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MEMORANDUM

To: Senate Committee on Judiciary
From: Office of Revisor of Statutes
Date: March 4, 2022
Subject: Bill Brief for SCR 1621

Senate Concurrent Resolution 1621 proposes a constitutional amendment to provide that the governor will appoint supreme court justices subject to senate confirmation.

Section 5 of article 3 of the Constitution of the State of Kansas currently provides that justices of the supreme court are appointed by the governor from a list of three individuals submitted by the supreme court nominating commission. The nominating commission consists of nine members: One lawyer member who is the chairperson, selected by members of the bar who are residents of and licensed in Kansas; one lawyer member from each of the four congressional districts, selected by resident members of the bar in each such district; and one member who is not a lawyer from each of the four congressional districts, appointed by the governor from among the residents of each such district. New justices have an initial term ending on the second Monday in January following the first general election that occurs after one year in office and stand for retention at such general election. If retained, justices serve a regular term of six years and at the expiration of each term are eligible to stand for retention at the general election.

SCR 1621 would propose to amend section 5 of article 3 of the Constitution of the State of Kansas to provide for senate confirmation of supreme court justices and to eliminate the supreme court nominating commission. Under the proposal, the appointment and confirmation process for supreme court justices would be similar to the appointment and confirmation process for court of appeals judges provided in K.S.A. 20-3020. The governor will appoint a qualified person, or if the governor fails to act, the chief justice of the supreme court will appoint a qualified person, and such person's appointment will require the consent of the senate. If the senate does not consent to the appointment by a majority vote, the governor will then appoint another qualified person, and such person's appointment will again go to the senate for consent. The same appointment and

consent procedure will be followed until a valid appointment is made. If the senate fails to vote on an appointment within 60 days, it will be considered that the senate has given consent to the appointment. The resolution would not change the term of office or the retention election process.

Concurrent resolutions proposing amendments to the Constitution of the State of Kansas must be adopted by a $\frac{2}{3}$ vote in each chamber in order to be presented to the general electorate for approval. If SCR 1621 is adopted by this constitutional majority in both chambers, it would then be submitted to the electors of the state at a special election on August 2, 2022, to be held in conjunction with the primary election held on such date.