

HJR

13

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. HJR 13

Revision Date: _____ Department Affected: Department of Law
 Title: "...amendments...requiring that candidates...receive 40% of the votes..." BRU: Legal Services
 Component: Operations
 Sponsor: Representative Kubina
 Requestor: House State Affairs COMPONENT SERIAL NO.

		9	3
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached analysis.

Prepared By: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Date: February 11, 1991
 Approved by Commissioner: Richard I. Pegues / FOR
Charles E. Cole, Attorney General
 Agency: Department of Law Date: February 11, 1991

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

- Dept. of Law FN -

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HJR 13

House Joint Resolution No. 13 proposes amendments to the constitution of the State of Alaska that would require that candidates for governor and lieutenant governor receive forty percent of the votes cast to be elected. The amendments would also change the term of office of the governor and lieutenant governor from noon on the first Monday in December following the governor's election to noon on the first Monday in January following the governor's election. Last, the amendments provides that if no candidate receives forty percent of votes cast for governor, a runoff election between the two candidates receiving the greatest number of votes cast shall be held within forty-five days of the first election. If the resolution is approved by the legislature, the proposed amendments would be placed before the voters at the 1992 general election. The resolution, which asks the voters to consider requiring that future candidates for governor receive a minimum of forty percent of the votes to be elected, should not cause a fiscal impact for the Department of Law.

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. HJR 13

Revision Date: _____ Department Affected: Department of Law
 Title: "...amendments...requiring that BRU: Legal Services
candidates...receive 40% of the votes..." Component: Operations
 Sponsor: Representative Kubina
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		9	3
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
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EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

Estimate of current year impact:

ANALYSIS: (Attach a separate page if necessary.)
 Please see the attached analysis.

Prepared By: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Date: February 11, 1991
 Approved by Commissioner: Richard I. Pegues / FOR
 Agency: Department of Law Date: February 11, 1991
 Charles E. Cole, Attorney General

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CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HJR 13

House Joint Resolution No. 13 proposes amendments to the constitution of the State of Alaska that would require that candidates for governor and lieutenant governor receive forty percent of the votes cast to be elected. The amendments would also change the term of office of the governor and lieutenant governor from noon on the first Monday in December following the governor's election to noon on the first Monday in January following the governor's election. Last, the amendments provides that if no candidate receives forty percent of votes cast for governor, a runoff election between the two candidates receiving the greatest number of votes cast shall be held within forty-five days of the first election. If the resolution is approved by the legislature, the proposed amendments would be placed before the voters at the 1992 general election. The resolution, which asks the voters to consider requiring that future candidates for governor receive a minimum of forty percent of the votes to be elected, should not cause a fiscal impact for the Department of Law.

Legislative Research Agency



P.O. Box Y
Juneau, AK 99811-3100
Phone: (907) 165-3991
Fax: (907) 163-3351

October 25, 1991

MEMORANDUM

TO: Representative Eugene Kubina

FROM: Gordon S. Harrison, Director 

RE: Preferential Ballots
Research Request 92.064

You asked for information about the so-called preferential ballot that is used widely in Australia. This memorandum describes the system of preferential voting used in Australia as well as several other preferential systems that have been used from time to time in the United States and other western democracies.

Application of Preferential Voting

Preferential ballots allow voters to rank their preference for candidates standing for an office. It is applicable only to electoral systems that require the winning candidate to obtain a *majority* of the votes cast. Most elections in the United States are held under the *plurality* rule, according to which the candidate with the highest number of votes wins the seat, whether or not he has obtained a majority of the votes cast. When there are only two candidates standing for election, the plurality rule has the same effect as the majority rule. But when there are more than two candidates in a contest, the plurality system is likely to produce a winner who is not the first choice of a majority of the voters. Majority vote requirements are intended to produce a candidate who is an acceptable compromise candidate to a majority of the electorate.

Preferential voting techniques of the type described in this memorandum also apply only to elections with single-member districts (that is, in situations where residents of a district elect a single official to represent them, in contrast to situations where residents of a district elect several people to represent the district). There is a preferential voting technique applicable to multi-member district elections, but a description of it is beyond the scope of this memorandum.¹

¹The technique is the "single transferable vote" system, also known as the Hare system, Hare-Andrae system, and Hare-Clarke system. It is used in Ireland and in the elections for the upper chamber in the Australian federal and some Australian state governments. A good explanation of it is found in Enid Lakeman and James D. Lambert, *Voting in Democracies* (London: Faber and Faber, 1959), pp. 98 - 131.

Rationale of Preference Ballot: Avoiding a Run-off Election

A conventional majority vote system calls for a run-off election if no candidate in the first round of voting obtains a majority of the votes cast. There are drawbacks to run-off elections, however. The most serious problem is retaining the interest of the electorate: where voting is voluntary, the turn-out for run-off elections typically declines from the first round of voting. Another problem with run-off elections is the continued burden of campaigning it imposes on candidates and voters alike. Also, from the perspective of the leading candidate, the hiatus between the first and second round of voting can spell disaster. Public sentiment is never static, and the front-runner cannot be sure that his support will remain solid until the run-off. Thus, the necessity for a run-off election introduces an additional element of uncertainty and instability in the polling process.

By allowing the voters to indicate their second or third choice as well as their first choice on the same ballot, the preferential system fulfills the function of the run-off election without the necessity of a second polling.

Types of Preference Ballots

There are several voting rules that allow the voter to express more than his first preference among candidates. Discussed below are two versions of the *alternative preference ballot*, the *second-choice ballot* (Bucklin rule), and the *Borda count*. Also, brief mention is made of the *exhaustive ballot* voting method.

Alternative Preference Ballot

There are two versions of the so-called alternative preference ballot (also referred to as the preference ballot, the alternative ballot, and sometimes the contingent ballot). The least complicated of these comes closest to duplicating the function of the run-off election. If there are more than two candidates, voters mark their ballots with their first preference and their second preference. In the first count, only first preference votes are scored. If one of the candidates receives a majority of these votes, he or she is declared the winner. However, if no candidate receives a majority on the first count, all candidates except the two with the highest number of first preference votes are declared defeated and their second preference votes are distributed to the two finalists as if they were first choices.

The purpose of a run-off election is to give those voters whose candidate(s) were defeated in the first round a chance to express their preference between the two most popular candidates. This preference ballot has the same effect.

A slightly more complicated version of the alternative preference ballot is the one used in Australia.² In this case, when any candidate fails to obtain a majority in the first count, the candidate with the fewest first preference votes is declared defeated and the second preference votes on that candidate's ballot are distributed to the remaining candidates. If this distribution fails to produce a majority winner, the remaining candidate with the fewest number of votes is declared defeated and the second preference indicated on that candidate's first preference ballots are distributed, and so on until a candidate receives a majority of the vote.³

In cases where there are only three candidates for a seat, both versions of the alternative preference ballot will produce the same outcome. In situations with more than three candidates, however, the Australian version may produce a different result from the simplified version. The potential difference is the treatment of the third-ranking candidate after the first count: with the simplified version, the third-ranking candidate is dropped from the running, while the Australian version gives that candidate a chance to win through the distribution of the lowest ranking candidate's second preferences. In a close contest among the top three candidates, the fourth's second-choice votes could easily result in victory for the candidate in third place after the first count.

²The alternative preference ballot is used to elect the lower house of the federal government and the lower houses of most of the state legislatures in Australia.

³It is not clear from the information at hand about the alternative preference ballot whether, in the case of four or more candidates, voters are to indicate a third, fourth, etc. preference, and if so, whose are to be counted at what point. Presumably preferences beyond first and second are asked for on the ballot, as it is possible that the redistribution of second preference votes only from defeated candidates will not produce a majority winner. Suppose, for example, four candidates are standing for election. In the first count (the count of first-choice votes), candidate A receives 10,000 votes, candidate B 9,000, candidate C 8,000, and candidate D 2,000. Candidate D is declared defeated. In the second count (the distribution of second preferences shown on first-choice ballots for D), candidate D's votes are evenly split between candidate B and C. This outcome fails to produce a majority winner. Therefore, candidate C is declared defeated. In the third count (the distribution of second preferences shown on C's first-place ballots), candidate C's votes are distributed evenly between A and B. Now, candidate A has 14,000 votes and candidate B has 14,000 votes, and 14,501 constitute a majority. At this point it would seem reasonable to conduct a fourth count that distributes the third choice indicated on ballots originally cast for C and D, and presumably that is the rule. However, we have not found a sufficiently detailed description of the system to be sure of this point.

Second-Choice Ballot

Another voting rule that allows second preferences to be scored when a clear majority does not result from the first count in a multi-candidate contest is the Bucklin rule, or "second-choice ballot." In this case, voters indicate their first and second preference on the same ballot, regardless of the number of candidates. In the absence of a majority winner of first choice ballots in the first count, all first and second choice votes are tallied in the second count for the two candidates receiving the most votes in the first count. The candidate receiving the highest number of first and second choice votes in the second count is the winner.

This system differs from the alternative preference ballot discussed above because the second choices on the ballots cast for the two top candidates also enter into the final scoring. In the alternative preference ballot (and the conventional run-off election), it is the second choice only of the voters for the defeated candidates that are decisive in the second and subsequent counts.

As a means of producing an acceptable compromise candidate, this system has much to recommend it. However, an objection to the scoring rule used above is that the most acceptable compromise candidate could easily be one excluded from the second count. It is possible, for example, that Senator Arliss Sturgulewski was the preferred compromise candidate in the 1990 Alaska general election for governor, but she would have been excluded if first and second preference votes were scored only for the two front runners. However, this objection could be met by scoring all of the candidates' first and second preferences in the second count. In this case, a candidate with strong second preference support who was not among the top two finishers could win.

Borda Count

An objection to all the foregoing preference voting arrangements is that second preferences have the same relative value as first preferences. This objection is dealt with by the voting scheme proposed in the eighteenth century by the French philosopher Borda. According to Borda's method, usually referred to as the Borda count, voters award points to the candidates according to their preference ranking. Thus, for example, in a contest with three candidates, the voters would assign three points to their favorite candidate, two to their second choice, and one to their third choice (or two, one, zero points, for example). The candidate with the highest total number of points is declared the winner.

It should be noted that the point system used can influence the outcome of the election. Lakeman and Lambert illustrate this characteristic of the Borda count with the example of three candidates whose first choice preferences among voters are as follows: candidate A, 14; candidate B, 2; and candidate C, 15. If candidate B were the second choice of voters for A and C (candidate Sturgulewski in our example above), and the Borda point scale were three, two,

Representative Kubina
October 25, 1991
Page 5

one, candidate B wins. But if the Borda point scale were a geometrical progression such as four, two, one, candidate C wins.⁴

Exhaustive Ballot Method

To round out this discussion of majoritarian, single-member constituency voting methods, mention should be made of the so-called exhaustive ballot. In this case, with n candidates, voters cast ballots for $n-1$ candidates, $n-1$ times, and the surviving candidate is the winner. Thus, for example, if there are four candidates standing for election, in the first round voters cast one ballot for three of the four. The candidate with the fewest votes is declared defeated. In the second round, with three surviving candidates, voters cast ballots for two. The lowest ranking is eliminated, and finally the voters again cast a ballot for one of the two remaining candidates. The candidate with the most votes wins. This method is impractical for legislative elections where voters would have to return to the polls again and again. However, it is an effective technique used at conventions, for example, to elect presiding officers or leaders of an organization.

Use of Preferential Ballots in the United States

We found little information about the use of preferential voting in the United States. The following statement is from a reference work: "Preferential voting has been tried on and off in the United States. At least 50 cities and counties have adopted it at one time, but very few continue to use it."⁵

Apparently a type of second-choice voting was used for primary elections in North Dakota for a few years in the early 1900s, and it was used in Wisconsin around the same time.⁶

I hope this information is helpful to you. We would happy to provide more detailed description and analysis of any of these systems if you wish to pursue the matter.

⁴Lakeman and Lambert, *Voting in Democracies*, op. cit., pp. 288 - 289.

⁵Michael D. Young, *The American Dictionary of Campaigns and Elections*, (New York: Hamilton Press, 1987), p. 202.

⁶Personal communication, Dan Rylance, Editorial Page editor, *Grand Forks Herald* (North Dakota), October 23, 1991. Mr. Rylance has promoted the concept of second-choice ballots for North Dakota primaries in recent newspaper columns.

