

HB

94

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: April 13, 2005

FURTHER REFERRALS:

Date of Committee Action: 4/19/05

The FINANCE Committee considered.

HB 94

HOUSE BILL NO. 94

ELECTIONS

"An Act relating to qualifications of voters, requirements and procedures regarding independent candidates for President and Vice-President of the United States, voter registration and voter registration records, voter registration through a power of attorney, voter registration using scanned documents, voter residence, precinct boundary and polling place designation and modification, recognized political parties, voters unaffiliated with a political party, early voting, absentee voting, application for absentee ballots through a power of attorney, or by scanned documents, ballot design, ballot counting, voting by mail, voting machines, vote tally systems, initiative, referendum, recall, and definitions in the Alaska Election Code; relating to incorporation elections; and providing for an effective date."

Recommends it be replaced with HCS or AS for HB 94 (FIN)
 For Senate Bills with new title: Technical Title New Title: HCR _____ Same Title New Title

- attach amendments
- add new referral to _____ Committee
- Letter of Intent _____ Committee

List of Abbrev for Depts.:
 ADM
 CED
 COR
 CRT
 EED
 DEC
 DEG
 GOV
 HSS
 LEG
 LAW
 LWF
 MVA
 DNR
 DPS
 REV
 DOT
 UA

<u>NEW FISCAL NOTES</u>				
<small>*Assigned by Chief Clerk's Office</small>				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero
lt gov.		✓		

<u>PREVIOUS FISCAL NOTES</u>				
List by Dept(s):	FN#	Fiscal	Indet.	Zero

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
	Hawker	★			
	MOSES			✓	
	Kelly			X	
	FESTER	X			
	STATO			X	
Chair:	Meyer	✓			
Chair:	Chewalt			X	

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CS HB94(JUD)
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: OOG
Title "An Act relating to qualification of voters, requirements and procedures regarding..." RDU Elections
Component Elections
Sponsor House Rules Committee
Requester House Judiciary Component No. 21

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual		24.8		24.8		24.8
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	24.8	0.0	24.8	0.0	24.8

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF		24.8		24.8		24.8
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	24.8	0.0	24.8	0.0	24.8

Estimate of any current year (FY2005) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Current law requires the Division to send written verification to voters in the affected precinct when a polling place change occurs. If passed as amended, this legislation would require the Division to provide notice of change by publication in a local newspaper of general circulation, in addition to the written notice currently mailed. The cost of the additional notice in a newspaper is estimated at 19.0 for publishing polling place locations prior to a primary and general election.

Current law requires the Division to provide notice of a precinct boundary change by publication on three different days in a local newspaper. If passed as amended, this legislation would reduce the number of days a precinct boundary change is published in a local newspaper from three days to one day. Reducing the notice to one publication is estimated to save the Division 2.2. A total of 16.8 will need to be added to the Division's Primary and General budget in future years.

Prepared by: Laun Alfred, Admin. Assistant Supervisor Phone: 465-4611
Division: Division of Elections Date/Time: 4/13/05 1:15 PM
Approved by: Laura A. Glaiser, Director Date: 4/13/2005
Agency: Office of the Lt. Governor, Division of Elections

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

BILL NO. CS HB94(JUD)

ANALYSIS CONTINUATION

This proposed amendment requires the Division to perform a hand count verification of ballots from a randomly selected precinct in each election district that accounts for at least five percent of the ballots cast in that district. The Division estimates an increased cost in personal services for hiring additional State Review Board workers to conduct the recount. The estimated cost of 3.5 for implementing this change would need to be added as an increment to our Primary and General Election budget in future years.

This proposed amendment requires the Division to include a notice on our absentee envelope that false statements made by the voter, attesting official or witness on the certificate, are punishable by law. The Division estimates a cost of 4.5 for replacing existing stock of envelopes for the inclusion of this statement.

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THE POWERS GRANTED FROM THE PRINCIPAL TO THE AGENT OR AGENTS IN THE FOLLOWING DOCUMENT ARE VERY BROAD. THEY MAY INCLUDE THE POWER TO DISPOSE, SELL, CONVEY, AND ENCUMBER YOUR REAL AND PERSONAL PROPERTY, AND THE POWER TO MAKE YOUR HEALTH CARE DECISIONS. ACCORDINGLY, THE FOLLOWING DOCUMENT SHOULD ONLY BE USED AFTER CAREFUL CONSIDERATION. IF YOU HAVE ANY QUESTIONS ABOUT THIS DOCUMENT, YOU SHOULD SEEK COMPETENT ADVICE.

YOU MAY REVOKE THIS POWER OF ATTORNEY AT ANY TIME.

Pursuant to AS 13.26.338 - 13.26.353, I, (Name of principal), of (Address of principal), do hereby appoint (Name and address of agent or agents), my attorney(s)-in-fact to act as I have checked below in my name, place, and stead in any way which I myself could do, if I were personally present, with respect to the following matters, as each of them is defined in AS 13.26.344, to the full extent that I am permitted by law to act through an agent:

THE AGENT OR AGENTS YOU HAVE APPOINTED WILL HAVE ALL THE POWERS LISTED BELOW UNLESS YOU DRAW A LINE THROUGH A CATEGORY; AND INITIAL THE BOX OPPOSITE THAT CATEGORY

- (A) real estate transactions
- (B) transactions involving tangible personal property, chattels, and goods
- (C) bonds, shares, and commodities transactions
- (D) banking transactions
- (E) business operating transactions
- (F) insurance transactions
- (G) estate transactions

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- (H) gift transactions ()
 - (I) claims and litigation ()
 - (J) personal relationships and affairs ()
 - (K) benefits from government programs and military service ()
 - (L) records, reports, and statements ()
 - (M) delegation ()
 - (N) voter registration and absentee ballot requests ()
 - (O) all other matters, including those specified as follows: ()
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IF YOU HAVE APPOINTED MORE THAN ONE AGENT, CHECK ONE OF THE FOLLOWING:

- () Each agent may exercise the powers conferred separately, without the consent of any other agent.
- () All agents shall exercise the powers conferred jointly, with the consent of all other agents.

TO INDICATE WHEN THIS DOCUMENT SHALL BECOME EFFECTIVE, CHECK ONE OF THE FOLLOWING:

- () This document shall become effective upon the date of my signature.
- () This document shall become effective upon the date of my disability and shall not otherwise be affected by my disability.

IF YOU HAVE INDICATED THAT THIS DOCUMENT SHALL BECOME EFFECTIVE ON THE DATE OF YOUR SIGNATURE, CHECK ONE OF THE FOLLOWING:

- () This document shall not be affected by my subsequent disability.
- () This document shall be revoked by my subsequent disability.

IF YOU HAVE INDICATED THAT THIS DOCUMENT SHALL BECOME EFFECTIVE UPON THE DATE OF YOUR SIGNATURE AND WANT TO LIMIT THE TERM OF THIS

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DOCUMENT, COMPLETE THE FOLLOWING:

This document shall only continue in effect for _____ () years from the date of my signature.

NOTICE OF REVOCATION OF THE POWERS GRANTED IN THIS DOCUMENT

You may revoke one or more of the powers granted in this document. Unless otherwise provided in this document, you may revoke a specific power granted in this power of attorney by completing a special power of attorney that includes the specific power in this document that you want to revoke. Unless otherwise provided in this document, you may revoke all the powers granted in this power of attorney by completing a subsequent power of attorney.

NOTICE TO THIRD PARTIES

A third party who relies on the reasonable representations of an attorney-in-fact as to a matter relating to a power granted by a properly executed statutory power of attorney does not incur any liability to the principal or to the principal's heirs, assigns, or estate as a result of permitting the attorney-in-fact to exercise the authority granted by the power of attorney. A third party who fails to honor a properly executed statutory form power of attorney may be liable to the principal, the attorney-in-fact, the principal's heirs, assigns, or estate for a civil penalty, plus damages, costs, and fees associated with the failure to comply with the statutory form power of attorney. If the power of attorney is one which becomes effective upon the disability of the principal, the disability of the principal is established by an affidavit, as required by law.

IN WITNESS WHEREOF, I have hereunto signed my name this ____ day of _____, _____.

Signature of Principal

Acknowledged before me at _____

1 _____ on _____

2 Signature of Officer or Notary

3 * **Sec. 2.** AS 13.26.344 is amended by adding a new subsection to read:

4 (p) In a statutory form power of attorney, the language conferring general
5 authority with regard to voter registration and absentee ballot requests shall be
6 construed to mean that the principal authorizes the agent to register the principal to
7 vote or request an absentee ballot for the principal.

8 * **Sec. 3.** AS 15.05.020 is amended to read:

9 **Sec. 15.05.020. Rules for determining residence of voter.** For the purpose
10 of determining residence for voting, the place of residence is governed by the
11 following rules:

12 (1) A person may not be considered to have gained a residence solely
13 by reason of presence nor may a person lose it solely by reason of absence while in the
14 civil or military service of this state or of the United States or of absence because of
15 marriage to a person engaged in the civil or military service of this state or the United
16 States, while a student at an institution of learning, while in an institution or asylum at
17 public expense, while confined in public prison, while engaged in the navigation of
18 waters of this state or the United States or of the high seas, while residing upon an
19 Indian or military reservation, or while residing in the Alaska Pioneers' Home or the
20 Alaska Veterans' Home.

21 (2) The residence of a person is that place in which the person's
22 habitation is fixed, and to which, whenever absent, the person has the intention to
23 return. If a person resides in one place, but does business in another, the former is the
24 person's place of residence. Temporary work sites [CONSTRUCTION CAMPS] do
25 not constitute a dwelling place.

26 (3) A change of residence is made only by the act of removal joined
27 with the intent to remain in another place. There can only be one residence.

28 (4) A person does not lose residence if the person leaves home and
29 goes to another country, state, or place in this state for temporary purposes only and
30 with the intent of returning.

31 (5) A person does not gain residence in any place to which the person

1 comes without the present intention to establish a permanent dwelling at that place.

2 (6) A person loses residence in this state if the person votes in another
3 state's election, either in person or by absentee ballot, and will not be eligible to vote
4 in this state until again qualifying under AS 15.05.010.

5 (7) The term of residence is computed by including the day on which
6 the person's residence begins and excluding the day of election.

7 (8) The address of a voter as it appears on the [AN] official voter
8 registration record [CARD] is presumptive evidence of the person's voting residence.
9 This presumption is negated only if the voter notifies the director in writing of a
10 change of voting residence.

11 * Sec. 4. AS 15.07.050 is amended to read:

12 **Sec. 15.07.050. Manner of registration.** Registration may be made

13 (1) in person before a registration official or through a voter
14 registration agency;

15 (2) by another individual on behalf of the voter if the voter has
16 executed a written general power of attorney or a written special power of
17 attorney authorizing that other individual to register the voter;

18 (3) by mail; or

19 (4) [31] by facsimile transmission, scanning, or another method of
20 electronic transmission that the director approves.

21 * Sec. 5. AS 15.07.060(a) is amended to read:

22 (a) Each applicant who requests registration or reregistration shall supply the
23 following information:

24 (1) the applicant's name and sex;

25 (2) if issued, the applicant's State of Alaska driver's license number or
26 State of Alaska identification card number, or the last four digits of the applicant's
27 social security number;

28 (3) the applicant's date of birth;

29 (4) the applicant's Alaska residence address [AND OTHER
30 NECESSARY INFORMATION ESTABLISHING RESIDENCE, INCLUDING THE
31 TERM OF RESIDENCE IN THE STATE AND IN THE DISTRICT, IF

1 REQUESTED];

2 (5) a statement of whether the applicant has previously been
3 registered to vote in another jurisdiction, and, if so, the jurisdiction and the address of
4 the previous registration;

5 (6) a declaration that the applicant [REGISTRANT] will be 18 years
6 of age or older within 90 days after [OF] the date of registration;

7 (7) a declaration that the applicant [REGISTRANT] is a citizen of the
8 United States;

9 (8) the date of application;

10 (9) the applicant's signature or mark;

11 (10) any former name under which the applicant was registered to vote
12 in the state;

13 (11) an oath [ATTESTATION] that the information provided by the
14 applicant in (1) - (10) of this subsection is true; and

15 (12) a certification that the applicant understands that a false statement
16 on the application may make the applicant subject to prosecution for a misdemeanor
17 under this title or AS 11

18 * Sec. 6. AS 15.07.070(b) is amended to read:

19 (b) To register by mail or by facsimile, scanning, or other electronic
20 transmission approved by the director under AS 15.07.050, the director, the area
21 election supervisor, or a voter registration agency shall furnish, at no cost to the voter,
22 forms prepared by the director on which the registration information required under
23 AS 15.07.060 shall be inserted by the voter, by a person on behalf of the voter if
24 that person is designated to act on behalf of the voter in a power of attorney, or
25 by a person on behalf of the voter if the voter is physically incapacitated. The director
26 may require proof of identification of the applicant as required by regulations adopted
27 by the director under AS 44.62 (Administrative Procedure Act). Upon receipt and
28 approval of the completed registration forms, the director or the election supervisor
29 shall forward to the voter an acknowledgment, and the voter's name shall immediately
30 be placed on the master register. If the registration is denied, the voter shall
31 immediately be informed in writing that registration was denied and the reason for

1 denial. When identifying information has been provided by the voter as required by
2 this chapter, the election supervisor shall forward to the voter a registration card.

3 * **Sec. 7.** AS 15.07 is amended by adding a new section to read:

4 **Sec. 15.07.075. Voters unaffiliated with a political party.** The director shall
5 consider a voter to be a voter registered as

6 (1) "nonpartisan" and without a preference for a political party if the
7 voter registers as nonpartisan on a voter registration form;

8 (2) "undeclared" if the voter

9 (A) registers as undeclared on a voter registration form;

10 (B) fails to declare an affiliation with a political group or
11 political party on a voter registration form; or

12 (C) declares an affiliation with an entity other than a political
13 party or political group on a voter registration form; or

14 (3) "other" if the voter declares on a voter registration form an
15 affiliation with a political group.

16 * **Sec. 8.** AS 15.07.127 is amended to read:

17 **Sec. 15.07.127. Preparation of master register.** The director shall prepare
18 both a statewide list and a list by precinct of the names and addresses of all persons
19 whose names appear on the master register and their political party affiliation.
20 Subject to the limitations of 15.07.195, any [ANY] person may obtain a copy of the
21 list, or a part of the list, or an electronic format containing both residence and mailing
22 addresses of voters, by applying to the director and paying to the state treasury a fee as
23 determined by the director.

24 * **Sec. 9.** AS 15.10.090 is repealed and reenacted to read:

25 **Sec. 15.10.090. Notice of precinct boundary or polling place designation**
26 **and modification.** The director shall give full public notice if a precinct is established
27 or abolished, if the boundaries of a precinct are designated, abolished, or modified, or
28 if the location of a polling place is changed. Public notice must include

29 (1) whenever possible, sending written notice of the change to each
30 affected registered voter in the precinct;

31 (2) providing notice of the change

1 (A) by publication once in a local newspaper of general
2 circulation in the precinct; or

3 (B) if there is not a local newspaper of general circulation in
4 the precinct, by posting written notice in three conspicuous places as close to
5 the precinct as possible; at least one posting location must be in the precinct;

6 (3) posting notice of the change on the Internet website of the division
7 of elections:

8 (4) providing notification of the change to the appropriate municipal
9 clerks, community councils, tribal groups, Native villages, and village regional
10 corporations established under 43 U.S.C. 1606 (Alaska Native Claims Settlement
11 Act); and

12 (5) inclusion in the official election pamphlet.

13 * Sec. 10. AS 15.15.030(6) is repealed and reenacted to read:

14 (6) The names of the candidates for each office shall be set out in the
15 same order on ballots printed for use in each house district. The director shall
16 randomly determine the order of the names of the candidates for state representative
17 for each house district. The director shall rotate the order of placement of the names
18 of candidates for governor, lieutenant governor, United States senator, United States
19 representative, and state senator on the ballot for each house district.

20 * Sec. 11. AS 15.15.030(7) is amended to read:

21 (7) The general election ballot shall be designed with the names of
22 candidates of each political party, and of any independent candidates qualified
23 under AS 15.30.026, for the office of President and Vice-President of the United
24 States placed in the same section on the ballot rather than the names of electors of
25 President and Vice-President.

26 * Sec. 12. AS 15.15.350(a) is amended to read:

27 (a) The director may adopt regulations prescribing the manner in which the
28 precinct ballot count is accomplished so as to ensure [ASSURE] accuracy in the count
29 and to expedite the process. The election board shall account for all ballots by
30 completing a ballot statement containing (1) the number of official ballots received;
31 (2) the number of official ballots voted; (3) the number of official ballots spoiled; (4)

1 the number of official ballots unused and either destroyed or returned for
 2 destruction to the elections supervisor or the election supervisor's designee. The
 3 board shall count the number of questioned ballots and [SHALL] compare that
 4 number to the number of questioned voters in the register. Discrepancies shall be
 5 noted and the numbers included in the certificate prescribed by AS 15.15.370. The
 6 election board, in hand-count precincts, shall count the ballots in a manner that allows
 7 watchers to see the ballots when opened and read. A person handling the ballot after it
 8 has been taken from the ballot box and before it is placed in the envelope for mailing
 9 may not have a marking device in hand or remove a ballot from the immediate vicinity
 10 of the polls.

11 * Sec. 13. AS 15.15.430 is amended to read:

12 Sec. 15.15.430. Scope of the review of ballot counting. (a) The review of
 13 ballot counting by the director shall include only [A REVIEW OF]

14 (1) a review of the precinct registers, tallies, and ballots cast; [AND]

15 (2) a ~~—~~ w of absentee and questioned ballots as prescribed by law;

16 and

17 (3) unless the ballot for the election district contains nothing but
 18 uncontested offices, a hand count of ballots from one randomly selected precinct
 19 in each election district that accounts for at least five percent of the ballots cast in
 20 that district.

21 (b) If, following the ballot review set out in (a) of this section, the director
 22 finds an unexplained discrepancy in the ballot count in any precinct, the director may
 23 count the ballots from that precinct. If there is a discrepancy of more than one
 24 percent between the results of the hand count under (a)(3) of this section and the
 25 count certified by the election board, the director shall conduct a hand count of
 26 the ballots from that district. The director shall certify in writing to the state ballot
 27 counting review board and publish on the division's Internet website any changes
 28 resulting from a [THE] count performed under this subsection.

