



**KANSAS BAR
ASSOCIATION**

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

FROM: Natalie Haag
On behalf of the Kansas Bar Association

RE: HCR 5013

DATE: January 13, 2016

Mr. Chairman and Members of the House Judiciary Committee;

My name is Natalie Haag and I am the President of the Kansas Bar Association, a licensed Kansas attorney and a lawyer-member of the Kansas Supreme Court Nominating Commission. I appreciate the opportunity to appear before you to testify in OPPOSITION to HCR 5013.

Three years ago, the KBA supported a similar resolution in the Kansas Senate titled SCR 1602. The primary purpose behind this proposal was to further negotiations between the executive branch of state government, the Kansas Legislature and KBA stakeholders. Unfortunately those negotiations failed to bear fruit and upon reconsideration by the Board of Governors of the KBA it was determined that the present merit selection model remains the best process for judicial independence in Kansas.

When discussing the merit selection process KBA Board of Governors engaged in actions similar to those used by legislators when asked to take a position on a specific issue, they discussed the issue with local lawyers in their districts and asked for feedback. The response was an overwhelming support for the current Supreme Court Nominating process. The KBA has long supported the 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. The success of the current merit selection system was 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. In addition, the current process is transparent because it releases the names of individuals who apply for an open position, allows the public to attend candidate interviews and makes candidate applications available for public review.

While, HCR 5013 maintains some parts of the current merit selection process nearly tripling the appointed membership of the commission injects unneeded politics into the process. Increasing the appointed membership may seem reasonable when compared to the process used for the Kansas Court of Appelas, where only one person makes a selection; however HCR 5013 lacks the independence and impartiality of the current system. Kansas lawyers are concerned that public comments made by appointing authorities' which reflected an intent to appoint members to the nominating commission who would focus on selecting judges based upon how the judicial applicant would rule on a specific issue rather than recommending a candidate most likely to be fair and impartial on all issues.

As members of this Committee are aware, the Legislature separated the selection process for filling vacancies on the Kansas Court of Appeals from the constitutional process required for filling vacancies on the Kansas Supreme Court in 2013. The KBA opposed that change and believes the former process administered by the Supreme Court Nominating Commission is preferable. A valid criticism of the current court of appeals process is a lack of transparency of applicants. The KBA believes the public should know all applicants seeking appointment in order to insure confidence that the best qualified applicants are selected for appointment to the appellate court bench.

It is for these reasons that the Kansas Bar Association stands firmly behind the current merit selection process for both Kansas appellate courts and OPPOSES HCR 5013. 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 7,200 members, including lawyers, judges, law students, and paralegals. www.ksbar.org