

Approved March 4, 1991
Date

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS

The meeting was called to order by Representative Kathleen Sebelius at
Chairperson

1:30 ~~xxx~~/p.m. on Thursday, February 7, 1991 in room 313-S of the Capitol.

All members were present except:

Representative Arthur Douville - Excused

Committee staff present:

Mary Torrence - Office of the Revisor
Lynne Holt - Kansas Legislative Research Department
Connie Craig - Secretary to the Committee

Conferees appearing before the committee: HCR 5003, 5004, and 5005

Ron Thornburg, Office of the Secretary of State, Kansas

OPPONENTS

Jim Edwards, Kansas Chamber of Commerce and Kansas Society of Association Executives
Howard W. Tice, Kansas Association of Wheat Growers
Mark Tallman, Kansas Association of School Boards
Ron Smith, Kansas Bar Association
Christy Young, Greater Topeka Chamber of Commerce
Mary E. Turkington, Kansas Motor Carriers Association
Warren Parker, Kansas Farm Bureau
Kenneth Huff, Winfield, Kansas
Mike Beam, Kansas Livestock Association

Chair Sebelius called the meeting to order.

HCR 5003, 5004 and 5005

Lynne Holt presented the Committee members with a memorandum, Attachment #1, that answered a question asked in the a previous committee meeting related to the authority of the Legislature to amend or repeal initiative and referendum measures, and the most examples of common conditions imposed on Legislatures.

Representative Lawrence shared a letter from Art Griggs which gave information on voter turnout in states with initiative and referendum measures, Attachment #2.

Ron Thornburg, with the Kansas Secretary of State's, office stated the role of the Secretary of State's office in regards to initiative and referendum. He directed the Committee's attention to his written testimony and a chart that showed from the last two elections the required signature amounts of 25%, 5% and 8% for HCR 5003, 5004 and 5005, Attachment #3.

Jim Edwards representing both the Kansas Chamber of Commerce and Industry, and the Kansas Society of Association Executives, gave testimony as to why the Committee should not support the initiative and referendum, Attachment #4 and #5.

Attachment #6 is written testimony from Howard Tice, Executive Director for Kansas Association of Wheat Growers, who was not present at the hearing but wanted to express their opposition to initiative and referendum.

Mark Tallman submitted to the Committee testimony for not supporting initiative and referendum, Attachment #7.

Ron Smith presented to the Committee six reason that the Kansas Bar association opposed the concept of initiative and referendum, Attachment #8.

Christy Young, representing the Greater Topeka Chamber of Commerce, gave testimony supporting a representative form of government and urging the Committee to vote down HCR 5003, 5004 and 5005, Attachment #9.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS

room 313-S, Statehouse, at 1:30 ~~am~~/p.m. on Thursday, February 7, 1991.

On behalf of the highway transportation industry and the Kansas Motor Carriers Association, Mary Turkington expressed strong opposition to the proposed initiative and referendum proposals as outlined in her testimony, Attachment #10.

Warren Parker, Kansas Farm Bureau, used the examples of other states and their problems with initiative and referendum to convince the Committee that HCR 5003, 5004 and 5005 should not pass, Attachment #11.

Kenneth Huff gave testimony in opposition to HCR 5003, 5004 and 5005, Attachment #12, stating that the present form of representative democracy looks to the good of the whole state and not just the individual. He added that initiative and referendum is not the logical progression of representative democracy.

Mike Beam submitted to the Committee the Kansas Livestock Association's adopted policy of opposition to creating a procedure for the initiative and referendum process in Kansas, Attachment #13, because to change the legislative process could put the future form of government into the hands of campaign consultants and highly financed groups. This would pose a substantial risk to the agricultural industry and the state's economy.

Attachment #14 is written testimony from M.S. Mitchell, Legislative Chair for Home Builders Association of Kansas in opposition to referendum.

Committee Discussion:

1. No state has repealed initiative and referendum in the last 90 years.
2. Initiative and referendum could be the result of big business versus the individual, and the perception among the public is that the legislature is driven by big business.
3. It seems that some of the same conferees who today oppose initiative and referendum have in the past given support to it on issues such as classification and reappraisal.
4. A small percentage of people are registered to vote compared to the actual population of Kansas, and in some cases, state races are being won by less than the majority.
5. Basically, initiative and referendum gives the people who have money a much greater chance of getting their measure out, and the Legislature may be the group without money to fight a bad initiative.
6. Initiative and referendum could have a potential impact on minority rights which could result in allowing the delegation of ultimate lawmaking to the courts. In making the decisions as to whether or not these measures are valid constitutionally, there is no participation of the legislature. The example of California's Proposition 14 basically said that a property owner would have the right to whom you could rent or sell.
7. The question was asked if the Attorney General and the Supreme Court are limited to deciding the constitutionality of the proposal or the the legality of the form in which it is presented on the ballot.

Chair Sebelius appointed a Subcommittee to work on HCR 5003, 5004 and 5005. Members of that Subcommittee are as follows:

Representative Robert Krehbiel, Chair
Representative Barbara Allen
Representative James Cates
Representative Betty Jo Charlton
Representative Dick Edlund
Representative Clyde Graeber
Representative Rand Rock

A motion was made by Representative J.C. Long to approve the minutes of January 24th, 1991, and seconded by Representative Joan Hamilton. The motion was approved by a voice vote.

The Committee adjourned at 3:11 p.m..

GUEST LIST

FEDERAL & STATE AFFAIRS COMMITTEE

DATE 2/7/91

(PLEASE PRINT)

NAME	ADDRESS	WHO YOU REPRESENT
BARBARA REINERT	TOPEKA	LEAGUE OF WOMEN VOTERS
Michael Woolf	"	Common Cause / KS
Kenneth W Huff	Winfield	Private Citizen
Robert Alexander Altman	Atkins	NEED LIST OF
W. Waino	MERIDIAN	KFFT
L. Kemp	Lu. Ks.	KTLC
Michelle Ginter	Topeka	John Peterson Associates
Allen Pickert	Lawrence	Rep. Johnson
Steve Talbot	Lawrence	Rep. Baker
Nancy F. Kan to	Topeka	CKFO
GINA BOYMAN-NORRILL	XMO	FARMLAND
Lise Wardell	TOPEKA	A.S.K.
Ron Thornton	Topeka	Sec. of State
Jay Ginsburg	Lawrence	Rep. Donna Whiteman
Gary Reser	Topeka	Governor's Office
Ray Cole	Topeka	KNEA
TREVA POTTER	TOPEKA	PEOPLES NAT. GAS
Diane Shuman	Topeka	Ks Co. op Council
Joe Lieber	Topeka	" " " "
Jeanne Patterson	Topeka	KS Soc. of Assn. Exec.
Bill Fuller	Manhattan	Kansas Farm Bureau
Carl Nuyt	Columbus	Empire District Electric
Beth Poppe	6413 Beachy	Wichita, KS, 67206 - Self
JEFF DEGRANDPRE	TOPEKA	KPOA
Whitney Damon	Topeka	Pete McGill Associates

GUEST LIST

FEDERAL & STATE AFFAIRS COMMITTEE

DATE _____

(PLEASE PRINT)

NAME	ADDRESS	WHO YOU REPRESENT
David Huszlik	Topeka	KS Dental Assoc
Rebecca Bassemeyer	Topeka	SOS

MEMORANDUM

Kansas Legislative Research Department

Room 545-N – Statehouse
Topeka, Kansas 66612-1586
(913) 296-3181

February 5, 1991

To: Representative Kathleen Sebelius
From: Lynne Holt, Principal Analyst
Re: Legislative Authorization to Amend or Repeal Initiative and Referendum Measures

A question posed in the House Committee on Federal and State Affairs related to the authority of the Legislature to amend or repeal initiative and referendum measures. The most common conditions imposed on Legislatures in this respect are time conditions and requirements for supermajorities. Examples include the following:

Alaska and Wyoming. The Legislature may not repeal initiatives within two years of the effective date.

Arkansas. A two-thirds vote of each house is needed to repeal or amend initiatives.

Michigan. A vote of three-fourths of each house is needed to repeal or amend initiatives.

North Dakota. The Legislature may not repeal or amend an initiated or referred measure for seven years, except by a two-thirds vote of each house.

Washington. A vote of two-thirds of each house is needed to repeal or amend initiative or referendum within two years of passage.

California. The Legislature may repeal or amend an initiative statute with another statute only when approved by electors, unless the initiative statute permits amendment or repeal without approval.

With respect to the question raised in the Committee concerning restriction of courts as subject matters for initiatives, Wyoming's and Alaska's Constitutions, for example, prohibit initiatives from creating courts, defining the jurisdiction of courts, and prescribing their rules.

cc: Art Griggs, Acting Secretary
Department of Administration

91-113/LH

HOUSE FEDERAL AND STATE AFFAIRS
February 7, 1991
ATTACHMENT #1



DEPARTMENT OF ADMINISTRATION

State Capitol
Room 263-E
Topeka 66612-1572
(913) 296-3011

Office of the Secretary

Joan Finney, Governor

January 31, 1991

The Honorable Barbara Lawrence
Room 170-W, Statehouse
Topeka, Kansas 66612

RE: House Concurrent Resolutions 5003, 5004 and 5005

Dear Representative Lawrence:

During the introduction of the above Resolutions, during the Federal and State Affairs Committee hearing on January 31, 1991, you asked for information I may have which may indicate that voter turnout had improved in states with initiative and referendum measures.

In response, the following table is offered:

**Voter Turnout in Elections With and Without Ballot
Initiatives (as percentage of population over 18)**

	<u>1976</u>	<u>1978</u>	<u>1980</u>	<u>1982</u>	<u>1984</u>
States with Initiatives on ballots	59.0	44.7	59.8	46.8	54.5
States without Initiatives on ballots	56.0	39.4	55.0	39.8	53.0
Difference	3.0	5.3	4.8	7.0	1.5

Schmidt, Citizen Lawmakers, Philadelphia, Temple University Press, 1989, pg. 28. I have also attached a page showing additional statistics.

If you have any questions or I may be of further assistance, please feel free to contact my office.

