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MEMORANDUM

To: Chairperson Thompson
Members of the Senate Committee on Federal and State Affairs

From: The Office of Revisor of Statutes

Date: January 18, 2024

Subject: SB 254 – Appointment to fill vacancy in a U.S. Senate seat subject to election by state party delegates.

Senate Bill No. 254 (SB 254) would modify the process by which individuals are appointed to fill the unexpired term if there is a vacancy in a United States Senate seat. Currently, state law provides that the Governor is to make a temporary appointment at the time the vacancy occurs and then a new election is held for the office at the time of the next general election for the United States House of Representatives. SB 254 provides that the Governor must appoint the individual who wins an election to fill such vacancy. The election is to be conducted at a delegate convention of the state political party that is the same as the candidate who won the last general election for the U.S. Senate seat.

In new section 1, SB 254 requires that the delegate convention to elect a replacement for the U.S. Senate seat be held within 21 days after the notice that the vacancy has or will occur. The election is to be held by secret ballot among the delegates, and voting is to be conducted in multiple rounds until an individual has received a majority of the votes cast. Delegates cannot vote by representation or by proxy.

Upon election of a replacement for the vacant office, the chairperson or vice-chairperson of the state party is required to certify the election to the Governor and send a copy of the certified results to the Secretary of State. Within one week of receiving the certified results, the Governor is required to appoint the election winner to fill the vacancy. If the Governor fails to do so, then the individual is appointed to the office by operation of state law.

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If the U.S. Senate seat was held by an individual who was an independent candidate when elected, then the vacancy will be filled by gubernatorial appointment to fill the unexpired portion of the term.

SB 254 also amends K.S.A. 25-318 to require the Governor's appointment of an individual to a vacancy in a U.S. Senate seat be subject to new section 1.

If enacted, SB 254 would become effective on July 1, 2024.