

LEGISLATIVE RESOLUTION 8

Passed by the Legislature February 15, 1990

Introduced by Judiciary Committee, Chizek, 31,
Chairperson; Nelson, 35; McFarland, 28;
Lindsay, 9; Abboud, 12; Kristensen, 37

A Resolution to propose an amendment to the Constitution of Nebraska by amending Article I, section 23, Article V, sections 1, 2, and 8, and Article XV, section 9, and by repealing Article I, section 24.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-FIRST LEGISLATURE OF NEBRASKA, SECOND SESSION:

Section 1. That at the general election in November 1990 there shall be submitted to the electors of the State of Nebraska for approval the following amendment to the Constitution of Nebraska by amending Article I, section 23, Article V, sections 1, 2, and 8, and Article XV, section 9, and by repealing Article I, section 24, which is hereby proposed by the Legislature:

CI-23 "In all cases of felony the defendant shall have the right of appeal to the Supreme Court; and in capital cases such appeal capital cases, appeal directly to the Supreme Court shall be as a matter of right and shall operate as a supersedeas to stay the execution of the sentence of death; until further order of the Supreme Court. In all other cases, criminal or civil, an aggrieved party shall be entitled to one appeal to the appellate court created pursuant to Article V, section 1, of this Constitution or to the Supreme Court as may be provided by law."

CV-1 "The judicial power of the state shall be vested in a Supreme Court, an appellate court, district courts, county courts, in and for each county, with one or more judges for each county; or with one judge for two or more counties, as the Legislature shall provide, and such other courts inferior to the Supreme Court as may be created by law. In accordance with rules established by the Supreme Court and not in conflict with other provisions of this Constitution and laws governing such matters, general administrative authority over all courts in this state shall be vested in the Supreme Court and shall be exercised by the Chief Justice. The Chief Justice shall be the executive head of the courts and may appoint an administrative director

thereof."

CV-2 "The Supreme Court shall consist of seven judges, one of whom shall be the Chief Justice. A majority of the judges shall be necessary to constitute a quorum. A majority of the members sitting shall have authority to pronounce a decision except in cases involving the constitutionality of an act of the Legislature. No legislative act shall be held unconstitutional except by the concurrence of five judges. The Supreme Court shall have jurisdiction in all cases relating to the revenue, civil cases in which the state is a party, mandamus, quo warranto, habeas corpus, election contests involving state officers other than members of the Legislature, and such appellate jurisdiction as may be provided by law. The Legislature may provide that any Judge judge of the Supreme Court or judge of the appellate court created pursuant to Article V, section 1. of this Constitution who has retired may be called upon for temporary duty by the Supreme Court. Whenever necessary for the prompt submission and determination of causes, the Supreme Court may appoint judges of the district court or the appellate court to act as associate judges of the Supreme Court, sufficient in number, with the judges of the Supreme Court, to constitute two divisions of the court of five judges in each division. Whenever judges of the district court or the appellate court are so acting, the court shall sit in two divisions, and four of the judges thereof shall be necessary to constitute a quorum. Judges of the district court or the appellate court so appointed shall serve during the pleasure of the court, and shall have all the powers of judges of the Supreme Court. The Chief Justice shall make assignments of judges to the divisions of the court, and shall preside over the division of which he or she is a member, and designate the presiding judge of the other division. The judges of the Supreme Court, sitting without division, shall hear and determine all cases involving the constitutionality of a statute, and all appeals from conviction of homicide, involving capital cases and may review any decision rendered by a division of the court. In such cases, in the event of the disability or disqualification by interest or otherwise, of any of the judges of the Supreme Court, the court may appoint judges of the district court or the appellate court to sit temporarily as judges of the Supreme Court, sufficient to constitute a full court of seven judges. Judges of the district court or the appellate court shall receive no additional salary by virtue of their

appointment and service as herein provided, but they shall be reimbursed their necessary traveling and hotel expenses."

CV-8 "There shall be appointed by the supreme court, a clerk and a reporter of the court, each of whom shall hold his office for a term of six years, unless sooner removed by the court, and their salaries shall be fixed by law, the clerk shall also act as librarian of the law and miscellaneous library of the state. The court shall also The Supreme Court shall appoint such clerical help staff as may be needed for the proper dispatch of the business of the court. The court shall prepare and recommend to each session of the Legislature a budget of the estimated expenses of the court. The copyright of the state reports shall forever remain the property of the state."

CXV-9 "Laws may be enacted providing for the investigation, submission, and determination of controversies between employers and employees in any business or vocation affected with a public interest, and for the prevention of unfair business practices and unconscionable gains in any business or vocation affecting the public welfare. An Industrial Commission may be created for the purpose of administering such laws, and appeals shall lie to the Supreme Court from the final orders and judgments of such commission shall be as provided by law."

Sec. 2. That the proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1. The proposition for the submission of the proposed amendment shall be placed upon the ballot in the following form:

"A constitutional amendment to provide a right of direct appeal to the Supreme Court in capital cases, to provide that the right of appeal in all other cases shall be to the appellate court or to the Supreme Court as may be provided by law, to provide for an appellate court, to authorize the Supreme Court to assign duties to judges of the appellate court, to eliminate specific provisions on the clerk and reporter of the Supreme Court, and to harmonize provisions.

For
Against"

Sec. 3. That the proposed amendment, if adopted, shall be in force and take effect immediately upon the completion of the canvass of the votes, at

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which time it shall be the duty of the Governor to
proclaim it as a part of the Constitution of Nebraska.