

**HB**

**104**

<TARGET><BILL>HB 104</BILL><SUBJECT>HB  
104</SUBJECT><COMM>HJUD28</COMM></TARGET>





28-GH1983\R.5  
Bullard  
4/4/13

AMENDMENT

#1

passed  
year 4

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OFFERED IN THE HOUSE  
TO: CSHB 104(JUD)

BY REPRESENTATIVE PRUITT

- 1 Page 7, line 19:
- 2 Delete "second"
- 3 Insert "third"

**AMENDMENT** #2  
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OFFERED IN THE HOUSE  
TO: CSHB 104(JUD)

BY REPRESENTATIVE PRUITT

1 Page 1, line 2, following "expenditures;":

2 Insert "relating to identification requirements for a communication paid for by a  
3 political party;"

4

5 Page 3, following line 30:

6 Insert new bill sections to read:

7 "\* Sec. 7. AS 15.13.090(a) is amended to read:

8 (a) All communications shall be clearly identified by the words "paid for by"  
9 followed by the name and address of the person paying for the communication. In  
10 addition, except as provided by (d) of this section, a person shall clearly

11 (1) provide the person's address or the person's principal place of  
12 business;

13 (2) for a person other than an individual or candidate, include

14 (A) the name and title of the person's principal officer;

15 (B) a statement from the principal officer approving the  
16 communication; and

17 (C) unless the person is a political party, identification of the  
18 name and city and state of residence or principal place of business, as  
19 applicable, of each of the person's three largest contributors under  
20 AS 15.13.040(e)(5), if any, during the 12-month period before the date of the  
21 communication.

22 \* Sec. 8. AS 15.13.090(c) is amended to read:

23 (c) To satisfy the requirements of (a)(1) of this section and, if applicable,

1 (a)(2)(C) of this section, a communication that includes a print or video component  
2 must have the following statement or statements placed in the communication so as to  
3 be easily discernible; the second statement is not required if the person paying for  
4 the communication has no contributors or is a political party:

5 This communication was paid for by (person's name and city and state  
6 of principal place of business). The top contributors of (person's name)  
7 are (the name and city and state of residence or principal place of  
8 business, as applicable, of the largest contributors to the person under  
9 AS 15.13.090(a)(2)(C)).

10 \* Sec. 9. AS 15.13.090(d) is amended to read:

11 (d) Notwithstanding the requirements of (a) of this section, in a  
12 communication transmitted through radio or other audio media and in a  
13 communication that includes an audio component, the following statements must be  
14 read in a manner that is easily heard; the second statement is not required if the person  
15 paying for the communication has no contributors or is a political party:

16 This communication was paid for by (person's name). The top  
17 contributors of (person's name) are (the name of the largest contributors  
18 to the person under AS 15.13.090(a)(2)(C))."

19  
20 Renumber the following bill sections accordingly.

**CS FOR HOUSE BILL NO. 104(JUD)**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-EIGHTH LEGISLATURE - FIRST SESSION**

**BY THE HOUSE JUDICIARY COMMITTEE**

**Offered:**  
**Referred:**

**Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to election practices and procedures; relating to the reporting of**  
2 **election campaign contributions and expenditures; relating to public records; relating to**  
3 **the election of an advisory school board in a regional educational attendance area; and**  
4 **providing for an effective date."**

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

6 **\* Section 1. AS 14.08.071 is amended by adding a new subsection to read:**

7 (e) The lieutenant governor may provide for the election of an advisory school  
8 board established under AS 14.08.115. An election conducted under this subsection  
9 shall be held on the first Tuesday in October. The lieutenant governor may adopt  
10 regulations governing an election conducted under this subsection.

11 **\* Sec. 2. AS 15.05.011 is amended by adding a new subsection to read:**

12 (e) Notwithstanding (b)(1) of this section, a person residing outside the United  
13 States may register and vote absentee if

14 (1) the parent or legal guardian of the person was domiciled in the state

1 immediately before leaving the United States; and

2 (2) the director determines that the person meets the requirements of  
3 (b)(2) - (5) of this section.

4 \* Sec. 3. AS 15.10.170 is amended to read:

5 **Sec. 15.10.170. Appointment and privileges of watchers.** The precinct party  
6 committee, where an organized precinct committee exists, or the party district  
7 committee where no organized precinct committee exists, or the state party  
8 chairperson where neither a precinct nor a party district committee exists, may appoint  
9 one or more persons as watchers in each precinct and counting center for any election.  
10 Each candidate not representing a political party may appoint one or more watchers  
11 for each precinct or counting center in the candidate's respective district or the state for  
12 any election. Any organization or organized group that sponsors or opposes an  
13 initiative, referendum, or recall may have one or more persons as watchers at the polls  
14 and counting centers after first obtaining authorization from the director. A state party  
15 chairperson, a precinct party committee, a party district committee, or a candidate not  
16 representing a political party or organization or organized group may not have more  
17 than one watcher on duty at a time in any precinct or counting center. A watcher must  
18 be a United States citizen. The watcher may be present at a position inside the place  
19 of voting or counting that affords a full view of all action of the election officials taken  
20 from the time the polls are opened until the ballots are finally counted and the results  
21 certified by the election board or the data processing review board. The election board  
22 or the data processing review board may require each watcher to present written proof  
23 showing appointment by the precinct party committee, the party district committee,  
24 the organization or organized group, or the candidate the watcher represents that is  
25 signed by the chairperson of the precinct party committee, the party district  
26 committee, the state party chairperson, the organization or organized group, or the  
27 candidate representing no party.

28 \* Sec. 4. AS 15.10.170 is amended by adding a new subsection to read:

29 (b) In addition to the watchers appointed under (a) of this section, in a primary  
30 election, special election under AS 15.40.140, or special runoff election under  
31 AS 15.40.141, each candidate may appoint one watcher in each precinct and counting

1 center.

2 \* Sec. 5. AS 15.10.180 is amended to read:

3 **Sec. 15.10.180. Appointment of state ballot counting review board.** The  
 4 director shall appoint two persons from the political party of which the governor is a  
 5 member and two persons from the political party that received the second largest  
 6 number of votes statewide in the preceding gubernatorial election to participate in the  
 7 state ballot counting review. The director may appoint additional individuals to  
 8 participate in the state ballot counting review. **Appointees must be United States**  
 9 **citizens.** Each political party may present to the director a list of three or more names  
 10 from which the director shall select the persons to represent the party. The list of  
 11 names may be submitted in writing at least 30 days before the date of the election. The  
 12 list of names shall be certified by the state chairperson of the political party or by the  
 13 person authorized by the party bylaws to act in the absence of the chairperson.

14 \* Sec. 6. AS 15.13.074(c) is amended to read:

15 (c) A person or group may not make a contribution

16 (1) to a candidate or an individual who files with the commission the  
 17 document necessary to permit that individual to incur certain election-related expenses  
 18 as authorized by AS 15.13.100 when the office is to be filled at a general election  
 19 before the date that is 18 months before the general election;

20 (2) to a candidate or an individual who files with the commission the  
 21 document necessary to permit that individual to incur certain election-related expenses  
 22 as authorized by AS 15.13.100 for an office that is to be filled at a special election or  
 23 municipal election before the date that is 18 months before the date of the regular  
 24 municipal election or that is before the date of the proclamation of the special election  
 25 at which the candidate or individual seeks election to public office; or

26 (3) to any candidate later than the 45th day

27 (A) after the date of the primary election if the candidate was  
 28 **on the ballot and was** not nominated at the primary election; or

29 (B) after the date of the general election, or after the date of a  
 30 municipal or municipal runoff election.

31 \* Sec. 7. AS 15.13.110 is amended by adding a new subsection to read:

1 (j) Before the primary election, a candidate seeking nomination by petition  
2 under AS 15.25.140 - 15.25.200 for the office of governor, lieutenant governor, state  
3 senator, or state representative shall file the reports under (a)(1) and (2) of this section.

4 \* Sec. 8. AS 15.13.374(f) is amended to read:

5 (f) Advisory opinion requests and advisory opinions are public records subject  
6 to inspection and copying under AS 40.25, except that if a person requesting an  
7 advisory opinion requests that the person's name be kept confidential, the  
8 person's name shall be kept confidential and the commission shall redact the  
9 name of the requester from the request and from the advisory opinion before  
10 making the request and opinion public.

11 \* Sec. 9. AS 15.20.045 is amended by adding a new subsection to read:

12 (c) In a municipality in which the division will not be operating an absentee  
13 voting station, the director may designate the municipal clerk as an absentee voting  
14 official for the limited purpose of distributing absentee ballots to qualified voters  
15 under AS 15.20.061(a)(1) and qualified voters' representatives under AS 15.20.072. At  
16 least 15 days before the election, the director shall supply municipal clerks designated  
17 under this subsection with absentee ballots.

18 \* Sec. 10. AS 15.20.081(c) is amended to read:

19 (c) After receipt of an application, the director shall send the absentee ballot  
20 and other absentee voting material to the applicant by the most expeditious mail  
21 service. However, if the application requests that an absentee ballot for a state election  
22 be sent by electronic transmission, the director shall send the absentee ballot and other  
23 absentee voting material to the applicant by electronic transmission. Except as  
24 provided in (k) of this section, the [THE] absentee ballot and other absentee voting  
25 material shall be sent as soon as they are ready for distribution. If the absentee ballot  
26 and other absentee voting material are mailed to the applicant, the return envelope sent  
27 with the ballot and other materials shall be addressed to the election supervisor in the  
28 district in which the voter is a resident.

29 \* Sec. 11. AS 15.20.081(h) is amended to read:

30 (h) Except as provided in AS 15.20.480, an absentee ballot returned by mail  
31 from outside the United States or from an overseas voter qualifying under

1 AS 15.05.011 that has been marked and mailed not later than election day may not be  
 2 counted unless the ballot is received by the election supervisor not later than the close  
 3 of business on the

4 (1) 10th day following a primary election or special election under  
 5 AS 15.40.140; or

6 (2) 15th day following a general election, special runoff election, or  
 7 special [THE] election, other than a special election described in (1) of this  
 8 subsection.

9 \* Sec. 12. AS 15.20.081 is amended by adding new subsections to read:

10 (k) In accordance with 42 U.S.C. 1973ff-1(a)(8)(A), if an application is  
 11 received at least 45 days before an election and is from an absent uniformed services  
 12 voter or an overseas voter, the director shall send an absentee ballot and other voting  
 13 material to the applicant not later than 45 days before the election.

14 (l) If an application is received at least 45 days before an election and is from  
 15 a voter who notifies the director in writing that the voter expects to be living, working,  
 16 or traveling outside the United States at the time of the election or expects to be living,  
 17 working, or traveling in a remote area of the state where distance, terrain, or other  
 18 natural conditions deny the voter reasonable access to a polling place at the time of the  
 19 election, the director shall send an absentee ballot and other voting material to the  
 20 applicant not later than 45 days before the election.

21 \* Sec. 13. AS 15.20.203(i) is amended to read:

22 (i) The director shall mail the materials described in (h) of this section to the  
 23 voter not later than

24 (1) 10 days after completion of the review of ballots by the state  
 25 review board for a primary election, or for a special election under AS 15.40.140  
 26 that is followed by a special runoff election;

27 (2) 60 days after certification of the results of a general election,  
 28 special runoff election, or special election other than a special election described in  
 29 (1) of this subsection.

30 \* Sec. 14. AS 15.20.203(j) is amended to read:

31 (j) The director shall make available through a free access system to each

1 absentee voter a system to check to see whether the voter's ballot was counted and, if  
 2 not counted, the reason why the ballot was not counted. The director shall make this  
 3 information available through the free access system not less than

4 (1) 10 days after certification of the results of a primary election, or a  
 5 special election under AS 15.40.140 that is followed by a special runoff election;  
 6 and

7 (2) [NOT LESS THAN] 30 days after certification of the results of a  
 8 general or special election, other than a special election described in (1) of this  
 9 subsection.

10 \* Sec. 15. AS 15.20.207(i) is amended to read:

11 (i) The director shall mail the materials described in (h) of this section to the  
 12 voter not later than

13 (1) 10 days after completion of the review of ballots by the state  
 14 review board for a primary election, or for a special election under AS 15.40.140  
 15 that is followed by a special runoff election;

16 (2) 60 days after certification of the results of a general or special  
 17 election, other than a special election described in (1) of this subsection.

18 \* Sec. 16. AS 15.20.207(k) is amended to read:

19 (k) The director shall make available through a free access system to each  
 20 voter voting a questioned ballot a system to check to see whether the voter's ballot was  
 21 counted and, if not counted, the reason why the ballot was not counted. The director  
 22 shall make this information available through the free access system not less than

23 (1) 10 days after certification of the results of a primary election, or a  
 24 special election under AS 15.40.140 that is followed by a special runoff election;  
 25 and

26 (2) [NOT LESS THAN] 30 days after the certification of the results of  
 27 a general or special election, other than a special election described in (1) of this  
 28 subsection.

29 \* Sec. 17. AS 15.20.211(d) is amended to read:

30 (d) The director shall mail the materials described in (c) of this section to the  
 31 voter not later than

1 (1) 10 days after completion of the review of ballots by the state  
 2 review board for a primary election, or for a special election under AS 15.40.140  
 3 that is followed by a special runoff election;

4 (2) 60 days after certification of the results of a general or special  
 5 election, other than a special election described in (1) of this subsection.

6 \* Sec. 18. AS 15.20.211(f) is amended to read:

7 (f) The director shall make available through a free access system to each  
 8 voter whose ballot was subject to partial counting under this section a system to check  
 9 to see whether the voter's ballot was partially counted and, if not counted, the reason  
 10 why the ballot was not counted. The director shall make this information available  
 11 through the free access system not less than

12 (1) 10 days after certification of the results of a primary election, or a  
 13 special election under AS 15.40.140 that is followed by a special runoff election;  
 14 and

15 (2) [NOT LESS THAN] 30 days after the certification of the results of  
 16 a general or special election, other than a special election described in (1) of this  
 17 subsection.

18 \* Sec. 19. AS 15.25.020 is amended to read:

19 Sec. 15.25.020. Date of primary. The primary election is held on the second  
 20 [FOURTH] Tuesday in August of every even-numbered year.

21 \* Sec. 20. AS 15.25.055 is amended to read:

22 Sec. 15.25.055. Removal of name from primary ballot. A candidate's name  
 23 must appear on the primary election ballot unless notice of the withdrawal from the  
 24 primary is received by the director at least 52 [48] days before the date of the primary  
 25 election.