29 * Sec. 14. AS 15.20.030 is amended to read: *New Section*

30 Sec. 15.20.030. Preparation of ballots, envelopes, and other material. The
 31 director shall provide ballots for use as absentee ballots in all districts. The director

1 shall provide a secrecy sleeve in which the voter shall initially place the marked ballot,
2 and shall provide an envelope with the prescribed voter's certificate on it, in which the
3 secrecy sleeve with ballot enclosed shall be placed. The director shall prescribe the
4 form of and prepare the voter's certificate, envelopes, and other material used in
5 absentee voting. The voter's certificate shall include a declaration, for use when
6 required, that the voter is a qualified voter in all respects, a blank for the voter's
7 signature, a certification that the affiant properly executed the marking of the ballot
8 and gave the voter's identity, blanks for the attesting official or witness
9 [WITNESSES], and a place for recording the date the envelope was sealed and
10 witnessed. The envelope with the voter's certificate must include a notice that
11 false statements made by the voter or by the attesting official or witness on the
12 certificate are punishable by law.

13 * Sec. 15. AS 15.20.064 is amended by adding a new subsection to read:

14 (d) The director shall designate locations for early voting by January 1 of an
15 election year.

16 * Sec. 16. AS 15.20.066(b) is amended to read:

17 (b) An absentee ballot that is completed and returned by the voter by
18 electronic transmission must

19 (1) contain the following statement: "I understand that, by using
20 electronic transmission to return my marked ballot, I am voluntarily waiving a portion
21 of my right to a secret ballot to the extent necessary to process my ballot, but expect
22 that my vote will be held as confidential as possible, [.] " followed by the voter's
23 signature and date of signature; and

24 (2) be accompanied by a statement executed under oath as to the
25 voter's identity; the statement under oath must be witnessed by

26 (A) a commissioned or noncommissioned officer of the armed
27 forces of the United States;

28 (B) an official authorized by federal law or the law of the state
29 in which the absentee ballot is cast to administer an oath; or

30 (C) an individual [TWO UNITED STATES CITIZENS] who
31 is [ARE] 18 years of age or older.

1 * Sec. 17. AS 15.20.081(a) is amended to read:

2 (a) A qualified voter may apply by mail or by facsimile, scanning, or other
3 electronic transmission to the director for an absentee ballot. Another individual
4 may apply for an absentee ballot on behalf of a qualified voter if that individual
5 is designated to act on behalf of the voter in a written general power of attorney
6 or a written special power of attorney that authorizes the other individual to
7 apply for an absentee ballot on behalf of the voter. The application must include
8 the address or, if the application requests delivery of an absentee ballot by electronic
9 transmission, the telephone electronic transmission number, to which the absentee
10 ballot is to be returned, the applicant's full Alaska residence address, and the
11 applicant's signature. However, a person residing outside the United States and
12 applying to vote absentee in federal elections in accordance with AS 15.05.011 need
13 not include an Alaska residence address in the application.

14 * Sec. 18. AS 15.20.081(d) is amended to read:

15 (d) Upon receipt of an absentee ballot by mail, the voter, in the presence of a
16 notary public, commissioned officer of the armed forces including the National Guard,
17 district judge or magistrate, United States postal official, registration official, or other
18 person qualified to administer oaths, may proceed to mark the ballot in secret, to place
19 the ballot in the secrecy sleeve, to place the secrecy sleeve in the envelope provided,
20 and to sign the voter's certificate on the envelope in the presence of an official listed in
21 this subsection who shall sign as attesting official and shall date the signature. If none
22 of the officials listed in this subsection is reasonably accessible, an absentee voter
23 shall sign the voter's certificate in the presence of an individual who is [TWO
24 PERSONS OVER THE AGE OF] 18 years of age or older, who shall sign as a
25 witness [WITNESSES] and attest to the date on which the voter signed the certificate
26 in the individual's [THEIR] presence, and, in addition, the voter shall certify, as
27 prescribed in AS 09.63.020, under penalty of perjury, that the statements in the
28 voter's certification are true [PROVIDE THE CERTIFICATION PRESCRIBED IN
29 AS 09.63.020].

30 * Sec. 19. AS 15.20.081(h) is amended to read:

31 (h) Except as provided in AS 15.20.480, an absentee ballot returned by mail

1 from outside the United States or from an overseas voter qualifying under
2 AS 15.05.011 [A MILITARY APO OR FPO ADDRESS] that has been marked and
3 mailed not later than election day may not be counted unless the ballot is received by
4 the election supervisor not later than the close of business on the 15th day following
5 the election.

6 * Sec. 20. AS 15.20.450 is amended to read:

7 **Sec. 15.20.450. Requirement of deposit.** The application must include a
8 deposit in cash, by certified check, or by bond with a surety approved by the director.
9 The amount of the deposit is \$1,000 [\$300] for each precinct, \$2,000 [\$750] for each
10 house district, and \$15,000 [\$10,000] for the entire state. If the recount includes an
11 office for which candidates received a tie vote, or the difference between the number
12 of votes cast was 20 or less or was less than .5 percent of the total number of votes
13 cast for the two candidates for the contested office, or a question or proposition for
14 which there was a tie vote on the issue, or the difference between the number of votes
15 cast in favor of or opposed to the issue was 20 or less or was less than .5 percent of the
16 total votes cast in favor of or opposed to the issue, the application need not include a
17 deposit, and the state shall bear the cost of the recount. If, on the recount, a candidate
18 other than the candidate who received the original election certificate is declared
19 elected, or if the vote on recount is determined to be four percent or more in excess of
20 the vote reported by the state review for the candidate applying for the recount or in
21 favor of or opposed to the question or proposition as stated in the application, the
22 entire deposit shall be refunded. If the entire deposit is not refunded, the director shall
23 refund any money remaining after the cost of the recount has been paid from the
24 deposit.

25 * Sec. 21. AS 15.20.800(b) is amended to read.

26 (b) If the director conducts an election under (a) of this section by mail, the
27 director shall send a ballot for each election described in (a) of this section to each
28 person whose name appears on the official registration list prepared under
29 AS 15.07.125 for that election. The director shall send ballots by first class,
30 nonforwardable mail. The ballot shall be sent to the address stated on the official
31 registration list unless

1 (1) the voter has notified the director or an election supervisor of a
2 different address to which the ballot should be sent; or

3 (2) address on the official registration list has been identified as
4 being an undeliverable address [. THE DIRECTOR SHALL SEND BALLOTS BY
5 FIRST CLASS, NONFORWARDABLE MAIL].

6 * Sec. 22. AS 15.20 is amended by adding a new section to article 5 to read:

7 **Sec. 15.20.910. Standards for voting machines and vote tally systems.** The
8 director may approve a voting machine or vote tally system for use in an election in
9 the state upon consideration of factors relevant to the administration of state elections,
10 including whether the Federal Election Commission has certified the voting machine
11 or vote tally system to be in compliance with the voting system standards approved by
12 the Federal Election Commission as required by 42 U.S.C. 15481(a)(5) (Help America
13 Vote Act of 2002). The director may only approve a voting machine or vote tally
14 system if the machine or system satisfies the requirements of AS 15.15.032(c).

15 * Sec. 23. AS 15.25.030(a) is amended to read:

16 (a) A member of a political party who seeks to become a candidate of the
17 party in the primary election shall execute and file a declaration of candidacy. The
18 declaration shall be executed under oath before an officer authorized to take
19 acknowledgments and must state in substance

20 (1) the full name of the candidate;

21 (2) the full mailing address of the candidate;

22 (3) if the candidacy is for the office of state senator or state
23 representative, the house or senate district of which the candidate is a resident;

24 (4) the office for which the candidate seeks nomination;

25 (5) the name of the political party of which the person is a candidate
26 for nomination;

27 (6) the full residence address of the candidate, and the date on which
28 residency at that address began;

29 (7) the date of the primary election at which the candidate seeks
30 nomination;

31 (8) the length of residency in the state and in the district of the

1 candidate;

2 (9) that the candidate will meet the specific citizenship requirements of
3 the office for which the person is a candidate;

4 (10) that the candidate is a qualified voter as required by law;

5 (11) that the candidate will meet the specific age requirements of the
6 office for which the person is a candidate; if the candidacy is for the office of state
7 representative, that the candidate will be at least 21 years of age on the first
8 scheduled day of the first regular session of the legislature convened after the
9 election; if the candidacy is for the office of state senator, that the candidate will
10 be at least 25 years of age on the first scheduled day of the first regular session of
11 the legislature convened after the election; if the candidaey is for the office of
12 governor or lieutenant governor, that the candidate will be at least 30 years of
13 age on the first Monday in December following election or, if the office is to be
14 filled by special election under AS 15.40.230 - 15.40.310, that the candidate will
15 be at least 30 years of age on the date of certification of the results of the special
16 election; or, for any other office, by the time that the candidate, if elected, is
17 sworn into office;

18 (12) that the candidate requests that the candidate's name be placed on
19 the primary election ballot;

20 (13) that the required fee accompanies the declaration;

21 (14) that the person is not a candidate for any other office to be voted
22 on at the primary or general election and that the person is not a candidate for this
23 office under any other declaration of candidacy or nominating petition;

24 (15) the manner in which the candidate wishes the candidate's name to
25 appear on the ballot; and

26 (16) that the candidate is registered to vote as a member of the political
27 party whose nomination is being sought.

28 * Sec. 24. AS 15.25.105(a) is amended to read:

29 (a) If a candidate does not appear on the primary election ballot or is not
30 successful in advancing to the general election and wishes to be a candidate in the
31 general election, the candidate may file as a write-in candidate. Votes for a write-in

1 candidate may not be counted unless that candidate has filed a letter of intent with the
2 director stating

3 (1) the full name of the candidate;

4 (2) the full residence address of the candidate and the date on which
5 residency at that address began;

6 (3) the full mailing address of the candidate;

7 (4) the name of the political party or political group of which the
8 candidate is a member, if any;

9 (5) if the candidate is for the office of state senator or state
10 representative, the house or senate district of which the candidate is a resident;

11 (6) the office that the candidate seeks;

12 (7) the date of the election at which the candidate seeks election;

13 (8) the length of residency in the state and in the house district of the
14 candidate;

15 (9) the name of the candidate as the candidate wishes it to be written
16 on the ballot by the voter;

17 (10) that the candidate meets the specific citizenship requirements of
18 the office for which the person is a candidate;

19 (11) that the candidate will meet the specific age requirements of the
20 office for which the person is a candidate; if the candidacy is for the office of state
21 representative, that the candidate will be at least 21 years of age on the first
22 scheduled day of the first regular session of the legislature convened after the
23 election; if the candidacy is for the office of state senator, that the candidate will
24 be at least 25 years of age on the first scheduled day of the first regular session of
25 the legislature convened after the election; if the candidacy is for the office of
26 governor or lieutenant governor, that the candidate will be at least 30 years of
27 age on the first Monday in December following election or, if the office is to be
28 filled by special election under AS 15.40.230 - 15.40.310, that the candidate will
29 be at least 30 years of age on the date of certification of the results of the special
30 election; or, for any other office, by the time that the candidate, if elected, is sworn
31 into office;

1 (12) that the candidate is a qualified voter as required by law; and

2 (13) that the candidate is not a candidate for any other office to be
3 voted on at the general election and that the candidate is not a candidate for this office
4 under any other nominating petition or declaration of candidacy.

5 * Sec. 25. AS 15.25.180(a) is amended to read:

6 (a) The petition must state in substance

7 (1) the full name of the candidate;

8 (2) the full residence address of the candidate and the date on which
9 residency at that address began;

10 (3) the full mailing address of the candidate;

11 (4) the name of the political group, if any, supporting the candidate;

12 (5) if the candidacy is for the office of state senator or state
13 representative, the house or senate district of which the candidate is a resident;

14 (6) the office for which the candidate is nominated;

15 (7) the date of the election at which the candidate seeks election;

16 (8) the length of residency in the state and in the district of the
17 candidate;

18 (9) that the subscribers are qualified voters of the state or house or
19 senate district in which the candidate resides;

20 (10) that the subscribers request that the candidate's name be placed on
21 the general election ballot;

22 (11) that the proposed candidate accepts the nomination and will serve
23 if elected, with the statement signed by the proposed candidate;

24 (12) the name of the candidate as the candidate wishes it to appear on
25 the ballot;

26 (13) that the candidate is not a candidate for any other office to be
27 voted on at the primary or general election and that the candidate is not a candidate for
28 this office under any other nominating petition or declaration of candidacy;

29 (14) that the candidate meets the specific citizenship requirements of
30 the office for which the person is a candidate;

31 (15) that the candidate will meet the specific age requirements of the

1 office for which the person is a candidate; if the candidacy is for the office of state
 2 representative, that the candidate will be at least 21 years of age on the first
 3 scheduled day of the first regular session of the legislature convened after the
 4 election; if the candidacy is for the office of state senator, that the candidate will
 5 be at least 25 years of age on the first scheduled day of the first regular session of
 6 the legislature convened after the election; and if the candidacy is for the office of
 7 governor or lieutenant governor, that the candidate will be at least 30 years of
 8 age on the first Monday in December following election or, if the office is to be
 9 filled by special election under AS 15.40.230 - 15.40.310, that the candidate will
 10 be at least 30 years of age on the date of certification of the results of the special
 11 election; or, for any other office, by the time that the candidate, if elected, is sworn
 12 into office;

13 (16) that the candidate is a qualified voter; and

14 (17) if the candidacy is for the office of the governor, the name of the
 15 candidate for lieutenant governor running jointly with the candidate for governor.

16 * Sec. 26. AS 15.30 is amended by adding a new section to read:

17 Sec. 15.30.026. **Qualifications for independent candidates for President of**
 18 **the United States; selection of candidate for Vice-President; selection of electors.**

19 (a) A person who desires to be an independent candidate for President of the United
 20 States must file with the director not earlier than January 1 of a presidential election
 21 year and not later than the 90th day before a presidential general election a petition
 22 signed by qualified voters of the state equal in number to at least one percent of the
 23 number of voters who cast ballots in an election under this chapter for President of the
 24 United States at the last presidential general election. The petition must state that the
 25 signers desire the named candidate for President of the United States to appear on the
 26 ballot as an independent candidate for president at the next succeeding presidential
 27 general election.

28 (b) In order to appear on the ballot, a candidate who has qualified for ballot
 29 status under (a) of this section shall certify the following information to the director on
 30 or before September 1 of the year of the presidential general election:

31 (1) the names of the electors for the independent candidate for

1 President of the United States, equal to the number of senators and representatives to
2 which the state is entitled in Congress;

3 (2) the name of a candidate for Vice-President, selected by the
4 independent candidate; and

5 (3) the name, Alaska mailing address, and signature of the candidate's
6 state campaign chair, who must be an Alaska resident.

7 * Sec. 27. AS 15.30.050 is amended to read:

8 **Sec. 15.30.050. Interpretation of votes cast for candidates for President**
9 **and Vice-President [VICE PRESIDENT].** In voting for presidential electors, a vote
10 marked for the candidates for President and Vice-President [VICE PRESIDENT] is
11 considered and counted as a vote for the presidential electors of the party or for the
12 presidential electors named under AS 15.30.026, as appropriate.

13 * Sec. 28. AS 15.30.090 is amended to read:

14 **Sec. 15.30.090. Duties of electors.** After any vacancies have been filled, the
15 electors shall proceed to cast their votes for the candidates for the office of President
16 and Vice-President [VICE PRESIDENT] of the party that [WHICH] selected them as
17 candidates for electors, or for the candidates for the office of President and Vice-
18 President under AS 15.30.026 if the electors were named under AS 15.30.026, and
19 shall perform the duties of electors as required by the constitution and laws of the
20 United States. The director shall provide administrative services and the Department
21 of Law shall provide legal services necessary for the electors to perform their duties.

22 * Sec. 29. AS 15.45.030 is amended to read:

23 **Sec. 15.45.030. Form of application.** The application must [SHALL]
24 include the

25 (1) [THE] proposed bill [TO BE INITIATED],

26 (2) printed name, the signature, the address, and a numerical
27 identifier of not fewer than 100 qualified voters who will serve as sponsors; each
28 signature page must include a statement that the sponsors are qualified voters who
29 signed the application with the proposed bill attached; and [.]

30 (3) [THE] designation of an initiative committee consisting of three of
31 the sponsors who subscribed to the application and [SHALL] represent all sponsors

1 and subscribers in matters relating to the initiative; the designation must include the
2 name, mailing address, and signature of each committee member [, AND (4)
3 THE SIGNATURES AND ADDRESSES OF NOT LESS THAN 100 QUALIFIED
4 VOTERS].

5 * Sec. 30. AS 15.45.060 is amended to read:

6 Sec. 15.45.060. Designation of sponsors. The qualified voters who subscribe
7 to the application in support of the proposed bill are designated as sponsors. The
8 initiative committee may designate additional sponsors by giving written notice to the
9 lieutenant governor of the names, [AND] addresses, and numerical identifiers of
10 those so designated.

11 * Sec. 31. AS 15.45.090 is repealed and reenacted to read:

12 Sec. 15.45.090. Preparation of petition. (a) If the application is certified,
13 the lieutenant governor shall prepare a sufficient number of sequentially numbered
14 petitions to allow full circulation throughout the state. Each petition must contain

15 (1) a copy of the proposed bill if the number of words included in both
16 the formal and substantive provisions of the bill is 500 or less;

17 (2) an impartial summary of the subject matter of the bill;

18 (3) a statement of minimum costs to the state associated with
19 certification of the initiative application and review of the initiative petition, excluding
20 legal costs to the state and the costs to the state of any challenge to the validity of the
21 petition;

22 (4) an estimate of the cost to the state of implementing the proposed
23 law;

24 (5) the statement of warning prescribed in AS 15.45.100;

25 (6) sufficient space for the printed name, a numerical identifier, the
26 signature, the date of signature, and the address of each person signing the petition;
27 and

28 (7) other specifications prescribed by the lieutenant governor to ensure
29 proper handling and control.

30 (b) Upon request of the initiative committee, the lieutenant governor shall
31 report to the committee the number of persons who voted in the preceding general

1 election.

2 * **Sec. 32.** AS 15.45 is amended by adding a new section to read:

3 **Sec. 15.45.105. Qualifications of circulator.** To circulate a petition booklet,
4 a person shall be

- 5 (1) a citizen of the United States;
6 (2) 18 years of age or older; and
7 (3) a resident of the state as determined under AS 15.05.020.

