

# HB

# 2000

<TARGET><BILL>HB 200</BILL><SUBJECT>HB  
200</SUBJECT><COMM>HJUD30</COMM></TARGET>

30-LS0038\U  
Bullard  
4/9/17

**CS FOR HOUSE BILL NO. 200( )**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**THIRTIETH LEGISLATURE - FIRST SESSION**

**BY**

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

**Sponsor(s): REPRESENTATIVE LEDOUX**

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

1 **"An Act establishing a top two nonpartisan open primary election system for elective**  
2 **state executive and state and national legislative offices; repealing the special runoff**  
3 **election for the office of United States senator or United States representative; changing**  
4 **appointment procedures relating to precinct watchers and members of precinct election**  
5 **boards, election district absentee and questioned ballot counting boards, and the Alaska**  
6 **Public Offices Commission; requiring certain written notices to appear in election**  
7 **pamphlets and polling places; relating to declarations of candidacy and letters of intent;**  
8 **amending the definition of 'political party'; and providing for an effective date."**

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

10 \* **Section 1.** AS 15.10.120(c) is amended to read:

11 (c) An election supervisor shall appoint one nominee of the political party or  
12 political group with the largest number of registered voters at the time of the

1 **preceding gubernatorial election** [OF WHICH THE GOVERNOR IS A MEMBER]  
 2 and one nominee of the political party **or political group with** [THAT RECEIVED]  
 3 the second largest number of **registered voters at the time of** [VOTES STATEWIDE  
 4 IN] the preceding gubernatorial election. **However, the election supervisor may**  
 5 **appoint a qualified person registered as a member of a third political party or**  
 6 **political group or as a nonpartisan or undeclared voter if** [IF] a party district  
 7 committee or state party central committee of the party **or group with the largest**  
 8 **number of registered voters** [OF WHICH THE GOVERNOR IS A MEMBER] or  
 9 the party **or group with** [THAT RECEIVED] the second largest number of **registered**  
 10 **voters at the time of** [VOTES STATEWIDE IN] the preceding gubernatorial election  
 11 fails to present the names prescribed by (b) of this section by April 15 of a regular  
 12 election year or at least 60 days before a special **primary** election [, THE ELECTION  
 13 SUPERVISOR MAY APPOINT ANY QUALIFIED INDIVIDUAL REGISTERED  
 14 TO VOTE].

15 \* **Sec. 2.** AS 15.10.170 is amended to read:

16 **Sec. 15.10.170. Appointment and privileges of watchers.** (a) The precinct  
 17 party committee, where an organized precinct committee exists, or the party district  
 18 committee where no organized precinct committee exists, or the state party  
 19 chairperson where neither a precinct nor a party district committee exists, may appoint  
 20 one or more persons as watchers in each precinct and counting center for any election.  
 21 Each candidate [NOT REPRESENTING A POLITICAL PARTY] may appoint one or  
 22 more watchers for each precinct or counting center in the candidate's respective  
 23 district or the state for any election. Any organization or organized group that sponsors  
 24 or opposes an initiative, referendum, or recall may have one or more persons as  
 25 watchers at the polls and counting centers after first obtaining authorization from the  
 26 director. A state party chairperson, a precinct party committee, a party district  
 27 committee, or a candidate [NOT REPRESENTING A POLITICAL PARTY OR  
 28 ORGANIZATION OR ORGANIZED GROUP] may not have more than one watcher  
 29 on duty at a time in any precinct or counting center. A watcher must be a United States  
 30 citizen. The watcher may be present at a position inside the place of voting or counting  
 31 that affords a full view of all action of the election officials taken from the time the

1 polls are opened until the ballots are finally counted and the results certified by the  
2 election board or the data processing review board. The election board or the data  
3 processing review board may require each watcher to present written proof showing  
4 appointment by the precinct party committee, the party district committee, the  
5 organization or organized group, or the candidate the watcher represents [THAT IS  
6 SIGNED BY THE CHAIRPERSON OF THE PRECINCT PARTY COMMITTEE,  
7 THE PARTY DISTRICT COMMITTEE, THE STATE PARTY CHAIRPERSON,  
8 THE ORGANIZATION OR ORGANIZED GROUP, OR THE CANDIDATE  
9 REPRESENTING NO PARTY].

10 (b) In addition to the watchers appointed under (a) of this section, in a primary  
11 election or [,] special primary election or special election under AS 15.40.140, [OR  
12 SPECIAL RUNOFF ELECTION UNDER AS 15.40.141,] each candidate may  
13 appoint one watcher in each precinct and counting center.

14 \* **Sec. 3.** AS 15.13.020(b) is amended to read:

15 (b) The governor shall appoint two members of each of the two political  
16 parties or political groups with the largest number of registered voters at the time  
17 of [WHOSE CANDIDATE FOR GOVERNOR RECEIVED THE HIGHEST  
18 NUMBER OF VOTES IN] the most recent preceding general election at which a  
19 governor was elected. The two appointees from each of these two parties or groups  
20 shall be chosen from a list of four names to be submitted by the central committee of  
21 each party or group.

22 \* **Sec. 4.** AS 15.13.020(d) is amended to read:

23 (d) Members of the commission serve staggered terms of five years, or until a  
24 successor is appointed and qualifies. The terms of no two members who are members  
25 of the same political party or political group may expire in consecutive years. A  
26 member may not serve more than one term. However, a person appointed to fill the  
27 unexpired term of a predecessor may be appointed to a successive full five-year term.

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

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

30 (1) to a candidate or an individual who files with the commission the  
31 document necessary to permit that individual to incur certain election-related expenses

1 as authorized by AS 15.13.100 when the office is to be filled at a general election  
2 before the date that is 18 months before the general election;

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

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

10 (A) after the date of the primary or special primary election if  
11 the candidate was [ON THE BALLOT AND WAS] not chosen to appear on  
12 the general or special election ballot [NOMINATED] at the primary or  
13 special primary election; or

14 (B) after the date of the general or special election, or after the  
15 date of a municipal or municipal runoff election.

16 \* **Sec. 6.** AS 15.13.110(f) is amended to read:

17 (f) During the year in which the election is scheduled, each of the following  
18 shall file the campaign disclosure reports in the manner and at the times required by  
19 this section:

20 (1) a person who, under the regulations adopted by the commission to  
21 implement AS 15.13.100, indicates an intention to become a candidate for elective  
22 state executive or legislative office;

23 (2) [A PERSON WHO HAS FILED A NOMINATING PETITION  
24 UNDER AS 15.25.140 - 15.25.200 TO BECOME A CANDIDATE AT THE  
25 GENERAL ELECTION FOR ELECTIVE STATE EXECUTIVE OR LEGISLATIVE  
26 OFFICE;

27 (3)] a person who campaigns as a write-in candidate for elective state  
28 executive or legislative office at the general election; and

29 **(3)** [(4)] a group or nongroup entity that receives contributions or  
30 makes expenditures on behalf of or in opposition to a person described in **(1) or (2)**  
31 [(1) - (3)] of this subsection, except as provided for certain independent expenditures

1 by nongroup entities in AS 15.13.135(a).

2 \* **Sec. 7.** AS 15.13.400(4) is amended to read:

3 (4) "contribution"

4 (A) means a purchase, payment, promise or obligation to pay,  
5 loan or loan guarantee, deposit or gift of money, goods, or services for which  
6 charge is ordinarily made, and includes the payment by a person other than a  
7 candidate or political party, or compensation for the personal services of  
8 another person, that is rendered to the candidate or political party, and that is  
9 made for the purpose of

10 (i) influencing the nomination or election of a  
11 candidate;

12 (ii) influencing a ballot proposition or question; or

13 (iii) supporting or opposing an initiative proposal  
14 application filed with the lieutenant governor under AS 15.45.020;

15 (B) does not include

16 (i) services provided without compensation by  
17 individuals volunteering a portion or all of their time on behalf of a  
18 political party, candidate, or ballot proposition or question;

19 (ii) ordinary hospitality in a home;

20 (iii) two or fewer mass mailings before each election by  
21 each political party describing **members of the party running as**  
22 **candidates for public office in that election** [THE PARTY'S SLATE  
23 OF CANDIDATES FOR ELECTION], which may include  
24 photographs, biographies, and information about the [PARTY'S]  
25 candidates;

26 (iv) the results of a poll limited to issues and not  
27 mentioning any candidate, unless the poll was requested by or designed  
28 primarily to benefit the candidate;

29 (v) any communication in the form of a newsletter from  
30 a legislator to the legislator's constituents, except a communication  
31 expressly advocating the election or defeat of a candidate or a

1 newsletter or material in a newsletter that is clearly only for the private  
2 benefit of a legislator or a legislative employee;

3 (vi) a fundraising list provided without compensation  
4 by one candidate or political party to a candidate or political party; or

5 (vii) an opportunity to participate in a candidate forum  
6 provided to a candidate without compensation to the candidate by  
7 another person and for which a candidate is not ordinarily charged;

8 \* **Sec. 8.** AS 15.15 is amended by adding a new section to read:

9 **Sec. 15.15.005. Top two nonpartisan open primary.** A voter qualified under  
10 AS 15.05 may cast a vote for any candidate for each elective state executive and state  
11 and national legislative office, without limitations based on the political party or  
12 political group affiliation of either the voter or the candidate.

13 \* **Sec. 9.** AS 15.15.030(5) is amended to read:

14 (5) The names of the candidates [AND THEIR PARTY  
15 DESIGNATIONS] shall be placed in separate sections on the state general election  
16 ballot under the office designation to which they were nominated. **If a candidate is**  
17 **registered as affiliated with a political party or political group, the** [THE] party  
18 affiliation, if any, **may** [SHALL] be designated after the name of the candidate, **upon**  
19 **request of the candidate. If a candidate has requested designation as nonpartisan**  
20 **or undeclared, that designation shall be placed after the name of the candidate. If**  
21 **a candidate is not registered as affiliated with a party or group and has not**  
22 **requested to be designated as nonpartisan or undeclared, the candidate shall be**  
23 **designated as undeclared.** The lieutenant governor and the governor shall be  
24 included under the same section. Provision shall be made for voting for write-in [AND  
25 NO-PARTY] candidates within each section. Paper ballots for the state general  
26 election shall be printed on white paper.

27 \* **Sec. 10.** AS 15.15.030 is amended by adding new paragraphs to read:

28 (14) The director shall include the following statement on the ballot:

29 A candidate's designated affiliation does not imply that the  
30 candidate is nominated or endorsed by the political party or group or  
31 that the party or group approves of or associates with that candidate,

1 but only that the candidate is registered as affiliated with the party or  
2 group.

3 (15) Instead of the statement provided by (14) of this section, when  
4 candidates for President and Vice-President of the United States appear on a general  
5 election ballot, the director shall include the following statement on the ballot:

6 A candidate's designated affiliation does not imply that the  
7 candidate is nominated or endorsed by the political party or group or  
8 that the party or group approves of or associates with that candidate,  
9 but only that the candidate is registered as affiliated with the party or  
10 group. The election for President and Vice-President of the United  
11 States is different. Some candidates for President and Vice-President  
12 are the official nominees of their political party.

13 \* **Sec. 11.** AS 15.15.060 is amended by adding a new subsection to read:

14 (e) In each polling place, the director shall require to be posted, in a location  
15 conspicuous to a person who will be voting, the following notice, written in bold:

16 A candidate's designated affiliation does not imply that the  
17 candidate is nominated or endorsed by the political party or group or  
18 that the party or group approves of or associates with that candidate,  
19 but only that the candidate is registered as affiliated with the party or  
20 group.

21 \* **Sec. 12.** AS 15.20.081(a) is amended to read:

22 (a) A qualified voter may apply in person, by mail, or by facsimile, scanning,  
23 or other electronic transmission to the director for an absentee ballot under this  
24 section. Another individual may apply for an absentee ballot on behalf of a qualified  
25 voter if that individual is designated to act on behalf of the voter in a written general  
26 power of attorney or a written special power of attorney that authorizes the other  
27 individual to apply for an absentee ballot on behalf of the voter. The application must  
28 include the address or, if the application requests delivery of an absentee ballot by  
29 electronic transmission, the telephone electronic transmission number, to which the  
30 absentee ballot is to be returned, the applicant's full Alaska residence address, and the  
31 applicant's signature. However, a person residing outside the United States and

1 applying to vote absentee in federal elections in accordance with AS 15.05.011 need  
2 not include an Alaska residence address in the application. A person may supply to a  
3 voter an absentee ballot application form with a political party or group affiliation  
4 indicated only if the voter is already registered as affiliated with the political party or  
5 group indicated. Only the voter or the individual designated by the voter in a written  
6 power of attorney under this subsection may mark the voter's choice of primary ballot  
7 on an application. A person supplying an absentee ballot application form may not  
8 design or mark the application in a manner that suggests choice of one ballot over  
9 another, except that ballot choices may be listed on an application as authorized by the  
10 division. The application must be made on a form prescribed or approved by the  
11 director. The voter or registration official shall submit the application directly to the  
12 division of elections. For purposes of this subsection, "directly to the division of  
13 elections" means that an application may not be submitted to any intermediary that  
14 could control or delay the submission of the application to the division or gather data  
15 on the applicant from the application form. However, nothing in this subsection is  
16 intended to prohibit a voter from giving a completed absentee ballot application to a  
17 friend, relative, or associate for transfer to the United States Postal Service or a private  
18 commercial delivery service for delivery to the division.

19 \* **Sec. 13.** AS 15.20.081(h) is amended to read:

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

25 (1) 10th day following a primary election or special **primary** election  
26 under AS 15.40.140; or

27 (2) 15th day following a general election [, SPECIAL RUNOFF  
28 ELECTION,] or special election, other than a special **primary** election described in  
29 (1) of this subsection.

30 \* **Sec. 14.** AS 15.20.190(a) is amended to read:

31 (a) Thirty days before the date of an election, the election supervisors shall

1 appoint, in the same manner provided for the appointment of election officials  
2 prescribed in AS 15.10, district absentee ballot counting boards and district questioned  
3 ballot counting boards, each composed of at least four members. At least one member  
4 of each board must be a member of the same political party **or political group with**  
5 **the largest number of registered voters at the time of the preceding gubernatorial**  
6 **election** [OF WHICH THE GOVERNOR IS A MEMBER], and at least one member  
7 of each board must be a member of the political party **or political group with the**  
8 **second largest number of registered voters at the time of** [WHOSE CANDIDATE  
9 FOR GOVERNOR RECEIVED THE SECOND LARGEST NUMBER OF VOTES  
10 IN] the preceding gubernatorial election. The district boards shall assist the election  
11 supervisors in counting the absentee and questioned ballots and shall receive the same  
12 compensation paid election officials under AS 15.15.380.

13 \* **Sec. 15.** AS 15.20.203(i) is amended to read:

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

16 (1) 10 days after completion of the review of ballots by the state  
17 review board for a primary election [,] or [FOR] a special **primary** election under  
18 AS 15.40.140 [THAT IS FOLLOWED BY A SPECIAL RUNOFF ELECTION];

19 (2) 60 days after certification of the results of a general election [,  
20 SPECIAL RUNOFF ELECTION,] or special election other than a special **primary**  
21 election described in (1) of this subsection.

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

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

27 (1) 10 days after certification of the results of a primary election [,] or  
28 a special **primary** election under AS 15.40.140 [THAT IS FOLLOWED BY A  
29 SPECIAL RUNOFF ELECTION]; and

30 (2) 30 days after certification of the results of a general or special  
31 election, other than a special **primary** election described in (1) of this subsection.

1 \* **Sec. 17.** AS 15.20.207(i) is amended to read:

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

4 (1) 10 days after completion of the review of ballots by the state  
5 review board for a primary election [,] or [FOR] a special primary election under  
6 AS 15.40.140 [THAT IS FOLLOWED BY A SPECIAL RUNOFF ELECTION];

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

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

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

14 (1) 10 days after certification of the results of a primary election [,] or  
15 a special primary election under AS 15.40.140 [THAT IS FOLLOWED BY A  
16 SPECIAL RUNOFF ELECTION]; and

17 (2) 30 days after [THE] certification of the results of a general or  
18 special election, other than a special primary election described in (1) of this  
19 subsection.

20 \* **Sec. 19.** AS 15.20.211(d) is amended to read:

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

23 (1) 10 days after completion of the review of ballots by the state  
24 review board for a primary election [,] or [FOR] a special primary election under  
25 AS 15.40.140 [THAT IS FOLLOWED BY A SPECIAL RUNOFF ELECTION];

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

28 \* **Sec. 20.** AS 15.20.211(f) is amended to read:

29 (f) The director shall make available through a free access system to each  
30 voter whose ballot was subject to partial counting under this section a system to check  
31 to see whether the voter's ballot was partially counted and, if not counted, the reason

1 why the ballot was not counted. The director shall make this information available  
2 through the free access system not less than

3 (1) 10 days after certification of the results of a primary election [,] or  
4 a special **primary** election under AS 15.40.140 [THAT IS FOLLOWED BY A  
5 SPECIAL RUNOFF ELECTION]; and

6 (2) 30 days after [THE] certification of the results of a general or  
7 special election, other than a special **primary** election described in (1) of this  
8 subsection.

9 \* **Sec. 21.** AS 15.25.010 is amended to read:

10 **Sec. 15.25.010. Provision for primary election.** Candidates for the elective  
11 state executive and state and national legislative offices shall be nominated in a  
12 primary election by direct vote of the people in the manner prescribed by this chapter.

13 **The primary election does not serve to determine the nominee of a political party**  
14 **or political group but serves only to narrow the number of candidates whose**  
15 **names will appear on the ballot at the general election to the two candidates who**  
16 **receive the greatest number of votes and the second greatest number of votes for**  
17 **any office** [THE DIRECTOR SHALL PREPARE AND PROVIDE A PRIMARY  
18 ELECTION BALLOT FOR EACH POLITICAL PARTY. A VOTER REGISTERED  
19 AS AFFILIATED WITH A POLITICAL PARTY MAY VOTE THAT PARTY'S  
20 BALLOT. A VOTER REGISTERED AS NONPARTISAN OR UNDECLARED  
21 RATHER THAN AS AFFILIATED WITH A PARTICULAR POLITICAL PARTY  
22 MAY VOTE THE POLITICAL PARTY BALLOT OF THE VOTER'S CHOICE  
23 UNLESS PROHIBITED FROM DOING SO UNDER AS 15.25.014. A VOTER  
24 REGISTERED AS AFFILIATED WITH A POLITICAL PARTY MAY NOT VOTE  
25 THE BALLOT OF A DIFFERENT POLITICAL PARTY UNLESS PERMITTED TO  
26 DO SO UNDER AS 15.25.014].

27 \* **Sec. 22.** AS 15.25.030(a) is amended to read:

28 (a) A **person** [MEMBER OF A POLITICAL PARTY] who seeks to become a  
29 candidate [OF THE PARTY] in the primary election **or a special primary election**  
30 shall execute and file a declaration of candidacy. The declaration shall be executed  
31 under oath before an officer authorized to take acknowledgments and must state in

1 substance

2 (1) the full name of the candidate;

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

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

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

7 (5) the [NAME OF THE] political party **or political group with**  
8 **whom the candidate is registered as affiliated, or whether the candidate would**  
9 **prefer a nonpartisan or undeclared designation placed after the candidate's name**  
10 **on the ballot** [OF WHICH THE PERSON IS A CANDIDATE FOR  
11 NOMINATION];

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

14 (7) the date of the primary election **or special primary election** at  
15 which the candidate seeks nomination;

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

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

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

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

1 the time that the candidate, if elected, is sworn into office;

2 (12) that the candidate requests that the candidate's name be placed on  
3 the primary or special primary election ballot;

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

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

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

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

12 \* **Sec. 23.** AS 15.25.060 is repealed and reenacted to read:

13 **Sec. 15.25.060. Preparation and distribution of ballots.** The primary  
14 election ballots shall be prepared and distributed by the director in the manner  
15 prescribed for general election ballots except as specifically provided otherwise for the  
16 primary election. The director shall prepare and provide a primary election ballot that  
17 contains all of the candidates for elective state executive and state and national  
18 legislative offices and all of the ballot titles and propositions required to appear on the  
19 ballot at the primary election. The director shall print the ballots on white paper and  
20 place the names of all candidates who have properly filed in groups according to  
21 offices. The order of the placement of the names for each office shall be as provided  
22 for the general election ballot. Blank spaces may not be provided on the ballot for the  
23 writing or pasting in of names.

24 \* **Sec. 24.** AS 15.25.100 is repealed and reenacted to read:

25 **Sec. 15.25.100. Placement of candidates on general election ballot.** (a) Of  
26 the names of candidates that appear on the primary election ballot under  
27 AS 15.25.010, the director shall place on the general election ballot only the names of  
28 the candidates receiving the greatest number of votes and the second greatest number  
29 of votes for an office, except as provided in (b) and (c) of this section.

30 (b) If two candidates tie

31 (1) in having the greatest number of votes for an office in the primary

1 election, the director shall place only the names of those two candidates for that office  
2 on the general election ballot;

3 (2) in having the second greatest number of votes for an office in the  
4 primary election, the director shall place on the general election ballot the name of  
5 only one of the candidates who tied for that office, to be determined by lot under  
6 AS 15.20.530.

7 (c) For the office of lieutenant governor, the director shall place on the general  
8 election ballot, together with the name of the candidate for governor who received

9 (1) the greatest number of votes in the primary election, the name of  
10 either the candidate for lieutenant governor receiving the greatest number of votes or  
11 the candidate for lieutenant governor receiving the second greatest number of votes,  
12 whichever the candidate for governor chooses to run with jointly; and

13 (2) the second greatest number of votes in the primary election, the  
14 name of either the candidate for lieutenant governor receiving the greatest number of  
15 votes or the candidate for lieutenant governor receiving the second greatest number of  
16 votes, whichever was not chosen to run jointly with the candidate for governor who  
17 received the greatest number of votes.

18 \* **Sec. 25.** AS 15.25.105(a) is amended to read:

19 (a) If a candidate does not appear on the primary election ballot or is not  
20 successful in advancing to the general election and wishes to be a candidate in the  
21 general election, the candidate may file as a write-in candidate. Votes for a write-in  
22 candidate may not be counted unless that candidate has filed a letter of intent with the  
23 director stating

24 (1) the full name of the candidate;

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

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

28 (4) the [NAME OF THE] political party or political group **with whom**  
29 **the candidate is registered as affiliated, or whether the candidate would prefer a**  
30 **nonpartisan or undeclared designation** [OF WHICH THE CANDIDATE IS A  
31 MEMBER, IF ANY];

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

3 (6) the office that the candidate seeks;

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

5 (8) the length of residency in the state and in the house district of the  
6 candidate;

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

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

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

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

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

27 \* **Sec. 26.** AS 15.25.105(b) is amended to read:

28 (b) If a write-in candidate is running for the office of governor, the candidate  
29 must file a joint letter of intent together with a candidate for lieutenant governor.  
30 [BOTH CANDIDATES MUST BE OF THE SAME POLITICAL PARTY OR  
31 GROUP.]

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

2 **Sec. 15.40.140. Condition of calling special primary election and special**  
3 **election.** When a vacancy occurs in the office of United States senator or United  
4 States representative, the governor shall, by proclamation, call a special **primary**  
5 **election to be held on a date not less than 60, nor more than 90, days after the**  
6 **date the vacancy occurs, to be followed by a special election on the first Tuesday**  
7 **that is not a state holiday occurring not less than 60 days after the special**  
8 **primary election** [UNDER AS 15.40.142(a)]. However, **in an election year in which**  
9 **a candidate for that office is not regularly elected,** if the vacancy occurs on a date  
10 that is **not** less than 60, **nor more than 90,** days before [OR IS ON OR AFTER] the  
11 date of

12 (1) the primary election, **the** [IN THE GENERAL ELECTION YEAR  
13 DURING WHICH A CANDIDATE TO FILL THE OFFICE IS REGULARLY  
14 ELECTED, THE GOVERNOR MAY NOT CALL A] special **primary** election **shall**  
15 **be held on the date of the primary election with the subsequent special election to**  
16 **be held on the date of the general election; or**

17 (2) **the general election, the special primary election shall be held**  
18 **on the date of the general election with the subsequent special election to be held**  
19 **on the first Tuesday that is not a state holiday occurring not less than 60 days**  
20 **after the special primary and general election.**

21 \* **Sec. 28.** AS 15.40.160 is amended to read:

22 **Sec. 15.40.160. Proclamation.** The governor shall issue the proclamation  
23 **calling the special primary election and special election** at least 50 days before the

24 [(1)] special **primary** election [; AND

25 (2) IF A SPECIAL RUNOFF ELECTION IS REQUIRED UNDER  
26 AS 15.40.141(a), SPECIAL RUNOFF ELECTION].

27 \* **Sec. 29.** AS 15.40.165 is amended to read:

28 **Sec. 15.40.165. Term of elected senator.** At the special election, [OR, AS  
29 PROVIDED BY AS 15.40.141, AT THE SPECIAL RUNOFF ELECTION,] a United  
30 States senator shall be elected to fill the remainder of the unexpired term. The person  
31 elected shall take office on the date the United States Senate meets, convenes, or

1 reconvenes following the certification of the results of the special election [OR  
2 SPECIAL RUNOFF ELECTION] by the director.

3 \* **Sec. 30.** AS 15.40.170 is amended to read:

4 **Sec. 15.40.170. Term of elected representative.** At the special election, [OR,  
5 AS PROVIDED BY AS 15.40.141, AT THE SPECIAL RUNOFF ELECTION,] a  
6 United States representative shall be elected to fill the remainder of the unexpired  
7 term. The person elected shall take office on the date the United States house of  
8 representatives meets, convenes, or reconvenes following the certification of the  
9 results of the special election [OR SPECIAL RUNOFF ELECTION] by the director.

10 \* **Sec. 31.** AS 15.40.190 is amended to read:

11 **Sec. 15.40.190. Requirements of petition for [NO-PARTY] candidates.**  
12 Petitions for the nomination of candidates **must be executed under oath and** [NOT  
13 REPRESENTING A POLITICAL PARTY SHALL BE SIGNED BY QUALIFIED  
14 VOTERS OF THE STATE EQUAL IN NUMBER TO AT LEAST ONE PERCENT  
15 OF THE NUMBER OF VOTERS WHO CAST BALLOTS IN THE PRECEDING  
16 GENERAL ELECTION AND SHALL] state in substance that which is required for **a**  
17 **declaration of candidacy under AS 15.25.030** [NOMINATION PETITIONS BY  
18 AS 15.25.180].

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

20 **Sec. 15.40.220. General provisions for conduct of the special primary**  
21 **election and special [RUNOFF] election.** Unless specifically provided otherwise, all  
22 provisions regarding the conduct of the **primary election and** general election shall  
23 govern the conduct of the special **primary** election and [THE] special [RUNOFF]  
24 election of the United States senator or United States representative, including  
25 provisions concerning voter qualifications; provisions regarding the duties, powers,  
26 rights, and obligations of the director, of other election officials, and of municipalities;  
27 provision for notification of the election; provision for payment of election expenses;  
28 provisions regarding employees being allowed time from work to vote; provisions for  
29 the counting, reviewing, and certification of returns; [PROVISION FOR RUNNING  
30 AS, VOTING FOR, AND COUNTING BALLOTS FOR A WRITE-IN  
31 CANDIDATE;] provisions for the determination of the votes and of recounts,

1 contests, and appeal; and provision for absentee voting.

2 \* **Sec. 33.** AS 15.40.230 is amended to read:

3 **Sec. 15.40.230. Condition and time of calling special primary election and**  
4 **special election.** When a person appointed to succeed to the office of lieutenant  
5 governor succeeds to the office of acting governor, the acting governor shall, by  
6 proclamation, call a special **primary** election to be held on a date not less than 60, nor  
7 more than 90, days after the date the vacancy in the office of the governor occurred  
8 **and a subsequent special election to be held on the first Tuesday that is not a state**  
9 **holiday occurring not less than 60 days after the special primary election.**

10 However, if the vacancy occurs on a date that is less than 60 days before or is on or  
11 after the date of the primary election in years in which a governor is regularly elected,  
12 the acting governor shall serve the remainder of the unexpired term and may not call a  
13 special election.

14 \* **Sec. 34.** AS 15.40.240 is amended to read:

15 **Sec. 15.40.240. Conditions for holding special primary election and special**  
16 **election with primary or general election.** If the vacancy occurs on a date not less  
17 than 60, nor more than 90, days before the date of the primary election **in an election**  
18 **year in which a governor is not regularly elected, the acting governor shall, by**  
19 **proclamation, call the special primary election to be held on the date of the**  
20 **primary election and the special election to be held on the date of the general**  
21 **election,** [IN YEARS IN WHICH A GOVERNOR IS REGULARLY ELECTED] or,  
22 if the vacancy occurs on a date not less than 60, nor more than 90, days before the date  
23 of the [PRIMARY ELECTION OR] general election in election years in which a  
24 governor is not regularly elected, the acting governor shall, by proclamation, call the  
25 special **primary** election to be held on the date of the [PRIMARY ELECTION OR]  
26 general election **with the subsequent special election to be held on the first**  
27 **Tuesday that is not a state holiday occurring not less than 60 days after the**  
28 **special primary and general election.**

29 \* **Sec. 35.** AS 15.40.250 is amended to read:

30 **Sec. 15.40.250. Proclamation of special primary election and special**  
31 **election.** The acting governor shall issue the proclamation **calling the special**

primary election and special election at least 50 days before the special primary election.

\* **Sec. 36.** AS 15.40.280 is amended to read:

**Sec. 15.40.280. Requirements of petition for [NO-PARTY] candidates.**

Petitions for the nomination of candidates must [NOT REPRESENTING A POLITICAL PARTY SHALL BE SIGNED BY QUALIFIED VOTERS OF THE STATE EQUAL IN NUMBER TO AT LEAST ONE PERCENT OF THE NUMBER OF VOTERS WHO CAST BALLOTS IN THE PRECEDING GENERAL ELECTION, SHALL INCLUDE NOMINEES FOR THE OFFICE OF GOVERNOR AND LIEUTENANT GOVERNOR, AND SHALL] state in substance that which is required for a declaration of candidacy under AS 15.25.030 and pay the fee required under AS 15.25.050(a) [NOMINATION PETITIONS BY AS 15.25.180].

\* **Sec. 37.** AS 15.40.310 is amended to read:

**Sec. 15.40.310. General provisions for conduct of the special primary election and special election.** Unless specifically provided otherwise, all provisions regarding the conduct of the primary and general election shall govern the conduct of the special primary election and special election of the governor and lieutenant governor, including provisions concerning voter qualifications; provisions regarding the duties, powers, rights, and obligations of the director, of other election officials, and of municipalities; provision for notification of the election; provision for payment of election expenses; provisions regarding employees being allowed time from work to vote; provisions for the counting, reviewing, and certification of returns; provisions for the determination of the votes and of recounts, contests, and appeal; and provision for absentee voting.

