

MINUTES

SPECIAL COMMITTEE ON FEDERAL AND STATE AFFAIRS

October 30, 2019
Room 346-S—Statehouse

Members Present

Representative John Barker, Chairperson
Senator Bud Estes, Vice-chairperson
Senator Oletha Faust-Goudeau
Senator Caryn Tyson
Representative Stephanie Clayton
Representative Chris Croft
Representative John Eplee
Representative Susan Humphries
Representative Jerry Stogsdill

Members Absent

Senator Richard Hilderbrand – Excused

Staff Present

Joanna Dolan, Kansas Legislative Research Department
Mileshea Segun (Elumogo), Kansas Legislative Research Department
Jordan Milholland, Kansas Legislative Research Department
Natalie Nelson, Kansas Legislative Research Department
Kyle Hamilton, Office of Revisor of Statutes
Jason Long, Office of Revisor of Statutes
Matt Sterling, Office of Revisor of Statutes
Connie Bahner, Committee Assistant

Conferees

Jeanne Gawdun, Kansans for Life
Barbara Saldivar, Concerned Women for America of Kansas
Jeanette Pryor, Kansas Catholic Conference
Pat Goodson, Private Citizen
Bruce Garren, Personhood Kansas
Barbara Rew
Rochelle Bird, Private Citizen
Representative Nancy Lusk
Rachel Sweet, Planned Parenthood Great Plains Votes
Letitia Harmon, ACLU of Kansas
Teresa Woody, The Woody Law Firm PC

Others Attending

See [Attached List](#).

ALL DAY SESSION

Welcome

Chairperson Barker called the meeting to order at 10:13 a.m.

Committee Discussion and Recommendations Concerning the Legalization and Regulation of Medical Marijuana

Chairperson Barker noted Jason Long, Senior Assistant Revisor of Statutes, Office of Revisor of Statutes, has prepared an addendum to the comparison chart on medical marijuana laws ([Attachment 1](#)). The Chairperson asked the Committee if they had any questions of Mr. Long. There were none.

Chairperson Barker opened the floor for discussion on the medical marijuana issue and whether the Committee wanted to make any recommendations.

Representative Eplee stated he thought they need to give consideration to an expansion of Lola's Law relating to the types and amount of tetrahydrocannabinol (THC) products that might be brought into Kansas by people from other states who are being treated for health conditions by providing an affirmative defense. He stated this may fall out of this Committee's purview, but the Committee could direct this be taken up by other committees because this is going to continue to be an issue in Kansas. Representative Eplee stated a bill needs to be structured in a way so that people with serious health conditions who are using THC products can travel through or visit in the state and not be arrested for possession. Chairperson Barker stated he agreed with Representative Eplee and would support such a recommendation. Chairperson Barker asked Committee members to state whether they had any objections.

Senator Faust-Goudeau stated she had no objection to that proposal after hearing the testimony from the conferees on October 23, 2019, and hearing over the past two years that marijuana helps relieve pain from the constituents in her district. Additionally, after hearing from the sheriff in her town, she also knows that individuals are already using both medical and recreational marijuana. She recommends the state regulate and educate, but put a sunset on the provision so lawmakers can see how things are going.

Representative Stogsdill stated he agreed they should move forward with trying to find legislation to legalize medical cannabis in Kansas, but he would recommend any delivery system should exclude smoking or vaping the product. He thinks that could easily be confused by law enforcement with recreational marijuana, but other delivery systems such as pills, salves, and edibles would not present an issue.

Chairperson Barker stated he would take up Representative Eplee's recommendation first.

