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# A BILL FOR AN ACT

RELATING TO VACANCIES.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that the legislators who  
2           serve at the federal and state levels work on behalf of the  
3           people. However, the legislature notes that under existing law,  
4           when a vacancy occurs in the offices of United States senator,  
5           state senator, or state representative, the people may  
6           experience a delay in choosing a replacement at the ballot box.  
7           For example, with respect to a vacancy in the office of United  
8           States senator, the governor appoints a person to temporarily  
9           fill the position until the next general election, which, in  
10          some cases, may not occur for two years after the vacancy.

11          The purpose of this Act is to return the power of choice to  
12          voters by:

13           (1) Requiring special elections in certain circumstances  
14           when there are vacancies in the offices of United  
15           States senator, state senator, and state  
16           representative; and



1           (2)   Establishing deadlines for holding special elections  
2                   for vacancies in the foregoing offices and the office  
3                   of United State representative.

4           SECTION 2.   Section 17-1, Hawaii Revised Statutes, is  
5 amended by amending subsection (a) to read as follows:

6           "(a)   Except as provided in subsection (b), when a vacancy  
7 occurs in the office of United States senator, the vacancy shall  
8 be filled for the unexpired term ~~[at]~~ as follows:

9           (1)   The vacancy shall be filled at a special election held  
10                   in conjunction with the following state general  
11                   election[+] or other statewide special election,  
12                   whichever occurs sooner; provided that the vacancy  
13                   occurs not sooner than thirty days prior to and not  
14                   later than [4:30 p.m. on the twenty first day prior to  
15                   the date specified in section 12-6 for the close of  
16                   filing nomination papers for regularly scheduled  
17                   elections; otherwise at] one hundred eighty days prior  
18                   to the respective state general election [next  
19                   following.] or other statewide special election; or  
20           (2)   If the circumstances described in paragraph (1) do not  
21                   apply, then the vacancy shall be filled at a special



1           election to be called by the chief election officer  
2           within ten days after the vacancy occurs and to be  
3           held within one hundred twenty days after the vacancy  
4           occurs.

5           The chief election officer shall issue a proclamation  
6    ~~[designating]~~ with respect to the special election ~~[for filling]~~  
7    to fill the vacancy. ~~[All candidates for the unexpired term~~  
8    ~~shall file nomination papers not later than the date and time~~  
9    ~~specified in section 12-6 and shall be nominated and elected in~~  
10   ~~accordance with this title.]~~ The proclamation shall be issued  
11   not later than on the tenth day after the vacancy occurs and  
12   shall contain the date, time, and places where the special  
13   election is to be held, the time within which nomination papers  
14   shall be filed, the time for transmitting to county clerks the  
15   notice designating the offices for which candidates are to be  
16   elected, the time for transmitting to county clerks lists of  
17   candidates to be voted for at the special election and any other  
18   matters as provided for in section 11-91 that are not  
19   inconsistent with this section. The special election shall be  
20   conducted and the results ascertained in accordance with this  
21   title. A special election held pursuant to paragraph (2) may be



1 conducted by mail or by other means in accordance with this  
2 title. Pending the election, the governor shall make a  
3 temporary appointment to fill the vacancy by selecting a person  
4 from a list of three prospective appointees submitted by the  
5 same political party as the prior incumbent. The appointee  
6 shall serve until the election and qualification of the person  
7 duly elected to fill the vacancy and shall be, at the time of  
8 appointment, and shall have been, for at least six months  
9 immediately prior to the appointment, a member of the same  
10 political party as the prior incumbent. The appointee shall be  
11 a resident of the State. If the prior incumbent was not a  
12 member of any political party, the governor shall appoint a  
13 person who is not and has not been, for at least six months  
14 immediately prior to the appointment, a member of any political  
15 party."

16 SECTION 3. Section 17-2, Hawaii Revised Statutes, is  
17 amended to read as follows:

18 "§17-2 United States representative. When a vacancy  
19 occurs in the representation of this State in the United States  
20 House of Representatives, the vacancy shall be filled for the  
21 unexpired term as follows:



1       (1) The vacancy shall be filled at a special election held  
2       in conjunction with the following state general  
3       election or other special election in which all  
4       eligible voters for the congressional district may  
5       vote, whichever occurs sooner; provided that the  
6       vacancy occurs not sooner than thirty days prior to  
7       and not later than one hundred eighty days prior to  
8       the respective state general election or other special  
9       election; or

10       (2) If the circumstances described in paragraph (1) do not  
11       apply, then the vacancy shall be filled at a special  
12       election to be called by the chief election officer  
13       within ten days after the vacancy occurs and to be  
14       held within one hundred twenty days after the vacancy  
15       occurs.

