

# 2006 Ballot Measure Report Measure 48

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## State of Oregon Ballot Measure 48:

AMENDS CONSTITUTION: LIMITS BIENNIAL PERCENTAGE INCREASE IN STATE SPENDING TO PERCENTAGE INCREASE IN STATE POPULATION, PLUS INFLATION

Proponents of Measure 48 petitioned to place the measure on the November ballot to limit overall state spending. At the heart of Measure 48 is the proponents' belief that legislatures, by their very nature, will spend every available dollar and will seek additional revenues whenever they can. Proponents also believe Measure 48 will end the "boom and bust" budget cycle that Oregon has experienced. They assert that Oregon's existing statutory state spending limit is ineffective because it can be too easily overridden by the legislature and is capped at a level that is too high to actually constrain spending. Consequently, the proponents have proposed a constitutional limit that would be beyond the reach of the legislature.

Measure 48 would cap the biennial percentage increase in state spending to the sum of the percentage increase in state population plus the rate of inflation as measured by the Consumer Price Index. Your committee finds that Measure 48's formula is flawed in many ways, including that the index is a poor measure of the goods and services provided by state government. Your committee also finds that state government in Oregon does not have a widespread and rampant spending problem relative to growth in the economy.

Because the proposed spending cap has no relationship to tax revenue, the state could conceivably have surplus revenue that it could not spend in the biennium in which it was raised. The proponents argue that the surplus could serve the purpose of a rainy day fund in years in which revenue falls below the spending cap. However, nothing in Measure 48 dictates how surplus revenue would be treated, except to require that the spending cap apply to all spending including surpluses in down years. Although your committee supports the notion of a rainy day fund, we find that this measure does not create a rainy day fund, nor does it provide sufficient guidance on how to deal with surplus revenue.

Your committee concludes that Measure 48, over time, would limit the state's ability to provide vital public services to its citizens and sustain a healthy level of economic growth. Measure 48 should not be codified in Oregon's Constitution.

**Therefore, your committee recommends a NO vote on Measure 48.**

*City Club membership will vote on this report on Friday, October 13, 2006. Until the membership vote, City Club of Portland does not have an official position on this report. The outcome of this vote will be reported in the City Club Bulletin dated October 27, 2006 and online at [www.pdxcityclub.org](http://www.pdxcityclub.org).*

## I. INTRODUCTION

Ballot Measure 48 will appear on the ballot as follows:

### **AMENDS CONSTITUTION: LIMITS BIENNIAL PERCENTAGE INCREASE IN STATE SPENDING TO PERCENTAGE INCREASE IN STATE POPULATION, PLUS INFLATION**

**Result of "Yes" Vote:** "Yes" vote amends constitution to limit the percentage increase in state spending from biennium to biennium to the percentage increase in state population plus inflation.

**Result of "No" Vote:** "No" vote retains existing statute capping appropriations on basis of personal income in Oregon; rejects adding constitutional provision limiting spending increases to population increase, inflation.

**Summary:** Amends constitution. Oregon statute currently limits state appropriations to 8% of projected personal income in Oregon (with certain exceptions). If Governor declares emergency, legislature may exceed current statutory appropriations limit by 60% vote of each house. Measure adds constitutional provision limiting increase in state spending from one biennium to next biennium to percentage increase in state population, plus inflation, over previous two years. Certain exceptions to limit, including spending of: federal, donated funds; proceeds from selling certain bonds, real property; money to fund emergency funds; money to fund tax, "kicker," other refunds. Measure provides that spending limit may be exceeded by amount approved by two-thirds of each house of legislature and approved by majority of voters voting in general election. Other provisions.

*The language of the caption, question and summary was certified by the Oregon Secretary of State.*

Ballot Measure 48 was placed on the November 2006 ballot by initiative petition. Don McIntire, president of Taxpayer Association of Oregon; Jason Williams, executive director of Taxpayer Association of Oregon; and Greg Howe are the chief petitioners. If approved, Ballot Measure 48 would limit the percentage increase in state spending from biennium to biennium to the percentage increase in state population plus inflation.

