Approved: May 5, 2006
Date

MINUTES OF THE HOUSE APPROPRIATIONS COMMITTEE

The meeting was called to order by Chairman Melvin Neufeld at 9:00 A.M. on April 28, 2006 in Room 514-S of the Capitol.

All members were present.

Committee staff present:
J. G. Scott, Legislative Research Department
Becky Krahl, Legislative Research Department
Matt Spurgin, Legislative Research Department
Mike Corrigan, Revisor of Statutes
Nikki Feuerborn, Administrative Assistant
Shirley Jepson, Committee Secretary

Conferees appearing before the committee:
Representative Lance Kinzer
Alan Cobb, Americans for Prosperity
Karl Peterjohn, Kansas Taxpayers Network
Natalie Bright, Wichita Independent Business Assoc.
Gary Brunk, Kansas Action for Children
Shannon Jones, Big Tent Coalition and State-wide Independent Living Council
George Lippincott, AARP of Kansas
Jim Edwards, Kansas Association of School Boards
Mark Desetti, Kansas-National Educational Association
Carla James, Kansas Action Network
Amy Hyten, Topeka Independent Resource Living Center

Others attending:
See attached list.

- Attachment 1 Testimony by Alan Cobb, Americans for Prosperity
- Attachment 2 Testimony by Karl Peterjohn, Kansas Taxpayers Network
- Attachment 3 Testimony by Natalie Bright, Wichita Independent Business Association
- Attachment 4 Testimony by Gary Brunk, Kansas Action for Children
- Attachment 5 Testimony by Shannon Jones, Statewide Independent Living Council of Kansas
- Attachment 6 Testimony by George Lippencott, AARP
- Attachment 7 Testimony by Jim Edwards, Kansas Association of School Boards
- Attachment 8 Testimony by Mark Desetti, Kansas national Education Association
- Attachment 9 Testimony by Carla James, Kansas Action Network
- Attachment 10 Testimony by Amy Hyten, Topeka Independent Living Resources
- Attachment 11 Written testimony from Terri Roberts, Kansas State Nurses Association
- Attachment 12 Written testimony from Wes Ashton, Overland Park Chamber of Commerce
- Attachment 13 Written testimony from Jon Hauxwell, Tobacco Free Kansas Coalition
- Attachment 14 Written testimony from Kansas Economic Progress Council

Hearing on HCR 5043 - Constitutional amendment to require two-thirds majority vote of members of legislature to create a new tax or increase the rate of an existing tax.

Matt Spurgin, Legislative Research Department, explained that **HCR 5043** would amend section 13 of article 2 of the constitution of the state of Kansas by requiring a two-thirds majority vote of the Legislature for the passage of any tax increase by the state of Kansas.

Chairman Neufeld recognized Representative Kinzer, who appeared as a proponent of the resolution. Representative Kinzer explained that the intent of the resolution is to not allow the Legislature to increase taxes as a way of advancing economic growth in the State unless there is a large consensus within the Legislature to move in this direction. Representative Kinzer stated that the resolution does not prohibit local entities from raising local taxes giving flexibility to these entities. Representative Kinzer noted that fees and increase in property appraisals are not addressed by this resolution.

Alan Cobb, Americans for Prosperity, presented testimony in support of **HCR 5043** (Attachment 1). Responding to questions from the Committee, Mr. Cobb stated that **HCR 5043** pertains to taxation while the Taxpayers' Bill of Rights (TABOR) pertains to spending. Mr. Cobb indicated that the tax structure of the State produces more money than needed noting that a higher percent of income in Kansas goes for taxes than in most states. Mr. Cobb noted that the resolution would require a two-third vote of each chamber of the Legislature to increase taxes. Mr. Cobb stated that there is nothing is the resolution that addresses property tax appraisal noting that this issue would need to be addressed in other ways.

- The Committee requested information on how taxes are raised in other states.

Karl Peterjohn, Executive Director, Kansas Taxpayers Network, presented testimony in support of **HCR 5043** (Attachment 2). Mr. Peterjohn stated that Kansas is a high taxed state with low per capita income. Mr. Peterjohn noted that the key difference between TABOR and **HCR 5043**, it that the resolution does not have provisions for putting tax increases before the voters. Last year, the growth rate in the state of Kansas was one-half that of the national average, although the State continues to see growth in revenues. The Committee expressed concern for the reason senior citizens are leaving the State as well as college graduates.

Natalie Bright, Wichita Independent Business Association (WIBA), in conjunction with Cliff Sones, presented testimony in support of **HCR 5043** (Attachment 3). Ms. Bright indicated that they are an association of small business owners. These businesses were surveyed and the results of this survey is included in their testimony. Ms. Bright stated that most small businesses do not qualify for tax abatements provided by the State. Ms. Bright noted that a major issue affecting the small businesses within the State is the Kansas tax burden.

Gary Brunk, Kansas Action for Children, presented testimony in opposition to **HCR 5043** (Attachment 4). Mr. Brunk noted that the resolution would give a minority the power to block the will of the majority because of the two-third required vote by both chambers of the Legislature.

Shannon Jones, Big Tent Coalition and State-wide Independent Living Council, presented testimony in opposition to **HCR 5043** (Attachment 5). Ms. Jones stated that the organization represents over 6,000 Kansans. Responding to a statement in Ms. Jones' testimony indicating that social services would have large reductions if state revenues decline, the Committee felt that the Legislature has worked to fund social services in the past and will continue to do so in the future.

George Lippincott, Volunteer Coordinator for Economic Security for the American Association of Retired Persons (AARP), presented testimony in opposition to **HCR 5043** (Attachment 6). Mr. Lippincott stated that property taxes are a major concern for AARP members and felt the legislation would undermine the quality of schools, weaken the transportation infrastructure and quality of life. Mr. Lippincott noted that there are 350,000 AARP members in Kansas.

Jim Edwards, Kansas Association of School Boards (KASB), presented testimony in opposition to **HCR 5043** (Attachment 7). Mr. Edwards stated that the resolution does not address tax reductions or decreases.

Mark Desetti, Kansas-National Educational Association (KNEA), presented testimony in opposition to **HCR 5043** (Attachment 8). Mr. Desetti felt that the resolution removes the majority rule and would increase the financial burden on citizens at the local level.

Carla James, Kansas Action Network, presented testimony in opposition to **HCR 5043** (Attachment 9). Ms. James indicated that **HCR 5043** would have negative implications for Kansans.

Amy Hyten, Topeka Independent Living Resource Center, Inc., presented testimony in opposition to **HCR 5043** (Attachment 10). Ms. Hyten stated that the resolution would impose unnecessary barriers on the ability of the Legislature to raise the funds needed for the services and functions of government.

Written testimony in opposition to **HCR 5043** was received from the following:

Terri Roberts, Kansas State Nurses Association (Attachment 11)
Wes Ashton, Overland Park chamber of Commerce (Attachment 12)
Jon Hauxwell, President, Tobacco Free Kansas Coalition, Inc. (Attachment 13)
Kansas Economic Progress Council (Attachment 14)

The hearing on HCR 5043 was closed.

The meeting was adjourned at 11:00 a.m. The next meeting of the Committee will be "on call of the Chairman".

Melvin Neufeld, Chairman

HOUSE APPROPRIATIONS COMMITTEE
April 28, 2006
9:00 A.M.

NAME	REPRESENTING
ALAN COBB	AFP
Dave HANNA	AFP
Gary Brunk	KAC
[illegible] Lippencott	AARP
Shannon Jones	SILCK
[illegible]	SKIL
Craig Kaberline	K4A
Ron Seeber	Hein Law Firm
Jim Edwards	KASB
MARK DESETTI	KNEA
Karl Peterjohn	KS Taxpayers Network
Mary Jane Stankiewicz	KARA/KGFA
Josie Torres	SILCK
Michelle Peirce	SRS
Sandy Braden	Civic Council of KC
Natalie Bright	WIBA/KOPE
Amy Campbell	KS Mental Health Coalition
[illegible] Holman	KAC

AMERICANS FOR PROSPERITY
KANSAS

April 27, 2006

Mr. Chairman and members of the committee:

I am Alan Cobb, representing the over 5,000 Kansas members of Americans for Prosperity.

We are in favor of HCR 5043.

- **Mainstream.** Currently 16 states require a legislative super-majority to raise taxes. This includes three of our four neighboring states.
  - Arizona, Arkansas, California, Colorado, Delaware, Florida, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Nevada, Oklahoma, Oregon, South Dakota and Washington.
  - Sen. Bob Dole introduced a Constitutional Amendment in 1992 to require the Federal Government a super-majority of legislators to pass a tax increase.
  - Sen. Nancy Kassebaum supported this Amendment in 1992 (S.Amend 1644). So too did influential moderate Democrats Sen. Fritz Hollings (D-SC) and Sen. Richard Shelby (D-AL).
  - Sen. Dole also included a super-majority requirement in his economic plan during his 1996 Presidential bid.

- **Taxes Matter.** I think we can all agree that higher taxes certainly do not help Kansas' long-term economic growth. A recent study by Dr. Arthur Laffer showed that the 10 states with the lowest tax burden had HIGHER Gross State Product growth, Personal Income Growth and Population Growth compared to the 10 highest tax states (1994-2004). Certainly Kansas would welcome higher levels of all three of these measures.

- **Do No Harm.** Since higher taxes hurt long term economic growth, then let's ensure that only those tax increases that demonstrate overwhelming support, from both rural and urban areas, pass. This measure would do just that.

- **Business Matters.** Ensuring that Kansas' well educated students can find work without leaving the state requires a healthy business climate. Unfortunately, how we treat business is an area where Kansas always ranks very poorly. The non-partisan Tax Foundation has <u>Kansas ranked 45th worst</u> in terms of business taxes. Nebraska, who also does not have a super-majority requirement, ranks 42nd. However, the states that do have super-majority requirements rank <u>4th (MO)</u>, <u>6th (CO)</u> and <u>9th (OK)</u> respectively. As the old saying goes, capital will go where it's most appreciated. Since 1969, Kansas' rate of new business formation considerably lags both the Nation and the Plains States. This has led to Kansas' Gross State Product to lag the growth of both the Nation and the Plains States as well. (Center for Applied Economics, KU School of Business)

- **Live Within Our Means.** Since 1993, the Kansas All Funds Budget has increased 93%, the SGF Budget 91%. Kansas' current tax structure seems more than adequate to fund the States needs. A super-majority requirement for a tax increase will help ensure that just as the average Kansas family or family run business must prioritize within its budget each year and cannot just simply run out and collect more money on a whim, so too state government should come to be able to live within budgets that grow almost 100% in less than a decade and a half. This has translated into the state of Kansas spending almost $1million per hour…365 days a year, non-stop. A super-majority requirement for a tax increase will help ensure fiscal discipline and help protect our tax climate from deteriorating.

2348 SW Topeka, Suite 201 Topeka, Kansas 66611
785-354-4237 785-354-4239 FAX
www.afpks.org

HOUSE APPROPRIATIONS

DATE 4-28-2006

ATTACHMENT 1

KANSAS TAXPAYERS NETWORK

P.O. Box 20050
Wichita, KS 67208
www.kansastaxpayers.com
316-684-0082

27 April 2006

Testimony Supporting HCR 5043
By Karl Peterjohn, Exec. Dir.

It is easier to raise or create new taxes in Kansas than in most other states. That is one of the main reasons that Kansas is a high tax state in our region. The Tax Foundation released their 2006 Tax Freedom Day calculations earlier this month and Kansas is 18th highest out of all 50 states in terms of state and local taxes imposed on its citizens as a percentage of our relatively low level of income.

Kansas had the second highest tax burden in our five state region according to the Tax Foundation. Kansas has the second highest personal income tax rates, the highest corporate property taxes, the second highest residential property taxes, and arguably the highest state sales tax rate with a rate that is .2 cents on the dollar lower than Nebraska but we tax groceries and Nebraska does not.

According to a 2005 study by Colorado University economist Professor Barry Poulson for the Americans for Prosperity Foundation there are 13 states that require a super-majority in various forms to raise taxes, create new taxes, or have expenditures exceed a pre-determined level. In addition, a number of states also have provisions requiring a super-majority before some or all local taxes can be increased. No super-majority protection for local taxpayers exists in Kansas either.

Requiring a super-majority is important for several reasons. First, a broadbased consensus must appear before any tax increase can occur. Creating a consensus is important and provides a way for avoiding the problems that can occur when very narrow majorities enact tax increases or create new taxes. Second, this serves as a brake on raising most taxes and creates some certainty for any state's business and economic climate. Fiscal uncertainty raises risk and makes it harder to attract and retain business.