Sincerely,

Arthur H. Griggs
Acting Secretary
of Administration

AHG:dp

HOUSE FEDERAL AND STATE AFFAIRS
February 7, 1991
ATTACHMENT #2

cc: Kathleen Sebelius
Lynne Holt

(Voter Turnout Study, continued)

INITIATIVE STATES

(One or more initiatives on ballot)

	<u>1976</u>	<u>1978</u>	<u>1980</u>	<u>1982</u>
AK	53%	AK 46.6%	AK 63.2%	AK 64.6
AZ	49	AR 34.4	AZ 50.5	AZ 35.4
AR	48	CA 43.1	AR 53.7	CA 41.0
CA	51	CO 43.3	CA 50.6	CO 43.3
CO	61	FL 38.9	CO 57.6	ID 49.3
FL	50	ID 48.3	IL 60.5	ME 55.2
ME	66	MI 44.7	ME 66.2	MA 46.1
MA	62	MO 44.3	MA 59.7	MI 45.7
MI	59	MT 53.5	MI 60.7	MO 42.3
MO	58	NE 44.2	MO 58.8	MT 54.0
MT	66	NV 41.7	MT 66.4	NE 47.3
ND	71	ND 47.7	NV 47.2	NV 35.6
OH	56	OK 38.0	ND 67.1	ND 52.5
OR	62	OR 52.0	OH 56.9	OH 43.0
UT	70	SD 54.1	OR 61.9	OK 39.5
<u>WA</u>	<u>62</u>	<u>WA 40.5</u>	<u>SD 67.6</u>	<u>OR 50.7</u>
Avg.=	59%	Avg.= 44.7	<u>WA 59.5</u>	<u>SD 57.9</u>
			<u>UT 67.6</u>	<u>WA 40.1</u>
			Avg.= 59.8	Avg.= 46.8

Statistics for 1976 and 1980
courtesy of League of Women Voters.

Statistics for 1978 and 1982
courtesy of Committee for Study of
the American Electorate.

NON-INITIATIVE STATES.

(No initiatives on ballot)

	<u>1976</u>	<u>1978</u>	<u>1980</u>	<u>1982</u>
ID	63%	AL 29.2%	FL 53.6%	AL 38.2%
IL	61	AZ 32.7	ID 70.3	AR 48.1
NE	58	CT 45.4	NE 57.2	CT 44.6
NV	49	DE 38.7	OK 55.0	DE 42.7
OK	57	GA 18.7	WY 54.0	FL 32.4
SD	64	HA 44.2	AL 49.7	GA 28.8
WY	60	IL 39.9	CT 61.3	HA 43.5
AL	47	IN 36.5	DE 56.9	IL 41.7
CT	64	IA 40.9	GA 44.0	IN 46.9
DE	58	KS 44.2	HA 48.4	IA 49.1
GA	43	KY 19.4	IN 57.0	KS 42.7
HA	52	LA 28.8	IA 63.0	KY --
IN	61	ME 48.3	KS 55.8	LA --
IA	64	MD 33.8	KY 51.2	MD 35.0
KS	59	MA 46.9	LA 55.7	MN 59.4
KY	49	MN 65.0	MD 51.2	MS 36.0
LA	50	MS 36.2	MN 71.9	NH 40.5
MD	50	NH 43.9	MS 54.5	NJ 39.1
MN	73	NJ 36.8	NH 61.3	NM 43.4
MS	50	NM 42.4	NJ 55.6	NY 39.0
NH	59	NY 36.7	NM 53.5	NC --
NJ	58	NC 28.6	NY 49.3	PA 40.8
NM	55	OH 37.4	NC 45.8	RI 45.5
NY	52	PA 43.4	PA 52.7	SC 29.1
NC	44	RI 44.4	RI 61.6	TN 37.3
PA	55	SC 31.5	SC 42.9	TX 29.1
RI	63	TN 38.2	TN 50.4	UT 53.8
SC	52	TX 26.1	TX 47.1	VT 44.0
TN	50	UT 45.8	VT 60.2	VA 34.7
TX	48	VT 36.1	VA 49.3	WV 39.3
VT	64	VA 32.2	WV 54.4	WS 44.5
VA	49	WV 36.7	<u>WS 66.0</u>	<u>WY 47.6</u>
WV	59	WS 45.2	Avg.=	Avg.=
<u>WS</u>	<u>65</u>	<u>WY 47.4</u>	55.0%	39.8%
Avg.=	56%	Avg.= 39.4%		

David Schmidt, Editor, INR SPECIAL REPORT, "Ballot Initiatives: History, Research, and Analysis of Recent Initiative & Referendum Campaigns", March 1984, Capital Publications Inc., p.25.

Bill Graves
Secretary of State



2nd Floor, State Capitol
Topeka, KS 66612-1594
(913) 296-2236

STATE OF KANSAS

TESTIMONY OF RON THORNBURGH
HOUSE FEDERAL AND STATE AFFAIRS
FEBRUARY 7, 1991

INITIATIVE AND REFERENDUM

Thank you, Madam Chairwomen and members of the committee for the opportunity to appear before you today.

I must admit to feeling somewhat unnecessary today. I know legislators need good information about an issue before they can make policy decisions, but this issue has been thoroughly analyzed by Legislative Research and their report does an excellent job presenting the information you need. However, our office will do whatever we can to support you in this process.

There are only a few technical items I will elaborate on today, which I hope will be of help to you.

The first item for your consideration is that of the number of signatures required for the different proposals. I have included a chart showing the number of signatures required by HCR 5003 and HCR 5004. As you may be well aware, the legislature has in the last few years been changing petition requirements to reflect a number of registered voters rather than a number of votes cast in an election. Therefore, I have also included the same percentages using the number of registered voters as a comparison.

As a point of clarification, please note that page 2, line 8, of HCR 5003 and page 1, line 43 of HCR 5004 do not specify whether or not the number of votes cast for governor is to be at the last primary or general election.

Also as a comparison, please note that the proposals before you allow up to 365 days to pass a petition, while general petition law requires a maximum of 180 days.

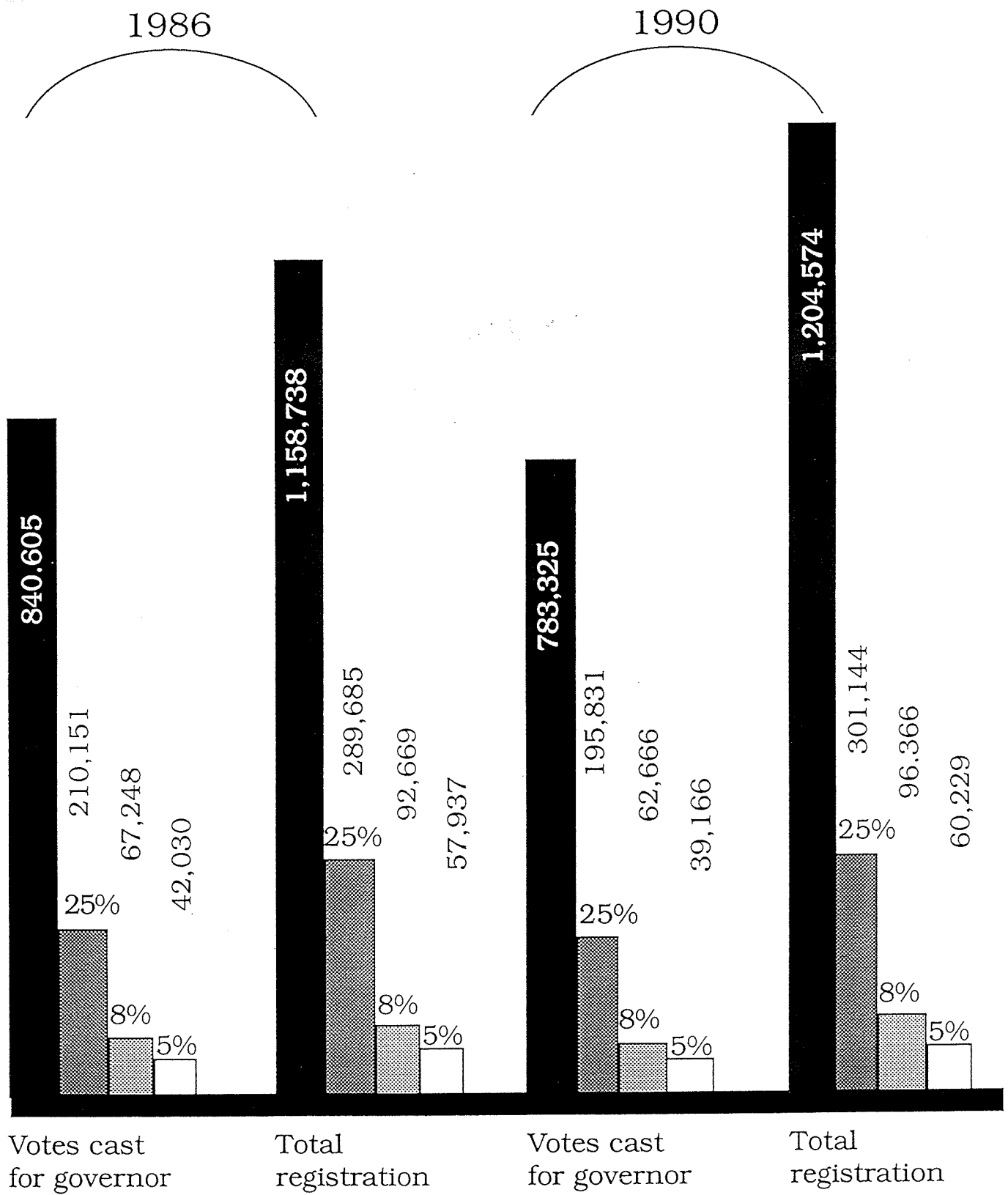
Any petitions passed pursuant to HCR 5003 and HCR 5004 must also be turned in 130 days prior to the general election at which they are to be voted. This means they will have to be turned in in mid- to late June. The deadline for candidates to file for office is June 10.

HOUSE FEDERAL AND STATE AFFAIRS
February 7, 1991
Attachment #3

Once petitions are turned in to our office, we will have 60 days to verify the validity of the petitions. After we have verified the technical aspects of the petitions, we will send copies of the documents to the counties in which they were circulated for verification of the signatures.

We will be asking for introduction of a bill in the elections committee permitting our office, in the case of any statewide petition, to verify the petitions using a random sampling in a manner employed by the state of Missouri and others.

Lastly, I have also been asked to address the issue of cost of publishing these questions. The price of these measures being published prior to the 1992 Presidential Preference Primary would be approximately \$150,000.

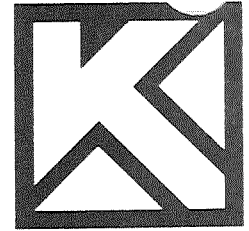


Prepared by the Office of the Secretary of State
 February 7, 1991
 HOUSE FEDERAL AND STATE AFFAIRS
 February 7, 1991
 ATTACHMENT #3 - pg.3

LEGISLATIVE TESTIMONY

Kansas Chamber of Commerce and Industry

500 Bank IV Tower One Townsite Plaza Topeka, KS 66603-3460 (913) 357-6321



A consolidation of the
Kansas State Chamber
of Commerce,
Associated Industries
of Kansas,
Kansas Retail Council

HCR 5003, 5004 & 5005

February 7, 1991

KANSAS CHAMBER OF COMMERCE AND INDUSTRY

Testimony Before the

House Federal and State Affairs Committee

by

Jim Edwards

Director of Chamber and Association Relations

Madam Chairwoman and members of the Committee:

I am Jim Edwards, Director of Chamber and Association Relations for the Kansas Chamber of Commerce and Industry. I appreciate the opportunity to appear before you today in opposition to HCRs 5003, 5004 and 5005, all of which tear at our system of representative government and would replace it with a system of legislation through media blitz, or if you will, laws through 30-second sound bytes.

