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SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

3004

2005 HOUSE CONSTITUTIONAL REVISION

HCR 3004

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HCR3004

Constitutional Revision

☐ Conference Committee

Hearing Date 2-15-05

Tape Number	Side A	Side B	Meter #
1	x		0.8 ---- 37.8
Committee Clerk Signature <i>Diane J. Haan</i>			

Minutes:

Rep Wesley Belter, Dist 22: (0.8) Appeared in support of HCR3004. It's a taxpayers protection act & would require that any increase in the rate of state income sales use motor vehicle excise tax would require a 60% majority vote by both the House & the Senate, signed by the Governor, then put on the ballot in the General Election & put up for a vote of the people. Over the yrs as serving on the Legislature, I have found that it's difficult for us, as Legislatures, to stop spending. The real key to holding the line on spending is to control the revenue, so it's good for us legislatures & extremely good for the taxpayers if we require a 60% vote to increase taxes. A bond issue at the local level frequently requires a 60% vote. Let the people decide if it's reasonable.

Chairman Koppelman: (30.1) In the measure you referred to, would that have dealt with issues in the built in the legislature, or was it strictly election?

Belter: I don't recall, I believe that it did.

Rep Klemin: (3.3) Is this limited to increase in the rates? If someone wanted to get around it by using a sur tax on rates, without increasing the rate, would a sur tax be permitted by this part of the Constitution?

Belter: It is limited to the increase in rates. I believe if you put a sur charge on the income tax, I would consider that to be a tax increase, but it doesn't say tax, so that may be something we'll need to change. I don't think it would apply if you did a sur charge.

Rep Klemin: Would this prevent anyone from coming up with any other kinds of taxes, other than income sales use or motor vehicle excise tax?

Belter: No it would not.

Rep Conrad: You didn't include fees, was there a reason?

Belter: Fees were not included because they're usually thought of a user fee & I feel that I want to evaluate each 1 & I didn't want to make this piece of legislation that cumbersome. The biggest issues to the people of ND are the sales & income tax use & excise tax.

Rep Kasper: (5.8) If this passed & became law, you would actually have a minority rules legislature, because 41% of the legislature in either body would be over control whether or not tax increase would occur.

Belter: I believe this has a taxpayer protection act.

Rep Klemin: Federal Taxes have gone down (decoupled), but now people are complaining that we've got a tax increase on state level, because if we hadn't decoupled, we'd probably be paying more income tax. Consequently, if we ever did want to lower the state income tax, we'd never be able to reach it again, aren't we putting a negative effect to lower taxes?

Belter: When we decoupled in the 2001 session, we attempted to make that tax revenue neutral. This bill talks about increasing & not decreasing.

Rep Kasper: Once you do increase, you'd never be able to increase again. Wouldn't that have a chilling affect decreasing it also?

Belter: If a tax decrease ever should happen, I'm sure that the legislature would be able to find the 60% vote to raise the necessary funds to meet the obligations to the state.

Chairman Koppelman: Do other states do this?

Belter: I don't know.

Sen Christmann, Dist 33: (9.0) appeared in support of HCR3004. This concept is an important tool for ND to present itself as a state where the primary tax base is stable. The stable tax base has been very good for our economy & for our people. If there's a need for it, 60% is not an excessably high number. I don't support many of these, but income, excise, sales taxes are pd by most people in the state all of the time. There are other 10-12 states that have 60% - 75% which I'll provide if you desire.

Chairman Koppelman: (12.2) Yes, please.

Bill Butcher, State Director, National Federation of Independent Business (NFIB): (12.8) appeared in support of HCR3004. (See attached testimony)

Rep Klemin: (15.1) Do you think this should apply to sur tax?

Butcher: Our membership feels that any kind of a tax increase should have a super majority.

Rep Klemin: Rep Belter's interpretation is that this measure does not apply to sir tax.

Butcher: I haven't thought that through, it would be a subject for discussion.

Rep Conrad: How many people voted in your poll?

Butcher: The poll was taken 2 yrs ago when this bill was b/4 the legislature; nationwide we feel that the results stand for 2 yrs. We stopped counting when 5% responded; our gurus say that the percentages don't significantly change after 5%.

Rep Conrad: You don't require 60% vote in your membership & you only required 5% in your poll?

Butcher: More than 5% of our members vote, this relates to legislature & I think all of the legislatures are required to vote.

Rep Conrad: If we get the sur tax, then we'll get a decrease in our property tax, & when I'm going door to door campaigning, that's the tax that gets people really upset. Is it going to lower one tax & put a sur tax on another? How would your members feel about that?

Butcher: Our members would certainly oppose any increase in property tax. I don't think this would tie the hands of the legislature, you would just need a strong majority. I don't know how to answer your question. (19.5)

Chairman Koppelman: We will need to recess our hearing @ 4:15PM, I want to try to take the people who have traveled first.

Chris Runge, Ex Dir of ND Public Employees Assoc, & Sec/Treas of AFL/CIO: appeared in opposition of HCR3004. This body is more than competent to do the work that needs to be done for the state of ND. California requires 60% of their budget be funded by initiated measure that have passed this (21.7) so it ties the hands of legislatures. RE: initiated measure ... Majority Leader, Rick Berg, had requested an opinion from the Legislative Council. I think it said that b/4 you could pass a tax measure @ the legislature, it would have to go to a vote of the people.

Chairman Koppelman: We could get a copy of that.

Bev Nielson, ND School Board Assoc: (22.9) appeared in opposition to HCR3004. If you would seriously consider this, minority rule (on taxes or any other issue) is not the way to go. Then you would need 60% majority on every mandate that you place ... ie: Political Subdivisions & Human Services. California & Colorado have tried ... they're unable to raise the money, but the need for the services continues to grow. In the case of schools, we're a constitution, depending on states to tell us what to do & to fund it. It's easy for people to say they don't want to pay, but when it comes to a service, they require; good schools, nursing homes for their parents, a child with a drug dependency, or law enforcement, they want the services. I don't know why you would impose this on yourself.

Rep Kasper: (26.0) The bill that the House has not heard yet is HB1512 to redo school funding. We were told today that it requires a 60% vote of school board to increase the mill levy, would you oppose that part of the bill?

Nielson: It's 2/3 of the board & that was a compromise on their part, we wanted board authority.

Rep Kasper: Is there any other action that the school board takes by vote of school board besides the bonding issue where they require 60% vote?

Nielson: I can't think of an instance where a school board has imposed 1 on themselves.

Joseph A Westby, Ex Dir of NDEA: (27.8) appeared in opposition to HCR3004. We're concerned about school funding & ND has had a long history of under funding schools from the state level. In 1983 the state provided nearly 63% of the total per pupil cost of education; today it's about 42%. During the same time period, teacher salary in the country dropped from 30th to 50th a couple of yrs ago; we're now @ 48th. There's the lawsuit that faces the State of ND on the adequacy & equity issue, it's the 2nd time we've had a law suit to deal with. This time we have a

study recommending that funding of education be increased \$198 Million Dollars/yr to provide the needs of the students in our state. If this measure were to pass, this would make it even more difficult for schools to receive the funding they need as well as make it very difficult for the legislature to meet the funding needs of schools & all of state government. We believe that you're elected to do the job of the people of ND & part of that job is to raise the revenue necessary to provide the programs that the people want. If you're not doing the job the way they think you should be doing it, they have 2 ways of fixing it. One of them is the referral process or the other is the next election & we believe we elect responsible people to do the business of the state & we think this bill would limit your ability to do that.

Rep Kasper: Not in terms of percentage, but true dollar amount, what is the per student dollar amount that is being funded by the state legislature for the 2003/2005 biennium, compared to 10 yrs ago?

Westby: I couldn't quote that number now, but I'll get it to you.

Chairman Koppelman: Does your organization oppose the heard testimony; that there are super majorities requiring other increases for bond issues that affect schools, etc?

Westby: (32.5) As long as I've been around we've supported the repeal of those excess majorities where they were in place & resisted the placement of those when they're not in place.