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. HJR 13

Revision Date: _____
Title: Amendment to the Constitution-Gov. and Lt. Gov. receive 40% of votes for Election/Change of term
Sponsor: Representative Kubina
Requestor: House State Affairs

Department Affected: Office of the Governor-Elections
BRU: Division of Elections
Component: II - Primary and General Elections

COMPONENT SERIAL NO.

0	0	2	2
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	2.2*	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	2.2*	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	2.2*	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER FUND SOURCE:	0	0	0	0	0	0
TOTAL	2.2*	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year impact: 0

ANALYSIS: (Attach a separate page if necessary.) * This figure covers cost of inclusion of information about this issue in the Official Election Pamphlet as required by AS 15.58, and programming for Datavote counting of votes cast on this measure. However, only 4 measures can be printed on a single ballot card. Should this measure require printing of an additional ballot card, the fiscal impact would be: 53.4.

Prepared by: Elizabeth Zieqler, Deputy Director
Division: Elections

Phone: 465-4611
Date: 01/10/92

Approved by Commissioner: Charles E. Thruston
Agency: Office of the Governor

Date: 01/10/92

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., & Impacted Agency(ies).

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. HJR 13

Revision Date: January 9, 1992 Department Affected: Department of Law
 Title: "...amendments...requiring that candidates...receive 40% of the votes..." BRU: Legal Services
 Component: Operations
 Sponsor: Representative Kubina
 Requestor: House State Affairs COMPONENT SERIAL NO.

		9	3
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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
FUND SOURCE:						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached analysis.

Prepared By: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services I Date: January 9, 1992
 Approved by Commissioner: Richard I. Pegues / HOKI
Charles E. Cole, Attorney General
 Agency: Department of Law Date: January 9, 1992

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HJR 13

House Joint Resolution No. 13 proposes amendments to the constitution of the State of Alaska that would require that candidates for governor and lieutenant governor receive forty percent of the votes cast to be elected. The amendments would also change the term of office of the governor and lieutenant governor from noon on the first Monday in December following the governor's election to noon on the first Monday in January following the governor's election. Last, the amendments provides that if no candidate receives forty percent of votes cast for governor, a runoff election between the two candidates receiving the greatest number of votes cast shall be held within forty-five days of the first election. If the resolution is approved by a two-thirds vote of each house of the legislature, the proposed amendments would be placed before the voters at the next general election. The resolution, which asks the voters to consider requiring that future candidates for governor receive a minimum of forty percent of the votes to be elected, should not cause a fiscal impact for the Department of Law.

Alaska State Legislature



Representative Eugene Kubina

Chairman
State Affairs
Committee

Legislative Council

Transportation
Committee

During Session:
State Capitol
P.O. Box V
Juneau, Alaska 99811
(907) 465-4859

During Interim:
P.O. Box 2463
Valdez, Alaska 99686
(907) 835-2111

HJR 13: Sponsor Statement

HJR 13 proposes an amendment to the Constitution of the State of Alaska to require candidates for governor and lieutenant governor to receive at least 40 percent of the vote to be elected. At this time, our Constitution does not require a majority vote to elect a governor. However, I feel that it is important that people chosen to head state government be approved by a significant number of eligible voters. Our electoral system should provide the public with some assurance that their elected governor and lieutenant governor represent something close to a majority of the voters.

Over the past twenty years, no gubernatorial candidate has won the office with more than 50 percent of the vote. Based on this, I feel that the 40 percent plurality, which is a provision for municipal elections in Anchorage, is a reasonable and realistic electoral requirement.

— DISTRICT SIX —

• Chenega Bay • Chitina • Cooper Landing • Cordova • Hope • Moose Pass • Seward • Tatitlek • Valdez • Whittier •

Alaska State Legislature

Chairman
State Affairs
Committee

Legislative Council

Transportation
Committee



Representative Eugene Kubina

During Session:
State Capitol
P.O. Box V
Juneau, Alaska 99811
(907) 465-4859

During Interim:
P.O. Box 2463
Valdez, Alaska 99686
(907) 835-2111

HJR 13: Relating to Run-Off Election: Governor and Lt. Governor

Sponsor Statement

The Constitution of the State of Alaska has given the office of Governor tremendous strength and power. It is extremely important that the person chosen for this weighty position be selected and approved by a significant number of eligible voters. Our electoral system should provide the public with some assurance that their elected governor and lieutenant governor represent something close to a majority of the voters.

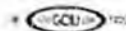
Due to the importance of this issue, I introduced a Constitutional Amendment, HJR 13, which would amend our Constitution by requiring candidates for governor and lieutenant governor to receive at least 45 percent of the vote to be elected. At this time, the candidate in the general election who receives the highest number of votes, regardless of percentage, is elected.

Only twice since Statehood has a governor been elected with over 50 percent of the vote. Since the time of Governor Egan, percentages have been declining and two governors have been elected with less than 39 percent of the vote. However, the average percentage in all of the gubernatorial elections has been 47.9 percent and therefore I feel that a 45 percent plurality is a reasonable and realistic electoral requirement.

With the continuing emergence of third parties in Alaska, there exists the possibility that under current law, a governor and lt. governor could be elected by less than one third of the electorate. Considering the fact that our Constitution greatly empowers those offices, it would be a tremendous disservice to the citizens of Alaska to allow persons to govern them who do not have a clear mandate. Our most powerful government officials should be elected with broad public support and a 45 percent requirement is a means to that end.

— DISTRICT SIX —

• Chenega Bay • Chitina • Cooper Landing • Cordova • Hope • Moose Pass • Seward • Tatitlek • Valdez • Whittier •



STATE OF ALASKA

OFFICE OF THE GOVERNOR

DIVISION OF ELECTIONS
P.O. BOX AF
JUNEAU, ALASKA 99811-0105
PHONE (907) 465-4611

August 2, 1991

The Honorable Eugene Kubina
Alaska State Legislature
P.O. Box 2463
Valdez, Alaska 99686

Dear Representative Kubina:

Thank you for writing the Division of Elections regarding HJR 13 which proposes an amendment to the Alaska Constitution requiring candidates for governor and lieutenant governor to receive 40 percent of the votes cast to be elected. The run-off election, according to HJR 13 would be held within 45 days of the general election.

Our staff has researched how many candidates in the past three general elections this would have affected if this law were in place then. We looked at all races for state senate, house, U.S. House and Senate and gubernatorial races. It appears that last year's gubernatorial race was the only time that candidates have received less than 40 percent of the vote and been elected. Of course, at some point there probably will be a state race with multiple candidates where this will occur again.

The division would have difficulty meeting other statutory deadlines if HJR 13 were passed in its current form. I have worked up two scenarios based on current statutes for your review:

1) Candidate A & B run for governor. "A" receives 39% and B receives 35%, two other candidates split the rest of the votes cast. According to AS 15.15.440, the division must begin the state ballot counting review not later than 11 days from the general election. Typically this review takes about two weeks. Then the election is certified. In 1990 the election was certified on November 23.

Now the division can begin working on the run-off election. According to AS 15.20.082 regarding absentee ballot preparation, overseas voters must have their ballots sent 60 days before the election. The division would need to print a special ballot immediately after the election certification. Domestic absentee ballots have to be received by the division within 10 days after the election. Overseas absentee ballots have to be received within 15 days after the election.

The Honorable Eugene Kubina
Page Two

In short, to allow for these timelines, the division statutorily needs a minimum of 90 days to prepare for an election and an additional 30 days to review the count and wait for absentee ballots to arrive.

2) The second example includes the above facts, but adds the factor of a recount. If it is a very tight race with three candidates, theoretically two candidates could be two or less percentage points apart. For instance, in a gubernatorial race, a losing candidate has three days after the state review to file an application for a recount, AS 15.20.430. The director must fix the date for the recount within three days of approving the application. The recount must be completed within 10 days after fixing the date, AS 15.20.480.

I estimate that the costs of conducting the run-off would be about \$ 1 million, similiar to those quoted for the presidential primary and a statewide recall election.

So as you can see, if this amendment passed, a considerable amount of statutory law would need to be addressed. As to an official position on the bill, the division is philosophically neutral. I would suggest that you ask the Office of the Governor Legislative Liaison to comment on the impact of the timelines on the operations of that office.

Please let me know if there is any additional information you need from the division. I am happy to work with you and meet with your committee this fall.

Sincerely,



Charlot E. Thickstun
Director

CET:eaz

cc: Legislative Liaison Office

HOUSE COMMITTEE REPORT

(7)

Date Referred: January 25, 1991

FURTHER REFERRALS:

Judiciary
Finance

Date of Committee Action: 3/16/92

The STATE AFFAIRS Committee considered:

HJR 13

HOUSE JOINT RESOLUTION NO. 13

RUN-OFF ELECTICN: GOV. & LT. GOV.

Proposing amendments to the Constitution of the State of Alaska requiring that candidates for governor and lieutenant governor receive 40 percent of the votes cast to be elected, and changing the term of office of the governor and the lieutenant governor.

RECOMMENDATIONS:

be replaced with CS HJR 13 (STA) the same title

a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Due)

fiscal impact Div of Elections

fiscal note(s) _____

zero fiscal note Dept. of Law

zero fiscal note(s) _____

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

	Check appropriate column:	Do Not Pass	No Rec	Amend
<i>Eugene A. Kukena</i>				
<i>Tommy</i>	<i>[Signature]</i>		<input checked="" type="checkbox"/>	
<i>[Signature]</i>				
<i>[Signature]</i>				

Eugene A. Kukena
Chairman's Signature

RECEIVED



Data Group Alaska, Inc.

107 Municipal Way

Juneau, Alaska 99801

NOV 7 1991

DIRECTOR OF ELECTIONS
(907) 586-2763

November 7, 1991

Elizabeth Ziegler, Deputy Director
Court Plaza Building, Suite 300
P.O. Box AF
Juneau, AK 99811-0105

Dear Elizabeth,

This letter is in response to your request to speculate on the capability of the current DATAVOTE system to tally votes in a manner similar to the method used in Australia.

The opinions expressed below are based on past experience and knowledge of DATAVOTE and an additional 4 hours of analysis. I believe my conclusions are accurate, but cannot be certain without considerably more analysis.

To restate the concept:

Constituents mark a ballot to indicate the order of preference for each candidate in a contest. After the number of first preference votes are tallied if any candidate has over 50% of the votes that candidate is the winner. If no candidate has over 50% of the votes, the candidate with the least number of first preference votes is eliminated and second preference votes of constituents that voted for the eliminated candidate become first preference votes. This process of elimination and redistribution of votes is repeated until a candidate has a majority.

To implement this concept using DATAVOTE software presupposes that punch cards are used. Votes on punch cards can only be indicated by the presence of a hole, so preferences could only be indicated on punch cards by repeating the candidate list as many times as the number of candidates. For example, in a 4-candidate race, the 4 candidates would have to be listed as a group 4 times.

To implement this concept requires votes to be tallied such that each constituent's preferences are maintained so they can be re-tallied, or to maintain a separate accumulator for each possible preference combination. The number of accumulators is equal to the factorial of the number of candidates. For example, a 4 candidate contest would require $4 \times 3 \times 2 \times 1 = 24$ accumulators while a 9 candidate contest would require $9 \times 8 \times 7 \times 6 \times 5 \times 4 \times 3 \times 2 \times 1 = 362,880$ accumulators.

It is not enough to simply count the number of votes each candidate received as a second preference, because the only second preference votes to be counted are those on ballots for whom a constituent's first preference has been eliminated.

The current DATAVOTE software does not provide for accumulating votes in this manner. After briefly explaining the concept to the foremost expert on DATAVOTE (Gerry Goldring) he said he thought DATAVOTE could handle the necessary accumulators, although "...it would take some fancy coding." I do not believe Mr. Goldring completely understood the concept when he offered this opinion. To utilize his expertise further, however, would require the Division of Elections to bring to current status a contingency consulting contract offered by Mr. Goldring. This would cost \$1000.00 (for the period May '91 to May '92) and provide up to 5 hours of support.

Even allowing for the remote possibility that DATAVOTE could be used to accumulate votes in separate accumulators as described above, the standard DATAVOTE reports could not be used to directly indicate a winner. To do so would require custom programming.

The additional programming and testing that would be required to implement this concept in vote counting would probably increase the cost of the contract by a minimum of 25%.

