

## House Concurrent Resolution No. 5011

By Committee on Appropriations

2-12

1 A CONCURRENT RESOLUTION to stop Kansas participation in the  
2 expansion of medicaid services.

3 WHEREAS, Article I § 3 of the Kansas Constitution provides:  
4 **Executive power of governor.** "The supreme executive power of this  
5 state shall be vested in a governor, who shall be responsible for the  
6 enforcement of the laws of this state.";

7 WHEREAS, Article II §§ 1 and 24, respectively, of the Kansas  
8 Constitution provides:

9 **Legislative power.** "The legislative power of this state shall be vested  
10 in a house of representatives and senate.";

11 **Appropriations.** "No money shall be drawn from the treasury except  
12 in pursuance of a specific appropriation made by law.";

13 WHEREAS, The federal government entices the state of Kansas to  
14 participate in the expansion of medicaid services as a provision of the  
15 federally mandated patient protection and affordable care act;

16 WHEREAS, The expansion of medicaid services in Kansas with  
17 federal funds as provided for in the patient protection and affordable care  
18 act will commit future Kansas Legislatures and the citizens of Kansas to  
19 share the cost in future years;

20 WHEREAS, The federal government commits to funding the  
21 expansion of medicaid for a period of three years at 100% and subsequent  
22 years at 90% or less but does not guarantee they will not stop this funding  
23 without notice while requiring the state to commit to providing full  
24 funding should federal funding stop;

25 WHEREAS, The federal government further obligates the state to  
26 fully fund the medicaid expansion should federal funds cease;

27 WHEREAS, The state's share of future cost of medicaid services  
28 cannot accurately be predicted or forecast;

29 WHEREAS, The policy to expand or not expand medicaid services of  
30 Kansas is a legislative function;

31 WHEREAS, The Kansas legislature has not been afforded the  
32 opportunity to consider the financial weight and responsibility of  
33 expanded medicaid services and its impact on future budgets and  
34 appropriations;

35 WHEREAS, The state's participation will commit future Legislatures  
36 to unknown financial obligations without their consent;

1 WHEREAS, The state's participation in the expansion of medicaid  
2 exceeds the statutory limitations for appropriations as outlined in K.S.A.  
3 46-155, and amendments thereto. Except as provided in K.S.A. 40-3405  
4 and 75-4704b, and amendments thereto, no item of appropriation, or  
5 combination of items of appropriation for the same purpose, shall be for a  
6 period greater than one ensuing fiscal year in addition to the current fiscal  
7 year, except that in the case of capital improvements, an item of  
8 appropriation, or combination of items of appropriation, for the purpose  
9 of completing construction of a project may be for any period not  
10 exceeding the three ensuing fiscal years in addition to the current fiscal  
11 year;

12 WHEREAS, It is the duty of the Kansas legislature to enact new law,  
13 levy taxes and appropriate funds for the obligations of the state;

14 WHEREAS, There are no provisions for future legislatures to opt out  
15 of the state's shared cost from the expansion of medicaid;

16 WHEREAS, Every reasonable consideration of the federal  
17 government's current debt obligation would suggest revenue is  
18 insufficient to expand its role in financing the expansion of medicaid  
19 except with fiat, which devalues the real property and earnings of  
20 Kansans, endangers the financial health and welfare of Kansas residents  
21 and lays an unacceptable burden on future generations;

22 WHEREAS, In a press release by the governor on Tuesday, August 9,  
23 2011, regarding his returning of the federal early innovator grant (EIG)  
24 the governor stated, "There is much uncertainty surrounding the ability of  
25 the federal government to meet its already budgeted future spending  
26 obligations. Every state should be preparing for fewer federal resources,  
27 not more." We agree with the governor's assessment; and

28 WHEREAS, The governor of the State of Kansas must respect the  
29 constitutional authority of the legislature to determine the policy and laws  
30 of the state and to appropriate funds and levy taxes to satisfy the  
31 obligations of the state: Now, therefore,

32 *Be it resolved by the House of Representatives of the State of Kansas,*  
33 *the Senate concurring therein:* That the governor of the state of Kansas  
34 may not obligate the state to future cost associated with the expansion of  
35 medicaid without the expressed consent of the Kansas legislature.