

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2006 86/2

11647 HOUSE STATE AFFAIRS

**HB**

**90**

# ALASKA STATE HOUSE OF REPRESENTATIVES

Interim Address:  
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Session:  
Alaska State Capitol, Room 102  
Juneau, Alaska 99801  
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## HOUSE STATE AFFAIRS

REPRESENTATIVE PAUL SEATON, CHAIRMAN

### Sponsor Statement

HB 90

#### Requiring state treasury warrants to be negotiable instruments.

House Bill 90 continues the committee's work last session on House Bill 373—State Dated Warrants. It clarifies existing statutes governing state treasury warrants by providing that warrants, like bank checks, are negotiable instruments under the Uniform Commercial Code.

During the 1980s, there was a long-standing dispute between commercial banks and the State of Alaska regarding the negotiability of state treasury warrants. This dispute was ultimately resolved by the Alaska Supreme Court in National Bank of Alaska v. Univentures 1231, 824 P.2d 1377 (Alaska 1992), which held that state treasury warrants were negotiable instruments under the Uniform Commercial Code and were therefore subject to the "holder in due course" defense. This was an important protection for businesses with financial dealings with the State. Although the Division of Finance amended its business practices to comply with the Supreme Court ruling, Alaska statutes have never been amended to incorporate this holding. HB 373 simply codifies the holding the National Bank of Alaska v. Univentures 1231.

The State Affairs Committee is introducing this legislation in order to clarify Alaska statutes and continue the modernization of the state treasury warrant system.

Contact: Peter Nacroz  
465-2840

Released: January 21, 2005

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## HOUSE STATE AFFAIRS

REPRESENTATIVE PAUL SEATON, CHAIRMAN

### Sectional Analysis

HB 90

**Requiring state treasury warrants to be negotiable instruments.**

#### Section 1. Payment of warrants.

Adds language that clarifies the nature of a warrant issued by the Department of Administration against the state treasury. The language originates in a 1992 Supreme Court decision, *National Bank v. Univentures*, and it states that state treasury warrants (those things that we think of as "checks") constitute a negotiable instrument, and they must be paid according to the terms of the Uniform Commercial Code § 3-104(1)(b).

Adds language stating that "negotiable instrument" has the meaning given in AS 45.03.104(a).

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Title 45 TRADE AND COMMERCE  
Chapter 45.03 NEGOTIABLE INSTRUMENTS

Sec. 45.03.104. Negotiable instrument.

(a) Except as provided in (c) - (d) of this section, "negotiable instrument" means an unconditional promise or order to pay a fixed amount of money, with or without interest or other charges described in the promise or order, if the unconditional promise or order

- (1) is payable to bearer or to order at the time it is issued or first comes into possession of a holder;
- (2) is payable on demand or at a definite time; and
- (3) does not state any other undertaking or instruction by the person promising or ordering payment to do an act in addition to the payment of money, but the promise or order may contain an undertaking or power to give, maintain, or protect collateral to secure payment, an authorization or power to the holder to confess judgment or realize on or dispose of collateral, or a waiver of the benefit of a law intended for the advantage or protection of an obligor.

**Talking Points**  
**HB 90**

House Bill 90 continues the work of the House State Affairs Committee work last session on House Bill 373—Stale Dated Warrants.

It clarifies existing statutes governing state treasury warrants by providing that warrants, like bank checks, are negotiable instruments under the Uniform Commercial Code.

During the 1980s, there was a long-standing dispute between commercial banks and the State of Alaska regarding the negotiability of state treasury warrants.

This dispute was ultimately resolved by the Alaska Supreme Court in National Bank of Alaska v. Univentures in 1992, which held that state treasury warrants were negotiable instruments under the Uniform Commercial Code.

This was an important protection for businesses with financial dealings with the State. Although the Division of Finance amended its business practices to comply with the Supreme Court ruling, Alaska statutes have never been amended to incorporate this holding.

HB 90 simply codifies the holding the National Bank of Alaska v. Univentures 1231. The House State Affairs Committee introduced this legislation in order to clarify Alaska statutes and continue the modernization of the state treasury warrant system.

# FISCAL NOTE

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: HB 90  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Administration  
Title An Act requiring warrants drawn on RDU Centralized Administrative Services  
the state treasury to be negotiable instruments Component Finance  
Sponsor House State Affairs  
Requester House State Affairs Component No. 58

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

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
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>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE (Thousands of Dollars)**

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

Estimate of any current year (FY2005) cost: 0.0  
Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill has no fiscal impact. It simply codifies in law a 1992 ruling by the Alaska Supreme Court (National Bank of Alaska vs. Univentures and the State of Alaska, Department of Administration, file #S-4087) that reversed a Superior Court ruling on the negotiability of warrants issued by the state. The Supreme Court held that state warrants are negotiable instruments subject to the UCC rules governing holders in due course.

Since that Supreme Court decision, the state has administered its warrants as negotiable instruments, so no administrative changes are necessary if this legislation passes. It will simply codify in statute the ruling of the Supreme Court.

Prepared by: Kim J. Garnero, Director Phone 465-3435  
Division Finance Date/Time 2/1/05 1:40 PM  
Approved by: Michael Tibbles, Deputy Commissioner Date 2/1/2005  
Agency Department of Administration





LEXSEE 824 P.2d 1377

**NATIONAL BANK OF ALASKA, National Banking Association, Appellants, v.  
UNIVENTURES 1231 and STATE OF ALASKA, DEPARTMENT OF  
ADMINISTRATION, Appellees.**

No. 3799, Supreme Court File No. S-4087

**SUPREME COURT OF ALASKA**

824 P.2d 1377; 1992 Alas. LEXIS 10; 17 U.C.C. Rep. Serv. 2d (Callaghan) 482

January 24, 1992, Decided

**PRIOR HISTORY:**

[\*\*1] Appeal from the Superior Court of the State of Alaska, Third Judicial District, Anchorage, J. Justin Ripley, Judge. Superior Court File No. 3AN-88-278 Civil

**CASE SUMMARY**

**PROCEDURAL POSTURE:** Appellant sought relief from an order by the Superior Court of the State of Alaska, Third Judicial District, Anchorage, that held the appellant was not a holder in due course under *Alaska Stat. § 45.03.302(a)* because the state treasury warrant was not a negotiable instrument.

**OVERVIEW:** Appellee government agency was directed to hold its rent in abeyance until a court-appointed receiver was named after a dispute arose among the partners of appellee business. The state treasury placed a stop-payment order on the state treasury warrant that was issued to pay the lease. Appellant paid appellee business on the warrant but did not debit the appellee government agency's account because of the stop-payment order. Appellant moved for summary judgment and claimed it was a holder in due course. The lower court denied the appellant's motion and held that the state treasury warrant was not a negotiable instrument. The supreme court reversed the lower court's holding. The court looked to *Alaska Stat. § 45.03.104(a)* and determined that the warrant met the statutory definition of a negotiable instrument. Therefore, the appellant's claim that it was a holder in due course under *Alaska Stat. § 45.03.302(a)* was valid.

**OUTCOME:** The supreme court reversed the lower court's decision and held that the state treasury warrant

met the statutory definition of a negotiable instrument, therefore entitling the appellant to claim itself as a holder in due course of the negotiable instrument.

**CORE TERMS:** holder, negotiable instrument, negotiability, stop-payment, state treasury, summary judgment, notice, non-negotiable, negotiable, statutory definition, definite time, cross-motion, warrant issued, transferee, unconditional promise, improvement district, general principles, payable to order, third person, order to pay, municipal, customer, sanitary, drawer, reasonable opportunity, simple contract, deference, evidenced, clearing, deposit

**LexisNexis(TM) HEADNOTES - Core Concepts**

*Commercial Law (UCC) > Negotiable Instruments (Article 3) > Rights of a Holder*

[HN1] *Alaska Stat. § 45.03.305* provides that the holder in due course of an instrument takes the instrument free of all but a very limited class of defenses that the original payor might have against the original payee.

*Commercial Law (UCC) > Negotiable Instruments (Article 3) > Rights of a Holder*

[HN2] *Alaska Stat. § 45.03.302(a)* defines a holder in due course as one who takes a negotiable instrument for value, in good faith, and without notice that the instrument is overdue or has been dishonored or of any defense against or claim to it on the part of any person.

*Commercial Law (UCC) > Negotiable Instruments (Article 3) > Rights of a Holder*

[HN3] If a holder of an instrument is not a holder in due course, the holder takes the instrument subject to all

valid claims to the instrument, as well as subject to several classes of defenses. *Alaska Stat. § 45.03.306.*

**Civil Procedure > Appeals > Standards of Review > De Novo Review**

**Commercial Law (UCC) > Negotiable Instruments (Article 3)**

[HN4] Whether a warrant is a negotiable instrument is a question of law, which the supreme court examines de novo.

**Commercial Law (UCC) > Negotiable Instruments (Article 3)**

[HN5] See *Alaska Stat. § 45.03.104(a)*.

**Governments > Legislation > Interpretation**

[HN6] See *Alaska Stat. § 45.01.102(a)*.

**Commercial Law (UCC) > Negotiable Instruments (Article 3) > Discharge & Payment**

[HN7] A promise or order otherwise unconditional is not made conditional by the fact that the instrument is limited to payment out of a particular fund if the instrument is issued by a government or governmental agency or unit. *Alaska Stat. § 45.03.105 (a)(7).*

**Commercial Law (UCC) > Negotiable Instruments (Article 3) > Discharge & Payment**

[HN8] See *Alaska Stat. § 45.03.109(a)(1)*.