In the discussion above, I have addressed only whether it is possible for DATAVOTE to count votes using the Australian concept. It is unlikely that the DATAVOTE could be programmed to accommodate this concept. Even if it is possible, other issues would need to be resolved. Some such issues:

- Cross-check edits to ensure that preferences have been indicated accurately (i.e., confirm that a candidate has not been selected in more than one preference group).
- Additional costs for card stock, printing, and shipping
- Additional time required to count ballots (potentially 100-200%)
- Current statute would have to be significantly changed
- Education of the Alaskan constituency

At your request this opinion has been presented as briefly as possible. I hope it provides an adequate level of information for your consideration.

Sincerely,



Bill Diebels, Jr.
Manager, Systems Development
Data Group Alaska, Inc.



GREEN PARTY OF ALASKA

P. O. Box 141474 Anchorage, AK 99514-1474 (907) 278-7436

Ecology
Responsibility
Nonviolence
Base Democracy

Ecological Wisdom
Grassroots Democracy
Personal and Social Responsibility
Nonviolence
Decentralization
Community-based Economics
Postpatriarchal Values
Respect for Diversity
Global Responsibility
Future Focus/Sustainability

GREEN PARTY OF ALASKA COMMENTS ON HJR 13

Alaska is a multi-party state, and that fact has to be recognized. If the existing political parties are even mildly active, it would be difficult for any candidate to get 40%. This proposal almost guarantees runoff elections will be held, in addition to the primary and the general.

The 40% requirement favors the largest parties with the best access to money. Alaskans need to be innovative in their thinking and look at other people who have dealt with similar problems. In Australia, they have a priority voting system, where the voter prioritizes the candidates in the order of most favorable to least favorable. Voters get maximum participation in the voting process, because if their first priority vote doesn't get elected, the candidate with the least votes is eliminated and a second round of counting begins. This process complicates the counting of ballots, but a majority can be achieved through the process of prioritizing and elimination. The election has is held only once. We need to consider this type of solution to our own problems here in Alaska.

We suspect there would be significant opposition to HJR13, and the Green Party would be likely to oppose it as well. I am enclosing a capsule summary of election structures in Australia. The preferential voting system seems particularly appealing as a realistic solution to our own present problems.

A wholesale revamping of Title 15 is needed if we are going to avoid the chaos of the 1990 election. A law should be passed allowing candidate petitions to be turned in up until the date of the primary. At the present time the Division of Elections is proceeding under court order, and it really should be codified in law.



FACT SHEET on AUSTRALIA

Overseas Information
Branch

Department of
Foreign Affairs
and Trade

The Australian electoral system

Green Party

P.O. Box 141474, Anchorage, AK 99514

Under its Constitution adopted at the federation of six former British colonies in 1901, Australia's Federal Parliament is made up of the Sovereign, Queen Elizabeth II, represented by the Governor-General, and the House of Representatives (lower house) and the Senate (upper house), both directly elected.

In the years since federation all constitutional and judicial links between Australia and the United Kingdom government and courts have been cut, and the nation is a fully-independent member of the world community.

Her Majesty's formal title in Australia is "Queen of Australia".

Eligibility to vote

The country differs from most democracies in that all citizens over the age of 18 must have their names entered on the electoral roll of voters, and must vote in all general elections, by-elections and referenda on proposals to alter the Constitution.

The electoral roll is maintained and continually updated by a statutory authority, the Australian Electoral Commission, and Australians are required to ensure that they are enrolled in the electoral division in which they live.

The accuracy of the roll is checked by officials of the commission, and Australians may be fined up to \$50 for failing to vote or for refusing to enrol to vote.

Compulsory enrolment and voting were introduced in 1924, and are well-accepted by Australians. Voter turn-out in federal elections usually exceeds 95 per cent.

Until 25 January 1984, permanent residents of Australia who were citizens of other British Commonwealth countries were required to enrol and vote, and were entitled to nominate for election after three years' residence.

Now only citizens may nominate for election to the Australian Parliament, but resident non-citizens who were voters before 25 January 1984 still have that right.

The Parliament

The Australian constitution provides for a federal form of government with elements of both the United States and Swiss systems. It maintains the Westminster system of government responsibility to the legislature by requiring that ministers must be members of either the House of Representatives or the Senate.

The Sovereign's representative in Australia, the Governor-General, will by convention commission the leader of the

largest party or group of parties in the House of Representatives to form a government.

The term of the House of Representatives is three years.

The House of Representatives consists of 148 members, who each represent a single-member electoral district informally known as an electorate. Boundaries of these electoral districts are reviewed and voters redistributed every seven years to ensure that electoral districts within the boundaries of a state all have approximately the same number of voters.

In physical area they may vary enormously. The electorate of Kalgoorlie in Western Australia covers about 2 285 000 square kilometres, while the division of Phillip in suburban Sydney has an area of 17 square kilometres.

The boundaries of electoral districts do not cross state borders.

Electoral districts throughout the nation contain roughly the same number of electors, except in the small state of Tasmania, which is guaranteed a minimum of five seats in the House of Representatives under the terms of the constitution.

Because of that state's small population, each of the five electorates in Tasmania usually has an enrolment lower than the national average.

The Senate is sometimes known as the "States House", since each state, regardless of population, has equal representation there. Each of the states is represented by 12 senators, and both the Northern Territory and the Australian Capital Territory have two senators, making a total of 76.

Each senator serves a term of six years, but half of the house is elected every three years, giving continuity in the Senate.

However, under Section 57 of the constitution the Governor-General may dissolve both houses of the Australian Parliament, leading to a general election for all seats in the House of Representatives and all in the Senate as well.

Such elections, known as "double dissolutions", have been held in 1914, 1951, 1974, 1983 and 1987.

Preferential voting system

In House of Representatives elections, a system of preferential voting for each candidate, known as the alternative vote system, is used. The voter marks his or her preference for each of the nominated candidates whose names are printed on the ballot paper. The voter does this by placing a number, starting with the number "1" to indicate the first choice, opposite each candidate's name.



The voter must indicate his or her preference for each candidate or the vote is informal and will not be counted. Also the vote will be declared informal if there is a mark on the paper that may identify the voter.

Formal votes are counted to see whether any candidate has an absolute majority of first preference votes.

If no candidate receives an absolute majority, preferences are distributed. The candidate who receives the fewest first preference votes is eliminated. That candidate's votes are distributed according to the voter's second choice.

The process of eliminating lowest-placed candidates and distribution of preferences continues until one candidate has a majority of the formal votes cast.

This system of preferential voting ensures that a majority of voters have had some say in the election of the successful candidate even though the voter's first choice might not be elected.

Proportional representation

Proportional representation, the system of election used for the Senate, as its name implies means representation of the parties in proportion to their vote.

Under the system, as there are a number of vacancies to be filled, candidates do not need a majority of formal votes to be elected.

A candidate is elected when he or she receives a "quota" of the formal vote. This figure is arrived at by dividing the number of formal votes cast in the state the candidate seeks to represent in the Senate by a number equal to the number of vacancies being contested plus one, and increasing the quotient of that calculation, disregarding fractions, by one.

In an ordinary half-Senate election, where six vacancies are being contested, a candidate needs to obtain one seventh of the total formal vote, plus one, to be elected.

Senators representing the two territories stand for re-election every three years. Their quota is one-third of the total formal vote, plus one.

If a candidate receives a quota of first-preference votes, he or she is declared elected, and all his or her surplus votes, first-preference votes in excess of the quota, are transferred according to the voters' second and subsequent preferences.

This continues until all the vacancies have been filled by candidates receiving quotas.

Under this system of voting independents or smaller-party candidates have a far better chance of election than in lower house polls, and 50 or more names may appear on a Senate ballot paper. The full result may take weeks to establish.

Voters have a choice of entering the number "1" alongside the name of the

candidate of the first choice, and continuing through all candidates, as in House of Representative elections, or using a simplified system under which they indicate that they wish to vote according to preferences previously registered by parties and independents with the Australian Electoral Commission.

To nominate for election

Candidates must be Australian citizens, 18 years or over, who are correctly enrolled in the electoral district in which they live.

Members of state or territory legislatures may not nominate for election to the Federal Parliament unless they first resign their seats.

Members of the Australian Public Service or the defence forces must resign before nominating for election.

Undischarged bankrupts, people serving prison sentences of a year or more, or people holding an office of profit under the Crown are also prohibited from standing.

Candidates may be nominated by recognised political parties or, in the case of independent candidates, by six people entitled to vote in the division in which they are standing.

Senate candidates pay a \$500 deposit and House of Representatives candidates pay a deposit of \$250, which is returned if the candidate (or group, in the case of Senate elections) polls more than four per cent of the vote.

Public funding provisions

Political parties and independent groups registered with the Australian Electoral Commission are eligible for public funding to cover part of the expenses incurred in election campaigns, if they receive at least four per cent of the valid vote in the elections they contest.

To be eligible for registration and for funding, parties must be represented in the Federal Parliament, or the parliaments of a state or territory, or have at least 500 members. Registration may be rescinded if the party does not contest elections for four years.

Candidates endorsed by registered parties may have their party affiliation printed on the ballot paper next to their names.

In early 1989 the Electoral Commission had granted registration to 22 parties and independent groupings.

All political groups in Australia, whether or not they are registered for public funding, must report to the Australian Electoral Commission details of their electoral expenditure and gifts and donations they have received for electoral expenses.

In 1989 the amounts payable were 87 000 cents for each formal vote received in a House of Representatives election, and

43 522 cents for each vote in a Senate election held on the same day.

In an election for the Senate held on a different day, the rate was 65 283 cents.

These amounts are indexed to increases in the Australian Consumer Price Index.

All donations of \$1000 to parties, or \$200 to individual candidates, must be disclosed.

If parties or individuals contest consecutive elections, they must inform the commission of all gifts and donations for electoral purposes between the election campaigns.

Commercial media are required to disclose details of electoral advertisements they have carried.

Other political structures in Australia

Compulsory enrolment and voting are also the rule for elections to the parliaments of the six states, all of which were self-governing British colonies before federation in 1901.

The Queen is represented in each state by an appointed governor, whose duty it is to give formal assent to acts passed by the parliaments.

The states of New South Wales, Victoria, Tasmania, South Australia and Western Australia have two houses of parliament. Queensland abolished its upper house in 1922.

The two larger territories, the sparsely-populated Northern Territory and the Australian Capital Territory in which the federal capital, Canberra, is situated, are each governed by a single-chamber House of Assembly, with narrower powers than those of the state parliaments.

Some powers which are exercised by state governments are held by the Federal Parliament in relation to the self-governing territories.

Qualifications for voters and candidates for election to state parliaments and the territory Houses of Assembly are the same as those for federal elections.

In the mainland states, Queensland, New South Wales, Victoria, South Australia and Western Australia, members of parliament represent single-member constituencies.

Tasmania has a system of proportional representation where voters in that state elect seven members to each of five seats in the House of Assembly. The boundaries of the electorates coincide with the boundaries of the Federal electorates.

The third and lowest level of government is local government. The powers of local councils are controlled by the state parliaments and vary from state to state, although they do receive some direct funding from the federal government.

In some states, voting in local government elections is not compulsory.

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

240 Main Street, Suite 500
Juneau, Alaska 99801-2101

MEMORANDUM

April 7, 1992

SUBJECT: Sectional Analysis of CS HJR 13 (Judiciary)
(Work Order No. 7-LS0508G)

TO: Representative Gene Kubina
Attention: Annie Damitio

FROM: Robert Glennon Casey
Legislative Counsel

RGC 4-7-92

I. INTRODUCTION

You have requested a sectional analysis of CS HJR 13 (Judiciary). Although that resolution would itself be the authoritative statement of its contents, this interpretive analysis may furnish some guidance.

II. ANALYSIS

This resolution would place two proposed amendments to the state constitution before the voters. They concern the manner of electing the governor and the date on which an elected governor would take office.

Section 1's proposed amendment would require that a candidate for governor receive at least 45% of the votes in the general election in order to be elected to office. Furthermore, if no candidate in the general election received that many votes, then there would be a "runoff election" in which only the two top vote-getters from the general election were placed on the ballot. Thus the winner of the final election would necessarily receive at least 45% of the votes cast and in the case of a runoff election a majority.

Under current law, two rounds of elections - the primary election and the general election - are held to elect the governor. This proposed constitutional amendment would in some cases introduce a third round of elections to elect a governor, unless some amendment to the Alaska Statutes dispensed with primary elections.