Objections to HCR 5043 may come from folks who claim that this type of supermajority will prevent any tax growth. Sadly, Kansas taxes will continue to grow even if HCR 5043 is enacted due to appraisal increasing property taxes, and the accelerated income tax collections caused by the multiple rate, progressive Kansas personal income tax. Any cursory examination of Kansas tax collections will show that taxes continue increased rapidly as long as the states economy has been growing in 2005 and the first half of 2006.

HCR 5043 is a good first step to provide constitutional protection against tax growth in Kansas and the Kansas Taxpayers Network strongly supports this legislation.

HOUSE APPROPRIATIONS

DATE 4-28-2006
ATTACHMENT 2

Wichita Independent Business Association

THE VOICE OF INDEPENDENT BUSINESS

Kansas House Appropriations Committee

Testimony in support of:
House Concurrent Resolution 5043

By: Cliff Sones, President
Wichita Independent Business Association
445 N Waco, Wichita, KS 67202 - Phone 316.267.8987

Chairman Neufeld and honorable committee members, I am Cliff Sones, President of the Wichita Independent Business Association (WIBA) and the Kansas Organization for Private Enterprise (KOPE). Thank you for the opportunity to provide this written testimony in support of HCR 5043.

The most recent survey of our members in preparation for the 2006 Legislative Session indicates there is significant concern about the amount of taxes on Kansas businesses as well as the rate of spending by state government. As such, I believe the constitutional amendment set out in HCR 5043 would be a step in the right direction towards slowing the growth of government and state taxes. I have attached the recent survey questions referenced for your review.

In addition, the WIBA/KOPE board members adopted the following legislative position for the 2006 Session:

- Members of WIBA/KOPE support allowing the citizens of Kansas the right to vote on increases in state taxes. WIBA/KOPE members support a constitutional amendment or a change in current statutes that limits the growth of state spending to the rate of growth of Kansas personal income. Such limitation should provide for a reasonable growth rate that does not outstrip the ability of Kansans to fund government services.

Though HCR 5043 does not specifically allow the people of Kansas to vote on proposed tax increases, it does require a supermajority vote of the Kansas Legislature to raise tax increases. The requirement for additional votes to raise taxes will inevitably slow the growth of state taxes and in turn slow the growth of state spending, which ultimately address both the concerns of our members.

On behalf of the members of WIBA/KOPE, I urge you to support the passage of HCR 5043 and let the citizens of Kansas have a vote on whether a supermajority requirement for tax increases is in the best interest of the State of Kansas.

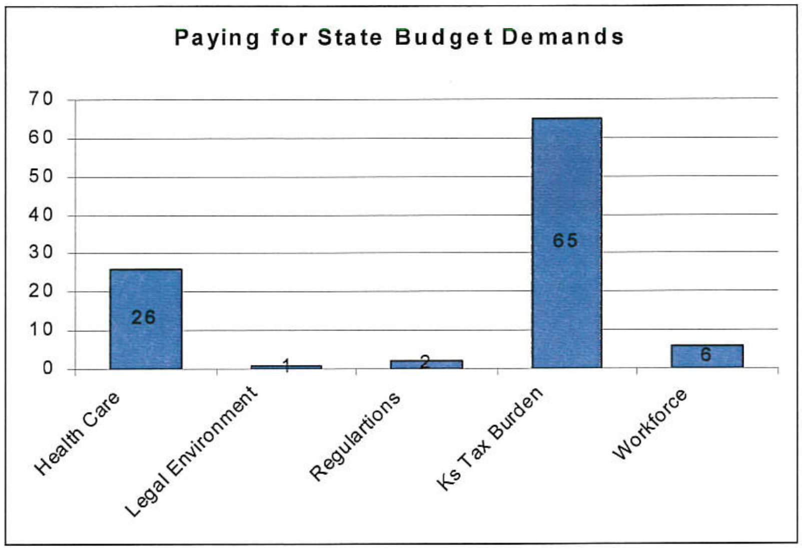
Thank you for your consideration of this important issue.

445 N. Waco Street / Wichita, KS 67202-3719
316-267-8987 / 1-800-279-9422 / FAX 316-267-8964 / E-mail: info@wiba.org

HOUSE APPROPRIATIONS

DATE 4-28-2006
ATTACHMENT 13

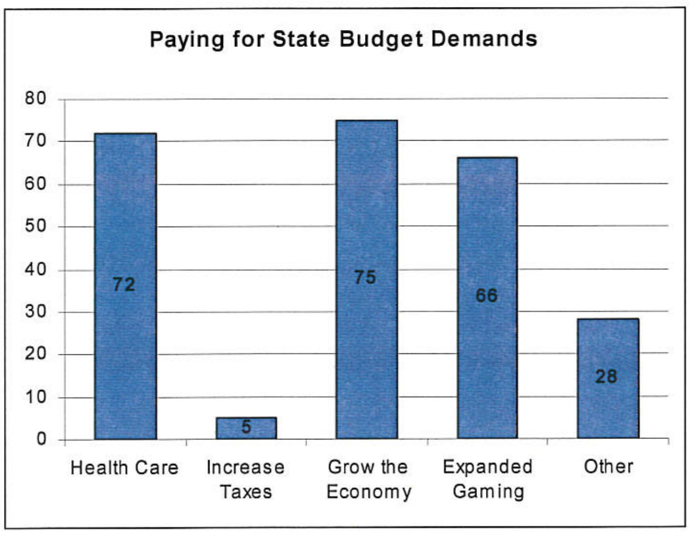
2006 Kansas Legislative Issue Survey Results



What do you think is the biggest challenge facing your business today?

☐ Rising health care cost - 26%
☐ KS Legal Environment – 1%
☐ Cost of business regulations/mandates – 2%
☐ KS Tax burden – 65%
☐ Lack of qualified workforce – 6%

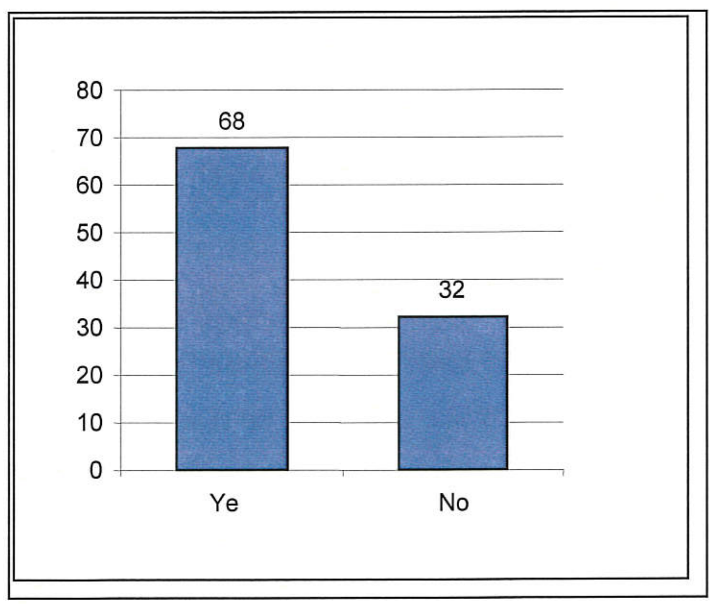
How should the Kansas Legislature pay for the rising cost of state budget demands and the need for additional state revenue?



☐ Cut State spending – 72%.
☐ Increase taxes – 5%
☐ Grow the economy – 75%
☐ Allow expanded gaming facilities in Kansas – 66%
☐ Other –28%

Do you support the passage of a KS Taxpayer Bill of Rights (TABOR), which will limit state and local government spending growth so that it does not exceed the rate of inflation, at either the state or local level?

Yes – 68%
No – 32%



3-2

April 27, 2006

HCR 5043
Legislative Testimony
Gary Brunk, Executive Director
Kansas Action for Children

KANSAS ACTION FOR CHILDREN

Making a difference for Kansas children.

Kansas Action for Children Inc.
720 SW Jackson | Suite 201
Topeka, KS 66603

P 785-232-0550 | **F** 785-232-0699
kac@kac.org | www.kac.org

Celebrating 25 years
of child advocacy

Chairman Neufeld and Members of the Appropriations Committee:

Thank you for this opportunity to testify in opposition to HCR 5043. Kansas Action for Children is a not-for-profit child advocacy organization, and our mission is to advocate for policies and programs that improve the physical, emotional, and educational well-being of all Kansas children and youth. KAC is an independent and nonpartisan voice on their behalf, working to ensure that Kansas children have the best opportunities in the nation to grow and thrive.

Under the Kansas Constitution, enactment of state legislation normally requires approval by a majority vote in each house of the legislature plus the governor's signature. HCR 5043 would amend the Constitution to require a two-thirds supermajority vote of each house of the state legislature plus the governor's signature in order to enact any bill that includes a tax increase.

Requiring a supermajority to enact tax increases would result in a number of bad consequences, including the following:

- **A supermajority requirement would undermine the democratic process by giving a minority the power to block the will of the majority.** A small number of legislators in either house (42 of 125 representatives, or 14 of 30 senators) could prevent the majority from taking action. If this is a good process we should require supermajority votes on everything. It's clear why the Founders did not think that would be a good idea: on many issues there would be legislative paralysis and few things would get done. Furthermore, this minority could use its veto power to extract special favors or projects; evidence from other states such as California suggests that a supermajority requirement increases pork barrel spending.

- **It would hurt our ability to make needed investments.** An important reason for our country's success is the effectiveness of our public structures. The public structures we have created – such as ours schools and universities, highways, and laws – are the machinery that produces America's success. Without those public structures it would be difficult to get a lot of things done that Kansans believe are important, such as education or roads or health care. The supermajority requirement would undermine our ability to maintain and strengthen those public structures.

HOUSE APPROPRIATIONS

DATE 4-28-2006
ATTACHMENT 4

- **It's a solution desperately seeking a problem.** Kansas policymakers have historically shown great reluctance to raise state taxes, suggesting a supermajority requirement is unnecessary. Tax burdens relative to income in Kansas have changed little in the last 30 years. Like most other states, Kansas cut taxes in the late 1990s and raised them in the early 2000s, but it remains an average-tax state.

In summary, because it would distort the process of majority rule, create a significant barrier to needed investments, and seeks to solve a non-existent problem, Kansas Action for Children believes it is not good for the future of our children and respectfully opposes the passage of HCR 5043.

Statewide Independent Living Council of Kansas SILCK

700 S.W. Jackson, Suite 212, Topeka, KS 66603 ☎ (785) 234-6990 voice / TDD ☎ (785) 234-6651 fax

Testimony by
Shannon Jones
In Opposition to
HCR 5043

The Big Tent Coalition and the Statewide Independent Living Council of Kansas (SILCK) oppose HCR 5043.

Over the past few years, Kansas has experienced some very difficult economic times while managing to balance the state budget. Yet, even during these hard times Kansas policymakers have not felt the need to increase taxes. State & local taxes have virtually gone unchanged as a share of the economy over the last 35 years.

A super majority requirement could have its biggest impact on social & human services needs during economic downturns as we have experienced in the most recent past. Should state revenues decline, social services would be the first to have large reductions to their programs.

The BTC & SILCK do not feel a super majority requirement is necessary. In the past, legislators have been thoughtful in their approach to consider raising taxes. This has worked for our great state for the past 35 years. HCR 5043 could lead Kansas down a deeper deadlier path with consequences not yet considered.

Furthermore, a supermajority put the democratic process at risk, whereby the minority can prevail. Kansas government has always functioned with the utilization of a simple majority. HCR 5043 reverse this long standing Kansas heritage of a democratic process.

HOUSE APPROPRIATIONS

DATE 4-28-2006

ATTACHMENT 5

AARP Kansas

April 27, 2006
Representative Melvin Neufeld
Chair, House Appropriations Committee

Good Morning Chairman Neufeld and members of the House Appropriations Committee. My name is George Lippencott and I am the Volunteer Coordinator for Economic Security for AARP Kansas. AARP represents the views of more than 350,000 members in the state of Kansas. We thank you for this opportunity to express our opposition to HCR 5043. The alleged painless reduction in our state taxes suggested by the proponents of this proposal would be anything but painless. The impacts would be real and significant. That is why AARP Kansas has joined broad based coalitions that include child care workers, school teachers, business men and labor unions to mention a few – all opposing this resolution. Here is why!

HCR 5043 is not consistent with our values. It would harm the weakest elements of our society. Elementary school class size will compete with continued funding for senior centers, funding for road maintenance will compete with rides for the elderly and persons with disabilities, medical care for children will compete with salaries for correctional officers. As the noose tightens, only programs that are mandated will be funded –competition for reduced revenue will be intense and divisive.