8 * **Sec. 33.** AS 15.45.120 is amended to read:

9 **Sec. 15.45.120. Manner of signing and withdrawing name from petition.**

10 Any qualified voter may subscribe to the petition by printing the voter's name, a
11 numerical identifier, and an address, by signing the voter's name, and by dating
12 the signature [AND ADDRESS]. A person who has signed the initiative petition
13 may withdraw the person's name only by giving written notice to the lieutenant
14 governor before the date the petition is filed.

15 * **Sec. 34.** AS 15.45.130 is repealed and reenacted to read:

16 **Sec. 15.45.130. Certification of circulator.** Before being filed, each petition
17 shall be certified by an affidavit by the person who personally circulated the petition.
18 In determining the sufficiency of the petition, the lieutenant governor may not count
19 subscriptions on petitions not properly certified at the time of filing or corrected before
20 the subscriptions are counted. The affidavit must state in substance

- 21 (1) that the person signing the affidavit meets the residency, age, and
22 citizenship qualifications for circulating a petition under AS 15.45.105;
23 (2) that the person is the only circulator of that petition;
24 (3) that the signatures were made in the circulator's actual presence;
25 (4) that to the best of the circulator's knowledge, the signatures are the
26 signatures of the persons whose names they purport to be;
27 (5) that, to the best of the circulator's knowledge, the signatures are of
28 persons who were qualified voters on the date of signature;
29 (6) that the circulator has not entered into an agreement with a person
30 or organization in violation of AS 15.45.110(c);
31 (7) that the circulator has not violated AS 15.45.110(d) with respect to

1 that petition; and

2 (8) whether the circulator has received payment or agreed to receive
3 payment for the collection of signatures on the petition, and, if so, the name of each
4 person or organization that has paid or agreed to pay the circulator for collection of
5 signatures on the petition.

6 * Sec. 35. AS 15.45.200 is amended to read:

7 Sec. 15.45.200. Display of proposed law. The director shall provide each
8 election board with at least five [10] copies of the proposed law being initiated, and
9 the election board shall display at least one copy [THREE COPIES] of the proposed
10 law in a conspicuous place in the room where the election is held.

11 * Sec. 36. AS 15.45.270 is amended to read:

12 Sec. 15.45.270. Form of application. The application must [SHALL]
13 include

14 (1) the act to be referred;

15 (2) a statement of approval or rejection;

16 (3) the printed name, the signature, the address, and a numerical
17 identifier of not fewer than 100 qualified voters who will serve as sponsors; each
18 signature page must include a statement that the sponsors are qualified voters who
19 signed the application with the act to be referred and the statement of approval or
20 rejection [PROPOSED BILL] attached; and

21 (4) ~~{(3)}~~ the designation of a referendum committee consisting of three
22 of the sponsors who subscribed to the application and [SHALL] represent all
23 sponsors and subscribers in matters relating to the referendum; the designation must
24 include the name, mailing address, and signature of each committee member
25 [AND

26 (4) THE SIGNATURES AND ADDRESSES OF NOT FEWER
27 THAN 100 QUALIFIED VOTERS].

28 * Sec. 37. AS 15.45.290 is amended to read:

29 Sec. 15.45.290. Designation of sponsors. The qualified voters who subscribe
30 to the application in support of the referendum are designated as sponsors. The
31 referendum committee may designate additional sponsors by giving notice to the

1 lieutenant governor of the names, [AND] addresses, and numerical identifiers of
2 those so designated.

3 * Sec. 38. AS 15.45.320 is repealed and reenacted to read:

4 **Sec. 15.45.320. Preparation of petition.** (a) The lieutenant governor shall
5 prepare a sufficient number of sequentially numbered petitions to allow full circulation
6 throughout the state. Each petition must contain

7 (1) a copy of the act to be referred if the number of words included in
8 both the formal and substantive provisions of the act is 500 or less;

9 (2) the statement of approval or rejection;

10 (3) a statement of minimum costs to the state associated with
11 certification of the referendum application and review of the referendum petition,
12 excluding legal costs to the state and the costs to the state of any challenge to the
13 validity of the petition;

14 (4) an estimate of the cost to the state of voter approval or rejection of
15 the act;

16 (5) an impartial summary of the subject matter of the act;

17 (6) the statement of warning prescribed in AS 15.45.330;

18 (7) sufficient space for the printed name, a numerical identifier, the
19 signature, the date of signature, and the address of each person signing the petition;
20 and

21 (8) other specifications prescribed by the lieutenant governor to ensure
22 proper handling and control.

23 (b) Upon request of the referendum committee, the lieutenant governor shall
24 report to the committee the number of persons who voted in the preceding general
25 election.

26 * Sec. 39. AS 15.45 is amended by adding a new section to read:

27 **Sec. 15.45.335. Qualifications of circulator.** To circulate a petition booklet,
28 a person shall be

29 (1) a citizen of the United States;

30 (2) 18 years of age or older; and

31 (3) a resident of the state as determined under AS 15.05.020.

1 * Sec. 40. AS 15.45.340 is amended by adding new subsections to read:

2 (b) A circulator may not receive payment or agree to receive payment that is
3 greater than \$1 a signature, and a person or an organization may not pay or agree to
4 pay an amount that is greater than \$1 a signature, for the collection of signatures on a
5 petition.

6 (c) A person or organization may not knowingly ~~pay~~, offer to pay, or cause to
7 be paid money or other valuable thing to a person to sign ~~or~~ refrain from signing a
8 petition.

9 (d) A person or organization that violates (b) or (c) of this section is guilty of a
10 class B misdemeanor.

11 (e) In this section,

12 (1) "organization" has the meaning given in AS 11.81.900;

13 (2) "other valuable thing" has the meaning given in AS 15.56.030;

14 (3) "person" has the meaning given in AS 11.81.900.

15 * Sec. 41. AS 15.45.350 is amended to read:

16 **Sec. 15.45.350. Manner of signing and withdrawing name from petition.**
17 Any qualified voter may subscribe to the petition by printing the voter's name, a
18 numerical identifier, and an address, by signing the voter's name, and by dating
19 the signature [AND ADDRESS]. A person who has signed the referendum petition
20 may withdraw the person's name only by giving written notice to the lieutenant
21 governor before the date the petition is filed.

22 * Sec. 42. AS 15.45.360 is repealed and reenacted to read:

23 **Sec. 15.45.360. Certification of circulator.** Before being filed, each petition
24 shall be certified by an affidavit by the person who personally circulated the petition.
25 In determining the sufficiency of the petition, the lieutenant governor may not count
26 subscriptions on petitions not properly certified at the time of filing or corrected before
27 the subscriptions are counted. The affidavit must state in substance

28 (1) that the person signing the affidavit meets the residency, age, and
29 citizenship qualifications for circulating a petition under AS 15.45.335;

30 (2) that the person is the only circulator of that petition;

31 (3) that the signatures were made in the circulator's actual presence;

1 (4) that to the best of the circulator's knowledge, the signatures are the
2 signatures of the persons whose names they purport to be;

3 (5) that, to the best of the circulators knowledge, the signatures are of
4 persons who were qualified voters on the date of signature;

5 (6) that the circulator has not entered into an agreement with a person
6 or organization in violation of AS 15.45.340(b);

7 (7) that the circulator has not violated AS 15.45.340(c) with respect to
8 that petition; and

9 (8) whether the circulator has received payment or agreed to receive
10 payment for the collection of signatures on the petition, and, if so, the name of each
11 person or organization that has paid or agreed to pay the circulator for collection of
12 signatures on the petition.

13 * Sec. 43. AS 15.45.430 is amended to read:

14 Sec. 15.45.430. Display of act being referred. The director shall provide
15 each election board with at least five [10] copies of the act being referred, and the
16 election board shall display at least one copy [THREE COPIES] of the act in a
17 conspicuous place in the room where the election is held.

18 * Sec. 44. AS 15.45.500 is amended to read:

19 Sec. 15.45.500. Form of application. The application must include

20 (1) the name and office of the person to be recalled;

21 (2) the grounds for recall described in particular in not more than 200
22 words;

23 (3) the printed name, the signature, the address, and a numerical
24 identifier of qualified voters equal in number to 10 percent of those who voted in
25 the preceding general election in the state or in the senate or house district of the
26 official sought to be recalled, 100 of whom will serve as sponsors; each signature
27 page must include a statement that the [SPONSORS ARE] qualified voters [WHO]
28 signed the application with the name and office of the person to be recalled and the
29 statement of grounds for recall attached; and

30 (4) the designation of a recall committee consisting of three of the
31 qualified voters [SPONSORS] who subscribed to the application and shall

1 represent all sponsors and subscribers in matters relating to the recall; the designation
2 must include the name, mailing address, and signature of each committee
3 member

4 [(5) THE SIGNATURES OF AT LEAST 100 QUALIFIED VOTERS
5 WHO SUBSCRIBE TO THE APPLICATION AS SPONSORS FOR PURPOSES OF
6 CIRCULATION; AND

7 (6) THE SIGNATURES AND ADDRESSES OF QUALIFIED
8 VOTERS EQUAL IN NUMBER TO 10 PERCENT OF THOSE WHO VOTED IN
9 THE PRECEDING GENERAL ELECTION IN THE STATE OR IN THE SENATE
10 OR HOUSE DISTRICT OF THE OFFICIAL SOUGHT TO BE RECALLED].

11 * **Sec. 45.** AS 15.45 is amended by adding a new section to read:

12 **Sec. 15.45.515. Designation of sponsors.** The qualified voters who subscribe
13 to the application in support of the recall are designated as sponsors. The recall
14 committee may designate additional sponsors by giving notice to the lieutenant
15 governor of the names, addresses, and numerical identifiers of those so designated.

16 * **Sec. 46.** AS 15.45.560 is repealed and reenacted to read:

17 **Sec. 15.45.560. Preparation of petition.** (a) The director shall prepare a
18 sufficient number of sequentially numbered petitions to allow full circulation
19 throughout the state or throughout the senate or house district of the official sought to
20 be recalled. Each petition must contain

21 (1) the name and office of the person to be recalled;

22 (2) the statement of the grounds for recall included in the application;

23 (3) a statement of minimum costs to the state associated with
24 certification of the recall application, review of the recall petition, and conduct of a
25 special election, excluding legal costs to the state and the costs to the state of any
26 challenge to the validity of the petition;

27 (4) an estimate of the cost to the state of recalling the official;

28 (5) the statement of warning required in AS 15.45.570;

29 (6) sufficient space for the printed name, a numerical identifier, the
30 signature, the date of signature, and the address of each person signing the petition;
31 and

1 (7) other specifications prescribed by the director to ensure proper
2 handling and control.

3 (b) Upon request of the recall committee, the lieutenant governor shall report
4 to the committee the number of persons who voted in the preceding general election,
5 in the state or in the district of the official sought to be recalled by the recall
6 committee.

7 * Sec. 47. AS 15.45.570 is amended to read:

8 **Sec. 15.45.570. Statement of warning.** Each petition must [AND
9 DUPLICATE COPY SHALL] include a statement of warning that a person who signs
10 a name other than the person's own to the petition, or who knowingly signs more than
11 once for the same proposition at one election, or who signs the petition while
12 knowingly not a qualified voter, is guilty of a class B misdemeanor.

13 * Sec. 48. AS 15.45 is amended by adding a new section to read:

14 **Sec. 15.45.575. Qualifications of circulator.** To circulate a petition booklet,
15 a person shall be

16 (1) a citizen of the United States;

17 (2) 18 years of age or older; and

18 (3) a resident of the state as determined under AS 15.05.020.

19 * Sec. 49. AS 15.45.580 is amended by adding new subsections to read:

20 (b) A circulator may not receive payment or agree to receive payment that is
21 greater than \$1 a signature, and a person or an organization may not pay or agree to
22 pay an amount that is greater than \$1 a signature, for the collection of signatures on a
23 petition.

24 (c) A person or organization may not knowingly pay, offer to pay, or cause to
25 be paid money or other valuable thing to a person to sign or refrain from signing a
26 petition.

27 (d) A person or organization that violates (b) or (c) of this section is guilty of a
28 class B misdemeanor.

29 (e) In this section,

30 (1) "organization" has the meaning given in AS 11.81.900;

31 (2) "other valuable thing" has the meaning given in AS 15.56.030;

1 (3) "person" has the meaning given in AS 11.81.900.

2 * Sec. 50. AS 15.45.590 is amended to read:

3 Sec. 15.45.590. Manner of signing and withdrawing name from petition.
4 Any qualified voter may subscribe to the petition by printing the voter's name, a
5 numerical identifier, and an address, by signing the voter's name, and by dating
6 the signature [AND ADDRESS]. A person who has signed the petition may
7 withdraw the person's name only by giving written notice to the director before the
8 date the petition is filed.

9 * Sec. 51. AS 15.45.600 is repealed and reenacted to read:

10 Sec. 15.45.600. Certification of circulator. Before being filed, each petition
11 shall be certified by an affidavit by the person who personally circulated the petition.
12 In determining the sufficiency of the petition, the lieutenant governor may not count
13 subscriptions on petitions not properly certified at the time of filing or corrected before
14 the subscriptions are counted. The affidavit must state in substance

15 (1) that the person signing the affidavit meets the residency, age, and
16 citizenship qualifications for circulating a petition under AS 15.45.575;

17 (2) that the person is the only circulator of that petition;

18 (3) that the signatures were made in the circulator's actual presence;

19 (4) that to the best of the circulator's knowledge, the signatures are the
20 signatures of the persons whose names they purport to be;

21 (5) that, to the best of the circulator's knowledge, the signatures are of
22 persons who were qualified voters on the date of signature;

23 (6) that the circulator has not entered into an agreement with a person
24 or organization in violation of AS 15.45.580(b);

25 (7) that the circulator has not violated AS 15.45.580(c) with respect to
26 that petition; and

27 (8) whether the circulator has received payment or agreed to receive
28 payment for the collection of signatures on the petition, and, if so, the name of each
29 person or organization that has paid or agreed to pay the circulator for collection of
30 signatures on the petition.

31 * Sec. 52. AS 15.45.680 is amended to read:

1 **Sec. 15.45.680. Display of grounds [BASES] for and against recall.** The
2 director shall provide each election board in the state or in the senate or house district
3 of the person subject to recall with at least five [10] copies of the statement of the
4 grounds for recall included in the application and at least five [10] copies of the
5 statement of not more than 200 words made by the official subject to recall in
6 justification of the official's conduct in office. The person subject to recall may
7 provide the director with the statement within 10 days after the date the director gave
8 notification that the petition was properly filed. The election board shall post at least
9 one copy [THREE COPIES] of the statements for and against recall in a [THREE]
10 conspicuous place [PLACES] in the polling place.

11 * **Sec. 53.** AS 15.58.020 is amended to read:

12 **Sec. 15.58.020. Contents of pamphlet.** Each election pamphlet must contain

13 (1) photographs and campaign statements submitted by eligible
14 candidates for elective office in the region;

15 (2) information and recommendations filed under AS 15.58.050 on
16 judicial officers subject to a retention election in the region;

17 (3) a map of the house district or districts of the region;

18 (4) sample ballots for house districts of the region;

19 (5) an absentee ballot application;

20 (6) for each ballot proposition submitted to the voters by initiative or
21 referendum petition or by the legislature.

22 (A) the full text of the proposition specifying constitutional or
23 statutory provisions proposed to be affected;

24 (B) the ballot title and the summary of the proposition prepared
25 by the director or by the lieutenant governor;

26 (C) a statement of the costs to the state of implementing the law
27 proposed in an initiative, or of voter approval or rejection of the act that is the
28 subject of a referendum;

29 (D) a neutral summary of the proposition prepared by the
30 Legislative Affairs Agency;

31 (E) statements submitted that advocate voter approval or

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- rejection of the proposition not to exceed 500 words;
- (7) for each bond question, a statement of the scope of each project as it appears in the bond authorization;
- (8) a maximum of two pages of material submitted by each political party;
- (9) additional information on voting procedures that the lieutenant governor considers necessary;
- (10) for the question whether a constitutional convention shall be called.
 - (A) a full statement of the question placed on the ballot;
 - (B) statements not to exceed 100 words that advocate voter approval or rejection of the question;
- (11) under AS 37.13.170, the Alaska permanent fund annual income statement and balance sheet for the two fiscal years preceding the publication of the election pamphlet;
- (12) under AS 15.10.090, notice of
 - (A) the establishment or abolition of a precinct;
 - (B) the designation, abolition, or modification of precinct boundaries; and
 - (C) a change in the location of a polling place.

* Sec. 54. AS 15.60 is amended by adding a new section to read:

Sec. 15.60.008. Recognized political party status. (a) A political group that the director has not recognized as a political party may obtain recognized political party status if, on or before May 31 of the election year for which the political group seeks recognition, the political group

- (1) files an application with the director;
- (2) submits bylaws to the director and the United States Department of Justice as required of political parties in AS 15.25.014; and
- (3) meets the definition of a political party in AS 15.60.010.

(b) The director shall verify that each political group seeking recognized political party status under (a) of this section and each recognized political party meets

1 the definition of a political party in AS 15.60.010.

2 (c) The director shall perform a verification described in (b) of this section at
3 least once a month after the date of certification of the preceding general election,
4 except that the director may suspend the monthly verifications on and after June 1 and
5 before November 30 of a general election year. For purposes of (b) of this section, the
6 director shall verify that the voters who have submitted registration forms to the
7 division of elections are qualified under AS 15.05.010 and have declared affiliation
8 with the political group or recognized political party for which the verification is
9 performed.

10 (d) Within 10 days after a verification under (c) of this section, the director
11 shall provide to a political group seeking recognized political party status under (a) of
12 this section written notification when the political group has obtained recognized
13 political party status.

