

P U B L I C H E A R I N G
before
SENATE JUDICIARY COMMITTEE
on
SCR-4, SCR-7, SCR-45, SCR-78 & S-81 & S-828
(Initiative and Referendum)

Held:
June 30, 1980
Room 223
State House
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Senator William V. Musto, Chairman
Senator John H. Dorsey, Acting Chairman

ALSO:

John J. Tumulty, Research Associate
Office of Legislative Services
Aide, Senate Judiciary Committee

* * *

New Jersey State Library



I N D E X

	<u>Page</u>
Rose Marie Sinnott Freeholder Union County	1 & 1X
Matt Grubeleck Federation of New Jersey Taxpayers	3
Rosemary Knab New Jersey Education Association	4
Milton Mound National Initiative and Referendum Association	8
Donald Lan Secretary of State State of New Jersey	12
Anne Fortuna	14
Samuel Perelli State Chairman United Taxpayers of New Jersey	15 & 9X
Ernest Lettieri Bayonne Property Owners	18
Larry Haverly Executive Director Taxpayers Political Action Committee	20 & 15X
Richard Zimmer	24
Lorraine Niemela Common Cause	26
Edward Mc Gee Chairman Taxpayers Political Action Committee	28
Iola Rohrer Boonton Township	29

Index - continued

	<u>Page</u>
Joseph F. Shanahan Hunterdon County Citizens and Taxpayers Association, Inc.	30
Rose Monyek Rahway, New Jersey	31
Alton Heyn	33
Lee Pacifico Tax Reform Immediately	33
James Bennie Director Federation of New Jersey Taxpayers	35
Frank Haines Executive Director New Jersey Taxpayers Association	36
 ALSO SUBMITTED:	
Resolution from Board of Chosen Freeholders Union County Elizabeth, New Jersey	1x
United Taxpayers of New Jersey Criteria for Initiative and Referendum	9x
Presentation of the Taxpayers Political Action Committee Submitted by C. A. Haverly Executive Director	15x
Letter from Philip J. Cocuzza Executive Vice President New Jersey Builders Association	56x
 1-5:I 6-23:IV 24-40:II	

SENATE CONCURRENT RESOLUTION No. 4

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1980 SESSION

By Senator DORSEY

A CONCURRENT RESOLUTION proposing to amend Article I, paragraph 2 of the Constitution of the State of New Jersey.

1 BE IT RESOLVED *by the Senate of the State of New Jersey (the*
2 *General Assembly concurring):*

1 1. The following proposed amendment to the Constitution of the
2 State of New Jersey is hereby agreed to:

PROPOSED AMENDMENT

3 Amend Article I, paragraph 2, as follows:

4 2. All political power is inherent in the people. Government is
5 instituted for the protection, security, and benefit of the people, and
6 they have the right at all times to alter or reform the same, when-
7 ever the public good may require it. *The people reserve unto*
8 *themselves the power to propose laws and amendments to the Con-*
9 *stitution through the initiative process as may be provided by law*
10 *and, in addition to that required by Article 8, section 2, paragraph*
11 *3 of the Constitution, the people reserve unto themselves the power*
12 *to approve or reject all or any part of any duly enacted law except*
13 *laws calling elections and laws appropriating money for general*
14 *state purposes and laws raising revenue, through the referendum*
15 *process as may be provided by law.*

1 2. When this proposed amendment to the Constitution is finally
2 agreed to, pursuant to Article IX, paragraph 1 of the Constitu-
3 tion, it shall be submitted to the people at the next general election
4 occurring more than 3 months after such final agreement and shall
5 be published at least once in at least one newspaper of each county
6 designated by the President of the Senate and the Speaker of the
7 General Assembly and the Secretary of State, not less than 3
8 months prior to said general election.

1 3. This proposed amendment to the Constitution shall be sub-
2 mitted to the people at said election in the following manner and
3 form:

- 4 There shall be printed on each official ballot to be used at such
 5 general election the following:
- 6 a. In every municipality in which voting machines are not used,
 7 a legend which shall immediately precede the question, as follows:
 8 If you favor the proposition printed below make a cross (X)
 9 plus (+) or check (V) in the square opposite the word "Yes."
 10 If you are opposed thereto make a cross (X) plus (+) or check
 11 (V) in the square opposite the word "No."
 12 b. In every municipality the following question:

	Yes.	<p style="text-align: center;">CONSTITUTIONAL AMENDMENT TO ESTABLISH THE INITIATIVE AND REFERENDUM IN THE STATE</p> <p>Shall the amendment to Article I, paragraph 2, of the Constitution, agreed to by the Legislature, establishing the initiative and referendum in the State, be adopted?</p>
	No.	

STATEMENT

The purpose of this constitutional amendment is to allow the people of the State of New Jersey to use the initiative and referendum process in directing the affairs of the State and in exercising their right to alter or reform the government of the State. It is felt that some procedure should be available for direct enactment and review of laws and the constitution without the necessity of calling a constitutional convention.

This amendment allows the mechanics of the initiative and referendum procedure to be established by law or by the constitution. The exceptions to the laws which may be the subject of a referendum are designed to provide uniformity and certainty in those areas and recognize that the Legislature is uniquely qualified to deal with those areas.

This concurrent resolution is a companion measure to Senate Bill No. 81 now pending before the Legislature which establishes the procedures for conducting an initiative and a referendum.

SENATE CONCURRENT RESOLUTION No. 7

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1980 SESSION

By Senator DORSEY

A CONCURRENT RESOLUTION proposing to amend Article I, paragraph 2 of the Constitution of the State of New Jersey.