Chairperson Barker proposed it be the recommendation of this Committee that both the House and Senate Committees on Judiciary look at legislation that would provide an affirmative defense to a resident of another state who has legally obtained a prescription for medical cannabis; and that, upon the display of that registration or prescription, law enforcement should not arrest, detain, or cite that individual. He stated the bill should include if, at the time of the stop, the individual cannot produce that registration or prescription, the individual would be allowed to produce said registration or prescription at the appropriate judicial hearing as an affirmative defense. Chairperson Barker stated the reason he added the caveat that it be “residents of other states” is he does not want people from Kansas going to Missouri and getting a prescription and expecting that to be valid in Kansas, but he is trying to respect individuals from Oklahoma and Missouri who are following the laws in their states.

Senator Estes said he thought the Committee should recommend Ohio 2016 Substitute HB 523 be a pattern for Kansas. He said he believes the Ohio bill comes the closest to what many think should be done in Kansas, although he would like to see a photo on the identification (ID) card and there may be other tweaking needed.

Chairperson Barker asked whether there was any objection to the recommendation relating to the affirmative defense for out-of-state residents. Seeing no objection, he stated that will be a recommendation of this Committee. He also stated the recommendation will further be that if Kansas moves forward with legislation concerning medical marijuana, the Ohio law, which does not allow the product to be smoked, would be used as a guide and vaping of marijuana would also be prohibited. He stated, from a law enforcement perspective, the law is more enforceable if the product is in a salve, edible, or pill form. The recommendation should also include an obligation to safely secure the product if there are minor children in the home. The Chairperson stated if there was no objection, he would refer this recommendation to the House and Senate Committees on Federal and State Affairs. There were no objections to the recommendations.

Senator Tyson stated she needed more information before she could agree. She stated she would pass on the vote to make that recommendation.

Senator Faust-Goudeau asked for clarification from the staff on the Ohio legislation. Mr. Long stated the Ohio law requires a physician to recommend the use of medical marijuana for a patient. That recommendation is submitted to the State, and the patient then receives an ID card allowing them to purchase the product. The forms of the marijuana prohibited by the law are listed in the statute. Smoking or combusting marijuana is prohibited; however, vaping marijuana is permitted under Ohio law.

Representative Croft stated he agrees with Senator Tyson about the need for more information. In his research, he found there was a lot of discussion about moving marijuana from a Schedule I to a Schedule II classification. He stated he had not heard anyone talk about doing further research about marijuana and the federal substance classification, so he also wanted to pass on the vote.

Chairperson Barker asked whether there was further discussion or objection. Seeing none, he closed the discussion.

Issues and Possible Options Concerning the Legality of Abortions Following the *Hodes & Nauser, MDs, PA v. Schmidt* Supreme Court Decision—Proponents of a Constitutional Amendment

Chairperson Barker opened the hearing on the Kansas Supreme Court decision in *Hodes & Nauser, MDs, P.A. v. Schmidt* (*Hodes & Nauser* or *Hodes*). Mr. Long provided an overview of the Kansas Supreme Court opinion in *Hodes & Nauser*, issued April 26, 2019 ([Attachment 2](#)). Mr. Long responded to questions from Chairperson Barker, Senators Tyson and Faust-Goudeau, and Representative Humphries.

Chairperson Barker stated he would allow each conferee five to six minutes for their presentation to the Committee.

Chairperson Barker recognized Jeanne Gawdun, who testified on behalf of Kansans for Life as a proponent of a constitutional amendment ([Attachment 3](#)). Ms. Gawdun stated the court decision twisted both the state's history and the wording of the *Kansas Constitution* to create a protected status for abortion. She stated the overreach of the Court in that ruling trampled Kansans' right to self-governance through its elected representatives. She described several instances where legislation related to abortion facility licensure, inspection, and reporting requirements had been vetoed or enjoined and stated the Kansas Supreme Court had decided the issue of abortion is off limits to amendments by the people of Kansas through their elected officials. Ms. Gawdun stated the right of self-governance belongs to the people, and they deserve to have a voice in this issue. She stated Kansans have a remedy for the decision issued in the *Hodes & Nauser* case, which is to amend the *Kansas Constitution*. She stated Kansans for Life supports a constitutional amendment that will reverse the Supreme Court's ruling and let the people of Kansas vote on the matter.