Chairman Koppelman: 1983 is frequently quoted as a benchmark, which I suspect was at the height of funding from Measure #6 (oil tax). Is it reasonable to hold that level out for funding for education?

Westby: It did spike up following the enactment of Measure #6; however, even prior to that, the state had established a benchmark of 70% for education from state sources. In 1983 we came the

closest to that by reaching 63% of the per person cost. It's been a historical goal.

Chairman Koppelman: How can legislature deal with these kinds of admonitions, for example to fund 70% of the cost of education, when we don't control the cost of education?

Westby: (35.9) We have to go by the benchmark & statistics compared to other states. We're surrounded by states (excluding SD) that are paying their teachers much better than we are. New & experienced teachers are being plucked off by those states; if we could be somewhere in the middle maybe we keep some of our young people here.

Mary Wahl, NDCEL: (37.8) Isn't it ironic that 50% of you, as legislatures, can pass this bill, submit it to the electorate & 50% of the electorate can vote to require 60% vote to raise these questions? We believe that the government works the way it should & we should trust the system to work the right way & trust the voters to take care matters with regard to any increases that they feel are inappropriate by the means available.

Chairman Koppelman: closed the hearing.

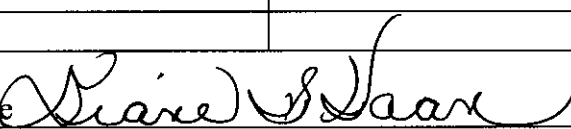
2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HCR3004

Constitutional Revision

☐ Conference Committee

Hearing Date 2-28-05

Tape Number	Side A	Side B	Meter #
1	x		5.8 ---- 9.9
Committee Clerk Signature 			

Minutes:

Chairman Koppelman: (5.8) We'll take a look at HCR3004. This has to do with a super majority being required in the legislature to pass a tax increase. We received some things from LC & the Council of State Government about how many other states actually require super majorities. **(see attachments)** I had thought that most required a 2/3 majority, but apparently this is a movement that's catching interest around the country. It's our decision ... is there discussion or a motion?

Rep Klemin moved to "Do Not Pass" **Rep Meier seconded the motion**

Rep Klemin: (7.8) We've already had an initiated measure on this that failed. We've had 60% *(can't understand)* which does make for a minority rule, 40% would be calling the shots for anything related to tax increases.

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Constitutional Revision

Bill/Resolution Number HCR3004

Hearing Date 2-28-05

Rep Kasper: (9.0) I think particularly this session has been telling through my perspective, it's too easy to spend money when you've got a lot of money, sometimes a restraint on a political body is good. I'm going to vote against the motion.

Chairman Koppelman: If no further discussion, we'll call the roll.

"Do Not Pass" **5 Yes** **1 No** **1 Absent & Not Voting** **Carrier: Rep Klemin**

Date: 2-28-05
Roll Call Vote #:

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HCR 3004

House CONSTITUTIONAL REVISION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

"Do Not Pass"

Motion Made By

Klemin

Seconded By

Meier

Representatives	Yes	No	Representatives	Yes	No
Chair Koppelman	✓		Rep. Conrad	✓	
Rep. Kretschmar, Vice Chair	✓		Rep. Sandvig	✓	AB
Rep. Kasper		✓			
Rep Klemin	✓				
Rep L. Meier	✓				

Total (Yes) 5 No 1

Absent 1

Floor Assignment

Klemin

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
March 1, 2005 4:23 p.m.

Module No: HR-37-3911
Carrier: Klemin
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HCR 3004: Constitutional Revision Committee (Rep. Koppelman, Chairman)
recommends **DO NOT PASS** (5 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING).
HCR 3004 was placed on the Eleventh order on the calendar.

2005 TESTIMONY

HCR 3004



NORTH DAKOTA

Testimony of Bill butcher, State Director, National Federation of Independent Business (NFIB) in support of HCR 3004

NFIB represents approximately 3000 small business owners throughout North Dakota.

All positions that NFIB takes on issues that are before the Legislature are determined by member ballots.

A poll of our North Dakota members was taken to determine NFIB's position on the issue of enacting a new section of the Constitution requiring a majority vote of 60% of the members of both houses to raise taxes. The question was posed as to four distinct types of taxes and called for members to cast ballots on each one. The result was overwhelming. The percentage in support of requiring a 60% super majority vote in regards to each tax was as follows:

Personal Income Tax – 82%

Sales and Use Tax – 75%

Corporate Income Tax – 78%

Motor Vehicle Excise Tax – 71%

Members believe that government should only tax it's citizens when necessary, and, when it is necessary, at least 60% of the votes will be there. If a proposed tax increase passed the Legislature by such a majority, it would not likely be referred for a vote by the people and so it would not likely be rejected.

60% of North Dakotans are presently required to approve school bond issues. I submit that the same standard should apply to the Legislature to raise any tax.

Such tax limitations work in the states that have adopted them and they will work in North Dakota. Studies show that with tax limitations, taxes and hence spending will grow more slowly, economies expand faster and the job base grows more quickly than they do under our present simple majority system.

Low taxes won't guarantee growth and prosperity, but high taxes will almost certainly slow the economy. Passage of this bill will protect and assure our future.

A super majority of NFIB members strongly urge the passage of HCR 3004!

October 2003

HCR 3004

INITIATED CONSTITUTIONAL MEASURE TO REQUIRE VOTER APPROVAL OF TAX INCREASES - WHAT CONSTITUTES A TAX INCREASE?

This memorandum was requested to review the initiated measure for a constitutional amendment, attached as Appendix A, that would require a vote of the electors of the state or the "affected political subdivision" to "increase taxes." The initiated tax measure is the subject of a petition approved as to its form by the Secretary of State on August 29, 2003. The initiated tax measure would add the following two sentences to the Constitution of North Dakota:

Neither the state of North Dakota nor any political subdivision thereof shall increase taxes without first submitting said increase to the voters for their approval. The increase shall be permissible only with an approval by not less than sixty (60%) of those voting in the affected political subdivision.

The initiated measure does not define what constitutes a tax increase. A similar initiative petition, attached as Appendix B, was approved for circulation by the Secretary of State on September 21, 1993. The 1993 petition contained a significant amount of language defining when a tax increase would be deemed to have occurred. That language would have served to limit the meaning of the language requiring voter approval of tax increases. Because the drafters of the 2003 petition chose not to define what constitutes a tax increase, it appears their intention is that a tax increase be broadly interpreted. The second sentence of the amendment requires a 60 percent vote of those voting in the "affected political subdivision." Because the state of North Dakota is not a political subdivision (a fact recognized in the first sentence), it could be argued the measure would impose a majority vote requirement for state tax increases and a 60 percent vote requirement for local government tax increases. The drafters of the measure chose to use the phrase "state of North Dakota" rather than "legislative assembly" so it appears they did not intend to limit application of the measure to legislative action, but to include acts of state boards, commissions, and other entities which would qualify as a tax increase. The measure as approved contains a drafting error in the second sentence that requires approval by not less than sixty of those voting in the affected political subdivision. The parenthetical inclusion of numeral and percentage signs indicate the intention that the requirement is for a 60 percent minimum vote for approval but the word "percent" should have been inserted after the word "sixty."

SIGNATURE REQUIREMENTS AND FILING DEADLINES

Article III, Section 5, of the Constitution of North Dakota requires filing of an initiative petition not less than 90 days before the election at which the measure is to be presented to the voters. The filing deadline for the 2004 primary election would be March 9, 2004, and the filing deadline for the general election would be August 3, 2004. Under North Dakota Century Code Section 1-01-50, an initiative petition may not be circulated for more than one year from the date of the first signature on the petition.

For an initiated measure relating to statutory provisions, Article III, Section 4, of the Constitution of North Dakota requires signatures of 12,844 electors (2 percent of the resident population of the state at the last federal decennial census). For an initiated measure for a constitutional amendment, Article III, Section 9, of the Constitution of North Dakota requires 25,688 signatures (4 percent of the resident population of the state at the last federal decennial census). Because the initiative petition calls for a constitutional amendment, 25,688 valid signatures of North Dakota electors are required on petitions submitted to the Secretary of State before the measure will be placed on the statewide election ballot.