The Kansas Chamber of Commerce and Industry (KCCI) is a statewide organization dedicated to the promotion of economic growth and job creation within Kansas, and to the protection and support of the private competitive enterprise system.

KCCI is comprised of more than 3,000 businesses which includes 200 local and regional chambers of commerce and trade organizations which represent over 161,000 business men and women. The organization represents both large and small employers in Kansas, with 55% of KCCI's members having less than 25 employees, and 86% having less than 100 employees. KCCI receives no government funding.

The KCCI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

I find the best defense for not having constitutional initiative or statutory initiative or referendum is to just take a close look at those states which have it and the problems that arise from it. I have lobbied against

HOUSE FEDERAL AND STATE AFFAIRS

February 7, 1991

ATTACHMENT #4 - pg. 1

th... for the nine years that I have been with KCCI and through those years have compiled a wealth of information against it. It is ironic that this information comes from states that have initiative. In fact, one of the major sources of material comes from the National Center for Initiative Review, an organization working directly with states that have the initiative process. In my testimony today I will address the reasons that the proponents have used to promote initiative and give you a different view using actual data rather than perceived results.

1. "Initiative and referendum involves citizens in government."

The method by which states with initiative or referendum judge voter interest in ballot measures is to look at the number of votes cast in the election versus the number of votes cast for an initiative measure. The resulting figure is referred to as the "drop-off rate."

Initiative Quarterly, a publication of NCIR stated that in their analysis of the 1982 elections, although initiative measures were frequently top vote-getters amongst ballot measures, NONE surpassed the vote totals for candidate offices in the same election. The average drop-off rate for the 1982 elections was 10% (chart 1). This figure was for the 15 states that had ballot measures during 1982.

The average drop-off rate for 1984 was 9.8% with our neighbor to the east, Missouri, leading the pack with an average drop-off rate for ballot issues at 19.9%. In fact, the top vote-getter in the Missouri 1984 election was an initiated measure which would regulate utility rates. Out of the 2.97 million registered voters in Missouri, only 2.39 million voted in that election and only 1.97 million voted on the initiated utility measure. This represents an issue drop-off rate of 17.5%. To emphasize this point even more, only 44.4% of the registered voters in Missouri decided this issue. The lowest vote-getter on Missouri ballot questions in 1984 dealt with medical benefits. It interested voters so much that 1.8 million voters flocked to the polls to decide this issue...a drop-off rate of 23%. Only 30.9% of the registered voters in Missouri decided this issue.

Our neighbors to the west (Colorado) did a little better in that they had an average drop-off rate of 12.8% in 1984. Their high vote-getter was an issue dealing with abortion funding. It had a drop-off rate of 6.9%. In effect, 39.1% of Colorado's registered voters decided this issue.

Thomas Cronin, a Colorado College political scientist and author of "Direct Democracy: The Politics of Initiative, Referendum and Recall" stated it best when he said "10% to 15% of the voters who go to

HOUSE FEDERAL AND STATE AFFAIRS
February 7, 1991
ATTACHMENT #4 - pg.2

e polls (often only 50% of the electorate) do not vote on ballot issues and another 10% really don't know what they're voting on."

2. "Initiative and referendum strengthen confidence in government."

If this is a truism, why did we see that initiatives dealing with governmental and political reform amounted to 10% of the total ballot measures appearing on state ballots between 1978 and 1984 (chart 2)? Why did we see the ballot measures dealing with term limitations for state legislatures (Oklahoma – 1990) appear? Why did we see a host of states have ballot questions dealing with legislative pay and pensions in 1988 and 1990?

If anything, initiative and referendum comes into play when persons DON'T have confidence that government will take care of their pet project(s).

3. "The benefits of initiative and referendum far outweigh the costs."

As a rule, two-thirds of the issues proposed through initiative fail at the ballot box. This failure is not simply because people voted them down but more often because campaigns, sometimes massive, were implemented to defeat the initiatives. As an example, in 1982 Colorado had three issues placed on the ballot and all of them were defeated. The cost of defeat was not cheap though as there were over \$1.5 million spent in campaigns in fight the measures. What could that \$1.5 million have been spent on in Colorado if it had not been spent on this?

Not always do "costs" have to refer to economic charges. What about the costs to citizens of Maine had a proposed nuclear plant shutdown passed? This plant produces one-third of the energy required by the state. Who would have been responsible for providing a reliable source of energy to schools, hospitals, business and the public had this passed as it is highly unlikely that the energy needs would have been cut by one-third. Would this have been a cost to the citizens of Maine? You better believe it. Fortunately, for the citizens of Maine this measure failed but unfortunately for the citizens of Maine this ended up being a \$1.2 million campaign.

4. "Kansas is an island in states with initiative."

To be honest, this is one where I would have to agree with the proponents. But, might I remind you that we have been an island for almost the last eight decades. In referring to the chart that lists initiative

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ATTACHMENT #4 - pg.3

provisions by state, you will notice that Missouri passed their initiative provisions in 1906, Oklahoma in 1907, Colorado in 1910 and Nebraska in 1912.

However, when we address this we must look at whether being an island has really hurt the State of Kansas. While I have only been a resident of Kansas for the last 14 years, I can't believe that we have been left out in the cold on any issue because we didn't have the option of initiative. We may not have had issues addressed as soon as we would have liked, but the making of laws that will have an impact on us and future generations must be a deliberate and cautious process. In some instances, KCCI, like many groups, might not like the way an issue comes out, but would rather build a better case than opt for the quick fix, 30-second sound byte path to legislation.

In closing, I will quote Brian Richter, County Executive of Sacramento County, CA. He stated that "the entire legislation process has become a high-tech business in competition with the state Legislature of California. It's no longer limited to tax-limitation initiatives but instead includes all types of initiatives which substitute or compete with the legislative process."

I remind you that you were elected by your constituents to represent them and not pass the act of governance to them. There are no compelling reasons for initiative or referendum. There are only persons who feel you have not done your job in handling their pet projects and they want a quick fix. The State of Kansas does not need the quick fix legislation.

I appreciate the opportunity to appear before you today and would urge your defeat of these resolutions. I will remain standing for questions.

HOUSE FEDERAL AND STATE AFFAIRS
February 7, 1991
ATTACHMENT #4 - pg. 4

Initiatives and Voter Turnout in 1984

Measuring Voter "Drop-off" on Ballot Measures

The commonly accepted method of judging voter interest in ballot measures is to look at the number of votes cast in the election versus the number of votes cast for an initiative measure. The difference between these figures is the "drop-off" rate.

Election results from the 15 states voting on initiatives in 1984 are shown in the chart *1984 Ballot Measure Voting Results*, on pages 8 - 10. All ballot measures are ranked in the chart from the lowest drop-off to the highest. Once again, it is the rule, rather than the exception, that initiatives were the most popular kinds of measures on the ballot. But, in every instance, ballot measures (whether legislatively referred or citizen initiated) tallied fewer votes than the race for the top-line office.

Figure 1 gives a graphic expression of drop-off by showing both total ballots cast (election turnout) and total ballots cast on initiatives as percentages of registered voters.

Drop-off rates are slightly higher for legislatively referred measures than for initiatives. Table 1 compares drop-off for legislative measures and initiatives and gives the combined rate. Despite the higher drop-off rate for legislative measures, voters followed historical trends by approving a higher percentage of these than of initiated measures.

In 14 of the 15 states, initiatives were the top vote-getters. As in 1982, however, most succumbed to negative votes, with 10 of the top 14 being defeated. And even some of the most popular ballot measures were snubbed by a significant part of the electorate. Table 2 lists the most popular initiatives, showing drop-off rates and margins of victory or defeat.

Election Turnout Compared to Initiative Votes

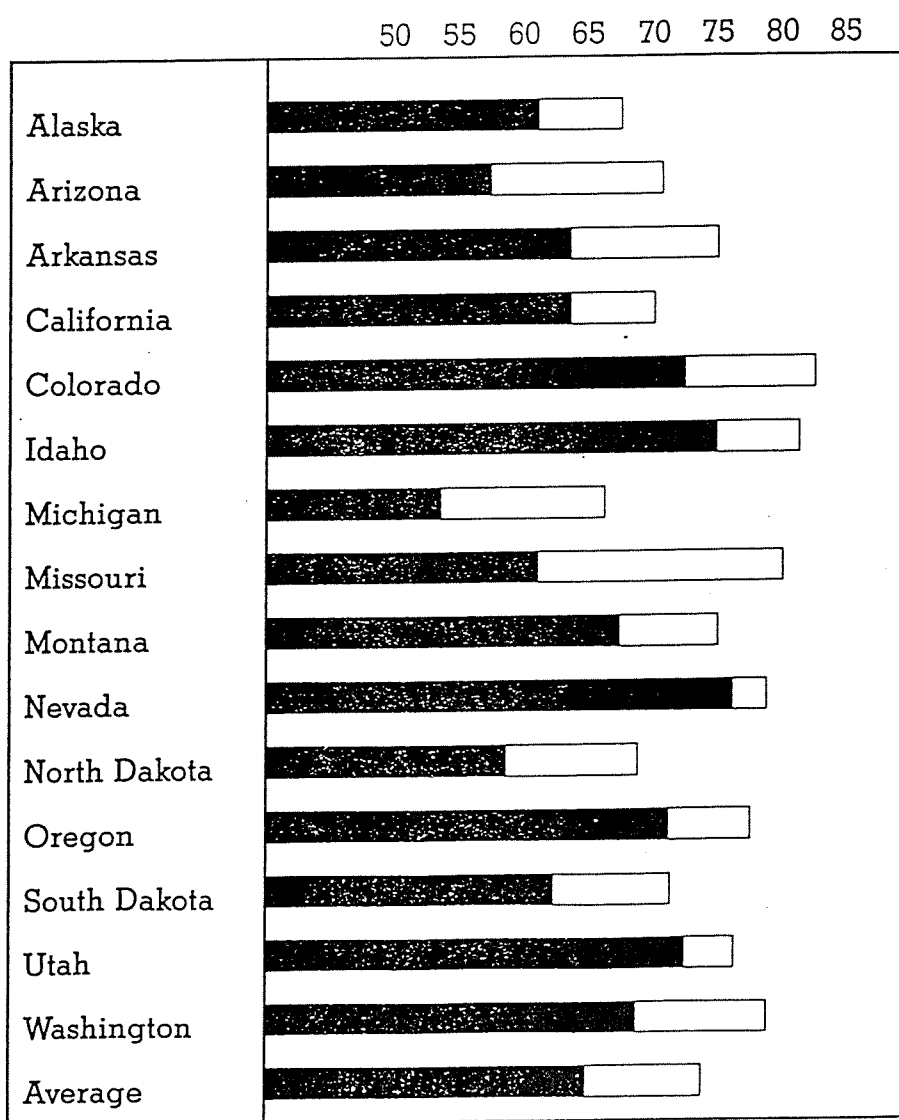


Figure 1. ■ % Registered Voters Voting on Initiatives (Average)
 □ % Registered Voters Voting in Election

