which ballots, or part of ballots, were
18 properly marked and which ballots are to be counted in the recount,
19 and shall check the accuracy of the original count, the precinct
20 certificate and the review. The director shall check the number of
21 ballots and questioned ballots cast in a precinct against the regis-
22 ters and shall check absentee ballots voted against absentee ballots
23 distributed. [THE DIRECTOR SHALL COUNT ABSENTEE BALLOTS RECEIVED
24 AFTER 4:00 P.M. ON THE 15TH DAY FOLLOWING THE ELECTION AND BEFORE THE
25 COMPLETION OF THE RECOUNT.] For administrative purposes, the director
26 may join and include two or more applications in a single review and
27 count of votes. The rules in AS 15.15.360 governing the counting of
28 hand-marked ballots and the rules in AS 15.20.730 governing the count-
29 ing of punch-card ballots shall be followed in the recount. The

1 ballots and other election material shall remain in the custody of the
2 director during the recount and the highest degree of care shall be
3 exercised to protect the ballots against alteration or mutilation.
4 The recount shall be completed within 10 days. The director may
5 employ additional personnel necessary to assist in the recount.

6 * Sec. 25. AS 15.20 is amended by adding a new section to article 5 to
7 read:

8 Sec. 15.20.580. SUPERVISION OF PUNCH-CARD VOTING. In accordance
9 with AS 15.15.010, the director shall supervise punch-card voting
10 procedures and the counting of punch-card ballots.

11 * Sec. 26. AS 15.25.050(a) is amended to read:

12 (a) At the time the declaration is filed, each candidate shall
13 pay a nonrefundable filing fee to the director. The filing fee for
14 candidates for office of governor, lieutenant governor, United States
15 senator, and United States representative is \$100. The filing fee for
16 candidates for office of state senator and state representative is
17 \$30. [SUBJECT TO LEGISLATIVE APPROPRIATION, THE DIRECTOR SHALL PAY
18 THE FILING FEE COLLECTED FROM A CANDIDATE UNDER THIS SECTION TO THE
19 CENTRAL COMMITTEE OF THE POLITICAL PARTY OF THAT CANDIDATE.]

20 * Sec. 27. AS 15.25.160 is amended to read:

21 Sec. 15.25.160. REQUIRED NUMBER OF SIGNATURES FOR STATEWIDE
22 OFFICE. Petitions for the nomination of candidates for the office of
23 governor, lieutenant governor, United States senator and United States
24 representative shall be signed by qualified voters of the state equal
25 in number to at least one [THREE] percent of the number of voters who
26 cast ballots [VOTES CAST] in the preceding general election. Candi-
27 dates for the office of governor and lieutenant governor shall file
28 jointly.

29 * Sec. 28. AS 15.25.170 is amended to read:

1 Sec. 15.25.170. REQUIRED NUMBER OF SIGNATURES FOR DISTRICT-WIDE
2 OFFICE. Petitions for the nomination of candidates for the office of
3 state senator or state representative shall be signed by qualified
4 voters of the election or senate district in which the proposed nomi-
5 nee desires to be a candidate equal in number to at least one [THREE]
6 percent of the number of voters who cast ballots [VOTES CAST] in the
7 proposed nominee's [HIS] respective election or senate district in the
8 preceding general election. A [, PROVIDED THAT NO] nominating peti-
9 tion [NEED CONTAIN MORE THAN 200 SIGNATURES NOR] may not [IT] contain
10 less than 50 signatures for any district.

11 * Sec. 29. AS 15.30.025(a) is amended to read:

12 (a) A limited politica' party may be organized for the purpose
13 of selecting candidates for electors of President and Vice President
14 of the United States by filing [A PETITION] with the director at least
15 90 days before a presidential general election a petition signed by
16 qualified voters of the [THIS] state equaling in number at least one
17 [THREE] percent of the number of voters who cast ballots [ALASKA'S
18 TOTAL VOTE] for President at the last presidential election. The
19 petition shall state that the signers intend to organize a limited
20 political party, that they intend to select candidates for electors of
21 President and Vice-President of the United States at the next succeed-
22 ing presidential election, and the name of the limited political
23 party.

24 * Sec. 30. AS 15.30.025(c) is amended to read:

25 (c) A limited political party organized under this section
26 ceases [SHALL CEASE] to be a limited political party if [WHENEVER] its
27 presidential candidate fails to receive at least three [10] percent of
28 the number of voters who cast ballots [TOTAL ALASKAN VOTE CAST] for
29 the office of President at a presidential election.

1 * Sec. 31. AS 15.40.100 is amended to read:

2 Sec. 15.40.100. REQUIREMENTS OF PETITION FOR NO-PARTY CANDI-
3 DATE. Petitions for the nomination of candidates not representing a
4 political party shall be signed by qualified voters of the state equal
5 in number to at least one [THREE] percent of the number of voters who
6 cast ballots [NUMBERS OF VOTES CAST] in the preceding general elec-
7 tion, and shall state in substance that which is required in petitions
8 for nomination for general elections provided in AS 15.25.180.

9 * Sec. 32. AS 15.40.190 is amended to read:

10 Sec. 15.40.190. REQUIREMENTS OF PETITION FOR [OF] NO-PARTY
11 CANDIDATES. Petitions for the nomination of candidates not represent-
12 ing a political party shall be signed by qualified voters of the state
13 equal in number to at least one [THREE] percent of the number of
14 voters who cast ballots [VOTES CAST] in the preceding general election
15 and shall state in substance that which is required for nomination
16 petitions by AS 15.25.180.

17 * Sec. 33. AS 15.40.280 is amended to read:

18 Sec. 15.40.280. REQUIREMENTS OF PETITION FOR [OF] NO-PARTY
19 CANDIDATES. Petitions for the nomination of candidates not represent-
20 ing a political party shall be signed by qualified voters of the state
21 equal in number to at least one [THREE] percent of the number of
22 voters who cast ballots [VOTES CAST] in the preceding general elec-
23 tion, shall include nominees for the office of governor and lieutenant
24 governor, and shall state in substance that which is required for
25 nomination petitions by AS 15.25.180.