**Commercial Law (UCC) > Negotiable Instruments (Article 3) > Discharge & Payment**

[HN9] An instrument is payable to order if by its terms it is payable to the order or assigns of a person specified in the instrument with reasonable certainty. *Alaska Stat. § 45.03.110(a).*

**Governments > Legislation > Interpretation**

[HN10] While attorney general opinions are entitled to some deference in matters of statutory construction, they are not always correct.

**COUNSEL:**

Appearances: David Floerchinger and Deirdre D. Ford, Staley, DeLiso, Cook & Sherry, Inc., Anchorage, for Appellants.

Sally J. Kucko and Rick L. Owen, Groh, Eggers & Price, Anchorage, for Appellees Univentures 1231.

Jeffrey W. Bush, Assistant Attorney General, and Charles E. Cole, Attorney General, Juneau, for Appellee State of Alaska, Department of Administration.

**JUDGES:**

Before: Rabinowitz, Chief Justice, Burke, Matthews, Compton and Moore, Justices.

**OPINIONBY:**

MOORE

**OPINION:**

**[\*1377] OPINION**

MOORE, Justice.

National Bank of Alaska (NBA) brought an action against the State of Alaska, Univentures 1231 (Univentures), Charles D. LeViege, and Lee D. Garcia to recover the amount which NBA paid on a warrant issued by the state. The superior court held that the warrant is not a negotiable instrument under the Uniform Commercial Code as enacted in Alaska, and that NBA therefore could not recover as a holder in due course under the code. NBA appeals. The sole issue on appeal is whether the superior court was correct in finding that the state treasury [\*\*2] warrant is a non-negotiable instrument under Article III of the Uniform Commercial Code. We reverse.

I

The State of Alaska is a tenant in a large office building which is owned by Univentures. On November 24, 1987, the state made a lease payment of \$ 28,143.47 to Univentures with state treasury warrant No. 21045102. Charles LeViege, the managing partner of Univentures, assigned the warrant on behalf of Univentures to Lee Garcia.

As a result of a dispute which arose among the partners of Univentures, the state was notified on November 25, 1987 that it should no longer pay Charles LeViege the monthly rent due the partnership. The state was directed to hold the rent in abeyance pending the naming of a court-appointed receiver. On November 27, 1987, the state treasury placed a stop-payment order on warrant No. 21045102.

Garcia presented the warrant to NBA, the state's clearing bank, on November 30, 1987. NBA paid Garcia \$ 28,143.47 on the warrant but did not debit the state's account [\*1378] because of the stop-payment order. On January 14, 1988, NBA filed an action against the State of Alaska, Charles LeViege, and Lee Garcia, to recover the sum of \$ 28,143.47 which NBA had paid [\*\*3] to Lee Garcia in exchange for the warrant. The state deposited an equivalent sum with the court and moved to join Univentures as a party. Samuel and Catherine LeViege answered on behalf of Univentures.

NBA moved for summary judgment claiming that it is a holder in due course under *AS 45.03.302(a)*. NBA

argued that the warrant is a negotiable instrument and that it paid the warrant in good faith, without knowledge of facts which would indicate the instrument may not be payable as its terms provide. As such, NBA maintained that it took the warrant free from the defenses presented by Univentures and the state. The state and Univentures opposed NBA's motion, arguing that NBA is not a holder in due course because the warrant is not a negotiable instrument, and because NBA had notice of the stop-payment order when it paid Garcia on the warrant. Univentures filed a cross-motion for summary judgment.

The superior court granted Univentures' cross-motion for summary judgment and denied NBA's motion for summary judgment. Judge Ripley, in ruling for Univentures, specifically found that the warrant is not a negotiable instrument and that NBA therefore is not a holder in due course. Pursuant to [\*\*4] the parties' stipulation, \$ 16,000.00 of the money deposited with the court was immediately disbursed to Univentures and NBA in equal amounts. The court ordered that the remaining \$ 12,143.47 be held by the court pending appeal of the court's determination that the warrant is not negotiable. This appeal followed.

## II.

[HN1] Article III of the Uniform Commercial Code provides that the holder in due course of an instrument takes the instrument free of all but a very limited class of defenses that the original payor might have against the original payee. AS 45.03.305. n1 [HN2] The code defines a holder in due course as one who takes a negotiable instrument for value, in good faith, and "without notice that [the instrument] is overdue or has been dishonored or of any defense against or claim to it on the part of any person." AS 45.03.302(a). [HN3] If a holder of an instrument is not a holder in due course, the holder takes the instrument subject to all valid claims to the instrument, as well as subject to several classes of defenses. AS 45.03.306. n2

n1 AS 45.03.305 provides:

To the extent that a holder is a holder in due course the holder takes the instrument free from

- (1) all claims to it on the part of any person; and
- (2) all defenses of any party to the instrument with whom the holder has not dealt except
  - (A) infancy, to the extent that it is a defense to a simple contract;
  - (B) such other incapacity, or duress, or illegality of the transaction as renders the obligation of the party a nullity;

- (C) such misrepresentation as has induced the party to sign the instrument with neither knowledge nor reasonable opportunity to obtain knowledge of its character or its essential terms;
- (D) discharge in solvency proceedings; and
- (E) any other discharge of which the holder has notice when the holder takes the instrument. [\*\*5]

n2 AS 45.03.306 provides:

Unless the person has the rights of a holder in due course, a person takes the instrument subject to

- (1) all valid claims to it on the part of any person;
- (2) all defenses of a party which would be available in an action on a simple contract;
- (3) the defenses of want or failure of consideration, nonperformance of a condition precedent, nondelivery, or delivery for a special purpose (AS 45.03.408); and
- (4) the defense that the person or a person through whom the person holds the instrument acquired it by theft, or that payment or satisfaction to the holder would be inconsistent with the terms of a restrictive endorsement; the claim of a third person to the instrument is not otherwise available as a defense to a party liable on the instrument unless the third person personally defends the action for the party.

The superior court held that NBA was not a holder in due course because the state treasury warrant involved is not a negotiable instrument to which the Uniform [\*\*1379] Commercial Code applies. n3 As a result, the superior court concluded that NBA took the warrant [\*\*6] subject to the state's defense that it had issued a valid stop-payment order pursuant to AS 45.04.403(a). n4 NBA argues that the warrant is a negotiable instrument, and that NBA is therefore a holder in due course. [HN4] Whether the warrant is a negotiable instrument is a question of law, which we examine de novo. See *Hicklin v. Orbeck*, 565 P.2d 159, 163 n.6 (Alaska 1977) rev'd on other grounds, 437 U.S. 518, 57 L. Ed. 2d 397, 98 S. Ct. 2482 (1978).

n3 Univentures argued in its cross-motion for summary judgment that even if the warrant is a negotiable instrument, NBA is not a holder in due course because NBA had notice of the stop-payment order when it paid Garcia on the warrant. Univentures claimed that NBA was given notice of the stop-payment order on

November 27, 1987, in its role as the clearing bank for state treasury warrants. The superior court apparently found that NBA did not have knowledge of the stop-payment order when it accepted the warrant, for the final judgment provides that NBA is entitled to the funds on deposit with the court if this court determines warrant No. 21045102 is a negotiable instrument. We do not consider whether NBA had knowledge of the stop-payment order, for that issue is not a stated point on appeal, and was not briefed by either party. [\*\*7]

n4 AS 45.04.403(a) provides:

A customer may, by order to the bank, stop payment of an item payable for the customer's account, but the order must be received at a time and in a manner which afford the bank a reasonable opportunity to act on it before an action by the bank with respect to the item described in AS 45.04.303.

[HN5] Alaska Statute 45.03.104(a) provides that for a writing to be a negotiable instrument it must:

- (1) be signed by the maker or drawer;
- (2) contain an unconditional promise or order to pay a sum certain in money and no other promise, order, obligation, or power given by the maker or drawer except as authorized by this chapter;
- (3) be payable on demand or at a definite time, and
- (4) be payable to order or to bearer.

[HN6] Alaska Statute 45.01.102(a) provides that the Code is to be "liberally construed and applied to promote the underlying purposes and policies." The underlying purposes and policies of the Uniform Commercial Code are:

- (1) to simplify, clarify, and modernize the law governing commercial transactions;
- (2) to permit the continued expansion of commercial practices through [\*\*8] custom, usage, and agreement of the parties;
- (3) to make uniform the law among the various jurisdictions.

AS 45.01.102(b).

Warrant No. 21045102 satisfies all four elements of the definition of a negotiable instrument. First, the warrant is signed by the maker, Governor Steve Cowper. Second, the warrant contains an unconditional promise or order to pay a sum certain of \$ 28,143.47. [HN7] A

promise or order otherwise unconditional is not made conditional by the fact that the instrument is limited to payment out of a particular fund if the instrument is issued by a government or governmental agency or unit. AS 45.03.105(a)(7). Third, the warrant is payable at a definite time. Although the warrant states that it "will be deemed paid unless redeemed within two years after the date of issue," [HN8] AS 45.03.109 provides that an instrument is payable at a definite time if by its terms it is payable on or before a stated date. AS 45.03.109(a)(1). Finally, the warrant clearly indicates that it is payable to the order of Univentures. [HN9] An "instrument is payable to order if by its terms it is payable to the order or assigns of a person specified in the instrument with reasonable certainty" AS 45.03.110(a). [\*\*9] Because the warrant meets the statutory definition in AS 45.03.104, we hold that the warrant is a negotiable instrument. n5

n5 AS 45.03.104(b) classifies certain writings which satisfy the definition of "negotiable instrument" as drafts, checks, certificates of deposit, and notes. We reject the state's argument that an instrument must fit within one of these categories before it can qualify as a negotiable instrument. Negotiability is determined by the four-pronged test of AS 45.03.104, not by the name affixed to a particular writing. If it were necessary to categorize the warrant at issue in this case, it would be a draft. An instrument is a draft if it is an order. AS 45.03.104(b)(1).

