

## House Concurrent Resolution No. 5004

By Committee on Federal and State Affairs

1-19

1 A PROPOSITION to amend article 9 of the constitution of the state of  
2 Kansas, relating to counties by adding a new section 6 which pertains  
3 to home rule for counties.  
4

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

9 Section 1. The following proposition to amend the constitution of  
10 the state of Kansas shall be submitted to the qualified electors of the state  
11 for their approval or rejection: Article 9 of the constitution of the state of  
12 Kansas is amended by adding a new section to read as follows:

13 **"Article 9.—COUNTY AND TOWNSHIP ORGANIZATION"**

14 **"§ 6. Counties' power of home rule.** (a) Counties are  
15 hereby empowered to determine their local affairs and  
16 government including the levying of taxes, excises, fees,  
17 charges and other exactions, except when and as the levying of  
18 any tax, excise, fee, charge or other exaction is limited or  
19 prohibited by enactment of the legislature applicable uniformly  
20 to all counties of the same class. The legislature may establish  
21 not to exceed four classes of counties for the purpose of  
22 imposing all such limitations or prohibitions. Counties shall  
23 exercise such determination by resolution passed by the  
24 governing body with referendums only in such cases as  
25 prescribed by the legislature, subject only to enactments of the  
26 legislature of statewide concern applicable uniformly to all  
27 counties, to other enactments of the legislature applicable  
28 uniformly to all counties, to enactments of the legislature  
29 applicable uniformly to all counties of the same class limiting or  
30 prohibiting the levying of any tax, excise, fee, charge or other  
31 exaction and to enactments of the legislature prescribing limits  
32 of indebtedness. All enactments relating to counties now in  
33 effect or hereafter enacted and as later amended and until  
34 repealed shall govern counties, except as counties shall exempt  
35 themselves by charter resolutions as herein provided for in  
36 subsection (b).

1           (b) (1) Any county may by charter resolution elect in the  
2 manner prescribed in this section that the whole or any part of  
3 any enactment of the legislature applying to such county, other  
4 than enactments of statewide concern applicable uniformly to  
5 all counties, other enactments applicable uniformly to all  
6 counties, and enactments prescribing limits of indebtedness,  
7 shall not apply to such county.

8           (2) A charter resolution is a resolution which exempts a  
9 county from the whole or any part of any enactment of the  
10 legislature as referred to in this section and which may provide  
11 substitute and additional provisions on the same subject. Such  
12 charter resolution shall be so titled, shall designate specifically  
13 the enactment of the legislature or part thereof made  
14 inapplicable to such county by the adoption of such resolution  
15 and contain the substitute and additional provisions, if any, and  
16 shall require a two-thirds vote of the members-elect of the  
17 governing body of such county. Every charter resolution shall  
18 be published once each week for two consecutive weeks in the  
19 official county newspaper or, if there is none, in a newspaper of  
20 general circulation in the county.

21           (3) No charter resolution shall take effect until 60 days  
22 after its final publication. If, within 60 days of its final  
23 publication, a petition signed by a number of electors of the  
24 county equal to not less than 10% of the number of electors who  
25 voted at the last preceding regular county election shall be filed  
26 in the office of the clerk of such county demanding that such  
27 resolution be submitted to a vote of the electors, it shall not take  
28 effect until submitted to a referendum and approved by a  
29 majority of the electors voting thereon. An election, if called,  
30 shall be called within 30 days and held within 90 days after the  
31 filing of the petition. The governing body shall pass a resolution  
32 calling the election and fixing the date, which resolution shall  
33 be published once each week for three consecutive weeks in the  
34 official county newspaper or, if there be none, in a newspaper of  
35 general circulation in the county, and the election shall be  
36 conducted as elections for officers and by the officers handling  
37 such elections. The proposition shall be: "Shall charter  
38 resolution No. \_\_\_\_\_, entitled (title of resolution) take  
39 effect?" The governing body may submit any charter resolution  
40 to a referendum without petition by the same publication of the  
41 charter resolution, and the same publication of the resolution  
42 calling the election as for resolutions upon petition and such  
43 charter resolution shall then become effective when approved

1 by a majority of the electors voting thereon. Each charter  
2 resolution becoming effective shall be recorded by the county  
3 clerk in a book maintained for that purpose with a statement of  
4 the manner of adoption, and a certified copy shall be filed with  
5 the secretary of state, who shall keep an index of the same.

6 (4) Each charter resolution enacted shall control and  
7 prevail over any prior or subsequent act of the governing body  
8 of the county, and may be repealed or amended only by charter  
9 resolution or by enactments of the legislature applicable to all  
10 counties.

11 (c) Powers and authority granted to counties pursuant to  
12 this section shall be liberally construed for the purpose of giving  
13 to counties the largest measure of self-government.

14 (d) This amendment shall be effective on and after July 1,  
15 2019."

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

18 "*Explanatory statement.* This amendment would provide a  
19 constitutional basis for county home rule. A county could  
20 enact a charter resolution to exempt itself from non-uniform  
21 state laws that apply to the county and provide substitute or  
22 additional provisions to that law. The legislature could  
23 preempt counties from exercising home rule powers by the  
24 passage of uniform state laws that apply to all counties in the  
25 exact same manner. Counties could pass home rule  
26 resolutions to legislate locally on matters not covered by state  
27 law.

28 "A vote for this proposition would empower counties to  
29 determine their local affairs and government with a  
30 constitutional grant of power that could only be preempted  
31 by enactments of the legislature that apply uniformly to all  
32 counties in the exact same way.

33 "A vote against this proposition would retain the present law  
34 granting counties home rule power and other both uniform  
35 and non-uniform laws pertaining to counties that can be  
36 readily amended by the legislature to restrict home rule  
37 powers by statute."

38 Sec. 3. This resolution, if approved by two-thirds of the members  
39 elected (or appointed) and qualified to the House of Representatives, and  
40 two-thirds of the members elected (or appointed) and qualified to the  
41 Senate shall be entered on the journals, together with the yeas and nays.  
42 The secretary of state shall cause this resolution to be published as  
43 provided by law and shall cause the proposed amendment to be submitted

- 1 to the electors of the state at the general election in November in the year
- 2 2018 unless a special election is called at a sooner date by concurrent
- 3 resolution of the legislature, in which case it shall be submitted to the
- 4 electors of the state at the special election.