Approved: February 24, 2004
Date

MINUTES OF THE HOUSE APPROPRIATIONS COMMITTEE

The meeting was called to order by Chairman Melvin Neufeld at 9:00 a.m. on February 13, 2004 in Room 514-S of the Capitol.

All members were present except:
Representative Jo Ann Pottorff- excused

Committee staff present:
Alan Conroy, Legislative Research
J. G. Scott, Legislative Research
Amy VanHouse, Legislative Research
Michele Alishahi, Legislative Research
Jim Wilson, Revisor of Statutes
Mike Corrigan, Revisor of Statutes
Nikki Feuerborn, Administrative Analyst
Shirley Jepson, Committee Secretary

Conferees appearing before the committee:
Chris Atkins, Director of Tax and Fiscal Policy, American Legislative Exchange Council (ALEC)
Dr. Barry Poulson, Professor of Economics, University of Colorado
Mark Tallman, Kansas Association of School Boards (KASB)

Others attending:
See Attached List.

- Attachment 1 Research Information on **HCR 5034**, presented by Representative Landwehr
- Attachment 2 Testimony by Chris Atkins, American Legislative Exchange Council
- Attachment 3 Information on TABOR Amendment presented by Dr. Barry Poulson
- Attachment 4 Written testimony on **HCR 5034** from Marlee Carpenter, Vice-President of Governmental Affairs, The Kansas Chamber of Commerce
- Attachment 5 Testimony by Mark Tallman, Kansas Association of School Boards
- Attachment 6 Written testimony on **HCR 5034** by Diane Gjerstad, Wichita USD No. 259 and Robert Vancrum, Blue Valley USD No. 229

Hearing on HCR 5034 - Constitutional amendment to prescribe tax, revenue and expenditure limits on state government.

Chair Neufeld recognized Representative Landwehr, who presented an explanation of **HCR 5034**, stating that the bill puts a cap on the spending of state government at the rate of inflation plus population; creates an emergency fund as well as a budget stabilization fund; and allows a vote of the citizens on tax and fee increases. The bill does not remove the required ending balance (Attachment 1).

The Chair recognized Chris Atkins, Director of Tax and Fiscal Policy at the American Legislative Exchange Council in Washington, DC, who presented testimony as an proponent of **HCR 5034** (Attachment 2). With no questions from the Committee, Chairman Neufeld thanked Mr. Adkins for his testimony.

Chairman Neufeld recognized Dr. Barry Poulson, Professor of Economics, University of Colorado, who continued with testimony as a proponent of **HCR 5034** and explanation of similar legislation in other states and the Taxpayers Bill of Rights (TABOR) legislation (Attachment 3). Dr. Poulson indicated that there is discussion and possible reform on the handling of federal mandates. Regarding implementation of the amendment, Dr. Poulson felt that it would be important to have constraints in place on borrowing temporary financing. The Committee expressed concern that there could be conflicts between this resolution and regulations tied to the Constitution. Jim Wilson, Revisor of Statutes, stated that the extent of any conflict would have to be governed by a court decision; however, direct conflicts in the resolution are not visible at this time. In response to a question concerning state mandates on local government, Dr. Poulson noted that when the state of Colorado issues a mandate on local government, it must be funded by the State.

Written testimony in support of **HCR 5034** from Marlee Carpenter, Vice-President of Governmental Affairs, The Kansas Chamber of Commerce, was distributed to the Committee (Attachment 4).

Chairman Neufeld recognized Mark Tallman, Assistant Executive Director/Advocacy for the Kansas Association of School Boards (KASB), who presented testimony as an opponent of **HCR 5034** (Attachment 5).

Written testimony from Diane Gjerstad, Wichita USD No. 259 and Robert Vancrum, Blue Valley USD No. 229, in opposition to **HCR 5034**, was distributed to the Committee (Attachment 6).

Chairman Neufeld closed the hearing on **HCR 5034.**

The meeting was adjourned at 10:25 a.m. The next meeting of the Committee will be held at 9:00 a.m. on February 16, 2004.

Melvin Neufeld, Chair

HOUSE APPROPRIATIONS COMMITTEE

February 13, 2004
9:00 A.M.

