

Journal of the House

TWENTY-FIRST DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Thursday, February 10, 2011, 11:00 a.m.

The House met pursuant to adjournment with Speaker O'Neal in the chair.

The roll was called with 120 members present.

Rep. Fund was excused on verified illness.

Reps. Colloton and Sloan were excused on legislative business.

Reps. Peterson and Schwab were excused on excused absence by the Speaker.

Present later: Rep. Schwab.

Prayer by guest chaplain, Dr. Bruce L. Emmert, senior pastor, First United Methodist Church of Topeka, and guest of Rep. Tietze:

Lord our God,

Thank you for the men and women of the House of Representatives who come to elected office with the desire to seek what is best for all Kansans.

Their burden, Lord, is heavy. The demands of office are weighty.

Grant our Representatives wisdom as they consider the great issues facing our state and discernment as they listen to all the competing voices which seek to be heard.

Grant our Representatives patience with us who elected them when we want simplistic solutions to the complex issues facing us all.

Grant our Representatives an extra measure of grace when their best intentions are misunderstood, their decisions are questioned or their motives doubted.

And, Lord, grant our Representatives good-humored friendships with one another that transcend political distinctions as they work together for the people of Kansas.

Lord our God, for the men and women of the Kansas House of Representatives I give you thanks and praise. Amen.

The Pledge of Allegiance was led by Rep. Siegfried.

Kansas Trivia Question – Forest Gill, a silk-screen printer in Johnson County, saw possibilities in a pressure-sensitive, waterproof paper he found in 1943. To Gill Studios we can extend our thanks for introducing what?

Answer: Bumper stickers

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

HB 2264, AN ACT concerning property taxation; relating to exemptions; mineral rights; repealing K.S.A. 79-420, by Committee on Taxation.

HB 2265, AN ACT concerning property; relating to delinquent taxes and special assessments; interest and penalties; redemption procedures; certain vacant land; amending K.S.A. 2010 Supp. 79-2004 and 79-2401a and repealing the existing sections, by Committee on Taxation.

HB 2266, AN ACT concerning sales taxation; relating to community improvement districts; notice of rate of tax; amending K.S.A. 2010 Supp. 12-6a31 and repealing the existing section, by Committee on Taxation.

HB 2267, AN ACT concerning utilities; relating to electric supply and demand reports, by Committee on Energy and Utilities.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills and resolution were referred to committees as indicated:

Commerce and Economic Development: **HB 2243, HB 2244, HB 2256.**

Corrections and Juvenile Justice: **HB 2249, HB 2250, HB 2259.**

Education: **HB 2245, HB 2251, HB 2257; SB 11.**

Education Budget: **HB 2248; SB 21.**

Energy and Utilities: **HCR 5012.**

Federal and State Affairs: **HB 2242.**

General Government Budget: **HB 2262.**

Health and Human Services: **HB 2241, HB 2255.**

Judiciary: **HB 2239, HB 2240, HB 2246, HB 2252, HB 2253, HB 2254, HB 2260, HB 2261; SB 35, SB 38.**

Pension and Benefits: **HB 2263.**

Social Services Budget: **HB 2258.**

Taxation: **HB 2238.**

Transportation: **HB 2247.**

CHANGE OF REFERENCE

Speaker O'Neal announced the withdrawal of **HB 2197** from Committee on Education and referral to Committee on Corrections and Juvenile Justice.

Also, the withdrawal of **HB 2218** from Committee on Judiciary and referral to Committee on Federal and State Affairs.

MESSAGE FROM THE GOVERNOR

February 10, 2011

Message to the House of Representatives of the State of Kansas:

Enclosed herewith is Executive Order No. 11-02 for your information.

EXECUTIVE ORDER NO. 11-02
Concerning the Citizens Utility Ratepayer Board

SAM BROWNBACK
Governor

The above Executive Order is on file and open for inspection in the office of the Chief Clerk.

COMMUNICATIONS FROM STATE OFFICERS

From Robert E. Blecha, KBI Director, Kansas Bureau of Investigation 2010 Annual Report.