26 * Sec. 34. AS 15.40.440 is amended to read:

27 Sec. 15.40.440. REQUIREMENTS OF PETITION FOR NO-PARTY CANDI-
28 DATES. Petitioners for the nomination of candidates not representing a
29 political party shall be signed by qualified voters equal in number to

1 at least one [THREE] percent of the number of voters who cast ballots
2 [VOTES CAST] in the proposed nominee's [HIS] respective election or
3 senate district in the preceding general election. A [, PROVIDED THAT
4 NO] nominating petition [NEED CONTAIN MORE THAN 200 SIGNATURES NOR]
5 may not [IT] contain less than 50 signatures for any district, and
6 shall state in substance that which is required in petitions for
7 nomination for general elections provided in AS 15.25.180.

8 * Sec. 35. AS 15.60.010(20) is amended to read:

9 (20) "political party" means an organized [A] group of
10 [ORGANIZED] voters that [WHICH] represents a political program and
11 that [WHICH] nominated a candidate fo governor who received at least
12 three [10] percent of the number of voters who cast ballots [TOTAL
13 VOTE CAST] at the preceding general election for governor;

14 * Sec. 36. AS 15.20.160, 15.20.201(d) and AS 15.25.180(10) are re-
15 pealed.

16 * Sec. 37. This Act takes effect immediately in accordance with AS 01.-
17 10.070(c).
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STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 1, 1985

SUBJECT: Elections (HB 284)
TO: Representative Red Boucher
FROM: Richard A. Bradley
Legislative Counsel *B*

You have requested a sectional analysis of the above described bill.

As a preliminary matter, note that a sectional analysis or summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1 of the bill amends AS 15.20.030, a section relating to the preparation by the director of ballots, envelopes, and other election material. The only substantive change to the section occurs in the addition of the last sentence: "The larger envelope used for the return of the absentee ballot by the voter shall require the voter to apply any required postage." The larger envelope is, of course, the outer envelope.

Section 2 of the bill amends AS 15.20.081(d). The subsection is concerned with the procedures used by the voter to vote an absentee ballot. The only substantive changes involve the change of the requirement of two witnesses to one witness and the added requirement that the witness provide a full address.

Section 3 of the bill amends AS 15.20.081(e). The section is concerned with a requirement that the absentee ballot be marked and attested to by the date of the election. The amendment repeals the existing requirement that the ballot be mailed not later than election day and that, if the ballot

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Representative Red Boucher
April 1, 1985
page 2

is postmarked, it be postmarked on election day. The amendment adds the requirement that the ballot be returned to the election supervisor not later than 8:00 p.m. on the day of the election.

Section 4 of the bill add a new subsection to AS 15.20.081. New subsection (h) permits absentee ballots returned by mail from outside the United States or from an APJ or FPO address that were marked and attested not later than election day to be counted if received after the day of the election but not later than 4:00 p.m. on the tenth day following the election.

Section 5 of the bill amends AS 15.20.201(a). The provision deals with the responsibility of election supervisors to review the election certificates on absentee ballots received. The only substantive change amends the last sentence as follows: "The review of absentee ballots shall continue at times designated by the election supervisor until completed (AND SHALL INCLUDE ALL ABSENTEE BALLOTS RECEIVED IN THE OFFICE OF THE ELECTION SUPERVISOR BY 4:00 P.M. ON THE SEVENTH DAY FOLLOWING THE DAY OF THE ELECTION).

Section 6 of the bill amends AS 15.20.201(c). The section deals with the day on which the district absentee ballot counting board certifies the absentee ballot review. It changes the day on which that occurs from the eighth day following the election to the 10th day following the election.

Section 7 amends AS 15.20.450. The section relates to the requirement for deposits in those situations where a deposit is required as a condition to the occurrence of a recount. It changes the amount required for a precinct recount from \$50 to \$300, for an election district recount from \$250 to \$1,500, and for an entire state recount from \$2,000 to \$5,000.

Section 8 of the bill amends AS 15.20.480. The section deals with the procedure for recounts. The only substantive change is the repeal of the following: "The director shall count absentee ballots received after 4:00 p.m. on the 15th day following the election and before the completion of the recount."

If I may be of further assistance, please advise.

RAB:csh

STATE OF ALASKA

DIVISION OF ELECTIONS
POUCH AF
JUNEAU, ALASKA 99811-9974

OFFICE OF THE GOVERNOR

PHONE: (907) 586-6181

Position Paper
House Bill 284
Prepared by
Division of Elections
April 8, 1985

The Division of Elections has reviewed House Bill 284, "An Act relating to elections," and supports the bill in its entirety.

The first substantive amendment proposed by this bill under Sec. 15.20.030, (Page 1, lines 23-25) eliminates pre-paid postage on absentee ballots returned to the division by mail. Rather, the amended language calls for the voter paying the postage on his or her return ballot.

We have researched the potential impact of such a change and have concluded that we could anticipate no negative affect.

Our research through personal contacts with several other states, and with the Federal Election Commission indicates that with very few exceptions the majority of states require the voters to pay their own postage. We were particularly interested in evaluating what affect such a measure would have on the return rate of absentee ballots if the voter paid postage. Based on the 1984 General Election, Alaska experienced an average 73% return rate of voted ballots from those individuals who originally applied. We were concerned that this rate might be lower if the postage was not pre-paid. We found, however, that in Oregon and Washington where voters pay their own postage, they experienced an 85% - 90% return rate. Conversely, in California where postage is pre-paid, they had a 39% return. It appears that the return rate is more seriously impacted by other considerations, and that postage in and of itself, has little or no impact.

By having the voter pay his or her own postage, the state could anticipate saving up to \$9,000.00 in major election years. We therefore support this change.

The next substantive amendment suggested by this bill, relates to AS 15.20.081 (d) (Page 2, lines 9 - 10) and calls for reducing the number of witnessing signatures on the voter's oath and affidavit envelope from two, to one.

It further requires the single witness to provide a full address where he or she can be contacted. We endorse this changes for several reasons.

