

TESTIMONY IN SUPPORT OF JUDICIAL SELECTION REFORM  
BEFORE THE HOUSE JUDICIARY COMMITTEE  
January 16, 2013

Mr. Chairman and members of the committee:

Thank you for the opportunity to submit written testimony in support of Judicial Selection Reform. Appellate court judges and justices occupy positions of great power. They have the last word on issues of great importance to Kansas, from capital murder cases to school finance. And yet the Kansas voters have very little to do with how these judges and justices are selected, despite the fact that decisions made by the appellate courts impact Kansas citizens state-wide.

Under the current judicial selection process a committee of individuals, the majority of which are selected only by lawyers admitted to the Kansas bar, is given the power to determine who are the “best” qualified applicants for the appellate courts. And while the committee now interviews applicants in public, their deliberations and the decision making process to determine the “best” qualified applicants are not public events. Nobody knows what factors were considered by the committee when the committee determines which applicants are the most qualified, because the public is not invited to participate in the deliberation process or even bear witness to it. Instead, the voters are simply asked to put their faith in a committee dominated by lawyers because, it is argued, lawyers are in the best position to determine who should serve Kansas on the appellate bench.

What other state wide office is filled in this manner? Insurance agents are not given the power to determine who can run for Insurance Commissioner, nor are accountants given the power to determine who can run for State Treasurer.

Moreover, determining who the best qualified applicants for the appellate bench are is an inherently subjective analysis. All other things being equal, one person might favor a rural applicant because that person may feel strongly that rural Kansas is underrepresented on the appellate court. Another person might favor solo practitioners because that person may feel that too many big firm attorneys are on the appellate court. The point is that once objective qualifications to serve on the appellate bench have been settled, what makes certain applicants the “best” qualified will depend largely upon the background and life history of the person making that value judgment. There is no reason to vest power in a small committee to make that value judgment for the entire State of Kansas.

The current system needs reform. Appellate judges and district court judges work for the citizens of the State of Kansas. Those citizens should have a voice in how these judges are hired in the first place.

Respectfully submitted,

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