

SESSION OF 2008

**SUPPLEMENTAL NOTE ON
HOUSE CONCURRENT RESOLUTION NO. 5031**

As Recommended by House Committee on
Federal and State Affairs

Brief*

HCR 5031 is a constitutional amendment to Section 5 of Article 3 of the *Constitution of the State of Kansas*, relating to the selection of justices of the Kansas Supreme Court. The bill would amend the Supreme Court Nominating Commission to have the Governor, the President of the Senate and the Speaker of the House appoint three members to the Commission. One member from each of the three appointing authorities would be a member of the bar who resides and is licensed in Kansas. The chairperson would be selected by members of the Commission. Under current law, one member, is Chairman, chosen from among their number by the members of the bar who are residents of and licensed in Kansas, one member from each congressional district chosen from among their number by the resident members of the bar in each such district, and one member, who is not a lawyer, from each congressional district, appointed by the Governor from among the residents of each such district.

The Supreme Court Justices would be subject to the consent of the Senate. In the event the Governor fails to make the appointment within 60 days from the date such vacancy occurred or position became open, the Chief Justice of the Supreme Court, with the consent of the Senate would make the appointment. No person appointed would assume the office until the Senate consents to such appointment. The Senate would have 30 days after the appointment is received by the Senate to vote. If the Senate is not in session during the 30 days, the President of the Senate would be required to convene

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

the Senate for the sole purpose of evaluating, questioning and voting on such appointment and no other action would be in order during such session. If the Senate does not confirm the appointment, the Governor, would have 30 days after the vote to appoint another person. The bill would provide that no person who has been previously appointed but was not confirmed by the Senate could be appointed again for the same vacancy. If the Senate fails to vote on an appointment within the 30-day time limitation, the Senate would be deemed to have confirmed such appointment.

Background

Proponents of the bill included: Representative Lance Kinzer; Alan Cobb, Americans for Prosperity; Lt. Colonel William Richards, Topeka Branch of the NAACP; Ronald Cass, Chairman of Center for the Rule of Law; and Stephen Ware, Professor, University of Kansas.

Opponents of the bill included: Justice Fred Six, Kansas Supreme Court Justice (Retired); Dick Hite, Supreme Court Nominating Commission Chairperson; Professor Robert Casad, University of Kansas School of Law; David Rebein, Dodge City, Kansas Bar Association; Jim Robinson, Kansas Association of Defense Counsel; Janis McMillen, League of Women Voters of Kansas; and Callie Denton Hartle, Kansas Association of Justice.

Appearing as neutral was Kellyanne Conway, CEO, Polling Company, Inc.