City Club convened a committee of eight Club members to analyze Measure 48 and issue a voting recommendation. Committee members were screened to ensure that no member had a direct stake in the outcome of the study (other than as a taxpayer) or had taken a public position on the subject of the measure. In August 2006, your committee interviewed proponents and opponents of the measure, as well as relevant experts on state fiscal and revenue issues. Your committee also reviewed numerous articles, reports and other pertinent documents and attended a public hearing on the explanatory statement and financial estimate statement for Measure 48.

## II. BACKGROUND

### Snapshot of Oregon's Budget

Oregon's biennial budget is composed of revenue from many sources: personal and corporate income taxes; the lottery; dedicated taxes, such as the gas tax; revenue from the sale of bonds, federal funds, fees (tuition, licenses, etc.), and other miscellaneous sources. For the current biennium the "all funds" budget is \$42 billion.

The general fund, which in the current biennium is \$12 billion, makes up less than one-third of the total state budget. It funds primarily education, health and human services and public safety. In the current biennium, approximately 96 percent of the general fund was budgeted for these services. The personal income tax is the primary source of revenue for the general fund.

When considering Measure 48, it is important to remember that the spending limit affects the total budget, with the exception of federal funds, voter-approved bonds, refunds to taxpayers and a few other minor exceptions. If the Measure 48 limits were in effect for the current biennium, the spending limit would apply to \$31 billion of the current state budget.

### History of Spending and Revenue Limits in Oregon

In 1979, when the Oregon Legislature passed House Bill 2540, its most notable feature was the substantial property tax relief it provided. The bill was adopted by the legislature for one year and then referred to voters in 1980. Voters approved the measure overwhelmingly. In addition to property tax relief, the law also included separate spending and revenue limits that are still in place today. The two limits are described below.

#### Spending Limit

House Bill 2540 limited growth in spending from the general fund to the growth of personal income in the two previous years. Shortly after voters approved the measure, Oregon entered an economic recession. During the early 1980s, state revenue growth dropped well below earlier years' more robust growth in personal income. The drop lowered the spending base on which future increases were permitted. The lower base caused the 1983-85 limit to fall below the 1981-83 limit despite 15 percent growth in personal income in the later biennium. In the late 1980s and early 1990s the legislature voted to exceed the spending limit on three occasions.

In 2001, state law was changed to limit spending to 8 percent of *forecasted* personal income for the upcoming biennium to avoid the “ratcheting-down effect” that occurred in the 1980s. The 2001 law also includes expenditures from a wider array of sources and allows exceptions only if the governor declares an emergency and three-fifths of the members of each house of the legislature vote in favor of the exception. The law can be changed by a simple majority of each house.

The 8 percent limit has never been exceeded. Spending in 2001-03 was \$576.6 million below the cap; \$1.3 billion below in 2003-05; and \$1.67 billion below in 2005-07.

### Revenue Limit

Oregon’s “kicker” law, also part of the 1979 tax package, refunds surplus general fund revenue to taxpayers when actual revenue exceeds *forecasted* revenue by more than 2 percent. Since its inception the personal kicker has refunded money to individual taxpayers eight times and the corporate kicker has been activated six times. Unlike the spending limit, the kicker law is now part of the Oregon Constitution, based on a ballot measure passed in 2000.

***Since its inception the personal kicker has refunded money to individual taxpayers eight times and the corporate kicker has been activated six times.***

### **Colorado’s TABOR and Oregon’s Measure 48**

The Measure 48 campaign in Oregon is part of a nationwide movement to place fiscal restraints on government. National advocacy organizations are supporting similar campaigns in many states. Although local activists drafted Measure 48, it resembles model legislation developed by the American Legislative Exchange Council, an organization of conservative state lawmakers based in Illinois. The initiative petition campaign to place Measure 48 on the ballot received the largest part of its budget from out-of-state proponents of limited government.

