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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: February 9, 2023

Subject: SB 92 – Selection and governance of delegates to a convention of the states called pursuant to Article V of the Constitution of the United States.

Senate Bill No. 92 (SB 92) would create new law providing for the selection and governance of delegates to a convention of the states called pursuant to Article V of the Constitution of the United States (Article V Convention). Under Article V of the Constitution of the United States, a convention of the states may be called by the state legislatures for the purpose of considering proposed amendments to the Constitution. The request for a convention must be made by at least 34 state legislatures before Congress is required to call an Article V Convention.

Under SB 92, if an Article V Convention is called, then five delegates and five alternate delegates would be appointed to attend the convention. The number of delegates representing Kansas could be modified by the rules of the convention. If five delegates are permitted, then the Speaker of the House of Representatives would appoint two delegates and their alternates, the President of the Senate would appoint two delegates and their alternates, and the Governor would appoint one delegate and their alternate. All delegates and alternates must be members of the Kansas Legislature.

The bill further provides that delegates may only consider and approve authorized amendments to the Constitution. An “unauthorized amendment” is defined by SB 92 as one that is outside the scope of the subject matter or the call for the Article V Convention. Action by a delegate to approve an unauthorized amendment could result in recall by the appointing authority or dismissal upon a majority vote of the other four delegates.

SB 92 directs the Legislature to adopt a concurrent resolution providing instructions to the Kansas delegation upon their appointment. These instructions are to include rules of procedure among the delegation, and any other matters the Legislature deems necessary. The instructions may be amended at any time during the Article V Convention by the Legislature. If the Legislature is not in session, the Legislative Coordinating Council may provide such instructions.

SB 92 also creates a Joint Committee of Correspondence (Joint Committee) to act as a liaison between the Kansas delegation and the Kansas Legislature. The Joint Committee will consist of the Speaker, the President, the Governor, and one member of the House of Representatives and of the Senate who are elected by the respective bodies. All communication by the Kansas delegation to the Legislature is to be directed to the Joint Committee, including advice on any proposed rules of the convention or amendments to the Constitution. The Joint Committee will provide advisory determinations on all such matters at the request of the Kansas delegation, on its own motion, or as required by the instructions provided by the Legislature.

If enacted, SB 92 would become effective on July 1, 2023.