

## House Concurrent Resolution No. 5013

By Committee on Federal and State Affairs

2-10

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

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

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

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

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

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

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

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

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

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

36 (f) "fiscal year spending" means all expenditures and reserve increases

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

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

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

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

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

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

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

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

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

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

1 of a property tax, or estate or inheritance tax, or a tax in the nature of an  
2 estate or inheritance tax, or any combination thereof.

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

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

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

41 (d) The legislature, by law, shall provide a mechanism to adjust the  
42 amount of a limitation under this section to reflect any subsequent  
43 transfer of all or any part of the cost of providing a governmental

1 function. The mechanism shall adjust the amount of a limitation so that  
2 total costs are not increased as a result of the transfer. The adjustment  
3 mechanism provided for in this subsection shall be used in determining a  
4 limitation under this section beginning with the fiscal year immediately  
5 following the transfer.

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

13 **§ 4. Budget Stabilization Reserve Fund.** (a) For any fiscal year that  
14 commences on or after July 1, 2013, if total state revenue exceeds the  
15 total state revenue limitation for that fiscal year, as determined in  
16 accordance with section 3 of this article, then a portion of the excess  
17 amount of state revenue shall be reserved as prescribed by this section or  
18 refunded as prescribed by section 6 of this article. Any amount required  
19 to be maintained in the ending balance of the state general fund as  
20 provided by law shall be excluded from the amount available for transfer  
21 to the budget stabilization reserve fund by this section.

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

38 (c) For any fiscal year that commences on or after July 1, 2013, if the  
39 amount of the total state revenue is less than the amount of total state  
40 revenue for the prior fiscal year, the legislature may provide by law for  
41 the transfer of moneys from the budget stabilization reserve fund to the  
42 state general fund in an amount equal to not more than the difference  
43 between the amount of total state revenue for the prior fiscal year and the

1 amount of total state revenue for the current fiscal year. Under no other  
2 circumstances shall moneys be transferred or expended from the budget  
3 stabilization reserve fund of the state.

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

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

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

38 **§ 6. Disposition of Excess Revenues.** (a) Any excess amount of total  
39 state revenues for a fiscal year that remains after the transfers to the  
40 budget stabilization reserve fund and emergency reserve fund pursuant to  
41 section 4 or section 5 of this article, if any, shall be reserved in the current  
42 fiscal year and shall be refunded as provided by law during the next  
43 ensuing fiscal year to the taxpayers who paid the state ad valorem

1 property taxes or state income taxes, or both, for the preceding fiscal year,  
2 in a manner that is proportional, on a pro rata basis, to the manner in  
3 which such taxes were collected from such taxpayers for such fiscal year.  
4 Any amount required to be maintained in the ending balance of the state  
5 general fund as provided by law shall be excluded from the amount  
6 available to be reserved and refunded by the state as prescribed by this  
7 section.

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

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

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

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

41 **§ 10. Construction.** (a) The provisions of this article shall be liberally  
42 construed for the purpose of effectuating the purposes thereof, except that  
43 nothing in this article shall be construed to authorize any new or

1 increased tax of any kind other than as provided or authorized by law  
2 enacted by the legislature in accordance with and subject to the other  
3 provisions of this constitution.

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

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

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

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

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

43 "A vote against the proposition would continue the present

1 constitutional and statutory authority for state government taxing and  
2 spending by law, for disposition of tax revenues and for other related  
3 matters in the exercise of the legislative power of this state."

4 Sec. 3. This resolution, if approved by two-thirds of the members  
5 elected (or appointed) and qualified to the House of Representatives, and  
6 two-thirds of the members elected (or appointed) and qualified to the  
7 Senate shall be entered on the journals, together with the yeas and nays.

8 The secretary of state shall cause this resolution to be published as  
9 provided by law and shall cause the proposed amendment to be submitted  
10 to the electors of the state at the general election to be held in November,  
11 2012, unless a special election is called at a sooner date by concurrent  
12 resolution of the legislature, in which case it shall be submitted to the  
13 electors of the state at the special election.