Chairperson Barker recognized Barbara Saldivar, who testified on behalf of Concerned Women for America (CWA) of Kansas as a proponent of a constitutional amendment ([Attachment 4](#)). She stated she believes pro-life is pro-woman because the relationship between a mother and child begins before birth and the termination of that relationship will have inevitable consequences. She stated research shows women who have abortions are more likely to commit suicide than those who do not have abortions, there is an increased risk of mental health issues in women who have abortions compared to those who do not, teen girls who have abortions are more likely to attempt suicide than those who do not, and teen girls who have abortions are more likely to commit suicide compared to older women who have abortions. CWA of Kansas supports letting Kansans vote on an amendment in response to the *Hodes* decision.

Senator Estes recognized Jeanette Pryor, policy specialist for the Kansas Catholic Conference, as a proponent of a constitutional amendment ([Attachment 5](#)). Ms. Pryor stated her organization is asking Kansans be allowed to reverse the *Hodes* ruling by the Legislature placing an amendment on the 2020 ballot. Their concern is that, without a constitutional amendment, most of the laws related to abortion in current law will be deemed unconstitutional. In particular, she is concerned about laws related to parental consent. Currently in Kansas, children under the age of 18 must have the consent of both parents before the performance of an abortion. She stated a child cannot leave a school campus without parental consent, so it is reasonable to ask parents be involved when a child undergoes a procedure like an abortion. She urged the Committee to pass a recommendation for a constitutional amendment.

Chairperson Barker recognized Pat Goodson as a proponent of a constitutional amendment. With the Chairperson's permission, her daughter, Mary Goodson, read her testimony ([Attachment 6](#)). She stated Section 1 of the *Kansas Bill of Rights* intended to include

the unborn and prohibit abortion. Additionally, she stated the framers of the *Kansas Constitution* also enacted a statute making abortion a crime of homicide, and she provided comments about the founding principles of the State of Kansas. She stated the only way to address the decision in the *Hodes* case is through an amendment specifying the original intent of the framers in recognizing unborn children as human persons. She stated she would not support a declaration that there is no constitutional right to abortion without also declaring the rights of unborn persons. She stated she supports a personhood amendment like the language contained in 2019 HCR 5004.

Chairperson Barker recognized Bruce Garren, Chairman of Personhood Kansas, who testified as a proponent ([Attachment 7](#)). He stated the Court had found a right to abortion in the state constitution to protect abortion in the event the U.S. Supreme Court overturns *Roe v. Wade*. He stated laws that allow any abortions are what allowed the Court to create a fundamental right to abortion. He stated the personhood amendment proposed by 2019 HCR 5004 would protect the unborn in Kansas if *Roe v. Wade* is overturned, ignored, or defied; immediately guarantee protection for the unborn through legal actions, including wrongful death, fetal homicide, chemical endangerment, and other non-abortion-related cases; and provide a foundation by which to challenge the federal right to abortion. Personhood Kansas recommended swift passage of 2019 HCR 5004 and 2019 SCR 1604.

Barbara Rew was recognized by Chairperson Barker as a proponent ([Attachment 8](#)). She identified herself as the President of Olathe Right to Life and on the board of the Olathe Pregnancy Clinic. She stated she opposes the Court's finding of a right to abortion in the *Kansas Constitution* in *Hodes & Nauser*. She stated she does not believe any abortion should be legal and she opposes a constitutional amendment that would put the topic of legalizing abortion in Kansas to a popular vote of the people.

Chairperson Barker recognized Rochelle Bird as a proponent ([Attachment 9](#)). She stated her belief the *Hodes* decision created a significant policy shift, with the potential of deregulating the abortion in the state. She stated her belief that, under the strict scrutiny standard applied by the Court in *Hodes*, reasonable regulations on abortion could be struck down, which could impact the safety of women and children, and she believed Kansans should be allowed to vote on this issue. She stated a constitutional amendment addressing the court decision would not ban all abortions; outlaw birth control or *in vitro* fertilization; prevent exceptions for rape, incest, or the life of the mother; or result in the prosecution of women who choose to obtain an abortion. She urged the Committee to support the placement of a state constitutional amendment before the voters of Kansas.