16       The chief election officer shall issue a proclamation [~~for~~  
17       an] with respect to the special election to fill the vacancy.

18       The proclamation shall be issued not later than on the [~~sixtieth~~  
19       ~~day prior to the election to fill the vacancy]~~ tenth day after  
20       the vacancy occurs and shall contain the date, time, and places  
21       where the special election is to be held, the time within which



1 nomination papers shall be filed, the time for transmitting to  
2 county clerks the notice designating the offices for which  
3 candidates are to be elected, the time for transmitting to  
4 county clerks lists of candidates to be voted for at the special  
5 election and such other matter as provided for in section 11-91  
6 and which are not inconsistent with this section. The special  
7 election shall be conducted and the results ascertained [~~so far~~  
8 ~~as practicable,~~] in accordance with this title. A special  
9 election held pursuant to paragraph (2) may be conducted by mail  
10 or by other means in accordance with this title."

11 SECTION 4. Section 17-3, Hawaii Revised Statutes, is  
12 amended by amending subsection (b) to read as follows:

13 "(b) In the case of a vacancy, the term of which does not  
14 end at the next succeeding general election:

15 [~~(1) If it occurs not later than on the tenth day prior to~~  
16 ~~the close of filing for the next succeeding primary~~  
17 ~~election, the vacancy shall be filled for the~~  
18 ~~unexpired term at the next succeeding general~~  
19 ~~election. The chief election officer shall issue a~~  
20 ~~proclamation designating the election for filling the~~  
21 ~~vacancy. All candidates for the unexpired term shall~~



1           ~~be nominated and elected in accordance with this~~  
2           ~~title. Pending the election, the governor shall make~~  
3           ~~a temporary appointment to fill the vacancy, and the~~  
4           ~~person so appointed shall serve until the election of~~  
5           ~~the person duly elected to fill the vacancy. The~~  
6           ~~governor shall make the appointment from a list of~~  
7           ~~three prospective appointees submitted by the same~~  
8           ~~political party as the prior incumbent. The appointee~~  
9           ~~shall be, at the time of the appointment, and shall~~  
10          ~~have been, for at least six months immediately prior~~  
11          ~~to the appointment, a member of the political party.~~  
12          ~~The appointee shall, at the time of appointment, be a~~  
13          ~~resident of the same senate district as the prior~~  
14          ~~incumbent. If the prior incumbent was not a member of~~  
15          ~~any political party, the governor shall appoint a~~  
16          ~~person who is at the time of appointment a resident of~~  
17          ~~the same senate district as the prior incumbent and is~~  
18          ~~not and has not been, for at least six months~~  
19          ~~immediately prior to the appointment, a member of any~~  
20          ~~political party;~~



1       ~~(2) If it occurs later than on the tenth day prior to the~~  
2       ~~close of filing for the next succeeding primary~~  
3       ~~election but not later than on the sixtieth day prior~~  
4       ~~to the next succeeding primary election, or if there~~  
5       ~~are no qualified candidates for any party or~~  
6       ~~nonpartisan candidates qualified for the primary~~  
7       ~~election ballot, nominations for the unexpired term~~  
8       ~~may be filed not later than 4:30 p.m. on the fiftieth~~  
9       ~~day prior to the next succeeding primary election.~~  
10       ~~The chief election officer shall issue a proclamation~~  
11       ~~designating the election for filling the vacancy.~~  
12       ~~Pending the election the governor shall make a~~  
13       ~~temporary appointment to fill the vacancy and the~~  
14       ~~person appointed shall serve until the election of the~~  
15       ~~person duly elected to fill the vacancy. The governor~~  
16       ~~shall make the appointment from a list of three~~  
17       ~~prospective appointees submitted by the same political~~  
18       ~~party as the prior incumbent. The appointee shall be,~~  
19       ~~at the time of the appointment, and shall have been,~~  
20       ~~for at least six months immediately prior to the~~  
21       ~~appointment, a member of the political party. The~~





