March 10, 2022

Opponent Testimony on SCR 1620
Senate Assessment & Taxation Committee

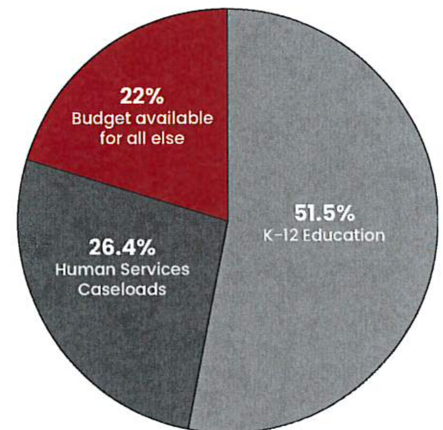
Chairwoman Tyson and Members of the Committee,

Thank you for the opportunity to appear on behalf of the Kansas Contractors Association (KCA) in opposition to SCR 1620. The KCA represents more than 200 companies working in Kansas' heavy construction industry. Collectively, these companies create and sustain more than 40,000 private sector jobs across our state.

Certain areas of the state budget are set based on Constitutional or federal protections

Two areas of the state budget – K-12 education and human services caseloads – are largely determined by a Kansas Constitutional protection or by federal match requirements. Under those protections, these two areas account for the vast majority – nearly 78% – of the state budget. As such, the legislative budget process is essentially limited to the remaining 22% of funds.

Under SCR 1620, as funding requirements in those areas of the budget with protections grow, all other priorities in the budget – such as transportation, public safety, agriculture and mental health services – will automatically face reductions unless a two-thirds majority of the Legislature votes to pass a tax increase just to hold those other areas of the budget at stagnant levels.



Transportation funding is based on a future declining revenue source

Currently, the preservation and construction of our state's infrastructure is funded in part by the motor fuels tax. As electric and other alternative vehicles continue to emerge, the motor fuels tax, long-term, is becoming a declining revenue source. With that decline, combined with the automatic reductions that would likely occur under SCR 1620, funding for infrastructure in our communities would be significantly diminished.

SCR 1620 further limits the Legislature's flexibility to determine funding priorities

Over time, SCR 1620 would further limit the flexibility of the Legislature to determine funding priorities. With the majority of the state budget already spoken for, the Legislature would be faced with either allowing all other areas of the budget to decline, or to repeatedly vote on unpopular tax increases in order to prevent cuts to priorities like transportation, public safety and ag.

While the intent of proposals like SCR 1620 is to ensure prudent budget-making, we believe the long-term impact of such a measure would hamper the ability of lawmakers to fund any other priorities outside of those priorities with protections.

We appreciate how tough the decision is to raise taxes by a simple majority currently by the Legislature and believe a supermajority would most certainly be unattainable.

Thank you again for allowing me the opportunity to appear before you today. We appreciate your consideration of unintended consequences from SCR 1620.

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Center on Budget and Policy Priorities

Six Reasons Why Supermajority Requirements to Raise Taxes Are a Bad Idea

FEBRUARY 14, 2012 | BY MICHAEL LEACHMAN, NICHOLAS JOHNSON, AND DYLAN GRUNDMAN

A few states are considering amending their constitutions to make it even harder to close tax loopholes and otherwise change the tax code to raise more revenue. The proposed amendments would require that revenue-positive tax changes win support from supermajorities of each house of the legislature plus the governor's signature, rather than the normal simple majority required for all other legislation.

Only a few states have such requirements, and their experience fails to prove that supermajorities actually lead to lower taxes or sounder tax policy. On average, states with strict supermajority requirements levy taxes at a nearly identical level as other states. That's because most states avoid tax increases most of the time, without supermajority requirements.

More worrisome, supermajority rules can cause significant damage to a state's capacity to properly handle its finances. Here are six reasons why these rules are a bad idea.

1. **Supermajority rules reduce accountability by protecting special interest tax breaks.** Supermajority requirements make it even more difficult to get rid of ineffective and unfair tax breaks than it already is. In many cases, repealing a tax break is considered a tax increase subject to the higher vote thresholds. This means that costly deductions, credits, and other tax expenditures that often benefit only a handful of corporations or individuals have more protection than other types of spending, which can be cut by a simple majority vote. Lobbyists have a far easier time shielding narrow tax benefits from cuts since opponents have to muster an inordinate number of votes. Conversely, enacting new tax breaks requires only a simple majority vote.

2. **Supermajority rules shift costs from some state residents to others.** With tax increases and the repeal of tax breaks subject to supermajority requirements, lawmakers are more likely to raise fees, tuition, and other levies not subject to the requirements, and to reduce support for local governments, who may need to raise property taxes as a result. This shifts the cost of government from some taxpayers to others — students, Medicaid recipients, and local property owners, for example.

