

## House Concurrent Resolution No. 5015

By Representatives Landwehr, Aurand, Brunk, Carlson, Carter, Dahl, DeCastro, Decker, Faber, George, Goico, Gordon, Grange, Hayzlett, M. Holmes, Huebert, Hutchins, Huy, E. Johnson, Kelley, Kelsey, Kiegerl, Kilpatrick, Knox, Mast, Mays, McCreary, McLeland, Merrick, F. Miller, Jim Morrison, Judy Morrison, Neufeld, Novascone, Oharah, Olson, Peck, Pilcher-Cook, Powell, Powers, Siegfried and Watkins

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14 A PROPOSITION to amend the constitution of the state of Kansas by  
15 adding a new article thereto, prescribing certain limits upon taxes,  
16 revenues and expenditures by the state.  
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18 *Be it resolved by the Legislature of the State of Kansas, two-thirds of the*  
19 *members elected (or appointed) and qualified to the House of Repre-*  
20 *sentatives and two-thirds of the members elected (or appointed) and*  
21 *qualified to the Senate concurring therein:*

22 Section 1. The following proposition to amend the constitution of the  
23 state of Kansas shall be submitted to the qualified electors of the state  
24 for their approval or rejection: The constitution of the state of Kansas is  
25 amended by adding a new article thereto to read as follows:

26 **“Article 16. — TAX, REVENUE AND EXPENDITURE**  
27 **LIMITATIONS ON STATE GOVERNMENT.**

28 “§ 1. *Definitions.* As used within this article:

29 (a) “State” means the state government including all branches,  
30 state offices, authorities, agencies, boards, commissions, institu-  
31 tions, instrumentalities and any division or unit of state government  
32 which are directly supported with tax funds, except that “state” does  
33 not include any enterprise;

34 (b) “local government” means any county, township, city, ed-  
35 ucation district, other special district and any other taxing district  
36 or political subdivision of Kansas which is directly supported by tax  
37 funds, except that “local government” does not include any  
38 enterprise;

39 (c) “enterprise” means a state-owned or local government-  
40 owned business authorized to issue its own revenue bonds and re-  
41 ceiving less than 10% of annual revenue in grants or other direct  
42 cash benefit from the state and local governments combined;

43 (d) “bond” means any bond, note, debenture, interim certifi-

- 1       cate, grant and revenue anticipation note, lease-purchase agree-  
2       ment, lease certificate of participation or other evidence of indebt-  
3       edness which, in any such case, is entered into or establishes a debt  
4       obligation for longer than one fiscal year, whether or not the interest  
5       on which is subject to federal income taxation;
- 6       (e) “fiscal year” means the twelve-month fiscal period pre-  
7       scribed by law for the state;
- 8       (f) “fiscal year spending” means all expenditures and reserve  
9       increases except, as to both, (A) expenditures for refunds of any  
10      kind, (B) expenditures of moneys received from the federal gov-  
11      ernment, moneys received as grants, gifts or donations which are  
12      to be expended for purposes specified by the donor, moneys that  
13      are collections for another government, moneys received for pen-  
14      sion contributions by employees and pension fund earnings, or (C)  
15      emergency reserve fund or budget stabilization reserve fund trans-  
16      fers or expenditures in accordance with this article;
- 17      (g) “base revenue year” means the fiscal year ending June 30,  
18      2007, or the succeeding fiscal year having the greatest total state  
19      revenue of any succeeding fiscal year that exceeds the total state  
20      revenue for the fiscal year ending June 30, 2007, if any;
- 21      (h) “inflation” means the change expressed as a percentage in  
22      the consumer price index for the Kansas City metropolitan area, all  
23      goods, all urban consumers, as officially reported by the bureau of  
24      labor statistics of the United States department of labor, or its suc-  
25      cessor index;
- 26      (i) “population” means the more recent of either the periodic  
27      census conducted by the United States department of commerce  
28      or its successor agency or the annual update of such census as pre-  
29      scribed by the legislature by law, which shall be adjusted every  
30      decade to match the federal decennial census;
- 31      (j) “education district” means each school district, vocational or  
32      technical school, community college, technical college, municipal  
33      university, and any other public educational entity established as  
34      provided by law, except that “education district” does not include  
35      any state educational institution under the control and supervision  
36      of the state board of regents; and
- 37      (k) “total state revenue” means all moneys received by the state  
38      from any source except any of the following:
- 39      (1) Moneys received as grants, gifts or donations which are to  
40      be expended for purposes specified by the donor;
- 41      (2) moneys received from the federal government; and
- 42      (3) moneys which are income earned on moneys in permanent  
43      endowment funds, trust funds, deferred compensation funds or

