



**KANSAS BAR  
ASSOCIATION**

**TO: The Honorable John Barker, Chair**  
And Members of the House Judiciary Committee

**FROM: Gerald L. Green**  
On behalf of the Kansas Bar Association

**RE: HCR 5004 & HCR 5005**

**DATE: February 11, 2015**

Mr. Chairman and Members of the House Judiciary Committee;

My name is Jerry Green and I am the current President of the Kansas Bar Association. I appreciate the opportunity to appear before you to testify in OPPOSITION to HCR 5004 and HCR 5005.

The Kansas Bar Association has long supported a merit selection process and the nonpartisan Kansas Supreme Court Nominating Commission for selecting judges and justices for our appellate courts. The system has served our state well since 1958 when 60% of the Kansas electorate approved it. This positive feedback was recently reaffirmed when the U.S. Chamber of Commerce ranked Kansas as the fifth best state in the nation for the legal-business climate of its state courts. As you can plainly determine, the benefits of our merit selection system are many and we believe far outweigh any of the attributes of a Federal model or direct elections.

Specifically, the merit selection process is open for all Kansas attorneys to apply to the appellate bench, not just those who might be selected by our state's chief executive. Every applicant's credentials and experience are reviewed by the panel and those best qualified are interviewed. Kansas courts greatly benefit from access to the best and brightest of our attorneys and lower court judges. Each applicant will have their credentials vetted by an impartial nominating commission charged with forwarding the three best candidates to the Governor for consideration, rather than the kind of system that would be created under HCR 5005.

As a state we have seen the federal-model of appellate selection at work and to be blunt it has failed to provide the transparency that an independent court system deserves. The federal-model, as used in Kansas, allows the executive branch to shield themselves and potential applicants from public review. The executive branch has failed to release the names of any applicant who applied for the two previous Kansas Court of Appeal openings. This inherent flaw in the federal-model system stains the selection process as one of secrecy. The public deserves to know who is interested in serving the state at its highest level of judicial review.

Furthermore, our merit selection system eliminates politics and protects the independence of our judiciary. Merit selection contributes to fair and impartial courts, selects the most qualified applicants, reduces the influence of money in the system and allows judges to act free of political pressure.

It is important to remember that judges play a very special and important role in our democratic system. They are arbiters of disputes, not politicians. Election of judges invites political discourse and money into the process. Judicial selection should be based on qualifications not fundraising goals.

Our Courts act as a check and balance of the other branches of government and under merit selection, judges are held accountable to the people thru retention elections and the law, not to political power.

It is for these reasons that the Kansas Bar Association stands firmly behind the current merit selection process and OPPOSE HCR 5004 and HCR 5005. On behalf of the Kansas Bar Association, I thank you for your time and would be available to respond to questions when appropriate.

*About the Kansas Bar Association:*

The Kansas Bar Association (KBA) was founded in 1882 as a voluntary association for dedicated legal professionals and has more than 6,900 members, including lawyers, judges, law students, and paralegals.  
[www.ksbar.org](http://www.ksbar.org)