1 BE IT RESOLVED *by the Senate of the State of New Jersey (the*
2 *General Assembly concurring)*:

1 1. The following proposed amendment to the Constitution of the
2 State of New Jersey is hereby agreed to:

PROPOSED AMENDMENT

3 Amend Article I, paragraph 2, as follows:

4 2. All political power is inherent in the people. Government is
5 instituted for the protection, security, and benefit of the people, and
6 they have the right at all times to alter or reform the same, when-
7 ever the public good may require it. *The people reserve unto*
8 *themselves the power to propose laws and amendments to the Con-*
9 *stitution through the initiative process as may be provided by law*
10 *and, in addition to that required by Article 8, section 2, paragraph*
11 *3 of the Constitution, the people reserve unto themselves the power*
12 *to approve or reject all or any part of any duly enacted law through*
13 *the referendum process as may be provided by law.*

1 2. When this proposed amendment to the Constitution is finally
2 agreed to, pursuant to Article IX, paragraph 1 of the Constitu-
3 tion, it shall be submitted to the people at the next general election
4 occurring more than 3 months after such final agreement and shall
5 be published at least once in at least one newspaper of each county
6 designated by the President of the Senate and the Speaker of the
7 General Assembly and the Secretary of State, not less than 3
8 months prior to said general election.

1 3. This proposed amendment to the Constitution shall be sub-
2 mitted to the people at said election in the following manner and
3 form:

4 There shall be printed on each official ballot to be used at such
5 general election the following:

- 6 a. In every municipality in which voting machines are not used,
 7 a legend which shall immediately precede the question, as follows:
 8 If you favor the proposition printed below make a cross (X)
 9 plus (+) or check (V) in the square opposite the word "Yes."
 10 If you are opposed thereto make a cross (X) plus (+) or check
 11 (V) in the square opposite the word "No."
 12 b. In every municipality the following question:

	Yes.	<p style="text-align: center;">CONSTITUTIONAL AMENDMENT TO ESTABLISH THE INITIATIVE AND REFERENDUM IN THE STATE</p>
	No.	<p>Shall the amendment to Article I, paragraph 2, of the Constitution, agreed to by the Legislature, establishing the initiative and referendum in the State, be adopted?</p>

STATEMENT

The purpose of this constitutional amendment is to allow the people of the State of New Jersey to use the initiative and referendum process in directing the affairs of the State and in exercising their right to alter or reform the government of the State. It is felt that some procedure should be available for direct enactment and review of laws and the constitution without the necessity of calling a constitutional convention.

This amendment allows the mechanics of the initiative and referendum procedure to be established by law or by the constitution.

This concurrent resolution is a companion measure to Senate Bill No. 81 now pending before the Legislature which establishes the procedures for conducting an initiative and a referendum.

SENATE CONCURRENT RESOLUTION No. 45

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1980 SESSION

By Senators MUSTO and BEDELL

A CONCURRENT RESOLUTION proposing to amend Article IX, of the
Constitution of the State of New Jersey.

1 BE IT RESOLVED *by the Senate of the State of New Jersey (the*
2 *General Assembly concurring):*

1 1. The following proposed amendment to the Constitution of
2 the State of New Jersey is hereby agreed to:

PROPOSED AMENDMENT

3 Amend Article IX of the Constitution by adding thereto section
4 8, as follows:

5 8. (a) In addition to the provisions relating to the proposal of
6 amendments to this Constitution by the Legislature, any specific
7 amendment may be proposed by the initiative.

8 (b) The specific amendment proposed by the initiative shall be
9 set forth in full in an initiative petition which shall be signed by
10 at least 10 legally qualified voters of the State, who shall be known
11 as the sponsors, and shall be filed with the Secretary of State, who
12 shall forthwith submit the same to the Attorney General for his
13 certification to be made to the Secretary of State within 30 days
14 therefrom that the proposal is in proper form for submission to
15 the people, that it does not contain the same or substantially the
16 same change in the Constitution which has been qualified for sub-
17 mission or submitted to the people within the time specified in this
18 amendment and that it contains only subjects which are related
19 or mutually dependent.

20 (c) Upon receipt of the certification of the Attorney General,
21 the Secretary of State shall forthwith provide forms, entitled
22 Initiative Petition, containing the text of the proposed amendment
23 and the names and addresses of the sponsors. Said forms shall
24 forthwith be made available to the county clerks of the several
25 counties and shall be available for signing by the legally qualified

26 voters of the counties in the offices of the county clerks and in such
27 other public offices within the counties and under such conditions
28 as the Legislature may direct for a period of 90 days, excluding
29 Sundays, after receipt of said forms by the county clerks.

30 (d) Upon the expiration of said 90 days, the county clerks shall
31 transmit all said forms to the Secretary of State, who shall forth-
32 with determine if (a) said initiative petitions have been signed
33 by a number of legally qualified voters of the State equal to at least
34 3% of the total number of votes cast in the last preceding election
35 for Governor and (b) no more than $\frac{1}{4}$ of such minimum number
36 of signers are residents of the same county. If said conditions
37 have been met, the Secretary of State shall certify the proposed
38 amendment to the Senate and General Assembly, if the Legislature
39 is in session, and, if not, when it next convenes or reconvenes.

40 (e) When the Secretary of State shall have certified such pro-
41 posed amendment to the Senate and General Assembly, the presid-
42 ing officer of each House shall cause a recorded vote of yeas and
43 nays to be taken upon such proposed amendment within 45 days
44 of the receipt of said certification; or, if the Legislature be not in
45 session at the expiration of said 45 days, said amendment not yet
46 having been voted upon, then such vote shall be taken as the first
47 order of business when the Legislature convenes or reconvenes.
48 Each House shall certify the result of such vote to the Secretary
49 of State, and if at least $\frac{1}{3}$ of the members of each House shall
50 have voted in favor of the proposed amendment, the same shall be
51 submitted to the people at the next general election.

52 (f) The Secretary of State shall formulate the question to be
53 voted on at the election and shall cause the proposed amendment,
54 entitled Constitutional Amendment by Initiative, to be published
55 not less than 3 months prior to submission to the people in accord-
56 ance with the provisions relating to amendments to the Constitu-
57 tion proposed by the Legislature.

58 (g) If more than one constitutional amendment by initiative
59 be submitted to the people, they shall be submitted in such manner
60 and form that the people may vote for or against each amendment
61 separately and distinctly.