TABLE 1

**Comparison of Drop-Off Rates Between Legislative
Measures and Initiatives, November 6, 1984**

State	Voter Turnout % RV Voting	Average Voter Drop-Off Rate*					
		Legislative		Initiatives		Combined	
		No.(P/F)	ADO	No.(P/F)	ADO	No.	ADO
Alaska	69.1%	3(2/1)	7.5	1(1/0)	7.4	4	7.4%
Arizona	71.9%	13(1/12)	20.0	2(0/2)	13.1	15	18.9%
Arkansas	76.3%	2(1/1)	15.2	3(1/2)	11.8	5	12.7%
California	70.6%	10(9/1)	8.9	6(2/4)	5.8	16	7.7%
Colorado	83.2%	2(2/0)	17.6	3(2/1)	9.7	5	12.8%
Idaho	83.0%	2(1/1)	14.1	1(0/1)	6.1	3	11.3%
Michigan	66.0%	2(1/1)	19.0	1(0/1)	12.2	3	16.7%
Missouri	80.4%	3(3/0)	21.0	2(1/1)	18.4	5	19.9%
Montana	75.0%	2(2/0)	13.9	2(1/1)	7.3	4	10.5%
Nevada	79.7%	11(3/8)	8.7	1(0/1)	2.6	12	8.1%
North Dakota	68.9%	2(1/1)	15.3	2(1/1)	9.8	4	12.4%
Oregon	78.7%	1(1/0)	10.4	8(6/2)	6.3	9	6.7%
South Dakota	71.8%	—	—	3(2/1)	8.8	3	8.8%
Utah	77.0%	5(5/10)	9.1	1(0/1)	4.6	6	8.3%
Washington	78.6%	—	—	3(2/1)	10.0	3	10.0%
Total Average	75.3%	58(32/26)	12.0	39(19/20)*	9.8	6.5	11.6%

*The initiative in the District of Columbia is not included in this table.

Initiatives and Voter Turnout in 1984

#1B

	Ballot Number	Yes	No	Total	% Yes	% No	Total Votes Cast in Election	% of Total Not Voting On Issue	Total Registered Voters	% Reg. Voters Deciding Issue
ALASKA (VOTER TURNOUT: 69.1%) (AVERAGE VOTER DROPOFF: 7.4%)										
Mortgage Bonds	Prop A	145,263	53,519	198,782	73.1%	26.9%	211,009	5.8%	305,262	47.6%
Legislative Sessions	BM 2	151,001	46,102	197,103	76.7%	23.4%		6.6%		49.5%
Transportation Issue	BM 3	116,893	78,665	195,558	59.8%	40.2%		7.3%		38.3%
Legislative Authority	BM 1	91,174	98,856	190,030	48.0%	52.0%		9.9%		32.4%
ARIZONA (VOTER TURNOUT: 71.9%) (AVERAGE VOTER DROPOFF: 18.9%)										
*Health Care Costs	No. 200	375,982	553,676	929,658	40.4%	59.6%	1,051,339	11.6%	1,462,818	37.8%
*Health Care Regulation	No. 110	372,879	547,279	920,158	40.5%	59.5%		12.5%		37.4%
Public Employees	No. 102	397,439	501,745	899,184	44.2%	55.8%		14.5%		34.3%
Hospital Rates	No. 109	385,724	511,013	896,737	43.0%	57.0%		14.7%		34.9%
Legislative Spending	No. 101	350,744	532,309	883,053	39.7%	60.2%		16.0%		36.4%
Jury Composition	No. 103	337,187	545,197	882,384	38.2%	61.8%		16.1%		37.3%
Initiative Process	No. 100	353,835	528,151	881,986	40.1%	59.9%		16.1%		36.1%
Hospital Rate Limit	No. 302	432,913	444,651	877,564	49.3%	50.7%		16.5%		30.4%
Corporation Commission	No. 104	291,622	575,301	866,923	33.6%	66.4%		17.5%		39.3%
Securities; Corp. Comm.	No. 105	326,630	526,439	853,069	38.2%	61.7%		18.9%		36.0%
Hospital Funding	No. 301	397,463	420,162	817,625	48.6%	51.4%		22.2%		28.7%
State Spending Limits	No. 108	356,570	430,363	786,933	45.3%	54.7%		25.1%		29.4%
Union Wages-Public Works	No. 300	398,051	386,479	784,530	50.7%	49.3%		25.4%		27.2%
Corporation Commission	No. 107	365,967	390,350	756,317	48.4%	51.6%		28.1%		26.7%
Corporate Commission	No. 106	375,809	378,857	754,666	49.8%	50.2%		28.2%		25.9%
ARKANSAS (VOTER TURNOUT: 76.3%) (AVERAGE VOTER DROPOFF: 12.7%)										
*Casino Gambling	Am. 66	236,625	561,825	798,450	29.6%	70.4%	884,406	9.7%	1,159,588	48.5%
*Game/Fish Sales Tax	Am. 67	350,276	434,114	784,390	44.7%	55.3%		11.3%		37.4%
*4-Year Terms	Am. 64	499,083	277,735	776,818	64.2%	35.8%		12.2%		43.0%
Tax Structure	Am. 63	309,811	452,612	762,423	40.6%	59.4%		13.8%		39.0%
Bonding	Am. 62	395,336	342,404	737,740	53.6%	46.4%		16.6%		34.1%
CALIFORNIA (VOTER TURNOUT: 70.6%) (AVERAGE VOTER DROPOFF: 7.7%)										
*Lottery	Prop 37	5,248,052	3,812,402	9,060,454	57.9%	42.1%	9,232,746	1.9%	13,073,630	40.1%
*English Ballots	Prop 38	6,207,657	2,573,476	8,781,133	70.7%	29.3%		4.9%		47.5%
*Save Prop 13	Prop 36	3,941,286	4,764,792	8,706,078	45.3%	54.7%		5.7%		36.4%
Water Cleanup	Prop 25	6,325,520	2,352,634	8,678,154	72.9%	27.1%		6.0%		48.4%
*Reapportionment	Prop 39	3,875,866	4,790,147	8,666,013	44.7%	55.3%		6.1%		36.6%
Drinking Water	Prop 28	6,328,391	2,281,141	8,609,532	73.5%	26.5%		6.8%		48.4%
Senior Citizen Centers	Prop 30	5,744,539	2,855,845	8,600,384	66.8%	33.2%		6.8%		43.9%
Veteran Home Loans	Prop 29	5,686,321	2,884,906	8,571,227	66.3%	33.7%		7.2%		43.5%
School Leasing	Prop 26	5,190,887	3,354,902	8,545,789	60.7%	39.3%		7.4%		39.7%
*Welfare Reform	Prop 41	3,155,385	5,363,984	8,519,369	37.0%	63.0%		7.7%		41.0%
Hazardous Waste Removal	Prop 27	6,127,169	2,383,435	8,510,604	72.0%	28.0%		7.8%		46.9%
CALIFORNIA, continued										
*Elderly Contributions	Prop 40	3,025,179	5,480,743	8,505,922	35.6%	64.4%	9,232,746	7.9%	13,073,630	41.9%
*Carpenter Property Tax	Prop 33	6,929,082	1,505,503	8,434,585	82.2%	17.8%		8.6%		53.0%
Amend Prop 13	Prop 31	4,170,563	4,044,893	8,215,456	50.8%	49.2%		11.0%		31.9%
Amend Prop 13	Prop 34	3,880,878	4,305,288	8,186,166	47.4%	52.6%		11.3%		32.9%
State Supreme Court	Prop 32	4,643,351	3,195,841	7,839,192	59.2%	40.8%		15.1%		35.5%
COLORADO (VOTER TURNOUT: 83.2%) (AVERAGE VOTER DROPOFF: 12.8%)										
*Abortion Funding	No. 3	628,684	616,296	1,244,980	50.5%	49.5%	1,337,897	6.9%	1,607,936	39.1%
*Casino Gambling	No. 5	406,989	819,533	1,226,522	33.2%	66.8%		8.3%		51.0%
*Voter Registration	No. 4	705,725	447,803	1,153,528	61.2%	38.8%		13.8%		43.9%
Elector Term	No. 2	811,130	304,208	1,115,338	72.7%	27.3%		16.6%		50.4%
Insurance Commissioner	No. 1	641,587	449,362	1,090,949	58.8%	41.2%		18.5%		39.9%
WASHINGTON, DC (VOTER TURNOUT: N/A) (AVERAGE VOTER DROPOFF: N/A)										
*Overnight Shelter	#17	109,080	42,159	151,239	72.1%	27.9%	N/A		N/A	
IDAHO (VOTER TURNOUT: 83.0%) (AVERAGE VOTER DROPOFF: 11.3%)										
*Tax-Free Food	IP No.1	186,505	210,054	396,559	47.0%	53.0%	421,992	6.0%	508,296	41.3%
Legislative Districts	HJR 5	148,383	216,201	364,584	40.7%	59.3%		13.6%		42.5%
State Water Plan	SJR 117	192,229	169,087	361,316	53.2%	46.8%		14.4%		37.8%
MICHIGAN (VOTER TURNOUT: 66.0%) (AVERAGE VOTER DROPOFF: 16.7%)										
*Voters Choice	Prop C	1,376,141	2,035,867	3,412,008	40.3%	59.7%	3,884,854	12.2%	5,888,808	34.6%
Natural Resources	Prop B	2,066,554	1,120,794	3,187,348	64.8%	35.1%		18.0%		35.1%
Administrative Rules	Prop A	1,280,948	1,827,677	3,108,625	41.2%	58.8%		20.0%		31.0%
MISSOURI (VOTER TURNOUT: 80.4%) (AVERAGE VOTER DROPOFF: 19.9%)										
*Utility Rates	Prop B	650,895	1,317,444	1,968,339	33.1%	66.9%	2,386,130	17.5%	2,969,300	44.4%
Lottery	Am. 5	1,369,910	590,648	1,960,558	69.9%	30.1%		17.8%		46.1%
*Pari-Mutuel Betting	Am. 7	1,157,664	771,437	1,929,101	60.0%	40.0%		19.2%		39.0%
Coat of Living Increase	Am. 1	1,144,445	715,076	1,859,521	61.5%	38.5%		22.1%		38.5%
Medical Benefits	Am. 3	918,596	917,812	1,836,408	50.0%	50.0%		23.0%		30.9%
MONTANA (VOTER TURNOUT: 75.0%) (AVERAGE VOTER DROPOFF: 10.5%)										
*Milk Price Decontrol	I-96	145,342	222,200	367,542	39.5%	60.5%	395,006	7.0%	526,841	42.2%
*Denturistry	I-97	194,285	171,448	365,733	53.1%	46.9%		7.4%		36.9%
Judicial Discipline	C-13	287,926	68,251	356,177	80.8%	19.2%		9.8%		54.7%
Congressional Districts	C-14	214,956	109,813	324,769	66.2%	33.8%		17.8%		40.8%
NEVADA (VOTER TURNOUT: 79.7%) (AVERAGE VOTER DROPOFF: 8.1%)										
*Tax Limitation	Quest. 12	132,683	143,877	276,560	48.0%	52.0%	283,941	2.6%	356,384	40.4%
Food Tax Exemption	Quest. 1	225,619	45,281	270,900	83.3%	16.7%		4.6%		63.3%
Public Library Bond	Quest. 9	152,253	114,572	266,825	57.1%	42.9%		6.0%		42.7%