NAME	REPRESENTING
[illegible] Smith	—
George Petersen	Ks Taxpayers Network
Mark Tallman	Ks Assoc. of School Boards
Jim Sullinger	KC STAR
April Holman	KS Action for Children

HOUSE APPROPRIATIONS
DATE 2-13-2004
ATTACHMENT 1

STATE EXPENDITURES
FY 1995-FY 2005 (Gov. Rec.)
(In Thousands)

STATE GENERAL FUND EXPENDITURES

Fiscal Year	Actual or Gov. Rec. Amount	Actual or Gov. Rec. % Change	If Tied to Inflation Amount	If Tied to Inflation % Change	Difference from Actual/Gov. Rec.	*If Tied to Inflation and Population Change** Amount	*If Tied to Inflation and Population Change** % Change	*Difference from Actual/Gov. Re*
1995	$ 3,309,835	6.4 %	$ 2,840,082	2.9 %	$ (469,753)	*$ 3,226,131*	*3.7 %*	*$ (83,704)*
1996	3,439,228	3.9	2,916,764	2.7	(522,464)	*3,329,367*	*3.2*	*(109,861)*
1997	3,538,106	2.9	3,001,350	2.9	(536,756)	*3,452,554*	*3.7*	*(85,552)*
1998	3,799,114	7.4	3,055,374	1.8	(743,740)	*3,549,225*	*2.8*	*(249,889)*
1999	4,196,192	10.5	3,104,260	1.6	(1,091,932)	*3,630,857*	*2.3*	*(565,335)*
2000	4,367,621	4.1	3,175,658	2.3	(1,191,963)	*3,732,521*	*2.8*	*(635,100)*
2001	4,429,642	1.4	3,283,631	3.4	(1,146,011)	*3,870,625*	*3.7*	*(559,017)*
2002	4,466,061	0.8	3,336,169	1.6	(1,129,892)	*3,948,037*	*2.0*	*(518,024)*
2003	4,137,498	(7.4)	3,416,237	2.4	(721,261)	*4,058,582*	*2.8*	*(78,916)*
2004 Gov. Rec.	4,332,320	4.7	3,477,729	1.8	(854,591)	*4,160,047*	*2.5*	*(172,273)*
2005 Gov. Rec.	4,614,661	6.5	3,554,239	2.2	(1,060,422)	*4,280,688*	*2.9*	*(333,973)*
Ten Year Change Dollar/Percent	***$ 1,304,826***	***39.4 %***	***$ 714,157***	***25.1 %***		***$ 1,054,557***	***32.7 %***	

*Percent increase adds the Consumer Price Index-Urban and the percentage change in estimated population for each year.

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STATE EXPENDITURES
FY 1995-FY 2005 (Gov. Rec.)
(In Thousands)

ALL FUNDS EXPENDITURES

Fiscal Year	Actual or Gov. Rec.		If Tied to Inflation		Difference from Actual/Gov. Rec.	*If Tied to Inflation and Population Change**		*Difference from Actual/Gov. Rec.*
	Amount	% Change	Amount	% Change		*Amount*	*% Change*	
1995	$ 7,218,366	6.4 %	$6,979,198	2.9 %	$ (239,168)	*$7,033,458*	*3.7 %*	*$ (184,908)*
1996	7,628,860	5.7	7,167,636	2.7	(461,224)	*$7,258,528*	*3.2*	*(370,332)*
1997	7,844,649	2.8	7,375,497	2.9	(469,152)	*$7,527,094*	*3.7*	*(317,555)*
1998	8,079,021	3.0	7,508,256	1.8	(570,765)	*$7,737,853*	*2.8*	*(341,168)*
1999	8,306,423	2.8	7,628,388	1.6	(678,035)	*$7,915,823*	*2.3*	*(390,600)*
2000	8,418,130	1.3	7,803,841	2.3	(614,289)	*$8,137,466*	*2.8*	*(280,664)*
2001	8,849,944	5.1	8,069,172	3.4	(780,772)	*$8,438,552*	*3.7*	*(411,392)*
2002	9,802,587	10.8	8,198,279	1.6	(1,604,308)	*$8,607,323*	*2.0*	*(1,195,264)*
2003	10,082,038	2.9	8,395,037	2.4	(1,687,001)	*$8,848,329*	*2.8*	*(1,233,709)*
2004 Gov. Rec.	10,210,797	1.3	8,546,148	1.8	(1,664,649)	*$9,069,537*	*2.5*	*(1,141,260)*
2005 Gov. Rec.	10,182,218	(0.3)	8,734,163	2.2	(1,448,055)	*$9,332,553*	*2.9*	*(849,665)*
Ten Year Change Dollar/Percent	***$ 2,963,852***	***41.1 %***	***$1,754,966***	***25.1 %***		***$2,299,096***	***32.7 %***	

*Percent increase adds the Consumer Price Index-Urban and the percentage change in estimated population for each year.

Kansas Testimony

February 13th, 2004

HOUSE APPROPRIATIONS

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ATTACHMENT 2

Thank you Mr. Chairman and members of the committee. My name is Chris Atkins and I am Director of Tax and Fiscal Policy at the American Legislative Exchange Council in Washington, DC. ALEC is the nations largest, bi-partisan, individual association of state legislators. Our members share a commitment to the Jeffersonian principles of limited government, free markets and individual liberty. It is a commitment to these principles that has led ALEC to support tax and expenditure limitations (TELs) and design model legislation that limit the growth of state government.

