

By: Senator(s) Ross

To: Constitution

SENATE CONCURRENT RESOLUTION NO. 516

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; TO PROVIDE FOR THE
 4 SELECTION OF JUDGES; TO PROVIDE THAT THE GOVERNOR SHALL FILL
 5 VACANCIES BY APPOINTMENT; TO PROVIDE FOR A RETENTION ELECTION ON
 6 EACH JUDGE AFTER SERVING EACH TERM; TO ESTABLISH THE TERM OF
 7 OFFICE; TO AUTHORIZE THE LEGISLATURE TO PROVIDE FOR STAGGERED
 8 TERMS AND ELECTIONS; TO REPEAL SECTIONS 145A AND 145B, MISSISSIPPI
 9 CONSTITUTION OF 1890, WHICH PROVIDE FOR ADDITIONAL SUPREME COURT
 10 JUDGES; TO REPEAL SECTION 177, MISSISSIPPI CONSTITUTION OF 1890,
 11 WHICH PROVIDES FOR THE FILLING OF A JUDICIAL VACANCY WHEN THE
 12 LEGISLATURE IS NOT IN SESSION; TO REPEAL SECTIONS 149 AND 149A,
 13 MISSISSIPPI CONSTITUTION OF 1890, WHICH PROVIDE FOR THE TERMS OF
 14 OFFICE OF JUDGES OF THE SUPREME COURT AND AUTHORIZE THAT COURT TO
 15 SIT IN DIVISIONS; AND FOR RELATED PURPOSES.

16 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF
 17 MISSISSIPPI, That the following amendments to the Mississippi
 18 Constitution of 1890 be submitted to the qualified electors of the
 19 state:

I.

21 Amend Section 145, Mississippi Constitution of 1890, to read
 22 as follows:

23 Section 145. (1) (a) The Supreme Court shall consist of
 24 nine (9) judges, any five (5) of whom, when convened, shall
 25 constitute a quorum. The term of office of judges of the Supreme
 26 Court shall be eight (8) years. The Legislature shall divide the
 27 state into three (3) Supreme Court districts, and the Governor
 28 shall appoint three (3) judges for and from each district * * * in
 29 the manner provided by law. Each judge shall be subject to
 30 noncompetitive, nonpartisan retention election in order to succeed
 31 himself. The Legislature shall provide for the necessary
 32 retention election. The position of a judge who does not receive

33 sufficient votes to be retained shall be vacant upon expiration of
34 term unless earlier vacated.

35 (b) * * * The removal of a judge to the state capital
36 during his term of office shall not render him ineligible as his
37 own successor for the district from which he has removed. * * *

38 (2) The Supreme Court shall have power to sit in divisions
39 of three (3) judges each, any two (2) of whom when convened shall
40 constitute a quorum of the division; each division shall have full
41 power to hear and adjudge all cases that may be assigned to it by
42 the court. If the decision of a division is not unanimous, or if
43 any judge shall certify that in his opinion a decision of any
44 division of the court is in conflict with any prior decision of
45 the court or of a division, the cause shall then be considered and
46 adjudged by the full court or a quorum thereof.

47 (3) When a vacancy occurs in the office of judge of the
48 Supreme Court, the Governor shall fill the vacancy by appointment,
49 subject to the advice and consent of the Senate. If a vacancy
50 occurs before the expiration of a term, the appointment shall be
51 for the remainder of that term.

52 (4) A judge of the Supreme Court holding office or elected
53 thereto at the time this section takes effect shall remain in
54 office for the remainder of his term, unless he vacates the office
55 or is removed for cause. Each judge shall stand for retention
56 election as provided by law and this Constitution or the office
57 held by that judge shall be vacated upon expiration of term.

58 II.

59 Repeal Section 145-A, Mississippi Constitution of 1890, which
60 reads as follows:

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

66 for and from each of the Supreme Court districts in the manner
67 provided by Section 145 of this Constitution, or any amendments
68 thereto. Their terms of office shall be as provided by Section
69 149 of this Constitution, or any amendment thereto.

70 III.

71 Repeal Section 145-B, Mississippi Constitution of 1890, which
72 reads as follows:

73 Section 145-B. The Supreme Court shall consist of nine (9)
74 judges, that is to say, of three (3) judges in addition to the six
75 (6) provided for by Section 145A of this Constitution, any five
76 (5) of whom when convened shall constitute a quorum. The
77 additional judges herein provided for shall be selected one (1)
78 for and from each of the Supreme Court districts in the manner
79 provided by Section 145A of this Constitution or any amendment
80 thereto. Their terms of office shall be as provided by Section
81 149 of this Constitution or any amendment thereto.

82 IV.

83 Repeal Section 149, Mississippi Constitution of 1890, which
84 reads as follows:

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

97 V.

131 BE IT FURTHER RESOLVED, That the explanation of the amendment
132 for the ballot shall read as follows: "This proposed
133 constitutional amendment provides for the appointment of the
134 judges of the Supreme Court. The Governor will appoint judges
135 subject to the advice and consent of the Senate. Judges will
136 serve for eight (8) year terms, although the Legislature may
137 extend some terms one (1) time only in order to spread out the
138 occurrence of vacancies and to ensure that the retention election
139 for each position will occur in the November preceding the
140 expiration of that term. Prior to the expiration of each term,
141 the people will vote on whether to retain a judge when his term of
142 office expires. If the judge receives sufficient votes to be
143 retained, the judge will serve another term. If the judge does
144 not receive sufficient votes to be retained, that judge's position
145 will be vacant upon expiration of term, and the vacancy will be
146 filled by appointment of the Governor.

147 Sections which increased the size of the court, provided for
148 the term of office to be eight (8) years, and authorized the
149 hearing of cases in divisions are repealed, because the substance
150 of these sections is included in the proposed amendment.

151 Section 177, which provided for the filling of a judicial
152 vacancy when the Legislature is out of session at a time when
153 judges were all appointed rather than elected, is repealed as
154 surplusage."

155 BE IT FURTHER RESOLVED, That the Attorney General of the
156 State of Mississippi shall submit this resolution, immediately
157 upon adoption by the Legislature, to the Attorney General of the
158 United States or to the United States District Court for the
159 District of Columbia, in accordance with the provisions of the
160 Voting Rights Act of 1965, as amended and extended.