

Approved April 9, 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 ~~am~~/p.m. on Monday, March 4, 1991 in room 526-S of the Capitol.

All members were present except:

Representative Art Douville - Excused

Committee staff present:

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

Conferees appearing before the committee:

Chair Sebelius opened the meeting by announcing a bill introduction. She explained that there is a bill in the Senate, SB 533, which deals with the development of local youth authorities. This bill sets up a different kind of service delivery system for children services. It was Chair Sebelius' understanding that along with the bill to set up a commission on family and children services and the Judiciary Interim report, this bill was to be introduced and worked first in this Committee. For some reason, that bill ended up being introduced first in the Senate. Chair Sebelius added that we have the other 2 pieces of legislation and have been waiting for the third piece of the puzzle. All three bills came out of the S.R.S. task force. Chair Sebelius stated that she would like Committee approval, if possible, to go ahead and introduce an identical bill in the House Federal and State Affairs Committee, so that we can go ahead and have hearings on these 3 measures.

Representative Long moved that the requested legislation be introduced. Representative Graeber seconded that motion, which passed on a voice vote.

HCR 5005

Representative Krehbiel began by saying that HCR 5005 essentially provides for a legislatively generated initiative and it really parallels the requirements for a constitutional amendment as it presently exists in the Kansas Constitution. Representative Krehbiel read through the Subcommittee report Section 2, Attachment #1, and the balloon to explain changes made to the original proposal, Attachment #2.

Committee Discussion:

- It was the feeling of the Subcommittee that if we are to go to the people with an issue, it ought to have widespread support and be an issue of significant importance, which is why the standard of a majority was raised to 2/3rds of both houses.
- The Subcommittee did put restrictions on the subject matter by adding the provision that the measure shall not contain more than one subject and shall not dedicate any revenue, make or repeal any appropriations, adopts emergency measures or relates to matters concerning the courts or their jurisdiction.
- With respect to the date, it was felt that the next general election of April, 1991 was too quick to get something through the legislature and on the ballot. The next general election scheduled would be April, 1992 for the special presidential primary. Even though it is a special election, it has been authorized and money has been appropriated. Chair Sebelius pointed out that last years legislature appropriated approximately \$1.6 million for the special presidential primary in April, 1992. She added that if at some point during this Session, that appropriation is deleted and the special election is cancelled, the date on the bill could be changed.
- One Committee member felt the purpose of this bill is to allow for broader participation and therefore should be held at an election that historically has the broadest participation.

Representative Roy moved that HCR 5005 be amended on line 24 page 2 by deleting the date of April 7, 1992, and replacing it with the 1st Tuesday of November, 1992. Representative Cates seconded the motion.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS,

room 526-S, Statehouse, at 1:30 ~~xxx~~/p.m. on Monday, March 4, 1994.

Committee Discussion:

- One Committee member commented that because the goal of the three proposals is to produce broader participation, the fact that this will be on the ballot would supposedly produce that participation. That member also argued that we might have the best turnout for city elections in this State if we remain with the April date.
- Another Committee member focused on the fact that if it were on the ballot in November it might get buried in a presidential election along with other elections; and if it were in April, would it not draw more attention to the three issues on the ballot concerning initiative. Possibly it would get more citizens to really look at in-depth what they're voting on to approve or not approve.
- One Committee member questioned whether or not there were some second and third class cities that do not have races in April, and therefore there might be an increased fiscal note?
- Staff indicated that to put referenda on the April 7, 1992 election, according to the Secretary of State, will cost \$120,000 to \$170,000.

Chair Sebelius called for a vote on Representative Roy's motion. The motion carried by a show of hands.

Representative Krehbiel moved that HCR 5005 pass favorably from Committee as amended. Representative Smith seconded the motion.

Committee Discussion:

- One Committee member felt that there are certain issues of significant importance to the State of Kansas that ought to be addressed by the people of the State. He added that in times past, to cite an example, the death penalty was passed by both houses of the Legislature, it went to the Governor for a veto. The opinion polls showed that the majority of the people would like to see a death penalty in the State of Kansas, yet they did not have the opportunity to vote on it. He added that this was one situation where you have 2/3rds of both houses, why should one person, by veto, have the right to overrule the will of the majority of the people. He added that there will be other situations of huge importance that the legislature would like to see the people in the State of Kansas have the opportunity to vote on. He stressed that he did not think that one person should be able to veto and go against the will of the majority of the population.
- In response, one Committee member said that had the Legislature desired to override the Governor's rejection and veto of the death penalty, the Legislature would have done so by 2/3rds vote. It did not. It will still take a 2/3rds vote of the Legislature to pass a death penalty on to the people. If that is the purpose in this, that Committee member stated that nothing has been achieved. Also, the Committee member stated that it appears that some Legislators feel that there is a basic problem with the government that we have relative to representative democracy as opposed to a direct democracy. He pointed out that that problem has to be defined first to find out whether or not we actually are not functioning as a legislature in the best interest of the people in the State of Kansas. If that is the case and can be proven, the Committee member stated that he may change his viewpoint without any question, but he isn't convinced at this point in time that changing a system that has been around for over 200 years basically because we are asking the people to vote on very very complex issues, and with a yes or no, without the ability to put them into a format that they can amend as they wish is not really fair to the people. The questions that will be put out to the people will be put out in the form that the Legislature likes. He added that it may not be in the form that the people like. The people cannot amend it, they cannot do anything other than reject it, and then what does the Legislature do at that point in time, other than to simply say that the people did not like it. Which may bury more reforms by this method than you actually accomplish. He added that if referendum under this form is necessary, he hasn't seen the proof of it yet.
- Another Committee member agreed by saying that this bill is designed by a group of wimpy Legislators afraid to take a stand on an issue by saying let's turn this over to the public and let them decide because these Legislators don't have the courage of their convictions to stand and make those tough decisions.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS,

room 526-S, Statehouse, at 1:30 ~~xxx~~/p.m. on Monday, March 4, 1991.