62 (h) If the proposed constitutional amendment or amendments
63 by initiative or any of them shall be approved by a majority of the
64 legally qualified voters of the State voting thereon, the same shall
65 become part of the Constitution on the thirtieth day after the elec-
66 tion, unless otherwise provided in the amendment or amendments.

67 (i) If at the election a constitutional amendment by initiative
68 shall not be approved, neither such proposed amendment nor one
69 to effect the same or substantially the same change in the Consti-

70 tution shall be submitted to the people before the fifth general
71 election thereafter.

72 (j) The Legislature may by law provide a procedure for the
73 withdrawal by its sponsors of an initiative petition at any time
74 before its submission to the people.

1 2. When this proposed amendment to the Constitution is finally
2 agreed to, pursuant to Article IX, paragraph 1 of the Constitution,
3 it shall be submitted to the people at the next general election
4 occurring more than 3 months after such final agreement and shall
5 be published at least once in at least one newspaper of each county
6 designated by the President of the Senate and the Speaker of the
7 General Assembly and the Secretary of State, not less than 3
8 months prior to said general election.

1 3. This proposed amendment to the Constitution shall be sub-
2 mitted to the people at said election in the following manner and
3 form:

4 There shall be printed on each official ballot to be used at such
5 general election, the following:

6 a. In every municipality in which voting machines are not used,
7 a legend which shall immediately precede the question, as follows:

8 If you favor the proposition printed below make a cross (X),
9 plus (+) or check (V) in the square opposite the word "Yes."

10 If you are opposed thereto make a cross (X), plus (+) or check
11 (V) in the square opposite the word "No."

12 b. In every municipality the following question:

	Yes.	<p style="text-align: center;">CONSTITUTIONAL AMENDMENT BY THE INITIATIVE</p> <p>Shall the amendment to Article IX of the Constitution, agreed to by the Legislature, providing for the pro- posal of constitutional amendments by initiative petition, be adopted?</p>
	No.	

STATEMENT

This amendment would enable the people to initiate a constitu-
tional amendment directly by petition. Such petition would re-
quire the signatures of a number of registered voters equal to at
least 3% of the total vote in the previous gubernatorial election.
The petitions would be signed at county clerks' offices and in other
public offices in the counties under regulations prescribed by the
Legislature designed to assure that they represent the orderly
and deliberate choice of the signers. A further requirement is the
concurrence of 1/3 of the membership of each House of the Legis-

lature, in order to assure that the proposal can command a significant measure of support among persons experienced and responsible in the field of legislation. If voted upon by the people and rejected, no such proposal could be resubmitted for 5 years.

The proposed amendment is designed to implement the State Constitution's declaration: "All political power is inherent in the people. Government is instituted for the protection, security and benefit of the people, and they have the right at all times to alter or reform the same, whenever the public good may require it." (Article I, paragraph 2)

Most of that "inherent power" is delegated, under the Constitution, to elected representatives. There is one area, however, in which such delegation proves insufficient; and that is in determining how and when the Constitution itself shall be amended. To let the initiative for such change rest entirely with the Legislature, which is itself the creature of the Constitution, rather than with the people, who are its creator, is illogical and frustrates the intent of Article I, paragraph 2 of the Constitution.

This defect in present constitutional machinery was noted by the State Supreme Court in *Jackman v. Bodine*, 43 N. J. 453 (1964), a reapportionment case, when the court observed: "Our State Constitution does proclaim the inherent power in the people to change the Constitution However, there is no machinery in our State, constitutional or statutory, whereby the people can alter the legislative branch of government on their own initiative."

This amendment proposes to remedy the defect while at the same time providing sufficient safeguards against the abuses to which the reliance upon popular petitions is liable.

SENATE CONCURRENT RESOLUTION No. 78

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1980 SESSION

By Senators SKEVIN and SHEIL

A CONCURRENT RESOLUTION proposing to amend Article I, paragraph 2 of the Constitution of the State of New Jersey.

1 BE IT RESOLVED *by the Senate of the State of New Jersey (the*
2 *General Assembly concurring)*:

1 1. The following proposed amendment to the Constitution of the
2 State of New Jersey is hereby agreed to:

PROPOSED AMENDMENT

3 Amend Article I, paragraph 2, as follows:

4 2. All political power is inherent in the people. Government is
5 instituted for the protection, security, and benefit of the people,
6 and they have the right at all times to alter or reform the same,
7 whenever the public good may require it. *The people reserve unto*
8 *themselves the power to propose laws and amendments to the*
9 *Constitution through the initiative process as may be provided by*
10 *law and the people reserve unto themselves the power to approve*
11 *or repeal all or any part of any duly enacted law through the refer-*
12 *endum process as may be provided by law. No law proposed by the*
13 *people in an initiative or referendum petition and approved by the*
14 *legally qualified voters of this State shall be subject to the veto*
15 *power of the Governor.*

1 2. When this proposed amendment to the Constitution is finally
2 agreed to, pursuant to Article IX, paragraph 1 of the Constitu-
3 tion, it shall be submitted to the people at the next general election
4 occurring more than 3 months after such final agreement and shall
5 be published at least once in at least one newspaper of each county
6 designated by the President of the Senate and the Speaker of the
7 General Assembly and the Secretary of State, not less than 3
8 months prior to said general election.

1 3. This proposed amendment to the Constitution shall be sub-
2 mitted to the people at said election in the following manner and
3 form:

4 There shall be printed on each official ballot to be used at such
5 general election the following:

6 a. In every municipality in which voting machines are not used,
7 a legend which shall immediately precede the question, as follows:

8 If you favor the proposition printed below make a cross (X)
9 plus (+) or check (✓) in the square opposite the word "Yes."
10 If you are opposed thereto make a cross (X) plus (+) or check
11 (✓) in the square opposite the word "No."