\* **Sec. 38.** AS 15.40.330 is amended to read:

**Sec. 15.40.330. Qualification and confirmation of appointee.** (a) The appointee shall meet the qualifications of a member of the legislature as prescribed in Sec. 2, art. II, of the state constitution, and, if the predecessor in office was a member of a political party or political group at the time of the vacancy, (1) shall be a member of the same political party or political group as [THAT WHICH NOMINATED] the predecessor in office; [,] and (2) shall be subject to confirmation

1 by a majority of the members of the legislature who are members of the same political  
2 party or political group as [WHICH NOMINATED] the predecessor in office and of  
3 the same house as was the predecessor in office. If the predecessor in office was not a  
4 member of [NOMINATED BY] a political party or political group at the time of  
5 the vacancy or, if no other member of the predecessor's political party or political  
6 group is a member of the predecessor's house of the legislature, the governor may  
7 appoint any qualified person. If the appointee is not a member of a political party or  
8 political group, as provided in (b) of this section, the appointment is not subject to  
9 confirmation. If the appointee is a member of a political party or political group, the  
10 appointment is subject to confirmation as provided by (b) of this section for the  
11 confirmation of political party or political group appointees.

12 (b) A member of a political party or political group is a person who supports  
13 the political program of a political party or political group. The absence of a  
14 political party or political group designation after a candidate's name on an  
15 election ballot [FILING FOR OFFICE OF A CANDIDATE AS AN INDEPENDENT  
16 OR NO-PARTY CANDIDATE] does not preclude a candidate from being a member  
17 of a political party or political group. Recognition of a [AN INDEPENDENT OR  
18 NO-PARTY] candidate as a member of a political party or political group caucus of  
19 members of the legislature at the legislative session following the election of the  
20 [INDEPENDENT OR NO-PARTY] candidate is recognition of that person's political  
21 party or political group membership for the purposes of confirmation under this  
22 section [AT THE TIME FILINGS WERE MADE BY PARTY CANDIDATES FOR  
23 THE PRECEDING GENERAL ELECTION].

24 \* **Sec. 39.** AS 15.40.380 is amended to read:

25 **Sec. 15.40.380. Conditions for part-term senate appointment and special**  
26 **election.** If the vacancy is for an unexpired senate term of more than two years and  
27 five full calendar months, the governor shall call a special primary election and a  
28 special election by proclamation, and the appointment shall expire on the date the  
29 state senate first convenes or reconvenes following the certification of the results of  
30 the special election by the director.

31 \* **Sec. 40.** AS 15.40.390 is amended to read:

1           **Sec. 15.40.390. Date of special primary election and special election.** The  
2 special primary election to fill a vacancy in the state senate shall be held on the date  
3 of the first primary [GENERAL] election held more than 60 days [THREE FULL  
4 CALENDAR MONTHS] after the senate vacancy occurs, and the special election  
5 shall be held on the date of the first general election thereafter.

6 \* **Sec. 41.** AS 15.40.400 is amended to read:

7           **Sec. 15.40.400. Proclamation of special primary election and special**  
8 **election.** The governor shall issue the proclamation calling the special primary  
9 election and special election at least 50 days before the special primary election.

10 \* **Sec. 42.** AS 15.40.440 is amended to read:

11           **Sec. 15.40.440. Requirements of petition for [NO-PARTY] candidates.**  
12 Petitions for the nomination of candidates [NOT REPRESENTING A POLITICAL  
13 PARTY SHALL BE SIGNED BY QUALIFIED VOTERS EQUAL IN NUMBER TO  
14 AT LEAST ONE PERCENT OF THE NUMBER OF VOTERS WHO CAST  
15 BALLOTS IN THE PROPOSED NOMINEE'S RESPECTIVE HOUSE OR SENATE  
16 DISTRICT IN THE PRECEDING GENERAL ELECTION. A NOMINATING  
17 PETITION MAY NOT CONTAIN LESS THAN 50 SIGNATURES FOR ANY  
18 DISTRICT, AND] must state in substance that which is required in a declaration of  
19 candidacy under AS 15.25.030 [PETITIONS FOR NOMINATION BY  
20 AS 15.25.180].

21 \* **Sec. 43.** AS 15.40.470 is amended to read:

22           **Sec. 15.40.470. General provision for conduct of the special primary**  
23 **election and special election.** Unless specifically provided otherwise, all provisions  
24 regarding the conduct of the primary election and general election shall govern the  
25 conduct of the special primary election and special election of state senators,  
26 including provisions concerning voter qualifications; provisions regarding the duties,  
27 powers, rights, and obligations of the director, of other election officials, and of  
28 municipalities; provision for notification of the election; provision for payment of  
29 election expenses; provisions regarding employees being allowed time from work to  
30 vote; provisions for the counting, reviewing, and certification of returns; provisions for  
31 the determination of the votes and of recounts, contests, and appeal; and provision for

1 absentee voting.

2 \* **Sec. 44.** 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 primary [RUNOFF], or primary election that  
6 is held after

7 (1) the petition has been filed;

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

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

11 \* **Sec. 45.** AS 15.45.420 is amended to read:

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

17 \* **Sec. 46.** AS 15.58.010 is amended to read:

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

24 \* **Sec. 47.** AS 15.58.020(a) is amended by adding a new paragraph to read:

25 (13) the following statement written in bold in a conspicuous location:

26 In each race, you may vote for any candidate listed. If a primary  
27 election was held for a state office, United States senator, or United  
28 States representative, the two candidates who received the most votes  
29 for the office in the primary advanced to the general election.

30 Each candidate may designate the political party or political  
31 group that the candidate is registered as affiliated with. A candidate's

1 political party or political group designation on a ballot does not imply  
 2 that the candidate is nominated or endorsed by the party or political  
 3 group or that the party or group approves of or associates with that  
 4 candidate.

5 \* **Sec. 48.** AS 15.58.020(b) is amended to read:

6 (b) Each primary, special, or special **primary** [RUNOFF] election pamphlet  
 7 shall contain only the information specified in (a)(6) and (a)(9) of this section for each  
 8 ballot measure scheduled to appear on the primary, special, or special **primary**  
 9 [RUNOFF] election ballot.

10 \* **Sec. 49.** AS 15.58.020 is amended by adding a new subsection to read:

11 (c) Notwithstanding (a) of this section, if a pamphlet is prepared and published  
 12 under AS 15.58.010 for a

13 (1) primary election, the pamphlet must contain the following  
 14 statement written in bold in a conspicuous location, instead of the statement provided  
 15 by (a)(13) of this section:

16 In each race, you may vote for any candidate listed. The two  
 17 candidates who receive the most votes for a state office, United States  
 18 senator, or United States representative will advance to the general  
 19 election.

20 Each candidate may designate the political party or political  
 21 group that the candidate is registered as affiliated with. A candidate's  
 22 political party or political group designation on a ballot does not imply  
 23 that the candidate is nominated or endorsed by the party or group or  
 24 that the party or group approves of or associates with that candidate;

25 (2) a special primary election, the pamphlet must contain the following  
 26 statement written in bold in a conspicuous location, instead of the statement provided  
 27 by (a)(13) of this section:

28 In each race, you may vote for any candidate listed. The two  
 29 candidates who receive the most votes for a state office or United  
 30 States senator will advance to the special election.

31 Each candidate may designate the political party or political

1 group that the candidate is registered as affiliated with. A candidate's  
2 political party or political group designation on a ballot does not imply  
3 that the candidate is nominated or endorsed by the party or group or  
4 that the party or group approves of or associates with that candidate.

5 \* **Sec. 50.** AS 15.58.030(b) is amended to read:

6 (b) Not [NO] later than July 22 of a year in which a state general election will  
7 be held, an individual who becomes a candidate for the office of United States senator,  
8 United States representative, governor, lieutenant governor, state senator, or state  
9 representative under AS 15.25.030 [OR 15.25.180] may file with the lieutenant  
10 governor a photograph and a statement advocating the candidacy. [AN INDIVIDUAL  
11 WHO BECOMES A CANDIDATE FOR THE OFFICE OF UNITED STATES  
12 SENATOR, UNITED STATES REPRESENTATIVE, GOVERNOR, LIEUTENANT  
13 GOVERNOR, STATE SENATOR, OR STATE REPRESENTATIVE BY PARTY  
14 PETITION FILED UNDER AS 15.25.110 MAY FILE WITH THE LIEUTENANT  
15 GOVERNOR A PHOTOGRAPH AND A STATEMENT ADVOCATING THE  
16 CANDIDACY WITHIN 10 DAYS OF BECOMING A CANDIDATE.]

17 \* **Sec. 51.** AS 15.80.008(a) is amended to read:

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

21 (1) files an application with the director; and

22 (2) [SUBMITS BYLAWS TO THE DIRECTOR AND THE UNITED  
23 STATES DEPARTMENT OF JUSTICE AS REQUIRED OF POLITICAL PARTIES  
24 IN AS 15.25.014; AND

25 (3)] meets the definition of a political party in AS 15.80.010.

26 \* **Sec. 52.** AS 15.80.010(9) is amended to read:

27 (9) "federal election" means a general, special, special primary  
28 [RUNOFF], or primary election held solely or in part for the purpose of selecting,  
29 nominating, or electing a candidate for the office of President, Vice-President,  
30 presidential elector, United States senator, or United States representative;

31 \* **Sec. 53.** AS 15.80.010(27) is amended to read:

1 (27) "political party" means an organized group of voters that  
2 represents a political program and

3 (A) that [NOMINATED A CANDIDATE FOR GOVERNOR  
4 WHO RECEIVED AT LEAST THREE PERCENT OF THE TOTAL VOTES  
5 CAST FOR GOVERNOR AT THE PRECEDING GENERAL ELECTION  
6 OR] has registered voters in the state equal in number to at least three percent  
7 of the total votes cast for governor at the preceding general election;

8 (B) if the office of governor was not on the ballot at the  
9 preceding general election but the office of United States senator was on that  
10 ballot, that [NOMINATED A CANDIDATE FOR UNITED STATES  
11 SENATOR WHO RECEIVED AT LEAST THREE PERCENT OF THE  
12 TOTAL VOTES CAST FOR UNITED STATES SENATOR AT THAT  
13 GENERAL ELECTION OR] has registered voters in the state equal in number  
14 to at least three percent of the total votes cast for United States senator at that  
15 general election; or

16 (C) if neither the office of governor nor the office of United  
17 States senator was on the ballot at the preceding general election, that  
18 [NOMINATED A CANDIDATE FOR UNITED STATES  
19 REPRESENTATIVE WHO RECEIVED AT LEAST THREE PERCENT OF  
20 THE TOTAL VOTES CAST FOR UNITED STATES REPRESENTATIVE  
21 AT THAT GENERAL ELECTION OR] has registered voters in the state equal  
22 in number to at least three percent of the total votes cast for United States  
23 representative at that general election;

24 \* **Sec. 54.** AS 39.50.020(b) is amended to read:

25 (b) A public official or former public official other than an elected or  
26 appointed municipal officer shall file the statement with the Alaska Public Offices  
27 Commission. Candidates for the office of governor and lieutenant governor and, if the  
28 candidate is not subject to AS 24.60, the legislature shall file the statement under  
29 AS 15.25.030 [OR 15.25.180]. Municipal officers, former municipal officers, and  
30 candidates for elective municipal office, shall file with the municipal clerk or other  
31 municipal official designated to receive their filing for office. All statements required

1 to be filed under this chapter are public records.

2 \* **Sec. 55.** AS 15.13.110(j); AS 15.25.014, 15.25.056, 15.25.110, 15.25.120, 15.25.130,  
3 15.25.140, 15.25.150, 15.25.160, 15.25.170, 15.25.180, 15.25.185, 15.25.190, 15.25.200;  
4 AS 15.40.141, 15.40.142, 15.40.150, 15.40.200, 15.40.210, 15.40.290, 15.40.300, 15.40.450,  
5 and 15.40.460 are repealed.

6 \* **Sec. 56.** The uncodified law of the State of Alaska is amended by adding a new section to  
7 read:

8 TRANSITION; VOTER EDUCATION AS TO CHANGES MADE TO STATE  
9 ELECTION SYSTEMS THROUGH ADOPTION OF A TOP TWO NONPARTISAN  
10 PRIMARY. (a) For a period of not less than one full election cycle immediately following the  
11 effective date of this Act, the director of elections shall, in a manner reasonably calculated to  
12 educate the public, inform voters of the changes made to the state's election systems in this  
13 Act.

14 (b) In this section, "election cycle" means the 24-month period commencing on  
15 January 1 of odd-numbered years and ending on December 31 of even-numbered years.

16 \* **Sec. 57.** This Act takes effect January 1, 2020.

# ALASKA STATE LEGISLATURE

*Interim - May-December:*  
1500 W. Benson Blvd  
Anchorage, AK 99503  
907-269-0216  
907-269-0218 (fax)



*Session - January-April:*  
State Capitol, Rm. 118  
Juneau, AK 99801  
907-465-4998  
907-465-4419 (fax)

## REPRESENTATIVE GABRIELLE LEDOUX

Rep.Gabrielle.LeDoux@akleg.gov

### House Bill 200

#### Sectional Analysis - Version U

##### *Nonpartisan Open Primary Elections*

**Section 1** amends AS 15.10.120(c) to require that election supervisor shall nominate election board members from the political parties or groups that had the largest and second largest number of registered voters at the last gubernatorial election. If one of the top two political parties or groups does not put forward a nominee, the election supervisor may appoint a third party member.

**Section 2** amends 15.10.170 to allow all candidates, not just unaffiliated candidates, or political groups to have poll watchers.

**Section 3** amends AS 15.13.020(b) to require APOC appointees to include two members from the two political parties or groups with the largest number of registered voters.

**Section 4** amends AS 15.13.020(d) to allow political groups to be considered in APOC appointments.

**Section 5** amends AS 15.13.074(c) to conform to Section 27.

**Section 6** amends AS 15.13.110(f) to conform to Section 36 and Section 42.

**Section 7** amends AS 15.13.400(4) to conform to Section 21.

**Section 8** adds a new section to AS 15.15 to establish a top two primary where any voter may vote for any candidate without limitation based upon political group or party affiliation.

**Section 9** amends AS 15.15.0303(5) to clarify that if a candidate is registered with a political party or group they may have that affiliation listed next to them on the ballot or may request to have a nonpartisan or undeclared designation next to their name.

**Section 10** amends AS 15.15.030 to provide language on the ballot to clarify that candidates are not official nominees for the parties. Provides additional language that some candidates for President and Vice President are the official nominees of parties.

**Section 11** adds a new subsection to AS 15.15.060 to provide clarifying language at all polling locations to clarify that candidates are not official nominees for the parties.

**Section 12** restores language to AS 15.20.081(a) maintaining the prohibition regarding pre-marking party or group affiliation on absentee ballot applications.

**Section 13** amends AS 15.20.081(h) to conform to Section 27.

**Section 14** amends AS 15.20.190(a) to require election officials to have representatives from the two political parties or groups that have the greatest number of registered voters at the time of the preceding gubernatorial election.

**Section 15** amends AS 15.20.203(i) to conform to Section 27.

**Section 16** amends AS 15.20.203(j) to conform to Section 27.

**Section 17** amends AS 15.20.207(i) to conform to Section 27.

**Section 18** amends AS 15.20.207(k) to conform to Section 27.

**Section 19** amends AS 15.20.211(d) to conform to Section 27.

**Section 20** amends AS 15.20.211(f) to conform to Section 27.

**Section 21** amends AS 15.25.010 to clarify that the primary election serves only as a narrowing of candidates. The primary election does not nominate candidates for any party.

**Section 22** amends AS 15.25.030(a) to conform to Section 21 and Section 27.

**Section 23** repeals and reenacts AS 15.25.060 to clarify that only one ballot will be assembled for the primary election and that the primary election will be conducted in the same manner that all other elections are conducted.

**Section 24** repeals and reenacts AS 15.25.100 in these sections:

- (a) The only candidates who will appear on the general election are the top two vote receivers
- (b) In the event of a
  - (1) Tie for 1<sup>st</sup> place, only the voters tying for first will advance to the general
  - (2) Tie for 2<sup>nd</sup> place, the tie will be resolved with a coin toss per AS 15.20.530
- (c) The Lt. Governor will be placed on the general election ballot with the Governor in compliance with the Alaska State Constitution
  - (1) The gubernatorial candidate with the most votes can choose amongst the top two Lt. Governor candidates who runs on the general election ballot with them
  - (2) The gubernatorial candidate with the second most votes runs with the Lt. Governor candidate that was not already selected

**Section 25** amends AS 15.25.105(a) to conform to Section 21.

**Section 26** amends AS 15.25.105(b) to allow write-in candidates for Governor and Lt. Governor to have different political group or party affiliations.

**Section 27** amends AS 15.40.140 to provide that in the event of vacancy of United States senator or United States representative, a special primary election shall be held within 60-90 days of the vacancy and a subsequent special election on the first Tuesday, 60 days after the special primary election.

(1) If the vacancy occurs within 60-90 days of the primary election, the special primary election will occur on the same date as the regular primary election, and the special election will occur on the same date as the general election.

(2) If the vacancy occurs within 60-90 days of the general election, the special primary election will occur on the same day as the general election and the special election will occur on the first non-holiday Tuesday 60 days after the special primary election.

**Section 28** amends AS 15.40.160 to conform to Section 27.

**Section 29** amends AS 15.40.165 to conform to Section 27.

**Section 30** amends AS 15.40.170 to conform to Section 27.

**Section 31** amends AS 15.40.190 to eliminate the requirement of a nominating petition for nonpartisan candidates for Congressional offices.

**Section 32** amends AS 15.40.220 to conform to Section 27.

**Section 33** amends AS 15.40.230 to conform to Section 27.

**Section 34** amends AS 15.40.240 to conform to Section 27.

**Section 35** amends AS 15.40.250 to conform to Section 27.

**Section 36** amends AS 15.40.280 to eliminate the requirement of a nominating petition for nonpartisan candidates for the offices of Governor and Lt. Governor.

**Section 37** amends AS 15.40.310 to conform to Section 27.

**Section 38** amends AS 15.40.330 for qualifications and confirmation of appointees

(a) All appointees to elected office must meet the standards set out in the Alaska State Constitution.

(1) Provides that appointees be the same political party or group as their predecessor in office at the time of vacancy.

(2) Provides that appointees are subject to a confirmation by the majority of members of the same party in the same body. Additionally, it provides that should a member not have a political party or group as their affiliation or should no members of the same party or group be put forward, the Governor may appoint anyone to fill the position without confirmation.

(b) Clarifies that the absence of political designation on the ballot does not mean that a member does not belong to a political group. Additionally, clarifies that for the purposes of confirmation, members of a legislative caucus will serve as the confirming body.

**Section 39** amends AS 15.40.380 to conform to Section 27.

**Section 40** amends AS 15.40.390 to conform to Section 27.

**Section 41** amends AS 15.40.400 to conform to Section 27.

**Section 42** amends AS 15.40.440 to eliminate the requirement of a nominating petition for nonpartisan candidates for the Alaska legislature.

**Section 43** amends AS 15.40.470 to conform to Section 27.

**Section 44** amends AS 15.45.190 to conform to Section 27.

**Section 45** amends AS 15.45.420 to conform to Section 27.

**Section 46** amends AS 15.58.010 to conform to Section 27.

**Section 47** adds a paragraph to AS 15.58.020(a) to conform to Section 21.

**Section 48** amends AS 15.58.020(b) to conform to Section 27.

**Section 49** adds a new subsection to AS 15.58.020 to provide clarifying language that candidates are not the nominees for their political parties.

**Section 50** amends AS 15.58.030(b) to conform to Section 31, Section 36 and Section 42 by eliminating a separate deadline for statement of candidacy for candidates by petition.

**Section 51** amends AS 15.80.008(a) to eliminate the requirement for political parties to submit their bylaws to the Director of the Division of Elections or the US Department of Justice.

**Section 52** amends AS 15.80.010(9) to conform to Section 27.

**Section 53** amends AS 15.80.010(27) to eliminate the requirement for a political party to nominate a candidate for governor in order to maintain "party status".

**Section 54** amends AS 39.50.020(b) to conform to Section 55.

**Section 55** repeals:

AS 15.13.110(j) - nomination by petition for APOC report compliance

AS 15.25.014 - participation in primary election selection of a political party's candidate

AS 15.25.056 - nomination by party petition where incumbent dies or is disqualified or incapacitated

AS 15.25.110 - filling vacancies by party petition

AS 15.25.120 - requirements for party petition

AS 15.25.130 – selection of nominees for party petitions  
AS 15.25.140 – provision for unaffiliated candidate nominations  
AS 15.25.150 – date of filing petition  
AS 15.25.160 – required number of signatures for statewide office  
AS 15.25.170 – required number of signatures for district-wide office  
AS 15.25.180 – requirements for petition  
AS 15.25.185 – eligibility for candidates by petition  
AS 15.25.190 – placement of names on general election ballot for candidates by petition  
AS 15.25.200 – withdrawal of candidate’s name for candidates by petition  
AS 15.40.141 – condition of calling a special runoff election  
AS 15.40.142 – time of calling the special election and the special runoff election  
AS 15.40.150 – condition for holding special election with primary  
AS 15.40.200 – requirements of party petition for US Senator and US Representative  
AS 15.40.210 – selection of party nominees  
AS 15.40.290 – requirements of party petition for Lt. Governor and Governor  
AS 15.40.300 – selection of party nominees  
AS 15.40.450 – requirements of petition by political party  
AS 15.40.460 – selection of political party nominees  
AS 15.56.030(a) (4) – criminalization of knowingly allowing an individual to vote on a primary they are unqualified for  
AS 15.56.030(a) (5) – criminalization of suggesting or forcing an individual to select a particular type of primary ballot  
AS 15.56.035(a) (5) – criminalization of knowingly encouraging individuals to select the wrong primary ballot  
AS 15.56.035(a) (6) – criminalization for knowingly encouraging individuals to select the wrong primary ballot

**Section 56** amends the uncodified law of the State of Alaska, by adding transitional language.

**Section 57** adds an effective date for January 1, 2020.

# ALASKA STATE LEGISLATURE

*Interim – May-December:*  
1500 W. Benson Blvd.  
Anchorage, AK 99503

907-269-0216  
907-269-0218 (fax)



*Session – January-April:*  
State Capitol, Rm. 216  
Juneau, AK 99801

907-465-4998  
907-465-4419 (fax)

## Representative Gabrielle LeDoux

[Rep.Gabrielle.LeDoux@akleg.gov](mailto:Rep.Gabrielle.LeDoux@akleg.gov)

### SPONSOR STATEMENT

#### HB 200- TOP TWO NONPARTISAN PRIMARY ELECTION

House Bill 200 would establish a nonpartisan primary election in Alaska. Under this system, voters could cast their ballots for any candidate running for office in a primary election, and the top two vote-getters, regardless of party, would advance to the general election. HB 200 would give voters more freedom at the ballot box since their voices will not be restricted by party affiliation. Voters could cast their ballots in support of the best, most qualified candidate, not just those that identify with a particular political party.

Since the United States Supreme Court struck down the California open primary law and then the Alaska Supreme Court struck down Alaska's open primary law, Alaska has operated under a two primary system. In California Democratic Party v. Jones, the US Supreme Court ruled that a parties could not be forced to have their nominees selected by non-party members. Currently in Alaska, the Republican primary has a closed primary where members of other political parties do not get to participate in the election. The Democratic primary is an open primary where anyone, regardless of party affiliation can participate.

However, the right Alaskans had previously enjoyed for approximately 40 years—to vote for candidates of their choice for any elective office in the primary election—is no longer available. Countless Alaskans have approached legislators pleading for a return to an open primary election system, where they could vote for the candidate of their choice in a primary election, regardless of party. Voters have demanded that they continue to be allowed to vote for a republican for one office, and a democrat for another office, a green for another office, and so on. So have voters in other states. The “nonpartisan primary” election system was previously in force in Washington and California, as well as Alaska. Several years ago in an initiative and in response to language in the US Supreme Court decision striking down the open primary,<sup>1</sup> an initiative passed in Washington and California allowing voters to cast a ballot in the open nonpartisan primary.

HB 200 is legislation taken from the Washington state law and incorporates suggestions made by the United States Supreme Court in the Washington State Grange opinion. Briefly this provides that candidates of all political parties and independents may run for office in a single primary election. They may self-designate their political parties if they wish. However, the state must make it clear, in the Official Election Pamphlet (OEP), on ballot materials, and at polling places, that any such designations are self-designations only and do not imply endorsement by any political party. HB 200 will remove the state of Alaska from the business of conducting “nominations” on the behalf of private parties and instead will advance the top two vote receivers. I urge swift passage of HB 200.

<sup>1</sup> California Democratic Party v Jones, 530 U.S. 442 (2008).

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## REPRESENTATIVE GABRIELLE LEDOUX

Rep.Gabrielle.LeDoux@akleg.gov

### House Bill 200

### Sectional Analysis – Version O

#### *Nonpartisan Open Primary Elections*

**Section 1** amends AS 15.10.120(c) to require that election supervisor shall nominate election board members from the political parties or groups that had the largest and second largest number of registered voters at the last gubernatorial election. If one of the top two political parties or groups does not put forward a nominee, the election supervisor may appoint a third party member.

**Section 2** amends 15.10.170 to allow all candidates, not just unaffiliated candidates, or political groups to have poll watchers.

**Section 3** amends AS 15.13.020(b) to require APOC appointees to include two members from the two political parties or groups with the largest number of registered voters.

**Section 4** amends AS 15.13.020(d) to allow political groups to be considered in APOC appointments.

**Section 5** amends AS 15.13.074(c) to conform to Section 27.

**Section 6** amends AS 15.13.110(f) to conform to Section 36 and Section 42.

**Section 7** amends AS 15.13.400(4) to conform to Section 21.

**Section 8** adds a new section to AS 15.15 to establish a top two primary where any voter may vote for any candidate without limitation based upon political group or party affiliation.

**Section 9** amends AS 15.15.0303(5) to clarify that if a candidate is registered with a political party or group they may have that affiliation listed next to them on the ballot or may request to have a nonpartisan or undeclared designation next to their name.

**Section 10** amends AS 15.15.030 to provide language on the ballot to clarify that candidates are not official nominees for the parties.

**Section 11** adds a new subsection to AS 15.15.060 to provide clarifying language at all polling locations to clarify that candidates are not official nominees for the parties.

**Section 12** amends AS 15.20.081(a) to conform to Section 21.

**Section 13** amends AS 15.20.081(h) to conform to Section 27.

**Section 14** amends AS 15.20.190(a) to require election officials to have representatives from the two political parties or groups that have the greatest number of registered voters at the time of the preceding gubernatorial election.

**Section 15** amends AS 15.20.203(i) to conform to Section 27.

**Section 16** amends AS 15.20.203(j) to conform to Section 27.

**Section 17** amends AS 15.20.207(i) to conform to Section 27.

**Section 18** amends AS 15.20.207(k) to conform to Section 27.

**Section 19** amends AS 15.20.211(d) to conform to Section 27.

**Section 20** amends AS 15.20.211(f) to conform to Section 27.

**Section 21** amends AS 15.25.010 to clarify that the primary election serves only as a narrowing of candidates. The primary election does not nominate candidates for any party.

**Section 22** amends AS 15.25.030(a) to conform to Section 21 and Section 27.

**Section 23** repeals and reenacts AS 15.25.060 to clarify that only one ballot will be assembled for the primary election and that the primary election will be conducted in the same manner that all other elections are conducted.

**Section 24** repeals and reenacts AS 15.25.100 in these sections:

- (a) The only candidates who will appear on the general election are the top two vote receivers
- (b) In the event of a
  - (1) Tie for 1<sup>st</sup> place, only the voters tying for first will advance to the general
  - (2) Tie for 2<sup>nd</sup> place, the tie will be resolved with a coin toss per AS 15.20.530
- (c) The Lt. Governor will be placed on the general election ballot with the Governor in compliance with the Alaska State Constitution
  - (1) The gubernatorial candidate with the most votes can choose amongst the top two Lt. Governor candidates who runs on the general election ballot with them
  - (2) The gubernatorial candidate with the second most votes runs with the Lt. Governor candidate that was not already selected

**Section 25** amends AS 15.25.105(a) to conform to Section 21.

**Section 26** amends AS 15.25.105(b) to allow write-in candidates for Governor and Lt. Governor to have different political group or party affiliations.

**Section 27** amends AS 15.40.140 to provide that in the event of vacancy of United States senator or United States representative, a special primary election shall be held within 60-90 days of the vacancy and a subsequent special election on the first Tuesday, 60 days after the special primary election.

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AS 15.40.450 - requirements of petition by political party  
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AS 15.56.030(a) (4) - criminalization of knowingly allowing an individual to vote on a primary they are unqualified for  
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**Section 56** amends the uncodified law of the State of Alaska, by adding transitional language.

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907-465-4419 (fax)

## REPRESENTATIVE GABRIELLE LEDOUX

Rep.Gabrielle.LeDoux@akleg.gov

### Explanation of Changes – House Bill 200

#### Version O to CS Version U

#### *Nonpartisan Open Primary Elections*

#### **Party Affiliation on the Ballot**

**Section 9** amends AS 15.15.030(5) to clarify that a candidate has a choice of having listed on a ballot either their party affiliation or they can be listed as nonpartisan or undeclared.

#### **Disclaimer for US Presidential Candidates**

Section 10 amends AS 15.15.030 to clarify that some candidates for US President and Vice Presidents are party nominees. Alaska's election division does allow independent candidates for US President and Vice President to be on the ballot.

#### **Criminalization of Ballot Marking**

Section 12 amends AS 15.20.081(a) to reinstate the prohibition on pre-marked party affiliation for absentee ballot applications. Under current Alaska law, it is illegal for anyone providing absentee ballot to pre-mark party affiliation on the applications.

#### **Effective Date**

**Section 57** was added in Version U to make HB 200 effective January 1, 2020. Version O did not have an effective date.

# ALASKA STATE LEGISLATURE

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## REPRESENTATIVE GABRIELLE LEDOUX

Rep.Gabrielle.LeDoux@akleg.gov

### House Bill 200

### Bill Highlights

#### *Nonpartisan Open Primary Elections*

- Section 8** Establishes a top two nonpartisan open primary that allows any voter regardless of party affiliation, to vote for any candidate, regardless of party affiliation.
- Section 21** The primary election does not serve to determine the political party nominee, but rather serves as a winnowing process. Note, however, that nothing in this bill prohibits political parties from establishing an alternative nominating process (i.e. conventions, preferential poll, etc.).
- Section 9** Candidates may list either their party of affiliation or may opt to be listed as nonpartisan or undeclared. However, note that this does not give a candidate the option to list their party affiliation as a different political group or party than the one they are currently registered as. For example, under HB 200 a Republican could not be listed as Democrat or Green Party candidate on the ballot.
- Section 6** Eliminates the requirement for a nominating petition for nonpartisan or unaffiliated candidates. Under HB 200 no candidate is "nominated" through the primary election.

# LEGISLATIVE RESEARCH REPORT

MARCH 18, 2008



REPORT NUMBER 08.208

## WASHINGTON'S MODIFIED BLANKET PRIMARY ELECTION SYSTEM RULED CONSTITUTIONAL BY U.S. SUPREME COURT

PREPARED FOR REPRESENTATIVE MAX GRUENBERG

BY PATRICIA YOUNG, MANAGER

You previously asked for documents pertinent to the U.S. Supreme Court's consideration of the consolidated cases, *Washington State Grange v. Washington Republican Party* (Docket No. 06-713) and *Washington v. Washington Republican Party* (Docket No. 06-730), both involving the primary election system established in Washington as a result of the passage of Initiative 872 in 2004.