The complete report is kept on file and open for inspection in the office of the Chief Clerk.

CONSENT CALENDAR

No objection was made to **HB 2082** appearing on the Consent Calendar for the second day.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

HB 2023, AN ACT concerning controlled substances; amending K.S.A. 65-4107, 65-4109 and 65-4111 and K.S.A. 2010 Supp. 65-4105 and 65-4113 and repealing the existing sections, was considered on final action.

Call of the House was demanded.

On roll call, the vote was: Yeas 120; Nays 0; Present but not voting: 0; Absent or not voting: 5.

Yeas: Alford, Arpke, Aurand, Ballard, Bethell, Billinger, Bollier, Boman, Bowers, Brookens, Brown, Bruchman, Brunk, Burgess, Burroughs, Calloway, Carlin, Carlson, Cassidy, Collins, Crum, Davis, DeGraaf, Denning, Dillmore, Donohoe, Fawcett, Feuerborn, Finney, Flaharty, Frownfelter, Garber, D. Gatewood, S. Gatewood, Goico, Gonzalez, Goodman, Gordon, Grange, Grant, Gregory, Grosserode, Hayzlett, Hedke, Henderson, Henry, Hermanson, Hildabrand, Hill, Hineman, Hoffman, C. Holmes, M. Holmes, Howell, Huebert, Johnson, Kelley, Kelly, Kerschen, Kiegerl, Kinzer, Kleeb, Knox, Kuether, Landwehr, Lane, Loganbill, Mah, Mast, McCray-Miller, McLeland, Meier, Meigs, Mesa, Montgomery, Mosier, Moxley, O'Brien, O'Hara, O'Neal, Osterman, Otto, Patton, Pauls, Peck, Phelps, Pottorff, Powell, Prescott, Proehl, Rhoades, Roth, Rubin, Ruiz, Ryckman, Scapa, Schroeder, Schwartz, Seiwert, Shultz, Siegfried, Slattey, Smith, Spalding, Suellentrop, Swanson, Tietze, Trimmer, Tyson, Vickrey, Victors, Ward, Weber, Wetta, Williams, Winn, B. Wolf, K. Wolf, Wolfe Moore, Worley.

Nays: None.

Present but not voting: None.

Absent or not voting: Colloton, Fund, Peterson, Schwab, Sloan.

The bill passed, as amended.

HB 2028, AN ACT concerning trusts; relating to insurable interests of trustees, was considered on final action.

On roll call, the vote was: Yeas 119; Nays 1; Present but not voting: 0; Absent or not voting: 5.

Yeas: Alford, Arpke, Aurand, Ballard, Bethell, Billinger, Bollier, Boman, Bowers, Brookens, Brown, Bruchman, Brunk, Burgess, Burroughs, Calloway, Carlin, Carlson, Cassidy, Collins, Crum, Davis, DeGraaf, Denning, Dillmore, Donohoe, Fawcett, Feuerborn, Finney, Flaharty, Frownfelter, Garber, D. Gatewood, S. Gatewood, Goico, Gonzalez, Goodman, Gordon, Grange, Grant, Gregory, Grosserode, Hayzlett, Hedke, Henderson, Henry, Hermanson, Hildabrand, Hill, Hineman, Hoffman, C. Holmes, M. Holmes, Howell, Huebert, Johnson, Kelley, Kelly, Kerschen, Kiegerl, Kinzer, KleeB, Knox, Kuether, Landwehr, Lane, Loganbill, Mah, Mast, McCray-Miller, McLeland, Meier, Meigs, Mesa, Montgomery, Mosier, Moxley, O'Brien, O'Hara, O'Neal, Osterman, Otto, Patton, Pauls, Phelps, Pottorff, Powell, Prescott, Proehl, Rhoades, Roth, Rubin, Ruiz, Ryckman, Scapa, Schroeder, Schwartz, Seiwert, Shultz, Siegfried, Slattery, Smith, Spalding, Suellentrop, Swanson, Tietze, Trimmer, Tyson, Vickrey, Victors, Ward, Weber, Wetta, Williams, Winn, B. Wolf, K. Wolf, Wolfe Moore, Worley.