14 (e) The director may not withdraw recognized political party status from a
15 political group that no longer qualifies as a political party until after the first
16 verification after a general election. ^{AT which a governor was} The director shall notify the political group in
17 writing of the withdrawal of recognition. _{elector.}

18 * Sec. 55. AS 15.60.010(23) is amended to read:

19 (23) "political party" means an organized group of voters that
20 represents a political program and that


21 (A) [THAT] nominated a candidate for governor who received
22 ^{BS moved one %} at least two [THREE] percent of the total votes cast for governor at the
23 preceding general election [OR HAS REGISTERED VOTERS IN THE
24 STATE EQUAL IN NUMBER TO AT LEAST THREE PERCENT OF THE
25 TOTAL VOTES CAST FOR GOVERNOR AT THE PRECEDING
26 GENERAL ELECTION];

27 (B) [IF THE OFFICE OF GOVERNOR WAS NOT ON THE
28 BALLOT AT THE PRECEDING GENERAL ELECTION BUT THE OFFICE
29 OF UNITED STATES SENATOR WAS ON THAT BALLOT, THAT]
30 nominated a candidate for United States senator who received at least two
31 [THREE] percent of the total votes cast for United States senator at the

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preceding general election or at the most recent general election at which a governor was elected; [THAT GENERAL ELECTION OR HAS REGISTERED VOTERS IN THE STATE EQUAL IN NUMBER TO AT LEAST THREE PERCENT OF THE TOTAL VOTES CAST FOR UNITED STATES SENATOR AT THAT GENERAL ELECTION; OR]

(C) [IF NEITHER THE OFFICE OF GOVERNOR NOR THE OFFICE OF UNITED STATES SENATOR WAS ON THE BALLOT AT THE PRECEDING GENERAL ELECTION, THAT] ~~nominated~~ a candidate for United States representative who received at least two [THREE] percent of the total votes cast for United States representative at the preceding general election or at the most recent general election at which a governor was elected; [THAT GENERAL ELECTION] or

NO → 

(D) has registered voters in the state equal in number to at least two [THREE] percent of the total number of voters registered in the state in the month that the director performs verification of party status as set out in AS 15.60.008(c) [VOTES CAST FOR UNITED STATES REPRESENTATIVE AT THAT GENERAL ELECTION];

* Sec. 56. AS 15.60.010 is amended by adding new paragraphs to read:

(40) "numerical identifier" means a voter's date of birth, the last four digits of a voter's social security number, a voter's Alaska driver's license number, or a voter's Alaska identification card number or voter identification number;

(41) "reregistration" means the submission of a registration form by a voter whose registration was inactivated on the master register maintained under AS 15.07 and the director's reactivation of that registration in accordance with that chapter; in this paragraph, "a voter whose registration was inactivated" does not include a voter whose registration was inactivated under AS 15.07.130 and whose ballot may be counted under AS 15.15.198.

* Sec. 57. AS 29.05.110(b) is amended to read:

(b) A qualified voter who is registered to vote [HAS BEEN A RESIDENT OF THE AREA] within the proposed municipality at least [FOR] 30 days before the date of the election order may vote.

1 * Sec. 58. AS 29.05.110(c) is amended to read:

2 (c) Areawide borough powers included in an incorporation petition are
3 considered to be part of the incorporation question. In an election for the
4 incorporation of a second class borough, each nonareawide power to be exercised is
5 placed separately on the ballot. Adoption of a nonareawide power requires a majority
6 of the votes cast on the question, and the vote is limited to the qualified voters who
7 are registered to vote [RESIDING] in the proposed borough but outside all cities in
8 the proposed borough.

9 * Sec. 59. AS 29.05.110 is amended by adding a new subsection to read:

10 (f) In this section, "qualified voter" has the meaning given in AS 15.60.010.

11 * Sec. 60. AS 15.10.020(b) and AS 15.20.048 are repealed.

12 * Sec. 61. The uncodified law of the State of Alaska is amended by adding a new section to
13 read:

14 APPLICABILITY. The changes made by secs. 29 - 52 of this Act apply to an
15 application for an initiative, referendum, or recall filed with the lieutenant governor on or
16 after the effective date of this Act.

17 * Sec. 62. The uncodified law of the State of Alaska is amended by adding a new section to
18 read:

19 TRANSITION. An initiative, referendum, or recall for which an application was filed
20 with the lieutenant governor before the effective date of this Act is subject to the provisions of
21 AS 15.45 as they existed on the day before the effective date of this Act.

4/19/05
adopted No

24-GH1048\L

4/12/05

AMENDMENT 1

OFFERED IN THE HOUSE FINANCE BY _____
COMMITTEE

TO: CSHB 94(JUD), (24-GH1048\L)

Page 10, lines 21 – 28:

Delete all material and insert:

“(b) If, following the ballot review set out in (a) of this section, the director finds there is a discrepancy of more than one percent between the results of the hand count of ballots under (a)(3) of this section and the count certified by the election board, the director shall conduct a hand count of the ballots from that district.

(c) If the director finds an unexplained discrepancy in the ballot count in any precinct, the director may count the ballots from that precinct.

(d) The director shall certify in writing to the state ballot counting review board and publish on the division’s Internet website any changes resulting from a [THE] count performed under (b) or (c) this section.”

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Chair
STATE AFFAIRS

Member
RESOURCES

Member
HEALTH, EDUCATION AND SOCIAL SERVICES

Member
WAYS AND MEANS



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REPRESENTATIVE PAUL SEATON
House District 35

House Finance Committee

April 18, 2005

Dear Sirs;

Re: HB 94 Elections

Amendment to page 31, line ¹⁶19 section 52 (33)(A) after "general election" insert
"at which a governor was elected"

As the Chair of the State Affairs Committee I ask you to consider the minor but important amendment to HB 94(JUD).

The State Affairs committee worked hard to rewrite the "political party" section of the bill to accomplish a fair process that would prevent cross party tampering with party status. A multiple section technical amendment was offered in the Judiciary Committee. The Judiciary committee agreed to the language proposed by State Affairs but an amendment to the amendment unintentionally changed the application of the section.

This is a request of the State Affairs Chair, Judiciary Chair, and the maker of the amendment (and the amendment to the amendment) to reinsert the above language.

Thank you for your consideration in this matter.

Paul A. Seaton
Rep. Paul Seaton, State Affairs Chair

Lesil McGuire
Rep. Lesil McGuire, Judiciary Chair

Max Gruenberg
Rep. Max Gruenberg, Amender

pg 31, 16



Testimony on HB 94 to the House Finance Committee

By Jim Sykes
April, 19, 2005

Please distribute to all committee members.

Committee Co-Chairs and Members of the Finance Committee,

My name is Jim Sykes, and I am the Elections Advisor for the Green Party of Alaska. The election's clean-up bill, HB94, is basically a good bill that addresses some long-standing problems.

Today, I wish to address one detail, which is out of line from requirements within the bill and those of other states, regarding the recognition of political parties using a registration test. Please see **Sec. 55. AS 15.60.010(23) (D)**.

The current bill asks for 2% of ALL registered voters—an extremely tough requirement that would be out of balance in recognizing the difficulty of meeting such a registration test. The goal of this legislation should provide clarity, fairness, openness that all of Alaska's voters. While members of the Finance Committee are all Republicans and Democrats, you have the responsibility to protect the rights of all political parties and all of the voters, including the 51% not registered to any political party.

A reasonable and legally defensible requirement would be 1/2 of 1% of registrations, which would be in line with nine other states with similar requirements.

The current proposal before the committee represents a 27% increase over the 2002 law. That would not be in line with the Alaska Supreme Court, which has repeatedly favored openness over increased restrictiveness.

There are only two minor parties in all the United States that exceed a 2% voter registration. One is Alaska Independence Party, but the 2% wasn't exceeded until the election of Walter Hickel and John Coghill Sr. in 1990. I think the other is California's Constitution Party.

An additional hurdle has been placed before Alaska's smaller parties. Primary laws currently favor non-affiliated voters by allowing them more choices than anyone registered to a political party. That increases the reluctance of independent voters to register to a particular political party if they perceive they will be limited to only choosing one party's ballot. The national trend has also seen independent voter registrations reach new highs.

States that have a registration test for party recognition generally set the bar at a tiny fraction of the ballot test requirement. Colorado has a 1% vote test, but political party recognition is granted with just 1,000 registered voters. Louisiana also requires only 1,000 registered voters.

It isn't right that Alaska should have a test that is 4 times greater than the average of the other similarly situated registration states.

Arizona .67%,
California .50%,
Colorado .05%,
Delaware .05%,
Louisiana .05%,
Maryland 1.00%,
Massachusetts 1.00%,
Nevada 1.00%,
Oregon .50%.

Two of these states have lower standards for parties that already have ballot status—California and Oregon. Taking the average of .67%, .50%, .05%, .05%, .05%, 1%, 1%, 1% and .5% works out to .54%, which one can say is .5%, or ½ of 1%.

A couple of examples are worth noting. Dwight Eisenhower carried Louisiana in 1956 even though registered Republicans in Louisiana were less than ½ of 1%. The last third party that elected a candidate to the U.S. Senate was Jim Buckley from New York's Conservative Party in 1970. The party had roughly 1% registration at the time.

The Alaska Supreme Court has often cited *Vogler I* in ballot access cases by several times declaring the principle:

"...only a regulation which impinges on the right to speak and associate to the least degree possible consistent with the states legitimate goals will pass constitutional muster."

What I think will pass constitutional muster is ½ of 1%. It will better protect the rights of all Alaska voters, be more legally defensible, and more in line with the states requirement for a "modicum of support.

The Supreme Court of Alaska ruled in *Vogler I* that nominating petition requiring signatures equaling 3% of those who voted in the last election was unconstitutionally burdensome. In so ruling the Court said:

"...the State's goals could have been achieved equally well by a signature requirement of for example 1%." (*Vogler I*, page 5 Paragraph 5).

That is why the 1% nominating petition requirement exists today—1% of those who voted in the last Governor's election. If we applied the seven times degree of difficulty in registering people to a political party, only 450 Alaskans would be required to demonstrate such a modicum of support.

It would be to the legislature's credit to recognize the higher level of difficulty in gathering registrations by substantially lowering the requirement in line with our legal tradition and in line with other states with similar systems.

In "*Vogler I*" the Alaska Supreme Court acknowledged that the State has a legitimate interest in eliminating confusion among voters resulting from large numbers of candidates on ballots, the Court also ruled in *Vogler I*, that the restrictions must be:

"...the least restrictive alternative possible consistent with the achievement of these goals."

The Court further observed:

"...that application of this standard in ballot access cases requires an inquiry into whether less restrictive alternatives will adequately protect any asserted governmental interest"

In Vogler I, the court also said:

"...only a regulation which impinges on the right to speak and associate to the least degree possible consistent with the states legitimate goals will pass constitutional muster."

The Supreme Court of Alaska has ruled that Alaska's voters are entitled to the least restrictive mechanisms possible consistent with the State's need to achieve its legitimate goals. The Supreme Court of Alaska has also ruled that the difficulty of qualifying through one route cannot be justified by the openness of the other. In effect, at a minimum, Alaska's parties and voters are entitled to the least restrictive of all the most common mechanisms of qualifying for full ballot access in both the primary and in the general election.

When addressing the issue of multiple parties in Vogler I, the Court said:

"Competition in ideas and government policies is at the core of our electoral process and of the First Amendment freedoms. New parties struggling for their place must have the time and opportunity to organize in order to meet reasonable requirements for ballot position, just as the old parties had in the past...The right to form a party for the advancement of political goals means little if a party can be kept off the election ballot and thus denied an equal opportunity to win votes. So also, the right to vote is also heavily burdened if that vote can be cast only for one of two parties at a time when other parties are clamoring for a place on the ballot."

If you have any questions I will do my best to answer them. Thank you.



Jim Sykes

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STATE OF ALASKA
Division of Elections
Office of the Lieutenant Governor

SECTIONAL ANALYSIS
CS HB Bill 94 (JUD) – version “L”

“An Act relating to qualifications of voters, requirements and procedures regarding independent candidates for President and Vice-President of the United States, voter registration, voter residence, precinct boundary and polling place designation and modification, recognized political parties, voters unaffiliated with a political party, early voting, absentee voting, ballot design, ballot counting, voting by mail, voting machines, vote tally systems, qualifications for elected office, initiative, referendum and recall, and definitions in the Alaska Election Code; relating to incorporation elections.”

Section One – STATUTORY FORM POWER OF ATTORNEY

Amends General Power of Attorney form to include a line “voter registration and absentee ballot requests” that may be checked by a person wishing to designate another as attorney in fact or agent by power of attorney. The House State Affairs Committee amended this section to meet the Division's request to allow an individual with the express power of attorney to register or request an absentee ballot on behalf of a voter.

Section Two – INTERPRETATION OF PROVISIONS IN STATUTORY FORM POWER OF ATTORNEY

Amends this section to clarify the authority conferred to the “agent” to register the principal to vote or request an absentee ballot on behalf of the “principal” (the voter). The House State Affairs Committee amended this section to meet the Division's request to allow an individual with the express power of attorney to register or request an absentee ballot on behalf of a voter.

Section Three – VOTER RESIDENCY

Changes the reference *from* "temporary construction camps" *to* "temporary work sites" to provide a more accurate definition of what fails to constitute a dwelling place.

Clarifies that the address of a voter as it appears on the voter registration RECORD, not the voter registration CARD is proof (presumptive evidence) of that voter's residence.

Section Four – MANNER OF REGISTRATION

Adds language to allow an individual with the express power of attorney to register on behalf of the voter.

Adds "scanning" as another means to transmit a voter registration application to the Division.

Section Five – REQUIRED INFORMATION FOR VOTER REGISTRATION

An Alaska residence address is required on a voter registration application, and the voter signs an oath that the information provided is true. Legislative Legal removed language in the first work draft for House State Affairs, that removed "as specified in regulations adopted by the director" related to defining the applicant's Alaska residence.

Removes dated language that refers to information proving residency that might be requested by the Division. Elections does not require proof nor does the Division compile voter files that contain this type of information.

Section Six - PROCEDURE FOR REGISTRATION

Adds "scanning" as another means to transmit a voter registration application to the Division.

Adds language to allow an individual with the express power of attorney to allow the individual to register on behalf of the voter.

Section Seven – VOTERS UNAFFILIATED WITH POLITICAL PARTIES

Proposes to set out the definitions of voters unaffiliated with political parties to reflect the Division's previous policy. Legislative Legal set this out as a section under "Voter Registration," rather than in the "Definitions" section of Title 15.

Section Eight - PREPARATION OF MASTER REGISTER

Ensures protection of voter information of those victims of domestic violence in accordance with changes made to the following section (AS 15.07.195) last year in Senate Bill 284.

Section Nine – PRECINCT BOUNDARY CHANGES

Changes made by House State Affairs increase public notice when the Division establishes or abolishes a precinct or if the boundaries of a precinct are designated, abolished, or modified, or if a polling place is changed.

This language requires the Division to send voters affected by any of the above changes by:

- Whenever possible written notice to each affected voter in the precinct
- Providing notice of the change by publication once in a local newspaper or by posting the notice in conspicuous places if no such newspaper exists
- Posting notice on the Division's website
- Providing notification of the changes to municipal clerks, community councils, tribal groups, Native villages, and village regional corporations.

The additional notice requirements result in a fiscal note of \$16.8 (in thousands) to the Primary and General Election budget.

Section Ten – PREPARATION OF OFFICIAL BALLOT

This subparagraph was amended by House State Affairs to implement "ballot rotation" for the names of those candidates running for governor, lieutenant governor, United States senator, United States representative, and state senator on the ballots printed for each house district.

Placement of names of candidates for State House races will appear in random order as determined by the Director, as is the current practice. Ballot rotation WILL NOT occur for candidates for State House.

Current law requires the Director to determine a random order for ALL candidates placed on ballots used in each house district.

Section Eleven – INDEPENDENT PRESIDENTIAL CANDIDATES

When preparing the general election ballot, the names of the candidates from each political party running for President and Vice President shall be placed on the ballot, rather than the names of the electors.

This language allows that the names of those running as Independents for President and Vice President shall be treated the same as those candidates representing a political party.

Section Twelve – BALLOT COUNTING

For the purposes of maintaining accountability of ballots, the number of ballots returned to the elections supervisor or designee for destruction must be reported by the election board.

Section Thirteen – SCOPE AND REVIEW OF BALLOT COUNTING

This language was added in House Judiciary to require the Division to do a mandatory hand-count verification of ballots from one precinct in every House district (a precinct that accounts for 5% or more of the ballots cast). Should a discrepancy of more than 1% between the results of the hand count and the count certified by the State Review Board, the Division MUST conduct a hand count of the entire district.

Section Fourteen – PREPARATION OF BALLOTS, ENVELOPES, AND OTHER MATERIAL

This language was added in House Judiciary to require that envelopes printed with the voter's certificate must include a notice that false statements made by the voter or by the witness on the certificate are punishable by law.

Section Fifteen – EARLY VOTING

Early voting sites would need to be designated by the Director by January 1st of an election year. This ensures that proper notice is available to voters and that regions can order sufficient ballots and election materials. Additionally, it allows supervisors to schedule election workers accordingly.

Legislative Legal changed language to clarify the intent.

Section Sixteen – ABSENTEE VOTING BY ELECTRONIC TRANSMISSION

Reduces the number of witnesses required to sign the oath accompanying a voter's absentee ballot (transmitted electronically) *from two to one*. Rural Alaskans and those who travel to remote locations believe that the requirement for two witnesses creates an undue hardship.

House State Affairs removed the requirement that the witness be a United States citizen.

Section Seventeen – ABSENTEE VOTING BY MAIL/ ELECTRONIC TRANSMISSION

Adds ways a voter may apply for an absentee ballot to include by fax or scanning an application.

Adds that an individual with the express power of attorney to allow the individual to apply for an absentee ballot on behalf of the voter may do so.

Section Eighteen – ABSENTEE VOTING BY MAIL/ ELECTRONIC TRANSMISSION

Reduces the number of witnesses required to sign the oath accompanying a voter's absentee ballot (transmitted by mail or electronically) *from two to one*. Once again, rural Alaskans and those who travel to remote locations believe that the requirement for two witnesses creates an undue hardship.

House State Affairs removed the requirement that the witness be a United States citizen.

House Judiciary added language that the witness certifies, under penalty of perjury, that the statements in the voter certificate are true.

Section Nineteen – ABSENTEE VOTING BY MAIL/ ELECTRONIC TRANSMISSION

Defines more accurately "overseas voter" by referring to definition in AS 15.05.011. Current language that describes military APO or FPO addresses is too limiting.

Section Twenty – RECOUNT REQUIREMENT OF DEPOSIT

The amount of deposits required for recounts were raised in House Judiciary as follows:

	Amount required since 1986	Amount proposed in CS HB 94 (JUD)
Per precinct	\$300	\$1,000
Per house district	\$750	\$2,000
Statewide	\$10,000	\$15,000

No changes were made to those recounts that the State bears the cost to conduct. (a tie, 20 or less vote margin or less that .5 percent of the total number of votes cast for the two candidates for the contested office.

Section Twenty-One – “BY MAIL” VOTING

Absentee ballots, the ballots shall be mailed by first class, *nonforwardable* mail and that ballots will not be mailed to a voter whose address has been identified as being undeliverable.

This language is proposed to ensure ballot security and the integrity of the election process.

