

SESSION OF 2025

**SUPPLEMENTAL NOTE ON SENATE CONCURRENT  
RESOLUTION NO. 1611**

As Amended by Senate Committee of the Whole

**Brief\***

SCR 1611, as amended, would propose amendments to Sections 5, 8, and 15 of Article 3 of the *Kansas Constitution* for consideration at a special election on August 4, 2026, to be held in conjunction with the primary election to occur on that date. The amendment, if adopted by a two-thirds majority of each chamber of the Kansas Legislature and approved by voters, would abolish the current method of appointing justices to the Kansas Supreme Court and replace it with direct election of such justices.

Section 5 of Article 3 of the *Kansas Constitution* currently provides that Kansas Supreme Court justices are nominated by the Supreme Court Nominating Commission (Commission), consisting of nine members, including one lawyer and one non-lawyer from each of the state's four congressional districts, plus one lawyer who serves as the chairperson. In the event of a vacancy on the Supreme Court, the Commission is required to submit the names of three qualified persons to the Governor, who makes the appointment. Current law also provides for the Chief Justice of the Supreme Court to make the appointment in the event the Governor fails to do so within 60 days of the submission of nominees and for justices to be subject to retention elections after their first year in office and every 6 years thereafter.

Section 8 of Article 3 of the *Kansas Constitution* currently prohibits justices of the Supreme Court who are

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\*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <https://klrd.gov/>

appointed or retained and district court judges from directly or indirectly making contributions to or holding any office in a political party or organization or taking part in any political campaign.

### ***Constitutional Amendments***

#### *Election of Supreme Court Justices*

The resolution would propose abolishing the current process used to select and appoint Kansas Supreme Court justices in favor of direct election. The resolution would provide for the rules of such elections and the designation of justice position numbers to be provided by law. Justice positions 1, 2, and 3 would be elected at the general election in November 2028; positions 4 and 5 would be elected at the general election in November 2030; and positions 6 and 7 would be elected at the general election in November 2032, and every six years thereafter, respectively. Vacancies for unexpired terms would be filled by election as provided by law.

#### *Political Activity*

The resolution would propose removing the prohibition against Kansas Supreme Court justices directly or indirectly making contributions to or holding any office in a political party or organization or taking part in political campaigns.

The resolution would also propose an amendment to the prohibition on political activity to allow district court judges holding office under a nonpartisan method to directly or indirectly make contributions to or hold any office in a political party or organization or take part in any political campaign when such judge is a candidate for election to a position on an appellate court.

### *Supreme Court Nominating Commission*

The resolution would also propose abolishing the Supreme Court Nominating Commission.

### ***Ballot Language***

The resolution would place the following language on the ballot for the August 4, 2026, special election along with the text of the amendment itself:

*Explanatory statement.* This amendment gives the voters the right to elect the justices of the Kansas Supreme Court. The justices shall serve terms of six years, with the elections of justice positions 1, 2, and 3 to occur in 2028, positions 4 and 5 to occur in 2030, and positions 6 and 7 to occur in 2032, and every six years thereafter. The rules applicable for such elections and the designation of position numbers shall be provided by law. Any vacancy on the court for an unexpired term shall be filled at an election as provided by law.

A vote for this proposition would give Kansas citizens the right to elect Kansas Supreme Court justices as provided by law. Justices will hold office for terms of six years. The Kansas Supreme Court Nominating Commission, whose membership consists of a majority of lawyers, would be abolished.

A vote against this proposition would continue the current system in which the Kansas Supreme Court Nominating Commission, whose membership consists of a majority of lawyers, provides the governor a list of three individuals to choose from for vacancies on the Kansas Supreme Court. Justices hold office for a term of six years and retain their offices if

they win a retention election in which they do not face an opponent.

## **Background**

The resolution was introduced by the Senate Committee on Federal and State Affairs at the request of Senator Thompson.

### ***Senate Committee on Federal and State Affairs***

In the Senate Committee hearing, **proponent** testimony was provided by the Kansas Attorney General, the Kansas Solicitor General, the Senate President, a former Associate Justice for the North Carolina Supreme Court, a retired district judge, and a representative of Americans for Prosperity. Proponents generally stated that the resolution would return the selection of justices to the citizens and avoid ideological biases that can emerge when a small group like the Supreme Court Nominating Commission makes decisions about who may be considered for appointment.

Written-only proponent testimony was provided by two judges; a former Kansas State Representative; representatives of Americans for Prosperity, Kansas Chamber, Kansas Policy Institute, and Kriegshauser Ney Law Group; and nine private citizens.

**Opponent** testimony was provided by representatives of ACLU of Kansas, Hutton and Hutton Law Firm, Kansas Association of Defense Counsel, Kansas Bar Association, Kansas Trial Lawyers Association, and Kansas Women Attorneys Association for Freedom. The opponents generally stated that the current system was voted on by Kansas citizens and has served Kansans well, focusing selection of justices on merit rather than partisanship.

Written-only opponent testimony was provided by representatives of the American Federation of Teachers –

Kansas, Johnson County Bar Association, Kansas Appleseed Center for Law and Justice, Kansas Interfaith Action, Kansas Organization of State Employees, Kansas Women Attorneys Association, Loud Light Civic Action, Planned Parenthood Great Plains Votes, Wichita Bar Association, and Women for Kansas; and five private citizens.

Written-only neutral testimony was provided by a representative of the Secretary of State.

The Senate Committee amended the resolution to specify that a vacancy for an unexpired term would be filled by election as provided by law and to place the question on the ballot at the August 4, 2026, special election, to be held in conjunction with the primary election, rather than the November 2026 general election.

### ***Senate Committee of the Whole***

The Senate Committee of the Whole amended the resolution to specify that district court judges holding office under a nonpartisan method would be allowed to directly or indirectly make contributions to or hold any office in a political party or organization or take part in any political campaign when such judge is a candidate for election to a position on an appellate court.

### **Fiscal Information**

A fiscal note was not available at the time the Senate Committee took action on the bill.

*Kansas Constitution*; Kansas Supreme Court; elections; Supreme Court Nominating Commission