Nays: Peck.

Present but not voting: None.

Absent or not voting: Colloton, Fund, Peterson, Schwab, Sloan.

The bill passed, as amended.

HB 2030, AN ACT concerning open records; relating to exceptions to disclosure; amending K.S.A. 12-2819 and, 2010 Supp. 9-513c, K.S.A. 2010 Supp. 12-5611, 12-5711, 12-5811, 40-2,118, 40-4913 and 45-229 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 120; Nays 0; Present but not voting: 0; Absent or not voting: 5.

Yeas: Alford, Arpke, Aurand, Ballard, Bethell, Billinger, Bollier, Boman, Bowers, Brookens, Brown, Bruchman, Brunk, Burgess, Burroughs, Calloway, Carlin, Carlson, Cassidy, Collins, Crum, Davis, DeGraaf, Denning, Dillmore, Donohoe, Fawcett, Feuerborn, Finney, Flaharty, Frownfelter, Garber, D. Gatewood, S. Gatewood, Goico, Gonzalez, Goodman, Gordon, Grange, Grant, Gregory, Grosserode, Hayzlett, Hedke, Henderson, Henry, Hermanson, Hildabrand, Hill, Hineman, Hoffman, C. Holmes, M. Holmes, Howell, Huebert, Johnson, Kelley, Kelly, Kerschen, Kiegerl, Kinzer, KleeB, Knox, Kuether, Landwehr, Lane, Loganbill, Mah, Mast, McCray-Miller, McLeland, Meier, Meigs, Mesa, Montgomery, Mosier, Moxley, O'Brien, O'Hara, O'Neal, Osterman, Otto, Patton, Pauls, Peck, Phelps, Pottorff, Powell, Prescott, Proehl, Rhoades, Roth, Rubin, Ruiz, Ryckman, Scapa, Schroeder, Schwartz, Seiwert, Shultz, Siegfried, Slattery, Smith, Spalding, Suellentrop, Swanson, Tietze, Trimmer, Tyson, Vickrey, Victors, Ward, Weber, Wetta, Williams, Winn, B. Wolf, K. Wolf, Wolfe Moore, Worley.

Nays: None.

Present but not voting: None.

Absent or not voting: Colloton, Fund, Peterson, Schwab, Sloan.

The bill passed, as amended.

On motion of Rep. Siegfried, the House resolved into Committee of the Whole, with Rep. Peck in the chair.

COMMITTEE OF THE WHOLE

On motion of Rep. Peck, Committee of the Whole report, as follows, was adopted.

Recommended that **HB 2083**, **HB 2078** be passed.

HB 2070 be passed over and retain a place on the calendar.

Committee report to **HB 2054** be adopted; and the bill be passed as amended.

Committee report to **HCR 5007** be adopted; also, Rep. Burroughs rose on a point of order asking for a ruling as to whether the resolution can be discussed without a fiscal note attached. The Rules Chair ruled that discussion could resume and action be taken.

Also, roll call was demanded on motion to recommend **HCR 5007** favorably for passage.

On roll call, the vote was: Yeas 93; Nays 26; Present but not voting: 0; Absent or not voting: 6.

Yeas: Alford, Arpke, Aurand, Billinger, Boman, Bowers, Brookens, Brown, Bruchman, Brunk, Burgess, Calloway, Carlson, Cassidy, Collins, Crum, DeGraaf, Denning, Donohoe, Fawcett, Feuerborn, Garber, D. Gatewood, Goico, Gonzalez, Goodman, Gordon, Grange, Gregory, Grosserode, Hayzlett, Hedke, Hermanson, Hildabrand, Hineman, Hoffman, C. Holmes, M. Holmes, Howell, Huebert, Johnson, Kelley, Kelly, Kerschen, Kiegerl, Kinzer, Kleeb, Knox, Landwehr, Mah, Mast, McLeland, Meier, Meigs, Mesa, Montgomery, Mosier, Moxley, O'Brien, O'Hara, O'Neal, Osterman, Otto, Patton, Pauls, Peck, Pottorff, Powell, Prescott, Proehl, Rhoades, Rubin, Ryckman, Scapa, Schroeder, Schwab, Schwartz, Seiwert, Shultz, Siegfried, Smith, Spalding, Suellentrop, Swanson, Tyson, Vickrey, Weber, Wetta, Williams, B. Wolf, K. Wolf, Wolfe Moore, Worley.

