

SESSION OF 2024

**SUPPLEMENTAL NOTE ON SUBSTITUTE FOR SENATE
BILL NO. 254**

As Recommended by Senate Committee on
Federal and State Affairs

Brief*

Sub. for SB 254 would provide, in the case of a vacancy in the office of U.S. Senator, that the Governor would appoint a person who has been registered with the same political party as the previously elected U.S. Senator for the ten years preceding the vacancy to serve for the unexpired term, until a successor is elected and qualified.

The bill would provide that if the previously elected U.S. Senator was not registered with any political party, the Governor would appoint a suitable person to serve for the unexpired term and until a successor is elected and qualified.

Appointments by the Governor would be subject to confirmation by the Senate. If the vacancy occurs while the Legislature is not in session, KSA 46-2601 provides for the Senate Committee on Confirmation Oversight to authorize, by majority vote, the appointee to serve in the office until the appointment could be confirmed by the full Senate at the next regular or special session of the Legislature.

[*Note:* Current law provides for vacancies in the U.S. Senate to be appointed by the Governor until the next election of representatives in Congress.]

*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>

Background

The bill was introduced by the Senate Committee on Federal and State Affairs at the request of Senator Tyson.

Senate Committee on Federal and State Affairs

In the Senate Committee hearing, **proponent** testimony was provided by Senator Tyson, who stated current law provides for the Governor to appoint a replacement in the case of a vacancy for U.S. Senate, and this decision is too important to leave to a single person.

Written-only proponent testimony was provided by three private citizens.

Neutral testimony was provided by a representative of the Office of the Attorney General, who stated support of the overall goal of the legislation while expressing concern about its constitutionality. The conferee stated the Seventeenth Amendment to the *U.S. Constitution* establishes that appointments to the U.S. Senate must be made by the state's "executive," and a court could find that the bill, as introduced, delegates this power to an entity outside of the state's executive authority by providing it to a state party delegate convention.

No other testimony was provided.

The Senate Committee amended the bill to provide for, in the event of a vacancy in the U.S. Senate, the Governor to appoint a suitable person to serve the unexpired term, subject to Senate confirmation. The Senate Committee recommended a substitute bill be passed incorporating its amendments.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Office of the Secretary of State indicates enactment of the bill would have no fiscal effect.

U.S. Senate vacancy; appointment; Senate confirmation; Senate Committee on Confirmation Oversight