

SENATE BILL No. 21

AN ACT concerning the judicial branch of state government; relating to the nomination and selection of justices and judges; relating to the court of appeals; concerning the judicial branch budget; amending K.S.A. 20-119, 20-120, 20-122, 20-123, 20-124, 20-125, 20-126, 20-129, 20-133, 20-138, 20-2904, 20-2905, 20-2906, 20-2909, 20-2914, 20-3004, 75-3718 and 75-3721 and K.S.A. 2002 Supp. 20-158, 20-2915, 20-3002 and 20-3006 and repealing the existing sections.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. K.S.A. 20-119 is hereby amended to read as follows: 20-119. The member who is to be ~~chairman~~ *chairperson* of the supreme court nominating commission shall be selected in the following manner: *The clerk of the supreme court, in March of any year in which the chairperson is to be elected by members of the bar, shall send by ordinary first-class mail to all members of the bar eligible to vote a notice that such election is to be held and advising how nominations for such office may be made.* Any member or group of members of the bar resident of and licensed to practice law in Kansas, may, on or before April 1, ~~1959~~, file in writing by mail or otherwise, in the office of the clerk of the supreme court, a nomination in writing accompanied by the written consent of the nominee, of a qualified individual for such office. After the nominations have been made the clerk of the supreme court ~~shall~~, on or before ~~the first day of May, 1959~~ *1*, shall send by ordinary first class United States mail to each of the members of the bar who are residents of and licensed to practice law in Kansas, a list of all the names and places of residence of the qualified nominees together with a ballot, in such form as may be prescribed by the ~~said~~ *such* clerk, for voting upon ~~said~~ *such* nominees.

Each member of the bar receiving such ballot may cast one ~~(1)~~ vote thereon for one ~~(1)~~ of the nominees named and shall return the ballot by mail in time to be received by the clerk ~~by on or before May 15, 1959~~. All ballots received at the office of the clerk by ~~said~~ *such* date shall be counted and the nominee receiving the greatest number of votes cast shall be the ~~chairman~~ *chairperson* member of ~~said~~ *such* commission. ~~Provided, however, except that if there are more than two (2) nominees and no one (1) of them receives a majority of the votes cast, the names of the two (2) receiving the greatest number of votes shall be resubmitted for vote by ballot in like manner as is herein prescribed for the first ballot; said. Such second ballot to be mailed on or before June 15, 1959, and voted and returned so as to be received at the office of the clerk by on or before July 1, 1959.~~

Sec. 2. K.S.A. 20-120 is hereby amended to read as follows: 20-120. The members of the supreme court nominating commission to be chosen from among the members of the bar of each congressional district shall be selected in the following manner: *The clerk of the supreme court, in March of any year in which a member of the commission is to be elected by members of the bar, shall send by ordinary first-class mail to all members of the bar eligible to vote for the member to be elected a notice that such election is to be held and advising how nominations for such office may be made.* Any member or group of members of the bar resident of the congressional district and licensed to practice law in Kansas may, on or before April 1, ~~1959~~, file in writing by mail or otherwise in the office of the clerk of the supreme court, a nomination accompanied by the written consent of the nominee, of a qualified individual who resides in the same congressional district, as member of the commission from that district. After the nominations have been made the ~~said~~ clerk ~~shall~~, on or before ~~the first day of May 1, 1959~~, shall send by ordinary first class United States mail to each of the members of the bar who are residents of the congressional district and licensed to practice law in Kansas, a list of all the names and places of residence of the qualified nominees for that district, together with a ballot in such form as the clerk may prescribe, for voting upon ~~said~~ *such* nominees.

Each member of the bar receiving such ballot may cast one ~~(1)~~ vote thereon for one ~~(1)~~ of the district nominees named and shall return the ballot by mail in time to be received at the office of the clerk ~~by on or before May 15, 1959~~. All ballots received at the office of the clerk by ~~said~~ *such* date shall be counted by congressional districts and the nominee in each district receiving the greatest number of votes cast in the district shall be a member of the commission from that district. ~~Provided, however, except that if in any district there are more than two (2) nominees and no one (1) of them receives a majority of the votes cast in the district,~~

the names of the two ~~(2)~~ receiving the greatest number of votes shall be resubmitted in the district for vote by ballot in like manner as is ~~herein~~ prescribed for the first ballot, ~~said~~. Such second ballot to be mailed on or before June 15, ~~1959~~, and returned in time so as to be received at the office of the clerk ~~by on or before July 1, 1959~~.