As in Alaska, Washington's blanket primary was changed after a determination that the system was materially similar to that in California—a system that was overturned by the U.S. Supreme Court in *California Democratic Party v. Jones*.<sup>1</sup> Alaska returned to a partially closed primary. Washington voters, on the other hand, implemented by Initiative 872 a modified blanket primary system whereby ballots would identify candidates' party "preference," any voter could vote for any candidate, and the two candidates with the most votes for a given office would advance to the general election, without regard to party affiliation.

Representatives of Washington's Republican, Democratic, and Libertarian parties challenged this modified blanket primary, claiming that the law, on its face, violated a party's associational rights. The district court permanently enjoined implementation, and the Ninth Circuit affirmed that decision, invalidating the system in its entirety. Washington State and the Washington State Grange (originator of Initiative 872) both petitioned for review, and the Supreme Court heard oral arguments on October 1, 2007, the first day of the current term.

The Court issued its decision on these cases today, March 18, 2008, holding that the system is facially constitutional, that it does not severely burden associational rights and, therefore, does not require the strict scrutiny showing of a compelling state interest. As such, the Court reversed the Ninth Circuit's decision in 460 F.3d 1108.

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We include a copy of the Court's decision and hope you find this information to be useful. Please let us know if you have questions or need additional information.

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<sup>1</sup> *California Democratic Party v. Jones*, 530 U.S.567 (2000). California used a closed, partisan primary until 1996 when Proposition 198 changed the system to a blanket primary, despite party rules prohibiting persons who were not members of the party from voting in the party's primary. Lower courts affirmed the constitutionality of the change, but on appeal, the U.S. Supreme Court's split decision held that the resulting burden on the party's associational right was unjustified.

WASHINGTON STATE GRANGE, PETITIONER 06-730 v. WASHINGTON  
STATE REPUBLICAN PARTY, ET AL. WASHINGTON, ET AL., PETITIONERS  
06-730 v. WASHINGTON STATE REPUBLICAN PARTY, ET AL.

Nos. 06-713 and 06-730

SUPREME COURT OF THE UNITED STATES

2008 U.S. LEXIS 2707

October 1, 2007, Argued  
March 18, 2008, Decided

\* Together with No. 06-730, Washington et al. v. Washington State Republican Party et al., also on certiorari to the same court.

**NOTICE:**

This preliminary LEXIS version is unedited and subject to revision. The LEXIS pagination of this document is subject to change pending release of the final published version.

**PRIOR HISTORY:** [\*1]

ON WRITS OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT.

**DISPOSITION:** 460 F.3d 1108, reversed.

**SYLLABUS**

After the Ninth Circuit invalidated Washington's blanket primary system on the ground that it was nearly identical to the California system struck down in *California Democratic Party v. Jones*, 530 U.S. 567, state voters passed an initiative (I-872), providing that candidates must be identified on the primary ballot by their self-designated party preference; that voters may vote for any candidate; and that the two top votegetters for each office, regardless of party preference, advance to the general election. Respondent political parties claim that the new law, on its face, violates a party's associational rights by usurping its right to nominate its own candidates and by forcing it to associate with candidates it does not endorse. The District Court granted respondents summary judgment, enjoining I-872's implementation. The Ninth Circuit affirmed.

*Held:* I-872 is facially constitutional. Pp. 6-16.

(a) Facial challenges, which require a showing that a law is unconstitutional in all of its applications, are disfavored: They often rest on speculation; they run contrary to the fundamental [\*2] principle of judicial re-

straint that courts should neither "anticipate a question of constitutional law in advance of the necessity of deciding it" nor "formulate a rule of constitutional law broader than is required by the precise facts to which it is to be applied," *Ashwander v. TVA*, 297 U.S. 288, 483; and they threaten to shortcircuit the democratic process by preventing laws embodying the will of the people from being implemented consistent with the Constitution. Pp. 6-8.

(b) If I-872 severely burdens associational rights, it is subject to strict scrutiny and will be upheld only if it is "narrowly tailored to serve a compelling state interest," *Clingman v. Beaver*, 544 U.S. 581, 586. Contrary to petitioners' argument, this Court's presumption in *Jones*--that a nonpartisan blanket primary where the top two votegetters proceed to the general election regardless of party would be a less restrictive alternative to California's system because it would not nominate candidates -- is not dispositive here. There, the Court had no occasion to determine whether a primary system that indicates each candidate's party preference on the ballot, in effect, chooses the parties' nominees. Respondents' [\*3] arguments that I-872 imposes a severe burden are flawed. They claim that the law is unconstitutional under *Jones* because it allows primary voters unaffiliated with a party to choose the party's nominee, thus violating the party's right to choose its own standard bearer. Unlike California's primary, however, the I-872 primary does not, by its terms, choose the parties' nominees. The choice of a party representative does not occur under I-872. The two top primary candidates proceed to the general election regardless of their party preferences. Whether the parties nominate their own candidate outside the state-run primary is irrelevant. Respondents counter that voters will assume that candidates on the general election ballot are their preferred nominees; and that even if voters do not make that assumption, they will at least assume that the

parties associate with, and approve of, the nominees. However, those claims depend not on any facial requirement of I-872, but on the possibility that voters will be confused as to the meaning of the party-preference designation. This is sheer speculation. Even if voters could possibly misinterpret the designations, I-872 cannot be struck down in [\*4] a facial challenge based on the mere possibility of voter confusion. The State could implement I-872 in a variety of ways, e.g., through ballot design, that would eliminate any real threat of confusion. And without the specter of widespread voter confusion, respondents' forced association and compelled speech arguments fall flat. Pp. 8-15.

(c) Because I-872 does not severely burden respondents, the State need not assert a compelling interest. Its interest in providing voters with relevant information about the candidates on the ballot is easily sufficient to sustain the provision. P. 15.

460 F.3d 1108, reversed.

**JUDGES:** THOMAS, J., delivered the opinion of the Court, in which ROBERTS, C. J., and STEVENS, SOUTER, GINSBURG, BREYER, and ALITO, JJ., joined. ROBERTS, C. J., filed a concurring opinion, in which ALITO, J., joined. SCALIA, J., filed a dissenting opinion, in which KENNEDY, J., joined.

#### OPINION BY: THOMAS

#### OPINION

*JUSTICE THOMAS* delivered the opinion of the Court.

In 2004, voters in the State of Washington passed an initiative changing the State's primary election system. The People's Choice Initiative of 2004, or Initiative 872 (I-872), provides that candidates for office shall be identified on the ballot by [\*5] their self-designated "party preference"; that voters may vote for any candidate; and that the top two votegetters for each office, regardless of party preference, advance to the general election. The Court of Appeals for the Ninth Circuit held I-872 facially invalid as imposing an unconstitutional burden on state political parties' First Amendment rights. Because I-872 does not on its face impose a severe burden on political parties' associational rights, and because respondents' arguments to the contrary rest on factual assumptions about voter confusion that can be evaluated only in the context of an as-applied challenge, we reverse.

1

For most of the past century, Washington voters selected nominees for state and local offices using a blanket primary. <sup>1</sup> From 1935 until 2003, the State used a

blanket primary that placed candidates from all parties on one ballot and allowed voters to select a candidate from any party. See 1935 Wash. Laws, ch. §§ 1-5, pp. 60-64. Under this system, the candidate who won a plurality of votes within each major party became that party's nominee in the general election. See 2003 Wash. Laws, § 919, p. 775.

1 The term "blanket primary" refers to a system in which [\*6] "any person, regardless of party affiliation, may vote for a party's nominee." *California Democratic Party v. Jones*, 530 U.S. 567, 576, n. 6 (2000). A blanket primary is distinct from an "open primary," in which a person may vote for any party's nominees, but must choose among that party's nominees for all offices, *ibid.*, and the more traditional "closed primary" in which "only persons who are members of the political party . . . can vote on its nominee," *id.*, at 570.

California used a nearly identical primary in its own elections until our decision in *California Democratic Party v. Jones*, 530 U.S. 567 (2000). In *Jones*, four political parties challenged California's blanket primary, arguing that it unconstitutionally burdened their associational rights by forcing them to associate with voters who did not share their beliefs. We agreed and struck down the blanket primary as inconsistent with the First Amendment. In so doing, we emphasized the importance of the nomination process as "the crucial juncture at which the appeal to common principles may be translated into concerted action, and hence to political power in the community." *Id.*, at 575 (quoting *Tashjian v. Republican Party of Conn.*, 479 U.S. 208, 216 (1986)). [\*7] We observed that a party's right to exclude is central to its freedom of association, and is never "more important than in the process of selecting its nominee." 530 U.S., at 575. California's blanket primary, we concluded, severely burdened the parties' freedom of association because it forced them to allow nonmembers to participate in selecting the parties' nominees. That the parties retained the right to endorse their preferred candidates did not render the burden any less severe, as "[t]here is simply no substitute for a party's selecting its own candidates." *Id.*, at 581.

Because California's blanket primary severely burdened the parties' associational rights, we subjected it to strict scrutiny, carefully examining each of the state interests offered by California in support of its primary system. We rejected as illegitimate three of the asserted interests: "producing elected officials who better represent the electorate," "expanding candidate debate beyond the scope of partisan concerns," and ensuring "the right to an effective vote" by allowing nonmembers of a party

to vote in the majority party's primary in "safe" districts. *Id.*, at 582-584. We concluded that the remaining [\*8] interests--promoting fairness, affording voters greater choice, increasing voter participation, and protecting privacy--were not compelling on the facts of the case. Even if they were, the partisan California primary was not narrowly tailored to further those interests because a nonpartisan blanket primary, in which the top two votegetters advance to the general election regardless of party affiliation, would accomplish each of those interests without burdening the parties' associational rights. *Id.*, at 585-586. The nonpartisan blanket primary had "all the characteristics of the partisan blanket primary, save the constitutionally crucial one: Primary voters [were] not choosing a party's nominee." *Ibid.*

After our decision in *Jones*, the Court of Appeals for the Ninth Circuit struck down Washington's primary as "materially indistinguishable from the California scheme." *Democratic Party of Washington State v. Reed*, 343 F.3d 1198, 1203 (2003). The Washington State Grange <sup>2</sup> promptly proposed I-872 as a replacement. <sup>3</sup> It passed with nearly 60% of the vote and became effective in December 2004.

2 The Washington State Grange is a fraternal, social, and civic organization chartered by the National [\*9] Grange in 1889. Although originally formed to represent the interests of farmers, the organization has advocated a variety of goals, including women's suffrage, rural electrification, protection of water resources, and universal telephone service. The State Grange also supported the Washington constitutional amendment establishing initiatives and referendums and sponsored the 1934 blanket primary initiative.

3 Respondents make much of the fact that the promoters of I-872 presented it to Washington voters as a way to preserve the primary system in place from 1935 to 2003. But our task is not to judge I-872 based on its promoters' assertions about its similarity, or lack thereof, to the unconstitutional primary; we must evaluate the constitutionality of I-872 on its own terms. Whether the language of I-872 was purposely drafted to survive a *Jones*-type constitutional challenge is irrelevant to whether it has successfully done so.

Under I-872, all elections for "partisan offices" <sup>4</sup> are conducted in two stages: a primary and a general election. To participate in the primary, a candidate must file a "declaration of candidacy" form, on which he declares his "major or minor party preference, [\*10] or independent status." Wash. Rev. Code § 29A.24.030 (Supp. 2005). Each candidate and his party preference (or independent status) is in turn designated on the primary elec-

tion ballot. A political party cannot prevent a candidate who is unaffiliated with, or even repugnant to, the party from designating it as his party of preference. See Wash. Admin. Code § 434-215-015 (2005). In the primary election, voters may select "any candidate listed on the ballot, regardless of the party preference of the candidates or the voter." § 434-262-012.

4 "Partisan office" means a public office for which a candidate may indicate a political party preference on his or her declaration of candidacy and have that preference appear on the primary and general election ballot in conjunction with his or her name." Wash. Rev. Code § 29A.04.110 (Supp. 2005).

The candidates with the highest and second-highest vote totals advance to the general election, regardless of their party preferences. *Ibid.* Thus, the general election may pit two candidates with the same party preference against one another. <sup>5</sup> Each candidate's party preference is listed on the general election ballot, and may not be changed between the primary [\*11] and general elections. See § 434-230-040.

5 This is not a hypothetical outcome. The Court of Appeals observed that, had the 1996 gubernatorial primary been conducted under the I-872 system, two Democratic candidates and no Republican candidate would have advanced from the primary to the general election. See 460 F.3d 1108, 1114, n. 8 (CA9 2006).

Immediately after the State enacted regulations to implement I-872, the Washington State Republican Party filed suit against a number of county auditors challenging the law on its face. The party contended that the new system violates its associational rights by usurping its right to nominate its own candidates and by forcing it to associate with candidates it does not endorse. The Washington State Democratic Central Committee and Libertarian Party of Washington State joined the suit as plaintiffs. The Washington State Grange joined as a defendant, and the State of Washington was substituted for the county auditors as defendant. The United States District Court for the Western District of Washington granted the political parties' motions for summary judgment and enjoined the implementation of I-872. See *Washington State Republican Party v. Logan*, 377 F. Supp. 2d 907, 932 (2005).

The [\*12] Court of Appeals affirmed. 460 F.3d 1108, 1125 (CA9 2006). It held that the I-872 primary severely burdens the political parties' associational rights because the party-preference designation on the ballot creates a risk that primary winners will be perceived as the parties' nominees and produces an "impression of

associatio[n]" between a candidate and his party of preference even when the party does not associate, or wish to be associated, with the candidate. *Id.*, at 1119. The Court of Appeals noted a "constitutionally significant distinction between ballots and other vehicles for political expression," reasoning that the risk of perceived association is particularly acute when ballots include party labels because such labels are typically used to designate candidates' views on issues of public concern. *Id.*, at 1121. And it determined that the State's interests underlying I-872 were not sufficiently compelling to justify the severe burden on the parties' association. Concluding that the provisions of I-872 providing for the party-preference designation on the ballot were not severable, the court struck down I-872 in its entirety.

We granted certiorari, 549 U.S. (2007), to determine [\*13] whether I-872, on its face, violates the political parties' associational rights.

## II

Respondents object to I-872 not in the context of an actual election, but in a facial challenge. Under *United States v. Salerno*, 481 U.S. 739 (1987), a plaintiff can only succeed in a facial challenge by "establish[ing] that no set of circumstances exists under which the Act would be valid," *i.e.*, that the law is unconstitutional in all of its applications. *Id.*, at 745. While some Members of the Court have criticized the *Salerno* formulation, all agree that a facial challenge must fail where the statute has a "plainly legitimate sweep." *Washington v. Glucksberg*, 521 U.S. 702, 739-740, and n. 7 (1997) (STEVENS, J., concurring in judgments). Washington's primary system survives under either standard, as we explain below. <sup>6</sup> In determining whether a law is facially invalid, we must be careful not to go beyond the statute's facial requirements and speculate about "hypothetical" or "imaginary" cases. See *United States v. Raines*, 362 U.S. 17, 22 (1960) ("The delicate power of pronouncing an Act of Congress unconstitutional is not to be exercised with reference to hypothetical cases thus imagined"). The State [\*14] has had no opportunity to implement I-872, and its courts have had no occasion to construe the law in the context of actual disputes arising from the electoral context, or to accord the law a limiting construction to avoid constitutional questions. Cf. *Yazoo & Mississippi Valley R. Co. v. Jackson Vinegar Co.*, 226 U.S. 217, 220 (1912) ("How the state court may apply [a statute] to other cases, whether its general words may be treated as more or less restrained, and how far parts of it may be sustained if others fail are matters upon which we need not speculate now"). Exercising judicial restraint in a facial challenge "frees the Court not only from unnecessary pronouncement on constitutional issues, but also from premature interpretations of statutes in areas where their constitutional application might be cloudy." *Raines, supra*, at 22.

6 Our cases recognize a second type of facial challenge in the First Amendment context under which a law may be overturned as impermissibly overbroad because a "substantial number" of its applications are unconstitutional, "'judged in relation to the statute's plainly legitimate sweep.'" *New York v. Ferber*, 458 U.S. 747, 769-771 (1982) (quoting *Broadrick v. Oklahoma*, 413 U.S. 601, 615 (1973)). [\*15] We generally do not apply the "strong medicine" of overbreadth analysis where the parties fail to describe the instances of arguable overbreadth of the contested law. See *New York State Club Assn., Inc. v. City of New York*, 487 U.S. 1, 14 (1988).

Facial challenges are disfavored for several reasons. Claims of facial invalidity often rest on speculation. As a consequence, they raise the risk of "premature interpretation of statutes on the basis of factually barebones records." *Sabri v. United States*, 541 U.S. 600, 609 (2004) (internal quotation marks and brackets omitted). Facial challenges also run contrary to the fundamental principle of judicial restraint that courts should neither "'anticipate a question of constitutional law in advance of the necessity of deciding it'" nor "'formulate a rule of constitutional law broader than is required by the precise facts to which it is to be applied.'" *Ashwander v. TVA*, 297 U.S. 288, 347 (1936) (Brandeis, J., concurring) (quoting *Liv- erpool, New York & Philadelphia S. S. Co. v. Commissioners of Emigration*, 113 U.S. 33, 39 (1885)). Finally, facial challenges threaten to short circuit the democratic process by preventing laws embodying the will [\*16] of the people from being implemented in a manner consistent with the Constitution. We must keep in mind that "[a] ruling of unconstitutionality frustrates the intent of the elected representatives of the people." *Ayotte v. Planned Parenthood of Northern New Eng.*, 546 U.S. 320, 329 (2006) (quoting *Regan v. Time, Inc.*, 468 U.S. 641, 652 (1984) (plurality opinion)). It is with these principles in view that we turn to the merits of respondents' facial challenge to I-872.

## A

The States possess a "broad power to prescribe the "Times, Places and Manner of holding Elections for Senators and Representatives," Art. I, § 4, cl. 1, which power is matched by state control over the election process for state offices." *Clingman v. Beaver*, 544 U.S. 581, 586 (2005) (quoting *Tashjian*, 479 U.S., at 217); *Timmons v. Twin Cities Area New Party*, 520 U.S. 351, 358 (1997) (same). This power is not absolute, but is "subject to the limitation that [it] may not be exercised in a way that violates . . . specific provisions of the Constitution." *Williams v. Rhodes*, 393 U.S. 23, 29 (1968). In particular, the State has the "responsibility to observe the

limits established by the First Amendment rights of the State's [\*17] citizens," including the freedom of political association. *Eu v. San Francisco County Democratic Central Comm.*, 489 U.S. 214, 222 (1989) (quoting *Tashjian, supra*, at 217).

Election regulations that impose a severe burden on associational rights are subject to strict scrutiny, and we uphold them only if they are "narrowly tailored to serve a compelling state interest." *Clingman, supra*, at 586; see also *Rhodes, supra*, at 31 ("only a compelling state interest in the regulation of a subject within the State's constitutional power to regulate can justify limiting First Amendment freedoms" (quoting *NAACP v. Button*, 371 U.S. 415, 438 (1963))). If a statute imposes only modest burdens, however, then "the State's important regulatory interests are generally sufficient to justify reasonable, nondiscriminatory restrictions" on election procedures. *Anderson v. Celebrezze*, 460 U.S. 780, 788 (1983). "Accordingly, we have repeatedly upheld reasonable, politically neutral regulations that have the effect of channeling expressive activity at the polls." *Burdick v. Takushi*, 504 U.S. 428, 438 (1992).

The parties do not dispute these general principles; rather, they disagree about whether I-872 severely [\*18] burdens respondents' associational rights. That disagreement begins with *Jones*. Petitioners argue that the I-872 primary is indistinguishable from the alternative *Jones* suggested would be constitutional. In *Jones* we noted that a nonpartisan blanket primary, where the top two votegetters proceed to the general election regardless of their party, was a less restrictive alternative to California's system because such a primary does not nominate candidates. 530 U.S., at 585-586 (The nonpartisan blanket primary "has all the characteristics of the partisan blanket primary, save the constitutionally crucial one: Primary voters are not choosing a party's nominee"). Petitioners are correct that we assumed that the nonpartisan primary we described in *Jones* would be constitutional. But that is not dispositive here because we had no occasion in *Jones* to determine whether a primary system that indicates each candidate's party preference on the ballot, in effect, chooses the parties' nominees.

That question is now squarely before us. Respondents argue that I-872 is unconstitutional under *Jones* because it has the same "constitutionally crucial" infirmity that doomed California's blanket primary: it [\*19] allows primary voters who are unaffiliated with a party to choose the party's nominee. Respondents claim that candidates who progress to the general election under I-872 will become the *de facto* nominees of the parties they prefer, thereby violating the parties' right to choose their own standard-bearers, see *Timmons, supra*, at 359, and altering their messages. They rely on our statement in *Jones* reaffirming "the special place the First Amend-

ment reserves for, and the special protection it accords, the process by which a political party 'select[s] a standard bearer who best represents the party's ideologies and preferences.'" *Jones*, 550 U.S., at 575 (quoting *Eu, supra*, at 224).

The flaw in this argument is that, unlike the California primary, the I-872 primary does not, by its terms, choose parties' nominees. The essence of nomination--the choice of a party representative--does not occur under I-872. The law never refers to the candidates as nominees of any party, nor does it treat them as such. To the contrary, the election regulations specifically provide that the primary "does not serve to determine the nominees of a political party but serves to winnow the number of candidates to [\*20] a final list of two for the general election." Wash. Admin. Code § 434-262-012. The top two candidates from the primary election proceed to the general election regardless of their party preferences. Whether parties nominate their own candidates outside the state-run primary is simply irrelevant. In fact, parties may now nominate candidates by whatever mechanism they choose because I-872 repealed Washington's prior regulations governing party nominations.<sup>7</sup>

7 It is true that parties may no longer indicate their nominees on the ballot, but that is unexceptionable: The First Amendment does not give political parties a right to have their nominees designated as such on the ballot. See *Timmons v. Twin Cities Area New Party*, 520 U.S. 351, 362-363 (1997) ("We are unpersuaded, however, by the party's contention that it has a right to use the ballot itself to send a particularized message, to its candidate and to the voters, about the nature of its support for the candidate"). Parties do not gain such a right simply because the State affords candidates the opportunity to indicate their party preference on the ballot. "Ballots serve primarily to elect candidates, not as forums for political [\*21] expression." *Id.*, at 363.

Respondents counter that, even if the I-872 primary does not actually choose parties' nominees, it nevertheless burdens their associational rights because voters will assume that candidates on the general election ballot are the nominees of their preferred parties. This brings us to the heart of respondents' case--and to the fatal flaw in their argument. At bottom, respondents' objection to I-872 is that voters will be confused by candidates' party-preference designations. Respondents' arguments are largely variations on this theme. Thus, they argue that even if voters do not assume that candidates on the general election ballot are the nominees of their parties, they will at least assume that the parties associate with, and approve of, them. This, they say, compels them to asso-

ciate with candidates they do not endorse, alters the messages they wish to convey, and forces them to engage in counterspeech to disassociate themselves from the candidates and their positions on the issues.

We reject each of these contentions for the same reason: They all depend, not on any facial requirement of I-872, but on the possibility that voters will be confused as to the meaning [\*22] of the party-preference designation. But respondents' assertion that voters will misinterpret the party-preference designation is sheer speculation. It "depends upon the belief that voters can be 'misled' by party labels. But '[o]ur cases reflect a greater faith in the ability of individual voters to inform themselves about campaign issues.'" *Tashjian*, 479 U.S., at 220 (quoting *Anderson*, 460 U.S., at 797). There is simply no basis to presume that a well-informed electorate will interpret a candidate's party-preference designation to mean that the candidate is the party's chosen nominee or representative or that the party associates with or approves of the candidate. See *New York State Club Assn., Inc. v. City of New York*, 487 U.S. 1, 13-14 (1988) (rejecting a facial challenge to a law regulating club membership and noting that "[w]e could hardly hold otherwise on the record before us, which contains no specific evidence on the characteristics of any club covered by the [l]aw"). This strikes us as especially true here, given that it was the voters of Washington themselves, rather than their elected representatives, who enacted I-872.

Of course, it is possible that voters will misinterpret [\*23] the candidates' party-preference designations as reflecting endorsement by the parties. But these cases involve a facial challenge, and we cannot strike down I-872 on its face based on the mere possibility of voter confusion. See *Yazoo*, 226 U.S., at 219 ("[T]his court must deal with the case in hand and not with imaginary ones"); *Pullman Co. v. Knott*, 235 U.S. 23, 26 (1914) (A statute "is not to be upset upon hypothetical and unreal possibilities, if it would be good upon the facts as they are"). Because respondents brought their suit as a facial challenge, we have no evidentiary record against which to assess their assertions that voters will be confused. See *Timmons*, 520 U.S., at 375-376 (STEVENS, J., dissenting) (rejecting judgments based on "imaginative theoretical sources of voter confusion" and "entirely hypothetical" outcomes). Indeed, because I-872 has never been implemented, we do not even have ballots indicating how party preference will be displayed. It stands to reason that whether voters will be confused by the party-preference designations will depend in significant part on the form of the ballot. The Court of Appeals assumed that the ballot would not place abbreviations [\*24] like "D" and "R," or "Dem." and "Rep." after the names of candidates, but would instead "clearly state that a particular candidate 'prefers' a particular party." 460 F.3d at

1121, n. 20. It thought that even such a clear statement did too little to eliminate the risk of voter confusion.

But we see no reason to stop there. As long as we are speculating about the form of the ballot -- and we can do no more than speculate in this facial challenge -- we must, in fairness to the voters of the State of Washington who enacted I-872 and in deference to the executive and judicial officials who are charged with implementing it, ask whether the ballot could conceivably be printed in such a way as to eliminate the possibility of widespread voter confusion and with it the perceived threat to the First Amendment. See *Ayotte*, 546 U.S., at 329 (noting that courts should not nullify more of a state law than necessary so as to avoid frustrating the intent of the people and their duly elected representatives); *Ward v. Rock Against Racism*, 491 U.S. 781, 795-796 (1989) ("[I]n evaluating a facial challenge to a state law, a federal court must . . . consider any limiting construction that a state [\*25] court or enforcement agency has proffered." (quoting *Hoffman Estates v. Flipside, Hoffman Estates, Inc.*, 455 U.S. 489, 494, n. 5 (1982))).

It is not difficult to conceive of such a ballot. For example, petitioners propose that the actual I-872 ballot could include prominent disclaimers explaining that party preference reflects only the self-designation of the candidate and not an official endorsement by the party. They also suggest that the ballots might note preference in the form of a candidate statement that emphasizes the candidate's personal determination rather than the party's acceptance of the candidate, such as "my party preference is the Republican Party." Additionally, the State could decide to educate the public about the new primary ballots through advertising or explanatory materials mailed to voters along with their ballots.<sup>8</sup> We are satisfied that there are a variety of ways in which the State could implement I-872 that would eliminate any real threat of voter confusion. And without the specter of widespread voter confusion, respondents' arguments about forced association<sup>9</sup> and compelled speech<sup>10</sup> fall flat.

8 Washington counties have broad authority to conduct elections [\*26] entirely by mail ballot rather than at in-person polling places. See Wash. Rev. Code § 29A.48.010. As a result, over 90% of Washington voters now vote by mail. See Tr. of Oral Arg. 11.

9 Respondents rely on *Hurley v. Irish-American Gay, Lesbian and Bisexual Group of Boston, Inc.*, 515 U.S. 557 (1995) (holding that a State may not require a parade to include a group if the parade's organizer disagrees with the group's message), and *Boy Scouts of America v. Dale*, 530 U.S. 640 (2000) (holding that the Boy Scouts' freedom of

expressive association was violated by a state law requiring the organization to admit a homosexual scoutmaster). In those cases, *actual* association threatened to distort the groups' intended messages. We are aware of no case in which the mere *impression* of association was held to place a severe burden on a group's First Amendment rights, but we need not decide that question here.

10 Relying on *Pacific Gas & Elec. Co. v. Public Util. Comm'n of Cal.*, 475 U.S. 1 (1986) (holding that a state agency may not require a utility company to include a third-party newsletter in its billing envelope), respondents argue that the threat of voter confusion will force them to speak to [\*27] clarify their positions. Because I-872 does not actually force the parties to speak, however, *Pacific Gas & Elec.* is inapposite. I-872 does not require the parties to reproduce another's speech against their will; nor does it co-opt the parties' own conduits for speech. Rather, it simply provides a place on the ballot for candidates to designate their party preferences. Facilitation of speech to which a political party may choose to respond does not amount to forcing the political party to speak. Cf. *Rumsfeld v. Forum for Academic and Institutional Rights, Inc.*, 547 U.S. 47, 64-65 (2006).

Our conclusion that these implementations of I-872 would be consistent with the First Amendment is fatal to respondents' facial challenge. See *Schall v. Martin*, 467 U.S. 253, 264 (1984) (a facial challenge fails where "at least some" constitutional applications exist). Each of their arguments rests on factual assumptions about voter confusion, and each fails for the same reason: In the absence of evidence, we cannot assume that Washington's voters will be misled. See *Jones*, 530 U.S., at 600 (STEVENS, J., dissenting) ("[A]n empirically debatable assumption . . . is too thin a reed to support a credible [\*28] First Amendment distinction" between permissible and impermissible burdens on association). That factual determination must await an as-applied challenge. On its face, I-872 does not impose any severe burden on respondents' associational rights.

#### B

Because we have concluded that I-872 does not severely burden respondents, the State need not assert a compelling interest. See *Clingman*, 544 U.S., at 593 ("When a state electoral provision places no heavy burden on associational rights, 'a State's important regulatory interests will usually be enough to justify reasonable, nondiscriminatory restrictions'" (quoting *Timmons*, 520 U.S., at 358)). The State's asserted interest in providing voters with relevant information about the candidates on the ballot is easily sufficient to sustain I-872. See

*Anderson*, 460 U.S., at 796 ("There can be no question about the legitimacy of the State's interest in fostering informed and educated expressions of the popular will in a general election").<sup>11</sup>

11 Respondent Libertarian Party of Washington argues that I-872 is unconstitutional because of its implications for ballot access, trademark protection of party names, and campaign finance. We do not consider the [\*29] ballot access and trademark arguments as they were not addressed below and are not encompassed by the question on which we granted certiorari: "Does Washington's primary election system . . . violate the associational rights of political parties because candidates are permitted to identify their political party preference on the ballot?" Pet. for cert. in No. 06-730, p. i. The campaign finance issue also was not addressed below and is more suitable for consideration on remand.

#### III

Respondents ask this Court to invalidate a popularly enacted election process that has never been carried out. Immediately after implementing regulations were enacted, respondents obtained a permanent injunction against the enforcement of I-872. The First Amendment does not require this extraordinary and precipitous nullification of the will of the people. Because I-872 does not on its face provide for the nomination of candidates or compel political parties to associate with or endorse candidates, and because there is no basis in this facial challenge for presuming that candidates' party-preference designations will confuse voters, I-872 does not on its face severely burden respondents' associational rights. [\*30] We accordingly hold that I-872 is facially constitutional. The judgment of the Court of Appeals is reversed.