[\*1380] The purposes for which the Uniform Commercial Code was enacted support the conclusion that warrants which satisfy the statutory definition of negotiability must be deemed negotiable. Univentures claims that state warrants should be deemed non-negotiable because the state must retain its rights to assert the defenses of a [\*\*10] maker in order to maintain and protect its fiscal policies, practices, and procedures. This argument is directly contrary to the Code's policy of promoting commercial transactions by allowing a party to ascertain the negotiability of an instrument from its face. 5 R. Anderson, Uniform Commercial Code, § 3-104:4 (1984) ("The whole idea of the facilitation of easy transfer of notes and instruments requires that a transferee be able to trust what the instrument says, and be able to determine the validity of the note and its negotiability from the language in the note itself."). To carve out an exception to the statutory definition of negotiability would jeopardize Article III's purposes of clarifying and modernizing commercial transactions by allowing

reliance on written instruments. The transferee of an instrument must be able to rely on the negotiability of the instrument as evidenced by the instrument's terms, so that the transaction is not stalled while the transferee verifies its rights on the instrument. n6

n6 If the state truly believes that the non-negotiability of treasury warrants is essential to maintain and protect its fiscal policies, the state could make its warrants non-negotiable simply by printing "non-negotiable" on the face of the warrants.

[\*\*11]

No Alaska case law addresses the issue of whether a state treasury warrant constitutes a negotiable instrument. Prior to the enactment of the Uniform Commercial Code, warrants issued by states, local governments, and municipalities were almost universally deemed non-negotiable. See, e.g., *Negotiability of County, Municipal, School, State, or Town Warrants*, 36 A.L.R. 949, 949 (1925); *Hamilton Nat'l Bank v. Pool*, 144 S.W.2d 670, 671 (Tex. App. 1940); *State v. Liberty Nat'l Bank & Trust Co.*, 414 P.2d 281, 283 (Okla. 1966). The drafters of the Uniform Commercial Code apparently intended to change this body of law, however, as evidenced by the Official Code Comment to § 3-105.5 R. Anderson, *Uniform Commercial Code*, § 3-105:1, at 228 (1984) ("[Section 3-105(1)(g)] will permit some municipal warrants to be negotiable if they are in proper form.") n7

n7 All of the cases cited by Univentures and the state are distinguishable from the present case for the reason that all were based upon the "law merchant" which has now been replaced in Alaska by the Uniform Commercial Code. See *Prince v. LeVan*, 486 P.2d 959, 962 (Alaska 1971) ("By legislative declaration the code is the law, and if general principles appear inconsistent, they must be considered displaced under [this section]. Moreover, even where inconsistency does not exist, the code must be regarded as supreme; general principles even when consistent with the code are merely supplementary.")

[\*\*12]

Those courts which have considered the negotiability of government warrants have generally found those warrants to be negotiable so long as they satisfy the codes requirements. The Louisiana Court of Appeals held that a warrant issued by a levee district to

pay a construction company was a negotiable instrument. *St. James Bank & Trust Co. v. Board of Comm'rs*, 354 So. 2d 233 (La. App. 1978). The construction company in that case had negotiated the warrant to a bank. After the levee's Board of Commissioners stopped payment on the warrant, the warrant was returned to the bank unpaid. The court found that the warrant was a negotiable instrument because it satisfied the requirements of § 10:3-104 of the Louisiana statutes. That section is identical to AS 45.03.104. *Id.* at 234.

Similarly, the Supreme Court of Nebraska held that a warrant issued by a county sanitary and improvement district was a negotiable instrument. *Sanitary & Improvement Dist. v. Continental Western*, 215 Neb. 843, 343 N.W.2d 314 (Neb. 1983). In that case, the sanitary and improvement district which had issued capital and improvement warrants sought [\*\*13] a judicial declaration of the invalidity of the warrants. After examining the warrants in light of § 3-104 of the Nebraska Uniform Commercial [\*\*1381] Code, which is almost identical to AS 45.03.104, the Supreme Court of Nebraska held that they were negotiable instruments.

We are mindful of a 1987 attorney general opinion which concluded that state treasury warrants are not negotiable. [HN10] While attorney general opinions are entitled to some deference in matters of statutory construction, they are not always correct. n8 In this instance we are unconvinced by the attorney general's opinion. It fails to consult the language and policies of the Uniform Commercial Code, and it relies mainly on cases examining the negotiability of warrants arising prior to the enactment of the Uniform Commercial Code.

n8 *Carney v. State Board of Fisheries*, 785 P.2d 544, 548 (Alaska 1990) ("Opinions of the attorney general, while not controlling on matters of statutory interpretation, are entitled to some deference."); *Girves v. Kenai Peninsula Borough*, 536 P.2d 1221, 1225 (Alaska 1975) ("We hold that the 1962 Attorney General's opinion is in error insofar as it concludes that the territorial government of Alaska had no power to accept the right-of-way granted in 43 U.S.C. § 932 (1964).")

[\*\*14]

The decision of the superior court is REVERSED. The \$ 12,143.47 on deposit with the court is awarded to NBA. n9

824 P.2d 1377, \*; 1992 Alas. LEXIS 10, \*\*;  
17 U.C.C. Rep. Serv. 2d (Callaghan) 482

n9 The parties to this appeal stipulated that if we reverse the superior court's determination that the warrant is a negotiable instrument, Univentures waives all other claims to the interpled money against NBA and the state,

including the claim that NBA was not a holder in due course of the instrument.

February 11, 2005

Representative Paul Seaton  
Alaska State Legislature  
House of Representatives  
State Capitol, Room 112  
Juneau, AK 99801

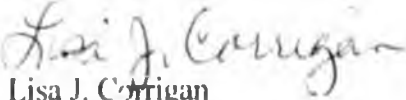
Re: HB 90

Dear Representative Seaton:

Thank you and the House State Affairs Committee for introducing and sponsoring HB 90.

We understand that the bill is intended to codify existing law established by the Alaska Supreme Court as to the negotiable aspects of State Treasury Warrants. For this reason we are supportive of the legislation and urge its passage.

Respectfully yours,



Lisa J. Corrigan  
President  
Alaska Bankers Association

HB

94

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STATE OF ALASKA  
Division of Elections  
Office of the Lieutenant Governor

**HB 94**

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

In 2004 the Division of Elections brought a similar bill before the Legislature. House Bill 523 was heavily scrutinized by the House State Affairs Committee and underwent constant redrafting before CSHB 523 (STA) was passed from Committee at the end of Session.

The bill before you is very similar to the bill that passed from the House State Affairs Committee last year.

A thorough sectional analysis is provided which includes highlighted changes from CSHB 523 (STA) that have been incorporated into HB 94.

The Division of Elections asks for your support of House Bill 94.

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STATE OF ALASKA  
Division of Elections  
Office of the Lieutenant Governor

**SECTIONAL ANALYSIS**  
**House Bill 94**

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

**Section One – VOTER RESIDENCY**

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

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

**Section Two – MANNER OF REGISTRATION**

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

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

### **Section Three – REQUIRED INFORMATION FOR VOTER REGISTRATION**

An Alaska residence address is required on a voter registration application, and the voter signs an oath that the information provided is true.

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

In 2004, changes by H STA to then HB 523 were "drafting- related" and added "applicants," "statement" and replaced "attestation" with "oath." Those changes were included in HB 94.

### **Section Four – PROCEDURE FOR REGISTRATION**

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

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

### **Section Five – PREPARATION OF MASTER REGISTER**

H STA incorporated a change suggested by Legislative Legal drafter to then HB 523 to ensure protection of voter information of those victims of domestic violence in accordance with changes made to following section. That language is included here in HB 94.

### **Section Six - PRECINCT BOUNDARY CHANGES**

Changes language that currently requires the Division to publish notice of precinct boundary changes in a newspaper PUBLISHED IN the house district to one that is AVAILABLE IN the house district. If there is no such newspaper, the notice must be posted in A conspicuous place in the precinct. Current law requires posting in three places, which proves excessive in most communities without a newspaper.

ADDS that all boundary changes will be posted on the Division's website (proposed in this legislation) and appropriate municipal clerks will be notified of a precinct boundary change.

## **Section Seven – INDEPENDENT PRESIDENTIAL CANDIDATES**

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

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

In 2004, this was added by H STA to HB 523, and is included in HB 94.

## **Section Eight - BALLOT COUNTING**

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

In 2004, H STA changed the word "assure" to "ensure" in HB 523, and the change is included in HB 94.

## **Section Nine – EARLY VOTING**

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

## **Section Ten -- ABSENTEE VOTING BY ELECTRONIC TRANSMISSION**

Reduces the number of witnesses required to sign the oath accompanying a voter's absentee ballot (transmitted electronically) *from two to one* United States citizen who is 18 years of age or older. Rural Alaskans and those who travel to remote locations believe that the requirement for two witnesses creates an undue hardship.

