

## Senate Concurrent Resolution No. 1602

By Committee on Federal and State Affairs

1-24

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

6  
7 *Be it resolved by the Legislature of the State of Kansas, two-thirds of*  
8 *the members elected (or appointed) and qualified to the Senate and two-*  
9 *thirds of the members elected (or appointed) and qualified to the House*  
10 *of Representatives concurring therein:*

11 Section 1. The following proposition to amend the constitution of  
12 the state of Kansas shall be submitted to the qualified electors of the state  
13 for their approval or rejection: The constitution of the state of Kansas is  
14 amended by adding a new article 16 to read as follows:

15 **"Article 16. – REVENUE, ASSESSMENT AND**  
16 **EXPENDITURE LIMITATIONS**

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

18 (a) "State" means the state government including all  
19 branches, state offices, authorities, agencies, boards,  
20 commissions, institutions, instrumentalities and any division or  
21 unit of state government that are directly supported with tax  
22 funds;

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

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

31 (d) "fiscal year spending" means all expenditures and  
32 reserve increases except, as to both:

33 (1) Expenditures for refunds of any kind;

34 (2) expenditures of moneys received from the federal  
35 government, moneys received as grants, gifts or donations that  
36 are to be expended for purposes specified by the donor, moneys

1 that are collections for another government, moneys received  
2 for pension contributions by employees and pension fund  
3 earnings; or

4 (3) budget stabilization reserve fund transfers, debt  
5 prepayment fund transfers, or expenditures in accordance with  
6 this article;

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

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

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

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

20 (2) moneys received from the federal government; and

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

25 **"§ 2. Supermajority for passage of certain bills for new**  
26 **or increased taxes.** On and after July 1, 2019, a supermajority  
27 of two-thirds of the members then elected (or appointed) and  
28 qualified to each house, voting in the affirmative, shall be  
29 necessary to pass any bill enacting or amending any law  
30 creating any new state tax or increasing the rate of any existing  
31 state income tax, sales tax, compensating use tax or other excise  
32 tax or a tax in the nature of an excise tax, property tax, or tax in  
33 the nature of a property tax, or estate or inheritance tax, or a tax  
34 in the nature of an estate or inheritance tax, or any combination  
35 thereof.

36 **"§ 3. Spending and revenue limits.** (a) Except as  
37 provided by this section, for any fiscal year that commences on  
38 or after July 1, 2019, fiscal year spending by the state shall not  
39 increase above the fiscal year spending for the preceding fiscal  
40 year by more than the maximum percentage increase  
41 determined pursuant to this section. The maximum percentage  
42 increase in fiscal year spending for a fiscal year shall be equal  
43 to the result obtained by adding the rate of inflation for the

1 calendar year ending during the preceding fiscal year, plus the  
2 percentage change in state population during the calendar year  
3 ending during the preceding fiscal year, if a positive number,  
4 adjusted for revenue changes resulting from acts enacted in  
5 accordance with section 2 of this article. The limitation imposed  
6 on fiscal year spending shall not apply to expenditures of  
7 moneys transferred to the state general fund from the budget  
8 stabilization fund or the debt prepayment fund pursuant to  
9 section 4 of this article.

10 (b) For any fiscal year that commences on or after July 1,  
11 2019, the total state revenue limitation shall be determined in  
12 accordance with this section. If the amount of the total state  
13 revenue for the preceding fiscal year exceeds the amount of  
14 total state revenue for the second preceding fiscal year, the total  
15 state revenue limitation for a fiscal year shall be the result  
16 obtained by adding: (1) The lesser of: (A) The amount of total  
17 state revenue for the preceding fiscal year; or (B) the amount of  
18 the total state revenue limitation for the preceding fiscal year;  
19 and (2) the product of: (A) The amount determined under clause  
20 (1) of this subsection; and (B) the sum of: (i) The rate of  
21 inflation for the calendar year ending during the preceding  
22 fiscal year; plus (ii) the percentage change in state population  
23 during the calendar year ending during the preceding fiscal  
24 year, if a positive number.

25 (c) No increase to the limitation imposed on fiscal year  
26 spending by this section may be authorized, unless the proposed  
27 law for increasing the spending limitation on a fiscal year first  
28 be submitted to a direct vote of the electors of the state at some  
29 general election, and, if such proposed law shall be ratified by a  
30 majority of all the votes cast at such general election, then the  
31 legislature next after such general election may enact such law  
32 and increase such fiscal year spending limitation.

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

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

39 (b) For any fiscal year that commences on or after July 1,  
40 2019, if the total state revenue exceeds the total fiscal year  
41 spending for that fiscal year, then, on July 1 of the ensuing  
42 fiscal year, such excess amount shall be transferred according to  
43 the following priority:

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

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

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

11           (d) Any amount required to be maintained in the ending  
12 balance of the state general fund as provided by law shall be  
13 excluded from the amount available for transfer to the budget  
14 stabilization fund or debt prepayment fund.