26 \* Sec. 21. AS 15.25.056(a) is amended to read:

27 (a) If an unopposed incumbent candidate for renomination dies, becomes  
 28 disqualified from holding the office the candidate is seeking, or is certified as being  
 29 incapacitated between June 1 of the election year and that date which is more than 54  
 30 [50] days before the date of the primary election, the candidate's place on the ballot  
 31 may be filled by party petition. The petition shall state that the political party requests

1 the name of the proposed candidate replace that of the incumbent on the primary  
2 election ballot and shall be accompanied by a declaration of candidacy from the  
3 person named in the petition. The petition must be received by the director not [NO]  
4 later than 14 days after the death, disqualification, or certification of incapacity of the  
5 incumbent or 52 [48] days before the primary election date, whichever time is earlier.

6 \* Sec. 22. AS 15.25.056(c) is amended to read:

7 (c) The death, disqualification, or certification of incapacity of the incumbent  
8 within 52 [48] days before or on the primary election date does not affect the counting  
9 and review of the ballots. If the result of the counting and review discloses that the  
10 candidate, if the candidate had lived, would have been nominated, the candidate shall  
11 be declared nominated. The vacancy may be filled by party petition as provided in  
12 AS 15.25.110 - 15.25.130.

13 \* Sec. 23. AS 15.25.110 is amended to read:

14 **Sec. 15.25.110. Filling vacancies by party petition.** If a candidate of a  
15 political party nominated at the primary election dies, withdraws, resigns, becomes  
16 disqualified from holding the office for which the candidate is nominated, or is  
17 certified as being incapacitated in the manner prescribed by this section after the  
18 primary election and 64 [48] days or more before the general election, the vacancy  
19 may be filled by party petition. The central committee of any political party or any  
20 party district committee may certify as being incapacitated any candidate nominated  
21 by their respective party by presenting to the director a sworn statement made by a  
22 panel of three licensed physicians, not more than two of whom may be of the same  
23 political party, that the candidate is physically or mentally incapacitated to an extent  
24 that would in the panel's judgment prevent the candidate from active service during  
25 the term of office if elected. The director shall place the name of the person nominated  
26 by party petition on the general election ballot. The name of a candidate disqualified  
27 under this section may not appear on the general election ballot.

28 \* Sec. 24. AS 15.25.120 is amended to read:

29 **Sec. 15.25.120. Requirements for party petition.** Party petitions for the  
30 nomination of candidates shall state in substance that the political party desires and  
31 intends to support the named candidate for the named office and requests that the

1 name of the proposed candidate be placed on the general election ballot. The petition  
2 may be filed not [NO] later than 64 [48] days before the date of the general election.

3 \* Sec. 25. AS 15.25.200 is amended to read:

4 **Sec. 15.25.200. Withdrawal of candidate's name.** If a candidate nominated  
5 by petition dies or withdraws after the petition has been filed and 64 [48] days or more  
6 before the general election, the director may not place the name of the candidate on  
7 the general election ballot.

8 \* Sec. 26. AS 15.35.135(b) is amended to read:

9 (b) The name of a candidate for retention for supreme court justice, judge of  
10 the court of appeals, superior court judge, or district court judge must appear on the  
11 general election ballot unless notice under (a) of this section of withdrawal of  
12 candidacy is received by the director at least 64 [48] days before the date of the  
13 general election.

14 \* Sec. 27. AS 15.40.140 is amended to read:

15 **Sec. 15.40.140. Condition [AND TIME] of calling special election.** When a  
16 vacancy occurs in the office of United States senator or United States representative,  
17 the governor shall, by proclamation, call a special election under AS 15.40.142(a)  
18 [TO BE HELD ON A DATE NOT LESS THAN 60, NOR MORE THAN 90, DAYS  
19 AFTER THE DATE THE VACANCY OCCURS]. However, if the vacancy occurs on  
20 a date that is less than 60 days before or is on or after the date of the primary election  
21 in the general election year during which a candidate to fill the office is regularly  
22 elected, the governor may not call a special election.

23 \* Sec. 28. AS 15.40 is amended by adding new sections to read:

24 **Sec. 15.40.141. Condition of calling a special runoff election.** (a) If no  
25 candidate in a special election called under AS 15.40.140 receives over 50 percent of  
26 the votes cast for the office, the governor shall, by proclamation, call a special runoff  
27 election under AS 15.40.142(b).

28 (b) In a special runoff election called under (a) of this section, the director  
29 shall place the names of the candidates receiving the greatest number of votes and the  
30 second greatest number of votes in the special election on the special runoff election  
31 ballot.

1           **Sec. 15.40.142. Time of calling the special election and the special runoff**  
 2 **election.** (a) Except as provided in (c) of this section, if a special election is called  
 3 under AS 15.40.140, it shall be held on a date not less than 60, nor more than 90, days  
 4 after the date the vacancy occurs.

5           (b) Except as provided in (c) of this section, a special runoff election under  
 6 AS 15.40.141 shall be held on the first Tuesday that is not a state holiday occurring  
 7 not less than 60 days after the special election.

8           (c) In an election year in which a candidate for the vacant office is not  
 9 regularly elected, and the vacancy occurs on a date that is not less than 60, nor more  
 10 than 90, days before the date of

11           (1) the primary election, the special election shall be held on the date  
 12 of the primary election with any subsequent special runoff election under  
 13 AS 15.40.141 to be held on the date of the general election; or

14           (2) the general election, the special election shall be held on the date of  
 15 the general election with any subsequent special runoff election under AS 15.40.141 to  
 16 be held on the first Tuesday that is not a state holiday occurring not less than 60 days  
 17 after the special and general election.

18 \* Sec. 29. AS 15.40.160 is amended to read:

19           **Sec. 15.40.160. Proclamation.** The governor shall issue the proclamation at  
 20 least 50 days before the

21           (1) special election; and

22           (2) if a special runoff election is required under AS 15.40.141(a),  
 23 special runoff election.

24 \* Sec. 30. AS 15.40.165 is amended to read:

25           **Sec. 15.40.165. Term of elected senator.** At the special election, or, as  
 26 provided by AS 15.40.141, at the special runoff election, a United States senator  
 27 shall be elected to fill the remainder of the unexpired term. The person elected shall  
 28 take office on the date the United States Senate meets, convenes, or reconvenes  
 29 following the certification of the results of the special election or special runoff  
 30 election by the director.

31 \* Sec. 31. AS 15.40.170 is amended to read:

1           **Sec. 15.40.170. Term of elected representative.** At the special election, or, as  
 2 provided by AS 15.40.141. at the special runoff election, a United States  
 3 representative shall be elected to fill the remainder of the unexpired term. The person  
 4 elected shall take office on the date the United States house of representatives meets,  
 5 convenes, or reconvenes following the certification of the results of the special  
 6 election or special runoff election by the director.

7 \* Sec. 32. AS 15.40.220 is amended to read:

8           **Sec. 15.40.220. General provisions for conduct of special election and**  
 9 special runoff election. Unless specifically provided otherwise, all provisions  
 10 regarding the conduct of the general election shall govern the conduct of the special  
 11 election and the special runoff election of the United States senator or United States  
 12 representative, including provisions concerning voter qualifications; provisions  
 13 regarding the duties, powers, rights, and obligations of the director, of other election  
 14 officials, and of municipalities; provision for notification of the election; provision for  
 15 payment of election expenses; provisions regarding employees being allowed time  
 16 from work to vote; provisions for the counting, reviewing, and certification of returns;  
 17 provision for running as, voting for, and counting ballots for, a write-in  
 18 candidate; provisions for the determination of the votes and of recounts, contests, and  
 19 appeal; and provision for absentee voting.

20 \* Sec. 33. AS 15.45.190 is amended to read:

21           **Sec. 15.45.190. Placing proposition on ballot.** The lieutenant governor shall  
 22 direct the director to place the ballot title and proposition on the election ballot of the  
 23 first statewide general, special, special runoff, or primary election that is held after

24                   (1) the petition has been filed;

25                   (2) a legislative session has convened and adjourned; and

26                   (3) a period of 120 days has expired since the adjournment of the  
 27 legislative session.

28 \* Sec. 34. AS 15.45.420 is amended to read:

29           **Sec. 15.45.420. Placing proposition on ballot.** The lieutenant governor shall  
 30 direct the director to place the ballot title and proposition on the election ballot for the  
 31 first statewide general, special, special runoff, or primary election held more than 180

1 days after adjournment of the legislative session at which the act was passed.

2 \* Sec. 35. AS 15.58.010 is amended to read:

3 **Sec. 15.58.010. Election pamphlet.** Before each state general election, and  
4 before each state primary, special, or special runoff election at which a ballot  
5 proposition is scheduled to appear on the ballot, the lieutenant governor shall prepare,  
6 publish, and mail at least one election pamphlet to each household identified from the  
7 official registration list. The pamphlet shall be prepared on a regional basis as  
8 determined by the lieutenant governor.

9 \* Sec. 36. AS 15.58.020(b) is amended to read:

10 (b) Each primary, special, or special runoff election pamphlet shall contain  
11 only the information specified in (a)(6) and (a)(9) of this section for each ballot  
12 measure scheduled to appear on the primary, [OR] special, or special runoff election  
13 ballot.

14 \* Sec. 37. AS 15.58.030 is amended by adding a new subsection to read:

15 (h) The lieutenant governor shall prepare and publish on the division's Internet  
16 website the photograph and statement of a candidate for an office designated under  
17 (a), (b), or (g) of this section. The lieutenant governor shall indicate that the  
18 photograph and statement are provided and paid for by the candidate. A photograph  
19 and a statement of a candidate that have been timely filed with the lieutenant governor  
20 shall be published on the website at least 15 days before an election at which the  
21 candidate will appear on the ballot.

22 \* Sec. 38. AS 15.80.010(8) is amended to read:

23 (8) "federal election" means a general, special, special runoff, or  
24 primary election held solely or in part for the purpose of selecting, nominating, or  
25 electing a candidate for the office of President, Vice-President, presidential elector,  
26 United States senator, or United States representative;

27 \* Sec. 39. AS 15.80.010 is amended by adding new paragraphs to read:

28 (43) "absent uniformed services voter" has the meaning given in 42  
29 U.S.C. 1973ff-6;

30 (44) "overseas voter" has the meaning given in 42 U.S.C. 1973ff-6;

31 (45) "special runoff election" means a runoff election for a United

1 States senator or United States representative held because no candidate for the office  
2 received over 50 percent of the votes cast at the special election for that office.

3 \* Sec. 40. AS 29.20.380 is amended by adding a new subsection to read:

4 (c) The municipal clerk may act as an absentee voting official under  
5 AS 15.20.045(c) for the limited purpose of distributing absentee ballots to qualified  
6 voters or qualified voters' representatives under AS 15.20.072 in a municipality in  
7 which the division of elections will not be operating an absentee voting station.

8 \* Sec. 41. AS 15.20.081(i) and 15.20.082 are repealed.

9 \* Sec. 42. This Act takes effect January 1, 2014.

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**STATE OF ALASKA**  
**Division of Elections**  
**Office of the Lieutenant Governor**

February 20, 2013

The Honorable Wes Keller, Chair  
House Judiciary Committee  
State Capitol, Room, Room 120  
Juneau, AK 99801

Dear Representative Keller:

The Division of Elections (DOE) respectfully requests a hearing in the House Judiciary Committee on CSHB 104(STA), "An Act relating to election practices and procedures; relating to public records; relating to the election of an advisory school board in a regional educational attendance area; and providing for an effective date."

This legislation will make a number of changes to the Election Code and related statutes. These changes are necessary to maximize efficiency in conducting state-run elections and harmonize certain provisions of state and federal election law.

A copy of Governor Parnell's transmittal letter, the bill, a sectional analysis and fiscal notes accompany this request.

Your favorable consideration of this request is appreciated. If you need any additional information, please contact me at 907-465-2644.

Sincerely,

A handwritten signature in cursive script, appearing to read "Gail Fenumiai".

Gail Fenumiai  
Director

cc: Heather Brakes, Legislative Director, Office of the Governor

STATE CAPITOL  
P.O. Box 110001  
Juneau, AK 99811-0001  
907-465-3500  
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Governor Sean Parnell  
STATE OF ALASKA

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February 4, 2013

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

Dear Speaker Chenault,

Under the authority of Article III, Section 18 of the Alaska Constitution, I am transmitting a bill relating to election practices and procedures; and relating to the election of an advisory school board in a regional educational attendance area.

The bill would make a number of changes to the Election Code and related statutes. These good government changes are necessary to assure voter access to his or her ballot, and to maximize efficiency in conducting State-run elections while harmonizing certain provisions of State and federal election law.

The bill would also shift the date of the primary election and associated candidacy withdrawal and petition deadlines. The bill would move the date of the primary from the fourth Tuesday in August to the second Tuesday in August of every even-numbered year. The purpose of moving the date is to assure that the Division of Elections can timely comply with provisions of federal law requiring the Division to transmit ballots to military and overseas voters 45 days before a federal election. Candidates would be required to withdraw their name 52 days rather than 48 days before the primary, and judges up for retention would be required to withdraw 64 days rather than 48 days before a general election. Similarly, deadlines governing the nomination of candidates by party petition where an unopposed incumbent dies, is disqualified, or is incapacitated, and for filling vacancies by party petition, would change.

The bill would specify that the Division of Elections may conduct elections for advisory school boards in regional educational attendance areas. The Division already is required to conduct elections to regional educational attendance area boards, and this change would specify that the Division could – but would not be required – to do the same for local advisory boards.

The bill would allow a qualified voter residing outside the United States to register to vote absentee if the qualified voter's parent or guardian was domiciled in Alaska immediately before leaving the

The Honorable Mike Chenault  
February 4, 2013  
Page 2

United States. This provision is aimed at voters who reach 18 years of age while living abroad with their parent or guardian.

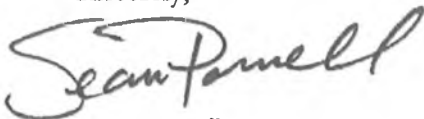
The bill would allow the Division of Elections to designate municipal clerks to act as absentee voting officials to distribute absentee ballots to qualified voters and their representatives. This portion of the bill aims to resolve difficulties associated with finding individuals to act as absentee voting officials, particularly in more rural areas of the state, by allowing municipal clerks to act in this capacity and thereby reach greater numbers of absentee voters.

