

**SECOND CONFERENCE COMMITTEE REPORT BRIEF
SENATE BILL NO. 105**

As Agreed to March 13, 2025

Brief*

SB 105 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

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.

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;

*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. Conference committee report briefs may be accessed on the Internet at <https://klrd.gov/>

- 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.

he 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 designate the President of the Senate, or the President's designee, as the chairperson of the Committee and the Speaker of the House, or the Speaker's designee, as the 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.

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.

Concurrent Resolution or Report Recommending Candidates

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

- Submit a concurrent resolution to the Senate and House of Representatives identifying three candidates for further consideration by the Legislature, if:
 - The vacancy occurs during a regular session of the Legislature; or
 - A special session is called within five 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.

If the Committee submits a concurrent resolution in each chamber, the bill would require each chamber to consider the concurrent resolution introduced by the Committee within 10 days and either adopt the concurrent resolution or direct the Committee to reconvene to reconsider candidates to fill the vacancy. When directed by the Legislature to reconvene, the bill would permit the Committee to recommend one or more of the candidates who were recommended in any prior resolution.

Appointment of U.S. Senator, State Treasurer, or Commissioner of Insurance

U.S. Senator

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 or report submitted by the Committee 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. However, if the vacancy occurs on or after May 1 in an even-numbered year, 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

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 or report submitted by the Committee 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 six years 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

The bill would make severable provisions regarding making temporary appointments to fill a vacancy in the office of U.S. Senator, establishing the Joint Committee on Vacancy Appointments, and the concurrent resolution or report recommending candidates to fill a vacancy in the office of U.S. Senator, State Treasurer, or Commissioner of Insurance. The bill would also specify that 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 U.S. Senator is to be filled (KSA 25-318).

Conference Committee Action

The second Conference Committee agreed to the contents of SB 105, as amended by the House Committee on Elections, with the following modifications:

- Specifying that the deadline to call a special session is five days after a vacancy occurs; and
- Changing the length of time a person appointed to fill a vacancy must have been a member of the same political party as the previously elected officeholder from two even-numbered general elections to six years.

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 [*Note:* The second Conference Committee retained this amendment.];
- 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 [*Note:* The second Conference Committee retained this amendment.];
- Require that certain members of the Committee represent and be a resident of each of the state's congressional districts [*Note:* The second Conference Committee retained this amendment.];
- Prohibit any member of the Committee from being recommended as a candidate to fill the vacancy [*Note:* The second Conference Committee retained this amendment.];
- 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 [*Note:* The second Conference Committee retained this amendment.];
- 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 [*Note:* The second Conference Committee retained this amendment.]; and
- Add a severability clause. [*Note:* The second Conference Committee retained this amendment.]

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. [*Note:* The second Conference Committee retained this amendment.]

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. [Note: The second Conference Committee did not retain this amendment.]

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 [Note: The second Conference Committee did not retain this amendment.];
- Require the President of the Senate and Speaker of the House of Representatives to alternate in choosing the chairperson and vice-chairperson [Note: The second Conference Committee did not retain this amendment.];
- Authorize each member of the Legislature to nominate one person for consideration by the Committee [Note: The second Conference Committee did not retain this amendment.];
- Limit the Committee's review of candidates to only those nominated by members of the Legislature [Note: The second Conference Committee did not retain this amendment.];
- Modify the Committee's reporting requirements to the Legislature [Note: The second Conference Committee did not retain this amendment.];
- Specify that if the Committee is to submit a report when the legislature is not in regular session, then a special session must be called within seven days of the vacancy occurring [Note: The second Conference Committee did not retain this amendment.];
- Change the number of nominees the Committee recommends for consideration by the Legislature from three to five [Note: The second Conference Committee did not retain this amendment.]; and

- Authorize and provide for a joint session of the Legislature. [*Note:* The second Conference Committee did not retain this amendment.]

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

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