WHAT CONSTITUTES A TAX INCREASE?

The proposed initiated measure requires submission to the voters of the state or the affected political subdivision when action of the state or a political subdivision "shall increase taxes."

The first issue for consideration is what constitutes a "tax" for purposes of the initiated measure. The North Dakota Supreme Court has made it clear that it does not matter whether an imposition is called a fee or a tax. The Supreme Court said "a 'tax' is an enforced contribution for public purposes which in no way is dependent on the will or consent of the person taxed." (*Menz v. Coyle*, 117 N.W.2d 290 (N.D. 1962)). Applying the rule from *Menz*, the Supreme Court said a license fee imposed by the state is an enforced contribution and therefore is a tax. (*Ralston Purina Co. v. Hagemeister*, 188 N.W.2d 405 (1971)). In *Ralston Purina*, the Supreme Court decided that a license fee set by the Poultry Improvement Board is a tax. Under the rationale of *Menz* and *Ralston Purina*, it appears fees for hunting and fishing licenses, and occupational licenses, and filing fees would all be considered taxes for purposes of the initiated measure.

INITIATIVE PETITION TO THE SECRETARY OF STATE STATE OF NORTH DAKOTA

We, the undersigned, being qualified electors request the following initiated law be placed on the ballot as provided by law.

SPONSORING COMMITTEE

The following are the names and addresses of the qualified electors of the state of North Dakota who, as the sponsoring committee for the petitioners, represent and act for the petitioners in accordance with law:

Charlene E. Nelson
Co-Chairman
15703 31st St SE
Casselton, ND 58012

Leland P. Wetzel
Co-Chairman
1974 47th Ave. SW
New Salem, ND 58563

Ronald D. Shaw
4512 Patriot Dr.
Bismarck, ND 58503

Jerold Albert
1312 N. 21st St.
Bismarck, N.D. 58501

Daryl B Hanson
6967 Riverdale Dr.
Fargo, ND 58104

Shirley Starke
Rte 2 Box 230
Valley City, ND 58072

Ronald E. Almquist
2700 74th St. N.W.
Minot, ND 58703

Kenneth D Knight
305 5th Ave NE
Hazen, ND 58545

Christy A. Zentz
1016 W. Sweet Ave.
Bismarck, ND 58504

Thomas N. Bauman
146 7th Ave. West
Dickinson, ND 58601

Al Kuntz
142 Tucson Ave
Bismarck, ND 58504

Gary H. Zentz
1016 W. Sweet Ave.
Bismarck, ND 58504

Tim Beaudoin
P.O. Box 1271
Dickinson, ND 58602

Keith A. Marshall
2001 128th St SW
Burlington, ND 58722

Glen E. Baltrusch
312 Alder Ave.
Harvey, ND 58341-1022

Thomas A. Buckhoff
2974 Southgate Drive
Fargo, ND 58103-3524

Herb T. Mittelstedt
504 14 ST NW
Mandan, ND 58554-1816

W. R. Eisenman
1405 17th St SE
Mandan, ND 58554

Andrew A. Fimrite
3301 101 St NW
Burlington, ND 58722

Louise Muecke
3441 100th Ave SW
Gladstone, ND 58630

Steve Cates
3521 Hwy 1804 SE
Bismarck, ND 58504

Jerrel L. Gullickson Sr.
204 4th St SW
Dickson, ND 58601

Ralph Muecke
3441 100th Ave. SW
Gladstone, ND 58630

Keith Hanson
2917 7th Ave NW Apt 3
Fargo, ND 58102

Linda L. Gullickson
204 4th St SW
Dickinson, ND 58601

Milton L. Myran
9976 34 ST SW
Gladstone, ND 58630

Martin J. Riske
3109 13th Ave. SW
Fargo, ND 58103

Richard O. Olsen
Box 131
Center, ND 58530

BALLOT TITLE

This initiated measure would add a new section to the North Dakota Constitution preventing the state or its political subdivisions from increasing a tax without at least sixty percent approval by "those voting in the affected political subdivision."

17				
18				
19				
20				
21				
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23				
24				
25				

State of North Dakota

)

)ss

County of _____

)

(county where signed)

I, _____, being sworn, say that I am a qualified elector; that I
(circulator)

reside at _____; that each signature contained on the attached
(address)

petition was executed in my presence; and that to the best of my knowledge and belief each person whose signature appears on the attached petition is a qualified elector; and that each signature contained on the attached petition is the genuine signature of the person whose name it purports to be.

(signature of circulator)

Subscribed and sworn to before me on _____, _____ at _____
(city)

North Dakota.

(signature of notary)

Notary Seal

Notary Public

My commission expires _____

Effective Date of Tax Increases-- Page 1

**INITIATIVE PETITION
TO THE SECRETARY OF STATE, STATE OF NORTH DAKOTA**

We, the undersigned, being qualified electors, request the following initiated constitutional amendment be placed on the ballot as provided by law.

SPONSORING COMMITTEE

The following are the names and addresses of the qualified electors of the state of North Dakota who, as the sponsoring committee for the petitioners, represent and act for the petitioners in accordance with law.

John J. Goosbee, Chairman RCR 4, Box 162 Mandan, ND 58554	Jon G. Lindgren, Vice-chairman 2001 North 7th Street Fargo, ND 58102	David Alfstad 2102 North 8th Street Bismarck, ND 58501	Alma Dauer 400 17th Street, N.W., #3 Mandan, ND 58554	Clarence Berg RCR 1, Box 25 Driscol, ND 58532
Joseph Edward Bowling 821 Second Avenue East Williston, ND 58801	Betty J. Christensen 1305 18th Street, S.E. Mandan, ND 58554	Frank E. Christensen 2011 3rd Street, S.E. Jamestown, ND 58401	L.R. Gajewski Rte. 1, Box 68 Alexander, ND 58831	Alvin Gomer P.O. Box 888 Hettinger, ND 58639
Erling Haugland P.O. Box 1473 Bismarck, ND 58502	Aldien B. Johnson 2101 North 8th Street Bismarck, ND 58501	Henry Kaelberer P.O. Box 16 New Salem, ND 58563	Beverly Klein P.O. Box 265 Fessenden, ND 58438	Russell Kleppe P.O. Box 89 Steele, ND 58482
Larson rd Avenue, N.W. an, ND 58554	Thomas J. Lax 1116 2nd Avenue North Grand Forks, ND 58203	Melvin A. Martinson 2625 17th Street South, #8 Grand Forks, ND 58201	Brenda L. Mattern 3264 Montreal Street Bismarck, ND 58501	Allen R. McIntyre P.O. Box 408 Hettinger, ND 58639
Arthur Melby 1392 Elm Avenue Harvey, ND 58341	Ralph Muecke RCO 1, Box 14 Gladstone, ND 58630	Russell L. Odegard Rte. 4, Box 344 Minot, ND 58701	Ray Olin P.O. Box 35 New Salem, ND 58563	Peter A. Reis P.O. Box 1444 Dickinson, ND 58602
Orval W. Schlenvogt Rte. 1, Box 92 Mott, ND 58646	T.L. Secrest P.O. Box 430 Hettinger, ND 58639	Robert B. Shapland P.O. Box 789 Hettinger, ND 58639	Marlys Stein 2102 North 8th Street Bismarck, ND 58501	John L. Strauss 505 East Brewster Harvey, ND 58341
Willard E. Tormaschy 819 8th Avenue West Dickinson, ND 58601	Duane Trosen P.O. Box 517 Larimore, ND 58251	Martin Vaaler Rte. 2, Box 81 Elgin, ND 58533	John J. Wanner Rte. 2, Box 123H Dickinson, ND 58601	Ruth J. Widiger P.O. Box 468 Fessenden, ND 58438

BALLOT TITLE

This initiated measure would create a new section to Article IV of the Constitution of North Dakota to provide that any tax increase approved by the legislative assembly would take effect only after the law has been approved by a majority of voters at the next regularly scheduled statewide general election following the law's enactment. In the case of natural disasters or other unforeseen emergencies, the legislative assembly by a vote of three-fourths of the members elected to each house may temporarily increase tax liability. The measure also defines what constitutes a tax increase.

