

House Concurrent Resolution No. 5040

By Representative Sawyer

5-23

1 A PROPOSITION to amend the constitution of the state of Kansas by
2 revising article 10; requiring the reapportionment of congressional,
3 state legislative and state board of education member districts;
4 establishing a redistricting 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 House of*
8 *Representatives and two-thirds of the members elected (or appointed)*
9 *and qualified to the Senate 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: Article 10 of the constitution of the state of
13 Kansas is hereby revised to read as follows:

14 **"Article 10.—APPORTIONMENT OF UNITED STATES**
15 **CONGRESSIONAL, STATE LEGISLATIVE AND STATE**
16 **BOARD OF EDUCATION MEMBER DISTRICTS"**

17 **"§ 1. Reapportionment of districts required.** At its
18 regular session in 2032, and at its regular session every 10th year
19 thereafter, the legislature shall by law reapportion the United
20 States congressional districts, the state senatorial districts, the
21 state representative districts and the state board of education
22 member districts as provided by this article. Reapportionment
23 of such districts shall be on the basis of the population of the
24 state as established by the most recent census of population
25 taken and published by the United States bureau of the census.

26 **"§ 2. Gerrymandering prohibited.** The legislature shall
27 not reapportion United States congressional districts, state
28 senatorial districts or state representative districts with the intent
29 to favor or disfavor a political party or with the intent or result
30 of denying or abridging the equal opportunity of members of a
31 particular race to participate in the political process or diminish
32 such members' ability to elect a candidate of such members'
33 choice.

34 **"§ 3. Establishment of redistricting commission.** (a) Not
35 later than February 15 of each year ending in one, a redistricting
36 commission shall be established to recommend to the legislature

1 redistricting plans for United States congressional districts, state
2 senatorial districts, state representative districts and state board
3 of education member districts.

4 (b) The redistricting commission shall consist of the
5 following members:

6 (1) One shall be appointed by the majority leader of the
7 senate;

8 (2) one shall be appointed by the majority leader of the
9 house of representatives;

10 (3) one shall be appointed by the minority leader of the
11 senate;

12 (4) one shall be appointed by the minority leader of the
13 house of representatives; and

14 (5) within 30 days after the appointments described in
15 paragraphs (1) through (4) have been made, but not later than
16 March 15 of the year in which the commission is established,
17 the four commission members so appointed shall select, by a
18 vote of at least three members, the fifth commission member
19 who shall be nonpartisan, who shall serve as chairperson.

20 (c) Any vacancy in the membership of the redistricting
21 commission shall be filled in the same manner as the original
22 appointment or selection.

23 (d) No person, while a member of the commission, shall:

24 (1) Hold any federal, state or local office; or

25 (2) be an employee of the Kansas legislature, state board
26 of education or United States congress.

27 (e) No person who has been a member of the redistricting
28 commission shall be eligible, within two years after being a
29 member of the commission, to:

30 (1) Be a member or employee of the Kansas legislature or
31 state board of education; or

32 (2) hold any appointive state or federal office.

33 (f) The legislature shall provide by law for payment of
34 compensation and expenses of members of the redistricting
35 commission and for adequate staff, office space, equipment and
36 materials for the commission.

37 (g) The terms of members of the redistricting commission
38 shall expire on July 1 of each year ending in two, and the
39 commission shall be inactive until reestablishment of the
40 commission pursuant to this section.

41 **"§ 4. Commission procedure and recommendations.** (a)

42 The redistricting commission shall establish rules and
43 procedures as necessary to carry out the commission's

1 functions. The rules and procedures shall include rules requiring
2 formal submission to the commission of all communications
3 with commission members. Ex parte communications with
4 members of the commission in relation to the merits of matters
5 before the commission shall be prohibited. Members of the
6 commission shall report any violations of this prohibition to the
7 attorney general and the legislature shall provide by law
8 criminal penalties for such violations.

9 (b) The redistricting commission shall conduct public
10 hearings throughout the state, including at least one public
11 hearing in each of the 10 state board of education member
12 districts.

13 (c) In recommending redistricting plans, the redistricting
14 commission shall consider only the requirements of the
15 constitution of the state of Kansas and the constitution of the
16 United States, preservation of political subdivisions and
17 preservation of communities of interest. The provisions of
18 section 2 of this article shall apply to all plans drawn by the
19 commission.

20 **"§ 5. Legislative action; court review and action.** (a) On
21 or before the first day of the regular legislative session in each
22 year ending in two, the redistricting commission shall introduce
23 in the house of representatives a bill reapportioning the state
24 representative districts and a bill reapportioning the United
25 States congressional districts, and shall introduce in the senate a
26 bill reapportioning the state senatorial districts and a bill
27 reapportioning the state board of education member districts.
28 The bills shall not be subject to amendment by either chamber
29 of the legislature and each such bill shall be acted upon by each
30 chamber within seven days after the bill is introduced in the
31 chamber.

