



Bureau Brief

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A SUMMARY OF LEGISLATIVE SUPERMAJORITY REQUIREMENTS

Amendment 19 to the Arkansas Constitution mandated a 3/4 supermajority vote of the legislature to increase any tax. Of course, the newly-approved requirement, which was voted upon at the general election on November 6, 1934, was to be applied only to the taxes existing at that time. The specific language associated with this amendment was phrased as follows:

None of the rates for property, excise, privilege or personal taxes, now levied shall be increased by the General Assembly except after the approval of the qualified electors voting thereon at an election, or in case of emergency, by the votes of three-fourths of the members elected to each House of the General Assembly.

The phrase "property, excise, privilege or personal taxes" at the time was to include the property tax, the beer tax, the cigarette tax, severance taxes, corporate and individual income taxes and the motor fuel tax. Property taxes administered by the state were prohibited by a subsequent amendment to the Arkansas Constitution (Amendment 47 was approved in the general election on November 4, 1958).

Any taxes enacted into law after the approval of Amendment 19 do not require the supermajority vote of each House of the General Assembly and therefore may be approved by a simple majority. This explains why the sales tax, permanently enacted in 1941, and the use tax, enacted in 1949, have been relatively popular vehicles for revenue generation in recent history. For example, Act 221 of 1971 raised the individual income tax rates for the first time since the original Income Tax Act was enacted in 1929. During the life of the sales tax however, rates have been increased six times from the original rate of 2% to the current 6% in various increments for general revenue and other purposes.

Arkansas has the distinction of being the state with the earliest date known for a required supermajority to increase specific taxes. In addition, only two states require an affirmative vote as high as 3/4. Currently, 15 other states require supermajority votes for tax increases but, only five of those were required before 1990 (see Table 1). Another pronounced difference is that almost all states reflected in Table 1 apply the supermajority requirement equally to all taxes.

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Table 1

Legislative Supermajority Requirements

<u>State</u>	<u>Year of Adoption</u>	<u>Required Vote</u>	<u>Application</u>
Arizona	1992	2/3	All taxes
California	1979	2/3	All taxes
Colorado	1992	2/3	All taxes (1)
Delaware	1980	3/5	All taxes
Florida	1971	3/5	Corporate income tax (2)
Kentucky	2000	3/5	All taxes (3)
Louisiana	1966	2/3	All taxes
Michigan	1994	3/4	State property tax
Mississippi	1970	3/5	All taxes
Missouri	1996	2/3	All taxes (4)
Nevada	1996	2/3	All taxes
Oklahoma	1992	3/4	All taxes
Oregon	1996	3/5	All taxes
South Dakota	1996	2/3	All taxes
Washington	1993	2/3*	All taxes (5)

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- (1) Tax increases automatically sunset unless approved by the voters at the next election.
 - (2) The Florida Constitution limits the corporate income tax rate to 5%. A 3/5 vote of the legislature is needed to surpass the 5% limit, which could also be surpassed by a 3/5 affirmative vote of the people.
 - (3) Tax and fee increases voted on by the legislature in odd-numbered years only.
 - (4) If the Governor declares an emergency, the legislature can raise taxes by a 2/3 vote; otherwise, tax increases over approximately \$70 million must be approved by a vote of the people.
 - (5) Tax increases producing revenue that do not exceed the spending limit must be approved by a 2/3 legislative vote; tax increases that produce revenue over the spending limit must receive a 2/3 vote of the legislature and a 2/3 affirmative vote of the people.

* The Washington State Legislature has temporarily suspended their supermajority obligation and the requirement to a simple majority through June 30, 2007. reduced

Source: NCSL, 2005