

Senate Concurrent Resolution No. 1611

By Committee on Federal and State Affairs

2-7

1 A PROPOSITION to amend sections 5, 8 and 15 of article 3 of the
2 constitution of the state of Kansas; relating to the supreme court;
3 providing for direct election of justices; abolishing the supreme court
4 nominating commission; permitting justices to make contributions to
5 and hold office in a political party or organization and take part in
6 political campaigns.

7
8 *Be it resolved by the Legislature of the State of Kansas, two-thirds of the*
9 *members elected (or appointed) and qualified to the Senate and two-*
10 *thirds of the members elected (or appointed) and qualified to the*
11 *House of Representatives concurring therein:*

12 Section 1. The following proposition to amend the constitution of
13 the state of Kansas shall be submitted to the qualified electors of the state
14 for their approval or rejection: Sections 5, 8 and 15 of article 3 of the
15 constitution of the state of Kansas are hereby amended to read as follows:

16 **"§ 5. Selection of justices of the supreme court.** *The citizens*
17 *of Kansas who are qualified electors shall have the right to elect*
18 *the justices of the supreme court. The rules applicable for such*
19 *elections and the designation of position numbers shall be*
20 *provided by law. Justice positions 1, 2 and 3 shall be elected at the*
21 *general election in November of 2028, justice positions 4 and 5 in*
22 *November of 2030 and justice positions 6 and 7 in November of*
23 *2032, and every six years thereafter, respectively. Any vacancy*
24 *occurring on the supreme court for an unexpired term shall be*
25 *filled at the next even-year election for the remainder of such term.*

26 ~~(a) Any vacancy occurring in the office of any justice of the~~
27 ~~supreme court and any position to be open thereon as a result of~~
28 ~~enlargement of the court, or the retirement or failure of an~~
29 ~~incumbent to file his declaration of candidacy to succeed himself~~
30 ~~as hereinafter required, or failure of a justice to be elected to~~
31 ~~succeed himself, shall be filled by appointment by the governor of~~
32 ~~one of three persons possessing the qualifications of office who~~
33 ~~shall be nominated and whose names shall be submitted to the~~
34 ~~governor by the supreme court nominating commission established~~
35 ~~as hereinafter provided.~~

36 ~~(b) In event of the failure of the governor to make the~~

1 appointment within sixty days from the time the names of the
2 nominees are submitted to him, the chief justice of the supreme
3 court shall make the appointment from such nominees.

4 (c) ~~Each justice of the supreme court appointed pursuant to~~
5 ~~provisions of subsection (a) of this section shall hold office for an~~
6 ~~initial term ending on the second Monday in January following the~~
7 ~~first general election that occurs after the expiration of twelve~~
8 ~~months in office. Not less than sixty days prior to the holding of~~
9 ~~the general election next preceding the expiration of his term of~~
10 ~~office, any justice of the supreme court may file in the office of the~~
11 ~~secretary of state a declaration of candidacy for election to succeed~~
12 ~~himself. If a declaration is not so filed, the position held by such~~
13 ~~justice shall be open from the expiration of his term of office. If~~
14 ~~such declaration is filed, his name shall be submitted at the next~~
15 ~~general election to the electors of the state on a separate judicial~~
16 ~~ballot, without party designation, reading substantially as follows:~~

17 "Shall _____

18 (Here insert name of justice.)

19 _____
20 (Here insert the title of the court.)

21 be retained in office?"

22 If a majority of those voting on the question vote against
23 retaining him in office, the position or office which he holds shall
24 be open upon the expiration of his term of office; otherwise he
25 shall, unless removed for cause, remain in office for the regular
26 term of six years from the second Monday in January following
27 such election. At the expiration of each term he shall, unless by law
28 he is compelled to retire, be eligible for retention in office by
29 election in the manner prescribed in this section.