*It is so ordered.*

**CONCUR BY: ROBERTS**

**CONCUR**

CHIEF JUSTICE ROBERTS, with whom JUSTICE ALITO joins, concurring.

I share JUSTICE SCALIA's concern that permitting a candidate to identify his political party preference on an official election ballot--regardless of whether the candidate is endorsed by the party or is even a member--may effectively force parties to accept candidates they do not want, amounting to forced association in violation of the First Amendment.

I do think, however, that whether voters *perceive* the candidate and the party to be associated is relevant to the

constitutional inquiry. Our other forced-association cases indicate as much. In *Boy Scouts of America v. Dale*, 530 U.S. 640, 653 (2000), we said that Dale's presence in the Boy Scouts would "force the organization to send a message . . . [to] the world" that the Scouts approved of homosexuality. In other words, accepting Dale would lead outsiders to believe the Scouts endorsed homosexual conduct. Largely for that reason, we held that the First Amendment entitled the Scouts to exclude Dale. *Id.*, at 659. Similarly, in *Hurley v. Irish-American Gay, Lesbian and Bisexual Group of Boston, Inc.*, 515 U.S. 557 (1995), [\*31] we allowed the organizers of Boston's St. Patrick's Day Parade to exclude a pro-gay rights float because the float's presence in the parade might create the impression that the organizers agreed with the float-sponsors' message. See *id.*, at 575-577.

Voter perceptions matter, and if voters do not actually believe the parties and the candidates are tied together, it is hard to see how the parties' associational rights are adversely implicated. See *Rumsfeld v. Forum for Academic and Institutional Rights, Inc.*, 547 U.S. 47, 65 (2006) (rejecting law schools' First Amendment objection to military recruiters on campus because no reasonable person would believe the "law schools agree[d] with any speech by recruiters"). After all, individuals frequently claim to favor this or that political party; these preferences, without more, do not create an unconstitutional forced association.

What makes these cases different, as JUSTICE SCALIA explains, is the place where the candidates express their party preferences: on the ballot. See *post*, at 4 (dissenting opinion) (noting "the special role that a state-printed ballot plays in elections"). And what makes the ballot "special" is precisely the effect [\*32] it has on voter impressions. See *Cook v. Gralike*, 531 U.S. 510, 532 (2001) (Rehnquist, C. J., concurring in judgment) ("[T]he ballot . . . is the last thing the voter sees before he makes his choice"); *Anderson v. Martin*, 375 U.S. 399, 402 (1964) ("[D]irecting the citizen's attention to the single consideration of race . . . may decisively influence the citizen to cast his ballot along racial lines").

But because respondents brought this challenge before the State of Washington had printed ballots for use under the new primary regime, we have no idea what those ballots will look like. Petitioners themselves emphasize that the content of the ballots in the pertinent respect is yet to be determined. See Reply Brief for Washington State Grange 2-4, 7-13.

If the ballot is designed in such a manner that no reasonable voter would believe that the candidates listed there are nominees or members of, or otherwise associated with, the parties the candidates claimed to "prefer," the I-872 primary system would likely pass constitutional

muster. I cannot say on the present record that it would be impossible for the State to design such a ballot. Assuming the ballot is so designed, voters would not [\*33] regard the listed candidates as "party" candidates, any more than someone saying "I like Campbell's soup" would be understood to be associated with Campbell's. Voters would understand that the candidate does not speak on the party's behalf or with the party's approval. On the other hand, if the ballot merely lists the candidates' preferred parties next to the candidates' names, or otherwise fails clearly to convey that the parties and the candidates are not necessarily associated, the I-872 system would not survive a First Amendment challenge.

JUSTICE SCALIA complains that "[i]t is hard to know how to respond" to such mistaken views, *post*, at 6 (dissenting opinion), but he soldiers on nonetheless. He would hold that a party is burdened by a candidate's statement of preference even if no reasonable voter believes from the ballot that the party and the candidate are associated. I take his point to be that a particular candidate's "endorsement" of a party might alter the party's message, and this violates the party's freedom of association. See *post*, at 7 (dissenting opinion).

But there is no general right to stop an individual from saying, "I prefer this party," even if the party would [\*34] rather he not. Normally, the party protects its message in such a case through responsive speech of its own. What makes this case different of course is that the State controls the content of the ballot, which we have never considered a public forum. See *Timmons v. Twin Cities Area New Party*, 520 U.S. 351, 363 (1997) (ballots are not "forums for political expression"). Neither the candidate nor the party dictates the message conveyed by the ballot. In such a case, it is important to know what the ballot actually says--both about the candidate and about the party's association with the candidate. It is possible that no reasonable voter in Washington State will regard the listed candidates as members of, or otherwise associated with, the political parties the candidates claim to prefer. Nothing in my analysis requires the parties to produce studies regarding voter perceptions on this score, but I would wait to see what the ballot says before deciding whether it is unconstitutional.

Still, I agree with JUSTICE SCALIA that the history of the challenged law suggests the State is not particularly interested in devising ballots that meet these constitutional requirements. See *post*, at 7-8 [\*35] (dissenting opinion). But this record simply does not allow us to say with certainty that the election system created by I-872 is unconstitutional. Accordingly, I agree with the Court that respondents' present challenge to the law must fail, and I join the Court's opinion.

**DISSENT BY: SCALIA**

## DISSENT

JUSTICE SCALIA, with whom JUSTICE KENNEDY joins, dissenting.

The electorate's perception of a political party's beliefs is colored by its perception of those who support the party; and a party's defining act is the selection of a candidate and advocacy of that candidate's election by conferring upon him the party's endorsement. When the state-printed ballot for the general election causes a party to be associated with candidates who may not fully (if at all) represent its views, it undermines both these vital aspects of political association. The views of the self-identified party supporter color perception of the party's message, and that self-identification on the ballot, with no space for party repudiation or party identification of its own candidate, impairs the party's advocacy of its standard bearer. Because Washington has not demonstrated that this severe burden upon parties' associational rights is narrowly [\*36] tailored to serve a compelling interest--indeed, because it seems to me Washington's only plausible interest is precisely to reduce the effectiveness of political parties--I would find the law unconstitutional.

I

I begin with the principles on which the Court and I agree. States may not use election regulations to undercut political parties' freedoms of speech or association. See *U.S. Term Limits, Inc. v. Thornton*, 514 U.S. 779, 833-834 (1995). Thus, when a State regulates political parties as a part of its election process, we consider "the character and magnitude" of the burden imposed on the party's associational rights and "the extent to which the State's concerns make the burden necessary." *Timmons v. Twin Cities Area New Party*, 520 U.S. 351, 358 (1997). Regulations imposing severe burdens must be narrowly tailored to advance a compelling state interest. *id.*

Among the First Amendment rights that political parties possess is the right to associate with the persons whom they choose and to refrain from associating with persons whom they reject. *Democratic Party of United States v. Wisconsin ex rel. La Follette*, 450 U.S. 107, 122 (1981). Also included is the freedom to choose and promote [\*37] the "standard bearer who best represents the party's ideologies and preferences." *Eu v. San Francisco County Democratic Central Comm.*, 489 U.S. 214, 224 (1989).

When an expressive organization is compelled to associate with a person whose views the group does not accept, the organization's message is undermined; the organization is understood to embrace, or at the very least tolerate, the views of the persons linked with them.

We therefore held, for example, that a State severely burdened the right of expressive association when it required the Boy Scouts to accept an openly gay scoutmaster. The scoutmaster's presence "would, at the very least, force the organization to send a message, both to the youth members and the world, that the Boy Scouts accepts homosexual conduct as a legitimate form of behavior." *Boy Scouts of America v. Dale*, 530 U.S. 640, 653 (2000).

A political party's expressive mission is not simply, or even primarily, to persuade voters of the party's views. Parties seek principally to promote the election of candidates who will implement those views. See, e.g., *Tashjian v. Republican Party of Conn.*, 479 U.S. 208, 216 (1986); *Storer v. Brown*, 415 U.S. 724, 745 (1974); [\*38] M. Hershey & P. Beck, *Party Politics in America* 13 (10th ed. 2003). That is achieved in large part by marking candidates with the party's seal of approval. Parties devote substantial resources to making their names trusted symbols of certain approaches to governance. See, e.g., App. 239 (Declaration of Democratic Committee Chair Paul J. Berendt); J. Aldrich, *Why Parties?* 48-49 (1995). They then encourage voters to cast their votes for the candidates that carry the party name. Parties' efforts to support candidates by marking them with the party trademark, so to speak, have been successful enough to make the party name, in the words of one commentator, "the most important resource that the party possesses." Cain, *Party Autonomy and Two-Party Electoral Competition*, 149 U. Pa. L. Rev. 793, 804 (2001). And all evidence suggests party labels are indeed a central consideration for most voters. See, e.g., *id.*, at 804, n. 34; Rahn, *The Role of Partisan Stereotypes in Information Processing About Political Candidates*, 37 Am. J. Pol. Sci. 472 (1993); Klein & Baum, *Ballot Information and Voting Decisions in Judicial Elections*, 54 Pol. Research Q. 709 (2001).

II

A

The State of Washington need not [\*39] like, and need not favor, political parties. It is entirely free to decline running primaries for the selection of party nominees and to hold nonpartisan general elections in which party labels have no place on the ballot. See *California Democratic Party v. Jones*, 530 U.S. 567, 585-586 (2000). Parties would then be left to their own devices in both selecting and publicizing their candidates. But Washington has done more than merely decline to make its electoral machinery available for party building. Recognizing that parties draw support for their candidates by giving them the party imprimatur, Washington seeks to reduce the effectiveness of that endorsement by allowing any candidate to use the ballot for drawing upon the

goodwill that a party has developed, while preventing the party from using the ballot to reject the claimed association or to identify the genuine candidate of its choice. This does not merely place the ballot off limits for party building; it makes the ballot an instrument by which party building is impeded, permitting un rebutted associations that the party itself does not approve.

These cases cannot be decided without taking account of the special role that a state-printed [\*40] ballot plays in elections. The ballot comes into play "at the most crucial stage in the electoral process--the instant before the vote is cast." *Anderson v. Martin*, 375 U.S. 399, 402 (1964). It is the only document that all voters are guaranteed to see, and it is "the last thing the voter sees before he makes his choice," *Cook v. Gralike*, 531 U.S. 510, 532 (2001) (Rehnquist, C. J., concurring in judgment). Thus, we have held that a State cannot elevate a particular issue to prominence by making it the only issue for which the ballot sets forth the candidates' positions. *Id.*, at 525-526 (opinion of the Court). And we held unconstitutional California's election system, which listed as the party's candidate on the general election ballot the candidate selected in a state-run "blanket primary" in which all citizens could determine who would be the party's nominee. *Jones*, 530 U.S., at 586. It was not enough to sustain the law that the party remained free to select its preferred candidate through another process, and could denounce or campaign against the candidate carrying the party's name on the general election ballot. Forced association with the party on the general election ballot was [\*41] fatal. *Id.*, at 575-577.

The Court makes much of the fact that the party names shown on the Washington ballot may be billed as mere statements of candidate "preference." See *ante*, at 11-14. To be sure, the party is not itself forced to display favor for someone it does not wish to associate with, as the Boy Scouts were arguably forced to do by employing the homosexual scoutmaster in *Dale*, and as the political parties were arguably forced to do by lending their ballot-endorsement as party nominee in *Jones*. But thrusting an unwelcome, self-proclaimed association upon the party on the election ballot itself is amply destructive of the party's associational rights. An individual's endorsement of a party shapes the voter's view of what the party stands for, no less than the party's endorsement of an individual shapes the voter's view of what the individual stands for. That is why party nominees are often asked (and regularly agree) to repudiate the support of persons regarded as racial extremists. On Washington's ballot, such repudiation is impossible. And because the ballot is the only document voters are guaranteed to see, and the last thing they see before casting their vote, there is "no [\*42] means of replying" that "would be equally effec-

tive with the voter." *Cook, supra*, at 532 (Rehnquist, C. J., concurring in judgment).

Not only is the party's message distorted, but its goodwill is hijacked. There can be no dispute that candidate acquisition of party labels on Washington's ballot--even if billed as self-identification--is a means of garnering the support of those who trust and agree with the party. The "I prefer the D's" and "I prefer the R's" will not be on the ballot for esthetic reasons; they are designed to link candidates to unwilling parties (or at least parties who are unable to express their revulsion) and to encourage voters to cast their ballots based in part on the trust they place in the party's name and the party's philosophy. These harms will be present no matter how Washington's law is implemented. There is therefore "no set of circumstances" under which Washington's law would not severely burden political parties, see *United States v. Salerno*, 481 U.S. 739, 745 (1987), and no good reason to wait until Washington has undermined its political parties to declare that it is forbidden to do so.

#### B

THE CHIEF JUSTICE would wait to see if the law is implemented in [\*43] a manner that no more harms political parties than allowing a person to state that he "like[s] Campbell's soup" would harm the Campbell Soup Company. See *ante*, at 3 (concurring opinion). It is hard to know how to respond. First and most fundamentally, there is simply no comparison between statements of "preference" for an expressive association and statements of "preference" for soup. The robust First Amendment freedom to associate belongs only to groups "engage[d] in 'expressive association,'" *Dale*, 530 U.S., at 648. The Campbell Soup Company does not exist to promote a message, and "there is only minimal constitutional protection of the freedom of *commercial* association," *Roberts v. United States Jaycees*, 468 U.S. 609, 634 (1984) (O'Connor, J., concurring in part and concurring in judgment).

Second, I assuredly do not share THE CHIEF JUSTICE's view that the First Amendment will be satisfied so long as the ballot "is designed in such a manner that no reasonable voter would believe that the candidates listed there are nominees or members of, or otherwise associated with, the parties the candidates claimed to 'prefer.'" *Ante*, at 3. To begin with, it seems to me quite impossible for [\*44] the ballot to satisfy a reasonable voter that the candidate is not "associated with" the party for which he has expressed a preference. He has associated *himself* with the party by his very expression of a preference--and that indeed is the whole purpose of allowing the preference to be expressed. If all THE CHIEF JUSTICE means by "associated with" is that the candidate "does not speak on the party's behalf or with the

party's approval," *ibid.*, none of my analysis in this opinion relies upon that misperception, nor upon the misperception that the candidate is a member or the nominee of the party. Avoiding those misperceptions is far from enough. Is it enough to say on the ballot that a notorious and despised racist who says that the party is his choice does not speak with the party's approval? Surely not. His unrebutted association of that party with his views distorts the image of the party nonetheless. And the fact that the candidate who expresses a "preference" for one or another party is shown not to be the nominee of that party does not deprive him of the boost from the party's reputation which the party wishes to confer only on its nominee. THE CHIEF JUSTICE claims that "the content [\*45] of the ballots in the pertinent respect is yet to be determined," *ibid.* I disagree. We know all we need to know about the form of ballot. When pressed, Washington's Attorney General assured us at oral argument that the ballot will *not* say whether the party for whom the candidate expresses a preference claims or disavows him. (Of course it will not, for that would enable the party expression that it is the very object of this legislation to impair.)

And finally, while THE CHIEF JUSTICE earlier expresses his awareness that the special character of the ballot is what makes these cases different, *ante*, at 2, his Campbell's Soup example seems to forget that. If we must speak in terms of soup, Washington's law is like a law that encourages Oscar the Grouch (Sesame Street's famed bad-taste resident of a garbage can) to state a "preference" for Campbell's at every point of sale, while barring the soup company from disavowing his endorsement, or indeed using its name at all, in those same crucial locations. Reserving the most critical communications forum for statements of "preference" by a potentially distasteful speaker alters public perceptions of the entity that is "preferred"; and when [\*46] this privileged connection undermines not a company's ability to identify and promote soup but an expressive association's ability to identify and promote its message and its standard bearer, the State treads on the constitutionally protected freedom of association.

The majority opinion and THE CHIEF JUSTICE's concurrence also endorse a wait-and-see approach on the grounds that it is not yet evident how the law will affect voter perception of the political parties. But contrary to the Court's suggestion, it is not incumbent on the political parties to adduce "evidence," *ante*, at 15, that forced association affects their ability to advocate for their candidates and their causes. We have never put expressive groups to this perhaps-impossible task. Rather, we accept their own assessments of the matter. The very cases on which THE CHIEF JUSTICE relies for a wait-and-see approach, *ante*, at 1-2, establish as much. In *Dale*, for

example, we did not require the Boy Scouts to prove that forced acceptance of the openly homosexual scoutmaster would distort their message. See 530 U.S., at 653 (citing *La Follette*, 450 U.S., at 123-124). Nor in *Hurley v. Irish-American Gay, Lesbian and Bisexual Group of Boston, Inc.*, 515 U.S. 557 (1995), [\*47] did we require the organizers of the St. Patrick's Day Parade to demonstrate that including a gay contingent in the parade would distort their message. See *id.*, at 577. Nor in *Jones*, 530 U.S. 567, did we require the political parties to demonstrate either that voters would incorrectly perceive the "nominee" labels on the ballot to be the products of party elections or that the labels would change voter perceptions of the party. It does not take a study to establish that when statements of party connection are the sole information listed next to candidate names on the ballot, those statements will affect voters' perceptions of what the candidate stands for, what the party stands for, and whom they should elect.

### III

Since I conclude that Washington's law imposes a severe burden on political parties' associational rights, I would uphold the law only if it were "narrowly tailored" to advance "a compelling state interest." *Timmons*, 520 U.S., at 358. Neither the Court's opinion nor the State's submission claims that Washington's law passes such scrutiny. The State argues only that it "has a rational basis" for "providing voters with a modicum of relevant information about the candidates," [\*48] Brief for Petitioners in No. 06-730, pp. 48-49. This is the only interest the Court's opinion identifies as well. *Ante*, at 15.

But "rational basis" is the *least* demanding of our tests; it is the same test that allows individuals to be taxed at different rates because they are in different businesses. See *Allied Stores of Ohio, Inc. v. Bowers*, 358 U.S. 522, 526-527 (1959). It falls far, far short of establishing the compelling state interest that the First Amendment requires. And to tell the truth, here even the existence of a rational basis is questionable. Allowing candidates to identify themselves with particular parties on the ballot displays the State's view that adherence to party philosophy is "an important--perhaps paramount--consideration in the citizen's choice." *Anderson*, 375 U.S., at 402. If that is so, however, it seems to me irrational not to allow the party to disclaim that self-association, or to identify its own endorsed candidate.

It is no mystery what is going on here. There is no state interest behind this law except the Washington Legislature's dislike for bright-colors partisanship, and its desire to blunt the ability of political parties with noncentrist views to [\*49] endorse and advocate their own candidates. That was the purpose of the Washington system that this enactment was adopted to replace--a system

indistinguishable from the one we invalidated in *Jones*, which required parties to allow nonmembers to join in the selection of the candidates shown as their nominees on the election ballot. (The system was held unconstitutional in *Democratic Party of Washington State v. Reed*, 343 F.3d 1198 (CA9 2003).) And it is the obvious purpose of Washington legislation enacted after this law, which requires political parties to repeat a candidate's self-declared party "preference" in electioneering communications concerning the candidate--even if the purpose of the communication is to criticize the candidate and to disavow any connection between him and the party. Wash. Rev. Code § 42.17.510(1) (2006); see also Wash. Admin. Code § 390-18-020 (2007).

Even if I were to assume, however, that Washington has a legitimate interest in telling voters on the ballot (above all other things) that a candidate *says* he favors a particular political party; and even if I were further to assume (*per impossibile*) that that interest was a compelling one; Washington would still [\*50] have to "narrowly tailor" its law to protect that interest with minimal intrusion upon the parties' associational rights. There has been no attempt to do that here. Washington could, for

example, have permitted parties to disclaim on the general-election ballot the asserted association or to designate on the ballot their true nominees. The course the State has chosen makes sense only as an effort to use its monopoly power over the ballot to undermine the expressive activities of the political parties.

\* \* \*

The right to associate for the election of candidates is fundamental to the operation of our political system, and state action impairing that association bears a heavy burden of justification. Washington's electoral system permits individuals to appropriate the parties' trademarks, so to speak, at the most crucial stage of election, thereby distorting the parties' messages and impairing their endorsement of candidates. The State's justification for this (to convey a "modicum of relevant information") is not only weak but undeserving of credence. We have here a system which, like the one it replaced, does not merely refuse to assist, but positively impairs, the legitimate role of [\*51] political parties. I dissent from the Court's conclusion that the Constitution permits this sabotage.

## Top 2 Primary: FAQs for Candidates

### What is a Top 2 Primary?

The Washington Top 2 Primary allows voters to choose among all candidates running for each office. Voters do not have to declare a party affiliation to vote in the primary.

Candidates for partisan office may state a preference for a political party, which is listed on the ballot. The two candidates who receive the most votes in the Primary Election qualify for the General Election. Candidates must also receive at least 1% of the votes cast in that race to advance to the General Election.

### What does the candidate's "party preference" mean in a Top 2 Primary?

Each candidate for partisan office may state a political party that he or she prefers. A candidate's preference does not imply that the candidate is nominated or endorsed by the party, or that the party approves of or associates with that candidate.

### How did the Top 2 Primary become law?

The Top 2 Primary was passed by the people in 2004 as an initiative. I-872 passed by almost 60%. This system was upheld by the U.S. Supreme Court in March 2008 and used for the first time in the 2008 primary. It has been in effect for all partisan elections since 2008.

### Could a race in the General Election include two candidates who prefer the same party?

Yes. The candidates in each race who advance to the General Election will be the two who receive the most votes in the Primary. It is possible that both candidates who advance to the General Election prefer the same party.

### Can a voter still write in a candidate?

Yes. Each race on the ballot will still have a write in line for a voter to write in the name of a candidate.

### What offices are affected?

The Top 2 Primary applies to elections for partisan office. This includes the U.S. Senate and House of Representatives, the State Legislature, partisan statewide offices such as Governor, and partisan county offices such as County Commissioner or County Treasurer.

The Top 2 Primary does not apply to elections for:

- President and Vice President;
- Nonpartisan offices, such as judicial office, municipal office, or a district such as fire district or school board. Nonpartisan offices have a similar primary system that winnows the number of candidates to two. Those candidates advance to the general election.
- Precinct Committee Officers (PCOs);

### Can the political parties prevent a candidate from expressing a preference for their party?

No. Candidates are permitted to express a preference for any political party. The candidate is only representing himself or herself, not a political party, when he or she appears on the ballot.

### Can political parties still nominate candidates?

Yes. State law no longer dictates how political parties conduct their nominations. Now, the state and local parties decide how to conduct their nominations. The rules for party-run nominations vary party to party, and even between the state and local parties. Political parties can nominate multiple candidates for the same race. The Supreme Court stated:

"Whether parties nominate their own candidates outside the state-run primary is simply irrelevant. In fact, parties may now nominate candidates by whatever mechanism they choose because I-872 repealed Washington's prior regulations governing party nominations."

### Can the political parties demand that their nominees be distinguished on the ballot?

No. The law does not allow nominations or endorsements by interest groups, political action committees, political parties, labor unions, editorial boards, or other private organizations to be printed on the ballot.

The Supreme Court ruled the political parties do not have a constitutional right to have their nominees distinguished on the ballot.<

Candidates can promote themselves in voters' pamphlets, advertisements, and other forums as the nominees of a political party.

**Once candidate filing week is over, can a major party fill vacancies on the major party ticket?**

No. This process was specifically repealed in I-872 because there is no major party ticket in a Top 2 Primary. All candidates are treated the same.

A race will only be reopened for a special filing period if there is a void in candidacy meaning no candidate filed during the regular filing period.

**In races where only one or two candidates filed, will that race skip the Primary and only appear on the General Election ballot?**

No. Even in races where only one or two candidates filed for a partisan office, that race will still appear in the Primary Election.

**If a candidate for partisan office who was one of the top two vote-getters in the Primary dies or is disqualified before the General Election, will the party be allowed to name a replacement?**

No. In a Top 2 Primary, a candidate's party preference is purely for informational purposes and does not play any role in the administration of the election. Because the candidates are not representatives or nominees of a political party, a party is not allowed to name a replacement candidate. The laws that previously allowed the political parties to replace deceased or disqualified candidates was repealed in I-872.

**How do candidates place information in the State Voters' Pamphlet?**

Candidates for the following offices may place biographical information, a campaign statement, and a photograph in the State Voters' Pamphlet.

- President
- U.S. Senator
- U.S. Representative
- Governor
- Lt. Governor
- Secretary of State
- State Treasurer
- State Auditor
- Attorney General
- Commissioner of Public Lands
- Superintendent of Public Instruction
- Insurance Commissioner
- State Supreme Court Justice
- Court of Appeals Judge
- Superior Court Judge
- State Senator
- State Representatives

Candidates must submit their material by May 25, 2012. All statements and photographs submitted will be reviewed by the Elections Division of the Office of the Secretary of State to ensure that the information meets Voters' Pamphlet requirements.

**How do county candidates get information into local Voters' Pamphlets?**

Contact your local County Elections Office (<http://www.sos.wa.gov/elections/auditors.aspx>) to inquire about getting your information into a local online or printed Voters' Pamphlet.

**Where can I find more information about the Top 2 Primary?**

The Secretary of State's Office posts information about Initiative 872, the administrative rules to implement Initiative 872, and the court documents in the legal challenge on its website at: <http://www.sos.wa.gov/elections/toptwo.aspx> (<http://www.sos.wa.gov/elections/toptwo.aspx>).

## HB 200 Open Primary Support Letters

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Dear Representative LeDoux,

We have a duty to continue to enhance our democracy. To me, this translates to better access to the polls and more candidates seeking to run for office.

Simply put, the current system of partisan primaries do nothing to advance the quality of our democracy. To the contrary, they inhibit the participation of candidates while also reducing voter turnout.

Partisan primaries are designed to advance the interests of political parties. The polarization this creates does not reflect the views of most of the electorate. In fact, it is the main reason our politics have devolved into gridlock, an “us vs. them” mentality that is destroying our democracy, state and country. As a result, voters become alienated and participation decreases, allowing for more polarization, gridlock and a perpetuating feedback cycle that spirals democracy downwards.

Independent voters represent an ever-increasing portion of the electorate. In Alaska, more than 50% of the electorate is not aligned with a party, yet our primaries are partisan and closed. This non-affiliation trend will accelerate as younger citizens register. In fact, less than half of all millennials choose to affiliate with a party.

We must institute a system that rewards dialogue, coalition-building and problem solving, one that encourages more people to participate both as candidates and as voters. We deserve a democracy that rewards candidates who appeal to the mainstream rather than the fringes.

There is objective proof that open primaries can solve these problems. I support HB200, applaud the leadership of Rep. LeDoux for introducing it and encourage the state legislature to pass it into law.

Thank you,

Matt Rafferty

1826 E 27<sup>th</sup> Avenue

Anchorage, AK 99508

I support HB200.

Alaska does not have a financial problem, nor does it have an oil price problem. Alaska does not even have an oil rate problem. What Alaska has is a governance problem, and this governance problem has allowed all these other concerns to become crisis.

This governance problem is a result of partisan politics which have not only caused legislative gridlock for the past two sessions, but have disallowed the legislature from addressing the greatest threat to Alaska's future, an economy that is nearly entirely reliant on oil, a cyclic and declining resource.

Currently, the major parties have separate party primaries. The candidates that advance in these primaries are encouraged to drive a hard-partisan line as that is the voter base that will place them in the general election. It is clear however, that these candidates do not represent most Alaskans as less than half of the registered voters are affiliated with a party. Consistently falling primary and general election voter turnout, 15% and 50% in the 2016 election respectively, is not the sign of a healthy democracy, and is leading to more and more partisanship in our elected government. This partisanship is clearly taking its toll on the effectiveness of Juneau to make the tough decisions that will set Alaska up for success.

HB200 looks to address this governance problem by disrupting the primary election structure and opening the primaries up to all registered voters in a top two primary. This will force anyone who wishes to advance through the primary election to appeal to the majority of voters, removing the large partisanship divides we currently see in the legislature.

Justin Hickel  
[justin.hickel@gmail.com](mailto:justin.hickel@gmail.com)

Representative LeDoux,

Thank you for sponsoring this bill promoting open primaries. The following is a letter I have written in support of HB 200 and open primaries in general:

I am writing this letter in support of HB 200: Nonpartisan Open Primary Elections. National politics are becoming increasingly divisive; and despite record low approval ratings for congress, the majority of the members of the House and Senate will keep their jobs. As voters we are often faced with two diametrically opposed options, and must choose between the lesser of two evils; which can be particularly vexing to voters in the middle who believe that both parties have something to offer. This is in large part due to a primary system that ensures that the most extreme voices are the loudest and clearest in determining who is selected. These "base" voters along with a few big money interests have overwhelming influence over our political choices.

To change to an open primary system would give a much greater voice to those of us in the "Silent Majority". We are the moderates who may lean left or right, but don't consider compromise with the other side to be a mortal sin. Politicians who can be held accountable to a greater majority of the people, rather than a small but vocal radical fringe element will be allowed greater freedom to actually address our national problems rather than continue to waste time with political posturing and legislation they know to be detrimental to the country.

Please do your part to bring about stability to our democracy by giving us better political options. Please support HB200.

Sincerely,

Matt Coates, CPA

Re: I urge you to support HB 200

Dear Gabrielle LeDoux,

I am writing to express my support for the open primary bill HB 200 by Representative LeDoux. Since its founding, Alaska had an open primary. But it was taken away from us by a court ruling. That means that Alaskans can no longer vote for whoever they want in the primary. We have to pick a party ballot. Worse yet, these elections are paid for by the taxpayers. Segregating voters in public elections is wrong. Alaska is facing huge problems. We need big solutions. "Partisan politics as usual" is not going to get the job done. Bringing back an open primary would change all of that. It would give the people of Alaska the voice they need to make real change. I urge you to support HB 200 for the open primary. It's time to return voter freedom. Let all voters vote for whoever they want, in every round of the election. Thank you,

Sincerely,  
Vickie Holloway  
[indigomoon1224@yahoo.com](mailto:indigomoon1224@yahoo.com)

173 A  
JBER, AK 99505  
Constituent



April 10, 2017

The Honorable Matt Claman  
Chair, House Judiciary Committee  
Alaska State Legislature  
Juneau, AK

Dear Chairman Claman,

As your committee and the Alaska Legislature considers HB 200 (LeDoux), I strongly encourage you to keep in mind the beneficial impact of a similar reform in California.

California voters in 2010 enacted a “top-two” open primary system that has provided greater choice to voters, improved the relationship between voters and candidates, and encouraged incumbents to represent all of the voters in their districts and not just those from one political party.

As partisan gridlock hardened in the early 2000s, California Forward was charted as a bipartisan effort to identify and promote political, fiscal and other governance reforms that would ease the gridlock, encourage fiscal responsibility and improve results and accountability.

Many of the volunteer leaders and professional staff involved with CA Fwd from the start had decades of experience in and around the Legislature and the political process. After additional research, consultation and public engagement, CA Fwd identified several reforms that we believed would empower voters and encourage elected leaders across the political spectrum to work together to find compromises.