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#2

Table 1 compares the 42 initiatives that appeared to be headed for the November ballot in 16 states plus the District of Columbia with initiative activity in the previous six years. The summary in Table 1 listing subject classifications since 1978 shows that the level of activity has dropped in 1984 in the categories of governmental reform, taxes, regulation of business, and national policy questions, while activity increased in the categories of public morality, health/welfare, civil liberties, and education.

Table 1. Initiative Ballot Measures On State Ballots
1978-1984 — By Category

CATEGORY	1978		1979		1980		1981		1982		1983		1984		TOTAL	
	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%
Government/Political Reform	1	2	--	--	6	14	1	17	6	10	1	20	5	12	20	10
Public Morality Issues	6	16	--	--	5	12	--	--	3	5	--	--	9	21	23	12
Revenue/Taxes/Bonds	14	36	1	33	19	44	1	16	14	24	1	20	7	16	57	29
Regulation-Business/Labor	9	23	--	--	9	21	3	50	16	28	1	20	8	19	46	23
Health/Welfare/Housing	1	3	--	--	1	2	--	--	--	--	--	--	2	5	4	2
Civil Liberties/Rights	4	10	--	--	--	--	--	--	2	3	1	20	5	12	12	6
Environmental/Land Use	3	8	2	64	2	5	--	--	9	16	1	20	2	5	19	10
Education	1	2	--	--	1	2	1	16	--	--	--	--	2	5	5	3
National Policy Issues	--	--	--	--	--	--	--	--	8	14	--	--	2	5	10	5
TOTAL	39	100	3	100	43	100	6	100	58	100	5	100	42	100	196	100



February 7, 1991

TO: House Federal and State Affairs Committee

FROM: Jeanne Patterson, Executive Director, Kansas Society of Association Executives

RE: Position Statement in Opposition to Initiative and Referendum (HCR 5003, 5004 and 5005)

The Kansas Society of Association Executives (KSAE) is an individual membership organization made up of over 350 association executives and suppliers. Our professional members represent 100 different trade, professional, philanthropic and advocacy organizations.

KSAE's primary purposes are to promote the common interests of association executives, to develop and encourage high standards of service and conduct for association executives, to increase public understanding of associations and their economic importance, and promote the accomplishments of voluntary associations. The society will occasionally adopt a policy position regarding state legislative and/or regulatory issues affecting association management.

(more)
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KANSAS SOCIETY OF ASSOCIATION EXECUTIVES

4301 Huntoon, Suite 9 • Topeka, Kansas 66604 • (913) 272-0083

KSAE has reviewed and discussed the Initiative and Referendum issue and has adopted a policy in opposition to such proposals. It's apparent that an Initiative or Referendum constitutional amendment would have a major impact on the management of trade and professional voluntary organizations.

Individual associations play a vital role in the policy process in the Kansas legislature. Our members constantly compile and supply information to their members and to lawmakers as they study and draft legislation.

Input by associations frequently allow legislators to consider amendments and clarification to our statutes. The Initiative procedure will often not allow for changes or compromises on major state policy matters.

Many of our individual members have small budgets to represent their association's views in the legislative arena. These members will find it even more difficult if they are forced to participate in statewide massive public information campaigns to tell their side of the story. We are frightened by the prospect of having to generate millions of dollars on initiative proposals that can more effectively be addressed by well-informed legislators elected by the people of Kansas.

In summary, KSAE supports the current representative form of government in Kansas and strongly opposes Initiative and Referendum proposals.

End

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Kansas Association of Wheat Growers

P.O. Box 2349 Hutchinson, KS 67504-2349

316-662-2367

TESTIMONY

HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS
Representative Kathleen Sibelius, Chairperson
HCR 5003, HCR 5004 & HCR 5005

Submitted by Howard W. Tice, Executive Director

I regret the fact that I am unable to be present for the official hearing on House Concurrent Resolutions 5003, 5004, and 5005. I do appreciate the opportunity to present written testimony in opposition to the initiative and referendum proposals contained in those resolutions.

The official policy position of the Kansas Association of Wheat Growers is as follows:

The KAWG is opposed to a constitutional amendment which would allow petition initiatives for adoption of state policy by general election.

The KAWG has always supported our representative form of government, and the way it functions to enact necessary laws to govern our state. We believe that a departure from this system, as suggested in HCR 5003, 5004 and 5005 would be a costly step backward for Kansas.

Certainly, our present system is not without flaw, and our organization has had its share of disappointments in the legislative process. However, to allow the general public to enact laws without the type of scrutiny provided by the present system, would open our state to a flood of bad legislation.

Currently, legislation is assigned to committees with expertise in a particular field, such as the House Committee on Federal and State Affairs. Not only do committee members study the bill, but public hearings are held where lobbyists representing various interest groups and individual citizens are given the right to present their views in support of, or opposition to the issue. The committee then makes its recommendation before the issue can be voted on by the House or Senate. On top of that, any piece of legislation must pass both houses of the Legislature and be signed by the Governor before it becomes law.

As I read the resolutions before this committee, there would be no orderly process of study for bills under the initiative process. There would only be an Attorney General's review for form and legality. The only hearings would be through the general news media and whatever public meetings proponents or opponents could afford to put together. By nature, such public meetings would be oriented according to the position of the people hosting them.

The bias of the news media is also quite evident, not only on editorial pages of newspapers, but in the way events are covered. Radio and TV reports are easily slanted by the choice of persons to be interviewed or quoted, and by the way questions are asked. Bias in newspaper coverage is also evident in the way quotes are printed out of context. Considering the power of the modern media to influence thought, even when many people are aware of the bias, it is easy to see how poor legislation could be passed, or good laws defeated through the initiative or referendum processes.

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In addition to the positive contribution of the committee structure, in the current legislative process, there is a great advantage to general communication between **Representatives** and **Senators** from different parts of the state. While there are certainly issues where delegations from particular areas stick together and disagree with delegations from other parts of the state, they at least have the opportunity to communicate directly, and in depth.

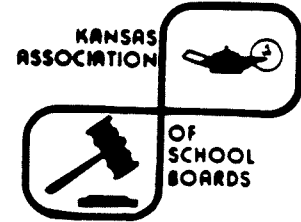
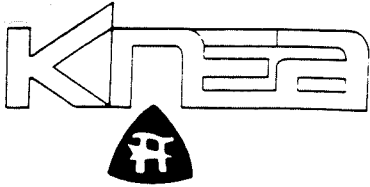
Without the opportunity for good communications, people in large populations centers could well enact laws that are harmful to other parts of the state, with or without such intent.

California is the state where initiative votes attract the most publicity. Unfortunately, they also attract the most scorn as well, due to the large number of initiatives and the questionable validity of many of them. One report I heard concerning the last round of initiative petitions in **California** stated that there were so many issues on the ballot, and the ballot itself was so long and involved that the majority of voters said no to everything.

One more thing to consider is that a side effect of the initiative and referendum process could be a tendency among some elected representatives to shirk their duty to adequately study issues, and simply abdicate the responsibility of decisions to the public. The result would be that taxpayers would foot the bill for a legislative session, and an expensive election process, and wind up with bad legislation, due to the lack of an orderly or thorough study of the issues.

Finally, I should state that while our policy resolution refers only to the enactment of public policy by initiative, the intent of our delegates was to include the process of binding referendums as well.

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Joint Testimony on H.C.R. 5003, 5004, 5005
before the
House Committee on Federal and State Affairs

by

Mark Tallman
Coordinator of Governmental Relations
Kansas Association of School Boards

February 7, 1991

On behalf of:

Kansas Association of School Boards
Kansas National Education Association
Schools for Quality Education
United School Administrators
USD 512 (Shawnee Mission)
USD 229 (Blue Valley)
USD 501 (Topeka)

On behalf of the organizations listed above, I appreciate the opportunity to share our concerns about the three constitutional amendments under consideration by this committee.

The supporters of initiative and referendum suggested that these measures are necessary to empower the people, and that opponents must fear the people. Well, those who I am speaking for today - school board members, administrators and professional educators - are part of "the people," as are all the other groups you will here from today. School board members are elected by the people just as you are. We do not fear the people. What we do fear is the undermining of a system of representative government based on checks and balances that has endured for 130 years in Kansas and over 200 years in our federal union. The proposals before you would fundamentally alter the way we

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govern ourselves. Our political tradition holds that such changes should not be made easily - which is why an extraordinary legislative majority must approve constitutional amendments before submission to the people - because these changes may bring negative consequences that outweigh the proposed benefits. In simpler terms, if something isn't broken, don't try to fix it.

We do not believe that initiative and referendum will further empower the people of Kansas. We believe it is much easier for citizens to have legislation introduced by individuals or committees than to solicit petition signatures; to receive a fair hearing in the legislative process rather than to wage a media campaign; and to oppose proposals that threaten their basic interests by balanced government rather than by an election that may depend on voter turn-out, campaign spending and sloganeering.

The role of interest groups, money and media - the bane of government reformers - is greater under initiative, not less; which may explain why so few states have adopted this process in recent years, and disillusionment is growing. The effect of initiative on voter turn-out is mixed at best. Most initiatives fail, which suggests the process is not a device for advancing popular ideas which have been stymied by legislative inaction.