The bill would also streamline several aspects of the absentee voting process. The bill would clarify that voters (other than uniformed services voters or overseas voters) who apply to receive their ballots by electronic transmission must, by regulation, be required to comply with the same ballot application deadlines applicable to absentee voting in person. The bill would repeal the concept of the "special absentee ballot" and make official ballots for overseas and military voters available 45 days before a federal election. All regular statewide elections also have federal offices on the ballot. Federal law requires the Division of Elections to transmit ballots to military and overseas voters 45 days before an election. The purpose of the State change would be to eliminate the 60 day advance "special absentee ballot" and make a single, official ballot available to voters overseas, in the military, and in remote areas of the state available on a timeframe consistent with federal law. Sending two ballots often causes voter confusion.

Finally, the bill would harmonize State and federal law by adding definitions of "absent uniformed services voter" and "overseas voter" to the Election Code.

I urge your prompt and favorable action on this measure.

Sincerely,

A handwritten signature in black ink that reads "Sean Parnell". The signature is written in a cursive, flowing style.

Sean Parnell  
Governor

Enclosure

28-GH1983\P  
Bullard  
3/12/13

**CS FOR HOUSE BILL NO. 104(JUD)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-EIGHTH LEGISLATURE - FIRST SESSION

**BY THE HOUSE JUDICIARY COMMITTEE**

**Offered:  
Referred:**

**Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to election practices and procedures; relating to the reporting of**  
2 **election campaign contributions and expenditures; relating to public records; relating to**  
3 **the election of an advisory school board in a regional educational attendance area; and**  
4 **providing for an effective date."**

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

6 **\* Section 1.** AS 14.08.071 is amended by adding a new subsection to read:

7 (e) The lieutenant governor may provide for the election of an advisory school  
8 board established under AS 14.08.115. An election conducted under this subsection  
9 shall be held on the first Tuesday in October. The lieutenant governor may adopt  
10 regulations governing an election conducted under this subsection.

11 **\* Sec. 2.** AS 15.05.011 is amended by adding a new subsection to read:

12 (e) Notwithstanding (b)(1) of this section, a person residing outside the United  
13 States may register and vote absentee if

14 (1) the parent or legal guardian of the person was domiciled in the state

1 immediately before leaving the United States; and

2 (2) the director determines that the person meets the requirements of  
3 (b)(2) - (5) of this section.

4 \* **Sec. 3.** AS 15.10.170 is amended to read:

5 **Sec. 15.10.170. Appointment and privileges of watchers.** The precinct party  
6 committee, where an organized precinct committee exists, or the party district  
7 committee where no organized precinct committee exists, or the state party  
8 chairperson where neither a precinct nor a party district committee exists, may appoint  
9 one or more persons as watchers in each precinct and counting center for any election.  
10 Each candidate not representing a political party may appoint one or more watchers  
11 for each precinct or counting center in the candidate's respective district or the state for  
12 any election. Any organization or organized group that sponsors or opposes an  
13 initiative, referendum, or recall may have one or more persons as watchers at the polls  
14 and counting centers after first obtaining authorization from the director. A state party  
15 chairperson, a precinct party committee, a party district committee, or a candidate not  
16 representing a political party or organization or organized group may not have more  
17 than one watcher on duty at a time in any precinct or counting center. **A watcher must**  
18 **be a United States citizen.** The watcher may be present at a position inside the place  
19 of voting or counting that affords a full view of all action of the election officials taken  
20 from the time the polls are opened until the ballots are finally counted and the results  
21 certified by the election board or the data processing review board. The election board  
22 or the data processing review board may require each watcher to present written proof  
23 showing appointment by the precinct party committee, the party district committee,  
24 the organization or organized group, or the candidate the watcher represents that is  
25 signed by the chairperson of the precinct party committee, the party district  
26 committee, the state party chairperson, the organization or organized group, or the  
27 candidate representing no party.

28 \* **Sec. 4.** AS 15.10.180 is amended to read:

29 **Sec. 15.10.180. Appointment of state ballot counting review board.** The  
30 director shall appoint two persons from the political party of which the governor is a  
31 member and two persons from the political party that received the second largest

1 number of votes statewide in the preceding gubernatorial election to participate in the  
2 state ballot counting review. The director may appoint additional individuals to  
3 participate in the state ballot counting review. **Appointees must be United States**  
4 **citizens.** Each political party may present to the director a list of three or more names  
5 from which the director shall select the persons to represent the party. The list of  
6 names may be submitted in writing at least 30 days before the date of the election. The  
7 list of names shall be certified by the state chairperson of the political party or by the  
8 person authorized by the party bylaws to act in the absence of the chairperson.

9 \* **Sec. 5.** AS 15.13.074(c) is amended to read:

10 (c) A person or group may not make a contribution

11 (1) to a candidate or an individual who files with the commission the  
12 document necessary to permit that individual to incur certain election-related expenses  
13 as authorized by AS 15.13.100 when the office is to be filled at a general election  
14 before the date that is 18 months before the general election;

15 (2) to a candidate or an individual who files with the commission the  
16 document necessary to permit that individual to incur certain election-related expenses  
17 as authorized by AS 15.13.100 for an office that is to be filled at a special election or  
18 municipal election before the date that is 18 months before the date of the regular  
19 municipal election or that is before the date of the proclamation of the special election  
20 at which the candidate or individual seeks election to public office; or

21 (3) to any candidate later than the 45th day

22 (A) after the date of the primary election if the candidate was  
23 **on the ballot and was** not nominated at the primary election; or

24 (B) after the date of the general election, or after the date of a  
25 municipal or municipal runoff election.

26 \* **Sec. 6.** AS 15.13.110 is amended by adding a new subsection to read:

27 (j) Before the primary election, a candidate seeking nomination by petition  
28 under AS 15.25.140 - 15.25.200 for the office of governor, lieutenant governor, state  
29 senator, or state representative shall file the reports under (a)(1) and (2) of this section.

30 \* **Sec. 7.** AS 15.13.374(f) is amended to read:

31 (f) Advisory opinion requests and advisory opinions are public records subject

1 to inspection and copying under AS 40.25, except that if a person requesting an  
2 advisory opinion requests that the person's name be kept confidential, the  
3 person's name shall be kept confidential and the commission shall redact the  
4 name of the requester from the request and from the advisory opinion before  
5 making the request and opinion public.

6 \* **Sec. 8.** AS 15.20.045 is amended by adding a new subsection to read:

7 (c) In a municipality in which the division will not be operating an absentee  
8 voting station, the director may designate the municipal clerk as an absentee voting  
9 official for the limited purpose of distributing absentee ballots to qualified voters  
10 under AS 15.20.061(a)(1) and qualified voters' representatives under AS 15.20.072. At  
11 least 15 days before the election, the director shall supply municipal clerks designated  
12 under this subsection with absentee ballots.

13 \* **Sec. 9.** AS 15.20.066(a) is amended to read:

14 (a) The director shall adopt regulations applicable to the delivery of absentee  
15 ballots by electronic transmission in a state election and to the use of electronic  
16 transmission absentee voting in a state election by qualified voters. The regulations  
17 must

18 (1) require the voter to comply with the same time deadlines as for  
19 voting in person on or before the closing hour of the polls;

20 (2) require the voter to comply with the same deadlines for  
21 applying for an absentee ballot as those set out for applying in person for an  
22 absentee ballot in AS 15.20.061(a)(1), except that a qualified voter who is an  
23 absent uniformed services voter or an overseas voter may apply to vote an  
24 absentee ballot by electronic transmission at any time during a calendar year;  
25 and

26 (3) [(2)] ensure the accuracy and, to the greatest degree possible, the  
27 integrity and secrecy of the ballot process.

28 \* **Sec. 10.** AS 15.20.081(c) is amended to read:

29 (c) After receipt of an application, the director shall send the absentee ballot  
30 and other absentee voting material to the applicant by the most expeditious mail  
31 service. However, if the application requests that an absentee ballot for a state election

1 be sent by electronic transmission, the director shall send the absentee ballot and other  
2 absentee voting material to the applicant by electronic transmission. Except as  
3 provided in (k) of this section, the [THE] absentee ballot and other absentee voting  
4 material shall be sent as soon as they are ready for distribution. If the absentee ballot  
5 and other absentee voting material are mailed to the applicant, the return envelope sent  
6 with the ballot and other materials shall be addressed to the election supervisor in the  
7 district in which the voter is a resident.

8 \* **Sec. 11.** AS 15.20.081(e) is amended to read:

9 (e) An absentee ballot must be marked on or before the date of the election. A  
10 [EXCEPT AS PROVIDED IN (h) OF THIS SECTION, A] voter who returns the  
11 absentee ballot by mail, whether provided to the voter by mail or by electronic  
12 transmission, shall use a mail service at least equal to first class and mail the ballot not  
13 later than the day of the election to the election supervisor for the house district in  
14 which the voter seeks to vote. Except as provided in AS 15.20.480, the ballot may not  
15 be counted unless it is received by the close of business on the 10th day after the  
16 election. If the ballot is postmarked, it must be postmarked on or before election day.  
17 After the day of the election, ballots may not be accepted unless received by mail.

18 \* **Sec. 12.** AS 15.20.081 is amended by adding new subsections to read:

19 (k) In accordance with 42 U.S.C. 1973ff-1(a)(8)(A), if an application is  
20 received at least 45 days before an election and is from an absent uniformed services  
21 voter or an overseas voter, the director shall send an absentee ballot and other voting  
22 material to the applicant not later than 45 days before the election.

23 (l) If an application is received at least 45 days before an election and is from  
24 a voter who notifies the director in writing that the voter expects to be living, working,  
25 or traveling outside the United States at the time of the election or expects to be living,  
26 working, or traveling in a remote area of the state where distance, terrain, or other  
27 natural conditions deny the voter reasonable access to a polling place at the time of the  
28 election, the director shall send an absentee ballot and other voting material to the  
29 applicant not later than 45 days before the election.

30 \* **Sec. 13.** AS 15.20.203(i) is amended to read:

31 (i) The director shall mail the materials described in (h) of this section to the

1 voter not later than

2 (1) 10 days after completion of the review of ballots by the state  
3 review board for a primary election, or for a special election under AS 15.40.140  
4 that is followed by a special runoff election;

5 (2) 60 days after certification of the results of a general election,  
6 special runoff election, or special election other than a special election described in  
7 (1) of this subsection.

8 \* Sec. 14. AS 15.20.203(j) is amended to read:

9 (j) The director shall make available through a free access system to each  
10 absentee voter a system to check to see whether the voter's ballot was counted and, if  
11 not counted, the reason why the ballot was not counted. The director shall make this  
12 information available through the free access system not less than

13 (1) 10 days after certification of the results of a primary election, or a  
14 special election under AS 15.40.140 that is followed by a special runoff election;  
15 and

16 (2) [NOT LESS THAN] 30 days after certification of the results of a  
17 general or special election, other than a special election described in (1) of this  
18 subsection.

19 \* Sec. 15. AS 15.20.207(i) is amended to read:

20 (i) The director shall mail the materials described in (h) of this section to the  
21 voter not later than

22 (1) 10 days after completion of the review of ballots by the state  
23 review board for a primary election, or for a special election under AS 15.40.140  
24 that is followed by a special runoff election;

25 (2) 60 days after certification of the results of a general or special  
26 election, other than a special election described in (1) of this subsection.

27 \* Sec. 16. AS 15.20.207(k) is amended to read:

28 (k) The director shall make available through a free access system to each  
29 voter voting a questioned ballot a system to check to see whether the voter's ballot was  
30 counted and, if not counted, the reason why the ballot was not counted. The director  
31 shall make this information available through the free access system not less than

1                   (1) 10 days after certification of the results of a primary election, or a  
2                   special election under AS 15.40.140 that is followed by a special runoff election;  
3                   and

4                   (2) [NOT LESS THAN] 30 days after the certification of the results of  
5                   a general or special election, other than a special election described in (1) of this  
6                   subsection.

7                   \* **Sec. 17.** AS 15.20.211(d) is amended to read:

8                   (d) The director shall mail the materials described in (c) of this section to the  
9                   voter not later than

10                   (1) 10 days after completion of the review of ballots by the state  
11                   review board for a primary election, or for a special election under AS 15.40.140  
12                   that is followed by a special runoff election;

13                   (2) 60 days after certification of the results of a general or special  
14                   election, other than a special election described in (1) of this subsection.

15                   \* **Sec. 18.** AS 15.20.211(f) is amended to read:

16                   (f) The director shall make available through a free access system to each  
17                   voter whose ballot was subject to partial counting under this section a system to check  
18                   to see whether the voter's ballot was partially counted and, if not counted, the reason  
19                   why the ballot was not counted. The director shall make this information available  
20                   through the free access system not less than

21                   (1) 10 days after certification of the results of a primary election, or a  
22                   special election under AS 15.40.140 that is followed by a special runoff election;  
23                   and

24                   (2) [NOT LESS THAN] 30 days after the certification of the results of  
25                   a general or special election, other than a special election described in (1) of this  
26                   subsection.

27                   \* **Sec. 19.** AS 15.20.220(b) is amended to read:

28                   (b) The state review board shall review and count absentee ballots under  
29                   AS 15.20.081(e) [AND (h)] and questioned ballots that have been forwarded to the  
30                   director and that have not been reviewed or counted by a district counting board.

31                   \* **Sec. 20.** AS 15.25.020 is amended to read:

1           **Sec. 15.25.020. Date of primary.** The primary election is held on the second  
2           [FOURTH] Tuesday in August of every even-numbered year.

3           \* **Sec. 21.** AS 15.25.055 is amended to read:

4           **Sec. 15.25.055. Removal of name from primary ballot.** A candidate's name  
5           must appear on the primary election ballot unless notice of the withdrawal from the  
6           primary is received by the director at least 52 [48] days before the date of the primary  
7           election.

8           \* **Sec. 22.** AS 15.25.056(a) is amended to read:

9           (a) If an unopposed incumbent candidate for renomination dies, becomes  
10          disqualified from holding the office the candidate is seeking, or is certified as being  
11          incapacitated between June 1 of the election year and that date which is more than 54  
12          [50] days before the date of the primary election, the candidate's place on the ballot  
13          may be filled by party petition. The petition shall state that the political party requests  
14          the name of the proposed candidate replace that of the incumbent on the primary  
15          election ballot and shall be accompanied by a declaration of candidacy from the  
16          person named in the petition. The petition must be received by the director not [NO]  
17          later than 14 days after the death, disqualification, or certification of incapacity of the  
18          incumbent or 52 [48] days before the primary election date, whichever time is earlier.

