



**Legislative Bulletin.....June 12, 2002**

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**H.J.Res. 96—Tax Limitation Constitutional Amendment**

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**H.J.Res. 96—Tax Limitation Constitutional Amendment (Sessions)**

**Order of Business:** The joint resolution is scheduled to be considered on Wednesday, June 12<sup>th</sup>, subject to a modified closed rule. Though the rule allows one amendment in the nature of a substitute to be offered by the Minority Leader or his designee, the Minority did not file any such amendment in the *Congressional Record* (as would have been required for consideration).

**Summary:** H.J.Res. 96 would make necessary the approval of two-thirds of both Houses of Congress to pass any legislation “changing the internal revenue laws” unless the measure would increase revenue by only a “de minimis” amount or unless the measure would increase revenue by *lowering* an effective rate of any tax. In other words, *tax-cuts* would not be subject to the two-thirds requirement. The two-thirds requirement may be waived when a declaration of war is in effect or when a joint resolution stating that the U.S. is engaged in a military conflict of “imminent and serious threat to national security” becomes law. Any revenue increase enacted under a waiver of the two-thirds requirement could not be effective for more than two years. The yeas and nays for any vote for which a two-thirds majority is required would be recorded in the Journal.

**Actual Text:**

“Article--

“SECTION 1. Any bill, resolution, or other legislative measure changing the internal revenue laws shall require for final adoption in each House the concurrence of two-thirds of the Members of that House voting and present, unless that bill, resolution, or other legislative measure is determined at the time of adoption, in a reasonable manner prescribed by law, not to increase the internal revenue by more than a de minimis amount. For the purposes of determining any increase in the internal revenue under this section, there shall be excluded any increase resulting from the lowering of an effective rate of any tax. On any vote for which the concurrence of two-thirds is required under this article, the yeas and nays of the Members of either House shall be entered on the Journal of that House.

“SECTION 2. The Congress may waive the requirements of this article when a declaration of war is in effect. The Congress may also waive this article when the United States is engaged in military conflict which causes an imminent and serious threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law. Any increase in the internal revenue enacted under such a waiver shall be effective for not longer than two years.”

**Additional Background:** This will be the seventh time since 1996 that Congress has considered a tax limitation amendment to the Constitution. On the six previous considerations, the respective proposals failed to receive the two-thirds majority (290 votes in the House) necessary for the passage of a constitutional amendment:

<u>Date Considered</u>	<u>Resolution</u>	<u>Roll Call</u>	<u>Yeas and Nays</u>
April 25, 2001	H.J.Res. 41	#87	232-189
April 12, 2000	H.J.Res. 94	#119	234-192
April 15, 1999	H.J.Res. 37	#90	229-199
April 22, 1998	H.J.Res. 111	#102	238-186
April 15, 1997	H.J.Res. 62	#78	233-190
April 15, 1996	H.J.Res. 159	#243	243-177

To view the roll call from the most recent vote (April 25, 2001), go to this website:  
<http://clerkweb.house.gov/cgi-bin/vote.exe?year=2001&rollnumber=87>

If this year’s tax limitation amendment does pass both Houses of Congress by the required two-thirds majority, it would then go directly to the States for ratification, per Article V of the Constitution. Three-fourths of the States would then have to approve the amendment within seven years for it to be added to the Constitution.

In the 107<sup>th</sup> Congress, House Rule XXI, clause 5(b) states that legislation containing a federal income tax rate increase needs a three-fifths majority to pass. However, because House rules can be waived or repealed by a simple majority vote, some proponents of a tax limitation amendment argue that a permanent limitation needs to be enforced by the Constitution.

**Cost to Taxpayers:** None.

**Does the Bill Create New Federal Programs or Rules?:** No. The resolution would propose an amendment to the Constitution.

**Constitutional Authority:** Though no committee report is available for H.J.Res. 96, the committee report for H.J.Res. 41 last year (House Report #107-43) cites constitutional authority in Article V, which gives Congress the authority to propose constitutional amendments.

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