1 pension funds and which are credited to such funds.  
2 § 2. *Prior Elector Approval for Tax Increases or Issuance of*  
3 *Certain Bonds.* (a) For any fiscal year that commences on or after  
4 July 1, 2007, except as otherwise provided by this section, the state  
5 must have approval of the electors in advance (1) for any new state  
6 income, sales or other excise tax rate increase before the state tax  
7 rate increase can take effect, (2) for any state mill levy ad valorem  
8 property tax rate increase above the state mill levy ad valorem prop-  
9 erty tax rate for the prior year before the state mill levy ad valorem  
10 property tax rate increase can take effect, (3) for any extension of  
11 any expiring state income, sales or other excise tax or expiring state  
12 ad valorem property tax before the extension can take effect, or (4)  
13 for any state tax policy change enacted into law by the state which  
14 would directly cause a net tax revenue gain to the state or local  
15 government, before such tax policy change can take effect. The  
16 provisions of this section shall not require the approval of the elec-  
17 tors in advance of any extension of any expiring state ad valorem  
18 property tax levied for support of local public schools that is in effect  
19 prior to July 1, 2007, at a rate that is equal to or lower than the rate  
20 of the state ad valorem property tax being extended.  
21 (b) For any fiscal year that commences on or after July 1, 2007,  
22 the state must have approval of the electors before authorizing any  
23 bonds, except for refinancing existing bonded debt at a lower in-  
24 terest rate.  
25 (c) The legislature shall provide by law for the manner of sub-  
26 mitting matters subject to approval under this section to the  
27 electors.  
28 § 3. *Spending and Revenue Limits.* (a) For any fiscal year that  
29 commences on or after July 1, 2007, fiscal year spending by the  
30 state shall not increase above the fiscal year spending for the pre-  
31 ceding fiscal year by more than the maximum percentage increase  
32 determined pursuant to this section. The maximum percentage in-  
33 crease in fiscal year spending for a fiscal year shall be equal to the  
34 result obtained by adding the rate of inflation for the calendar year  
35 ending during the preceding fiscal year, plus the percentage change  
36 in state population during the calendar year ending during the pre-  
37 ceding fiscal year if a positive number, adjusted for revenue changes  
38 approved by electors under section 2 of this article. The limitation  
39 imposed on fiscal year spending shall not apply to expenditures of  
40 moneys transferred to the state general fund from the state budget  
41 stabilization reserve fund pursuant to section 6 of this article.  
42 (b) For any fiscal year commencing on or after July 1, 2007, the  
43 total state revenue limitation shall be determined in accordance

1 with this section. If the amount of the total state revenue for the  
2 preceding fiscal year exceeds the amount of total state revenue for  
3 the second preceding fiscal year, the total state revenue limitation  
4 for a fiscal year shall be the result obtained by adding (1) the lesser  
5 of (A) the amount of total state revenue for the preceding fiscal year  
6 or (B) the amount of the total state revenue limitation for the pre-  
7 ceding fiscal year, and (2) the product of (A) the amount determined  
8 under clause (1) of this subsection, and (B) the sum of (i) the rate  
9 of inflation for the calendar year ending during the preceding fiscal  
10 year, plus (ii) the percentage change in state population during the  
11 calendar year ending during the preceding fiscal year if a positive  
12 number.

13 (c) If the amount of the total state revenue for the preceding  
14 fiscal year is less than the amount of total state revenue for the  
15 second preceding fiscal year, the amount of the total state revenue  
16 limitation for a fiscal year shall be the lesser of (1) the amount of  
17 total state revenue for the second preceding fiscal year, or (2) the  
18 amount of the total state revenue limitation for the base revenue  
19 year.