## **Section Eleven – ABSENTEE VOTING BY MAIL/ ELECTRONIC TRANSMISSION**

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

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

### **Section Twelve – ABSENTEE VOTING BY MAIL/ ELECTRONIC TRANSMISSION**

Reduces the number of witnesses required to sign the oath accompanying a voter's absentee ballot by mail or by electronic transmission *from two to one* United States citizen who is 18 years of age or older. Once again, the request to reduce the witnesses required came from rural Alaskans and those who travel to remote locations.

### **Section Thirteen – ABSENTEE VOTING BY MAIL/ ELECTRONIC TRANSMISSION**

Defines more accurately "overseas voter." (Qualifying under AS 15.05.011) Previous language described military APO or FPO addresses, which was too limiting.

### **Section Fourteen – "BY MAIL" VOTING**

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

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

### **Section Fifteen – STANDARDS FOR VOTING MACHINES**

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

### **Section Sixteen – QUALIFICATIONS FOR INDEPENDENT CANDIDATES FOR PRESIDENT/VICE PRESIDENT/SELECTION OF ELECTORS**

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

In 2004, H STA added to the HB 523 that an Independent candidate for President may file no earlier than January 1<sup>st</sup> of a presidential election year and no later than 90 days prior to the presidential general election. An Independent candidate for President must also provide the name, Alaska mailing address, and signature of the candidate's state campaign chair, who must be an Alaskan resident. This requirement exists **ONLY** for Independent candidates.

This language is incorporated into HB 94.

### **Section Seventeen – INTERPRETATION OF VOTES CAST**

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

### **Section Eighteen – DUTIES OF ELECTORS**

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

### **Section Nineteen – PETITIONS /FORM OF APPLICATION**

Adds the requirement for the printed name and date of birth to be included when signing an application for petition. As the date of birth is now required on voter registration applications, it becomes another "identifier" to assist the Division in qualifying the voter's signature. Additionally, the three sponsors designated, as the committee representing the sponsors must provide their name, mailing address and signatures.

These changes, and those that follow related to the petition process, are proposed to improve the petition process.

### **Section Twenty – PETITIONS/DESIGNATION OF SPONSORS**

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

Adds that additional sponsors, when providing their names and addresses, must also include date of birth.

### **Section Twenty-One – PETITIONS/PREPARATION OF PETITION**

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

### **Section Twenty-One – PETITIONS/PREPARATION OF PETITION (continued)**

In 2004, H STA made stylistic changes to HB 523, but also removed language that clarified "if the application is certified" and that the Lieutenant Governor shall prescribe the form of the petition. This language is incorporated into HB 94.

### **Section Twenty-Two – PETITIONS/QUALIFICATIONS OF CIRCULATOR**

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

### **Section Twenty-Three – PETITIONS/WITHDRAWING NAME FROM PETITION**

Adds the requirement for the printed name and date of birth to be included when signing an application for petition.

### **Section Twenty-Four – PETITIONS/CERTIFICATION OF CIRCULATOR**

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

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

### **Section Twenty-Five - PETITIONS/DISPLAY OF PROPOSED LAW**

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

### **Section Twenty-Six – REFERENDUM/FORM OF APPLICATION**

Adds the requirement for the printed name and date of birth to be included when signing an application for referendum. Additionally, the three sponsors designated, as the committee representing the sponsors must provide their name, mailing address and signatures.

### **Section Twenty-Seven – REFERENDUM/DESIGNATION OF SPONSORS**

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

### **Section Twenty-Eight – REFERENDUM/ PREPARATION OF PETITION**

Adds the requirement for the statement of rejection or approval, the signer's printed name and date of birth be included on a petition for referendum. The petition books have been sequentially numbered, but the inclusion of the language more clearly states the process and replaces language that refers to a record of petition booklets assigned to the sponsors.

### **Section Twenty-Nine – REFERENDUM/QUALIFICATIONS OF CIRCULATOR**

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

### **Section Thirty – REFERENDUM/CIRCULATION**

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

### **Section Thirty-One – REFERENDUM/MANNER OF SIGNING AND WITHDRAWING NAME FROM PETITION**

Adds the requirement for the printed name and date of birth to be included when signing an application for petition.

### **Section Thirty-Two – REFERENDUM/CERTIFICATION OF CIRCULATOR**

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

### **Section Thirty-Three – REFERENDUM/DISPLAY OF ACT BEING REFERRED**

Reduces the copies of the act being referred that are distributed to each of the 39 election boards for distribution and posting at a polling place.

### **Section Thirty-Four – RECALL/FORM OF APPLICATION**

Adds the requirement for the printed name and date of birth to be included when signing an application for recall. Removes requirement for additional 100 signatures of qualified voters. The current statute was unclear as to whether the 100 who signed were required to have voted in the preceding general election of the official sought to be recalled. Additionally, the three sponsors designated as the committee representing the sponsors, must provide their name, mailing address and signatures.

### **Section Thirty-Five – RECALL/DESIGNATION OF SPONSORS**

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

### **Section Thirty-Six – RECALL/PREPARATION OF PETITION**

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

### **Section Thirty-Seven – RECALL/STATEMENT OF WARNING**

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

### **Section Thirty-Eight – QUALIFICATIONS OF CIRCULATOR**

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

### **Section Thirty-Nine – RECALL/CIRCULATION**

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

### **Section Forty – RECALL/MANNER OF SIGNING AND WITHDRAWING NAME FROM PETITION**

Adds the requirement for the printed name and date of birth to be included when signing a recall petition.

### **Section Forty-One – RECALL/CERTIFICATION OF CIRCULATORS**

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

### **Section Forty-Two – RECALL/DISPLAY OF GROUNDS FOR AND AGAINST RECALL**

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

### **Section Forty-Three - VOTERS UNAFFILIATED WITH POLITICAL PARTIES**

Proposes to set out the definitions of voters unaffiliated with political parties to reflect the Division's previous policy.

### **Section Forty-Four - RECOGNIZED POLITICAL PARTY STATUS**

Adds a new section regarding recognized political party status.  
(Please see next page)

### **Section Forty-Four - RECOGNIZED POLITICAL PARTY STATUS (continued)**

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

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

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

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

### **Section Forty-Five - DEFINITION OF "REREGISTRATION" and "STATEWIDE OFFICE"**

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

Statewide office is defined as the office of Governor, Lieutenant Governor, United States Senator, or United States Representative.

### **Section Forty-Six - INCORPORATION ELECTION**

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

### **Section Forty-Seven - INCORPORATION ELECTION**

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

**Section Forty-Eight - INCORPORATION ELECTION**

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

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

**Section Forty-Nine**

Repeals section requiring written notice of any precinct boundary modifications and

Repeals AS 15.20.048 as it includes duplicative language requiring the Director supply ballots to elections supervisors for all districts. Changes suggested in Section 14 of HB 94 allows the Director to designate locations for absentee voting, and office of election supervisors will be designated as such.

**Section Fifty - APPLICABILITY**

Provides that changes made by Sections 19 through 42 of this bill apply to an initiative, referendum, or recall for which an application was filed with the lieutenant governor or director of elections on or after the effective date of the bill.

**Section Fifty-One - TRANSITION**

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

**Section Fifty-Two - IMMEDIATE EFFECTIVE DATE**

# 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

January 31, 2005

**SUBJECT:** CSHB 94(STA): Elections Code (Work Order No. 24-GH1048\G)

**TO:** Representative Paul Seaton  
Chair of the House State Affairs Committee  
Attn: Louis Flora

**FROM:** Kathi ~~Seaton~~ <sup>Wurtz</sup>   
Legislative Counsel

Enclosed is the draft committee substitute you requested. We cleaned up the \A version, making a number of minor editorial changes (most having to do with punctuation or cross-references in the bill to other statutory sections).

### **Voter registration information:**

Section 15.07.060(a)(4) in the \A draft requires an applicant to supply "the applicant's Alaska residence address, *as specified in regulations adopted by the director.*" What exactly is to be specified in regulations? Is this about the form of the address, as in a physical address vs. mailing address? If so, isn't "residence address" sufficient to make that clear? If additional regulatory authority relating to voter registration information is required, would it be clearer to add it to AS 15.07.064? The enclosed draft omits the phrase "as specified in regulations adopted by the director" since it seemed to be extraneous. If you can obtain more information about the intent, perhaps the wording here can be clarified.

### **Early voting locations:**

I created a new subsection rather than amending the existing AS 15.20.064 to conform to the purpose in the Governor's letter. The \A draft could be read as though a voter would have to vote by January 1.

### **Recognized political party status:**

The proposed new section 15.60.008 in the \A draft was also a bit confusing. I substituted "group" for "party" in the last sentence of subsection (e) in this draft CS, because a group that does not meet the definition of political party is not a political party.

Actually, I am not sure what legal effects this section will have. It seems to create a new status, that of "recognized political party," but it does not clarify the significance of attaining this status. The rest of AS 15 simply talks about "political parties." If a political group meets the definition of "political party" in AS 15.60.010(23), then it is

arguably entitled to do everything a political party can under the statutes<sup>1</sup>, regardless whether the division has "recognized" it before May 31 in an election year. If the division needs to create an application process and a cut-off date for recognizing political parties for administrative purposes, those elements really should be added to the definition of "political party" (this could be done by adding a reference to AS 15.60.008 to the definition). Otherwise, the references to "political party" throughout the chapter will need to be reviewed to determine which apply to all political parties, and which apply only to "recognized" political parties.