HCR 5043 is not good for our economy. Business relies on an educated and motivated population to compete in an ever more challenging world. This proposal will undermine the quality of our schools, weaken our transportation infrastructure and lead to increased crime – wreaking havoc with our quality of life. Today, Kansas is competitive economically with similar states - many our neighbors. HCR 5043 would undermine our position by driving our trained and experienced workforce to other states that value a first-rate quality of life.

Who benefits from this proposal? It really is not clear? We are witnessing efforts all over our country to compel variants of this initiative. Voters in Oklahoma, Wisconsin, Ohio, Missouri and other states are facing a nationally financed blitz. In the end, it may well be that no one in Kansas really will gain. Tax refunds are highly unlikely and would come, if at all, at the expense of all of us. Our state taxes are just not that high. You, our legislators have controlled spending. You have been constantly searching for ways to be more efficient and effective in the use of our tax dollars. As a consequence our state taxes have remained essentially flat with respect to income! There really is no basis for claims of run away state taxes!!

When I was young my father imparted a very good piece of advice; "If it isn't broken, don't fix it???" Our state tax system is not broken! We respectfully request that you oppose HR 5043 because it is a "fix" for something that is just not broken!

Thank you.
George Lippencott

HOUSE APPROPRIATIONS

DATE 4-28-2006
ATTACHMENT 6

555 S. Kansas Avenue, Suite 201 | Topeka, KS 66603 | toll-free 866-448-3619 | 785-232-
Marie F. Smith, President | William D. Novelli, Chief Executive Officer | www.aarp.org/l

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

Testimony on **HCR 5043**
before the
House Appropriations Committee

by

Jim Edwards, Governmental Relations Specialist
Kansas Association of School Boards

April 27, 2006

Chairman Nuefeld and Members of the Committee:

I am Jim Edwards, with the Kansas Association of School Boards and I thank you for the opportunity to appear before you today to oppose the passage of **HCR 5043**.

First, we believe that super majorities have their place in our form of government and, as being demonstrated by this measure itself, we believe that those super majority requirements are reserved for amending our constitution. Issues that deal with the general governance of the state should be decided only by a simple majority of the Legislature and consideration by the Governor.

While we understand that some in the Legislature feel that super majorities are needed to protect the solvency of the state, I must say that we are somewhat confused by the fact that there are two parts to the funding of government and only one is addressed here today. Tax increases are addressed by **HCR 5043** yet tax reductions or decreases are not addressed by this measure. Please do not take this as an endorsement of a super majority requirement for any tax reduction as we believe that these also should be determined only by a simple majority of those in the Legislature and consideration by the Governor.

I thank you for the opportunity to appear on this measure and would be happy to stand for questions you might have.

HOUSE APPROPRIATIONS

DATE 4-28-2006

ATTACHMENT 7

KANSAS NATIONAL EDUCATION ASSOCIATION / 715 SW 10TH AVENUE / TOPEKA, KANSAS 66612-1686

Mark Desetti, testimony
House Appropriations Committee
April 27, 2006
HCR 5043

Mr. Chairman, members of the Committee, thank you for the opportunity to share our concerns regarding **HCR 5043**.

Kansas NEA stands in strong opposition to this proposal. We believe it to be both unnecessary and dangerous to the health of Kansas.

Fundamentally, it comes from a belief that the citizens of Kansas must be protected from the very people they elect to represent them in Topeka. This is legislators telling us they can't be trusted.

It is at the core of a representative democracy that we elect representatives and senators to make tough decisions based on the extensive amount of research and data they study. Our legislators should be trusted to make the best decisions for our state based on the available data. **HCR 5043** says that we – the electorate – must be protected from our own representatives.

It may be true that on occasion legislators do not represent the view of the voters back home. In that case, the voters enjoy the luxury of voting those legislators out of office and electing someone more in keeping with their views.

Beyond this fundamental issue of representative democracy is the damage that this proposal could do to our state. We would urge you to consider the following:

- **HCR 5043** removes the tradition of majority rule and allows 34 percent of legislators to make decisions for the rest of us.
- The financial burden will increasingly be felt on a local level, as state government is unable to respond to pressing needs and local governments are forced to increase property and sales taxes.
- A legislative minority can easily block needed reforms to the state tax system, allowing businesses and individuals who are not paying their share of taxes to remain unaccountable.
- Mistakes, like tax loopholes, will be more difficult for the state to fix.

We believe strongly in representative democracy and that the people should put their faith in their elected representatives. And when those elected representatives violate that trust, the people have the right to vote them out of office. Thank you, but we don't need to be protected from our own representatives.

We urge this committee to reject **HCR 5043**.

HOUSE APPROPRIATIONS
DATE 4-28-2006
ATTACHMENT 8

Telephone: (785) 232-8271 FAX: (785) 232-6012

Kansas Action Network

Coalition for Workers' Rights, Social Justice and Economic Fairness

Community Action Network
Flint Hills Living Wage Coalition
GI Forum
Grow Kansas
International Association of Machinists and Aerospace Workers District 70 and Locals 2799, 733, 774, 834
Kansas AFL-CIO
Kansas Ecumenical Ministries
Kansas Farmers Union
Lawrence Coalition for Peace and Justice
Manhattan Alliance for Peace and Justice
Peace and Social Justice Center of South Central Kansas
Plumbers and Pipe fitters Local 441
Salina Central Labor Union
Sisters of St. Joseph of Concordia
Southeast Kansas Independent Living Resource Center
Statewide Independent Living Council of Kansas
Topeka Center for Peace and Justice
Topeka Independent Living Resource Center
Topeka Federation of Labor
Topeka LULAC
Tri-County Labor Council of Eastern Kansas
United Methodist Church East Kansas Conference
United Steelworkers of America Local 3092
Wichita Hutchinson Labor Federation

April 27, 2006

Written Testimony Presented to the
House Appropriations Committee
in Opposition to HCR 5043
by
Kansas Action Network

To the Honorable Chairman Neufeld and Committee Members:

Kansas Action Network is a coalition of various groups and individuals concerned with economic fairness, social justice and workers' rights. We oppose HCR 5043 because it has a host of negative implications for Kansans.

Throughout our state's history, Legislators have been granted full authority to expend funds for the operation of the government and the means to collect those funds from the governed through taxation. HCR 5043 would impose unnecessary barriers on the ability of the legislature to raise funds needed for the services and functions of government even in times of severe economic downturns or natural disasters. Without the ability to raise funds for disaster relief, for example, the state would not be able to assist its most vulnerable citizens in their recovery efforts. The example of hurricanes Katrina and Rita illustrated the magnitude of damage and harm done to low income persons including the elderly and children. Government must be able to respond to rapidly changing circumstances.

Requiring a two-thirds majority of both houses would hamper state infrastructure projects that are funded with user taxes such as highway projects. It would be much more difficult to raise gasoline taxes, thereby reducing the funding base for highway projects that may have broad support and/or are necessary to attract and retain businesses in the state. This could lead to the loss of good jobs for Kansans in the transportation industry as well as a loss of business relocations in the state due to deteriorating infrastructure.

Finally, there is little reason to believe that the current tax status in Kansas is curtailing business or placing an undue burden on taxpayers. There is no evidence that Legislators are eager to increase taxes at every turn. In fact, US Census data shows that the level of taxes in Kansas is practically unchanged over the past 3½ decades. State and local taxes were 11.8% of personal income in 2005, virtually the same percentage as in 1970, 1980, and 1990. Our state and local taxes per capita fall just about in the middle of the 50 states, the same ranking as state and local taxes as a share of personal income. These statistics do not paint a picture of a legislature gone "tax wild" – certainly not a situation that would call for the drastic measure of a constitutional amendment.

We call upon the Appropriation Committee members to oppose HCR 5043. Thank you for your attention to our concerns.

Kansas Action Network is a broad coalition with diverse views seeking a co
1248 SW Buchanan Street • Topeka, Kansas 66604 •
Fax: 785-232-4145 • KSAction@aol.com • www.K

HOUSE APPROPRIATIONS
DATE 4-28-2006
ATTACHMENT 9

Topeka Independent Living Resource Center

785-233-4572 V/TTY • FAX 785-233-1561 • TOLL FREE 1-800-443-2207
501 SW Jackson Street • Suite 100 • Topeka, KS 66603-3300

April 26, 2006

Written Testimony Presented to the
House Appropriations Committee
In Opposition to HCR 5043
by
Topeka Independent Living Resource Center, Inc.

Dear Honorable Chairperson Neufeld and Committee Members,

The Topeka Independent Living Resource Center (TILRC) is a civil and human rights organization. Our mission is to advocate for justice, equality and essential services for a fully integrated and accessible society for all people with disabilities. TILRC has provided advocacy and services for over twenty-five years for people of any age with all types and severities of disabilities across the state.

TILRC believes that it is imperative for our Legislators to ensure the availability of services and provide adequate funding for services that are necessary to support the ability of all people to live in our home communities, participate in community life, receive needed health care, and have access to essential services. Accordingly, our Legislators must retain the ability to adjust the state's expenditures and revenues according to economic conditions and the wishes of their constituents. HCR 5043 would alter the ability of our elected officials to undertake their responsibilities to all Kansas citizens by creating a constitutional obligation for a two-thirds majority in both legislative bodies to increase taxes at the state level.

It is our considered opinion that the current method for adjustments to tax rates is satisfactory and that this system allows for the operation of state government without overburdening the citizens and businesses of the state. Our duly elected representatives are quite capable of determining the needs of the state as well as the methods necessary to provide for them. A constitutional amendment that places artificial constraints on the ability of our legislators to govern is not needed.

We respectfully ask committee members to oppose HCR 5043. Thank you for your consideration of our testimony.

Advocacy and services provided by and for people wit

HOUSE APPROPRIATIONS

DATE 4-28-2006

ATTACHMENT 10

KSNA
KANSAS STATE NURSES ASSOCIATION

1208 SW TYLER
TOPEKA, KANSAS 66612-1735
785.233.8638•FAX 785.233.5222
www.nursingworld.org/snas/ks
ksna@ksna.net

Caring Hearts, Healing Hand
2005 Decade of the Nurse in Kansas 2015

ELLEN CARSON, PH.D., A.R.N.P., B.C.
PRESIDENT

THE VOICE AND VISION OF NURSING IN KANSAS

TERRI ROBERTS, J.D., R.N.
EXECUTIVE DIRECTOR
Contact:Terri Roberts J.D., R.N. troberts@ksna.net
April 27, 2006

HCR 5043- Constitutional Amendment Requiring a 2/3 Majority Vote of the Legislature to Create a New Tax or Increase the Rate of an Existing Tax

Chairman Neufeld and members of the House Appropriations Committee, the KANSAS STATE NURSES ASSOCIATION (KSNA) joins the many statewide organizations in opposing HCR 5043, which is really designed to eliminate any tax-rate changes, including modifications to the current tax structure and adding any new taxes. The proposal requests a constitutional amendment requiring a 2/3 majority vote of the legislature to create a new tax or increase the rate of an existing tax.

The Kansas legislature is empowered to make decisions to fund what is voted on as necessary and prudent. Current House and Senate rules now require a majority vote. This movement towards establishing a higher threshold for "tax law changes" is inconsistent with the governing principles that our state has operated under since the inception of the Kansas legislature.

States that have passed provisions to make it more difficult for legislators to modify the tax structure, have struggled and created hardships for citizens and state agencies to "do their work" through inadequate funding over time.

Registered nurses are particularly concerned with the impact such a proposal would eventually have on public health programs and medical coverage for children and adults. A report prepared by the *Center on Budget and Policy Priorities*, released on October 19, 2005, entitled "A Formula For Decline: Lessons from Colorado for States Considering TABOR," identifies the following:

- Under TABOR, Colorado declined from 23rd to 48th in the nation in the percentage of pregnant women receiving adequate access to prenatal care, as defined by the Centers for Disease Control and Prevention.

- Colorado plummeted from 24th to 50th in the nation in the share of children receiving their full vaccinations. Only by investing additional funds in immunization programs was Colorado able to improve its ranking to 43rd in 2004.

- At one point, from April 2001 to October 2002, funding got so low that the state suspended its requirement that school children be fully vaccinated against diphtheria, tetanus, and pertussis (whooping cough), because Colorado, unlike other states, could not afford to buy the vaccine.

HOUSE APPROPRIATIONS

DATE 4-28-2006
ATTACHMENT 11

- Under TABOR, the share of low-income children lacking health insurance has doubled in Colorado, even as it has fallen in the national as a whole. Colorado now ranks last among the 50 states in this measure.