The TEL debate is guided by two fundamental issues which have a substantial degree of overlap. The first issue is political philosophy. The other issue is the design and operation of the limit. My testimony will focus on the reasons behind tax and spending limits, and some economic and fiscal facts which may help you in your decision about adopting a TEL in Kansas. Dr. Barry Poulson will focus his testimony on the design and operation of TELs. These two issues overlap because if you are really committed to limiting the taxing and spending power of government, you need to adopt a limit that will accomplish its stated goal. In too many states, lawmakers adopt tax and spending limits that do not accomplish their goal, either through carelessness or by design. House Concurrent Resolution No. 5034 is a strong TEL that will constrain the growth of government in Kansas, and the closer the final version you adopt is to the resolution in its current form, the stronger the Kansas TEL will be.

How is a tax and spending limit consistent with government's role in society? The Kansas Constitution contains what I think is an excellent summation of the traditional role government has been asked to play in American society. The preamble to the Kansas Constitution says that the state was established to "insure the full enjoyment of our rights as American citizens." Section 1 of the Kansas Bill of Rights says "(a)ll men are possessed of equal and inalienable natural rights, among which are life, liberty, and the pursuit of happiness." We can see in the Kansas Constitution a focus on rights and a charge to government to protect those rights.

Since the chief aim of a tax and spending limit is to keep taxes low through tax and spending discipline, a TEL is fully consistent with the charge you are given under the Kansas constitution.

I would also argue that the view of government's role as contained in the Kansas Constitution, as well as the Declaration of Independence, is a transcendent view of the role of government. In other words, the view that government exists to protect life, liberty and the pursuit of happiness leaves little room for government to grow. It places its trust in the decisions of individuals, communities, religious institutions and the commercial sector. As such a tax and spending limit is perfectly designed to fit such a role, because a TEL basically says that from this point forward, government can only grow as fast as it needs to in order to maintain current services. If you as lawmakers have designed your governmental operations to meet the goals stated in the Kansas Constitution, then a TEL does not in any way operate as a constraint on government. It only constrains growth beyond the limits the people place on government in the first place.

Some argue that tax and spending limits, particularly super-majority requirements or voter approval for tax increases, are actually anti-democratic in the sense that the people's representatives are unduly constrained from carrying out the will of the people. They are arguing, in essence, that a TEL is not a reasonable limit to place on government power. In fact, section 2 of the Kansas Bill of Rights says "(a)ll political power is inherent in the people, and all free governments are founded on their authority, and are instituted for their equal protection and benefit." Taken to its logical extreme, however, the argument against a TEL as a limit on government's power could be made against any limit on government power. We do not allow government to regulate speech merely because a majority of the people or their elected representatives want to regulate speech. Restrictions on government are borne out of consistent observations on governmental abuse of power and authority. We have to maintain a delicate balance between majoritarianism and the rights of the people. I would argue that years of data on state budgets and taxes in the last decade make the case for tax and spending limits clear.

State taxes are rising faster, on average, than the incomes of American families. According to the Tax Foundation, total state taxes increased by an average annual rate of 4.2% between 1991 and 2001, adjusted for inflation. That's a real average increase in the state tax burden of 4.2% for each family in America in the past decade. Average annual income growth was only 3.46% over the same period. In only ten states did personal income growth exceed the growth in the tax burden. In Kansas, the average annual tax growth from 1991-2001 was 4.11%; average annual income growth was 2.99%. That's a difference of 1.12%. How are we expecting our families to make up the difference? What are we asking them to give up in order to pay higher taxes? We need to consider the fact that higher taxes—whether occuring naturally or through specific rate increases—are really budget cuts for American families.

I think ever higher taxes can explain the tax revolt we have witnessed in recent years. In almost every single state where a tax increase has been put to a vote of the people, the tax increase has been defeated. Just last week, voters went to the polls in Oregon and defeated a measure that would have raised their taxes by $800 million, automatically triggering $544 million in spending cuts. Oregon voters defeated a similar measure last year. In September, 2003, Alabama voters defeated a measure that would have raised taxes by $1.2 billion, despite Governor Riley urging voters that it was their Christian duty to raise taxes. In November, 2002, voters in Missouri rejected a cigarette tax increase for the state, a rarity considering the number of legislatures that have raised cigarette taxes in the past two years. Voters in Northern Virginia, where I live, even rejected a half-cent, local option sales tax increase to fund transportation projects, despite the fact that every major highway in the area is a parking lot. The voters are making clear their disapproval for higher taxes, and I believe the voters would welcome tax and spending limits as a vehicle to keep taxes low.

