I. Drafting Norms and Working with Requesters

A. 1. Drafting Norms

a. Amendment of original or codified constitution; amending references either to all historical amendments to provision in question or to latest version.

b. Repeal and adoption in lieu thereof or amendment with stricken and new text marked.

c. Publication requirements; amendment summary preparation for voters.

d. Organization within constitution; internal references within constitution.

e. Word choice and definitional provisions.

f. General constitutional authority of legislature to implement constitutional provisions through legislation.

g. Self-executing or specific constitutional authority of legislature to implement constitutional provisions through legislation.

2. Working with Requesters

a. Identifying and communicating with authorized initiators of constitutional amendments.

b. Educating the requester on process, precedent, and court interpretation.

c. Identifying issues and writing memorandum.

d. Providing alternative language.

e. Confirming requester choices in content and language.
B. HJR 4 (1995) Taxpayers’ Rights Amendment -- Revenue and Spending Limitations, Supermajority Votes to Increase Revenues, State Mandates, and Employee Benefits Funding

1. Single Amendment. The joint resolution creates a single new article to the constitution consisting of 15 sections with no headnotes. [Iowa Constitution Art. X, section 2 states that “[i]f two or more amendments shall be submitted at the same time, they shall be submitted in such manner that the electors shall vote for or against each of such amendments separately.”]

2. Separate Declaration of Intent. A declaration of intent not to be added to constitution is included in the joint resolution.

3. Revenue Limitations. Revenue limitations are written in the passive voice and no actor is named to apply the limitation requirements other than each government which is defined only in the declaration of intent.

4. Revenue Limitation Formula. Revenue limitations are established by a formula based on the highest revenue in the last four years, adjusted after a base date for inflation or deflation and net population increases but not decreases.

5. Definitions in Section 1. “Population” and “base date” are defined in section 1. Section 1 states that a county’s revenue limit, presumably a dollar amount, includes all townships in the county, presumably a geographical entity.

6. Definition of Revenue in Section 2 and Other Sections. “Revenue” is defined in section 2 to include but not to be limited to taxes, fees, . . . , and other receipts except nine receipts described in paragraph format (not tabulated) which include or exclude revenue described in other sections of the amendment dealing with intergovernmental transfers and trust fund revenue and spending limitations.

7. Revenue Exclusions Determined by Others. Examples of revenue exclusions include the following:
   a. Amounts in contracts from nongovernmental sources.
   b. Utility fees voluntarily paid but not in excess of the actual cost of providing the service.
   c. Net cost increases required by subsequent federal law or rule.

8. Temporary Revenue Increases. Revenue limitations may be temporarily increased by a majority in a voter referendum or by state or local legislative overrides requiring supermajority votes.

9. Spending Limitation Formula. Spending limitations are tied to the formula for revenue limitations, and to actual revenue, except that actual receipts of certain excluded revenue must be added back into the spending limitation calculation.

10. State Mandates of Local Government. The cost of new mandates by state government on local governments must be paid by state government, with the state and local government revenue limitations correspondingly decreased and increased.

11. Employee Benefits Funding. Retirement and other employee benefits must be completely funded within ten years.

12. Accounting Principles. General accepted accounting principles must be used “for all purposes.”

13. Strictest Scrutiny. Any infringement of taxpayer rights are subject to the strictest scrutiny.

14. Taxpayer and Citizen Standing. Any taxpayer or citizen has standing to enforce the amendment and laws implementing the amendment.

15. Implementation by State by Law Required But Amendment Self-Executing and Severable. The state, by law, must implement the amendment and may adopt further restrictions and limits. However, all provisions of the amendment are self-executing and severable.

16. Separate Declaration of Intent to Be Relied on by Electors and Courts. The aforementioned declaration of intent by the General Assembly is not to be included in the constitution but states itself that it shall be relied on by the electors and the courts, with the same results as if it were in the constitution.

17. Explanation Inclusions. The explanation to the amendment is a little more than one page in length and cursorily explains the joint resolution’s provisions but includes statements such as the following: “This is intended to help governments even out the good and bad economic years.” and “This provision encourages using state revenue for local property tax replacement.”

