

By: Senator(s) Robertson

To: Constitution

SENATE CONCURRENT RESOLUTION NO. 532

1 A CONCURRENT RESOLUTION PROPOSING AN AMENDMENT TO SECTION  
 2 145, MISSISSIPPI CONSTITUTION OF 1890, TO PROVIDE FOR THE  
 3 APPOINTMENT OF THE SUPREME COURT JUDGES AND TO ESTABLISH THE TERM  
 4 OF OFFICE; TO ADD A NEW SECTION 144A, MISSISSIPPI CONSTITUTION OF  
 5 1890, TO PROVIDE FOR THE SELECTION OF JUDGES; TO PROVIDE THAT THE  
 6 GOVERNOR SHALL FILL VACANCIES BY APPOINTMENT; TO REPEAL SECTIONS  
 7 145A AND 145B, MISSISSIPPI CONSTITUTION OF 1890, WHICH PROVIDE FOR  
 8 ADDITIONAL SUPREME COURT JUDGES; TO REPEAL SECTIONS 149 AND 149A,  
 9 MISSISSIPPI CONSTITUTION OF 1890, WHICH PROVIDE FOR THE TERMS OF  
 10 OFFICE OF JUDGES OF THE SUPREME COURT AND AUTHORIZE THAT COURT TO  
 11 SIT IN DIVISIONS; AND FOR RELATED PURPOSES.

12 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF  
 13 MISSISSIPPI, That the following amendments to the Mississippi  
 14 Constitution of 1890 be submitted to the qualified electors of the  
 15 state.

I.

17 Amend Section 145, Mississippi Constitution of 1890, to read  
 18 as follows:

19 Section 145. The Supreme Court shall consist of nine (9)  
 20 judges, any five (5) of whom, when convened, shall form a quorum.  
 21 The term of Office of Judge of the Supreme Court shall be eight  
 22 (8) years. The Legislature shall divide the state into three (3)  
 23 Supreme Court districts, and the Governor shall appoint three (3)  
 24 judges for and from each district \* \* \* in the manner provided by  
 25 this Constitution, and each judge so appointed shall be subject to  
 26 noncompetitive, nonpartisan elections on their retention or  
 27 removal as provided by law. \* \* \* The removal of a judge to the  
 28 State Capitol during his term of office shall not render him  
 29 ineligible as his own successor for the districts from which he  
 30 has removed. \* \* \* The adoption of this amendment shall not  
 31 abridge the terms of any incumbent who shall continue to hold his



32 respective office until the expiration of the terms for which he  
33 was elected.

34 The Supreme Court may sit in divisions of three (3) judges  
35 each. Each division shall have full power to hear and adjudge all  
36 cases that may be assigned to it by the court. Two (2) judges  
37 shall constitute a quorum of a division. If the decision of a  
38 division is not unanimous, or if a judge of a division shall  
39 certify that in his opinion a decision of any division of the  
40 court is in conflict with a prior decision of the court or of a  
41 division, the cause shall then be considered and adjudged by the  
42 court.

43 II.

44 Amend Article 6 of the Mississippi Constitution of 1890 by  
45 adding a new section to be designated as Section 144A, Mississippi  
46 Constitution of 1890, to read as follows:

47 Section 144A. (1) Whenever a vacancy occurs in the Office  
48 of Judge of the Supreme Court, the Governor shall fill the vacancy  
49 by appointment, subject to the advice and consent of the Senate.

50 (2) Any judge holding office at the time which this section  
51 becomes applicable to his office, shall, unless removed for cause,  
52 remain in office for the remainder of his term. A vacancy  
53 resulting from the expiration of a term of office shall be filled  
54 by appointment. If a vacancy occurs before the expiration of a  
55 term, the appointment shall be for the remainder of the term.