Twenty-seven states, including Oregon, have limits on revenue or spending. Colorado’s “Taxpayers’ Bill of Rights” (TABOR) is widely considered to be the strictest. In a 2005 appearance before City Club, Measure 48 sponsor Don McIntire called Colorado’s TABOR the “gold standard” for limiting state spending. In 1992, Colorado voters passed TABOR, a constitutional amendment limiting growth in state and local government *revenue* by a factor of population growth plus inflation. The law requires that all excess revenue be returned to taxpayers. Colorado has since refunded \$3 billion to taxpayers.

In 2002 when Colorado experienced an economic downturn, tax revenues fell by 16 percent, thus lowering the base on which future revenue caps would be calculated. Colorado's state government found itself unable to fully fund public services. In subsequent years the revenue cap, which was allowed to increase only by population growth and inflation, continued to severely constrain government spending. Colorado's situation was further complicated by a mandate that spending on education be increased annually irrespective of anything else. In 2005, Colorado voters, by a vote of 52 percent to 48 percent, suspended TABOR for five years.

At issue between proponents and opponents of Measure 48 is whether it avoids problems faced by Colorado and whether it creates others. Figure 1 provides a side-by-side comparison of Colorado's TABOR with Measure 48 proposed in Oregon.

Figure 1

### Comparison between Colorado's TABOR and Oregon's Measure 48

Question	TABOR (Colorado)	Measure 48 (Oregon)
What levels of government are affected?	State, county and city	State directly, local governments indirectly
What is regulated by the limit?	Revenue	Spending
What formula is used to determine the limit?	Revenue collected is limited to the previous year's actual amount plus a percentage adjustment for inflation and population growth.	Spending is limited to the previous biennium's actual amount plus a percentage adjustment for inflation and population growth.
Is a surplus possible?	No. Revenue collections in excess of the limit must be refunded to taxpayers.	Yes, but there is no provision specifying what to do with any surplus.
Is a rainy day fund created?	No	No. A rainy day fund is not expressly created or prohibited.
What exemptions to the limit are allowed?	Federal funds (revenue)	Federal funds, expenditure of funds from voter-approved bonds and returns to taxpayers (including the kicker). A few other minor exceptions.
Is it statutory or constitutional law?	Constitutional	Constitutional

### III. ARGUMENTS PRO & CON

#### Arguments Advanced in Favor of Measure 48

Proponents of Measure 48 made the following arguments in support of the measure.

1. Legislatures, by their very nature, will spend every available dollar and will seek additional revenue whenever they can. Measure 48 would constrain excessive spending in state government.
2. Measure 48 would keep state government at approximately the same size it is now for the foreseeable future. Measure 48 would limit biennial increases in state spending to the amount of actual spending in the previous biennium, plus a percentage increase for projected population growth and inflation. For example, in 2007-09, spending would be limited to a projected \$35.6 billion, which is 8.2 percent growth over 2005-07.
3. Measure 48 would stimulate government efficiency in Oregon by encouraging innovative approaches to providing services to the public.
4. The existing statutory state spending limit is ineffective because it can be overridden by the legislature and, at 8 percent of personal income, it is too high to constrain spending.
5. Measure 48 would put decisions on spending limits in the hands of voters. It would amend the constitution and would require two-thirds vote of each house of the legislature to refer an exception to the spending limit to voters in a general election.
6. Measure 48 would allow for the accumulation of surplus revenue, which would bring stability and predictability to state finances. For instance, projected revenue for the 2007-09 biennium is about \$2 billion greater than Measure 48's spending cap. This surplus revenue could finance a rainy day fund established by the legislature or could simply accumulate. The surpluses could then be used during economic downturns to supplement current tax revenue up to the spending limit for the biennium.