Nays: Ballard, Bethell, Bollier, Burroughs, Carlin, Davis, Dillmore, Finney, Flaharty, Frownfelter, S. Gatewood, Henderson, Henry, Hill, Kuether, Loganbill, McCray-Miller, Phelps, Roth, Ruiz, Slattery, Tietze, Trimmer, Victors, Ward, Winn.

Present but not voting: None.

Absent or not voting: Colloton, Fund, Grant, Lane, Peterson, Sloan.

The motion prevailed, and **HCR 5007** be adopted as amended.

Upon unanimous consent, the House referred back to the regular order of business, Introduction of Bills and Concurrent Resolutions.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills and concurrent resolution were thereupon introduced and read by title:

HB 2268, AN ACT concerning state agencies; relating to the collection of licenses, fees, charges, taxes and exactions, by Committee on Government Efficiency.

HB 2269, AN ACT concerning school districts; relating to school finance; amending K.S.A. 72-6410, 72-6415b, 72-6431, 72-6433, 72-6435, 72-6449 and 72-6451 and repealing the existing sections; also repealing K.S.A. 2010 Supp. 72-6442b, by Committee on Education.

HB 2270, AN ACT concerning school districts; relating to school finance; nonproficient pupils; amending K.S.A. 2010 Supp. 72-6407 and 72-6438 and repealing the existing sections, by Committee on Education.

HB 2271, AN ACT concerning agriculture; relating to plant pest inspection and

control; amending K.S.A. 2010 Supp. 2-2113, 2-2115, 2-2116, 2-2117, 2-2118, 2-2120, 2-2122, 2-2123, 2-2124, 2-2125, 2-2126, 2-2128 and 2-2129 and repealing the existing sections, by Committee on Agriculture and Natural Resources.

HB 2272, AN ACT concerning water; relating to regulation by the department of agriculture, division of water resources, by Committee on Agriculture and Natural Resources.

HB 2273, AN ACT designating part of K-99 as the Frankfurt Boys World War II highway; amending K.S.A. 2010 Supp. 68-1057 and repealing the existing section, by Committee on Transportation.

HB 2274, AN ACT designating part of interstate highway 70 as the Eisenhower/Truman Presidential highway; amending K.S.A. 68-1009 and repealing the existing section, by Committee on Transportation.

HB 2275, AN ACT concerning health insurance; relating to health provider payments, by Committee on Insurance.

HB 2276, AN ACT concerning health insurance; relating to mandate lite health benefits plans; commissions; specially designed policies, by Committee on Insurance.

HB 2277, AN ACT concerning crimes, punishment and criminal procedure; relating to driving under the influence; amending K.S.A. 2009 Supp. 8-1567, as amended by section 3 of chapter 153 of the 2010 Session Laws of Kansas and K.S.A. 2010 Supp. 75-5291 and repealing the existing sections, by Committee on Judiciary.

HB 2278, AN ACT concerning income taxation; providing a checkoff for the Kansas hometown heroes fund, by Committee on Veterans, Military and Homeland Security.

HB 2279, AN ACT concerning dental assistants; relating to the performance of coronal scaling, by Committee on Health and Human Services.

HB 2280, AN ACT concerning the Kansas dental board; relating to licensure of registered dental practitioners; amending K.S.A. 65-1421, 65-1424, 65-1441, 65-1449, 65-1460, 65-1462, 74-1404, 74-1405 and 74-1406 and K.S.A. 2010 Supp. 65-1431, 65-1434, 65-1436, 65-1447, 65-1469, 65-4915, 65-4921, 65-5912, 65-7304, 75-2935 and 75-6102 and repealing the existing sections, by Committee on Health and Human Services.

