

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.