3. **Supermajority rules may raise state spending or dissuade states from making capital investments by increasing interest rates.** Research shows that investors are less willing to buy bonds from states with supermajority tax requirements. This is because such rules reduce states' flexibility to raise revenue, making them (in the eyes of investors and bond rating agencies) less trustworthy borrowers. Supermajority states thus are more likely to have lower bond ratings, forcing them to make higher interest payments to investors and pushing up the cost of new roads, public buildings and other bond-financed projects.

4. **Supermajority rules make it harder to finance transportation investments.** Investments in transportation infrastructure are particularly threatened by a supermajority requirement because of the structure of gasoline taxes. Most highway and other transportation projects are funded by state gasoline taxes that are not indexed for inflation. To keep up with rising highway-construction costs, gasoline tax rates must be periodically increased, but supermajority rules make that more difficult. Five of the seven strict supermajority states have not raised gas taxes in over 15 years, while most other states have increased them at least once in the last decade.

5. **Supermajority rules limit budget options available to legislators and increase the chances that recessions will be deeper and longer.** The best available approach to combating recession-induced budget gaps is often a balanced one that includes both revenue increases and targeted spending cuts. By making it harder to raise taxes, supermajority rules encourage states to cut spending deeper. By removing demand from the economy, this approach makes recovery more difficult. Supermajority states have fared worse during the recession than other states.

6. **Supermajority rules increase the power of extremists and special interests.** In supermajority states, a small minority of legislators and special-interest lobbyists can thwart the will of a majority. Small groups of lawmakers can hold even the most popular legislation hostage, demanding narrow concessions or the inclusion of expensive pet projects.

Most States Avoid Tax Increases Most of the Time, Without Supermajority Requirements

The amendments under consideration in Minnesota (House File 1598 and Senate File 1384) and New Hampshire (CACR 6), and similar proposals considered recently in states like Texas, would place those states outside the mainstream. Most states' legislatures can send tax bills to the governor with a simple majority vote in each house, the same margin required to enact most other bills. Two-thirds of states – 33 of 50 – and the District of Columbia allow a tax measure to pass with a simple majority in each house of the legislature.

Just seven states have a constitutional supermajority requirement that applies to all tax increases: Delaware, Mississippi, and Oregon each require a three-fifths vote of each house, and Arizona, California, Nevada, and Louisiana each require a two-thirds vote of each house. A few other states require supermajorities to approve some but not all tax increases, require voter approval for tax increases, or establish a supermajority requirement in statute, where the legislature can override it when necessary; see Appendix for details.

The reason these rules have remained rare is simple: States don't need supermajority requirements to ensure that taxes will remain manageable, that major tax increases will be rare, and that legislators will think very carefully before increasing taxes.

- **Taxes have been flat as a share of personal income in non-supermajority states for thirty years.** In the average state with no broad constitutional supermajority requirement, taxes as a share of personal income have hovered in a narrow range – between 9.7 percent and 10.9 percent – since 1980.[1] That's almost identical to the average range for the seven strict supermajority states – 9.7 percent to 10.8 percent (see box on page 4).
- **Major tax increases are rare,** usually occurring in the aftermath of recessions, when revenues have fallen short of the cost of maintaining core public services such as education and health care, and generally accompanied by deep spending cuts. Before the 2007-09 recession hit, the average state had not increased taxes by more than two percent of total revenues in over 9 years, prior to the previous recession.[2] Moreover, recession-driven tax increases are almost always offset by tax cuts in good economic times. For example, states in total raised personal and corporate income taxes in 1993 and 1994, following a recession, but then cut these same taxes for eight straight years, from 1995 through 2002, after which the next recession took hold.[3]
- **There are already significant barriers to raising taxes.** One barrier to raising taxes is the checks-and-balances of American democracy: It is not easy for a piece of legislation to win majority approval, separately, in each house of the legislature and also to get the signature of the governor. Another barrier is politics: Any elected official who votes to raise taxes is well aware of the potential political fallout. In other words, voters already have a tool available to them to hold elected officials accountable for raising taxes if they choose, which is that they can vote them out of office.

Supermajority Rules Reduce Accountability by Protecting Special Interest Tax Breaks

Supermajority rules protect tax loopholes and other narrowly targeted tax breaks. This is because eliminating a tax deduction, credit, exemption, or other special rule is typically governed by supermajority rules, on the grounds that it raises taxes on at least one corporation or individual.[4] State tax codes are riddled with such tax breaks, some of which are effective and some of which are not.[5] Often, tax breaks make state tax systems less level and more imbalanced. Narrowly tailored tax breaks are part of the reason why the average profitable Fortune 500 Corporation pays less than half the statutory state tax rate and many profitable corporations pay nothing at all.[6]