HB 2281, AN ACT making and concerning appropriations for the fiscal year ending June 30, 2012, for the department of social and rehabilitative services; relating to home and community based services for autism, by Committee on Children and Families.

HB 2283, AN ACT concerning lobbying and the use of public funds, by Committee on Judiciary.

HB 2284, AN ACT concerning the use of public funds for lobbying for a tax increase, by Committee on Judiciary.

HB 2285, AN ACT concerning motor vehicles; relating to cities and counties; seat belt violations; denial of certain state funds; amending K.S.A. 2010 Supp. 68-416 and 79-3425c and repealing the existing sections, by Committee on Transportation.

HB 2286, AN ACT concerning school districts; relating to school finance; relating to supplemental general state aid; amending K.S.A. 2010 Supp. 72-6434 and repealing the existing section, by Committee on Education.

HB 2287, AN ACT concerning sales taxations; relating to exemptions; certain sales of school supplies, computers and clothing during sales tax holiday; amending K.S.A. 2010 Supp. 79-3606 and repealing the existing section, by Committee on Taxation.

HB 2288, AN ACT concerning school districts; relating to the assessed valuation of

certain school districts, by Committee on Taxation.

HB 2289, AN ACT making and concerning appropriations for the fiscal year ending June 30, 2012, for the department on aging and the department of social and rehabilitation service; relating to home and community based services, by Committee on Children and Families.

HB 2290, AN ACT concerning taxation; relating to mineral severance tax; distribution of revenue; amending K.S.A. 2010 Supp. 79-4227 and repealing the existing section, by Committee on Education.

HB 2291, AN ACT concerning insurance; relating to automobile liability insurance; amending K.S.A. 40-284 and repealing the existing section, by Committee on Insurance.

HB 2292, AN ACT concerning insurance; excluding coverage for certain abortions; amending K.S.A. 2010 Supp. 40-2,103 and 40-19c09 and repealing the existing sections, by Committee on Insurance.

HB 2293, AN ACT concerning insurance; relating to state employee health savings accounts, by Committee on Insurance.

HB 2294, AN ACT concerning cities; relating to annexation; amending K.S.A. 12-519, 12-520b, 12-521, 12-531, 12-532 and 60-2301 and K.S.A. 2010 Supp. 25-432 and repealing the existing sections, by Committee on Local Government.

HOUSE CONCURRENT RESOLUTION No. **HCR 5013**—

By Committee on Federal and State Affairs

A PROPOSITION to amend the constitution of the state of Kansas by adding a new article thereto, prescribing certain limits upon taxes, revenues and expenditures by the state.

Be it resolved by the Legislature of the State of Kansas, two-thirds of the members elected (or appointed) and qualified to the House of Representatives and two-thirds of the members elected (or appointed) and qualified to the Senate concurring therein:

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

"Article 16. -- REVENUE, EXPENDITURE AND ASSESSMENT LIMITATIONS.

"§ 1. **Definitions.** As used within this article:

(a) "State" means the state government including all branches, state offices, authorities, agencies, boards, commissions, institutions, instrumentalities and any division or unit of state government which are directly supported with tax funds, except that "state" does not include any enterprise;

(b) "local government" means any county, township, city, education district, other special district and any other taxing district or political subdivision of Kansas which is directly supported by tax funds, except that "local government" does not include any enterprise;

(c) "enterprise" means a state-owned or local government-owned business authorized to issue its own revenue bonds and receiving less than 10% of its annual revenue in grants or other direct cash benefit from the state and local governments

combined;

(d) "bond" means any bond, note, debenture, interim certificate, grant and revenue anticipation note, lease-purchase agreement, lease certificate of participation or other evidence of indebtedness which, in any such case, is entered into or establishes a debt obligation for longer than one fiscal year, whether or not the interest on which is subject to federal income taxation;

(e) "fiscal year" means the twelve-month fiscal period prescribed by law for the state;

