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NEWS RELEASE



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**DEPARTMENT OF LAW COMPLETES REVIEW OF
SENATE VACANCY INITIATIVE APPLICATION**

(Juneau, AK) – The Department of Law has completed its required review of the proposed initiative submitted by three lawmakers organized as the sponsoring group “Trust the People.” The initiative would repeal the process previously adopted by the Alaska Legislature for filling a vacancy in the United States Senate. In its opinion to Lieutenant Governor Loren Leman, the Department of Law recommends that the proposed initiative not be certified.

The opinion provided to the Lieutenant Governor advises that the Seventeenth Amendment to the United States Constitution, ratified by the states in 1913, governs the process for filling a vacancy in the United States Senate. The plain meaning of the text of the Seventeenth Amendment, and available guidance from decisions of the United States Supreme Court, commit the process of filling a vacancy in the United States Senate to the sole discretion of the state legislature.

There is no constitutional authority for the Senate vacancy process to be determined directly by the people through the initiative. The proposed initiative would attempt to exercise authority granted to the legislature and, because the legislature would be prohibited from repealing the initiative for two years if enacted, would strip the legislature of authority granted to it by the U.S. Constitution.

“We have a duty to enforce the provisions of the Alaska and United States Constitutions. We take this duty very seriously and feel that we have carefully and responsibly discharged that duty in our review of this initiative petition,” said Attorney General Gregg Renkes.

The opinion is part of a review process completed by the Lieutenant Governor in which a decision must be made whether an initiative can be submitted to the voters at a general election. The state constitution includes safeguards to prevent abuse of the initiative process. These safeguards have been reinforced and expanded by decisions of the Alaska Supreme Court.

Before an initiative can be voted upon, the sponsors must apply to the Lieutenant Governor for the right to circulate a petition for signature by over 20,000 qualified voters of the state. The application must be supported by 100 qualified voters and contain a proposed initiative bill which is in the proper form required by the Alaska Constitution and state law.

Before the Lieutenant Governor decides whether to accept or reject the application, the Department of Law is requested to review the proposed initiative to make certain that initiatives placed on the ballot address only subjects permitted to be enacted directly by the people.

This pre-election review is a part of the checks and balances contemplated by the framers of our state constitution to prevent against rash, discriminatory, or irresponsible acts. It also protects against the presentation to the voters of a proposed initiative that would be void at the outset. Unlike the checks and balances applied to bills enacted by the legislature, for the initiative, there is no bicameral consideration, no hearing process, and no gubernatorial veto.

Only the Lieutenant Governor and ultimately the courts stand as the check on unauthorized use of the initiative process.

The Department has been criticized for the amount of time it has taken to render an opinion. This review has not taken an excessive amount of time when compared to other initiative reviews. Each initiative application presents unique legal issues that must be researched and considered in the review prepared for the Lieutenant Governor. Some initiative reviews are fairly simple, while others involve complicated legal questions that demand a more lengthy consideration.

“We do not take our professional responsibilities lightly. As can be seen from reading the opinion concerning the Senate vacancy initiative, this was not an easy question to resolve and we welcome the opportunity to lay any dispute concerning our conclusion before the judiciary for final resolution. We pursued our review diligently and with the care that is required of important questions such as this. I regret that the sponsors have attempted to politicize our review and tried to pressure us into a premature end to our efforts,” said Attorney General Renkes.

The sponsors of this initiative obtained an order from Superior Court Judge Rindner requiring that a certification decision be made by October 27, 2003 and expedited consideration of any denial of certification.

The state’s attorneys will cooperate with the court and the sponsors to expedite any remaining dispute on the initiative to a final decision.

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