- 1) Lack of proper witnessing under the current statutes is one of the most commonly enforced rules for challenging an individual's vote. Because of the current statute, a ballot that in all other ways is properly cast, is rejected if it isn't witnessed by an official authorized to administer an oath, or by 2 witnesses.
- 2) Requiring 2 witnesses puts an undue burden on remote voters who often have no access to such an official and are therefore required to get 2 witnessing signatures. In Alaska we have many people who live in such isolated conditions that often the only witness they have access to is the bush pilot who brings them their supplies and their mail. We have had several inquiries from such individuals who feel they are disenfranchised because of this requirement.
- 3) It is our understanding that the reason to require 2 signatures was to provide an extra layer of assurance that the voter voting the ballot is indeed eligible and properly identified. Right now, we require 2 signatures, but no other information from the witness. If we had reason to research the individual's identity, we would have virtually no way of doing so. With the addition of a full address, we feel the assurances we initially sought, are more readily available because there would be a way to track the individual who served as a witness.

Perhaps the most critical change to current law proposed by this bill, is that regarding AS 15.20.081(e) (Page 2, lines 14 - 18), requiring that absentee ballots cast by mail be received no later than 8:00 p.m. on Election Day in order to be counted. Our research in this area confirms that this requirement is indeed reasonable and feasible, and that the Election Day deadline is mandated in almost every other state. Alaska's current extended deadline is a rare exception.

One consideration deserving our attention was whether or not the lateness of our Primary, delaying the availability of general election ballots, would cause a severe handicap to voters voting by mail if we required an election day deadline for receipt. We found that virtually all states send out their ballots in relatively the same time period, regardless of the date of their Primary, specifically 3 to 4 weeks prior to the election. Such a state is Oregon, and even with the Election Day deadline, they enjoy a 90% return rate of ballots meeting the tight deadline.

It would be difficult to say how our 73% return would be impacted if the deadline were changed, however, a cursory estimate from our regional supervisors indicates that 80% - 85% of all absentee by mail ballots received, did arrive by Election Day. In Anchorage that percentage seems to be slightly lower. Of those ballots received after Election Day, there is no way to anticipate with accuracy how many were sent later specifically because of the extended deadline, or how many would have been mailed earlier if the Election Day deadline had been in effect.

We feel that the added section AS 15.20.081 (h) (Page 2, lines 24 - 28) protect the primary sector upon whom the tightening of the deadline would have the greatest effect, military and overseas voters. This section provides an extended deadline specifically for these individuals. Many states with the Election Day deadline are now adding such provisions to their statutes.

The advantages of the deadline changes called for in this bill, with the extension provided for by (h), are two.

- 1) At the moment, all absentee ballots may be accepted up to 15 days after the election. Concern has been expressed that since current statutes mandate, that "if the ballot is postmarked, it must be postmarked on or before election day", there is a potential for fraudulent or unethical use of the system. Specifically, since this part of the statute requires the election day stamp if the ballot is postmarked, but does not require it on all ballots, candidates could respond to election night returns by soliciting absentee voters who have not mailed in their ballots to do so in the few days right after the election. Because no postmark is required for counting, these ballots cast after the election, but received within the 15 day period, could be included in the totals. In close races, these late votes could impact the outcome.

Our research show that requiring a postmark on all ballots is not feasible because of irregularities in the postal systems worldwide. We feel because of these irregularities, many voters could find their votes challenged through no fault of their own, if a postmark didn't appear.

It is our opinion that an Election day deadline could limit the potential for fraud, and would address these concerns.

- 2) Finally, an election day deadline would enhance the faster announcement of election results. The two week deadline while we await receipt of the final absentee ballots would be greatly minimized. Candidates, particularly in close races, would know the outcome more quickly as certification of election results could be completed many days sooner.

Amendments to AS 15.20.201 (a) and (c) merely make appropriate changes in the counting schedule pursuant to the change in the deadline for receipt of voted ballots.

With regard to amendments in the fees payable to the state for recounts, the division supports the changes. The estimated costs for conducting a recount for a single district is approximately \$1,700.00. The current fee of \$250.00 for recounts in races outside the margin allowing for a recount free of charge, obviously does not begin to cover the expenses.

Finally, the bill seeks to amend AS 15.20.480 (Page 4, lines 19 - 21) by eliminating the inclusion of absentee ballots received after the 15 day deadline, in recount totals. We agree with the intent of this

provision, because the introduction of these very late ballots, adds new data to the materials being recounted. Therefore, we may change the original totals automatically by introducing new ballots that have not been counted before. Such additions may be inappropriate if the purpose of the recount is to verify the accuracy of the original count.

A handwritten signature in cursive script, reading "Sandra J. Stout", is written over a horizontal line.

Sandra J. Stout
Director

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 284
 Title: An Act relating to
elections
 Sponsor: Rep. Boucher
 Requestor: House State Affairs
 Date of Request: 3/29/85

FISCAL DETAIL

Agency Affected: Office of the Governor
 Program Category Affected: _____
Division of Elections
 BRU, Program or Subprogram(s) Affected: _____
Elections

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES		-0-	(9.5)	-0-	(10.5)	-0-
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		-0-	(9.5)	-0-	(10.5)	-0-
CAPITAL						
REVENUE			(9.5)		(10.5)	

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

The negative costs reflected in this fiscal note reflect the estimated savings to the state if postage on absentee by mail ballots were paid by the voter rather than prepaid by the state. There is a 10% increase included for FY88 to cover the increase expected in the number of absentee voters in the 1988 Election.

Prepared By: Linda Edgeworth Phone: 465-4611
 Division: Elections Date: 4/8/85

Approved by Commissioner: *Linda Stout* Date: 4/8/85
 Agency: *Office of the Governor*

Distribution (by Agency preparing fiscal note):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

7/1/84

HOUSE BILL 284

Fiscal Note

Page 2

Special note should be made that the bill also would result in increased fees paid to the state for recounts of election returns. Those fees do not impact the division's operating budget and therefore are not indicated on the face of this fiscal note. However, additional monies deposited to the general fund would be substantially increased. A comparison is provided noting the increase.

	<u>Current Statutes</u>	<u>HB 284</u>
Primary Election Recounts	3 @ \$250 = \$750	3 @ \$1500 = \$4,500
General Election Recounts	5 @ \$250 = \$1,250	5 @ \$1500 = \$7,500
TOTAL FEES TO GENERAL FUND	\$2,000	\$12,000

In fiscal years FY87 and FY89, based on these assumed number of recounts the net increase benefitting the state would be \$10,000 each year.