(f) "fiscal year spending" means all expenditures and reserve increases except, as to both, (1) expenditures for refunds of any kind, (2) expenditures of moneys received from the federal government, moneys received as grants, gifts or donations which are to be expended for purposes specified by the donor, moneys that are collections for another government, moneys received for pension contributions by employees and pension fund earnings, or (3) budget stabilization reserve fund transfers, emergency reserve fund transfers, or expenditures in accordance with this article;

(g) "base revenue year" means the fiscal year ending June 30, 2011, or the succeeding fiscal year having the greatest total state revenue of any succeeding fiscal year that exceeds the total state revenue for the fiscal year ending June 30, 2011, if any;

(h) "inflation" means the change expressed as a percentage in the consumer price index for the Kansas City metropolitan area, all goods, all urban consumers, as officially reported by the bureau of labor statistics of the United States department of labor, or the successor index to such consumer price index;

(i) "population" means the more recent of either the periodic census conducted by the United States department of commerce or its successor agency or the annual update of such census as prescribed by the legislature by law, which shall be adjusted every decade to match the federal decennial census;

(j) "education district" means each school district, vocational or technical school, community college, technical college, municipal university, and any other public educational entity established as provided by law, except that "education district" does not include any state educational institution under the control and supervision of the state board of regents; and

(k) "total state revenue" means all moneys received by the state from any source except any of the following:

(1) Moneys received as grants, gifts or donations which are to be expended for purposes specified by the donor;

(2) moneys received from the federal government; and

(3) moneys which are income earned on moneys in permanent endowment funds, trust funds, deferred compensation funds or pension funds and which are credited to such funds.

§ 2. Supermajority for passage of certain bills for new or increased taxes. On and after July 1, 2013, a supermajority of two-thirds of the members then elected (or appointed) and qualified of each house, voting in the affirmative, shall be necessary to pass any bill enacting or amending any law creating any new state tax or increasing the rate of any existing state income tax, sales tax, compensating use tax or other excise tax or a tax in the nature of an excise tax, property tax, or tax in the nature of a property tax, or estate or inheritance tax, or a tax in the nature of an estate or inheritance tax, or any combination thereof.

§ 3. Spending and Revenue Limits. (a) Except as provided by this section, for any fiscal year that commences on or after July 1, 2013, fiscal year spending by the state shall not increase above the fiscal year spending for the preceding fiscal year by more than the maximum percentage increase determined pursuant to this section. The maximum percentage increase in fiscal year spending for a fiscal year shall be equal to the result obtained by adding the rate of inflation for the calendar year ending during the preceding fiscal year, plus the percentage change in state population during the calendar year ending during the preceding fiscal year if a positive number, adjusted for revenue changes resulting from acts enacted in accordance with section 2 of this article. The limitation imposed on fiscal year spending shall not apply to expenditures of moneys transferred to the state general fund from the state budget stabilization reserve fund pursuant to section 6 of this article. The limitation imposed on fiscal year spending for a fiscal year may be authorized to be exceeded by act of the legislature that is passed by a supermajority of two-thirds of the members then elected (or appointed) and qualified of each house, voting in the affirmative, and that authorizes fiscal year spending for such fiscal year in excess of such limitation.

(b) For any fiscal year commencing on or after July 1, 2013, the total state revenue limitation shall be determined in accordance with this section. If the amount of the total state revenue for the preceding fiscal year exceeds the amount of total state revenue for the second preceding fiscal year, the total state revenue limitation for a fiscal year shall be the result obtained by adding (1) the lesser of (A) the amount of total state revenue for the preceding fiscal year or (B) the amount of the total state revenue limitation for the preceding fiscal year, and (2) the product of (A) the amount determined under clause (1) of this subsection, and (B) the sum of (i) the rate of inflation for the calendar year ending during the preceding fiscal year, plus (ii) the percentage change in state population during the calendar year ending during the preceding fiscal year if a positive number.