12 b. In every municipality the following question:

	YES.	<p style="text-align: center;">CONSTITUTIONAL AMENDMENT TO ESTABLISH THE INITIATIVE AND REFERENDUM IN THE STATE</p> <p>Shall the amendment to Article I, paragraph 2, of the Constitution agreed to by the Legislature, establishing in the people of this State the unrestricted power to propose laws and amendments to the Constitution through the initiative process and to approve or repeal all or any part of any duly enacted law through the referendum process, be adopted?</p>
	No.	

STATEMENT

The purpose of this constitutional amendment is to allow the people of the State of New Jersey to use the initiative and referendum process in directing the affairs of the State and in exercising their right to alter or reform the government of the State. It is felt that a procedure should be available for direct enactment and review of laws and for direct enactment of constitutional amendments. This amendment creates an unrestricted initiative and referendum procedure that has no limitations on subject matter and prevents the Governor from vetoing laws passed by the people.

This bill is a companion bill to Senate Bill No. 828 which establishes the procedures for conducting an initiative and a referendum.

SENATE, No. 81

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1980 SESSION

By Senator DORSEY

AN Act providing for the establishment of procedures to govern the initiative and referendum process in this State, providing for the certification of measures to the ballot for a popular vote, providing certain penalties, and supplementing Title 19 of the Revised Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. Short title. This act shall be known and may be cited as the
2 "Initiative and Referendum Act."

1 2. Scope of act. This act shall apply only to initiative and ref-
2 erendum measures affecting the Constitution or the laws of the
3 State of New Jersey.

1 3. Declaration of intent. The Legislature hereby finds and
2 declares that it is in the best interests of the citizens of the
3 State that their right to alter and reform the government of
4 the State should be given effect through the provision of a mecha-
5 nism for the submission to popular vote of certain acts of the
6 Legislature, as well as for the initiation of laws and constitutional
7 amendments.

1 4. Construction. This act shall be liberally construed to carry
2 out the intent as herein expressed to assure an effective method
3 of submitting measures to a popular vote.

1 5. Definitions. a. "Initiative measure" means a proposed law or
2 constitutional amendment which is submitted for certification to
3 the ballot.

4 b. "Referendum measure" means a proposed submission of the
5 whole or any part of any law duly enacted by the Legislature for
6 certification to the ballot.

7 c. "Proponent" means any individual, group, committee or
8 organization which submits an initiative measure or referendum

9 measure for certification to the ballot as provided in this act.

10 d. "Executive director" means the Executive Director of the
11 Election Law Enforcement Commission.

12 e. "Legislative Counsel" means the Legislative Counsel of the
13 Office of Legislative Services.

14 f. "Paid circulator" means any person who circulates, as princi-
15 pal or agent, or has charge or control of the circulation of, or
16 obtains signatures to, any initiative or referendum petition in
17 return for any form of compensation, whether that compensation
18 is received before or after the circulation of the petition.

1 6. Filing of proposed measures. Prior to the circulation of any
2 petition for signatures the proponent of any initiative measure
3 or referendum measure shall file with the Attorney General
4 10 copies of the measure and 10 copies of the proposed
5 petitions for signatures with a request that he review the
6 measure for compliance with the technical requirements for laws
7 of New Jersey and that he prepare a summary of the chief pur-
8 poses and points of the proposed measure. The request shall be
9 in writing and the Attorney General shall retain such request
10 until after the measure is placed on the ballot or until the expira-
11 tion of 3 years from the date of receipt, whichever is earlier. The
12 proponents of any measure shall, at the time of filing the measure
13 with the Attorney General, pay a fee of \$200.00, said fee to be
14 placed in a trust fund in the office of the State Treasurer to be
15 refunded to the proponent if, within 3 years of the date of filing
16 of the measure, it qualifies for the ballot. If the measure does not
17 qualify within the time period the fee shall immediately be trans-
18 ferred to the General Fund of the State.

1 7. Preparation of title and summary. The Attorney General
2 shall prepare the title and summary in the manner provided here-
3 inafter. The summary shall not exceed 100 words in length. The
4 Attorney General, in preparing the summary for a measure, the
5 substance of which, if passed, would affect the revenues or ex-
6 penditures of the State or local government, shall state in the
7 summary the amount of any increases in revenue or costs to the
8 State or local government if the proposed measure is adopted.
9 Such estimates as required by this section shall be made jointly
10 by the Division of Budget and Accounting and the Division of
11 Budget and Program Review in the Office of Legislative Services,
11A who shall inform the Attorney General so that the estimate

12 may be included in the summary. A fiscal estimate need not be
13 prepared if in the opinion of both the Division of Budget and
14 Accounting and the Division of Budget and Program Review a
15 reasonable estimate cannot be prepared within 45 days of the
16 request by the Attorney General, but they shall state whether or
17 not there is a likelihood of substantial change in State or local
18 finances if the measure is adopted.

19 The summary shall be prepared in clear and concise language
20 which will be easily understood by the average voter, and shall
21 avoid the use of technical terms insofar as possible. The title
22 shall be a concise phrasing of the major purpose of the measure.
23 This title shall be certified to the Secretary of State as the ballot
24 title.

1 8. Heading of initiative measure; printing of title and summary
2 on initiative measure. The heading of the proposed initiative
3 measure shall be in substantially the following form:

“INITIATIVE MEASURE TO BE SUBMITTED
DIRECTLY TO THE VOTERS”

4 The Attorney General of New Jersey has prepared the following
5 title and summary of the chief purpose and points of the proposed
6 measure:

7 (Herein set forth the title and summary prepared by the Attorney
8 General)

TO THE HONORABLE SECRETARY OF STATE
OF THE STATE OF NEW JERSEY

9 We, the undersigned, registered, qualified voters of New Jersey,
10 residents of County, hereby propose amendments
11 to the Constitution of New Jersey (the laws of New Jersey relating
12 to) and petition the Secretary of State to submit
13 the same to the voters of New Jersey for their adoption or rejection
14 at the next succeeding general election.

15 The Proposed constitutional (or statutory) amendment reads as
16 follows: (full title and text of measure).”

17 The proponents of any proposed initiative measure shall, prior
18 to the circulation of any petition, place upon each section of the
19 petition, the above heading, including the title and summary as
20 prepared by the Attorney General, in roman blackface type not
21 smaller than 12-point.

