

SESSION OF 2025

SUPPLEMENTAL NOTE ON SENATE BILL NO. 105

As Amended by House Committee of the Whole

Brief*

SB 105, as amended, would establish the Joint Committee on Vacancy Appointments and create and amend law governing the process for filling vacancies in the offices of U.S. Senator, State Treasurer, and Commissioner of Insurance.

The bill would be in effect upon publication in the *Kansas Register*.

Joint Committee on Vacancy Appointments (New Sections 2 and 3)

The bill would establish the Joint Committee on Vacancy Appointments (Committee) within 10 calendar days of a vacancy occurring in the offices of U.S. Senator, State Treasurer, or Commissioner of Insurance.

The bill would provide that the Committee would not be established when a vacancy occurs less than 90 calendar days prior to December 31 in any year in which a general election for the vacant office is held, unless the person vacating the office was elected and was an incumbent in such election.

*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 <https://klrd.gov/>

Membership

The Committee would be composed of the following 12 members:

- The President of the Senate or a member of the Senate designated by the President;
- One member of the Senate appointed by the President;
- The Speaker of the House or a member of the House appointed by the Speaker;
- One member of the House appointed by the Speaker;
- Two members of the Senate appointed by the Majority Leader of the Senate;
- Two members of the House appointed by the Majority Leader of the House;
- One member of the Senate appointed by the Vice President of the Senate;
- One member of the House appointed by the Speaker *Pro Tem* of the House;
- One member of the Senate appointed by the Minority Leader of the Senate; and
- One member of the House appointed by the Minority Leader of the House.

The bill would require that four of the five members appointed by the President of the Senate, the Vice President of the Senate, and the Majority Leader of the Senate represent and be a resident of each of the state's congressional districts. The bill would also require that four of the five members appointed by the Speaker of the House, the

Speaker *Pro Tem*, and the Majority Leader of the House represent and be a resident of each of the state's Congressional Districts.

Designation of Chairperson; Meeting Information

The bill would provide that, upon the first instance of the establishment of the Committee, the President of the Senate would appoint the chairperson and the Speaker of the House would appoint the vice-chairperson from the appointed Committee members. Thereafter, when the Committee would be required to be established, the bill would require the President of the Senate and the Speaker of the House to alternate appointment of the chairperson and vice-chairperson.

The bill would authorize the vice-chairperson to exercise all the powers of the chairperson in the chairperson's absence.

The bill would authorize the Committee to meet at any time and place within the state on the call of the chairperson. The bill would also provide for member compensation, travel expenses, and subsistence expenses or allowances as provided by state law.

The bill would require the Committee to hold its first meeting within 30 calendar days of a vacancy occurring in the offices of U.S. Senator, State Treasurer, or Commissioner of Insurance.

Nominations

The bill would limit the Committee's review of candidates to only those candidates who are nominated to fill the vacancy by a member of the Legislature. The bill would permit each legislator to nominate one person for consideration by the Committee.

Review of Nominations and Public Hearings

The bill would require the Committee to review and verify that each candidate satisfies federal and state requirements to hold and be appointed to fill a vacancy in such office. The bill would also direct the Committee to conduct one or more public hearings on the nominations and grant the candidates an opportunity to be heard before the Committee. The bill would prohibit any member of the Committee from being recommended as a candidate to fill the vacancy.

Report to Legislature or Governor

Within 30 calendar days of the Committee's first meeting, the bill would require the Committee to:

- Submit a report to the Senate and House of Representatives identifying five nominees for further consideration by the Legislature, if:
 - The vacancy occurs during a regular session of the Legislature; or
 - A special session is called within 7 days of the vacancy occurring; or
- Submit a report to the Governor recommending three persons as candidates to fill the vacancy, if the Committee concludes its public hearings while the Legislature is not in regular or special session.

Joint Session of the Legislature (New Section 4)

Calling a Joint Session

If the Committee submits a report to the Senate and the House of Representatives, the bill would authorize the Legislature to adopt a concurrent resolution calling for a joint session of the Legislature to consider the nominees identified

by the Committee. Upon adoption of such concurrent resolution, the bill would require the Senate and House of Representatives to meet in joint session on the date and time established in the concurrent resolution for such purpose.

Presiding Officer; Rules for Joint Session

When in joint session, the bill would designate the President of the Senate to preside over the joint session. If the office of the President is vacant or the President is unable to do so, the bill would designate the Speaker of the House to preside over the joint session.