20 (d) The legislature, by law, shall provide a mechanism to adjust  
21 the amount of a limitation under this section to reflect any subse-  
22 quent transfer of all or any part of the cost of providing a govern-  
23 mental function. The mechanism shall adjust the amount of a limi-  
24 tation so that total costs are not increased as a result of the transfer.  
25 The adjustment mechanism provided for in this subsection shall be  
26 used in determining a limitation under this section beginning with  
27 the fiscal year immediately following the transfer.

28 (e) For the purposes of determining total revenue limitations  
29 under this section for the state, the total authorized fiscal year ex-  
30 penditures for the fiscal year ending on June 30, 2006, shall be  
31 construed to be the total state revenue and the total revenue limi-  
32 tation for that preceding fiscal year and the total authorized fiscal  
33 year expenditures for the fiscal year ending on June 30, 2007, shall  
34 be construed to be the total state revenue and the total revenue  
35 limitation for that preceding fiscal year.

36 § 4. *Emergency Reserve Fund.* (a) For any fiscal year that com-  
37 mences on or after July 1, 2007, if revenue from sources not ex-  
38 cluded from total state revenue exceeds the total state revenue limi-  
39 tation for that fiscal year and subject to the other provisions of this  
40 section, a portion of total state revenue in excess of the total state  
41 revenue limitation, determined in accordance with section 3 of this  
42 article, shall be transferred in the amount and in the manner pre-  
43 scribed by the legislature by law to the emergency reserve fund,

1 which fund is hereby created in the state treasury, to the extent  
2 necessary to ensure that a balance of the emergency reserve fund  
3 at the end of the fiscal year is an amount equal to not more than  
4 3% of the total state revenue limitation for the ensuing fiscal year.  
5 Any amount required to be maintained in the ending balance of the  
6 state general fund as provided by law shall be excluded from the  
7 amount available for transfer to the emergency reserve fund by this  
8 section. Each transfer to the emergency reserve fund prescribed by  
9 this section shall be made before making any transfer to the budget  
10 stabilization reserve fund as provided in section 5 of this article or  
11 any refunds as required by section 6 of this article. The state shall  
12 not be required to transfer any moneys other than any amount of  
13 total state revenue in excess of the total state revenue limitation to  
14 the emergency reserve fund. The moneys in the emergency reserve  
15 fund shall be in addition to, and shall not be used to meet, any other  
16 reserve requirement under this constitution or any law. In no case  
17 shall additional moneys be transferred to the emergency reserve  
18 fund if the balance in the emergency reserve fund is more than 3%  
19 of the total state revenue limitation for the ensuing fiscal year.

20 (b) Moneys in the emergency reserve fund may be expended  
21 only for emergencies declared by law. Two-thirds ( $\frac{2}{3}$ ) of the mem-  
22 bers then elected (or appointed) and qualified in each house, voting  
23 in the affirmative, shall be necessary to declare an emergency within  
24 the state of Kansas as a whole and to pass any bill making an ap-  
25 propriation of money or transferring any moneys from the emer-  
26 gency reserve fund. Income earned on the emergency reserve fund  
27 of the state shall accrue to the fund.

28 (c) As used in this section “emergency” means an extraordinary  
29 event or occurrence that could not have been reasonably foreseen  
30 or prevented and that requires immediate expenditures to preserve  
31 the health, safety and general welfare of the people within the state  
32 and “emergency” does not mean a revenue shortfall or budget  
33 shortfall.

34 § 5. *Budget Stabilization Reserve Fund.* (a) For any fiscal year  
35 that commences on or after July 1, 2007, if total state revenue ex-  
36 ceeds the total state revenue limitation for that fiscal year, then the  
37 remaining excess amount, after making any transfer to the emer-  
38 gency reserve fund as required by section 4 of this article, shall be  
39 reserved as prescribed by this section or refunded as prescribed by  
40 section 6 of this article, subject to the other provisions of this sec-  
41 tion. Any amount required to be maintained in the ending balance  
42 of the state general fund as provided by law shall be excluded from  
43 the amount available for transfer to the budget stabilization reserve

1 fund by this section.

