

THE LINK BETWEEN THE VALUE THEM BOTH AMENDMENT AND MEDICAID EXPANSION

Statement made by Speaker Ron Ryckman, Kansas House District 78 – Olathe

On February 7th, the House fell four votes short of putting the Value Them Both Constitutional Amendment on the ballot for voters to decide. Some have said Medicaid Expansion and the constitutional amendment are not related to each other.

However, based on what's occurred in other states, there is concern at the Statehouse that passage of Medicaid Expansion, without passage of the constitutional amendment, would create a loophole in Kansas that would allow for taxpayer-funded abortions.

Here is how that could happen.

- Expanding Medicaid in Kansas is estimated to move 55,000 Kansans from private insurance to taxpayer funded Medicaid. Under the Kansas Supreme Court decision in *Hodes & Nauser v. Schmidt*, any state restriction on abortion must pass the highest hurdle of constitutional scrutiny, known as strict scrutiny. Almost no regulations will survive this standard and funding restrictions have already been struck down in other states applying this standard. In fact, our court already cited those decisions favorably in its *Hodes* decision.
- So with 55,000 people moving to taxpayer funded Medicaid, and our existing restrictions on using those state Medicaid dollars for abortion in jeopardy, there is a very real risk that expanding Medicaid without first addressing the *Hodes & Nauser* decision results in taxpayer funded abortions in Kansas.

This isn't just hypothetical.

- Consider Alaska, their state expanded Medicaid in 2015. Since that time, the number of taxpayer-funded abortions steadily climbed from 33 % in 2015 to 44% in 2016. By 2017 51% of the abortions in Alaska were taxpayer-funded. This has been attributed to the fact that, once Medicaid was expanded, Alaskans opted to leave the private insurance they had and switch to taxpayer-funded Medicaid coverage.

Constitutional scholar and attorney Paul Linton testified to the House Health and Human Services Committee on the issue this week. He said, "Given the overwhelming weight of state constitutional authority, it is a virtual certainty the Kansas restrictions on public funding of abortion would be struck down, if challenged on the basis of the opinion in *Hodes*."

While others have argued that federal law would prohibit the scenario Linton described, Linton dismissed that argument. He explained that under federal law, in what's known as the Hyde Amendment, federal taxpayer dollars cannot be used to pay for abortions. However, since Medicaid is funded by a mix of both federal and state taxpayer dollars, the Hyde Amendment does not prevent the use of Kansas taxpayer dollars for abortions

if Medicaid expansion were to be implemented without passage of the Value Them Both Constitutional Amendment first.

Some have called the linkage of expansion and the Constitutional amendment a scare or bullying tactic.

But, the fact is, we don't have to look far to see what has happened in other states.

It's important for the Legislature to do its due diligence on this issue, and every funding issue, to make sure our decisions represent the intent of how Kansans want their taxpayer dollars spent.