19          \* **Sec. 23.** AS 15.25.056(c) is amended to read:

20          (c) The death, disqualification, or certification of incapacity of the incumbent  
21          within 52 [48] days before or on the primary election date does not affect the counting  
22          and review of the ballots. If the result of the counting and review discloses that the  
23          candidate, if the candidate had lived, would have been nominated, the candidate shall  
24          be declared nominated. The vacancy may be filled by party petition as provided in  
25          AS 15.25.110 - 15.25.130.

26          \* **Sec. 24.** AS 15.25.110 is amended to read:

27          **Sec. 15.25.110. Filling vacancies by party petition.** If a candidate of a  
28          political party nominated at the primary election dies, withdraws, resigns, becomes  
29          disqualified from holding the office for which the candidate is nominated, or is  
30          certified as being incapacitated in the manner prescribed by this section after the  
31          primary election and 64 [48] days or more before the general election, the vacancy

1 may be filled by party petition. The central committee of any political party or any  
2 party district committee may certify as being incapacitated any candidate nominated  
3 by their respective party by presenting to the director a sworn statement made by a  
4 panel of three licensed physicians, not more than two of whom may be of the same  
5 political party, that the candidate is physically or mentally incapacitated to an extent  
6 that would in the panel's judgment prevent the candidate from active service during  
7 the term of office if elected. The director shall place the name of the person nominated  
8 by party petition on the general election ballot. The name of a candidate disqualified  
9 under this section may not appear on the general election ballot.

10 \* **Sec. 25.** AS 15.25.120 is amended to read:

11 **Sec. 15.25.120. Requirements for party petition.** Party petitions for the  
12 nomination of candidates shall state in substance that the political party desires and  
13 intends to support the named candidate for the named office and requests that the  
14 name of the proposed candidate be placed on the general election ballot. The petition  
15 may be filed not [NO] later than 64 [48] days before the date of the general election.

16 \* **Sec. 26.** AS 15.25.200 is amended to read:

17 **Sec. 15.25.200. Withdrawal of candidate's name.** If a candidate nominated  
18 by petition dies or withdraws after the petition has been filed and 64 [48] days or more  
19 before the general election, the director may not place the name of the candidate on  
20 the general election ballot.

21 \* **Sec. 27.** AS 15.35.135(b) is amended to read:

22 (b) The name of a candidate for retention for supreme court justice, judge of  
23 the court of appeals, superior court judge, or district court judge must appear on the  
24 general election ballot unless notice under (a) of this section of withdrawal of  
25 candidacy is received by the director at least 64 [48] days before the date of the  
26 general election.

27 \* **Sec. 28.** AS 15.40.140 is amended to read:

28 **Sec. 15.40.140. Condition [AND TIME] of calling special election.** When a  
29 vacancy occurs in the office of United States senator or United States representative,  
30 the governor shall, by proclamation, call a special election under AS 15.40.142(a)  
31 [TO BE HELD ON A DATE NOT LESS THAN 60, NOR MORE THAN 90, DAYS

1 AFTER THE DATE THE VACANCY OCCURS]. However, if the vacancy occurs on  
2 a date that is less than 60 days before or is on or after the date of the primary election  
3 in the general election year during which a candidate to fill the office is regularly  
4 elected, the governor may not call a special election.

5 \* **Sec. 29.** AS 15.40 is amended by adding new sections to read:

6 **Sec. 15.40.141. Condition of calling a special runoff election.** (a) If no  
7 candidate in a special election called under AS 15.40.140 receives over 50 percent of  
8 the votes cast for the office, the governor shall, by proclamation, call a special runoff  
9 election under AS 15.40.142(b).

10 (b) In a special runoff election called under (a) of this section, the director  
11 shall place the names of the candidates receiving the greatest number of votes and the  
12 second greatest number of votes in the special election on the special runoff election  
13 ballot.

14 **Sec. 15.40.142. Time of calling the special election and the special runoff**  
15 **election.** (a) Except as provided in (c) of this section, if a special election is called  
16 under AS 15.40.140, it shall be held on a date not less than 60, nor more than 90, days  
17 after the date the vacancy occurs.

18 (b) Except as provided in (c) of this section, a special runoff election under  
19 AS 15.40.141 shall be held on the first Tuesday that is not a state holiday occurring  
20 not less than 60 days after the special election.

21 (c) In an election year in which a candidate for the vacant office is not  
22 regularly elected, and the vacancy occurs on a date that is not less than 60, nor more  
23 than 90, days before the date of

24 (1) the primary election, the special election shall be held on the date  
25 of the primary election with any subsequent special runoff election under  
26 AS 15.40.141 to be held on the date of the general election; or

27 (2) the general election, the special election shall be held on the date of  
28 the general election with any subsequent special runoff election under AS 15.40.141 to  
29 be held on the first Tuesday that is not a state holiday occurring not less than 60 days  
30 after the special and general election.

31 \* **Sec. 30.** AS 15.40.160 is amended to read:

1           **Sec. 15.40.160. Proclamation.** The governor shall issue the proclamation at  
2 least 50 days before the

3                   **(1) special election; and**

4                   **(2) if a special runoff election is required under AS 15.40.141(a),**  
5                   **the special runoff election.**

6 \* **Sec. 31.** AS 15.40.165 is amended to read:

7           **Sec. 15.40.165. Term of elected senator.** At the special election, **or, as**  
8           **provided by AS 15.40.141, at the special runoff election,** a United States senator  
9 shall be elected to fill the remainder of the unexpired term. The person elected shall  
10 take office on the date the United States Senate meets, convenes, or reconvenes  
11 following the certification of the results of the special election **or special runoff**  
12 **election** by the director.

13 \* **Sec. 32.** AS 15.40.170 is amended to read:

14           **Sec. 15.40.170. Term of elected representative.** At the special election, **or, as**  
15           **provided by AS 15.40.141, at the special runoff election,** a United States  
16 representative shall be elected to fill the remainder of the unexpired term. The person  
17 elected shall take office on the date the United States house of representatives meets,  
18 convenes, or reconvenes following the certification of the results of the special  
19 election **or special runoff election** by the director.

20 \* **Sec. 33.** AS 15.40.220 is amended to read:

21           **Sec. 15.40.220. General provisions for conduct of special election and**  
22 **special runoff election.** Unless specifically provided otherwise, all provisions  
23 regarding the conduct of the general election shall govern the conduct of the special  
24 election **and the special runoff election** of the United States senator or United States  
25 representative, including provisions concerning voter qualifications; provisions  
26 regarding the duties, powers, rights, and obligations of the director, of other election  
27 officials, and of municipalities; provision for notification of the election; provision for  
28 payment of election expenses; provisions regarding employees being allowed time  
29 from work to vote; provisions for the counting, reviewing, and certification of returns;  
30 **provision for running as, voting for, and counting ballots for, a write-in**  
31 **candidate;** provisions for the determination of the votes and of recounts, contests, and

1 appeal; and provision for absentee voting.

2 \* **Sec. 34.** AS 15.45.190 is amended to read:

3 **Sec. 15.45.190. Placing proposition on ballot.** The lieutenant governor shall  
4 direct the director to place the ballot title and proposition on the election ballot of the  
5 first statewide general, special, special runoff, or primary election that is held after

6 (1) the petition has been filed;

7 (2) a legislative session has convened and adjourned; and

8 (3) a period of 120 days has expired since the adjournment of the  
9 legislative session.

10 \* **Sec. 35.** AS 15.45.420 is amended to read:

11 **Sec. 15.45.420. Placing proposition on ballot.** The lieutenant governor shall  
12 direct the director to place the ballot title and proposition on the election ballot for the  
13 first statewide general, special, special runoff, or primary election held more than 180  
14 days after adjournment of the legislative session at which the act was passed.

15 \* **Sec. 36.** AS 15.58.010 is amended to read:

16 **Sec. 15.58.010. Election pamphlet.** Before each state general election, and  
17 before each state primary, special, or special runoff election at which a ballot  
18 proposition is scheduled to appear on the ballot, the lieutenant governor shall prepare,  
19 publish, and mail at least one election pamphlet to each household identified from the  
20 official registration list. The pamphlet shall be prepared on a regional basis as  
21 determined by the lieutenant governor.

22 \* **Sec. 37.** AS 15.58.020(b) is amended to read:

23 (b) Each primary, special, or special runoff election pamphlet shall contain  
24 only the information specified in (a)(6) and (a)(9) of this section for each ballot  
25 measure scheduled to appear on the primary, [OR] special, or special runoff election  
26 ballot.

27 \* **Sec. 38.** AS 15.58.030 is amended by adding a new subsection to read:

28 (h) The lieutenant governor shall prepare and publish on the division's Internet  
29 website the photograph and statement of a candidate for an office designated under  
30 (a), (b), or (g) of this section. The lieutenant governor shall indicate that the  
31 photograph and statement are provided and paid for by the candidate. A photograph

1 and a statement of a candidate that have been timely filed with the lieutenant governor  
2 shall be published on the website at least 15 days before an election at which the  
3 candidate will appear on the ballot.

4 \* **Sec. 39.** AS 15.80.010(8) is amended to read:

5 (8) "federal election" means a general, special, special runoff, or  
6 primary election held solely or in part for the purpose of selecting, nominating, or  
7 electing a candidate for the office of President, Vice-President, presidential elector,  
8 United States senator, or United States representative;

9 \* **Sec. 40.** AS 15.80.010 is amended by adding new paragraphs to read:

10 (43) "absent uniformed services voter" has the meaning given in 42  
11 U.S.C. 1973ff-6;

12 (44) "overseas voter" has the meaning given in 42 U.S.C. 1973ff-6.

13 (45) "special runoff election" means a runoff election for a United  
14 States senator or United States representative held because no candidate for the office  
15 received over 50 percent of the votes cast at the special election for that office;

16 \* **Sec. 41.** AS 29.20.380 is amended by adding a new subsection to read:

17 (c) The municipal clerk may act as an absentee voting official under  
18 AS 15.20.045(c) for the limited purpose of distributing absentee ballots to qualified  
19 voters or qualified voters' representatives under AS 15.20.072 in a municipality in  
20 which the division of elections will not be operating an absentee voting station.

21 \* **Sec. 42.** AS 15.20.081(h), 15.20.081(i), and 15.20.082 are repealed.

22 \* **Sec. 43.** This Act takes effect January 1, 2014.

28-GH1983\O  
Bullard  
2/27/13

**CS FOR HOUSE BILL NO. 104( )**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-EIGHTH LEGISLATURE - FIRST SESSION**

**BY**

**Offered:**  
**Referred:**

**Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR**

**A BILL**  
**FOR AN ACT ENTITLED**

1 **"An Act relating to election practices and procedures; relating to public records;**  
2 **relating to the election of an advisory school board in a regional educational attendance**  
3 **area; and providing for an effective date."**

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

5 **\* Section 1. AS 14.08.071 is amended by adding a new subsection to read:**

6 (e) The lieutenant governor may provide for the election of an advisory school  
7 board established under AS 14.08.115. An election conducted under this subsection  
8 shall be held on the first Tuesday in October. The lieutenant governor may adopt  
9 regulations governing an election conducted under this subsection.

10 **\* Sec. 2. AS 15.05.011 is amended by adding a new subsection to read:**

11 (e) Notwithstanding (b)(1) of this section, a person residing outside the United  
12 States may register and vote absentee if

13 (1) the parent or legal guardian of the person was domiciled in the state  
14 immediately before leaving the United States;

1 (2) the director determines that the person meets the requirements of  
2 (b)(2) - (5) of this section.

3 \* Sec. 3. AS 15.10.170 is amended to read:

4 **Sec. 15.10.170. Appointment and privileges of watchers.** The precinct party  
5 committee, where an organized precinct committee exists, or the party district  
6 committee where no organized precinct committee exists, or the state party  
7 chairperson where neither a precinct nor a party district committee exists, may appoint  
8 one or more persons as watchers in each precinct and counting center for any election.  
9 Each candidate not representing a political party may appoint one or more watchers  
10 for each precinct or counting center in the candidate's respective district or the state for  
11 any election. Any organization or organized group that sponsors or opposes an  
12 initiative, referendum, or recall may have one or more persons as watchers at the polls  
13 and counting centers after first obtaining authorization from the director. A state party  
14 chairperson, a precinct party committee, a party district committee, or a candidate not  
15 representing a political party or organization or organized group may not have more  
16 than one watcher on duty at a time in any precinct or counting center. A watcher must  
17 be registered to vote in the state. The watcher may be present at a position inside the  
18 place of voting or counting that affords a full view of all action of the election officials  
19 taken from the time the polls are opened until the ballots are finally counted and the  
20 results certified by the election board or the data processing review board. The  
21 election board or the data processing review board may require each watcher to  
22 present written proof showing appointment by the precinct party committee, the party  
23 district committee, the organization or organized group, or the candidate the watcher  
24 represents that is signed by the chairperson of the precinct party committee, the party  
25 district committee, the state party chairperson, the organization or organized group, or  
26 the candidate representing no party.

27 \* Sec. 4. AS 15.10.180 is amended to read:

28 **Sec. 15.10.180. Appointment of state ballot counting review board.** The  
29 director shall appoint two persons from the political party of which the governor is a  
30 member and two persons from the political party that received the second largest  
31 number of votes statewide in the preceding gubernatorial election to participate in the

1 state ballot counting review. The director may appoint additional individuals to  
2 participate in the state ballot counting review. Appointees must be registered to vote  
3 in the state. Each political party may present to the director a list of three or more  
4 names from which the director shall select the persons to represent the party. The list  
5 of names may be submitted in writing at least 30 days before the date of the election.  
6 The list of names shall be certified by the state chairperson of the political party or by  
7 the person authorized by the party bylaws to act in the absence of the chairperson.

8 \* Sec. 5. AS 15.13.374(f) is amended to read:

9 (f) Advisory opinion requests and advisory opinions are public records subject  
10 to inspection and copying under AS 40.25, except that the name of a person  
11 requesting an advisory opinion shall be kept confidential, and the commission  
12 shall redact the name of the requester from a request and from an advisory  
13 opinion before making the request and opinion public.