- Another member spoke in opposition to HCR 5005 by saying that the public, with the little bit of knowledge they can obtain through the media, would not be able to debate issues, would not be able to hear all sides of an issue, and would not be as well prepared to vote on important issues as the Legislature.
- One Committee member took exception and spoke in support of HCR 5005 explaining that there is no way that legislators can listen to the voice of everyone in their district in the State as to bringing forth their point of view. That member went on to say that we represent such a wide variety, this gives them an input to tell us which way they want us to go.

Chair Sebelius asked for a voice vote. Division was called for. The motion passed by a show of hands. Representative Baker asked to be recorded as voting no. Representative Sprague requested to be recorded as voting no. Representative Lawrence requested to be recorded as voting no. Representative Lane requested to be recorded as voting no. Representative Allen requested to be recorded as voting no.

HCR 5003

Representative Krehbiel explained that HCR 5003 will authorize permitting direct initiative of legislation by the population. It would allow registered voters to petition that a law be enacted. There is some subject matter limitation which was added by the Subcommittee. The original bill did not have any limitations. Other changes are set out in the balloon of HCR 5003, Attachment #3.

Representative Krehbiel handed out to each member a copy of an amendment which would replace the governor's veto for a possibility for legislative review, Attachment #4.

Representative Krehbiel moved that this amendment, Attachment #4, be adopted. Representative Smith seconded the motion.

Committee Discussion:

- This amendment changes the effective date of the law passed by the initiative process so that the legislature would be in session for forty days prior to the law becoming effective.
- Staff indicated that you can enact or repeal a law that has not taken effect by postponing the effective date.

The motion carried on a voice vote.

Representative Empson handed out to each member an amendment to HCR 5003, Attachment #5, and moved that this amendment be adopted. Representative Rock seconded the motion.

- Several Committee members spoke in support of the amendment. One Committee member explained that this would cover those situations where you may have low voter turnout, and requires the same degree of support for a bill that you would have in the Legislature.
- One Committee member expressed that this amendment might confuse voters.
- Another Committee member did not feel that this amendment would confuse voters, but that maybe it should be explained on the ballot.
- One member felt that by the adoption of this amendment, majority rule is destroyed. He explained that if 100,000 people vote for House of Representative members around the State, and only 90,000 vote on the particular initiative issue, then if you do not have 50,0001 votes for that issue, it loses. Because you have got to have a majority of those voting for local representatives. He explained that 46,000 votes out of 90,000 would not be enough to pass the initiative.

The motion to adopt the amendment passed on a show of hands, 10 to 9.

Representative Roy moved that HCR 5003 be amended to change the date from the April 7, 1992 to the general election in November. Representative Cates seconded the motion. The motion passed on a voice vote.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS,
room 526-S, Statehouse, at 1:30 ~~xxx~~/p.m. on Monday, March 4, 1991

Representative Long moved to amend HCR 5003 by adding the governor's veto, Attachment #6. Representative Lawrence seconded the motion. The motion failed by a show of hands.

- One Committee member stated that one of the restrictions included in the subject matter was that you cannot change the initiative process with an initiative.

Representative Krehbiel moved that HCR 5003 be passed favorable as amended. Representative Graeber seconded the motion. The motion passes by a show of hands. Representatives Baker, Lane, Allen, Ramirez, Lawrence and Sprague requested to be recorded as voting no. Representative Graeber requested to be recorded as voting yes.

HCR 5004

Representative Krehbiel briefed the Committee on the Subcommittee's report of HCR 5004, section 1 of Attachment #1, and its respective balloon, Attachment #7. Representative Krehbiel handed out to each member of the Committee a copy of an amendment to HCR 5004, Attachment #8. Representative Krehbiel moved that the amendment be adopted. Representative Long seconded the motion.

Committee Discussion:

It was explained that under current law it takes 2/3rds vote of both houses and a majority of the people to change the Constitution. Those thresholds in the Legislature are particularly high so that it is not easy to change the Constitution. The original HCR 5004 simply takes 2/3rds of the people with no check of balance on the people whatsoever. The amendment would require 2/3rds of the people and then 2/3rds of the Legislature.

- One Committee member felt that this amendment was a terrible waste of taxpayers money and time and opposed the amendment.
- As a point of clarification, one Committee member explained that the Subcommittee Report recommended that an initiated constitutional amendment must pass by 2/3rds of the voters, which has not changed with this amendment. Rather, the portion that has changed is the legislative involvement.

The Chair stated that the motion to adopt the amendment passed on a voice vote. Division was called. The motion passes on a show of hands, 10 to 9.

Representative Roy moved to change the date on page 3, line 14 to the general election in November. Representative Cates seconded the motion. Motion carries on a voice vote.

Representative Smith offered a conceptual motion to the language that is offered by the Subcommittee to insert on line 29, page 1, HCR 5004, by adding specific language about the Bill of Rights, Attachment #9. The motion was seconded by Representative Jones. The motion carries on a voice vote.

Representative Krehbiel moved that HCR 5004 as amended be passed favorably. Representative Edlund seconded the motion.

Committee Discussion:

- One Committee member was in opposition and stated that these three resolutions were being moved out rather hastily, that more time should be taken to study these issues.
- Another Committee member disagreed by saying that these issues are very important for the Legislature to consider but if this Committee delays any further, we will effectively prohibit the rest of the Legislature from considering these issues. The Committee member added that with only 40 days left in the Session the Committee has taken a good portion in Committee work and has not been hasty, but rather spent a long time in discussion and debate.
- One Committee member stated that it would have been better to have the amendments that were offered before today, so that ample time could have been given to studying those amendments.
- Another Committee member added that before he was ready to change the form of government, he felt that better substantiating of reasons for doing it was needed.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS,
room 526-S, Statehouse, at 1:30 ~~xxx~~/p.m. on Monday, March 4, 1991

Representative Sprague offered a substitute motion to table HCR 5004 and recommend it for study during the 1991 Interim Committee. Representative Baker seconded the motion. The motion failed on a voice vote. Division was called. The motion failed on a show of hands, 10 to 9. Representatives Sprague, Baker, Allen and Lane requested being recorded as supporting the motion.