Sec. 3. K.S.A. 20-122 is hereby amended to read as follows: 20-122. The clerk of the supreme court may use the roster of attorneys in ~~his the~~ clerk's office licensed to practice law in Kansas, ~~and the edition of the Martindale-Hubbel legal directory, current at the time of mailing the ballots,~~ for ascertaining the names and places of residence of those entitled to receive ballots and for ascertaining the qualifications of those nominated for membership on the commission. The clerk shall supply with each ballot distributed ~~by him~~ a certificate to be signed and returned by the member of the bar voting such ballot, evidencing the qualifications of such member of the bar to vote, and certifying that the ~~voted ballot returned by him was voted~~ ballot was voted by the certifying voter.

To the end that the vote cast may be secret a separate envelope shall be provided for the ballot, in which the voted ballot only shall be placed, and the envelope containing the voted ballot shall be returned in an envelope, also to be supplied by the clerk, together with the signed certificate. No ballot not accompanied by the signed certificate of the voter shall be counted. When the voted ballots are received by the clerk they shall be separated from the certificates by the canvassers, and after the ballots are counted and the results certified both the ballots and the certificates shall be preserved by the clerk for a period of six ~~(6)~~ months and ~~he shall permit~~ no one shall be permitted to inspect them except on order of the supreme court. At the end of such six ~~(6)~~ months period the clerk shall, unless otherwise ordered by the supreme court, shall destroy them.

Sec. 4. K.S.A. 20-123 is hereby amended to read as follows: 20-123. When the ~~chairman~~ chairperson and other members of the commission chosen by the members of the bar have been elected, and after the names of the nonlawyer members appointed by the governor have been certified to the clerk of the supreme court as *provided* in this act ~~provided~~, the ~~said~~ clerk shall make a record thereof in ~~his the~~ clerk's office and shall notify the members of the commission of their election and appointment. The commission shall meet from time to time as may be necessary to discharge the responsibilities of the commission. Such meetings ~~to shall~~ be held at such place ~~in the state house in Topeka, Kansas,~~ as the clerk of the supreme court may arrange, ~~and~~ Such meeting shall be held upon the call of the ~~chairman~~ chairperson, or in the event of ~~his the~~ chairperson's failure to call a meeting when a meeting ~~be is~~ necessary, upon the call of any four ~~(4)~~ members of the commission. The commission shall act only at a meeting, and may act only by the concurrence of a majority of its members. The commission shall have power to adopt such reasonable and proper rules and regulations for the conduct of its proceedings and the discharge of its duties as are consistent with this act and the constitution of the state of Kansas.

Sec. 5. K.S.A. 20-124 is hereby amended to read as follows: 20-124. ~~The governor shall appoint the first nonlawyer members of the commission, one (1) from each congressional district, and certify the names of such appointees to the clerk of the supreme court on or before May 15, 1959. Thereafter,~~ As terms of office of nonlawyer members *from each congressional district* are about to expire, their successors shall be appointed by the governor and the names of such appointees certified by the governor to the ~~said~~ clerk of the supreme court before their terms of office begin. Any vacancy occurring among the nonlawyer members of the commission shall be filled by appointment by the governor within ~~ten~~ ~~(10)~~ 10 days after ~~he the~~ governor has notice of such vacancy, for the unexpired term of the member whose place is being filled, and the name of such appointee shall be certified to the clerk. All appointments by the governor shall be without regard to the political affiliations of the appointees.

Sec. 6. K.S.A. 20-125 is hereby amended to read as follows: 20-125. The term of office of the ~~chairman~~ chairperson of the commission shall be for as many years as there are, at the time of ~~his such~~ chairperson's election, congressional districts in the state. ~~The terms of office of the first members of the commission selected by the members of the bar~~

~~from the congressional districts, and the terms of office of the nonlawyer members appointed by the governor, shall be as follows: First district members for one (1) year, second district members for two (2) years, third district members for three (3) years, fourth district members for four (4) years, fifth district members for five (5) years, and sixth district members for six (6) years. The terms of office of the first members of the commission shall begin on July 1, 1959. Except for those appointed to fill vacancies all terms of office for members of the commission subsequently, elected or appointed, shall be for as many years as there are, at the time of their election or appointment, congressional districts in the state.~~

Sec. 7. K.S.A. 20-126 is hereby amended to read as follows: 20-126. ~~The selection of subsequent members of the commission by the members of the bar shall be in like manner as is prescribed in K.S.A. 20-119 and 20-120, and amendments thereto, for the selection of the first members, and nominations shall be made and ballots mailed and returned within the times of the years when such elections are held as correspond to the times mentioned in K.S.A. 20-119 and 20-120, and amendments thereto, except that~~ In any uncontested election, the nominee shall be declared elected without preparation of a ballot. ~~The clerk of the supreme court, in March of any year in which a member of the commission is to be elected by members of the bar, shall send by ordinary first class mail to all members of the bar eligible to vote for the member to be elected a notice that such election is to be held and advising how nominations for such office may be made.~~

