

**SB**

**166**



Moved by  
BenKowitz  
FAILS

AMENDMENT<sup>#1</sup>

OFFERED IN THE HOUSE

by Representative

TO: Senate Bill 166

1 Page 1, preceding line 4, insert:

2 **\*\* Section 1.** The uncodified law of the State of Alaska is amended by adding a new  
3 section to read:

4 **FINDINGS AND INTENT:** The legislature finds that, in order to ensure the people of  
5 Alaska receive the best possible representation in the United States Congress and  
6 Alaska's executive branch:

7 (a) Members of Congress and elected executives should seek election to other offices  
8 after completing their current terms.

9 (b) In the event that Members of Congress and elected executives choose to pursue other  
10 offices during their term in office, they should resign their current post to allow a  
11 successor to vigorously pursue Alaska's interests."

12 Renumber following sections accordingly.

*Not offered*

AMENDMENT #2

OFFERED IN THE HOUSE

by Representative Berkowitz

TO: SB 166

- 1 Page 1, line 14, following "call a",
- 2 Delete "special primary"
- 3 Page 2, line 1,
- 4 Delete "election and a"

Moved  
by Berkowitz  
FAILS

AMENDMENT #3

OFFERED IN THE HOUSE

by Representative Berkowitz

TO: SB 166

- 1 Page 1, lines 9-13,
- 2 Delete all materials

Moved by  
Berkowitz  
FAILS

AMENDMENT #4

OFFERED IN THE HOUSE

by Representative

TO: Senate Bill 166

1 Page 1, line 1, following "filling":

2 Delete "by appointment"

3 Page 1, line 4, through page 2, line 3:

4 Delete all material and insert:

5 **\*\* Section 1.** AS 15.40.010 is amended to read:

6 **Sec. 15.40.010.** Condition [CONDITIONS] and time of calling special election

7 [FILLING VACANCY BY APPOINTMENT]. When a vacancy occurs in the office of

8 United States senator, the governor [, WITHIN 30 DAYS,] shall, **by proclamation and**

9 **subject to AS 15.40.050, call a special election to be held on a date not less than 60**

10 **nor more than 90 days after the date the vacancy occurs** [APPOINT A

11 QUALIFIED PERSON TO FILL THE VACANCY]. However, if the [REMAINDER

12 OF THE TERM OF THE PREDECESSOR IN OFFICE WILL EXPIRE OR IF THE]

13 vacancy **occurs on a date that is less than 180 but more than 60 days before the date**

14 **of the primary election for the office** [WILL BE FILLED BY A SPECIAL ELECTION

15 BEFORE THE SENATE WILL NEXT MEET, CONVENE, OR RECONVENE], the

16 governor may not **call a special election** [FILL THE VACANCY].

17 **\* Sec. 2.** AS 15.40.050 is amended to read:

18 **Sec. 15.40.050. Date of special election.** The special election to fill the vacancy shall be

19 held on the date of the first [GENERAL] election, **whether primary or general,**

20 [WHICH IS HELD MORE THAN THREE FULL CALENDAR MONTHS] after the  
21 vacancy occurs if the vacancy occurs on a date that is less than 180 but more than 60  
22 days before

23 (1) a primary election, other than the primary election for the office; or

24 (2) a general election.

25 \* **Sec. 3.** AS 15.40.060 is amended to read:

26 **Sec. 15.40.060. Proclamation of special election.** The governor shall issue the  
27 proclamation calling the special election at least 50 [80] days before the election.

28 \* **Sec. 4.** AS 15.40 is amended by adding a new section to read:

29 **Sec. 15.40.075. Date of nominations.** Candidates for the special election shall be  
30 nominated by petition transmitted to the director before the 21st day after the vacancy  
31 occurs by

32 (1) the actual physical delivery of the petition in person;

33 (2) mail postmarked not later than midnight of that date; or

34 (3) telegram of a copy in substance of the statements made in the petition.

35 \* **Sec. 5.** AS 15.40.030, 15.40.040, 15.40.080, and 15.40.090 are repealed.

36 \* **Sec. 6.** This Act takes effect immediately under AS 01.10.070(c)."



# SENATOR DAVE DONLEY

ALASKA STATE LEGISLATURE

## SPONSOR STATEMENT

### SENATE BILL 166

“An Act relating to the time of filling by appointment a vacancy in the office of United States senator”

Senate Bill 166 will provide Alaskans time to comment before a governor appoints an individual to a vacancy in the U.S. Senate. It is important to give the residents of Alaska an opportunity to voice their opinion on who is best suited to represent them in the U.S. Senate in the event of a vacancy occurring.