Chair Sebelius brought the attention of the Committee back to the original motion to pass HCR 5004 favorably.

Upon a voice vote the motion passes. Division is called for. The motion passes by a show of hands. Representatives Lawrence, Sprague, Lane, Allen and Baker requested to be recorded as voting no. Representative Graeber requested to be recorded as voting yes.

Representative Long moved that minutes from the February 7, 1991 Committee meeting be approved. Representative Smith seconded the motion. The motion passes on a voice vote.

The meeting was adjourned.

GUEST LIST

FEDERAL & STATE AFFAIRS COMMITTEE

DATE 3-4-91

(PLEASE PRINT)

NAME	ADDRESS	WHO YOU REPRESENT
Jim McBride	Topoka	DB Services
Michelle Sreater	Topoka	John Peterson + Associates
Will Belden	Topoka	LWOK
Christy Green	Topoka	Topoka Chamber of Comm
Jim Edwards	Topoka	KOCT
Anto Inhely	Topoka	FFFT
Jack Burg	Topoka	FFFT
Ronald W Cook	Topoka Ks	FFFT
JEFF DESBATTEN	"	B Valley S.D.
Art Brown	Kc mo	Ks. USR Dealers Assn
Warren Parker	Manhattan	Ks. Farm Bureau
Jim Guderal	Lawrence	WOWK
Sharon McChure	Glenn Elder	See
Mary Tumiglan	Topoka	Ks. Motor Carriers Assn
R ANDERSON	OTTAWA	Missouri Const Off
Peggy Jorman	Wichita	PCAL
Laura Kichell	Lawrence	Inter Rep Mechanical
Mark Tallen	Topoka	KASTB
Tim Yonally	Overland Park	USD #512
RYAN TAEPLER	Adrian (MI)	Tom Sawyer

MEMORANDUM

Kansas Legislative Research Department

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

February 28, 1991

To: House Committee on Federal and State Affairs
Re: Subcommittee Report on Initiative and Referendum

The House Subcommittee on Initiative and Referendum recommends that four bills be submitted to the full House Committee on Federal and State Affairs for its consideration: H.C.R. 5003, H.C.R. 5004, and H.C.R. 5005 (each with amendments) and 1 RS 1104. H.C.R. 5003 would authorize direct initiatives for statutes. H.C.R. 5004 would authorize direct initiatives for constitutional amendments. H.C.R. 5005 would authorize contingent referenda. Finally, 1 RS 1104 would authorize a form of indirect initiative (discussed below).

Section I

5004: The Subcommittee recommends the following amendments to H.C.R. 5003 and H.C.R.

1. **Subject Matter.** Certain matters would not be subject to the initiative procedure. In H.C.R. 5003, matters concerning the courts or their jurisdiction or funding or matters prohibited by the *U.S. Constitution* would be excluded from initiative procedures, in addition to matters prohibited by the *Kansas Constitution* and the issues of dedicated revenues or appropriations already contained in the bill.

The same subject matters prohibited from initiative procedures in H.C.R. 5003 are prohibited in H.C.R. 5004 (with the obvious exception of matters prohibited by the *Kansas Constitution*). In addition, it is proposed that constitutional amendments could not be initiated and adopted which would amend provisions regarding initiative or referendum procedures, or the enactment of laws, or which would reapportion, or amend procedures for reapportionment of, legislative, congressional, judicial, or State Board of Education districts. In the introduced version of H.C.R. 5004, there are no restrictions governing subject matter.

Implication. The Subcommittee does not support statutory initiatives which, if approved by the voters, would alter the structure of the courts as this is a subject matter over which legislative jurisdiction is limited. In addition, the Subcommittee believes that constitutional amendments can have significant ramifications and

should be subject to extensive legislative deliberations in those areas which relate to appropriations, dedicated revenues, the judiciary, all procedures involving the enactment of laws and reapportionment matters. The provisions concerning constitutionality in both bills are intended for clarification purposes.

2. **Constitutionality.** The Attorney General would make determinations on the constitutionality of proposed petitions, including the proposed law and proposed ballot summary (H.C.R. 5003) and proposed petitions and constitutional amendments (H.C.R. 5004). As introduced, both bills require the Attorney General to make determinations on the proper form and legality, but not on the constitutionality, of proposed petitions and measures. Moreover, the Subcommittee recommends that clarifying language be added to H.C.R. 5003 to exempt statutory initiatives from the rule of statutory construction.

Implication. The requirement in both bills that the Attorney General consider the constitutionality of proposals should prevent measures from being submitted to voters which are unconstitutional and which would probably be challenged on that basis after having been approved by voters.

3. **Basis for Signature Threshold.** In both bills, the basis for calculating the required number of signatures would be changed from the total vote cast for the office of Governor at the last election for such office to the number of registered voters of the state, as most recently recorded by the Secretary of State.

Implication. The Subcommittee notes that the most recently recorded number of registered voters would guarantee, on a continuous basis, an updated number of such voters, whereas numbers used in conjunction with gubernatorial elections might, on occasion, be several years old.

4. **Geographical Distribution Requirement.** In both bills, geographic distribution criteria would be required for petition signatures. The Subcommittee recommends that not less than 60 percent of the valid signatures on the petition be equally apportioned among residents of each of the congressional districts of Kansas. As introduced, neither bill contains geographic distribution requirements.

Implication. The geographic requirement should prevent more populated parts of the state from exercising influence in the initiative process that might not reflect statewide support.

5. **Time Frame for Circulation of Petitions.** The time frame to be allowed for petition circulation would not exceed 180 days after the Attorney General has made determinations on the form, legality, and constitutionality of petitions. As introduced, both bills provide for a circulation period of 365 days.

Implication. The Subcommittee considers a circulation period of 365 days to be too lengthy. Measures would be more timely to voters if the period is limited to 180 days.