Lawmakers do not, however, raise taxes on a whim. Something else is driving higher state taxes, and it is an insatiable appetite for state spending. According to a report from the National Conference on State Legislatures, state spending has exploded in the past forty years. In 1961, states spent on average $638 per person in their jurisdiction. In 2001, adjusted for inflation, states spent $2,983 per person, an increase of $2,345. Total state spending as a percentage of the economy has grown significantly in the past forty years as well, from 3.87% of GDP in 1961 to 6.01% in 2001. Per capita spending and spending as a percentage of the economy have slowed in recent years, but the march is inevitably upward. There can be no question that state government is consistently taking more from our paychecks and consuming more of our economic resources. This growing appetite is also clear evidence of the need to constitutionally limit the growth in state spending.

Stephen Moore, a Senior Fellow at the Cato Institute for Public Policy Studies, wanted to examine how state budgets would have grown if they had all enacted tax and spending limits in the early 1990s. His findings were astonishing. If states had limited expenditure growth in the 1990s to the increase in population and inflation, states would have had a collective $100 billion surplus instead of a $100 billion deficit. You might not have needed to raise taxes in Kansas recently if you had a tax and spending limit in place in the 1990s.

Another benefit of a TEL is the fiscal discipline it will impose on state agencies. I think most of you will agree that a near endless supply of resources will not ensure that those resources are spent wisely. Limiting increases in spending to population and inflation will force agencies to eliminate wasteful and redundant spending.

Kansas is not the only state currently considering a tax and spending limit. Bills have been introduced in New Hampshire, New Mexico, South Carolina, Oklahoma, Utah, Virginia and Wisconsin, and I expect bills to be introduced in Alaska and Maryland. Most of the TEL bills introduced in other states are similar to the bill you are considering today. Governor Craig Benson is championing the TEL bill in New Hampshire, and his advocacy pinpoints the philosophical differences at the core of the TEL debate. He says that his state has "not lived within (its) means despite the hardships of those who pay the bills." He also argues that New Hampshire cannot "spend its way back to prosperity." He wants to put a "permanent stamp" on his promise to lower taxes and lessen the size, scope and burden of state government.

In one way it is surprising to see New Hampshire on the verge of enacting a tax and spending limit because the Granite State already has one of the lowest per capita tax burdens in the entire nation. "Live Free or Die" is the state motto and they certainly live it out. The state ranks forty-seventh in state taxes per capita and fiftieth in taxes per one-thousand dollars in income. Surprisingly, New Hampshire ranked first in tax revenue growth from 1991-2002, more proof that low tax rates can lead to higher tax revenues. New Hampshire has consistently higher economic, job and personal income growth than other New England states, despite having no state sales or income tax. In fact, many economists attribute New Hampshire's economic success to their low tax burden. In many ways, New Hampshire enacting a tax and spending limit would simply be memorializing the conservative fiscal policy they have governed with in recent years.

Low taxes have translated into higher economic growth in other states as well. Stephen Moore, in a study for ALEC, compared the states that raised taxes in the early 1990s with the states that cut spending and taxes in the same period. The states that raised taxes—like California, Connecticut and New York—had lower economic and population growth than states that cut taxes or spending—like Michigan and New Jersey.

I am not going to talk about Colorado much because Barry Poulson is the real expert on Colorado. I will say, however, that Colorado has experienced strong economic growth recently. There has certainly been a strong correlation between the Colorado Taxpayer Bill of Rights (TABOR) and a resurgent economy in the state. The Colorado economy of the 1990s outperformed the Colorado economy of the 1980s. TABOR become law in 1992.

Limits on the ability to raise taxes, such as a supermajority requirement or requiring tax increases to go to a vote of the people, have been successful in other states. I mentioned a number of states earlier where the people voted against tax increases, but the best example for the effectiveness of tax limits is California. As you know, California has been a fiscal disaster. Last year they faced a general fund deficit approaching $40 billion, and this year the deficit is around $15 billion. To this date, California has not enacted a general tax increase to address its budget deficit. I believe this is directly attributable to the supermajority requirement for tax increases in the state constitution. Recent fiscal history in California is a good case study in the effectiveness of tax limits.