Sec. 8. K.S.A. 20-129 is hereby amended to read as follows: 20-129. In the event of redistricting which changes the number of congressional districts in the state, the members of the commission as constituted at the time of redistricting shall continue to be members of the commission until the first day of July following the expiration of four (4) months after such redistricting becomes effective, ~~on which~~. ~~Except for the chairperson on such~~ date, the terms of all members of the commission ~~except that of chairman~~ shall expire. During the four (4) months immediately preceding such termination of office, new commissioners shall be elected and appointed from the newly constituted congressional districts in the same manner which is provided in this act for election and appointment of ~~the first~~ commissioners. The terms of elected and appointed members first chosen from such newly constituted districts shall be staggered on the basis of the number of such districts and their successors shall be elected and appointed in such manner and for such terms as *provided* in this act ~~provided~~.

Sec. 9. K.S.A. 20-133 is hereby amended to read as follows: 20-133. It is the intent of this act that the members of the commission shall consist only of those persons whose purpose it will be to recommend for appointment on the supreme court only lawyers or judges of recognized integrity, character, ability and judicial temperament, and whose conduct will conform to the letter and the spirit of the constitutional amendment implemented by this act. The commission shall take cognizance of the fact that the best qualified nominees may be those whom it would be most difficult to persuade to serve. Accordingly the commission shall not limit its consideration to persons who have been suggested by others or to persons who have indicated their willingness to serve. The commission may, if it sees fit to do so, tender nominations to one (1) or more qualified persons, prior to and subject to the formal action of the commission in making its nominations, in order to ascertain whether such person will agree to serve if nominated. ~~Under no circumstances may the commission describe potential nominees as applicants or otherwise suggest that they are seeking to be nominated.~~

Sec. 10. K.S.A. 20-138 is hereby amended to read as follows: 20-138. The compensation and expenses of the supreme court nominating commission, the expenses of the members of a district judicial nominating commission and the compensation of the clerk, and ~~his~~ *clerk's* expenses for supplies, equipment, and clerical and other assistance necessary to carry out the provisions of this act, including *official hospitality and any* expenses and clerical assistance necessary to perform ~~his~~ *the clerk's* duties with respect to the nonpartisan selection of ~~district court~~ judges, shall be paid from the judicial nominating commissions fund, which fund is hereby ~~created in the state treasury and made available to the commission and~~

~~the clerk of the supreme court for such purposes available funds. The director of accounts and reports is hereby authorized to draw his warrants on the treasurer of state against said fund for the use and purposes specified in this section upon the presentation of vouchers duly itemized and approved by the clerk of the supreme court. The supreme court nominating commission fund is hereby abolished, and on the effective date of this act, the state treasurer shall transfer all moneys in said fund to the judicial nominating commissions fund created herein.~~

Sec. 11. K.S.A. 20-2904 is hereby amended to read as follows: 20-2904. (a) Lawyer members of the district judicial nominating commission shall be elected by the lawyers who are qualified electors of the judicial district and who are registered with the clerk of the supreme court pursuant to rule ~~201~~ 208 of such court. Each lawyer member of a district judicial nominating commission shall be a qualified elector of such judicial district. The number of lawyer members to be elected to the district judicial nominating commission of a judicial district shall be as follows:

(1) In a judicial district consisting of a single county, the number of members elected shall be equal to the number of nonlawyer members appointed pursuant to subsection (a)(1) of K.S.A. 20-2905, and amendments thereto.

(2) In a judicial district consisting of two counties, four members shall be elected.

(3) In a judicial district consisting of three or more counties, the number of members elected shall equal the number of counties in such judicial district.

(b) Between December 1 and December 15 of the year in which nonpartisan selection of judges of the district court is approved by the electors of the judicial district as provided in K.S.A. 20-2901, and amendments thereto, the clerk of the supreme court shall send to each lawyer by ordinary first class mail a form for nominating one lawyer for election to the commission. Any such nomination shall be ~~returned to~~ *received in the office of* the clerk of the supreme court on or before January 1 of the following year, together with the written consent of the nominee. After receipt of all nominations which are timely submitted, the clerk shall prepare a ballot containing the names of all lawyers so nominated and shall mail one such ballot and instructions for voting such ballot to each registered lawyer in the judicial district. Ballots shall be prepared in such manner that each lawyer receiving the same shall be instructed to vote for ~~the same number of nominees as~~ *not more than* the number of positions to be filled. Each such ballot shall be accompanied by a certificate to be signed and returned by the lawyer voting such ballot, evidencing the qualifications of such lawyer to vote and certifying that the ballot was voted by such person. In any judicial district in which the number of nominees does not exceed the number of positions to be filled, the clerk shall declare those nominees to be elected without preparation of a ballot.