30 (d) ~~A nonpartisan nominating commission whose duty it shall~~
31 ~~be to nominate and submit to the governor the names of persons for~~
32 ~~appointment to fill vacancies in the office of any justice of the~~
33 ~~supreme court is hereby established, and shall be known as the~~
34 ~~"supreme court nominating commission." Said commission shall~~
35 ~~be organized as hereinafter provided.~~

36 (e) ~~The supreme court nominating commission shall be~~
37 ~~composed as follows: One member, who shall be chairman, chosen~~
38 ~~from among their number by the members of the bar who are~~
39 ~~residents of and licensed in Kansas; one member from each~~
40 ~~congressional district chosen from among their number by the~~
41 ~~resident members of the bar in each such district; and one member,~~
42 ~~who is not a lawyer, from each congressional district, appointed by~~

1 the governor from among the residents of each such district.

2 ~~(f) The terms of office, the procedure for selection and~~
3 ~~certification of the members of the commission and provision for~~
4 ~~their compensation or expenses shall be as provided by the~~
5 ~~legislature.~~

6 ~~(g) No member of the supreme court nominating commission~~
7 ~~shall, while he is a member, hold any other public office by~~
8 ~~appointment or any official position in a political party or for six~~
9 ~~months thereafter be eligible for nomination for the office of~~
10 ~~justice of the supreme court. The commission may act only by the~~
11 ~~concurrence of a majority of its members."~~

12 **"§ 8. Prohibition of political activity by justices and certain**
13 **judges.** ~~No justice of the supreme court who is appointed or~~
14 ~~retained under the procedure of section 5 of this article, nor any~~
15 ~~judge of the district court holding office under a nonpartisan~~
16 ~~method authorized in subsection (a) of section 6 of this article,~~
17 ~~shall directly or indirectly make any contribution to or hold any~~
18 ~~office in a political party or organization or take part in any~~
19 ~~political campaign."~~

20 **"§ 15. Removal of justices and judges.** Justices of the
21 supreme court may be removed from office by impeachment and
22 conviction as prescribed in article 2 of this constitution. In addition
23 to removal by impeachment and conviction, justices may be retired
24 after appropriate hearing, upon certification to the governor, by the
25 supreme court ~~nominating commission~~ that such justice is so
26 incapacitated as to be unable to perform adequately his duties.
27 Other judges shall be subject to retirement for incapacity, and to
28 discipline, suspension and removal for cause by the supreme court
29 after appropriate hearing."

30 Sec. 2. The following statement shall be printed on the ballot with
31 the amendment as a whole:

32 *"Explanatory statement.* This amendment gives the voters the
33 right to elect the justices of the Kansas supreme court. The
34 justices shall serve terms of six years, with the elections of
35 justice positions 1, 2 and 3 to occur in 2028, positions 4 and
36 5 to occur in 2030 and positions 6 and 7 to occur in 2032,
37 and every six years thereafter. The rules applicable for such
38 elections and the designation of position numbers shall be
39 provided by law. Any vacancy on the court for an unexpired
40 term shall be filled at the next even-year election for the
41 remainder of that term.

42 "A vote for this proposition would give Kansas citizens the right
43 to elect Kansas supreme court justices as provided by law.

1 Justices will hold office for terms of six years. The Kansas
2 supreme court nominating commission, whose membership
3 consists of a majority of lawyers, would be abolished.

4 "A vote against this proposition would continue the current
5 system in which the Kansas supreme court nominating
6 commission, whose membership consists of a majority of
7 lawyers, provides the governor a list of three individuals to
8 choose from for vacancies on the Kansas supreme court.
9 Justices hold office for a term of six years and retain their
10 offices if they win a retention election in which they do not
11 face an opponent.

12 Sec. 3. This resolution, if approved by two-thirds of the members
13 elected (or appointed) and qualified to the Senate and two-thirds of the
14 members elected (or appointed) and qualified to the House of
15 Representatives, shall be entered on the journals, together with the yeas
16 and nays. The secretary of state shall cause this resolution to be published
17 as provided by law and shall cause the proposed amendment to be
18 submitted to the electors of the state at the general election in November
19 in the year 2026, unless a special election is called at a sooner date by
20 concurrent resolution of the legislature, in which case the proposed
21 amendment shall be submitted to the electors of the state at the special
22 election.