STATE OF ALASKA

OFFICE OF THE GOVERNOR

DIVISION OF ELECTIONS
POUCH AF
JUNEAU, ALASKA 99811-9974

PHONE: (907) 586-6181

February 20, 1985

The Honorable Katie Hurley
Chairperson
State Affairs Committee
Alaska State House of Representatives
Pouch AF
Juneau, AK 99801

Subject: Comments in support of House Bill 110, "An Act amending the elections laws of the state; and providing for an effective date."

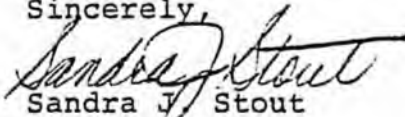
Dear Representative Hurley:

Enclosed for the information and review of your committee are comments in support of HB 110 which is scheduled to be heard on Thursday, February 21, 1985. They include a brief description of the specific amendments being proposed, as well as some discussion of the rationale behind these changes. Many of the changes are housekeeping measures but there are a few which are more substantive in nature.

As you also requested, in addition to the comments we are submitting regarding HB 110 as it currently exists, I am offering some input on your proposed addition which would require a postmark on all absentee ballots cast by mail. We recognize the importance of the concerns you have raised in this vital area. At this point, our research indicates that the solutions may not be simple ones, and are looking forward to working with you and the committee on developing workable solutions.

We appreciate your personal interest in this bill. Please feel free to contact me if you or your committee would like additional information. Thank you for placing our bill on your agenda.

Sincerely,


Sandra J. Stout
Director

Enclosure

STATE OF ALASKA

OFFICE OF THE GOVERNOR

DIVISION OF ELECTIONS
POUCH AF
JUNEAU, ALASKA 99811-9974

PHONE (907) 586-6181

REQUIRED POSTMARKS: ABSENTEE BALLOTS BY MAIL

Prepared For

The Honorable Katie Hurley
Alaska State House of Representatives

February 20, 1985

Current Absentee By Mail Procedures

Under current election policies and procedures in Alaska, voters wishing to vote by mail are required to have their ballots marked and attested on or before the date of the election. Further, it is provided in AS 15.20.081(e), that the voter who returns the ballot by mail will use the most expeditious mail service, and mail the ballot not later than the date of the election. Finally, this statute mandates that "if the ballot is postmarked, it must be postmarked on or before election day."

Concern has been expressed that in the last part of the provision, the statute as written creates a potential for fraudulent or unethical use of the system. Specifically, since this part of the law only requires the election date stamped, if the ballot is postmarked, but does not require the postmark on all mailed absentee ballots, candidates could respond to election night returns by soliciting absentee voters who have not mailed in their ballots to do so in the few days right after the election. Because no postmark is required for counting, and because absentee ballots may be received in the mail for 15 days after the election, these late voters could still cast their ballots after the legal deadline. The concern has been raised that the division would have no way of knowing that the ballots were cast after election day. In the instances of close races these late ballots might have an impact on the outcome.

The division's first response to this concern is that both the voter and the attesting witnesses are required to stipulate the date of their signing the absentee affidavit. When no postmark appears on the envelope, it is this date that is

used to verify that the ballot was cast on or before election day. Assuming that in all other ways the ballot appears to be legitimately cast, and that it is received within the 15 day period, the ballot is counted.

U.S. Postal Service Policy

According to Mabel O'Connell, Assistant General Counsel, General Administrative Law, for the Postmaster General in Washington, D.C., current regulations require that on all first class mail, a postmark be affixed which by law will include full name of the post office handling the piece, state abbreviation, zip code, date of mailing, and a.m. or p.m. There are exceptions with regard to the first class mail requirement. Mail that is prepaid with a postal permit, even though it is for first class postage, will not be postmarked. Rather the post office processing the prepaid piece merely cancels the letter. This cancellation serves as a registration of postal usage for which the entity owning the permit will be charged for postage. Under this system the permit owner is charged only for the mail actually returned. Current estimates indicate that 27% of the ballots requested by mail in Alaska are not returned at all.

It has been the policy in Alaska to prepay return postage under a first class permit. Therefore, for the most part we would not expect a postmark on the majority of ballots submitted by mail.

Required Postmarks

In order to assure that to the greatest degree possible, all mailed absentee ballots are postmarked, the State would have to change its procedures to include requiring affixing a postage stamp to the return envelopes, rather than pre-printing the postal permit stamp as is currently being done. Two options are available.

State Pays Postage: If the State is to continue paying for postage on ballot returns, manual stamping will incur some additional costs. The process of preparing mailing packets for the voter (even before addressing, inserting ballots, coding, sealing and mailing occurs) consists of collating instructions, secrecy envelopes and manually folded return envelopes, which are then inserted in the outer mailer. These packets are also sorted by regional office to which the voter will eventually mail his or her ballots.

In keeping with its conversion to an automated data entry system which will take place by fall of 1985, the division is in the process of researching and designing

a computerized pull apart self-mailer which would eliminate most of the steps associated with the manual system used in the past. As a computerized mailing packet, there would be no need for any of the manual preparation steps described. The computer would automatically print the mailing address, and district and precinct of the voter, as well as the return of the appropriate regional supervisor based on the voting district, on the self-mailer in which all required materials are already enclosed. All that would be necessary at that point is to slip the ballots inside, and seal.

Requiring the manual placement of a postage stamp on the return envelope in order to assure that the ballot is postmarked would eliminate the possibility of using this streamlined and computerized mailer. Below are some of the costs incurred in the postage and manual preparation of the mailing packet based on an estimated 25,000 absentee by mail applicants anticipated for the 1986 General Election.

Printing of Materials	\$ 3,318
Postage @ .25 each	6,250*
Labor - manual preparation based on 50 packets per hour per employee @ Range 8 = 500 man hours	4,683
	<hr/>
	\$ 14,251

* With an estimated 27% of the ballots never returned, there is a waste of \$1,687 in postage not actually used for voting.

On the other hand, the computerized self-mailer would incur the following estimated costs.

Printing of Mailer Form	\$ 7,000
Postage based on a 73% return rate actually billed by Post Office	4,562
	<hr/>
	\$ 11,562

This represents a savings in just the preparation phase of \$2,599 over the manual system.

In addition, because the computer system would be linked directly to the mainframe registration program, the potential error factor would be reduced especially in the area of districting and precincting.

