

## State Representative

# Don Hineman

### Protecting Kansas Courts from Politics and Corruption

February 5, 2016

### Protecting Kansas Courts from Politics and Corruptions

On Thursday the Legislature took final action on a controversial Constitutional amendment which would have dismantled the Kansas system of judicial selection and replaced it with the same system being used by Obama in our federal courts. By a vote of 68 yes and 54 no, the measure was defeated since constitutional amendments must pass by a 2/3 majority vote. I voted no.

The days and weeks leading up to this debate have been full of political games and threats. Topeka lobbyists and the Governor's office worked overtime to implement Obama's federal system. Those folks have conveniently lost sight of the fact that it is that federal system which has produced many decisions distasteful to most Kansans, including *Roe v. Wade* (abortion rights), *Kelo v. City of New London* (private property rights), and *Citizens United v. FEC* (big money in political campaigns).

Our Kansas constitutional system – which has granted us fair and impartial courts through three separate but equal branches of government for more than a century – is simply too important to throw away. That is why I voted against their attempt to dismantle the Kansas system. Here is the explanation of vote which I entered into the official record:

Mr. Speaker, as a defender of the unborn and a solid pro-life voter, I reject the notion advanced by some that this proposal is about protecting the unborn. It is not. My vote today is for separation of the powers of government and preservation of a fair, impartial and independent judiciary. I will not be bullied by special interest groups into voting for a measure which I know is wrong. I vote no on HCR 5005.

My vote and my willingness to stand up to their pressure have infuriated the lobbyists and politicians in Topeka who didn't get their way. The tactics they are using – and will continue to use come election time – are inexcusable and untrue. But, you didn't elect me to cast votes based on election postcards and the best interests of the politicians in Topeka. You elected me to cast votes based on what's best for our families and our community.

Here is why I voted to protect our Kansas system of judicial selection:

#### **Kansas and 23 other states use merit selection to ensure fair and impartial courts.**

As Americans, we are granted the right to a fair trial. Our founding fathers recognized that a fair trial – even when it involves trying our most heinous criminals – can only be accomplished through fair and impartial courts. Our



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800-252-8477

Crime Victim Assistance  
800-828-9745

Gov- Brownback  
800-748-4408

Highway Road Conditions  
511 (in Kansas)

Housing Hotline  
800-752-4422

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866-305-5147

system isn't perfect but – unlike the federal system - it is designed to be transparent, accountable and safeguarded from political influence. That's why Kansas along with 23 other states use what's known as the merit selection model for selecting judges.

Under merit selection, Supreme Court justices are vetted by an independent commission that considers each nominee's legal experience and qualifications. The Kansas commission, which is made up of five attorneys and four citizens, then recommends the three most qualified nominees to the Governor for his consideration. The Governor then selects which nominee shall be appointed to the court. If he does not wish to appoint any of the recommended nominees, the Governor has the option to ask the commission to submit a new list of nominees for his consideration. While the merit selection model gives the Governor final say, it does not grant him a blank check to appoint friends and political cronies at will.

Consider the fact that over at least the past sixty years Kansans have elected governors of both political parties in relatively equal number. If you reflect on who those individuals were, I think you will agree that there would be at least one of them whom you would not have voted for and whose philosophies you do not support. Think now about the prospect of that governor having the tremendous power over the judiciary that HCR 5005 would have granted them. We must ensure against such concentration of power, and my no vote was to protect us from that.

Ask yourself this: If you found yourself in a courtroom, would you feel safest knowing the judge was chosen based on his legal experience and qualifications? Or knowing the judge was picked by politicians based on who his friends were or how much money he gave in political contributions?

I believe the checks and balances we have in place to prevent politics in our courts is critical to making sure all Kansans get a fair shake in court – regardless of their political beliefs or the size of their bank account.

### **Merit selection was implemented by Kansas voters to prevent corruption.**

Kansas voters purposefully put our current system in place to derail corruption that had worked its way into courts across the country in the 1950s, including our Kansas courts. It became clear that concentrating too much power in the hands of one person or in the hands of one branch of government was a slippery slope that too easily allowed for cronyism and corruption. Because of that, Kansas voters reacted by approving the merit selection process we have today. As voters, we continue to have the final say with the option to retain or remove the justices every cycle through the election process. The federal model that is being pushed in Topeka concentrates the majority of the power with politicians instead of the people.

Kansas voters have spoken on this issue time and time again. I do not believe the Legislature should attempt to circumvent the voters with a more secretive selection process that concentrates most of the power with the Governor and the Senate. Our citizens and our businesses are best served by our current system, which makes the court directly accountable to the people.

### **Safeguarding Kansas courts is not a pro-life issue.**

Topeka lobbyists are claiming the judicial selection issue is a pro-life issue because they know that influences voters. They have already indicated they will tell Kansas voters that any legislator who voted against the judicial selection bill is not pro-life. I think that's disgraceful and I am greatly

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800-894-0318

**Unclaimed Property**  
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800-292-6333

**Vital Statistics**  
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**Voter Registration**  
800-262-8683

**Welfare Fraud Hotline**  
800-432-3913

**Worker's Comp**  
800-332-0353

disappointed in the groups that make that assertion. I encourage you to consider these facts: There are enough pro-life votes in the Kansas Legislature to fully ban abortions in Kansas, yet instead of pushing for a ban on abortions, the lobbyists are pushing for Kansas to implement the federal court model – the same model that gave us the Roe v. Wade decision in the first place.

Don't be fooled. My voting record in support of pro-life legislation speaks for itself and I remain committed to upholding our community's pro-life values. This vote was about keeping our courts transparent and our judges accountable, and keeping Obama's federal system out of Kansas.

The bottom line is this: corruption and politics do not belong in our courts. The fight will not end here. Those in Topeka who didn't get their way will be relentless in their pursuit to accumulate more power. But for now, our Kansas courts are guarded from government overreach and improper political influence.

I welcome your questions and concerns on this or any other issue being debated in Topeka. I look forward to hearing from you. Please contact me anytime 785-296-7636 or [don.hineman@house.ks.gov](mailto:don.hineman@house.ks.gov)

In service,

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**Representative Don Hineman**

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