

Senate Concurrent Resolution No. 1622

By Senators Barnett and Wagle

2-16

9 A PROPOSITION to amend section 5 of article 3 of the constitution of
10 the state of Kansas, relating to the selection of justices of the supreme
11 court.

12
13 *Be it resolved by the Legislature of the State of Kansas, two-thirds of the*
14 *members elected (or appointed) and qualified to the Senate and two-*
15 *thirds of the members elected (or appointed) and qualified to the House*
16 *of Representatives concurring therein:*

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

21 “§ 5. **Selection of justices of the supreme court.** (a) Any va-
22 cancy occurring in the office of any justice of the supreme court
23 and any position to be open thereon as a result of enlargement
24 of the court, or the retirement or failure of an incumbent to file
25 ~~his such justice's~~ declaration of candidacy to ~~succeed himself be~~
26 *retained in office* as hereinafter required, or failure of a justice
27 to be elected to ~~succeed himself be retained in office~~, shall be
28 filled by appointment by the governor ~~of one of three persons~~
29 ~~possessing the qualifications of office who shall be nominated~~
30 ~~and whose names shall be submitted to the governor by the su-~~
31 ~~preme court nominating commission established as hereinafter~~
32 ~~provided, with the consent of the senate.~~

33 (b) In event of the failure of the governor to make the appoint-
34 ment within ~~sixty~~ 60 days from the time the ~~names of the nom-~~
35 ~~inees are submitted to him~~ *vacancy occurs or the position opens*,
36 the chief justice of the supreme court, *with the consent of the*
37 *senate*, shall make the appointment ~~from such nominees~~.

38 (c) *No person appointed pursuant to subsection (a) or (b) of this*
39 *section shall assume the office of justice of the supreme court*
40 *until the senate, by an affirmative vote of the majority of all*
41 *members of the senate then elected or appointed and qualified,*
42 *consents to such appointment. The senate shall vote to consent*
43 *to any such appointment not later than 30 days after such ap-*

1 ~~him~~ *such justice* in office, the position or office which ~~he~~ *such*
2 *justice* holds shall be open upon the expiration of ~~his~~ *such jus-*
3 *stice's* term of office; otherwise ~~he~~ *such justice* shall, unless re-
4 moved for cause, remain in office for the regular term of six years
5 from the second Monday in January following such election. At
6 the expiration of each term ~~he shall~~ *such justice*, unless ~~by law~~
7 ~~he is~~ compelled to retire *by law*, shall be eligible for retention
8 in office by election in the manner prescribed in this section.

9 ~~(d) A nonpartisan nominating commission whose duty it shall be~~
10 ~~to nominate and submit to the governor the names of persons~~
11 ~~for appointment to fill vacancies in the office of any justice of~~
12 ~~the supreme court is hereby established, and shall be known as~~
13 ~~the "supreme court nominating commission." Said commission~~
14 ~~shall be organized as hereinafter provided.~~

15 ~~(e) The supreme court nominating commission shall be composed~~
16 ~~as follows: One member, who shall be chairman, chosen from~~
17 ~~among their number by the members of the bar who are resi-~~
18 ~~dents of and licensed in Kansas, one member from each con-~~
19 ~~gressional district chosen from among their number by the res-~~
20 ~~ident members of the bar in each such district, and one member,~~
21 ~~who is not a lawyer, from each congressional district, appointed~~
22 ~~by the governor from among the residents of each such district.~~

23 ~~(f) The terms of office, the procedure for selection and certifica-~~
24 ~~tion of the members of the commission and provision for their~~
25 ~~compensation or expenses shall be as provided by the legislature.~~

26 ~~(g) No member of the supreme court nominating commission~~
27 ~~shall, while he is a member, hold any other public office by ap-~~
28 ~~pointment or any official position in a political party or for six~~
29 ~~months thereafter be eligible for nomination for the office of~~
30 ~~justice of the supreme court. The commission may act only by~~
31 ~~the concurrence of a majority of its members."~~

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

34 *"Explanatory statement.* The purpose of this amendment is to abol-
35 ish the supreme court nominating commission and to require
36 persons appointed by the governor or the chief justice to the
37 office of justice of the supreme court to be consented to by the
38 senate, similar to the federal system. A procedure is established
39 whereby senate consent would occur with 30 days of receiving
40 the appointment. If the senate does not consent by a majority
41 vote, the governor or the chief justice would then select another
42 appointment which would again be submitted to the senate for
43 consent. The same nomination, appointment and consent pro-

1 cedure would be followed until a valid appointment is made. If
2 the senate fails to vote on an appointment within 30 days, it will
3 be deemed that the senate has consented to the appointment.
4 “A vote for this proposition would abolish the supreme court nom-
5 inating commission and provide a procedure whereby the senate,
6 by majority vote, must consent to the appointment, by the gov-
7 ernor or chief justice, of supreme court justices.
8 “A vote against this proposition would continue in effect the current
9 provision whereby the supreme court nominating commission
10 nominates three persons for the office of any justice of the su-
11 preme court and the governor appoints one of such persons.”
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 Repre-
15 sentatives shall be entered on the journals, together with the yeas and
16 nays. The secretary of state shall cause this resolution to be published as
17 provided by law and shall cause the proposed amendment to be submitted
18 to the electors of the state at the general election in November in the
19 year 2006.