



“Best practices to support legislature-led budgeting in Kansas”

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Kansas Legislature’s 2024 Special Committee on Budget Process and Development

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Chairman Waymaster, Vice Chairman Billinger, members of the committee:

The Kansas Constitution vests “the legislative power of this state” in the legislature. Only the people’s representatives from across this great state can adequately accommodate the diverse interests and values that the state government serves.

This committee’s mission to center the legislature in the budget process is admirable. I am pleased to recommend best practices to support that effort.

They are, first, budget targets to promote policy stability over business cycles and fiscal independence from Washington, D.C., second, a comprehensive budget with all spending and revenue policies where legislators can manage them holistically, third, ending the shutdown brinkmanship that can short-circuit an inclusive budget process, and, fourth, requiring the governor to submit the budget request before delivering the Condition of the State address. Each would strengthen legislative budgeting. Together, they would transform it.

Balance the budget over the medium term

[Slide 1] Better budget targets for “structural balance” can provide a more stable policy environment for the public and for policymakers. State revenue fluctuate substantially from year to year, and trying to balance spending and revenue every year transfers that economic volatility into policy instability.¹

Reducing policy-related uncertainty can ease planning and decision making for businesses and households. They have enough to worry about without having to track constantly changing

¹ Kurt Couchman, “States Can Unleash Freedom and Reclaim Sovereignty with Structural Balance,” Americans for Prosperity, <https://americansforprosperity.org/wp-content/uploads/2022/11/AFP-States-can-unleash-freedom-and-reclaim-sovereignty-with-structural-balance.pdf>, November 2022.

policies. More stable policies reduce the uncertainty premium to investment, leading to greater productivity, more opportunity, and higher standards of living.

Budget targets that promote policy stability would help legislators devote more energy to real, durable improvements for the state and less to managing responses to changing revenue estimates. The time spent considering adjustments for temporarily higher or lower revenue, largely coming from the governor's office, would be better spent improving the business climate or otherwise fixing longstanding problems.

Structural balance would strengthen Kansas' fiscal independence from Washington, D.C. During recessions, Congress generally offers funds, but they usually come with strings that erode state sovereignty and persist long after the money runs out. Structural-balance-empowered states would avoid overspending during good years and put surpluses aside for tough times. Fewer members of Congress would feel compelled to support the kinds of overspending that caused high inflation in recent years.

A rule for structural balance simply means that spending grows along with trend growth of the state economy. For example, limiting spending growth to the rolling average of growth of state GDP would smooth out yearly fluctuations, and being based on prior economic growth would provide predictability. The rule should also include a deficit brake to keep spending and revenue together over the medium term, allow adjustments for revenue changes, and accommodate emergency spending as well as its subsequent offset.

Indiana, Connecticut, Florida, Washington state, and other states already use some version of this approach, as do other countries including Germany and Switzerland. Economists overwhelmingly prefer balance over the business cycle instead of balance every year. Senator Mike Braun of Indiana and House Majority Whip Tom Emmer of Minnesota have proposed related legislation for the federal budget with their Responsible Budget Targets Act.² A recent model policy for the American Legislative Exchange Council embraced it as well.³

[Slide 2] Structural balance differs considerably from Colorado's Taxpayers Bill of Rights (TABOR). Among other provisions, TABOR seeks to limit state spending growth to inflation and population growth. Colorado's officials, however, have tried and sometimes succeeded in finding creative workarounds. TABOR's spending limit excludes the productivity component of economic growth, which, if followed, would persistently reduce state spending as a share of GDP. This could be a

² Kurt Couchman, "What is the Responsible Budget Targets Act?" Americans for Prosperity, <https://americansforprosperity.org/blog/responsible-budget-targets-act/>, June 21, 2023.

³ American Legislative Exchange Council, "A Next-Generation Tax and Expenditure Limitation Act," <https://alec.org/model-policy/a-next-generation-tax-and-expenditure-limitation-act/>, December 2022.

fine outcome, at least for some length of time, but fiscal conservatives have tried to bring this model to other states but largely without success.

Structural balance, on the other hand, would stabilize long-term spending as a share of GDP, if strictly observed. But that's not necessarily the objective.

The real point is to reduce budget noise. Policymakers would then have more capacity to focus on the signal and drive greater value for Kansas. That might mean trimming low-value spending, including spending through the tax code, to make room in the budget for income tax reductions or to expand educational freedom programs. It could mean a lot of things, but, ultimately, it's about empowering the legislature to deliver what the people want and need.

