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# HOUSE COMMITTEE REPORT

(7)

Date referred: 4/24/87

FURTHER REFERRALS: Judiciary  
Finance

DATE: 5-6-87

The State Affairs Committee has considered HB 293

"An Act relating to elections."

**RECOMMENDS:**

- replace with CS HB 293 (SA)  the same title
- attached amendment(s)  a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

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

**ATTACHES NEW FISCAL NOTE(s):**

- fiscal impact  same as previous fiscal note published \_\_\_\_\_
- zero fiscal note  same as previous zero fiscal note published \_\_\_\_\_
- zero with analysis

**SIGNING TO PASS:**

[Signature]

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**SIGNING OTHER RECOMMENDATIONS:**

[Signature]

[Signature]

[Signature]

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Chairman's signature

Original sponsors: Pourchot and Ulmer

IN THE HOUSE

BY THE STATE AFFAIRS COMMITTEE

CS FOR HOUSE BILL NO. 293 (State Affairs)

IN THE LEGISLATURE OF THE STATE OF ALASKA

FIFTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to elections."

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

\* Section 1. AS 15.07.090(a) is amended to read:

(a) A voter whose name is changed by marriage or court order may vote under the previous name, but a [IF THE] voter who desires to use a [THE] new name shall vote a questioned ballot [, HE OR SHE SHALL NOTIFY THE DIRECTOR NOT LATER THAN 30 DAYS PRECEDING AN ELECTION SO THAT THE REGISTRATION MAY BE AMENDED TO REFLECT THE CHANGE].

\* Sec. 2. AS 15.15.030(10) is amended to read:

(10) A [SEPARATE] nonpartisan [JUDICIAL] ballot shall be designed for each judicial district in which a justice or judge is seeking retention in office [TO SUCCEED HIMSELF]. The ballot shall be divided into four parts and each part shall bear a heading indicating the court to which the candidate is seeking approval. Within each part the question of whether the justice or judge shall be approved or rejected shall be set out in substantially the following manner: (A) "Shall . . . . . be retained as justice of the supreme court for 10 years?"; (B) "Shall . . . . . be retained as judge of the court of appeals for eight years?"; (C) "Shall . . . . . be retained as judge of the superior court for six years?"; or (D) "Shall . . . . . be retained as judge of the district court for four years?" Provision shall be made for marking each question "Yes" or "No."

\* Sec. 3. AS 15.20.071(a) is amended to read:

1 (a) A qualified voter who is physically disabled, imprisoned, or  
2 confined to an institution may vote by [APPLY FOR AN] absentee ballot  
3 through a personal representative. A personal representative may  
4 apply for absentee ballots on behalf of physically disabled voters or  
5 voters imprisoned or confined to an institution to the following  
6 election officials at the times specified:

7 (1) to an absentee voting official in the election district  
8 in which the voter resides on or after the 15th day before an election  
9 up to and including the day of the election;

10 (2) to an election supervisor

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

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

15 (3) to an absentee voting official at an absentee voting  
16 station designated under AS 15.20.045(b) at a time when the absentee  
17 voting station is operating;

18 (4) to a member of the election board [CHAIRMAN OR HIS  
19 DESIGNEE] on election day in the precinct in which the voter is enti-  
20 tled to vote [EXCEPT THAT THE VOTER MAY NOT APPLY TO THE ELECTION  
21 BOARD CHAIRMAN IN AN AREA IN WHICH ABSENTEE VOTING OFFICIALS HAVE BEEN  
22 DESIGNATED].

\* Sec. 4. AS 15.20.071(b) is amended to read:

(b) Upon receipt of a written application and proof of identi-  
fication from a [BY] personal representative, the election official  
authorized to issue the absentee ballots under (a) of this section  
[BALLOT] shall provide the ballots [BALLOT] and other absentee voting  
material to the personal representative [IF THE WRITTEN APPLICATION IS  
SIGNED BY THE APPLICANT AND IS ACCOMPANIED BY A LETTER FROM A LICENSED

PHYSICIAN OR A STATEMENT SIGNED BY TWO QUALIFIED VOTERS STATING THAT THE APPLICANT WILL BE UNABLE TO GO TO THE POLLING PLACE BECAUSE OF PHYSICAL DISABILITY].