Voter Pays Postage: While this policy has not been utilized by the State of Alaska in the past, it should be explored for adoption in the future. Research indicates that in most states this is the norm. According to the Federal Election Commission in Washington, D.C. the vast majority of states require the voter to pay the postage. Of the western states contacted directly only California prepays postage.

Adopting this policy would obviously save the state from \$4,683 to \$6,250 based on 25,000 absentee applicants.

It should be noted however that many states require only civilian and in-country voters to pay their own postage, while military and overseas voters are allotted prepay returns. States making these allowances often do so under the provisions of the Overseas Citizens Voting Rights Act of 1975, which appears generally as 42 USCS ss 1973dd et seq, which provides that voting and other election materials may be mailed from any Armed Forces post office in an overseas area, unless otherwise prohibited by a treaty or other agreement, free of postage. It stipulates that such ballots may be segregated from other forms of mail and placed in special bags marked with special tags printed and distributed by the Postmaster General for this purpose.

At the present moment Alaska does not record the numbers of military voters voting by mail, as this information is not required on registration documents and no other system has been implemented for tracking this data. Even if the state were to continue to prepay ballot postage, use of this Federal provision would result in savings to the State.

Potential Impact of Voter Paid Postage on Ballot Return Rate

Consideration should be given to determining if there would be any negative impact resulting from voter paid postage requirements. As of the 1984 General Election, a sampling of a cross section of diversified districts throughout the State indicates that Alaska is averaging a 73% return rate of the absentee by mail ballots requested. It is difficult to say how this figure would decline if the voter was required to pay the postage, however, discussions with other states

indicate that this has not been detrimental.

While the Federal Election Commission reports that there are no solid figures recorded on the nationwide level, direct contact with western states does give us some information. Washington and Oregon for example, required voter paid postage. Each of them reports to us, however, an 85% to 90% return rate on absentee by mail ballots. California, on the other hand, prepays the postage. However in Los Angeles County, which they feel is representative of the state, they experienced a 35% return rate. It should be noted that about one month before the election, California sends each registered voter an application for an absentee ballot. Because of this mass mailing, their numbers of applicants are exaggerated to well beyond what would be considered average. Most of the states we contacted experienced an applicant rate of approximately 10%. In California it is believed that because they receive an application in the mail, more voters return them than actually intend or need to vote by mail. That could account for the low return rate of ballots.

Irregularities in Post Office Procedure

One of the elements which would have to be considered if the state were to require a postmark on all absentee by mail ballots as prerequisite for counting, is the lack of uniformity in the postmarking procedures actually implemented by individual post offices across the nation. There is no doubt that even on mail hand stamped with a postage stamp, there is a very good chance that no readable postmark will appear. In some cases it will merely be an omission on the part of the postal clerk, on others a voter will pay full postage but stamp it though a postage machine, while on still others a particular postal station just doesn't postmark at all. Based on discussions with the Federal Election Commission there is even a general understanding that the use of a date bearing postmark may be on the way out altogether.

No matter what the circumstances, attention would have to be given to the countability of ballots on which no readable postmark appears. We would have to ask ourselves if the postmark was a criteria for counting the ballot, how many legitimate voters would be disenfranchised through no fault of their own. One option would be to revert back to the verification of the date signed and attested by the voter and the witnesses, as we are currently doing.

Impact of Legislation Currently Being Considered in Congress

It should be noted that on January 24, 1985, House Resolution 639, and House Resolution 640 were introduced in Congress

which would amend the Federal election laws to provide that all absentee ballots be mailed free of postage. It calls for "any envelope or other cover containing such a ballot shall bear the words "Free Postage--Absentee Ballot" (or words to that effect specified by the Postal Service) in the upper right-hand corner". While this wording is duplicated in both, other issues are addressed in each of the separate resolutions.

If either of these resolutions were to pass, the free postage imprint on the envelope would most likely circumvent the necessity of any postmark as defined by current post office policy, therefore voiding our use of such a mark as a verification of timely mailing and a criteria for counting.

Alternative Safeguards to Assure Timely Voting

As an option to the required postmark as verification of timely voting which may only prove marginally feasible, we might want to give some thoughtful consideration to a more substantive change in our current election laws. That change would be in the deadline by which an absentee ballot would have to be received by the division, in order to be eligible for counting.

Specifically, the most sure way of avoiding the potential for fraudulent or unethical submission of late ballots which initiated our research into this area, is to require that all absentee ballots be received in the elections office by the close of the polls on election day. There is input from other states which supports this action as a reasonable and acceptable requirement.

With the exception of Washington, all other western states contacted directly reported that the election day deadline was a requirement in their statutes. Confirmation was also received from the Federal Election Commission, that this is the case in the vast preponderance of all states, and that extended deadlines such as that afforded voters in Alaska is the rare exception.

One consideration which seems relevant in determining the feasibility of this more restrictive deadline in Alaska is the possible impact of mail turnaround time, based on our very late primary election and the availability of general election ballots for distribution. It appears that most states regardless of their primary date, mail out their ballots in relatively the same time period as we do in Alaska, specifically, 3 to 4 weeks before the election.

In Oregon, for example, even with the tight deadline, they enjoy a 90% return rate.

It would be difficult to say how our own 73% return rate would be impacted by such a change in our laws, however, a cursory estimate from our regional supervisors indicates that even with our extended deadlines, approximately 80-85% of our absentee ballots are received by election day. In Anchorage it appeared that the percentage may be slightly lower. Of those ballots received after election day, there is no way to anticipate with accuracy how many are sent later specifically because of the extended deadline, or how many of them would be mailed earlier if the election day deadline for receipt were mandated.

Extended Deadline for Military and Overseas Voters Only

It is important to note an exception which appears to be becoming the trend across the nation. Because of test cases through the court brought by the Department of Defense, it is becoming clear that exceptions to the election day deadline will be built into the statutes of states requiring such a restriction. For example, Colorado whose statutes are very clear about the election day deadline is currently under a restraining order to extend the deadline for military and overseas voters by ten days. While Colorado has been reluctant to make such an exception many other states are embracing it willingly. Because of the slow turnaround mail time we experience for overseas and APO/FPO voters, Alaska would probably want to incorporate this exception into its laws if we were to adopt an election day deadline.

