

SESSION OF 2009

**SUPPLEMENTAL NOTE ON
HOUSE CONCURRENT RESOLUTION NO. 5010**

As Amended by House Committee of the Whole

Brief*

HCR 5010 would require an election for the purpose of amending the *Kansas Constitution* provision regarding vacancies in Executive offices as follows:

- In the case of vacancy in the office of Lieutenant Governor, the Governor would be required to fill the vacancy by appointment, for the remainder of the term.
- In the case of a vacancy in the office of Attorney General, Secretary of State, State Treasurer or Commissioner of Insurance:
 - Require the Governor to appoint a person to fill the vacancy based on the recommendation of the state central committee of the political party which elected the last incumbent of the office. Detail is specified as to the process which must be followed by the Governor and the state central committee. The person so filling the vacancy would serve until the next general election occurring after the vacancy, when the vacancy would be filled by election as provided by legislative act.
 - Require the Governor to appoint a person of the Governor's choosing if the person who vacated the office had no political party affiliation. The person so filling the vacancy would serve until the next general election occurring after the vacancy, when the vacancy

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

would be filled by election as provided by legislative act.

- Require that the procedure for determining a Governor's, Lieutenant Governor's, Secretary of State's, or Attorney General's disability, and the removal of that disability, be provided by a legislative act. The current provision indicates it must be "provided by law," which also could include a court decision.

If adopted by two-thirds of the members of each chamber of the Legislature, the constitutional amendment would go on the 2010 general election ballot.

Background

The *Kansas Constitution* requires the Governor to name a person to fill a vacancy in the office of Lieutenant Governor, Secretary of State, or Attorney General, regardless of the party affiliation of the person vacating the office. No mention is made in the *Constitution* regarding the offices of Secretary of State, State Treasurer or Commissioner of Insurance.

Representative Mike Burgess testified in support of the resolution. No opponents testified.

The House Committee of the Whole amended the resolution to provide that the Governor would fill a vacancy in the office of Lieutenant Governor by appointment for the remainder of the term.