2 (b) After any amount required to be transferred to the emer-  
3 gency reserve fund pursuant to section 4 of this article has been  
4 transferred, an amount of any remaining excess amount of total state  
5 revenue shall be transferred in the amount and in the manner pre-  
6 scribed by the legislature by law to the budget stabilization reserve  
7 fund, which fund is hereby created in the state treasury. The  
8 amount transferred to the budget stabilization reserve fund in ac-  
9 cordance with this subsection shall be equal to the lesser of (1) the  
10 amount necessary to ensure that the balance in the budget stabili-  
11 zation reserve fund at the end of the fiscal year is an amount equal  
12 to 7% of the total state revenue limitation for the ensuing fiscal  
13 year, or (2) the amount equal to 50% of any such remaining excess  
14 amount of total state revenue. Income earned on the budget sta-  
15 bilization reserve fund shall accrue to the fund. In no case shall  
16 additional moneys be transferred into the budget stabilization re-  
17 serve fund if the balance in the fund is equal to or more than 7%  
18 of the total state revenue limitation for the ensuing fiscal year.

19 (c) For any fiscal year that commences on or after July 1, 2007,  
20 if the amount of the total state revenue is less than the amount of  
21 total state revenue for the prior fiscal year, the legislature shall pro-  
22 vide by law for the transfer of moneys from the budget stabilization  
23 fund to the state general fund in an amount equal to not more than  
24 the difference between the amount of total state revenue for the  
25 prior fiscal year and the amount of total state revenue for the cur-  
26 rent fiscal year. Under no other circumstances shall moneys be  
27 transferred or expended from the budget stabilization fund of the  
28 state.

29 § 6. *Disposition of Excess Revenues.* (a) Any excess amount of  
30 total state revenues for a fiscal year that remains after the transfers  
31 to the emergency reserve fund and budget stabilization reserve fund  
32 pursuant to section 4 or section 5 of this article, if any, shall be  
33 reserved in the current fiscal year and shall be refunded as provided  
34 by law during the next ensuing fiscal year to the taxpayers who paid  
35 the state ad valorem property taxes or state income taxes, or both,  
36 for the preceding fiscal year, in a manner that is proportional, on a  
37 pro rata basis, to the manner in which such taxes were collected  
38 from such taxpayers for such fiscal year. Any amount required to  
39 be maintained in the ending balance of the state general fund as  
40 provided by law shall be excluded from the amount available to be  
41 reserved and refunded by the state as prescribed by this section.

42 (b) In a case of any amount that is received pursuant to any tax  
43 and required to be reserved and refunded to taxpayers by the state

1 pursuant to this section and that is determined by the state in the  
2 manner prescribed by law to be insufficient for refunds to be made  
3 during the ensuing fiscal year, such amount shall be reserved for  
4 refunds to be made thereafter when the amount reserved is suffi-  
5 cient therefor.

6 § 7. *Temporary Borrowing.* On or after July 1, 2007, during any  
7 fiscal year, transfers which are temporary and are to be repaid, or  
8 any other temporary borrowing, through certificates of indebted-  
9 ness or any other device or manner, of any moneys in the state  
10 treasury to be credited to the state general fund, are prohibited  
11 unless the moneys so transferred or otherwise borrowed are re-  
12 stored or repaid to the original funds or accounts of the state treas-  
13 ury from the state general fund within the same fiscal year. The  
14 provisions of this section do not apply to transfers from the emer-  
15 gency reserve fund or the budget stabilization reserve fund to the  
16 state general fund in accordance with this article.

17 § 8. *General Revenue Supplanting.* On or after July 1, 2007, any  
18 appropriation of moneys in the state treasury that either supplants  
19 any appropriation from the state general fund, or that, if not made,  
20 would require an appropriation from the state general fund is pro-  
21 hibited. For purposes of this section, any appropriation of moneys  
22 in the state treasury that is funded by user charges or fees imposed  
23 on goods or services that do not exceed the cost of the goods or  
24 services provided shall not be deemed to be an appropriation that  
25 supplants any appropriation from the state general fund.

