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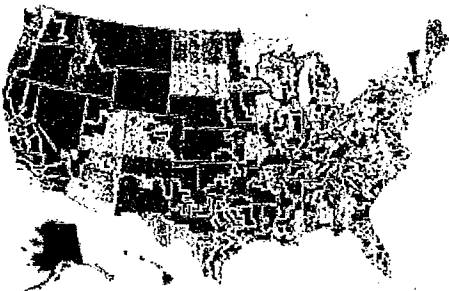
Candidate Argues Spelling Should Count in Alaska Vote

By VAUHINI VARA

Alaska Senate candidate Joe Miller is crying foul over election officials' plan to accept misspellings of Lisa Murkowski's name on write-in ballots in one of the last races to be tallied from the midterm elections.

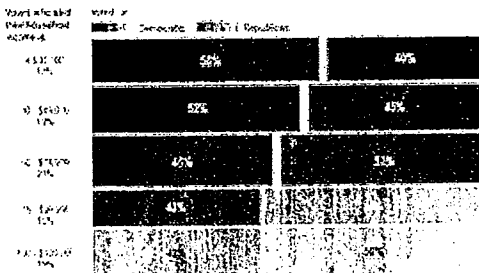
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Sen. Murkowski launched a campaign to persuade voters to print her name on the ballot's write-in line after she was defeated this summer in the Republican primary by Mr. Miller, a tea-party favorite.

Following Tuesday's midterm elections, Ms. Murkowski's efforts seemed successful. As of Wednesday morning, some 41% of voters had cast write-in ballots—the majority of which are likely for Ms. Murkowski—while 34.3% opted for Mr. Miller and 23.6% chose Democrat Scott McAdams, according to Alaska's Division of Elections.

Election workers are set to meet Wednesday in Alaska's state capital of Juneau to start tallying the names on write-in ballots. But tension is mounting over their approach. They plan to count misspellings of registered candidates' names in their favor, as long as the voter's intent is clear, officials said.

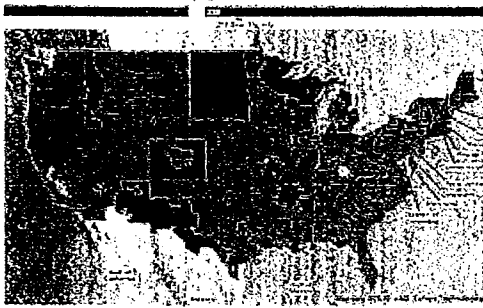
Mr. Miller's camp says the state should count for Ms. Murkowski only those ballots with her full or last name spelled correctly.

State law says a write-in vote should be counted if the write-in line is filled in with the candidate's name, as written on the candidate's paperwork, or at least a last name. The law says "there are no exceptions" to such rules.

Thomas Van Flein, Mr. Miller's attorney, said the state would be breaking the law by counting misspellings in Ms. Murkowski's favor. He wrote to state Division of Elections Director Gail Fenumiai, arguing that election workers shouldn't do so.

On Friday, Ms. Fenumiai pointed to two previous Alaska cases in which ballots were counted for a candidate when voter intent was clear, even if the ballot wasn't filled out correctly. Those cases didn't involve write-in ballots, however.

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Ms. Fenumiai said the state is "proceeding as originally stated" with the counting process.

"It's very clear under Alaska case law that voter intent has to be considered when reviewing the ballots," said Ms. Murkowski's lawyer, Timothy McKeever. Although the previous cases cited by Ms. Fenumiai weren't related to write-in ballots, "a person who casts a write-in ballot is entitled to have their ballot considered just the same that anybody else's ballot is," he said.

Election officials have also said they wouldn't count a vote for "Lisa" or "Lisa M." in Ms. Murkowski's favor. When asked to comment on that, Mr. McKeever said, "We have not gotten any indication from the Division of Elections about the standards they're going to apply, but we expect that they'll comply with Alaska law."

Rick Hasen, an election-law expert at Loyola Law School, said states typically interpret election rules so they maximize the chances voter intent is considered. Alaska, in particular, "has generally taken the view that statutes should be liberally construed," he said.

The ballots will all be counted in the same place, with two election workers at each of several tables, Ms. Fenumiai said. If the name on a write-in ballot doesn't exactly match the name of a registered write-in candidate, the ballot will be added to a stack to be reviewed by Ms. Fenumiai and lawyers from the state department of law. Any dispute over ballot-counting process could end up in court.

Mr. Hasen of Loyola said the margin between Ms. Murkowski and Mr. Miller would probably be big enough, even without misspelled ballots, that a lawsuit would be unlikely.

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