Restoring a top-two primary was made a priority, along with citizens redistricting to reduce gerrymandered districts and term limit reform to enable officials to serve their allotted time in the same position. Voters embraced all three of these reforms through a series of ballot measures.

While partisan leaders opposed citizens redistricting and top-two primaries, many current members of the Legislature believe they are operating under a better set of rules – ones that allow them to represent a broader range of voter concerns and even make a case to their own leaders why they must compromise to keep faith with the voters who elected them.

While there is still debate among pundits and political consultants, with each election it is becoming more clear that voters are the real winners.

California voters are benefiting from more vigorous debates leading up to primaries and general elections. Their vote – their voice – is not diminished because they are among the minority party in their district. And their vote is not diminished if they are among the rapidly growing numbers of Californians who choose not to join a political party.

In the November 2016 election, 15 of the 80 races for the California Assembly had candidates of the same party in the general election. Five of the 20 Senate races on that ballot featured candidates of the same party.

In most of those cases, under a closed primary system, the decision would have effectively been made at the June primary. But instead, those campaigns were vigorous through the fall, often grappling with difficult policy challenges of economic prosperity, environmental sustainability and social equity.

Voters in the political minority in their community may not have a member from their party on the general election ballot, but they almost always have a viable candidate in the runoff who is actively working to earn their vote and represent their interests in the capitol.

In turn, third-party advocates have complained that they are no longer guaranteed a candidate in the general election. But no party is guaranteed a candidate in the general election. And all parties are guaranteed a spot on the general election ballot if their candidate gets at least enough votes to come in second in the primary.

Finally some observers suggest the top-two primary results in more "moderate" lawmakers; in some cases that is true, usually when those moderate views reflect the voters in their district. But the more dominant factor is that the process produces lawmakers who must work to represent a solid majority of all of the voters in their district, not just those who are going to vote in a primary.

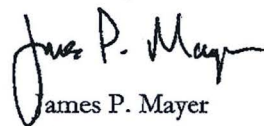
To be sure, this reform is not a bromide for all that ails our political system. And political process reforms alone will not eliminate difficult tradeoffs. Philosophical differences among the electorate will naturally produce disagreements among their representatives.

But in California, we have been pursuing strategic incremental changes with the potential to improve the relationship between voters and their representatives, as well as reforms that will help lawmakers with different political philosophies find common ground.

We have been so inspired by the pioneering work in other states that earlier this year CA Fwd convened public officials and reformers from across the nation to begin sharing ideas and lessons with the hope of learning from each other in an event titled the 50 State Solution.

It is in that spirit that CA Fwd humbly offers this brief assessment of our primary process reforms and encourages you to give serious consideration to similar reforms in Alaska. Please let me know if I can provide any additional information to inform your deliberations.

Sincerely,

  
James P. Mayer  
President & CEO

Dear Representative,

I am writing to express my support for the open primary bill HB 200 by Representative LeDoux.

Since its founding, Alaska had an open primary. But it was taken away from us by a court ruling.

That means that Alaskans can no longer vote for whoever they want in the primary. We have to pick a party ballot.

Worse yet, these elections are paid for by the taxpayers. Segregating voters in public elections is wrong.

Alaska is facing huge problems. We need big solutions. "Partisan politics as usual" is not going to get the job done.

Bringing back an open primary would change all of that. It would give the people of Alaska the voice they need to make real change.

I urge you to support HB 200 for the open primary. It's time to return voter freedom. Let all voters vote for whoever they want, in every round of the election.

Thank you,

(210 signers from across Alaska)

First Name	Last Name	Address	City	Zip Code
Deirdre	Coval	338 Columbine apt a6	Soldotna	99669
Pat	Irwin	939 Ocean Drive Loop	Homer	99603
Elizabeth	Allen	510 Yak Rd 850-E	Fairbanks	99709
Angela	Ferrari	2426 Lord Baranof Dr	Anchorage	99517
Rosemary	Watabe	558 Ookpik Way	Fairbanks	99709
Pauli	Markillie	10037 Cobblers Way	Grand Blanc	48439
Kathy	Ienniger	1291 Ivory Rd	Fairbanks	99709
Laura	Inglima	60210 BEA CREEK Dr	Homer, Ak	99603
Charles	Bingham	405 Marine St Apt No 6	Sitka	99835
Robert	Mikol	PO Box 80106	Fairbanks	99708
Kathleen	Holt	PO Box 794	Kasilof	99610
Carrie	Nash	740 Pelican Way	Fairbanks	99709
Elizabeth	Stewart	2767 John St	Juneau	99801
Scott	Chesney	PO Box 84396	Fairbanks	99708
Guinevere	Boyd	Mi 84 Parks Hwy	Willow	99688

Pamela	Minkemann	4100 Endeavor Circle	Anchorage	99515
Jeff	Huit	8023 Parkridge Cir	Anchorage	99507
Jacklyn	Jennings	1100 E Carney Rd	Wasilla	99654
Jesse	Shayne	22 Park Ave	New York	10016
Jessica	Passini	16307 Copper Mountain Cir	Eagle River	99577
Patricia	Carmichael	1213 Norman St	Anchorage	99504
Laurie	Cartwright	PO Box 283	Talkeetna	99676
Michele	Maley	3390 SW antelope Ave	Redmond	7756
Michael	McCurdy	4685 Sabrina Rd	Homer	99603
Bhree	Roumagoux	7350 Kidron St	Anchorage	99502
Sofia	Petroni	7071 Serenity Cir	Anchorage	99502
Judith	Hannig	353 E 8th Ave Apt 306	North Pole	99705
Cynthia	Reed	5471 Loeta Way	Fairbanks	99712
David	Jamison	3201 E 15th Ave	Anchorage	99508
Bradley	Kloeckl	448 Bonanza	Homer	99603
Jim	Schramek	PO Box 745	Petersburg	99833
Angelika	Fey-Merritt	1600 Beaver Pl	Anchorage	99504
Joel	Symons	7225 Bearfoot Dr	Anchorage	99502
Peter	Branson	PO Box 1259	Wrangell	99929
Dennis	Robinson	PoBox504	Unalaska	99685
Crystal	Brady	9301 Arlene st B4	Anchorage	99502
Allison	Johnson	1046 Dogwood St	fairbanks	99709
MaryLou	Vanderburg	PO Box 685	Valdez	99686
Karen	Harvey	PO Box 41	Talkeetna	99676
Kristin	Worman	2729 E 17th Ave	Anchorage	99508
Lyle	cronk	200 frank sam Dr	northway	99764
Shannon	Cogswell	PO Box 32075	Juneau	99803
Roger	Nilsson	3840 Remington Cir	Anchorage	99507
Jackie	Nelson	HC60 Bx 4180	Delta Jct.	99737
Maryellen	Lambert	6921 E 12th Ave	Anchorage	99504
Martha	Jacobson	PO Box 6113	Ketchikan	99901
Chris	Lyon	PO Box 1193	Delta Junction	99737
Kelly	Bay	PO Box MX Y	Glennallen	99588

Marianna	Bartow	3220 Timberline Ct	Ketchikan	99901
Elena	Prisekin	Not telling you the street	Anchorage	99518
Suzanne	Cohen	725 5th St	Juneau	99801
Kim	Smith	PO Box 3235	Homer	99603
Garry	Wallan	7215 E 20th Ave	Anchorage	99504
James	Keegan	4205 Needle Nircle	Anchorage	99508
Rick	Sheppard	8020 Wilcox St	Anchorage	99502
Charmalee	Howard	7800 Ladasa Pl	Anchorage	99507
hans	geier	box 84080	fairbanks	99708
Anne	Faught	9897 Saicha Dr	Salcha	99714
Timothy	Whitesell	PO Box 1683	Cordova	99574
Terrie	Moore	4085 Stillwater Ct	Fairbanks	99709
Emily	Wentzel Walle	508 O'Cain Ave	Sitka	99835
James	Ingersoll	5440 W Placide Cir	Wasilla	99623
Jim	Brown	2675 Porter Pl	Anchorage	99508
Penny	Trow-Foreman	3906 Turnagain Blvd E	Anchorage	99517
Gael	irvine	8220 E Edgerton Parks Rd	Palmer	99645
Ronald	Holmstrom	415 D St	Anchorage	99501
Deborah	Ross	PO Box 19376	Thorne Bay	99919
Carol	Anne	1085 Breckenridge Rd	Fairbanks	99709
Stacey	Fritz	PO Box 84997	Fairbanks	99708
Kalyn	Kratz	4631 Sabrina Rd	Homer	99603
Belinda	Williams	1031 Gilmore Trl	Fairbanks	99712
Mary	Jo Towne	752 Northshore Dr	Wasilla	99654
Brandon	gchachuu	528 N Valley Rd	Anchorage	99504
Danielle	Redmond	1746 Second St	Douglas	99824
Jeremiah	Emmerson	PO Box 3565	Homer	99603
Sheila	Horton	24337 Rambler Rd	Chugiak	99567
linda	rabideau	3226 lake park Cir	anchorage	99517
Joleigh	Rainwater	PO Box 672465	Chugiak	99567
Karla	Hart	4950 Wren Dr	Juneau	99801
Andrea	Bond	6060 Grieme Rd	Salcha	99714
Maria	Horn-Rollins	7333 Linden Dr	Anchorage	99502

Dawn	Webster	5271 S Tennyson Ct	Wasilla	99623
Judith	Murphy	3875 Geist Road E-131	Fairbanks	99709
Cindy	Montgomery	PO Box 672035	chugiak	99567
Neva	Mills	7922 Steese Hwy	Fairbanks	99712
Joni	Bruner	1710 Tammy Ave	Anc	99515
Bonnie	Sutphin	9480 MORNINGSIDE Loop	Anchorage	99515
Jan	Blankenship	401 Angus Way	Juneau	99801
Mike	Notar	9350 Northland St	Juneau	99801
Willow	Tebo	433 E 14th Ave	Anch	99501
Susan	Sommer	711 N Gulkana Ct	Palmer	99645
Kevin	Kincaid	4000 Glacier Hwy	Juneau	99801
Jim	Eastwood	PO Box1185	Petersburg	99833
William	McCormick	1906 Mathies Ct	Jber	99506
Frances	Romick	801 colwell sr	Anchorage	99501
Ron	Baines	PO Box 522	Sitka	99835
Neville	Jacobs	1126 Sixth Ave	Fairbanks	99701
Granny	Robbi Douglass	594 Holiday St	Np	99705
Mark	Miraglia	7000 Tall Spruce Dr	Anchorage	99502
Christina	Jencks	1391 Lucille St	Wasilla	99654
Sal	Jimenez	6206 Prosperity Dr	Anchorage	99504
Joan	Davis	PO Box 2146	Barrow	99723
Mike	yourkowski	3059 kachemak Dr	Homer	99603
Deirdre	Aldridge-Pope	3305 Dorbrandt St	Anchorage	99503
Gary	Stroh	36995 K Bch	Kenai	99611
Chad	Wagner	PO Box 209	Sterling	99672
Dana	Shaultt	PoB 1066	Delta Junction	99737
Martha	Jacobson	PO Box 6113	Ketchikan	99901
Roberta	schowen	PO Box 789	Sterling	99672
Robin	Ouellette	4601 E Shoreline Cir	Wasilla	99654
Ruth	Alvarez	PO Box 3602	Homer	99603
Annette	Owens	PO Box 2823	Palmer	99645
Stephen	Hoffman	PO Box 7064	Ktn	99901
John	Creed	PO Box 1287	Kotzebue	99752

Robert	Burgess	224 Pebble Dr	Ester, AK	99725
Kyla	durhamdurham	PO Box 750754	Fairbanks	99775
Jan	woodruff	Box 117	Eagle	99738
Jo	Swiss	9715 Independence Dr B204	Anchorage	99507
Paul	Forward	107 Lindy Ln	Girdwood	99587
Gina	Creedon	PO Box 15053	Fritz Creek	99603
Katherine	Beatty	415 Willoughby Ave	Juneau	99801
Faith	Moeller	PO Box 1206	Kotzebue	99752
Joseph	Edwards	415 N Bragaw St	Anchorage	99508
Lora	Macauly	36900 ilene Dr	Anchor point	99556
Sean	rich	PO Box 35052	Juneau	99801
Margaret	McKay	10035 Chain of a rock St	Eagle River	99577
Patrick	Williams	164 Syracuse Ct	Fairbanks	99709
Marianna	Macomber	PO Box 4	Seward	99664
Erin	Tilly	3842 Hardluck Dr	Fairbanks	99709
Karen	Karen	4510 Thomas Ct	Homer	99603
Harry	Robinson	3835 Lee Ct	Juneau	99801
Elizabeth	Dennis	1120 N Tina Ln	Palmer	99645
Dave	Turbovsky	PO Box 80250	Fairbanks	99708
John	McIntyre	Box 1794	Bethel	99559
Dana	J Zillyette	2905 Cook Inlet View Dr A4	Kenai	99611
John	M. Ziv III	3239 Hiland Dr	Anchorage	99504
Nina	Lisa Tomlinson	230 S Franklin St	Juneau	99801
Risa	Carlson	PO Box 19185	Thorne Bay	99919
Vj	Coo	1130 Salmon Row #2	Ketchikan	99901
John	Macomber	33964 Tressler	srward	99664
richard	voss	1192 Donna Dr	Fairbanks	99712
Aaryn	Valencia	858 Old Steese Hwy N	Fairbanks	99712
Patricia	Rivera	3140 Moose Mountain Rd	Fairbanks	99709
James	Burnside	17881 E Winterset Dr	Talkeetna	99676
LeRoy.	N Gilkison	401 Second Street	Cordova	99574
Jeff	jensen	627 Shelikof	Kodiak	99615
Patrick	Frymark	1631 Madison Dr	Fairbanks	99709

Jonathan	Ross	5424 Wandering Dr	Anchorage	99502
Michael	Stagno	Box 82636	Fairbanks	99708
Roxy	Keene Sanford Mills	135 S Kobuk	Soldotna	99669
Ivan	R. Vail	3051 Murphy Dome Rd	Fairbanks	99709
Shala	Kerrigan	7100 Lake Otis Pkwy Spc 18	Anchorage	99507
Bernard	Miller	3930 W Sullivan Ct	Wasilla	99623
Alicia	Sidebottom	370 Pioneer Pkwy	Palmer	99645
Cheryl	Lovegreen	3343 Seawind Cir	Anchorage	99516
Jacob	Spickelmire	3590 Spinnaker Dr	Anchorage	99516
Laura	Thate	895 W 12th St	Juneau	99801
Pamla	Berry	PO Box 1533	Valdez	99686
Kelly	Sidebottom	Farm Loop	Palmer	99645
melvin	morlen	4033 heath St	homer	99603
Bruno	Bryner	PO Box 247	Willow	99688
Donna	Braendel	PO Box 1148	Chickaloon	99674
Connie	Bennett	PO Box 91458	Anchorage	99509
Stephanie	Cullers	1015 E 20th Ave	Anchorage	99501
Evelyn	DuBois	12830 Gail St	Anchorage	99515
Bret	Burnett	PO Box 35793	Juneau	99803
Paulette	Sortor	PO Box 34	Homer	99603
John	Bennett	1479 Farmers Loop	Fairbanks	99709
Flor	M Banks	4670 Killen Ln	Fairbanks	99709
Lacretia	Ballance	55535 Prevet Ct	Homer	99603
James	Sutton	3157 Bresee St	Juneau	99801
Beth	Antonsen	102 Edgecliff Way	Ketchikan	99901
Emily	Stark	5814 Grand Teton Lp	Anchorage	99502
Kevin	Grein	4101 N Barbara St	Wasilla	99654
Shirley	Schneider	3708 E 68th Ave	Anchorage	99507
Kathy	McAfee-Morey	607 Ponderosa St	Kenai	99611
Steve	Peters	6672 N backroads Cir	wasilla	99645
Tom	Henry	12008 W Skyline Dr	Eagle River	99577
Vickie	Holloway	173 A Sparta Way	Jber	99505
Renee	Oistad	10330 Arborvitae Dr	Anchorage	99507

Douglas	A Wahto	16999 Point Lena Loop Rd	Juneau	99801
Carl	Jennings	PO Box 1178	Kotzebue	99752
Jonathan	Greene	325 mi Mud Bay Rd	Haines	99827
Deborah	Wells	3030 Davis Rd	Fairbanks	99709
Sue	christiansen	Pop box 3	Homer	99603
Cameron	Cowles	1036 Mila St	Anchorage	99504
Aubrey	A. Robison	8507 Sara Lynn Pl	Anchorage	99502
Alfredo	Bolivar	2425 Marian Bay Cir	Anchorage	99515
Shoshanah	Stone	2425 Marian Bay Cir	Anchorage	99515
Katherine	Tatakis	8645 Bell Pl	Anchorage	99507
Penny	Childs	PO Box 879406	Wasilla	99687
Tanya	Holley	9443 La Perouse Ave	juneau	99801
Warren	Wilhoit	485W Fairview Ave	Homer	99603
Mark	Boberick	138 Baranof Ave	Fairbanks	99701
Casey	duer	5411 trena St	Anchorage	99507
Denise	DeVoll	4447 Four Paws Ln	Fairbanks	99712
Linda	Munns	PO Box 3361	Homer	99603
Grace	P Olrun	PO Box 111064	Anchorage	99511
Evan	Beedle	2221 Muldoon Rd	Anchorage	99504
Ruth	Bueneman	2002 Sandvik St	Fbks	99709
Rory	Spurlock	1501 Columbine St	Anchorage	99508
Sue	Pagenkopf	PO Box 544	Kasilof	99610
Brian	Lowe	107 2nd Ave	Fairbanks	99701
Nina	Faust	Box 2994	Homer	99603
Kathryn	Morgan	2674 Ravensflight Dr	Wasilla	99654
Avery	Reagle	4700 shoshoni Ave	Anchorage	99516
randy	paddock	8001 E 3rd Ave	anchorage	99504
L.	Stover	PO Box 241024	Douglas	99824
Doran	Howell	309 Erskine Avenue Apartment 415	Kodiak	99615
Tena	Brune	2543 Monashka Bay	Kodiak, AK	99615



505 West Northern Lights Boulevard, Suite 205  
Anchorage, Alaska 99503  
[www.akaction.org](http://www.akaction.org)

April 13, 2017

Representative Chris Tuck  
State Capitol Room 204  
Juneau AK, 99801

Re: Support for House Bill 1, An Act Relating to Absentee Voting, Voting and Voter Registration; Relating to Early Voting Locations and Which Persons May Vote Absentee Ballots; and Providing for an Effective Date.

Dear Representative Tuck:

On behalf of Alaska Community Action on Toxics (ACAT), we are writing to express our strong support for House Bill 1, Electronic Registration and Voting. ACAT is a statewide environmental health and justice organization established in 1997. Our mission is to ensure justice by advocating for environmental and community health. We believe that everyone has the right to clean air, clean water, and toxic-free food. Driven by a core belief in environmental justice, ACAT empowers communities to eliminate exposure to toxics through collaborative research, shared science, education, organizing, and advocacy.

ACAT is part of a cohort of organizations supported by the Groundswell Fund's Integrated Voter Engagement (IVE) program. This funding gives us the opportunity to increase voter engagement in long-term, sustainable ways for historically underrepresented populations. Our work focuses especially on reaching people of color, young people, and women to encourage them to be involved in the political process. We do this by registering voters, using door and phone canvassing to educate people on policy issues, and reminding people to vote.

HB1 is a great step in making sure that voting is accessible for more people. Increasing access to online voter registration will make the process more accurate since voters will be entering their own information. Online registration also makes it easier for rural

Alaskans to register since it eliminates sending paperwork to offices at the Division of Elections.

Permanent absentee voting gives voters more time to research the issues and candidates since they will be able to vote by mail. As voters will not need to apply each year for this option it will be easier for people to remember to vote in the first place. Voting from home will also be beneficial to people who need assistance and additional time with language translation.

The bottom line is that our democracy works best when everyone is involved. As a state, Alaska should be doing everything it can to increase access to and participation in voting. The strength of our state lies in the vast diversity of people who live here. HB1 will amplify the voices of all Alaskans and make our voting process more equitable. We strongly urge the passage of HB1.

Sincerely,

A handwritten signature in blue ink that reads "Pamela K. Miller". The signature is written in a cursive style.

Pamela Miller  
Executive Director

# LEGISLATIVE RESEARCH SERVICES

30<sup>th</sup> Alaska Legislature  
LRS Report 17.181  
March 28, 2017



(907) 465-3991 phone  
(907) 465-3908 fax  
[research@akleg.gov](mailto:research@akleg.gov)

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## Primaries in Other States

Tim Spengler, Legislative Analyst

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*You wished to know how many states have a "top two" primary process and how they were implemented. You also wished to know how many different primary systems exist in the country.*

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### Top-Two Primaries

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Only four states use a top-two primary system: California, Louisiana, Nebraska (for their nonpartisan legislative races only), and Washington. As you know, a top-two primary lists all candidates on the same ballot regardless of party. The top two vote-getters advance to the general election regardless of their party affiliation.<sup>1</sup> Top-two primary systems have been implemented as follows:

- California implemented its top-two primary via citizens' initiative Proposition 14, in 2010. Information on this proposition can be accessed at [https://ballotpedia.org/California\\_Proposition\\_14,\\_Top\\_Two\\_Primaries\\_Act\\_\(June\\_2010\)](https://ballotpedia.org/California_Proposition_14,_Top_Two_Primaries_Act_(June_2010)).
- Louisiana implemented its top-two primary through statute in 1976. Information on the state's primary and general elections can be viewed at [www.sos.la.gov/ElectionsAndVoting/PublishedDocuments/ElectionCode.pdf](http://www.sos.la.gov/ElectionsAndVoting/PublishedDocuments/ElectionCode.pdf) (page 66). See LA Rev Stat § 18.511 (page 114) specifically for section on "election of candidate in a primary election."
- Nebraska's top-two primary system was implemented through a combination of a constitutional amendment approved by the voters in 1934, Article III sec. 7 of the Nebraska Constitution (<http://nebraskalegislature.gov/laws/articles.php?article=III-7&print=true>), and a statute passed shortly thereafter Neb. Rev. Stat. 32-508, 32-810, and 32-814.<sup>2</sup>
- Washington implemented its top-two primary through *Citizens' Initiative 872*, in 2004. Information on this proposition can be accessed at [https://ballotpedia.org/Washington\\_Top\\_Two\\_Primaries,\\_Initiative\\_872\\_\(2004\)](https://ballotpedia.org/Washington_Top_Two_Primaries,_Initiative_872_(2004)).

### State Primary Systems

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Primary systems are typically categorized as either closed, partially closed (employed in Alaska), partially open, open to unaffiliated voters, open, or top-two. Below we highlight the main features of each of these systems, as well as the states that employ them. The majority of information in this section we found on the National Conference of State Legislatures' (NCSL)

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<sup>1</sup> In Louisiana, if a candidate gets over 50 percent of the vote in the first stage, he or she wins the election outright. If no candidate receives over 50 percent of the vote, the top two candidates go into a runoff election thirty days later. While considered a top-two system, it is also sometimes referred to as a *jungle* primary system.

<sup>2</sup> <http://nebraskalegislature.gov/laws/browse-chapters.php?chapter=32>. Nebraska Revised Statute 32-814 (2) is particularly relevant; "(2) The election commissioner or county clerk shall place on the official general election ballot in each office division no more than twice as many names as there are places to be filled at the general election unless more than one candidate has successfully petitioned on the ballot to fill a vacancy after the primary election. The names of the nonpartisan candidates who received the highest number of votes for the office for which they were candidates in the primary election shall be placed on the official ballot. If more than one person was a candidate for the same position in the primary election, the election commissioner or county clerk shall place on the official ballot the names of the two persons who received the highest number of votes in the primary election for the position for which they were candidates."

election webpages; especially useful was a table on primary types at [www.ncsl.org/documents/Elections/Primary\\_Types\\_Table\\_2017.pdf](http://www.ncsl.org/documents/Elections/Primary_Types_Table_2017.pdf).

According to NCSL election experts, most states have enacted their primary systems through statute. Most recently, in 2016, Colorado approved changes making primaries more open to unaffiliated voters via citizens' initiative Proposition 108, which allowed unaffiliated electors to vote in the primary elections of major political parties without declaring an affiliation with the party.<sup>3</sup> Prior to that, in 2011, Idaho changed its statutes to allow political parties to decide which voters could participate in the primary.

### **Closed Primaries**

In general, a voter seeking to vote in a closed primary must first be a registered party member. Typically, the voter affiliates with a party on his or her voter registration application. This system deters "cross-over" voting by members of other parties. Independent or unaffiliated voters, by definition, are excluded from participating in the party nomination contests. This system generally contributes to a strong party organization.

The following nine states use a closed primary system: Delaware, Florida, Kentucky, Maryland, Nevada, New Mexico, New York, Oregon, and Pennsylvania.

### **Partially Closed**

In this system, state law permits political parties to choose whether to allow unaffiliated voters or voters not registered with the party to participate in their nominating contests before each election cycle. In this type of system, parties may allow participation from unaffiliated voters, while still excluding members of opposing parties. This system gives parties more flexibility from year-to-year about which voters to include. At the same time, it can create uncertainty about whether or not certain voters can participate in party primaries in a given year.

The following seven states use a partially closed primary system: **Alaska**, Connecticut, Idaho, North Carolina, Oklahoma, South Dakota, and Utah.

### **Partially Open**

This system permits voters to cross party lines, but they must either publicly declare their ballot choice or their ballot selection may be regarded as a form of registration with the corresponding party. Illinois and Ohio have this system. Iowa asks voters to choose a party on the state voter registration form, yet it allows a primary voter to publicly change party affiliation for purposes of voting on primary Election Day. Some state parties keep track of who votes in their primaries as a means to identify their backers.

The following six states use a partially open primary system: Illinois, Indiana, Iowa, Ohio, Tennessee, and Wyoming.

### **Open to Unaffiliated Voters**

A number of states allow only unaffiliated voters to participate in any party primary they choose, but do not allow voters who are registered with one party to vote in another party's primary. This system differs from a true open primary because a Democrat cannot cross over and vote in a Republican Party primary, or vice versa. Some of these states, such as Colorado and New Hampshire, require that unaffiliated voters declare affiliation with a party at the polls in order to vote in that party's primary.

The following nine states use this primary system: Arizona, Colorado, Kansas, Maine, Massachusetts, New Hampshire, New Jersey, Rhode Island, and West Virginia.

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<sup>3</sup> Information on Proposition 108 can be viewed at [https://ballotpedia.org/Colorado\\_Unaffiliated\\_Elector,\\_Proposition\\_108\\_\(2016\)](https://ballotpedia.org/Colorado_Unaffiliated_Elector,_Proposition_108_(2016)).

### **Open Primaries**

In general, but not always, states that do not ask voters to choose parties on the voter registration form are “open primary” states. In an open primary, voters may choose privately in which primary to vote. In other words, voters may choose which party’s ballot to vote, but this decision is private and does not register the voter with that party. This permits a voter to cast a vote across party lines for the primary election. Critics argue that the open primary dilutes the parties’ ability to nominate. Supporters say this system gives voters maximal flexibility—allowing them to cross party lines—and maintains their privacy.

The following 15 states use an open primary system: Alabama, Arkansas, Georgia, Hawaii, Michigan, Minnesota, Mississippi, Missouri, Montana, North Dakota, South Carolina, Texas, Vermont, Virginia, and Wisconsin.

### **Top-Two Primaries**

As mentioned above, California, Louisiana, Nebraska (for state elections) and Washington currently use a top two primary system. The top two format uses a common ballot, listing all candidates on the same ballot. Advocates of the top-two primary system argue that it increases the likelihood of moderate candidates advancing to the general election ballot. Opponents maintain that it reduces voter choice by making it possible that two candidates of the same party face off in the general election. They also contend that it is tilted against minor parties who will face slim odds of earning one of only two spots on the general election ballot.

We hope this is helpful. If you have questions or need additional information, please let us know.

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

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

State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

April 9, 2017

**SUBJECT:** Questions relating to CSHB 200( )  
Work Order No. 30-LS0038\U

**TO:** Representative Gabrielle LeDoux  
Attn: Courtney Enright

**FROM:** Alpheus Bullard  
Legislative Counsel

  
FOR AUB

This memorandum accompanies the bill described above. Ms. Enright asked several questions. Her questions, paraphrased for clarity, and my answers follow.

***Under CSHB 200( ) if two candidates for governor receive an equal number of votes in the primary election, how would the Division of Elections (division) determine which candidate may select a candidate for lieutenant governor first?***

If the two highest vote-getters for the office of governor receive identical numbers of votes at the primary election, these two candidates' names will be placed on the general election ballot as the two named candidates for governor. *See* the bill's sec. 15.25.100(b). However, the bill does not address how two candidates for governor, each of whom received the same number of votes at the primary election, must select their lieutenant governor running mates under the bill's sec. 15.25.100(c). If both candidates wanted to run with the same candidate for lieutenant governor, it is possible that the division would resort to the having the candidates draw lots to determine which candidate for governor would first chose a running mate (*see* AS 15.20.530). If you would like the bill to include a provision addressing this possibility, please advise.

***Under the Constitution of the State of Alaska, could the primary election for lieutenant governor be eliminated allowing each candidate for governor to select a candidate for lieutenant governor to run with them on the general election ballot?***

It is likely that an Alaska court would find that a primary election system in which candidates running for the office of lieutenant governor do not appear on the primary ballot does not meet the requirements of the state constitution. Given that art. III, sec. 8 of the Constitution of the State of Alaska<sup>1</sup> requires "[t]he lieutenant governor [to] be

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<sup>1</sup> That provision in its entirety provides:

nominated in the manner provided by law for nominating candidates for other elective offices[.]" it is likely that a court would find that candidates for lieutenant governor must be nominated at the primary election in the same manner as other candidates for elective public office.

***Why is that portion of AS 15.80.008(a) that required a political party to submit its bylaws to the Director of the Division of Elections and the United States Department of Justice removed?***

The provision is removed because the bill repeals AS 15.25.014. AS 15.25.014 is repealed in the bill because preclearance of Alaska's election practices and procedures is no longer required under sec. 4(b) of the Voting Rights Act.<sup>2</sup> Even if preclearance were still required, AS 15.25.014 would be made unnecessary by the adoption of a top two nonpartisan open primary election system.

The requirement that political parties must submit their bylaws to the Department of Justice and the director was enacted into law in 2001 (*see* ch. 103, SLA 2001), at the time Alaska adopted its modified "closed" primary election system in response to the Supreme Court's decision in *California Democratic Party v. Jones*, 530 U.S. 567 (2000).<sup>3</sup> At that time, Alaska was a covered jurisdiction under sec. 5 of the Federal Voting Rights Act of 1965, as amended (42 U.S.C. 1973 *et seq.*). As a covered jurisdiction, all of the state's election processes and procedures were subject to scrutiny as to whether they would lead to a retrogression in the position of certain minority populations' ability to participate in the electoral franchise. Note that because this draft bill establishes a top two nonpartisan open primary, a state political party's bylaws would not affect who was qualified to vote in a state primary election under the bill and could not result in any denial or abridgement of voting rights.