\* Sec. 5. AS 15.20.071(c) is amended to read:

(c) The personal representative shall deliver the application for an absentee ballot to the voter as soon as practicable. On the completion and receipt of the application for an absentee ballot, the personal representative shall deliver an absentee ballot to the voter. The [UPON RECEIPT OF AN ABSENTEE BALLOT THROUGH A PERSONAL REPRESENTATIVE, THE] voter shall proceed to mark the ballot in secret, to place the ballot in the small envelope, to place the small envelope in the larger envelope, and to sign the voter's certificate on the envelope in the presence of the personal representative who shall witness and date the signature of the voter. The voter must complete the application for the absentee ballot, mark the ballot, and sign the voter's certification not later than election day. The voter shall then return the application and the absentee ballot to the personal representative who shall deliver the ballot to the election official who provided the ballot. The application and the absentee ballot must be returned to the election official not later than 8:00 p.m. on election day.

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

Sec. 15.20.480. PROCEDURE FOR RECOUNT. In conducting the recount, the director shall review all ballots whether the ballots were counted at the precinct or by computer or by the district absentee counting board or the questioned ballot counting board to determine which ballots, or part of ballots, were properly marked and which ballots are to be counted in the recount, and shall check the accuracy of the original count, the precinct certificate and the review. The

director shall check the number of ballots and questioned ballots cast in a precinct against the registers and shall check absentee ballots voted against absentee ballots distributed. [THE DIRECTOR SHALL COUNT ABSENTEE BALLOTS RECEIVED AFTER CLOSE OF BUSINESS ON THE 15TH DAY FOLLOWING THE ELECTION AND BEFORE THE COMPLETION OF THE RECOUNT.] For administrative purposes, the director may join and include two or more applications in a single review and count of votes. The rules in AS 15.15.360 governing the counting of hand- marked ballots and the rules in AS 15.20.730 governing the counting of punch-card ballots shall be followed in the recount. The ballots and other election material shall remain in the custody of the director during the recount and the highest degree of care shall be exercised to protect the ballots against alteration or mutilation. The recount shall be completed within 10 days. The director may employ additional personnel necessary to assist in the recount.

\* Sec. 7. AS 15.20.730(b) is amended to read:

(b) The computer shall be programmed to count ballots as follows:

(1) a vote may be counted only if the punch is clearly spaced in the square [DESIGNATED BY A PLUS SIGN] following the name of the candidate the voter desires to select;

(2) if there is only one [PLUS-MARKED] square marked for a team whose names are on separate lines, such as president and vice-president or governor and lieutenant governor, a punch in the square or elsewhere in the rectangle following the names shall be counted for that team;

(3) a failure to properly punch a ballot card as to one or more candidates does not itself invalidate the entire ballot;

(4) if a voter punches fewer names than there are persons

to be elected to the office, a vote shall be counted for each candidate properly marked;

(5) if a voter punches more names than there are persons to be elected to the office, the votes for candidates to that office shall not be counted;

(6) improper marks on the ballots shall not be counted and shall not invalidate punches for candidates properly made;

(7) an erasure or correction invalidates only that section of the ballot in which it appears;

(8) a vote marked for the candidate for President of the United States is considered and counted as a vote for the election of presidential electors.

\* Sec. 8. AS 15.25.055 is amended to read:

Sec. 15.25.055. REMOVAL OF NAME FROM PRIMARY BALLOT. A candidate's name will appear on the primary election ballot unless notice of the [HIS] withdrawal from the primary is received by the director at least 54 [40] days before the date of the primary election.