***Legislatures, by their very nature, will spend every available dollar and will seek additional revenue whenever they can. Measure 48 would constrain excessive spending in state government.***

7. Money not spent by the state—because it was never collected in taxes or because it was returned to taxpayers—would fuel economic growth in the private economy.

8. Measure 48 is *not* Colorado's TABOR. The Colorado law is a revenue limit and Measure 48 is an expenditure limit. Assuming the Oregon Legislature creates a rainy day fund or simply retains surplus revenue, Oregon would not face the "ratcheting down effect" experienced in Colorado.

## **Arguments Advanced against Measure 48**

Opponents of Measure 48 made the following arguments in opposition to the measure.

1. Some of the most important services the state provides—education and human services—are chronically underfunded. Measure 48 would, at best, hold funding at its current level and, at worst, further erode funding for these services.

2. Measure 48's population-plus-inflation formula would force the public sector to shrink over time relative to growth in the economy and would inhibit Oregon's ability to make the investments in infrastructure and education that an expanding economy requires.

3. Oregon already has an effective spending limit based on personal income, which imposes fiscal discipline while allowing the state to provide services at adequate levels.

4. Measure 48 attempts to address a problem that does not exist. Spending by state and local government in Oregon has grown commensurate with increases in population, inflation and economic growth as measured by personal income.

5. Measure 48's population-plus-inflation formula does not adequately reflect the cost of public services. For example, health care costs and education costs increase at a rate greater than the Consumer Price Index. The population-plus-inflation formula also does not recognize the costs associated with Oregon's prison population and the rapidly increasing senior population. Both of these populations are more costly to serve than the general population.

***Measure 48 attempts to address a problem that does not exist.***

***Spending by state and local government in Oregon has grown commensurate with increases in population, inflation and economic growth as measured by personal income.***

6. The excessively broad reach of spending targeted by Measure 48, which includes bond payments, dedicated funding sources (e.g., gas tax, tuition and fees) and mandated payments (e.g., unemployment insurance payments and pensions for state employees), would create a host of conflicts and undesirable consequences.
7. In times of economic recession, contractual obligations, such as mandatory payments for unemployment insurance, would account for a larger percentage of state spending. In order to stay under the Measure 48 spending limit, cuts would necessarily be made in other areas. Because the general fund is the only place where the legislature has discretion, general fund expenditures could be restricted in order to stay within the spending limit even if funds were available.
8. The “rainy day” fund suggested by Measure 48’s proponents is not mandated by the measure and might never be created.
9. Measure 48 would be more restrictive than Colorado’s TABOR because overriding Measure 48’s spending cap would require a two-thirds vote of both houses of the legislature and a majority vote of the citizens at a general election. General elections happen only once every two years. If a natural disaster (e.g., an earthquake) or other unforeseen crisis (e.g., bird flu) were to occur, Measure 48 would hamper government’s ability to respond effectively.
10. Measure 48 would amend the state constitution. A costly and time-consuming campaign would be required to change the law.

## IV. DISCUSSION

### Are fiscal limits a good idea?

Your committee did not compare the 27 states (including Oregon) that have fiscal limits of some kind with the other 23 states that do not. However, your committee does find it plausible that limits of some kind could increase attention paid to creating more efficiency and rooting out waste in government. The question for your committee was not whether limits could be appropriate, but whether Measure 48 is the right limit for Oregon.

### What type of fiscal limit would be appropriate for Oregon?

The proponents and opponents of Measure 48 have starkly different philosophical perspectives on fiscal limits. Proponents of the measure view limited government as a value in itself. They would tie spending limits to population growth plus inflation (as

measured by the Consumer Price Index) to maintain government services at current levels.

Opponents of the measure believe government should provide a level of service that meets a baseline of social needs and reflects society's ability to pay for these services. They would tie limits, if any, to some measure of personal income, which is an index of inflation, population growth and economic growth. Aggregated personal income reflects increases in cost of living, additional income earners as population grows and changes in market conditions.