6. **Gubernatorial Veto.** The Subcommittee recommends that statutory initiatives (H.C.R. 5003) be subject to gubernatorial vetoes. As introduced, H.C.R. 5003 contains no provisions for gubernatorial vetoes.

Implication. A gubernatorial veto might provide for some check in the event that a badly flawed measure has been approved through the initiative process.

7. **Approval of a Measure.** The Subcommittee concurs with the provision in H.C.R. 5003 predicating approval of a proposed law upon a vote of a majority of the registered voters who voted for the law. However, the Subcommittee recommends that approval of a constitutional amendment in H.C.R. 5004 be predicated upon the affirmative vote of two-thirds of the registered voters voting upon an amendment. As introduced, H.C.R. 5004 conditions approval of a constitutional amendment upon a vote of a majority of the registered voters who voted on the amendment.

Implication. In light of the long-term ramifications of constitutional amendments, the Subcommittee believes that initiated measures to amend the *Constitution* should not be enacted without strong support from voters and should not be easy to approve.

8. **Amendments and Repeals.** As introduced, H.C.R. 5003 would permit laws enacted by the initiative process to be amended or repealed in the same manner as legislation enacted by the Legislature. The Subcommittee recommends that any such amendment or repeal at the first legislative session following enactment require the affirmative vote of not less than two-thirds of the members then elected (or appointed) and qualified in each house. The Subcommittee's recommendation only pertains to the procedure to be followed during the first legislative session after enactment of a voter initiated law. During subsequent sessions, voter initiated laws would be amended or repealed in the same manner as legislation enacted by the Legislature.

Implication. With respect to statutory initiatives, the Subcommittee believes that voter approval of a measure is an expression of public will which should not be dismissed lightly by allowing the Legislature to easily amend or repeal the law in the ensuing session. However, the Subcommittee recognizes that laws, for various reasons, might require further amendment or even repeal in future years and that, after one year, it becomes difficult to determine if a law was initiated by the voters or enacted by the Legislature.

9. **Reporting Requirements.** The Legislature would be required to provide for reporting of expenditures and contributions made to support or oppose proposed

laws (H.C.R. 5003) or amendments (H.C.R. 5004) submitted to registered voters. As introduced, neither bill contains reporting requirements.

Implication. The Subcommittee recognizes that few restrictions on initiative campaign contributions and expenditures would be constitutional. However, reporting of contributions and expenditures might aid in the detection of any abuses that may occur. Furthermore, the Subcommittee believes that the public has the right to know who is supporting and opposing a measure, as well as the size and source of income for a measure, so that the excessive influence of money on election outcomes can be prevented.

10. **Miscellaneous.** The Subcommittee also notes that a technical amendment is proposed for the explanatory statement in H.C.R. 5003. The Subcommittee further notes that there was considerable discussion about amending the provision in both bills regarding the procedure for submittal of a measure to the voters. Three members, but not the majority of the Subcommittee, recommended that the laws or amendments proposed by three valid petitions with the greatest number of signatures within the prescribed time period would be submitted to the voters.

Section II

The Subcommittee recommends the following amendments to H.C.R. 5005:

1. **Subject Matter.** The Legislature may not refer any statutory measure to registered voters for their approval or rejection if that measure contains more than one subject, dedicates any revenue, makes or repeals any appropriation, adopts emergency measures or relates to matters concerning the courts or their jurisdiction or funding. As introduced, H.C.R. 5005 contains no restrictions on subject matter.

Implication. As introduced, H.C.R. 5003 excludes from voter initiated measures appropriations and dedicated revenues. The Subcommittee concurs with that exclusion because, in its view, voter initiated changes of that nature can have tremendous unanticipated and perhaps unintended implications for state programs and services and should always be subject to legislative debate. Moreover, measures of this kind are most properly legislative functions because the Legislature is structurally organized to take a broad view of the interaction of all state programs and funding sources and, in addition, the voters expect this of the Legislature. For those same reasons, the Subcommittee believes that measures containing the subject matters of appropriations and dedicated revenues should not be referred to voters. Indeed, if the Legislature were given the option to refer such measures, it might not make the necessary effort to tackle very difficult financing issues. With respect to the matters related to the judiciary, the same argument applies to referenda as applies to statutory initiatives. Finally, emergency measures should not be referred to voters because

a delay in implementation of those measures might endanger public health and safety.

2. **Determination on Referrals.** The Subcommittee notes that H.C.R. 5005, as introduced, does not address when a determination must be made concerning submittal of a measure to voters. To that end, the Subcommittee recommends that the introduced version of a bill contain a provision for a legislative measure to be referred to the voters and that this provision not be subject to amendments.

Implication. The Subcommittee believes that legislators need to know from the outset whether a measure is to be referred to the voters. The Legislature's treatment of bills which include this intention from the outset could vary considerably from their treatment of bills which do not contain that provision. For example, without such a provision, the Legislature could amend a bill to refer it to the voters after it has gone through both houses and has reached a deadlock between the houses. Knowledge of the availability of this option might prevent the houses from making a strenuous effort to reconcile their differences and reach agreements on difficult issues.

3. **Time of Election.** A legislative measure must be submitted to the registered voters at the next statewide general election following passage of the bill. As introduced, H.C.R. 5005 provides for the election to be designated in the bill containing the measure which is to be submitted to the voters.

Implication. As introduced, the bill would permit the Legislature to determine the election at which a measure may be submitted. Conceivably, an election may be designated which would delay voter determination for several years. The Subcommittee does not consider this to be the appropriate use of the referendum mechanism, nor would this be in the best interest of the public. Therefore, it is the Subcommittee's position that the time of election be prescribed in H.C.R. 5005.