1 9. Heading on referendum measure and petition; short title on
2 referendum petition. Across the top of each page of a referendum
3 petition there shall be printed in roman blackface type not smaller
4 than 12-point the following:

5 “Referendum Against an Act Passed by the Legislature.”
6 (herein insert the language set forth in section 8 of this act
7 with reference to the chapter law and the New Jersey statute
8 citation which is the subject of the referendum.)

1 10. Filing of petitions. Officers and employees required to
2 receive petitions for filing shall not accept any petition which is
3 not in conformity with this act. The right to file the original
4 petition shall be reserved to its proponents, and any section thereof
5 or supplement thereto presented for filing by any person or persons
6 other than the proponents of a measure or by persons duly autho-
7 rized in writing by the proponents shall be disregarded by the
8 county clerk.

1 11. Official summary date; priority of measures. The Attorney
2 General shall notify the proponent, in writing, when the title and
3 summary are complete. The date of such notification shall be
4 known as the official summary date. No official summary date shall
5 be given to a measure until every measure filed on an earlier date
6 shall have received an official summary date. Included in the
7 notification shall be the total number of signatures required for
8 the measure to qualify, and the maximum number allowed from
9 any one county, calculated pursuant to section 23 of this act.

1 12. Notification; time for circulation and filing of petitions;
2 public hearings; legislative review. The Attorney General shall
3 immediately notify the Secretary of State, the Legislative Counsel,
4 and the executive director of the official summary date and send
5 each of them a copy of the measure and the summary. The Secre-
6 tary of State forthwith shall notify the county clerk of each county
7 of the official summary date and mail a copy of the summary to each
8 county clerk. This notification shall also include a complete
9 schedule showing the maximum filing deadline and the certification
10 deadline by the counties to the Secretary of State.

11 No petitions for a proposed measure shall be circulated for
12 signatures prior to the official summary date. Petitions with
13 signatures on a proposed measure shall be filed with the county
14 clerk not later than 150 days from the official summary date and
15 no county clerk shall accept petitions on the proposed measure
16 after that period.

17 Immediately upon notification to the proponent of the completion
18 of the title and summary the Attorney General shall transmit
19 copies of the text of the measure and summary to the Secretary of
20 the Senate and Clerk of the General Assembly. The appropriate
21 committees of each house may hold public hearings on the subject

22 of the measure; provided, that nothing in this section shall be
23 construed as authority for the Legislature to alter the measure.

24 As soon as practicable after the public hearings, or if no hearings
25 are scheduled after receipt of the measure and summary from the
26 Attorney General, but in no event more than 45 days after said
27 receipt, the Speaker of the General Assembly and the President
28 of the Senate shall move the question of whether the measure shall
29 be placed on the ballot upon certification by the Secretary of State.
30 There shall be a roll call or machine vote on the motion in each
31 house and in the event that the total number of legislators voting
32 in favor of the motion in both or either house exceeds thirty, the
33 Secretary of State shall be notified that he may certify the measure
34 for the ballot when, under the provisions of this act, the measure
35 is certifiable. If the vote on the motion shall be less than the re-
36 quired number of votes the Secretary of State shall be notified
37 and shall immediately notify the proponent. The Speaker of the
38 General Assembly and the President of the Senate shall cause the
39 motion to be presented again at any time within 6 months of the
40 first motion upon the written request of five or more of the members
41 of the respective houses.

1 13. Signatures and their solicitation. Any qualified voter of the
2 State shall be competent to solicit signatures within the county
3 of which he is a voter. Each section of the petition shall bear the
4 name of the county in which it is circulated, and only qualified
5 voters of such county shall be competent to sign such section.

1 14. Signatures; place of residence. The petition sections shall be
2 designed so that each signer shall add his printed and signed name,
3 give his place of residence, street and number if such exists. The
4 number of signatures attached to each section shall be at the
5 pleasure of the person soliciting signatures to the same. The
6 signatures shall be in a form sufficient for the clerks to determine
7 that the signer is a registered voter in the county.

1 15. Sections. Any initiative or referendum petition may be pre-
2 sented in sections, but each section shall contain a full and correct
3 copy of the title and text of the proposed measure.

1 16. Affidavits. Each section shall have attached thereto the
2 affidavit of the person soliciting signatures to the same, stating his
3 own qualifications and that all the signatures to the attached
4 section were made in his presence and that to the best of his
5 knowledge and belief each signature to the section is the genuine
6 signature of the person whose name it purports to be, and no other
7 affidavit thereto shall be required. The affidavit of any person

8 soliciting signatures hereunder shall be verified free of charge by
9 any officer authorized to administer oaths.

1 17. Evidence and presumptions. Such petitions so verified shall
2 be prima facie evidence that the signatures thereon are genuine
3 and that the persons signing the same are qualified voters. Unless
4 it be otherwise proven upon official investigation, it shall be
5 presumed that the petition presented contains the signatures of
6 the requisite number of qualified voters.

1 18. Filing; examination; certification; notice of insufficiency.

2 a. Each section of the petition shall be filed with the clerk of the
3 county in which it was circulated but all sections circulated in any
4 county shall be filed at the same time.

5 b. Within 5 days after the filing of such petition in his office
6 the county clerk shall determine the total number of signatures
7 affixed to the petition and shall transmit such information to the
8 Secretary of State. If the total number of signatures filed with all
9 county clerks is less than 100% of the number of qualified voters
10 required to find the petition sufficient the Secretary of State shall
11 so notify the proponents and the county clerks and no further
11a action shall be taken in regard to the petition.

11b c. If the number of signatures filed with all county clerks is 100%
11c or more of the number of qualified voters needed to declare the
11d petition sufficient, the Secretary of State shall immediately so notify
11e the county clerks.