\* Sec. 9. AS 15.25.110 is amended to read:

Sec. 15.25.110. FILLING VACANCIES BY PARTY PETITION. If a candidate nominated at the primary election dies, withdraws, resigns, becomes disqualified from holding the office for which the candidate [HE] is nominated, or is certified as being incapacitated in the manner prescribed by this section after the primary election and 54 [40] days or more before the general election, the vacancy may be filled by party petition. The central committee of any political party or any party district committee may certify as being incapacitated any candidate nominated by their respective party by presenting to the director a sworn statement made by a panel of three licensed physicians, not more than two of whom may [SHALL] be of the same

political party, that the candidate is physically or mentally incapacitated to an extent that would [IN HIS JUDGMENT] prevent the candidate from active service during the term of office if elected. The director shall place the name of the person nominated by party petition on the general election ballot. The name of a candidate disqualified under this section may [SHALL] not appear on the general election ballot.

\* Sec. 10. AS 15.35.050 is amended to read:

Sec. 15.35.050. PLACING NAME OF SUPREME COURT JUSTICE ON BALLOT. The director shall place the name of a supreme court justice who has properly filed a declaration of candidacy for retention on the [JUDICIAL] ballot in each judicial district of the state for the general election at which approval is sought.

\* Sec. 11. AS 15.35.059 is amended to read:

Sec. 15.35.059. PLACING NAME OF JUDGE OF THE COURT OF APPEALS ON BALLOT. The director shall place the name of a judge of the court of appeals who has properly filed a declaration of candidacy for retention on the [JUDICIAL] ballot in each judicial district of the state for the general election at which approval is sought.

\* Sec. 12. AS 15.35.090 is amended to read:

Sec. 15.35.090. PLACING NAME OF SUPERIOR COURT JUDGE ON BALLOT. The director shall place the name of a superior court judge who has properly filed a declaration of candidacy for retention on the [JUDICIAL] ballot in the judicial district designated in the [HIS] declaration of candidacy for the general election at which approval is sought.

\* Sec. 13. AS 15.35.130 is amended to read:

Sec. 15.35.130. PLACING NAME OF DISTRICT JUDGE ON BALLOT. The director shall place the name of a district judge who has properly

1 filed a declaration of candidacy for retention on the [JUDICIAL]  
2 ballot in the judicial district designated in the [HIS] declaration of  
3 candidacy for the general election at which approval is sought.  
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# Alaska State Legislature

REPRESENTATIVE  
PAT POURCHOT

HOUSE FINANCE COMMITTEE,  
VICE CHAIR

HOUSE ETHICS COMMITTEE, CHAIR

LEGISLATIVE BUDGET & AUDIT  
COMMITTEE



## House of Representatives

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### MEMORANDUM

DATE: May 6, 1987

TO: Members of the House State Affairs Committee  
Rep. Fran Ulmer, Chairman  
Rep. Lyman Hoffman, Vice-Chairman  
Rep. "Red" Boucher  
Rep. Cliff Davidson  
Rep. Dave Donley  
Rep. Terry Martin  
Rep. Curt Menard

FROM: Rep. Pat Pourchot *Pat*

SUBJECT: House Bill 293 - Relating to Elections

The bill addresses the issue of voters who change their name due to marriage or divorce; eliminates a statutory requirement that judicial retention candidates be placed on a separate ballot; simplifies the process by which a disabled or otherwise confined person can vote; changed the deadline for withdrawal of a candidate's name from the ballot from 40 days to 54 days before the election; deletes references to the language "designated by a plus sign" when describing ballots.

Finally, this bill would eliminate the provision that allows ballots to be counted in a recount that are received after the statutory deadlines thus reducing the potential for fraud.

A brief summary of House Bill 293 is attached for your information. Thank you for your consideration of this bill.

SUMMARY OF HOUSE BILL 293  
"An Act relating to elections"

Section 1. Current statute states that a voter who has changed their name may vote under their previous name, but if the voter desires to vote under their new name they must change their registration 30 days prior to the election.

Questions concerning this section of the statute were raised in the recent Fischer/Uehling recount. The Supreme Court ordered the ballots counted of those voters who voted under their new name but had not updated their registration records as required by statute. In order to clarify this statute, this proposed amendment simply allows the voter to vote under their previous name or vote a questioned ballot if they wish to vote using their new name.