Chairperson Barker noted there was written-only proponent testimony from Brittany Jones of Family Policy Alliance of Kansas ([Attachment 10](#)).

Chairperson Barker opened the floor for questions by the Committee to the conferees.

Representative Clayton asked Ms. Gawdun a question concerning the need for a constitutional amendment when the people have the opportunity to vote on the retention of the Kansas Supreme Court justices.

Chairperson Barker recessed the meeting until 1:15 p.m.

Issues and Possible Options Concerning the Legality of Abortions Following the *Hodes & Nauser, MDs, PA v. Schmidt* Supreme Court Decision—Opponents of a Constitutional Amendment

Chairperson Barker reconvened the meeting at 1:15 p.m. He stated each conferee will be allowed five to six minutes.

Chairperson Barker recognized Representative Nancy Lusk, who testified in opposition to a constitutional amendment ([Attachment 11](#)). She stated she was there to present the Christian pro-choice religious point of view on abortion, which centers around the question of when the soul enters the fetus. She discussed several different historical and religious approaches to determining personhood. She disagrees with the prohibition of abortion in any and all circumstances, stating her concern that a fetus' rights come before those of the woman who carries it. She stated her belief that there needs to be more dialogue about this issue before the Legislature takes any action.

Chairperson Barker recognized Rachel Sweet of Planned Parenthood Great Plains Votes as an opponent ([Attachment 12](#)). Ms. Sweet stated Planned Parenthood is opposed to any attempt to amend the *Kansas Constitution* to take away the rights identified by the Court in the *Hodes & Nauser* case because the personal autonomy identified by the Court is a natural right that existed before the formation of any government, is inherent to all Kansans, and should not be subject to a popular vote. She stated the opinion in *Hodes* establishing the right to personal autonomy, including a right to obtain an abortion, is fundamental, but it is not absolute, meaning the State can regulate abortion care subject to a strict scrutiny standard. She stated her belief that states have a compelling interest (meeting the strict scrutiny standard) in protecting maternal health and ensuring the safe and lawful practice of medicine, including the practice of abortion, meaning under a strict scrutiny standard, abortion could be regulated the same way as any other medical procedure. She stated her belief that many of the laws concerning abortion, specifically state-mandated waiting periods, certain facility requirements, and prohibiting the use of telemedicine for medication abortions, do not improve patient safety. She discussed the potential implications of recent laws passed by some states prohibiting abortion at six or eight weeks of pregnancy, as well as a potential challenge to the U.S. Supreme Court decision in *Roe v. Wade*. Ms. Sweet stated there is a threat of abortion care being dismantled and women and their health care providers being arrested and sent to jail. While the *Hodes* decision is about abortion rights, its findings could have implications that extend to all Kansans, and the *Kansas Constitution* protects every Kansan from undue government overreach into private life, she stated.

Chairperson Barker recognized Letitia Harmon, who testified as an opponent on behalf of the ACLU of Kansas ([Attachment 13](#)). She stated the ACLU of Kansas is against any constitutional amendment that would restrict a woman's personal autonomy and infringe on women's reproductive rights. She stated an amendment in response to the *Hodes* case would be discriminatory because it would deny the right of bodily autonomy found in Section 1 of the *Kansas Bill of Rights* to pregnant women. She stated her belief that decisions about abortion are not between women and voters or politicians, but between a woman and a medical professional and that, without access to safe abortions, women will seek out unsafe methods, which can and do result in the woman's serious harm, injury, or death. She stated the proposed constitutional amendment could potentially contradict more than four decades of binding U.S. Supreme Court precedent, which has held that states cannot ban abortion prior to viability. She discussed the most recent U.S. Supreme Court decision on abortion rights, *Whole Woman's Health v. Hellerstedt*. She stated that, based on legal precedent and the principles of gender

equality and bodily autonomy that must be protected, her organization urges the Legislature not to consider such an amendment.