### Limits Based on the Consumer Price Index

The Consumer Price Index is a measure of the average change over time in prices paid by urban consumers for a market basket of consumer goods and services. Major consumer categories included in the index are food and beverage, housing, apparel, transportation, medical care, recreation, education and communication, and miscellaneous good and services.

Figure 2 **Consumer Price Index Market Basket for Urban Areas**

<b>Good and Service Categories</b>	<b>Relative Weight in Index</b>
Food and Beverage	15.051
Housing	42.380
Apparel	3.786
Transportation	17.415
Medical Care	6.220
Recreation	5.637
Education & Communication	6.047
Other Goods & Services	3.463

Source: Bureau of Labor Statistics

Figure 3 **State Government Spending by Major Program Grouping**

<b>Program</b>	<b>Percent of Budget (less Federal)</b>
Education (all levels)	30%
Human Services (includes health care)	12%
Public Safety (includes police, corrections, military)	6%
Natural Resources	3%
Transportation (roads and bridges)	7%
Department of Consumer and Business Services	3%
Administration	4%
Legislative Branch	1%
Judicial Branch	2%
PERS	17%

Source: Legislative Revenue Office

Note: Includes only spending subject to Measure 48 spending cap. Excludes federal funds.

Your committee found that the consumer market basket used to determine the index does not correlate well with the services financed by state government or the costs of these services. As Figures 2 and 3 illustrate, Oregon spends 30 percent of its total budget on education, where as the average urban household spends about 6 percent of its budget on “education and communication,” which includes telephone services and postage. State government spends about 6 percent of its total budget on public safety, a high-cost budget item not found in a consumer market basket. Health care costs, which are rising faster than most other cost categories and account for about 6 percent of the average household budget, consume the lion's share of the state's allocation to human services, which is 12 percent of state spending. In some cases, government provides services that do not exist and could not be sustained in the for-profit private sector, such as prisons.

#### Limits Based on Population Growth

Your committee also found that some demographic groups served by government—the elderly for example—are growing much faster than the general population and typically require a larger share of government expenditures. According to the U.S. Census Bureau, the proportion of Oregon's population classified as elderly is expected to increase from 13.6 percent in 1995 to 24.2 percent in 2025. Among the 50 states and District of Columbia, Oregon is projected to have the 4th highest proportion of elderly people in 2025, up from 17th in 1995.<sup>1</sup> Indexing spending growth to the general

population would under-represent the cost of providing services to this rapidly growing segment of the population.

#### Limits Based on Personal Income

Oregon currently has a spending limit based on total state personal income. Total personal income is a proxy for population, inflation and economic growth. Although personal income fluctuates with economic ups and downs, it has grown on average 12.7 percent per biennium since the 1991-93 biennium. In that approximately 15-year period, government spending has kept pace with the growth in income and has included investment in infrastructure (e.g., transportation) that supports economic growth. By tying growth in state spending to a measure that does not reflect growth in the economy, Measure 48 would diminish the state's ability to purchase goods and services in the open market.

Based on data provided by the Legislative Revenue Office, the expenditures that would have been subject to limitation grew at an average rate of 13.1 percent per biennium between 1991-93 to 2005-07. Had the Measure 48 limit been in effect, the spending level would have been permitted to grow at an average annual rate of only 9.2 percent per biennium. In sum, the allowable spending for state services in effect today for 2005-07 would be about \$7.8 billion less than what Oregon currently has available. Clearly, using the population-plus-inflation factor defined by Measure 48 would shrink government spending over time relative to the size of the state economy.

Furthermore, the fact that personal income grew at a rate (0.4 percent per biennium) slightly less than the growth of expenditures over a 15-year period does not indicate a rampant spending problem.