GUESS THE DISPOSITION OF ABOVE AMENDMENT. See page 8 of this document.
C. SJR 1 (1999) Expenditure Limitation and Supermajority Vote for Tax Increases
   1. **Two Amendments.** The joint resolution creates one new article to the constitution consisting of two separate amendments to the constitution, one dealing with a state general fund expenditure limitation and the other dealing with a three-fifths majority vote by the General Assembly to increase taxes.
   2. **Definitions and Estimating Conference.** The expenditure limitation first defines “adjusted revenue estimate” and “new revenues” and requires a revenue estimating conference as established by the General Assembly by law to make the estimate and determine new revenues.
   3. **Expenditure Limitation Formula.** The expenditure limitation is set by formula at 99% of the adjusted revenue estimate. New revenue is included in the limitation at 95% rather than 99%.
   4. **Not Self-Executing.** The General Assembly is required to enact laws to implement the expenditure limitation.
   5. **Supermajority Vote Requirement.** The supermajority General Assembly vote requirement to increase taxes is applied to the approval of bills increasing net state tax revenues from either state income tax or sales and use tax law changes.
   6. **General Assembly Determination of Tax Revenue Increase and Recitation in Bill of Constitutional Vote Requirement.** The General Assembly is charged with determining whether a bill increases net state tax revenues. Such a bill must itself describe the constitution’s supermajority vote requirement.
   7. **Lawsuit Filing Limitation.** A lawsuit challenging a bill for not complying with the supermajority vote requirement must be filed within one year of the bill’s enactment.
   8. **Not Self-Executing.** The General Assembly is required to enact laws to implement the supermajority vote requirement.

**GUESS THE DISPOSITION OF ABOVE AMENDMENTS.** See page 8 of this document.
II. Equal Rights Amendments -- Issues of Self-Execution, and Substance and Form

DRAFT #1 HJR 5

Section 1. The following amendment to the Constitution of the State of Iowa is hereby proposed. Section 1 of Article I of the Constitution of the State of Iowa is repealed and the following adopted in lieu thereof:

NEW SECTION. RIGHTS OF PERSONS. Section 1. All men and women are, by nature, free and equal, and have certain inalienable rights -- among which are those of enjoying and defending life and liberty, acquiring, possessing and protecting property, and pursuing and obtaining safety and happiness. Neither the State nor any of its political subdivisions shall, on the basis of gender, deny or restrict the equality of rights under the law.

Sec. 2. It is declared to be the intent of the general assembly in agreeing to the foregoing proposed amendment to the Constitution of the State of Iowa that a classification on the basis of gender shall not be held to deny or restrict equality of rights if it can be established that such classification is necessary to accomplish a compelling state interest.

GUESS THE DISPOSITION OF ABOVE AMENDMENT. See page 8 of this document.

DRAFT #2 SJR 1

Section 1. The following amendment to the Constitution of the State of Iowa is proposed. Section 1 of Article I of the Constitution of the State of Iowa, is amended to read as follows: RIGHTS OF PERSONS. Section 1. All men and women are, by nature, free and equal, and have certain inalienable rights - among which are those of enjoying and defending life and liberty, acquiring, possessing and protecting property, and pursuing and obtaining safety and happiness. Neither the State nor any of its political subdivisions shall, on the basis of gender, deny or restrict the equality of rights under the law.

GUESS THE DISPOSITION OF ABOVE AMENDMENT. See page 8 of this document.

DRAFT #3 HJR 5

Section 1. The following amendment to the Constitution of the State of Iowa is proposed. Section 1 of Article I of the Constitution of the State of Iowa, is amended to read as follows: RIGHTS OF PERSONS. Section 1. All men and women are, by nature, free and equal, and have certain inalienable rights - among which are those of enjoying and defending life and liberty, acquiring, possessing and protecting property, and pursuing and obtaining safety and happiness.

GUESS THE DISPOSITION OF ABOVE AMENDMENT. See page 8 of this document.
III. Natural Resources, Devotion of Portion of State Sales Tax Revenues -- Issues of Self-Execution and Unintended Consequences

HJR 1 (2009)
Section 1. The following amendment to the Constitution of the State of Iowa is proposed:

Article VII of the Constitution of the State of Iowa is amended by adding the following new section:

NATURAL RESOURCES. SEC. 10. A natural resources and outdoor recreation trust fund is created within the treasury for the purposes of protecting and enhancing water quality and natural areas in this State... Moneys in the fund shall be exclusively appropriated by law for these purposes.

The general assembly shall provide by law for the implementation of this section, including by providing for the administration of the fund and at least annual audits of the fund.

... the fund shall be annually credited with an amount equal to the amount generated by a sales tax rate of three-eighths of one percent as may be imposed upon the retail sales price of tangible personal property and the furnishing of enumerated services sold in this State.

No revenue shall be credited to the fund until the tax rate for the sales tax imposed upon the retail sales price of tangible personal property and the furnishing of enumerated services sold in this State in effect on the effective date of this section is increased...

GUESS THE DISPOSITION OF ABOVE AMENDMENT. See page 8 of this document.