Chairperson Barker recognized Teresa Woody as an opponent of a constitutional amendment ([Attachment 14](#)). Ms. Woody stated she is one of the lawyers for doctors Hodes and Nauser in the *Hodes & Nauser* case. She provided a procedural background of the *Hodes* case and explained in detail the decision issued by the Supreme Court in that case. She stated that the right to personal autonomy identified by the Court as a fundamental right does not mean the State has no interest in or ability to regulate those procedures; the State can regulate abortions as long as the State enacts statutes and regulations that meet strict scrutiny (showing a compelling state interest and the regulations are drafted as narrowly as possible to promote that interest). She also stated there has been no final decision as to the constitutionality of 2015 SB 95 (SB 95). She stated the Kansas Supreme Court is not alone in this analysis, and all states that have considered whether their state's constitution protects a woman's right to an abortion have said yes with the exception of one, and these courts generally applied strict scrutiny. She stated her belief that there is no need for the State to enact a constitutional amendment concerning abortion.

Chairperson Barker stated there were no further opponents appearing before the Committee. He directed the Committee's attention to the written-only opponent testimony of Brandi Fisher of MainStream Coalition ([Attachment 15](#)).

Chairperson Barker opened the floor for questions of the conferees.

Senator Faust-Goudeau had a question of Ms. Harmon relating to the position of the ACLU against a constitutional amendment.

In response to a question from Senator Faust-Goudeau, Ms. Sweet stated it is Planned Parenthood Great Plains Votes' position that doctors are the experts on medical care, not politicians or legislators. She stated her organization's belief that, because this is a fundamental, natural right that the state Supreme Court has identified, the question is by definition too critical to put up to a popular vote.

Chairperson Barker stated governments are instituted by the people. He asked Ms. Sweet whether they were asking to restrict the people's right to have a say in what is in their constitution and whether they believe only the Supreme Court has the right to make those decisions. Ms. Sweet stated Kansans have the right to change their Constitution, but when they are talking about the *Bill of Rights*, people in the minority should be protected from the views of the majority if the view of the majority is that abortion should be illegal. Chairperson Barker stated courts change, but the *Constitution* remains the same unless it is changed by a majority vote of the people. He asked what is wrong with asking the people how they want their elected representatives to go forward. Ms. Sweet stated she does not think the rights of the minority should be subject just to the will of the majority. She stated Kansans do play an important part in the process because they vote to retain the Supreme Court justices and they vote for their elected officials who pass laws, but the *Kansas Constitution* should be protected at all costs because amending it is an extreme step. She stated such a change would alter the governing infrastructure of the State of Kansas.

Senator Masterson stated the baby has its own DNA and is a unique person, and any form of abortion is the extinguishing of that unique individual. He asked Ms. Sweet her view on when that unique person obtains its autonomy. She stated this has been debated for quite some time among scientists, theologians, and philosophers, who agree the fetus is a separate organism and has its own DNA, but the question is whether it is a person. She stated the word

“person” indicates there should be legal and moral considerations for that entity. Planned Parenthood’s perspective is the U.S. Supreme Court, in its decades of abortion jurisprudence, has drawn a distinct line at fetal viability—when a fetus can survive outside the womb. It is still unconstitutional to pass a blanket ban on abortion at any point in pregnancy because exceptions for the life and health of the pregnant woman must be provided. Senator Masterson asked where that should end. Ms. Sweet stated, generally, when talking about abortion policy and the history of Supreme Court cases, it is not comparing the rights of women to the rights of the fetus, but, instead, the rights and authorities of the state to the rights of women. She stated this is an important question from a lot of perspectives, but as to the legal framework of abortion as the U.S. Supreme Court has defined that, it is a secondary question.