*Your committee concludes that economic growth, as reflected in personal income, is an essential factor in a sensible spending limit.*

*Your committee concludes that state government in Oregon does not have a “spending problem” when spending growth is compared to the growth of personal income.*

*Your committee concludes that the Consumer Price Index is a poor measure of the goods and services purchased and provided by state government. Measure 48, over time, would limit the state’s ability to provide vital public services to its citizens and sustain a healthy level of economic growth.*

### **What would be the practical implications of Measure 48?**

Measure 48 limits broad categories of spending without clear specifications as to how to implement the limits or what to do with any excess revenue. The measure would limit “total disbursements” with the exception of federal funds, proceeds from voter-approved bonds, refunds to taxpayers, and a few other lesser items. Oregon’s “all funds” budget, which includes federal funds, is approximately \$42 billion for the current biennium. Measure 48 would target a pool of spending currently about \$31 billion (based on 2005-07 approved budget), including the \$12 billion general fund. For comparison, the existing 8 percent spending limit targets \$17.6 billion in the current 2005-07 biennium.

#### Contractual Obligations and Restricted Funds

Measure 48’s reach includes a number of sources and disbursements over which the legislature has limited or no discretion. For example, the spending cap would include expenditures from the gas tax, which is constitutionally dedicated to transportation. Also included would be contractually obligated payments of unemployment insurance claims, PERS retirement fund distributions, payments of insurance premiums for state employees and matching payments for retirement of existing state employees. These mandatory expenditures leave the legislature little flexibility in the short-term, forcing the legislature to target for cuts the most discretionary part of the budget—the general fund and lottery proceeds—predominately used for education, human services and public safety programs.

#### Bonds

Measure 48 would not regulate the proceeds of bonds approved by voters, but it would include proceeds from general obligation bonds issued under preexisting provisions

of the constitution and revenue bonds, which do not require voter approval. In all cases, interest and principal payments on bonds would be expenditures subject to Measure 48's limit.

"The measure would limit state bond programs and would have a negative impact on the state's credit rating," according to the estimate of financial impact published by the secretary of state. This would make state-issued bonds more expensive by increasing interest rates, thereby increasing bond costs as a percentage of the total state budget.

***"The measure would limit state bond programs and would have a negative impact on the state's credit rating," according to the estimate of financial impact published by the secretary of state.***

#### The "Ratchet Effect"

The so-called "ratchet effect" would occur when actual revenue is below the Measure 48 spending cap and accumulated surpluses (if any) are not spent to hold spending at the maximum allowed by the measure. If this occurred, future expenditures would be benchmarked to the lower level.

This scenario could happen during economic recessions when state revenue would likely be lower than during periods of economic stability or growth. The ratchet effect could also occur if the legislature adopts a budget that spends less than the Measure 48 spending cap would allow. In both cases Measure 48 would lower, or ratchet down, the base on which the spending limit is determined unless accumulated surpluses (if any) were used to keep spending at the maximum allowed by the measure. (Read more about rainy day funds on page 13.)

#### Federal Funds

Though Measure 48 would not restrict the use of federal funds, state-matching funds would be subject to the spending limit. To avoid losing federal funds as a consequence of reducing matching dollars, the legislature may choose to fund programs that have federal matching funds at the expense of other programs that do not.

#### Local Government Services

While Measure 48 would not *directly* limit local government spending, a representative of county governments told your committee that the impact on local programs would be significant since the state now transfers about two-thirds of its funds to cities, counties, school districts and healthcare providers, and those transfers would be subject to the spending cap. For example about 70 percent of K-12 school operating funds comes from the state school fund. Nearly half of the state's gasoline tax revenue is shared with cities and counties. Numerous other

services that one might think of as local receive state support. These include trial courts, district attorneys, jails, emergency management, health services, aging services and others. Measure 48 would likely force more local provision of services and require local governments to bear the burden of the state legislature's need to create flexibility in budgeting.

