

## House Concurrent Resolution No. 5009

By Committee on Judiciary

1-27

1 A PROPOSITION to amend section 5 of article 3 of the constitution of  
2 the state of Kansas; relating to justices of the supreme court and  
3 retention in office.

4  
5 *Be it resolved by the Legislature of the State of Kansas, two-thirds of the*  
6 *members elected (or appointed) and qualified to the House of*  
7 *Representatives and two-thirds of the members elected (or appointed)*  
8 *and qualified to the Senate concurring therein:*

9 Section 1. The following proposition to amend the constitution of  
10 the state of Kansas shall be submitted to the qualified electors of the state  
11 for their approval or rejection: Section 5 of article 3 of the constitution of  
12 the state of Kansas is hereby amended to read as follows:

13 "**§ 5. Selection of justices of the supreme court.** (a) Any  
14 vacancy occurring in the office of any justice of the supreme court  
15 and any position to be open thereon as a result of enlargement of  
16 the court, or the retirement or failure of an incumbent to file ~~his~~  
17 *such justice's* declaration of candidacy to ~~succeed himself be~~  
18 *retained in office* as hereinafter required, or failure of a justice to  
19 be elected to ~~succeed himself be retained in office~~, shall be filled  
20 by appointment by the governor of one of three persons possessing  
21 the qualifications of office who shall be nominated and whose  
22 names shall be submitted to the governor by the supreme court  
23 nominating commission established as hereinafter provided.

24 (b) In event of the failure of the governor to make the  
25 appointment within sixty days from the time the names of the  
26 nominees are submitted to ~~him~~ *the governor*, the chief justice of  
27 the supreme court shall make the appointment from such nominees.

28 (c) Each justice of the supreme court appointed pursuant to  
29 provisions of subsection (a) ~~of this section~~ shall hold office for an  
30 initial term ending on the second Monday in January following the  
31 first general election that occurs after the expiration of twelve  
32 months in office. Not less than sixty days prior to the holding of  
33 the general election next preceding the expiration of ~~his such~~  
34 *justice's* term of office, ~~any~~ *the* justice of the supreme court may  
35 file in the office of the secretary of state a declaration of candidacy  
36 for ~~election to succeed himself~~ *retention in office*. If a declaration is

1 not so filed, the position held by such justice shall be open from the  
 2 expiration of ~~his~~ *such justice's* term of office. If such declaration is  
 3 filed, ~~his~~ *such justice's* name shall be submitted at the next general  
 4 election to the electors of the state on a separate judicial ballot,  
 5 without party designation, reading substantially as follows:

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

(Here insert name of justice.)

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

6 be retained in office?"

7 If a ~~majority~~ 33% of those voting on the question vote against  
 8 retaining ~~him~~ *the justice* in office, the position or office which ~~he~~  
 9 *the justice* holds shall be open upon the expiration of ~~his~~ *such*  
 10 *justice's* term of office;. Otherwise ~~he~~ *the justice* shall, unless  
 11 removed for cause, remain in office for the regular term of six  
 12 years from the second Monday in January following such election.  
 13 At the expiration of each term ~~he~~ *the justice* shall, unless by law ~~he~~  
 14 *the justice* is compelled to retire, be eligible for retention in office  
 15 by election in the manner prescribed in this section.

16 (d) A nonpartisan nominating commission whose duty it shall  
 17 be to nominate and submit to the governor the names of persons for  
 18 appointment to fill vacancies in the office of any justice of the  
 19 supreme court is hereby established, and shall be known as the  
 20 "supreme court nominating commission." ~~Said~~ *Such* commission  
 21 shall be organized as hereinafter provided.

22 (e) The supreme court nominating commission shall be  
 23 composed as follows: One member, who shall be ~~chairman~~  
 24 *chairperson*, chosen from among their number by the members of  
 25 the bar who are residents of and licensed in Kansas; one member  
 26 from each congressional district chosen from among their number  
 27 by the resident members of the bar in each such district; and one  
 28 member, who is not a lawyer, from each congressional district,  
 29 appointed by the governor from among the residents of each such  
 30 district.

31 (f) The terms of office, the procedure for selection and  
 32 certification of the members of the commission and provision for  
 33 their compensation or expenses shall be as provided by the  
 34 legislature.

35 (g) No member of the supreme court nominating commission  
 36 shall, while ~~he~~ *is* a member, hold any other public office by  
 37 appointment or any official position in a political party or for six  
 38 months thereafter be eligible for nomination for the office of

1 justice of the supreme court. The commission may act only by the  
2 concurrence of a majority of its members."

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

5 "*Explanatory statement.* The purpose of this amendment is to  
6 change the vote required to not retain a supreme court justice  
7 from a majority of those voting on the question to 33% of  
8 those voting on the question.

9 "A vote for this proposition would change the vote required to  
10 not retain a supreme court justice from a majority of those  
11 voting on the question to 33% of those voting on the  
12 question. If 33% of those voting on the question vote against  
13 retaining the justice in office, the position which the justice  
14 holds shall be vacant upon the expiration of the justice's term  
15 of office.

16 "A vote against this proposition would continue the current law  
17 on the vote required to not retain a supreme court justice. If a  
18 majority of those voting on the question vote against  
19 retaining the justice in office, the position which the justice  
20 holds shall be vacant upon the expiration of the justice's term  
21 of office."

22 Sec. 3. This resolution, if approved by two-thirds of the members  
23 elected (or appointed) and qualified to the House of Representatives, and  
24 two-thirds of the members elected (or appointed) and qualified to the  
25 Senate shall be entered on the journals, together with the yeas and nays.  
26 The secretary of state shall cause this resolution to be published as  
27 provided by law and shall cause the proposed amendment to be submitted  
28 to the electors of the state at the general election in November in the year  
29 2016 unless a special election is called at a sooner date by concurrent  
30 resolution of the legislature, in which case it shall be submitted to the  
31 electors of the state at the special election.