32 (b) If a bill introduced pursuant to subsection (a) is not
33 enacted, the redistricting commission, within 10 days after
34 rejection of the bill by either chamber of the legislature or veto
35 of the bill by the governor, shall introduce another bill
36 reapportioning such districts. If the supreme court enters a
37 judgment that a bill introduced pursuant to subsection (a) is
38 invalid, the redistricting commission, within 10 days after entry
39 of the judgment, shall introduce another bill reapportioning
40 such districts. Introduction of a bill pursuant to this section shall
41 be in the same chamber as introduction of the original bill
42 pursuant to subsection (a). The bill shall not be subject to
43 amendment by either chamber and shall be acted upon by each

1 chamber within seven days after the bill is introduced in the
2 chamber.

3 (c) If a bill introduced pursuant to subsection (b) is not
4 enacted, the redistricting commission, within 10 days after
5 rejection of the bill by either chamber of the legislature or veto
6 of the bill by the governor, shall introduce another bill
7 reapportioning such districts. If the supreme court enters a
8 judgment that a bill introduced pursuant to subsection (b) is
9 invalid, the redistricting commission, within 10 days after entry
10 of the judgment, shall introduce another bill reapportioning
11 such districts. Introduction of a bill pursuant to this section shall
12 be in the same chamber as introduction of the original bill
13 pursuant to subsection (a).

14 (d) If either chamber of the legislature rejects a bill
15 introduced pursuant to this section, or the governor vetoes the
16 bill, the chamber that rejects the bill, or the governor in the case
17 of a veto, shall transmit to the commission a letter stating the
18 reasons why the bill was not enacted, and the commission shall
19 take such reasons into consideration in introducing a bill
20 pursuant to this section, subject to the requirements of section
21 4(c). Any such letter shall be signed by both the speaker of the
22 house of representatives and the minority leader of the house of
23 representatives or both the president of the senate and the
24 minority leader of the senate.

25 (e) Reapportionment bills shall be published in the Kansas
26 register immediately upon final passage and approval by the
27 governor. The districts enacted shall be effective for the next
28 following regular election of legislators and thereafter until
29 again the districts are reapportioned, except that the senatorial
30 districts shall be effective for the next following regular election
31 at which all senators are elected and the state board of education
32 member districts shall be effective for the next following
33 regular election at which each such respective member is
34 elected.

35 (f) Within 15 days after publication of any
36 reapportionment bills enacted pursuant to this article, the
37 attorney general shall petition the supreme court to determine
38 the validity of the bill. The supreme court, in accordance with
39 its rules, shall permit interested persons to present their views.
40 Within 30 days after the filing of the petition, the supreme court
41 shall enter its judgment. A judgment of the supreme court
42 determining the bill to be valid shall be final until
43 reapportionment of the districts is again required by this article.

1 **"§ 6. Implementing legislation.** The legislature may enact
2 legislation, not in conflict with the provisions of this article, as
3 reasonably necessary to implement such provisions."

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

6 "*Explanatory statement.* This amendment would revise article
7 10 of the constitution of the state of Kansas regarding the
8 drawing of new district boundaries for United States
9 congressional, state legislative and state board of education
10 member districts. The amendment would limit the legislature
11 to only consider those reapportionment plans drawn by a
12 five-member redistricting commission. Plans drawn by the
13 redistricting commission would be prohibited from using
14 political or racial gerrymandering. All reapportionment plans
15 enacted into law would be subject to a constitutional review
16 by the Kansas supreme court.

17 "A vote for this proposition would change the reapportionment
18 procedure to limit the legislature to only consider those
19 reapportionment plans drawn by a five-member redistricting
20 commission. Plans drawn by the redistricting commission
21 would be prohibited from using political or racial
22 gerrymandering. All reapportionment plans enacted into law
23 would be subject to a constitutional review by the Kansas
24 supreme court.

25 "A vote against this proposition would continue the current
26 procedures for reapportionment."

27 Sec. 3. This resolution, if approved by two-thirds of the members
28 elected (or appointed) and qualified to the House of Representatives and
29 two-thirds of the members elected (or appointed) and qualified to the
30 Senate, shall be entered on the journals, together with the yeas and nays.
31 The secretary of state shall cause this resolution to be published as
32 provided by law and shall cause the proposed amendment to be submitted
33 to the electors of the state at the general election in November in the year
34 2022, unless a special election is called at a sooner date by concurrent
35 resolution of the legislature, in which case it shall be submitted to the
36 electors of the state at the special election.