

Testimony before House Judiciary Committee
HCR 5013 – Judicial Selection
Mike O’Neal – Kansas Chamber CEO
Feb. 16, 2016
(Testimony in support)

Chairman Barker and members of the Committee

On behalf of the Kansas Chamber and its members, I appreciate the opportunity to appear in support of HCR 5013, a proposition to amend the Kansas Constitution by revising the method of selecting Justices to the Kansas Supreme Court and judges of the Kansas Court of Appeals.

We have had judicial selection reform on our Legislative Agenda for several years. Specifically, under our Legal Reform section, we have included the following:

“Support judicial selection reform measures that provide for a greater level of transparency, public input and accountability and encourage the legislature to construct a reasonable reform measure that addresses these objectives.”

In our view, the proposal embodied in HCR 5013 meets those objectives. Our primary concern over the past several years has been the current process, which requires that a majority of the Supreme Court Nominating Commission be members of the bar rather than the general public. To our knowledge, Kansas is the only state that has this form of commission makeup. A member of the Kansas bar myself, I have never felt comfortable with, and indeed I have been embarrassed by this arrangement and have never felt members of the bar have the corner on the market of wisdom when it comes to judicial selection. With some exceptions, I have never felt that those members of the bar selected to serve are particularly representative of the bar as a whole, let alone a fair representation of the population affected by appellate decisions of the Court.

The proposed makeup of the nominating commission of 4 attorneys picked by the bar, 5 members selected by the Governor (one non-voting) and 6 members of the public selected equally by the two chambers of the Legislature, does create the potential for a tie since the Chairperson is designated as a non-voting member. That may be a reasonable proposal since a tie vote would probably be rare but you may want to consider allowing the Chairperson to vote in case of a tie.



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Conforming the method of selection for all appellate judges and justices in the Constitution appears reasonable to us.

Beyond this proposal, we believe that the nominating commission process should be as transparent as possible. Historically it has been shrouded in secrecy and only recently has there been a move to open the process up to some extent. Specific transparency proposals need not be addressed in this Resolution but we ask that the Committee remain vigilant in its oversight of the nominating commission process.



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