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TO: Rep. Susan Humphries, Chairperson
Rep. Laura Williams, Vice-Chairperson
Rep. Dan Osman, Ranking Minority Member
Members of the House Committee on Judiciary

FROM: Blake Shuart
Individually and on behalf of Hutton & Hutton Law Firm, L.L.C., Wichita

DATE: March 12, 2025

RE: SCR 1611 ("Proposing a constitutional amendment to provide for direct election of supreme court justices and abolish the supreme court nominating commission") (**OPPOSE**)

Chairperson Humphries, Vice-Chair Williams, Ranking Minority Member Osman and Members of the House Committee on Judiciary,

I offered both written and oral testimony in opposition of SCR 1611 before the Senate Committee on Federal and State Affairs and will keep my comments brief. I do appreciate the opportunity to express my views on this extremely important and impactful Resolution, as I understand there are many strong and conflicting opinions.

In short, there has been no evidence whatsoever to support the need for sweeping change to our system of selecting Kansas Supreme Court justices. Qualified Kansas electors deserve evidence if they are asked to vote to amend our state constitution in three areas (Sections 5, 8 and Article 3). The question of the moment—what could be a pivotal moment in our state's history—is a simple one: *Where's the evidence?*

There is no evidence that our Supreme Court is being overturned by the U.S. Supreme Court at a high rate, or a rate which would raise a question of competence. Of the few state court cases across the country SCOTUS has agreed to hear since 2007, 126 out of 164 (76.8%) were overturned[1]. This data point reflects a clear reality: SCOTUS overturns most of the state court cases they accept across all 50 states. If the Kansas Supreme Court is occasionally overturned by the U.S. Supreme Court, that is no anomaly. It hardly impeaches the quality of our judges or calls for a massive overhaul of our entire system.

[1] https://ballotpedia.org/SCOTUS_case_reversal_rates_(2007_-_Present) (accessed Feb. 19, 2025).

There is no evidence to support that "liberal" attorneys are making the decisions or that having a 5-4 attorney majority in the nine-member Supreme Court Nominating Commission is leading to the nomination of Justices of whom our citizens would not otherwise approve. For example, there is no evidence whatsoever of a split 5-4 vote having occurred on a potential nominee, with the five attorneys outvoting the four Governor-appointed citizens. There is no evidence that having five attorneys of the nine Commission members has created some type of division, conflict, disagreement or untoward result.

There is no evidence that the political leanings of our Justices have resulted in slanted opinions or prevented equal justice from being administered. Rather than try to argue against a negative, I would urge the Committee to request from proponents of this Resolution a list of cases in which our Supreme Court can be objectively determined to have departed from the law in favor of a Justice's individual beliefs and allegiances.

The majority of recent cases decided by the Court involved complex questions of criminal procedure, attorney disciplinary matters, zoning disputes, the enforcement of civil judgments, child custody disputes and other legal analysis which require skill, intellect and objectivity to decide. There was little to no room for politics to begin with in these decisions.

There is no evidence to support any claim that our Nominating Commission or the Justices they help appoint are anything other than skilled professionals taking a nonpartisan approach to the crucial work they perform. Without evidence to support the need for a change, radical reforms to our system—or any reforms at all—would be "all risk, no reward." Changing our method of selecting Supreme Court Justices would be a solution in need of a problem.

Respectfully submitted,

/s/ Blake A. Shuart, #24463

Blake A. Shuart