Section Twenty-Two – STANDARDS FOR VOTING MACHINES

Adds a new section to Title 15 regarding the use of voting machines or vote tally systems. The Division of Elections will only utilize systems certified by the Federal Election Commission. All updates to the data management system must be certified before the State implements a modification of the current system or a new system.

House State Affairs added the last line to clarify that a voting system approved by the Director must satisfy the requirements of AS 15.15.032 (c) – which clearly states that the Director SHALL provide for a paper record of each electronically generated ballot that can be reviewed and corrected by a voter.

Section Twenty-Three – DECLARATION OF CANDIDACY

Added in House State Affairs, this section adds language to ensure that a candidate shall take an oath when making a declaration for office that the candidate will be the age required by the Alaska Constitution:

- If a candidate for state representative:

Be at least 21 on the first scheduled day of the first regular session of the legislature convened after the election

- If a candidate for state senator:

Be at least 25 on the first scheduled day of the first regular session of the legislature convened after the election

- If a candidate for governor or lieutenant governor:

Be at least 30 on the first Monday in December following the election

Section Twenty-Four – WRITE-IN CANDIDATES

Added in House State Affairs, this section adds language to ensure that a write-in candidate shall state in a letter of intent that the candidate will be the age required by the Alaska Constitution at the times noted above in the "Declaration of Candidacy" section.

Section Twenty-Five - REQUIREMENTS FOR PETITION

Added in House State Affairs, this section adds language to ensure that a candidate filing for office by petition shall state in the petition that the candidate will be the age required by the Alaska Constitution at the times noted above in the "Declaration of Candidacy" section.

Section Twenty-Six – QUALIFICATIONS FOR INDEPENDENT CANDIDATES FOR PRESIDENT/VICE PRESIDENT/SELECTION OF ELECTORS

Adds new language to describe the process for Independent candidates running for President.

An Independent candidate for President may file no earlier than January 1st of a presidential election year and no later than 90 days prior to the presidential general election. An Independent candidate for President must also provide the name, Alaska mailing address, and signature of the candidate's state campaign chair, which must be an Alaskan resident. This requirement exists ONLY for Independent candidates.

Section Twenty-Seven – INTERPRETATION OF VOTES CAST

In voting for presidential electors, votes marked for Independent candidates for President and Vice President are counted the same as votes marked for electors for party candidates.

Section Twenty-Eight – DUTIES OF ELECTORS

Duties for electors representing Independent candidates for President and Vice President are the same as those of electors representing other candidates.

Section Twenty-Nine – PETITIONS /FORM OF APPLICATION

Adds the requirement for the printed name and numerical identifier (changed from "date of birth" by House Judiciary to allow more identifiers to be used to assist the Division in qualifying the voter's signature) to be included when signing an application for petition. Numerical identifiers are defined in 15.60.010 (40) as: date of birth, the last four digits of a voter's social security number, a voter's Alaska driver's license number, or a voter's Alaska identification card number or voter ID number. Additionally, the three sponsors designated as the committee representing the sponsors must provide their name, mailing address and signatures.

These changes, and those that follow related to the petition process, are proposed to improve the petition process and make the process more "user friendly" for Alaskans.

Section Thirty – PETITIONS/DESIGNATION OF SPONSORS

Adds clarification that the sponsors are in support of the bill proposed in the initiative application.

Adds that additional sponsors, when providing their names and addresses, must also include numerical identifier (changed from "date of birth" by House Judiciary to allow more identifiers to be used).

Section Thirty-One – PETITIONS/PREPARATION OF PETITION

Adds the requirement for the printed name and numerical identifier to be included when signing a petition to assist the Division in qualifying the voter's signature. Added in House Judiciary was that the signer of a petition provide the date they signed the petition. This is to ensure that signers were indeed qualified voters at the time of signing the petition.

House Judiciary also added language to include with a petition booklet a statement of minimum costs to the State associated with certifying the application, reviewing the initiative petition, and an estimate of the cost to the State of implementing the proposed law.

The petition books have been sequentially numbered, but the inclusion of the language more clearly states the process and deletes language that refers to a record of petition booklets assigned to the sponsors. Judge Suddock criticized the requirement for these "accountability reports" in the Hinterberger case.

Section Thirty-Two – PETITIONS/QUALIFICATIONS OF CIRCULATOR

New section defines the qualifications of the petition circulators. Requires that circulator be a citizen, 18 years of age or older, and an Alaskan resident. When Alaska law was revised to comply with the Buckley decision, this change failed to be incorporated.

Section Thirty-Three – PETITIONS/WITHDRAWING NAME FROM PETITION

Adds the requirement for the printed name and numerical identifier to be included when signing a petition.

Also added in House Judiciary was that the signer of a petition provide the date they signed the petition. This is to ensure that signers were indeed qualified voters at the time of signing the petition.

Section Thirty-Four – PETITIONS/CERTIFICATION OF CIRCULATOR

Circulators of a petition are required to sign an affidavit that they meet residency, age, and citizenship qualifications for circulating a petition.

The requirement that the circulator's name be prominently displayed on the petition was deleted. This language has not been enforced since 2000 in compliance with the Supreme Court decision in *Buckley v. American Constitutional Law Foundation*.

In House Judiciary the phrase "to the best of the circulator's knowledge" was added to subparagraph 5, describing that petition circulator gather signatures of qualified voters.

Additionally, subparagraph 8 was rewritten in accordance with an Attorney General's opinion that advised that the State cannot require a petition carrier to prominently place their name in bold capital letters as currently required by law AND more clearly required that a circulator needs to indicate whether they received payment and the name of the person/organization that agreed to pay the circulator.

Section Thirty-Five – PETITIONS/DISPLAY OF PROPOSED LAW

Reduces the copies of the proposed law that are provided to each of the 439 election boards for distribution and posting at a polling place.

House State Affairs added the words "at least" to clarify that the Director shall provide AT LEAST five copies of the proposed law being initiated to the election board, and AT LEAST one copy of the proposed law will be posted.

Section Thirty-Six – REFERENDUM/FORM OF APPLICATION

Adds the requirement for the printed name and numerical identifier (changed from "date of birth" by House Judiciary to allow more identifiers to be used to assist the Division in qualifying the voter's signature) to be included when signing an application for referendum. Numerical identifiers are defined in 15.60.010 (40) as: date of birth, the last four digits of a voter's social security number, a voter's Alaska driver's license number, or a voter's Alaska identification card number or voter ID number. Additionally, the three sponsors designated as the committee representing the sponsors must provide their name, mailing address and signatures.

Section Thirty-Seven – REFERENDUM/DESIGNATION OF SPONSORS

Adds clarification that the sponsors are in support of the referendum.

Adds that additional sponsors, when providing their names and addresses, must also include numerical identifiers.

Section Thirty-Eight – REFERENDUM/ PREPARATION OF PETITION

Adds the requirement for the statement of rejection or approval, the signer's printed name and numerical identifier be included on a petition for referendum. Added in House Judiciary was that the signer of a petition provide the date signed they signed the petition. This is to ensure that signers were indeed qualified voters at the time of signing the petition.

House Judiciary also added language to include with a petition booklet a statement of minimum costs to the State associated with certifying the application, reviewing the referendum petition, and an estimate of the cost to the State of implementing the proposed law.

The petition books have been sequentially numbered, but the inclusion of the language more clearly states the process and replaces language that refers to a record of petition booklets assigned to the sponsors.

Section Thirty-Nine – REFERENDUM/QUALIFICATIONS OF CIRCULATOR

New section defines the qualifications of the referendum petition circulators. Requires that circulator be a citizen, 18 years of age or older, and an Alaskan resident. When Alaska law was revised to comply with the Buckley decision, this change failed to be incorporated.

Section Forty – REFERENDUM/CIRCULATION

Adds the prohibitions and penalties applicable to initiative petitions and applies these to the circulation of referendum petitions. (May not be paid more than \$1 per signature, nor may the circulator receive more than \$1 per signature)

Section Forty-One – REFERENDUM/MANNER OF SIGNING AND WITHDRAWING NAME FROM PETITION

Adds the requirement for the printed name and numerical identifier to be included when signing a referendum petition.

Also added in House Judiciary was that the signer of a petition provide the date they signed the petition. This is to ensure that signers were indeed qualified voters at the time of signing the petition.

Section Forty-Two – REFERENDUM/CERTIFICATION OF CIRCULATOR

This section more clearly defines the certification of circulators, to conform to the requirements for circulation of initiative petitions. Circulators of a referendum petition are required to sign an affidavit that they meet residency, age, and citizenship qualifications for circulating a petition.

The requirement that the circulator's name be prominently displayed on the petition was deleted. This language has not been enforced since 2000 in compliance with the Supreme Court decision in Buckley v. American Constitutional Law Foundation.

In House Judiciary the phrase "to the best of the circulator's knowledge" was added to subparagraph 5, describing that petition circulator gather signatures of qualified voters.

Additionally, subparagraph 8 was rewritten in accordance with an Attorney General's opinion that advised that the State cannot require a petition carrier to prominently place their name in bold capital letters as currently required by law AND more clearly required that a circulator needs to indicate whether they received payment and the name of the person/organization that agreed to pay the circulator.

Section Forty-Three - REFERENDUM/DISPLAY OF ACT BEING REFERRED

Reduces the copies of the act being referred that are provided to each of the 439 election boards for distribution and posting at a polling place.

House State Affairs added the words "at least" to clarify that the Director shall provide AT LEAST five copies of the act being referred to the election board and AT LEAST one copy of the act will be posted.

Section Forty-Four - RECALL/FORM OF APPLICATION

Adds the requirement for the printed name and numerical identifier (changed from "date of birth" by House Judiciary to allow more identifiers to be used to assist the Division in qualifying the voter's signature) to be included when signing an application for recall. Numerical identifiers are defined in 15.60.010 (40) as: date of birth, the last four digits of a voter's social security number, a voter's Alaska driver's license number, or a voter's Alaska identification card number or voter ID number. Additionally, the three sponsors designated as the committee representing the sponsors must provide their name, mailing address and signatures.

House Judiciary also clarified language stating that the signers must be qualified voters equal in number to 10 percent of those who voted in the preceding general election in the state or in the senate or house district of the official sought to be recalled (as current law requires), 100 of whom will serve as sponsors. (Further clarifying that the 100 sponsors are not additional signers, but rather part of the 10 percent required)

Section Forty-Five - RECALL/DESIGNATION OF SPONSORS

Proposes to add a new section with language similar to that regarding initiative petitions and referendum, stating the sponsors are in support of the recall and regarding the designation of additional sponsors.

Adds that additional sponsors, when providing their names and addresses, must also include numerical identifiers.

Section Forty-Six - RECALL/PREPARATION OF PETITION

Adds the requirement for the printed name and numerical identifier to be included when signing the recall petition. The recall petition books have been sequentially numbered, but the inclusion of the language more clearly states the process and replaces language that refers to a record of petition booklets assigned to the sponsors.

Added in House Judiciary was that the signer of a recall petition provide the date they signed the petition. This is to ensure that signers were indeed qualified voters at the time of signing the petition.

House Judiciary also added language to include with a recall petition booklet a statement of minimum costs to the State associated with certifying the recall application, reviewing the recall petition, and an estimate of the cost to conduct a special election.

Section Forty–Seven - RECALL/STATEMENT OF WARNING

Removes language referring to a “duplicate copy” as there are no “duplicate copies” assigned in a recall petition effort. This language mirrors language in the initiative and referendum sections.

Section Forty-Eight - RECALL/QUALIFICATIONS OF CIRCULATOR

New section defines the qualifications of the recall petition circulators. Requires that circulator be a citizen, 18 years of age or older, and an Alaskan resident. When Alaska law was revised to comply with the Buckley decision, this change failed to be incorporated.

Section Forty-Nine - RECALL/CIRCULATION

Adds the prohibitions and penalties applicable to initiative petitions and referendum and applies these to circulation of recall petitions.

Section Fifty – RECALL/MANNER OF SIGNING AND WITHDRAWING NAME FROM PETITION

Adds the requirement for the printed name and numerical identifier to be included when signing a recall petition.

Also added in House Judiciary was that the signer of a petition provide the date they signed the recall petition. This is to ensure that signers were indeed qualified voters at the time of signing the recall petition.

Section Fifty-One - RECALL/CERTIFICATION OF CIRCULATORS

This section more clearly defines the certification of circulators, to conform to the requirements for circulation of initiative and referendum petitions. Circulators of a recall petition are required to sign an affidavit that they meet residency, age, and citizenship qualifications for circulating a petition.

The requirement that the circulator's name be prominently displayed on the petition was deleted. This language has not been enforced since 2000 in compliance with the Supreme Court decision in *Buckley v. American Constitutional Law Foundation*.

Section Fifty-One - RECALL/CERTIFICATION OF CIRCULATORS (continued)

In House Judiciary the phrase "to the best of the circulator's knowledge" was added to subparagraph 5, describing that petition circulator gather signatures of qualified voters.

Additionally, subparagraph 8 was rewritten in accordance with an Attorney General's opinion that advised that the State cannot require a petition carrier to prominently place their name in bold capital letters as currently required by law (Buckley struck down the requirement that circulators wear badges) AND more clearly required that a circulator needs to indicate whether they received payment and the name of the person/organization that agreed to pay the circulator.

Section Fifty-Two - RECALL/DISPLAY OF GROUNDS FOR AND AGAINST RECALL

Reduces the copies of the statement of the grounds for recall and the statement made by the official subject to recall in justification of the official's conduct in office that are provided to each of the election boards for distribution and posting at each polling place.

House State Affairs added the words "at least" to clarify that the Director shall provide AT LEAST five copies of the statement of grounds for recall and AT LEAST five copies of the statement made by the official subject to recall in justification of the official's conduct in office to the election board for distribution and AT LEAST one copy of the act to be posted.

Section Fifty-Three - CONTENTS OF PAMPHLET (OFFICIAL ELECTION PAMPHLET)

House State Affairs added a new section that requires the Division to publish establishment/abolishment of a precinct, designation abolition, or modification of precinct boundaries, or changes in location of polling places in the Official Election Pamphlet (OEP).

As explained to members of the Committee, the Division would include all changes that are known at the time that the OEP goes to print. Additional changes that affect voters may occur after printing of the OEP and would NOT be included in the publication.

Section Fifty-Four - RECOGNIZED POLITICAL PARTY STATUS

Political groups may be recognized as a party if, on or before May 31 of the election year that seek recognition they have:

- Filed an application with the Director
- Submitted their bylaws to the Director and the Department of Justice *and*
- Met the requirements related to nominating a candidate *or* obtained the required number of registered voters

Provides that the Director will verify the numbers of registered voters who have declared an affiliation with a group or recognized political party and describes the process for notification when a political group obtains political party status. Likewise provides the notification process to recognized political parties that have lost their status.

Finally, this section adds that during an election year, recognized political party status cannot be withdrawn by the Director for the period from June 1st through the date of the first verification that occurs after the certification of the general election results.

House State Affairs added that monthly verification political party status would be suspended during the period of time when the Director may not withdraw political party status.

Section Fifty-Five - DEFINITION OF POLITICAL PARTY

House State Affairs added language that defines a party as a group of voters that represents a political program AND THAT

--nominates a candidate for governor who receives 2% (changed from 3% by House Judiciary) of the votes cast for that office at the preceding general election at which a governor was elected OR

--nominates a candidate for US senator who receives 2% (changed from 3% by House Judiciary) of the votes cast for that office at the preceding general election or at the most recent election at which a governor was elected OR

--nominates a candidate for US representative who receives 2% (changed from 3% by House Judiciary) of the votes cast for that office at the preceding general election or at the most recent election at which a governor was elected OR

--has registered voters equal in number to 2% of voters registered in the State in the month that the director performs verification of party status. (House Judiciary changed previous language which referred to March 31st)

Section Fifty-Six - DEFINITION OF "REREGISTRATION"

Added in House Judiciary, numerical identifiers are defined in 15.60.010 (40) as: date of birth, the last four digits of a voter's social security number, a voter's Alaska driver's license number, or a voter's Alaska identification card number or voter ID number.

Reregistration is defined as the submission of a registration form by a voter whose registration was inactivated during the list maintenance process (AS 15.07.130) or due to conviction of a felony involving moral turpitude. The voter once removed from the voter rolls due to conviction of a felony involving moral turpitude, must provide proof that they were unconditionally discharged from custody before being allowed to register. (AS 15.07.135)

Section Fifty-Seven – INCORPORATION ELECTION

Clarifying language in Title 29 for incorporation elections that a qualified voter is a voter who has been registered to vote within the proposed municipality at least 30 days prior to the election.

Section Fifty-Eight - INCORPORATION ELECTION

Clarifying language in Title 29 for incorporation elections that a qualified voter is a voter who has been registered to vote within the proposed borough at least 30 days prior to the election.

Section Fifty-Nine - INCORPORATION ELECTION

Defines "qualified voter" to have the same meaning as that in AS 15.60.010.

AS 15.60.010 (26) "qualified voter" means a person who has the qualification of a voter and is not disqualified as provided by art. V, Sec. 2, of the state constitution and AS 15.05.030.

Section Sixty - REPEALERS

Repeals section requiring written notice of changes to precinct boundaries or polling places and

Repeals AS 15.20.048 as it includes duplicative language that allows the Director to designate locations for absentee voting, and office of election supervisors will be designated as such.

Section Sixty-One - APPLICABILITY

Provides that changes made by Sections 26 through 49 of this bill apply to an initiative, referendum, or recall for which an application was filed with the lieutenant governor or director of elections on or after the effective date of the bill.

Section Sixty - Two - TRANSITION

An initiative, referendum, or recall for which the application was filed before the effective date of the bill is subject to the provisions of statute that existed on the day before the effective date of the bill.

THE IMMEDIATE EFFECTIVE DATE CLAUSE WAS REMOVED IN HOUSE STATE AFFAIRS

HB 94

FRANK H. MURKOWSKI
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January 20, 2005

The Honorable John Harris
Speaker of the House
Alaska State Legislature
State Capitol, Room 208
Juneau, AK 99801-1182

Dear Speaker Harris:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the state's elections statutes.

This bill would update statutes on qualifications of voters, voter registration, voter residence, precinct boundary modification, recognized political parties, voters unaffiliated with a political party, early and absentee voting, ballot counting, ballot design, voting by mail, voting machines and vote tallying, independent candidates for president, initiative, referendum, recall, and definitions.

The updates are necessary to reflect current practices of the Division of Elections and to bring the statutes into compliance with recent court decisions and federal law.