4. **Amendments and Repeals.** Measures may be amended or repealed by the Legislature at any time. However, any amendment or repeal during the first legislative session following approval by the registered voters would require the affirmative vote of two-thirds of the members then elected (or appointed) and qualified in each house. As introduced, H.C.R. 5005 would permit laws enacted through the referendum process to be amended or repealed in the same manner as legislation enacted by the Legislature. The Subcommittee's recommendation only pertains to the procedure to be followed during the first legislative session after the approval of a referred measure. During subsequent sessions, laws enacted via referenda would be amended or repealed in the same manner as legislation enacted by the Legislature.

Implication. The same justification for Section I (8) applies to this subsection.

5. **Reporting Requirements.** The Legislature would be required to provide for reporting of expenditures and contributions made to support or oppose legislative measures submitted to registered voters. As introduced, this bill contains no reporting requirement.

Implication. The same justification for Section I (9) applies to this subsection.

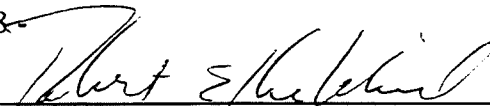
Section III

The Subcommittee submits 1 RS 1104 to the Committee for its review. The Subcommittee wishes to emphasize that this draft legislation, unlike the others, is not a resolution and would not be submitted to voters for their approval or rejection. The Subcommittee notes that this draft legislation was, with several amendments, modeled after a bill which is under consideration in the Vermont Legislature. The bill could be considered a variation of an indirect statutory initiative in that citizens may initiate a measure and vote on it. If the measure is approved, it is referred to the Legislature for its review and action. The Legislature may approve the measure, amend the measure, or reject the measure. However, the bill is subject to a roll call vote in both houses, and it is this roll call vote which exacts accountability from the Legislature.

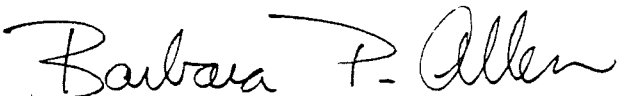
The following major provisions are included in the bill:

1. Applications to prepare initiative petitions may be filed with the Attorney General during the first five months of an even-numbered year.
2. At least 25 registered state voters must sign the application.
3. The Attorney General must review the proposed legislative measure and approve the form, style, or wording of a proposed measure or description before a petition may be prepared. The Attorney General must also prepare the form of the petition. The bill specifies the format of the petition.
4. The petition must be filed with the Secretary of State on or before September 1 of the year in which the application was filed.
5. The signature threshold is 5 percent of the total number of registered voters of the state, as most recently recorded by the Secretary of State.
6. The Secretary of State must determine signature sufficiency within ten days after filing of the petition. Random sampling is permitted in making that determination. A procedure is specified for addressing deficient valid signatures.
7. The bill specifies the format of ballot questions.
8. The Secretary of State is required to cause the ballot question to be submitted to registered voters at the next statewide general election following filing of the petition.

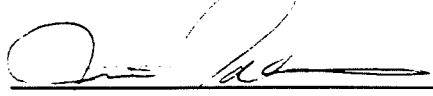
9. A majority vote of registered voters voting on the measure is a precondition for referral of the measure to the Legislature.
10. Upon commencement of the first regular legislative session following the general election in which the measure was approved by the voters, the Speaker of the House must have the measure introduced without amendment as a bill.
11. Within 20 legislative days after the beginning of the session, the committee of the House of Representatives, to which the bill was referred, must report the bill to the House of Representatives. The House's decision on the bill must be recorded by roll call vote.
12. If the vote of the House is affirmative, the bill is referred to the Senate. The same time frame and procedure for consideration of the bill, as was required for the House, is required for the Senate.
13. The Legislature may amend the bill as it is authorized to do with respect to any other bill, but it may not amend the bill in such a manner as to substantially alter its purpose.
14. Any bill enacted in the manner outlined above is subject to gubernatorial approval or veto.

- 8 -


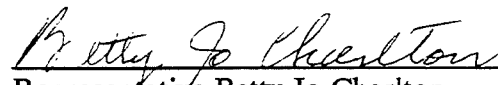
Representative Robert E. Krehbiel
Subcommittee Chairman




Representative Barbara P. Allen



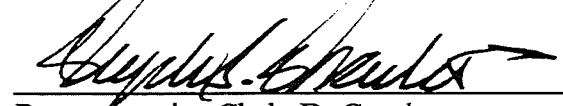
Representative Jim Cates




Representative Betty Jo Charlton



Representative Richard J. Edlund



Representative Clyde D. Graeber



Representative Rand Rock

House Concurrent Resolution No. 5005

By Committee on Federal and State Affairs

1-30

8 A PROPOSITION to amend article 2 of the constitution of the state
9 of Kansas by adding a new section thereto, authorizing the sub-
10 mission of legislative measures to the registered voters of this
11 state for their approval or rejection.

12
13 *Be it resolved by the Legislature of the State of Kansas, two-thirds*
14 *of the members elected (or appointed) and qualified to the House*
15 *of Representatives and two-thirds of the members elected (or ap-*
16 *pointed) and qualified to the Senate concurring therein:*

17 Section 1. The following proposition to amend the constitution
18 of the state of Kansas shall be submitted to the qualified electors of
19 the state for their approval or rejection: Article 2 of the constitution
20 of the state of Kansas is amended by adding a new section thereto
21 to read as follows:

22 "§ 1b. Referendum. Notwithstanding the provisions of section
23 1 of article 2, the legislature may submit any legislative measure
24 to the registered voters of this state for their approval or rejection
25 in the manner provided by this section. A legislative measure
26 submitted to the registered voters shall be in the form of a bill
27 enacted as other bills are enacted except that passage of the bill
28 shall require the affirmative vote of not less than two-thirds of
29 the members then elected (or appointed) and qualified in each
30 house. The bill shall provide for the legislative measure to be
31 submitted to the registered voters and shall designate the election
32 at which it will be submitted. The secretary of state shall cause
33 the legislative measure to be published in the manner provided
34 by law for propositions to amend this constitution. At the election,
35 the legislative measure shall be submitted to the registered voters
36 by ballot summary or by the legislative measure as a whole, as
37 provided by the bill containing the legislative measure. If sub-
38 mitted by ballot summary, such summary shall be contained in
39 the bill. Not more than three legislative measures shall be sub-
40 mitted under this section at the same election. Legislative meas-
41 ures which have been submitted to and which have received the
42 affirmative vote of a majority of the registered voters voting
43 thereon shall take effect and be in force at a time prescribed

