Senate Judiciary Committee
Public Hearing on the issue of Merit Selection

Testimony of Gene Barr, VP Government & Public Affairs
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Good morning Chairman Greenleaf, Chairman Costa and members of the Committee. My name is Gene Barr. I am Vice President of Government and Public Affairs for the PA Chamber of Business and Industry. The Pennsylvania Chamber of Business and Industry is the state's largest broad-based business advocacy association, serving more than 24,000 members and customers. PA Chamber membership comprises nearly 50 percent of the private workforce. PA Chamber membership ranges from Fortune 100 companies to sole proprietors, and crosses all industry sectors.

Thank you for giving the Chamber the opportunity to testify today on the issue of merit selection of state appellate court judges. The Pennsylvania Chamber supports amending the Pennsylvania Constitution to provide for merit based appointment, rather than the political election, of appellate judges. In order to command the absolute respect and confidence of the public at large in an independent, non partisan judiciary, Pennsylvania needs to move from a partisan election approach driven by special interests and money to

one that is based upon one's qualifications. The system needs to be designed in a way to take politics out of being a judge and let merit and nonpartisanship be the driving factor. Because most candidates cannot afford to self-finance their campaigns, they have to raise the money they need. Much of this money comes from attorneys, and some of them will be appearing in front of those judges. This relationship can raise questions about the judge's impartiality. Merit selection minimizes political influence by eliminating the need for candidates to raise funds, advertise, and make campaign promises, all of which can compromise judicial independence.

The Chamber is supportive of the creation of a nominating panel comprised of men and women, lawyers and non lawyers, broadly representative by background, occupation, residence and racial and ethnic diversity of the citizens of the Commonwealth. The panel should have an equal number of members from each major political party, with provisions for ensuring the continuity and independence of panel members. This panel will not only be able to sift out unqualified applicants, but search out the most qualified.

The process outlined in the bills at issue also will hold judges accountable for their record. Judges will be evaluated by the electorate four years after their respective appointment and then, if retained, serve for a period of 10 years subject to retention votes at each interval. This process provides for removal from the bench for those who do not fulfill their judicial responsibilities – in stark contrast to lifetime appointments seen at the federal level.

The business community wants an efficient, cost-effective system with appellate court judges of demonstrated expertise, independence, integrity and competence who adhere to the highest standard of judicial behavior. Merit-based judicial selection systems, which place the focus squarely on professional qualifications and fitness for the bench, provide the appropriate balance between independence of the judiciary and accountability to the rule of law and the people through periodic retention elections. In the end, this will enhance public trust and confidence in the fairness and impartiality of the courts.

Thank you for giving the Chamber the opportunity to testify.