In order to insure that the election of lawyer members is by secret ballot, the clerk shall provide a separate envelope for the ballot, in which the voted ballot only shall be placed, and the envelope containing the voted ballot shall be placed in another envelope, also to be supplied by the clerk, together with the signed certificate, and ~~returned to~~ *received in the office of* the clerk of the supreme court ~~prior to~~ *on or before* February 15 of such year. The ballots ~~so~~ *returned as provided in this section* shall be canvassed within five days thereafter. The canvassers shall consist of the clerk of the supreme court and two or more persons who are registered members of the bar residing in Kansas, either practicing lawyers, justices or judges, designated to act as such by the chief justice. The canvassers shall open and canvass the ballots and shall tabulate and sign the results as a record in the office of the clerk. ~~Any ballot which does not contain separate votes for nominees equal in number to the number of persons to be elected shall be void and shall not be counted.~~

(c) After the ballots are counted and tabulated in descending order from the nominee receiving the highest number of votes the canvassers shall declare to be elected those nominees who are equal in number to the number of lawyers to be elected and who have the greatest number of votes.

In the event of a tie creating more nominees to be elected than there are positions to be filled, the canvassers shall determine the person or

persons to be elected by lot. In the event that less than the required number of lawyers is elected, the positions for which lawyers have not been elected shall be declared vacant and the vacancies filled in the manner prescribed by subsection (e) of K.S.A. 20-2906, and amendments thereto.

(d) The procedure provided in this section for election of lawyers to serve as members of the first district judicial nominating commission established in a judicial district shall apply to the election of lawyers to succeed lawyer members of the commission whose terms of office expire, except that the form for submitting a nomination shall be sent between December 1 and December 15 of the year preceding the year in which such terms of office expire, and the dates prescribed for submission of nominations and the mailing, returning and canvassing of ballots shall apply in the year in which such terms of office expire.

Sec. 12. K.S.A. 20-2905 is hereby amended to read as follows: 20-2905. (a) The appointments of nonlawyer members of a district judicial nominating commission shall be made as follows:

(1) In a judicial district consisting of a single county, each member of the board of county commissioners of such county shall appoint one nonlawyer to serve as a member of the nominating commission.

(2) In a judicial district consisting of two ~~(2)~~ counties, the board of county commissioners of each such county shall appoint two ~~(2)~~ nonlawyers to serve as members of the nominating commission.

(3) In a judicial district consisting of three ~~(3)~~ or more counties, the board of county commissioners of each such county shall appoint one nonlawyer to serve as a member of the nominating commission.

Each nonlawyer member of the nominating commission shall be a qualified elector of the county from which ~~he or she~~ *such member* is appointed.

(b) All appointments of nonlawyers to serve as members of the first district judicial nominating commission of a judicial district shall be made and certified to the clerk of the supreme court ~~prior to~~ *on or before* February 15 of the year following the general election at which the nonpartisan selection of judges of the district court is approved. Thereafter, all appointments of nonlawyers to serve for full terms on the commission shall be made and certified to the clerk of the supreme court ~~prior to~~ *on or before* February 15 of the year in which such terms of office commence.

Sec. 13. K.S.A. 20-2906 is hereby amended to read as follows: 20-2906. (a) All members of the district judicial nominating commission who are elected or appointed to full terms of office shall commence their terms of office on the first Monday in March following their election or appointment, and shall serve for terms of four years, except that lawyer members of the first nominating commission established in a judicial district shall serve for terms of office as provided in subsection (b), and nonlawyer members of the first commission shall serve for terms of office as provided in subsection (c).

No member of a district judicial nominating commission, while such member is a member, shall hold any office or official position in a political party or be eligible for nomination to the position of judge of the district court.

(b) The terms of office for lawyer members of the first nominating commission established in a judicial district shall be determined by lot at the first meeting of the commission in accordance with the following:

(1) Where there are three lawyer members of a commission, two of such members shall serve for terms of one year and one such member shall serve for a term of three years.

(2) Where there are four lawyer members on a commission, two such members shall serve for terms of one year and two such members shall serve for terms of three years.

(3) Where there are five lawyer members on a commission, three such members shall serve for terms of one year and two such members shall serve for terms of three years.

(4) Where there are six lawyer members on a commission, three such members shall serve for terms of one year and three such members shall serve for terms of three years.

(5) Where there are seven lawyer members on a commission, four

such members shall serve for terms of one year and three such members shall serve for terms of three years.

(c) The terms of office for nonlawyer members of the first nominating commission established in a judicial district shall be determined by lot at the first meeting of the commission in accordance with the following:

(1) Where there are three nonlawyer members of a commission, one such member shall serve for a term of one year and two such members shall serve for terms of three years.

(2) Where there are four nonlawyer members of a commission, two such members shall serve for terms of one year and two such members shall serve for terms of three years.