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

(d) The legislature, by law, shall provide a mechanism to adjust the amount of a limitation under this section to reflect any subsequent transfer of all or any part of the cost of providing a governmental function. The mechanism shall adjust the amount of a limitation so that total costs are not increased as a result of the transfer. The adjustment mechanism provided for in this subsection shall be used in determining a limitation under this section beginning with the fiscal year immediately following the transfer.

(e) For the purposes of determining total revenue limitations under this section for the state, the total authorized fiscal year expenditures for the fiscal year ending on June 30, 2012, shall be construed to be the total state revenue and the total revenue limitation for that preceding fiscal year and the total authorized fiscal year expenditures for the fiscal year ending on June 30, 2013, shall be construed to be the total state revenue and the total revenue limitation for that preceding fiscal year.

§ 4. Budget Stabilization Reserve Fund. (a) For any fiscal year that commences on or after July 1, 2013, if total state revenue exceeds the total state revenue limitation for that fiscal year, as determined in accordance with section 3 of this article, then a portion

of the excess amount of state revenue shall be reserved as prescribed by this section or refunded as prescribed by section 6 of this article. Any amount required to be maintained in the ending balance of the state general fund as provided by law shall be excluded from the amount available for transfer to the budget stabilization reserve fund by this section.

(b) An amount of any excess amount of total state revenue shall be transferred in the amount and in the manner prescribed by the legislature by law to the budget stabilization reserve fund, which fund is hereby created in the state treasury. The amount transferred to the budget stabilization reserve fund in accordance with this subsection shall be equal to the amount necessary to ensure that the balance in the budget stabilization reserve fund at the end of the fiscal year is an amount equal to 7% of the total state revenue limitation for the ensuing fiscal year. Income earned on the moneys credited to the budget stabilization reserve fund shall accrue to the budget stabilization reserve fund. In no case shall additional moneys be transferred into the budget stabilization reserve fund if the balance in the fund is equal to or more than 7% of the total state revenue limitation for the ensuing fiscal year. Each transfer to the budget stabilization reserve fund prescribed by this section shall be made before any transfer to the emergency reserve fund as provided in section 5 of this article or any refunds as required by section 6 of this article.

(c) For any fiscal year that commences on or after July 1, 2013, if the amount of the total state revenue is less than the amount of total state revenue for the prior fiscal year, the legislature may provide by law for the transfer of moneys from the budget stabilization reserve fund to the state general fund in an amount equal to not more than the difference between the amount of total state revenue for the prior fiscal year and the amount of total state revenue for the current fiscal year. Under no other circumstances shall moneys be transferred or expended from the budget stabilization reserve fund of the state.

§ 5. Emergency Reserve Fund. (a) For any fiscal year that commences on or after July 1, 2013, if total state revenue exceeds the total state revenue limitation for that fiscal year, as determined in accordance with section 3 of this article, then, after making any transfer to the budget stabilization reserve fund as required by section 4 of this article, a portion of any remaining total state revenue in excess of the total state revenue limitation shall be transferred in the amount and in the manner prescribed by the legislature by law to the emergency reserve fund, which fund is hereby created in the state treasury, to the extent necessary to ensure that a balance of the emergency reserve fund at the end of the fiscal year is an amount equal to not more than 3% of the total state revenue limitation for the ensuing fiscal year. Any amount required to be maintained in the ending balance of the state general fund as provided by law shall be excluded from the amount available for transfer to the emergency reserve fund by this section. Each transfer to the emergency reserve fund prescribed by this section shall be made after making any transfer to the budget stabilization reserve fund as provided in section 4 of this article. The state shall not be required to transfer any moneys other than any amount of total state revenue in excess of the total state revenue limitation to the emergency reserve fund. The moneys in the emergency reserve fund shall be in addition to, and shall not be used to meet, any other reserve requirement under this constitution or any law. In no case shall additional moneys be transferred to the emergency reserve fund if the balance in the emergency reserve fund is more than 3% of the total state

revenue limitation for the ensuing fiscal year.

(b) Moneys in the emergency reserve fund may be expended only for an emergency declared by the governor to exist within the state. Income earned on moneys credited to the emergency reserve fund shall accrue to the emergency reserve fund.