Advantages to an Election Day Deadline

The major advantages to such a deadline change are two. First, the possibility of untimely ballots being included in the count would be eliminated. Secondly, the new deadline would certainly enhance the faster announcement of election results. The two week delay while we await the receipt of absentee ballots would no longer exist. Candidates, particularly in close races, would know the outcome much more quickly. In addition, the certification process could also be completed many days sooner.

Absentee Deadlines Involved in Recounts

If changes were considered in the deadlines for receipt of absentee ballots, another area which should be reviewed is that of absentee ballots which under current law may be included in recount totals if received even later than the 15 day extended deadline, but before a recount. In very close races where one, two or three votes may separate the candidates, the inclusion of these very late ballots add all

new data to the recounted totals. In such races, the winner may be decided based on the sole impact of these previously uncounted ballots received too late to be included in certified results. If the purpose of a recount is to verify the accuracy of the vote count just completed, some thought might be given to the appropriateness of changing those results by introducing new data.

AMENDMENT

Offered in the HOUSE

By GRUENBERG

TO: CSHB 284 (JUD)

1. Page 4 line 4. Insert a new section 8 as follows:
AS 15.13.070(f) and (g) are repealed.
2. Renumber all succeeding sections.

COMMENTARY:

These provisions are unconstitutional. See editor's note (attached) citing Buckley vs Valeo, 424 U.S.1 (1976), and May 13, 1976 Attorney General's opinion.

NOTES TO DECISIONS

- I. General Consideration.
- II. Subsection (c).

I. GENERAL CONSIDERATION.

Cited in State, Pub. Offices Comm'n v. Marshall, Sup. Ct. Op. No. 2406 (File No. 5614), 633 P.2d 227 (1981).

II. SUBSECTION (C).

Editor's notes. — *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977), cited in the notes below, was decided under subsection (c) as it existed before the 1977 amendment. Prior to that amendment, subsection (c) read: "Each candidate shall file the name and address of the campaign treasurer with the commission no later than seven days after the date of filing his declaration of candidacy or his nominating petition. The name of the candidate may be placed on the ballot by the lieutenant governor or municipal clerk only if the candidate has complied with this subsection."

This section is not unconstitutional in that it sets up "invalid class legislation." *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).

The two groups classified by virtue of this section are those candidates who have complied with the law and those who have not; the failure to adhere to this section is the dividing line. Therefore, under any possible equal protection test this section passes constitutional muster. *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).

Statutory requirement that a candidate's designation of treasurer be filed by a specified due date is not constitutionally unreasonable. *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).

Subsection (c) should be strictly enforced. — *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).

Effect of unequal enforcement of AS

39.50.020 on enforcement of subsection (c). — Unequal enforcement of AS 39.50.020, which requires candidates to file a financial disclosure statement did not require the conclusion that a candidate had in fact substantially complied with the filing requirements of subsection (c) where the record did not show any intentional or purposeful discrimination against the candidate. *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).

Subsection (c) requires candidates to "file" campaign treasurer statements within a specified time limit. *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).

The definition of "file" is well established in the law. It has been consistently held that a document is filed only when the proper officer has received it, and that it is not considered filed when it is deposited in the mails. *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).

Telephone conversation not appropriate filing. — Given the text of subsection (c), the legal meaning of the term "file" and the supreme court's adoption of the doctrine that statutory election deadlines are to be strictly enforced, a telephone conversation between the candidate's treasurer and the Alaska Public Offices Commission seven days after the declaration of candidacy was filed cannot be deemed an appropriate filing within the intent of subsection (c). *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).

No regulations were necessary to implement the mandatory provisions for filing an appointment of campaign treasurer established by subsection (c) of this section. *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).

Sec. 15.13.070. Contributions and expenditures; amount and form of payment. (a) No person or group, including but not limited to all political committees, businesses, corporations, and labor unions, may contribute to or expend more than \$1,000 a year on behalf of or in opposition to the competing candidates for each elective office. Political parties and their subdivisions are not subject to the limitation

prescribed in this subsection, but they are subject to the reporting requirements prescribed by AS 15.13.040(b) and 15.13.110. Nothing in this chapter prohibits

(1) a candidate from contributing more than \$1,000 of his own money to his own campaign; or

(2) individuals or groups, including but not limited to all political committees, businesses, corporations, and labor unions, from contributing to or expending on behalf of a ballot proposition or question more than \$1,000 a year; however, these contributions and expenditures shall be reported in accordance with AS 15.13.046 and 15.13.110.

(b) No contribution over \$100 may be made in cash or by cash payment and it may not be accepted by or on behalf of a candidate.

(c) No expenditures over \$100 may be made in cash or by cash payment unless a written receipt is obtained and filed with the commission.

(d) No contribution may be made, and no expenditure may be made or incurred, directly or indirectly, anonymously, in a fictitious name, or by one person or group in the name of another, to influence the election of a candidate in an election. A contribution made by a person wishing to remain anonymous, and received by a candidate, campaign treasurer or deputy campaign treasurer, may not be used or expended, but shall be returned to the donor, if his identity is known, and if no donor is found, the contribution escheats to the state if not donated by the candidate to the charity of his choice.

(e) Contributions to a candidate or a political committee may be received by, and expenditures of a candidate or political committee may be made by, only the candidate, campaign treasurer, or deputy campaign treasurer.

(f) The total amount of expenditures made by a candidate and by all groups operating under his control may not exceed (1) 40 cents times the total population of the state according to the latest United States census figures, or estimates of population certified as correct for administrative purposes by the Department of Community and Regional Affairs, if the candidacy is for governor or lieutenant governor, of which amount no more than 50 per cent may be spent in a primary election campaign and no more than 50 per cent in the general election campaign; (2) \$1 times the total population of the geographical area of the constituency according to the latest United States census figures, or estimates of population certified as correct for administrative purposes by the Department of Community and Regional Affairs, divided by the number of seats in the senate district if the candidacy is for the state senate; (3) \$1 times the total population of the geographical area of the constituency according to the latest United States census figures, or estimates of population certified as correct for administrative purposes by the Department of Community and Regional

Affairs, divided by the number of seats in the house district if the candidacy is for the state house of representatives. The expenditure limitations in this section include expenditures for both a primary and a general election campaign, or for a special election.