Nevada is another good case study of the impact of tax limits and the lengths some will go to circumvent them. Nevada also requires a two-thirds vote in each house to raise taxes. Last year, Nevada lawmakers passed a budget but could not get two thirds of the members to agree on tax increases needed to pay for the budget. Governor Guinn refused to re-open the budget to reduce spending, and he ultimately sued the legislature in the state Supreme Court, seeking an order forcing lawmakers to raise taxes. The Nevada Constitution requires public school funding but does not specify the exact levels of funding required. The state Supreme Court not only ordered the legislature to raise taxes, but ordered them to do so by simple majority vote. In the wake of a state constitutional crisis, several lawmakers relented and agree to raise taxes; the final votes received the constitutionally required two-thirds. Even though the tax limit in Nevada was eviscerated, it is still a good example of the lengths that limits will force lawmakers to go if they want to raise taxes.

Dr. Barry Poulson is going to address the fundamental issue of TEL design and how this can drastically impact the effectiveness of a TEL in Kansas. Just as fundamental, however, are the philosophical reasons to enact a TEL. It is a fact that states with lower taxes, on average, experience higher levels of economic growth. Facts do not interpret themselves, however, and your decision to adopt a TEL for Kansas will in large part depend on the philosophy you think should guide government in this state. I would urge you to join ALEC in promoting the Jeffersonian principles of limited government, free markets, and individual liberty. Thank you.

KANSAS TABOR AMENDMENT

Article 16. – Tax, Revenue and Expenditure Limitations of State Government.

Section 1: Definitions

Section 2: Prior Elector Approval for Tax Increases or Issuance of Certain Bonds.
- Would come in to effect on July 1, 2005
- Must have approval of the electors in advance.
- Affects any
    - State income
    - Sales/excise tax rate increase
    - State mill levy property tax increase
    - Extension of expiring income tax
    - Tax policy change that would increase net revenue
- Must have voter approval to finance a bond with the exception of refinancing at a lower rate

Section 3: Spending and Revenue Limits
- Fiscal year spending cannot increase above preceding fiscal years by a set maximum percentage.
- Maximum percentage increase is calculated by adding the preceding fiscal years rate of inflation plus the change in state population of the preceding year.

Section 4: Emergency Reserve Fund
- Shall be equal to but not more than 3% of total state revenue limitation for preceding year.
- Transfer is made before transfers to the Budget Stabilization Fund or refunds are.
- Cannot be used to meet any other reserve requirement.
- May only be used in emergencies that have been declared by law, which requires a 2/3 vote by the legislature to declare.
- Emergency is not considered at revenue/budget shortfall.

Section 5: Disposition of Excess Revenue
- When total revenue exceeds revenue limit and necessary transfers are made to then excess amount shall be transferred to the Budget Stabilization Fund.
- Shall be equal to the lesser:
    - 10% of total revenue limitation
    - 50% of excess revenue
- Transfer shall not exceed 10% of total revenue limitation

Section 6: Disposition of Excess Revenue
- Any excess funds that remain after transfers to emergency fund and budget stabilization fund shall be refunded to taxpayers the next year that have paid state income taxes or property taxes

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ATTACHMENT 3

- If refund is insufficient to be refunded, then funds shall be retained until they are sufficient enough for a refund.

Section 7: Temporary Borrowing

- Any transfers that are borrowed from the general fund must be replaced the same fiscal year in which they are borrowed.
- This does not include the Emergency Relief Fund or the Budget Stabilization Fund.

Section 8: General Revenue Supplanting

- Fees and charges can not be raised to supplant the general fund above their cost of goods or services

Section 9: State Mandates on Local Government

- The state cannot impose a mandate on a local government with out providing them with the funds to do so.

Section 10: Construction and Enforcement

- This amendment takes priority in the case of a conflict with currently existing legislation.
- All laws that are in compliance with this amendment upon its enactment shall stay in full force; any that are not must come into compliance.
- Allows for individuals to bring suite against the state to enforce this article and costs incurred by the individual(s) to be reimbursed if the state is at fault.

TABOR/TEL Legislation and Amendments

California

- TELs started in California in the early 70's as legislation that limited state spending to a current ratio of State Expenses to State Income.
- The legislation included a .1% decrease annually till a 7% cap could be reached.
- The legislation never made it past the polls, but started a tax reform.
- Today they have a successful limit on local property taxes.
- Also introduced the Gann Amendment, which limited tax revenues to the sum of population growth and inflation.
- Gann Amendment resulted in a $1.1 billion rebate in 1987.
- Gann Amendment as fail since because it failed to restrain other income beside tax revenue. Legislatures increased fees and non-tax revenues to get the money they wanted.

Missouri

- Hancock Amendment of 1980 was a TEL limiting state revenue to the rate of increase in personal income.
- Also provided for excess revenue to be rebated to taxpayers.
- Failed due to an original 2% that was exempt. This exemption grew to 18% over the years.
- Revenue in some subsequent years was double the growth of personal income
- Also failed due to different interpretations of total state revenue by various state agencies.
- Missouri Supreme Courts and Legislature found creative ways around and eventually ignored the Amendment.
- In 1996 the citizens introduced and Amendment that required a vote by the citizens on a tax increase of $50 million or 1% of state revenues and passed.
- Also requires refunds of excess tax revenues if revenue is greater than the growth of personal income by 1% or more.
- Missouri has since successfully rebated and cut taxes by $2.5 billion.