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

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

(b) In a case of any amount that is received pursuant to any tax and required to be reserved and refunded to taxpayers by the state pursuant to this section and that is determined by the state in the manner prescribed by law to be insufficient for refunds to be made during the ensuing fiscal year, such amount shall be reserved for refunds to be made thereafter when the amount reserved is sufficient therefor.

§ 7. Temporary Borrowing. On or after July 1, 2013, during any fiscal year, transfers which are temporary and are to be repaid, or any other temporary borrowing, through certificates of indebtedness or any other device or manner, of any moneys in the state treasury to be credited to the state general fund, are prohibited unless the moneys so transferred or otherwise borrowed are restored or repaid to the original funds or accounts of the state treasury from the state general fund within the same fiscal year. The provisions of this section do not apply to transfers from the budget stabilization reserve fund or the emergency reserve fund to the state general fund in accordance with this article.

§ 8. General Revenue Supplanting. On or after July 1, 2013, any appropriation of moneys in the state treasury that either supplants any appropriation from the state general fund, or that, if not made, would require an appropriation from the state general fund is prohibited. For purposes of this section, any appropriation of moneys in the state treasury that is funded by user charges or fees imposed on goods or services that do not exceed the cost of the goods or services provided shall not be deemed to be an appropriation that supplants any appropriation from the state general fund.

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

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

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

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

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

"Explanatory statement. Beginning July 1, 2013, this amendment (1) would require a supermajority of two-thirds of all members of the House and of the Senate to pass certain bills related to the creation of a new tax or the increase in the rate of an existing tax, (2) would impose spending and revenue limits on the state based on increases in the consumer price index and population, with provisions to adjust for economic downturns or transferred functions, (3) would permit expenditures in excess of the limit imposed if authorized by a bill passed by a supermajority of two-thirds of all members of the House and of the Senate, (4) would provide for a state budget stabilization reserve fund to be used when state revenue declines, (5) would provide for a state emergency reserve fund to be used only for emergencies that are declared by the governor and not to be used for any revenue shortfall, (6) would provide for excess state revenues, after transfers to the reserve funds, to be refunded to state property or income taxpayers, (7) would limit state temporary borrowing to that repaid within the same year and would prohibit the state from replacing general revenues with excessive fees and charges for goods and services, (8) would provide that local governments could not be required to fulfill unfunded state mandates, and (9) would govern in case of conflicts with statutes or other state constitutional provisions.

"A vote for the proposition would limit state legislative authority and would require a supermajority of two-thirds of each house of the legislature for state tax increases or extensions, would impose state spending and revenue limits, would permit a supermajority of two-thirds of each house of the legislature to exceed the spending limit, would require excess state revenues to be reserved for economic downturns and emergencies, with limits, or to be refunded to taxpayers, would limit state temporary borrowing, would prohibit unfunded mandates on local governments.

"A vote against the proposition would continue the present constitutional and statutory authority for state government taxing and spending by law, for disposition of tax revenues and for other related matters in the exercise of the legislative power of this state."

Sec. 3. This resolution, if approved by two-thirds of the members elected (or appointed) and qualified to the House of Representatives, and two-thirds of the members elected (or appointed) and qualified to the Senate shall be entered on the journals, together with the yeas and nays. The secretary of state shall cause this resolution to be published as provided by law and shall cause the proposed amendment to be submitted to the electors of the state at the general election to be held in

November, 2012, unless a special election is called at a sooner date by concurrent resolution of the legislature, in which case it shall be submitted to the electors of the state at the special election.

REPORT ON ENGROSSED BILLS

HB 2023, HB 2028, HB 2088 reported correctly engrossed on February 10, 2011.

READING AND CORRECTION OF THE JOURNAL

In the Journal on page 213, **ERO 39** should be deleted from Committee on Agriculture and Natural Resources and **ERO 40** should be inserted.

On motion of Rep. Siegfried, the House adjourned until 11:00 a.m., Friday, February 11, 2011.

CHARLENE SWANSON, *Journal Clerk.*

SUSAN W. KANNARR, *Chief Clerk.*