The Seventeenth Amendment of the United States Constitution grants state legislatures the exclusive authority to set the terms of temporary appointments to fill vacancies in the U.S. Senate. Senate Bill 166 amends current law to require a 5-day waiting period before the Governor may appoint an individual to fill a vacancy in the United States Senate

Alaskans currently have an opportunity to choose a new U.S. Senator by a special election if a vacated U.S. Senate term is longer than 30 months. They have no guarantee of an opportunity to indicate their opinion on a replacement, however, if the remaining term is less than that period. Alaskans are entitled to make their opinions known regarding this extremely important position.

This legislation simply ensures a brief period during which Alaskans can express their opinions to the governor about whom they believe is the best person for a vacant U.S. Senate position. The governor still retains the power of appointment, but Alaskans will be guaranteed an opportunity to comment before he does so.

**Co-Chair: Senate Finance Committee**

**Vice-Chair: Senate Judiciary Committee**

**Member: Legislative Budget and Audit Committee • Legislative Council**

DD:dld

4/23/01

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United States nor any state shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

§ 5. **Power to enforce article.** The Congress shall have power to enforce by appropriate legislation, the provisions of this article.<sup>22</sup>

#### ARTICLE XV.

§ 1. **Right to vote not to be abridged.** The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of race, color, or previous condition of servitude.

§ 2. **Power to enforce article.** The Congress shall have power to enforce this article by appropriate legislation.<sup>23</sup>

#### ARTICLE XVI.

**Income tax.** The Congress shall have power to levy and collect taxes on incomes, from whatever source derived, without apportionment among the several states, and without regard to any census or enumeration.<sup>24</sup>

#### ARTICLE XVII.

**Election of Senators.** The Senate of the United States shall be composed of two Senators from each state, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislatures.

When vacancies happen in the representation of any state in the Senate, the executive authority of such state shall issue writs of election to fill such vacancies: *Provided*, That the legislature of any state may empower the executive thereof to make temporary appointment until the people fill the vacancies by election as the legislature may direct.

This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution.<sup>25</sup>

#### ARTICLE XVIII.

§ 1. **National liquor prohibition.** After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

§ 2. **Power to enforce article.** The Congress and the several states shall have concurrent power to enforce this article by appropriate legislation.

§ 3. **Ratification within seven years.** This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of the

22. Proposed by Congress on June 13, 1866, and declared ratified on July 28, 1868.

23. Proposed by Congress on February 26, 1869, and declared ratified on March 30, 1870.

24. Proposed by Congress on July 12, 1909, and declared ratified on February 25, 1913.

25. Proposed by Congress on May 13, 1912, and declared ratified on May 31, 1913.

**Collateral references.** — 25 Am. Jur. 2d, Elections, § 1 et seq.; 26 Am. Jur. 2d, Elections, § 1 et seq.; 38 Am. Jur. 2d, Governor, §§ 5-7; 63C Am. Jur. 2d, Public Officers and Employees, §§ 87, 90, 103; 77 Am. Jur. 2d, United States, §§ 9-10.

29 C.J.S., Elections, §§ 1(3), 70-74; 91 C.J.S., United States, § 15.

What is "public place" within requirement as to posting of election notices. 90 ALR2d 1210.

**Sec. 15.40.010. Conditions and time of filling vacancy by appointment and special election.** When a vacancy occurs in the office of United States senator, the governor, within 30 days after the date of the vacancy, shall

(1) appoint a qualified person who, if the predecessor in office was nominated by a political party, has been, for the six months before the date of the vacancy and is on the date of appointment, a member of the same political party as that which nominated the predecessor: in office to fill the vacancy temporarily until the vacancy is filled permanently by election; and

(2) by proclamation and subject to this chapter, call a special primary election and a special election to fill the vacancy for the remainder of the term of the predecessor in office if the predecessor's term would expire more than 30 calendar months after the date of the vacancy. (§ 8.01 ch 83 SLA 1960; am § 1 ch 30 SLA 1998)

**Effect of amendments.** — The 1998 amendment, effective May 9, 1998, rewrote this section.

*Sec. 15.40.020. Qualification of appointee. [Repealed, § 1 ch 139 SLA 1967.]*

*Secs. 15.40.030, 15.40.040. Conditions for full, unexpired term appointment; conditions for part-term appointment and special election. [Repealed, § 6 ch 30 SLA 1998.]*

**Sec. 15.40.050. Date of special primary election and special election.** (a) The special primary election to determine a candidate who represents a political party in a special election shall be held on the date of the first primary election that is held more than 30 days after the vacancy occurs.