Florida

- Legislature introduced an Amendment after a failed citizen attempt in 1994 to limit taxes.
- The new Amendment limited revenue by the growth of state personal income.
- Capped at a five year average of state personal income
- A provision was included that exempted Medicaid, matching funds, charges by local/regional governments, and debt service, which cause this Amendment to fail.
- Another provision allowed for the growth of the cap with personal income without regard of the actual revenue. Resulting in a cap that doesn't restrain spending.
- TELs actually prompted more spending than before they were introduced in Florida.

Washington

- Initiative 62 was a TEL introduced in 1979 that was linked to personal income growth that failed
- Legislatures were able to increases taxes and still remain under the TEL limit.

- Initiative 601 was introduced in the early 1990's and limited spending to inflation plus population growth.
- Reduced expenses for administration, social services, and prisons by $120 million.
- Higher education was required to make $39 million in cuts.
- Citizens voted to repeal motor vehicle tax because revenue growth began to exceed the limit.
- In 2000 the TEL failed because it was statutory and not an Amendment.
- The legislature passed a supermajority vote required to suspend the TEL limit, and is no longer an effective limit.

Michigan
- Enacted a constitutional amendment in 1978 that limits the growth of revenue to a fixed ratio of state personal income.
- Can be computed in two ways: by the previous years personal income or an average of the previous 3 years.
- Refunds are given if revenue exceeds the limit by 1% or more.
- Allows for specific allocation of excess revenue to a budget stabilization/rainy day fund.
- When personal income grows by more than 2%, it is multiplied by total revenue to determine amount to be transferred from the general fund to the rainy day fund.
- General fund surpluses are also automatically transferred to the rainy day fund.
- When personal income is less that 0%, it is multiplied by total revenue to determine amount to be transferred from rainy day fund to general fund.
- Legislature can approve emergency transfers by a supermajority vote or if unemployment rises above 8%.
- Before the recession, in 2000 the rainy day fund of $1.2 billion (13.2% of state spending that year.) came under attack by special interest groups.
- Despite the dissipation of the rainy day fund to special interest groups, they were able to transfer $1 billion from the fund to cover revenue shortfalls from the current recession.

Colorado
- In 1978 a 7% statutory cap was placed on the growth of state spending.
- Rebates were given in late 1970's.
- When a recession hit in the early 1980's, the legislature raised spending in excess of the limit.
- TABOR Amendment was passed in 1992 and restricts the growth in state revenue and spending to inflation plus percentage change in state population.
- Any surplus must be rebated to taxpayers.
- When revenue falls, the lower revenue then sets a base against the sum of inflation and population growth is applied.
- Also provide a procedural constraint on government by requiring a voter approval on any new taxes, tax rate increases, extension of an expiring tax, or tax policy change causing a net revenue gain.
- Voter approval is also needed for government to keep and spend excess revenue.
- Legislature enacted a statutory TEL in 1992 to oppose the TABOR Amendment that was enacted by citizen initiative.

- The TEL is a limit on the general fund appropriations to 5% of personal income in two previous years or 6% of the previous years general fund appropriation (allowed exceptions for federal mandates and court orders).
- Later interpreted 6% cap as a floor rather than a ceiling for growth in expenses.
- This is significantly more than more than the limit imposed by the TABOR Amendment.
- TABOR was non-binding until 1997 when $3 billion was rebated to taxpayers or offset by tax reduction.
- This caused a problem because there was a way to disburse excess funds, but when the recent recession hit, the legislature can increase spending to make up for the lose in revenue.
- They have since passed provisions making, K-12 education, Medicare, and prisons exempt from TABOR.
- TEL's have been more effective in constraining local government rather than state government.
- New Legislation has been introduced that would provide for an Emergency Fund and a Budget Stabilization Fund.

NEXT GENERATION TEL'S

The question of TEL's is whether they constrain government over the business cycle or long run. TEL's designed to limit the growth of government over the business cycle may not limit it in the long run.

1) Tradeoff in allocation of surplus revenue above TEL limit
    a) Largest share will be returned to taxpayers through tax cuts and rebates.
        i) Smaller amount is available to stabilize the budget over the business cycle.
        ii) Results in the TEL constraining growth of government
    b) Largest share set aside in a Budget Stabilization Fund
        i) Results in TEL offsetting revenue shortfalls
        ii) Less effective in limiting governmental growth in the future.
2) Next Generation TEL designed to achieve optimum tradeoff
    a) Set of Rules required to introduce an effective brake on the revenue the government can spend.
    b) Set of Rules introduced governing how the surplus revenue above the TEL is allocated to the Budget Stabilization Fund.
    c) Set of Rules required for allocating money from the budget stabilization fund to the general fund to offset budget during recession.

