

**Testimony of District Judge Eric R. Yost**  
**Before the House Judiciary Committee**  
**Wednesday, January 16, 2013**

Chairman Kinzer, and members of the committee:

I appear today in support of the proposed constitutional amendment which would place before the voters of Kansas the question of whether we should elect our appellate judges.

Our current system of judicial selection---the nominating commission made up of five attorneys and four non-attorneys---was approved by the voters of Kansas in 1958. That change was, in my opinion, the result of an overreaction to what one corrupt governor did in order to keep his own political career alive. In my judgment, constitutions should not be amended in such haste, nor in reaction to one event.

A lot has happened in the 53 years since that change was adopted, with the most significant change being the exponential growth in the power of our courts.

In an increasingly complex society such as ours, the courts---for good or ill---play an ever-increasing role in the formulation of public policy. I will not dwell on the advisability of judges deciding monumental social, political and economic questions.

That ship sailed long ago. Modern appellate judges now make sweeping policy decisions related to our daily lives, and are often the last word on such matters. It only makes sense that today, we re-visit, 53 years after the current system was adopted, the manner in which those increasingly powerful appellate judges are selected.

The governor of this state, and the 165 members of our state legislature, have the right to make public policy, and to engage in the back-and-forth of public policy formulation. They earned that right by undergoing the rigors of political campaigns, in which their their ideas and their beliefs and their philosophies were subjected to public scrutiny. That's how our system works, and it's how it's supposed to work.

And now that our courts have joined the governor, and joined the legislature, in the business of formulating public policy, it is only right that those same appellate judges join the governor and legislature in the arena of political engagement.

Mr. Chairman, I have served as a district judge---an elected district judge---for more than 16 years. I have had the privilege of knowing many of our appellate judges personally as well as professionally, and have the highest respect for them as people and as judges. They are good people, and they are honest.

But if we are going to take seriously the claim that ours is a nation, and a state, that is of the people, by the people and for the people, then we must allow the people a more significant voice in the selection of our appellate courts.

I urge this committee to adopt the concurrent resolution, and place before the voters of Kansas the question of whether our appellate judges should be elected. Thank you.