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Proponent HCR 5003

House Judiciary Committee

Dear Chairman Kinzer and members,

I am Kathy Ostrowski, legislative director for Kansans for Life, state affiliate of National Right to Life Committee.

I am here in support of HCR 5003, which would change the way the state supreme court and appellate court justices are selected.

For many years Kansans for Life has strongly advocated for partisan election of district judges throughout the state.

But today I am here to express our support for HCR 5003, changing the selection method of state supreme court and appellate justices to match the federal model.

That support stems from our strong opposition to the nominating committee's "merit selection" of judicial candidates. We agree with the deficiencies of that model as articulated by Prof. Stephen Ware of KU law school: it is less democratic, and lacks transparency and accountability.

One of the strengths of the federal model is that the confirmation process by the Senate unearths the particular leanings of the judicial candidate. Various parties will bring their complaints and praises forward to their Senators. The media will report on the developments before the Senate's public vote. As at the federal level, some nominees will sail thru while others will face important questions.

But it would be a mistake to believe that we are only pushing replacement of the committee nomination with governor nomination because Sam Brownback is pro-life. KFL supported SCR 1606 in 2006, replacing the Supreme Court nominating commission when our governor was abortion-supporting Kathleen Sebelius.

The confirmation by the Senate is where the public can discover the



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predispositions and past rulings of the nominee, as is the case at the federal level. Citizens with praise or grievances can voice them to their Senators. The media will cover these developments and the public will get a better sense of the nominee, before the Senators cast their vote publicly.

None of this happens when the nomination committee does its work.

While we support HCR 5003, we are concerned that retention elections do not really provide accountability. It has been our sense that the public "checks out" and throws their hands up figuratively about their ability to rate high court justices. After all, weren't these justices selected by the experts? What evaluation skills do most ordinary citizens think they possess for this task?

Some states have abandoned use of retention ballots, giving the justices only one term of fixed length or having them stand for election after the first term. We suggest to the committee that the retention provision might better be replaced with a term limit of perhaps ten years, at which time the Senate would examine the candidate for reconfirmation.

KFL wants an independent judiciary, not activist judges... even pro-life activist judges. Judges who legislate from the bench do not serve the public interest.

Today does happen to be the 40th anniversary of the Roe v Wade decision, which our movement considers a tragic and wrongly decided case that will eventually be overturned. We believe that our civil rights advocacy for the unborn can be won on the merits and that no right to abortion can truly be found in the Constitution.

But we do believe the public would be better served by demolishing the nomination committee-- even with the suggested 4-5-6 tweak, which we think does not overcome the process' inherent elitism.

Thank you, I stand for questions.