Chairwoman Warren and members of the Senate Judiciary Committee, my name is Brittany Jones. I am an attorney and Director of Policy and Engagement. Kansas Family Voice advocates for policies that strengthen families, stand for life, and protect religious freedom. I am here to voice our support for S.B. 1621 reforming our judicial selections to require Senate Confirmation for Supreme Court Justices.

One of the most basic principles of maintaining the rule of law is that the laws of society should be knowable and stable.[1] The reason for this is that the common person is supposed to be able to understand how to stay on the right side of the law and to prevent the abuse of power. However, many of the Kansas Supreme Court's recent decisions have created anything but knowability. Instead, they almost seemed designed to the keep the legislature and the citizens of Kansas off balance.

But why is this? One of the obvious problems comes from the highly political and elitist nature of the process in which Kansas members of the Supreme Court are selected. Kansas is currently the only state with a judicial selection process like ours. Though others use the Missouri system, the majority of the members on the selection committee come from the highly politicized bar association, opening the door for a highly activists court. Kansas is the only state that allows its bar to select the majority of its commissioners. The current process centralizes the process for election in the hands a very few Kansas citizens.

The traditional norm of representative democracy is replaced by a system in which a select few unelected, elite individuals chose which justices govern them.[2] Studies going back to the 60s show that selection by a commission does not eliminate partisanship.[3] The system that Kansas uses is a fairly new system for selecting justices and is not reflective at all of the early founding of America's democratic republic.[4]

We are not asking for the selection process to be skewed one way or the other. We are simply asking that the system be structured where everyone has an opportunity for input rather than an elite few. The Supreme Court has already shown its penchant for making law out of thin air and setting policy for the state. The fact that the court has hamstrung this body on abortion policy and tied up over half of the states budget to fund public schools shows just how much this is already happening. [5]

A different process is not about guaranteeing on outcome but providing accountability and restoring a measure of fairness to the process. The people deserve transparency.

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[1] *See* WILLIAM BLACKSTONE, COMMENTARIES ON THE LAWS OF ENGLAND, VOL 1. 125–28 (1753).
[2] Matthew Schneider, Options for an Independent Judiciary in Michigan, 56 WAYNe L. REV. 609 (2010).
[3] Richard a. Watson & Rondal G. Downing, The Politics of the Bench and The Bar (1969),
[4] *See* Richard B. Saphire & Paul Moke, The Ideologies of Judicial Selection: Empiricism and the Transformation of the Judicial Selection Debate, 39 U. TOL. L. REV. 551, 554 n. 17 (2008).
[5] *Hodes & Nauser v. Schmidt*, 309 Kan. 610 (2019); *Gannon v. State*, 303 Kan. 682 (2016).

They deserve accountability from the government that is supposed to serve them. People want to know where justices stand on issues. They are going to seek that out.

It is an elite myth that judges do not have views that they bring with them to the court. These processes give justice accountability and arm citizens with information. If a citizen does not like something they learn they have a means of recourse. This process is a check on the governor, but it also allows Senators to be checked.

It is paramount that the Kansas legislative body take a hard look at how the members of our highest judicial body are selected to ensure that our Constitution is protected. We ask that this body give the people a chance to vote on how their justices are selected and put S.B. 1621 on the ballot.

Thank you.