1 ~~appointee shall, at the time of appointment, be a~~  
2 ~~resident of the same senate district as the prior~~  
3 ~~incumbent. If the prior incumbent was not a member of~~  
4 ~~any political party, the governor shall appoint a~~  
5 ~~person who is at the time of appointment a resident of~~  
6 ~~the same senate district as the prior incumbent and is~~  
7 ~~not and has not been, for at least six months~~  
8 ~~immediately prior to the appointment, a member of any~~  
9 ~~political party;~~

10 ~~(3) If it occurs after the sixtieth day prior to the next~~  
11 ~~succeeding primary but not later than on the fiftieth~~  
12 ~~day prior to the next succeeding general election, or~~  
13 ~~if there are no qualified candidates for any party or~~  
14 ~~nonpartisan candidates in the primary, the vacancy~~  
15 ~~shall be filled for the unexpired term at the next~~  
16 ~~succeeding general election. The chief election~~  
17 ~~officer shall issue a proclamation designating the~~  
18 ~~election for filling the vacancy. Party candidates~~  
19 ~~for the unexpired senate term shall be nominated by~~  
20 ~~the county committees of the parties not later than~~  
21 ~~4:30 p.m. on the fortieth day prior to the general~~



1 ~~election, nonpartisan candidates may file nomination~~  
2 ~~papers for the unexpired term not later than 4:30 p.m.~~  
3 ~~on the fortieth day prior to the general election with~~  
4 ~~the nonpartisan candidate who is to be nominated to be~~  
5 ~~decided by lot, under the supervision of the chief~~  
6 ~~election officer. The candidates for the unexpired~~  
7 ~~term shall be elected in accordance with this title.~~  
8 ~~Pending the election, the governor shall make a~~  
9 ~~temporary appointment to fill the vacancy, and the~~  
10 ~~person appointed shall serve until the election of the~~  
11 ~~person duly elected to fill the vacancy. The governor~~  
12 ~~shall make the appointment from a list of three~~  
13 ~~prospective appointees submitted by the same political~~  
14 ~~party as the prior incumbent. The appointee shall be,~~  
15 ~~at the time of the appointment, and shall have been,~~  
16 ~~for at least six months immediately prior to the~~  
17 ~~appointment, a member of the political party. The~~  
18 ~~appointee shall, at the time of appointment, be a~~  
19 ~~resident of the same senate district as the prior~~  
20 ~~incumbent. If the prior incumbent was not a member of~~  
21 ~~any political party, the governor shall appoint a~~



1 ~~person who is at the time of appointment a resident of~~  
2 ~~the same senate district as the prior incumbent and is~~  
3 ~~not and has not been, for at least six months~~  
4 ~~immediately prior to the appointment, a member of any~~  
5 ~~political party;~~

6 (4) ~~If it occurs after the fiftieth day prior to the next~~  
7 ~~succeeding general election or if no candidates are~~  
8 ~~nominated, the governor shall make an appointment to~~  
9 ~~fill the vacancy for the unexpired term by selecting a~~  
10 ~~person from a list of three prospective appointees~~  
11 ~~submitted by the same political party as the prior~~  
12 ~~incumbent. The appointee shall be, at the time of the~~  
13 ~~appointment, and shall have been, for at least six~~  
14 ~~months immediately prior to the appointment, a member~~  
15 ~~of the political party. The appointee shall, at the~~  
16 ~~time of appointment, be a resident of the same senate~~  
17 ~~district as the prior incumbent. If the prior~~  
18 ~~incumbent was not a member of any political party, the~~  
19 ~~governor shall appoint a person who is at the time of~~  
20 ~~appointment a resident of the same senate district as~~  
21 ~~the prior incumbent and is not and has not been, for~~



1 ~~at least six months immediately prior to the~~  
2 ~~appointment, a member of any political party.]~~

3 (1) The vacancy shall be filled at a special election held  
4 in conjunction with the following state general  
5 election or other special election in which all  
6 eligible voters for the legislative district may vote,  
7 whichever occurs sooner; provided that the vacancy  
8 occurs not sooner than thirty days prior to and not  
9 later than one hundred eighty days prior to the  
10 respective state general election or other special  
11 election; or

12 (2) If the circumstances described in paragraph (1) do not  
13 apply, then the vacancy shall be filled at a special  
14 election to be called by the chief election officer  
15 within ten days after the vacancy occurs and to be  
16 held within one hundred twenty days after the vacancy  
17 occurs."