FULL TEXT OF THE MEASURE

IF MATERIAL IS UNDERSCORED, IT IS NEW MATERIAL WHICH IS BEING ADDED. IF MATERIAL IS OVERSTRUCK BY DASHES, THE MATERIAL IS BEING DELETED. IF NO MATERIAL IS UNDERSCORED OR OVERSTRUCK, THE MEASURE CONTAINS ALL NEW MATERIAL WHICH IS BEING ADDED.

INSTRUCTIONS TO PETITION SIGNERS

You are being asked to sign a petition. You must be a qualified elector. This means you are eighteen years old, you have lived in North Dakota thirty days, and you are a United States citizen. All signers must add their entire post-office address, including post office box number, and the date of signing. Every qualified elector signing a petition must do so in the presence of the person circulating the petition.

QUALIFIED ELECTORS

Month, Day, Year	Name of Qualified Elector	Residential Address or P.O. Box No.	City, ND, ZIP Code
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
0.			
1.			
2.			
3.			
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5.			
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7.			

2CR 3004

Individual Liberty,
Limited Government,
Free Markets and Peace

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April 15, 1998

Supermajority: A Super Idea

by Dean Stansel

Dean Stansel is a fiscal policy analyst at the Cato Institute in Washington, D.C., and author of The Hidden Burden of Taxation: How Government reduces Take-Home Pay.

If the people's elected representatives want to take more money out of their constituents' pockets, they will have to reach a broader consensus before they can do so. That is really all that a supermajority requirement for tax increases says, although critics say it is radical and draconian. In her State of the State address, Gov. Christine Whitman endorsed the idea of requiring a 2/3 supermajority for state tax hikes in New Jersey. On Tuesday April 14, she will unveil her formal proposal. State Senator Walter Kavanaugh and State Assemblyman Guy Gregg have proposed a less restrictive 3/5 supermajority requirement.

Requiring a broader consensus to raise taxes is a no-brainer in a high-tax state like New Jersey. Despite the recent income tax cuts, New Jerseyites still face one of the highest state tax burdens in the nation. Only 12 states have a higher per capita state tax burden than New Jersey. When local taxes are included, New Jersey is fourth highest (16th highest as a percentage of income). At 6.37 percent, the top income tax rate is still much higher than it was in 1990 (3.5 percent) before Gov. Jim Florio's record-breaking tax hike. And since 1980, per capita state spending in New Jersey has gone up faster than in every other state in the nation except one. Only Connecticut has increased per capita spending faster than New Jersey.

Some critics of a supermajority requirement say it is a risky measure that would not work in New Jersey. However, 13 other states already have such requirements. Nine of those states have stiffer requirements than the 3/5 measure being considered in the legislature—seven have a 2/3 requirement, like Gov. Whitman has endorsed, and two have a 3/4 requirement.

Other states have gone even further. Five states now require voter approval for tax increases, a substantially more difficult barrier. In Florida, where taxes are already much lower than in New Jersey, tax hikes must be approved by a supermajority of the voters.

A supermajority requirement does not mandate a

February 15, 2005

Daily Commentary

Budget Boredom

by Alan Reynolds

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tax cut, nor does it prohibit tax increases. Supermajority requirements merely ask legislators to reach a broader consensus when they want to take more money out of their constituents' pockets.

There is some evidence that supermajority requirements have at least helped to restrain the growth of taxes. From 1980 to 1996, state tax burdens as a share of personal income increased by 1.1 percent in states with supermajority requirements. Taxes rose five times faster in states without such requirements.

In 10 states, residents face higher top personal income tax rates today than they did in 1990. None of those states require supermajority approval for tax hikes. None of the 13 supermajority states have higher top rates today than they did in 1990, and three of them have lowered their top rate in the 1990s.

In Arizona, before the supermajority requirement was enacted in 1992, taxes had been raised eight times in the previous nine years. Since then taxes have been cut five years in a row.

Opponents of supermajority requirements for tax increases often claim that they are radical, reckless measures that will require draconian cuts in government spending on schools, roads, children and the poor. For instance, the New Jersey Education Association recently told a state Senate committee that a supermajority requirement "threatens the future of public education."


While supermajority requirements can provide a modest amount of tax relief by making it less likely that tax hikes will be imposed, make no mistake, those requirements are truly modest measures. The idea that requiring more than a simple majority to increase taxes will gut the budget is ridiculous. A supermajority requirement does not mandate a tax cut, nor does it prohibit tax increases. Supermajority requirements merely ask legislators to reach a broader consensus when they want to take more money out of their constituents' pockets.

Furthermore, since the supermajority requirements proposed in the legislature and by the governor are in the form of constitutional amendments, they would have to be approved by the voters before taking effect. Therefore, enacting those measures will not by itself impose a supermajority requirement. Instead, it would merely give New Jersey taxpayers an opportunity to decide whether or not they want to make it more difficult for their elected representatives to increase their taxes. What could be more reasonable? Why not let the voters decide? After all, it is their money.

Today Americans have to spend more on taxes than they do on food, clothing, shelter and transportation combined. Other states with lower taxes than New Jersey are prohibiting their legislatures from raising taxes without the explicit permission of the voters, a much stiffer restriction than a supermajority requirement. Is it really too much to ask that more than a simple

majority of the legislature be required to raise New Jersey's tax burden even higher?

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Chapter Two

Table M
Tax and Expenditure Limitations

State	Tax and Expenditure Limitation	Nature	Where Does Tax Increase Originate	Votes Required to Pass Revenue Increase
Alabama	-	-	L	majority
Alaska	Appropriation limited to growth of population and inflation	C	LU	majority
Arizona	Appropriations limited to 7.41% of personal income	C	LU	2/3 elected
Arkansas	Extraordinary vote required	-	LU	3/4 elected*
California	Appropriation limited to personal income growth and population	C	LU	2/3 elected
Colorado	Appropriation growth limited to 6% of prior year's appropriation	S	L	majority*
	General & Capital Fund revenues limited to growth of population and inflation	C	-	-
Connecticut	Appropriations limited to greater of personal income growth or inflation	C	LU	majority
Delaware	Appropriations limited to 98% of estimated revenue	C	L	3/5 elected
Florida	Revenue limited to 5 year average of personal income growth	C	LU	2/3 elected
Georgia	-	-	L	majority
Hawaii	Appropriation limited to 3 year average of personal income growth	C	LU	majority*
Idaho	Ongoing appropriations limited to 5.33 percent of personal income	S	L	majority
Illinois	-	-	LU	majority
Indiana	-	-	L	majority
Iowa	Appropriations limited to 99% of adjusted general fund receipts	S	LU	majority
Kansas	-	-	LU	majority
Kentucky	-	-	L	2/5 elected
Louisiana	Appropriation limited to per capita personal income growth	C	L	2/3 elected
	Revenue limited to a ratio of personal income in 1979	S	-	-
Maine	-	-	LU	majority
Maryland	-	-	LU	majority
Massachusetts	Revenue limited to growth in wages and salaries	S	LU	majority
Michigan	Revenue limited to 9.49% of prior year's personal income	C	LU	majority*
Minnesota	-	-	L	majority
Mississippi	Appropriations limited to 98% of projected revenue	S	LU	3/5 elected
Missouri	Revenue limited to 5.64% of prior years personal income	C	LU	majority*
Montana	Appropriations limited to personal income growth	S	LU	majority
Nebraska	-	-	Unicameral	majority
Nevada	Expenditures limited to growth of population and inflation	S	LU	3/5 elected
New Hampshire	-	-	L	majority
New Jersey	Appropriations limited to personal income growth	S	L	majority
New Mexico	-	-	LU	majority
New York	-	-	LU	majority
North Carolina	Appropriations limited to 7% of state personal income	S	LU	majority
North Dakota	-	-	LU	majority
Ohio	-	-	LU	majority
Oklahoma	Appropriations limited to 95% of certified revenue*	C	L	3/4 elected
Oregon	Appropriations limited to personal income growth	S	L	2/3 elected
Pennsylvania	-	-	L	majority elected
Rhode Island	Appropriations limited to 98% of projected revenue	C	LU	majority
South Carolina	Appropriations limited to personal income growth	C	LU	majority
South Dakota	-	-	LU	2/3 elected
Tennessee	Appropriations limited to personal income growth	C	LU	majority
Texas	Appropriations limited to personal income growth	C	L	majority
Utah	Appropriations limited to growth in population, inflation, and personal income	S	LU	majority
Vermont	-	-	L	majority
Virginia	-	-	LU	majority*
Washington	State general fund expenditures limited to growth in population and inflation	S	LU	majority
West Virginia	-	-	LU	majority
Wisconsin	-	-	LU	majority
Wyoming	-	-	L	majority
Puerto Rico	-	-	L	majority