Section 2, 8-11. These sections address the requirement that judicial retention candidates be printed on a separate nonpartisan judicial ballot. Often there is adequate space on the first ballot card to include the judges. The Division of Elections believes they could reduce costs by eliminating the statutory requirement of printing an additional, separate ballot card for retention of judges. Each ballot card costs approximately 16 cents.

Historically it was necessary to print the judicial retention on separate nonpartisan ballot cards when territorial elections involved closed partisan races. The Alaska Court System indicates that the Judicial Branch has no problem with the elimination of this statutory reference.

Section 3. This proposed change allows for a simplified process by which a qualified voter who is physically disabled, imprisoned or confined to an institution may vote by absentee ballot through a personal representative. Currently the process is cumbersome, impractical and leads to discouraging people from voting.

Section 4. Current law allows absentee ballots to be counted during a recount regardless of when the ballots were received. The statute change in this section would disallow the counting of absentee ballots received via the mail after their respective deadlines. In a recount, domestically mailed ballots would be included only when received through the 10th day after the election. Military or Internationally mailed ballots received through the 15th day after the election would be included in a recount.

This change would help limit the possibility of "ballot-stuffing" of unvoted absentees after the day of elections. Alaska currently has the longest time periods in which to receive absentee ballots after election day.

Section 5. This suggested change is "housekeeping" in nature. This section proposes the deletion of the references to the language "designated by a plus sign" when describing the square box in which the voter punches the ballot. The plus sign serves no purpose. Statutory citations regarding handmarked ballots contain no such descriptive language and no other sections of the election law contains any reference to this "plus sign".

Sections 6 and 7. Current statute set the deadline for withdrawal of a candidate's name from the ballot, or replacement of a name on the ballot at 40 days prior to the election. A change in the deadline from 40 to 54 days would significantly improve the Division of Elections ability to meet the other statutory deadlines which are dependent on completion of ballot printing.

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RECOMMENDED CONFORMING AMENDMENT  
FOR SPONSOR OR COMMITTEE SUBSTITUTE  
HB 293

Division of Elections  
May 4, 1987

The following amendment to be inserted after line 22 is recommended to assure that paragraphs (b) and (c) of AS 15.20.071 conform with the intent prescribed by the amendment to paragraph (a). As it stands, paragraph (b) requires that the personal representative be issued ballots for the voter if the written application has already been signed by the voter. It is the intent of this bill to reduce the number of separate trips the personal representative must make in order to assist the disabled or confined voter in voting. In addition, it is recommended that paragraph (b) be further amended to eliminate language regarding a signed statement from a physician or two qualified voters stating that the voter is unable to vote at the polling place because of physical disability. The requirement is prohibited under federal law.

AMENDMENT:

(b) Upon receipt of a written application by the personal representative, the election official authorized to issue the absentee ballot shall provide the ballot and other absentee voting material, including an application for absentee ballot to be completed by the voter, to the personal representative [IF THE WRITTEN APPLICATION IS SIGNED BY THE APPLICANT AND IS ACCOMPANIED BY A LETTER FROM A LICENSED PHYSICIAN OR A STATEMENT SIGNED BY TWO QUALIFIED VOTERS STATING THAT THE APPLICANT WILL BE UNABLE TO GO TO THE POLLING PLACE BECAUSE OF PHYSICAL DISABILITY].

(c) The personal representative shall deliver the voter's application for an absentee ballot and the ballot to

the voter as soon as practicable. Upon receipt of the application and an absentee ballot through a personal representative, the voter shall proceed to complete and sign the application and to mark the ballot in secret, to place the ballot in the small envelope, to place the small envelope in the larger envelope, and to sign the voter's certificate on the envelope in the presence of the personal representative who shall witness and date the signature of the voter. The voter must mark the ballot and sign the voter's certificate and application not later than election day. The voter shall then return the application and the absentee ballot to the personal representative who shall deliver the ballot to the election official who provided the ballot. The absentee ballot must be returned to the election official not later than 8:00 p.m. on election day.

**STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE**



**REQUEST:** \_\_\_\_\_

Bill Version: HB 293  
Publish Date: \_\_\_\_\_

Revision Date: \_\_\_\_\_  
Title: An Act relating to elections

Agency Affected: Office of the Governor  
BRU: Elections

Sponsor: Pourchot and Ulmer  
Requestor: House State Affairs

Components: 11 Primary and General

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

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	0	0	(*)	0	(*)	0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0</b>	<b>0</b>	<b>(*)</b>	<b>0</b>	<b>(*)</b>	<b>0</b>

CAPITAL						
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REVENUE	0	0	(*)	0	(*)	0
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**FUNDING:** (Thousands of Dollars)

GENERAL FUND	0	0	(*)	0	(*)	0
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>(*)</b>	<b>0</b>	<b>(*)</b>	<b>0</b>

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

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

\* See Attached Sheet

Prepared by: Linda Edgeworth  
Division: Division of Elections  
Approved by Commissioner: *Carol P. Kestler*  
Agency: Office of the Governor

Phone: 465-4611  
Date: 5-1-87  
Date: 5/4/87

Distribution (by preparer):  
Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)  
Senate Secretary

CONTINUATION FISCAL NOTE  
HB 293

Division of Elections  
May 1, 1987

This bill will result in an additional cost to the Division of Elections in only one of its provisions. That provision relates to the increase in the number of sites which will have to have materials for personal representative voting on election day. There will be 238 additional precincts in which materials for this type of voting will be necessary. The estimated cost for these materials will be about \$1,000 for envelopes, accountability reports and applications.

The rest of this bill will result in a savings to the Division of Elections in fiscal years during which their primary and general elections. However, the savings to be realized will fluctuate from year to year.

Most of the cost savings relate to the provision which eliminates the requirement that judicial retention candidates be printed on a separate ballot card, and elimination of language requiring a plus sign in the voting squares on punch card ballots. Often there is adequate space on the other cards to be printed to accommodate the judicial candidates. However, the number of house districts in which this is the case depends on the number of candidates and offices appearing on the ballot, as well as the number of judges up for retention, and the number of total ballots needed to cover the number of voters in the given districts.

The average cost saving related to the elimination of the extra judicial card is about \$115.00 per thousand. Elimination of the plus sign would save approximately \$2,000 per election. With that in mind, a review of the cost savings for the 1984 and 1986, statewide elections, had this bill been in effect would have been as follows:

1984 (14.8)

1986 (18.1)

COMMENTS IN SUPPORT OF  
HOUSE BILL 293  
"An Act relating to elections"

Prepared by  
The Division of Elections  
April 30, 1987

The Division of Elections has reviewed HB 293 and supports its provisions in their entirety.

Section 1 eliminates the current requirement that voters who change their names may vote under the previous name, but must update their registration record 30 days prior to the election in which they seek to vote, in order to vote under their new names. In the Supreme Court action regarding the Fischer/Uehling recount, the Division was directed to count the ballots of voters who voted under their new names but had not updated their registration as required by statute. While we have not received the formal opinion on which the court based its decision, we believe that the amendment proposed by the sponsor is in keeping with the intent of the court. We believe that this amendment is a step forward in assuring that no otherwise qualified voter is disenfranchised on the basis of an administrative technicality.

Sections 2 and 8 through 11 relate to a requirement that judicial retention candidates be placed on a separate ballot. Often there is adequate space on other ballot cards to include the judicial candidates for a specific district. While several districts consistently require printing of a third card during a general election, we anticipate that in any given election year, 1/3 to 1/2 of the districts in the state could be accommodated with just 2 ballot cards if the requirement for a separate card for judicial candidates were eliminated. Based on a review of the number of districts which would have fallen into this category in the 1986 general election, 14 districts would have required the printing of only 2 ballot cards if the judicial candidates had been printed on the same card as other candidates. This would have resulted in a savings of nearly \$15,000 in ballot printing costs.

