

**NEW YORK STATE ASSEMBLY
MEMORANDUM IN SUPPORT OF LEGISLATION
submitted in accordance with Assembly Rule III, Sec 1(e)**

BILL NUMBER:

SPONSOR: Tedisco (MS)

TITLE OF BILL: An act to amend the public officers law, in relation to Vacancies occurring in the office of United States senator and to repeal subdivision 4-a of section 42 of the public officers law relating thereto.

PURPOSE OR GENERAL IDEA OF BILL:

To direct that the governor order a special election whenever a vacancy in the office of United States Senator occurs.

SUMMARY OF SPECIFIC PROVISIONS:

This bill mandates that within ten days of the occurrence of a vacancy in the office of United States senator from the State of New York, the governor issue a writ of election calling a special election to fill the vacancy. Such special election shall be held within sixty to ninety days from the date of issue of the writ. If an annual or primary election is already scheduled within one hundred days of the occurrence of the vacancy, then the special election shall be held on the sooner of either of those election days. The person elected shall fill the remainder of the unexpired term.

EFFECTS OF THE PRESENT LAW WHICH THIS BILL WOULD AFFECT:

Repeals the existing subdivision 4-a of section 42 of the Public Officers Law and adds a new subdivision 4-a.

JUSTIFICATION:

The 17th Amendment to the United States Constitution provides that when vacancies occur in the office of United States senator, the executive shall issue writs of election to fill such vacancies. However, the amendment also provides that the state legislature may empower the executive to make temporary appointments until the vacancy is filled by election, as the legislature may direct.

Recent events in the State of Illinois where there are allegations of the corrupt use of the governor's appointment power and here, in our state, where candidates for appointment have lobbied the governor and other persons believed to have influence with the governor, demonstrate that the appointment of an interim senator is not in the public interest. One person should not be in a position to appoint an individual to represent 19 million New Yorkers; the voters of the state should have that right.

Several other states require immediate special elections and at least two other states (Massachusetts and Minnesota) are currently considering eliminating temporary gubernatorial appointments, in favor of popular elections.

In order that the state not suffer an inordinate amount of time without a United States Senator, this bill directs the governor to call a special election within ten days of the occurrence of the vacancy and that the election occur within 60 to 90 days thereafter.

In order to prevent an additional election expense, the bill further provides that if the vacancy occurs within 100 days of either an annual primary or general election, the special election shall be held in concert with such regularly scheduled election.

PRIOR LEGISLATIVE HISTORY:

None, new bill.

FISCAL IMPLICATIONS FOR STATE AND LOCAL GOVERNMENTS:

None

EFFECTIVE DATE:

This act shall take effect immediately.