12 d. Within 15 days after such notification, the county clerk shall
13 determine the number of qualified voters who have signed the
14 petition. If more than 500 names have been signed on sections of the
15 petition filed with a county clerk, the clerk shall use a random
16 sampling technique for verification of signatures, as determined by
17 the Secretary of State. The random sample of signatures to be
18 verified shall be drawn in such a manner that every signature
19 filed with the county clerk shall be given an equal opportunity to
20 be included in the sample. Such a random sampling shall include
21 an examination of at least 500 or 5% of the signatures, whichever
22 is greater. In determining from the records of registration what
23 number of qualified voters have signed the petition, the county
24 clerk may use any file or list of registered voters maintained in
25 the county.

26 e. The county clerk, upon the completion of the examination,
27 shall immediately attach to the petition, except the signatures
28 thereto appended, his certificate properly dated, showing the result
29 of his examination and shall immediately transmit the petition,

30 together with his certificate, to the Secretary of State and also file a
31 copy of the certificate in his office.

32 f. If the certificates received from all county clerks by the
33 Secretary of State establish that the petition has been found
34 insufficient, the Secretary of State shall immediately so notify
35 the proponents and the county clerks.

1 19. Statistical sampling; verification; amended certificate; notice
2 of insufficiency.

3 a. If the statistical sampling shows that the number of valid
4 signatures is within 90% to 110% of the number of signatures
5 of qualified voters needed to declare the petition sufficient, the
6 Secretary of State shall order the examination and verification of
7 each signature filed and shall so notify the county clerks.

8 b. Within 30 days after receipt of such order, the county clerk
9 shall determine from the records of registration what number of
10 qualified voters have signed the petition and if necessary the
11 governing body of the county shall allow the county clerk additional
12 assistance for the purpose of examining the petition and provide
13 for their compensation. In determining from the records of
14 registration what number of qualified voters have signed the peti-
15 tion, the county clerk may use any file or list of registered voters
16 maintained in the county.

17 c. The county clerk, upon the completion of the examination,
18 shall immediately attach to the petition, except the signatures
19 thereto appended, his amended certificate properly dated, showing
20 the result of the examination and shall immediately transmit the
21 petition, together with his amended certificate, to the Secretary of
22 State and also file a copy of the amended certificate in his office.

23 d. If the amended certificates received from all county clerks by
24 the Secretary of State establish that the petition has still been
25 found insufficient, the Secretary of State shall immediately so notify
26 the proponents and the county clerks.

1 20. Preservation and destruction of filed petitions. An officer
2 receiving or filing in his office any initiative or referendum petition
3 shall preserve the petition until 8 months after the certification
4 of the results of the election for which the petition qualified or
5 attempted to qualify for placement on the ballot. Thereafter, he
6 shall destroy the petition as soon as practicable unless it is in
7 evidence in some action or proceeding then pending or unless he
8 has received a written request from the Attorney General, the
9 Secretary of State, a county prosecutor, a grand jury, or the
10 governing body of a county, municipality, or district, including a

11 school district, that the petition be preserved for use in a pending
12 or ongoing investigation into election irregularities, the subject of
13 which relates to the petition's qualification or disqualification for
14 placement on the ballot.

1 21. Challenge to certificate or amended certificate. The validity
2 of signatures, the number of signatures, and the process of verifica-
3 tion may be challenged by the proponent in the same manner as
4 election irregularities may be challenged.

1 22. Filing with county clerk. When the Secretary of State shall
2 have received from one or more county clerks a petition certified
3 as herein provided to have been signed by the requisite number of
4 qualified voters, he shall forthwith transmit to the county clerk of
5 every county in the State his certificate showing such fact. A peti-
6 tion shall be deemed to be filed with the Secretary of State upon the
7 date of the receipt by him of a certificate or certificates showing
8 said petition to be signed by the requisite number of voters of the
9 State. Any county clerk shall, upon receipt of such copy, file the
10 same for record in his office.

1 23. Certification to ballot; number of signatures. When the
2 Secretary of State shall determine, from the certificates of the
3 various county clerks, that the requisite number of signatures to
4 qualify a measure for the ballot have been obtained, he shall certify
5 the measure to be placed on the ballot. The number of signatures
6 required shall be equal to 4% of the Statewide total of the
7 citizens registered to vote at the last general election at which
8 all members of the General Assembly were elected. Of the signa-
9 tures obtained and used to determine the requisite number of
10 signatures for certification, no more than 25% shall be from voters
11 registered to vote in any one county. In no event shall a measure
12 be certified to a ballot which measure qualified less than 120 days
13 before the date of the election.

1 24. Public notice; manner of presentation. The Secretary of
2 State shall cause the certified measure to be published at least once
3 in one or more newspapers of each county, if any be published
4 therein, not less than 3 months prior to submission to the people.
5 The measure shall be presented to the people in the manner
6 provided for the submission of proposed constitutional amend-
7 ments, except as otherwise provided in this act.

1 25. Designation of measure by title. Each measure shall be
2 designated on the ballot by the ballot title certified to the Secretary
3 of State by the Attorney General.

1 26. Submission of arguments. Any voter or group of voters may,
2 at any time within the time limit, prepare and file with the Secretary
3 of State an argument for or against any measure as to which argu-
4 ments have not been prepared or filed. The argument shall not
5 exceed 500 words in length.

1 27. Names and addresses of persons submitting. A ballot argu-
2 ment shall not be accepted under this act, unless accompanied by
3 the name and address or names and addresses of the person or
4 persons submitting it, or, if submitted on behalf of an organization,
5 the name, address, and telephone number of the organization and
6 the names and addresses of at least two of its principal officers.

1 28. Signatures on arguments. No more than three signatures
2 shall appear with any argument printed in the ballot pamphlet.
3 In case any argument is signed by more than three persons the
4 signatures of the first three shall be printed.

1 29. Priorities in selection of argument. If more than one argu-
2 ment for or more than one argument against any measure is filed
3 within the time prescribed, the Secretary of State shall select one
4 of the arguments for printing in the ballot pamphlets. In selecting
5 the argument the Secretary of State shall give preference and
6 priority in the order named to the arguments of the following:

- 7 a. The proponent of the measure.
- 8 b. Bona fide associations of citizens.
- 9 c. Individual voters.