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

TLAB:dls  
17-307.dls

Attachment

---

**Election.** The lieutenant governor shall be nominated in the manner provided by law for nominating candidates for other elective offices. In the general election the votes cast for a candidate for governor shall be considered as cast also for the candidate for lieutenant governor running jointly with him. The candidate whose name appears on the ballot jointly with that of the successful candidate for governor shall be elected lieutenant governor.

<sup>2</sup> *United States Supreme Court in Shelby County v. Holder*, 133 S. Ct. 2612 (US 2013).

<sup>3</sup> For the statement of legislative purpose, *see* sec. 1 ch. 103 SLA 2001.

# LEGISLATIVE RESEARCH SERVICES

30<sup>th</sup> Alaska Legislature  
LRS Report 17.206  
April 12, 2017



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(907) 465-3908 fax  
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---

## Voter Participation in Top Two Elections

Tim Spengler, Legislative Analyst

---

***You asked for information on voter turnout in the four states with top two election systems. You also wished to know if a top two system affected the number of candidates who participated in primary elections in these states.***

---

As you are aware, the four states with top two primary systems are California, Louisiana, Nebraska, and Washington.<sup>1</sup> As Louisiana has had its system in place for over 40 years, and Nebraska for far longer, it was not possible to identify whether their systems increased or decreased voter turnout in elections. Also, although Washington State only implemented its top two system in 2004, historic data on voter turnout rates prior to the change was not readily available.<sup>2</sup> Therefore, we focused our review on California, which implemented its system in 2010.

According to our review, it appears that neither voter turnout nor candidate participation has changed significantly in California since its top two system was implemented. We spoke at length with Kim Alexander, president of The California Voter Foundation, regarding the experience of top two elections in California.<sup>3</sup> Ms. Alexander generally lauded the system, asserting that it creates more competition for incumbents and allows voters, no matter their party affiliation, to choose the two finalists for a given office. She relates, however, that there is no evidence, at this point, that the system has either increased or decreased voter turnout or the number of candidates participating in primary elections.

Ms. Alexander referred us to a page on her foundation's website, [www.calvoter.org/voter/elections/index.html](http://www.calvoter.org/voter/elections/index.html), which provides primary and general election information from 1994-2016. From this site, you can see the number of candidates on the ballot for elections in each California district.<sup>4</sup> We perused a number of these elections, both before and after the top two system was implemented in California, and found no discernable difference in candidate participation, as Ms. Alexander had indicated was the case. She also pointed us to a 2016 document from the Public Policy Institute of California (PPIC), entitled "Assessing the Top Two Primary," which provides an analysis of the top two system.<sup>5</sup> The piece includes the following:

For the state senate and US House, far more candidates under the top two have faced at least one candidate from their own party, a trend that shows no sign of letting up in 2016. But intra-party challenges for the assembly have faded to the point where such competition is not much more common than before the reform. The top two has actually discouraged some major-party candidates in heavily partisan districts from running, since such candidates are no longer guaranteed a place on the fall ballot.

The full document can be accessed at [http://ppic.org/main/blog\\_detail.asp?i=2070](http://ppic.org/main/blog_detail.asp?i=2070).

---

<sup>1</sup> Nebraska's top two elections are for nonpartisan legislative races only.

<sup>2</sup> A 2016 article in *The Olympian* indicates that voter turnout has declined slightly over the past eight years in Washington. This article can be viewed at [www.theolympian.com/news/politics-government/article95206707.html#storylink=cpy](http://www.theolympian.com/news/politics-government/article95206707.html#storylink=cpy).

<sup>3</sup> Ms. Alexander can be reached at (916) 441-2494. The California Voter Foundation is a non-partisan entity that endeavors to advance the responsible use of technology to improve the democratic process, [www.calvoter.org/index.html](http://www.calvoter.org/index.html).

<sup>4</sup> From this site, click on the year and the election type (primary or general), then the "congress" tab, and, finally, select "U.S. House Races." From there you will see, for each district, how many candidates ran for office. You can also view this information for other national elections and state assembly races from this site.

<sup>5</sup> The PPIC is a nonprofit, nonpartisan think tank that aims to inform and improve public policy in California through independent, objective, nonpartisan research, <http://ppic.org/main/home.asp>.

In Table 1, we provide voter turnout rates in statewide primary elections in California from 2006 through 2016.

<b>Table 1: California Voter Turnout Rates in Statewide Primary Elections, 2006-2016</b>					
<b>Prior to Top Two</b>			<b>Top Two System</b>		
<b>2006</b>	<b>2008</b>	<b>2010</b>	<b>2012</b>	<b>2014</b>	<b>2016</b>
23%	40%	24%	22%	18%	34%

While likely of little comparative value (between top two and other systems), we also provide, in Table 2, voter turnout data for the states with top two election systems in the 2008, 2012, and 2016 primary and general elections. Across the country, voter turnout rates in general elections have been relatively consistent over the last several decades, between 48 and 57 percent from 1980 to 2016. This is much lower, however, than many other countries. A Pew Research Center 2016 study on this point, "U.S. Voter Turnout Trails Most Developed Countries," can be viewed at [www.pewresearch.org/fact-tank/2016/08/02/u-s-voter-turnout-trails-most-developed-countries/](http://www.pewresearch.org/fact-tank/2016/08/02/u-s-voter-turnout-trails-most-developed-countries/). Also, The United States Elections Project provides state turnout rates in general and primary elections from 2000-2016, at [www.electproject.org/home/voter-turnout/voter-turnout-data](http://www.electproject.org/home/voter-turnout/voter-turnout-data).

<b>Table 2: Voter Turnout Rates in Statewide Elections in States with Top Two Systems</b>						
	<b>2008</b>		<b>2012</b>		<b>2016</b>	
	<b>Primary</b>	<b>General</b>	<b>Primary</b>	<b>General</b>	<b>Primary</b>	<b>General</b>
<b>California</b>	40%	59%	22%	55%	34%	59%
<b>Louisiana</b>	18%	62%	10%	59%	18%	61%
<b>Nebraska</b>	23%	64%	26%	61%	27%	64%
<b>Washington</b>	43%	85%	38%	81%	35%	78%

**Notes:** Percentages are rounded. Turnout rates for primaries and general elections in presidential years (such as these) are typically higher across the county.

**Sources:** California and Washington figures came from their respective state election webpages: [www.sos.ca.gov/elections/prior-elections/statewide-election-results/statewide-direct-primary-election-june-3-2014/statement-vote](http://www.sos.ca.gov/elections/prior-elections/statewide-election-results/statewide-direct-primary-election-june-3-2014/statement-vote); and <https://www.sos.wa.gov/elections/research/Data-and-Statistics.aspx>, respectively. We identified data for Louisiana and Nebraska on the U.S. Election Project website at [www.electproject.org/home/voter-turnout/voter-turnout-data](http://www.electproject.org/home/voter-turnout/voter-turnout-data), as well as the Nebraska election site at [www.sos.ne.gov/elec/prev\\_elec/](http://www.sos.ne.gov/elec/prev_elec/).

We hope this is helpful. If you have questions or need additional information, please let us know.

## HB 200 Top Two Primary Opposing Documents

<b>Pages</b>	<b>From</b>	<b>Date</b>
2	Lois Conway	3/31/2017
3	Robert Timmins	3/31/2017
4	William Deaton	4/10/2017
5-6	Richard Winger	4/11/2017
7-19	Ken Jacobus	4/11/2017

Dear Representative LeDoux

I just heard your support of the bill you submitted about having open primaries. **If** so many are saying they want this, they must be Democrats. I can't imagine why any Republican would want anyone – Democrats, Independents or Undeclared - to pick who will run as Republican candidates. This is a crazy idea. It very much NEEDS to remain separate so that Democrats select who they want to run for them and the Republicans should pick who will run to represent them. This just can't be left up to any voted to make these selection. This was changed years ago and needs to stay the way it is now.

Lois Conway

Palmer

On Mar 31, 2017, at 4:45 PM, Robert Timmins <[highflytim@gmail.com](mailto:highflytim@gmail.com)> wrote:

This effort is UN Alaskan and UN American! Stop this nonsense already!

### **HB 175 — KILLING THE ELECTORAL COLLEGE — PASSES WITH DEMS IN CHARGE**

HB 200 goes hand in hand with another piece of liberal legislation, HB 175, which would [eliminate the Electoral College](#) process in Alaska and award all three Electoral College votes to the candidate who won the most votes in the United States as a whole.

That bill is sponsored by Democrats Rep. Zach Fansler, Les Gara, Justin Parish, Harriet Drummond, Scott Kawasaki, and Geran Tarr. It creates an interstate compact and if enough states joined the compact, the presidential election would essentially become a popular vote.

In the most recent presidential election, all three of Alaska's Electoral College votes would have been awarded to Hillary Clinton.

As HB 175 was voted on in the House State Affairs committee this week, Rep. LeDoux took a pass, and wouldn't vote the bill up or down. It passed with the majority Democrats voting for it and only Republicans DeLena Johnson, Gary Knopp and Chris Birch voting no. Democrat Adam Wool also took a pass.

Between HB 175 and HB 200, House Democrats (and the "Republicans" who joined them) are attempting to make over the election process in Alaska — a process that is not broken.

Bx 470296  
San Francisco Ca 94147  
415-922-9779  
March 31, 2017  
richardwinger@yahoo.com

Hon. Gabrielle Ledoux  
State Capitol, rm. 216  
Juneau, AK 99801

Dear Representative Ledoux,

Re: your HB 200

I have been working for ballot access reform since I was in college in U.C. Berkeley in the mid-1960's. Whereas Canada has equal and easy ballot access for all candidates for Canada's national legislative body (100 signatures and a \$1,000 filing fee), many states in the U.S. have ballot access laws that keep minor party and independent candidates off the ballot. Georgia is so bad, no minor party or independent candidate for U.S. House has ever complied with the 5% petition (of the number of registered voters) that has been in effect since 1943.

I favor proportional representation, and I note that whenever one sees a list of the 10 best countries in the world, based on some objective statistical criteria, invariably at least 9 of them are countries that use proportional representation.

The top-two system that exists now in California and Washington has many bad consequences, but the worst one, for me, is that it keeps minor party candidates from being allowed to run in the general election season. There has never been a top-two election for federal or state office in which any minor party was able to qualify for the general election ballot, except instances when only one major party candidate filed for that office. That was true during the years Louisiana had a top-two system as well. After Louisiana lost in the U.S. Supreme Court in 1997 in *Foster v Love*, Louisiana changed its system so that now there are no primaries, just general elections in November (for Congress) and a run-off in December if no one gets 50% in November. That way, no one is kept from campaigning in the general election, so I don't object to Louisiana's system.

I hope that you revise your HB 200 so that it does not implement the California-Washington system. Political science research generally agrees that the system used in California and Washington does not decrease polarization, does not elect more moderate office-holders, and depresses turnout.

California turnout declined more than any other state's, comparing November 2010 with November 2014. In November 2010 California voters had six parties on the ballot for all statewide offices, but in November 2014 there was only one Democrat and Republican

for each office, with no write-in space allowed. California is the only state in which the 2014 turnout rate was less than 70% of what it had been in 2010.

In November 2016, the top-two system in California meant that only two Democrats were on the November ballot for U.S. Senate. Among Californians who cast a ballot, 16% left U.S. Senate blank. This was the worst fall-off for a California U.S. Senate election in 75 years. According to political scientist Boris Shor, who studies polarization, California still has the nation's most polarized legislature. Washington state has the fifth-most polarized legislature, according to data released a few months ago.

I would love to document any of these matters, but I didn't want to stuff this envelope with too much paper. Let me know if I should send documentation.

Sincerely yours,

*Richard Winger*

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March 31, 2017

Rep. Gabrielle LeDoux  
State Capitol, Room 216  
Juneau AK 99801

Dear Representative LeDoux,

Thank you for the opportunity to talk to you this afternoon about HB 200. I have enclosed various articles about the jungle primary.

The top-two system that exists now in California and Washington has many bad consequences, but the worst one is that it keeps minor party candidates from being allowed to run in the general election. There has never been a top-two election for federal or state office in which any minor party was able to qualify for the general election ballot, except instances when only one major party candidate filed for that office. That was true during the years Louisiana had a top-two system as well. After Louisiana lost in the U.S. Supreme Court in 1997 in *Foster v Love*, Louisiana changed its system so that now there are no primaries, just general elections in November (for Congress) and a run-off in December if no one gets 50% in November. That way, no one is kept from campaigning in the general election..

Political science research generally agrees that the system used in California and Washington does not decrease polarization, does not elect more moderate office-holders, and depresses turnout. California turnout declined more than any other state's, comparing November 2010 with November 2014. In November 2010 California voters had six parties on the ballot for all statewide offices, but in November 2014 there was only one Democrat and Republican for each office, with no write-in space allowed. California is the only state in which the 2014 turnout rate was less than 70% of what it had been in 2010.

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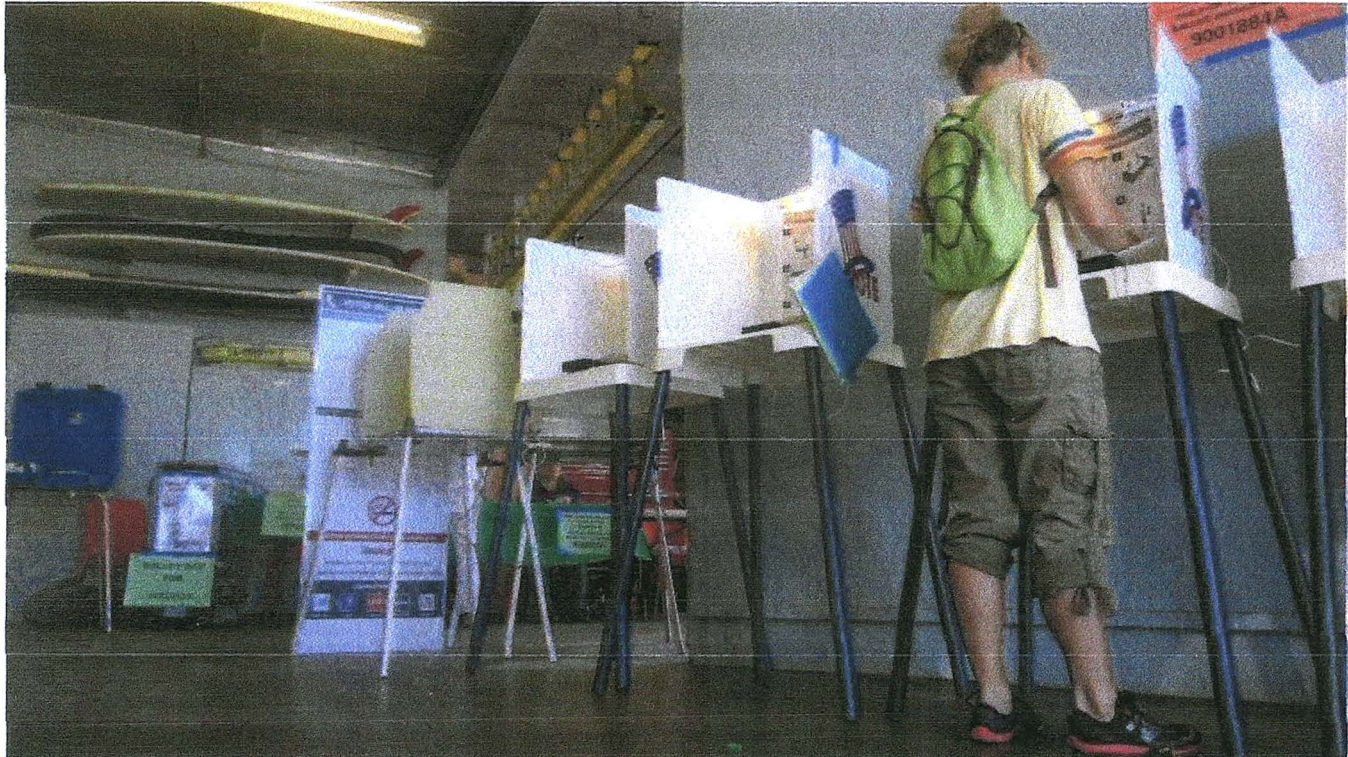
On June 21, 2014, the Los Angeles Times published an Op-Ed that favored scrapping the California jungle primary. This is one of the items that I have enclosed.

Please let me know if you have any questions.

Very truly yours,

  
Kenneth P. Jacobus

# Op-Ed California's jungle primary: Tried it. Dump it.



A voter is seen on June 3 filling out her ballot for the California primary election. (Los Angeles Times)

By **Harold Meyerson**

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So, California, how's that new primary system working out for you?

JUNE 21, 2014. 5:00 AM

**T**hough county registrars are still tallying the votes in several close contests, the memory of California's June primary has already begun to fade from the state's collective consciousness — assuming, that is, that it ever made an imprint there at all. Before it vanishes altogether, though, Californians should take away one lesson from June's balloting: The state's new method for conducting primary elections is an asinine idea that can lead to perverse and anti-majoritarian consequences.

Under the so-called jungle primary system, which came into being through a 2010 ballot measure that voters narrowly ratified, primary voters can cast their ballot for any candidate in the June election, and the top two finishers, regardless of party, advance to the November runoff. Both the 2012 and the 2014 primaries were conducted under these rules, so we can now look at the effects this new process has had on California politics.

The first and most obvious effect the jungle system has had is to convey a clear advantage to the party that runs fewer candidates for an office. In 2012, four Democrats and two **Republicans** ran in the June primary to represent the newly redrawn 31st District in **Congress**. Situated in the western part of the Inland Empire, the district had a clear plurality of Democrats — but because the Republican candidates divided their votes two ways while the Democrats split their votes among four candidates, the two candidates who made it into November's general election were the Republicans.

The eventual victor, Gary Miller, chose not to seek reelection this year, in part because his politics were so out of sync with the sentiments of district voters.

This month, the California primary contest for a statewide office almost ended equally bizarrely. Three Democrats and two Republicans ran for the office of state controller, and when the election-night vote counting was done, the Republicans finished one-two in the count. Subsequent counting of absentee and provisional ballots has elevated two of the three Democrats above the second Republican; the vote totals for second place remain very close and still aren't resolved.

“

**The most obvious effect the jungle system has had is to convey a clear advantage to the party that runs fewer candidates for an office.**

But if a few thousand votes had shifted, voters in one of the country's most liberal states could have faced a runoff this November between two Republicans, even though the three Democrats on the primary ballot amassed more votes than the two GOP contestants, and even though just 28% of California voters are Republicans while 43% are Democrats.

Precisely because California is so heavily Democratic, it's often the case that more Democrats than Republicans will run for open seats. For that very reason, though, the process tends to give the advantage to Republicans, though the party's relentlessly falling registration figures make clear that most Californians wish to steer clear of the party and its standard-bearers.

When the jungle primary was placed before state voters in 2010, its advocates argued that it would increase voter participation by opening up previously closed primary elections to nonpartisan voters. Though volumes of election statistics show that nonpartisan voters tend to be less engaged in politics than party members, the jungle system's champions insisted that given the chance to vote in primary elections, the nonpartisans would flock to the polls and overall participation would rise.

It hasn't worked out that way. When the vote count in this June's primary is completed, turnout will probably be about 25%, which would make it the lowest ever. A multitude of factors have contributed to the ongoing decline in voter participation, but it's clear that the jungle primary has done nothing substantial, if, indeed, anything at all, to arrest it.

The jungle system was also supposed to reduce political polarization, according to the business interests and others who championed it. The idea was to diminish the influence of [tea party](#) Republicans within the GOP and of pro-labor liberals in Democratic ranks.

To date, few if any tea party Republicans have been dislodged. A number of self-professed moderate Democrats do hold seats in the Legislature, but that's been the case since roughly 2002, when the state's leading energy and banking interests realized the days of Republican rule were over and began to back candidates in Democratic primaries. Recently, some of these moderates abstained on a bill that would raise the state's minimum wage — a dubious achievement for legislators who disproportionately represent the state's poorest districts.

That's the book on the jungle primary. It's time for state voters to scrap it.

*Harold Meyerson is editor at large of the American Prospect and an op-ed columnist for the Washington Post.*

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**This article is related to:** [Politics and Government](#), [Elections](#), [Republican Party](#), [Laws and Legislation](#), [Tea Party Movement](#), [U.S. Congress](#)

**SFGATE**

<http://www.sfgate.com/politics/article/How-top-two-primary-system-has-changed-California-5455227.php>

## How top-two primary system has changed California politics

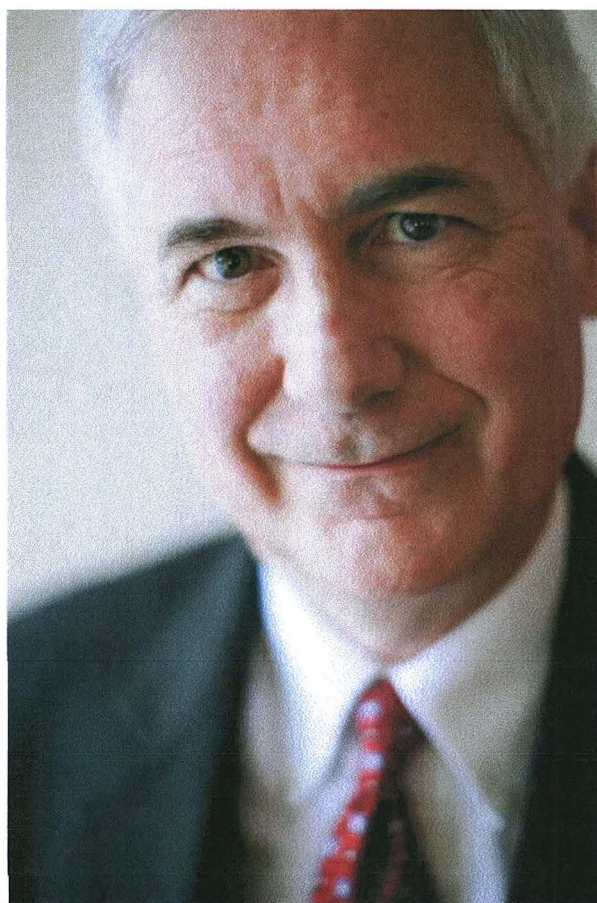
Carla Marinucci Updated 8:14 am, Tuesday, May 6, 2014

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IMAGE 1 OF 4

Conservative icon Rep. Tom McClintock confronts a strong challenge from fellow Republican Art Moore, a West Point graduate who spent more than a decade in the military.

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California's political campaigns are already combative and expensive, but the top-two primary system, in effect this year for the first time in statewide races, has upped the ante by forcing new strategies in fundraising, polling and even the timing of attack ads.

And it may be the political consultants, not the voters, who benefit most, some experts say.

The new system, in which the top two finishers in the June 3 primary races advance to the November general election regardless of party, "is exponentially more complicated than a traditional primary system," said Democratic pollster Ben Tulchin.

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**Latino leader begin electoral Victory Project**



**GOP gubernatorial hopeful Neel Kashkari digs into his wallet**

Tulchin, whose clients have included the state Democratic Party and Lt. Gov. Gavin Newsom, said the system has created a host of complications, and a lot of business, for consultants advising once-safe candidates who now have to contend with expensive primary challenges from candidates on all sides of the spectrum.

Many candidates must calculate how to run back-to-back elections against the same challenger - weighing the merits of expending effort and money before the June primary versus keeping the powder dry for November.

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## It's all different

"Everything is so much more expensive," said Ruben Barrales, president and CEO of Grow Elect, which works to elect Republican Latinos. "We're doing polling earlier than ever, and every race is different (than it used to be) - even in the same district."

When top-two primaries were first put into effect in congressional races in 2012, there were several instances in which a Democrat wound up being pitted against a Democrat in the general election, with no Republican on the ballot, and vice versa. In one heavily Democratic district in Southern California, a host of Democratic candidates split their party's vote in the primary, leaving two GOP candidates to face each other in the runoff.

This is the first year in which top two is in play in races for state constitutional offices, including governor.

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## Why Men Leave Women They Love - What Ev

Need To Know

Julie Griffiths, a Republican strategist, said the new system is "causing business interests to weigh in more often and more generously" on behalf of Democrats who are "business friendly" in races where Republicans are unlikely to make a credible challenge.

Under top two, she said, "the money movement has changed - and it has increased dramatically."

Hair pulling aside, the new system has at least partly fulfilled advocates' hopes by creating more competitive primaries, said Steve Spinner, a Democratic fundraiser.

## 'Poster child' race

Spinner is campaign chairman for Ro Khanna, a Democrat who is mounting a strong challenge in the South Bay to seven-term Rep. Mike Honda, D-San Jose. He calls the race a "poster child" for why the new system works.

Under the old system in the heavily Democratic district, a second-place finish in the primary for Khanna would have been the end of the line. Under top two, however, Khanna can finish second and live to fight in November, competing with Honda for Republicans' votes.

"Every time someone retires or an incumbent is perceived as having a weak record, you'll see more pragmatic and visionary candidates enter, and less pandering to the far left and far right," Spinner said. "Now we can have races in our own backyards, in California, that are run like battleground states in a presidential election - with voters fully engaged in the process, supporters canvassing and candidates debating on the issues."

Voters put the top-two system in place when they approved Proposition 14 in 2010. Its author, former state Sen. and Lt. Gov. Abel Maldonado, argued that the old primary system produced candidates acceptable mainly to party activists who demanded ideological purity.

But experts who convened recently for a symposium on the new system at the UC Berkeley Institute of Governmental Studies were mixed on its effects.

Douglas Ahler, a scholar at the institute, said his studies show "little evidence that the top-two format benefits moderate candidates." Partisan voters, he said, are still most likely to vote in primaries.

## Left, right still dominate

Tulchin agreed that even under the new system, California's 2014 primary "still favors the more progressive candidates on the Democratic side, and the more conservative candidates on the Republican side."

Polls in the gubernatorial campaign seem to bear that out: Gov. Jerry Brown is well out in front, and the No. 2 candidate is Assemblyman Tim Donnelly of Twin Peaks (San Bernardino County) - a Tea Party favorite who is trouncing a more moderate Republican, Neel Kashkari.

But Democratic strategist Katie Merrill said the new system has reshaped some races, including the hotly contested Southern California contest to replace retiring Rep. Henry Waxman, D-Los Angeles.

Democrats in the 21-candidate field, rather than simply worrying about one another, now have to contend with a high-profile independent: author and New Age spiritual guru Marianne Williamson, whose name recognition and loyal following in a district that includes Malibu and Beverly Hills could catapult her into the general election.

## Unique political landscape

David Brady, a political science professor and deputy director of the Hoover Institution at Stanford University, said the full effects of California's new system aren't yet fully felt in what is already a unique national political landscape.

"The United States is the only country that has democracy within the parties - before you can run against the other party," Brady said. "That is unique, but it has consequences. It weakens parties."

Which is why party loyalists who fought the top-two system from the start, and third-party candidates - who are more likely to be shut out of the general election entirely under the system - are still railing against it.

"Can you imagine a Kentucky Derby with two horses?" asked Bob Mulholland, a Democratic Party campaign adviser. "This is the way the communists run it."

## Shifts in campaign strategy

Three California races where the top-two primary system is making a difference:

### Silicon Valley

Rep. Mike Honda, D-San Jose, a favorite of labor, is battling Democratic challenger Ro Khanna, a former Obama administration trade representative with the backing of many tech-industry executives. Also vying for a top-two slot are two Republicans: Silicon Valley executive recruiter Joel VanLandingham and Stanford physician Vanila Singh.

**Bottom line:** The 17th Congressional District, where Democrats outnumber Republicans 2 to 1, is also home to the largest bloc of "no party preference" voters in California: nearly 32 percent. That makes Honda's re-election, almost a given under the old primary system, a far greater challenge if he ends up in the November runoff with Khanna.

### Sierra foothills

Conservative icon Rep. Tom McClintock confronts a strong challenge from fellow Republican Art Moore, a West Point graduate who spent more than a decade in the military.

**Bottom line:** McClintock, who would have been invincible under the old primary system in the overwhelmingly Republican Fourth Congressional District, could have problems in a November runoff with Democrats and independents able to choose between him and Moore.

### Southern California

The retirement of Democratic Rep. Henry Waxman in the wealthy region that includes Beverly Hills and Malibu prompted 21 candidates to run to replace him - 11 Democrats, four Republicans, one Green Party member, one Libertarian and four "no party preference" candidates.

**Bottom line:** The huge field in the 33rd Congressional District, especially in the Democratic ranks, could enable a dark horse such as New Age guru Marianne Williamson, an independent with big name recognition, to sneak into the November runoff.

Carla Marinucci is senior political writer for The San Francisco Chronicle. E-mail:

cmarinucci@sfchronicle.com Twitter: @cmarinucci

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**H E A R S T**

## 'Jungle primary' pits GOP lawmakers against each other

Deborah Barfield Berry, USA TODAY 5:58 p.m. CT Oct. 7, 2016



(Photo: Deborah Barfield Berry, USA TODAY)

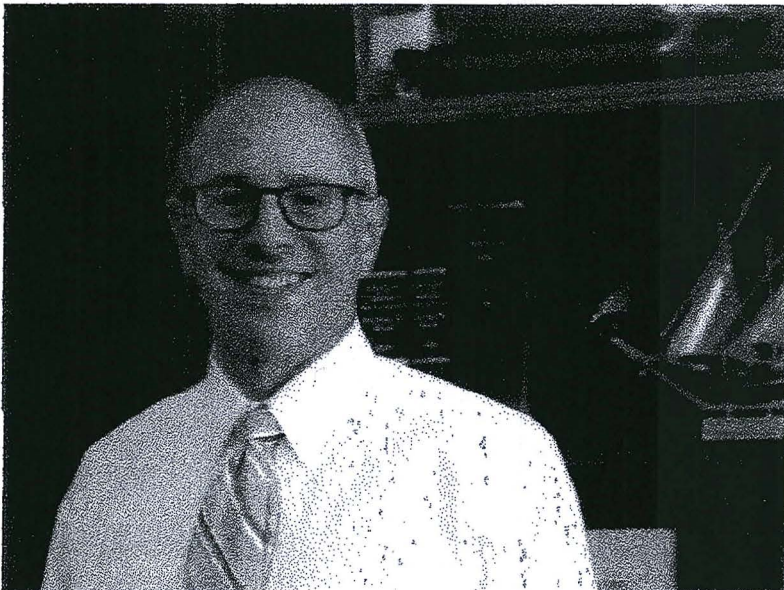
WASHINGTON — An unusual drama is playing out in Louisiana this election year, as two Republican House members slug it out while vying for the state's open Senate seat.

Reps. Charles Boustany and John Fleming are running for the seat held by Republican Sen. David Vitter, who decided not to run for re-election after losing his bid for governor last year to Democrat John Bel Edwards.

"You see it occasionally, but not that often," said Jeffrey Sadow, a political scientist at Louisiana State University at Shreveport. "Certainly, you're probably a little more likely to see it here because of our blanket-primary system than in a closed- or open-primary system."