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

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

21           (f) (1) For any fiscal year that commences on or after July  
22 1, 2019, if the amount of the total state revenue is less than the  
23 amount of the total state revenue for the prior fiscal year, the  
24 legislature may provide by enactment of a law for the transfer  
25 of moneys from the budget stabilization fund to the state  
26 general fund in an amount equal to the lesser of:

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

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

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

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

38           (2) Prior to any withdrawal from the debt prepayment fund  
39 authorized by this subsection, the governor shall be responsible  
40 for determining and selecting which bonds will produce the  
41 greatest debt service savings to the state general fund, and the  
42 attorney general shall be responsible for certifying that the  
43 selected bonds are available for optional redemption. Any

1 withdrawal authorized by this subsection shall be provided for  
2 by law, enacted in a separate bill that does not include any other  
3 matter, except a statement that the conditions prescribed by this  
4 subsection exist, and the authority to transfer a specific amount  
5 of money from the debt prepayment fund to the state general  
6 fund for the purpose of calling and redeeming selected bonds.

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

9 **"§ 5. Disposition of excess revenues.** (a) Any excess  
10 amount of total state revenues for a fiscal year that remains after  
11 the transfers to the budget stabilization fund and the debt  
12 prepayment fund pursuant to section 4 of this article, if any,  
13 shall be reserved in the current fiscal year and shall be refunded  
14 as provided by law during the next ensuing fiscal year to the  
15 taxpayers who paid the state ad valorem property taxes or state  
16 income taxes, or both, for the preceding fiscal year, in a manner  
17 that is proportional, on a pro rata basis, in the manner in which  
18 such taxes were collected from such taxpayers for such fiscal  
19 year. Any amount required to be maintained in the ending  
20 balance of the state general fund as provided by law shall be  
21 excluded from the amount available to be reserved and refunded  
22 by the state as prescribed by this section.

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

30 **"§ 6. Temporary borrowing.** On and after July 1, 2019,  
31 during any fiscal year, transfers that are temporary and are to be  
32 repaid, or any other temporary borrowing, through certificates  
33 of indebtedness or any other device or manner, of any moneys  
34 in the state treasury to be credited to the state general fund are  
35 prohibited, unless the moneys so transferred or otherwise  
36 borrowed are restored or repaid to the original funds or accounts  
37 of the state treasury from the state general fund within the same  
38 fiscal year. The provisions of this section do not apply to  
39 transfers from the budget stabilization fund or the debt  
40 prepayment fund to the state general fund in accordance with  
41 this article.

42 **"§ 7. General revenue supplanting.** On and after July 1,  
43 2019, any appropriation of moneys from the state treasury that

1 either supplants any appropriation from the state general fund,  
2 or, if not made, would require an appropriation from the state  
3 general fund is prohibited. For purposes of this section, any  
4 appropriation of moneys in the state treasury that is funded by  
5 user charges for fees imposed on goods or services provided  
6 shall not be deemed to be an appropriation that supplants any  
7 appropriation from the state general fund.

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

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

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

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

26 *"Explanatory statement.* Beginning July 1, 2019, this  
27 amendment: (1) Would require a supermajority of  $\frac{2}{3}$  of all  
28 members of the House and Senate to pass certain bills  
29 related to the creation of a new tax or the increase in the rate  
30 of an existing tax; (2) would impose spending and revenue  
31 limits on the state based on increases in the rate of inflation  
32 and population, with provisions to adjust for economic  
33 downturns or transferred functions; (3) would permit  
34 expenditures in excess of the limit imposed if authorized by  
35 a majority of the voters at a general election; (4) would  
36 provide for a budget stabilization fund to be used when state  
37 revenue declines; (5) would provide for a debt prepayment  
38 fund to be used to redeem state bonds payable from the state  
39 general fund to produce debt service savings; (6) would  
40 provide for excess state revenues, after transfers to the  
41 budget stabilization fund and debt prepayment fund, to be  
42 refunded to state property or income taxpayers; (7) would  
43 limit state temporary borrowing to that repaid within the

1 same year and would prohibit the state from replacing  
2 general revenues with excessive fees and charges for goods  
3 and services; and (8) would govern in case of conflicts with  
4 statutes or other state constitutional provisions.

5 "A vote for this proposition would limit state legislative  
6 authority and would require a supermajority of  $\frac{2}{3}$  of each  
7 house of the legislature for state tax increases or extensions,  
8 would impose state spending and revenue limits, would  
9 permit the legislature to exceed the spending limit upon the  
10 authorization of a majority of voters at a general election,  
11 would require excess state revenues to be reserved for  
12 economic downturns and reducing state debt, with limits, or  
13 to be refunded to taxpayers, and would limit state temporary  
14 borrowing.

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

20 Sec. 3. This resolution, if approved by two-thirds of the members  
21 elected (or appointed) and qualified to the Senate, and two-thirds of the  
22 members elected (or appointed) and qualified to the House of  
23 Representatives shall be entered on the journals, together with the yeas  
24 and nays. The secretary of state shall cause this resolution to be published  
25 as provided by law and shall cause the proposed amendment to be  
26 submitted to the electors of the state at the general election in November  
27 in the year 2018 unless a special election is called at a sooner date by  
28 concurrent resolution of the legislature, in which case it shall be  
29 submitted to the electors of the state at a special election.