Kansas does not appear to have a constitutional barrier to statutory structural balance, at least as long as surpluses build up reserves before a downturn. Reaching consensus on the statutory details first may be the first priority, and a principles-based constitutional provision could add support later.

The budget should include all spending and revenue

The budget is the main tool to manage spending and revenue holistically. All spending and revenue policies, including foregone revenue, belong in a single budget bill each year. Including all line items is necessary but not sufficient. Budgets are for management, and they should draw from the expertise and negotiations of members on the committees with primary jurisdiction to review and, when necessary, update programs with amendments to the code.

[Slide 3] Notably, Kansas' state general fund is expected to be 35.4 percent of total state revenue, according to *The Governor's Budget Report for Fiscal Year 2025*.⁴ Federal receipts account for 19.1 percent, and non-federal highway funds, other dedicated taxes, other dedicated agency funds, and all other funds comprise the rest. All should appear in the legislature's budget.

State legislatures that most embody this best practice – manage all fiscal policies in one budget bill – tend to be significantly more efficient as a share of personal income. Beyond governments, every successful business carefully reviews spending and revenue regularly.

The federal government's budget dysfunction may largely reflect Congress' focus on the twelve appropriations bills. They are important, but they cover merely 26 percent of spending and no

⁴ State of Kansas, *The Governor's Budget Report for Fiscal Year 2025: Volume 1*, https://budget.kansas.gov/wp-content/uploads/FY2025_GBR-Vol1-01.16.2024.pdf, updated January 16, 2024.

revenue. New bipartisan legislation would have Congress build a comprehensive congressional budget each year that empowers all committees to manage their portfolios.⁵

A comprehensive budget would help the legislature evaluate relative value across a wide range of activities. Legislators would better understand state activities and opportunities to shift resources from one activity to another. For example, the revenue foregone from tax expenditures⁶ do more to promote prosperity as offsets to income tax rate reductions.

Having all spending and revenue together would ease the legislature’s task of meeting any given budget targets. A complete budget provides more options. Even so, the policy stability from the structural balance targets discussed above would lighten this task compared to alternatives.

The Kansas legislature may be able to adopt a comprehensive budget without amending the constitution or statute. Adding missing pieces to the main budget, including the usually-separate education bill, may only require a change in practice. This could include letting committees of jurisdiction for any currently-not-included pieces manage their portfolios and transmit them to the ultimate assemblers.

Shutdown risks lead to bloat and a deficit of deliberation

No non-liquidating business would suspend operations while completing their financial planning. Why do some governments?

Not all governments have shutdowns. The U.S. federal government didn’t until the Carter Administration created them in 1980.⁷ The bipartisan, bicameral Prevent Government Shutdowns Act would reverse the Carter decision and add incentives to finish appropriations on time. Kansas’ U.S. senators voted for it as an amendment last year.⁸

Wisconsin and Rhode Island have had statutory provisions for “automatic continuing appropriations” for generations, where spending continues at the prior level until a new budget

⁵ Kurt Couchman, “What is the Comprehensive Congressional Budget Act,” Americans for Prosperity, <https://americansforprosperity.org/blog/what-is-the-comprehensive-congressional-budget-act/>, September 5, 2024, p. 19.

⁶ Kansas Department of Revenue, “Tax Expenditure Reports,” <https://www.ksrevenue.gov/prtaxexreports.html>.

⁷ Tom Shoop, “That Time a Government Lawyer Invented the Government Shutdown,” *Government Executive*, <https://www.govexec.com/management/2022/10/time-lawyer-invented-government-shutdown/378935/>, October 27, 2022.

⁸ Sen. James Lankford, “Lankford, Hassan, Colleagues want to stop government shutdowns, force Congress to do its job,” <https://www.lankford.senate.gov/news/press-releases/lankford-hassan-colleagues-want-to-stop-government-shutdowns-force-congress-to-do-its-job/>, January 30, 2023. Roll Call Vote 269 on Lankford S.Amdt. 1232 to S.Amdt. 1092 to H.R. 4366, https://www.senate.gov/legislative/LIS/roll_call_votes/vote1181/vote_118_1_00269.htm, October 25, 2023.

is enacted.⁹ North Carolina enacted such a rule in its 2016 comprehensive budget,¹⁰ and political conflict between a progressive governor and a supermajority Republican legislature has been contained within Raleigh’s government instead of disrupting the entire state.