- TABOR has also affected health care for adults. Colorado has fallen from 20th to 48th for the percentage of low-income, non-elderly adults covered under health insurance.

- In 2002, Colorado ranked 49th in the nation in both the percentage of low-income, non-elderly adults, and low-income children, covered by Medicaid.

KSNA cannot support HCR 5043, and believes it is a very significant change in public policy requiring extensive dialogue, debate, and consideration. We ask that you do not pass this legislation.

Center on Budget and Policy Priorities

820 First Street NE, Suite 510
Washington, DC 20002

Tel: 202-408-1080
Fax: 202-408-1056

center@cbpp.org
www.cbpp.org

October 19, 2005

A FORMULA FOR DECLINE
Lessons from Colorado for States Considering TABOR

By David Bradley and Karen Lyons

Summary

A growing body of evidence shows that Colorado's Taxpayer Bill of Rights, or TABOR, has contributed to a significant decline in that state's public services. This decline has serious implications not only for the 4.6 million residents of Colorado, but also for the many millions of residents of other states in which TABOR-like measures are now being promoted.

TABOR, a state constitutional amendment adopted in 1992, limits the growth of state and local revenues to a highly restrictive formula: inflation plus the annual change in population. This formula is insufficient to fund the ongoing cost of government. By creating a permanent revenue shortage, TABOR pits state programs and services against each other for survival each year and virtually rules out any new initiatives to address unmet or emerging needs.

Declining services since TABOR's enactment have become increasingly evident in most major areas of state spending: K-12 education, higher education, public health, and Medicaid.

KEY FINDINGS

TABOR has contributed to a significant decline in public services since it was adopted in 1992.

- Under TABOR, Colorado has declined from 35th to 49th in the nation in K-12 spending.
- Higher education funding has dropped by 31 percent.
- Colorado has fallen to near last in providing on-time full vaccinations to the state's children.
- The share of low-income children lacking health insurance has doubled, making Colorado the worst in the nation.
- Colorado business and community leaders now view TABOR as deeply flawed.

TABOR Has Contributed to Declines in Colorado K-12 Education Funding

- Under TABOR, Colorado declined from 35th to 49th in the nation in K-12 spending as a percentage of personal income.
- Colorado's average per-pupil funding fell by more than $400 relative to the national average.

- Colorado's average teacher salary compared to average pay in other occupations declined from 30th to 50th in the nation.

TABOR Has Played a Major Role in the Significant Cuts Made in Higher Education Funding

- Under TABOR, higher education funding per resident student dropped by 31 percent after adjusting for inflation.
- College and university funding as a share of personal income declined from 35th to 48th in the nation.
- Tuitions have risen as a result. In the last four years, system-wide resident tuition increased by 21 percent (adjusting for inflation).

TABOR Has Led to Drops in Funding for Public Health Programs

- Under TABOR, Colorado declined from 23rd to 48th in the nation in the percentage of pregnant women receiving adequate access to prenatal care, as defined by the Centers for Disease Control and Prevention.
- Colorado plummeted from 24th to 50th in the nation in the share of children receiving their full vaccinations. Only by investing additional funds in immunization programs was Colorado able to improve its ranking to 43rd in 2004.
- At one point, from April 2001 to October 2002, funding got so low that the state suspended its requirement that school children be fully vaccinated against diphtheria, tetanus, and pertussis (whooping cough) because Colorado, unlike other states, could not afford to buy the vaccine.

TABOR Has Hindered Colorado's Ability to Address the Lack of Medical Insurance Coverage for Many Children and Adults in the State

- Under TABOR, the share of low-income children lacking health insurance has doubled in Colorado, even as it has fallen in the nation as a whole. Colorado now ranks last among the 50 states on this measure.
- TABOR has also affected healthcare for adults. Colorado has fallen from 20th to 48th for the percentage of low-income non-elderly adults covered under health insurance.
- In 2002, Colorado ranked 49th in the nation in both the percentage of low-income non-elderly adults and low-income children covered by Medicaid.

Colorado Business and Community Leaders Now View TABOR as Deeply Flawed

TABOR's interaction with other areas of the state's budget has created additional problems. Spending for corrections, for example, has grown substantially faster than the inflation-plus-population formula of TABOR, in part due to strict criminal codes and sentencing laws. Because spending for corrections has grown rapidly, other areas of the budget have been squeezed even more in order to keep overall spending under the strict TABOR limit.

TABOR's costs are becoming clear. A wide range of Coloradoans — business leaders, higher education officials, children's advocates, legislators of both parties, and Governor Bill Owens (R), among others — recognize that TABOR has limited the state's ability to fund critical services.

- "Coloradoans were told in 1992 . . . that [TABOR] guaranteed them a right to vote on any and all tax increases. . . . What the public didn't realize was that it would contain the strictest tax and spending limitation of any state in the country, and long-term would hobble us economically." — Tom Clark, Executive Vice President, Metro Denver Economic Development Corporation

- "The [TABOR] formula . . . has an insidious effect where it shrinks government every year, year after year after year after year; it's never small enough. ...That is not the best way to form public policy." — Brad Young, former Colorado state representative (R) and Chair of the Joint Budget Committee

- "[Business leaders] have figured out that no business would survive if it were run like the TABOR faithful say Colorado should be run -- with withering tax support for college and universities, underfunded public schools and a future of crumbling roads and bridges." — Neil Westergaard, Editor of the Denver Business Journal

Colorado's experience provides an important cautionary tale for other states considering TABOR-like measures.

Introduction

A growing body of evidence shows that Colorado's Taxpayer Bill of Rights, or TABOR, has contributed to a significant decline in the state's public services. This has serious implications not only for the 4.6 million residents of Colorado, but also for the many millions of residents of other states in which TABOR-like measures are now being promoted.

This report documents TABOR's effects on five major areas of Colorado government: K-12 education, higher education, public health, Medicaid, and corrections. It shows that Colorado's national rankings in a number of areas of public services have plummeted in recent years. It also presents statements by a range of Coloradoans — including public officials, business leaders, and independent experts — describing the damage TABOR has done to their state.

TABOR, a state constitutional amendment adopted in 1992 in Colorado, limits the growth of state and local revenues to a highly restrictive formula: inflation plus the annual change in

11-5

population. This formula falls far short of being able to fund the ongoing cost of government. At a time when health care costs are growing much faster than inflation and the population is aging, TABOR's inflation-plus-population formula forces annual reductions in the level of government services.

By creating what is essentially a permanent revenue shortage, TABOR pits state programs and services against each other for survival each year and virtually rules out any new initiatives to address unmet or emerging needs.

This is true even in good economic times. For example, from FY 1997 through FY 2001, amidst a booming economy, Colorado refunded $3.25 billion in "excess" revenue to taxpayers as required by TABOR. (Whenever revenues for a given year exceed TABOR's revenue limit, the extra amount must be returned to taxpayers.) Yet even as the state was giving up more than $3 billion in "excess" revenues, its services were deteriorating: average per-pupil funding for K-12 education was falling; several local public health clinics were forced to suspend prenatal services for low-income women because of insufficient program funding; and between April 2001 and October 2002 the state was forced to suspend its requirement that students be fully vaccinated against diphtheria, tetanus, and pertussis (whooping cough) because Colorado, unlike other states, could not afford to buy the vaccine.

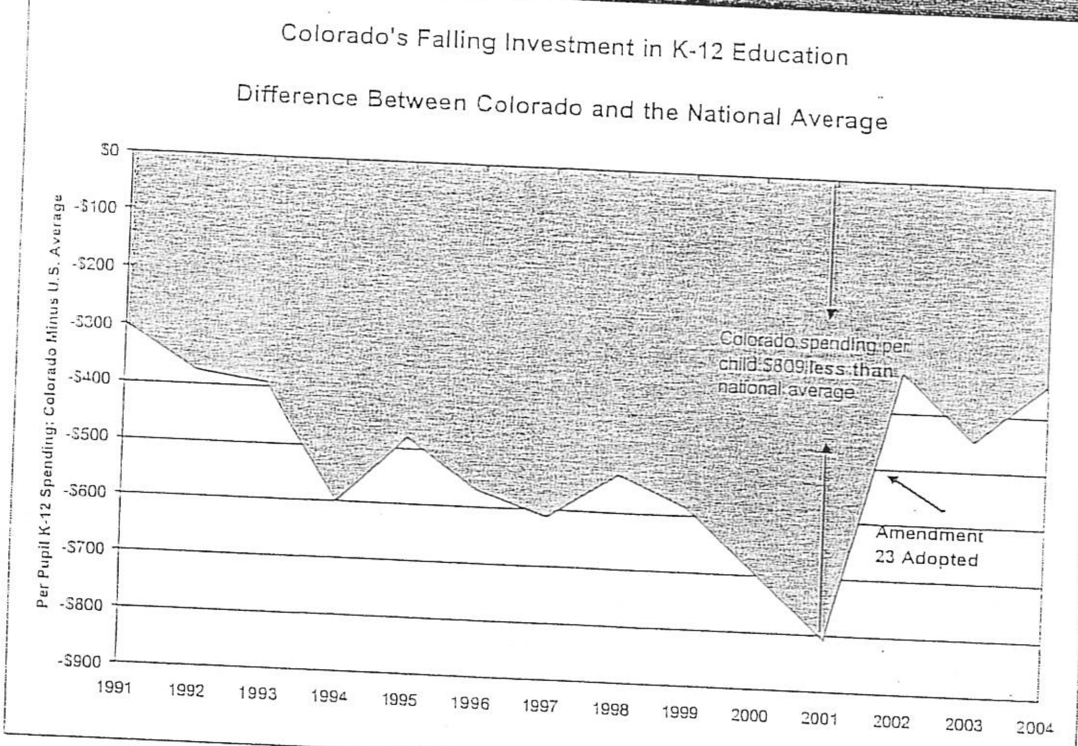
On a related point, it is important to note that the declines in services discussed in this report are not due to a lack of resources in the state. Colorado is both wealthy and well-educated: it has the 9th-highest per-capita personal income in the nation, and only one state has a larger share of residents with a bachelor's degree or higher.[1] The main reason Colorado's services are declining is not due to its inability to raise sufficient revenues, but rather because TABOR restricts the state's use of these revenues.

A growing number of Coloradoans are seeking relief from the problems TABOR helped create. In the November 2004 election, the Republicans lost control of both chambers of the General Assembly for the first time since 1960; observers generally attribute this outcome in part to the legislature's inability to craft a solution to relaxing TABOR. This November, Coloradoans will vote on Referendum C, which (among other things) would allow the state to spend all revenues it collects under current tax rates for the next five years, even if those revenues exceed TABOR limits. This Referendum enjoys broad support from a range of individuals and groups, including business leaders, children's advocates, Republican and Democrat legislators, the Denver Chamber of Commerce, and the conservative Colorado Springs City Council.[2]

At the same time, however, organizations dedicated to shrinking government are pushing for the adoption of TABORs in other states. Currently, Colorado is the only state with a TABOR.[3] In 2005, TABOR proposals were introduced in about half of the states. None of these proposals has yet been adopted, but pro-TABOR efforts are expected to continue.

The following sections describe the impact TABOR has had in Colorado. Any state that follows Colorado's example and adopts a TABOR could expect similar results.

FIGURE 1



K-12 Education

TABOR contributed to a decline in Colorado's K-12 education funding, with harmful effects across the state's educational system.

- Between 1992 and 2001, Colorado declined from 35th to 49th in the nation in K-12 spending as a percentage of personal income.[4] Thus, even as the state was becoming more prosperous during the economic boom of the 1990s, it was weakening its commitment to K-12 education.
- In 1992, Colorado's average per-pupil K-12 funding was $379 below the national average. By 2001, it was $809 below the national average.[5]
- Between 1992 and 2001, Colorado declined from 30th to 50th in the nation in average teacher salary compared to average annual pay in other occupations.[6] A decline in teacher pay relative to other employment opportunities is likely to reduce the quality of teachers over time by making it harder to recruit and retain them.
- In 2001, Colorado ranked 41st in the nation in the average number of students per teacher.[7]
- More than 90 percent of school children in the Denver metropolitan area were in overcrowded classrooms, according to a 2000 study by the U.S. House of Representatives Committee on Government Reform.[8]

11-7

The Consequences of Low Teacher Pay

Colorado educators and analysts point out that low teacher pay — one result of the education funding squeeze under TABOR — impedes efforts to find and keep qualified teachers.

