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**TESTIMONY OF SOLICITOR GENERAL ANTHONY POWELL
IN SUPPORT OF SENATE CONCURRENT RESOLUTION 1611**

Before the House Judiciary Committee

March 13, 2025

Madam Chairman,

I appear before the Committee this morning in support of reforming our judicial selection process. Prior to becoming Solicitor General in January 2023, I served for nearly 20 years as a judge here in Kansas. I served as an elected district court judge in Sedgwick County for over ten years, and then successfully went through the nomination commission process and was appointed by Governor Brownback to serve on the Kansas Court of Appeals until my retirement in 2022. With my background, I feel I can give a unique perspective on this very important issue.

In my view, this debate can be boiled down to a simple question: Should free people have the right of self-government or not? Section 2 of the Kansas Constitution Bill of Rights says that “all political power is inherent in the people.” Our state’s founders did not want a government of “experts”. Under the present system of judicial selection for the Kansas Supreme Court, a small minority of Kansans—lawyers—are the gate keepers as to who can serve on the Court. This effectively removes the ability of the

people, or their elected representatives, from selecting the most important part of an entire branch of our government. The importance of the judicial branch cannot be understated. From questions on the death penalty to school funding, the courts are increasingly entering into critical public policy issues. No one would suggest that a similar system be adopted for any other branch of government or official, why the courts?

In my view, the people have a right to choose their judges—either directly or indirectly. After all, it is not the judges' judiciary or the lawyers' judiciary—it is the people's judiciary.

Moreover, the notion that judges can be selected on purely objective criteria of experience, temperament, and education went out with the Robert Bork confirmation hearings in the 1980's. Judicial candidates are no longer evaluated solely on such considerations, but are also evaluated on subjective criteria—are they conservative or liberal, are they judicial activists or strict constructionists, or do they come from the right part of the state? These amount to value judgments that only the people or their representatives can make. One need only read in the news media about the differing reactions to various court decisions to know that there is no consensus as to what makes a good judge. People and politicians differ—the process should reflect those realities.

I ask this committee to report this constitutional amendment favorably for passage. I am happy to stand for questions.

s/Anthony J. Powell
Solicitor General