(3) Where there are five nonlawyer members of a commission, two such members shall serve for terms of one year and three such members shall serve for terms of three years.

(4) Where there are six nonlawyer members of a commission, three such members shall serve for terms of one year and three such members shall serve for terms of three years.

(5) Where there are seven nonlawyer members of a commission, three such members shall serve for terms of one year and four such members shall serve for terms of three years.

(d) In determining terms of office of members of the first nominating commission established in a judicial district pursuant to subsections (b) and (c), the supreme court shall prescribe the method of determining the terms by lot. Any method or procedure so prescribed shall be officiated by the chairperson of the commission. Upon the expiration of the terms of office provided in subsections (b) and (c), successors shall be selected for terms of four years in the same manner as the members whose terms of office are expiring were selected.

(e) Whenever a vacancy for any reason other than the expiration of a term of office shall occur in a lawyer's position on the district judicial nominating commission, leaving an unexpired term of office of more than 90 days, the chief justice of the supreme court shall appoint a successor of like qualifications to serve until the first Monday in March that occurs more than 90 days after the date of the vacancy or until the end of the unexpired term, whichever occurs first. If such first Monday in March occurs prior to the end of the unexpired term, a lawyer of like qualifications shall be elected in the manner prescribed by subsection (d) of K.S.A. 20-2904, and amendments thereto, to serve from such Monday in March until the end of the unexpired term. If any such vacancy occurs in a lawyer's position on the nominating commission leaving an unexpired term of office of 90 days or less, there shall be no appointment or election of a successor to fill the unexpired term.

(f) Whenever a vacancy for any reason other than the expiration of a term of office shall occur in a nonlawyer's position on the district judicial nominating commission, a successor of like qualification shall be appointed *for the unexpired term* in the same manner as the member whose position is vacant was appointed. *Such successor shall serve until the end of the unexpired term.*

Sec. 14. K.S.A. 20-2909 is hereby amended to read as follows: 20-2909. (a) (1) Whenever a vacancy occurs in the office of judge of the district court in any judicial district, or whenever a vacancy will occur in such office on a specified future date, the chief justice of the supreme court promptly shall give notice of such vacancy to the chairperson of the district judicial nominating commission of such judicial district.

(2) The chairperson ~~shall call a meeting of the commission to be held~~, *in consultation with members of the commission*, within five days after receipt of such notice, *shall set a schedule for accepting nominations and conducting interviews* for the purpose of nominating persons for appointment to such office. It shall be the duty of the commission to nominate not less than two nor more than three persons for each office which is vacant, and shall submit the names of the persons so nominated to the governor. Any person ~~so~~ nominated shall have the qualifications prescribed by subsection (b) of K.S.A. 20-2903 and amendments thereto, and in order to obtain the best qualified persons as nominees, the commission shall not limit its consideration of potential nominees to those persons whose names have been submitted to the commission or who have expressed a willingness to serve. The commission may authorize one

or more members of the commission to tender a nomination to any qualified person in order to ascertain the person's willingness to serve if nominated, but any such tender of nomination shall be subject to final action of the commission under the conditions prescribed by subsection (b) of K.S.A. 20-2907 and amendments thereto. ~~Under no circumstances shall the commission refer to or describe potential nominees as applicants or otherwise suggest that such persons are seeking to be nominated.~~

(3) In order that a vacancy in the office of judge of the district court does not exist for an inordinate length of time, the commission shall conduct the business of selecting nominees for appointment to such office and certifying the same to the governor as promptly and expeditiously as possible, having due regard for the importance of selecting the best possible nominees. In no event shall the commission submit its nominations to the governor more than ~~30~~ 45 days after the date *the chief justice has notified the nominating commission that a vacancy occurs is to be filled*, unless the chief justice permits an extension of such time period.

(b) If there are not at least two attorneys deemed qualified by the district judicial nominating commission who reside in the judicial district and who are willing to accept the nomination to fill a vacancy in a district judge position, the nominating commission need not limit its consideration of nominees to attorneys residing in the judicial district, ~~however~~. In cases where there is one such attorney, such attorney shall be one of the nominees submitted to the governor. If an appointee is not a resident of the judicial district at the time of appointment to a district judge position, the appointee shall establish residency in the judicial district before taking office and ~~thereafter~~ shall maintain such residency while holding such office.