- "The initial salary [makes it] very difficult to attract candidates." — Jack Krosner, Director of Human Resources for Douglas County[i]
- "After several years, [teachers] find that they are not getting ahead financially. Last year, we had a 17 percent teacher turnover, and that's the primary reason." — Superintendent Mel Preusser, Eagle County School District.[ii]
- "[T]he main problem [associated with teacher salaries in Colorado] pertains to the ability to attract skilled teachers." — 2002 study by the Colorado Center for Tax Policy, an independent research organization, and the Daniels College of Business at the University of Denver.[iii]

[i] Quoted in Bill Scanton, "Teacher Shortage on Horizon," *Rocky Mountain News*, February 2, 2000, p.A4.
[ii] Quoted in Steve Lipsher, "Mountain Housing Costs Peak," *The Denver Post*, April 9, 2001, p.B4.
[iii] Elisabetta Basilico, et al., "Teacher's Salaries in Colorado: Reasons, Consequences, and Alternatives for Below Average Compensation," July 2002, www.cpeccenterfortaxpolicy.org/reports/02-teachers_salaries.pdf

TABOR has weakened both local and state sources of K-12 funding. Even before TABOR's 1992 enactment, the ability of local governments to fund education had been undercut by a property tax limitation adopted in 1982. The state had partially compensated for the resulting decline in local education funding by increasing its own funding. TABOR worsened this situation in two ways. First, it placed further restrictions on local governments' control over their own revenue: TABOR limits the annual growth in local property tax revenue to the sum of inflation and a growth factor (such as the change in student enrollment), and it prevents local governments from raising property tax rates without voter approval. Second, by limiting the amount of revenues the state could keep, TABOR made it impossible for the state to maintain its own funding commitment to education — much less to continue making up for the loss of local funding.[9]

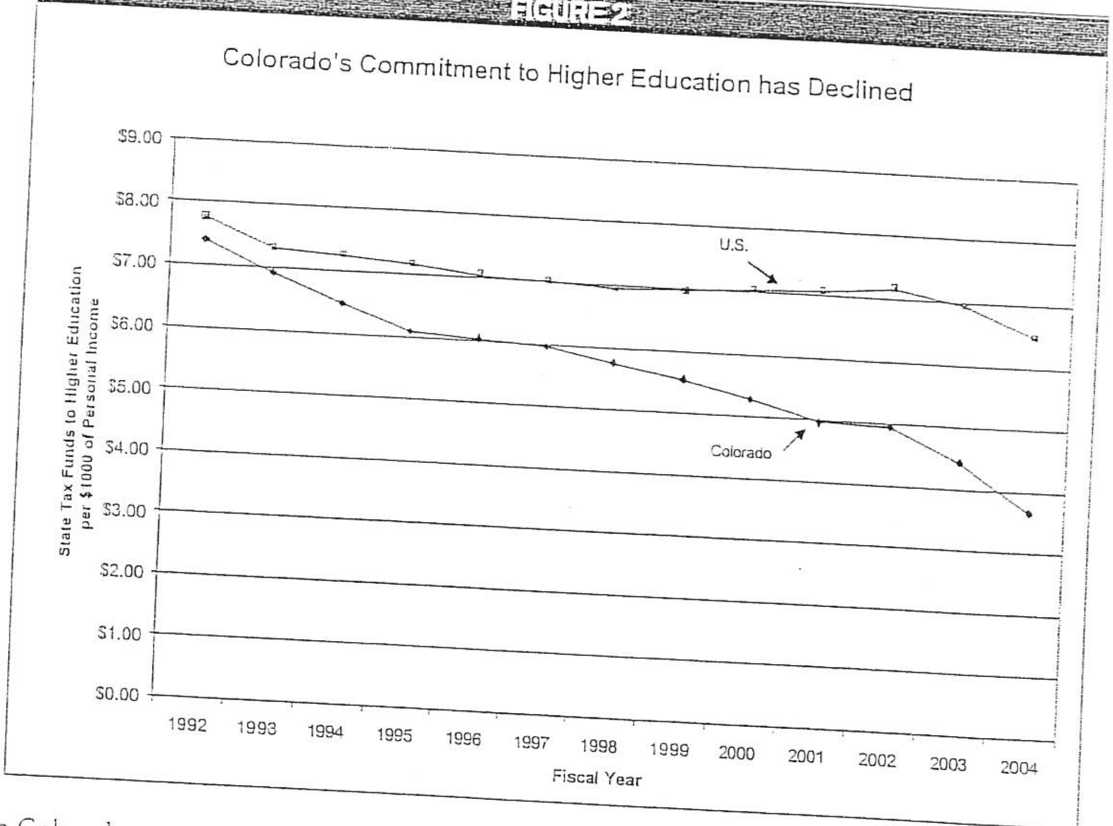
As a result, overall K-12 funding per pupil in Colorado declined during the 1990s, after adjusting for inflation.

The underfunding of education had significant consequences for school districts, such as increased class sizes, textbook shortages, dirty classrooms (due to reductions in janitorial staff), and teachers having to buy their own classroom supplies.[10] By 2000, districts across the state were cutting back on their programs and services.

As just one example, Adams 12 school district, located about seven miles from downtown Denver, was forced to impose reductions in teacher salaries, classroom supplies, transportation and nursing and psychological services. The district also had to eliminate funding for full-day kindergarten and increase sports fees.[11]

These cuts occurred at the same time the state was providing millions of dollars of refunds to Colorado taxpayers, as required by TABOR. The state refunded $679 million in tax revenues in 1999 and $941 million in 2000.

FIGURE 2



As Coloradoans saw the damaging effects of the decline in K-12 funding, they put a constitutional amendment on the ballot in November 2000 that would require the state to increase per-pupil funding by at least one percent above inflation each year for ten years, and by at least inflation thereafter. This amendment, known as Amendment 23, passed.

The problem, however, is that Amendment 23 does not provide Colorado with enough money to get out of the hole caused by past underfunding. As evidence of this, Colorado's K-12 funding rose after Amendment 23's enactment, but the state still spends several hundred dollars less per pupil than the national average (Figure 1). And while Colorado's per-capita personal income is 10 percent above the national average, average salaries for Colorado teachers are seven percent *below* the national average.

Higher Education

Under TABOR, higher education funding in Colorado has declined significantly — by a larger amount, in fact, than any other major program area.[12]

- Between 1992 and 2004, Colorado declined from 35th to 48th in the nation in higher education funding as a share of personal income. In 1992, Colorado spent close to the national average on higher education by this measure; by 2004, it spent just 57 percent of the national average (see Figure 2).

11-9

TABLE 1 - HIGHER EDUCATION FUNDING HAS PLUMMETED			
General Fund Appropriations per Resident Student (adjusted for inflation)			
	FY 1994-95	FY 2004-05	Percent Change
University of Colorado System	$7,324	$4,337	-41%
Colorado State University System	7,278	5,114	-30%
University of Northern Colorado	4,761	3,414	-28%
Colorado School of Mines	8,438	6,392	-24%
State Colleges (Adams, Mesa, Western, Metro)	3,870	2,970	-23%
Fort Lewis College	3,646	2,860	-22%
Community Colleges	3,032	2,410	-21%
System Wide	$5,188	$3,564	-31%

Source: Colorado Joint Budget Committee and the Center on Budget and Policy Priorities.

- Between 1995 and 2005, funding per resident higher education student in Colorado dropped by 31 percent (from $5,188 to $3,564) after adjusting for inflation.[13] Funding per resident student in Colorado is now lower than at any time in the past 20 years, after adjusting for inflation.

The decline in funding per resident student has affected all schools in the state higher education system. Funding declines have ranged from 41 percent at the University of Colorado system to 21 percent at the community college system (see Table 1).

To compensate partially for decreased state funding, most public higher education institutions have raised tuition in recent years. Between FY 2002 and FY 2005, system-wide resident tuition (adjusted for inflation) increased by 21 percent. At certain schools, however, tuition increases were much greater. For instance, during this same time period, tuition increased 31 percent for residents in the University of Colorado system, 32 percent for residents at Fort Lewis College, 30 percent for residents at the Colorado School of Mines, and 28 percent for residents at the University of Northern Colorado.

Even after taking these tuition increases into account, higher education funding has still decreased in recent years. Total funding per full-time resident student — the combination of General Fund appropriations and tuition — declined by 13 percent between FY 2002 and FY 2005.[14]

As described below, the harmful effects of the decline in funding have rippled through the state's higher education system. They also have created considerable worry among the state's business leaders (see box). David Longanecker, Executive Director of the Western Interstate Commission on Higher Education recently noted, "I'm often quick to say the sky is not falling. Now, I can't find the data that suggests Colorado is not in trouble. I was in Arizona recently before a state higher-education board, and they were saying, 'Life could be worse — we could be in Colorado.'"[15]

11-10

Business Leaders Concerned by Higher Education Cuts

Emphasizing that investment in higher education is a key part of a successful economic development strategy, Colorado's business leaders are expressing widespread concern about the state's funding cutbacks.

- "The bottom line is that institutions of higher learning in Colorado will continue to suffer funding shortfalls under the present system. If you ask the business community, a strong system of higher education is at the top of the list for economic development and the creation of jobs." — Dick Robinson, CEO of Robinson Dairy and member of the Colorado Economic Futures Panel[i]

- "[Colorado's higher education] system is at risk. The way we're going — because of TABOR and Amendment 23 — we're going to be basically out of public funds. . . . [S]peaking from a business standpoint, we're concerned because our success depends on the quality of the higher education system." — Raymond Kolibaba, Vice President of Space Systems, Raytheon Company[ii]

- "A lack of publicly-funded higher education institutions could leave our high school graduates without affordable higher education options, further exacerbating our struggles to 'grow our own' highly educated workforce. At the same time, our businesses could be left uncertain about the resources flowing from higher education institutions." — The Public Education and Business Coalition[iii]

- "[K]ey businesspeople and community leaders tell us . . . [t]hey are looking at the broader issues that will shape the future of Colorado, from the well-being of our higher education centers to the availability of skilled workers as our economy improves." — Bruce Alexander, President and CEO of Vectra Bank Colorado, commenting on a July 2005 survey showing that 71 of 100 Colorado business leaders identified TABOR as their top concern[iv]

- "For businesses to be successful, you need roads and you need higher education, both of which have gotten worse under TABOR and will continue to get worse." — Tom Clark, Executive Vice President of the Denver Metro Chamber of Commerce[v]

---

[i] Dick Robinson, "Solutions to Funding Colorado's Colleges," *The Denver Post*, April 17, 2005, p. E5.
[ii] Quoted in Suzanne Weiss, "Colorado Leaders on Education. Picking Their Brains," *HeadFirst*, May 12, 2005, www.headfirstcolorado.org/adm/view_article.php?story_id=132. Another article reported that Kolibaba recently told Colorado lawmakers that he has seen firsthand the problems caused by cuts to higher education. He said that he is having trouble bringing workers to Colorado and recruiting at local colleges because of deep cuts the state was forced to make in these areas people consider important to their quality of life. Steven Paulson, "Debate begins over fixes to state's economic woes," *The Associated Press*, February 2, 2005.
[iii] The Public Education and Business Coalition, "Investing in the Next Generation: How Education Drives Colorado's Economic Future," November 2004, www.pebc.org/ourwork/policy/ed-econ.pdf.
[iv] Quoted in "New Survey Shows TABOR is Top Concern Among Colorado Business Leaders; Vectra 100 Survey to Track Issues and Views among Influential Executives," *Business Wire*, July 12, 2005.
[v] Quoted in Daniel Franklin and A.G. Newmyer III, "Is Grover Over?," *Washington Monthly*, March 2005.

Funding Cutbacks Have Had Severe Effects

Faced with steadily decreasing funding, higher education institutions have been forced to take a series of painful steps. For example, University of Colorado (CU) has laid off 286 faculty and staff and eliminated six academic programs over the past three years. Construction funding has been cut by $121 million for projects currently underway at CU, even though CU was already facing a $400 million maintenance backlog.

11-11

At Colorado State University (CSU), 54 faculty were lost last year to budget cuts. Since 1990, a total of 80 faculty positions have gone unfilled, even as enrollment has grown 20 percent. Also, CSU reported losing 32 tenured faculty in 2002 because it could not match offers from other colleges. CU lost 16 tenured professors in 2004, twice the usual number, because they were recruited by colleges offering higher salaries.[16]

And if Referendum C — the proposal to partially override TABOR limits — does not pass in November 2005, school officials predict things will get even worse. University of Colorado president Hank Brown believes that "if C doesn't pass, there will be no aid for higher education a decade from now... and tuitions would eventually rise to what they are at private universities." Colorado State University president Larry Penley expressed similar sentiment, "Colorado State University could become a private school if voters don't support budget reform."[17]

Public Health Programs

Public health programs have suffered under TABOR as well. Between FY 1992 and FY 2004, state funding for the Department of Public Health and Environment declined by *one-third* as a share of personal income, even as Colorado's population grew rapidly.[18]

The underfunding of Colorado's public health system has had serious consequences.

