



To: Senator Mike Thompson, Chairperson  
Honorable Members of the Senate Committee on Federal and State Affairs

From: Michelle Moe Witte, President  
Wichita Bar Association

Re: Written Testimony in Opposition to SCR 1611 – Direct Election of Justices

Date: February 17, 2025

The Wichita Bar Association (WBA) appreciates this opportunity to be heard on legislative matters that impact Kansas' judicial system and specifically, SCR 1611 relating to the direct election of Justices to the Kansas Supreme Court. The WBA strongly opposes abolishing the Supreme Court Judicial Nominating Commission and providing for direct election of justices.

The Wichita Bar Association's mission is to promote the highest standards of professionalism within the legal community. Historically, the WBA has strongly supported the current merit selection process as central to that mission. The Kansas Supreme Court Justices are not only the leaders of the Judicial branch, they also represent the pinnacle of the legal profession in Kansas. Many board members and presidents of the Wichita Bar Association, from both sides of the aisle, serve or have served on the Kansas Supreme Court Nominating Commission.

Lawyers serving on the commission represent leaders in the legal community with experience in many different areas of practice. Lawyers serving on the Commission are knowledgeable of the Supreme Court's vast array of decisions and their impact on Kansans and businesses. As such, lawyers are in a unique position to evaluate the legal abilities of potential Supreme Court Justices. Only a small percentage of the public encounter the legal system or would have specialized knowledge of the qualifications, experience and temperament that is required to be a good justice. The WBA believes that lawyers should continue to have a meaningful role in the selection process and would encourage the Legislature to preserve that role.

Our Framers intended that judges should be free from political influence. In Federalist 78, Hamilton noted that every care should be taken to ensure that the best qualified persons will be appointed, and that once seated the judge is expected to decide cases free from the effects of politics and the changing winds and passions of public opinion. Unlike the other co-equal branches of government where politics

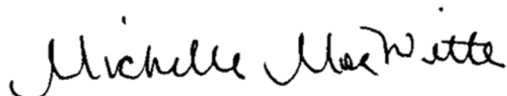
is part of the formulation of laws, the Justices must follow the law and not be influenced by politics, special interest groups, public opinion, or their own personal beliefs. The merit selection process in Kansas keeps the focus on professional qualifications, guided by rules and procedures, and protected from shifts in public opinion that can undermine consistency and fairness in the interpretation of the law. A simple examination of the substantial sums of political contributions and political attack ads involved in the direct elections of supreme court justices in other states should be a stark warning of the politicization of the Court when special interests influence the process and ultimately undermines the public's confidence in the integrity of the Court's decisions.

Unlike the federal process, Kansas does not grant lifetime appointments. Kansas Supreme Court justices serve a 6-year term. As the end of the term, the justice is on the ballot in an unopposed "yes-or-no" retention election. The retention elections were intended to give the people a voice in whether a state court judge deserved another term without the bruising characteristics of political attacks, partisan tactics, and competitive contests. Retention elections allow the public to evaluate a judge based on their judicial performance and not the popularity of a single decision. Kansans have never voted to remove a state Supreme Court justice from the bench.

Kansans, also, have the ability to choose to elect trial court judges in their judicial district court. Trial court judges are the sole decision maker on cases before the trial court, such as divorces and criminal actions, and they interact more directly and personally with the public in Court through juries, witnesses and weighing evidence. This is very different from the role of the Kansas Supreme Court Justices who do not weigh evidence and act as a body to ensure the trial court rulings are consistent with the law and legal precedent.

In 1958, Kansas voters overwhelmingly amended the Constitution to provide for merit selection to keep the Kansas Supreme Court insulated from politics. This process has worked to preserve the rule of law to protect the rights of people and businesses in the state of Kansas. For those reasons, the WBA strongly opposes SCR 1611.

Respectfully submitted,



Michelle Moe Witte, President  
Wichita Bar Association