Sec. 15. K.S.A. 20-2914 is hereby amended to read as follows: 20-2914. (a) Whenever a vacancy shall occur in the office of district magistrate judge in any judicial district which has approved the proposition of nonpartisan selection of district court judges, or whenever a vacancy will occur in such office on a specified future date, the chief justice of the supreme court promptly shall give notice of such vacancy to the chairperson of the district judicial nominating commission of such judicial district. ~~Said~~ *The chairperson shall call a meeting of the commission to be held, in consultation with members of the commission, within five (5) days after receipt of such notice, shall set a schedule for accepting nominations and conduction interviews* for the purpose of selecting a person to fill such vacancy. Any person so selected shall have the qualifications prescribed by subsection (c) of K.S.A. 20-334, and in order to obtain the best qualified person as a district magistrate judge, the commission shall not limit its consideration of potential appointees to those persons whose names have been submitted to the commission or who have expressed a willingness to serve. The commission may authorize one ~~(1)~~ or more members of the commission to tender an appointment to any qualified person in order to ascertain ~~his or her~~ *such person's* willingness to serve if appointed, ~~but~~. Any such tender of appointment shall be subject to final action of the commission under the conditions prescribed by subsection (b) of K.S.A. 20-2907, *and amendments thereto*. ~~Under no circumstances shall the commission refer to or describe potential appointees as applicants or otherwise suggest that such persons are seeking to be appointed.~~

(b) Any appointment made pursuant to subsection (a) shall be contingent upon the acceptance of such appointment by the person so appointed and, if such person is not regularly admitted to practice law in Kansas, the appointment shall be made on a temporary basis until such person has been certified by the supreme court as qualified to hold such office, in the manner provided by K.S.A. 20-337, *and amendments thereto*.

Sec. 16. K.S.A. 2002 Supp. 20-2915 is hereby amended to read as follows: 20-2915. (a) ~~Whenever a vacancy in the office of district magistrate judge exists at the time the appointment to fill such vacancy is made as provided in K.S.A. 20-2914 and amendments thereto, the appointment shall be effective at the time it is made, but where any such appointment is made to fill a vacancy which will occur at a future date, such appointment shall not take effect until such date. Whenever a vacancy in the office of district magistrate judge exists at the time the appointment to fill such vacancy is made as provided in K.S.A. 20-2914, and amendments~~

*thereto, the appointment shall be effective as of the official appointment date set by the supreme court.*

(b) Any person appointed to the office of district magistrate judge as provided in K.S.A. 20-2914 and amendments thereto, shall commence upon the duties of office on the date such appointment takes effect, and any such person appointed shall have all the rights, privileges, powers and jurisdiction prescribed by law for the office of district magistrate judge. Except as otherwise provided in K.S.A. 20-337 and amendments thereto, any such judge shall be eligible for retention in office in the same manner and under the same conditions prescribed by law for the retention of district judges in judicial districts which have approved the proposition of nonpartisan selection of district court judges.

Sec. 17. K.S.A. 20-3004 is hereby amended to read as follows: 20-3004. (a) In addition to the powers and duties prescribed by K.S.A. 20-119 ~~to through 20-131, inclusive and amendments thereto~~, the supreme court nominating commission established by section 5 of article 3 of the constitution of the state of Kansas shall nominate persons to serve as judges of the court of appeals as provided in this act. To carry out its duties under this act, the commission shall meet only upon call of the ~~chairman~~ *chairperson*, and the commission shall not take any final action except at such meeting. For the purpose of this act, a majority of the commission shall constitute a quorum to do business, but no final action shall be taken except upon a vote of the majority of the members of the commission. For the purposes of this act, the commission shall not be subject to the Kansas open meetings act as provided in K.S.A. 75-4317 *et seq.*, and amendments thereto.

(b) Any person nominated by the commission to serve as a judge of the court of appeals shall have the qualifications prescribed by subsection (a) of K.S.A. 20-3002 and shall be a person of recognized integrity, character, ability, experience and judicial temperament, to the end that persons serving as judges of the court of appeals will be the best qualified therefor. In order to obtain the best qualified persons as nominees, the commission shall not be limited in its consideration of potential nominees to those persons whose names have been submitted to the commission or who have expressed a willingness to serve.

(c) The commission may authorize one or more members of the commission to tender a nomination to any qualified person in order to ascertain ~~his or her~~ *such person's* willingness to serve if nominated, but any such tender of nomination shall be subject to final action of the commission under the conditions prescribed by subsection (a). ~~Under no circumstances shall the commission refer to or describe potential nominees as applicants or otherwise suggest that such persons are seeking to be nominated.~~

(d) No member of the supreme court nominating commission shall be eligible for nomination for the office of judge of the court of appeals while a member of such commission or for six months thereafter.

Sec. 18. K.S.A. 2002 Supp. 20-3002 is hereby amended to read as follows: 20-3002. (a) On and after January 1, 2003, through December 31, ~~2003~~ *2004*, the court of appeals shall consist of 11 judges whose positions shall be numbered one to 11. On and after January 1, ~~2004~~ *2005*, through December 31, ~~2004~~ *2005*, the court of appeals shall consist of 12 judges whose positions shall be numbered one to 12. On and after January 1, ~~2005~~ *2006*, through December 31, ~~2005~~ *2006*, the court of appeals shall consist of 13 judges whose positions shall be numbered one to 13. On and after January 1, ~~2006~~ *2007*, the court of appeals shall consist of 14 judges whose positions shall be numbered one to 14. Judges of the court of appeals shall possess the qualifications prescribed by law for justices of the supreme court.