Codes: C...Constitutional L...Lower
 S...Statutory U...Upper

Notes to Table M

Arkansas: The constitution provides that an increase in the rate of any tax in existence in 1934 requires a $\frac{3}{4}$ majority vote. This includes income tax, severance tax, and certain excise and privilege taxes. The most significant tax not in existence in 1934 is the sales tax that requires a simple majority.

Colorado: All tax increases must be approved by a vote of the people.

Hawaii: Two-thirds of elected members are required if the general fund expenditure ceiling is exceeded; otherwise, a majority of elected members is required.

Michigan: The Michigan Constitution limits the amounts and types of taxes that can be imposed. In general, tax increases must be approved by a majority vote of the people.

Missouri: Legislature can approve tax and fee increases during a legislative session of no more than one percent of total state revenue as proscribed by the state's constitutional revenue and spending limit---roughly \$70 million in fiscal 2002. Amounts above this level must be approved by the voters.

Oklahoma: Growth in appropriations also limited to 12 percent above the previous year's appropriations, adjusted for inflation and adjusted for funds not previously appropriated.

Virginia: Two-thirds of members present includes a majority of the members elected.

<p>Arizona</p> <p>Supermajority?</p> <p>Enacted 1992</p> <p>State, Counties, Cities, Towns</p> <p>Method: Citizen Initiative</p>	<p>Yes. Art. IX, §22(A) Requires 2/3 of each state House plus signature of governor to increase state revenues (a new tax, an increase in tax rate, or a reduction/elimination of a tax deduction, exemption, exclusion, credit or other tax exemption feature in computing tax liability). If governor vetoes, the constitution requires ¾ approval from each House. However, Art. IX, §22(C) ¶1-3 gives three "loopholes" that allow an increase in revenues, not subject to the process outlined in (A): 1) effects of inflation and increasing assessed valuation or any other similar effects; 2) fees and assessments that are authorized by statute, but are not prescribed by formula, amount or limit, and are set by a state officer or agency; and 3) Taxes, fees or assessments that are imposed by counties, cities, towns and other political subdivisions of the state (see below for particulars). Supermajority is constitutional law but the limit on revenue is only applicable to the state and not the counties, cities, towns or other political subdivisions.</p>
<p>Deferring to the counties, cities, towns and other political subdivisions of the state:</p>	<p>Each political subdivision has an "economic estimates commission" (as does the state for state level expenditure determination) consisting of three members. This commission is responsible for determining the expenditure limitation for the following fiscal year for their particular subdivision. The expenditure limit is determined by adjusting the actual amount of actual payments of local revenues for fiscal year 1979-1980 to reflect the changes in population and cost of living. Art. IX, §20(9): A supermajority of 2/3 is required by the governing board of the subdivision to increase the expenditure limitation and must be approved by a simple majority of voters at an election prior to the fiscal year in which the expenditure limit is to take effect. Subsequently, if voters approve of the expenditure limitation increase, it will hold for the following 4 fiscal years and an increase in expenditure limit cannot be put to the people again within the 4 years. If they reject it, calculation of expenditure limit must rely on the formula of Art. IX, §1 and voters cannot be approached again for at least two years asking for an increase in the expenditure limit.</p>
<p>Emergency Clause?</p>	<p>Yes – only at the county, city and town level. Requires a 2/3 approval from the governing board for money to go directly to aid in response to a man-made or natural disaster (if the governor declares an emergency) and is only applicable to the current or the succeeding fiscal year. If the governor does not declare an emergency, 70% approval of the governing board for an increase in expenditure and a reduction in expenditures (below the limit) in the following fiscal year. Or, a simple majority approval by the voters to allow an increase in expenditure. If the voters do not approve the increase, the governing board must reduce expenditures below the limit in the following fiscal year.</p>
<p>Initiative & Referenda Requirements (Art. IV, §1)</p>	<ul style="list-style-type: none"> Initiative: To have any measure put on the ballot (non-constitutional) requires the signatures of 10% of qualified electors. Requires the signatures of 15% of the qualified electors to propose an amendment to the constitution and requires a majority of the voters to approve its passage. <ul style="list-style-type: none"> Must be filed at least four months prior to when the proposed measure will on the ballot. Referendum: Requires signatures of 5% of qualified voters to put the measure on the ballot challenging/amending any measure, or item, section, or part of any measure, enacted by the Legislature except laws immediately necessary for the preservation of the public peace, health, or safety, or for the support and maintenance of the departments of the state government and state institutions. Must be filed within 90 days following the adjournment of the legislative session in which the act was enacted. If a portion of a bill, act, or law is contested, the remainder of that measure will not be held up due to the referendum. Requires a majority of the voters approving for it to pass. Veto by governor not allowed on initiatives or referendum approved by the majority of voters. Legislature not allowed to repeal an initiative or referendum measure approved by the voters. Legislature can amend an approved initiative or referendum only if the amending legislation furthers the purposes of the initial measure and it requires ¾ supermajority vote of each House for approval. Local matter initiative: Requires the signatures of 15% of the qualified electors to propose a measure. Local matter referendum: Requires the signatures of 10% of the qualified electors to propose the referendum on legislation enacted within and by such city, town, or county.
<p>Recent History</p>	<p>2002 – Proposal brought forth to Legislature to propose a constitutional cap on state spending (based on population growth and inflation) and required a popular vote of the Legislature to increase taxes. Proposal failed by one vote in the House (4/10/02).</p> <p>2000 – Arizona Supreme Court threw out a ballot measure (Taxpayers Protection Act, Proposition</p>

107) that would have abolished state income and sales tax over a four-year phase out plan and required a majority of voters to approve tax increases. Court determined that is violated the "one issue" rule (can only have one issue per proposed measure).
1992 - Initiative that passed the 2/3 majority constitutional requirement for tax increases (became §22 of Article IX).

