

## House Concurrent Resolution No. 5027

By Committee on Taxation

1-31

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

3  
4 *Be it resolved by the Legislature of the State of Kansas, two-thirds of the*  
5 *members elected (or appointed) and qualified to the House of*  
6 *Representatives and two-thirds of the members elected (or appointed)*  
7 *and qualified to the Senate concurring therein:*

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

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

25 (b) In event of the failure of the governor to make the  
26 appointment within ~~sixty~~ *60* days from the time the names of  
27 the nominees are submitted to ~~him~~ *the governor*, the chief  
28 justice of the supreme court shall make the appointment  
29 from such nominees.

30 (c) Each justice of the supreme court appointed pursuant to  
31 provisions of subsection (a) of this section shall hold office  
32 for an initial term ending on the second Monday in January  
33 following the first general election that occurs after the  
34 expiration of ~~twelve~~ *12* months in office. Not less than ~~sixty~~  
35 *60* days prior to the holding of the general election next  
36 preceding the expiration of ~~his term of office~~, *the term of any*

1 justice of the supreme court, *the justice* may file in the office  
2 of the secretary of state a declaration of candidacy for  
3 election ~~to succeed himself~~ *retention in office*. If a  
4 declaration is not so filed, the position held by such justice  
5 shall be open from the expiration of ~~his~~ *the justice's* term of  
6 office. If such declaration is filed, ~~his~~ *the justice's* name shall  
7 be submitted at the next general election to the electors of  
8 the state on a separate judicial ballot, without party  
9 designation, reading substantially as follows:

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

11 (Here insert name of justice.)

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

14 be retained in office?"

15 If a majority of those voting on the question vote against  
16 retaining ~~him~~ *the justice* in office, the position or office which  
17 ~~he~~ *the justice* holds shall be open upon the expiration of ~~his~~ *the*  
18 *justice's* term of office; otherwise ~~he~~ *the justice* shall, unless  
19 removed for cause, remain in office for the regular term of six  
20 years from the second Monday in January following such  
21 election. At the expiration of each term ~~he~~ *the justice* shall,  
22 unless by law ~~he~~ *the justice* is compelled to retire, be eligible  
23 for retention in office by election in the manner prescribed in  
24 this section.

25 (d) A nonpartisan nominating commission whose duty it  
26 shall be to nominate and submit to the governor the names of  
27 persons for appointment to fill vacancies in the office of any  
28 justice of the supreme court is hereby established, and shall be  
29 known as the "supreme court nominating commission." ~~Said~~  
30 *The* commission shall be organized as hereinafter provided.

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

40 (f) The terms of office, the procedure for selection and  
41 certification of the members of the commission and provision  
42 for their compensation or expenses shall be as provided by the  
43 legislature.

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

7 (h) *The supreme court nominating commission shall*  
8 *submit to the governor the names of all qualified persons who*  
9 *submit their name to the commission for consideration. If a*  
10 *person is deemed not qualified by the commission, the*  
11 *commission shall give the person a written statement of the*  
12 *reasons they were deemed not qualified."*

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

15 "*Explanatory statement.* The purpose of this amendment is to  
16 require the supreme court nominating commission to submit  
17 to the governor the names of all qualified persons who  
18 submit their names to the commission for consideration, and  
19 to require the governor to appoint one of such persons. The  
20 amendment would also require that a person deemed not  
21 qualified by the commission shall be given a written  
22 statement of the reasons they were deemed not qualified.  
23 Current law requires the supreme court nominating  
24 commission to submit the names of three qualified persons  
25 to the governor, and requires the governor to appoint one of  
26 such persons.

27 "A vote for this proposition would require the supreme court  
28 nominating commission to submit to the governor the names  
29 of all qualified persons who submit their names to the  
30 commission for consideration, and require the governor to  
31 appoint one of such persons.

32 "A vote against this proposition would continue the current law  
33 that requires the supreme court nominating commission to  
34 submit the names of three qualified persons to the governor,  
35 and requires the governor to appoint one of such persons."

36 Sec. 3. This resolution, if approved by two-thirds of the members  
37 elected (or appointed) and qualified to the House of Representatives, and  
38 two-thirds of the members elected (or appointed) and qualified to the  
39 Senate shall be entered on the journals, together with the yeas and nays.  
40 The secretary of state shall cause this resolution to be published as  
41 provided by law and shall cause the proposed amendment to be submitted  
42 to the electors of the state at the general election in November in the year  
43 2014 unless a special election is called at a sooner date by concurrent

- 1 resolution of the legislature, in which case it shall be submitted to the
- 2 electors of the state at the special election.