

## House Concurrent Resolution No. 5007

By Committee on Local Government

2-12

1 A PROPOSITION to amend article 9 of the constitution of the state of  
2 Kansas by adding a new section thereto, concerning home rule for  
3 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 **"§ 6. Counties' power of home rule.** (a) Counties are  
14 hereby empowered to determine their local affairs and  
15 government including the levying of taxes, excises, fees,  
16 charges and other exactions, except when and as the levying of  
17 any tax, excise, fee, charge or other exaction is limited or  
18 prohibited by enactment of the legislature applicable uniformly  
19 to all counties of the same class. The legislature may establish  
20 not to exceed four classes of counties for the purpose of  
21 imposing all such limitations or prohibitions. Counties shall  
22 exercise such determination by resolution passed by the  
23 governing body with referendums only in such cases as  
24 prescribed by the legislature, subject only to enactments of the  
25 legislature of statewide concern applicable uniformly to all  
26 counties, to other enactments of the legislature applicable  
27 uniformly to all counties, to enactments of the legislature  
28 applicable uniformly to all counties of the same class limiting or  
29 prohibiting the levying of any tax, excise, fee, charge or other  
30 exaction and to enactments of the legislature prescribing limits  
31 of indebtedness. All enactments relating to counties now in  
32 effect or hereafter enacted and as later amended and until  
33 repealed shall govern counties, except as counties shall exempt  
34 themselves by charter resolutions as herein provided for in  
35 subsection (b).

36 (b) (1) Any county may by charter resolution elect in the

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

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

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

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

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

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

13 (d) This amendment shall be effective on and after July 1,  
14 2021."

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

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

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

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

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

- 1 2020, unless a special election is called at a sooner date by concurrent
- 2 resolution of the legislature, in which case it shall be submitted to the
- 3 electors of the state at the special election.