, except that no legislative measure shall be so submitted which contains more than one subject, dedicates any revenue, makes or repeals any appropriation, adopts emergency measures or relates to matters concerning the courts or their jurisdiction or funding

as introduced shall contain a provision

such provision shall not be subject to amendment. The legislative measure shall be submitted to the registered voters at the next statewide general election following passage of the bill

. Such measures may be amended or repealed by the legislature at any time but any amendment or repeal of such a measure at the first legislative session following its approval by the registered voters shall require the affirmative vote of not less than two-thirds of the members then elected (or appointed) and qualified in each house. Any legislative measure which is submitted to the registered voters and does not receive the affirmative vote of

The legislature shall provide for reporting of expenditures and contributions made to support or oppose legislative measures submitted to the registered voters pursuant to this section.

1 therein. Such measures shall not require the signature of nor be
2 subject to veto by the governor but may be amended or repealed
3 by the legislature at any time. Any legislative measure submitted
4 to and rejected by a majority of the registered voters voting
5 thereon shall have no force and effect."

6 Sec. 2. The following statement shall be printed on the ballot
7 with the amendment as a whole:

8 "Explanatory statement. The purpose of this amendment is to
9 authorize the legislature to submit legislative measures to the
10 qualified electors of the state for their approval or rejection. A
11 vote for this proposition favors allowing the legislature to submit
12 legislation to the people for their approval or rejection by election.
13 A vote against this proposition favors the present system of vesting
14 the legislative power of the state in the state legislature and
15 requiring all state laws to be adopted and enacted by the state
16 legislature."

17 Sec. 3. This resolution, if approved by two-thirds of the members
18 elected (or appointed) and qualified to the house of representatives
19 and two-thirds of the members elected (or appointed) and qualified
20 to the senate, shall be entered on the journals, together with the
21 yeas and nays. The secretary of state shall cause this resolution to
22 be published as provided by law and shall cause the proposed amend-
23 ment to be submitted to the electors of the state at a special election,
24 which is hereby called for that purpose, to be held April 7, 1992,
25 pursuant to section 1 of article 14 of the constitution of the state of
26 Kansas.

House Concurrent Resolution No. 5003

By Committee on Federal and State Affairs

1-30

8 A PROPOSITION to amend article 2 of the constitution of the state
9 of Kansas by adding a new section thereto, authorizing initiation
10 and enactment of laws by the registered voters of the state.
11

12 *Be it resolved by the Legislature of the State of Kansas, two-thirds*
13 *of the members elected (or appointed) and qualified to the House*
14 *of Representatives and two-thirds of the members elected (or ap-*
15 *pointed) and qualified to the Senate concurring therein:*

16 Section 1. The following proposition to amend the constitution
17 of the state of Kansas shall be submitted to the qualified electors of
18 the state for their approval or rejection: Article 2 of the constitution
19 of the state of Kansas is hereby amended by adding a new section
20 thereto to read as follows:

21 "§ 1a. Initiative. (a) Notwithstanding the provisions of section
22 1 of article 2, laws may be proposed by petition of registered
23 voters of this state and enacted by the registered voters of the
24 state as provided by this section. No law shall be so proposed or
25 enacted which dedicates any revenue, makes or repeals any ap-
26 propriation ~~or is prohibited by this constitution, nor shall any such~~
27 ~~law contain more than one subject.~~ The enacting clause of any
28 proposed law submitted to the voters pursuant to this section shall
29 be: "Be it enacted by the People of the State of Kansas:".

30 "(b) Prior to being circulated for signatures, the petition, to-
31 gether with the proposed law and proposed ballot summary, shall
32 be submitted to the office of the attorney general for ~~determi-~~
33 ~~nations as to proper form [and legality].~~ Such determinations shall
34 be rendered in writing within 30 days after submission of the
35 petition. Any person aggrieved by the determinations of the at-
36 torney general may file, within 10 days after the rendering of the
37 determinations, a proceeding in quo warranto with the supreme
38 court.

39 "(c) Each page of a petition initiating a proposed law shall
40 contain the ballot summary and each separately circulated portion
41 of the petition shall contain or have attached thereto the full text
42 of the proposed law. The ballot summary shall be a brief non-
43 technical statement expressing the intent or purpose of the pro-

, relates to matters concerning the courts or
their jurisdiction or funding or is prohibited by
this constitution or the constitution of the
United States

, legality and constitutionality

In determining the constitutionality of the
proposed law, such law shall be strictly construed
so that such proposed law may contain no more than
one subject. The rule of statutory construction
that duly enacted laws of the legislature are
presumed constitutional and that all doubts must
be resolved in favor of their validity need not
apply to the construction of laws initiated under
this section of the constitution.

posed law and shall contain language which clearly states that a "yes" vote is a vote in favor of the proposition and a "no" vote is a vote against the proposition. The ballot summary shall not exceed 150 words and shall not reflect partiality in its composition or contain any argument for or against the proposed law.

"(d) The petition shall be signed by registered voters equal in number to not less than 5% of the total [vote cast for the office of governor at the last election for such office]. Petitioners shall file the signed petition in the office of secretary of state not more than 365 days after final determinations as to proper form and legality of the petition. The filing shall be made at one time all in one group. Later or successive filings of documents shall be deemed to be separate petitions and not a part of any other filing. The secretary of state shall have 60 days to determine if the petition contains the requisite number of valid signatures.

