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Testimony on SCR 1602
Senate Assessment & Taxation Committee
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Senator Tyson and members of the committee, thank you for the opportunity to testify on SCR 1602, a constitutional amendment that would enact a process of spending limitations. We oppose this legislation.

The Kansas Economic Progress Council is a not for profit membership organization of businesses and individuals interested in advancing sound public policy in Kansas to enhance our state’s quality of life.

Colorado enacted a taxpayers’ bill of rights, or TABOR, in 1992, but voters approved suspending many of its requirements in 2005 due to problems it caused.

A long-standing lawsuit challenging TABOR continues in a federal appeals court. It went all the way to the U.S. Supreme Court, which sent it back to the lower court. There was a hearing just last month on motions in the case.

The case is Hickenlooper v. Kerr.

Those bringing the lawsuit include current and former legislators, educators, and parents of school children. In 2011 they filed suit, claiming TABOR stripped them of legislative powers regarding taxation and dilutes their power to legislate, which they believe violates the guarantee clause of the U.S. Constitution.

The guarantee clause says, in part, “The United States shall guarantee to every State in this Union a Republican Form of Government.” The Constitution does not explain what constitutes a republican form of government.

However, our Founding Fathers gave us some insight in the Federalist Papers, where a republican form of government is distinguished from a direct democracy. The Founding Fathers had no intention of entering a direct democracy.

James Madison wrote in Federalist Number 10, referring to direct democracies: “Hence it is that such democracies have ever been spectacles of turbulence and contention; have ever been found incompatible

with personal security or the rights of property; and have in general been as short in their lives as they have been violent in their deaths.”

I believe James Madison is telling us to not pass TABOR because it moves us toward a direct democracy and we will become “a spectacle of turbulence and contention.”

The latest problem in Colorado is a conflict with the state’s legalized marijuana legislation. The money raised for government by marijuana is supposed to go to schools, police, and drug education. However, the TABOR constitutional amendment is in conflict with that intent and the pot money is prevented from being used for those purposes.

So even though the voters of Colorado approved spending the money, they were overruled by TABOR, which required them to get a refund instead of spending the funds they way they wanted.

Colorado’s TABOR is also in conflict with another portion of Colorado’s constitution, which requires a certain level of spending on public education.

Meanwhile, local Colorado chambers of commerce and economic development organizations are telling lawmakers there’s a \$9 billion gap in funding roads that needs to be addressed. Bridging that gap is hindered by Colorado’s TABOR.

The danger of spending limitations is they can prevent you from doing what needs to be done. They take the responsibility away from elected officials, the representatives of the people. Decisions will be made through a difficult process, and sometimes decided by the difficulty of that process, rather than by evaluating the issues.

For these reasons, I urge you to reject this constitutional amendment.

Thank you for your consideration of our position.