Works Cited

Poulson, Barry. "Tax and Spending Limits: Theory, Analysis, and Policy." Issue Paper, 2003.

Legislative Testimony

HCR 5034

February 13, 2004

Testimony before the Kansas House Appropriations Committee

Marlee Carpenter, VP Govt Affairs

THE KANSAS CHAMBER

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The Kansas Chamber of Commerce endorses state government spending restraints by policy. This policy, originally adopted in 1976, says, "The Kansas Chamber supports either a constitutional or statutory limitation on the growth rate of state general fund spending which is tied to an appropriate index of personal income growth, and which exempts any new state spending for highways, while encouraging restraint in local government spending growth."

Spending restraint is an attractive concept to Kansas Chamber members who must practice self-discipline in their everyday business operations. When times are difficult for businesses, tough decisions are made. Similarly, spending control should be practiced at all levels of government.

The Kansas Chamber published its Annual Competitiveness Index earlier this month. This study indexed many studies that compare Kansas' business climate with the 49 other states that we compete with for jobs. Competitively, Kansas ranks in the middle of the pack and even lower than that when it comes to our state's tax burden.

For Kansas businesses to grow and expand, the cost of doing business in the state must be lowered. Implementing a methodology to restrain spending at the state level is one way to control government costs now and in the future. HCR is worthy of this committee's and the Kansas Legislature's further consideration.

The Kansas Chamber is the statewide business advocacy group, with headquarters in Topeka. It is working to make Kansas more attractive to employers by reducing the costs of doing business in Kansas. The Kansas Chamber and its affiliate organization, The Kansas Chamber Federation, have nearly 7,500 member businesses, including local and regional chambe organizations. The Chamber represents small, large and medium sized

HOUSE APPROPRIATIONS

DATE 2-13-2004

ATTACHMENT 4

KANSAS ASSOCIATION OF SCHOOL BOARDS
1420 SW Arrowhead Road • Topeka, Kansas 66604-4024
785-273-3600

Testimony on
HCR 5034 – Limits on Taxes, Revenue and Expenditures

Before the
House Committee on Appropriations

By Mark Tallman, Assistant Executive Director/Advocacy
February 13, 2004

Mr. Chairman, Members of the Committee:

Thank you for the opportunity to appear today. The Kansas Association of School Boards has a long-standing position in opposition to tax and spending limitations. We believe in the principles of a democratic republic: that the people elect representatives to make decisions about appropriate levels of government services and the amount of revenue required to provide those services. The founders of our system wisely understood that the operation of government should take place through a system of checks and balances; through a deliberative legislative process. We oppose arbitrary limits on that process; we therefore oppose HCR 5034.

Voter approval of tax increases or extensions.

It is easy to oppose tax increases. However, it is much more difficult to determine what programs may then need to be cut. Therefore, a public vote really only answers half the question. In addition, it would appear to us that this proposal would require a public vote to extend the statewide mill levy for schools every two years. If that extension failed, either the state or the schools would be faced with a significant reduction in revenues for public education. It would presumably take another public vote to determine if those revenues would be replaced at the state level, resulting in a significant financial uncertainly for schools.

Limiting state spending to the inflation rate plus population growth.

For public education, program requirements and public expectations have increased far more than inflation. The biggest item in any district's budget is usually salaries. Salaries in other sectors of Kansas, both public and private, have risen far more than inflation. Therefore, school district budgets have risen more than inflation. Schools will face increasing costs in many other areas.

If direct state funding is limited and costs and/or mandates continue to rise, the burden is shifted to local taxes, which is exactly what has happened in recent years. Because state aid has not kept up with costs, local option budgets have risen significantly.

HOUSE APPROPRIATIONS

DATE 2-13-2004
ATTACHMENT 5

Mandate relief

While many school leaders would appreciate the provisions of this bill that say local governments could not be required to fulfill unfunded state mandates, it is difficult to see how this would work. How would mandates be defined and how would it be determined whether or not the mandate is funded? The biggest mandate of all is the requirement to provide public education to all students. The district court has found that the state is not providing enough dollars to fund the entire system of public education, based on the Legislature's own definition of a suitable education.