"(e) If the secretary of state determines that the petition contains the requisite number of valid signatures, the secretary of state shall cause the ballot summary to be submitted to the registered voters of the state at the next general election for state representatives held not less than 130 days after the petition is filed, except that no more than three proposed laws shall be submitted under the authority of this section at any one election. If more than three valid petitions are filed within the time prescribed by this section, the laws proposed by the three petitions first filed with the secretary of state shall be submitted at the election and the remaining petitions shall be deemed null and void.

"Publication and submission of the proposed law shall be in the manner prescribed by law for propositions to amend the constitution and the proposed law shall be submitted by the ballot summary. The secretary of state shall cause a copy of the full text of the proposed law to be filed in the office of the county election officer of each county.

"(f) If a majority of the registered voters voting on a proposed law vote for the law, the law shall take effect when approved, as determined by the state board of canvassers, unless otherwise prescribed within the law itself. If proposed laws containing conflicting provisions are approved by the registered voters of the state at the same election, the proposed law receiving the largest number of affirmative votes shall prevail. If such conflicting proposed laws receive the same number of affirmative votes, neither proposed law shall become law. If a law, approved by the registered voters through initiative, is in conflict with pre-existing

number of registered voters of the state, as most recently recorded by the office of secretary of state. Not less than 60% of the valid signatures on the petition shall be equally apportioned among residents of each of the congressional districts of this state

180
, legality and constitutionality

Within 10 days after certification by the state board of canvassers that a majority of the voters voting on a proposed law have voted for such law, the law shall be signed by the secretary of state and presented to the governor. If proposed laws containing conflicting provisions are approved by the registered voters of the state at the same election, the proposed law receiving the largest

number of affirmative votes shall be presented to the governor and the other conflicting proposed laws shall have no force or affect. If the governor approves the proposed law presented to the governor, the governor shall sign it and it shall become law when signed unless otherwise prescribed in the law itself. If the governor does not approve such law, the governor shall veto it by returning it, with a veto message of the objections, to the secretary of state. If such law is not returned within 10 calendar days (excluding the day presented) after it is presented to the governor, it shall become a law in the same manner as if it had been signed by the governor. If a law enacted under this section

1 law, the pre-existing law shall be effectively amended or repealed.

2 "If a majority of the registered voters voting on a proposed law
3 vote against the law, the proposed law shall have no force or
4 effect and shall not be again proposed by initiative within four
5 years following the date of rejection unless proposed by a petition
6 signed by registered voters equal in number to 25% of the total
7 vote cast for the office of governor at the last election for such
8 office.

9 "(g) [Laws enacted pursuant to this section shall not require
10 the signature of nor be subject to veto by the governor.] The
11 legislature shall retain the power to amend or repeal any law
12 enacted pursuant to this section.

13 "(h) The provisions of this section shall be self-executing, but
14 legislation may be enacted to facilitate its implementation."

15 Sec. 2. The following statement shall be printed on the ballot
16 with the amendment as a whole:

17 "Explanatory statement. This amendment would authorize the
18 voters of the state to propose and adopt laws independent of the
19 legislature.

20 "A vote for the proposition would favor granting to the voters
21 the right to propose and adopt laws independent of the legislature.

22 "A vote against the proposition would retain the power to pro-
23 pose and enact laws in the state legislature without the right of
24 initiative in the voters."

25 Sec. 3. This resolution, if approved by two-thirds of the members
26 elected (or appointed) and qualified to the house of representatives
27 and two-thirds of the members elected (or appointed) and qualified
28 to the senate, shall be entered on the journals, together with the
29 yeas and nays. The secretary of state shall cause this resolution to
30 be published as provided by law and shall cause the proposed amend-
31 ment to be submitted to the electors of the state at a special election,
32 which is hereby called for that purpose, to be held on April 7, 1992,
33 pursuant to section 1 of article 14 of the constitution of the state of
34 Kansas.

, but any amendment or repeal of such a law at the first legislative session following its enactment shall require the affirmative vote of not less than two-thirds of the members then elected (or appointed) and qualified in each house

The legislature shall provide for reporting of expenditures and contributions made to support or oppose proposed laws submitted to the registered voters pursuant to this section.

The legislature retains the power to amend or repeal such laws if adopted.

Knobhill

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PROPOSED AMENDMENT TO HCR 5003

On page 2, by striking the language inserted in line 43 and inserting the following:

"If a majority of the registered voters voting on a proposed law vote for the law, the law shall take effect on the fortieth day of the next regular legislative session following the election unless a later date is prescribed in the law itself. If proposed laws containing conflicting provisions are approved by the registered voters of the state at the same election, the proposed law receiving the largest number of affirmative votes shall prevail. If such conflicting proposed laws receive the same number of affirmative votes, neither proposed law shall become law. If a law, approved by the registered voters through initiative,";

On page 3, by reinserting the language shown as stricken in lines 9 and 10; in the language inserted in line 12, by striking "at the first legislative session following its enactment" and inserting "enacted on or before the fortieth day of the next regular legislative session following the approval of the law by the registered voters"

Simpson

2

PROPOSED AMENDMENT TO HCR 5003

On page 2, where it provides that the proposed law is enacted if a majority of the voters voting on the law vote for it, add "and the number of affirmative votes for such proposed law is equal to or exceeds a majority of the total number of votes cast for all candidates for the house of representatives at such election";

On page 3, in line 2, by striking all after "If"; in line 3, by striking all before the comma and inserting "the number of affirmative votes for a proposed law does not equal or exceed a majority of the total number of votes cast for all candidates for the house of representatives at such election"

PROPOSED AMENDMENT TO HCR 5003

On page 3, reinsert the language shown as stricken in lines 9 and 10; after the language inserted in line 12, insert ". Any bill amending or repealing all or any part of a law enacted pursuant to this section shall be subject to approval or veto by the governor in the same manner as any other bill"

House Concurrent Resolution No. 5004

By Committee on Federal and State Affairs

1-30

8 A PROPOSITION to amend article 14 of the constitution of the state
9 of Kansas by adding a new section thereto, relating to amendment
10 of the constitution by propositions initiated by registered voters
11 of the state.
12