Representative Gene Kubina

April 7, 1992

Page 2

Section 2's proposed amendment addresses commencement of an elected governor's term of office. A governor elected by means of the "runoff election" described in section 1 of this resolution would take office at noon on January 2 following the runoff election. A governor elected by means of the general election, however, would take office on the date currently provided in the state constitution - the first Monday in December following the general election. A governor's term of office would end on whichever date the following governor's term of office began.

Section 3 is the procedural language generally included in joint resolutions proposing constitutional amendments to the voters. It would place the two amendments proposed in this resolution on the ballot in the next general election.

RGC:gc
92-283.glc

STATE OF ALASKA

OFFICE OF THE GOVERNOR

DIVISION OF ELECTIONS
P.O. BOX AF
JUNEAU, ALASKA 99811-0105
PHONE (907) 465-4611

MEMORANDUM

DATE: October 29, 1991
TO: Representative Kubina
House Affairs Committee
FROM: Division of Elections
Office of the Governor
SUBJECT: Voting Statistics: 1958 - 1990

DATE/ GOVERNOR	VOTES CAST IN FAVOR	VOTES CAST	PERCENT CAST IN FAVOR
November 25, 1958 Egan	29,189	50,343	57.98025%
November 6, 1962 Egan	29,627	60,084	49.3093%
November 8, 1966 Hickel	33,145	67,361	49.20502%
November 3, 1970 Egan	42,309	82,405	51.34275%
November 5, 1974 Hammond	45,602	98,557	46.26967%
-- Recount	45,840	98,557	46.51115%
November 7, 1978 Hammond	49,580	129,705	38.2252 %
November 2, 1982 Sheffield	89,918	199,358	45.10378%
November 4, 1986 Cowper	84,943	179,555	47.30751%
November 6, 1990 Hickle	75,721	194,750	38.88112%

47.9 percent average

Alaska State Legislature

Legislative Research Agency



P.O. Box Y
Juneau, AK 99811-3100
Phone: (907) 485-3891
Fax: (907) 483-3351

February 5, 1991

MEMORANDUM

TO: Representative Fran Ulmer
FROM: Gordon S. Harrison, Director *(GSH)*
RE: Majority Vote Requirement for State Elections
Research Request 91.083

You requested information about an electoral system which would require winning candidates for state office to receive a majority of the votes cast, rather than a plurality, as is now the case under state law. You asked several specific questions about a majority vote system.

Your specific questions are addressed in the second section of this memorandum. The first section provides general background information about plurality and majority electoral systems. This background information is intended to provide a measure of overall perspective on the subject of majority vote requirements, as well as details that supplement the otherwise brief responses to your questions.

BACKGROUND INFORMATION ON PLURALITY AND MAJORITY ELECTION RULES

With a few exceptions, most elections in the United States today are decided by a plurality of the votes cast at the polls--that is, the candidate receiving the highest number of votes is the winner, whether or not that number of votes is more or less than 50 percent. However, some elections (a few primaries in southern states, some municipal elections, and the election of some state officers in Georgia and Arizona) are conducted under a majority vote rule--a winning candidate must garner at least one more than half of the votes cast.¹ These majority rule elections require a runoff to determine the winner when no candidate receives a majority of the votes in the first round.

¹In the literature on this subject, a plurality is occasionally referred to as a simple majority. However, a simple majority is 50 percent plus one. A special majority (also called a supermajority) is a larger, specified percentage of the vote, usually two-thirds or three-fourths of the ballots cast.

Leg. Research

Plurality Election Systems

Despite the political ethos in the United States of "majority rule," we elect by a plurality system most of our public officials (and virtually all of our state officials). This voting system is typically used in combination with the single-member district method of representation, and the term "plurality system" is commonly understood to mean a plurality/single-member district system.

When only two candidates stand for election to an office, the plurality rule has the same result as a majority rule. But when more than two candidates vie for office, the plurality rule may result in the election of a candidate who does not receive a majority of the popular vote. The greater the number of candidates, the more likely that this will be the outcome. In a crowded election (as in many primaries, for example), the winner may receive less than 30 percent of the vote.

Furthermore, under the plurality rule in multicandidate elections, candidates with extreme positions occasionally prevail. This may occur if several candidates split the vote of the preponderance of the electorate which occupies the middle of the political spectrum. While this outcome is not necessarily the tendency in multicandidate elections conducted under the plurality rule,² its periodic occurrence usually attracts widespread attention and commentary.

Theorists analyze the democratic characteristics of electoral systems in terms of their relative probability of producing a winner who could defeat all of the other candidates in "pairwise" contests. This winner--called the "Condorcet" winner in the theoretical literature--is the candidate who is acceptable to the greatest number of people. The plurality rule is less likely than a majority vote system to produce the Condorcet winner in a multicandidate contest, and the more candidates in the contest, the less likely is the plurality voting method to produce the Condorcet winner.³

In view of its defects in multicandidate elections, why is the plurality rule used so extensively in the United States? The answer to this question may have many facets, but probably the most important one is to be found in the correlation that has long been recognized to exist between the plurality rule

²One such outcome to attract wide attention was the victory of conservative Democrat Mario Proccacino in the 1969 New York City primary. Proccacino won by a 33 percent plurality, and the remainder of the vote was split among four more liberal candidates. (In the general election, Proccacino was defeated by John Lindsay, who ran as a third-party candidate.)

³See P.C. Fishburn and W. Gehrlein, "An Analysis of Simple Two-stage Voting Systems," *Behavioral Science*, Vol. 21 (1976), and S. Merrill, "A Comparison of Efficiency of Multicandidate Electoral Systems," *American Journal of Political Science*, Vol. 28 (1984).

and a stable, two-party government. The plurality rule (together with single-member districts) has its origin in English political history, and it spread to this country in colonial days. In contrast to this Anglo-American system, the majority voting rule developed on the continent (notably in France), where it was widely adopted along with the system of proportional representation.

Proportional representation is the allocation of legislative seats among parties in direct proportion to the electoral strength of each party. Under this system, a minor party with, say, 15 percent of the popular vote, will acquire approximately 15 percent of the legislative seats. Proportional representation contrasts dramatically with the single-member district system, which is biased in favor of the majority party in the allocation of seats. While the strength of the bias depends on the geographical distribution of partisan voters, the single-member district ("winner take all") system usually results in a substantial over representation of the majority party in the legislative body. This bias of the system works to the detriment of the second strongest party, however it is devastating to third, fourth, fifth and whatever other minority parties may aspire to power.

Also, the plurality rule is thought to bolster the two-party system by encouraging voters to gravitate toward the two candidates most likely to prevail. Because the candidate who attracts the most votes takes the seat, votes are "wasted" if they are cast for a minority party. The plurality rule encourages bargaining among factions and various interests before the election in order to advance a candidate with the broadest possible electoral appeal; hence the tendency of the plurality rule to deter entry by third candidates (and third parties), and to limit contests to two serious candidates.

Political scientists and practical people of politics have long noted the relative stability of the political systems in America and Great Britain compared with those of major continental countries such as France and Italy. A dominant feature of the former is a competitive two-party system that accommodates the vast majority of voters; and a dominant feature of the latter is a highly fractured electorate organized in numerous small parties that coalesce into unstable ruling coalitions. The different electoral methods--the plurality/single-member district system on the one hand and the majority/proportional-representation system on the other hand--came to be regarded as largely responsible for the different party systems. Indeed, so convincing has the correlation been between the plurality/single-member election method and two-party systems that the relationship enjoys the status of a "law" of political science.⁴

Thus, the popularity and longevity of the plurality rule in the United States, despite its undemocratic idiosyncrasies, has to do in large part with its

⁴William H. Riker, "The Two-party System and Duverger's Law: An Essay on the History of Political Science," *American Political Science Review*, Vol. 76 (1982).

venerable Anglo-American history and its perception as a bulwark of the two-party system. However, use of the majority voting rule, in association with the single-member district rather than proportional representation, is not unknown in the United States.

Use of Majority Rule in U.S. Elections:

The majority vote rule (coupled with the traditional single-member district method of representation) is currently used in the primaries of nine southern states, in some municipal elections, in the general elections for state officials in Georgia and Arizona, and in the unique "open election" system of Louisiana.

Southern Runoff Primaries

Nine states--Alabama, Arkansas, Florida, Georgia, Mississippi, North Carolina,⁵ Oklahoma, South Carolina and Texas--require party candidates to be nominated in a primary election by a majority of the votes cast. If no candidate receives a majority in the primary, a runoff primary is held between the two candidates with the highest number of votes. The runoff occurs three to four weeks after the primary.⁶ A majority vote is not required in the subsequent general election in these states (except in Georgia, which is discussed below).

All of the states with runoff primaries have been dominated by the Democratic party since the collapse of the Republican party in the south after the Civil War. In these one-party states, the runoff primary was adopted to insure that the Democratic nominee had the support of the majority of the party, because for all practical purposes the primary was tantamount to the general election.⁷ That is, because there would be ineffective Republican opposition in the general election (if any at all), the decisive election was the primary, which was often crowded with candidates.

⁵In 1989 North Carolina lowered to 40 percent the portion of the vote that a candidate may receive to be elected and therefore avoid a runoff.

⁶Council of State Governments, *Book of the States 1990*, Table 5.3, p. 236.

⁷This is the conventional explanation of the southern runoff primary. However, it has also been alleged that the runoff primary was contrived as a means of excluding blacks from elective office. This is discussed below under the heading "Majority Vote Systems and the U.S. Voting Rights Act."

Municipal Runoff Elections

A number of municipal election codes in the United States, particularly in cities where local elections are conducted on a nonpartisan basis (and which involve no primary), require the successful candidates for certain offices to receive a majority vote. We could not obtain data (or even an informed estimate) on the number or proportion of U.S. cities that require a majority vote. However, several large cities, including New York City, do so.⁸

In Alaska, Title 29 of the state statutes requires a runoff in municipal elections if a candidate for mayor, assembly or school board fails to obtain 40 percent of the vote in the general election. However, municipalities may opt out of this requirement by ordinance.⁹ Municipalities with home-rule charters may choose their own election rules. The home-rule Municipality of Anchorage, for example, requires a runoff for mayor if no candidate receives 40 percent of the vote in the general election.

General Election Runoffs for State Offices

In the early history of this country, several state constitutions--primarily those of the New England states--required the governor to be elected by a majority of the popular vote. If a candidate failed to obtain a majority of the vote cast, the state legislature decided the election.¹⁰ These laws have been repealed, with one exception. The Vermont Constitution still requires the

⁸A study of minority candidates in municipal runoff elections used data from Dallas, Fort Worth and San Antonio, Texas. Arnold Fleischmann and Lana Stein, "Minority and Female Success in Municipal Runoff Elections," *Social Science Quarterly*, Vol. 68, No. 2 (1987). In Georgia, about half of the 550 municipalities elect officials under the majority rule (personal communication, February 1, 1991, Jeff Lanier, director of Elections Division, State of Georgia).

⁹Alaska Statute 29.29.060. The Matanuska-Susitna Borough assembly opted out of the provision in 1989. The impetus for doing so in that case came from the local municipal administrators. Voter turnout in the runoffs was low, and the second election was an administrative burden (personal communication with Linda Dahl, clerk of the Matanuska-Susitna Borough, January 24, 1991).

¹⁰See the discussion in Robert A. Diamond, *Guide to U.S. Elections*, Congressional Quarterly, Inc. pp. 363-364. During the 19th century, many gubernatorial elections were decided by the legislatures in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, and Georgia. Apparently many state constitutions continue to provide for the legislative election of executive officers in the case of a tie in a general election conducted under the plurality rule. See the U.S. Supreme Court decision in *Fortson v. Morris*, 379 US 231, n.3.

positions of governor, lieutenant governor and treasurer to be filled by an election in the General Assembly when no candidate for these offices receives a majority of the popular vote in the general election.¹¹

Georgia is the latest state to drop a constitutional provision for the legislative election of governor. There, the change resulted from a furor surrounding the 1966 election by the General Assembly of Lester Maddox.¹² The new law calls for a popular runoff if a candidate does not receive a majority of the votes cast. The majority vote requirement applies to all elected state officials in the executive, legislative and judicial branches. The runoff is to be held on the third Tuesday following the general election. Only those registered to vote in the general election are entitled to vote in the runoff, and only those votes cast for the two candidates whose names appear on the ballot are counted.¹³

According to the Georgia state election office, general election runoffs are rare, but primary election runoffs are common.¹⁴ Currently, the Georgia attorney general's office is defending the state's runoff provisions from allegations that they deny blacks full participation in the electoral process

¹¹Vermont Constitution, Section 47. In 1976, the General Assembly, pursuant to this provision, elected lieutenant governor the candidate who received the second highest vote in the general election (the difference between the highest and second highest number of votes was 1,100). A controversy erupted, but efforts to amend the constitution came to nothing.