HOUSE FILE 662 (2011)
Section 1. Section 423.2, subsection 11, Code 2011, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. ... the department shall transfer revenues equal to an amount generated by a tax of three-eighths of one percent imposed on the sale of tangible personal property and enumerated services... to the natural resources and outdoor recreation trust fund...

Sec. 2. SALES TAX RATE DECREASE. ... the rate of the sales tax imposed under chapter 423 upon the sales price of the sale of tangible personal property and the furnishing of enumerated services sold in this state shall be five and five-eighths percent.

Sec. 3. SALES TAX RATE INCREASE. Notwithstanding the rate specified in the section of this Act decreasing the sales tax rate, the rate of the sales tax imposed under chapter 423 upon the sales price of the sale of tangible personal property and the furnishing of enumerated services sold in this state shall be six percent...

Sec. 8. EFFECTIVE DATE. The sections of this Act decreasing the sales tax rate and referring to exemptions and refunds take effect at the end of the calendar day on June 30, 2013.

Sec. 9. EFFECTIVE DATE. The sections of this Act increasing the sales tax rate and referring to exemptions and refunds take effect at the beginning of the calendar day on July 1, 2013.

GUESS THE DISPOSITION OF ABOVE BILL. See page 8 of this document.
IV. Construction Principles and Legislative-Judicial Interaction -- Court Interpretations

A. City Home Rule and Statutory Rule of Interpretation

Iowa Constitution Art. III, section 38A

Municipal home rule. SEC. 38A. Municipal corporations are granted home rule power and authority, not inconsistent (emphasis added) with the laws of the general assembly, to determine their local affairs and government, except that they shall not have power to levy any tax unless expressly authorized by the general assembly. . . .

Iowa Code Chapter 364 Powers and Duties of Cities

364.2 Vesting of power — franchises.

3. An exercise of a city power is not inconsistent (emphasis added) with a state law unless it is irreconcilable (emphasis added) with the state law.

Green v. City of Cascade, 231 N.W.2d 882, 890 (Iowa 1975) (all language below quoted from case)

This court is the final arbiter of what the Iowa Constitution means, including the word 'inconsistent' in the Amendment. Kruidenier v. McCulloch, 258 Iowa 1121, 142 N.W.2d 355. Nonetheless, this court gives respectful consideration to the legislature's understanding of constitutional language, especially in the case of a contemporaneous legislative exposition of such language. (emphasis added) Edge v. Brice, 253 Iowa 710, 113 N.W.2d 755; Carlton v. Grimes, 237 Iowa 912, 23 N.W.2d 883.

We think, however, that the present problem falls under another rule of law—assuming that 'irreconcilable' is stronger than 'inconsistent.' The legislature has considerable authority to lay down rules for the interpretation of its own statutes. (emphasis added) E.g. Code 1975, ch. 4. See 16 Am.Jur.2d Constitutional Law s 235 at 486; 16 C.J.S. Constitutional Law s 112 at 499. The legislature appears to say in s 11(3) that state laws are to be interpreted in a way to render them harmonious with ordinances unless the court or other body considering two measures cannot reconcile them, in which event the state law prevails.

We hold s 11(3) to be valid as a rule of interpretation.

B. Governor's Veto Authority and Constitutional Construction

Redmond v. Ray, 268 N.W.2d 849, 853 (Iowa 1978) (all language below quoted from case)

What are “the last three days of a session” under Art. III s 16? In construing a constitution, our purpose is to ascertain the intent of the framers. (emphasis added) Ex Parte Pritz, 9 Iowa 30, 32 (1858) (“What thought was in the mind of those making the Constitution * * * is the great leading rule of construction.”).

We must first look at the words employed, giving them meaning in their natural sense and as commonly understood. (emphasis added) When necessary for a fuller understanding we may examine constitutional history. (emphasis added) We may also note the object to be attained or the evil to be remedied as disclosed by circumstances at the time of adoption. (emphasis added) Rudd v. Ray, 248 N.W.2d 125, 129-130 (Iowa 1976).

“Meaning in their natural sense and as commonly understood” sounds similar to the plain meaning statutory rule of construction (textualists). “Object to be attained or the evil to be remedied as disclosed by circumstances at the time of adoption” sounds similar to application of the ambiguity rule but also similar to a contextual examination of the constitutional language (contextualists).

REFER TO INFORMATION RELATING TO THEORIES OF STATUTORY CONSTRUCTION. See slides attached at the end of this document.
C. Item Veto of Appropriation Bills and Judicial Preeminence in Constitutional Construction

Iowa Constitution Art. III, section 16 (emphasis added)  
Executive approval — veto — item veto by governor. SEC. 16. . . . The governor may approve appropriation bills in whole or in part, and may disapprove any item of an appropriation bill. . .