The risk of shutdowns gives governors undue leverage over the legislature in the budget process, especially when legislatures are part-time, low-paid, and light on staff.¹¹ It forces legislators to swallow “the deal” or be blamed for shutdown disruptions, even if they couldn’t meaningfully participate in the process.

By contrast, the default position of carrying on as before without interruption promotes deliberation. Votes for the budget are earned through contributions, not coerced or bought. Reasons to enact a fresh budget would remain plentiful, especially to reflect adjustments for economic growth and to carry out the agreements made in the budget negotiations.

This would aid the committee’s pursuit of a legislature-led budget. The legislative budget for the following fiscal year could begin with the then-in-effect appropriations levels. Legislators could always adjust overall spending and discrete line items to reflect information from the governor and legislators’ preferences as the budget moves through the process.

Automatic continuing appropriations requires the executive branch to continue making payments for activities beyond the period covered by the most recent budget. A statute would probably be needed to make this change in Kansas.

Require the budget request before the Condition of the State speech

Governor Laura Kelly delivered her most recent Condition of the State address on January 10, 2024.¹² She transmitted a budget request to the legislature the following day.¹³

An important public conversation about better ways for the state government to serve the people takes place around the Condition of the State speech. Withholding budget materials from the

⁹ Section 20.002(1), Wisconsin Statutes, <https://docs.legis.wisconsin.gov/statutes/statutes/20/i/002/1>, accessed September 26, 2024. Section 35-3-19, Rhode Island General Laws, <https://webserver.rilegislature.gov//Statutes/TITLE35/35-3/35-3-19.htm>, accessed September 26, 2024.

¹⁰ Section 143C-5-4, North Carolina Statutes, https://www.ncleg.gov/EnactedLegislation/Statutes/PDF/BySection/Chapter_143C/GS_143C-5-4.pdf, accessed September 26, 2024.

¹¹ Thad Kousser, Justin H. Phillips, *The Power of American Governors: Winning on Budgets and Losing on Policy*, Cambridge University Press, 2012.

¹² National Association of State Budget Officers (NASBO), “Governors’ 2024 State of the State Speeches,” <https://www.nasbo.org/resources/stateofthestates>, accessed September 26, 2024.

¹³ NASBO, “Proposed and Enacted Budgets,” <https://www.nasbo.org/resources/proposed-enacted-budgets>, accessed September 26, 2024.

public and the legislature until the following day gives the governor an undue advantage in shaping the agenda, especially by playing up proposed giveaways and skipping over proposed takeaways.

The Kansas legislature should consider switching the order: budget request first, then speech. Most states do that.

Related, congressional legislation introduced this year wouldn't let the president do the State of the Union address until Congress gets that year's budget request and national security strategy.¹⁴ Senator Marshall is a cosponsor.

Legislators, the media, and the people should be able to review the governor's full agenda and evaluate the Condition of the State in that policy-rich context. The statewide conversation about budget priorities would be more balanced and productive.

At the start of each session, the legislature adopts a concurrent resolution to meet in joint session "for the purpose of hearing a message from the governor:" the Condition of the State speech.¹⁵ It may be possible simply to notify the governor that the legislature will take up such a concurrent resolution upon receipt of the budget request.

In conclusion

Legislative deliberations are best able to reconcile Kansans' diverse views and interests. Strengthening the legislature's ability to develop a budget from the bottom-up that integrates information and facilitates negotiations across the legislature can lead to more efficient delivery of services and greater capacity for resolving conflicts.

Reasonable budget targets like structural balance rules, applied to a comprehensive budget without fear of shutdowns or a tilted playing field, can boost the legislature's ability to deliver freedom, prosperity, and opportunity to the people of Kansas.

¹⁴ Kurt Couchman, "What is the SUBMIT IT Act?" Americans for Prosperity, <https://americansforprosperity.org/blog/what-is-the-submit-it-act/>, March 4, 2024.

¹⁵ HCR 5019, "Providing for joint sessions of the Senate and the House of Representatives for the purpose of hearing messages from the Governor and the Supreme Court," Kansas Legislature, https://www.kslegislature.gov/li/b2023_24/measures/hcr5019/, adopted January 8, 2024.