- Between 1995 and 2003, Colorado declined from 24th to 50th in the nation in the share of children who receive their full vaccinations. Unvaccinated children are at much greater risk of getting measles and whooping cough. Moreover, medical research shows that vaccinated children are much more likely to get these diseases when they live in areas with unvaccinated children. While several factors determine a state's immunization rate, a recent Colorado Health Institute study concluded that "spending restrictions" are a factor in Colorado's low ranking, since TABOR does not give Colorado the same flexibility as other states to meet changing needs. [19]

- From April 2001 to October 2002 the state was forced to suspend its requirement that students be fully vaccinated against diphtheria, tetanus, and pertussis (whooping cough) because Colorado, unlike other states, could not afford to buy the vaccine.[20]

- Between 1992 and 2002, Colorado declined from 23rd to 48th in the nation in access to prenatal care, a sign of funding shortages in local health clinics. In an effort to increase access to prenatal care for low-income women, the state launched the Prenatal Plus Program in 1996, but financial pressures have forced the closing of a number of local sites. [21]

Among the casualties of the decline in public health funding was a state program that provided local public health agencies with vital revenues. The canceling of this program in 2002 forced many counties to eliminate a range of services, from immunization clinics to car-seat safety education. While plummeting state revenues during the economic downturn were the immediate cause of the program's cancellation, TABOR has cemented this cut in place and prevented the restoration of funding. [22]

The Consequences of Funding Declines in Public Health Programs

- "Not having funding does translate to difficulty in promoting immunizations" — Ned Calonge, Chief Medical Officer, Colorado Department of Public Health and Environment[i]
- "It really is a travesty that a state as wealthy as Colorado and with as high an educational level has more restrictive health policies than Mississippi, Alabama, Texas, Wyoming, [and] New Mexico. It's just inexcusable" — Dr. Stephen Berman, Professor of Pediatrics at the University of Colorado School of Medicine and former President of the American Academy of Pediatrics[ii]

[i] Quoted in "Costs of Complacency," *Governing*, February 2004, p. 26-8, 30-2, 34-5.
[ii] Quoted in Diane Carman, "Bad policies aid and abet a killer: flu," *The Denver Post*, December 7, 2003, p. B1.

Funding cuts like these have forced public health agencies to make difficult tradeoffs. "Because per capita and county dollars fund our core public health services, there were no good choices to be made," said Dr. Adrienne LeBailly, director of the Larimer County Department of Health and Environment.[23]

Larimer County responded to the shortfall by, among other things, eliminating hazardous waste inspections and inspections of leaking underground storage tanks; reducing health inspections of restaurants, school cafeterias, and grocery stores; closing a clinic designed to help at-risk children thrive in their home environment; scaling back health-care programs for special-needs children and prenatal risk reduction; and reducing public-information and tobacco-prevention services.[24] While some funding was later restored, these cuts in services seriously hindered the department's ability to provide health services to the county.

Medicaid

TABOR also has hindered Colorado's ability to provide health coverage to its vulnerable residents through Medicaid and related health care programs. Unlike education and public health, Medicaid has not experienced large funding declines in dollar terms under TABOR.

Nevertheless, Colorado (like other states) faces critical health-care challenges posed by the steady erosion of employer-sponsored health coverage and rising health-care costs. Unlike other states, Colorado must also contend with TABOR, which has left it without the necessary resources to meet these challenges.

TABLE 2: LOW MEDICAID COVERAGE AND HIGHER UNINSURANCE RATES

Low-Income Individuals, 2001-2002

	Colorado	US
Low-Income Adults Under 65 Who Are Covered by Medicaid	15.1%	28.5%
Low-Income Children Who Are Covered by Medicaid	24.6%	45.6%
Low-Income Adults Under 65 Who Are Uninsured	38.2%	32.2%
Low-Income Children Who Are Uninsured	28.6%	21.2%

- Between 1992 and 2004 the share of low-income children lacking health insurance doubled in Colorado (from 16 percent to 32 percent) even as it fell in

11-13

TABOR Weakens and Limits Medicaid

Experts agree that TABOR is a key reason why Colorado could not adequately address its problems of below-average Medicaid coverage and above-average percentages of uninsured residents.

- "Improving access to affordable insurance is a particularly difficult problem in Colorado because of limitations on increasing state spending by virtue of the TABOR Amendment. . . . Even though Colorado was eligible to receive up to $42 million in federal matching funds in 1998, we could produce only $7 million in state funds and ended up with a small fraction of what could have been ours." — Dr. Gary VanderArk, Coalition for the Medically Underserved[i]

- "[The reason the state did not provide Medicaid coverage to more children] was absolutely *not* the recession, because at the same time, we were giving money back to the taxpayers — $100, $200, $300. In return for that, we had 190,000 uninsured children, half of whom would potentially be eligible for Medicaid or the child health plan, yet we weren't able to get these kids health insurance because we didn't have the budget flexibility under TABOR." — Dr. Stephen Berman, University of Colorado School of Medicine[ii]

- "[B]udgetary constraints such as those resulting from the Taxpayers Bill of Rights Amendment (TABOR), combined with increasing medical costs, make the further erosion of government program reimbursements [to health-care providers] a stark reality. Such erosion will only serve to further perpetuate the escalation of uncompensated care, insurance premiums and, ultimately, the ranks of those unable to afford private coverage." — Denver Metro Chamber of Commerce[iii]

[i] Dr. Gary VanderArk, "Rx for the Uninsured: Casting a safety net for the indigent." *The Denver Post*, February 28, 1999, p. J1.

[ii] Dr. Stephen Berman, Interview, June 2005.

[iii] Denver Metro Chamber of Commerce, "Medicaid, the Uninsured and the Impact on Your Business," 2001, www.denverchamber.org/chamber/paffairs/Whitepaper.pdf

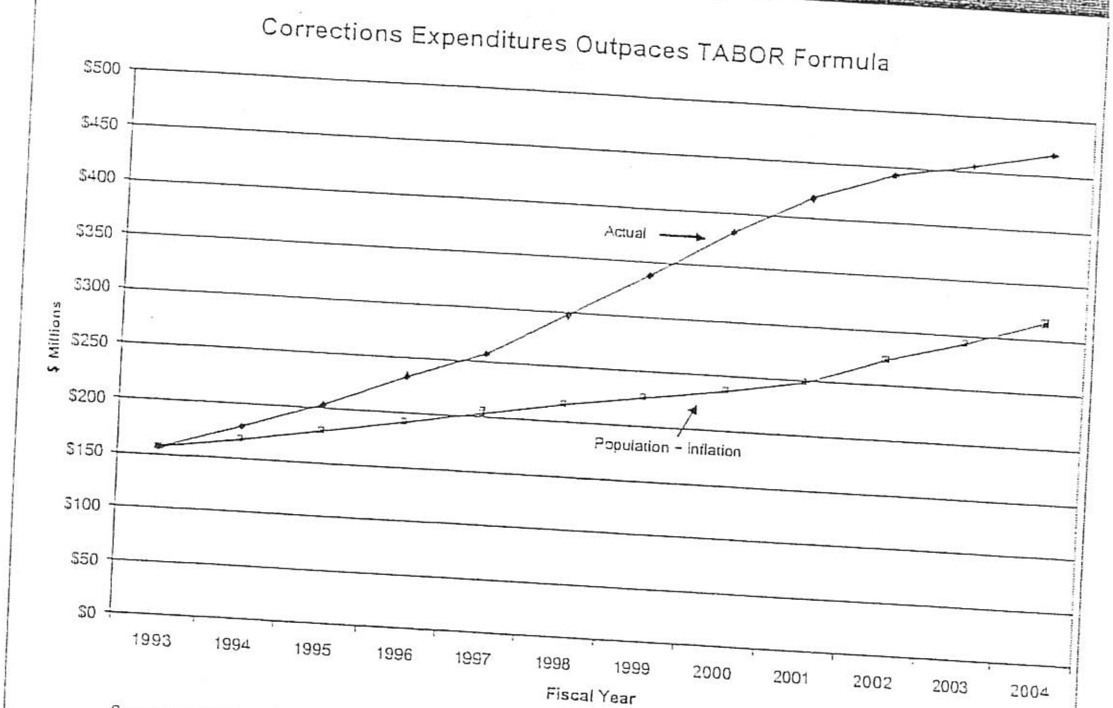
the nation as a whole (from 21 percent to 18 percent). Colorado now ranks last among the 50 states on this measure.

- In Colorado, the percentage of low-income adults under 65 without health insurance rose from 31 percent in 1992 to 46 percent in 2004, dropping its ranking from 20th to 48th.
- In 2002, Colorado ranked 49th in the nation in both the percentage of low-income adults under 65 and the percentage of low-income children covered by Medicaid.[25] This indicates that in Colorado Medicaid is not fully performing the function for which it was designed.
- Consequently, low-income adults and children are much more likely to be uninsured in Colorado than in the nation as a whole (Table 2).[26]

Simply put, Colorado's Medicaid program remains one of the most limited in the country. "For the most part, the Colorado Medicaid program is a 'bare bone' program providing mainly the federally required services for federally required populations," the Colorado Joint Budget Committee staff noted recently.[27] For example:

11-14

FIGURE 3



Source: CBPP analysis of Colorado Legislative Council data.

- In Colorado, a *working* family of three is ineligible for Medicaid if its income exceeds $6,132, which is just 39 percent of the poverty line. Only seven other states have stricter income eligibility standards.[28]

- Colorado is one of only 15 states that does not have a "medically needy" Medicaid option, which provides coverage to people whose gross income modestly exceeds Medicaid limits but who have high medical bills that reduce their disposable income below Medicaid limits.[29]

- Colorado is one of only six states that impose an asset test on children applying for Medicaid. In Colorado, children whose families have more than $2,500 in assets are ineligible for Medicaid, no matter how low the family's income is.[30]

- Colorado's separate health program for low-income children, known as CHP+, is one of the most restrictive of any of the state programs established under the State Children's Health Insurance Program (SCHIP). Colorado is one of only six states that limit its children's health program to families with incomes of 185 percent of the poverty line or lower.[31] (SCHIP provides states with federal matching funds to cover children whose families earn too much to be eligible for Medicaid but not enough to afford private insurance. Most parents in such families are not offered health insurance on their jobs or if they are, they cannot afford the premiums for family coverage.)

TABOR's Cost Becoming Clear

TABOR's harmful effects on Colorado have become increasingly clear in recent years, as these statements by key Coloradoans show.

- "Now, as the economy has slowly begun to recover, we are learning that the revenue and spending limits imposed by TABOR curb the recovery of our public-sector budgets to the point where the state is challenged in its efforts to adequately provide services such as higher education, health care and transportation. Because of the negative economic impact of this strain, the Denver Metro Chamber of Commerce supports fiscal reforms that allow the state budget to recover, while promoting responsible, limited government." — Denver Metro Chamber of Commerce[i]

- "Coloradoans were told in 1992 . . . that [TABOR] guaranteed them a right to vote on any and all tax increases. . . . What the public didn't realize was that it would contain the strictest tax and spending limitation of any state in the country, and long-term would hobble us economically." — Tom Clark, Executive Vice President, Metro Denver Economic Development Corporation[ii]

- "While the economy is expected to grow in fiscal year 2005-06 and General Fund revenues will increase 5.5 percent, the amount of General Fund available under current law is approximately $80 million or a 1.4 percent increase. . . . In FY 2005-06, $80 million only covers about 54 percent of the expected growth in Medicaid and K-12 education, leaving those programs under-funded and the remaining state priorities without any funding." — Governor Bill Owens[iii]

- "The [TABOR] formula . . . has an insidious effect where it shrinks government every year, year after year after year after year; it's never small enough. [A]t some point you'll be cutting services that people will start objecting to, and that's when change happens. That is not the best way to form public policy." — Brad Young, former Colorado Representative (Republican) and Chair of the Joint Budget Committee[iv]

- "When TABOR was enacted, roughly 25 percent of the state budget went to funding higher education; it is now under 10 percent. . . . Without TABOR reform there is only one result — the end of state funding for higher education by the end of the decade." — Michael Carrigan, University of Colorado Regent[v]

- "[Business leaders] have figured out that no business would survive if it were run like the TABOR faithful say Colorado should be run – with withering tax support for college and universities, underfunded public schools and a future of crumbling roads and bridges." — Neil Westergaard, Editor of the Denver Business Journal[vi]

---

[i] Denver Metro Chamber of Commerce, "Statement on TABOR," March 2005, www.denverchamber.org/paffairs/tabor.asp
[ii] Quoted in "The Real Story Behind TABOR," DVD, Center on Budget and Policy Priorities, October 2005.
[iii] Governor Owens, "Submission of FY 2005-06 Budget to the Joint Budget Committee," November 9, 2004, www.state.co.us/gov_dir/govnr_dir/ospb/governorsbudget/govbudgetreq05-06.pdf.
[iv] Quoted in "The Real Story Behind TABOR," DVD, Center on Budget and Policy Priorities, October 2005.
[v] Michael Carrigan, interview by ColoradoPols, March 2005, http://coloradopoliticalnews.blogs.com/colorado_political_news/2005/03/qa_with_cu_rege.html
[vi] Neil Westergaard, "Business folks fed up with TABOR worship," *Denver Business Journal,* July 22, 2005.

