

SPECIAL SESSION OF 2005

**SUPPLEMENTAL NOTE ON
HOUSE CONCURRENT RESOLUTION 5003**

As Amended by House Committee on
Federal and State Affairs

Brief*

HCR 5003 would amend the Legislative Article of the *Kansas Constitution* dealing with appropriations to clarify that only the Legislature may appropriate moneys. The proposed constitutional amendment would add language stating that the executive and judicial branches shall have no authority to direct the legislative branch to make any appropriation of money or to redirect the expenditure of funds appropriated by law, except as the Legislature may provide by law or as may be required by the *Constitution of the United States*.

The amendment would be submitted to the electors of Kansas at a special election called 60 days after passage by two-thirds vote of both Houses of the Legislature.

Background

The concurrent resolution was introduced at the request of Representative Kinzer.

Proponents said a clarification of the *Kansas Constitution* was needed in light of the recent Kansas Supreme Court decision of *Montoy v. Kansas* (2005) which ordered the Legislature to appropriate \$285 million over previous spending levels in 2005-2006. Concern was expressed that the Court may dictate expenditure levels in other areas besides education if nothing is done to address the *Montoy* decision.

The proposed constitutional amendment was opposed by the President of the Kansas Bar Association who said the independence

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

of the Kansas Judicial Branch needed to be respected. The proposed amendment was also opposed by a representative of the Kansas Association of School Boards, the Disability Rights Center, and a law professor.

The resolution was amended to strike the prohibition against the Judiciary fashioning a remedy directing expenditures of funds from the state treasury. The resolution was further amended to add that the Judiciary would not be allowed to redirect funds from the state treasury, except as provided by the Legislative Branch or the *Constitution of the United States*.

These amendments made the resolution identical to SCR 1603, as amended by the Senate Committee on Judiciary.