Arkansas	
Supermajority?	Yes. Art. V §31 states that "No state tax shall be allowed, or appropriation of money made, except to raise means for the payment of the just debts of the State, for defraying the necessary expenses of government, to sustain common schools, to repel invasion and suppress insurrection, except by a majority of 2/3 of both Houses of the General Assembly." Also, Art. V §38(2) states that rate increases for property, excise, privilege or personal taxes requires approval of the voters except in the case of emergency. §39(3) also allows an increase in expenditure limit (above and beyond the \$2.5 million limit) with a ¾ majority approval by both Houses. Supermajority is constitutional.
Initiative & Referenda (Amendment 7)	<ul style="list-style-type: none"> Initiative: Requires signature of 8% of legal voters (based on the total number of votes cast for the office of Governor in the preceding election) to propose any law and 10% for a constitutional amendment. Must be filed with the secretary of state not less than 4 months prior to the election in which the measure is to be voted on. Publication of the measure is at the cost of the petitioner and the constitution requires that the measure be published at least once in some paper of general circulation at least 30 days before the filing. Referendum: Requires the signatures of 6% of legal voters (based on the total number of votes cast for the office of Governor in the preceding election) to, by petition, order the referendum against any act, or any item of an appropriation bill, or measure passed by the General Assembly. Must be filed within 90 days of adjournment of the session that passed the act, bill or measure.
California	
Supermajority?	Yes. Proposition 13 passed in 1978 provided the constitutional amendment (Art. 13 §3). Forces a 2/3 supermajority approval in both Houses to raise any and all taxes. However, a loop hole was created by the lawmakers by exempting local governments that enact "assessments" and "fees" from supermajority requirements. In 1996, Proposition 218 was passed by the majority of voters, creating Art. XIII C. Art. XIII C §2(b): Requires that local government receive a majority approval to impose, extend, or increase any general tax. §2(c) requires a 2/3 majority approval by the electorate to impose, extend, or increase any special tax. Supermajority is constitutional.
Initiative & Referenda	<ul style="list-style-type: none"> Art. II §8(b) Initiative: Requires signatures of 5% of the voters for all gubernatorial candidates in the previous election to propose or amend a statute. To propose a constitutional amendment, signatures of 8% of the voters for all gubernatorial candidates in the previous election is required. Majority approval of voters is required to pass either. Art. II §9(a) Referendum: Allow for voters to approve or reject statutes (or parts thereof) and requires signatures of 5% of the voters for all gubernatorial candidates in the previous election. Art. II §10(c) allows the Legislature to amend or repeal referendum statutes. However, it can only amend or repeal the statutes by proposing another statute and it receives a majority approval by the electorate unless the original statute permits amendment or repeal without the consent of the voters.
Recent History	Governor Davis to release his "Budget Plan" on Tuesday, May 14, 2002. Expected increase in taxes to fix the shortfall. Items such as increases in the vehicle license fee, the SUV tax (\$3,500) and the "twinkie tax" are all to be decided on when the budget comes forth.
Colorado	
Supermajority?	No, but requires majority of voters approval for any tax increase. Art. X §20 is the Taxpayers Bill of Rights (a.k.a. TABOR). This is an amendment to the constitution that took effect in 1992. §20(4)(a) requires voter approval for "any new tax, tax rate increase, mill levy above that for the prior year, valuation for assessment ratio increase for a property class, or extension of an expiring tax, or a tax policy change directly causing a net tax revenue gain to any district. §20(7)(a) limits the increase in expenditure limit to inflation + % change in state population. Adjusted revenue changes must be approved by the voters as well. Supermajority is constitutional.
Deferring to the Counties, Cities, and Towns	Art. X §7 allows the state to defer taxation power to the county, city, town or other municipal incorporations.

Emergency Clause?	Yes. However, in Art. X, §20(2)(c), the emergency clause excludes economic conditions, revenue shortfalls, or district salary or fringe benefit increases. §20(6)(a) also requires a 2/3 supermajority of each House or local district board to declare an emergency and to impose a tax for the emergency.
Initiative & Referenda Requirements (Art. V)	<ul style="list-style-type: none"> Initiative (§2): Requires 5% of votes cast for all candidates for the secretary of state in the preceding election to propose a petition. This must be filed at least 3 months prior to the general election in which the initiative is to be voted upon. Referendum (§3): A petition for a referendum can be proposed by the people or the general assembly for any law (or part thereof) passed by the Legislature (with the exception of laws necessary for the immediate preservation of the public peace, health or safety, and appropriations for the support and maintenance of the departments of state and state institutions. Requires 5% of votes cast for all candidates for the office of secretary of state in the preceding election to propose the petition. <ul style="list-style-type: none"> Must be filed within 90 days following the adjournment of the legislative session in which the law was enacted. §4 – Governor cannot veto any measures initiated or referred by or to the people. A majority vote of voters is required to pass a measure. §9 – Cities, towns, and municipalities referendum and initiative requires 10% of registered voters for the referred measure to be placed on the ballot, 15% of registered voter to place the initiative measure.
Recent History	Gov. Owens encouraging the initiative process at the local/regional level to put a tax increase on the ballot for voter approval. This would be helped by reducing the number of signatures required from 80,000 to 5,000 for regional measures which tend to be less well funded.
Delaware	
Supermajority?	Yes. Art. 8 §10(a) of the constitution requires 3/5 approval of each House to any increase in tax or license fee. §11(a) requires 3/5 approval of each House to levy any new tax or license fee. Supermajority is constitutional.
Initiative & Referenda	<ul style="list-style-type: none"> Art. XVI §1 – Constitutional Amendment requires 2/3 majority approval by each House. The secretary of state is required to publish the proposed amendment in at least 3 newspapers in each county (in which the papers are published) 3 months prior to the general election. A 2/3 majority approval is required by the new Legislature (each House) to approve the constitutional amendment. No other I & R exists in the state constitution.
Florida	
Supermajority?	Yes – but not on all taxes. Art. VII §5(b) requires a 3/5 approval majority of each House to raise income taxes by more than 5% of individual net income. In 1996, "Ballot Measure One" amended Art. XI §7 stating that. "No new State tax or fee shall be imposed on or after November 8, 1993 by any amendment to this constitution unless the proposed amendment is approved by not fewer than 2/3 of the voters voting in the election in which such proposed amendment is considered." In March 2001, State Sen. Posey (R) introduced sb1414 that would add to Art. 7 §1(d) a 3/5 supermajority requirement to raise taxes. However, the bill died in committee on May 4, 2001. Supermajority is constitutional.
Initiative & Referenda	<ul style="list-style-type: none"> Art. XI §3 Initiative (this is an amendment that is to take effect January 7, 2003): The people can propose an amendment to the constitution except on a subject that will limit the power to raise revenue. To place an amendment on the ballot, a petition signed by a number of electors in each of 1/2 of the congressional districts of the state, and of the state as a whole, equal to 8% of the votes cast in each of such districts respectively and in the state as a whole in the last preceding election in which presidential electors were chosen. Referenda is generated from the Legislature for "special laws."
Louisiana	
Supermajority?	Yes. Art. VII §2 requires a 2/3 majority approval by both Houses to levy a new tax, increase an existing tax, or repeal an existing tax exemption. §2.1(A) states that any new fee or civil fine or increase in an existing fee or civil fine imposed or assessed by the state or a local board, department or agency also requires a 2/3 approval majority by each House. However, §2.1(B) makes an exception: "... shall not apply to any department which is constitutionally created and headed by an officer who is elected by majority vote of the electorate of the state." Supermajority is constitutional.

