

## Senate Concurrent Resolution No. 1622

By Committee on Federal and State Affairs

3-1

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 selection of supreme  
3 court justices; providing for direct partisan election; abolishing the  
4 supreme court nominating commission.  
5

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

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

14 "§ 5. **Selection of justices of the supreme court.** (a) Any  
15 vacancy occurring in the office of any justice of the supreme court  
16 and any position to be open thereon as a result of enlargement of  
17 the court, or the retirement or failure of an incumbent to file his  
18 declaration of candidacy to succeed himself as hereinafter required,  
19 or failure of a justice to be elected to succeed himself, resignation  
20 or removal of a justice, shall be filled by appointment by the  
21 governor of one of three persons possessing the qualifications of  
22 office who shall be nominated and whose names shall be submitted  
23 to the governor by the supreme court nominating commission  
24 established as hereinafter provided election at the next general  
25 election. Such election shall be partisan and from the state as a  
26 whole. Except as otherwise provided in this section, election laws  
27 applicable to other state officers elected from the state as a whole  
28 shall apply to the nomination and election of justices of the  
29 supreme court. Each justice of the supreme court elected as  
30 provided by law shall hold office for a term of six years. Such term  
31 shall commence on the second Monday in January following the  
32 general election. Justices of the supreme court may seek reelection.

33 (b) In event of the failure of the governor to make the  
34 appointment within sixty days from the time the names of the  
35 nominees are submitted to him, the chief justice of the supreme  
36 court shall make the appointment from such nominees Each justice

1 of the supreme court in office at the time this amendment takes  
 2 effect shall hold office for the term for which such justice was  
 3 retained in office by election, or hold office for the initial term for  
 4 which such justice was appointed, and until a successor is elected  
 5 and qualified. The office that such justice holds shall be open upon  
 6 the expiration of such justice's term of office or upon the  
 7 retirement, resignation or removal of such justice, whichever  
 8 occurs first. Such justice shall be eligible for election to such office  
 9 in the manner prescribed in this section, unless by law such justice  
 10 is compelled to retire or such justice retired, resigned or was  
 11 removed from such office.

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

25 "Shall \_\_\_\_\_

26 (Here insert name of justice.)

27 \_\_\_\_\_  
 28 (Here insert the title of the court.)

29 be retained in office?"

30 If a majority of those voting on the question vote against  
 31 retaining him in office, the position or office which he holds shall  
 32 be open upon the expiration of his term of office; otherwise he  
 33 shall, unless removed for cause, remain in office for the regular  
 34 term of six years from the second Monday in January following  
 35 such election. At the expiration of each term he shall, unless by law  
 36 he is compelled to retire, be eligible for retention in office by  
 37 election in the manner prescribed in this section.

38 (d) ~~A nonpartisan nominating commission whose duty it shall~~  
 39 ~~be to nominate and submit to the governor the names of persons for~~  
 40 ~~appointment to fill vacancies in the office of any justice of the~~  
 41 ~~supreme court is hereby established, and shall be known as the~~  
 42 ~~"supreme court nominating commission." Said commission shall~~

1 be organized as hereinafter provided.

2 ~~(e) The supreme court nominating commission shall be~~  
3 ~~composed as follows: One member, who shall be chairman, chosen~~  
4 ~~from among their number by the members of the bar who are~~  
5 ~~residents of and licensed in Kansas; one member from each~~  
6 ~~congressional district chosen from among their number by the~~  
7 ~~resident members of the bar in each such district; and one member,~~  
8 ~~who is not a lawyer, from each congressional district, appointed by~~  
9 ~~the governor from among the residents of each such district.~~

10 ~~(f) The terms of office, the procedure for selection and~~  
11 ~~certification of the members of the commission and provision for~~  
12 ~~their compensation or expenses shall be as provided by the~~  
13 ~~legislature.~~

14 ~~(g) No member of the supreme court nominating commission~~  
15 ~~shall, while he is a member, hold any other public office by~~  
16 ~~appointment or any official position in a political party or for six~~  
17 ~~months thereafter be eligible for nomination for the office of~~  
18 ~~justice of the supreme court. The commission may act only by the~~  
19 ~~concurrence of a majority of its members.~~

20 **"§ 8. Prohibition of political activity by justices and certain**  
21 **judges.** ~~No justice of the supreme court who is appointed or~~  
22 ~~retained under the procedure of section 5 of this article, nor any~~  
23 ~~judge of the district court holding office under a nonpartisan~~  
24 ~~method authorized in subsection (a) of section 6 of this article,~~  
25 ~~shall directly or indirectly make any contribution to or hold any~~  
26 ~~office in a political party or organization or take part in any~~  
27 ~~political campaign.~~

28 **"§ 15. Removal of justices and judges.** Justices of the  
29 supreme court may be removed from office by impeachment and  
30 conviction as prescribed in article 2 of this constitution. In addition  
31 to removal by impeachment and conviction, justices may be retired  
32 after appropriate hearing, upon certification to the governor, by the  
33 supreme court ~~nominating commission~~ that such justice is so  
34 incapacitated as to be unable to perform adequately ~~his~~ *such*  
35 *justice's* duties. Other judges shall be subject to retirement for  
36 incapacity, and to discipline, suspension and removal for cause by  
37 the supreme court after appropriate hearing."

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

40 *"Explanatory statement.* The purpose of this amendment is to  
41 provide for election of justices of the supreme court and to  
42 eliminate the supreme court nominating commission. Future  
43 justices would be elected in partisan, statewide elections.

1           Each justice elected would hold office for a term of six years  
2           and would be allowed to seek reelection.

3           "A vote for this proposition would cause justices of the supreme  
4           court to be elected in partisan, statewide elections for terms  
5           of six years.

6           "A vote against this proposition would continue the current  
7           system in which justices of the supreme court are appointed  
8           by the governor from a list of three individuals submitted by  
9           the supreme court nominating commission."

10          Sec. 3. This resolution, if approved by two-thirds of the members  
11          elected (or appointed) and qualified to the Senate and two-thirds of the  
12          members elected (or appointed) and qualified to the House of  
13          Representatives, shall be entered on the journals, together with the yeas  
14          and nays. The secretary of state shall cause this resolution to be published  
15          as provided by law and shall cause the proposed amendment to be  
16          submitted to the electors of the state at a special election, which is hereby  
17          called on August 2, 2022, pursuant to section 1 of article 14 of the  
18          constitution of the state of Kansas, to be held in conjunction with the  
19          primary election held on such date.