

## Senate Resolution 520

By: Senators Kemp of the 3rd, Meyer von Bremen of the 12th, Tanksley of the 32nd, Harp of the 16th, Smith of the 25th and Brown of the 26th

## A RESOLUTION

1 Creating the Joint Legislative Study Committee on the Public Financing of Judicial  
2 Elections; and for other purposes.

3 WHEREAS, the rule of law is fundamental to our concept of legitimate government; and

4 WHEREAS, the linchpin of the rule of law in our society is a judiciary that above all both  
5 appears to be and is truly independent and impartial; and

6 WHEREAS, judicial election campaigns in our state are currently financed exclusively by  
7 private sources and there is no voluntary alternative means for the public financing of judicial  
8 elections in the state; and

9 WHEREAS, expenditures on judicial campaigns, driven by growing politicization and  
10 increased donations by special interests, have, for over a decade been escalating dramatically,  
11 thereby increasing the dependence of judicial candidates on private contributions to gain or  
12 maintain judicial office; and

13 WHEREAS, campaign contributions have historically originated from sources frequently  
14 perceived to have an economic or political interest in the outcome of cases which are to be  
15 decided by the courts; and

16 WHEREAS, many highly qualified individuals are deterred from seeking judicial office  
17 because they do not wish to become full-time fundraisers and do not wish to feel beholden  
18 to special interest donors; and

19 WHEREAS, the vested interests of campaign contributors with cases before the court and  
20 the growing dependence of judicial candidates on private donations to meet escalating  
21 campaign costs threatens the independence and impartiality of the judiciary by increasing the

1 potential for improper influence on decision making and by fostering a widespread public  
2 perception of improper influence on decision making; and

3 WHEREAS, many judges, lawyers, litigants, and partisans seek to eliminate any inference  
4 that campaign contributions are made with an expectation of favoritism; and

5 WHEREAS, the considerable cost of judicial campaigns constitutes a constitutionally suspect  
6 invisible wealthy barrier to judicial office that rises with the cost of campaigns deterring  
7 candidacies of otherwise qualified judicial aspirants who lack access to wealth; and

8 WHEREAS, such invisible wealth barriers inevitably work to produce a judiciary in which  
9 a wealthy minority is overrepresented and the nonwealthy majority, including racial and  
10 ethnic minorities, are underrepresented, further eroding the legitimacy of our courts in the  
11 perceptions of many citizens; and

12 WHEREAS, the American Bar Association Commission on Public Financing of Judicial  
13 Campaigns in 2001, unanimously recommended that states that elect judges in contested  
14 elections finance judicial elections with public funds; and

15 WHEREAS, a recent survey has shown that an overwhelming majority of southern  
16 respondents supported the idea of public funding of judicial elections.

17 NOW, THEREFORE, BE IT RESOLVED BY THE GENERAL ASSEMBLY OF  
18 GEORGIA that there is created the Joint Legislative Study Committee on the Public  
19 Financing of Judicial Elections to be composed of six members. The Speaker of the House  
20 of Representatives shall appoint three members of the House of Representatives as members  
21 of the committee. The President of the Senate shall appoint three members of the Senate as  
22 members of the committee. The Governor shall designate a member of the committee as  
23 chairperson. The chairperson shall call all meetings of the committee. The charge to the  
24 Joint Legislative Study Committee on the Public Financing of Judicial Elections shall be to  
25 undertake a thorough study, assessment, and evaluation of the financing of judicial elections  
26 with public funds as a means of addressing the widely perceived or potential influence of  
27 private contributions made by individuals or organizations with a vested interest in matters  
28 before the court. The study committee is further charged to examine the nature and extent  
29 to which qualified potential judicial candidates without access to wealth, including potential  
30 candidates favored by racial or ethnic minorities, are deterred by the current system of  
31 privately funded judicial campaigns. The Joint Legislative Study Committee is further

1 charged with making a recommendation regarding the feasibility and method of public  
2 financing as a remedy for enhancing the confidence of citizens in their judicial system.

3 BE IT FURTHER RESOLVED that advising, attached, and suborned to the Joint Legislative  
4 Study Committee on the Public Financing of Judicial Elections shall be an Advisory Board  
5 to the Joint Legislative Study Commission that shall be composed of 12 members as follows:  
6 the chairperson or chairpersons or the person's designee of the Bench & Bar, Judicial  
7 Procedure and Administration, and Statewide Judicial Evaluation Committees of the State  
8 Bar of Georgia; the chairperson or the person's designee of the Judicial Council of Georgia;  
9 the President or the President's designee of the Council of Superior Court Judges and  
10 Council of State Court Judges; the President or the President's designee of the Georgia Trial  
11 Lawyers Association, the Georgia Defense Lawyers Association, the Georgia Association  
12 of Criminal Defense Lawyers, and the chairperson of the Prosecuting Attorneys' Council of  
13 Georgia; and the Secretary of State or his or her designee. The Advisory Board of the Joint  
14 Legislative Study Committee on the Public Financing of Judicial Elections shall provide to  
15 the committee expert and lay advice from members of the academy, bench, bar, and public  
16 who bear expertise critical to the work of the committee or who will be directly affected by  
17 any alteration of the existing mode of campaign finance.

18 BE IT FURTHER RESOLVED that the committee shall undertake a comprehensive study  
19 of the conditions, needs, issues, and problems mentioned above or related thereto and  
20 recommend any action or legislation which the committee deems necessary or appropriate.  
21 The committee may conduct such meetings at such places and at such times as it may deem  
22 necessary or convenient to enable it to exercise fully and effectively its powers, perform its  
23 duties, and accomplish the objectives and purposes of this resolution. The members of the  
24 Joint Legislative Study Committee on the Public Financing of Judicial Elections and  
25 Advisory Board shall receive the allowances provided for legislative members of interim  
26 legislative committees but shall receive the same for not more than ten days unless additional  
27 days are authorized. The funds necessary to carry out the provisions of this resolution shall  
28 come from funds appropriated to the House of Representatives and the Senate. The Joint  
29 Legislative Study Committee on the Public Financing of Judicial Elections shall make a  
30 publicly available report of its findings and recommendations, with suggestions for proposed  
31 legislation, if any, and the report shall be made on or before December 1, 2002. The  
32 committee shall stand abolished on December 1, 2002.