Deferring to the localities	Art. VII §4(C) prohibits a political subdivision from levying a severance tax, income tax, inheritance tax, or tax on motor fuel.
Emergency Clause?	No.
Initiative & Referenda?	No.
Mississippi	
Supermajority?	Yes. Art. IV §70 states that "no revenue bill, or any bill providing for assessments of property for taxation, shall become a law except by a vote of at least 3/5 of the members of each House present and voting." Supermajority is constitutional.
Enacted: 1970	
Taxes Increases Affected: All	
Method: Legislative Referendum	
Emergency Clause?	No.
Initiative (no referenda)	<ul style="list-style-type: none"> • Art. XV §273(2) Constitutional Amendment proposed by the Legislature requires 2/3 majority approval and then must be referred to the voters for approval (requires simple majority of the voters). • Art. XV §273(3) Constitutional Amendment proposed by the people requires the signature of 12% of the voters that cast votes in the last gubernatorial election. Signatures from any one congressional district shall not exceed 1/5 of the total number of signatures required to place the amendment on the ballot. • Art. XV §273(11) – If an amendment to the Constitution via initiative petition is rejected by the majority of the voters, another petition of the same subject matter cannot be proposed within the two years following the election in which the original was voted on.
Missouri	
Supermajority?	No. However, Art. X §18(e)(1) requires voter approval of revenue increase if the increase in revenue will exceed \$50 million or 1%. This was passed in 1996. In 1994, a more stringent requirement did not receive voter approval. According to the Allegheny Institute report, "Tax Limitation Measure Across the United States" this requirement failed because Missourians felt "they might lose funding for schools and law enforcement. They also did not want to be bothered with going to the polls every time a fee increase was proposed." Supermajority is constitutional.
Emergency Clause?	Yes. Art. X §18(e)(3) allows the general assembly to increase taxes, licenses or fees for one year beyond the limit (\$50 million or 1%). 2/3 majority of each House is required to declare an emergency.
Deferring to the localities	Art. X §22 requires majority approval by the voters to increase the current levy of an existing tax, license or fees.
Montana	
Supermajority?	No, but they did have one. In 1998, a ballot measure (CI-75) requiring voter approval for all tax increases passed with popular support. However, the Montana Supreme Court ruled the measure unconstitutional (based on the single-issue rule) and it did not take effect. Currently, a simple majority approval of each House is required to raise taxes. A 3/4 supermajority is required to take money out of certain funds (i.e., the coal trust fund). According to the Allegheny Institute Policy report, "Tax Limitation Measures Across the United States," Legislators in Montana have promised to re-introduce legislation with the same effect as CI-75. Any significant action has not been taken to date. CI-75 was put on the ballot via citizen initiative.
Initiative and Referenda	<ul style="list-style-type: none"> • Art. III §4(1) – Initiative: "People may enact laws by initiative on all matters <u>except</u> appropriations of money and local or special laws." §4(2) requires at least 5% of the qualified electors in each of at least 1/3 of the legislative representative districts and the total number of signatures must make up at least 5% of the total number of qualified electors in the state. • Art. III §5(1) – Referendum: "People may approve or reject by referendum any act of the Legislature except an appropriation of money." A referendum can be called by the Legislature or by petition of the people (requires 5% of the qualified electors in each of at least 1/3 of the legislative representative districts and the total number of signers must be 5% of the total qualified electors of the state. Must be filed within 6 months following the adjournment of the Legislature which passed the act. • Art. XIV §8 – Constitutional Amendment by the Legislature: Can be submitted by any member of the Legislature and requires 2/3 supermajority approval by the Legislature. Upon legislative approval, the amendment is submitted to the people and must be approved by the majority of the voters. • Art. XIV §9(1) – Constitutional Amendments by initiative: Requires 10% of the qualified electors in the state and must include 10% of the qualified electors in each of 2/5 of the legislative districts. Also requires a majority approval by the voters at a general election.
Nevada	
Supermajority?	Yes. A constitutional requirement (Art. IV, §18(2)) of 2/3 supermajority vote of each House to pass a bill or joint resolution which creates, generates, or increases any public revenue, including but not limited to taxes, fees, assessments, and rates, or changes in the computation bases for taxes, fees, assessments and rates. Art. IV §18(2)

assessments, and rates, or changed in the computation bases for taxes, fees, assessments and rates. Art. IV §18(3) requires a majority of Legislators in each House to refer a measure to increase, etc. to the voters for approval in the next general election and requires the majority of voters for approval. Supermajority is constitutional.	
Initiative & Referenda Requirements	<ul style="list-style-type: none"> Art. XVI §1 – Requires 2 successive majority approvals by the legislative assembly and the voters for ratification of a constitutional amendment. Must be filed with the secretary of state no sooner than September 1 of the year preceding the year of the general election in which the measure is to be voted on. Petition must be complete (with required signatures) no later than 90 days prior to the general election. Art. XIX §1(1) – Referendum: Requires the petitioner to file with the secretary of state prior to circulation the petition for signature. The purpose of the petition is to submit to the people for a vote, challenging a statute or resolution (or any part thereof) enacted by the Legislature. §1(2) Requires 10 of the voters from the last election to file with the secretary of state to have the measure put on the ballot. Must be filed 4 months prior to the general election in which the measure will be voted on. §1(3) Requires the majority of the voters for approval and the approved change can only be changed (in the future) by the people via a ballot measure put forth by the Legislature or the people. Art. XIX §2(2) – To propose an initiative to the secretary of state requires 10% of the voters of those who voted in the last general election in not less than 75% of the counties. Requires signatures of 10% of the voters in the last general election in the entire state for the circulated petition (after approval by the secretary of state). Art. XIX §2(3) – Earliest time to file for an enactment or amendment to a statute is on Jan. 1 of the year preceding the year of a regular legislative session. Must be filed with the secretary of state not less than 30 days prior to the regular legislative session. Legislature has 40 days to pass or reject the measure. If passed, becomes law (but subject to referendum), if rejected, put forth the voters for a vote. If majority of voters approve, it becomes law and cannot be “touched” for the following 3 years.
Recent History	Governor’s Task Force on Tax Policy convened in December 2001. They are considering taxes on gross receipts, mining, property, sales or services, business profits, slot route operators, car rental companies, fuel, and energy. They are also considering taxes on franchise fees, business employee taxes, and sales tax exemptions. The recommendations are due 11/15/02 and will be used by the 2003 Legislature when devising the biennial budget. This task force will be meeting again in 2002 to solidify their recommendations for 11/15/02.
Supermajority?	Yes. Art. V §33(C) requires that any bill for raising revenue must be submitted to the voters for approval (requires a simple majority for approval). §33(D) states that a bill that raises revenue is not subject to voter approval if approved by ¾ of each House. Any bill that falls under the requirements of (D) will not be subject to the emergency measure provision in Art. V §58. Supermajority is constitutional.
Emergency Clause?	Yes. Art. V §58 dictates that no act shall take effect until 90 days after the adjournment of the legislative session in which it was passed. The exceptions to this rule are enactments passed by initiative and referendum, a general appropriation bill, or if the language of the act itself states that the act must exempt itself from the 90 day rule. An act that states exempts itself from the 90 day rule must be passed with a 2/3 majority in both Houses. Emergency measures: “shall include only such measures as are immediately necessary for the preservation of the public peace, health, or safety . . .” If vetoed by the Governor, an “emergency measure” requires ¾ majority of each House to override the veto.
Deferring to the localities	Art. X §20 allows counties, cities, towns or other municipal corporations to assess and collect taxes for services in the respective locality.
Initiative & Referenda	<ul style="list-style-type: none"> Art. XXIV §1 Enables the Legislature to propose amendments to the constitution. If approved by a simple majority of each House, the amendment will be submitted for voter approval (requires simple majority of voters for approval). Art. V §4 Allows the voters to demand a referendum against one or more items, sections, or parts of any act of the Legislature. Art. V §6 states that any measure rejected by the people through the powers of initiative and referendum cannot be proposed by the initiative within three years after by less than 25% of the legal voters. Art. V §2 to propose an initiative - requires signatures of 8% of the number of voters that cast votes in the last general election (based on the state office receiving the highest number of votes at that particular election) to propose a legislative measure. Art. V §2 to order a referendum – requires signatures of 5% of the number of voters that cast votes in the last general election (based on the state office receiving the highest number of votes at that particular election) to propose a legislative measure. Art. V §2 to propose an amendment to the constitution - requires signatures of 15% of the number of voters

