Not So Super: Supermajority Proposal Endangers Montana's Fiscal Stability

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This legislative session could bring a dangerous proposal to require a supermajority of the legislature to consider increases to taxes or fees, shifting significant power to just a handful of legislators.[1] This shift would make it even harder for policymakers to enact a responsible and adequate budget and to fix our tax code that is riddled with loopholes that benefit special interests.

Supermajority vote rules, designed to protect tax breaks for special interests, would decimate critical investments.

Supermajority Rules Protect Loopholes Designed to Benefit Special Interests

Unfortunately, our tax code is riddled with tax loopholes that special interests have put in place over decades. All told, tax expenditures, such as narrow deductions and tax credits, cost our state tens of millions in lost revenue every year.[2] If Montana were to put in place this supermajority rule, policymakers would face greater challenges in ridding our tax code of breaks that benefit a handful of out-of-state corporations and other special interests. Special interests will have an easier time protecting these tax loopholes from common-sense measures to level the playing field and ensure the super wealthy and corporations are paying their fair share.

A Supermajority Rule Could Shift Taxes to Average Montana Families

A supermajority rule that protects special interest tax breaks could also place greater pressure on local communities, residential property taxpayers, and families paying tuition to cover increased demands on services.[3] As the supermajority rule hinders the state from raising necessary revenue from things such as closing corporate tax loopholes, local school districts and municipalities may be forced to ask local residents to pay a greater share.[4]

States with Supermajority Rules Face Budget Problems and Downgraded Credit Ratings

States, such as Oklahoma and Arizona, have struggled to adequately fund state budget needs as a result of the supermajority rule. Following the adoption of supermajority rules, both states enacted deep tax cuts that resulted in far greater loss of revenue than originally projected. As a result, both states have cut state investments. In Arizona, the state and local school districts have cut support for K-12 education by more than 30 percent over the past decade.[5] Since Oklahoma's supermajority was put in place in 1992, the disinvestment has been widespread, including the largest cuts to school funding in the nation and the decimation of mental health funding.[6] Last year, Oklahoma lawmakers within the majority leadership called for reconsideration of the supermajority rule, acknowledging that it has been "impossible to pass necessary revenue measures to provide for adequate core services in Oklahoma."[7]

A supermajority requirement has been particularly devastating for infrastructure, such as highway construction. Federal highway dollars require matching state funds often funded through state gas tax revenue. As of the last analysis several years ago, five of the seven strict supermajority states had not raised their gas tax in over 15 years, resulting in deteriorating infrastructure.[8]
A supermajority rule can have a significant impact on a state's bond rating. Rating agencies have explicitly stated that supermajority rules can reduce a state's creditworthiness. For example, one rating agency, Moody's

Investors Services, cited the broad supermajority vote rules in Nevada and Arizona as reasons for downgrading their credit rating.[9] More recently, credit rating agencies have raised concerns the ballot initiative passed in Florida to impose a supermajority rule, putting at risk the state's AAA bond rating.[10] Montana's credit rating also has a direct impact on local schools and governments that often rely on the state's credit rating for their own borrowing costs for new schools and infrastructure.

Supermajority Rules Are Undemocratic

One need only look to our founding fathers for insight in how supermajority vote requirements stymie our democratic process. As James Madison noted, requirements for a supermajority to pass laws goes against the "fundamental principle of free government."[11] In fact, following the Civil War, wealthy white landowners sought to protect a limited few from taxation. State efforts to enact supermajority rules are closely linked to the Jim Crow era and efforts to defund schools and other services for recently freed African American population. States, such as Mississippi, Louisiana, and Arkansas, put in place supermajority rules to protect a small group of wealthy white landowners from potential tax increases.[12] From its origins in the Deep South, these supermajority rules have spread across the country, and today, 17 states have some form of supermajority requirement related to taxation.[13]

Conclusion

Montana can learn from the cautionary tale experienced in other states that, as a result of a supermajority rule, our communities and citizens suffer. A supermajority rule would further hamstring our legislature in taking steps to close tax loopholes put in place by special interests, likely resulting in further cuts to education and social services in our communities. Policymakers should resist such a dangerous proposal that will only cause greater harm in the future.

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[1] Bill drafts on this topic include LC 1176, LC 1277, and LC 1762.

[2] Tax expenditures include: individual income tax breaks, like the state deduction for federal taxes paid and the tax credit on capital gains income; corporate income tax breaks, like the water's edge election and charitable endowment credit; and natural resource tax breaks, like the oil and gas tax holiday. For the list of tax expenditures, see Department of Revenue, "Biennial Report, July 1, 2016 – June 30, 2018," Dec. 2018.

[3] Center on Budget & Policy Priorities, "Policy Basics: State Supermajority Rules to Raise Revenue," Feb. 5, 2018.

[4] While some proposals include a supermajority vote for fees, it is unclear the extent to which this requirement would cover some fees at a local level, such as tuition and other service fees.

[5] Leachman, M., Masterson, K., and Figuero, E., "A Punishing Decade for School Funding," Center on Budget & Policy Priorities, Nov. 29, 2017.

[6] Perry, G., "SQ 640 has made Oklahoma ungovernable," Oklahoma Policy Institute, Dec. 14, 2017.

[7] Denwalt, D., "Oklahoma House leader wants public vote on whether to make raising taxes easier," NewsOK, Jan. 10, 2018.

[8] Institute on Taxation and Economic Policy, "Building a Better Gas Tax," Dec. 2011.

[9] "Leachman, M., Johnson, N., and Grundman, D., "Six Reasons Why Supermajority Requirements to Raise Taxes Are a Bad Idea," Center on Budget & Policy Priorities, Feb. 14, 2012.

[10] Sigo, S., "Initiative to impose voting limits on tax hikes may be 'disastrous' for Florida," The Bond Buyer, Oct. 3, 2018.

[11] Carlos Ordonez, J., "The Founding Fathers would lead the fight against Measure 104," Oregon Center for Public Policy, Oct. 26, 2018.

[12] Leachman, M., et al., "Advancing Racial Equity with State Tax Policy," Center on Budget & Policy Priorities, Nov. 15, 2018.

[13] Florida voters passed a supermajority rule on the November 2018 ballot, bringing the total to 17 states. See Center on Budget & Policy Priorities, "Policy Basics: State Supermajority Rules to Raise Revenues."