1 30. Rebuttal arguments. When the Secretary of State has received
2 the arguments which will be printed in the ballot pamphlet, he shall,
3 within 5 days of receipt thereof, send copies of the arguments in
4 favor of the measure to the authors of the arguments against and
5 copies of the arguments against to the authors of the arguments
6 in favor. The authors may prepare and submit rebuttal arguments
7 not exceeding 250 words. The rebuttal arguments shall be filed
8 with the Secretary of State not less than 75 days prior to the
9 election in which the measure will appear.

10 Rebuttal arguments shall be printed in the same manner as the
11 direct arguments. Each rebuttal argument shall immediately follow
12 the direct argument which it seeks to rebut.

1 31. Analysis by Legislative Counsel. Upon the certification of the
2 measure to the ballot by the Secretary of State, the Legislative
2A Counsel shall prepare an impartial analysis of the measure, which
3 analysis shall be at least 500 words, and shall describe the measure
4 including an amended fiscal analysis if appropriate prepared in
5 accordance with section 7 of this act. The analysis shall be written

6 in clear and concise terms which will easily be understood by the
7 average voter, and shall avoid the use of technical terms wherever
8 possible. The analysis may contain background information includ-
9 ing the effect of the measure on existing law and the effect of
10 enacted legislation which will become effective if the measure is
11 adopted, and shall generally set forth in an impartial manner the
12 information which the average voter needs to understand the
13 measure adequately. The Legislative Counsel may contract with
14 professional writers, educational specialists or other persons for
15 assistance in writing an analysis that fulfills the requirements of
16 this section, including the requirement that the analysis be written
17 so that it will be easily understood by the average voter. The Legis-
18 lative Counsel may also request the assistance of any state depart-
19 ment, agency, or official in preparing his analysis. The title of the
20 measure which appears on the ballot shall be amended to contain
21 a summary of the Legislative Counsel's estimate of the net State
22 and local government financial impact.

1 32. Ballot pamphlet. There shall be a State ballot pamphlet
2 which shall be prepared by the Secretary of State, which shall
3 include:

- 4 a. A complete copy of each State measure;
- 5 b. A copy of the specific constitutional or statutory provision,
6 if any, which would be repealed or revised by each State measure.
- 7 c. A copy of the arguments and rebuttals for and against each
8 State measure.
- 9 d. A copy of the analysis of each State measure.
- 10 e. Tables of contents, indexes, art work, graphics and other
11 materials which the Secretary of State determines will make the
12 ballot pamphlet easier to understand or more useful for the average
13 voter.

1 33. Contents. The ballot pamphlet shall contain as to each
2 measure to be voted upon, the following in the order set forth in
3 this section:

- 4 a. Upon the top portion of the first page and not exceeding
5 one-third of the page shall appear:
 - 6 (i) The identification of the measure by number and title.
 - 7 (ii) The official summary prepared by the Attorney General.
- 8 b. Upon the lower portion of the first left page and upon the
9 top half of the right page, if necessary, shall appear the analysis
10 prepared by the Legislative Counsel.
- 11 c. If arguments for and against the measure have been submitted,
12 then the text of the measure shall appear on the right page facing

13 the analysis. If the text does not fit on this page, it shall be
14 continued in the back of the pamphlet. Arguments for and against
15 the measure shall be placed on the next left and right pages
16 respectively. The rebuttals shall be placed immediately below the
17 arguments.

18 d. If no argument against the measure has been submitted, the
19 argument for the measure shall appear on the right page facing
20 the analysis. The text of the measure shall be printed in the back
21 of the pamphlet.

22 e. The text of the measure shall contain the provisions of the
23 proposed measure and the existing provisions of law repealed or
24 revised by the measure. The provisions of the proposed measure
25 differing from the existing provisions of law affected shall be
26 distinguished in print, so as to facilitate comparison.

27 f. The following statement shall be printed at the bottom of each
28 page where arguments appear: "Arguments printed on this page
29 are the opinions of the authors and have not been checked for
30 accuracy by any official agency."

1 34. Printing. Measures shall be printed in the ballot pamphlet,
2 so far as possible, in the same order, manner and form in which
3 they are designated upon the ballot.

1 35. Size and type of pamphlet. All measures and arguments shall
2 be printed and bound in a single pamphlet according to the following
3 specifications:

4 a. The pages of the pamphlet shall be not smaller than $8\frac{1}{2}$ x 11
5 inches in size.

6 b. It shall be printed in clear readable type, no less than 10-point,
7 except that the text of the measure may be set forth in 8-point type.

8 c. The pamphlet shall be printed on a quality and weight of
9 paper which in the judgment of the Secretary of State best serves
10 the voters. It shall be the duty of the Secretary of State to publish
11 in such pamphlets a table of contents and a brief alphabetical index
12 of subjects.

1 36. Mailing of ballot pamphlets. As soon as copies of the ballot
2 pamphlet are available, the Secretary of State shall mail immedi-
3 ately the following number of copies to the following persons and
4 places:

5 a. Six copies to each municipal clerk;

6 b. Two copies to each judge of the superior court and each judge
7 of a county district or municipal court;

8 c. Five copies to each county clerk;

9 d. Five copies to each State Senator;

10 e. Five copies to each member of the General Assembly.
11 As soon as copies of the ballot pamphlet are available, the
12 Secretary of State shall mail upon request the following number
13 of copies to the following persons and places:

14 a. Two copies to each public library and branch thereof;

15 b. Two copies to each public high school or other public school
16 teaching at least the eleventh and twelfth grades.

17 c. Two copies to each public or private institution of higher
18 education in the State.

19 The Secretary of State may mail upon request additional copies
20 of the ballot pamphlet to those persons and institutions mentioned
21 in this section.