	that cast votes in the last general election (based on the state office receiving the highest number of votes at that particular election) to propose a legislative measure.
Oregon	
Supermajority?	Yes. Art. IV, §25(2) states that a 3/5 supermajority vote is required in both Houses of the Legislative Assembly to raise revenue beyond current budget requirements and must be adopted by the majority of the voters. Also, the Oregon Bill of Rights (32) states that "No tax or duty shall be imposed without the consent of the people or their representatives in the Legislative Assembly. . ." Supermajority is constitutional law.
Emergency Clause?	Yes. Art. III, § 3 states that the Legislative Assembly is authorized to establish a joint committee (with members of both Houses) while the Assembly as a whole is out of session (Oregon is a biennial Legislature). This committee can declare an emergency and allow spending by affected agencies in excess of their apportioned funds from the previously approved budget. If the full Assembly is in session, a 2/3 approval is required to declare an emergency and to increase spending in response to the emergency (Art. IX, §14[6][a]). However, Art. IX, §1(a) states that the Legislative Assembly cannot declare an emergency in an act regulating taxation or exemption. One dangerous avenue is that the Joint Committee is authorized to approve, or revise and approve spending and funding for new activity that comes into existence when the Assembly as a whole is out of session. Also, the definition of (or what constitutes an emergency) an emergency is up to the discretion of the Legislative Assembly (Art. III, §3[c][2]).
Initiative & Referenda Requirements (Art. IV, §1)	<ul style="list-style-type: none"> To place an <u>initiative to amend a law</u> on a ballot requires signatures equal to (at least) 6% of the total number of voters in the most recent, regular, gubernatorial election. To place an <u>initiative for a constitutional amendment</u> on a ballot requires signatures equal to (at least) 8% of the total number of voters in the most recent, regular, gubernatorial election. Amendments to the constitution may be proposed by either House of the Assembly and requires only a <u>simple majority</u> of each House and a <u>simple majority</u> of the voters (Art. XVII, § 1) Initiatives proposing a supermajority requirement of voters for approval of increased taxes requires an equal supermajority of voters to pass that initiative (i.e., to pass a 2/3 requirement of voters for approval, you need 2/3 voters to approve this requirement), (Art. II, § 23) – this was adopted in 1998 as reaction to initiative measure #2 (June 1998 for general election in 2000) asking for a 2/3 voter approval for most new, increased taxes, and fees. Initiatives must be filed with the Secretary of State not less than 4 months prior to the election in which it will be voted on. Typically, an initiative or referendum will be voted on in a general election unless a special election is called by the Legislative Assembly. A <u>referendum</u> contesting an Act (or part thereof) must be filed within 90 days immediately following the end of the session in which that particular Act was passed. Signatures equally at least 4% of the number of voters from the last gubernatorial race are required to put a referendum on a ballot. <i>A loophole here is that a referendum cannot be placed on a ballot if it (the Act) became effective within the 90 days immediately following the end of session during which the Act was passed).</i> Bills ordering a referendum (by the Legislature) and bills on which a referendum is ordered are not subject to gubernatorial veto. Signature Gatherers: Individual signature gatherers must be registered voters in the state of Oregon. Signature gathering businesses must be licensed by the Secretary of State (Art. II, § 26). The Legislative Assembly may pass a law prohibiting the payment of signature gatherers if it finds that it has led to fraud or abuse.
Recent History	The Legislative Assembly is required to balance a budget during the 2002 session. Among the proposed solutions was to increase the cigarette tax by \$0.30 per pack and \$0.05 per beer and wine drink (www.governor.state.or.us/governor/budget01-03/rebalance/rebalance.pdf). The budget with these increases did not receive the supermajority vote of the Assembly. The Assembly will return in June for a 3 rd special session to address the budget shortfall and the increase in tobacco and alcohol taxes will once again be brought up for a vote.
South Dakota	
Supermajority?	Yes. In 1996, South Dakota adopted Constitutional Amendment B. Art. XI §13, requires a 2/3 majority approval by each House or by a simple majority approval by people via the initiative process to increase certain tax rates or valuations. This applies to personal, corporate, sales or services taxes as well as the determining percentage basis on real or personal property taxes. Art. XI §14 requires 2/3 majority approval of each House or by simple majority voter approval by initiative. Supermajority is constitutional.

Method: Referendum	
Deferring to the Localities	Art. IX §1 requires majority approval by the voters for any change within county boundaries when those changes directly affect (and affect only) the voters of that county.
Initiative & Referenda	<ul style="list-style-type: none"> Article III §1: The people are allowed the right to propose new measures to be submitted to the voters for approval. Also, may propose measures that force enactments of the Legislature to be submitted to the voters for approval before going into effect. Signatures of 5% of the qualified voters are required to submit initiatives or referenda. Measures approved by the voters shall not be subject to the veto power of the Executive. Art. XIII §1 Constitutional Amendments: Can be proposed by a majority of the Legislature or by the people. Proposals by the people require the signatures of 10% of the voters that voted for all candidates in the last gubernatorial election. Art. XIII §3: Approval of the majority of the voters is required to ratify an amendment. A constitutional amendment must be filed at least 1 year before the general election in which the measure is to be voted on.
Washington	
Supermajority?	Yes, but is temporarily suspended. Initiative 601 required 2/3 vote of the Legislature to increase state (only general fund) revenue, such as a tax increase. Requires 2/3 vote of the Legislature + voter approval for expenditure level increase. Fee increases are also limited to the "fiscal growth" (three-year average of the rates of population growth and inflation) factor (Supermajority is statutory).
Enacted: 1992	
Taxes Increase	
Method: Citizens Initiative	Art. VII, §2(a): Tax increases in specific taxing districts (i.e., any political subdivision, municipal corporation, district or other governmental agency authorized to levy taxes) requires a 3/5 majority of voter approval (provided that at least 40% of those who vote in that election cast a vote on the measure).
Emergency Clause?	Yes. Initiative 207, § 3(a): "The expenditure limit may be exceeded upon declaration of an emergency for a period not to exceed 24 months by a law approved by a 2/3 vote of each House of the Legislature and signed by the governor. The law shall set forth the nature of the emergency, which is limited to natural disasters that require immediate government action to alleviate human suffering and provide humanitarian assistance. The state expenditure limit may be exceeded for no more than 24 months following the declaration of the emergency and only for the purposes contained in the emergency declaration. § 3(b) "The Legislature shall not impose additional taxes for emergency purposes under this subsection unless funds in the education construction fund have been exhausted."
Initiative & Referenda Requirements (Art. II, §1)	<ul style="list-style-type: none"> To place an initiative to amend an act, law, bill or any part thereof requires the signatures of at least 8% of the legal votes cast in the most recent election for the office of governor. Must be filed at least four months prior to the election in which the initiative is to be voted on or not less than 10 days before any regular session of the Legislature. Initiatives filed with the secretary of state take precedence over all other measures in front of the Legislature (with the exception of appropriation bills). <ul style="list-style-type: none"> The Legislature can either enact the initiative (without any changes) or reject the initiative. If enacted, it is subject to the referendum petition, or enacted and referred to the people for approval or rejection (in the next regular general election). If rejected by the Legislature (or not acted upon at all), the secretary of state shall submit it to the people for approval or rejection at next regular general election. However, if the Legislature rejects the initiative submitted to the people, the Legislature can propose their own version (on the same subject) and both will be submitted to the people for rejection or approval at the next regular general election. A simple majority of the voters is required for either measure (provided that at least 1/3 of the voters voting even voted on the initiatives). If a majority is not achieved on either proposal, both fail. If the majority of the people say they will approve either proposal, then the proposal receiving the majority of the votes becomes law. Referendum – may be ordered on any act, bill, law or any part thereof passed by the Legislature EXCEPT laws that may be necessary for the immediate preservation of the public peace, health or safety, support of the state government and its existing public institutions. The Legislature cannot order a referendum on any initiative measure enacted by the Legislature - as described in subsection (a). Signatures totaling 4% of the number of legal votes in the last gubernatorial election is required in order to file a referendum. A majority of voters is required to approve the referendum (provided that at least 1/3 of the voters voting even voted on the measure). Referendum petitions against measures passed by the Legislature must be filed within 90 days following the adjournment of the legislative session that passed the measure that is disputed in the petition.

	<ul style="list-style-type: none"> • No act, bill or law approved by the majority of the voters can be amended or repealed by the Legislature within 2 years of the enactment EXCEPT if 2/3 of the Legislature approves an <u>amendment</u> (not repeal) and this amendment shall not be subject to referendum but may be amended or repealed at any general or special election by the voters. • If a referendum is in progress on a part of an act, bill or law, it will not delay the remainder of the sections. • The governor cannot veto measures initiated by or referred to the people. • Constitutional amendments can only be proposed by the Legislature (either House) and requires 2/3 supermajority to pass and must be submitted to the people for ratification.
Recent History	<p>2002 Budget (S.B. 6819) temporarily suspended the requirements dictated by Initiative 601 (1993) that placed a 2/3 majority vote + voter approval to raise expenditure limits. Temporarily suspended the requirements of I601 because of budget shortfalls and will expire in 2003.</p> <p>2000 – Initiative 207 – Removed spending limitations for public schools imposed by I601 in 1993 and required 2/3 majority in both Houses to increase expenditure limit (three-year average of the rates of population growth and inflation).</p>