

Testimony of Landon H. Rowland
Before the Senate Judiciary Committee and House Judiciary Committee Hearings on
Senate Concurrent resolution No. 1601
Thursday, January 17, 2013

My name is Landon Rowland. I am Chairman of Lead Bank. Lead Bank is in Kansas City and currently contemplating extending our business operation in Kansas. I previously served as CEO of Kansas City Southern Industries. I am a Trustee of the Committee for Economic Development and Justice at Stake, both national organizations; on their behalf I have been an active spokesman throughout the United States and in foreign countries, to government leaders, legislators, and judges for merit selection of judges. I am here today, as a businessman, to urge you not to pass Concurrent Resolution No. 1601.

Simply put, the current merit selection system for choosing judges in Kansas is good for business. Twenty-four states use this commission process to choose their Supreme Courts, appellate courts and five others use different nonpartisan appointive systems. These systems have minimized politics on the bench and have enabled judges to make decisions based on the law, not politics.

Just as important, the stability of courts under merit selection has been good for business. In 2007, the Committee for Economic Development, a business-led think tank, commissioned a poll of business leaders by Zogby International. The poll found near universal concern that political pressure will make judges more accountable to politicians and special interests than to neutral principles of the rule of law. Judges should be chosen based on their qualifications and their ability to apply the law fairly, not based on their political connections or outright political contests, directly or indirectly. The costs of political campaigns which directly and indirectly select judges in states which have abandoned merit selections are unlike anything Kansas will find acceptable. In such states we see judges – and justice – for sale.

A 2010 US Chamber of Commerce study found that two-thirds (67%) of businesses polled reported that a state's litigation environment is likely to impact business decisions such as where to locate or do business. A recent index developed by the Chamber's Institute for Legal Reform supported the finding that states with merit selection have a legal climate more conducive to economic growth and prosperity. According to the latest rankings (2012), four out of five states with the best lawsuit climate for business use a merit selection process. That includes Kansas, which currently has the fifth best lawsuit climate in the country. In today's economy, why would we want to jeopardize that?

As American business has learned in international commerce, only the rule of law ensures the integrity of business transactions and protects financial and property rights from bribery, self-dealing, and varieties of corruption. Free market capitalism depends on the rule of law and the rule of law depends on an independent apolitical judiciary.

Moving from the current nonpartisan merit-based system to a model where a Governor appoints judges without a transparent merit focused selection process inserts politics in our courts – where they don't belong. As retiring Alabama Circuit Court Judge Scott Vowell recently said, "You don't want to go before a Republican judge or a Democratic judge. You want to go before a judge who is going to apply the law to the facts."

The current system allows judges to do just that. It's worked well for over fifty years, and there's no reason to replace it with a system that will make judges beholden to the political branches of government.