The bill would specify the rules of the House of Representatives and the Joint Rules of the Senate and House of Representatives in effect at the time of the joint session would govern to the extent such rules do not directly conflict with the provisions of the bill.

Chief Clerk of the House of Representatives; Secretary of the Senate

The bill would require the Chief Clerk of the House of Representatives (Chief Clerk) and the Secretary of the Senate (Secretary) to keep a record of the proceedings, report the proceedings to their respective houses, and record the proceedings in their respective journals.

Voting Procedure

The bill would require all votes for nominees in a joint session to be taken by voice vote. The bill would provide for the Secretary to call the names of the members of the Senate first, followed by the Chief Clerk to call the names of the members of the House. The bill would require each member in attendance to vote on all nominees unless excused by a majority vote of the members of the Legislature in attendance.

The bill would require each nominee identified in the Committee report to be considered in alphabetical order based on the nominees' surnames and voted upon separately.

Affirmative vote. The bill would designate any nominee who receives an affirmative vote from a majority of the members of each house of the Legislature as a candidate to temporarily fill the vacancy in such office. After three nominees have received the required affirmative vote, the bill would require the consideration of nominees and voting to stop.

Failure to receive affirmative vote. If a nominee fails to receive the required affirmative vote to be designated as a candidate, the bill would provide that a motion to reconsider such nominee would be in order only after all nominees have been considered and initially voted upon. The bill would provide only for the first motion to reconsider to be in order; no second or subsequent motion to reconsider would be permitted.

Reconvening of Committee. If fewer than three nominees receive the required affirmative votes to be designated as candidates, the Legislature would be required to direct the Committee to reconvene to consider additional nominees. The Committee would be required to reconvene in accordance with the provisions of the bill and be permitted to recommend one or more of the nominees recommended in any prior report of the Committee.

Concurrent Resolution Nominating Candidates

Upon the adjournment of a joint session at which three nominees received the required majority affirmative votes to be designated as candidates, the bill would require the Speaker of the House to introduce a concurrent resolution in the House designating such nominees as candidates.

***Appointment of U.S. Senator, State Treasurer, or
Commissioner of Insurance (New Section 1, Section 5,
and Section 6)***

U.S. Senator (New Section 1)

Current law authorizes the Governor to make temporary appointments to fill a vacancy in the office of U.S. Senator, until a successor is elected and qualified. The bill would direct the Governor to make a temporary appointment within three calendar days of receiving a concurrent resolution adopted by the Legislature and appoint one of three persons designated as candidates in such concurrent resolution to temporarily fill the vacancy.

Except as otherwise provided, the bill would require a vacancy in the office of U.S. Senator to be filled at the election of Representatives in Congress immediately following such vacancy, unless the vacancy occurs on or after May 1 in an even-numbered year. If the vacancy occurs on or after May 1 in an even-numbered year, then the position would be filled at the election of Representatives in Congress held two years following the year in which the vacancy occurs.

***State Treasurer and Commissioner of Insurance (Sections 5
and 6)***

Current law authorizes the Governor to make temporary appointments to fill vacancies in the offices of State Treasurer and Commissioner of Insurance for the remainder of the unexpired term and until a successor is elected and qualified. The bill would direct the Governor to make a temporary appointment within three calendar days of receiving a concurrent resolution adopted by the Legislature and appoint one of three persons designated as candidates in such concurrent resolution to serve for the unexpired term and until a successor is elected and qualified.

Political Party Requirement

The bill would require any person appointed to fill a vacancy occurring in the offices of U.S. Senator, State Treasurer, or Commissioner of Insurance to be a resident of Kansas and to have been registered with the same political party as the previously elected U.S. Senator, State Treasurer, or Commissioner of Insurance for the two even-numbered general elections immediately preceding the vacancy. The bill would also provide that if the previously elected U.S. Senator, State Treasurer, or Commissioner of Insurance was not registered with any political party, then any suitable person who is a Kansas resident would be eligible for appointment.

Certification by Secretary of State

The bill would also prohibit any person appointed to fill a vacancy occurring in the offices of U.S. Senator, State Treasurer, or Commissioner of Insurance from taking office unless the Secretary of State certifies the appointment was made in accordance with the provisions of the bill.

Severability (New Section 7)

The bill would specify the provisions of Sections 1 through 4 are severable and, if such provisions or their application are declared unconstitutional or invalid, the remaining provisions of the bill and their applicability would continue to be valid and enforceable.