11-16

Corrections

Corrections spending grew at an average annual rate of 10.4 percent between 1992 and 2004, faster than any other program area and substantially faster than TABOR's inflation-plus-population formula. [32] Corrections spending in 2004 alone was $155 million more than it would have been if it had remained within the TABOR limit since TABOR's enactment (see Figure 3).

Corrections' seeming immunity to TABOR is due to the fact that it is governed by state criminal codes and sentencing laws. If state law says that a certain crime mandates a certain sentence, the Department of Corrections must comply by imprisoning the offender and assuming the associated costs (housing, security, food service, medical care, and so on).

The main reason for the large growth in corrections spending has been what the Department of Corrections terms "unprecedented growth" in the inmate population. Between 1985 and 2004, Colorado's inmate population increased a staggering 440 percent or *more than ten times* the increase in the general population (43 percent). Since TABOR's adoption, the prison population has grown three times as fast on average (6.9 percent per year) as the general population (2.3 percent per year).

The growth in the inmate population partly reflects 1985 legislation that doubled the maximum sentence for felonies. As a result of this legislation, the average length of stay for new inmates nearly tripled. Subsequently the legislature attempted to slow the growth in the inmate population by relaxing certain sentencing policies, but with only limited success.

So quickly has the prison population grown that even the large increases in state corrections spending have not been able to keep up. Colorado's corrections facilities were operating at nearly 110 percent of design capacity as of 2003.[33] This is not sustainable: overcrowded prisons can bring a host of problems, from escalating violence to increased litigation by inmates. To rectify the situation, the Department of Corrections will need even more money to expand facilities. Even so, overcrowding is likely to continue, since the prison population is expected to continue increasing. A conservative estimate by the Legislative Council of Colorado is that the prison population will grow another 20 percent between 2005 and 2009.

While Colorado is not the only state facing a rapidly increasing prison population and the associated financial burdens, it is the only state with a TABOR, and that has put Colorado in a terrible bind. Under TABOR, if spending grows faster than the inflation-plus-population formula in one area of the budget — such as corrections — then other budget areas, such as education and/or public health, must be squeezed even more to keep overall spending within the TABOR limit. As the Colorado Legislative Council recently noted, "If inmate population growth exceeds the state's population growth (assuming inflation affects the TABOR limit and departmental costs in the same amount), expenditures of the department may exceed the TABOR limit and create additional budgetary pressure for the legislature to meet the aggregate TABOR spending limit." [34]

Conclusion

TABOR slowly starves the services on which state residents rely. Each year, the TABOR formula produces a maximum expenditure level that is below what is needed, and all state priorities must compete for this inadequate level of funding. If one area, such as corrections, gets first in line because of legal requirements, the funding available for all other services shrinks further. While the cuts in any one year may be modest, the cumulative effect of annual reductions over a number of years is devastating.

Some 13 years after the adoption of TABOR, Colorado is feeling the consequences of this progressive starvation. As described in this report, services have deteriorated to the point at which the quality of life in the state has been undermined — and the state's potential for economic development has been weakened. What has happened in Colorado should be a cautionary tale for any other state considering going down the TABOR path.

End Notes

[1] Income data from the Bureau of Economic Analysis (www.bea.gov/bea/newsrel/SPINewsRelease.htm) and Educational Attainment data from the U.S. Bureau of the Census (www.census.gov/Press-Release/www/releases/archives/education/004214.html).

[2] Referendum C is part of the Colorado Economic Recovery Act, which also includes Referendum D, a bond issuance to provide funding for transportation, higher education, and K-12 capital improvement projects.

[3] Three elements distinguish Colorado's TABOR from other states' tax and expenditure limits (TELs): it is in the state constitution; it limits growth of government services to a formula of inflation plus population growth; and a vote of the people is required to override the limit. For a detailed discussion, see David Bradley and Iris J. Lav, "In a League of Their Own: Colorado's TABOR And Ohio's Proposal Are More Restrictive Than Other Limits," Center on Budget and Policy Priorities, June 2005, www.cbpp.org/6-29-05sfp.htm.

[4] Center on Budget and Policy Priority (CBPP) calculation of National Education Association (NEA) and Bureau of Economic Analysis (BEA) data. Current expenditures provide funding for the operating costs of K-12 schools. Expenditures include items such as salaries, fixed charges, transportation costs, school books, materials, and energy costs but do not include capital expenditures and interest payments on debt.

[5] CBPP analysis of National Center for Education Statistics (NCES) data.

[6] CBPP calculation of National Education Association (NEA) and Bureau of Labor Statistics (BLS) data.

[7] CBPP analysis of NCES and NEA data.

[8] Committee on Government Reform, U.S. House of Representatives, "K-3 Class Sizes in Denver, Colorado," September 2000.

[9] The property tax limit, which was enacted in 1982, is called the Gallagher Amendment. It reduced the non-residential property tax rate and required that the ratio between valuation of residential and nonresidential property be kept constant. This means that when the value of residential property rises more quickly than that of non-residential property — as has been the case in recent years — the residential assessment rate must be reduced to maintain the ratio. TABOR worsened this limit by requiring mill levies to fall when property tax collections increase by more than inflation plus new growth and by not allowing mill levies to rise when collections do not keep pace with inflation and new growth. Despite an increase of 69 percent in assessed value of property in the state from fiscal year 1994 through fiscal year 2001, appropriations from property tax revenues increased by only 28 percent during this period. The gap between assessed value and collections was due in large part to TABOR's restraints on mill levies, which declined from an average of 38.11 in 1994 to 29.04 in 2001 (Data on assessed value, property tax collections, and mill levy are from the Colorado Department of Education.). Given these constraints, it is hardly surprising that from 1993 to 2001, property tax per pupil *decreased* by an average of 0.15 percent

per year and the local share of total K-12 spending declined from 48 percent to 43 percent.

[10] This is true even in school districts that "de-Bruced," that is, districts in which a majority of voters chose to keep revenues in excess of the TABOR limit for a specified time period. They still faced the ever growing challenge of raising enough money to offset the declines in state spending.

[11] Holly Kurtz, "Tough Times at School," *Rocky Mountain News*, March 5, 2000, p. 18A.

[12] As a percentage of total state personal income, total own-source appropriations for higher education fell from 1.37 percent in fiscal year 1992 to 1.01 percent in fiscal year 2004. According to CBPP analysis of Colorado Legislative Council data, this decline exceeds that of any other major program area.

[13] CBPP analysis of Colorado Joint Budget Committee (JBC) data. Funding is expressed as General Fund appropriations for the Department of Higher Education in 2004-05 (fiscal year 2005) dollars per resident student full-time equivalent. The appropriations number excludes funding for programs such as the Council on the Arts, the Colorado Historical Society, the Colorado Commission on Higher Education, etc., so that it reflects the actual state operating support for institutions of higher education. The comparison starts in 1995 because that is the first year that fully comparable data are available by institution.

[14] CBPP analysis of Colorado Joint Budget Committee data. Starting in fiscal year 2006, Colorado will begin a new funding system for higher education — the College Opportunity Fund (SB 04-189) — that is unlike any other state. Direct appropriations currently funding higher education institutions will be replaced by vouchers and "fee-for-service" contracts. The College Opportunity Fund also allows the General Assembly to designate institutions of higher education as enterprises. This means that tuition and other cash revenue that higher education institutions use will be exempt from TABOR limits. Tuition will thus almost certainly rise even more to make up for years of underfunding.

[15] Quoted in Dave Curtin, "State's colleges decry finances," *The Denver Post*. December 20, 2004, p.A1.

[16] Ibid.

[17] Quoted in Julie Poppen, "CU president touts Refs C, D," *Rocky Mountain News*. September 12, 2005, p.12A. Quoted in Jennifer Brown, "C and D put CSU "at a crossroads": Public or private?," *The Denver Post*, September 9, 2005, p.A14.

[18] It is important to note that as a share of income, state own-source appropriations for the Department of Public Health remained at a constant 0.9 in the decade prior to TABOR's passage. Thus, the state's investment in public health programs was growing with the state's income but began to shrink after TABOR passed.

[19] Ranking is for the 4:3:1:3 series. By investing additional funds to immunize children, Colorado was able to improve their ranking to 43rd in 2004. Information on medical research from D. Feikin et al., "Individual and community risks of measles and pertussis associated with personal exemptions to immunizations," *Journal of the American Medical Association* (Dec. 27, 2000): p.3145-3150. For study, see Colorado Health Institute, "Colorado Childhood Immunization Rates: Policy and Practice," May 2005, www.coloradohealthinstitute.org/Documents/Q&A_final.pdf

[20] There was a national shortage of the Diphtheria, Tetanus, Pertussis (DTAP) vaccine in 2000 and 2001. The Colorado Department of Public Health and Environment suspended the school entry requirement for the 4th and 5th doses of DTAP. Most other states only deferred the 5th dose DTAP requirement and used state funds to purchase existing vaccine at a higher price. Colorado, however, could not choose this option due to a lack of state funding. See Colorado Health Institute, "Colorado Childhood Immunization Rates: Policy and Practice," May 2005, www.coloradohealthinstitute.org/Documents/Q&A_final.pdf

[21] Ranking data from National Center for Health Statistics, Centers for Disease Control and Prevention. Information on program participation from Colorado Department of Public Health and Environment, "Prenatal Plus Program Annual Report," various years, www.cdphe.state.co.us/pp/womens/PrenatalPlus.asp#AnnualReports.

[22] The state program is known as "per capita funding." Colorado General Assembly, Joint Budget Committee, "FY 2005-06 Staff Briefing: Department of Public Health and Environment," November 10, 2003, www.state.co.us/gov_dir/leg_dir/jbc/pubheabrf1.pdf

[23] Larimer County Department of Health and Environment, "Proposed Service Reductions to Mitigate Deficits Larimer

11-19

OVERLAND PARK
CHAMBER OF COMMERCE

LEGISLATIVE TESTIMONY

TO: Melvin Neufeld, Chairman
Members, House Appropriations Committee

FROM: Wes Ashton, Overland Park Chamber of Commerce
Also on behalf of the Northeast Johnson County Chamber of Commerce
Also on behalf of the Olathe Chamber of Commerce

DATE: April 27, 2005

RE: Testimony in opposition to HCR 5043

Thank you for the opportunity to offer testimony today on behalf of several business organizations located in Johnson County and the more than two thousand member businesses we represent. This testimony is offered in strong opposition to HCR 5043, which would impose a supermajority requirement in the Legislature for any tax increase or any new taxes.

The Johnson County Public Policy Council, made up of all the chambers of commerce representing Johnson County, included in its 2006 combined agenda a position opposing TABOR and any "supermajority" requirements for taxing and spending issues at all levels of government. Although the components of HCR 5043 would not be considered a TABOR amendment, the concept is similar and is a significant deviation from our current form of government.

Requiring a "supermajority" is a fundamental departure from traditional American government. It would empower a minority of Legislators to control how funds are allocated. In the Kansas Legislature, 42 representatives or 14 senators would be able to bar any form of a tax increase, which could be needed for any number of future issues. This power could deadlock the Legislative process during the budget debate, or seriously damage other priorities of the business community that could require a tax increase in the future, such as our education system or a development of a new transportation program.

Historically, Kansas has ranked in the middle of all states on its taxing rates. While no one enjoys paying taxes, the money our citizens and businesses pay in taxes are responsible for our quality schools and excellent highway system. Passage of HCR 5043 will likely set the stage for the decline in our transportation, schools and quality of life.

Thank you for the opportunity to testify today in opposition to HCR 5043.

9001 WEST 110TH ST. • SUITE 150 • OVERLAND PARK, KANSAS 6
913.491.3600 • FAX 913.491.0393 • www.opks.org

HOUSE APPROPRIATIONS

DATE 4-28-2006

ATTACHMENT 12

Tobacco Free Kansas Coalition, Inc.

