



Written Testimony in Support of Merit-Based Judicial Selection

House Judiciary Committee Thursday, January 17, 2013

Mr. Chairman and House Judiciary Committee Members:

My name is Jennifer Bruning, and I am Vice President of Government Affairs with the Overland Park Chamber of Commerce and Economic Development Council. I am submitting written testimony today in support of retaining a merit-based judicial selection process for both the Kansas Court of Appeals and the Kansas Supreme Court.

The Overland Park Chamber of Commerce believes that an impartial judicial system is critical to maintain a stable and prosperous business climate. When making financial and investment decisions, businesses require a non-partisan justice system which reduces the perception of risk and demonstrates that all parties start and remain on a level playing field.

Justice for businesses and individuals is more likely attained when judges are able to perform their roles based upon constitutional principles and the rule of the law, free from partisanship and the political and financial pressures of special interests. Recently at a seminar on "Politics and the Courts" co-sponsored by the Overland Park Chamber, Landon Rowland, chairman of Lead Bank, said, "The free market depends on the rule of law, and the rule of law depends on an independent judiciary." Indeed, further research indicates that where private parties reasonably expect that judges will enforce contracts and settle disputes impartially, transaction costs are lower, which in turn leads to a greater number of welfare-enhancing transactions. ("Partial Justice: The Peril of Judicial Elections", The Committee for Economic Development Subcommittee on Money in Politics, 2011).

These analyses are additionally supported by the 2012 State Liability Systems Ranking Study conducted by the U.S. Chamber Institute for Legal Reform which ranks Kansas fifth nationally for having a fair and reasonable state judicial system as perceived by business (<http://www.instituteforlegalreform.com/states>). While not perfect, it is evident that our current merit-based selection process works well and that business and industry are fairly treated.

For the reasons stated above, the Overland Park Chamber of Commerce supports a non-partisan merit system for selection of judges, including periodic retention elections to ensure a reasonable level of accountability. We oppose all efforts to impose partisan judicial elections for trial and appellate court judges. We understand that critics of the current judicial selection system believe that the majority of lawyers on the Kansas Supreme Court Nominating Commission wield too much political influence. We urge the Committee to not abolish the Commission, but instead to look for ways to reform it while still retaining judicial selection based upon merit as its primary component.