14 \* Sec. 6. AS 15.20.045 is amended by adding a new subsection to read:

15 (c) In a municipality in which the division will not be operating an absentee  
16 voting station, the director may designate the municipal clerk as an absentee voting  
17 official for the limited purpose of distributing absentee ballots to qualified voters  
18 under AS 15.20.061(a)(1) and qualified voters' representatives under AS 15.20.072. At  
19 least 15 days before the election, the director shall supply municipal clerks designated  
20 under this subsection with absentee ballots.

21 \* Sec. 7. AS 15.20.066(a) is amended to read:

22 (a) The director shall adopt regulations applicable to the delivery of absentee  
23 ballots by electronic transmission in a state election and to the use of electronic  
24 transmission absentee voting in a state election by qualified voters. The regulations  
25 must

26 (1) require the voter to comply with the same time deadlines as for  
27 voting in person on or before the closing hour of the polls;

28 (2) require the voter to comply with the same deadlines for  
29 applying for an absentee ballot as those set out for applying in person for an  
30 absentee ballot in AS 15.20.061(a)(1), except that a qualified voter who is an  
31 absent uniformed services voter or an overseas voter may apply to vote an

1 absentee ballot by electronic transmission at any time during a calendar year;  
2 and

3 (3) [(2)] ensure the accuracy and, to the greatest degree possible, the  
4 integrity and secrecy of the ballot process.

5 \* Sec. 8. AS 15.20.081(c) is amended to read:

6 (c) After receipt of an application, the director shall send the absentee ballot  
7 and other absentee voting material to the applicant by the most expeditious mail  
8 service. However, if the application requests that an absentee ballot for a state election  
9 be sent by electronic transmission, the director shall send the absentee ballot and other  
10 absentee voting material to the applicant by electronic transmission. Except as  
11 provided in (k) of this section, the [THE] absentee ballot and other absentee voting  
12 material shall be sent as soon as they are ready for distribution. If the absentee ballot  
13 and other absentee voting material are mailed to the applicant, the return envelope sent  
14 with the ballot and other materials shall be addressed to the election supervisor in the  
15 district in which the voter is a resident.

16 \* Sec. 9. AS 15.20.081(e) is amended to read:

17 (e) An absentee ballot must be marked on or before the date of the election. A  
18 [EXCEPT AS PROVIDED IN (h) OF THIS SECTION, A] voter who returns the  
19 absentee ballot by mail, whether provided to the voter by mail or by electronic  
20 transmission, shall use a mail service at least equal to first class and mail the ballot not  
21 later than the day of the election to the election supervisor for the house district in  
22 which the voter seeks to vote. Except as provided in AS 15.20.480, the ballot may not  
23 be counted unless it is received by the close of business on the 10th day after the  
24 election. If the ballot is postmarked, it must be postmarked on or before election day.  
25 After the day of the election, ballots may not be accepted unless received by mail.

26 \* Sec. 10. AS 15.20.081 is amended by adding new subsections to read:

27 (k) In accordance with 42 U.S.C. 1973ff-1(a)(8)(A), if an application is  
28 received at least 45 days before an election and is from an absent uniformed services  
29 voter or an overseas voter, the director shall send an absentee ballot and other voting  
30 material to the applicant not later than 45 days before the election.

31 (l) If an application is received at least 45 days before an election and is from

1 a voter who notifies the director in writing that the voter expects to be living, working,  
2 or traveling outside the United States at the time of the election or expects to be living,  
3 working, or traveling in a remote area of the state where distance, terrain, or other  
4 natural conditions deny the voter reasonable access to a polling place at the time of the  
5 election, the director shall send an absentee ballot and other voting material to the  
6 applicant not later than 45 days before the election.

7 \* Sec. 11. AS 15.20.203(i) is amended to read:

8 (i) The director shall mail the materials described in (h) of this section to the  
9 voter not later than

10 (1) 10 days after completion of the review of ballots by the state  
11 review board for a primary election, or for a special election under AS 15.40.140  
12 that is followed by a special runoff election:

13 (2) 60 days after certification of the results of a general election,  
14 special runoff election, or special election other than a special election described in  
15 (1) of this subsection.

16 \* Sec. 12. AS 15.20.203(j) is amended to read:

17 (j) The director shall make available through a free access system to each  
18 absentee voter a system to check to see whether the voter's ballot was counted and, if  
19 not counted, the reason why the ballot was not counted. The director shall make this  
20 information available through the free access system not less than

21 (1) 10 days after certification of the results of a primary election, or a  
22 special election under AS 15.40.140 that is followed by a special runoff election;

23 and

24 (2) [NOT LESS THAN] 30 days after certification of the results of a  
25 general or special election, other than a special election described in (1) of this  
26 subsection.

27 \* Sec. 13. AS 15.20.207(i) is amended to read:

28 (i) The director shall mail the materials described in (h) of this section to the  
29 voter not later than

30 (1) 10 days after completion of the review of ballots by the state  
31 review board for a primary election, or for a special election under AS 15.40.140

1 that is followed by a special runoff election:

2 (2) 60 days after certification of the results of a general or special  
3 election, other than a special election described in (1) of this subsection.

4 \* Sec. 14. AS 15.20.207(k) is amended to read:

5 (k) The director shall make available through a free access system to each  
6 voter voting a questioned ballot a system to check to see whether the voter's ballot was  
7 counted and, if not counted, the reason why the ballot was not counted. The director  
8 shall make this information available through the free access system not less than

9 (1) 10 days after certification of the results of a primary election, or a  
10 special election under AS 15.40.140 that is followed by a special runoff election;  
11 and

12 (2) [NOT LESS THAN] 30 days after the certification of the results of  
13 a general or special election, other than a special election described in (1) of this  
14 subsection.

15 \* Sec. 15. AS 15.20.211(d) is amended to read:

16 (d) The director shall mail the materials described in (c) of this section to the  
17 voter not later than

18 (1) 10 days after completion of the review of ballots by the state  
19 review board for a primary election, or for a special election under AS 15.40.140  
20 that is followed by a special runoff election;

21 (2) 60 days after certification of the results of a general or special  
22 election, other than a special election described in (1) of this subsection.

23 \* Sec. 16. AS 15.20.211(f) is amended to read:

24 (f) The director shall make available through a free access system to each  
25 voter whose ballot was subject to partial counting under this section a system to check  
26 to see whether the voter's ballot was partially counted and, if not counted, the reason  
27 why the ballot was not counted. The director shall make this information available  
28 through the free access system not less than

29 (1) 10 days after certification of the results of a primary election, or a  
30 special election under AS 15.40.140 that is followed by a special runoff election;  
31 and

1                   **(2)** [NOT LESS THAN] 30 days after the certification of the results of  
2 a general or special election, **other than a special election described in (1) of this**  
3 **subsection.**

4 \* Sec. 17. AS 15.20.220(b) is amended to read:

5                   (b) The state review board shall review and count absentee ballots under  
6 AS 15.20.081(e) [AND (h)] and questioned ballots that have been forwarded to the  
7 director and that have not been reviewed or counted by a district counting board.

8 \* Sec. 18. AS 15.25.020 is amended to read:

9                   **Sec. 15.25.020. Date of primary.** The primary election is held on the **second**  
10 **[FOURTH]** Tuesday in August of every even-numbered year.

11 \* Sec. 19. AS 15.25.055 is amended to read:

12                   **Sec. 15.25.055. Removal of name from primary ballot.** A candidate's name  
13 must appear on the primary election ballot unless notice of the withdrawal from the  
14 primary is received by the director at least **52** [48] days before the date of the primary  
15 election.

16 \* Sec. 20. AS 15.25.056(a) is amended to read:

17                   (a) If an unopposed incumbent candidate for renomination dies, becomes  
18 disqualified from holding the office the candidate is seeking, or is certified as being  
19 incapacitated between June 1 of the election year and that date which is more than **54**  
20 [50] days before the date of the primary election, the candidate's place on the ballot  
21 may be filled by party petition. The petition shall state that the political party requests  
22 the name of the proposed candidate replace that of the incumbent on the primary  
23 election ballot and shall be accompanied by a declaration of candidacy from the  
24 person named in the petition. The petition must be received by the director **not** [NO]  
25 later than 14 days after the death, disqualification, or certification of incapacity of the  
26 incumbent or **52** [48] days before the primary election date, whichever time is earlier.

27 \* Sec. 21. AS 15.25.056(c) is amended to read:

28                   (c) The death, disqualification, or certification of incapacity of the incumbent  
29 within **52** [48] days before or on the primary election date does not affect the counting  
30 and review of the ballots. If the result of the counting and review discloses that the  
31 candidate, if the candidate had lived, would have been nominated, the candidate shall

1 be declared nominated. The vacancy may be filled by party petition as provided in  
2 AS 15.25.110 - 15.25.130.

3 \* Sec. 22. AS 15.25.110 is amended to read:

4 **Sec. 15.25.110. Filling vacancies by party petition.** If a candidate of a  
5 political party nominated at the primary election dies, withdraws, resigns, becomes  
6 disqualified from holding the office for which the candidate is nominated, or is  
7 certified as being incapacitated in the manner prescribed by this section after the  
8 primary election and 64 [48] days or more before the general election, the vacancy  
9 may be filled by party petition. The central committee of any political party or any  
10 party district committee may certify as being incapacitated any candidate nominated  
11 by their respective party by presenting to the director a sworn statement made by a  
12 panel of three licensed physicians, not more than two of whom may be of the same  
13 political party, that the candidate is physically or mentally incapacitated to an extent  
14 that would in the panel's judgment prevent the candidate from active service during  
15 the term of office if elected. The director shall place the name of the person nominated  
16 by party petition on the general election ballot. The name of a candidate disqualified  
17 under this section may not appear on the general election ballot.

18 \* Sec. 23. AS 15.25.120 is amended to read:

19 **Sec. 15.25.120. Requirements for party petition.** Party petitions for the  
20 nomination of candidates shall state in substance that the political party desires and  
21 intends to support the named candidate for the named office and requests that the  
22 name of the proposed candidate be placed on the general election ballot. The petition  
23 may be filed not [NO] later than 64 [48] days before the date of the general election.

24 \* Sec. 24. AS 15.25.150 is repealed and reenacted to read:

25 **Sec. 15.25.150. Manner and date of filing petition.** (a) A candidate seeking  
26 nomination by petition shall submit the information required under AS 15.25.180 by  
27 either

28 (1) the actual physical delivery of the petition in person or by mail at  
29 or before 5:00 p.m., prevailing time, June 1 of the year in which a general election is  
30 being held for the office; or

31 (2) reliable electronic transmission of a copy in substance of the

1 statements made in paragraphs (1) and (3) - (6) of the petition as required by  
2 AS 15.25.180(a) at or before 5:00 p.m., prevailing time, June 1 of the year in which a  
3 general election is being held for the office and also the actual physical delivery of the  
4 petition containing paragraphs (1) - (17) as required by AS 15.25.180(a) by mail that  
5 is received not more than 15 days after that time.

6 (b) If the postmark is illegible, a dated receipt from the post office where the  
7 petition was mailed shall be acceptable as evidence of mailing. If June 1 is a Sunday  
8 or holiday, the deadlines for postmarking and receipt of the petition shall be extended  
9 24 hours in each instance.

10 (c) A candidate for a statewide office or a candidate for a district-wide office  
11 shall file either with the director or an election supervisor. If the candidate files the  
12 petition with an election supervisor, the election supervisor shall immediately forward  
13 the petition to the director.

14 (d) If the petition filed under (a) of this section is not received within seven  
15 calendar days, the candidate shall be notified of nonreceipt. The candidate shall have  
16 the opportunity to refile the petition with proof that a previous petition has been filed  
17 in a timely manner and in accordance with law.

18 \* Sec. 25. AS 15.25.200 is amended to read:

19 **Sec. 15.25.200. Withdrawal of candidate's name.** If a candidate nominated  
20 by petition dies or withdraws after the petition has been filed and 64 [48] days or more  
21 before the general election, the director may not place the name of the candidate on  
22 the general election ballot.

23 \* Sec. 26. AS 15.35.135(b) is amended to read:

24 (b) The name of a candidate for retention for supreme court justice, judge of  
25 the court of appeals, superior court judge, or district court judge must appear on the  
26 general election ballot unless notice under (a) of this section of withdrawal of  
27 candidacy is received by the director at least 64 [48] days before the date of the  
28 general election.

29 \* Sec. 27. AS 15.40.140 is amended to read:

30 **Sec. 15.40.140. Condition [AND TIME] of calling special election.** When a  
31 vacancy occurs in the office of United States senator or United States representative,

1 the governor shall, by proclamation, call a special election under AS 15.40.142(a)  
2 [TO BE HELD ON A DATE NOT LESS THAN 60, NOR MORE THAN 90, DAYS  
3 AFTER THE DATE THE VACANCY OCCURS]. However, if the vacancy occurs on  
4 a date that is less than 60 days before or is on or after the date of the primary election  
5 in the general election year during which a candidate to fill the office is regularly  
6 elected, the governor may not call a special election.

7 \* Sec. 28. AS 15.40 is amended by adding new sections to read:

8 **Sec. 15.40.141. Condition of calling a special runoff election.** (a) If no  
9 candidate in a special election called under AS 15.40.140 receives over 50 percent of  
10 the votes cast for the office, the governor shall, by proclamation, call a special runoff  
11 election under AS 15.40.142(b).

12 (b) In a special runoff election called under (a) of this section, the director  
13 shall place the names of the candidates receiving the greatest number of votes and the  
14 second greatest number of votes in the special election on the special runoff election  
15 ballot.

16 **Sec. 15.40.142. Time of calling the special election and the special runoff**  
17 **election.** (a) Except as provided in (c) of this section, if a special election is called  
18 under AS 15.40.140, it shall be held on a date not less than 60, nor more than 90, days  
19 after the date the vacancy occurs.

20 (b) Except as provided in (c) of this section, a special runoff election under  
21 AS 15.40.141 shall be held on the first Tuesday that is not a state holiday occurring  
22 not less than 60 days after the special election.

23 (c) In an election year in which a candidate for the vacant office is not  
24 regularly elected, and the vacancy occurs on a date that is not less than 60, nor more  
25 than 90, days before the date of

26 (1) the primary election, the special election shall be held on the date  
27 of the primary election with any subsequent special runoff election under  
28 AS 15.40.141 to be held on the date of the general election; or

29 (2) the general election, the special election shall be held on the date of  
30 the general election with any subsequent special runoff election under AS 15.40.141 to  
31 be held on the first Tuesday that is not a state holiday occurring not less than 60 days

1 after the special and general election.

