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Testimony in Opposition to HCR 5004 and HCR 5005

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Appellate judges should be chosen based on their qualifications and not on partisan politics. According to a poll commissioned last year by Justice at Stake, 61% of Kansas voters oppose rewriting the state constitution to change the process of choosing Kansas Supreme Court Justices. The current method for choosing Kansas Supreme Court Justices - the Merit Selection method – is a system designed to be non-political. The merit selection process involves a Supreme Court Nominating Commission, composed of four lawyers from each congressional district, four governor appointees from each congressional district and one lawyer chairman elected by all of the lawyers in Kansas.

Under our current selection process, all attorneys and trial judges in Kansas receive notice and are invited to apply for the Supreme Court vacancy. The applicants must submit detailed applications concerning their qualifications and experience, including writing samples. The names of all applicants are made available to the public. The applicants are screened by the members of the Nominating Commission and each applicant is interviewed by the entire commission. The interviews are open to the public. The applicants also undergo a KBI background check, credit background check and ethics background check. Contrast that with the process now utilized to select Court of Appeals judges – the so-called “federal model”. The Governor has just appointed a new Court of Appeals Judge. He refused to disclose any of the applicants’ names or credentials for public input before the appointment. He refuses to disclose how the applicants are vetted. The public is unaware of any of the applicants’ credentials, background, temperament, ethics, reputation or intellect. He refuses to disclose who interviews the applicants, what criteria is utilized or what questions are asked. How is the public interest served by this secret process? The whole process is clouded in secrecy.

The current selection process is the best process for the selection of Supreme Court Justices based on merit and qualifications. Opponents of the Kansas current process cannot show any demonstrable need for changing the current process or for amending the constitution. The constitution should be amended only on “great and extraordinary occasions” James Madison, *Federalist No.49*.

The Kansas Supreme Court Nominating Commission has had a long history of fairly vetting candidates in an effort to submit to the governor the names of the best thinkers, the best writers and the best researchers who are of even-temperament, good demeanor and high ethical standards. We want the appointment of Supreme Court justices who will make correct judicial decisions based on principled reasoning without bias or political influence. The system has worked well in Kansas for over 50 years. Please keep it as it is for the people of Kansas.