Section 5 of this bill calls for a "housekeeping" amendment which would also result in simplification of ballot printing requirements and additional savings in printing costs. No reference is made to the box in which the voter marks his or her vote having "a plus sign", in sections of the statute setting out guidelines for form of the ballot. However, citing the rules by which the director is directed to count or not count the votes on punch card ballots based on the positioning of the punch mark within the square, the

statute includes language "in the square designated by the plus sign". This is the only reference to a plus sign but because of the inference, the Division has been printing two versions of the same ballot in all instances where there is punch card voting and handmark voting in the same district. The plus sign serves no viable purpose, but does complicate the printing, collating, packaging and distribution of ballot preparation. While simplification of the logistics involved outweighs other advantages of this amendment, the state could expect to save an additional \$2,000 dollars in its ballot printing costs.

Section 3 of the bill relates to personal representative voting. The provisions of this section simplify the process by which a disabled or confined individual votes through the assistance of another party. Under the existing statutes, an individual attempting to help a disabled voter vote must make two round trips between the voter and the Division of Elections to complete the process.

1. The personal representative must visit the Division of Elections to pick up an application for the voter. Once the voter has completed the application, the personal representative returns it to the Division.
2. The personal representative then picks up the ballots, goes back to the voter who votes the ballots, and then the personal representative must return the voted ballots back to the Division.

Under this amendment, the personal representative would apply to be a personal representative on behalf of the disabled voter, pick up the application to be completed by the voter, and the voter's ballots all at the same time. The voter's completed application and ballots would be returned in a single trip.

This proposed amendment duplicates language in Senate Bill 252 which successfully passed the Senate and all committees in the House during the 14th Legislature. At that time it was a companion bill to House Bill 284 which was passed into law. However, SB 252 died in House Rules in the final hours of the session. It is our belief that there was a misunderstanding at the time, that the provisions of SB 252 had already been incorporated into the HB 284 which was passed out.

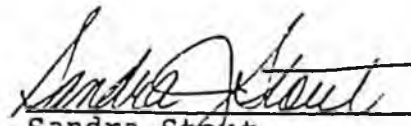
We support this provision which has been introduced again, because we believe that the existing statutes put an undue burden on personal representatives, and discourage voting by disabled and institutionalized voters.

Section 4 of the bill eliminates the provision in current statutes which allows ballots that are received after the statutory deadlines from being opened and counted in recounts. Concern has been expressed that the allowance for counting ballots received after the statutory deadline enhances the opportunity for inappropriate use of the system. In a review of 1,800 by mail ballots from the 1984 general election it was determined that approximately 1/3 of mailed ballots had no readable postmark. Recounts are usually called for in very close races. More and more voters are voting by mail, and individuals have greater access to absentee voter lists than ever before. Concern has been expressed that these circumstances combined with inconsistent use of postmarks could result in individuals working the absentee lists to solicit voters who did not return their ballots to cast them after election day, potentially impacting the outcome of the recount.

Sections 6 and 7 suggest conforming amendments to the deadline for withdrawal of a candidate's name from the ballot, or replacement of a name on the ballot prior to the election. The amendments change the deadline from 40 days to 54 days prior to the election. The Division strongly supports this change. The 40 day deadline severely constricts the actual time frame in which ballots must be typeset, proofread, printed and distributed. For example, for general elections, the existing deadline allows only 10 days for preparing camera ready samples of each finalized ballot for inclusion in the Official Election Pamphlet which, by statute, must be printed and in the mail to voters 30 days before the election.

In addition, by mail absentee voters should be mailed their ballots at least three full weeks before election day, and absentee in person voting starts 15 days before each election. That means that even in primary elections, allowing adequate shipping time for rural absentee sites, and adequate preparation for mass mailing of by mail ballots, the Division has at best, three weeks in which to finalize, typeset, proofread, print, receive and sort, and finally distribute ballots across the State. This tight three week period can be further dwindled in situations where lawsuits are filed contesting a candidate's eligibility, such as occurred in the 1986 gubernatorial race which affected the printing of every candidate card statewide.

May 1, 1984  
Date

  
Sandra Stout  
Director