Louisiana's "jungle primary" throws all candidates, regardless of party, into the Nov. 8 election. If no candidate wins more than 50 percent, the top two vote-getters face off in a December runoff.

That invites a scenario like the one unfolding this year with Boustany and Fleming, "by changing the calculation of who can get elected," said Pearson Cross, a political scientist at the University of Louisiana at Lafayette.



Republican Rep. Charles Boustany (Photo: Deborah Barfield Berry, USA TODAY)

Louisiana rarely hosts open-seat elections, which may explain why this one has attracted 24 candidates, including several other high-profile Republicans.

When an open seat does become available, "you have to be able to move on it, regardless of who else is in there," Sadow said. "This is your chance, so I think that probably encourages them a little bit more."

In 2004, Vitter, then a Republican House member, and Democratic Rep. Chris John ran for the seat held by Democratic Sen. John Breaux, who was retiring. Vitter won the jungle primary with 51 percent of the vote, avoiding a runoff.

Congressional redistricting is more typically a reason House members from the same party find themselves competing for the same seat. That's happened in 2012, when Boustany defeated then-Republican Rep. Jeff Landry in the redrawn 3rd District.

Louisiana's unusual primary system can also lead to more acrimony among candidates, "because there's not this winnowing out process," Sadow said.

Sabato's Crystal Ball, an election forecasting site run by Larry Sabato, a political scientist at the University of Virginia Center for Politics, rates the seat "likely Republican."

[Poll: Republicans Kennedy, Boustany lead US Senate pack](#)

## 'Jungle primary' pits GOP lawmakers against each other

[\(http://www.shreveporttimes.com/story/news/2016/09/21/poll-republicans-kennedy-boustany-lead-us-senate-pack/90778058/\)](http://www.shreveporttimes.com/story/news/2016/09/21/poll-republicans-kennedy-boustany-lead-us-senate-pack/90778058/)

### La. Senate hopefuls networked at GOP convention

[\(http://www.theadvertiser.com/story/news/2016/07/22/la-senate-hopefuls-networked-gop-convention/87456208/\)](http://www.theadvertiser.com/story/news/2016/07/22/la-senate-hopefuls-networked-gop-convention/87456208/)

Kyle Kondik, managing editor of Sabato's Crystal Ball election forecasting site, said Boustany and Fleming are counting on at least finishing second on Nov. 8.

"The potential chaos of getting a Senate seat sort of outweighs the risk of giving up your own House seat to run," he said.

Their rivalry on the campaign trail hasn't stopped Boustany and Fleming from working together on issues that are key to their districts and the state as a whole. The two teamed with the rest of the Louisiana delegation, for example, in lobbying Congress to include flood aid in a recent spending bill.

But they also differ on some issues, said Matt Beynon, communications director for the Fleming campaign.

Fleming, who opposes the Trans-Pacific Partnership trade deal, recently slammed Boustany for initially supporting the deal, which would open Pacific Rim markets. Boustany, who was co-chairman of the Friends of the Trans-Pacific Partnership Caucus, told *The Advocate* he had issues with President Obama's final version of the trade pact.

"This is an issues-based campaign, this is not a personal based campaign," Beynon said. "Good people can disagree on issues. That keeps you from having hard feelings once the campaign is over."

States with closed primaries, in which Democrats and Republicans hold separate nomination contests, sometimes see House members from the same party competing. That's what happened in Georgia in 2014, when GOP Reps. Jack Kingston, Paul Broun and Phil Gingrey ran for the Senate seat being vacated by Republican Saxby Chambliss. David Perdue, another Republican, eventually won the seat.

### Race for Vitter's seat will be fiercely competitive

[\(http://www.theadvertiser.com/story/news/2015/11/26/race-vitters-seat-fiercly-competitive/76374512/\)](http://www.theadvertiser.com/story/news/2015/11/26/race-vitters-seat-fiercly-competitive/76374512/)

In this year's Democratic primary in Maryland, Rep. Chris Van Holland defeated Rep. Donna Edwards.

Sadow said in states that hold separate Democratic and Republican primaries, losing primary candidates usually rally around the winner.

"There's usually a consensus that forms around one particular candidate," he said. "You don't have that dynamic working here. Since there's no party primary, it's a free-for-all."

Contact Deborah Barfield Berry at [dberry@gannett.com](mailto:dberry@gannett.com) (<mailto:dberry@gannett.com>). Twitter: [@dberrygannett](https://twitter.com/dberrygannett)

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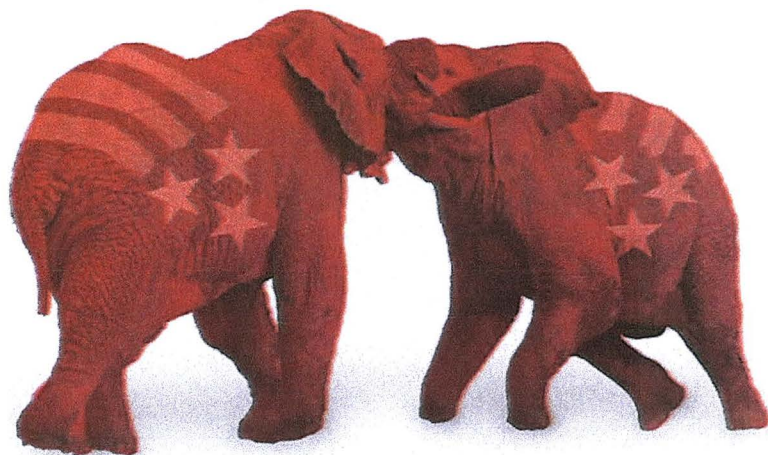
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## Law of the jungle: Louisiana prepares for a "jungle primary"

The U.S. Senate race draws a record crowd of 24 candidates. Anything can happen in the Nov. 8 primary

By Jeremy Alford @LaPoliticsNow and Clancy DuBos @clancygambit

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The election to succeed U.S. Sen. David Vitter, R-Metairie, has attracted a record-setting 24 candidates for the Nov. 8 primary — nine Republicans, seven Democrats, six no-party or independent candidates and two Libertarians. The five or six best-financed candidates are bunched together atop the latest independent polls and have garnered the lion's share of voters' attention.

The exceptionally large field has forced major candidates to focus on shoring up their geopolitical bases rather than chasing crossover votes. It also has fostered intraparty attacks — particularly among the Republicans — as candidates fight for votes among the same segments of Louisiana's conservative electorate.

The leading GOP candidates include U.S. Rep. Charles Boustany of Lafayette, U.S. Rep. John Fleming of Minden, state Treasurer John Kennedy and retired Air Force Col. Rob Maness, both of Madisonville. Also garnering lots of national attention — but not nearly as much local support — is former Ku Klux Klan leader and neo-Nazi David Duke.

Two Democrats lead their party's field — Public Service Commissioner Foster Campbell of Bossier City and attorney Caroline Fayard of New Orleans.

Also trying to make his presence felt as an independent is former state Sen. Troy Hebert of Jeanerette. He has filed two lawsuits so far over how his candidacy has been treated. One was filed — and later withdrawn — against a pollster who

mistakenly identified him as a Republican, while the other was lodged against televised debate organizers for excluding him from the stage. The other candidates include former U.S. Rep. Anh "Joseph" Cao, R-New Orleans, who doesn't seem to have an actual campaign structure, and 15 other lesser-knowns. Among them are dark horse Democrat Josh Pellerin, an Acadiana oil executive who still could end up spending loads of his own money, and New Orleans businessman Abhay Patel, a newcomer who has made impressive inroads with the Constitution-loving wing of the GOP. Both Pellerin and Patel have professional staffs and have executed media buys.

"The field got carried away and nobody wanted to step out," says Roy Fletcher, a Baton Rouge media consultant. "Nobody is breaking out of the pack because no one is saying anything. Somebody is going to have to get out there and say something, do something."

On the Republican side, Boustany, Fleming, Kennedy and Maness have lobbed verbal bombs at each other — and a super PAC supporting Kennedy has torched the TV airwaves with attack ads aimed at Boustany and Fleming. Maness and Fleming, in particular, are competing for far-right conservative voters.

In the 2014 U.S. Senate election, Vitter helped clear the field of Republican candidates, which factored heavily into U.S. Sen. Bill Cassidy's victory over then-Sen. Mary Landrieu, a Democrat. No such mastermind is scripting this year's race in either political party, and the sheer volume of high-profile candidates is keeping many top GOP officials from making endorsements in the primary.

Not so on the Democratic side. Fayard has the support of New Orleans Mayor Mitch Landrieu and Mary Landrieu, while Campbell has the all-out backing of Gov. John Bel Edwards. That split among the state's leading Democrats has made it difficult for either Fayard or Campbell, whose campaigns have a frosty relationship, to grab the party's official endorsement.

The split loyalties in both mainline parties also make it impossible for any one candidate to reap the full benefits of coordinated campaign efforts by national Republicans or Democrats. Besides, even after committing some colossal gaffes, Donald Trump is expected to carry Louisiana easily. That will leave Senate candidates on their own to turn out their bases on Election Day.

Many political observers have cast the Nov. 8 ballot as two mini primaries — one for Democrats, one for Republicans and conservatives — playing out inside Louisiana's storied "jungle" primary. Unlike most states, Louisiana uses an open primary system in which all candidates run against each other on the first ballot. If no one gets more than 50 percent on Nov. 8, the top two finishers will advance to the Dec. 10 runoff, regardless of party. With so many candidates competing in the primary, a runoff is virtually a certainty, which means Louisiana will be the last state to choose its new senator.

[click to enlarge](#)



The term "jungle primary" is a spot-on characterization of Louisiana's no-holds-barred electoral system, which contrasts sharply with the closed primaries held almost everywhere else in America. Closed primaries are limited to candidates of a particular party.

The Bayou State's open primary system tends to favor the extremes on opposite ends of the political spectrum and therefore often leads to a left-versus-right (Democrat-versus-Republican) showdown in the runoff. That may not be the case in the Senate race, however, because of the large field of candidates and the crowded GOP field.

State Sen. Norby Chabert of Houma, a former political consultant, says the typical runoff scenario is "not a guarantee" this time.

"If anything, what's happening now is actually emphasizing the jungle nature of the way we do things," he said, echoing the speculation in many quarters that, despite our state's Republican leanings, we could see an all-Democrat runoff.

Fletcher, having reviewed the permutations, agrees. "I don't think we should ignore that possibility," he says.

That outcome would be a nightmare for the GOP, and the chances of that nightmare becoming a reality increase as front-running Republicans play it safe on the issues in order to protect their respective bases around the state. For example, all are pro-life, pro-gun, pro-oil, anti-Obama, anti-Hillary Clinton, anti-union and, of course, pro-Trump — though some may be less enthusiastic in their support of the GOP presidential nominee after his latest pronouncements.

The same could be said of the leading Democrats, except there are only two of them to divide the 40-42 percent of the electorate that reliably votes "D" in national elections. On the Republican side, at least four major candidates — plus at least two more with 5-8 percent of the vote on average — will be competing for the other 58-60 percent of the vote. Add to that another 5 to 8 percent gobbled up by the 15 or more also-rans and it's easy to see how "jungle" is an apt political metaphor in Louisiana this year.

According to averages from the most recent public polls, no candidate has a more consolidated geographic base than Boustany. His hold on the Acadiana vote is the strongest in the field and has tightened significantly after extensive media buys. He has the added advantage of a congressional district that touches four of the state's seven major media markets — including two of the three largest in New Orleans and Baton Rouge. Boustany's opponents face a difficult decision: either go into Acadiana and try to compete, or try to contain Boustany to Acadiana and cut off his growth elsewhere.

They may be helped by accusations in a recently published book about a killing spree in Jefferson Davis Parish, where eight women's murders remain unsolved. Citing unnamed sources, author Ethan Brown claims in *Murder in the Bayou* that Boustany was a client of several murdered prostitutes, though he makes it clear the congressman is not suspected of having anything to do with their deaths. Boustany vigorously denied the accusations and has sued Brown and publisher Simon & Schuster for defamation — and accused Kennedy of promoting media coverage of Brown's allegations.

Fleming likewise has a strong regional hold in northwest Louisiana. He also has benefited from a massive television buy. Unlike Boustany, who has doubled down on firming up his Acadiana base, Fleming has spread his media barrages from Shreveport to metro New Orleans. He aims to run the right of the rest of the field, but even that narrow patch of political real estate is crowded.

Kennedy has a split base: the Northshore and greater Baton Rouge, though he has run statewide more than any of the other candidates.

Fayard, from New Orleans, and Campbell, from northwest Louisiana, have very different regional strengths and have tried to gain ground on each other's home turf. Campbell's campaign gets traditional Democratic support among teacher unions, while Fayard's campaign has the backing of many young progressives in the party and pro-charter school organizations. They are competing fiercely for Democratic votes in New Orleans, where Fayard has the mayor's support. But many other politicians and groups are backing Campbell.

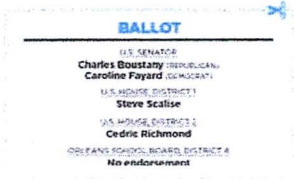
Headed to Election Day, candidates at every level will be competing for voters' attention against a presidential race like no other.

"It's going to have to happen on TV, in commercials," Fletcher says. "It won't happen anywhere else."

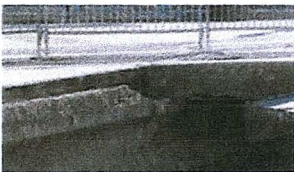
Such is the law of the political jungle.

Jeremy Alford is the editor and publisher of LaPolitics.com. Follow him on Twitter @LaPoliticsNow.

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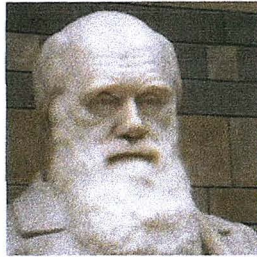
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Dear Rep. LeDoux,

I oppose HB 200. You have introduced this bill because you don't want to be "primaried". You decided to join with the democrats and vote like one, and therefore the Republican party decided to oppose you at the next election. This is a BAD bill because you have introduced it and you don't want to be primaried. You have shown your true colors and we the people have seen, as has the Republican Party. Vote NO! Thank you!

William Deaton

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ORIGINAL MAILED

April 11, 2017

House Judiciary Committee  
Attn: Rep. Matt Claman, Chair  
State Capitol, Room 118  
Juneau AK 99811

Re: HB 200 - Jungle Primary Election

Dear Chair Claman and Committee Members,

I have attached another article about the California voter turn-out for your information.

Also, I did not comment on the suggestion that I heard yesterday - that a Republican was interested in nominating candidates by party convention. I knew nothing about this, or who wrote the letter to all of you. However, the political parties have a Constitutional right to do so, if they want to select their candidates in that manner. However, I disagree with this manner of selection because, among other things, it further removes the voters from the selection process and will generate additional voter suspicion and resentment.

It does have one advantage, however. If every party is required to select its candidates for the general election ballot in this manner, the State of Alaska could avoid holding a primary election at all, and save the State probably \$4 to \$6 million or so (just an estimate from figures given to me years ago) by not paying for a primary election.

See you on Wednesday.

Thank you.

Very truly yours,

KENNETH P. JACOBUS, P.C.

By 

Kenneth P. Jacobus

KPJ:me

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## Is There A Connection Between California's Recent Low Voter Turnout And The Top-Two System?



By [Richard Winger](#)  
Editor of Ballot Access News  
Thursday, February 26th, 2015

California had the greatest drop in voter turnout of any state in the November 2014 election, compared to the November 2010 election. According to the voter turnout statistics gathered by Political Science Professor Michael P. McDonald, available at [www.electproject.org](http://www.electproject.org), California's turnout went from 45.8% in November 2010, to 30.8% in November 2014. Professor McDonald calculates turnout by calculating the number of people who cast a ballot as a percentage of the number of individuals who could have registered to vote and could have voted. His methodology, by not depending on the number of registered voters, avoids the problem that in some states, the voter registration rolls are inflated with duplicates and other "deadwood."

California is the only state in which the turnout in 2014, as a percentage of the 2010 turnout, was below 70%. Twelve states and the District of Columbia improved their voter turnout between 2010 and 2014. The median state's 2014 turnout was 91% of its 2010 turnout. California's figure was 67%.

In November 2014, California was the only state in which it was impossible for any voter to cast a vote for any statewide office for a candidate who was not a Republican or a Democrat. At the November 2014 election, 49 states had statewide offices up. All but five of them had minor party or independent candidates on the ballot for statewide office, and the other four besides California (Alabama, New Hampshire, New Mexico, and Pennsylvania) allow write-ins. California no longer allows write-ins for partisan state office or congress, so only in California was a voter who wanted to vote for someone other than a major party member for statewide office utterly unable to do so.

By contrast to 2014, in November 2010, California voters had the choice of six political parties for all of the statewide races. Many California voters that year voted for minor party candidates for statewide office. The total California minor party vote in 2010 was: Governor 539,645; Lieutenant Governor 1,073,984; Secretary of State 827,593; Treasurer 711,041; Controller 847,506; Attorney General 835,871; Insurance Commissioner 1,116,826.

I suggest that by blocking voters from voting for minor party candidates for statewide office in November 2014, the California top-two system injured voter turnout. Many people, when told that California had low turnout in November 2014, simply say, "That's because the election was boring." One reason it was boring in the eyes of many is that some of the most interesting candidates were not permitted to run in November. If the top-two system had not been in place in 2014, the November ballot would have listed two very interesting candidates for Governor, Luis J. Rodriguez of the Green Party, and Cindy Sheehan of the Peace & Freedom Party. Both of them were on the June 2014 primary ballot, but they got virtually no publicity because the mainstream media customarily does not cover minor party candidates very well, and when it does, it does so in the general election season. The primary season is dominated by news of which major party member will be successful in gaining a major party nomination.

Luis Rodriguez, as a youth, was a gang member, an alcoholic, and a drug user. But he changed his life dramatically, and is now the author of 15 books. In 2014 he became poet laureate of Los Angeles. He is co-founder of several institutions that help fight urban social problems, and the recipient of many awards, including the Hispanic Award for Literature, the Lila Wallace-Readers Digest Writer's Award, a PEN Josephine Miles Literary Award, a Lannan Poetry Fellowship, and a Paterson Poetry Prize. His web page, [luisirodriguez.com](http://luisirodriguez.com), tells more about him, including his policy ideas.

Cindy Sheehan is well-known for activism against U.S. involvement in the Iraq war of 2003, especially for setting up "Camp Casey" outside President George W. Bush's ranch in Crawford, Texas, and maintaining a vigil there for many months. She ran for U.S. House in San Francisco as an independent in 2008, and was the only independent congressional candidate in the nation that year who outpolled a major party nominee. She received 46,118 votes, beating her Republican opponent, Dana Walsh, who got 27,614 votes.

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If these two candidates had been permitted to be on the November 2014 ballot for Governor, the gubernatorial race would have been more interesting than it was, because Rodriguez and Sheehan are two very interesting people. If there had been televised candidate gubernatorial debates in the general election season in California that included the minor party candidates (as there were in a majority of other states in 2014), voter interest in the race would have increased.

If California wants to improve voter turnout in future general elections, ending the top-two system, and bringing back multiple choices in November, will help with that goal.

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Liberal lion Mike Honda in D.C., where he has support from the Democratic establishment. He has served seven terms in Congress but faces challenges from within his own party. Jose Luis Magana—AP

2014 ELECTION

## California's New Jungle Primary System

Joe Klein

May 14, 2014



"I'm Guessing," says Dan Schnur, who is running for California secretary of state, "that not many of you lie awake at night wondering what the next California secretary of state will do." There is laughter from the crowd of maybe 30 voters. And you, too, dear readers--especially those of you who don't even live in California--may be wondering why a candidate for a decidedly obscure political office is worthy of your attention.

Well, part of it is that Dan Schnur is an interesting guy, a longtime consultant to moderate Republicans like Arnold Schwarzenegger and John McCain. But he isn't a Republican anymore. He's running as an Independent. "I'm in favor of marriage equality and lower taxes," he begins. "I'm tough on crime and pro-choice. I'm for

immigration reform and for using test scores as a valuable measure of students' progress. Yes, the reason that I'm running as an Independent is that neither party will have me."

But that's not exactly accurate. He's running as an Independent because there were two political reforms enacted during Schwarzenegger's time as governor of California. They were below the radar but startling, the sort of reforms that are near impossible because incumbent politicians usually block them--but they were passed by public referendum and initiative in 2010, and Schnur was one of those at the heart of the campaign to get them enacted.

The reforms are ingeniously simple. There is no more gerrymandering in California, no more congressional or state legislative districts tailored to the needs of the incumbents or the majority political party. District lines are now drawn by an independent commission to reflect actual community borders. (The commissioners are forbidden by law from knowing where the incumbents live.) Second, primaries are now multipartisan: the top two vote getters, regardless of party affiliation, face off against each other in the general election. Schnur co-chaired the Voices of Reform project on redistricting. "I wasn't too involved in the top-two primary reform," he says. "I didn't think it would make much difference ... but I've learned: this could be enormous." Schnur and his colleagues may have actually created an electoral system that favors centrists rather than politicians who play to their party's base. On June 3, California will go to the polls in what politicos have taken to calling the Jungle Primary.

California's Fourth Congressional District is a perfect primer for the curiosities of the Jungle. Tom McClintock, 57, is the three-term incumbent and has long prided himself on his "constitutionalist" orneriness. He is, in other words, a Tea Party Republican. His district, in the Central Valley and foothills, is very conservative but perhaps not as extreme as McClintock is. He is, for example, in favor of amnesty for Edward Snowden, the NSA leaker, because Snowden helped expose the criminal proclivities of the federal government and "I'd rather have him home talking to us than over there talking to the Russians."

At a well-attended Saturday-afternoon meeting in the town of Mariposa, near the entrance to Yosemite National Park, McClintock endorsed a candidate for county supervisor and then addressed the crowd, many of whom wore cowboy hats and sported some elaborate facial hair. They were all het up over the federal government and the "left-wing environmentalists," as McClintock described them, calling the federal tune in Yosemite. Some of their complaints sounded reasonable: a local toad was about to be labeled "threatened," which would further limit the local water supply (there's been a terrible drought in California)--but the toads were dying out, according to the locals, because the feds had stocked the lakes with trout, which ate the tadpoles. The feds were also proposing to close down stables and rafting businesses along the Yosemite waterways.

McClintock is a smart politician who knows the issues, knows what his constituents care about and can make it seem as if he's as angry as they are. He takes lonely--his opponents say obstructionist--stands against the various agencies of the Department of the Interior. He "speaks truth to power," as he told the folks in Mariposa. In the past, he didn't have many electoral cares; the Democrats have never had much of a chance in either the old or new Fourth District. But now McClintock has to worry about Art Moore, who is also a Republican.

Moore, 36, is a razor-sharp recent combat veteran, an Army major returned to his hometown of Roseville, the most populous community in the Fourth District. He is a graduate of West Point who served tours in both Iraq and Kuwait. He is also, however, a stone-cold neophyte who hasn't really been to political boot camp yet. He is, he says, "a conservative," and he checks the appropriate boxes on most conservative issues, like Obamacare--but he also is "a bit more libertarian" than McClintock on social issues like gay marriage and abortion. Most important, though, is his style: he's the opposite of McClintock's lone gunslinger. "You've got to sit down and negotiate with those you don't agree with," he says. "[McClintock] has a perfect conservative voting record, but what has he got done? He voted to shut down the federal government--to close Yosemite--which really hurt this

district. I'm in favor of building coalitions and seeing if we can make some progress on the issues."

Moore admits that he would not have run under the old system. McClintock has the party base locked up and the power of incumbency. But if Moore can make it into the general election against McClintock, he may be able to access independent and moderate Democratic voters as well as his brand of conservative Republicans. "In the Jungle Primary, everybody has to run to the center," says Fred Keeley, a former state rep from Santa Cruz who co-chaired the Voices of Reform project with Schnur, "because that's where the votes are."

McClintock claims not to be worried about Moore. He tells me that his "most substantial opponent" in the Fourth District is an Independent named Jeffrey Gerlach. It's a lovely tactic to pretend that Moore doesn't matter and a sign that uniprimary politics can get pretty interesting: a Republican opponent like Moore, who might appeal to moderates in November, when more people are paying attention, is McClintock's worst nightmare in the Jungle.

Indeed, across the state in Silicon Valley, there has been an outbreak of electoral weirdness in the 17th Congressional District--which, in some ways, is a mirror image of the race in the Fourth: Mike Honda, a traditional labor liberal, is opposed by a more moderate Democratic newcomer named Ro Khanna. Khanna, 37, is an Indian American, an intellectual-property lawyer who worked in Barack Obama's Commerce Department and has close ties to the President. He has also reportedly raised \$3.7 million--far more than Honda--from Silicon Valley tech titans, who are just beginning to flex their political muscles (much as Hollywood did during the Vietnam War). Khanna is an impressive candidate, fluent on every issue and, in some cases, downright courageous: he is willing to challenge the public-employee unions--all of which support Honda--on issues like accountability and pension reform. Most of the major newspapers in the district have endorsed Khanna.

But the 17th District also has a semiplausible third candidate--a Republican named Dr. Vanila Singh, 43, a young and attractive professor of anesthesiology at Stanford University Medical School. Singh is a neophyte and can seem foggy on the

issues, but she has positioned herself cleverly--she's another social liberal, and she's willing to negotiate with the Democrats about the Affordable Care Act. In fact, since about 25% of the district votes Republican, she might pose a credible primary threat to Khanna, the Democratic moderate. And so, after she declared her candidacy, there was a sudden flowering of old-style urban ward politics in and around San Jose. Suddenly, Singh had two Republican challengers--one named, confusingly enough, Vanish Singh Rathore (who was eliminated from the ballot because the signatures on his petitions were not remotely plausible); the other, Joel Vanlandingham, offered petitions that included signatures from Khanna supporters.

Khanna denies any hand in this. "I would have to be pretty stupid to get involved in that sort of thing," he says. "I mean, Vanlandingham was really tough on me in the League of Women Voters debate."

There are some who say that the Jungle will cause a lot of rumbling but no real results. "The rubber meets the road when the moderates go to Congress," says Samuel Popkin of the University of California at San Diego. "The evidence suggests they stick with the party line." The evidence is skimpy, though--just the 2012 election, when the Jungle was brand-new and most politicians weren't completely aware of its possibilities yet. Some felt the traditional pull of partisan loyalty and chose not to challenge their party's stalwarts.

Khanna was one such in 2012, when he chose not to challenge the venerable Representative Pete Stark, a devoted liberal and the only admitted atheist in the House. Another young Democrat, Eric Swalwell, made that race and beat Stark, which sent a signal throughout the state that the Jungle was open for business: you could challenge incumbents of your own party and maybe even win.

Honda seems a bit mystified by all that has happened. His is a classic American story. He spent part of his youth imprisoned in a Japanese-American internment camp in Colorado during World War II. He was inspired, not embittered, by the experience. He became a teacher and then a school principal, then commenced a public life that culminated in seven terms in Congress. His campaign office is in a

Service Employees International Union hall. He greets me wearing jeans and cowboy boots and a red, white and blue Democratic donkey tie.

He sees his career as many incumbents do: a list of local projects funded, of ideological battles fought--in his case, the relentless pursuit of social justice and civil rights. He remembers helping get a nanotechnology bill passed in 2003 at the behest of Silicon Valley, but now the techno-wizards have abandoned him in favor of Khanna. "I'm an orchardist," he says. "That nanotechnology bill planted the seeds for the trees that are bearing the fruit in Silicon Valley now. But I guess no one remembers those who plant the trees."

It is hard not to have sympathy for Honda, but the political orchard he and his generation planted was poisoned over time by partisanship and paralysis, and now it has been replaced by a jungle. We'll see what sorts of glorious fruits and subtle poisons the Jungle brings forth.

LAW OFFICES OF  
**KENNETH P. JACOBUS**  
A PROFESSIONAL CORPORATION  
310 K Street, Suite 200  
ANCHORAGE AK 99501-2064  
TELEPHONE (907) 277-3333  
FAX (907) 264-6666

**VIA FAX 907-  
ORIGINAL MAILED**

April 10, 2017

House Judiciary Committee  
Attn: Rep. Matt Claman, Chair  
State Capitol, Room 118  
Juneau AK 99811

Re: HB 200 - Jungle Primary Election

Dear Chair Claman and Committee Members,

I listened to the hearing on HB 200 this afternoon, and I am writing to provide what I hope is some useful information. It may be somewhat disjointed, because I am responding to some of the questions and concerns that were raised at the hearing. I think that the "top-two" primary is a very bad idea, and strongly oppose that idea for Alaska. I will attend your hearing on Wednesday to testify and answer questions.

This type of primary has been called a "jungle" primary for years. That is why I use this phrase. I have enclosed four articles - two from California and one from Louisiana, use that phrase. I personally think of it as a "demolition derby." Everyone crashes into everyone else, until only two cars are left running. The chaos is remarkable. The last two candidates standing - the top two vote getters - proceed to the general election.

First, a couple of initial comments. The system was not adopted by voter initiative in all the states where it exists. In California, the Legislature placed the issue on the ballot. Louisiana is not even an initiative state. Normally, where this matter is considered, it is supported by incumbent legislators who believe that the system will better protect their reelections because of the confusion engendered by the system.

Second, Washington State Grange v. Washington State Republican Party, 552 U.S. 442 (2008) is a limited decision. In Footnote 11, the Supreme Court of the United States left open the issues of ballot access, trademark protection of party names, and campaign finance for future litigation.

If the jungle primary is adopted in Alaska, I am almost certain that there will be future litigation. This litigation will center around the issues of ballot access, right of free political association, and the separate elections for governor and lieutenant governor mandated by Article III, Sections 3 and 8, of the Constitution of Alaska.

You should get the input of the minor parties in Alaska before adopting the jungle primary. These parties will be destroyed by the jungle primary. There has never been a "top-two" election for State or Federal office in California or Washington in which a minor party was able to qualify for the general election ballot, unless there was only one candidate of a major party running for that office. A minor party will thus never be able to meet the 3% standard to retain qualified party status. The only way a group could become a qualified party or retain their status would

be with a registration drive. However, no party in Alaska has obtained qualified status the first time by a registration drive. The qualified parties in Alaska all first gained party status by meeting the vote test. This included the Libertarian Party in 1982, the Alaskan Independence Party in 1982 (with the help of a court case), the Green Party in 1990, and the Republican Moderate Party in 1998.

This was also true during the years that Louisiana had a "top-two" primary as well. After Louisiana lost in the United States Supreme Court in 1997 in Foster v. Love, Louisiana changed its system so that there are now no primaries - just general elections in November (for Congress) and a run-off in December, if no candidate gets 50% in November.

In addition, political science research and experience demonstrates that the system used in California and Washington does not decrease polarization, does not elect more moderate officeholders, and depresses voter turn-out.

Comparing November 2010 with November 2014, the California voter turn-out declined more than in any other state. In November 2010, there were six parties on the ballot for all statewide offices. In November 2014, there was only one Democrat and one Republican for each office, with no write-in candidates allowed. California is the only state in which the 2014 voter turn-out was less than 70% of what it had been in November 2010,

In November 2016, the top-two system in California resulted in two Democrat candidates on the ballot for United States Senate. Among California voters who cast a ballot, 16% left the U.S. Senate line blank. This was the worst fall-off for a California U.S. Senate election in 75 years.