Also, in subsection (c), why are the verifications performed monthly, if the latest a group can seek recognition is May 31 of an election year?

Currently, sec. 15.60.008(c) in the WA draft requires verification "that the voters who have submitted registration to the division of elections are qualified under AS 15.05.010." Shouldn't this verification of voter qualifications be done as part of the voter registration process under AS 15.07, the chapter on voter registration?

A suggested revision follows that puts sec. 15.60.008(c) in the active voice, removes references to "recognized political party status" and replaces them with "recognition," and attempts to clarify the verification process. These changes are not included in the enclosed draft, since they may be beyond the scope of your request.

**Sec. 15.60.008. Recognized political party status.** (a) The director shall recognize a political group as a political party if, on or before May 31 of the first election year for which the political group seeks recognition, the political group

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

(b) At least once a month, the director shall tally the number of qualified registered voters that have declared affiliation with each political group seeking recognition as a political party to determine whether the group meets the definition of political party in AS 15.60.010. When the director has verified that a political group has satisfied the requirements of section (a), the director shall notify the group that it has been recognized as a political party.

(c) No later than 30 days after a general election, the director shall tally the number of qualified registered voters that have declared

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<sup>1</sup> For example, nominate candidates for election boards under AS 15.10.120, appoint watchers under 15.10.170, have a political party ballot under 15.25.010, file material for the election pamphlet under 15.58.040.

Representative Paul Seaton

January 31, 2005

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affiliation with each political group and each political party. If a group that formerly met the definition of political party fails to meet the definition of political party, the director shall notify the group.

If I may be of further assistance, please advise.

KLK:med

05-071.med

Enclosure

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907.465.4611 907.465.3203 FAX  
elections@gov.state.ak.us

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Fairbanks 907.451.2835  
Juneau 907.465.3021  
Nome 907.443.5285

STATE OF ALASKA  
Division of Elections  
Office of the Lieutenant Governor

**SECTIONAL ANALYSIS  
CS HB Bill 94 (STA)**

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

**\*\*Those sections which are highlighted are those that remain the same as the last version of CSHB 523 (STA) which passed from the House State Affairs Committee in 2004.**

**Section One – VOTER RESIDENCY**

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

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

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### **Section Five – VOTERS UNAFFILIATED WITH A POLITICAL PARTY**

Added by Legislative Legal, this section appeared as Section 43 of HB 94. Department of Law set this language in the "definitions" section of Election law (Title 15), but this version places it in the section related to voter registration.

Proposes to set out the definitions of voters unaffiliated with political parties to reflect the Division's previous policy.

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CS HB 94 (STA) adds subparagraph (b) which is part of current law, but was left out of CS HB 523 (STA). The language is consistent throughout the initiative, referendum and recall process and states that the Lieutenant Governor shall report to the committee the number of persons who voted in the preceding general election, upon request of the initiative committee.

### **Section Twenty-Three – PETITIONS/QUALIFICATIONS OF CIRCULATOR**

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

### **Section Twenty-Four – PETITIONS/WITHDRAWING NAME FROM PETITION**

Adds the requirement for the printed name and date of birth to be included when signing an initiative petition.

### **Section Twenty-Five – PETITIONS/CERTIFICATION OF CIRCULATOR**

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

### **Section Twenty-Five - PETITIONS/CERTIFICATION OF CIRCULATOR (continued)**

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

### **Section Twenty-Six - PETITIONS/DISPLAY OF PROPOSED LAW**

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

### **Section Twenty-Seven - REFERENDUM/FORM OF APPLICATION**

Adds the requirement for the printed name and date of birth to be included when signing an application for referendum. Additionally, the three sponsors designated, as the committee representing the sponsors must provide their name, mailing address and signatures.

### **Section Twenty-Eight - REFERENDUM/DESIGNATION OF SPONSORS**

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

Adds that additional sponsors, when providing their names and addresses, must also include date of birth.

### **Section Twenty-Nine - REFERENDUM/ PREPARATION OF PETITION**

Adds the requirement for the statement of rejection or approval, the signer's printed name and date of birth be included on a petition for referendum. The petition books have been sequentially numbered, but the inclusion of the language more clearly states the process and replaces language that refers to a record of petition booklets assigned to the sponsors.

CS HB 94 (STA) adds subparagraph (b) which is part of current law, but was left out of CS HB 523 (STA). The language is consistent throughout the initiative, referendum and recall process and states that the Lieutenant Governor shall report to the committee the number of persons who voted in the preceding general election, upon request of the initiative committee.

### **Section Thirty – REFERENDUM/QUALIFICATIONS OF CIRCULATOR**

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

### **Section Thirty-One – REFERENDUM/CIRCULATION**

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

### **Section Thirty-Two – REFERENDUM/MANNER OF SIGNING AND WITHDRAWING NAME FROM PETITION**

Adds the requirement for the printed name and date of birth to be included when signing a referendum petition.

### **Section Thirty-Three – REFERENDUM/CERTIFICATION OF CIRCULATOR**

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

### **Section Thirty-Four – REFERENDUM/DISPLAY OF ACT BEING REFERRED**

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

### **Section Thirty-Five – RECALL/FORM OF APPLICATION**

Adds the requirement for the printed name and date of birth to be included when signing an application for recall. Removes requirement for additional 100 signatures of qualified voters. The current statute was unclear as to whether the 100 who signed were required to have voted in the preceding general election of the official sought to be recalled. Additionally, the three sponsors designated as the committee representing the sponsors, must provide their name, mailing address and signatures.

### **Section Thirty-Six – RECALL/DESIGNATION OF SPONSORS**

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

### **Section Thirty-Seven – RECALL/PREPARATION OF PETITION**

Adds the requirement for the statement of rejection or approval, the signer's printed name and date of birth be included on a recall petition. The petition books have been sequentially numbered, but the inclusion of the language more clearly states the process.

CS HB 94 (STA) adds subparagraph (b) which is part of current law, but was left out of CS HB 523 (STA). The language is consistent throughout the initiative, referendum and recall process and states that the Lieutenant Governor shall report to the committee the number of persons who voted in the preceding general election, upon request of the initiative committee.

### **Section Thirty-Eight – RECALL/STATEMENT OF WARNING**

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

### **Section Thirty-Nine – QUALIFICATIONS OF CIRCULATOR**

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

### **Section Forty – RECALL/CIRCULATION**

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

### **Section Forty-One – RECALL/MANNER OF SIGNING AND WITHDRAWING NAME FROM PETITION**

Adds the requirement for the printed name and date of birth to be included when signing a recall petition.

### **Section Forty-Two – RECALL/CERTIFICATION OF CIRCULATORS**

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

### **Section Forty-Three - RECALL/DISPLAY OF GROUNDS FOR AND AGAINST RECALL**

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

### **Section Forty-Four - RECOGNIZED POLITICAL PARTY STATUS**

Adds a new section regarding recognized political party status.

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

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

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

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

### **Section Forty-Five - DEFINITION OF "REREGISTRATION"**

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

### **Section Forty-Six - INCORPORATION ELECTION**

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

### **Section Forty-Seven - INCORPORATION ELECTION**

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

### **Section Forty-Eight - INCORPORATION ELECTION**

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

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

### **Section Forty-Nine - "REPEALERS"**

Repeals section requiring written notice of any precinct boundary modifications and

Repeals AS 15.20.048 as it includes duplicative language requiring the Director supply ballots to elections supervisors for all districts. Changes suggested in Section 14 of HB 94 allows the Director to designate locations for absentee voting, and office of election supervisors will be designated as such.

**Section Fifty - APPLICABILITY**

Provides that changes made by Sections 19 through 42 of this bill apply to an initiative, referendum, or recall for which an application was filed with the lieutenant governor or director of elections on or after the effective date of the bill.

**Section Fifty-One - TRANSITION**

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

**Section Fifty-Two - IMMEDIATE EFFECTIVE DATE**

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: CS HB94(STA)  
 ( ) Publish Date: \_\_\_\_\_

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

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

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual		16.8		16.8		16.8
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>16.8</b>	<b>0.0</b>	<b>16.8</b>	<b>0.0</b>	<b>16.8</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF		16.8		16.8		16.8
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>16.8</b>	<b>0.0</b>	<b>16.8</b>	<b>0.0</b>	<b>16.8</b>

Estimate of any current year (FY2005) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

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

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

Prepared by: Lauri Allred, Administrative Assistant Supervisor Phone 465-5347  
 Division Division of Elections Date/Time 3/17/05 5:26 PM  
 Approved by: Laura A. Glaiser, Director Date 3/17/2005  
 Agency Office of the Lt. Governor, Division of Elections

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: HB 94  
 (H) Publish Date: 1/21/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: GOV  
 Title: "An Act relating to qualifications of RDU: Elections  
voters, requirements and procedures regarding independent... Component: Elections  
 Sponsor: Rules Committee  
 Requester: Governor Component No: 21

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

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
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>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (FY2005) cost: 0.0

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

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This legislation will have no fiscal impact on the Division of Elections.

