

Testimony of Michael Farris, JD

In Support of Senate Concurrent Resolution No. 1617

On November 5, 2025, the United States District Court for Kansas ruled that the two-thirds vote requirement for approving applications for a convention to propose Amendments to the Constitution of the United States was in violation of the U.S. Constitution. I was lead counsel in this successful litigation on behalf of Senator Mike Thompson and then-Representative Michael Murphy who were the plaintiffs in this case.

In simple terms, the court ruled that the United States Constitution has sole jurisdiction over the process of amending the U.S. Constitution. The necessary corollary is that the Kansas Constitution has sole jurisdiction over the process of amending the state constitution.

The district court correctly held that this case was one of first impression as it pertains to the process of calling for conventions of the states to amend the United States Constitution. But the court also correctly held that multiple decisions of the Supreme Court of the United States had previously held that the process of ratifying the U.S. Constitution could not be regulated by state constitutions. The judge correctly held that he was bound by the reasoning of those cases.

The core of the Supreme Court's reasoning in those cases was that when state legislators act with regard to the U.S. Constitution, they are not employing legislative power coming from the state constitution. Rather, state legislators are directly empowered by Article V of the U.S. Constitution when proposing a convention for a particular topic or ratifying a proposed amendment.

The district court concluded that this settled Supreme Court reasoning applies to all phases of amending the Constitution of the United States.

Thus, this bill seeks to simply conform the Kansas Constitution to this decision.

I do have an amendment to the bill that I would suggest to more fully comply with this decision. I have discussed this with Senator Thompson, and he is in concurrence with my suggestion.

The way the bill is drafted, it still imposes a state constitutional requirement for votes on federal constitutional amendments. In effect the old version of Section 13 imposed a two-thirds majority, the new version imposes a simple majority.

The way to fully comply with this decision is to simply strike the entire second sentence of Section 13. That leaves just a broad general rule that a majority vote is required for the passage of all bills and removes any direct reference to amending the U.S. Constitution.

If you adopt this approach, I would further suggest a modest amendment to the explanatory statement to make it clear that what is being done is removing a provision of the Kansas Constitution that properly belongs to the exclusive jurisdiction of the U.S. Constitution.

I fully support the idea of this legislation, and with these suggestions, I believe it fully complies with the recent decision of the federal court.

I have attached a draft of my suggested edits to the measure.