On the contrary, we believe that Kansas government is responsive to clear, overwhelmingly popular positions, because the voters directly, by majority vote, choose the Governor and other state office-holders, the legislature, over 300 county commissioners, over 2,000 school board members, and literally thousands of other local officials. When dissatisfied, they choose new ones. Proponents of initiative seem to suggest there are answers to problems simply waiting to be voted in. But most issues cannot be reduced to a simple yes or no questions. The legislative process - slow, cumbersome and frustrating to those who demand immediate action - forces issues to be considered whole, in context, and with due consideration to all interests.

The individual voter tends to look primarily after his or her own interests. This is only natural. But someone has to look after everyone's interest, to determine the common interest. That is the role of the legislature, and why the founders of this nation believed representative democracy was the foundation of liberty. It is my own observation that the hardest issues legislators must face bring out the best in our process, raising the debate above partisanship and parochialism to true tests of conscience, transcending opinion polls. Historically, we celebrate those lawmakers who took courageous, if unpopular, stands even at the cost of their careers; and regret many actions of government rushed through in the heat of popular clamor. In the long run, the system works for all of us.

If citizens are disillusioned, perhaps it is because our demands of government are often at cross-purposes. As educational organizations, we know people don't like taxes and most favor limiting government spending. But we know people also want good schools for their children and communities; just as they want health and safety services and a reasonable social "safety net." The essence of democracy is a constant conflict over values. The question is, how best do we resolve them? We do not believe initiative and referendum can resolve such conflicts; instead we fear such votes will polarize the public toward extremes. The initiative process will divert time, resources, and attention away from the hard work of legislating toward a handful of controversial issues, usually placed there through someone's narrow agenda.

In short, initiative and referendum is at best a shortcut; but there are no shortcuts to better government.



Robert W. Wise, President
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Marcia Poell, CAE, Executive Director
Karla Beam, Director of Marketing-Media Relations
Ginger Brinker, Director of Administration
Elsie Lesser, Continuing Legal Education Director
Patti Slider, Communications Director
Ronald Smith, Legislative Counsel
Art Thompson, Legal Services — IOLTA Director

TO: Rep. Kathleen Sebelius, Chair
Members, House Federal and State Affairs Comm.

FROM: Ron Smith, KBA Legislative Counsel

SUBJ: Initiative and Referendum

DATE: February 7, 1991

Background

Staff has outlined well the issues you will consider. KBA does not oppose Governor Finney's well-intentioned belief in Initiative. The KBA has a century-old history of promoting the involvement of citizens in those activities that promote the rule of law. Lawmaking is fundamental to the rule of law, and the central pillar of a democracy. Lawyers in great numbers have served in this and other legislatures, and we hope they will continue to do so.

Initiative is, of course, one means of governing a democracy. With all due respect to the proponents, our concern is that Initiative is not the strongest form of government in a democracy, nor does it promote the best form of civic involvement. For that reason, we oppose the concept of initiative.

Summary of Reasons

- 1) **The progressive-era reason for initiative is not valid in Kansas in 1991.**
- 2) **Before you can adopt initiative, you should make a personal decision that the 1991 Kansas legislature is incapable of speaking to the needs of all Kansans.**
- 3) **Initiative restricts critical examination of complex issues. Voters tend to make decisions quickly without access to information.**
- 4) **The beneficiaries of initiative are (a) news media advertising, (b) "well financed industries and lobbies" who use it to write law without the hindrance of legislative compromise, and (c) lobbyists and media consultants, who run media-oriented campaigns.**

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BOARD OF GOVERNORS: Charles E. Wetzler, John L. Vratil, David J. Waxse, District 1 • John C. Tillotson, District 2 • Hon. Tim Brazil, District 3 • Warren D. Andreas, District 4
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5) While initiative serves as political safety valves, the price is polarization, confrontation and single-issue, message-sending protest rather than compromise, accommodation and fine-tuned legislation.

6) Initiative denigrates the legislative process.

1
The progressive-era reason for initiative is invalid in Kansas in 1991.

The late 19th Century progressive movement tried to give voters a direct say in lawmaking and to circumvent unresponsive legislatures. Today, however, this reform has become a problem.

Historically, Kansas was one of the more progressive populist states of the William Jennings Bryan/Teddy Roosevelt era. During that time they implemented all sorts of workers compensation reforms and other progressive platforms. It was the heyday of William Allen White's Progressive Republicanism. Yet our legislature found no need to create or even submit the initiative issue to the people during this era.^{1/}

We believe previous Kansas legislatures did not submit an initiative issue to voters because they felt they were responsive to the demands of their constituents. You have inherited that tradition. We believe that situation is true today.

2
Before you adopt initiative, you should make a personal decision that the 1991 Kansas legislature is incapable of speaking to the state's needs.

We believe a call for initiative should be based on a demonstrated inability or unwillingness of a legislature to deal with tough issues. We think it is important that the legislature distinguish between the legislative compromise

¹Amendments and Proposed Amendments to the State Constitution, pp. 147-154.

that goes with every difficult issue, and an unwillingness of a legislature to deal with an issue. What issues have proponents raised as examples of an inattentive legislature? Educational reform? Tort Reform? Reappraisal and classification?

No. The dominant issues raised yesterday were taxes and governmental ethics. I submit you will deal with those issues in this session. It may require compromise, but strident initiatives will not pass the people, either. The fact some voters may not like legislative compromises produced in the immediate past is not legislative inaction.

The theory of initiative is a "participatory" rather than a "representative" form of democracy. Initiative is contrary to the type of government the Founding Fathers created 200 years ago. Initiative is modeled on the French Revolution, where Citizens participate directly in decisions. Americans chose a structured, institutionalized representative democracy where the will of the people is channelled through representatives. The latter has proven to be a stronger form of government, more responsive to gradual change, than the "politics of the moment."

3

Initiative restricts critical examination of complex issues. Voters tend to make decisions quickly without access to a lot of information.

With initiative and referendum, will the electorate know what they are voting on?

A study of voter-initiated ballot propositions during the 1970's in California, Massachusetts, Oregon and Rhode Island found the measures averaged 1,588 words in length and, using standard measures of readability, voter-initiative ballot propositions in California and Oregon were readable at the 18th grade level -- a collegiate bachelor's degree plus two additional years. Massachusetts and Rhode Island were at the 15th level year (3 years of college).

Explanatory material in voter handbooks is not easier. They were calculated at the 15th year readability level. One might conclude from these facts that initiative is designed to exclude the less-well educated or minority voter.

Highly technical legislation requires thought and expertise. Time does not always lend itself to such deliberative processes in the voting booth. That basically means simplis-

tic media-driven appeals for votes must be made even on highly technical matters.

Initiative voting patterns show a drop off in participation between those who vote for candidates and those who vote for initiatives. We believe this means voters generally are more interested or understand their ability to choose a good person to represent their interests than to make direct choices on the wisdom of legislation in general.

Initiative is costly government. If we aren't going to fund judicial salaries or margin of excellence and if we're slashing government expenditures, why fund a sort of government whereby people can not only create programs without regard to budgeting functions, but lock in minimum appropriation levels, too?²/ On the other hand, if you write controls into the initiative resolution -- disallowing the drafting of appropriations to fund an initiative -- the legislature can defeat a successful initiative simply by not funding it.

The representative form of democracy includes the Governor's veto power, which sometimes is needed to check a runaway legislative process. The initiative process excludes gubernatorial veto power.

The 1902 Kansas legislature was among the first states to give its governors line-item veto power. Initiative processes may create legislation that costs money against which a Governor cannot exercise this veto function. It may be constitutional, but we question the wisdom of that process.

In short, the informed debate, legislative compromise, and check and balance processes -- so vital in peaceful change in a pluralistic democracy -- are lost in the initiative process.

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²Unless prohibited from doing so in the Initiative law itself.

4

The beneficiaries of initiative are (a) news media advertising, (b) "well financed industries and lobbies" who use it to write law without the hindrance of legislative compromise, and (c) lobbyists and media consultants, who hire out to run media-oriented campaigns.

Contrary to the initiative theory, special interest power is enhanced by initiative, not controlled. Initiative began in an era before massive electronic media advertising campaigns. Dependence of modern campaigns on media advertising means initiative will foster the campaigns of those who spend more, not less.^{3/}

While those with money do not always prevail, the presence of money can give opponents, especially, the ability to persuade the public that initiative should not pass. Opponents with money can mount a last-minute campaign and it is highly successful.^{4/} Proponents of initiative put lawmaking directly into the hands of media manipulators and lobbyists of special interests. Few initiatives in California or anywhere else are decided without monied special interests wading in.

5

While initiative serves as a political safety valve, the price is polarization, confrontation and single-issue, message-sending protest rather than compromise, accommodation and fine-tuned legislation.

Initiative's value, proponents say, is that it serves as

³Prof. Eugene Lee, Berkeley, quoted in "California Tried Democracy, and Look What Happened," New York Times, November 18, 1990, E-18.

⁴Examples: 1978 anti-smoking measure in California, and the 1980 "Tax Big Oil" campaign. A major way of combating the Initiative is to portray the issues as no longer "people-oriented."

a safety valve for the political "outs." We submit that general elections provide the same function. We have no better example than the 1990 Kansas campaign.

- ** The first woman governor was elected based on a campaign of property tax reform.⁵/
- ** Almost a third of the 1991 Kansas House of Representatives are new.
- ** Democrats now control the House of Representatives, for only the third time this century.

That is hardly the legacy of a state whose voters feel powerless, or a state system of government for which the only cure is initiative and referendum.

6
Initiative denigrates the legislative process.

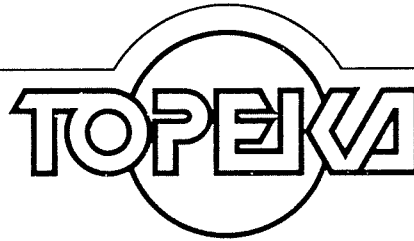
Finally, the other major problem is that initiative has the potential to take a historically responsive legislature like this one and transfer that responsiveness over to voter initiatives. You are elected by your constituents to do a difficult job. I would like to make that job easier on you by giving part of your powers to someone else. But that's not the best way to govern.

In all facets of life, whether it be education, jobs, football games or the legislative process, somebody has to referee and manage the process. In government, that is your job. And that's why we prefer the representative form of government.

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⁵Initiative was not a major issue because both Governor Finney and Governor Hayden agreed on the concept.

**Greater Topeka
Chamber of Commerce**
Three Townsite Plaza
120 East Sixth Street
Topeka, Kansas 66603
913/234-2644



House Federal and State Affairs Committee
February 7, 1991
Initiative and Referendum, HCR's 5003, 5004, 5005

Madam Chairman and Members of the Committee; I am Christy Young, Vice President of Government Relations for the Greater Topeka Chamber of Commerce. Thank you for this opportunity to address the issue of initiative and referendum.