*Your committee concludes that Measure 48 is too far-reaching and could affect all state services and an array of local services.*

*A number of undesirable consequences would likely result from Measure 48 including reduced funding flexibility for the legislature, ratcheting down of the budget baseline over the long term, increased costs of borrowing funds, and the transfer of some state services to local governments.*

### **What is a rainy day fund and would Measure 48 create one?**

Proponents of Measure 48 stress that the reasonable and predictable nature of the measure's spending limit, coupled with the availability of accumulated surpluses, would end the current "boom and bust" cycles that currently characterize government budgeting in Oregon. Under Measure 48, surpluses would occur when state revenue collection exceeds the population-plus-inflation spending limit. The state Department of Administrative Services says surpluses in 2007-09, for instance, would be in the range of \$1.7 billion to \$2.2 billion if Measure 48 passes.

The drafters of Measure 48 told your committee they did not specifically call for the creation of a rainy day fund to avoid

running afoul of Oregon's prohibition of ballot measures with multiple subjects. In interviews with your committee, they expressed little preference for whether the legislature expressly creates a rainy day fund or simply allows surplus revenue to accumulate for the same purpose.

Your committee believes the distinction between a rainy day fund and accumulated surplus revenue is significant. A rainy day fund specifies when and how money should be accumulated and spent. More importantly, it assures the existence of a savings account for the state. Without these controls in place, voters have no assurance that surplus revenue would be on hand to safeguard against a downward budget spiral. Further, recent legislatures have given voters no reason to believe they will create a rainy day fund in the wake of Measure 48. If Measure 48 passes, your committee expects significant pressure from anti-tax activists to return all or part of the surplus to taxpayers.

Expenditure of surplus revenue, from a rainy day fund or otherwise, other than in the form of refunds to taxpayers, would be subject to the limits of Measure 48. If the legislature determined that spending beyond the Measure 48 limit was necessary, those expenditures would require a two-thirds vote of both houses plus majority approval by voters in a general election.

In addition, surpluses could also accrue in restricted funds or dedicated funds. How they would be managed is unknowable at this time. While the legislature could exercise relative control over general fund surpluses, it would have little to no control

over the \$19 billion in restricted funds outside the general fund and any surpluses that accrue in these funds.

*Your committee concludes that because Measure 48 would not mandate the retention of surplus revenue and because the legislature has shown no inclination to create a rainy day fund, the risk of approving the proposed spending limit poses too great a threat to the economic welfare of the state.*

**Are the provisions for making exceptions to the spending limit that would be created by Measure 48 reasonable?**

Among your committee's most serious concerns is that Measure 48 presents government with an unreasonable threshold to address unforeseen circumstances. Oregon will likely experience extreme fire seasons, earthquakes, epidemics or other unforeseen crises that will warrant significant expenditures above the Measure 48 spending limit. Measure 48 states that total spending "may be exceeded for that biennium by an amount approved by two-thirds of each house of the legislative assembly and referred to and approved by a majority of electors voting on the issue in a general election."

In contrast, exceptions to Oregon's existing spending limit require a declaration of emergency by the governor and support by a three-fifths vote in each house of the legislature. It does not require referral to the voters. While a three-fifths vote is a high threshold, the governor and the legislature have opportunity to act in a timely and decisive manner in times of crisis.

***Among your committee's most serious concerns is that Measure 48 presents government with an unreasonable threshold to address unforeseen circumstances.***

Measure 48 is much more cumbersome. General elections occur only in November of the second year of each biennium. If an unexpected need occurred early in the biennium, the legislature could be forced to spend without knowing if voters will make up the shortfall in the next general election. If voters do not approve the exceptional spending, existing programs would be forced to absorb the consequences. In another scenario, if an unexpected need occurred in the seven months after the general election, cutting existing appropriations would be the only possible response. Funding needs that bridge multiple biennia, such as a response to a large-scale crisis or even merely investment in public infrastructure, would require the legislature and voters to approve the spending exception in multiple and successive votes over a period of years.

