



**Opponent Testimony on SCR 1611  
In the House Judiciary Committee  
March 13, 2025  
Judith Deedy on behalf of Game On for Kansas Schools**

Chair Humphries, members of the committee, thank you for the opportunity to testify in opposition to SCR 1611 on behalf of Game On for Kansas Schools, a grassroots public education advocacy organization. We oppose SCR 1611 because we support the current merit selection process, and we think this bill poses a threat to the future of public education and represents a fundamental misunderstanding of the role of the courts.

Throughout the past 15 years, there have been numerous attempts to change the selection, retention and jurisdiction of our courts as the legislature has continued to lose school funding cases. We are grateful to have justices that can be neither bought nor bullied and think changing to a system of electing them would change that. We have seen too many instances where elections come down to the amount of money poured into supporting a candidate, and postcards rife with inaccuracies are broadly distributed. We think that process would be a step in the wrong direction for our Supreme Court.

School funding litigation is complex, and we are also grateful the justices on the court have been deemed competent through the merit selection process. We believe popular elections are ill designed to give voters the information they need to determine who is best qualified to be on the Kansas Supreme Court.

It's also important to acknowledge that the public does have an important check on justices in regular retention elections. Voters have the opportunity to remove justices they feel are not doing their job properly. We feel merit selection with retention elections strike the proper balance and should not be abandoned.

Efforts to change the selection of Supreme Court Justices reflect a fundamental misunderstanding of the role of the courts and a desire to open our judicial branch to

politicization and litmus tests. Part of the purpose of courts is to protect fundamental rights and values even when doing so is not “popular.”

In an op ed in the Wichita Eagle in 2014 when we were facing another attempt to change judicial selection, Judge Barbara Pariente explained,

“We judges cannot render decisions based on popularity polls, because our job is to protect everyone’s rights, including – especially – those who may be reviled or unpopular with the public. While the executive and legislative branches of government answer to the will of the people, the judicial branch must make decisions based on the law and the facts and protect all rights guaranteed in state and federal constitutions. If public opinion at the time had driven *Brown v. Board of Education*, the U.S. Supreme COURT would not have required school desegregation.”

She went on to quote retired U.S. Supreme Court Justice Sandra Day O’Connor, “The founders realized that there has to be someplace where being right is more important than being popular or powerful, and where fairness trumps strength. And in our country that place is supposed to be the courtroom.”

[https://www.kansas.com/opinion/opn-columns-blogs/article3451526.html?fbclid=IwY2xjawl-knJleHRuA2F1bQlxMAABHQWr0f4ENFHPOwljd62dxfsvPgvDgdTXMOZDZ-JygtxmxC7AcqRiH-GGMw\\_aem\\_0gOBtU3iEaJGG0ERb6bX7A](https://www.kansas.com/opinion/opn-columns-blogs/article3451526.html?fbclid=IwY2xjawl-knJleHRuA2F1bQlxMAABHQWr0f4ENFHPOwljd62dxfsvPgvDgdTXMOZDZ-JygtxmxC7AcqRiH-GGMw_aem_0gOBtU3iEaJGG0ERb6bX7A)

The current merit system is an effective and time-tested process that has helped insulate judicial selection in the state from financial and political pressures that endanger fair and impartial courts. On the other hand, popular election of justices is not working in other states. In Wisconsin, more than \$51 million was spent on a recent Supreme Court election with \$45 million of that in the form of dark money from outside Wisconsin. We need fair and impartial courts in Kansas that will decide cases based on the law and not based on loyalty to political donors or fear of being post-carded out of office for doing their jobs.

We urge the committee members to oppose the passage of SCR 1611.