(g) Each general election year the commission shall adjust the campaign expenditure limitations for each category of (f) of this section to reflect cost-of-living changes as determined and published by the Bureau of Labor Statistics of the United States Department of Labor.

(h) No campaign expenditure of any type whatsoever shall be made by any candidate, treasurer, or group unless the source is disclosed as required by the provisions of this chapter whether or not those funds were received prior to May 10, 1974. (§ 1 ch 73 SLA 1974; am §§ 20, 21 ch 189 SLA 1975)

T Editor's notes. — In *Buckley v. Valeo*, 424 U.S. 1, 96 S. Ct. 612, 46 L. Ed. 2d 659 (1976), the supreme court held that the 1st amendment of the federal constitution required the invalidation of certain provisions of the Federal Election Campaign Act of 1971, as amended in 1974: Its independent expenditure ceiling, 18 U.S.C. § 608(e)(1), its limitation on a candidate's expenditures from his own personal funds, 18 U.S.C. § 608(a), and its ceiling on overall campaign expenditures, 18 U.S.C. § 608(c), since these provisions placed substantial and direct restrictions on the ability of candidates, citizens, and associations to engage in protected political expression. This holding has been accepted as law in Alaska and the expenditure limits in this chapter have not been enforced. See notes from the opinion of the attorney general dated May 13, 1976, cited below.

Opinions of attorney general. — There seems to be no difference between § 608(c) of the Federal Elections Campaign Act of 1971, former 18 U.S.C. § 608(c), and subsection (f) of this section; accordingly, based on the reasons stated in *Buckley v. Valeo*, 424 U.S. 1, 96 S. Ct. 612, 46 L. Ed. 2d 659 (1976), for finding unconstitutional § 608(c) of the federal act, subsection (f) of this section is invalid as a violation of the rights and privileges protected by the 1st amendment. May 13, 1976, Op. Att'y Gen.

The Public Offices Commission should not undertake investigations of violations of subsection (f) of this section, and candidates or others may be advised that no implementation or enforcement of subsection (f) of this section is planned by the office of the attorney general. May 13, 1976, Op. Att'y Gen.

NOTES TO DECISIONS

Cited in *State, Pub. Offices Comm'n v. Marshall*, Sup. Ct. Op. No. 2406 (File No. 5614), 633 P.2d 227 (1981).

Collateral references. — Construction and application of provisions of corrupt practices act regarding contributions by corporations. 125 ALR 1029.
Power of corporation to make political

contribution or expenditure under state law. 79 ALR3d 491.

State regulation of the giving or making of political contributions or expenditures by private individuals. 94 ALR3d 944.

Sec. 15.13.080. Statement by contributor. A person or group contributing to a candidate over \$250 or contributing goods or services

SECTIONAL ANALYSIS OF CSHB 284

Submitted By:

Division of Elections
February 4, 1986

The following is an analysis of the recommended changes to Title 15 of the Alaska Statutes proposed by CSHB 284:

Sections 1 and 2

These sections of the proposed bill relate to the provisions of Title 15 in place to ensure that persons convicted of felonies involving moral turpitude are prevented from voting prior to their unconditional discharge. Under current law upon release of the convicted felon from the authority of the court, voting rights are automatically restored with no action required by the individual. The intent of these sections is to cancel the voter registration of convicted felons, and require them to reregister upon unconditional discharge.

Section 3

AS 15.07.160(a) provides that it is unlawful for a registration official to refuse to register a qualified individual. The proposed amendment stipulates an exception in cases of otherwise qualified individuals who are not yet unconditionally discharged from custody of the court.

Section 4

This amendment to AS 15.07.160(b) which provides that it is unlawful for an individual to register who knowingly lacks the qualifications of a voter, changes the reference citation from AS 15.05.010 (1)-(4), Voter Qualifications, to AS 15.07.030, Who May Register.

Section 5

AS 15.10.180 relates to the appointment of party representatives for participation on state canvassing boards. By specifying the participation of 2 persons from each political party, the current statute limits the size and composition of the board. The proposed amendment gives the director discretion as to the number of teams that may serve, and stipulates that each team must have members from at least 2 political parties. The flexibility offered by the amendment allows the director to accommodate fair party

representation for all parties, as the number of recognized parties fluctuates. As the State has grown, and registration rolls have increased, voter turnout has also dramatically increased. The certification process is becoming more difficult to complete in a reasonable amount of time. It is estimated that certification requires the review of nearly 65,000 mathematical calculations over 442 precincts Statewide. This proposed amendment would allow the director to appoint additional teams as needed to assure that the process can continue to be completed in a reasonable amount of time, while guaranteeing fair party representation in the process.

Section 6

This section concerns the posting of public notices in conspicuous places in each precinct. Present law provides that the posters contain the legal boundary description of the precinct. Having legal descriptions preprinted on the posters would be a very expensive process as there are only 2 for each precinct required by law. Therefore, Divisional staff must clip and paste each legal description on 884 individual posters by hand. Additionally, legal boundary descriptions are often confusing, hard to read, and difficult to understand and therefore are of questionable benefit to the voters as used in this application. The division has better methods in place by which to notify voters of their proper precinct and polling place. Each voter is sent a polling place card before major elections that indicate the precinct in which he or she should vote and where the polling place is located. The list of polling places for all precincts are published in the Official Election Pamphlet and in newspapers prior to the elections. Therefore, it is proposed that legal boundary description requirement be deleted from AS 15.15.070(c).

Section 7 (Also see Sections 15, 16, 17 and 20)

This section seeks to make a housekeeping change in the start date for state canvass board review, from the 8th day after the election to the 11th day. This amendment relates to the tightening of the deadline for receipt of absentee ballots as proposed in section 14 of this bill, which provides that the last day to receive military and foreign by mail ballots would be the 10th day. Under the existing statute the state review board is required to begin its canvass before counting of absentee ballots is completed at the regional level because of the extended absentee deadline beyond the 8th day. Regional Boards have been required to submit incomplete precinct data to Juneau. This has resulted in additional counting of ballots received after the 8th day being concluded at the director's level, after

the state canvass has begun. The amendment allows time for all counting to be completed at the regional level in accordance with the proposed 10 day receipt deadline, and before the state canvass would begins its audit.