Prepared by: Lauri Allred, Administrative Assistant Supervisor Phone: 465-5347  
 Division: Division of Elections Date/Time: 1/18/05 11:46 AM  
 Approved by: Laura A. Glaiser, Director Date: 1/18/2005  
 Agency: Division of Elections

#5

24-GH1048Y.7  
Kurtz  
3/14/05

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE GRUENBERG

TO: CSHB 94(STA), Draft Version "Y"

1 Page 1, line 3, following the second occurrence of "voter registration":

2 Insert "and absentee ballot requests"

3

4 Page 1, following line 11:

5 Insert new bill sections to read:

6 **\*\* Section 1.** AS 13.26.332 is amended to read:

7 **Sec. 13.26.332. Statutory form power of attorney.** A person who wishes to  
8 designate another as attorney-in-fact or agent by a power of attorney may execute a  
9 statutory power of attorney set out in substantially the following form:

10 **GENERAL POWER OF ATTORNEY**

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

21 YOU MAY REVOKE THIS POWER OF ATTORNEY AT  
22 ANY TIME.

23 Pursuant to AS 13.26.338 - 13.26.353, I, (Name of principal)



24-GH1048\Y.7

1 ( ) Each agent may exercise the powers conferred separately, without  
2 the consent of any other agent.

3 ( ) All agents shall exercise the powers conferred jointly, with the  
4 consent of all other agents.

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

7 ( ) This document shall become effective upon the date of my  
8 signature.

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

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

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

15 ( ) This document shall be revoked by my subsequent disability.

16 IF YOU HAVE INDICATED THAT THIS DOCUMENT  
17 SHALL BECOME EFFECTIVE UPON THE DATE OF YOUR  
18 SIGNATURE AND WANT TO LIMIT THE TERM OF THIS  
19 DOCUMENT, COMPLETE THE FOLLOWING:

20 This document shall only continue in effect for \_\_\_\_\_ ( )  
21 years from the date of my signature.

22 NOTICE OF REVOCATION OF THE POWERS  
23 GRANTED IN THIS DOCUMENT

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

31 NOTICE TO THIRD PARTIES

24-GH1048\Y.7

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

IN WITNESS WHEREOF, I have hereunto signed my name  
this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

\_\_\_\_\_  
Signature of Principal

Acknowledged before me at \_\_\_\_\_

\_\_\_\_\_ on \_\_\_\_\_  
Signature of Officer or Notary

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

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

Page 1, line 12:

Delete "Section 1"

Insert "Sec. 3"

Renumber the following bill sections accordingly.

24-GH1048Y.7

- 1 Page 3, line 8:
- 2 Following "written"
- 3 Insert "general power of attorney or a written special"
- 4 Delete "specifically"
- 5
- 6 Page 4, lines 16 - 17:
- 7 Delete "as set out in AS 15.07.050"
- 8
- 9 Page 7, line 12:
- 10 Delete "person"
- 11 Insert "individual"
- 12
- 13 Page 7, line 13:
- 14 Delete "person"
- 15 Insert "individual"
- 16
- 17 Page 7, line 14, following "written":
- 18 Insert "general power of attorney or a written special"
- 19
- 20 Page 7, line 15:
- 21 Delete "specifically"
- 22 Delete "person"
- 23 Insert "individual"
- 24
- 25 Page 25, line 7:
- 26 Delete "secs. 23 - 46"
- 27 Insert "secs. 25 - 48"

*H/*  
*Amend to Amend # 6*

*adpted*

24-GH1048\Y.10  
Kurtz  
3/14/05

AMENDMENT

OFFERED IN THE HOUSE

TO: Amendment Y.6 to CSHB 94(STA), Draft Version "Y"

1 Page 1, line 17:

2 Delete "and"

3

4 Page 1, line 21, following "Settlement Act)":

5 Insert "; and

6 (5) inclusion in the official election pamphlet"

7

8 Page 1, following line 21:

9 Insert new material to read:

10 "Page 23, following line 15:

11 Insert a new bill section to read:

12 "\* Sec. 47. AS 15.58.020 is amended to read:

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

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

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

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

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

20 (5) an absentee ballot application;

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

23 (A) the full text of the proposition specifying constitutional or

24-GH1048\Y.10

1 statutory provisions proposed to be affected;

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

4 (C) a neutral summary of the proposition prepared by the  
5 Legislative Affairs Agency;

6 (D) statements submitted that advocate voter approval or  
7 rejection of the proposition not to exceed 500 words;

8 (7) for each bond question, a statement of the scope of each project as  
9 it appears in the bond authorization;

10 (8) a maximum of two pages of material submitted by each political  
11 party;

12 (9) additional information on voting procedures that the lieutenant  
13 governor considers necessary;

14 (10) for the question whether a constitutional convention shall be  
15 called,

16 (A) a full statement of the question placed on the ballot;

17 (B) statements not to exceed 500 words that advocate voter  
18 approval or rejection of the question;

19 (11) under AS 37.13.170, the Alaska permanent fund annual income  
20 statement and balance sheet for the two fiscal years preceding the publication of the  
21 election pamphlet;

22 **(12) under AS 15.10.090, notice of**

23 **(A) the establishment or abolition of a precinct;**

24 **(B) the designation, abolition, or modification of precinct**  
25 **boundaries; and**

26 **(C) a change in the location of a polling place."**

27

28 Renumber the following bill sections accordingly."

AMENDMENT #6

OFFERED IN THE HOUSE

BY REPRESENTATIVE GRUENBERG

TO: CSHB 94(STA), Draft Version "Y"

1 Page 5, lines 17 - 30:

2 Delete all material and insert:

3 **\*\* Sec. 7.** AS 15.10.090 is repealed and reenacted to read:

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

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

10 (2) providing notice of the change

11 (A) by publication on three different days in a local newspaper  
12 of general circulation in the precinct; or

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

16 (3) posting notice of the change on the Internet website of the division  
17 of elections; and

18 (4) providing notification of the change to the appropriate municipal  
19 clerks, community councils, tribal groups, ~~presiding officers~~, Native villages, and  
20 village regional corporations established under 43 U.S.C. 1606 (Alaska Native Claims  
21 Settlement Act)."

*Amendment to Amendment 6 - Page 1, line 19  
Strike "presiding officers"*

24-GH1048\Y.9  
Kurtz  
3/14/05

*Pass*  
*#2 to #6*

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE GRUENBERG

TO: Amendment Y.6 to CSHB 94(STA), Draft Version "Y"

- 1 Page 1, line 11:
- 2 Delete "on three different days"
- 3 Insert "once"

#7 *Adopt*

24-GH1048\Y.8  
Kurtz  
3/14/05

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE GRUENBERG

TO: CSHB 94(STA), Draft Version "Y"

1 Page 5, following line 30:

2 Insert a new bill section to read:

3 \*\* Sec. 8. AS 15.15.030(6) is repealed and reenacted to read:

4 (6) The names of the candidates for each office shall be set out in the  
5 same order on ballots printed for use in each house district. The director shall  
6 randomly determine the order of the names of the candidates for state representative  
7 for each house district. The director shall rotate the order of placement of the names  
8 of candidates for governor, lieutenant governor, United States senator, United States  
9 representative, and state senator on the ballot for each house district."

10

11 Renumber the following bill sections accordingly.

12

13 Page 25, line 7:

14 Delete "secs. 23 - 46"

15 Insert "secs. 24 - 47"

**Senate District A**

**Governor**

Candidate A  
B  
C

**State Senate**

Candidate A  
B

**House District 1**

**US Representative**

Candidate A  
B  
C  
D  
E

**State House**

Candidate A  
B

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**Senate District A**

**Governor**

Candidate B  
C  
A

**State Senate**

Candidate B  
A

**House District 2**

**US Representative**

Candidate B  
C  
D  
E  
A

**State House**

Candidate C  
D

**Senate District B**

**Governor**

Candidate C

A

B

**State Senate**

Candidate C

D

**House District 3**

**US Representative**

Candidate C

D

E

A

B

**State House**

Candidate E

F

---

**Senate District B**

**Governor**

Candidate A

B

C

**State Senate**

Candidate D

C

**House District 4**

**US Representative**

Candidate D

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B

C

**State House**

Candidate G

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Senate District C

Governor

Candidate B  
C  
A

State Senate

Candidate E  
F

House District 5

US Representative

Candidate E  
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B  
C  
D

State House

Candidate I  
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Senate District C

Governor

Candidate C  
A  
B

State Senate

Candidate F  
E

House District 6

US Representative

Candidate A  
B  
C  
D  
E

State House

Candidate K  
L

*adopted* #8

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE SEATON

TO: CSHB 94(STA), Draft Version "Y"

. 1 Page 24, following line 13:

2 Insert a new bill section to read:

3 **"\* Sec. 49** AS 15.60.010(23) is amended to read:

4 (23) "political party" means an organized group of voters that  
5 represents a political program and **that**

6 (A) [THAT] nominated a candidate for governor who received  
7 at least three percent of the total votes cast for governor at the preceding  
8 general election **at which a governor was elected** [OR HAS REGISTERED  
9 VOTERS IN THE STATE EQUAL IN NUMBER TO AT LEAST THREE  
10 PERCENT OF THE TOTAL VOTES CAST FOR GOVERNOR AT THE  
11 PRECEDING GENERAL ELECTION];

12 (B) [IF THE OFFICE OF GOVERNOR WAS NOT ON THE  
13 BALLOT AT THE PRECEDING GENERAL ELECTION BUT THE OFFICE  
14 OF UNITED STATES SENATOR WAS ON THAT BALLOT, THAT]  
15 nominated a candidate for United States senator who received at least three  
16 percent of the total votes cast for United States senator at **the preceding**  
17 **general election or at the most recent general election at which a governor**  
18 **was elected;** [THAT GENERAL ELECTION OR HAS REGISTERED  
19 VOTERS IN THE STATE EQUAL IN NUMBER TO AT LEAST THREE  
20 PERCENT OF THE TOTAL VOTES CAST FOR UNITED STATES  
21 SENATOR AT THAT GENERAL ELECTION; OR]

22 (C) [IF NEITHER THE OFFICE OF GOVERNOR NOR THE  
23 OFFICE OF UNITED STATES SENATOR WAS ON THE BALLOT AT

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11

THE PRECEDING GENERAL ELECTION, THAT] nominated a candidate for United States representative who received at least three percent of the total votes cast for United States representative at the preceding general election or at the most recent general election at which a governor was elected; [THAT GENERAL ELECTION] or

(D) has registered voters in the state equal in number to at least two [THREE] percent of the total number of voters registered in the state on March 31 of the most recent election year [VOTES CAST FOR UNITED STATES REPRESENTATIVE AT THAT GENERAL ELECTION];"

*possible filing date -*

Renumber the following bill section accordingly.