Matt Sterling, Assistant Revisor of Statutes, Office of Revisor of Statutes, in response to a question from Senator Faust-Goudeau concerning the definition of personal autonomy, advised the Committee the Kansas Supreme Court defined personal autonomy to include the ability to control one’s own body, to assert bodily integrity, and to exercise self-determination, which allows a woman to make her own decisions regarding her body, health, family formation and family life, and the right to make self-defining and self-governing decisions about these matters. He stated the Court also generally discussed the idea of autonomy, as part of the concept of Lockean natural right. The Court observed that political philosopher John Locke (1632-1704) described every man as having property in his own person, noting that Locke stated “so far as a man has power to think or not to think, to move or not to move according to the preference or direction of his own mind, so far is a man free.” Mr. Sterling stated the other context in which the Kansas Supreme Court talked about autonomy was in reference to the U.S. Supreme Court recognizing that “no right is held more sacred or is more carefully guarded by the common law than the right of every individual to the possession and control of his own person.” He stated this is not a dictionary definition, but it was the context discussed by the Kansas Supreme Court. Chairperson Barker asked the Revisor to email that definition to the Committee members.

Senator Faust-Goudeau had a question for Representative Lusk. Representative Humphries asked Ms. Woody about whether the *Hodes* decision discussed whether there are any limits on personal autonomy. Ms. Woody stated there are limits because the issue being considered by the Court was whether the *Kansas Constitution* provides a right for a woman to terminate her pregnancy, and that was the only context in which that decision was reached. Any other argument about personal autonomy would have to come before the Court with a factual background for which the justices would make a decision. She stated the Kansas Supreme Court expressly recognized the Kansas Legislature has the ability to regulate abortions under the strict scrutiny standard and the State can regulate abortion if it sets forth a compelling interest and its legislation or regulation narrowly supports that interest. She stated the *Hodes* case did not provide for unregulated abortion.

In response to a question from Senator Tyson, Ms. Woody stated SB 95 did not ban all abortions; it addressed only dilation and evacuation abortions. Senator Tyson stated this legislation was passed in 2015 on a vote of 31-9 in the Senate and 98-26 in the House and was signed into law by the Governor, and the Kansas Supreme Court has taken the language of life, liberty, and the pursuit of happiness in the *Bill of Rights* and stated they can find reasoning for a dismemberment abortion. Ms. Woody said the Court did not make that decision. She stated the Court has not made any decision on the constitutionality of SB 95. It simply found within the *Kansas Constitution* the right of a woman to obtain an abortion. It did not stop the State from regulating abortion and it did not say yes or no with respect to dilation and evacuation abortions, which is the most common method of second-trimester abortions and has been sanctioned by the U.S. Supreme Court. Senator Tyson stated the Court was ruling on SB 95 and specifically

on dismemberment abortion. Ms. Woody stated they were ruling on whether the *Kansas Constitution* contains a woman's right to abortion, but they did not find that statute either constitutional or unconstitutional; they sent it back to the Shawnee County District Court. Senator Tyson said it makes sense to let the Kansans decide if they want this in their *Constitution*.

In response to a question from Senator Tyson, Representative Lusk stated the early Catholic Church believed ensoulment happened later in the pregnancy, and her point was that the fetus does not have a soul and, therefore, it is not a person.

In response to a question from Senator Faust-Goudeau, Ms. Harmon stated Kansans have a representative democracy. In a direct democracy, every issue that was brought to the Legislature would not be debated on its merits, but would go directly to the people for a vote. She stated constituents have trusted legislators with the duty of evaluating policy; looking at evidence, feasibility, and impact; and looking at legislation from all angles to determine whether something is right for the constituents and people of Kansas. She stated this is especially important in regard to a constitutional amendment because this involves a serious shift in how rights are defined according to the state constitution. She also stated her belief that the *U.S. Constitution* would supersede restricting abortion access.