56 III.

57 Repeal Section 145A, Mississippi Constitution of 1890, which  
58 reads as follows:

59 Section 145A. The Supreme Court shall consist of six (6)  
60 judges, that is to say, of three (3) judges in addition to the  
61 three (3) provided for by Section 145 of this Constitution, any  
62 four (4) of whom when convened shall form a quorum. The  
63 additional judges herein provided for shall be selected one (1)  
64 for and from each of the Supreme Court districts in the manner



65 provided by Section 145 of this Constitution, or any amendments  
66 thereto. Their terms of office shall be as provided by Section  
67 149 of this Constitution, or any amendment thereto.

68 IV.

69 Repeal Section 145B, Mississippi Constitution of 1890, which  
70 reads as follows:

71 Section 145B. The Supreme Court shall consist of nine (9)  
72 judges, that is to say, of three (3) judges in addition to the six  
73 (6) provided for by Section 145A of this Constitution, any five  
74 (5) of whom when convened shall constitute a quorum. The  
75 additional judges herein provided for shall be selected one (1)  
76 for and from each of the Supreme Court districts in the manner  
77 provided by Section 145A of this Constitution or any amendment  
78 thereto. Their terms of office shall be as provided by Section  
79 149 of this Constitution or any amendment thereto.

80 V.

81 Repeal Section 149, Mississippi Constitution of 1890, which  
82 reads as follows:

83 Section 149. The term of Office of the Judges of the Supreme  
84 Court shall be eight (8) years. The Legislature shall provide as  
85 near as can be conveniently done that the offices of not more than  
86 a majority of the judges of said court shall become vacant at any  
87 one time; and if necessary for the accomplishment of that purpose,  
88 it shall have power to provide that the terms of office of some of  
89 the judges first to be elected shall expire in less than eight (8)  
90 years. The adoption of this amendment shall not abridge the terms  
91 of any of the present incumbents of the Office of Judge of the  
92 Supreme Court; but they shall continue to hold their respective  
93 offices until the expiration of the terms for which they were  
94 respectively appointed.

95 VI.

96 Repeal Section 149A, Mississippi Constitution of 1890, which  
97 reads as follows:



98           Section 149A. The Supreme Court shall have power, under such  
99 rules and regulations as it may adopt, to sit in two (2) divisions  
100 of three (3) judges each, any two (2) of whom when convened shall  
101 form a quorum; each division shall have full power to hear and  
102 adjudge all cases that may be assigned to it by the court. In  
103 event the judges composing any division shall differ as to the  
104 judgment to be rendered in any cause, or in event any judge of  
105 either division, within a time and in a manner to be fixed by the  
106 rules to be adopted by the court, shall certify that in his  
107 opinion any decision of any division of the court is in conflict  
108 with any prior decision of the court or of any division thereof,  
109 the cause shall then be considered and adjudged by the full court  
110 or a quorum thereof.

111           BE IT FURTHER RESOLVED, That the amendments in this  
112 resolution shall be submitted to the qualified electors as one  
113 amendment since the proposed amendments pertain to one subject, at  
114 an election to be held on the first Tuesday after the first Monday  
115 of November 2003, as provided by Section 273 of the Constitution  
116 and by law.

117           BE IT FURTHER RESOLVED, That the explanation of the amendment  
118 for the ballot shall read as follows: "This proposed  
119 constitutional amendment provides for the appointment of the  
120 Judges of the Supreme Court. The Governor shall appoint a judge  
121 subject to the advice and consent of the Senate. Sections which  
122 increased the size of the court, provided for the term of office  
123 to be eight years and authorized the hearing of cases in  
124 divisions, are repealed because the substance of these sections is  
125 included in the proposed amendment."

126           BE IT FURTHER RESOLVED, That the Attorney General of the  
127 State of Mississippi shall submit this resolution, immediately  
128 upon adoption by the Legislature, to the Attorney General of the  
129 United States or to the United States District Court for the



130 District of Columbia, in accordance with the provisions of the  
131 Voting Rights Act of 1965, as amended and extended.