# 9

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE GARDNER

TO: CSHB 94(STA), Draft Version "Y"

1 Page 1, line 9, following "recall,"

2 Insert "the crime of unlawful interference with voting,"

3

4 Page 23, following line 15:

5 Insert a new bill section to read:

6 **\*\* Sec. 47. AS 15.56.035(a) is amended to read:**

7 (a) A person commits the crime of unlawful interference with voting in the  
8 second degree if the person

9 (1) has an official ballot in possession outside of the voting room  
10 unless the person is an election official or other person authorized by law or local  
11 ordinance, or by the director or chief municipal elections official in a local election;

12 (2) makes, or knowingly has in possession, a counterfeit of an official  
13 election ballot;

14 (3) knowingly solicits or encourages, directly or indirectly, a registered  
15 voter who is no longer qualified to vote under AS 15.05.010, to vote in an election;

16 [OR]

17 (4) as a registration official

18 (A) knowingly refuses to register a person who is entitled to  
19 register under AS 15.07.030; or

20 (B) accepts a fee from an applicant applying for registration; or

21 (5) delivers to an individual a partially completed voter

22 registration application form or a partially completed absentee ballot application

23 form unless the individual has specifically requested assistance from the person

Yes  
11

No  
11

1 in completing the form."

2

3 Renumber the following bill sections accordingly.

## **Amendment to CS for HB-94 State Affairs**

The National flag shall be displayed over or near the entrance of a polling place. The National flag shall have at least a three-foot hoist and a five-foot hoist.

AMENDMENT # \_\_\_\_\_



Ramras

Page 13, Line 28-30

- 27 \* Sec. 30. AS 15.45.340 is amended by adding new subsections to read:
- 28 (b) A circulator may not receive payment or agree to receive payment [*that is*
- 29 *greater than \$1 a signature*], and a person or an organization may not pay or agree to
- 30 pay [*an amount that is greater than \$1 a signature,*] for the collection of signatures on a
- 31 petition.

AMENDMENT

OFFERED IN THE HOUSE

TO: CSHB 94(STA), Draft Version "G"

~~Gardner~~  
~~Constitution~~  
Gardner  
Yes  
1  
111

1 Page 8, following line 12:

2 Insert a new bill section to read:

3 **"\* Sec. 15.** AS 15.20.450 is amended to read:

4 **Sec. 15.20.450. Requirements of deposit and recount cost.** The application  
5 must include a deposit in cash, by certified check, or by bond with a surety approved  
6 by the director. The amount of the deposit is \$2,500 [\$300] for each precinct, \$10,000  
7 [750] for each house district, and \$50,000 [\$10,000] for the entire state. If the  
8 recount includes an office for which candidates received a tie vote, or the difference  
9 between the number of votes cast was 20 or less or was less than .5 percent of the total  
10 number of votes cast for the two candidates for the contested office, or a question or  
11 proposition for which there was a tie vote on the issue, or the difference between the  
12 number of votes cast in favor of or opposed to the issue was 20 or less or was less than  
13 .5 percent of the total votes cast in favor of or opposed to the issue, the application  
14 need not include a deposit, and the state shall bear the cost of the recount. If, on the  
15 recount, a candidate other than the candidate who received the original election  
16 certificate is declared elected, or if the vote on recount is determined to be four percent  
17 or more in excess of the vote reported by the state review for the candidate applying  
18 for the recount or in favor of or opposed to the question or proposition as stated in the  
19 application, the entire deposit shall be refunded. If the entire deposit is not refunded,  
20 the director shall refund any money remaining after the cost of the recount has been  
21 paid from the deposit. If the cost of the recount exceeds the amount of the deposit,  
22 the recount applicant shall pay the remainder upon notification by the state of  
23 the amount due."

#2 - 35000

#1 adopted.

- 1
- 2 Renumber the following bill sections accordingly.
- 3
- 4 Page 21, line 4:
  - 5 Delete "secs. 20 - 43"
  - 6 Insert "secs. 21 - 44"

Conceptual Amendment# # 10

Ramras

yes 11      No 1111

Ask the reviser to check for other references to paying for signatures.

*Conductor  
Greenberg*

Page 13

\* Sec. 30. AS 15.45.340 is amended by adding new subsections to read:

28 (b) A circulator may not receive payment or agree to receive payment [*that is*  
29 *greater than \$1 a signature*], and a person or an organization may not pay or agree to  
30 pay an amount [*that is greater than \$1 a signature,*] for the collection of signatures on a  
31 petition.

Page 14

Sec. 32. AS 15.45.360 is repealed and reenacted to read:

03 *[(8) if the circulator has received payment or agreed to receive payment*  
04 *for the collection of signatures on the petition, the circulator, before circulating of the*  
05 *petition, prominently placed in the space provided under AS 15.45.320(6) the name of*  
06 *each person or organization that has paid or agreed to pay the circulator for collection*  
07 *signatures on the petition.]*

Page 17

• Sec. 39. AS 15.45.580 is amended by adding new subsections to read:

11 (b) A circulator may not receive payment or agree to receive payment [*that is*  
12 *greater than \$1 a signature,*] and a person or an organization may not pay or agree  
13 to pay an amount [*that is greater than \$1 a signature,*] for the collection of signatures  
14 on a petition.

Page 18

• Sec. 41. AS 15.45.600 is repealed and reenacted to read:

17 *[(8) if the circulator has received payment or agreed to receive payment*  
18 *for the collection of signatures on the petition, the circulator, before circulating of the*  
19 *petition, prominently placed in the space provided under AS 15.45.560(5) the name of*  
20 *each person or organization that has paid or agreed to pay the circulator for collection*  
21 *of signatures on the petition.]*

[deleted language bracketed]

Gruenberg

PROPOSED AMENDMENT TO HOUSE BILL NO. 94.

The current AS 15.60.010 (23) is repealed and replaced by amendment to read:

(23) "political party" means an organized group of voters that represents a political program and that either nominated a candidate for Governor, or for U.S. Senator, or for U.S. Representative, or for President within the last four years who received at least three percent of the total votes cast in the general election in which that candidate ran; OR has registered voters in the state equal in number to at least one percent of the total votes cast for governor at the preceding general election.

Language that is repealed by above amendment to AS15.60.010(23):

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

(A) that nominated a candidate for governor who received at least three percent of the total votes cast for governor at the preceding general election or has registered voters in the state equal in number to at least three percent of the total votes cast for governor at the preceding general election;

(B) if the office of governor was not on the ballot at the preceding general election but the office of United States senator was on that ballot, that nominated a candidate for United States senator who received at least three percent of the total votes cast for United States senator at that general election or has registered voters in the state equal in number to at least three percent of the total votes cast for United States senator at that general election; or

(C) if neither the office of governor nor the office of United States senator was on the ballot at the preceding general election, that nominated a candidate for United States representative who received at least three percent of the total votes cast for United States representative at that general election or has registered voters in the state equal in number to at least three percent of the total votes cast for United States representative at that general election;]

24-GH1048\Y  
Kurtz  
2/28/05

**CS FOR HOUSE BILL NO. 94(STA)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FOURTH LEGISLATURE - FIRST SESSION**

**BY THE HOUSE STATE AFFAIRS COMMITTEE**

**Offered:  
Referred:**

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

**A BILL**

**FOR AN ACT ENTITLED**

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

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

12 \* Section 1. AS 15.05.020 is amended to read:

1           **Sec. 15.05.020. Rules for determining residence of voter.** For the purpose  
2 of determining residence for voting, the place of residence is governed by the  
3 following rules:

4           (1) A person may not be considered to have gained a residence solely  
5 by reason of presence nor may a person lose it solely by reason of absence while in the  
6 civil or military service of this state or of the United States or of absence because of  
7 marriage to a person engaged in the civil or military service of this state or the United  
8 States while a student at an institution of learning, while in an institution or asylum at  
9 public expense, while confined in public prison, while engaged in the navigation of  
10 waters of this state or the United States or of the high seas, while residing upon an  
11 Indian or military reservation, or while residing in the Alaska Pioneers' Home or the  
12 Alaska Veterans' Home.

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

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

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

23           (5) A person does not gain residence in any place to which the person  
24 comes without the present intention to establish a permanent dwelling at that place.

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

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

30           (8) The address of a voter as it appears on the [AN] official voter  
31 registration record [CARD] is presumptive evidence of the person's voting residence.