¹²In the 1966 gubernatorial election in Georgia, votes cast for write-in candidate Ellis Arnall were enough to deny Democrat Lester Maddox and Republican Howard Calaway a majority. The General Assembly elected segregationist Maddox governor, even though he received the second highest number of votes in the general election. The legislative election was contested in federal court, and the U.S. Supreme Court upheld the state constitutional provision. (The case, *Fortson v. Morris*, 385 US 231, is analyzed in Richard J. Bryan, "Legislative Election of a Governor", *North Carolina Law Review*, Vol 46, 1967.)

¹³Georgia Statutes 21-2-501(a) states in part: "Except as otherwise provided in this Code section, no candidate shall be nominated for public office in any primary or elected to public office in any election unless such candidate shall have received a majority of the votes cast to fill such nomination or public office."

¹⁴Jeff Lanier, director of the Election Division, Office of the Secretary of State, Georgia, said that there has not been a general election runoff in Georgia since the time he assumed his position in 1982, and he personally does not remember a general election runoff since he began to vote in 1972. Personal communication, February 1, 1991.

Representative Ulmer
February 5, 1991
Page 7

(this issue is discussed below under the heading "Majority Vote Systems and the U.S. Voting Rights Act").

Arizona is the only other state which requires a majority vote in statewide general elections.¹⁵ This provision, which applies only to the executive offices of governor, secretary of state, attorney general, and superintendent of public instruction, was ratified by the voters as an amendment to the state constitution in 1988. It represented a political reaction to Arizona's unhappy experience with Governor Evan Meacham, who was elected without a majority of the vote in 1984 and later removed from office by impeachment.

The Arizona constitutional provision states, in part: "If no person receives a majority of the votes cast for the office, a second election shall be held as prescribed by law between the persons receiving the highest and second highest number of votes cast for the office."¹⁶ A law implementing this provision was not adopted prior to the general election in November 1990. In the contest for governor, votes cast for a write-in candidate denied a majority to either of the major party candidates. It was necessary for the Arizona legislature to convene in special session to adopt legislation to provide for the runoff election. The runoff is scheduled for February 26, 1991.

Louisiana's "Open Election" System

In 1975, Louisiana's legislature adopted a method of electing state officials that is unique in the United States. It is commonly referred to as the "open primary" system in Louisiana, but it is not a conventional open primary (nor is it a blanket primary) system. Rather, it is best described as an "open election" system.

In Louisiana, all candidates from all parties compete in the first round of a runoff system. A candidate who receives a majority of the vote in the first round wins the seat. A runoff is held between the two candidates receiving highest and second highest number of votes in those contests which did not produce a majority-vote winner in the first round. Note that the first round is not a primary election in which party candidates are nominated. The two

¹⁵In 1969 the Arkansas legislature adopted a majority vote requirement for the general election in contests for governor and four other elective executive officers. However, the Arkansas supreme court struck it down on the grounds that it conflicted with a provision in the state constitution which declares that the election of these officers shall be determined by "the highest number of votes", which refers to a plurality (*Rockefeller v. Matthews*, 459 S.W. 2d 110).

¹⁶Arizona Constitution, Article V, Section 1.B

candidates who advance from the first round to the runoff may be from the same party.¹⁷

Analysis of Majority Vote Rule

Requiring candidates to receive a majority of the votes cast at an election has a strong appeal on the basis of fundamental democratic values. On the other hand, the majority vote rule may also have undesired political and administrative impacts on the electoral process. This section discusses the case for and against a majority vote rule. It should be noted in passing, however, that the plurality and majority vote rules are not the only, and may not be the most efficient, methods of electing public officers. There are numerous alternative voting schemes.¹⁸ In Australia, for example, the alternative preference ballot is used, in which voters rank the candidates. In this scheme, when a candidate fails to obtain a majority on the first ballot, the weakest candidate is eliminated and the votes he received are distributed to the other candidates according to the second preference on the ballot. This process of redistributing votes continues until a candidate obtains a majority.

The Arguments for a Majority Vote Rule

In political environments where third parties or single-issue groups are active, a majority vote system is more likely than a plurality system to produce public officials who have broad public support. Under a majority vote rule, fringe political candidates are unlikely to be elected. It gives to those who supported an "also ran" candidate the opportunity to express a preference

¹⁷Your research request expressed an interest in a system in which "... any candidate who receives an absolute majority of the vote cast in the primary election [is] declared the winner; no general election is held for that office." A provision of this kind could be grafted on Alaska's existing blanket primary system. In this case, if a candidate did not receive a majority of the vote, the two party nominees with the highest number of votes (presumably the Democrat and Republican) would advance to the general election. However, this is not how the Louisiana system works.

¹⁸A wide variety of election schemes have been devised, some of which have found practical application and some of which remain theoretical. See, for example, Jeffrey T. Richelson, "Running Off Empty: Run-off Point Systems," *Public Choice*, Vol. 35, (1980). See also, Joseph F. Zimmerman, "The Single-Member District System: Can it Be Reformed?," *National Civic Review*, Vol. 70, No. 5 (1981).

for one of the two remaining candidates. In theoretical terms, the majority rule has a higher probability of electing the Condorcet winner.¹⁹

It is argued that a majority rule can promote political consensus in jurisdictions that have numerous, independent factions. It does so through the bargaining process that occurs after the first round election. The top two candidates who advance to the runoff must seek support from those who did not initially support them. They must compromise with other factions and interests to build a winning coalition.

Also, in these fractured political settings, the official who wins with a majority vote acquires legitimacy that a plurality vote cannot provide. One commentator observes: "There may be no 'general will', but a majority's will is a closer approximation than a plurality's, and thus more able to confer a mandate, a sense of the right of the chosen representative to act."²⁰

Criticisms of the Majority Vote Rule

A practical criticism of runoff elections is that generally fewer voters turn out at the second ballot. Studies of southern primaries confirm that voter turnout declines in runoff elections.²¹ Because of this drop-off in voter participation between the first and second rounds, the runoff may not be more likely than a plurality election to produce a winner with broad public support and confer legitimacy. For example, a 45 percent plurality in the first round may amount to more votes than a 51 percent majority in the runoff if the number of voters declines sufficiently between the two elections.

¹⁹There is no guarantee that the majority vote system will produce the Condorcet winner. That it may not can be illustrated by reference to the 1990 gubernatorial election in Alaska. The following scenario is only speculative, but it seems plausible on the basis of opinion polls published during the campaign. If paired in dual contests with Walter Hickel and Tony Knowles, Arliss Sturgulewski wins. She is, therefore, the theorists' Condorcet winner and presumably has the broadest electoral support of the three candidates. But in a plurality contest involving all three, Walter Hickel wins (this was the outcome of the November general election). If a majority vote rule required a runoff, Hickel would have been paired with Knowles, and Knowles would have won (this would be the outcome if more Sturgulewski voters went to Knowles than to Hickel). If nothing else, this scenario illustrates that the rules under which an election is conducted can affect the outcome of the election.

²⁰Charles Krauthammer, "Runoff Run-in," *The New Republic*, May 28, 1984, p. 13.

²¹Stephen G. Wright, "Voter Turnout in Runoff Elections," *Journal of Politics*, Vol. 51, No. 2 (1989).

Indeed, even when voter participation in the runoff does not decline precipitously, the distinction between the number of votes cast for a winner under a plurality rule and under a majority rule may pale in significance when the number of the voters under either system is compared with the number of registered voters or the number of eligible voters (for example, when only a quarter of the eligible voters go to the polls, a majority victory for a candidate may not represent a significant difference from a plurality victory when both are viewed as a percentage of potential voters).

Also, as a practical matter, elections are expensive to run, both for the candidates who must campaign and the government that must mobilize the election machinery. A runoff election may seem like a very expensive proposition, especially if one must be held to resolve the election of a single position over which there is little voter excitement (such as the insurance commissioner, for example). Also, a runoff presents other administrative problems, such as providing adequate opportunity for absentee voters to participate.

Politicians and political scientists have long speculated that the majority rule tends to encourage the candidacy of people representing third parties and miscellaneous political factions. The hypothesis is that the majority rule fosters multicandidate contests because it makes it possible for weak candidates to parlay a second place showing in the first round into a victory in the runoff. A prominent political scientist describes the rationale of the hypothesis:

In the runoff majority system a candidate who initially has the second most votes can ultimately win, provided the supporters of eliminated candidates vote for her or him at the second ballot. Hence, if a group of politicians can see a chance to come in second or third, it is often worthwhile to form a new party.²²

In recent years, theoretical studies have demonstrated the logic of this longstanding hypothesis, and empirical studies of runoff and non-runoff primaries confirm that runoff primaries tend to attract more contestants. While local political history and circumstance can help explain the correlation, it seems to be a persistent characteristic of majority vote systems. Whether this characteristic should be considered a shortcoming of

²²Riker, "The Two-party System and Duverger's Law," p. 759.

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the system is not clear, in view of the countervailing tendency of majority runoff systems to be more effective in preventing a third party victory.²³

The virtue of the majority vote system, which is the ability it gives to a centrist coalition to rally behind a consensus, mainstream candidate, has also led to its harshest criticism, namely that it serves as a convenient and effective method of excluding blacks and other minorities from office. Black politicians in the south have attacked runoff primaries as contrivances to keep blacks from being elected. They argue that black candidates can often win a plurality of votes in the first ballot, but that white voters close ranks behind the white candidate in the runoff (even if it means voting for a Republican). Similar complaints about the discriminatory effects of a runoff requirement have been voiced by female candidates.

These criticisms of the majority vote rule have spawned a number of academic studies that investigate the political fortunes of black, hispanic and female candidates in southern runoff elections. The studies have generally provided little support for the discrimination thesis.²⁴ Nonetheless, many minority politicians believe the system is biased in its result and biased in its intent, and the U.S. Department of Justice has viewed majority systems with skepticism under the U.S. Voting Rights Act of 1965.

Majority Vote Systems and the U.S. Voting Rights Act of 1965

Section 2 of the Voting Rights Act of 1965 prohibits any election procedure "that results in an abridgement of the right to vote on account of race." The act was amended by Congress in 1982 to make clear its application to

²³See Stephen G. Wright and William H. Riker, "Plurality and Runoff Systems and Numbers of Candidates," *Public Choice*, Vol. 60. (1989). This study concludes that plurality voting systems in general may be more efficient in producing Condorcet winners than majority systems because of the tendency of the latter to entice more contestants into the election. That is, all things being equal, plurality systems are less efficient than majority systems. But because majority systems attract more candidates, and because the efficiency of any system declines as the number of candidates increases, the plurality system may over the long haul produce more Condorcet winners than the majority system.

²⁴See for example, Charles S. Bullock and Lock K. Johnson, "Runoff Elections in Georgia," *Journal of Politics*, Vol. 47 (1985). The authors conclude: "While the small number of cases makes our conclusions tentative, there is no support for the minority-disadvantage myth. Blacks and women who led primaries do at least as well as white males. To the extent that runoffs disadvantage minorities, it is blacks and women running second in the primaries who have a harder time--but they would also lose under a plurality system." (p. 945).

electoral procedures that result in discrimination whether or not they were adopted with the intent to discriminate. In congressional hearings at the time, the U.S. Department of Justice indicated that majority vote procedures often had a discriminatory impact (as did at-large elections, high fees and bonding requirements, numbered posts, staggered terms, full slate voting requirements, residency requirements, annexations and retrocessions, incorporations, and malapportionment and gerrymandering).²⁵ Between 1965 and 1981, the U.S. Justice Department, acting under the Voting Rights Act, objected to 43 attempts by local governments to adopt general election runoffs (out of a total of 151 objections filed against municipal election procedures).²⁶

In 1990, the U.S. Justice Department brought suit against the primary and general election majority vote requirements in Georgia. The American Civil Liberties Union brought a similar suit on behalf of several black candidates. These suits have been consolidated into a single proceeding in federal court. The Georgia attorney general is defending the legality of the majority vote provisions.²⁷

Political jurisdictions with a significant racial minority must receive "preclearance" under Section 2 of the Voting Rights Act of proposed changes in election procedures. The U.S. Justice Department must rule on the proposed changes before they may be implemented. It is interesting to note that the legislation recently adopted in Arizona to carry out the runoff election for governor was successfully precleared. Thus, not all majority vote schemes are prohibited, only those deemed to be discriminatory.