Iowa Code Chapter 3 Statutes and Related Matters (emphasis added)  
3.4 Bills — approval — passage over veto. . . . An "appropriation bill" means a bill which has as its primary purpose the making of appropriations of money from the public treasury. [enacted in 1986 subsequent to the 1985 item veto]

Iowa Constitution Art. XII, section 1 (emphasis added)  
Supreme law — constitutionality of acts. SECTION 1. This constitution shall be the supreme law of the state, and any law inconsistent therewith, shall be void. The general assembly shall pass all laws necessary to carry this constitution into effect.

Junkins v. Branstad, 421 N.W.2d 130, 134-5 (Iowa 1988) (all language below quoted from case)

In the performance of assigned constitutional duties each branch of the Government must initially interpret the Constitution, and the interpretation of its powers by any branch is due great respect from the others. . . Many decisions of this Court, however, have unequivocally reaffirmed the holding of Marbury v. Madison that "[i]t is emphatically the province and duty of the judicial department to say what the law is."

. . . And in Baker v. Carr, the Court stated: "Deciding whether a matter has in any measure been committed by the Constitution to another branch of government, or whether the action of that branch exceeds whatever authority has been committed, is itself a delicate exercise in constitutional interpretation, and is a responsibility of this Court as ultimate interpreter of the Constitution."

We hold similar reasoning controls in this state. Whatever purposes the legislative definition of "appropriation bill" may serve, it does not settle the constitutional question. In this case, determination of the scope of the governor's authority granted by Article III, section 16, as amended, will require a decision whether the bill involved here was an "appropriation bill" as that term is used in our constitution. This determination, notwithstanding the legislative definition, is for the courts.

D. Item Veto of Appropriation Bills, Rejection of Primary Purpose and Single Appropriation Tests -- Adoption of Test of Whether Bill Significantly Affects the Governor's Budgeting Responsibility

Junkins v. Branstad, 448 N.W.2d 480, 484-5 (Iowa 1989) (all language below quoted from case)

We agree with the trial court's rejection of the "primary and specific purpose test." It would be quite easy for the legislature to deprive a governor of the constitutional powers conferred on the chief executive officer by including specific items of appropriations in general bills. To adopt the primary purpose test would be to require the governor, in such an instance, to choose between approving acceptable substantive legislation or disapproving the entire bill in order to prevent items of expenditure which the governor feels are not in the best interest of the public from becoming law. See Colton, 372 N.W.2d at 190–91.

Neither do we believe that the presence of a single appropriation within a bill automatically causes it to become an "appropriation bill" for the purpose of an item veto. We believe the proper test is to review each bill on an ad hoc basis and determine whether the bill contains an appropriation which could significantly affect the governor's budgeting responsibility. If the test is met, the governor can properly exercise the item veto as to the appropriation of money. This test takes into consideration the constitutional responsibility of both branches of government.
DISPOSITION OF IOWA CONSTITUTIONAL AMENDMENTS AND IMPLEMENTING BILL

The 1995 Taxpayers’ Rights amendment (HJR 4*) was never passed by two successive Iowa General Assemblies and thus never submitted to the electors for ratification. This version had been repeatedly introduced over at least two decades with the insistence of an Iowa taxpayers’ association headed by a lawyer and former Iowa State Senator and Representative David M. Stanley of Muscatine, Iowa. Mr. Stanley’s association was able over those decades to secure a legislator sponsor of the amendment who would insist that the association’s proposed amendment language not be altered by legislative drafters in any meaningful way.


The 1999 Expenditure Limitation and Supermajority Vote for Tax Increases amendments (SJR 1**) were defeated at a special election:
Yes 211,157 (49%) No 217,543 (51%) - Expenditure Limitation
Yes 204,646 (48%) No 221,351 (52%) - Supermajority Vote.


The 1980 Equal Rights amendment (HJR 5) was defeated at the general election: Yes 468,708 (44%) No 591,925 (56%).

The 1992 Equal Rights amendment (SJR 1) was defeated at the general election:
Yes 557,918 (48%) No 604,839 (52%).

The 1998 Equal Rights amendment (HJR 5) was ratified at the general election:
Yes 654,419 (84%) No 128,589 (16%).

The 2009 Natural Resources Sales Tax Revenue Devotion amendment (HJR 1) was ratified at the 2010 general election:
Yes 629,235 (63%) No 376,377 (37%).

HF 662 (2011) was introduced and referred to the House Ways and Means Committee but was never voted out of committee.