1 This presumption is negated only if the voter notifies the director in writing of a  
2 change of voting residence.

3 \* Sec. 2. AS 15.07.050 is amended to read:

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

5 (1) in person before a registration official or through a voter  
6 registration agency;

7 (2) by another individual on behalf of the voter if the voter has  
8 executed a written power of attorney specifically authorizing that other  
9 individual to register the voter;

10 (3) by mail; or

11 (4) [(3)] by facsimile transmission, scanning, or another method of  
12 electronic transmission that the director approves.

13 \* Sec. 3. AS 15.07.060(a) is amended to read:

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

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

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

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

21 (4) the applicant's Alaska residence address [AND OTHER  
22 NECESSARY INFORMATION ESTABLISHING RESIDENCE, INCLUDING THE  
23 TERM OF RESIDENCE IN THE STATE AND IN THE DISTRICT, IF  
24 REQUESTED];

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

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

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

- 1 (8) the date of application;
- 2 (9) the applicant's signature or mark;
- 3 (10) any former name under which the applicant was registered to vote
- 4 in the state;
- 5 (11) an oath [ATTESTATION] that the information provided by the
- 6 applicant in (1) - (10) of this subsection is true; and
- 7 (12) a certification that the applicant understands that a false statement
- 8 on the application may make the applicant subject to prosecution for a misdemeanor
- 9 under this title or AS 11.

10 \* Sec. 4. AS 15.07.070(b) is amended to read:

11 (b) To register by mail or by facsimile, scanning, or other electronic

12 transmission approved by the director under AS 15.07.050, the director, the area

13 election supervisor, or a voter registration agency shall furnish, at no cost to the voter,

14 forms prepared by the director on which the registration information required under

15 AS 15.07.060 shall be inserted by the voter, by a person on behalf of the voter if

16 that person is designated to act on behalf of the voter in a power of attorney as

17 set out in AS 15.07.050, or by a person on behalf of the voter if the voter is physically

18 incapacitated. The director may require proof of identification of the applicant as

19 required by regulations adopted by the director under AS 44.62 (Administrative

20 Procedure Act). Upon receipt and approval of the completed registration forms, the

21 director or the election supervisor shall forward to the voter an acknowledgment, and

22 the voter's name shall immediately be placed on the master register. If the registration

23 is denied, the voter shall immediately be informed in writing that registration was

24 denied and the reason for denial. When identifying information has been provided by

25 the voter as required by this chapter, the election supervisor shall forward to the voter

26 a registration card.

27 \* Sec. 5. AS 15.07 is amended by adding a new section to read:

28 **Sec. 15.07.075. Voters unaffiliated with a political party.** The director shall

29 consider a voter to be a voter registered as

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

- 1 (2) "undeclared" if the voter  
2 (A) registers as undeclared on a voter registration form;  
3 (B) fails to declare an affiliation with a political group or  
4 political party on a voter registration form; or  
5 (C) declares an affiliation with an entity other than a political  
6 party or political group on a voter registration form; or  
7 (3) "other" if the voter declares on a voter registration form an  
8 affiliation with a political group.

9 \* Sec. 6. AS 15.07.127 is amended to read:

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

17 \* Sec. 7. AS 15.10.090 is amended to read:

18 **Sec. 15.10.090. Notice of precinct boundary designation and modification.**  
19 The director shall give full public notice when precinct boundaries are designated and  
20 when the boundaries of a precinct are modified or when a precinct is established or  
21 abolished. Public notice **must** [SHALL] include

22 (1) [, BUT IS NOT LIMITED TO,] the publication **of notice** on three  
23 different days in a daily newspaper of general circulation; [,] if **possible, the**  
24 **newspaper shall be one that is available generally in the house district** [SUCH A  
25 NEWSPAPER IS PUBLISHED IN THE HOUSE DISTRICT] where the precinct is  
26 located; **however, if a daily newspaper of general circulation is not generally**  
27 **available in that house district, public notice must include** [, BY] posting written  
28 notice in a [THREE] conspicuous **place** [PLACES] in the designated precinct;

29 (2) **posting on the division of elections' Internet website**; [,] and

30 (3) [BY] notification to appropriate municipal clerks.

31 \* Sec. 8. AS 15.15.030(7) is amended to read:

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

6 \* Sec. 9. AS 15.15.350(a) is amended to read:

7 (a) The director may adopt regulations prescribing the manner in which the  
8 precinct ballot count is accomplished so as to ensure [ASSURE] accuracy in the count  
9 and to expedite the process. The election board shall account for all ballots by  
10 completing a ballot statement containing (1) the number of official ballots received;  
11 (2) the number of official ballots voted; (3) the number of official ballots spoiled; (4)  
12 the number of official ballots unused and either destroyed or returned for  
13 destruction ~~by the~~ elections supervisor or the election supervisor's designee. The  
14 board shall count the number of questioned ballots and [SHALL] compare that  
15 number to the number of questioned voters in the register. Discrepancies shall be  
16 noted and the numbers included in the certificate prescribed by AS 15.15.370. The  
17 election board, in hand-count precincts, shall count the ballots in a manner that allows  
18 watchers to see the ballots when opened and read. A person handling the ballot after it  
19 has been taken from the ballot box and before it is placed in the envelope for mailing  
20 may not have a marking device in hand or remove a ballot from the immediate vicinity  
21 of the polls.

22 \* Sec. 10. AS 15.20.064 is amended by adding a new subsection to read:

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

25 \* Sec. 11. AS 15.20.066(b) is amended to read:

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

28 (1) contain the following statement: "I understand that, by using  
29 electronic transmission to return my marked ballot, I am voluntarily waiving a portion  
30 of my right to a secret ballot to the extent necessary to process my ballot, but expect  
31 that my vote will be held as confidential as possible, [.] " followed by the voter's

1 signature and date of signature; and

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

4 (A) a commissioned or noncommissioned officer of the armed  
5 forces of the United States;

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

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

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

11 (a) A qualified voter may apply by mail or by facsimile, scanning, or other  
12 electronic transmission to the director for an absentee ballot. Another person may  
13 apply for an absentee ballot on behalf of a qualified voter if that person is  
14 designated to act on behalf of the voter in a written power of attorney that  
15 specifically authorizes the other person to apply for an absentee ballot on behalf  
16 of the voter. The application must include the address or, if the application requests  
17 delivery of an absentee ballot by electronic transmission, the telephone electronic  
18 transmission number, to which the absentee ballot is to be returned, the applicant's full  
19 Alaska residence address, and the applicant's signature. However, a person residing  
20 outside the United States and applying to vote absentee in federal elections in  
21 accordance with AS 15.05.011 need not include an Alaska residence address in the  
22 application.

23 \* Sec. 13. AS 15.20.081(d) is amended to read:

24 (d) Upon receipt of an absentee ballot by mail, the voter, in the presence of a  
25 notary public, commissioned officer of the armed forces including the National Guard,  
26 district judge or magistrate, United States postal official, registration official, or other  
27 person qualified to administer oaths, may proceed to mark the ballot in secret, to place  
28 the ballot in the secrecy sleeve, to place the secrecy sleeve in the envelope provided,  
29 and to sign the voter's certificate on the envelope in the presence of an official listed in  
30 this subsection who shall sign as attesting official and shall date the signature. If none  
31 of the officials listed in this subsection is reasonably accessible, an absentee voter

1 shall sign the voter's certificate in the presence of an individual who is [TWO  
2 PERSONS OVER THE AGE OF] 18 years of age or older, who shall sign as a  
3 witness [WITNESSES] and attest to the date on which the voter signed the certificate  
4 in the individual's [THEIR] presence, and, in addition, the voter shall provide the  
5 certification prescribed in AS 09.63.020.

6 \* Sec. 14. AS 15.20.081(h) is amended to read:

7 (h) Except as provided in AS 15.20.480, an absentee ballot returned by mail  
8 from outside the United States or from an overseas voter qualifying under  
9 AS 15.05.011 [A MILITARY APO OR FPO ADDRESS] that has been marked and  
10 mailed not later than election day may not be counted unless the ballot is received by  
11 the election supervisor not later than the close of business on the 15th day following  
12 the election.

13 \* Sec. 15. AS 15.20.800(b) is amended to read

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

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

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

25 \* Sec. 16. AS 15.20 is amended by adding a new section to article 5 to read:

26 **Sec. 15.20.910. Standards for voting machines and vote tally systems.** The  
27 director may approve a voting machine or vote tally system for use in an election in  
28 the state upon consideration of factors relevant to the administration of state elections,  
29 including whether the Federal Election Commission has certified the voting machine  
30 or vote tally system to be in compliance with the voting system standards approved by  
31 the Federal Election Commission as required by 42 U.S.C. 15481(a)(5) (Help America

1 Vote Act of 2002).

2 \* Sec. 17. AS 15.25.030(a) is amended to read:

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

7 (1) the full name of the candidate;

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

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

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

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

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

16 (7) the date of the primary election at which the candidate seeks  
17 nomination;

18 (8) the length of residency in the state and in the district of the  
19 candidate;

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

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

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

1 filled by special election under AS 15.40.230 - 15.40.310, that the candidate will  
2 be at least 30 years of age on the date of certification of the results of the special  
3 election; or, for any other office, by the time that the candidate, if elected, is  
4 sworn into office;

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

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

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

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

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

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

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

21 (1) the full name of the candidate;

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

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

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

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

29 (6) the office that the candidate seeks;

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

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

1 candidate;

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

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

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

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

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

23 \* Sec. 19. AS 15.25.180(a) is amended to read:

24 (a) The petition must state in substance

25 (1) the full name of the candidate;

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

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

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

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