(b) The special election to fill the vacancy shall be held on the date of the first general election that is held after the first primary election that is held more than 30 days after the vacancy occurs. (§ 8.05 ch 83 SLA 1960; am § 2 ch 30 SLA 1998)

**Effect of amendments.** — The 1998 amendment, effective May 9, 1998, rewrote this section.

**Sec. 15.40.060. Proclamation of special election.** The governor shall issue the proclamation calling the special election at least 80 days before the election. (§ 8.06 ch 83 SLA 1960)

**Sec. 15.40.070. Term of elected senator.** At the special election, a United States senator shall be elected to fill the remainder of the unexpired term. The person elected shall take office on the date the United States senate first meets, convenes, or reconvenes following the certification of the results of the special election by the director. (§ 8.07 ch 83 SLA 1960; am § 159 ch 100 SLA 1980)

**Sec. 15.40.075. Determination of candidates; date of nominations.** (a) Subject to (b) — (d) of this section, candidates for the special election shall be nominated as provided in AS 15.25.

- § 5. Effective date of sections 1 and 2.  
 § 6. Ratification within seven years.

## ARTICLE XXI.

- § 1. National liquor prohibition repealed.  
 § 2. Transportation of liquor into "dry" state.  
 § 3. Ratification within seven years.

## ARTICLE XXII.

- § 1. Terms of office of the President.  
 § 2. Ratification within seven years.

## ARTICLE XXIII.

- § 1. Electors for President and Vice President in District of Columbia.  
 § 2. Power to enforce article.

## ARTICLE XXIV.

- § 1. Poll tax payment not required to vote in federal elections.

- § 2. Power to enforce article.

## ARTICLE XXV.

- § 1. Succession upon death, resignation or removal of President.  
 § 2. Vacancy in office of Vice President.  
 § 3. Declaration by President of inability to perform duties.  
 § 4. Declaration of President's disability by Vice President and other officers; determination of issue.

## ARTICLE XXVI.

- § 1. Voting by persons eighteen years of age.  
 § 2. Power to enforce article.

## ARTICLE XXVII.

Compensation of Senators and Representatives.

## Preamble.

WE THE PEOPLE of the United States, in order to form a more perfect Union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this CONSTITUTION for the United States of America.<sup>1</sup>

## ARTICLE I.

§ 1. **Legislative powers.** All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

§ 2. **House of Representatives; how constituted; power of impeachment.** The House of Representatives, shall be composed of members chosen every second year by the people of the several states, and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state in which he shall be chosen.

Representatives and direct taxes shall be apportioned among the several states which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three fifths of all other persons.<sup>2</sup> The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each state shall have at least one representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to choose three, Massachusetts eight, Rhode-Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five and Georgia three.

<sup>1</sup> The headings appearing in boldface type have been inserted in this reprint of the original Constitution. The arrangement, except for capitalization and spelling, follows the arrangement of the reprint in the Constitution of the United States (5th ed., 1952), published by the Library of Congress.

<sup>2</sup> See 14th amendment, § 2, and 16th amendment.

When vacancies happen in the representation from any state, the executive authority thereof shall issue writs of election to fill such vacancies.

The House of Representatives shall choose their speaker and other officers; and shall have the sole power of impeachment.

**§ 3. The Senate; how constituted; impeachment trials.** [The Senate of the United States shall be composed of two Senators from each State, chosen by the legislature thereof, for six years; and each Senator shall have one vote.]<sup>3</sup>

Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one-third may be chosen every second year; [and if vacancies happen by resignation, or otherwise, during the recess of the Legislature of any State, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies].<sup>4</sup>

No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state for which he shall be chosen.

The Vice President of the United States shall be president of the Senate, but shall have no vote, unless they be equally divided.

The Senate shall choose their other officers, and also a president pro tempore, in the absence of the Vice President, or when he shall exercise the office of President of the United States.

The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no person shall be convicted without the concurrence of two thirds of the members present.

Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to law.

**§ 4. Election of Senators and representatives.** The times, places and manner of holding elections for Senators and representatives, shall be prescribed in each state by the legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

[The Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.]<sup>5</sup>

**§ 5. Quorum; journals; meetings; adjournments.** Each house shall be the judge of the elections, returns and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties as each house may provide.

Each house may determine the rules of its proceedings, punish its members for disorderly behaviour, and, with the concurrence of two thirds, expel a member.

Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and

3. See 17th amendment.

4. See 17th amendment.

5. See 20th amendment, § 2.

## Article 2. United States House of Representatives.

Section	Section
140. Condition and time of calling special election	180. Date of nominations
150. Condition for holding special election with primary	190. Requirements of petition for no-party candidates
160. Proclamation	200. Requirements of party petition
170. Term of elected representative	210. Selection of party nominees
	220. General provisions for conduct of special election

**Collateral references.** — 25 Am. Jur. 2d, Elections, § 1 et seq.; 26 Am. Jur. 2d, Elections, § 1 et seq.; 38 Am. Jur. 2d, Governor, §§ 5-7; 63C Am. Jur. 2d, Public Officers and Employees, §§ 87, 90, 103; 77 Am. Jur. 2d, United States, §§ 9-10.

29 C.J.S., Elections, §§ 1(3), 70-74; 91 C.J.S., United States, § 15.

What is "public place" within requirement as to posting of election notices. 90 ALR2d 1210.

**Sec. 15.40.140. Condition and time of calling special election.** When a vacancy occurs in the office of United States representative, the governor shall, by proclamation, call a special election to be held on a date not less than 60, nor more than 90, days after the date the vacancy occurs. However, if the vacancy occurs on a date that is less than 60 days before or is on or after the date of the primary election in general election years, the governor may not call a special election. (§ 8.21 ch 83 SLA 1960; am § 30 ch 69 SLA 1970)

**Sec. 15.40.150. Condition for holding special election with primary.** If the vacancy occurs on a date not less than 60, nor more than 90, days before the date of the primary election, the governor shall, by proclamation, call the special election to be held on the date of the primary election. (§ 8.22 ch 83 SLA 1960; am § 31 ch 69 SLA 1970)

**Sec. 15.40.160. Proclamation.** The governor shall issue the proclamation at least 50 days before the election. (§ 8.23 ch 83 SLA 1960)

**Sec. 15.40.170. Term of elected representative.** At the special election, a United States representative shall be elected to fill the remainder of the unexpired term. The person elected shall take office on the date the United States house of representatives meets, convenes, or reconvenes following the certification of the results of the special election by the director. (§ 8.24 ch 83 SLA 1960; am § 163 ch 100 SLA 1980)

**Sec. 15.40.180. Date of nominations.** Candidates for the special election shall be nominated by petition transmitted by (1) the actual physical delivery of the petition in person; (2) by mail postmarked not later than midnight of the filing date; or (3) by telegram of a copy in substance of the statements made in the petition to the director before the 21st day after the vacancy occurs. (§ 8.25 ch 83 SLA 1960; am § 19 ch 125 SLA 1962; am § 164 ch 100 SLA 1980)

**Sec. 15.40.190. Requirements of petition for no-party candidates.** Petitions for the nomination of candidates not representing a political party shall be signed by qualified voters of the state equal in number to at least one percent of the number of voters who cast ballots in the preceding general election and shall state in substance that which is required for nomination petitions by AS 15.25.180. (§ 8.26 ch 83 SLA 1960; am § 165 ch 100 SLA 1980; am § 35 ch 85 SLA 1986)

### NOTES TO DECISIONS

**Ballot access requirement.** — The amendment of a similar ballot access requirement increasing minimum signatures required from 1000 to 3 percent of votes cast in last election was held violative of free

# FISCAL NOTE

**STATE OF ALASKA**  
**2001 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: SB 166  
 (S) Publish Date: 4/17/01

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Office of the Governor  
 Title: "An Act relating to the time of filling by BRU: Executive Operations  
appointment a vacancy in the office of United States Senator." Component: Executive Office  
 Sponsor: Senators Donley, Taylor  
 Requester: Senate Rules Committee Component Number: 6

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

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
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	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<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 (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

SB166 has no fiscal impact on the Office of the Governor.

Prepared by: Michael A. Nizich, Administrative Director Phone 465-3876  
 Division: Administrative Services Date/Time 4/12/01 12:00 AM  
 Approved by: David Ramseur Date 04/12/2001  
 Agency: Office of the Governor

For distribution information, call the Governor's Legislative Office

**Subject: SB 166**

**Date:** Sat, 28 Apr 2001 02:06:12 -0800

**From:** "Randy Ruedrich" <raraep@pci.net>

**To:** "Representative Norm Rokeberg" <Representative\_Norman\_Rokeberg@legis.state.ak.us>

I support SB 166 "An Act relating to the time of filling by appointment a vacancy in the office of United States senator."

Please advise me of your committee's hearing date for this important bill. I want to testify in support of the bill and urge its swift passage into law.

This is good Republican legislation in my opinion.

Randy Ruedrich  
Chairman RPA