Consider some of the mandates the Legislature has imposed: minimum school term, teacher negotiations, gifted education programs, curriculum requirements, certified teachers, student transportation programs, school breakfast programs, teacher professional development, state testing programs and more. It appears that this proposal would also include mandates from the State Board of Education, so the entire school accreditation system could be considered a mandate. We would argue that every one of these items adds to the cost of school district operations. Does this mean a district can "opt out" of any or all of these requirements? In addition, the proposal does not address federal mandates, which include special education and the No Child Left Behind Act, neither of which is currently funded at the level authorized by federal law.

What is the problem?

In conclusion, we would note that the Legislative Research Department's "Tax Facts" report indicates that the combination of state and local taxes has remained remarkably consistent as a percentage of Kansas personal income. In other words, state and local taxes are not taking a greater amount of Kansans' ability to pay – on the whole. That does not mean that the tax burden has continued to be equally shared among taxpayers. It may have increased for some, but it has decreased for others. We certainly have no objection to looking at the relative distribution of taxes collected.

We believe the people of Kansas are getting more for their education dollars than ever before, and that the demands on our public school system will continue to grow. We believe public education is a state responsibility. Therefore, we oppose limits on the ability of the state government to fund education.

Thank you for your consideration.

House Appropriations

HCR 5034

Submitted by: Diane Gjerstad
Robert Vancrum

February 12, 2004

Mr. Chairman, members of the committee:

Wichita 259 and Blue Valley 229 stand in opposition to HCR 5034. The state constitution, Article 6, clearly imposes the duty to fund public education on the state. This constitutional amendment purports to limit both state spending and state revenue growth, but cannot abrogate the state's basic responsibilities.

The state legislature would be required to submit for voter approval any increase in income, sales, alcohol, tobacco, and state property taxes over the rate in effect for the prior year. Unless a special election were held, as a practical matter new provisions could only be submitted to the voters during bi-annual general election years. Which could mean three years before a tax increase could go into effect.

We have just come through a period when revenues actually dropped below gross revenues from the preceding year caused by an unforeseen event, the 9/11 terrorist attacks on America. Why would the legislature want to impede future legislators ability to respond to unforeseen crises?

The requirement of a two-thirds of both houses to even expend money from a new "emergency reserve fund" is contrary to our basic American principles of majority rule. The legislature has passed tax breaks totaling hundreds of millions of dollars with a simple majority. Why would we treat the tax reductions more favorably than the revenue required to fund public commitments?

Education is certainly not the only concern. KPERS is estimated to have a $500 million shortfall and the state is contractually obligated to pay the benefits. Limiting growth to the rate of inflation will prevent this legislature meeting its obligations and inevitably force this burden on our children, grandchildren and great-grandchildren. Is this fair?

The 1999 Comprehensive Transportation Plan is also a commitment made by the legislature that must be funded. Another "fixed cost" for the state, which will mean a substantial portion of future inflationary growth will be dedicated to pay highway bonds.

It is inevitable that if this amendment were to become effective, other spending priorities – like education, aging services, health care, universities – would have to be cut.

Mr. Chairman, No Child Left Behind is an unfunded federal mandate which looms large over our schools today, especially high poverty schools. Additional revenue will be required for schools to accomplish the unprecedented requirements of NCLB. Today is not the time to put unnecessary and unwise hurdles before future legislators.

KSDE Kansas State Department of Education
120 S.E. 10th Avenue
Topeka, Kansas 66612-1182

February 5, 2004

TO: Senator David Adkins, Chair
Senate Ways and Means Education Subcommittee

FRIOM: Dale M. Dennis, Deputy
Commissioner of Education

SUBJECT: No Child Left Behind

The computation of the cost of the federal law No Child Left Behind is extremely difficult. Some states such as Ohio have employed a consulting firm to compute the estimated cost.

After reviewing the law, we believe that the attached estimates are reasonable and what it would take to fully implement NCLB, on an annual basis, and still have a potential chance for success. The majority of these costs will be incurred by the local school districts.

We hope this information will be helpful as you deliberate on the needs of Kansas children.

h:leg:SWM--NCLB

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COST FOR NO CHILD LEFT BEHIND

Extended Learning Time—25% of students for the equivalent of six weeks of instruction	$ 88,125,000
Student Transportation Costs	6,000,000
Staff Development—5 days concentration on NCLB standards, curriculum indicators, review of state assessments, and realignment of curriculum	41,447,000
Technical Assistance—Non-Title I schools as required by law	2,500,000
Data Collection System—Track each student academically through K-12 career	5,000,000
Operating Cost for State Assessments—Includes contracting and administration	5,000,000
Paraprofessional Salary Adjustment	1,000,000
Subtotal	$ 149,072,000
Less FY 2004 NCLB Federal Aid Increase	(18,000,000)
TOTAL	$ 131,072,000

h:leg:NCLB—Proposed Cost