The Topeka Chamber understands that this legislation has been proposed by the Governor and some legislators with the best of intentions. And, we also recognize the frustration individuals feel when an issue is not addressed during a particular legislative session to that person's satisfaction. Our chamber has also been discontent at times. However, the Topeka Chamber firmly believes in the representative form of Kansas government.

Our chamber and members of the Topeka/Shawnee County business community have opportunities for input to our delegation, legislative committees, other legislative friends and the Governor's office at many junctures in the legislative process. Legislators, whether they have been in agreement with us or not, have always listened to our concerns and positions on various issues. I have never had one complaint from a business person or individual that their representatives have not been accessible and willing to listen. Maybe this speaks well of our Shawnee County Delegation, but I believe this access to representative government is prevalent across our great state.

Like you, we have heard the stories from other states of the formidable problems the number of initiatives on a ballot can create and the cost of defending or supporting an issue in the electronic and print media. And frankly, these stories frighten us. Time and time again business and industry are faced with the growing realities of a global market and global competition. Diverting precious resources to battle issues in the media where it is difficult and expensive to present the full picture is of great concern. In our competitor countries, business and industry is held in high regard, big businesses are considered national treasures. It is no secret that American business, including Kansas business is laden with greater regulation, higher costs and a somewhat negative perception. Adding the cost of initiative and referendum on top of this will only tie the arms of business tighter to the borders of our state and our country. Yes, business will pass additional costs on wherever they can but this again affects their competitive edge and the pocketbooks of their customers and clients.

The Topeka Chamber of Commerce considers this issue a very important one. Our Kansas citizens have access to legislative representatives who give a great deal of time to learn both sides of an issue, who take seriously their task of shaping public policy for our state, and who have the utmost integrity as a legislative body in their concern and vigilance to do the right thing for their constituents and their state. We do not believe it is necessary or timely to embrace the initiative process of government.

We ask you to vote down these three bills and any others that advocate similar changes in our representative form of government.

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MEMORANDUM OPPOSING INITIATIVE AND REFERENDUM

KANSAS MOTOR CARRIERS ASSOCIATION - TOPEKA, KANSAS - Mary E. Turkington
Executive Director

Federal and State Affairs Committee
Rep. Kathleen Sebelius, Chairman

February 7, 1991

On behalf of the highway transportation industry and the Kansas Motor Carriers Association, I wish to express our strong opposition to the proposed initiative and referendum proposals before the Federal and State Affairs Committee. We oppose such departures from representative government for the following reasons:

1. Issues affecting public policy in Kansas now can be adequately and appropriately addressed through the legislative process now in place. Kansas can be proud of the system of representative government that permits deliberative, fair and knowledgeable consideration of public policy issues.
2. Initiatives are most often used by well-financed, single-issue organizations. Voters have to accept issues as they appear on the ballot with no opportunity for debate, discussion or compromise. The vote has to be "yes" or "no". Most important public policy issues are not that clear cut nor would the people voting have an opportunity for input. The current legislative process offers citizens a far greater opportunity, through their elected representatives, to have a voice in the enactment of laws that govern their actions.
3. Initiatives also can result in a costly process for informing voters fully about an issue to permit the voter to make an intelligent decision when the voter casts his or her ballot. Valuable resources often must be committed to defeat an unsound proposal or controversial proposals that are repeatedly submitted. The process simply represents a waste of money, time and related resources when such matters can more properly be addressed through existing legislative channels.
4. Initiatives provide "taxation without representation" opportunities. The people who now elect their representatives and have access to those elected officials, have a voice in fiscal choices. Initiatives can impose increased spending requirements without providing for revenues to pay for such ballot choices. The risks such a system generates are not protective of the "public's interest,"
5. The solution is not to draw a narrow initiative authorization. That would be like declaring one "just a little bit pregnant." Initiatives can be expanded by initiatives. The process should not be authorized.
6. The current problem with the classification and appraisal of property in this state may be the classic reason why not to authorize initiative or referendum processes. Think of the debate, the research, the spectrum of property situations, and the need for informed, deliberative decisions to be made in this crucial area through the legislative process. The people of Kansas are unhappy with their own vote at the polls on this issue. Their diversified interests can only be served through wise and informed representative government exercised through the legislative process.

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PUBLIC POLICY STATEMENT

HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

RE: H.C.R. 5003, 5004, 5005 - Initiative and Referendum

February 7, 1991
Topeka, Kansas

Presented by:
Warren Parker, Assistant Director
Public Affairs Division
Kansas Farm Bureau

Madam Chair and members of the Committee:

My name is Warren Parker, I am the Assistant Director of Public Affairs for Kansas Farm Bureau. Thank you for the opportunity to express the views of our farmer and rancher members in each of the 105 counties of Kansas in opposition to initiative and referendum.

Last week, you heard extensive and painstakingly researched information on the pros and cons of initiative and referendum. You also heard Mr. Griggs, the Acting Secretary of Administration, offer and explain the Governors proposals. Many concerns were raised by Committee members. We share those concerns and others.

We believe there is a very lengthy list of reasons that no state has instituted initiative and referendum in nearly 20 years, and that only a handful have adopted it since early this century.

Many opponents of initiative and referendum use what some describe as the debacle in California to argue their case. I will do the same, but in discussing just one initiative, several problems with the system will surface. In the past November election, the famous "Big Green" environmental initiative was on the ballot in California. Studies show that about 70% of the voters get their information about

initiatives from the media. That is where an extensive and expensive media war was fought. While care of the environment is of vital concern, the many facets of "Big Green" were eventually seen as impractical, an unrealistic strain on the budget, and potentially detrimental to other states. The measure was defeated, but opponents maintain that without a large outlay of money to fight the issue through the media, "Big Green" could have been a devastating law for California and the rest of the nation. Ironically, many believed parts of "Big Green" had merit. But there was no legislative debate or compromise, so the issue was voted on as a whole. The result was a total defeat, and the exposure of the proposal was negative, making another attempt at passage difficult.

Criticism has been expressed closer to home. In 1972, when initiative and referendum was brought before the Kansas legislature for consideration, failures in other states were cited. Then Kansas Senator Steadman Ball told a Special Committee on Elections of events in the neighboring states of Nebraska and Missouri. In his testimony he stated:

"Not many years ago the legislative leaders in Nebraska decided it was time to quit financing state government from the property tax and turn to income tax as a source of revenue for that purpose. The people voted in favor of cutting off property tax for state operations and against the use of income tax for such purpose, all at the same election. After a long struggle, during which the very survival of the state was at stake, the state finally got some money to keep it alive.

Not too many years ago the Missouri legislature raised the gasoline tax. Immediately, referendum petitions were circulated and the raise was voted down. When their roads and highways got so bad they were a public disgrace, the last session of the Missouri legislature was able to raise the gasoline tax."

This was among the testimony characterized by the Special Elections Committee in 1972 as overwhelming. The Committee unanimously voted to recommend no action be taken by the 1973

legislature on the question of initiative and referendum provisions for the Kansas constitution. Madam Chair and members of the Committee, it was true in 1972, and remains true today.

The list of problems is long. Initiative and referendum provide the danger of a well-financed few outspending the opposition and misleading the public into passing bad law. They allow for law by emotion, rather than reason. Other states which have tried to control contributions to initiative campaigns and payments to signature gatherers were turned back by the Supreme Court. H.C.R. 5003 allows for the legislature to amend or repeal approved measures. We agree with the comments surfaced in Committee last week that this defeats the purpose. If you're going to decide the fate of the legislation, we believe the state should save the tremendous expense incurred by initiative and referendum, and let you do the job you were elected to do. Ballot measures can be lengthy, difficult to understand, and poorly drafted. Legal challenges can send initiative and referendum items to the already overloaded court system. This list, obviously could continue.

The issues of initiative and referendum are unique in that it makes no difference whether you are wealthy, poor, urban, rural, special interest or general public. With initiative and referendum you are at risk. We believe it is because these measures place our representative form of government at risk. The checks and balances of the Executive, Legislative, and Judicial branches of government are in place for good reason. If we truly believe in what our founding fathers created, initiative and referendum will not be a part of our Constitution. Thank you for your time, I would be happy to try to respond to any questions.

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KANSAS FARM BUREAU POLICY

Initiative and Referendum**GOV-4**

Direct legislation, through the initiative and referendum procedure, is believed by some to be a means of strengthening the people's control over their government. Advocates of direct legislation through the initiative and referendum procedure generally hold two beliefs: Legislative bodies are not motivated by the public good and welfare; and special interest groups have an undue influence on public policy.

We believe the initiative and referendum procedure undermines our representative form of government. We believe direct legislation impairs the responsiveness and responsibility of a legislative body. We believe direct legislation, generally proposed by a zealous special interest group, results in bad law enacted by an uninformed electorate.

We respect and believe in the checks and balances now in place for the Executive, Legislative and Judicial branches of government in Kansas. We oppose the use of the initiative and referendum procedure because it will impair legislative responsibility, impair representative government, lengthen the ballot and result in poorly drafted legislation.

February 6.1991.

Ms. Chairman and members of the committee:

My name is Kenneth W. Huff. I am here from Winfield, Kansas.

Today, as a private citizen, I wish to oppose House Concurrent Resolutions 5003,5004 and 5005 and the whole concept of Initiative and Referendum.

Our form of government is based on democracy. A representative form of democracy and not pure democracy, as some have suggested. Initiative and Referendum is not the logical progression of representative democracy, but of pure democracy.

Representative democracy looks toward what is good for the state and not just the individual interest. Pure democracy does not.

Representative democracy demands debate and therefore information gathering. Pure democracy does not.

Representative democracy demands accountability by the Representative. Pure democracy does not.

Initiative and Referendum relies on accurate information being given by the media to citizens, to make an intelligent choice in voting. I am surprised that Governor Finney is the main proponent of Initiative and Referendum. The governor has complained of the medias' continued mis-statements and mis-quotes, concerning her positions. If this is so- these mis-statements and mis-quotes; then how can we as the voters expect any different from the media? How can we make an intelligent decision based on the same mis-statements and mis-quotes?

I would make a challenge to the legislature. If the legislature can do away with the Legislative Research Dept. for the period of

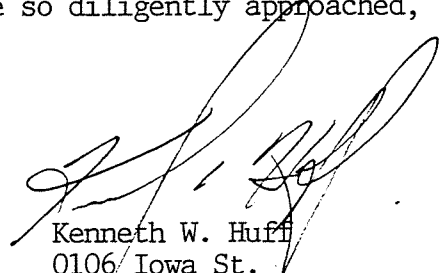
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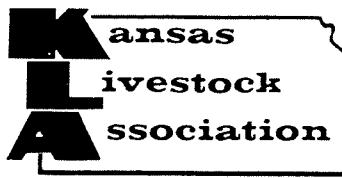
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a year, with legislators relying on the media for its only source of information and still be able to complete its work with quality; then I would concede that the Initiative and Referendum would work. I believe this is similar to what we the voters of Kansas are being asked to do.