13 *Be it resolved by the Legislature of the State of Kansas, two-thirds*
14 *of the members elected (or appointed) and qualified to the House*
15 *of Representatives and two-thirds of the members elected (or ap-*
16 *pointed) and qualified to the Senate concurring therein:*

17 Section 1. The following proposition to amend the constitution
18 of the state of Kansas shall be submitted to the qualified electors of
19 the state for their approval or rejection: Article 14 of the constitution
20 of the state of Kansas is amended by adding a new section 3 thereto
21 to read as follows:

22 "§ 3. Initiative of electors. Propositions for the amendment of
23 this constitution may be initiated by petition of registered voters
24 of this state and submitted to the registered voters of the state
25 for their approval or rejection as provided by this section. Such
26 propositions may amend one or more sections within a single
27 article of the constitution as may be necessary to accomplish the
28 objective of the amendment. Each proposition must relate to one
29 subject.

30 "Prior to being circulated for signatures, a petition initiating a
31 proposition to amend the constitution shall be submitted to the
32 office of the attorney general for determinations as to proper form
33 [and legality] of the proposed amendment. Such determinations
34 shall be rendered in writing within 21 days after submission of
35 the petition. Any person aggrieved by the determinations of the
36 attorney general may file, within 10 days after the rendering of
37 the determinations, a proceeding in quo warranto with the su-
38 preme court.

39 "Each separately circulated portion of the petition shall contain
40 or have attached thereto the full text of the proposed amendment
to the constitution. The petition shall be signed by registered
voters of the state equal in number to not less than 8% of the
total [vote cast for the office of governor at the last election for

No amendment to the constitution shall be initiated or adopted pursuant to this section which dedicates any revenue; makes or repeals any appropriation; relates to matters concerning the courts or their jurisdiction or funding; is prohibited by the constitution of the United States; amend provisions regarding enactment of laws, initiation of laws by the voters, or submission of laws to the voters for approval; or reapportions or amends procedures for reapportionment of legislative, congressional, judicial or state board of education districts.

, legality and constitutionality

such office. Petitioners shall file the signed petition in the office of the secretary of state not more than 365 days after final determinations as to proper form and legality of the petition. The filing shall be made at one time all in one group. Later or successive filings shall be deemed to be separate petitions and not a part of any other filing. The secretary of state shall have 60 days to determine if the petition contains the requisite number of valid signatures.

number of registered voters of the state, as most recently recorded by the office of secretary of state. Not less than 60% of the valid signatures on the petition shall be equally apportioned among residents of each of the congressional districts of this state

180

legality and constitutionality

"If the secretary of state determines that the petition contains the requisite number of valid signatures, the secretary of state shall cause the proposed amendment to be submitted to the registered voters of the state at the next statewide general election held not less than 130 days after the petition is filed, except that not more than three proposed amendments shall be submitted under the authority of this section at any one election. If more than three valid petitions are filed within the time prescribed by this section, the amendments proposed by the three petitions first filed with the secretary of state shall be submitted at the election and the remaining petitions shall be deemed null and void. Publication and submission of the proposed amendment shall be in the manner provided by law for other propositions to amend the constitution and the proposed amendment shall be submitted by the amendment as a whole.

two-thirds

"If a majority of the registered voters voting on the proposed amendment vote for the amendment, the amendment shall become a part of the constitution. If conflicting amendments to the constitution are approved by the registered voters of the state at the same election, the amendment receiving the largest number of affirmative votes shall prevail. If such conflicting amendments receive the same number of affirmative votes, the conflicting amendments shall not become a part of the constitution and shall have no force or effect. If a majority of the registered voters voting on the proposed amendment vote against the amendment, the proposed amendment shall have no force or effect and such amendment shall not again be submitted to the registered voters of the state within four years following the date of rejection.

fewer than two-thirds for

"The provisions of this section shall be self-executing, but legislation may be enacted to facilitate its implementation."

The legislature shall provide for reporting of expenditures and contributions made to support or oppose proposed amendments submitted to the registered voters pursuant to this section.

Sec. 2. The following statement shall be printed on the ballot with the amendment as a whole:

"Explanatory statement. The purpose of this amendment is to authorize proposals for amendment of this constitution to be originated by petition of qualified electors of the state.

1 "A vote for this amendment favors permitting the origination
2 of constitutional amendments by petition of qualified electors.
3 "A vote against this amendment favors the present system of
4 permitting origination of constitutional amendments only by the
5 legislature through concurrent resolution or constitutional
6 convention."
7 Sec. 3. This resolution, if approved by two-thirds of the members
8 elected (or appointed) and qualified to the house of representatives
9 and two-thirds of the members elected (or appointed) and qualified
10 to the senate, shall be entered on the journals, together with the
11 yeas and nays. The secretary of state shall cause this resolution to
12 be published as provided by law and shall cause the proposed amend-
13 ment to be submitted to the electors of the state at a special election,
14 which is hereby called for that purpose, to be held April 7, 1992,
15 pursuant to section 1 of article 14 of the constitution of the state of
16 Kansas.

Proposed Amendment to HCR 5004

On page 2, in line 25, by striking the first "amendment" and inserting "such amendment, the secretary of state shall file the proposed amendment with the clerk of the house of representatives on or before the next December 31 following the election. Upon the commencement of the first regular legislative session following the election, the speaker of the house of representatives shall promptly cause the proposed amendment to be submitted by concurrent resolution to the legislature for its approval. If two-thirds of all the members elected (or appointed) and qualified of each house shall approve such resolution";

In line 29, by striking "prevail" and inserting "be submitted to the legislature"; in line 31, by striking "become a part of the constitution" and inserting "be submitted to the legislature";

On page 3, in line 2, after "electors" by inserting ", subject to approval by the legislature"

#5

PROPOSED AMENDMENT TO HCR 5004

On page 1, in the language inserted in line 29, by inserting "encroaches on any right guaranteed by the bill of rights of this constitution or of the constitution of the United States;"