An analysis in 1986 of the legality of runoff elections under Section 2 of the Voting Rights Act concluded:

Section 2 of the Voting Rights Act steers a careful middle course, allowing most jurisdictions to continue to use runoffs to build political consensus while striking down those that result in significant racial discrimination. The Act mandates a broad but rigorous assessment of each challenged procedure. A court must consider whether the "totality of circumstances" indicates that a runoff is depriving minorities of the right to participate fully. However, a court should only invalidate

²⁵See U.S. House of Representatives, 97th Congress, *Voting Rights Extension*, Report No. 97-227 (1981), p. 18.

²⁶U.S. Senate, 97th Congress, *Voting Rights Act*, Hearings before the Subcommittee on the Constitution, Committee on the Judiciary; Report No. J-97-92, pp. 1746-1759.

²⁷An informative article about this case is Ellen Perlman, "Civil Rights Leaders Seek to Overturn Georgia Primary System," *City and State*, May 21, 1990.

a runoff where there is evidence of significant discrimination.²⁸

QUESTIONS POSED IN RESEARCH REQUEST

This section addresses the several specific questions you asked.

Would Adoption of a Majority Vote Rule Require A Constitutional Amendment?

In Alaska, a majority vote requirement for governor and lieutenant governor would require a constitutional amendment. Article III, Section 3 of the Alaska Constitution states: "The governor shall be chosen by the qualified voters of the State at a general election. The candidate receiving the highest number of votes shall be governor." This means that the candidate receiving a plurality of the vote carries the election. Because the lieutenant governor is elected with the governor (Article III, Section 8), the plurality provision also applies to this office.

However, a majority vote rule could be adopted for legislative members by statute. Article II, Section 3, states merely that "Legislators shall be elected at general elections." There does not appear to be any other constitutional provision or common law principle that would limit the legislature's power to prescribe a majority vote requirement.²⁹

Are Alaska's Election Laws Subject to "Preclearance" Under the Voting Rights Act?

Yes. However, not readily apparent are the factors the U.S. Justice Department would use to evaluate the potential discriminatory effects of a statewide, majority vote requirement. One important factor might be the position taken by the Alaska Federation of Natives, and other Native Alaskan groups, on the majority vote issue.

What Procedures Should Govern Runoff Elections, Based on the Experience of Other States?

There is so little experience anywhere with general election runoffs at the state level that this question is difficult to answer. With respect to the

²⁸Matthew G. McGuire, "Assessing the Legality of Runoff Elections Under the Voting Rights Act," *Columbia Law Review*, Vol. 86, (1986), p. 887.

²⁹Memorandum from John B. Gaguine, Legislative Council, to Gordon S. Harrison, January 31, 1991.

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question of when a runoff should be held, it seems evident that there are reasons why a runoff should be held as soon after the general election as practical. A new governor needs as much transition time as possible to prepare for the legislative session. A late runoff would shorten this transition time. Runoff candidates should not be required to bear the financial burden of a third campaign. However, sufficient time between the general and runoff election must lapse to fully inform and prepare the electorate for the runoff, to print and distribute ballots, and reactivate the local election machinery. A minimum of three weeks from the general election is probably necessary to accomplish these tasks.

How Many Elections in Recent Alaska History Would Have Required a Runoff?

In six of the ten general elections since statehood, the successful team of candidates for governor and lieutenant governor was elected by a plurality. They were elected four times by a majority. The smallest plurality was received by Governor Hammond in 1978 (38.2 percent). If the threshold for triggering a runoff election had been 40 percent of the vote (see below), two runoffs would have been held: in 1978 and in 1990, when Governor Hickel obtained a plurality of 38.8.

Occasionally a member of the state legislature is elected by a plurality rather than a majority. In 1990, for example, state Representative Tom Moyer was elected with 48.7 percent of the vote; in 1986 Senator Uehling received 49.9 percent, and Representative Swackhammer received 41.7 percent.

It is interesting to note that candidates for legislative seats often run unopposed in the primary. Also, candidates in multicandidate primary contests frequently obtain a majority in the primary. In the August 1990 primary, for example, seven candidates ran unopposed (i.e., they faced no opposition from their own party and no candidates ran from the other party) and received virtually 100 percent of the vote cast. Thirty-one candidates who faced opponents in their own party and/or another party obtained a majority of the votes cast. Thus, changing the law to consider a candidate the winner of the general election who receives a majority of the votes cast in the primary would affect a substantial number of legislative races (refer to the discussion of Louisiana's open election system, and footnote 17, on page 8).

How is a Majority Assured in the Runoff?

Runoff elections should be conducted with the stipulation that the only valid votes are those cast for the two candidates printed on the ballot.

Georgia statutes (21-2-501) provide that ". . . only those votes cast for the persons designated . . . as candidates in such run-off election shall be counted in the tabulation and canvass of the votes cast." The recently

adopted Arizona law states simply: "A write-in candidate is not permitted in a second election" (321.16.D).

Why Do Some Jurisdictions Require a Runoff if No Candidate Receives 40 Percent of the Votes?

A 40 percent threshold, such as that provided in AS 29.29.060, has been adopted in a number of jurisdictions as a means of avoiding the more egregious undemocratic outcomes that are possible under the plurality rule, while preserving many of the political and administrative advantages of a plurality system. That is, a runoff is thought to be necessary to build political consensus if a candidate is not successful in polling over 40 percent of the vote at the general election. The voters who cast ballots for a third (or fourth) candidate are considered numerous enough to warrant the expense of a runoff to give them a chance to express a preference for the two leading candidates.

It is important to note that in very close contests, just a few write-in votes (or just a few votes for a minor party) can deny a candidate a majority of the total votes cast. For example, in Alaska in 1966, Walter Hickel garnered 49.996 percent of the votes in a contest with one other serious candidate.³⁰ Most people would agree that runoff elections in such cases do not serve a useful political purpose.³¹ Therefore, a threshold somewhere below 50 percent is established to trigger a runoff.³²

Will a Majority Rule Tend to Attract More Candidates?

Studies and the theoretical literature suggest that elections conducted under a majority rule tend to have more candidates than elections conducted under a plurality rule. The additional candidates are likely to represent fringe (noncentrist) political causes and interests. However, local political circumstances will amplify or moderate this tendency to some extent. Therefore, it is not readily apparent how a change to a majority rule in Alaska might affect the number of candidates running in various races.

If you have any questions, please contact this agency.

³⁰In the contest for governor and lieutenant governor in 1966, Egan/Wade received 32,065 votes; Hickel/Miller 33,145 votes; and Grasse/Saupe 1,084.

³¹Arizona's first runoff under its new majority vote rule was required because a relatively few write-in votes narrowly denied either of the major party candidates a majority victory. According to Mr. Rich Bitner, research staff with the Arizona Senate, many Arizonans are now questioning the wisdom of their new "50 percent plus one" law.

³²Candidates in primaries in South Dakota and Iowa must poll over 35 percent of the votes or face a runoff election. See also "Why 30% (but not 40%) Mayors?" *New York Times*, August 15, 1984.

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MEMORANDUM

TO: Representative Betty Bruckman

FROM: Gordon S. Harrison, Director 

RE: Federal Requirements for the "Submariners' Ballot" (AS 15.20.082)
Research Request 91.257

You asked about AS 15.20.082 of Alaska's election code which calls for ballots to be mailed 60 days prior to an election to overseas absentee voters (so-called "submariners' ballots"). Specifically, you asked if the 60-day provision is required by federal law.

Federal law does not require states to make a special effort on behalf of overseas absentee voters. However, federal law recommends that states do so. Twenty states have adopted provisions similar to AS 15.20.082, and many of these state laws require election officials to mail ballots earlier than 60 days prior to the election (e.g., 90 days in Connecticut, 180 days in Georgia).

The federal law in question is the Uniformed and Overseas Citizens Absentee Voting Act of 1986 (42 USC 1973ff).¹ Paragraph 3 of the measure states, in part: "To afford maximum access to the polls by absent uniformed services voters and overseas voters, it is recommended that the States. . . (7) assure that absentee ballots are mailed to absent uniformed services voters and overseas voters at the earliest opportunity." A copy of the act is attached to this memorandum.

Connecticut was the first state to enact special absentee voting legislation for servicemen, in this case for submarine crews who operated from a base there (hence the popular name of "submariners' ballots"). According to Mr. Henry Valentio, who administers the federal law as head of the Office of Federal Voting Assistance within the Office of the Secretary of Defense [(703) 695-0663], twenty states have enacted special absentee voting laws for state residents who are overseas at election time. Most states require ballots to be mailed 60 days or more before an election. Not unusual is Alaska's provision for a "party ballot" to be offered when all of the candidates for the election have not been certified at the time the ballots are mailed. Other states give the voters an opportunity to cast a ballot for party nominees when the names of candidates are not known at the time of the mailing. Also, write-in votes for candidates whose names have not yet been certified are allowable.

I hope this is the information you were looking for. Mr. Valentio could probably answer any remaining questions you have, and we are available to seek additional information as well.

Attachment

¹This act supercedes the Overseas Citizens Voting Rights Act of 1975 (42 USC 1973dd).

of
 icer of each State shall provide public notice, calculated to
 capped voters, of the availability of aids under this section,
 n 1973aaa-6 of this title, and the procedures for voting by
 er than general public notice of registration and voting in

28, 1984, 98 Stat. 1679.)

Statutory Notes

pplicable to elections
 985, see section 9 of
 a note under section

legislative history and
 see 1984 U.S.Code
 301.

Library References

Civil Rights ⇐ 9.15, 9.16
 Elections ⇐ 201.
 C.J.S. Civil Rights §§ 60, 66
 C.J.S. Elections § 195
 C.J.S. Labor Relations § 7

ment

ry or Injunctive relief

l subdivision does not comply with this subchapter, the United
 ral or a person who is personally aggrieved by the noncompli-
 ction for declaratory or injunctive relief in the appropriate

of noncompliance

ought under this section only if the plaintiff notifies the chief
 State of the noncompliance and a period of 45 days has elapsed
 :fication.

ny other provision of law, no award of attorney fees may be
 on an action under this section, except in any action brought to
 ju' ment of the court.

et. 28, 1984, 98 Stat. 1679.)

Statutory Notes

m applicable to elections
 1, 1985, see section 9 of
 as a note under section

for legislative history and
 435, see 1984 U.S.Code
 2801.

Library References

Civil Rights ⇐ 9.15, 9.16.
 Elections ⇐ 201.
 C.J.S. Civil Rights §§ 60, 66.
 C.J.S. Elections § 195.
 C.J.S. Labor Relations § 7.

onship to Voting Rights Act of 1965.

shall not be construed to impair any right guaranteed by the
 of 1965 [42 U.S.C.A. § 1973 et seq.].

ept. 28, 1984, 98 Stat. 1679.)

Statutory Notes

The Voting Rights Act of -
 is Pub.L. 89-110, Aug. 6,
 amended, which is classified
 1-A (§ 1973 et seq.), 1-B
 1-C (§ 1973bb et seq.) of
 mplete classification of this
 : Short Title note set out
 this title and Tables.

ction applicable to elections
 31, 1985, see section 9 of.

Pub.L. 98-435, set out as a note under section
 1973cc of this title.

Legislative History. For legislative history and
 purpose of Pub.L. 98-435, see 1984 U.S.Code
 Cong. and Adm.News, p. 2801.

Library References

Civil Rights ⇐ 9.15, 9.16.
 Elections ⇐ 201.
 C.J.S. Civil Rights §§ 60, 66.
 C.J.S. Elections § 195.
 C.J.S. Labor Relations § 7.

§ 1973cc-6. Definitions

As used in this subchapter, the term—

- (1) "accessible" means accessible to handicapped and elderly individuals for the purpose of voting or registration, as determined under guidelines established by the chief election officer of the State involved;
- (2) "elderly" means 65 years of age or older;
- (3) "Federal election" means a general, special, primary, or runoff election for the office of President or Vice President, or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress;
- (4) "handicapped" means having a temporary or permanent physical disability; and
- (5) "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(Pub.L. 98-435, § 8, Sept. 28, 1984, 98 Stat. 1679.)

Historical and Statutory Notes

Effective Date. Section applicable to elections
 taking place after Dec. 31, 1985, see section 9 of
 Pub.L. 98-435, set out as a note under section
 1973cc of this title.

