

SENATE COMMITTEE ON FEDERAL & STATE AFFAIRS
February 25, 2025

***TESTIMONY IN OPPOSITION TO SENATE CONCURRENT RESOLUTION
NO. 1611***

**TESTIMONY OF FRED LOGAN
ON BEHALF OF THE KANSAS BAR ASSOCIATION**

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RECIPIENT, PHIL LEWIS MEDAL OF DISTINCTION, AWARDED IN
2023 BY THE KANSAS BAR ASSOCIATION**

Chair Thompson, Ranking Member Faust-Goudeau, and Members of the Committee, I am here to speak in opposition to Senate Concurrent Resolution No. 1611.

Senate Concurrent Resolution No. 1611 would place before voters a proposition that would do away with the merit selection process for selection of Supreme Court justices in our state.

Let me be clear at the outset: The Resolution ignores the history that caused voters in our state in 1958 to approve and embed in the Kansas Constitution a requirement that members of the Supreme Court be chosen through that merit selection process. The merit selection process ensures that individuals will be appointed to the Supreme Court because they have shown the legal skill and temperament to honorably serve Kansans.

The Resolution would undo that merit-based selection process for Supreme Court justices that has served Kansans well for 67 years. The Resolution would replace that process with a system that would turn on the political skill and fundraising prowess that a lawyer could bring to mounting a statewide campaign for a position on the Supreme Court.

In the merit selection process, a nine-member Supreme Court Nominating Commission, having thoroughly considered applicants, recommends three finalists to the governor. The governor then considers the background information developed by that Commission, interviews the three finalists, and chooses one of the candidates for membership on the Supreme Court. That's a selection process that ensures the fair administration of justice.

On the other hand, political campaigns for positions on the Supreme Court and the fair administration of justice are a bad mix. Sanford Gordon, a professor at New York University School of Law, put it this way in a February 2024 article: "By injecting politics into the branch of government for which independence and impartiality are indispensable, judicial elections threaten to undermine the rule of law."

It is important to note that in the merit selection process, Kansans are given an opportunity to vote on whether to retain a particular member of the Supreme Court. Once a member has served for one year, he or she stands for retention in the

next general election. If the justice receives a majority of the votes cast, he or she remains in office for six years and then again stands for retention.

A 1995 Note in the Washburn Law Journal described the benefits of a merit-based selection system in the appointment of district and magistrate judges in Kansas: A qualified attorney not wishing to participate in partisan politics would be encouraged to seek a judicial position in a merit-based system; a merit-based retention election would ensure that a judge stood for retention on his or her judicial record; and minorities and women would have more opportunities for appointment to judgeships.

Kansans receive those same benefits when the members of the Supreme Court are selected in a merit-based system.

I will close with a personal note. I have practiced law in this state for almost 48 years. One constant has been this: the Kansas Supreme Court has been outstanding in serving our state. The merit-based system for selecting members of that Court should be preserved.

We urge you to not pass Senate Concurrent Resolution No. 1611.

Thank you, Mr. Chair, for the opportunity to appear before your Committee today. I would be happy to stand for questions.