(b) Judges of the court of appeals shall be selected in the manner provided by K.S.A. 20-3003 through 20-3010, and amendments thereto. Each judge of the court of appeals shall receive an annual salary in the amount prescribed by law. No judge of the court of appeals may receive additional compensation for official services performed by the judge. Each such judge shall be reimbursed for expenses incurred in the performance of such judge's official duties in the same manner and to the same extent justices of the supreme court are reimbursed for such expenses.



(c) The supreme court may assign a judge of the court of appeals to serve temporarily on the supreme court.

(d) Any additional court of appeals judge position created by this section shall be considered a position created by the supreme court and not a civil appointment to a state office pursuant to K.S.A. 46-234, and amendments thereto.

Sec. 19. K.S.A. 2002 Supp. 20-3006 is hereby amended to read as follows: 20-3006. (a) Persons who are appointed as judges of the court of appeals pursuant to K.S.A. 20-3005 and amendments thereto shall commence the duties of office upon appointment, and each judge shall have all the rights, privileges, powers and duties prescribed by law for the office of judge of the court of appeals. ~~The initial term of office for the person serving as judge of the court of appeals in position 11 shall expire January 10, 2005. The initial term of office for the person serving as judge of the court of appeals in position 12 shall expire January 8, 2007. The initial term of office for the person serving as judge of the court of appeals in position 13 shall expire January 8, 2007. The initial term of office for the person serving as judge of the court of appeals in position 13 and position 14 shall expire January 12, 2009.~~

(b) (1) Not less than 60 days prior to the holding of the general election next preceding the expiration of the term of any judge of the court of appeals, the judge may file in the office of the secretary of state a declaration of candidacy for retention in office. If a declaration is not filed as provided in this section, the position held by the judge shall be vacant upon the expiration of the judge's term of office. If such declaration is filed, the judge's name shall be submitted at the next general election to the electors of the state on a separate judicial ballot, without party designation, reading substantially as follows:

"Shall \_\_\_\_\_ (Here insert name of judge.), Judge of the Court of Appeals, be retained in office?"

(2) If a majority of those voting on the question votes against retaining the judge in office, the position which the judge holds shall be vacant upon the expiration of the judge's term of office. Otherwise, unless the judge is removed for cause, the judge shall remain in office for a term of four years from the second Monday in January following the election. At the expiration of each term, unless by law the judge is compelled to retire, the judge shall be eligible for retention in office by election in the manner prescribed in this section.

(3) If a majority of those voting on the question votes against the judge's retention, the secretary of state, following the final canvass of votes on the question, shall certify the results to the clerk of the supreme court. Any such judge who has not been retained in office pursuant to this section shall not be eligible for nomination or appointment to the office of judge of the court of appeals prior to the expiration of four years after the expiration of the judge's term of office.

(4) Election laws applicable to the general election of other state officers shall apply to elections upon the question of retention of judges of the court of appeals pursuant to this section, to the extent that they are not in conflict with and are consistent with the provisions of this act.

Sec. 20. K.S.A. 2002 Supp. 20-158 is hereby amended to read as follows: 20-158. The chief justice of the supreme court shall be responsible for the preparation of the budget for the judicial branch of state government, with such assistance as the chief justice may require from the judicial administrator, the chief judge of the court of appeals and the chief judge of each judicial district. Each district court and the court of appeals shall submit their budget requests to the chief justice in such form and at such time as the chief justice may require. The chief justice shall submit to the ~~director of the budget~~ legislature the annual budget request for the judicial branch of state government for inclusion in the annual budget document for appropriations for the judiciary. Such budget shall be prepared and submitted in the manner provided by K.S.A. 75-3716 and 75-3717 and amendments thereto. Such budget shall include the request for expenditures for retired justices and judges performing judicial services or duties under K.S.A. 20-2616 and amendments thereto as a separate item therein. ~~The director of the budget shall review and may make such recommendations to the legislature for proposed changes in such budget as the director deems necessary and appropriate.~~

Sec. 21. K.S.A. 75-3718 is hereby amended to read as follows: 75-3718. (a) The director of the budget shall have in continuous process and revision a tentative budget for the coming years, in the light of direct studies of the operations, plans and needs of the state agencies and of the existing and prospective sources of revenue. *Except as otherwise provided by this section*, after summarizing estimates of funds which may be available and the estimated requirements for the several state agencies, the director shall cause them to be reviewed in relation to the general financial condition and needs of the state and shall cause to be made such further inquiries and investigations, and such revision of the tentative budget, as the director may deem necessary.