Section 1 of the bill would amend two provisions in AS 15.05.020 on rules for determining the residence of a voter. It would amend AS 15.05.020(2) to clarify that "temporary work sites" do not constitute a dwelling place; this provision formerly referenced "construction camps." Section 1 also would amend AS 15.05.020(10) to reference the official voter registration "record," rather than "card."

Section 2 of the bill would amend AS 15.07.050 to allow voter registration through a power of attorney.

Section 3 of the bill would amend AS 15.07.060(a)(4) on required registration information, to specify that the applicant must provide the applicant's Alaska residence address.

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Section 4 of the bill would amend AS 15.07.070(b) to allow voter registration by scanned transmissions and to allow voter registration through a power of attorney.

Section 5 of the bill amends AS 15.07.127 on preparation of the master register of voters to recognize that confidential information will not be disclosed.

Section 6 of the bill would amend AS 15.10.090 on notice of precinct boundary designation and modification, to require that notice be published on the Division of Elections' Internet website, and to clarify requirements for publication of notice in a newspaper and for posting notices.

Section 7 of the bill would amend AS 15.15.030(7) to specifically recognize that names of independent candidates for President of the United States be included on the general election ballot.

Section 8 of the bill would amend AS 15.15.350(a), on the general procedure for a ballot count, to require that the accounting for all ballots prepared by the election board include the number of ballots returned to the elections supervisor for destruction.

Sections 9 of the bill would amend AS 15.20.064(a) on early voting, to specify that the director of elections will designate locations for early voting by January 1 of each election year.

Section 10 of the bill would amend AS 15.20.066(b) on absentee voting by electronic transmission, to lower the number of witnesses required from two to one.

Section 11 of the bill would amend AS 15.20.081(a) to allow voters to apply for absentee ballots by scanning documents or through a written power of attorney.

Sections 12 and 13 of the bill would amend AS 15.20.081(d) on absentee voting by mail or electronic transmission, to lower the number of witnesses required from two to one, and AS 15.20.081(h) to change the reference to military addresses from "APO or FPO address" to an "overseas voter qualifying under AS 15.05.011."

Section 14 of the bill would amend AS 15.20.800(b) on voting by mail to specify that a ballot will not be sent to a voter whose address has been identified as undeliverable.

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Section 15 of the bill would add a proposed new section, AS 15.20.910, on voting system standards, incorporating recent federal requirements under the Help America Vote Act.

Section 16 of the bill would add a proposed new section, AS 15.30.026, on qualifications for independent candidates for President.

Sections 17 and 18 of the bill would amend AS 15.30.050 and 15.30.090 to conform to the qualifications set out in new AS 15.30.026 on independent candidates for President.

Section 19 of the bill would amend AS 15.45.030 on the form of application for an initiative petition, to require additional information from the sponsors.

Section 20 of the bill would amend AS 15.45.060 on designation of sponsors for an initiative, to specify that sponsors support the bill proposed by the initiative application and that the date of birth of any additional sponsors designated by the initiative committee be included in the notice information sent to the lieutenant governor.

Section 21 of the bill would repeal and reenact AS 15.45.090 on preparation of petitions, to require the printed name and date of birth of those signing an initiative petition. This section also would require that initiative petitions be sequentially numbered, and would remove the requirement that the lieutenant governor keep a record of petitions delivered to sponsors. These changes are proposed to comply with the state superior court's decision in the case of *Hinterberger v. State*, 3AN-03-4092 CI (October 21, 2003).

Section 22 of the bill would add a proposed new section, AS 15.45.105, to specify the qualifications of an initiative petition circulator.

Section 23 of the bill would amend AS 15.45.120 on the manner of signing and withdrawing a name from an initiative petition, to require additional information from initiative petition signers.

Section 24 of the bill would repeal and reenact AS 15.45.130 on the certification of circulators for an initiative petition, to reference the proposed new section on qualifications of an initiative petition circulator, and to delete the requirement that the circulator's name be prominently displayed on the petition. This latter requirement has not been enforced for some time in order to comply with the United States Supreme Court opinion in *Buckley v.*

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American Constitutional Law Foundation, 525 U.S. 182 (1999), under advice from a formal opinion of the state attorney general's office, 2000 Op. Att'y Gen. No. 3 (September 22).

Section 25 of the bill would amend AS 15.45.200 on display of the proposed law, to reduce the number of copies of a law proposed by an initiative that must be provided to the election board from 10 to five, and that must be displayed in the polling place from three to one.

Section 26 of the bill would amend AS 15.45.270 on the form of the application, to conform the requirements for a referendum application to those required for an initiative application.

Section 27 of the bill would amend AS 15.45.290 on designation of sponsors, to conform the requirements for a referendum sponsor to those required for an initiative sponsor.

Section 28 of the bill would repeal and reenact AS 15.45.320 on preparation of a petition, to conform the requirements for a referendum petition to those required for an initiative petition.

Section 29 of the bill would add a proposed new section, AS 15.45.335, to set out the qualifications for a circulator of a referendum petition.

Section 30 of the bill would amend AS 15.45.340 on circulation, to incorporate the prohibitions and penalties applicable to initiative petitions and apply these to circulation of referendum petitions.

Section 31 of the bill would amend AS 15.45.350 on the manner of signing and withdrawing a name from a petition, to require additional information for signing a referendum petition.

Section 32 of the bill would repeal and reenact AS 15.45.360 on the certification of circulators, to conform the requirements for circulation of a referendum petition to those required for circulation of an initiative petition.

Section 33 of the bill would amend AS 15.45.430 on display of the act being referred to in the referendum, to reduce the number of copies of the act that must be provided to the election board from ten to five, and that must be displayed in the polling place from three to one.

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Section 34 of the bill would amend AS 15.45.500 on the form of the application, to specify similar requirements for a recall application to those required for an initiative application, including deleting the requirement that recall petition circulators be registered voters.

Section 35 of the bill would add a proposed new section, AS 15.45.515, on designation of sponsors for a recall application using language similar to the statute on initiative petition sponsors.

Section 36 of the bill would repeal and reenact AS 15.45.560 on preparation of the recall petition, to impose requirements similar to the requirements for an initiative petition.

Section 37 of the bill would amend AS 15.45.570 regarding the statement of warning on recall petitions similar to the requirements for an initiative petition.

Section 38 of the bill would add a proposed new section, AS 15.45.575, on qualifications of circulators to set out the qualifications for circulation of a recall petition.

Section 39 of the bill would amend AS 15.45.580 on circulation, to add requirements on circulation of a recall petition similar to those for circulation of initiative petitions.

Section 40 of the bill would amend AS 15.45.590 on the manner of signing and withdrawing a name from a petition, to require additional information from recall petition signers.

Section 41 of the bill would repeal and reenact AS 15.45.600 on certification of circulators for a recall petition, to add similar requirements to those for circulation of an initiative petition.

Section 42 of the bill would amend AS 15.45.680 on display of grounds for and against recall, to reduce the number of copies provided to the election board from ten to five, and the number displayed in the polling place from three to one.

Section 43 of the bill would add a proposed new section, AS 15.60.003, to set up voter registration categories for voters who are unaffiliated with a political party.

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Section 44 of the bill would add a proposed new section, AS 15.60.008, to set out the procedural requirements for parties to obtain recognized political party status.

Section 45 of the bill would amend AS 15.60.010 by adding a new definition of "reregistration."

Section 46 of the bill would amend AS 29.05.110(b) to clarify the requirements for voter registration for municipal elections.

Section 47 of the bill would amend AS 29.05.110(c) to clarify that qualified voters registered to vote in the proposed borough may vote on adoption of a non-areawide power.

Section 48 of the bill would add a new subsection to AS 29.05.110 defining a "qualified voter" as that term is defined in AS 15.60.010.

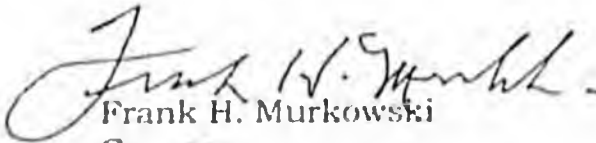
Section 49 of the bill would repeal AS 15.10.020(b). This provision is now set out in AS 15.10.090(f) as amended by this bill. It also would repeal AS 15.20.048 on absentee voting in offices of election supervisors.

Section 50 of the bill would provide that the changes made by secs. 19 - 42 of the bill apply to an application for an initiative, referendum, or recall that is filed with the lieutenant governor on or after the effective date of the bill. Section 51 of the bill would provide that the elections statutes, as they existed before the amendments made by secs. 19 - 42 of this bill, would apply to an initiative, referendum, or recall for which the application was filed before the effective date of the bill.

Section 52 of the bill would establish an immediate effective date for the bill.

I urge your prompt and favorable action on this measure.

Sincerely yours,


Frank H. Murkowski
Governor

Enclosure

STATE OF ALASKA

DEPARTMENT OF LAW

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September 22, 2000

The Honorable Fran Ulmer
Lieutenant Governor
Office of the Lieutenant Governor
P.O. Box 110015
Juneau, Alaska 99811-0015

Re: Additional Effect of *Buckley v. American
Constitutional Law Foundation* on State of
Alaska Initiative Statutes
AG file no: 663-01-0051
2000 Op. Att'y Gen. No. 3

Dear Lt. Governor Ulmer:

I. Introduction

We have prepared this opinion to advise you and your staff further about the effect on Alaska statutes of the United States Supreme Court decision, *Buckley v. American Constitutional Law Foundation*, 525 U.S. 182, 119 S.Ct. 636, 142 L.Ed. 2d 599 (1999). As you recall, we initially advised you about this matter on December 10, 1999, in 1999 Op. Att'y Gen. No. 2. In that opinion we concluded that *Buckley* rendered certain of Alaska's laws on initiatives unconstitutional. We suggested that these laws be amended and not enforced until the constitutional defects were cured. Subsequently, the legislature enacted ch. 82, SLA 2000 (SCS CSHB 163(RLS) am S), sections of which cured the constitutional defects we had identified.

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Last month you received and forwarded to us a complaint dated August 28, 2000, concerning certain of Alaska's laws on initiative petition circulation that we had not addressed in our earlier opinion. The substance of the complaint was that a woman was very worried about her name being printed on the initiative petition she was circulating. This woman had been circulating the petition and had been harassed by a man who was opposed to the issue she was trying to have placed on the ballot. The harasser approached the petition circulator, took down her name from the initiative petition booklet she was circulating, and took her photograph. The petition circulator is concerned that she will be subject to further harassment or stalking. We have reexamined *Buckley* and Alaska's laws on initiative petition circulation in light of this recent complaint.

We again advise you that certain provisions in Alaska's laws on initiative petition circulation are clearly unconstitutional, and that these provisions should not be enforced until the constitutional defects are cured by amendment.¹

II. *Buckley* Court's Invalidation of Identification Badge Requirement Is So Broad As To Invalidate Requirement of Other Similar Forms of Identification at the Time of Petition Circulation

In *Buckley* the Court invalidated the requirement that initiative petition circulators wear identification badges containing the circulator's name. *Buckley*, 119 S.Ct. at 646. The Court found that this control was excessively restrictive of political speech, and thus violated the

¹ As you will see from the discussion below, the Court's holding in *Buckley* as applied to certain of Alaska's statutes on initiative petition circulation satisfies the requirement of the Alaska Supreme Court's holding in *O'Callaghan v. Coghill*, 888 P.2d 1302, 1304 (Alaska 1995) (executive branch may abrogate a statute that is clearly unconstitutional under a United States Supreme Court decision dealing with a similar law, without having to wait for another court decision specifically declaring the statute unconstitutional).

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First Amendment to the United States Constitution. As shown by the following excerpts from *Buckley*, the Court's rationale in support of this holding is equally applicable to the requirement that the petition circulator's name be displayed on the petition booklet at the time of circulation.

First, the Court in *Buckley* set out the plaintiffs' argument against requiring that petition circulators wear identification badges:

Evidence presented to the District Court, that court found, "demonstrated that compelling circulators to wear identification badges inhibits participation in the petitioning process." [Citation omitted.] The badge requirement, a veteran ballot-initiative-petition organizer stated, "very definitely limited the number of people willing to work for us and the degree to which those who were willing to work would go out in public." [Citation omitted.] Another witness told of harassment he personally experienced as circulator of a hemp initiative petition. [Citation omitted.] He also testified to the reluctance of potential circulators to face the recrimination and retaliation that bearers of petitions on "volatile" issues sometimes encounter: "with their name on a badge it makes them afraid."

Buckley, 119 S.Ct. at 644.

Next, the *Buckley* Court set out the reasons advanced by the State of Colorado in support of the identification requirement:

Colorado urges that the badge enables the public to identify, and the State to apprehend, petition circulators who engage in misconduct. [Citation omitted.] Here again, the affidavit requirement, unsuccessfully challenged below . . . is responsive to the State's concern; as earlier noted . . . each petition section must contain, along with the collected signatures of voters, the circulator's name, address, and signature. This notarized submission, available to law enforcers, renders less needful the State's provision for personal names on identification badges.

Buckley, 119 S.Ct. at 645.

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The Court then explained the reasons for invalidating Colorado's identification badge requirement:

While the affidavit reveals the name of the petition circulator and is a public record, it is tuned to the speaker's interest as well as the State's. Unlike a name badge worn at the time a circulator is soliciting signatures, the affidavit is separated from the moment the circulator speaks. As the Tenth Circuit explained, the name badge requirement "forces circulators to reveal their identities at the same time they deliver their political message,"[citation omitted] it operates when reaction to the circulator's message is immediate and "may be the most intense, emotional, and unreasoned" The affidavit, in contrast, does not expose the circulator to the risk of "heat of the moment" harassment.

...

The injury to speech is heightened for the petition circulator because the badge requirement compels personal name identification at the precise moment when the circulator's interest in anonymity is greatest.

Buckley, 119 S.Ct. at 645.

The complaint you received from the Alaskan initiative petition circulator fits squarely within the Court's rationale invalidating the identification badge requirement. The petition circulator was subjected to harassment at the time of petition circulation, in the same manner as identified by the *Buckley* Court. The effect of Alaska's requirement that the petition circulator be identified by name on the petition booklets at the time of circulation is functionally equivalent to the effect of Colorado's identification badge requirement. The same First Amendment rights are implicated, and the same dangers of the petition circulator being harassed are present with Alaska's requirement that the circulator's name appear on the petition booklet at the time of circulation. Therefore, we see no reason to distinguish this requirement from the identification badge requirement invalidated in *Buckley*.

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Under this analysis the requirement set out in AS 15.45.090(5) and AS 15.45.130(8) that initiative petition circulators must include their names in bold capital letters at the bottom of each page of the petition would be clearly unconstitutional and should not be enforced.² The remaining requirements in these statutes, including the affidavit described in AS 15.45.130, would stand.³

² As an alternative to the current statutory requirement, if the Division of Elections wished to monitor the activities of initiative petition circulators it could use a unique identifier on each petition booklet, such as an alphanumerical code. This code could be assigned to each petition and to each affidavit submitted by an initiative petition circulator. (Of course, social security numbers should not be used for this purpose.)

³ The requirement that an initiative petition circulator provide an affidavit to the Division of Elections after completion of petition circulation is set out in AS 15.45.130, as follows:

Sec. 15.45.130. Certification of circulator. Before being filed, each petition shall be certified by an affidavit by the person who personally circulated the petition. The affidavit must state in substance that (1) the person signing the affidavit meets the residency, age, and citizenship qualifications of AS 15.05.010, (2) the person is the only circulator of that petition, (3) the signatures were made in the circulator's actual presence, (4) to the best of the circulator's knowledge, the signatures are those of the persons whose names they purport to be, (5) the signatures are of persons who were qualified voters on the date of signature, (6) the person has not entered into an agreement with a person or organization in violation of AS 15.45.110(c), (7) the person has not violated AS 15.45.110(d) with respect to that petition, and (8) the circulator prominently placed, in the space provided under AS 15.45.090(5) before circulation of the petition, in bold capital letters, the circulator's name and, if the circulator has received payment or agreed to receive payment for the collection of signatures on the petition, the name of each person or organization that has paid or agreed to pay the circulator for collection of signatures on the petition. In determining the sufficiency of the petition, the lieutenant governor may not count subscriptions on petitions not properly certified.

The Honorable Fran Ulmer
AG file no: 663-01-0051
2000 Op. Att'y Gen. No. 3

September 22, 2000
Page 6

III. Corrective Action in Light of *Buckley*

The next consideration is determining what action the state should take regarding the Alaska statutes that contain elements that are clearly unconstitutional under *Buckley*. First, we recommend that corrective legislation be introduced to cure the constitutional defects. During the past legislative session we worked with staff of the Division of Elections on HB 163, legislation to update the elections code. This bill was enacted as ch. 82, SLA 2000. We are available to work with your staff on legislation to address the constitutional problems with the initiative statutes noted above. Second, for the reasons set out in this opinion we advise you not to enforce the sections discussed above as we have concluded that they are "clearly unconstitutional."

Sincerely,



Bruce M. Botelho
Attorney General

cc: Janet Kowalski, Director
Division of Elections
Office of the Lieutenant Governor

HB 94.

My testimony:

Chairman McGuire, member's of the Judiciary Committee, my name is Donald Anderson.

I am a former member of the state election board and have been in the computer programming business for 40 years. I have run the software construction firm, Software North for the past 27 years.

I am familiar with the operation of computer-based electronic voting machines although I have no financial interest or association with any voting machine company. --- I will send copies of this testimony to members of the committee so no note taking is needed.

Based upon my background as a programmer and my experience with election oversight, I support **HB 94** as a necessary update to the language of our election laws.

My main point today is to speak in favor of Representative Gara's amendment to add post-election audits to the election process. I wish to thank Laura Glaiser, and Tom Godkin from the Division of Elections, and my Representative Berta Gardner for their input and emphasize that my testimony does not represent the Division's position. Please be aware that this amendment is intended as a backstop to other checks and procedures to ascertain if they have been compromised. It is virtually the only economical way of being sure the voting software has not been compromised at some stage. Deliberately causing the software to perform in a fraudulent manner is difficult and requires access to the memory cards at some point, so this must be classified as a low probability event.

We currently hand count the ballots in cases where the machine count is close. This however does not attempt to detect serious cases of vote theft which can skew an election decisively - outside the limits for an automatic recount.