Representative Eplee commented he appreciated Representative Lusk's comments about the concept of ensoulment, but no one really knows when that happens. He stated he has also looked at the history of the *Kansas Constitution*, which was written long before these medical procedures came into being and medicine has now advanced far past the words of the *Kansas Constitution*. He stated Kansas has never had a reflection backwards on the *Constitution* as it relates to abortion in the historical realm. He also noted Kansas is not a referendum state like many other states that have dealt with this issue recently and made some rather arbitrary laws. He thinks this issue should be presented to the voters because the Kansas electorate is well informed on this subject and Kansas is not a referendum state.

Chairperson Barker stated no language had been drafted. He stated the only issue was whether the Committee would recommend a constitutional amendment be drafted and go through the legislative process. He stated he believes that on occasion legislators need to go back to the people they represent and get clarification on the will of those constituents.

Chairperson Barker closed the opponent testimony portion of the hearing.

Committee Discussion and Recommendations Concerning the Legality of Abortions Following the *Hodes & Nausser, MDs, PA v. Schmidt* Kansas Supreme Court Decision

Chairperson Barker opened the floor for discussion and recommendations

Representative Humphries stated the *Hodes* decision calls for legislative action, that the U.S. Supreme Court said it is unconstitutional to burden a woman's right to have an abortion before the fetus attains viability, but Kansas has gone way beyond what the Supreme Court said in *Roe v. Wade* or *Hellerstedt* because this was about second-trimester abortions. Second-trimester abortions include babies at 24 to 26 weeks, when they are viable. She stated she believes this is very important is because, under this decision, any regulation, such as regulating the safety or cleanliness of abortion facilities or requiring a parent to give consent, will fall under strict scrutiny and its high standards. She stated she believes Kansas voters should be given the opportunity to say what they want.

Senator Estes moved that a constitutional amendment should be created by the appropriate standing committees of the Legislature and the people of Kansas should be allowed to vote on clarification to the language of the Kansas Constitution.

Representative Stogsdill stated he would be against the motion until he has had an opportunity to see the exact language of any constitutional amendment. Chairperson Barker stated this Committee was charged to decide and make a recommendation to the Legislature on whether this issue was important enough that the appropriate committees and respective bodies should draft a constitutional amendment; the amendment should go through the process and then, if passed, be put to a vote by the people.

Representative Eplee stated he knows his district and, even without the language in front of him, they want this matter to be taken up and to go through the process. He would heartily second the motion of Senator Estes if that is in order. If not, he would vote to support what Senator Estes put forward.

Senator Faust-Goudeau stated she could not be in favor of the proposed recommendation because she also would want to see specific language first.

Representative Clayton stated she was worried about putting the rights of one group, child-bearing women, to a vote by the general public. She stated the general population's opinions are expressed through voting and choosing whether to retain elected officials and members of the judiciary. She noted several political implications of placing such a measure on the ballot in Kansas and stressed the Committee's role was to decide the best way for democracy to function, and she did not think proposing a constitutional amendment on this subject is an appropriate way for legislators to govern. She stated if the people are upset about the *Hodes* decision, they can vote out representatives and justices using existing systems, and she opposes the recommendation.

Representative Stogsdill stated he agrees with Representative Clayton and he appreciates Representative Eplee's comments. He knows his district, and he does not think they would want him to support a constitutional amendment, so he is opposed to the recommendation.

Chairperson Barker asked if there were any further objections to the recommendation made by Senator Estes. Senator Faust-Goudeau stated she does not object to anything they are saying or doing, but she would not be voting in favor because she has not seen the language.

Chairperson Barker noted Representatives Clayton and Stogsdill objected to the recommendation. The recommendation made by Senator Estes will be the recommendation of this Committee.

Prepared by Connie Bahner

Edited by Joanna Dolan and Jordan Milholland

Approved by the Committee on:

January 17, 2020

(Date)