House Concurrent Resolution No. 5007

By Representatives Carpenter, Claeys, DeGraaf, Esau, Garber, Highland, Houser, Huebert, Humphries, Jacobs, Jones, Kiegerl, Landwehr, Mason, Powell, E. Smith, Sutton, Thimesch, Weber and Whitmer

1-30

A PROPOSITION to amend the constitution of the state of Kansas by adding a new article thereto, prescribing certain limits upon assessments, revenues and expenditures by the state and establishing a budget stabilization fund and a debt prepayment fund in the state treasury.

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 16 to read as follows:

"Article 16. – REVENUE, ASSESSMENT AND EXPENDITURE 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 that are directly supported with tax funds;

(b) "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 that, in any such case, is entered into or establishes a debt obligation for longer than one fiscal year, whether or not the interest on such is subject to federal income taxation;

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

(d) "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 that 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, debt prepayment fund transfers, or expenditures in accordance with this article;

(e) "inflation" means the average changes in the consumer price index for all urban consumers as published by the United States department of labor for the preceding five calendar years, which shall not be less than zero;

(f) "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;

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

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

(2) moneys received from the federal government; and

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

"§ 2. Supermajority for passage of certain bills for new or increased taxes. On and after July 1, 2019, a supermajority of two-thirds of the members then elected (or appointed) and qualified to 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, 2019, 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 budget stabilization fund or the debt prepayment fund pursuant to section 4 of this article.

(b) For any fiscal year that commences on or after July 1, 2019, 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) No increase to the limitation imposed on fiscal year spending by this section may be authorized, unless the proposed law for increasing the spending limitation on a fiscal year first be submitted to a direct vote of the electors of the state at some general election, and, if such proposed law shall be ratified by a majority of all the votes cast at such general election, then the legislature next after such general election may enact such law and increase such fiscal year spending limitation.

(d) The legislature may enact laws to carry out the purposes of this section.

"§ 4. Budget stabilization fund and debt prepayment fund. (a) On July 1, 2019, a budget stabilization fund and a debt prepayment fund shall be established and maintained in the state treasury.

(b) For any fiscal year that commences on or after July 1, 2019, if the total state revenue exceeds the total fiscal year spending for that fiscal year, then, on July 1 of the ensuing fiscal year, such excess amount shall be transferred according to the following priority:

(1) To the budget stabilization fund, until the balance of such fund is an amount equal to 50% of the total state general fund spending for the preceding fiscal year; and

(2) to the debt prepayment fund, until the total amount of principal of bonded indebtedness serviced by appropriations from the state general fund equals 5% of the total state general fund spending for the preceding fiscal year.

(c) The legislature may provide, by law, for additional amounts of state revenue to be deposited in the budget stabilization fund and the debt prepayment fund.

(d) 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 fund or debt prepayment fund.

(e) (1) Moneys in the budget stabilization fund may be invested as provided by law and the earnings thereon shall be retained in the budget stabilization fund as provided by law.

(2) Moneys in the debt prepayment fund may be invested as provided by law and the earnings thereon shall be retained in the debt prepayment fund as provided by law.

(f) (1) For any fiscal year that commences on or after July 1, 2019, if the amount of the total state revenue is less than the amount of the total state revenue for the prior fiscal year, the legislature may provide by enactment of a law for the transfer of moneys from the budget stabilization fund to the state general fund in an amount equal to the lesser of:

(A) Not more than the difference between the amount of the total state revenue for the prior fiscal year and the amount of the estimated total state revenue for the current fiscal year; or

(B) 50% of the balance in the budget stabilization fund.

(2) Under no other circumstances shall moneys be transferred or expended from the budget stabilization fund.

(g) (1) Withdrawals from the debt prepayment fund may occur only to provide for calling and redeeming selected bonds for which debt service is paid by appropriations from the state general fund in accordance with their terms on or after their first optional redemption date and prior to maturity.

(2) Prior to any withdrawal from the debt prepayment fund authorized by this subsection, the governor shall be responsible for determining and selecting which bonds will produce the greatest debt service savings to the state general fund, and the

attorney general shall be responsible for certifying that the selected bonds are available for optional redemption. Any withdrawal authorized by this subsection shall be provided for by law, enacted in a separate bill that does not include any other matter, except a statement that the conditions prescribed by this subsection exist, and the authority to transfer a specific amount of money from the debt prepayment fund to the state general fund for the purpose of calling and redeeming selected bonds.

(h) The legislature may enact laws to carry out the purposes of this section.

"**§ 5. 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 fund and the debt prepayment fund pursuant to section 4 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, in 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.

"**§ 6. Temporary borrowing.** On and after July 1, 2019, during any fiscal year, transfers that 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 fund or the debt prepayment fund to the state general fund in accordance with this article.

"**§ 7. General revenue supplanting.** On and after July 1, 2019, any appropriation of moneys from the state treasury that either supplants any appropriation from the state general fund, or, 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 for fees imposed on goods or services provided shall not be deemed to be an appropriation that supplants any appropriation from the state general fund.

"**§ 8. 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, 2019, this amendment: (1) Would require a supermajority of $^2/_3$ of all members of the House and 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 rate of inflation 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 majority of the voters at a general election; (4) would provide for a budget stabilization fund to be used when state revenue declines; (5) would provide for a debt prepayment fund to be used to redeem state bonds payable from the state general fund to produce debt service savings; (6) would provide for excess state revenues, after transfers to the budget stabilization fund and debt prepayment fund, 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; and (8) would govern in case of conflicts with statutes or other state constitutional provisions.

"A vote for this proposition would limit state legislative authority and would require a supermajority of $^{2}/_{3}$ of each house of the legislature for state tax increases or extensions, would impose state spending and revenue limits, would permit the legislature to exceed the spending limit upon the authorization of a majority of voters at a general election, would require excess state revenues to be reserved for economic downturns and reducing state debt, with limits, or to be refunded to taxpayers, and would limit state temporary borrowing.

"A vote against this 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 in November in the year 2018 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 a special election.