



HOUSE BILL 659: Filling Vacancies/U.S. Senate.

2017-2018 General Assembly

Committee:		Date:	August 8, 2018
Introduced by:		Prepared by:	Jessica Sammons Staff Attorney
Analysis of:	S.L. 2018-102		

OVERVIEW: *S.L. 2018-102 requires the Governor to appoint from a list of three nominees to fill a vacancy in the office of United States Senator submitted by the State executive committee of the political party, if the vacating member was the nominee of a political party. This act became effective June 26, 2018, and applies to vacancies filled on or after that date.*

CURRENT LAW: The 17th Amendment to the United States Constitution provides that a vacancy in a United States Senate seat is to be filled by election. Each state is given latitude as to what to do in the interim period between the vacancy occurring and the election to fill the vacancy. "When vacancies happen in the representation of any state in the Senate, the executive authority of such state shall issue writs of election to fill such vacancies: Provided, that the legislature of any state may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct."

If there is to be a temporary appointment, the United States Constitution requires that it is the Governor who is to make the appointment. There are four states that require the seat to remain vacant until the election. There are 14 states that have a special election to fill the vacancy. There are 36 states where the Governor appoints someone to temporarily fill the vacancy, and the election is held at the next regularly scheduled statewide election. North Carolina is one of the 36 with a temporary appointment, and the Governor is to appoint a person affiliated with the same political party, if the vacating member was elected as the nominee of a political party. There is only one state of the 36 that restricts the Governor to selecting from a list of three nominees submitted by the political party – Hawaii.¹

BILL ANALYSIS: This act requires the Governor, in filling the vacancy in a United States Senate seat until the next election for member of the General Assembly, to appoint from a list of three persons recommended by the State executive committee of the political party with which the vacating member was affiliated. In order to restrict the Governor's appointment to one of the three recommendees, the State executive committee is to make the recommendation within 30 days of the occurrence of the vacancy.

EFFECTIVE DATE: This act became effective June 26, 2018, and applies to vacancies in the United States Senate filled on or after that date.

¹ <http://www.ncsl.org/research/elections-and-campaigns/vacancies-in-the-united-states-senate.aspx>