Written Testimony in Opposition to HCR 5043
for the Kansas House Appropriations Committee
April 27, 2006

Chairman Neufeld and Members of the House Appropriations Committee, on behalf of the Tobacco Free Kansas Coalition, I would like to provide our reasons for opposing HCR 5043.

The tobacco industry has long recognized the importance of recruiting the very young as customers. The profitability, if not the survivability, of an industry that kills a third of its customers and disables another third clearly depends on constantly replacing the patrons lost to disease and death. Recruiting children as new smokers adds years of profitable sales. More importantly, children are more susceptible to the all-important addiction process per se, due to the vulnerability and plasticity of their neurochemistry. In fact, the majority of new cigarette customers are children.

A strategic use of a tax increase is to decrease consumption of a product. In the case of cigarettes or of tobacco products, this decrease in consumption works to the health advantage of the tobacco users and to the health advantage of the state of Kansas whose Medicare program funds a significant portion of the treatment for tobacco-related diseases. When cigarette and tobacco products excise taxes are increased significantly, tobacco consumption—and ultimately tobacco prevalence rates—decrease, and increased health effects are realized.

Case in point is the 2002-2003 cigarette tax increase of 55 cents in Kansas. Youth smoking prevalence in Kansas is now down to 21.2% and adult smoking prevalence rates are at 19.8%, a decrease due in part to the excise tax increase. In addition, the revenues from that excise tax in Kansas have more than doubled since the implementation of the tax, providing funding for other important program needs in the state.

Kansas legislators are elected to make laws for the state, including the decisions to set levels of expenditures and to provide for the sources of revenue for those expenditures. They currently make these decisions under the time-honored basis of a simple majority vote. To alter that tradition puts an undue burden not only on the legislative body, but on the citizens of Kansas. We stand for maintaining the integrity of the Kansas Legislature and for keeping control for legislative changes in the hands of the majority, not the two-thirds super majority proposed by HCR 5043. Such a change would dilute the power of the legislative body.

We urge the committee to maintain the power of the legislature by rebuffing the effort to amend the Kansas constitution so that a two-thirds majority vote would be required for an increase in any type of tax geared to supporting needed Kansas programs or activities, an effort that inexplicably allows for a simple majority to decrease any tax.

Jon Hauxwell

Jon Hauxwell, MD
President
Tobacco Free Kansas Coalition, Inc.

Tobacco Free Kansas Coalition Officers:

President	Vice-President	Secretary	Treasurer
Jon Hauxwell, MD	Lisa Benlon	Diane McNichols, RN	

Mary Jayne Hellebust, Executive Director
4300 SW Drury Lane * Topeka, Kansas 66604
Phone (785) 272-8396 * Fax (785) 272-9297 * www.tobaccofreek

HOUSE APPROPRIATIONS

DATE 4-28-2006
ATTACHMENT 13

KANSAS ECONOMIC PROGRESS COUNCIL

House Appropriations Committee
Opposition to HCR 5043
April 27, 2006
Kansas Economic Progress Council

KEPC is a business organization of over 200 local chambers, trade associations and businesses. These members oppose TABOR and TABOR like statutes believing them to be detrimental to the future of Kansas, particularly those government services vital to a healthy economy and high quality of life.

Business has long recognized the need for quality government services in order to be successful. That balanced partnership would be threatened by HCR 5043, especially in areas such as K-12 education, social services, highways, higher education and prisons to name a few.

Why is HCR 5043 a bad idea for Kansas?

It ties the hands of elected officials. The resolution replaces the normal legislative process and legislative accountability with an inflexible and unworkable voting formula.

It stifles Kansas' ability to handle new challenges or new opportunities. We can't anticipate challenges such as a public health emergency (West Nile virus) or opportunities such as those presented by the development of new technologies. TABOR would make it very difficult for the state to make investments in essential infrastructure such as bridges and highways and to remain competitive in the world economy.

It does not take into account increased needs based on demographic changes. For example, by making it very hard to respond to the growing health and care taking needs of our rapidly aging population, the resolution will increase the burden on already hardpressed younger families.

TABOR has been bad for Colorado and HCR 5043 will be bad for Kansas. Colorado adopted this measure in 1992. Since then they have fallen from being ranked in the middle on key indicators of child well-being to being on the bottom. Before the voters of Colorado set aside the TABOR formula for five years last fall, it was estimated there would be no state funding for universities by 2009. While TABOR is touted as a great boost to economic development, Colorado has not kept pace with other Rocky Mountain states in job development.

We would urge you to oppose HCR 5043.

HOUSE APPROPRIATIONS
DATE 4-28-2006
ATTACHMENT 14

KANSAS ECONOMIC PROGRESS COUNCIL

For nearly 150 years, our representative form of state government has made Kansas one of the great states to conduct business and raise families. We understand that healthy, growing communities are vital to the future of our state. Business cannot operate under artificial formulas and caps and the services offered by state and local governments do not follow the CPI of the free market place or necessarily go down with a declining or slow growing population. Business does recognize that it must be involved in the process undertaken by elected officials to determine the priorities and balance for government.

- **If TABOR or similar laws are enacted, the responsibility for providing quality basic government services will stand or fall at the whim of a minority of the voters, destroying our representative democracy.**

- **Quality state public services such as higher education and transportation are tied directly to the economic growth of the state. As with the Colorado experience, TABOR's caps on spending severely impacted those programs as well as all other economic development programs.**

- **TABOR removes the state's flexibility to adjust to economic downturns, emergencies and special economic opportunities.**

- **TABOR will result in the shifting to local governments for basic services like roads and prisons. The tax base will shift from state income and state sales tax to local property taxes, where business pays a much higher rate and many communities cannot afford higher rates.**

- **Other consequences of TABOR include a proliferation of new governmental entities to get around it as well as major increases on non-tax items such as license fees, new homes, permits, tolls, etc.**

- **Rural communities who import significant state dollars will suffer first and worst. And rural areas will be at a disadvantage in ballot issues compared to the more populated areas of the state.**

- **According to the U. S. Census Bureau, Kansas has not been high in per capita state spending. In 2003, Kansas ranked 37th, 35th in 2002 and 2001 and 37th in 2000.**

Common Sense, Community Success

10851 MASTIN STREET, SUITE 1000, OVERLAND PARK, KS 66210, (913) 451-5124
www.ksepc.org

TABOR

Taxpayer Bill of Rights

TABOR is a **state constitutional amendment** promoted to regulate growth in state and local budgets under a highly restrictive formula. The idea is used to shrink state and local budgets over time by cutting taxes when there is a surplus and reducing the budget when there are deficits. **TABOR requires voters to approve all increases in either taxes or state debt, while limiting growth in state revenue.** Some versions of the amendment also impose separate revenue limits on school districts and local governments.

HISTORY OF TABOR:

The TABOR amendment was passed in 1992, making Colorado the *only* state in the nation to experience TABOR. The effects of the amendment have taken nearly a decade to appear because spending limits typically rise at a rate only modestly lower than the cost of providing services. But as the state of Colorado has learned, the difference grows and compounds significantly over the years. **Several cities and counties throughout Colorado have voted themselves out from under the limitations of TABOR.**

- In 1991-92, Colorado ranked 35th in state and local spending for K-12 as a share of personal income. In 2000-01, the state fell to the 49th position.
- In 1991-92, Colorado ranked 30th when comparing the average salary of teachers to annual earnings in the private sector. In 2001-02, Colorado fell to 50th.
- In 1991-92, Colorado ranked 35th in state spending for higher education as a share of personal income. In 2003-04, they ranked 48th in the nation.
- The appropriations received by the University of Colorado in FY 2004 were roughly the same in FY 1995. However, the University has an estimated 4,927 additional students.
- In 1992, Colorado ranked 23rd in adequacy of pre-natal care. In 2002, the state ranked 48th. (1)

On November 1, 2005, Colorado reviewed the effects of TABOR and a majority of citizens voted to stop TABOR and retain state revenues. This requires taxpayers to give up $3.7 billion in tax refunds over the next five years. The business community was so alarmed that it raised a staggering $5.5M to support the campaign for the 5 year moratorium.

TABOR has hurt the Colorado economy and business leaders don't like what they've witnessed. According to Deloitte & Touche/Fantus Consulting, a good "business climate" depends as much or more on the quality of public services as it does on the state's tax level. The business environment in Colorado is quickly decaying as the state's net worth, representing the publicly owned capital stock that provides the foundation for economic activity, is unparalleled.

KANSAS AND TABOR:
The rationale for a TABOR amendment in Kansas is that it will control state expenditures on education, social services, roads and bridges, prisons, insurance, etc. However, the experience of our neighboring state shows that expenditures on these key services will be dramatically reduced or eliminated all together under TABOR.

Why is TABOR so dangerous for our State's Constitution? **TABOR uses a restrictive formula based on population growth plus inflation rate to set spending annually.** The amendment also becomes permanent in the state constitution, limiting flexibility almost completely and making removal from the constitution extremely difficult. Additionally, Federal mandates and unexpected costs cannot be met without squeezing existing programs.

Unintended consequences of TABOR

1. *Burden is shifted to the local level, increasing property and excise taxes.*
2. *Increases in fees for licenses, new homes and developments, permits, tolls, etc.*
3. *Inefficiencies (i.e. deferred maintenance on buildings and roads; outdated technologies etc.)*
4. *Loss of federal money(1)*

If Kansas would have adopted a TABOR amendment at the same time as Colorado, the landscape of our state would be radically different. **Kansas state expenditures would have been $890 million, or 19 percent lower in FY 2005 with TABOR in place.** However, the potentially large cuts that would have been required to accommodate the TABOR limits are astounding: (1)

- 10,000 K-12 teachers would have been cut(1)
- The average pupil-teacher ratio would have increased from 15 to 23.(1)
- The Health Wave insurance program for low-income children would have been eliminated – State funding for Medicaid and the State Children's Health Insurance Program would have been $135 million lower in FY 2005 with TABOR.(1)
- Increased university tuition by an average of $1,400 – Higher education would have faced a proportional share of state spending cuts in 2005 for combined cuts of $123 million among higher education institutions. The system would have quickly evolved to something only the rich could use.(1)
- Incarcerating 1,300 fewer inmates – State funding for correctional facilities would have been $25 million less than it actually was in FY 2005.(1)
- No highway program would have been established in 1989 and 2000.
- Bonds issued to build research facilities at KU, KSU & WSU would have required a public vote.
- Public votes would have had to take place to build jails, convention centers, libraries and parks.
- The State's judicially ordered remedy to prison overcrowding at El Dorado maximum security prison would have required a public vote.

The Kansas TABOR proposal is very similar to the amendment currently in place in Colorado. It holds annual expenditure and revenue growth to inflation plus population. The TABOR proposal also requires popular vote to override, just as the Colorado amendment does.

OTHER CONSEQUENCES:

Expansion in numbers of governments has occurred in Colorado as a way of getting around TABOR. The last thing Kansas needs is more governmental entities.

Rural Kansas would be the most devastated by TABOR amendments or statutes. Most rural counties import significant state dollars to survive; in essence state funding is their lifeline. With TABOR that lifeline is in jeopardy.

Additionally, when it comes to public voting, rural areas will be at the mercy of the more populated areas.

Starving state government will put significant pressure on priority areas such as social services and K-12 education. Therefore areas important to business such as economic development programs, higher education and transportation will be the first to be cut.

A shift in the burden to provide basic services will occur from state to local level where the only recourse will be to raise property taxes.

A review of actual government spending in Kansas over the past several years does NOT reveal an alarming trend, in fact:

State and local taxes as a share of personal income are the same percentage today as they were in 1970 and the ratio has stayed about the same during that entire time period. Kansas was 29th in 2004 for total state taxes per capita, 29th in 2004 for state taxes as a % of personal income, 26th in 2002 for per capita state and local taxes and 27th in 2002 for state and local taxes as a share of personal income. (2)

According to the US Census Bureau, in the last few years Kansas' per capita state spending has remained below the national average ranking 37th highest in 2003, 35th in 2002 and 2001 and 37th in 2004. (3)

Sources:

(1) The Bell Policy Center, Center on Budget and Policy Priorities and the University of Colorado

(2) All tax numbers and rankings directly from US Census. Rankings for taxes as a % of personal income use US Census tax data and personal income data from the Bureau of Economic Analysis

(3) US Census Bureau from Table states Ranked by Revenue and Expenditure Total amount and Per Capita Total Amount – various years, http://www.censuscgov/govs/www/state.html