I thank you for your time and hope that all decisions in this committee and the legislature continue to be so diligently approached, as they have in the past.



Kenneth W. Huff
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Winfield, Kansas 67156.
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Owens and Publishes The Kansas STOCKMAN magazine and KLA News & Market Report newsletter.

**STATEMENT OF THE
KANSAS LIVESTOCK ASSOCIATION
REGARDING INITIATIVE AND REFERENDUM
(HCR's 5003, 5004 and 5005)
PRESENTED TO THE
HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE
REPRESENTATIVE KATHLEEN SEBELUIS, CHAIRPERSON
PRESENTED BY
MIKE BEAM, EXECUTIVE SECRETARY
COW-CALF/STOCKER DIVISION
FEBRUARY 7, 1991**

The Kansas Livestock Association (KLA) is a voluntary trade organization with over 10,500 members located in all 105 counties. These members are purebred breeders, commercial cow-calf producers, stocker cattle operators and cattle feeders. Many of these farmers and ranchers are diversified and operate grain and livestock enterprises that compliment each other.

Beef cattle production is one of the leading industry's in the state. Sales of beef cattle account for approximately 58% of all agricultural cash receipts. Among the 50 states, Kansas ranks 7th in beef cow numbers, 3rd in fed cattle marketings, 3rd in total red meat production and 1st in beef processing and meat exports.

*I'm Mike Beam with the Kansas Livestock Association. Thank you for the opportunity to express our thoughts regarding Initiative and Referendum. We have looked at the overall philosophy of Initiative and Referendum and adopted a policy position in **opposition** to creating a procedure for the **Initiative and Referendum** process in Kansas.*

KLA feels the most appropriate way to deal with important public policy issues is to continue our system of democracy by representation. Practically every issue with which the legislature addresses involves

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constituencies that have two or more valid yet differing opinions. When a statewide policy decision is made on an important matter it usually takes careful study, adequate debate and eventual compromise. The use of an Initiative or Referendum procedure puts this important policy-making process at risk and should be avoided.

Perhaps the greatest fear our members have of Initiative and Referendum is best described by looking at several Initiative proposals recently considered in other states.

Big Green (Proposition 128 in California)

Last fall, Californians considered the "Big Green" proposition which restricted pesticides for agricultural use, restructured state agencies responsible for environmental issues, prohibited offshore drilling, imposed a \$300 million bond act for the protection of trees and established a new "Office of Environmental Advocate" with an annual budget of \$40 million. This proposition was ruled as one subject because proponents claim the numerous provisions of the act all dealt with the environment.

Opponents of 128, including most agricultural and business groups, determined the best way to defeat Proposition 128 was to propose their own Initiative in hopes of offering a more appealing solution and/or confuse the voters. The result was that both propositions were defeated last November. Opponents of Big Green spent \$8 million in an effort to defeat the Big Green Initiative.

Missouri Natural Streams Act Initiative

Last fall in Missouri, voters considered the enactment of a Natural Streams Act. This Initiative created a new commission endowed regulatory powers regarding all activities along 52 streams in the state. It was estimated the new commission would control nearly one-third of the land area in Missouri and have final authority over economic activity including dictating to farmers the crops they could or could not plant.

Proponents of the Natural Streams Act Initiative raised approximately \$500,000 for their campaign. Opponents of the Initiative raised approximately \$300,000. The Initiative failed to pass.

Massachusetts Animal Rights Referendum

The Animal Rights Initiative in Massachusetts received the attention of farmers and ranchers throughout the United States. This proposal was brought to the voters by 10 petitioners representing the animal rights group called "The Coalition to End Animal Suffering and Exploitation" (CEASE). It's been reported this group used enlarged photographs depicting animals in stress to collect 200,000 petitioned signatures.

The act as proposed by this Initiative would have established a new "scientific advisory board" to be responsible for adopting specific regulations for the husbandry of livestock.

Opponents of the Initiative, (practically all agricultural organizations), determined in their early polling that most Massachusetts voters were supportive of the measure because they felt it was a "proagricultural" Initiative. A coalition of agricultural organizations spent \$750,000 and one group alone utilized four staff persons for 16 months to educate the public and work for a no vote. Their efforts resulted in the defeat of the Initiative, but the polling indicated the public sentiment had not solidified in opposition to the proposal until the final days before election.

Restructuring state agencies, changing agency authorities or creating a new regulator are all common provisions in these three Initiatives. Of course, this effects state financing and/or expenditures and can raise havoc with the budget process.

Proponents of the Initiative can argue that in these three examples, agricultural groups were successful in educating the public and defeating Initiatives they determined to have a negative impact on their business. But the point I must make, however, is that it took millions of dollars and a tremendous amount of human resources to defeat ideas presented by narrow focused special interest groups that should have been handled in the legislative process.

KLA would much rather have important policy decisions debated and considered in the legislature by a responsible, conscientious, and objective lawmakers. To change this system could put our future in the hands of campaign consultants and highly financed groups or organizations.

In summary, we believe the adoption of the Initiative and Referendum process poses a substantial risk to an industry that's the heart of our state's economy and supplier of a high quality, sufficient food and fiber supply.

COMMITTEE OF ... KANSAS FARM ORGANIZATIONS

Nancy E. Kantola
Legislative Agent
3604 Skyline Parkway
Topeka, KS 66614
(913) 273-5340

STATEMENT OF POSITION OF THE
COMMITTEE OF KANSAS FARM ORGANIZATIONS

re: HCR 5003, 5004, & 5005

House Committee on Federal and State Affairs

February 7, 1991

Madam Chairman, Members of the Committee; The Committee of Kansas Farm Organization appreciates the opportunity to submit this statement in conjunction with the oral testimony of one of our member organizations.

Attached you will find a list of the twenty-one agricultural organizations, associations and commodity groups of which CKFO is comprised. We require a unanimous vote of our members in order to take a position in support or opposition to any proposed bill.

Our minutes indicate lengthy discussion at three different meetings on the issue of initiative and referendum. At first glance the issues represented in the three resolutions you are considering here today appear to be so democratic; such an open way to let citizens decide the fate of controversial issues.

After much discussion, consideration and recounting experiences of other states which have this prerogative, CKFO voted to oppose these resolutions.

You've heard a number of good reasons; ours can be summarized by these few.

1. Representative government works well in Kansas.
2. The citizen legislature, elected by an informed electorate has access to more information on both sides of any issue than can be readily assimilated by the population of Kansas.
3. Requiring a statewide vote on an issue invites out-of-state special interests to spend vast amounts of money to urge their view through advertising aimed at voters who have little time or access to review both sides.

We ask you to carefully consider these resolutions and retain the responsibility to legislate on behalf of your constituents.

Respectfully submitted,

Nancy E. Kantola

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COMMITTEE OF KANSAS FARM ORGANIZATION MEMBERS

ASSOCIATED MILK PRODUCERS, INC.

KANSAS AGRI-WOMEN ASSOCIATION

KANSAS ASSOCIATION OF SOIL CONSERVATION DISTRICTS

KANSAS ASSOCIATION OF WHEAT GROWERS

KANSAS COOPERATIVE COUNCIL

KANSAS CORN GROWERS ASSOCIATION

KANSAS ELECTRIC COOPERATIVES

KANSAS ETHANOL ASSOCIATION

KANSAS FARM BUREAU

KANSAS FERTILIZER AND CHEMICAL ASSOCIATION

KANSAS GRAIN AND FEED DEALERS ASSOCIATION

KANSAS LIVESTOCK ASSOCIATION

KANSAS MEAT PROCESSORS ASSOCIATION

KANSAS PORK PRODUCERS COUNCIL

KANSAS RURAL WATER DISTRICTS ASSOCIATION

KANSAS SEED DEALERS ASSOCIATION

KANSAS SOYBEAN ASSOCIATION

KANSAS STATE GRANGE

KANSAS VETERINARY MEDICAL ASSOCIATION

KANSAS WATER WELL ASSOCIATION

MID AMERICA DAIRYMEN, INC.

TESTIMONY FOR
HOUSE
FEDERAL & STATE AFFAIRS
on
REFERENDUM

My name is M.S. Mitchell, Legislative Chairman for the Home Builders Association of Kansas, in opposition to Referendum.

Those who propose to amend the Kansas Constitution to permit issues to be submitted to the electorate for ratification or rejection on the basis that "the public" has a right to decide, should heed the events which lead to the present property tax crisis. The Kansas Constitution was amended in 1986 to classify real property for tax purposes because the uniform and equal provisions were considered to be out of date.

Voters were also asked to approve the reappraisal of all real property in the state as the companion step to setting the property tax mess straight once and for all time.

The electorate approved those measures based on what they perceived was a situation where the tax on real property would not be radically different than they were paying under the defacto non-uniform appraisals then in effect. The electorate also approved a provision which exempted manufacturer's inventory from the tax base.

In the intervening years, between the passage of the classification and reappraisal amendments in 1986 and the time the tax bills began to arrive in 1989 only a few voices in the wilderness cried foul; but in 1989 the results of the tax shift caused the greatest public uprising in modern Kansas history. The election of a Democrat governor, the shift in majority control of the House of Representatives have been directly attributed to the "tax revolt".

Why is it that the electorate which ratified classification and reappraisal in 1986 was bound and determined to "throw the rascals out" in 1990?

A large part of the answer is that the electorate did not know what the effect of classification and the exemption of manufacturer's inventory was going to be. The reason they didn't know is that much of the information on how the tax burden would be shifted was not known by the legislature itself, or if known wasn't completely understood.

At the present time, a number of proposals, plans, alternatives and options are being floated as solutions to the "tax problem". Again, not enough is known about the effects of those options to make legislators comfortable with the outcome. If legislators, who have access to the finest staff resources available in state government and who spend hours listening to experts and studying the matter cannot feel comfortable, how can the electorate be expected to vote intelligently?

Presently, the number of constitutional amendments which can be placed on the ballot at one time is limited. That limitation is not only in the number of amendments but in the content. If referendum is permitted on statutes, the number of issues which could be put on a ballot could make it impossible for the electorate to become well enough informed on each of them to make an intelligent decision.

Of even more concern is the complexity of the statutes put up for referendum and issues they might address. If, as with the case of something easy like classification and reappraisal (where hard facts could have been available to show the impacts), the electorate ratifies something which in less than three years they revolt against, what would they do with issues which are basically emotional such as pro-life/pro-choice? The fear is that some issues would never be resolved, with variations of the losing position being presented year after year.

None of the above is the business of representative government, where an informed legislature makes decisions based on experience, technical qualifications, professional staff advice and consensus. Experience with classification and reappraisal should be enough to convince those who believe in representative government that the proposed cure, in this case referendum, is worse than the disease.