Alaska's current Diebold voting machines where a paper ballot is scanned and secured for possible recount or audit are quite satisfactory, and much superior to any of the paperless devices. Last year the legislature added a

requirement for a paper audit trail in cases where we use the touch screen voting devices (the so-called DREs). Less than 2 months ago Diebold announced they were submitting for certification a device to print the required paper audit trail. It displays to the voter in a transparent window the results of his voting. This is a welcome development and provided it survives security testing makes the DREs a reasonable choice.

For both scanners and DREs, pre and post-election testing is touted by manufacturers as providing protection against fraud. This is not true!.

With access to the memory cards it is possible to add code that would be undetectable during pre and post-election testing. A trap door can be set to record erroneous counts only during the election hours. I will be glad to discuss the general means by which this is accomplished with those interested.

The best means of detecting election fraud is a post-election audit in which the marked ballots are hand counted and compared to the scanned totals, or the audit tape is compared to the reported totals.

The the audit team should not be informed of which precinct they are auditing and the comparative results should be posted on the Division of Elections website along with the scanned totals immediately. This will help maintain the confidence of our citizens in their elections.

Much of the value of the audit can be obtained with a small number of precincts.

A more rapid audit to check specifically for election day specific trap doors is to successively run after the election:

- 1) The test set used for pre-election testing.
- 2) The ballots scanned on election day, and
- 3) The test set again.

By comparing the results (and posting them to the website) any strange counts reported on election day may be detected. This method is not applicable to the DREs.

I thank you for your attention.

STATE OF ALASKA ABSENTEE BY MAIL APPLICATION

Refer to instructions on reverse side for specific information and identification requirements.
This application **MUST** be received **AT LEAST 7 DAYS** prior to the election. **APPLY EARLY.**

1. Are you a citizen of the United States? Yes No
 Are you at least 18 years old or will be within 90 days of completing this application? Yes No
 Are you a resident of Alaska? Yes No

If you checked **NO** to any of these questions, **DO NOT COMPLETE THIS FORM.**

2. Send ballot(s) for All in Calendar Year Primary Election General Election REAA/CRSA

3. Last Name: [REDACTED] First Name: [REDACTED] Middle Initial: [REDACTED] Suffix: [REDACTED]

4. Name Previously Registered

5. You **MUST** provide the Alaska Residence Address Where You Claim Residency - do not use PO, PSC, HC or RR
 House # [REDACTED] Street Name [REDACTED] Apt # [REDACTED] City ANCHORAGE State ALASKA

6. Permanent Mailing Address City ANCHORAGE State AK Zip Code 98503

7. Ballot Mailing Address City [REDACTED] State [REDACTED] Zip Code [REDACTED]

8. You **MUST** provide at least **ONE**
- Social Security No. _____
 - Last 4 Digits of SSN _____
 - Alaska Driver's License No. _____
 - Alaska State ID Card No. _____
 - Alaska Voter No. _____
- I have not been issued a Social Security, Alaska Driver's License or State ID number.

9. You **MUST** provide Date of Birth ____/____/____
Month Day Year

10. Gender Male Female

11. Affiliation (Select only ONE)
- Alaska Democratic Party
 - Alaska Libertarian Party
 - Alaskan Independence Party
 - Green Party of Alaska
 - Republican Moderate Party, Inc.
 - Republican Party of Alaska
 - nonpartisan (no party affiliation)
 - undecleared (no party declared)

12. Primary Election Ballot Choice
 See reverse side (#6) for the parties that will appear on each ballot type

- Combined Party Ballot (available to any voter)
- Democrat-Combined Party Ballot (available to any voter, except Republicans)
- Republican Party Ballot (only available to Republican, undecleared and nonpartisan voters)

13. For Remote Alaska ONLY
 If you are living, working, or traveling in a remote area of Alaska that does not have access to a polling place and would like a special advanced ballot mailed to you (mailed 60 days prior to the election), check this box.

14. Daytime Phone No. () _____
 Evening Phone No. () _____
 E-mail _____

15. For Military and Overseas Voters ONLY
 I AM (Check One):
- a member of the Uniformed Services or merchant marine active duty, or an eligible spouse or dependent.
 - a U.S. citizen temporarily residing outside the U.S.
 - other U.S. citizen residing outside the U.S.

AND:
 Check this box if you would like to receive ballots for the next two regularly scheduled **general elections** at the ballot mailing address you provided above.

16. If you will be living, working, or traveling outside the United States and would like a special advanced ballot mailed to you (mailed 60 days prior to the election), check this box.

17. Voters Certificate. Read and sign below:
 I swear or affirm, under penalty of perjury, that:

The information on this form is true, accurate, and complete to the best of my knowledge and I am eligible to vote in the request jurisdiction, I am not requesting a ballot from any other state, I am not voting in any other manner in this (these) election(s).

I further certify that I have not been convicted of a felony, having been so convicted, have been unconditionally discharged from incarceration, probation and/or parole. I am not registered to vote in another state or I have taken the necessary steps to cancel that registration.

Voter Signature _____ Date _____
WARNING: If you provide false information on this application you can be convicted of felony and/or misdemeanor. (AS 18.56.060; AS 18.56.050)
For Office Use Only

**YOU MUST
SIGN
AND
PROVIDE
AT LEAST
ONE
IDENTIFIER**

VOTER CERTIFICATE and IDENTIFICATION

By law your ballot cannot be counted unless you include your signature, have it witnessed and provide an identifier.

I declare that I am a citizen of the United States and that I have been a resident of Alaska for at least 30 days. I have not requested ballot from any other state and am not voting in any other manner in this election. If I had this certification attested by witnesses other than an authorized official, it was because no official empowered to administer an oath was reasonably available. I certify that the foregoing is true and accurate.

VOTER'S SIGNATURE: _____

VOTER'S IDENTIFIER: _____ OR _____ OR _____ OR _____
Voter Number AK Driver's License # Date of Birth Last 4 of SSN

OPTION I -- WITNESSING AFFIDAVIT

Official authorized to administer an oath.

SUBSCRIBED AND SWORN TO BEFORE ME:

This _____ day of _____, 20____ at _____
(City and State or Country)

Official's Signature: _____

Official's Title: _____

**YOUR
SIGNATURE
MUST BE
WITNESSED
BY ONE (1)
OPTION
PROVIDED**

OPTION II -- WITNESSING AFFIDAVIT

If no authorized official is available, your certificate MUST be witnessed by two (2) persons over the age of 18.

Witness Signature: _____

Witness Signature: _____

City, State: _____ Date: _____

Review Board Use Only

Count Code _____

No Count Code _____

Purge Date: _____

Sequence No _____

Political Party Status /Percentage of Registered Voters

2004

Number of registered voters on General Election Day	472,160			
3% of those who voted for US Senate	9,329			
Parties that nominated a candidate receiving 3%		Republicans	Democrats	
3% of those who voted for US Representative	9,298			
Parties that nominated a candidate receiving 3%		Republicans	Democrats	Green
2% of those registered to vote 4/03/04	8,977			
Parties who would have qualified		Republicans	Democrats	AIP

2002

Number of registered voters on General Election Day	460,855			
3% of those who voted for Governor	6,986			
Parties that nominated a candidate receiving 3%		Republicans	Democrats	
3% of those who voted for US Senate	6,986			
Parties that nominated a candidate receiving 3%		Republicans	Democrats	Green
3% of those who voted for US Representative	6,986			
Parties that nominated a candidate receiving 3%		Republicans	Democrats	Green
2% of those registered to vote 04/02/02	8,964			
Parties who would have qualified		Republicans	Democrats	AIP

2000

Number of registered voters on General Election Day	473,648			
3% of those who voted for US Representative	8,519			
Parties that nominated a candidate receiving 3%		Republicans	Democrats	AIP Green
2% of those registered to vote 4/03/00	9,094			
Parties who would have qualified		Republicans	Democrats	AIP

Subject: Public Testimony/Comment on HB94 House Judiciary Committee

Date: Fri, 1 Apr 2005 11:20:46 -0900

From: David Koester <swarming@mosquitonet.com>

To: Fairbanks_LIO@legis.state.ak.us

To the House Judiciary Committee:

You are now considering a bill that would raise the cost of voter-initiated statewide recounts to \$50,000. In essence, you are now considering a bill that would eliminate voter-initiated statewide recounts. In the electronic age, a vote recount is one of the means by which vote-tally security can be maintained. Regular audits of the system need to be conducted to prevent or catch, fraud, hacking or systematic machine error. Alaska has an excellent system to check the functioning of voting machine settings and insure that the optical scanning machines are set the way that they should be. Alaska does not, and cannot, however, control the hard programming of the machines, including the programming by which the machines receive instructions. It is important to understand that, in theory, any card that enters an optical scanning machine can reprogram the machine. Any electronic hookup of the machine via modem also presents a security risk. These risks are an unavoidable downside of electronic technology. The upside is that using optical scanning of physical ballots means that it is always possible to recount those paper ballots and that this can be done efficiently and securely by a combination of machine and hand recounting.

There are two good security options.

One that is recommended by voting experts is random hand recounts of every election. Depending on the distribution of machines, recounting of something less than ten percent of precincts or machines could provide very secure results.

Alternatively, allowing for occasional recounts that check the integrity of the whole system can catch errors when there is reason to think they might have occurred. This is possible with voter-initiated recounts, the system we currently have. The potential for a recount not only checks the count done by the machines but offers a significant disincentive for anyone who would seek to tamper with elections.

This past fall Alaskans for Fair Elections were barely able to raise the necessary funds in time for a statewide recount with the limit at \$10,000. Raising the limit to \$50,000 would open the system to considerable security risk because it would essentially remove the voter-initiated audit possibility.

It is important to note as well that most of the recount done in 2004 was done by machines, checked by random hand counts. This very secure procedure is much cheaper than that which could have been anticipated by the original legislation that called for a \$10,000 deposit.

Voting and the will of the voters is the heart of democracy. In the electronic age we need proper safeguards to protect the sanctity of this institution. Voter-initiated audits of the system is a critical safeguard that should not be put out of reach. The "G.1?" amendment that would raise the fee for a statewide recount is not a good idea in the age of electronic vote tallying.

David Koester
Fairbanks

ADDENDUM TO TESTIMONY
to the
HOUSE JUDICIARY COMMITTEE

DATE: April 7, 2005
FROM: Jim Sykes
RE: HB94

Dear Madam Chair and Members of the House Judiciary Committee,

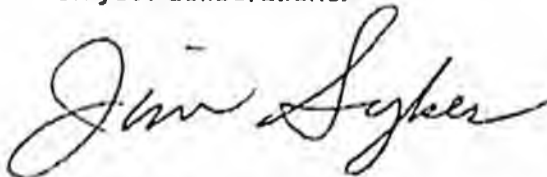
Yesterday I testified on a couple of items on HB94 and a couple of people said they didn't fully understand my testimony, so this is a brief clarification.

1) Regarding the "D" subsection defining a political party by number of registered voters, I recommended that you make the requirement the same as the number of signatures for a nominating petition. That is 1% of the number who voted in the Governor's race. Since it is many times more difficult to register people to a specific political party than get a signature for a nominating petition, the number easily meets the requirement for a "modicum of support". I believe it is simple, good and defensible public policy that is in line with State Supreme Court rulings.

2) Regarding the requirement of a proposed \$50,000 deposit for a statewide recount, I do not support the 500% increase. What I suggested is that an automatic hand count verification take place for at least 40 precincts of the 439. If that takes place, I strongly doubt that there will be requests such as the recount request on the U.S. Senate race. It would be premature to enact a rise in the deposit amount without implementing an automatic verification recount first and finding out if additional requests are made. Raising the deposit risks making fair elections inaccessible to those who are not rich.

Only after an election can one determine whether there was a machine problem, a programming problem, a hacking problem, or something else. Without after-election verification there is no proof that some problem didn't affect the election.

I hope this clarifies my previous testimony. Thank you very much. Good luck on your deliberations.



Jim Sykes 745-6962

Source: Ballot Access News
 Editor, Richard Winger, P.O. Box 470298, San Francisco, CA 94147 Ph: (415) 922-9779

WHAT MUST A PARTY DO TO NOMINATE WITHOUT PETITIONING?

State	Must Poll for Which Office?	How Many Votes Needed?	History	Code Cite
Ala	any statewide	20%	2000	17-16-2
Alas	Gov. (or regis. of 3% gub vt)	3% (or reg. 3% last gub vt)	2002	15.60.010
Az	President or Governor	5% (or reg of .6667%)	2002	16-804A
Ark	President or Governor	5%	1996	7-1-101(1)
Cal	any statewide, gub years	2% of voter turnout	2002	5100a
Colo	any statewide	1% (or have 1,000 registr.)	2002	1-4-1303
Cl	any (each office separate)	1%	2002	9-372(f)
Del	party's vote irrelevant	must have reg of .05%	2002	3001
Fla	party's vote irrelevant	just file list of officers	2002	97.021(14)
Ga	any statewide	1% of no. of reg. voters	2002	21-2-180(2)
Hi	party's vote irrelevant	must have been on 3 elections	2002	11-62(d)
Id	party's vote irrelevant	must have run 3 candidates	2002	34-501(1)(a)
Il	any statewide	5%	1996	10-2
In	Secretary of State	2%	2002	3-8-7-25
Io	President or Governor	2%	2000	43.2
Kan	any statewide	1%	2002	25-302(b)
Ky	President	2%	1996	118.325
La	President	5%	1996	441
Me	President or Governor	5% at either of last 2 elec.	2002	321.1
Md	President or Governor	1%	2000	lawsuit
Ma	any statewide	3% (or have 1% regis.)	2002	50-1
Mi	any statewide	1% of Sec St winner's vote	2002	168.685(3)
Mn	any statewide	5% at either of last 2 elec.	2002	200.02.7
Ms	party's vote irrelevant	must be organized	2002	23-1-61(c)
Mo	any statewide	2% at either of last 2 elec.	2002	115.013(10)
Mt	any statewide, either of last 2	5% of Gub winner's vote	2002	13-10-401
Neb	any statewide	5%	2002	32-521
Nev	any	1% of Congress vote	2002	293.1715
NH	Governor or US Senator	4%	1996	652:11
NJ	average of assembly cand.	10%	1913	19:1-1
NM	Governor or President	5% (also must regis. 3%)	2002	1-7-2(C)
NY	Governor	must poll 50,000 votes	2002	1-104.3
NC	President or Governor	10%	1968	163-96(1)
ND	President or Governor	5%	1994	16.1-11-30
Oh	President or Governor	5%	1996	3517.01
Ok	President or Governor	10%	1996	1-109
Ore	any statewide	1% of Congress vote	2002	248.008(2)
Pa	party's vote irrelevant	must have reg. of 15.0%	never	2872.2(a)
RI	President or Governor	5% at either of last 2 elec.	2000	17-1-2(f)
SC	party's vote irrelevant	must run at least 1 candidate	2002	7-9-10
SD	Governor	2.5%	1994	12-1-3(3)
Tn	any statewide	5%	1968	2-104(27a)
Tx	any statewide	5% (or, 2% for Governor)	2000	181.005(b)
Ut	any	2% of Congress vote	2000	20-3-2(j)
Vt	party's vote irrelevant	must be organized 10 towns	2002	2103(23)
Va	any statewide, either of last 2	10%	1994	24.1-1(7)
We	any statewide	5%	2000	29.01.090
WV	Governor	1%	2000	9-1-8
Wis	any statewide, either of last 2	1%	2002	5.62(1b)
Wy	Congress, Gov. or secy of st	2%	2002	22-1-102(18)
DC	any districtwide	must poll 7,500 votes	2002	1-11081(2)

*Per Tim Spies
 Affn - Green
 Please distribute
 to all State Affairs
 Committee members*

"History" column tells the last year in which any third party met the current standard. If a state has more than one way for a party to remain qualified, the easier method is shown above. ALL PROCEEDURE ABOVE PERMIT A PARTY TO PLACE ITS NOMINEES ON THE NOVEMBER BALLOT WITH NO PETITION. Chart prepared Dec 10, 2003 "Lawsuit" entry for Maryland refers to Green Party v Bd. of Elections, 832 A 2d 214 (2003)

Subject: Public Testimony/Comment on HB94 House Judiciary Committee

Date: Fri, 1 Apr 2005 11:20:46 -0900

From: David Koester <swarming@mosquitonet.com>

To: Fairbanks_LJO@legis.state.ak.us

To the House Judiciary Committee:

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Alternatively, allowing for occasional recounts that check the integrity of the whole system can catch errors when there is reason to think they might have occurred. This is possible with voter-initiated recounts, the system we currently have. The potential for a recount not only checks the count done by the machines but offers a significant disincentive for anyone who would seek to tamper with elections.

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It is important to note as well that most of the recount done in 2004 was done by machines, checked by random hand counts. This very secure procedure is much cheaper than that which could have been anticipated by the original legislation that called for a \$10,000 deposit.

Voting and the will of the voters is the heart of democracy. In the electronic age we need proper safeguards to protect the sanctity of this institution. Voter-initiated audits of the system is a critical safeguard that should not be put out of reach. The "C.12" amendment that would raise the fee for a statewide recount is not a good idea in the age of electronic vote tallying.

David Koester
Fairbanks

Joe Sonneman, Ph.D. (Government), J.D.
324 Willoughby, Juneau AK 99801

March 22, 2005

Rep. McGuire, CHAIR

House Judiciary Committee
State Capitol, Juneau AK 99801

Re: CSHB 94 (STA)

Thank you for the opportunity to testify yesterday on this important Elections procedures bill and some amendments. Because so many Committee members had to leave for other functions, I am also sending in my testimony in print, so that those members can read it also.

A brief introduction: I've been an Alaskan for 33+ years, earned a Ph.D. in Government (Public Finance, writing about the effects on Alaska State budgeting styles of the North Slope Oil Lease Bonus Sale), and a J.D. (cum laude) from Georgetown. I worked many Alaskan jobs, from fighting a forest fire to building a mountain hiking trail, to commercial fishing, delivering the mail, driving tour bus and cab, reporting on the Legislature for the All-Alaska Weekly and other newspapers and TV, teaching at the University of Alaska and working as a State budget analyst and department internal auditor. I filed suit against the State for ending the rotation of candidate names and in late 2004 I chaired "Alaskans for Fair Elections," the group which got a Recount of the U.S. Senate race in order to check the accuracy of our computerized optical scan voting machines. I am here writing independently, not representing any group I may or may not be a member of.

POSITIONS:

I FAVOR the passage of CSHB94 (STA).

I also FAVOR the amendment that would require a hand count of one precinct per district in each election.

I OPPOSE the G.12 amendment that would radically increase the amount of deposits Recount requesters would have to post.