2 \* Sec. 29. AS 15.40.160 is amended to read:

3 Sec. 15.40.160. Proclamation. The governor shall issue the proclamation at  
4 least 50 days before the

5 (1) special election; and

6 (2) if a special runoff election is required under AS 15.40.141(a),

7 the special runoff election.

8 \* Sec. 30. AS 15.40.165 is amended to read:

9 Sec. 15.40.165. Term of elected senator. At the special election, or, as  
10 provided by AS 15.40.141, at the special runoff election, a United States senator  
11 shall be elected to fill the remainder of the unexpired term. The person elected shall  
12 take office on the date the United States Senate meets, convenes, or reconvenes  
13 following the certification of the results of the special election or special runoff  
14 election by the director.

15 \* Sec. 31. AS 15.40.170 is amended to read:

16 Sec. 15.40.170. Term of elected representative. At the special election, or, as  
17 provided by AS 15.40.141, at the special runoff election, a United States  
18 representative shall be elected to fill the remainder of the unexpired term. The person  
19 elected shall take office on the date the United States house of representatives meets,  
20 convenes, or reconvenes following the certification of the results of the special  
21 election or special runoff election by the director.

22 \* Sec. 32. AS 15.40.220 is amended to read:

23 Sec. 15.40.220. General provisions for conduct of special election and  
24 special runoff election. Unless specifically provided otherwise, all provisions  
25 regarding the conduct of the general election shall govern the conduct of the special  
26 election and the special runoff election of the United States senator or United States  
27 representative, including provisions concerning voter qualifications; provisions  
28 regarding the duties, powers, rights, and obligations of the director, of other election  
29 officials, and of municipalities; provision for notification of the election; provision for  
30 payment of election expenses; provisions regarding employees being allowed time  
31 from work to vote; provisions for the counting, reviewing, and certification of returns;

1 provision for running as, voting for, and counting ballots for, a write-in  
2 candidate; provisions for the determination of the votes and of recounts, contests, and  
3 appeal; and provision for absentee voting.

4 \* Sec. 33. AS 15.45.190 is amended to read:

5 **Sec. 15.45.190. Placing proposition on ballot.** The lieutenant governor shall  
6 direct the director to place the ballot title and proposition on the election ballot of the  
7 first statewide general, special, special runoff, or primary election that is held after

8 (1) the petition has been filed;

9 (2) a legislative session has convened and adjourned; and

10 (3) a period of 120 days has expired since the adjournment of the  
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13 **Sec. 15.45.420. Placing proposition on ballot.** The lieutenant governor shall  
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18 **Sec. 15.58.010. Election pamphlet.** Before each state general election, and  
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20 proposition is scheduled to appear on the ballot, the lieutenant governor shall prepare,  
21 publish, and mail at least one election pamphlet to each household identified from the  
22 official registration list. The pamphlet shall be prepared on a regional basis as  
23 determined by the lieutenant governor.

24 \* Sec. 36. AS 15.58.020(b) is amended to read:

25 (b) Each primary, special, or special runoff election pamphlet shall contain  
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28 ballot.

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1 (a), (b), or (g) of this section. The lieutenant governor shall indicate that the  
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3 and a statement of a candidate that have been timely filed with the lieutenant governor  
4 shall be published on the website at least 15 days before an election at which the  
5 candidate will appear on the ballot.

6 \* Sec. 38. AS 15.80.010(8) is amended to read:

7 (8) "federal election" means a general, special, special runoff, or  
8 primary election held solely or in part for the purpose of selecting, nominating, or  
9 electing a candidate for the office of President, Vice-President, presidential elector,  
10 United States senator, or United States representative;

11 \* Sec. 39. AS 15.80.010 is amended by adding new paragraphs to read:

12 (43) "absent uniformed services voter" has the meaning given in 42  
13 U.S.C. 1973ff-6;

14 (44) "overseas voter" has the meaning given in 42 U.S.C. 1973ff-6.

15 (45) "special runoff election" means a runoff election for a United  
16 States senator or United States representative held because no candidate for the office  
17 received over 50 percent of the votes cast at the special election for that office;

18 \* Sec. 40. AS 29.20.380 is amended by adding a new subsection to read:

19 (c) The municipal clerk may act as an absentee voting official under  
20 AS 15.20.045(c) for the limited purpose of distributing absentee ballots to qualified  
21 voters or qualified voters' representatives under AS 15.20.072 in a municipality in  
22 which the division of elections will not be operating an absentee voting station.

23 \* Sec. 41. AS 15.20.081(h), 15.20.081(i), and 15.20.082 are repealed.

24 \* Sec. 42. This Act takes effect January 1, 2014.

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**STATE OF ALASKA  
Division of Elections  
Office of the Lieutenant Governor**

**CSHB 104(STA)**

**"An Act relating to election practices and procedures; relating to public records; relating to the election of an advisory school board in a regional educational attendance area; and providing for an effective date."**

**Sectional Analysis**

Section 1 - specifies that the division may conduct elections for advisory school boards in regional educational attendance areas.

Section 2 - allows a child turning 18 who resides outside the U.S. to register and vote absentee if their parent or guardian was domiciled in Alaska immediately before leaving the U.S. This section is aimed at voters who turn 18 while living abroad with their parents or guardians.

Section 3 - amends AS 15.10.170 to require poll watchers to be persons that are registered to vote in the state.

Section 4 - amends AS 15.10.180 to require that persons on the state ballot counting review board be registered voters in the state.

Section 5 - amends AS 15.13.374(f) to provide that the name of a person requesting an advisory opinion from the Alaska Public Offices Commission is confidential and must be redacted from both the request and the opinion before the opinion is made public.

Section 6 - allows the division to designate municipal clerks to serve as absentee voting officials in municipalities where the division does not have an absentee voting station.

Section 7 - clarifies that voters (other than uniformed services voters or overseas voters) who wish to receive their ballot by electronic transmission must comply with the same ballot application deadlines applicable to absentee voting in person.

Section 8 - clarifies that ballots are sent to voters as soon as they are available for distribution with the exception of uniformed services and overseas voters whose ballots must be mailed 45 days prior to the election.

Section 9 - removes the reference to receipt of by-mail ballots (postmarked from overseas) 15 days following the election.

Section 10 - adds harmonizing language from federal law that ballots for uniformed services and overseas voters will be mailed 45 days prior to an election. Also adds that voters living, working, traveling outside the U.S. at election time or those living in remote areas of the state will have a ballot mailed 45 days prior to an election.

Section 11 - removes the reference to receipt of by-mail ballots (postmarked from overseas) 15 days following the election.

Section 12 - changes the date of the primary election to the second Tuesday in August (currently is the fourth Tuesday in August).

Section 13 - changes the withdrawal date for primary election candidates to 52 days prior to the primary election (currently is 48 days).

Sections 14 and 15 - change the date to replace unopposed incumbent candidates to 54 days prior to the primary election (currently is 50 days) and filling of vacancy by party petition to 52 days prior to the primary election (currently is 48 days).

Sections 16 and 17 - change the date to replace a candidate nominated at the primary election to 64 days before the general election (currently is 48 days).

Section 18 - changes the withdrawal date for a candidate appearing on the general election ballot to 64 days prior to the general election (currently is 48 days).

Section 19 - changes the withdrawal date for judicial candidates to 64 days prior to the general election (currently is 48 days).

Section 20 - adds a new subsection amending AS 15.58.030 to require the lieutenant governor to publish and electronic election pamphlet on the division's internet website before each state election. Photograph and statement are provided and paid for by candidate and that the information must be published within one week from receipt of the information.

Section 21 - adds federal definitions of absentee uniformed services voters and overseas voters.

Section 22 - allows municipal clerks to serve as absentee voting officials in municipalities where the division does not have an absentee voting station.

Section 23 - repeals provision for ballots postmarked from overseas to be received 15 days following election (all ballots would be received 10 days following the election as provided in AS 15.20.081(e)); repeals the allowance of an absentee application from a uniformed services or

overseas voter to be extended for two general elections (harmonize with federal law); repeal the requirement to send special absentee ballots.

Section 24 – provides for an effective of January 1, 2014.

**AMENDMENT**

OFFERED IN THE HOUSE  
TO: CSHB 104(STA)

BY REPRESENTATIVE LYNN BY REQUEST

1 Page 7, lines 11 -13:

2 Delete "The photograph and statement of a candidate shall be published on the website  
3 within one week after the photograph and statement are received by the lieutenant governor."

4 Insert "A photograph and a statement of a candidate that have been timely filed with  
5 the lieutenant governor shall be published on the website at least 15 days before an election at  
6 which the candidate will appear on the ballot."

# FISCAL NOTE

**STATE OF ALASKA**  
**2013 LEGISLATIVE SESSION**

Bill Version HB 104  
 Fiscal Note Number 2  
 (H) Publish Date 2/6/13

Identifier (file name) 0983-EED-ESS-1-14-13 Dept. Affected Education & Early Development  
 Title " An Act relating to election practices and procedures; relating to the election of an advisory school board in..." Appropriation Education Support Services  
 Allocation School Finance & Facilities  
 Sponsor Rules By Request of the Governor  
 Requester Governor OMB Component Number 2737

**Expenditures/Revenues** (Thousands of Dollars)

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

	FY14 Appropriation Requested	Included in Governor's FY14 Request	Out-Year Cost Estimates					
			FY14	FY15	FY16	FY17	FY18	FY19
<b>OPERATING EXPENDITURES</b>								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants, Benefits								
Miscellaneous								
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**FUND SOURCE** (Thousands of Dollars)

	FY14	FY15	FY16	FY17	FY18	FY19
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Prgm (DGF)						
1037 GF/MH (UGF)						
1178 temp code (UGF)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**POSITIONS**

	FY14	FY15	FY16	FY17	FY18	FY19
Full-time						
Part-time						
Temporary						

**CHANGE IN REVENUES**

Estimated **SUPPLEMENTAL (FY13) operating costs** \_\_\_\_\_ (separate supplemental appropriation required)  
 (discuss reasons and fund source(s) in analysis section)

Estimated **CAPITAL (FY14) costs** \_\_\_\_\_ (separate capital appropriation required)  
 (discuss reasons and fund source(s) in analysis section)

**ASSOCIATED REGULATIONS**

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No  
 If yes, by what date are the regulations to be adopted, amended, or repealed? \_\_\_\_\_ Discuss details in analysis section.

**Why this fiscal note differs from previous version (if initial version, please note as such)**

Initial version

Prepared by Elizabeth Nudelman, Director Phone 465-8679  
 Division School Finance & Facilities Date/Time 1/11/13 3:30 PM  
 Approved by Mike Hanley Date 1/11/2013  
 Commissioner

FISCAL NOTE ANALYSIS #2

STATE OF ALASKA  
2013 LEGISLATIVE SESSION

BILL NO. HB 104

**Analysis**

This bill addresses election practices and the election of a school advisory board in a regional educational attendance area (REAA). This fiscal note and analysis responds to section one covering the REAA election of a school advisory board, the remaining sections of the bill do not directly impact chapter 14 Education and therefore are not discussed in this analysis.

The Alaska legislature delegates to REAA school boards the authority to operate the public schools in those areas, subject to law. Both REAA school districts and municipal governments operate through a Regional School board. The election of the Regional School board is provided for in 14.08.071 (b) for the REAA and through municipal elections law for the organized school districts.

State law provides for advisory school boards in REAAs. Regional school boards shall establish advisory boards in each community and prescribe the manner of selection and organization by regulation. Regional school boards could establish advisory school boards through an election process. Current law does not provide for the division of elections to administer an election for an advisory board.

Section one of this bill allows the election process of advisory school boards to be conducted by the division of elections, and for the ability to adopt regulations governing the election process.

# FISCAL NOTE

STATE OF ALASKA  
2013 LEGISLATIVE SESSION

Bill Version \_\_\_\_\_  
Fiscal Note Number \_\_\_\_\_  
( ) Publish Date \_\_\_\_\_

Identifier (file name) 0983-OOG-DOE-01-07-13 Dept. Affected OOG/Division of Election  
Title "An Act relating to election practices and procedures..." Appropriation Division of Elections  
Allocation Division of Elections  
Sponsor Rules by Request of the Governor  
Requester Governor OMB Component Number 21

**Expenditures/Revenues** (Thousands of Dollars)

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

	FY14 Appropriation Requested	Included in Governor's FY14 Request	Out-Year Cost Estimates				
			FY15	FY16	FY17	FY18	FY19
<b>OPERATING EXPENDITURES</b>							
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants, Benefits							
Miscellaneous							
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

FUND SOURCE		(Thousands of Dollars)						
1002	Federal Receipts							
1003	GF Match							
1004	GF							
1005	GF/Prgm (DGF)							
1037	GF/MH (UGF)							
1178	temp code (UGF)							
<b>TOTAL</b>		<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

POSITIONS							
Full-time							
Part-time							
Temporary							

CHANGE IN REVENUES							

Estimated SUPPLEMENTAL (FY13) operating costs \_\_\_\_\_ (separate supplemental appropriation required)  
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY14) costs \_\_\_\_\_ (separate capital appropriation required)  
(discuss reasons and fund source(s) in analysis section)

**ASSOCIATED REGULATIONS**

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? Yes  
If yes, by what date are the regulations to be adopted, amended, or repealed? 7/15/2014 Discuss details in analysis section.

**Why this fiscal note differs from previous version (if initial version, please note as such)**

Initial version.

Prepared by Gail Fenumiai, Director  
Division Division of Elections  
Approved by Guy Bell

Phone 907-465-2644  
Date/Time 1/7/2013 12:01 p.m.  
Date 1/11/2013

FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2013 LEGISLATIVE SESSION

BILL NO. 0

**Analysis**

This legislation will have no proposed fiscal impact for the division. However, Section 1 of the bill will require that regulations be promulgated to define the procedures for conducting local advisory board elections.