Notwithstanding the political barriers associated with reaching the legislative consensus required to spend above the cap, there would also be a large cost associated with referring any matter to the electorate. To spend above the

cap, Measure 48 would require an expenditure of public money to put the matter on the ballot, which itself would be subject to the spending cap, but would otherwise be unnecessary absent the measure's mandate that such spending authorization be referred to the voters.

*Your committee concludes that the process for overriding the Measure 48 limits is too onerous and could have a crippling effect if an unexpected emergency were to arise.*

### **What are the ramifications of placing Measure 48 in the constitution?**

Because Measure 48 is a constitutional amendment, repeal or amendment, would require referral by a two-thirds majority of each house of the legislature and a majority vote of the people voting in a general, primary or special election. Repeal or amendment of provisions of the Oregon Constitution is difficult, particularly when the provisions relate to spending or taxing.

Because Measure 48 is far-reaching and applies to a broad range of state spending, amending the measure, even to fully implement its provisions, would likely be necessary. A campaign to make changes would be expensive and time consuming. Ten million dollars was reportedly spent in Colorado to temporarily suspend TABOR.<sup>2</sup> Oregon would likely face similar costs.

*Your committee concludes that placing Measure 48 in the constitution beyond the reach of legislative fine-tuning and amendment is unwise.*

## V. CONCLUSIONS

- State government in Oregon does not have a “spending problem” when spending growth is compared to the growth of personal income.
- Economic growth, as reflected in personal income, is an essential factor in a sensible spending limit.
- The Consumer Price Index is a poor measure of the goods and services purchased and provided by state government. Measure 48, over time, would limit the state’s ability to provide vital public services to its citizens and sustain a healthy level of economic growth.
- Measure 48 is too far-reaching and could affect all state services and an array of local services.
- A number of undesirable consequences would likely result from Measure 48 including reduced funding flexibility by the legislature, ratcheting down of the budget baseline over the long term, increased costs of borrowing funds, and the transfer of some state services to local governments.
- Because Measure 48 would not mandate the retention of surplus revenue and because the legislature has shown no inclination to create a rainy day fund, the risk of approving the proposed spending limit poses too great a threat to the economic welfare of the state.
- The process for overriding the Measure 48 limits is too onerous and could have a crippling effect if an unexpected emergency were to arise.
- Placing Measure 48 in the constitution beyond the reach of legislative fine-tuning and amendment is unwise.

***Measure 48, over time, would limit the state’s ability to provide vital public services to its citizens and sustain a healthy level of economic growth.***

## VI. RECOMMENDATION

**Your committee unanimously recommends a NO vote on Measure 48.**

Respectfully submitted,

Candace Clarke  
Christopher Dorr  
Catriona Madill  
Ryan Mosier  
Nick Orfanakis  
Sarah Suby, committee editor  
Jack Featheringill, vice chair  
Bill June, chair

Meredith Savery, research adviser  
Wade Fickler, policy director

### CITATIONS

- 1 U.S. Bureau of the Census, Population Division, Population Paper #47, Population Electronic Product 45.
- 2 Steven K. Paulson, "Campaign on Taxpayer's Bill of Rights Cost a Record 10.3 million," Associated Press, December 1, 2005.

## VII. APPENDICES

### Witnesses

Steve Buckstein, Senior Policy Analyst, Cascade Policy Institute  
Phil Donovan, Campaign Manager, Defend Oregon  
Elizabeth Harchenko, Director, Department of Revenue, State of Oregon  
Greg Howe, Chief Petitioner  
Don McIntire, Chief Petitioner; President, Taxpayer Association of Oregon  
Steve Novick, Pyramid Communications, Consultant to Defend Oregon  
Anita Olsen, President Elect, Oregon PTA  
Eric Schmidt, Communications Manager, Association of Oregon Counties  
Chuck Sheketoff, Executive Director, Oregon Center for Public Policy  
Paul Warner, Legislative Revenue Officer, State of Oregon

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