Statute to be Repealed

The bill would also repeal the statute specifying how a vacancy in the office of a U.S. Senator is to be filled (KSA 25-318).

Background

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

Senate Committee on Federal and State Affairs

In the Senate Committee hearing, **proponent** testimony was provided by the Kansas State Treasurer, who stated the bill would preserve voter intent, enhance transparency, ensure stability in leadership and continuity of operations, and prevent politically motivated appointments that undermine electoral outcomes.

Written-only proponent testimony was provided by the Kansas Attorney General, a representative of the Kansas Republican Party, and a private citizen.

Written-only **opponent** testimony was provided by three private citizens.

Neutral testimony was provided by a representative of the Office of the Secretary of State, who stated the bill would not have an effect on their operations but offered suggestions regarding the bill's provisions and the timing of elections.

The Senate Committee amended the bill to:

- Change the number of calendar days the Governor has to appoint one of the three candidates recommended by the concurrent resolution or report from two calendar days to three calendar days;
- Specify that if a vacancy in the office of U.S. Senator occurs on or after May 1 in an even-numbered year, then the vacancy would be filled by election at the election of Representatives in

Congress held two years following the year in which the vacancy occurs;

- Require that certain members of the Committee represent and be a resident of each of the state's congressional districts;
- Prohibit any member of the Committee from being recommended as a candidate to fill the vacancy;
- Prohibit any person appointed as U.S. Senator, State Treasurer, or Commissioner of Insurance from taking office until such appointment is certified by the Secretary of State;
- Prohibit the Secretary of State from certifying any person as being appointed to fill a vacancy for U.S. Senator, State Treasurer, or Commissioner of Insurance unless such appointment is made in accordance with the provisions of the bill; and
- Add a severability clause.

Senate Committee of the Whole

The Senate Committee of the Whole amended the bill to require the Committee, within 30 calendar days after the Committee's first meeting, to either introduce a concurrent resolution in each house or, if not in regular or special session, to submit a report to the Governor recommending three persons as candidates to fill the vacancy.

House Committee on Elections

In the House Committee hearing, neutral testimony was provided by a representative of the Office of the Secretary of State, who stated the bill would have no effect on agency operations and the Secretary does not have concerns about the amendments made by the Senate Committee.

Written-only **opponent** testimony was provided by a private citizen.

No other testimony was provided.

The House Committee amended the bill to modify the length of time a person appointed to fill a vacancy must be a member of the same political party as the previously elected officeholder from six years to two even-numbered general elections.

House Committee of the Whole

The House Committee of the Whole amended the bill to:

- Specify that upon the first instance of the Committee's establishment, the President of the Senate would appoint the chairperson and the Speaker of the House would appoint the vice-chairperson from the appointed members;
- Require the President of the Senate and Speaker of the House of Representatives to alternate in choosing the chairperson and vice-chairperson;
- Authorize each member of the Legislature to nominate one person for consideration by the Committee;
- Limit the Committee's review of candidates to only those nominated by members of the Legislature;
- Modify the Committee's reporting requirements to the Legislature;
- Change the number of nominees the Committee recommends for consideration by the Legislature from three to five; and

- Authorize and provide for a joint session of the Legislature.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, Legislative Administrative Services (LAS) indicates the bill would have a fiscal effect on the Legislature's budget; however, this would only occur when a vacancy occurred for the offices of U.S. Senator, State Treasurer, or Commissioner of Insurance. Although expenditures associated with the bill would likely be infrequent, LAS estimated a potential fiscal effect using costs in FY 2025. The cost estimate is based upon three meeting days with 14 legislators and one committee assistant.

If three meetings were to occur for the Joint Committee on Vacancy Appointments during FY 2025, LAS estimates that total expenditures of \$35,173 would be required, all from the State General Fund. Of this amount, \$7,224 would be for salaries and wages, \$7,476 for subsistence expenditures, \$7,350 for mileage, \$252 for tolls, \$7,476 for an en route day, and \$3,105 for employer fringe benefit costs. In addition, \$2,110 would be required for committee assistant expenditures and \$180 for the cost to publish in the Kansas Register. Expenditures for future fiscal years are estimated by LAS to increase by approximately 3.0 percent each year.

Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2026 Governor's Budget Report*.

Vacancy; U.S. Senate; State Treasurer; Commissioner of Insurance; appointment; Joint Committee on Vacancy Appointments; Governor