Details

Section 10 I particularly favor the passage of Section 10, which brings back to Alaska some of the benefits of rotation of candidate names on ballots, with no or little cost.

Short History: People have not always known about statistics. But about 150 years ago, people did begin to understand statistics. In time, though, statisticians began to look at voting patterns. Especially when there were long lists of unknown candidates—as with elected judges in New York, for example—they discovered that people had a tendency to vote more often for whoever was first on the list ... and, to a lesser extent, to whoever was last on the list. Even Woodrow Wilson [only political scientist to become President] wrote about this 'positional bias', about 1911 or so.

As candidates began to read about these findings of political science, in this age when candidates' names were listed alphabetically on the ballot, more astute candidates actually began to change their names—for example, from Monkey to Aardvark—so as to get that favored first-position slot!

To combat candidates who were 'gaming the system,' a number of States and Territories—Alaska among them—set up a system of ballot rotation. Under the Alaska system, for each office, Alaska printed as many types of ballots as there were candidates. If there were, say, three candidates, there would be three ballot types, and on each a different candidate would be in the top, middle, and last position. The first voter would get a ballot from stack A, the second voter a ballot

from stack B, the third voter a ballot from stack C, the fourth from stack A again, and so on.

This system lasted with few problems for about 70 years. Then, about 1996, a new governor and lieutenant governor were elected and the Lt. Governor's Task Force recommended doing away with ballot rotation, allegedly, to save money. The task force claimed a savings of about \$180,000, but the Supreme Court actually found that Elections itself admitted saving only about \$60,000.

In any event, that system of ballot rotation ended.

Since 1998, instead for each House District, the Division of Elections draws all 26 letters from a box in random order, and candidates are listed in the order of those letters. This system is fair, but, assuming that there IS a positional bias [and recent studies dispute this, especially if there is strong Party identification ... something not true in Alaska, where so many people register as Independent or no party and say "I vote for the person, not the Party], the present system gives ONE person ALL of whatever positional bias there may be.

Because so many elections in Alaska are close, this means that often the winner may be decided by the drawing of letters, not by the votes of voters. So the method may be FAIR, but the present method is a DRAWING and NOT an ELECTION.

The creative proposal that passed State Affairs brings back much of the benefit of ballot rotation ... but it does so by rotating candidate names BY HOUSE DISTRICT, not by ballot. Of course this means that there are 40 'rotations' possible for statewide candidates (Governor, Lt Governor, U.S. Senator, U.S. Representative) and two rotations possible for State Senate races. This method does NOT allow for any rotation for State House races, however ... but, on the other hand, this method does not cost any more than the method Alaska is now using.

So Section 10 provides a clear advantage over the present system, at NO additional cost.

I agree, this partial rotation by House District is not as good as the full ballot rotation method that Alaska used and could afford for about 70 years, during most of which time Alaska had NO oil revenue, so it is a mystery to me why Alaska cannot afford full ballot rotation now, when Alaska has BILLIONS of oil revenue, but that broader question I leave to you to ponder. My understanding is that last year House State Affairs passed a full ballot rotation bill, but—perhaps for fiscal reasons—it did not pass.

This year's creative Section 10 allows the rotation of candidate names for all offices involving two or more House Districts and costs nothing extra. So it's a clear win-win. Please pass it.

Section 19 Section 19 just lets the Elections director pick vote tally machines and systems that meet certain Federal requirements. It was already Alaska law, passed last year, that any such machines must also create a paper trail that the voter could check [to make sure the machine voted as instructed] and to be used in any recount. House State Affairs rightly added a final sentence to make this requirement EXPLICIT and not just implied. Good work! Please include the final sentence when you pass Section 19.

The Automatic 5% Hand Count Amendment You will have offered to you an important amendment which would require that in every election, at least one precinct per House District (comprising at least 5% of the voters of that District) shall be hand counted. Please PASS this amendment.

Time have changed. Alaska now has computerized optical scanners and is moving towards computerized DRE [direct response electronic] voting machines. DRE machines have NO paper to vote on [but, thanks to AS 15.15.032, must have a paper receipt for voter double-check and for use in any recount].

We now have only ONE civil service programmer who programs ALL the optical scanning machines used in Alaska elections. That person seems to be a fine, honorable, upstanding person; no one thinks other-wise.

But all the same, if you are running a bank with just ONE teller or cashier, no matter how long that person worked for the bank, it's only responsible bank management to AUDIT that teller or cashier from time to time.

A hand count of actual ballots [in optical scanning] or a hand count of paper receipts [with DRE machines] or a recount that includes a hand count -any of these perform an audit function for elections, the same way that a bank audit performs it for the bank.

Why is this necessary? At State Affairs, which had but defeated a similar amendment, some members said "Why defend against a problem we don't have yet?"

The answer is, because, with computers involved, only the programmer may know when something's gone wrong, and maybe not even then. What if someone makes 'an offer you can't refuse' to the ONE programmer for ALL of the State's elections? What if someone succeeds in hacking into the State's computers?

So I see this as being similar to a pedestrian crossing over a horse path. Only now there are cars racing along the road. And the maker of this amendment-and, I can tell you from having talked and worked with them, many members of Alaskans for Fair Elections-believe that in this computerized age, Alaska needs the equivalent of a 'traffic light' at this crossing, even if 'no one has died' yet. That is, Alaska needs this 'automatic hand count' "audit equivalent", even if no election has yet been stolen by computer in Alaska. At State Affairs, in essence, some member said, why put up a traffid signal if no one died yet, but the problem is, if 'someone dies', that is, if an election is stolen by unfair computer programming or 'hacking', none of

us non-programmers will know about it.

So this is a very important amendment, necessary to this present and increasingly computerized age.

Please pass the amendment that calls for automatic hand count of at least one precinct (of 5% of the District's population) in every election.

Finally (for me, though there are many other aspects to HB 94),

Please follow the lead of House State Affairs and KILL the Amendment G.12 that would drastically increase the cost of Recount Deposits [and make liability unlimited].

Here's why:

1. Recounts Perform a Needed Audit Function. I chaired Alaskans for Fair Elections and I, with Prof. David Koester (UAF), wrote a draft White Paper on Elections, based on our experience. Prof. Koester's essay in that White Paper said Recounts have an audit function in elections, much as cash audits have to a bank or business.

The threat of Recounts [voting counting audits] helps prevent election fraud. Actual Recounts help catch intentional error or fraud in elections, just as actual audits help catch fraud or error in accounting for money.

2. Raising the Deposit Is Like Telling Everyone Alaska Rarely Audits Elections. So if Alaska announces a huge and unlimited increase in liability for Recounts, that's equivalent to Alaska announcing that it's not going to audit elections very often, that it's going to audit elections RARELY. And THAT is just like issuing an invitation to vote fraud specialists.

3. The Deposit is ALREADY too High. At \$10,000, the Deposit requirement for statewide recounts is already too high, because the time period allowed is just five (5) days. Alaskans for

Fair Elections members are not, so far as is known, personally wealthy. AFE raised its money via a website and small contributions .. which, in just 5 days, totalled just \$9,600. An AFE member had to chip in the last \$400. So if we could not really raise the whole \$10,000 in five days, or just barely, then a \$50,000 requirement would be IMPOSSIBLE to meet. As is, statewide recounts occur only about once every 10 years, so there is no present abuse of the process.

4. Recount Deposits are Not "User Fees"

The Proposed Amendment treats those who request Recounts as if they alone were the users and beneficiaries of the Recount. That's just not true. Alaska lets citizens [as well as candidates] ask for recounts. All Alaskans, all candidates, and Alaska's government itself all benefit by knowing the election count was accurate. So since everyone benefits, Government (everyone) ought to pay ... not just the people who request a Recount. The "user fee" approach is WRONG thinking and will produce a wrong result.

5. Four Percent is Too High

The G.12 Amendment let's Elections keep the Recount Deposit even if Election's own initial count was wrong by 3,999 votes out of 100,000 votes cast. That's quite a bit of sloppiness, yes? If Recounts are automatic when the challenger is within 0.5% of the winner, isn't it fair for Elections to have to refund Deposits when the initial count by Elections is more than 0.5% off the Recount total? That would be 500 votes off per 100,000, not 4,000 per 100,000. In the 2004 Recount, the biggest precinct variation I remember was only 7 votes, and there was no persistent trend. No need for Elections to have so wide and sloppy a margin of error. Hold Elections to a tigher standard.

6. No Unlimited Spending for Elections.

The G.12 amendment also in its last sentence makes the liability of Recount requesters unlimited! That means, Elections need have no thought of operating the Recount in a cost effective manner, if it can almost always go after the Recount Request group and get paid whatever it costs. That's wrong.

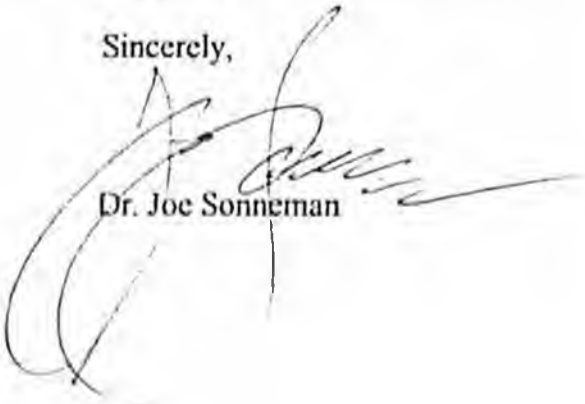
Elections needs to economize, just like other parts of Government. Unfair to tag requesters with what could be 'gold-plated' Recounts. Recount request candidates and groups need to know how much they need to raise, and they should not have to face an unlimited kind of blank-check liability here.

7. Too Severe a Line

The G.12 Amendment offers free Recounts to candidates who trail by 0.49%, but would cost candidates who trail by 0.51% or more \$10,000 per District or \$50,000 statewide. That's a pretty STEEP jump in cost, for too narrow a margin difference in votes. That method implies that if you trail by 0.51%, your request for a Recount is "frivolous." But in fact, that's NOT frivolous. The State of Maine uses a graduated system, with the Recount Deposit increasing in amount as the difference in votes widens. House State Affairs seemed to think that was too complicated a method, but I think that would be more fair than the too-steep dividing line that Amendment G.12 proposes. But, as others among Alaskans for Fair Elections point out, any good computer programmer or hacker can defeat even the State of Maine method by making the result come out over 10% different and so incur the maximum Deposit amount.

So for all these reasons, please follow the lead of House State Affairs and **DEFEAT** amendment G.12 [the amendment that would drastically increase the Deposit for Recounts].

Sincerely,


Dr. Joe Sonneman

JUNEAU ENQUIRY
MARCH 3 2005
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HB 94



Letters to the editor

Make hand recounts easy in the future

When the House State Affairs Committee took up HB 94 dealing with various reforms to our election process, Rep. Berta Gardner introduced an amendment calling for automatic manual counts of election results of at least 1 precinct per district. And the precinct is to have at least 5 percent of the district's voters in it.

I applaud Rep. Gardner's effort to put this idea forward. I believe it is an important element in improving Alaska elections and would give citizens greater confidence in the democratic process.

While the House State Affairs Committee did not see fit to add that provision to its version of the bill, the House Judiciary, Senate State Affairs, and Senate Judiciary committees should take up this excellent idea and include it in the legislation currently before them.

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Some may say we do not have a problem of computer hacking in Alaska that would indicate a need for such measures. It would be wise to be proactive in setting procedures in place that would uncover any such tampering should there be a reason to suspect it some time in the future. This is not a wild speculation. There are well-founded suspicions that this may have occurred elsewhere already.

We should oppose any bill that raises the fee for requesting a hand recount. It was extremely hard to raise the \$10,000 fee currently in Alaska law. Provisions that would tie recount fees to a margin of difference between candidates wouldn't make much sense, since anyone bent on fraud involving programing could get whatever margin they wanted.

And an increase in the price of statewide recounts from \$10,000 to \$50,000 to start, and responsibility for anything the Division of Elections spends over that amount, currently part of the House State Affairs version of HB 94, would be a serious setback for democratic processes for the citizens of Alaska and should be removed.

Another important electoral reform that should be adopted would let felons vote again once released from prison, even if on probation or parole.

Amy Paige
Juneau

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Letters to the editor

Fair recounts should be a right

Ben Brown's opinion piece in the Empire Feb. 2 proposes a dangerous and undemocratic position. Mr. Brown, who has been a campaign worker for Republican candidates, says the Legislature should raise the amount charged to persons wanting ballot recounts from the current "mere" \$10,000 to \$50,000 so that "money is not wasted" in needless recounts.

What would the effect of this change be? It would be that fewer candidates could afford recounts, pure and simple. Higher charges for recounts means only the wealthier candidates and their well-off supporters could afford recounts. And who would likely be the beneficiaries of fewer recounts? The candidates of the party that has always had more money behind it, the Republicans.

Let us look at the fundamentals here. Isn't running a fair election a core duty of government? We can outsource a lot a government functions, but should we outsource the duty to ensure fair ballots and fair counting? Why should making sure that ballots are counted properly be a right that only private persons can invoke, and only private persons with substantial funds?

We long ago abandoned the idea that only the wealthy could vote. That is why the Constitution forbids poll taxes and other devices to give votes only to the wealthy. Why would we even consider making the right to a fair recount depend on wealth?

Until the day comes when every voter has confidence that every ballot is properly counted, every election, we need fair and full recounts. And because

voting is a right that should not depend on wealth, we should not have the right to a recount depend on whether you have \$50,000 in spare funds. If there is one expense that should be long to the state, it is to provide for a fair recount of our votes.

Douglas K. Mertz
Juneau

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Letters to the editor

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Ott H. Miller
Juneau

Affordable recounts

Amy Paig makes several good points in her March 3 letter, "Make Hand Recounts Easy." Nothing is more central to the functioning of a democracy than the right to vote and to know that your vote has been counted correctly. The recount is one way to protect the validity of our elections. Some folks, fearing frivolous recounts, want to raise the cost to citizens who might feel a recount is warranted. An increase will put the recount beyond the reach of the voting public. If an increase in the recount fee from \$10,000 to \$50,000 goes into effect, citizens will have one less avenue available to them to se-

cure fair elections. Raising \$10,000 in the short time allotted for the filing of a recount is not an activity that lends itself to frivolity unless the money is being raised by the wealthy.

Several factors came together in the November election nationwide to create doubt in many members of the voting public as to the fairness of the election: memories of the 2000 election, the shift to electronic voting and the concerns surrounding the partisan connections of the three major voting machine providers, the expected closeness of the election, the climate of fear stemming from 9/11, the anomalies in the exit polls, and the polarization of the voting public. With all of these factors converging at one point in time, it is not surprising that large numbers of voters were uneasy with the election results.

What did Alaskans learn from their recount in December? They learned that Alaska election officials know how to run a recount in a manner that is professional, and that safeguards put in place over the years by the Office of the Lieutenant Governor can be depended upon for an accurate vote count. In contrast, the recount in Ohio is still generating court filings and recriminations. If the recount costs equalled \$50,000, as reported shortly after the recount was completed, it seems a reasonable price for the state to pay to bolster confidence in our election system. The burden should not fall totally on private citizens because the fairness of the voting process is a bipartisan concern that all citizens share.

Judy Andree
Juneau

Don't raise cost of recounts

By NINA MOLLETT

As one of the people who requested the recount of our U.S. Senate race, I am distressed that a successful exercise in democracy is being used as an excuse to raise the fee citizens must pay to a prohibitive amount.

Currently, Alaska law requires that citizens put up \$10,000 for a statewide recount. As we just learned, that is a very difficult amount to raise in five days. Any more would not be feasible.

A recount amounts to an audit, and as such should be part of the cost of doing business. The cost to the state was minor in comparison to other costs, such as \$238,000 to reprint a poorly worded ballot, which could have been easily avoided, and would have paid for six recounts at \$40,000 each.

Recent editorials have presumed that the recount was a waste of time and money. It was not. It was educational, and most of us were reassured that the vote count in a race that attracted extraordinary outside interest, was indeed fair. This was not true of recounts in other states. In Ohio, for example, the hand recounts were not done randomly, elections officials acted defensive in a thousand ways, and citizens were far from reassured.

Experts in voting technology recommend that a statistically valid number of random hand recounts be done routinely after elections. A costlier idea would be to conduct a complete recount every elec-

tion. That would amount to duplicate data entry, which is often used in social science research to ensure accuracy. The audit method we use, requiring that citizens request and pay a portion of the cost of a recount, is cheaper because it only occurs occasionally (once in the last 10 years), but acts as a deterrent to fraud because it is always a possibility. If the cost is raised further, we lose the deterrent effect of our law. We also lose the point of having paper ballots if we never actually recount them.

Alaska is one of the few states that still gets high marks for its safeguards and basic fairness. As lieutenant governor, Fran Ulmer bent over backwards to be fair to all sides. Loren Leman inherited the system she designed so well, and all he needs to live up to our history is to be fair, too. Elections Chief Laura Glaiser has so far done a commendable job; she took the new touchscreen computers out of commission until they are outfitted with a paper record. She ran the recount fairly. People in other states who are worried about their elections systems are looking to Alaska as a model.

One of the things we found reassuring was that we program our own elections and the vendor, Diebold, has little to do with the election process in Alaska. This highly partisan company has been in the news for its tawdry behavior a bit too much. The New York Times ran an editorial about Diebold's lack of integrity. It was good to find out that their

role is confined at this point to repairing machines. I hope we keep it that way.

This issue may appear partisan to some. Democrats and independents have been feeling most threatened lately, nationwide. But of course, vote tampering is as old as elections themselves and the chips can fall either way. In Washington state right now it is Republicans who are arguing that the state and its taxpayers should pay not thousands but millions, not for a recount but a revote.

Republicans in the Alaska legislature could bully through this idea to raise the amount citizens must raise to a prohibitive \$50,000. But please reconsider. Last year a bill passed with bipartisan support requiring a paper trail by 2006 in any voting machine used in Alaska. In the current atmosphere of nationwide concern, it makes no sense to weaken our safeguards. Instead, we should be looking for ways to strengthen them further. Random hand recounts for example, conducted after each election, could ensure accuracy and ward off, or catch tampering.

Here in Alaska we can still pride ourselves on a system that is not corrupt. But we must not allow it to erode, and that could happen easily.

The House State Affairs Committee may try to attach this astronomical fee hike as an amendment to a more general voting bill, HB94, on Tuesday. I urge citizens concerned about election integrity to contact their legislators.

• Nina Mollett is a Juneau resident and freelance writer.