26 § 9. *State Mandates on Local Governments.* A local government  
27 may not be required to fulfill any mandate imposed by the state  
28 unless and until, and may be required to fulfill that mandate only  
29 to the extent that, funds are provided to the local government by  
30 the state for that purpose. The legislature is not required to appro-  
31 priate funds for mandates if more than two years have passed since  
32 the effective date of the mandate and no claim for funding has been  
33 made by the local government during that period.

34 § 10. *Construction and Enforcement.* (a) The provisions of this  
35 article shall be liberally construed for the purpose of effectuating  
36 the purposes thereof, except that nothing in this article shall be  
37 construed to authorize any new or increased tax of any kind other  
38 than as provided or authorized by law enacted by the legislature in  
39 accordance with and subject to the other provisions of this  
40 constitution.

41 (b) In any case of a conflict between any provision of this article  
42 and any other provision contained in the constitution, the provisions  
43 of this article shall control.

1 (c) All laws in force at the time of the adoption of this amend-  
2 ment and consistent therewith shall remain in full force and effect  
3 until amended or repealed by the legislature. The legislature shall  
4 repeal or amend all laws inconsistent with the provisions of this  
5 article to conform with the provisions of this article.

6 (d) Any individual or class of individuals shall have standing to  
7 bring a suit to enforce this article. A court of record shall award a  
8 successful plaintiff costs and reasonable attorney fees in the suit,  
9 but may not allow the state to recover costs and reasonable attorney  
10 fees unless a suit against it is ruled frivolous.”

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

13 “*Explanatory statement.* Beginning July 1, 2007, this amendment  
14 (1) would require the state to have prior voter approval for any  
15 new tax or tax increase or extension of an existing tax, other than  
16 extension of current state ad valorem taxes for local public  
17 schools, and for any bonded debt other than refinancing bonds,  
18 (2) would impose spending and revenue limits on the state based  
19 on increases in the consumer price index and population, with  
20 provisions to adjust for economic downturns or transferred func-  
21 tions, (3) would provide for a state emergency reserve fund to  
22 be used only for emergencies that are declared by law passed by  
23  $\frac{2}{3}$  of all members of the House and Senate, and not to be used  
24 for any revenue shortfall, and a state budget stabilization reserve  
25 fund to be used when state revenue declines, (4) would provide  
26 for excess state revenues, after transfers to the reserve funds, to  
27 be refunded to state property or income taxpayers, (5) would  
28 limit state temporary borrowing to that repaid within the same  
29 year and would prohibit the state from replacing general reve-  
30 nues with excessive fees and charges for goods and services, (6)  
31 would provide that local governments could not be required to  
32 fulfill unfunded state mandates, and (7) would govern in case of  
33 conflicts with statutes or other state constitutional provisions and  
34 would permit individual or class action enforcement actions.

35 “A vote for the proposition would limit state legislative authority  
36 and would require voter approval for state tax increases or ex-  
37 tensions and certain bonded debt, would impose state spending  
38 and revenue limits, would require excess state revenues to be  
39 reserved for emergencies and economic downturns, with limits,  
40 or to be refunded to taxpayers, would limit state temporary bor-  
41 rowing, would prohibit unfunded mandates on local govern-  
42 ments and would permit enforcement actions.

43 “A vote against the proposition would continue the present consti-



1           tutional and statutory authority for state government taxing and  
2           spending by law, for disposition of tax revenues and for other  
3           related matters in the exercise of the legislative power of this  
4           state.”

5           Sec. 3. This resolution, if approved by two-thirds of the members  
6           elected (or appointed) and qualified to the House of Representatives, and  
7           two-thirds of the members elected (or appointed) and qualified to the  
8           Senate shall be entered on the journals, together with the yeas and nays.  
9           The secretary of state shall cause this resolution to be published as pro-  
10          vided by law and shall cause the proposed amendment to be submitted  
11          to the electors of the state at the general election to be held on November  
12          7, 2006, unless a special election is called at a sooner date by concurrent  
13          resolution of the legislature, in which case it shall be submitted to the  
14          electors of the state at the special election.