Sections 16, 17, and 20 of this bill propose similar housekeeping changes to dates related to the review and counting of absentee and question ballots, and the forwarding of precinct records to the directors office for inclusion in the state review, pursuant to the amended deadline for receipt of absentee ballots.

Sections 8, 10 11 and 12

These sections accommodate the deletion of language referring to witnessing requirements on absentee voting materials, pursuant to a conceptual amendment proposed in House Judiciary to eliminate all witnessing requirements for any form of absentee voting, whether by mail, in person or by personal representative. Research indicates that 43% of rejected absentee ballots were not counted because of inadequate witnessing, however concern has been expressed that elimination of witnessing altogether could be perceived as impairing the integrity of the absentee voting process.

Section 9.

This proposed amendment would make mandatory district absentee voting in municipalities with 2,000 or more residents, for 8 hours a day, each day including Saturday and Sunday, for the week preceding a Primary, General or Special Statewide election. While the existing statute does provide for absentee voting in person in advance of election day, it does not currently stipulate Saturday and Sunday voting or specify the number of hours per day required.

Section 13.

Presently, all absentee by mail ballots may be accepted up to 15 days after the election. This proposed amendment would require that absentee by mail ballots be received no later than the sixth day after the election for ballots mailed from within the United States.

Concern has been expressed that since current statutes mandate, that "if the ballot is postmarked, it must be postmarked on or before election day", there is a potential for fraudulent or unethical use of the system. Specifically, this part of the statute requires the postal stamp on or before election only if the ballot is indeed postmarked, but does not require a postmark on all ballots, Research shows that requiring postmarks on all ballots is not feasible because of irregularities in the postal systems

worldwide. Because of postal inconsistencies candidates or campaign workers could respond to election night returns by soliciting absentee voters who have not mailed in their ballots to do so in the few days right after the election. Because no postmark is required for counting, these ballots cast after the election, but received within the 15 day period, could be included in the totals. In close races, these late votes could impact the outcome. Research shows that 98% of mailed ballots take fewer than 6 days for delivery.

Shortening the deadline for receipt of absentee ballots would enhance the faster announcement of election results. Candidates, particularly in close races, would know the outcome more quickly as certification of election results could be completed sooner.

Section 14.

This amendment extends the deadline for receipt of absentee ballots mailed from overseas or any APO or FPO address to the 10th day after the election. Research of such ballots indicates that 98.5% of these ballots are delivered in fewer than 10 days.

Section 15, 16, 17, 19, and 20. (Also see Section 7)

These sections are additional housekeeping amendments making changes to specified days on which regional boards begin and complete review and counting of absentee and questioned ballots and forward materials to the directors office for inclusion in the state review. These changes are related to the proposed deadline for receipt of absentee ballots.

Section 18. (Also see Section 21)

This section amends the grounds for which a absentee ballot may not be counted. First, it deletes the omission of attesting by an official or 2 witnesses as reason for rejection pursuant to the conceptual amendment eliminating this requirement. Second, it eliminates the mere failure to enclose the marked ballot in a secrecy envelope as grounds for not counting the ballot. It does not seek to eliminate the use of a secrecy envelope as an administrative requirement but removes failure of a voter to use one, as reason to reject an otherwise properly cast ballot.

Section 21

This section makes the same amendments to statutes covering grounds for not counting questioned ballots.

Section 22.

Under current statutes, a candidate requesting a recount may select representatives to observe and participate in the recount process. Often candidates choose to represent themselves. These observers and candidates are currently paid for this participation at the same rate as the counting team members. In essence, the candidates pay the nominal fee and are then repaid for participating. The proposed amendment removes the provision for paying recount representatives.

Section 23.

The cost to the State for conducting recounts are approximately \$1700 per District. This proposed amendment would increase the fees required of candidates for recounts. Additionally, the amendment raises the difference between the number of votes cast between candidates from 10 votes to 20, as a basis for determining if a recount is to be completed free of charge.

Section 24.

Presently under current statutes, recounts do not involve just the ballots that were included in the State Ballot Counting Review, but also involves any ballots that were received after the statutory deadline and therefore could not be included in certification. It is the intent of this amendment to provide that only those ballots that were received by the deadline and considered in the entire review and certification process be included in the recount.

Section 25.

The addition of this section formalizes the authority of the Director to supervise punch-card voting and counting procedures as necessary. This formal placement of final authority is critical, especially under emergency situations which sometimes occur during election night counting. As an example, during the failure of the mainframe computer in Anchorage during the 1984 Primary election, the decision to go to the backup system had to be made quickly. This addition clarifies the role of the Director in making such decisions while coordinating the work of the Data Processing Review Board as responsible for testing and implementing the actual computer counting of ballots. Timely and responsive decisions by a single authority is required to ensure the counting process continues to proceed as smoothly and efficiently as possible.

Section 26.

This proposed amendment seeks to make the filing fees paid by candidates non-refundable. In addition it deletes the provision that these fees be paid to the central committee of the political party of that candidate subject to legislative appropriation.

Sections 27 through 35.

The proposed amendments to these sections are in response to an Alaska Supreme Court decision in Vogler vs. Miller, 651, P.2d 1 (Alaska 1982), and Vogler vs. Miller, 660 P2d 1191 (Alaska 1983).

In particular, the court held that AS 15.25.160 and 15.60.010(20) are unconstitutional as being unduly restrictive of ballot access and as to other consequences of "political party" status. AS 15.25.160 requires that a petition for the nomination of candidates for the office of governor, lieutenant governor, United States senator and representative be signed by qualified voters equal in number to at least three percent of the number of votes cast in the preceding general election. AS 15.60.010(20) defines "political party" as a group of organized voters that represent a political program and that nominates a candidate for governor who received at least 10 percent of the vote cast at the preceding general election for governor.

This bill amends those two sections to reduce the required percentage to one percent and three percent, respectively. The bill also amends other sections to similarly reduce the required percentages in light of the Vogler decision.

Section 36.

This section repeals various statutes which are inappropriate or no longer applicable under the amended provisions of this bill.

AS 15.20.160 prohibits charging a fee for witnessing absentee ballots.

AS 15.20.201(d) requires election supervisors to forward absentee ballots received after the 7th day to the director by the most expeditious service.

AS 15.25.180(10) requires that nominating petitions for no-party candidates state that the subscribers intend to vote for the candidate being nominated at the general election.