CSHB 104(STA) House Judiciary Witness List

Gail Fenumiai, Director, Division of Elections

907-465-2644

Paddy McGuire, Deputy Director

Federal Voting Assistance Program

(Off network caller)



February 26, 2013

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TONY STRONG, Douglas

EMMA HILL, Anchorage  
STUDENT ADVISOR

The Honorable Wes Keller, Chair  
The Honorable Bob Lynn, Vice-Chair  
House Judiciary Committee  
Alaska State House of Representatives  
State Capitol, Room 120  
Juneau, AK 99801

*via email:* [Rep.Wes.Keller@akleg.gov](mailto:Rep.Wes.Keller@akleg.gov)  
[Rep.Bob.Lynn@akleg.gov](mailto:Rep.Bob.Lynn@akleg.gov)

**Re: House Bill 104 – Elections Procedures  
Constitutional Infirmities**

Chair Keller, Vice-Chair Lynn:

Thank you for the opportunity to submit written testimony regarding the committee substitute for House Bill 104, addressing elections procedures in Alaska.

The American Civil Liberties Union of Alaska represents thousands of members and activists throughout the State of Alaska who seek to preserve and expand individual freedoms and civil liberties guaranteed under the United States and Alaska Constitutions. In that regard, we appreciate the opportunity to provide the Committee with information highlighting constitutional infirmities with the proposed legislation.

**The Requirement that Election Watchers Must Be Registered Voters Likely Violates the Constitution**

The committee substitute for HB 104 includes a new requirement that election watchers at local precincts must be registered Alaska voters: “A watcher must be registered to vote in the state.” Individuals from out-of-state are just as capable as Alaska residents of watching polling places for anomalies. Alaskans who choose not to register, whose registration has

temporarily lapsed, or who are ineligible to register to vote are similarly capable of responsibly observing the electoral process at work.

The legislative history from the State Affairs Committee indicates that the restriction of poll watchers was grounded in a fear that non-U.S. citizens would appear at the polls to monitor elections and “somehow interfere with elections.” Of course, excluding all those not registered to vote in Alaska excludes a far larger category of individuals than non-U.S. citizens, and the factual basis for fearing foreign observers tainting our elections lurks at the level of rumor. Laws drawing such arbitrary lines, unrelated to a legitimate state interest, tend to violate the requirements of equal protection. *Patrick v. Lynden Transp., Inc.*, 765 P.2d 1375, 1377 (Alaska 1988) (holding that equal protection review requires, at least, that “the classification is ‘reasonable, not arbitrary’ and rests ‘upon some ground of difference having a fair and substantial relation to the object of the legislation’”).

This new provision would bar out-of-state experts, whether they are national political scientists or voting-rights lawyers, from serving as poll watchers. For campaigns of national interest, such as presidential campaigns, volunteer poll watchers may be drawn from all over the country. To the extent the provision inhibits political candidates from receiving assistance and advice from their counsel, the residency and voter-registration requirement could violate the candidate’s due process rights.

Moreover, the primary impact of the law would seem to fall on residents of other states. Laws discriminating against people from other states are typically found to violate the freedom to travel, unless they serve a compelling state interest. *Dunn v. Blumstein*, 405 U.S. 330, 339 (1972). The “right to travel” includes “the right to be treated as a welcome visitor rather than an unfriendly alien when temporarily present in the second State.” *Saenz v. Roe*, 526 U.S. 489, 500, (1999). Because those from out-of-state are equally qualified to serve as poll watchers as Alaskans, a court would have a hard time identifying in HB 104’s requirement any legitimate state interest beyond animosity towards non-Alaskans. The legislative history indicating fear, without any apparent basis in fact, that out-of-state residents might “interfere” in Alaskan elections illustrates such hostility.

States may require that voters be residents of their state, and they may require that those running for public office be residents of the state. “A State does have a recognized interest in obtaining knowledgeable and qualified candidates for high office.” *Antonio v. Kirkpatrick*, 579 F.2d 1147, 1150 (8th Cir. 1978). However, serving as an election observer is neither a high office, nor a position of public trust. It confers no official role in the election, beyond the right to be present at the polling place and observe the proceedings. It is hard to articulate how one’s residence would impact one’s ability to observe the operation of the polls. Merely being an Alaskan registered to vote does not make one an expert in election law. Since much of election law – including, for instance, the Voting Rights Act and the Help America Vote Act – is federal, expertise in appropriate conduct of elections is not limited to Alaskans. Even in relation to Alaska election law, someone who goes to the time and expense of traveling to Alaska for the purpose of

observing an election may be more likely to take the time to familiarize herself with our laws. HB 104's requirement does not appear to serve any legitimate government purpose, much less a compelling one.

**The Requirement that Election Watchers Must Be Registered Voters Will Only Result in Needless Election Litigation**

In most elections, there are at least two opposing parties. As we saw in the 2010 U.S. Senate election, some elections end up in protracted litigation, with a host of legal issues raised by multiple parties. The more rules and criteria created for monitoring and observing elections, the more options there are for election litigation. No one wants a litigious campaign to run to the Superior Court on election day, demanding a temporary restraining order merely to eject a campaign poll watcher from a precinct because his registration has lapsed or she is from out-of-state. Enabling such irrelevant haggling over conduct that does not impact the voting process at all serves the justice system and the electoral system poorly. This provision would allow an opportunistic, litigious candidate to score cheap political points and election day headlines by attacking the residence of an opponent's poll watcher.

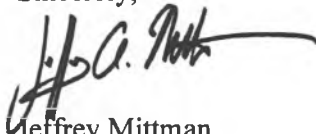
**Conclusion**

We hope that the House Judiciary Committee will note the constitutional problems with the restriction on poll watcher eligibility. If the legislature is concerned about interference with election processes, the legislature should decide which behaviors interfere with elections and prohibit them. However, broadly casting non-Alaskans under a pall of suspicion does not ensure the security of the voting process and will likely drag the state into needless litigation.

Please feel free to contact the undersigned should you require any additional information. Again, we are happy to reply to any questions that may arise either through written or verbal testimony, or to answer informally any questions that Members of the Committee may have.

Thank you again for the opportunity to share our concerns.

Sincerely,



Jeffrey Mittman  
*Executive Director*  
ACLU of Alaska

cc: Representative Neal Foster, [Rep.Neal.Foster@akleg.gov](mailto:Rep.Neal.Foster@akleg.gov)  
Representative Max Gruenberg, [Rep.Max.Gruenberg@akleg.gov](mailto:Rep.Max.Gruenberg@akleg.gov)  
Representative Gabrielle LeDoux, [Rep.Gabrielle.LeDoux@akleg.gov](mailto:Rep.Gabrielle.LeDoux@akleg.gov)

House Judiciary Committee  
*Constitutional Analysis of H.B. 104*  
February 26, 2013  
Page 4

Representative Charisse Millett, [Rep.Charisse.Millett@akleg.gov](mailto:Rep.Charisse.Millett@akleg.gov)  
Representative Lance Pruitt, [Rep.Lance.Pruitt@akleg.gov](mailto:Rep.Lance.Pruitt@akleg.gov)

# LEGAL SERVICES

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## MEMORANDUM

March 4, 2013

**SUBJECT:** Constitutional issue - Requiring a person seeking ballot access, to file a nominating petition by June 1, and requiring that candidate to file multiple reports before the primary election (Amendment 28-GH1983\O.3 to CSHB 104(JUD))

**TO:** Representative Wes Keller  
Attn: Ernest Prax

**FROM:** Alpheus Bullard *AB*  
Legislative Counsel

This memorandum accompanies the amendment described above.

Section 24 of CSHB 104(JUD) repeals and reenacts AS 15.25.150 to require a person who seeks nomination by petition for state executive or legislative office to file the nominating petition by 5:00 p.m. on June 1 of a year in which a general election is held.<sup>1</sup> Under AS 15.25.180(b), a person who is filing a petition for a state senator or state representative must file with the director a statement of income sources and business interests that complies with the requirements of AS 39.50. If the person is also subject to AS 24.60, the person must file a disclosure statement that complies with the requirements of AS 24.60.200 with the director.

Because a person seeking nomination by petition under AS 15.25.140 - 15.40.200 is a candidate, and is subject to reporting requirements like any other candidate, you have requested an amendment that clarifies that a candidate by petition under AS 15.25.140 - 15.40.300 (petition candidate) must file the same campaign finance disclosure reports before the primary election that are required of candidates who are participating in that primary election under AS 15.13.110(a). Within nine days of the primary election, existing law also requires a petition candidate to report each contribution received that exceeds \$250 within 24 hours of receipt. AS 15.13.110(b).

As noted above, this bill changes the deadline for filing nominating petitions to June 1. The enclosed amendment clarifies that petition candidates not only must file earlier, but must also disclose campaign contributions and expenditures under AS 13.15.110 at the

---

<sup>1</sup> Under existing law the petition must be filed before 5:00 p.m. on the day of the primary election.

same times leading up to the primary election as candidates on the ballot at that election. The bill's earlier date for filing, as well as this amendment's disclosure requirements for petition candidates, may raise a constitutional issue since it places the deadline well before the date of the general election.

The June 1 filing date for petition candidates has appeared in state law before. According to an opinion of the Attorney General prepared at the time the law was changed to its current version, there were two Superior Court decisions that found the June 1 deadline for nominating petitions under AS 15.25.150 unconstitutional. That Attorney General opinion suggests that the current version of the law, which requires a declaration of candidacy to be filed on June 1 and a nominating petition to be filed on the day of the primary, was a compromise.

The two-part filing process set out in the amendment to AS 15.25.150 represents a compromise by the legislature on a difficult legal question. There is some uncertainty in the law on the ability of the state to establish an early filing deadline for nominating petition candidates. There has been litigation in Alaska at the superior court level in cases where the petition candidate was not required to run in the primary election, but was held to the same declaration-of-candidacy filing deadline as party candidates who did run in the primary. See *Sigler v. State*, 3AN-88-8695 CI, Supreme Court No. S-2988 (dismissed as moot);<sup>2</sup> and *Sykes v. State*, 3AN-90-7508 CI.<sup>3</sup>

The Alaska Supreme Court has not ruled on this issue because the Superior Court cases were not appealed. However, the United States Supreme Court has heard a similar case. In *Anderson v. Celebrezze*, the United States Supreme Court invalidated an Ohio election statute that required independent presidential candidates wishing to appear on the November general election ballot to file 75 days before the primary election, holding that the early deadline burdened voters' freedom of choice and association without an

---

<sup>2</sup> In this case, the Superior Court granted a preliminary injunction finding, "The August 1 [sic] deadline for filing nominating petitions is unconstitutional for the reasons stated on the record 9/20/90 and that any deadline which precedes the date of the primary election would not pass constitutional scrutiny under either a balancing test or the compelling state interest test."

<sup>3</sup>Page 2, Op. of the Att'y Gen., File no. 883-01-0078 (May 22, 2001); WL 811134 (Alaska A.G.).

adequate administrative justification.<sup>4</sup> The Court provided the following process for analyzing challenges to state election laws:

[A court] must first consider the character and magnitude of the asserted injury to the rights protected by the First and Fourteenth Amendments that the plaintiff seeks to vindicate. It then must identify and evaluate the precise interest put forward by the State as justification for the burden imposed by its rule. In passing judgment, the Court must not only determine the legitimacy and strength of each of those interests, it also must consider the extent to which those interests make it necessary to burden the plaintiff's rights.<sup>5</sup>

In *Sonneman v. State*, 969 P.2d 632, 636-37 (Alaska 1998), the Alaska Supreme Court determined that the impact of eligibility restrictions on candidates and voters should be analyzed directly under the right to vote provisions of the First and Fourteenth Amendments of the United States Constitution and article I, section 5, of the Alaska Constitution, rather than through a separate equal protection analysis. Statutes governing access to the ballot impose eligibility restrictions on both candidates and voters. That portion of CSHB 104(JUD) that moves the filing deadline for candidates nominated by petition to June 1, and the changes made by this amendment will likely be evaluated by a court as ballot access restrictions.

The Alaska Supreme Court has held that ballot access restrictions are to be reviewed with strict scrutiny.<sup>6</sup> "Strict scrutiny review is necessary in ballot access cases because the burden placed on the right to vote is severe when the right to vote is denied or limited to certain candidates or parties." *Sonneman*, 969 P.2d at 638 (citing *Vogler v. Miller*, 651 P.2d 1, 3 (Alaska 1982)).<sup>7</sup> Strict scrutiny review requires the state to show a compelling interest in order to justify infringements of these rights.<sup>8</sup> Under a strict scrutiny analysis,

---

<sup>4</sup> 460 U.S. 780 (1982).

<sup>5</sup> *Id.* at 789.

<sup>6</sup> *State v. Metcalfe*, 110 P.3d 976, 979 -980 (Alaska 2005) (citing *Vogler v. Miller*, 651 P.2d 1, 3 (Alaska 1982) (*Vogler I*)).

<sup>7</sup> In this case, Joe Vogler and the Alaska Independence Party challenged a statute requiring signatures equal in number to three percent of the vote cast at the last general election to nominate a candidate by petition. The court held that this signature requirement was an excessive burden, suggesting that a lower signature requirement (one percent) would be sufficient to achieve the state's goals. *Vogler I*, at 5-6.

<sup>8</sup> *Id.* at 979 (citing *Vogler v. Miller*, 660 P.2d 1192, 1193 (Alaska 1983) (*Vogler II*)).

Representative Wes Keller  
March 4, 2013  
Page 4

a court will also examine whether less restrictive alternatives would have adequately protected the asserted governmental interests.<sup>9</sup>

I do not know what compelling interest is served by requiring candidates by petition to file by June 1, or in having these candidates file the same reports required of candidates who are participating in the primary election. Not knowing what compelling interest is served, it is also unclear to me whether a less restrictive alternative would protect the state's interests. If you are concerned about the potential for litigation relating to the amendment's requirements, or the portion of the bill that requires petition candidates to file by June 1, it might be wise to explain the nature of the governmental interest underlying these requirements on the record.

If you have questions, please do not hesitate to contact me.

TLAB:lnd  
13-122.lnd

Enclosure

---

<sup>9</sup> Id. at 979 (citing *Vogler II* at 1194).