In addition, the November 2016 election demonstrated that a result can be obtained where there are two candidates of a single major party, and all the mischief that results from this. This problem for certain election districts was recognized by the Committee during the hearings earlier today.

Finally, according to political science professor Boris Shor, who studies polarization, according to data released several months ago, California has the most polarized legislature in the nation and the Washington Legislature ranks fifth. In recent years, even the Nebraska Legislature has become more polarized. I do not know where Alaska ranks, but we certainly do not need more polarization in the Legislature of Alaska.

Although I have no empirical data on these points, I believe that the chaos of the jungle primary will result in higher campaign expenses, more political rhetoric, and less voter interest in the campaign. With everyone having to attack everyone else for the top two positions, it will be harder to sort good information from bad. Clear party labels and party primaries, rather than a jungle primary, provide better information to the voters and enable them to exercise their knowledgeable choices.

Additionally, the mathematics of each individual race, rather than the philosophies of the candidates, will dictate each campaign. As was observed in the enclosed Op-Ed, the most obvious effect of the jungle primary is to convey a clear advantage to the party that runs fewer candidates for an office. This is most clear in California, where write-ins are not allowed.

House Judiciary Committee  
April 10, 2017  
Page 3

Alaska will have a different problem. The mathematically logical approach in Alaska might be, for example, to get two Democrats on the general election ballot, and then run a Republican candidate as a write-in, hoping to get all the Republican votes while the Democrats lose because they split the Democrat votes.

Also, as recognized at the hearing, withdrawal and substitution of candidates will be a thorny problem.

I am sure that each of you can think of more problems with the jungle primary than those that I have mentioned in this letter. I am looking forward to testifying on Wednesday.

The "top-two" jungle primary is simply a bad idea that should not be adopted in Alaska.

Thank you.

Very truly yours,

KENNETH P. JACOBUS, P.C.

By

  
Kenneth P. Jacobus

KPJ:me

Encl.

AMENDMENT

# 1 Adopted

OFFERED IN THE HOUSE

BY REPRESENTATIVE LEDOUX

TO: CSHB 200( ), Draft Version "U"

1 Page 11, line 15:

2 Delete "to"

3 Insert "Except as provided in AS 15.25.100(d), only"

4

5 Page 11, line 17, following "office":

6 Insert "shall advance to the general election"

7

8 Page 13, line 29:

9 Delete "(b) and (c)"

10 Insert "(b) - (g)"

11

12 Page 14, lines 4 - 6:

13 Delete "place on the general election ballot the name of only one of the candidates  
14 who tied for that office, to be determined by lot under AS 15.20.530"

15 Insert "determine under (g) of this section which candidate's name shall appear on the  
16 general election ballot"

17

18 Page 14, line 7:

19 Delete "For"

20 Insert "Subject to (d) and (e) of this section, for"

21

22 Page 14, following line 17:

23 Insert new subsections to read:

1           "(d) If a candidate whose name is placed on the general election ballot under  
2 this section dies, withdraws, resigns, becomes disqualified from holding the office for  
3 which the candidate is nominated, or is certified as being incapacitated under (f) of  
4 this section after the primary election and 64 days or more before the general election,  
5 the director may not place the candidate's name on the general election ballot and shall  
6 instead place the name of the candidate, in order of priority, who

7                       (1) tied in having the second greatest number of votes at the primary  
8 election; or

9                       (2) received the third greatest number of votes for the office at the  
10 primary election.

11           (e) If a candidate for governor or lieutenant governor is replaced under (d) of  
12 this section, the candidate for governor who received the greatest number of votes in  
13 the primary election may choose which of the eligible candidates for lieutenant  
14 governor to run with jointly. The director shall place on the general election ballot the  
15 name of the candidate for governor who received the greatest number of votes with the  
16 name of the candidate for lieutenant governor selected by that candidate for governor,  
17 and shall place the name of the other eligible candidate for lieutenant governor with  
18 ~~the name of the other eligible candidate for governor.~~

19           (f) For a candidate to be certified as incapacitated under (d) of this section, a  
20 panel of three licensed physicians, not more than two of whom may be of the same  
21 party, shall provide the director with a sworn statement that the candidate is physically  
22 or mentally incapacitated to an extent that would, in the panel's judgment, prevent the  
23 candidate from active service during the term of office if elected.

24           (g) If the director is unable to make a determination under this section because  
25 the candidates received an equal number of votes, the determination may be made by  
26 lot under AS 15.20.530."

27  
28 Page 22, line 29, following "election.":

29           Insert "However, if one of the two candidates who received the most votes for an  
30 office at the primary election died, withdrew, resigned, was disqualified, or was certified as  
31 incapacitated 64 days or more before the general election, the candidate who received the

1 third most votes for the office advanced to the general election."  
2

3 Page 23, line 19, following "election.":

4 Insert "However, if, after the primary election and 64 days or more before the general  
5 election, one of the two candidates who received the most votes for an office at the primary  
6 election dies, withdraws, resigns, is disqualified, or is certified as incapacitated, the candidate  
7 who received the third most votes for the office will advance to the general election."  
8

9 Page 23, line 30, following "election.":

10 Insert "However, if, after the special primary election and 64 days or more before the  
11 special election, one of the two candidates who received the most votes for a state office or  
12 United States senator at the primary election dies, withdraws, resigns, is disqualified, or is  
13 certified as incapacitated, the candidate who received the third most votes for the office will  
14 advance to the general election."

AMENDMENT

#2 Withdrawn

OFFERED IN THE HOUSE

BY REPRESENTATIVE EASTMAN

TO: CSHB 200( ), Draft Version "U"

1 Page 1, line 1, following "nonpartisan":

2 Insert "ranked-choice"

3

4 Page 6, line 9, following "nonpartisan":

5 Insert "ranked-choice"

6

7 Page 7, following line 12:

8 Insert a new paragraph to read:

9 "(16) The director shall design the primary or special primary election

10 ~~ballot to accommodate ranked-choice voting for candidates for the offices of governor~~

11 and lieutenant governor, for candidates for the legislature, and for candidates for the

12 United States Congress. The ballot shall direct the voter to mark candidates in order of

13 preference and to mark as many choices as the voter wishes, but not to assign a

14 particular ranking to more than one candidate in the same race."

15

16 Page 7, following line 20:

17 Insert new bill sections to read:

18 "\* Sec. 12. AS 15.15.350 is amended by adding new subsections to read:

19 (c) When counting primary or special primary election ranked-choice voting

20 ballots, the election board shall initially count each ballot as one vote for the highest-

21 ranked continuing candidate on the ballot or as an exhausted ballot. The election

22 threshold shall be calculated. Tabulation shall then proceed sequentially as follows:

23 (1) if the number of continuing candidates whose vote totals exceed

1 the election threshold is equal to two, those two candidates are nominated, and the  
2 tabulation is complete; if the number of continuing candidates is equal to or less than  
3 two, then those continuing candidates are nominated, and the tabulation is complete;  
4 otherwise, the tabulation continues to (2) of this subsection;

5 (2) if no candidate has a vote total that exceeds the election threshold,  
6 the tabulation continues to (3) of this subsection; if at least one continuing candidate  
7 has a vote total that exceeds the election threshold, then the continuing candidate with  
8 the highest vote total is nominated, the number of surplus votes for the candidate shall  
9 be calculated, and the surplus fraction for the candidate shall be calculated; the new  
10 transfer value of each vote cast for the candidate shall be calculated; votes for the  
11 candidate shall be added, at their new transfer values, to the totals of each ballot's  
12 highest-ranked continuing candidates or counted as exhausted ballots, and a new  
13 round begins under (1) of this subsection; in all subsequent rounds, candidates elected  
14 under this paragraph have vote totals equal to the election threshold;

15 (3) the candidate with the fewest votes is defeated; then, if the number  
16 of continuing candidates is equal to two, all continuing candidates are elected, and the  
17 tabulation is complete; otherwise, votes for the defeated candidate shall cease to be  
18 ~~counted for the defeated candidate and shall be added, at their current transfer values,~~  
19 to the total of the next-ranked continuing candidate on each ballot or counted as  
20 exhausted ballots, and a new round begins under (1) of this subsection.

21 (d) When counting primary or special primary ranked-choice election ballots,

22 (1) a ballot assigning a particular ranking to more than one candidate  
23 for an office shall be declared invalid when the double ranking is reached;

24 (2) if a ballot skips a ranking, then the election board shall count the  
25 next ranking; and

26 (3) if there is a tie vote between continuing candidates, the procedures  
27 in AS 15.15.460 and AS 15.20.430 - 15.20.530 shall be followed.

28 (e) In this section,

29 (1) "continuing candidate" means a candidate that has not been  
30 defeated or nominated;

31 (2) "election threshold" means the number of votes sufficient for a

1 candidate to be nominated; the election threshold is calculated by dividing the total  
2 number of votes for continuing candidates in the first round by three and rounding up  
3 to four decimal places;

4 (3) "exhausted ballot" means a ballot that is not counted for a  
5 continuing candidate for one or more of the following reasons:

6 (A) it does not rank a continuing candidate;

7 (B) its highest continuing ranking contains an overvote; or

8 (C) it includes two or more consecutive skipped rankings  
9 before its highest continuing ranking;

10 (4) "highest continuing ranking" means the highest ranking for a  
11 continuing candidate;

12 (5) "overvote" means the assignment by a voter of the same ranking to  
13 more than one candidate;

14 (6) "ranking" means the number assigned by a voter to a candidate to  
15 express the voter's choice for that candidate; a ranking of "1" is the highest ranking,  
16 followed by "2," and then "3," and so on;

17 (7) "round" means an instance of the sequence of voting tabulation in a  
18 ~~primary or special primary election;~~

19 (8) "skipped ranking" means a ranking blank on a ballot on which a  
20 voter has ranked another candidate at a subsequent ranking;

21 (9) "surplus" means a positive difference between a candidate's vote  
22 total and the election threshold;

23 (10) "surplus fraction" means the number equal to a candidate's surplus  
24 divided by the candidate's vote total, calculated to four decimal places and ignoring  
25 any remainder;

26 (11) "transfer value" means the proportion of a vote that a ballot will  
27 contribute to its highest continuing ranking; each ballot begins with a transfer value of  
28 one; if a ballot transfers from a nominated candidate with a surplus, the ballot receives  
29 a new transfer value that is calculated by multiplying the surplus fraction of the  
30 nominated candidate by the current transfer value of the ballot, calculated to four  
31 decimal places and ignoring any remainder.

1 \* Sec. 13. AS 15.15.360(a)(1) is amended to read:

2 (1) A voter may mark a ballot only by filling in, making "X" marks,  
3 diagonal, horizontal, or vertical marks, solid marks, stars, circles, asterisks, checks, or  
4 plus signs that are clearly spaced in the oval opposite the name of the candidate,  
5 proposition, or question that the voter desires to designate. In addition, a voter may  
6 mark a ballot at a primary or special primary election by the use of roman or  
7 Arabic numerals that are clearly spaced in one of the squares opposite the name  
8 of the candidate that the voter desires to rank.

9 \* Sec. 14. AS 15.15.360(a)(4) is amended to read:

10 (4) Except as provided in AS 15.15.350(c) for primary and special  
11 primary election ballots, if [IF] a voter marks more names than there are persons to  
12 be elected to the office, the votes for candidates for that office may not be counted.

13 \* Sec. 15. AS 15.15.370 is amended to read:

14 **Sec. 15.15.370. Completion of ballot count; certificate.** When the count of  
15 ballots is completed, and in no event later than the day after the election, the election  
16 board shall make a certificate in duplicate of the results. The certificate includes the  
17 number of votes cast for each candidate, including the number of votes at each  
18 round of the primary or special primary ranked-choice voting tabulation process  
19 under AS 15.15.350(c), and the number of votes for and against each proposition,  
20 yes or no on each question, and any additional information prescribed by the director.  
21 The election board shall, immediately upon completion of the certificate or as soon  
22 thereafter as the local mail service permits, send in one sealed package to the director  
23 one copy of the certificate and the register. In addition, all ballots properly cast shall  
24 be mailed to the director in a separate, sealed package. Both packages, in addition to  
25 an address on the outside, shall clearly indicate the precinct from which they come.  
26 Each board shall, immediately upon completion of the certification and as soon  
27 thereafter as the local mail service permits, send the duplicate certificate to the  
28 respective election supervisor. The director may authorize election boards in precincts  
29 in those areas of the state where distance and weather make mail communication  
30 unreliable to forward their election results by telephone, telegram, or radio. The  
31 director may authorize the unofficial totaling of votes on a regional basis by election

1 supervisors, tallying the votes as indicated on duplicate certificates. To assure  
 2 adequate protection, the director shall prescribe the manner in which the ballots,  
 3 registers, and all other election records and materials are thereafter preserved,  
 4 transferred, and destroyed.

5 \* **Sec. 16.** AS 15.15.450 is amended to read:

6 **Sec. 15.15.450. Certification of state ballot counting review.** Upon  
 7 completion of the state ballot counting review for a primary or special primary  
 8 election, the director shall certify the two persons receiving the greatest majority  
 9 and the second greatest majority of votes for the office for which those persons  
 10 were candidates as nominated to the general election ballot, and, for a general  
 11 election, the director shall certify the person receiving the largest number of votes for  
 12 the office for which that person was a candidate as elected to that office and shall  
 13 certify the approval of a justice or judge not rejected by a majority of the voters voting  
 14 on the question. The director shall issue to the elected candidates and approved  
 15 justices and judges a certificate of their election or approval. The director shall also  
 16 certify the results of a proposition and other question except that the lieutenant  
 17 governor shall certify the results of an initiative, referendum, or constitutional  
 18 amendment."

19  
 20 Renumber the following bill sections accordingly.

21  
 22 Page 11, line 16:

23 Delete "number of votes and the second greatest number"

24 Insert "majority of votes and the second greatest majority"

25  
 26 Page 13, line 13. following "ballots.":

27 Insert "(a)"

28  
 29 Page 13, following line 23:

30 Insert a new subsection to read:

31 "(b) The director shall include instructions on primary and special primary

1 election ballots directing the voter to rank candidates for an office in order of  
2 preference and to rank as many choices as the voter wishes, but not to assign the same  
3 ranking to more than one candidate."  
4

5 Page 13, line 28:

6 Delete "number of votes and the second greatest number"

7 Insert "majority of votes and the second greatest majority"

8

9 Page 13, line 31:

10 Delete "number"

11 Insert "majority"

12

13 Page 14, line 3:

14 Delete "number"

15 Insert "majority"

16

17 Page 14, line 9:

18 ~~Delete "number"~~

19 Insert "majority"

20

21 Page 14, line 10:

22 Delete "number"

23 Insert "majority"

24

25 Page 14, line 11:

26 Delete "number"

27 Insert "majority"

28

29 Page 14, line 13:

30 Delete "number"

31 Insert "majority"

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Page 14, line 14:

Delete "number"

Insert "majority"

Page 14, line 15:

Delete "number"

Insert "majority"

Page 14, line 17:

Delete "number"

Insert "majority"

Page 22, line 28:

Delete "most"

Insert "greatest majority and second greatest majority of"

~~Page 23, line 16:~~

~~Delete "may vote for any candidate listed"~~

~~Insert "must rank the candidates in the numerical order of your preference, ranking as many candidates as you wish. Your second, third, and subsequent ranked choices will be counted only if the candidate you ranked first does not receive enough votes to continue on to the next round of counting, so ranking a second, third, or subsequent choice will not hurt your first-choice candidate. Your ballot will be counted regardless of whether you choose to rank one, two, or more candidates for each office, but it will not be counted if you assign the same ranking to more than one candidate for the same office"~~

Page 23, line 17:

Delete "most"

Insert "greatest majority and second greatest majority of"

1 Page 23, line 28:

2 Delete "may vote for any candidate listed"

3 Insert "must rank the candidates in the numerical order of your preference, ranking as  
4 many candidates as you wish. Your second, third, and subsequent ranked choices will be  
5 counted only if the candidate you ranked first does not receive enough votes to continue on to  
6 the next round of counting, so ranking a second, third, or subsequent choice will not hurt your  
7 first-choice candidate. Your ballot will be counted regardless of whether you choose to rank  
8 one, two, or more candidates for each office, but it will not be counted if you assign the same  
9 ranking to more than one candidate for the same office"

10

11 Page 23, line 29:

12 Delete "most"

13 Insert "greatest majority and second greatest majority of"

14

15 Page 25, following line 23:

16 Insert a new bill section to read:

17 **\*\* Sec. 59.** AS 15.80.010 is amended by adding a new paragraph to read:

18 ~~(46) "ranked-choice voting" means the method of casting and~~  
19 tabulating votes at a primary or special primary election in which voters rank  
20 candidates in order of preference and in which tabulation proceeds in sequential  
21 rounds in which last-place candidates are defeated and the candidates with the greatest  
22 majority of votes and the second greatest majority of votes are nominated to appear on  
23 the general election ballot."

24

25 Page 26, line 9, following "NONPARTISAN":

26 Insert "RANKED-CHOICE OPEN"

27

28 Renumber the following bill sections accordingly.

## LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

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

State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

### MEMORANDUM

April 14, 2017

**SUBJECT:** Top two nonpartisan ranked-choice open primary election system for elective state executive and state and national legislative offices (CSHB 200(JUD); Amendment 30-LS0038\U.2)

**TO:** Representative David Eastman

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

This memorandum accompanies the amendment described above. I have a few comments.

You originally requested an amendment to CSHB 200(JUD) that would make all state elections "ranked-choice" elections.<sup>1</sup> CSHB 200(JUD) establishes a top two nonpartisan primary election system for elective state executive and state and national legislative offices.<sup>2</sup> The state cannot have both a top two election system and a ranked-choice election system.

In a telephone conversation late yesterday, you clarified that it was not your desire to replace the top two election system established by CSHB 200(JUD) with a ranked-choice system, but instead, within the confines of that bill's top two nonpartisan primary election

---

<sup>1</sup> Ranked-choice voting is a method of casting and tabulating votes at an election in which voters rank candidates in order of preference, tabulation proceeds in sequential rounds in which last-place candidates are defeated and the candidate with the greatest majority (election to a single office) or candidates with the greatest majorities of votes (election to two or more offices) are elected.

<sup>2</sup> Under the system established by CSHB 200(JUD), the state's primary ballot would no longer select parties' nominees, but identify each candidate by the candidate's own self-identified party preference. Voters could vote for any candidate. The top two vote getters for each office in the primary election, regardless of party preference, would advance to the general election and each special election would be preceded by a special primary election that would function in the same manner. Write-in votes would continue to be permitted for general and special election ballots.

Representative David Eastman  
April 14, 2017  
Page 2

system, implement ranked-choice voting.<sup>3</sup> Accordingly, if this amendment were adopted, CSHB 200(JUD) would establish a top two nonpartisan ranked-choice open primary election system for elective state executive and state and national legislative offices. This is a novel use of ranked-choice voting.<sup>4</sup>

Under this system, a voter would rank candidates running in a primary or special primary election for an elective state executive or state or national legislative office in the order of the voter's preference, and the two candidates who received the greatest majority and the second greatest majority of votes for an office at that primary or special primary election would appear on the general or special election ballot. At the subsequent general or special election, ranked-choice voting would not be used and the candidate for an office that received the greatest number of votes would be elected.

Because you provided an article relating to the adoption of ranked-choice voting in the state of Maine,<sup>5</sup> I employed a model for a "multi-winner" ranked-choice election system for your amendment (necessary because under a top two primary, two candidates advance to the general election) provided by Fairvote, a 501(c)(3) organization<sup>6</sup> that may have been the source of the language for the "single winner" ranked-choice voting system

---

<sup>3</sup> Note that there are numerous forms of "ranked-choice," "preferential," or "instant runoff" elections systems. Wikipedia provides a good summary. See "[https://en.wikipedia.org/wiki/Instant-runoff\\_voting](https://en.wikipedia.org/wiki/Instant-runoff_voting)" and "[https://en.wikipedia.org/wiki/Ranked\\_voting](https://en.wikipedia.org/wiki/Ranked_voting)."

<sup>4</sup> Interestingly, using ranked-choice voting only at the state's primary election is likely the only constitutional means of implementing ranked-choice voting for state executive office in Alaska. Article III, sec. 3 of the Constitution of the State of Alaska provides that "[t]he candidate receiving the *greatest number of votes* shall be governor." Emphasis added. The discussion of this provision in the minutes of the constitutional convention for January 13, 1956, suggests that the framers considered and rejected the possibility of requiring a majority vote. See *Legislative Affairs Agency, Minutes to the Proceedings of the Alaska Constitutional Convention, 1955-56* at 2065-66 (Juneau, 1965). Accordingly, a constitutional amendment would likely be required if ranked-choice voting was to be used to elect the Governor and Lieutenant Governor at the general election.

<sup>5</sup> Note that ranked-choice voting is not scheduled to be implemented in Maine until 2018 and that a ranked-choice system may be unconstitutional under Maine's state constitution. The Maine Supreme Court heard arguments on the constitutionality of the state's ranked-choice election system yesterday (April 13, 2017). See Michael Shepherd, *High court hints it will have to rule on Maine ranked-choice vote legality*, Bangor Dailey April 14, 2017. Available on April 14, 2017 at "<http://bangordailynews.com/2017/04/13/politics/high-court-hints-action-now-needed-on-maine-ranked-choice-vote-legality/>"

<sup>6</sup> Information about the Fairvote organization and their draft model bills were available on April 14, 2017 respectively at "<http://www.fairvote.org/about>" and "[http://www.fairvote.org/rcv#rcv\\_resources\\_and\\_links](http://www.fairvote.org/rcv#rcv_resources_and_links)."

Representative David Eastman  
April 14, 2017  
Page 3

enacted by initiative in Maine.<sup>7</sup> Note that the language required to implement a "multi-winner" ranked-choice system defies simplification. Given the time allotted, I used the language of Fairvote's multi-winner ranked-choice system, modifying it only as necessary or as appropriate to a "two-winner" system.

Accompanying your amendment and this memorandum is an explanation and example of how a multi-winner ranked-choice election works.<sup>8</sup>

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

TLAB:dls  
17-338.dls

Attachment

---

<sup>7</sup> The "single winner" provision in Fairvote's model bill is identical to the "single winner" provision in the Maine initiative. See "<https://fairvote.app.box.com/v/Model-Single-Multi-RCV>" and "<https://fairvote.app.box.com/v/Maine-Citizen-Initiative>."

<sup>8</sup> Available on Fairvote's internet website on April 14, 2017. at "[http://www.fairvote.org/multi\\_winner\\_rcv\\_example](http://www.fairvote.org/multi_winner_rcv_example)."

**Solutions (/solutions) / Ranked Choice Voting / Instant Runoff (/rcv)**  
 / Multi-Winner Ranked Choice Voting

# Multi-Winner Ranked Choice Voting

Ranked choice voting in multi-winner elections (also commonly known as "single transferable vote" or simply "choice voting") maximizes the effectiveness of every vote to ensure that as many voters as possible will help elect a candidate they rank highly. It minimizes wasted votes and the impact of tactical voting, allows voters to have more choices, and encourages positive campaigning and coalition-building. It upholds both minority representation and the principle of majority rule. Because of its proven history, its emphasis on candidates rather than parties, and its ability to allow voters to express their full, honest preferences on their ballots, ranked choice voting is the form of fair representation voting (proportional\_representation) best suited for use in U.S. elections.

## To Vote

Under ranked choice voting, voters rank candidates in order of choice. They mark their favorite candidate as first choice and then indicate their second and additional back-up choices in order of choice. Voters may rank as many candidates as they want, knowing that indicating a later choice candidate will never hurt a more preferred candidate.

## To Determine Winners

To find out who wins, we first need to know how many votes are enough to guarantee victory, which we call the election threshold. That threshold is the number of votes that mathematically guarantees that the candidate cannot lose. For example, if three candidates will be elected, the threshold is 25% of votes. That's because if one candidate has more than 25% of the vote, it is impossible for three other candidates to get more votes than them (because that would add up to more than 100% of votes). If four candidates will be elected, the threshold is 20% of votes. If five candidates will be elected, it is about 17% of votes.

After counting first choices, candidates with more votes than the election threshold are elected. Then, each elected candidate's "surplus" are added to the totals of their voters' next choices. For example, if a candidate has 10% more votes than the election threshold, every one of their voters will have 10% of their vote count for their second choice. That way, voters aren't punished for honestly ranking a very popular candidate first.

After the surplus has been counted, the candidate with the fewest votes is eliminated. When a voter's top choice is eliminated, their vote instantly counts for their next choice. That way, voters aren't punished for honestly ranking their favorite candidate first, even if that candidate cannot win.

The process of counting surplus votes and eliminating last-place candidates repeats until all seats are filled. This method of counting is performed by hand in many places, though it can also be quickly administered using existing voting machines ([http://www.fairvote.org/rcv\\_administration](http://www.fairvote.org/rcv_administration)).

## Example

The chart below shows the results of a partisan race using ranked choice voting. Six candidates are running for three seats in a hypothetical district with 1,000 voters. Candidates Perez, Chan, and Jackson are Democrats, while candidates Lorenzo, Murphy, and Smith are Republicans. The district is majority Democratic; the Democratic candidates collectively earn 60% of first choices. However, there are a substantial number of voters who prefer the Republicans.

In this simulation, Jackson is the most mainstream Democratic candidate, while Perez and Chan have support among Democrats, Independents, and even some Republicans. Similarly, Murphy and Smith are both mainstream Republicans, while Lorenzo has support among Republicans, Independents, and some Democrats.

With 1,000 voters, the election threshold is 250 votes (25% of 1,000).

## Multi-Winner RCV Example

Candidate	Round 1	Round 2	Round 3	Round 4	Round 5
	Perez has more than the threshold and is elected.	Perez's surplus is added to his voters' next choices. Smith is in last place and is eliminated.	Smith's votes are added to his voters' next choices. Jackson is in last place and is eliminated.	Jackson's votes are added to his voters' next choices. Chan has more votes than the threshold and is elected.	Chan's surplus is added to his voters' second choices. Lorenzo has more votes than the threshold and is elected.
Chan (D)	175	+10 = 185	+10 = 195	+150 = 345 (elected)	-95 = 250
Perez (D)	270 (elected)	-20 = 250	--	--	--
Jackson (D)	155	+7 = 162	+6 = 168 (eliminated)	-168 = 0	--
Lorenzo (R)	130	+2 = 132	+75 = 207	+15 = 222	+45 = 267 (elected)
Murphy (R)	150	+0 = 150	+30 = 180	+3 = 183	+5 = 188
Smith (R)	120	+1 = 121 (eliminated)	-121 = 0	--	--

### FairVote

Fig. 3 Shara

A count of first choices elects the most popular Democratic candidate, Perez. Perez has 20 more votes than the threshold, so every voter who ranked Perez highest will have 8% of their vote (20 divided by 250) count for their next choice, so 20 votes will be added to other candidates in the next round. More than half of Perez voters ranked Chan second, with a smaller number ranking Jackson or one of the Republicans next.

Rounds two through four resolve vote splitting among the three Republicans and the two remaining Democrats. Round two eliminates the weakest Republican candidate, while round three eliminates the weakest Democrat. When the one remaining Democrat passes the threshold and is elected, most of her surplus goes to Lorenzo, who comfortably wins the third seat. Note that in the final round, 45 ballots are "exhausted" because some of Chan's voters were indifferent to the two remaining Republican candidates and so did not rank either of them.

The winners are Perez (D), Chan (D), and Lorenzo (R). If this were a single winner election, the most mainstream Democrat (Perez) easily would have won, leaving all others unrepresented. Instead, two additional candidates are elected, both of whom are rewarded by coalition-building among the district's remaining center-left and center-right populations. In the end, 96% of voters can point to a candidate who they supported and helped elect.

Had these three seats been elected by bloc voting, in which every voter casts three votes for the three candidates they support, the Democrats would have almost certainly swept all three seats, because each Democratic voter could vote for all three Democratic candidates. In fact, even if the three seats were elected by the single vote system

(/fair\_representation#other\_fair\_voting\_methods), a weaker form of fair representation voting, Democrats still would have swept all three seats due to the Republican vote being split among three candidates.

Had these three seats been filled by dividing the district into three single-winner districts, the outcome would depend on how the district lines were drawn. The districts could have been drawn to elect two Democrats and one Republican, or they could have been gerrymandered to over-represent either party. Regardless, the district elections would probably not be competitive, and each district's primary election would likely weed out the candidates who won by coalition-building.

By using ranked choice voting to elect three seats, the election results fairly represent the district's diversity after a competitive election without any opportunity for partisan gerrymandering.

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4/14/2017

Multi-Winner Ranked Choice Voting - FairVote

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# Fiscal Note

State of Alaska  
2017 Legislative Session

Bill Version: HB 200  
Fiscal Note Number: \_\_\_\_\_  
( ) Publish Date: \_\_\_\_\_

Identifier: HB200-OOG-DOE-04-06-17  
Title: NONPARTISAN OPEN PRIMARY ELECTIONS  
Sponsor: LEDOUX  
Requester: House Judiciary

Department: Office of the Governor  
Appropriation: Elections  
Allocation: Elections  
OMB Component Number: 21

## Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2018 Appropriation Requested	Included in Governor's FY2018 Request	Out-Year Cost Estimates					
			FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
<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 (Operating Only)

None								
<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>	<b>0.0</b>

## Positions

Full-time								
Part-time								
Temporary								

## Change in Revenues

None								
<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>	<b>0.0</b>

**Estimated SUPPLEMENTAL (FY2017) cost:** 0.0 *(separate supplemental appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**Estimated CAPITAL (FY2018) cost:** 0.0 *(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?

## Why this fiscal note differs from previous version:

Not applicable; initial version.

Prepared By: Josephine Bahnke, Director  
Division: Division of Elections  
Approved By: Guy Bell, Administrative Director  
Agency: Division of Administrative Services, Office of the Governor

Phone: (907)465-2644  
Date: 04/06/2017 02:37 PM  
Date: 04/06/17

## FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2017 LEGISLATIVE SESSION

BILL NO. HB 200

### Analysis

This legislation proposes to implement a top two primary system for state and national offices. The top two vote recipients for each office would advance to the general election, regardless of party affiliation.

There are numerous other sections of statute being revised as a result of the structural change of the primary. These include election worker appointments, information printed on ballot, and information to voters regarding the new system.

The bill proposes to repeal the special runoff election for the office of US senator or US representative. The bill proposes conducting a special primary before the special election to fill the vacancy in the office of Congress, Governor and state legislature

The bill proposes additional information be published in the Official Election Pamphlet regarding the candidates appearing on the ballot and how they got there.

The bill would repeal statutes relevant to the current primary system process regarding candidates.

The bill proposes to change the requirements for obtaining recognized political party status and removes the requirements for the party to submit by-laws to the division.

The bill proposes to change the qualifications for an individual who is appointed to fill a vacant legislative seat.

There would be a fiscal impact for holding a special election. However, those provisions are already in place and if a special election was to be called, a special appropriation would need to be received.