(b) Not later than November ~~tenth~~ 10 of each year, the director of the budget shall notify each state agency in writing of any revision of ~~its~~ *the agency's* requests and the agency affected may request a hearing ~~thereon~~ *on such revision* which request may be filed within ~~ten~~ (10) 10 days after receipt of notice but, in any case, not later than November ~~twentieth~~ 20 of such year. If requested, the secretary of administration shall hold hearings on the tentative budget at which the administrative head of each state agency or the representative of such administrative head shall be entitled to be heard. The hearings provided for ~~herein~~ *in this section* shall be concluded not later than December 15 of such year.

(c) *The director of the budget shall not revise the budget estimate for the judicial branch of state government that is submitted pursuant to K.S.A. 20-158, and amendments thereto.*

Sec. 22. K.S.A. 75-3721 is hereby amended to read as follows: 75-3721. (a) On or before the eighth calendar day of each regular legislative session, the governor shall submit the budget report to the legislature, except that in the case of the regular legislative session immediately following the election of a governor who was elected to the office of governor for the first time, that governor shall submit the budget report to the legislature on or before the 21st calendar day of that regular legislative session.

(b) The budget report of the governor shall be set up in three parts, the nature and contents of which shall include the following:

(1) Part one shall consist of a budget message by such governor, including the governor's recommendations with reference to the fiscal policy of the state government for the current fiscal year and the ensuing fiscal year, describing the important features of the budget plan for each of the fiscal years included, embracing a general budget summary setting forth the aggregate figures of the budget so as to show the balanced relation between the total proposed expenditures and the total anticipated income for the current fiscal year and the ensuing fiscal year, with the basis and factors upon which the estimates were made, and the means of financing the budget plan for the each of the fiscal years included, compared with the corresponding figures for at least the last completed fiscal year, and the director of the budget shall prepare the figures for the governor for such comparisons.

(A) The budget plan shall not include (i) any proposed expenditures of anticipated income attributable to proposed legislation that would provide additional revenues from either current or new sources of revenue, or (ii) any proposed expenditures of moneys in the ending balance in the state general fund required by K.S.A. 75-6702, and amendments thereto.

(B) The general budget summary may be supported by explanatory schedules or statements, classifying the expenditures contained therein by state agencies, objects, and funds, and the income by state agencies, funds, sources and types. The general budget summary shall include all special or fee funds as well as the state general fund, and shall include the estimated amounts of federal aids, for whatever purpose provided, together with estimated expenditures therefrom.

(2) Part two shall embrace the detailed budget estimates for each of the fiscal years included, both of expenditures and revenues, showing the requests of the state agencies, if any, and the incoming governor's recommendations thereon. It shall also include statements of the bonded indebtedness of the state, showing the actual amount of the debt service for at least the last completed fiscal year, and the estimated amount for the current fiscal year and for each of the ensuing fiscal years included, the debt authorized and unissued, and the condition of the sinking funds.

(3) Part three shall consist of a draft of a legislative measure or measures reflecting the incoming governor's budget for all of the fiscal years included in the budget report.

(c) The division of the budget shall compile a children's budget document consisting of the information contained in agency budget estimates regarding programs that provide services for children and their families. Such document shall be provided to the ~~joint committee on children and families~~, the Kansas commission on children, youth and families, established by the governor's executive order number 91-145, and other persons or entities on request.

(d) The division of the budget, upon request, shall furnish the governor or the legislature with any further information required concerning the budget.

(e) Nothing in this section shall be construed to restrict or limit the privilege of the governor to present supplemental budget messages or amendments to previous budget messages, which may include proposals for expenditure of new or increased sources of revenue derived from proposed legislation.

(f) *The budget estimate for the judicial branch of state government as submitted to the director of the budget pursuant to K.S.A. 20-158, and amendments thereto, shall be included in the governor's budget report.*

Sec. 23. K.S.A. 20-119, 20-120, 20-122, 20-123, 20-124, 20-125, 20-126, 20-129, 20-133, 20-138, 20-2904, 20-2905, 20-2906, 20-2909, 20-2914, 20-3004, 75-3718 and 75-3721 and K.S.A. 2002 Supp. 20-158, 20-2915, 20-3002 and 20-3006 are hereby repealed.

Sec. 24. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

\_\_\_\_\_  
SENATE adopted  
Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*President of the Senate.*  
\_\_\_\_\_  
*Secretary of the Senate.*

Passed the HOUSE  
as amended \_\_\_\_\_

HOUSE adopted  
Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*Speaker of the House.*  
\_\_\_\_\_  
*Chief Clerk of the House.*

APPROVED \_\_\_\_\_  
\_\_\_\_\_  
*Governor.*