AMENDMENT

OFFERED IN THE HOUSE

TO: CSHB 104( ), Draft Version "O"

1 Page 1, line 1, following "**procedures**";:

2 Insert "**relating to reporting of election campaign contributions and**  
3 **expenditures**;"  
4

5 Page 3, following line 7:

6 Insert new bill sections to read:

7 **\*\* Sec. 5.** AS 15.13.074(c) is amended to read:

8 (c) A person or group may not make a contribution

9 (1) to a candidate or an individual who files with the commission the  
10 document necessary to permit that individual to incur certain election-related expenses  
11 as authorized by AS 15.13.100 when the office is to be filled at a general election  
12 before the date that is 18 months before the general election;

13 (2) to a candidate or an individual who files with the commission the  
14 document necessary to permit that individual to incur certain election-related expenses  
15 as authorized by AS 15.13.100 for an office that is to be filled at a special election or  
16 municipal election before the date that is 18 months before the date of the regular  
17 municipal election or that is before the date of the proclamation of the special election  
18 at which the candidate or individual seeks election to public office; or

19 (3) to any candidate later than the 45th day

20 (A) after the date of the primary election if the candidate was  
21 on the ballot and was not nominated at the primary election; or

22 (B) after the date of the general election, or after the date of a  
23 municipal or municipal runoff election.

1 \* **Sec. 6.** AS 15.13.110 is amended by adding a new subsection to read:

2 (j) Before the primary election, a candidate seeking nomination by petition  
3 under AS 15.25.140 - 15.25.200 for the office of governor, lieutenant governor, state  
4 senator, or state representative shall file the reports under (a)(1) and (2) of this  
5 section."  
6

7 Renumber the following bill sections accordingly.

**CONCEPTUAL AMENDMENT #2**

28-GH1983\O.9  
March 11, 2013

OFFERED IN THE HOUSE HB 104

By: House Judiciary Committee

Page 8, line 24 through pg. 9, lines 1-17.

Delete Section 24 and make necessary conforming changes.

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE LYNN

TO: CSHB 104( ), Draft Version "O"

- 1 Page 2, line 17:
- 2 Delete "registered to vote in the state"
- 3 Insert "a United States citizen"
- 4
- 5 Page 3, lines 2 - 3:
- 6 Delete "registered to vote in the state"
- 7 Insert "United States citizens"



AMENDMENT

OFFERED IN THE HOUSE

TO: CSHB 104( ), Draft Version "O"

1 Page 3, lines 10 - 13:

2 Delete "except that the name of a person requesting an advisory opinion shall be  
3 kept confidential, and the commission shall redact the name of the requester from a  
4 request and from an advisory opinion before making the request and opinion public"

5 Insert "except that if a person requesting an advisory opinion requests that the  
6 person's name be kept confidential, the person's name shall be kept confidential and the  
7 commission shall redact the name of the requester from the request and from the  
8 advisory opinion before making the request and opinion public"

**CONCEPTUAL AMENDMENT #5**

28-GH1983\O.9  
March 11, 2013

OFFERED IN THE HOUSE HB 104

By: House Judiciary Committee

Page 1, line 14

Insert: immediately before leaving the Unites States; **and**

5

AMENDMENT

#1  
Passed

OFFERED IN THE HOUSE

BY REPRESENTATIVE LEDOUX

TO: CSHB 104( ), Draft Version "O"

5 line 8-17

1 Page ~~8~~, lines ~~16-25~~:

2 Delete all material and insert:

3 <sup>11</sup> "\* Sec. ~~8~~ AS 15.20.081(h) is amended to read:

4 (h) Except as provided in AS 15.20.480, an absentee ballot returned by mail  
5 from outside the United States or from an overseas voter qualifying under  
6 AS 15.05.011 that has been marked and mailed not later than election day may not be  
7 counted unless the ballot is received by the election supervisor not later than the close  
8 of business on the

9 (1) 10th day following a primary election or special election under  
10 AS 15.40.140; or

11 (2) 15th day following a general election, special runoff election, or  
12 special [THE] election, other than a special election described in (1) of this  
13 subsection."

14  
15 <sup>138 21</sup> Page ~~17~~, line ~~27~~:

16 Delete "AS 15.20.081(h), 15.20.081(i),"

17 Insert "AS 15.20.081(i)"

AMENDMENT #2

Revised

OFFERED IN THE HOUSE

BY REPRESENTATIVE LEDOUX

TO: CSHB 104( ), Draft Version "O"

1 Page 2, following line 28

2 Insert a new bill section to read:

3 **\*\* Sec. 4. AS 15.10.170 is amended by adding a new subsection to read:**

4 (b) In addition to the watchers appointed under (a) of this section, in a primary  
5 election, special election under AS 15.40.140, or special runoff election under  
6 AS 15.40.141, each candidate may appoint one watcher in each precinct and counting  
7 center."

8

9 Renumber the following bill sections accordingly.

AMENDMENT

#3  
passed

OFFERED IN THE HOUSE

BY REPRESENTATIVE GRUENBERG

TO: CSHB 104(JUD), Draft Version "P"

1 Page 4, lines 20 - 24:

2 Delete all material and insert:

3 "(2) permit a qualified voter to apply to vote an absentee ballot by  
4 electronic transmission at any time during a calendar year, subject to  
5 AS 15.20.081(b):"

AMENDMENT

#4  
withdrawn

OFFERED IN THE HOUSE

BY REPRESENTATIVE GRUENBERG

TO: CSHB 104(JUD), Draft Version "P"

1 Page 5, following line 17:

2 Insert a new bill section to read:

3 "\* Sec. 12. AS 15.20.081(i) is repealed and reenacted to read:

4 (i) An absentee ballot application submitted by a qualified voter or on behalf  
5 of a qualified voter is valid through the two general elections following the date the  
6 application is submitted. If a voter casts an absentee ballot in accordance with (d) - (f)  
7 of this section, the voter's absentee ballot application remains valid through the two  
8 general elections following the election in which the ballot was cast. However,  
9 nothing in this subsection requires the director or an election supervisor to send an  
10 absentee ballot to a voter after the director or election supervisor has received actual  
11 notice that mail sent to the permanent mailing address of the voter, or a different  
12 address provided by the voter, is undeliverable to the voter at that address."

13

14 Renumber the following bill sections accordingly.

15

16 Page 13, line 21:

17 Delete ", 15.20.081(i),"

CONCEPTUAL AMENDMENT

28-GH1983P  
March 18, 2013

Passed  
5 years 1 way

OFFERED IN THE HOUSE  
TO: HB 104

Delete [Section 9]: pg. 4, lines 13-27

New Text Underlined [DELETED TEXT BRACKETED]

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**STATE OF ALASKA**  
**Division of Elections**  
**Office of the Lieutenant Governor**

March 12, 2013

The Honorable Wes Keller, Chair  
House Judiciary Committee  
State Capitol, Room 118  
Juneau AK 99801

Dear Representative Keller:

During yesterday's hearing on House Bill 104, committee members posed several questions about the bill. I indicated I would research the answers to those questions and provide a response following the hearing.

Specifically, Representative Foster requested information regarding municipal clerks serving as election officials. For the 2012 elections, the following municipal clerks served as absentee voting officials. The single asterisk means the division hired a worker to assist the clerk's office with this duty. The double asterisk means this location has multiple ballots available and the division hired a worker to assist the clerk's office with this duty.

Angoon, Barrow (North Slope Borough), Bethel, Coffman Cove, Cold Bay, Cordova\*, Craig, Denali Borough, Dillingham, False Pass, Galena, Gustavus, Haines, Homer\*\*, Hoonah, Houston, Hydaburg, Seward, Seldovia, Kasaan, Kake, Klawock, Ketchikan City, Ketchikan Borough\*, Kenai\*\*, Kenai Peninsula Borough\*\*, Kodiak\*, Kotzebue, (Northwest Arctic Borough), McGrath, Metlakatla Community, Naknek (Bristol Bay Borough), Nenana, Pelican, Petersburg\*, Pilot Point, St. Mary's, St. Paul, Sand Point, Sitka\*, Skagway, Tenakee Springs, Thorne Bay, Unalakleet, Unalaska, Valdez, Whittier, Wrangell\*, Yakutat.

Also attached for your information is a list of all absentee voting locations used for the 2012 general election. There were 17 locations with ballots for all 40 house districts. There were seven locations with ballots for more than one district and there were 71 locations with single district ballots.

Representative Gruenberg requested information about the number of extended absentee ballot applications the division had for the 2012 elections. These would have been applications received between January 1, 2008 and December 21, 2011. There were 2,687 voters with extended ballot applications through the 2012 general election. Of that number, 1,612 had either an undeliverable address or simply did not return a voted ballot.

The Honorable Wes Keller  
March 12, 2013  
Page 2 of 2

Representative Gruenberg also posed questions regarding the purpose of Section 2 of the bill. Alaska law allows voters residing indefinitely outside the United States that do not have intent to return to Alaska to participate in federal elections.

Currently a voter must have been domiciled in Alaska prior to leaving the United States. These voters may or may not have been qualified registered voters in Alaska. Voters in this status do not have to provide a residence in Alaska nor do they have to claim intent to return.

The division has been contacted by young adults who are United States citizens who were born overseas, lived overseas their whole life, that have turned 18 years of age, do not intend to return to Alaska but wish to vote in federal elections. The proposed change to the current law would allow this person to register as a federal only voter in Alaska due to their parent(s)/guardian(s) having been domiciled in Alaska prior to leaving the United States. Currently, voters in this scenario are not allowed to register and vote because they do not have a "home" state to claim because they have not ever been domiciled in the United States.

Alaska law also allows for voters, who may turn 18 years of age while overseas, to register to vote and participate in all elections (local, state and federal) who have intent to return and who can provide all the required information to register to vote for all elections i.e., residence address, etc.

It is important to note that when the division is contacted by voters in this group, the division asks them questions to determine if they wish to participate in all elections or federal elections only. In nearly all cases, the voters only wish to participate in federal elections, typically only the President/Vice President race. When a voter indicates that they wish to participate in all elections, the division assists them by explaining the requirements to register to vote to participate in all elections.

Currently we have 294 people registered as inactive/overseas voters and in 2012, 193 requested a ballot.

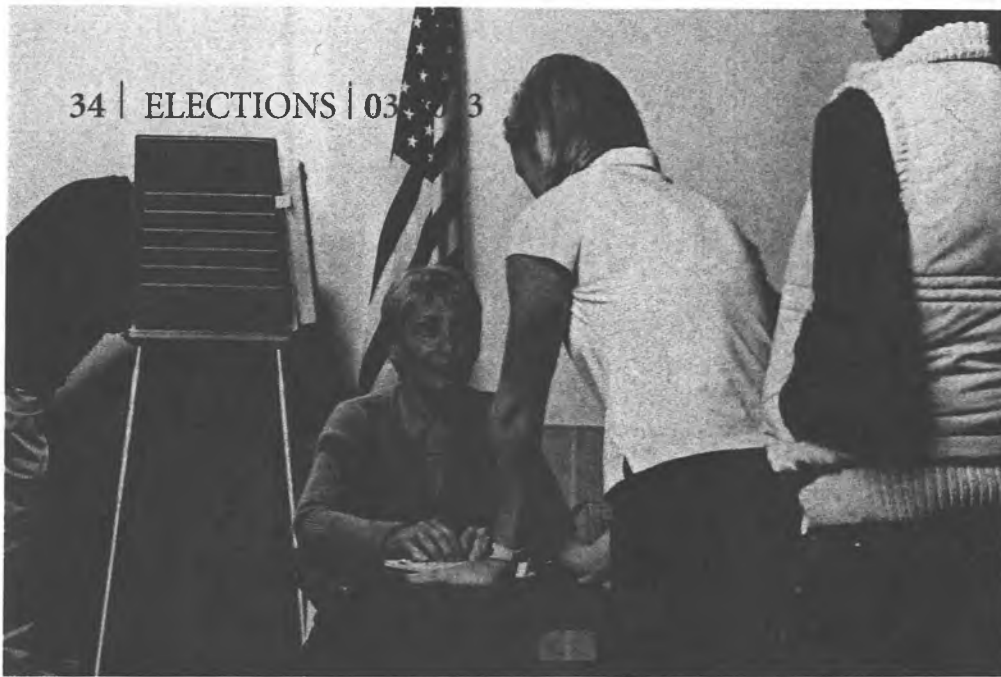
If there are further questions, please do not hesitate to contact me.

Sincerely,



Gail Fenumiai  
Director

cc: House Judiciary Committee members



### 6. Reconsider Internet Voting

Although everyone seems to believe that someday we'll vote securely via the Internet, the CalTech/MIT Voting Technology Project says that "someday" is still years away. It's just too tricky to provide excellent security for Internet voting and ensure the secrecy of ballots.

Several states are piloting programs to permit voters to transmit completed ballots from overseas by scanning them and attaching them to emails. Even though this is different than voting online, it can still be problematic from a security perspective. So much so, in fact, that the National Institute of Standards and Technology advises against it for now. And yet, for some voters—those who can't get to a mailbox because of a hurricane, a war zone or any other reason—this may be a better-than-nothing choice. In these cases, voters must sign that they understand that the secrecy of their vote cannot be guaranteed.

### 7. Resist No-Excuse Absentee and All-Mail Voting

No-excuse absentee voting grew in popularity in the 2000s, and is now available in 27 states and the District of Columbia. With this option, any registered voter can request a ballot in advance, fill it out at leisure, and return it by mail or in person. And two states—Oregon and Washington—conduct all elections almost entirely by mail. Both ways are convenient for voters and often less expensive for election administrators.

The CalTech/MIT report advises against these practices, however, except for people with disabilities and overseas voters. It recommends expanding opportunities for in-person

early voting instead. The concerns center on the inconsistent identification requirements among the different ways to vote; the surprising numbers of ballots received after the cut-off date and therefore rejected; and the greater possibilities of coercion or malfeasance since ballots are out of the hands of officials.

It's worth noting that citizens in states that have adopted no-excuse absentee voting and all-mail voting are very happy with these choices. In fact, more and more states are considering these convenient voting options.

### 8. Limit Provisional Balloting

Across the nation, everyone who shows up on Election Day can vote using a provisional ballot. If there is any doubt about their eligibility or registration, it is sorted out later. This can be time-consuming and expensive, and the criteria for counting these ballots vary greatly from state to state, or even from jurisdiction to jurisdiction. Anything states can do to limit the use of provisional ballots will reduce headaches, expenses and lost votes, advises the Voting Technology Project.

### 2016 and Everything Before

The next presidential election may seem far away. But with a plethora of suggestions on how to improve voting, there's plenty to study, debate and consider before 2016—not to mention all the state and local elections in the meantime. Working to make our nation's elections as fair, honest, reliable and convenient as possible is a worthy pursuit, because, after all, voting matters.

SL ONLINE

For the entire list of 17 recommendations, go to [www.ncsl.org/magazine](http://www.ncsl.org/magazine)

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