Legislative History. For legislative history and
 purpose of Pub.L. 98-435, see 1984 U.S.Code
 Cong. and Adm.News, p. 2801.

Library References

Civil Rights ⇐ 9.15, 9.16.
 Elections ⇐ 201.
 C.J.S. Civil Rights §§ 60, 66.
 C.J.S. Elections § 195.
 C.J.S. Labor Relations § 7.

SUBCHAPTER 1-G—REGISTRATION AND VOTING BY ABSENT
 UNIFORMED SERVICES VOTERS AND OVERSEAS VOTERS IN
 ELECTIONS FOR FEDERAL OFFICE

§ 1973ff. Federal responsibilities

(a) Presidential designee

The President shall designate the head of an executive department to have
 primary responsibility for Federal functions under this subchapter.

(b) Duties of Presidential designee

The Presidential designee shall—

- (1) consult State and local election officials in carrying out this subchapter;
- (2) prescribe an official post card form, containing both an absentee voter registration application and an absentee ballot application, for use by the States as recommended in section 1973ff-3 of this title;
- (3) carry out section 1973ff-2 of this title with respect to the Federal write-in absentee ballot for overseas voters in general elections for Federal office;
- (4) prescribe a suggested design for absentee ballot mailing envelopes for use by the States as recommended in section 1973ff-3 of this title;
- (5) compile and distribute (A) descriptive material on State absentee registration and voting procedures, and (B) to the extent practicable, facts relating to specific elections, including dates, offices involved, and the text of ballot questions; and
- (6) not later than the end of each year after a Presidential election year, transmit to the President and the Congress a report on the effectiveness of assistance under this subchapter, including a statistical analysis of voter participation and a description of State-Federal cooperation.

(c) Duties of other Federal officials

(1) In general

The head of each Government department, agency, or other entity shall, upon
 request of the Presidential designee, distribute balloting materials and otherwise
 cooperate in carrying out this subchapter.

42 § 1973ff

PUBLIC HEALTH AND WELFARE

(2) Administrator of General Services

As directed by the Presidential designee, the Administrator of General Services shall furnish official post card forms (prescribed under subsection (b) of this section) and Federal write-in absentee ballots (prescribed under section 1973ff-2 of this title).

(Added Pub.L. 99-410, Title I, § 101, Aug. 28, 1986, 100 Stat. 924.)

Historical and Statutory Notes

Effective Date. Section 204 of Pub.L. 99-410 provided that: "The amendments and repeals made by this Act (enacting this subchapter, sections 608 and 609 of Title 18, Crimes and Criminal Procedure, and section 3406 of Title 39, Postal Service, amending sections 2401, 3627, and 3684 of Title 39, and repealing sections 1973cc, 1973cc notes, 1973cc-1 to 1973cc-26, 1973dd, 1973dd notes, and 1973dd-1 to 1973dd-6 of this title) shall apply with respect to elections taking place after December 31, 1987."

Short Title. Section 1 of Pub.L. 99-410 provided that: "This Act (which enacted this sub-

chapter, sections 608 and 609 of Title 18, Crimes and Criminal Procedure, and section 3406 of Title 39, Postal Service, amended sections 2401, 3627, and 3684 of Title 39, repealed sections 1973cc, 1973cc notes, 1973cc-1 to 1973cc-26, 1973dd, 1973dd notes, and 1973dd-1 to 1973dd-6 of this title, and enacted provisions set out as notes under this section) may be cited as the "Uniformed and Overseas Citizens Absentee Voting Act."

Legislative History. For legislative history and purpose of Pub.L. 99-410, see 1986 U.S. Code Cong. and Adm. News, p. 2009.

EXECUTIVE ORDERS

EXECUTIVE ORDER NO. 12642

June 8, 1988, 53 F.R. 21975

DESIGNATION OF SECRETARY OF DEFENSE AS PRESIDENTIAL DESIGNEE

By virtue of the authority vested in me as President by the Constitution and laws of the United States of America, including section 101(a) of the Uniformed and Overseas Citizens Absentee Voting Act (Public Law 99-410) ("the Act") (subsec. (a) of this section), it is hereby ordered as follows:

Section 1. The Secretary of Defense is hereby designated as the "Presidential designee" under Title I of the Act (this subchapter).

Sec. 2. In order to effectuate the purposes of the Act [see Short Title note set out under this section], the Secretary of Defense is hereby authorized to delegate any or all of the functions, responsibilities, powers, authority, or discretion devolving upon him in consequence of this Order to any person or persons within the Department of Defense.

RONALD REAGAN

Library References

Elections § 216.1.
C.J.S. Elections § 210.

§ 1973ff-1. State responsibilities

Each State shall—

(1) permit absent uniformed services voters and overseas voters to use absentee registration procedures and to vote by absentee ballot in general, special, primary, and runoff elections for Federal office;

(2) accept and process, with respect to any general, special, primary, or runoff election for Federal office, any otherwise valid voter registration application from an absent uniformed services voter or overseas voter, if the application is received by the appropriate State election official not less than 30 days before the election; and

(3) permit overseas voters to use Federal write-in absentee ballots (in accordance with section 1973ff-2 of this title) in general elections for Federal office.

(Added Pub.L. 99-410, Title I, § 102, Aug. 28, 1986, 100 Stat. 925.)

Historical and Statutory Notes

Effective Date. Section applicable with respect to elections taking place after Dec. 31, 1987, see section 204 of Pub.L. 99-410, set out as a note under section 1973ff of this title.

Legislative History. For legislative history and purpose of Pub.L. 99-410, see 1986 U.S. Code Cong. and Adm. News, p. 2009.

Library References

Elections § 216.1.
C.J.S. Elections § 210.

PUBLIC HEALTH AND WELFARE

§ 1973ff-2. F.

(a) In general.

The President, in appointing a secretary of State, shall not receive...

(b) Submission.

Except as otherwise provided in the State laws, no ballot shall be counted...

(1) if...

(2) if...

(3) if...

(c) Special rule.

The following...

(1) In...

(2) In...

(3) An...

(d) Second ballot.

An overseas voter who receives a second ballot...

Presidential absentee ballot...

absentee ballot...

every reason...

voter has...

Use of...

The Federal...

(1) as...

(2) as...

for rece...

(f) Certain States.

A State...

and after A...

(1) a...

section...

invoic...

of General Services

by the Presidential designee, the Administrator of General Services, official post card forms (prescribed under subsection (b) of this section) for use in general elections for Federal office.

Title I, § 101, Aug. 28, 1986, 100 Stat. 924.)

Historical and Statutory Notes

Section 204 of Pub.L. 99-410 amended and repeals existing this subchapter, section 18, Crimes and Criminal Procedure, section 3406 of Title 39, Postal Service, amended sections 2401, 3627, and 3684 of Title 39, Postal Service, sections 1973cc, 1973cc-26, 1973dd, 1973dd-6 of this title shall take effect after

chapter, sections 608 and 609 of Title 18, Crimes and Criminal Procedure, and section 3406 of Title 39, Postal Service, amended sections 2401, 3627, and 3684 of Title 39, Postal Service, sections 1973cc, 1973cc-26, 1973dd, 1973dd-6 of this title, and enacted provisions set out as notes under this section may be cited as the "Uniformed and Overseas Citizens Absentee Voting Act."

Legislative History. For legislative history and purpose of Pub.L. 99-410, see 1986 U.S. Code Cong. and Adm. News, p. 2009.

Section 1 of Pub.L. 99-410 provided that this subchapter (which enacted this sub-

EXECUTIVE ORDERS

EXECUTIVE ORDER NO. 12642

June 8, 1988, 53 F.R. 21975

POWER OF SECRETARY OF DEFENSE AS PRESIDENTIAL DESIGNEE

Authority vested in me as Administrator of the Department of Defense, including section 101(a) of the Uniformed and Overseas Citizens Absentee Voting Act ("the Act") (subsections 1-3) hereby ordered as follows:

Sec. 2. In order to effectuate the purposes of the Act (see Short Title note set out under this section), the Secretary of Defense is hereby authorized to delegate any or all of the functions, responsibilities, powers, authority, or discretion devolving upon him in consequence of this Order to any person or persons within the Department of Defense.

RONALD REAGAN

The Secretary of Defense is hereby designated as the "Presidential designee" under this subchapter.

Library References

210.

State responsibilities

shall—

1. register absent uniformed services voters and overseas voters to use absentee registration procedures and to vote by absentee ballot in general, primary, and runoff elections for Federal office;

2. register and process, with respect to any general, special, primary, or runoff election for Federal office, any otherwise valid voter registration application for an absent uniformed services voter or overseas voter, if the application is received by the appropriate State election official not less than 30 days before the election; and

3. permit overseas voters to use Federal write-in absentee ballots (in accordance with section 1973ff-2 of this title) in general elections for Federal office.

Pub.L. 99-410, Title I, § 102, Aug. 28, 1986, 100 Stat. 925.)

Historical and Statutory Notes

Section 204 of Pub.L. 99-410 amended and repeals existing this subchapter, section 18, Crimes and Criminal Procedure, section 3406 of Title 39, Postal Service, amended sections 2401, 3627, and 3684 of Title 39, Postal Service, sections 1973cc, 1973cc-26, 1973dd, 1973dd-6 of this title shall take effect after

Library References

Elections § 216.1.
C.J.S. Elections § 210.

Legislative History. For legislative history and purpose of Pub.L. 99-410, see 1986 U.S. Code Cong. and Adm. News, p. 2009.

§ 1973ff-2. Federal write-in absentee ballot for overseas voters in general elections for Federal office

(a) In general

The Presidential designee shall prescribe a Federal write-in absentee ballot (including a secrecy envelope and mailing envelope for such ballot) for use in general elections for Federal office by overseas voters who make timely application for, and do not receive, States, absentee ballots.

(b) Submission and processing

Except as otherwise provided in this subchapter, a Federal write-in absentee ballot shall be submitted and processed in the manner provided by law for absentee ballots in the State involved. A Federal write-in absentee ballot of an overseas voter shall not be counted—

(1) if the ballot is submitted from any location in the United States;

(2) if the application of the overseas voter for a State absentee ballot is received by the appropriate State election official less than 30 days before the general election; or

(3) if a State absentee ballot of the overseas voter is received by the appropriate State election official not later than the deadline for receipt of the State absentee ballot under State law.

(c) Special rules

The following rules shall apply with respect to Federal write-in absentee ballots:

(1) In completing the ballot, the overseas voter may designate a candidate by writing in the name of the candidate or by writing in the name of a political party (in which case the ballot shall be counted for the candidate of that political party).

(2) In the case of the offices of President and Vice President, a vote for a named candidate or a vote by writing in the name of a political party shall be counted as a vote for the electors supporting the candidate involved.

(3) Any abbreviation, misspelling, or other minor variation in the form of the name of a candidate or a political party shall be disregarded in determining the validity of the ballot, if the intention of the voter can be ascertained.

(d) Second ballot submission; instruction to overseas voter

An overseas voter who submits a Federal write-in absentee ballot and later receives a State absentee ballot, may submit the State absentee ballot. The Presidential designee shall assure that the instructions for each Federal write-in absentee ballot clearly state that an overseas voter who submits a Federal write-in absentee ballot and later receives and submits a State absentee ballot should make every reasonable effort to inform the appropriate State election official that the voter has submitted more than one ballot.

(e) Use of approved State absentee ballot in place of Federal write-in absentee ballot

The Federal write-in absentee ballot shall not be valid for use in a general election if the State involved provides a State absentee ballot that—

(1) at the request of the State, is approved by the Presidential designee for use in place of the Federal write-in absentee ballot; and

(2) is made available to overseas voters at least 60 days before the deadline for receipt of the State ballot under State law.

(f) Certain States exempted

A State is not required to permit use of the Federal write-in absentee ballot if, on and after August 28, 1986, the State has in effect a law providing that—

(1) a State absentee ballot is required to be available to any voter described in section 1973ff-6(5)(A) of this title at least 90 days before the general election involved; and

(2) a State absentee ballot is required to be available to any voter described in section 1973ff-6(5)(B) or (C) of this title, as soon as the official list of candidates in the general election is complete.

(Added Pub.L. 99-410, Title I, § 103, Aug. 28, 1986, 100 Stat. 925.)

Historical and Statutory Notes

Effective Date. Section applicable with respect to elections taking place after Dec. 31, 1987, see section 204 of Pub.L. 99-410, set out as a note under section 1973ff of this title.

