



H5094 and S 201: Direct Elections for Vacant US Senate Seats

In the wake of several high-profile US Senate vacancies, politicians and citizens have looked anew at the unusual loophole that allows governors to appoint temporary Senate replacements with little public oversight or input. FairVote RI believes representatives and senators in Congress should be elected by the people at all times. While vacant seats in the House of Representatives are provided for with special elections directly in the US Constitution, US Senate seats are a different matter.

US Senators were initially elected by state legislatures, rather than by the people. In 1913, with the ratification of the 17th amendment, Senators were elected directly by the people. The Constitution now reads that:

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.

Different States have different procedures for dealing with Senate vacancies. In Utah and Wyoming, the governor appoints from among candidates selected by the party to which the Senator belonged. In Mississippi, a special election must be held within 90 days. Oregon and Wisconsin stipulate that the seat can only be filled by special election.

The prevailing practice among the states is for governors to make temporary appointments, which are followed by special election. The timeframe for this special election varies, and in many cases the interim appointee can serve up to two years or more before an election. Since the passage of the 17th amendment ninety-five years ago, over 180 people have served in the US Senate without election.

In Rhode Island, the governor makes an interim appointment which lasts from the time of the vacancy until the next general election, according to current state law- in other words, for a period of up to two years.

FairVote supports moving to a model along the lines of Oregon or Wisconsin, whose laws ensure that that every person who goes to represent Rhode Island in Washington is elected by the people. The language of H 5094 is based on and nearly identical to the language in current state law which provides for special elections in case of vacancies in the US House of Representatives.

Filling vacant US Senate seats by special election is the right thing to do for our democracy. By guaranteeing a special election, we guarantee democracy for Rhode Islanders in every contingency.