18 The chief election officer shall issue a proclamation with  
19 respect to the special election to fill the vacancy. The  
20 proclamation shall be issued not later than on the tenth day  
21 after the vacancy occurs and shall contain the date, time, and



1 places where the special election is to be held, the time within  
2 which nomination papers shall be filed, the time for  
3 transmitting to county clerks the notice designating the offices  
4 for which candidates are to be elected, the time for  
5 transmitting to county clerks lists of candidates to be voted  
6 for at the special election and such other matters as provided  
7 for in section 11-91 and which are not inconsistent with this  
8 section. The special election shall be conducted and the  
9 results ascertained in accordance with this title. A special  
10 election held pursuant to paragraph (2) may be conducted by mail  
11 or by other means in accordance with this title. Pending the  
12 election, the governor shall make a temporary appointment to  
13 fill the vacancy by selecting a person from a list of three  
14 prospective appointees submitted by the same political party as  
15 the prior incumbent. The appointee shall serve until the  
16 election and qualification of the person duly elected to fill  
17 the vacancy and shall be, at the time of appointment, and shall  
18 have been, for at least six months immediately prior to the  
19 appointment, a member of the same political party as the prior  
20 incumbent. The appointee shall be a resident of the State. If  
21 the prior incumbent was not a member of any political party, the



1 governor shall appoint a person who is not and has not been, for  
2 at least six months immediately prior to the appointment, a  
3 member of any political party."

4 SECTION 5. Section 17-4, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "§17-4 State representatives. (a) Whenever any vacancy  
7 in the membership of the state house of representatives occurs,  
8 the term of which ends less than one year from the date of the  
9 vacancy:

10 (1) The governor shall make an appointment within sixty  
11 calendar days following the first day of vacancy to  
12 fill the vacancy for the unexpired term by selecting a  
13 person from a list of three prospective appointees  
14 submitted by the same political party as the prior  
15 incumbent. The appointee shall be, at the time of  
16 appointment, and shall have been, for at least six  
17 months immediately prior to the appointment, a member  
18 of the political party. The appointee shall, at the  
19 time of appointment, be a resident of the same state  
20 representative district as the prior incumbent. The  
21 political party shall submit the list of prospective



1 appointees to the governor within thirty calendar days  
2 following the first day of vacancy[-]; and

3 ~~[(b)]~~ (2) If the prior incumbent was not a member of any  
4 political party, the governor, within sixty calendar  
5 days following the first day of vacancy, shall appoint  
6 a person who is at the time of appointment a resident  
7 of the same state representative district as the prior  
8 incumbent and is not and has not been, for at least  
9 six months immediately prior to the appointment, a  
10 member of any political party.

11 (b) In the case of a vacancy, the term of which ends not  
12 less than one year from the date of the vacancy, the vacancy  
13 shall be filled at a special election to be held within one  
14 hundred twenty days after the vacancy occurs. The chief  
15 election officer shall issue a proclamation with respect to the  
16 special election to fill the vacancy. The proclamation shall be  
17 issued not later than on the tenth day after the vacancy occurs  
18 and shall contain the date, time, and places where the special  
19 election is to be held, the time within which nomination papers  
20 shall be filed, the time for transmitting to county clerks the  
21 notice designating the offices for which candidates are to be



1 electd, the time for transmitting to county clerks lists of  
 2 candidates to be voted for at the special election and any other  
 3 matters as provided for in section 11-91 that are not  
 4 inconsistent with this section. The special election shall be  
 5 conducted and the results ascertained in accordance with this  
 6 title, and may be conducted by mail or by other means in  
 7 accordance with this title."

8 SECTION 6. This Act does not affect rights and duties that  
 9 matured, penalties that were incurred, and proceedings that were  
 10 begun before its effective date.

11 SECTION 7. Statutory material to be repealed is bracketed  
 12 and stricken. New statutory material is underscored.

13 SECTION 8. This Act shall take effect upon its approval.  
 14

INTRODUCED BY:                     D. Cruz, Sen

                    C. Am

                    R. S.

                    W.

                    H. Fukushima

                    Alex A. Belotti





# H.B. NO. 364

**Report Title:**

Elections; Vacancies; Senators; Representatives

**Description:**

Requires vacancies in the office of United States Senator to be filled by special election. Requires any vacancy in the office of State Senator or State Representative to be filled by special election if more than half of the term has not yet been served at the time of the vacancy. Establishes deadlines for holding special elections for vacancies in the foregoing offices and the office of United State Representative.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