Legislative History. For legislative history and purpose of Pub.L. 99-410, see 1986 U.S. Code Cong. and Adm. News, p. 2009.

Library References

Elections \Leftrightarrow 216.1.
C.J.S. Elections § 210.

§ 1973ff-3. Recommendations to the States to maximize access to the polls by absent uniformed services voters and overseas voters

To afford maximum access to the polls by absent uniformed services voters and overseas voters, it is recommended that the States—

- (1) use the official post card form (prescribed under section 1973ff of this title) for simultaneous voter registration application and absentee ballot application;
- (2) adopt the suggested design for absentee ballot mailing envelopes prescribed under section 1973ff of this title;
- (3) waive registration requirements for absent uniformed services voters and overseas voters who, by reason of service or residence, do not have an opportunity to register;
- (4) if an application other than an official post card form (prescribed under section 1973ff of this title) is required for absentee registration, provide that registration forms be sent with the absentee ballot and may be returned with it;
- (5) expedite processing of balloting materials with respect to absent uniformed services voters and overseas voters;
- (6) permit any oath required for a document under this subchapter to be administered by a commissioned officer of the Armed Forces or any official authorized to administer oaths under Federal law or the law of the State or other place where the oath is administered;
- (7) assure that absentee ballots are mailed to absent uniformed services voters and overseas voters at the earliest opportunity;
- (8) assist the Presidential designee in compiling statistical and other information relating to this subchapter; and
- (9) provide late registration procedures for persons recently separated from the Armed Forces.

(Added Pub.L. 99-410, Title I, § 104, Aug. 28, 1986, 100 Stat. 926.)

Historical and Statutory Notes

Effective Date. Section applicable with respect to elections taking place after Dec. 31, 1987, see section 204 of Pub.L. 99-410, set out as a note under section 1973ff of this title.

Legislative History. For legislative history and purpose of Pub.L. 99-410, see 1986 U.S. Code Cong. and Adm. News, p. 2009.

Library References

Elections \Leftrightarrow 216.1.
C.J.S. Elections § 210.

§ 1973ff-4. Enforcement

The Attorney General may bring a civil action in an appropriate district court for such declaratory or injunctive relief as may be necessary to carry out this subchapter.

(Added Pub.L. 99-410, Title I, § 105, Aug. 28, 1986, 100 Stat. 927.)

Historical and Statutory Notes

Effective Date. Section applicable with respect to elections taking place after Dec. 31, 1987, see

section 204 of Pub.L. 99-410, set out as a note under section 1973ff of this title.

PUBLIC HEALTH AND WELFARE

entee ballot is required to be available to any voter described in 5(B) or (C) of this title, as soon as the official list of candidates section is complete.

Title I, § 103, Aug. 28, 1986, 100 Stat. 925.

Statutory Notes

Section applicable with respect after Dec. 31, 1987, see Pub.L. 99-410, set out as a note under this title.
For legislative history and purpose of Pub.L. 99-410, see 1986 U.S.Code Cong. and Adm. News, p. 2009.

Library References

Elections § 216.1.
C.J.S. Elections § 210.

Recommendations to the States to maximize access to the polls by uniformed services voters and overseas voters

Maximum access to the polls by absent uniformed services voters and is recommended that the States—

Official post card form (prescribed under section 1973ff of this title), absentee voter registration application and absentee ballot applica-

tion suggested design for absentee ballot mailing envelopes prescribed under section 1973ff of this title;

Registration requirements for absent uniformed services voters and those who, by reason of service or residence, do not have an opportunity;

Application other than an official post card form (prescribed under section 1973ff of this title) is required for absentee registration, provide that forms be sent with the absentee ballot and may be returned with it; processing of balloting materials with respect to absent uniformed services voters and overseas voters;

A oath required for a document under this subchapter to be administered by a commissioned officer of the Armed Forces or any official authorized to administer oaths under Federal law or the law of the State or where the oath is administered;

That absentee ballots are mailed to absent uniformed services voters and overseas voters at the earliest opportunity;

The Presidential designee in compiling statistical and other information to this subchapter; and

Alternative registration procedures for persons recently separated from the Armed Forces.

Title I, § 104, Aug. 28, 1986, 100 Stat. 926.

Statutory Notes

Section applicable with respect to elections taking place after Dec. 31, 1987, see Pub.L. 99-410, set out as a note under this title.
For legislative history and purpose of Pub.L. 99-410, see 1986 U.S.Code Cong. and Adm. News, p. 2009.

Library References

Elections § 216.1.
C.J.S. Elections § 210.

Enforcement

General may bring a civil action in an appropriate district court for injunctive relief as may be necessary to carry out this subchapter.

Title I, § 105, Aug. 28, 1986, 100 Stat. 927.

Statutory Notes

Section applicable with respect to elections taking place after Dec. 31, 1987, see

section 204 of Pub.L. 99-410, set out as a note under section 1973ff of this title.

PUBLIC HEALTH AND WELFARE

42 § 1973ff-6

Legislative History. For legislative history and purpose of Pub.L. 99-410, see 1986 U.S.Code Cong. and Adm. News, p. 2009.

§ 1973ff-6. Effect on certain other laws

The exercise of any right under this subchapter shall not affect, for purposes of any Federal, State, or local law, the residence or domicile of a person exercising such right.

(Added Pub.L. 99-410, Title I, § 106, Aug. 28, 1986, 100 Stat. 927.)

Historical and Statutory Notes

Effective Date. Section applicable with respect to elections taking place after Dec. 31, 1987, see section 204 of Pub.L. 99-410, set out as a note under section 1973ff of this title.

Legislative History. For legislative history and purpose of Pub.L. 99-410, see 1986 U.S.Code Cong. and Adm. News, p. 2009.

§ 1973ff-6. Definitions

As used in this subchapter, the term—

(1) "absent uniformed services voter" means—

(A) a member of a uniformed service on active duty who, by reason of such active duty, is absent from the place of residence where the member is otherwise qualified to vote;

(B) a member of the merchant marine who, by reason of service in the merchant marine, is absent from the place of residence where the member is otherwise qualified to vote; and

(C) a spouse or dependent of a member referred to in subparagraph (A) or (B) who, by reason of the active duty or service of the member, is absent from the place of residence where the spouse or dependent is otherwise qualified to vote;

(2) "balloting materials" means official post card forms (prescribed under section 1973ff of this title), Federal write-in absentee ballots (prescribed under section 1973ff-2 of this title), and any State balloting materials that, as determined by the Presidential designee, are essential to the carrying out of this subchapter;

(3) "Federal office" means the office of President or Vice President, or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress;

(4) "member of the merchant marine" means an individual (other than a member of a uniformed service or an individual employed, enrolled, or maintained on the Great Lakes or the inland waterways)—

(A) employed as an officer or crew member of a vessel documented under the laws of the United States, or a vessel owned by the United States, or a vessel of foreign-flag registry under charter to or control of the United States; or

(B) enrolled with the United States for employment or training for employment, or maintained by the United States for emergency relief service, as an officer or crew member of any such vessel;

(5) "overseas voter" means—

(A) an absent uniformed services voter who, by reason of active duty or service is absent from the United States on the date of the election involved;

(B) a person who resides outside the United States and is qualified to vote in the last place in which the person was domiciled before leaving the United States; or

(C) a person who resides outside the United States and (but for such residence) would be qualified to vote in the last place in which the person was domiciled before leaving the United States.

(6) "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and American Samoa;

(7) "uniformed services" means the Army, Navy, Air Force, Marine Corps, and Coast Guard, the commissioned corps of the Public Health Service, and the

commissioned corps of the National Oceanic and Atmospheric Administration, and

(8) "United States", where used in the territorial sense, means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and American Samoa.

(Added Pub.L. 99-410, Title I, § 107, Aug. 20, 1986, 100 Stat. 927.)

Historical and Statutory Notes

Effective Date. Section applicable with respect to elections taking place after Dec. 31, 1986, see section 204 of Pub.L. 99-410, set out as a note under section 1973ff of this title.

Legislative History. For legislative history and purpose of Pub.L. 99-410, see 1986 U.S. Code Cong. and Adm. News, p. 2009.

SUBCHAPTER II—FEDERAL ELECTION RECORDS

§ 1974. Retention and preservation of records and papers by officers of elections; deposit with custodian; penalty for violation

Federal Practice and Procedure

Explicit exception for disclosure in response to judicial subpoena, see Wright & Graham, Evidence § 5437.

West's Federal Forms

Sentence and fine, see § 7521 et seq.

§ 1974d. Jurisdiction to compel production of records or papers

West's Federal Forms

Jurisdiction and venue in district courts, matters pertaining to, see § 1003 et seq.

CHAPTER 20A—CIVIL RIGHTS COMMISSION

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| <p>Sec.
1975. Commission on Civil Rights.</p> <ul style="list-style-type: none"> (a) Establishment. (b) Composition; membership; appointment; terms of office. (c) Chairman and Vice Chairman. (d) Removal of members. (e) Vacancies. (f) Quorum. <p>1975a. Rules of procedure of the Commission hearings.</p> <ul style="list-style-type: none"> (a) Publication in Federal Register of notice of date, place, and subject; time for publication; announcement of subject. (b) Copies to witnesses. (c) Rights of witnesses. (d) Conduct during hearings. (e) Defamatory, degrading, or incriminating evidence; use of evidence; refutation and answer; report. (f) Additional witnesses. (g) Evidence or testimony in executive session. (h) Statements by witnesses for inclusion in record. (i) Copies of data or evidence; transcripts. (j) Witness fees and mileage. (k) Geographical limitations on subpoenas. (l) Matters to be published in Federal Register; failure to publish. (m) Applicability of administrative procedure and freedom of information requirements. | <p>Sec.
1975b. Compensation of members of the Commission.</p> <ul style="list-style-type: none"> (a) Members not in service of the Government. (b) Members in service of the Government. <p>1975c. Duties of the Commission.</p> <ul style="list-style-type: none"> (a) Investigatory, etc., duties. (b) Limitations on investigatory duties. (c) Reporting requirements. (d) Definition. (e) Information respecting abortion. (f) Equal protection of the laws for Americans who are members of eastern- and southern-European ethnic groups; study and report to Congress. <p>1975d. Powers of the Commission.</p> <ul style="list-style-type: none"> (a) Staff director; appointment, transfer, etc., of employees; rights and benefits. (b) Services of voluntary or uncompensated personnel. (c) Organization of advisory committees within each State; consultations. (d) Members of Commission and advisory committees exempt from certain criminal provisions. (e) Cooperation of Federal agencies. (f) Hearings; subpoenas; approval for hearings or appointment of subcommittees to hold hearings. (g) Contumacy or refusal to obey subpoena. |
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House State Affairs Committee

Representative Gene Kubina, Chair

DATE: February 19, 1992

PLACE: Capitol Room 102

SUBJECT OF MEETING:
 HB 327 - Relating to Primary Elections
 *HCR 50 - Relating to Support Open Primary Elections
 HJR 13 - Relating to Run-Off Election: Gov. & Lt. Gov
 HB 195 - Relating to Campaign Finance Reform
 HB 332 - Relating to Reporting/Campaign Financing - APOC

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
Chip Thomas	Self	# 2 Marine Way Juneau				<input checked="" type="radio"/> Y <input type="radio"/> N	HB 327 / HJR 13
Chip Wayman	"	3294 Pioneer Ave Juneau				<input checked="" type="radio"/> Y <input type="radio"/> N	HB 327
JOHN G. SUIRE	DEPT of LAND	PO BOX K, JUNEAU	99801		465-3605	IF ASKED <input checked="" type="radio"/> Y <input type="radio"/> N	"
Laura A. Glaiser	Elections	P.O. Box 110017 Juneau	99801		465-4611	IF ASKED <input checked="" type="radio"/> Y <input type="radio"/> N	"
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	



House State Affairs Committee

Representative Gene Kubina, Chair

DATE: May 1, 1991

PLACE: Capitol, Room 102

SUBJECT OF MEETING:
 *HB 195 - Relating to Campaign Finance Reform
 *HB 298 - Relating to Presidential Primary Election
 *HJR 13 - Relating to Run-Off Election: Gov. and Lt. Gov.

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
Elizabeth Ziegler	Elections					(Y) N	for questions HB 298, HJR 13
JOHN GAGUINE	LAA LEGAL					Y N	for questions HB 195/298
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	