1 37. Filing petition with intent to defeat measure. Any person
2 who, either as principal or agent, files in the office of the Secretary
3 of State, county clerk, or in the office of any other officer designated
4 by law to receive such filing a petition or any section of a petition
5 relating to the Constitution or the laws of this State, authorized
6 by the Constitution or referendum, with the intention of thereby
7 defeating that initiative or referendum measure which is embraced
8 in the petition is guilty of a crime of the third degree. Nothing in
9 this section applies to any person who, in good faith, files a petition
10 embracing an initiative or referendum measure which conflicts with
11 a similar measure already on file.

1 38. Void petition. Any petition, or any section of a petition,
2 filed by any person other than the proponents of an initiative or
3 referendum measure with an intention of defeating an expression
4 of the public will is of no effect.

1 39. False affidavit. Any person who makes any false affidavit
2 concerning any initiative or referendum or the signatures appended
3 thereto is punishable by a fine not exceeding \$5,000.00, or by im-
4 prisonment for a period not exceeding 2 years or both.

1 40. False return, certificate, or affidavit of public officer. Any
2 public official who knowingly makes any false return, certification
3 or affidavit concerning any initiative or referendum or the signa-
4 tures appended thereto is punishable by a fine not exceeding
5 \$5,000.00, or by imprisonment for a period not exceeding 2 years
6 or both.

1 41. Signing petition while disqualified. Any person who know-
2 ingly signs his own name more than once to any initiative or
3 referendum, or signs his name to any such petition knowing himself
4 at the time of signing not to be qualified to sign it is punishable
5 by a fine not exceeding \$5,000.00, or by imprisonment for a period
6 not exceeding 2 years or both.

1 42. Signing fictitious name or name of another. Any person who
2 subscribes to any initiative or referendum petition a fictitious name,
3 or who subscribes thereto the name of another, or who causes
4 another to subscribe such a name to such a petition, is guilty of a
5 crime of the second degree.

1 43. Misrepresentation in circulating petition. Any person who,
2 circulating, as principal or agent, or having charge or control of
3 the circulation of, or obtaining signatures to, any initiative or
4 referendum, misrepresents or makes any false statement concern-
5 ing the contents, purport or effect of the petition to any person
6 who signs, or who desires to sign, or who is requested to sign, or
7 who makes inquiries with reference to it, or to whom it is presented
8 for his signature is punishable by a fine not exceeding \$5,000.00, or
9 by imprisonment for a period not exceeding 2 years or both.

1 44. False statement of contents. Any person who willfully or
2 knowingly circulates, publishes or exhibits any false statement or
3 misrepresentation concerning the contents, purport or effect of any
4 initiative or referendum, for the purpose of obtaining any signature
5 to, or persuading any person to sign, that petition is punishable
6 by a fine not exceeding \$5,000.00, or by imprisonment for a period
7 not exceeding 2 years or both.

1 45. Filing with false signature. Any person who files in the
2 office of the clerk or other officer designated by law to receive such
3 filing, any initiative or referendum, to which is attached, appended
4 or subscribed any signature which the person filing the petition
5 knows to be false or fraudulent or not the genuine signature of
6 the person whose name it purports to be is punishable by a fine
7 not exceeding \$5,000.00, or by imprisonment for a period not ex-
8 ceeding 2 years or both.

1 46. Circulating with false signature. Any person who circulates
2 or causes to be circulated any initiative or referendum, knowing
3 it to contain false, forged, or fictitious names is punishable by a
4 fine not exceeding \$5,000.00, or by imprisonment for a period not
5 exceeding 2 years or both.

1 47. Receiving consideration for inducing proponents to abandon
2 petition. Any person who seeks, solicits, bargains for, or obtains
3 any money, thing of value, or advantage of or from any person,
4 firm, or corporation for the purpose or represented purpose of
5 fraudulently inducing, persuading, or seeking the proponent or
6 proponents of any initiative or referendum measure to:

7 a. Abandon such measure;

8 **b. Fail, neglect, or refuse to file in the office of the clerk or other**
9 **officer designated by law, within the time required by law, such**
10 **initiative or referendum measure after securing the number of**
11 **signatures required to qualify such measure;**

12 **c. Stop the circulation of such initiative or referendum measure;**
13 **or**

14 **d. Perform any act that will prevent or aid in preventing the**
15 **initiative or referendum measure from qualifying as an initiative**
16 **or referendum measure is punishable by a fine not exceeding**
17 **\$5,000.00, or by imprisonment for a period not exceeding 2 years**
18 **or both.**

1 48. Receipt by proponent of consideration for abandoning peti-
2 tion. Any proponent of an initiative or referendum measure who
3 seeks, solicits, bargains for, or obtains any money or thing of value
4 of or from any person, firm, or corporation for the purpose of
5 abandoning the same or stopping the circulation of petitions con-
6 cerning the same, or failing or neglecting or refusing to file such
7 measure in the office of the clerk or other officer designated by law
8 within the time required by law after obtaining the number of
9 signatures required under the law to qualify such measure, or
10 performing any act that will prevent or aid in preventing the
11 initiative or referendum proposed from qualifying as an initiative
12 or referendum measure, is punishable by a fine not exceeding
13 \$5,000.00, or by imprisonment for a period not exceeding 2 years
14 or both.

1 49. Threat to propose and circulate petition. Any person who
2 seeks, solicits, bargains for, or obtains any money, thing of value
3 or advantage of or from any person, firm, or corporation on the
4 threat or representation or claim or demand that unless such
5 money, thing of value, or advantage is obtained, that an initiative
6 or referendum measure will be proposed and circulated or pro-
7 posed and circulated affecting either directly or indirectly the
8 business, property or interests of such person, firm, or corporation
9 is punishable by a fine not exceeding \$5,000.00, or by imprisonment
10 for a period not exceeding 2 years or both.

1 50. Threat to commit assault or battery or to damage property;
2 crime of the third degree. Any person who threatens to commit an
3 assault or battery on a relative of a person circulating a referendum
4 or initiative, to inflict damage on the property of such circulator or
5 such relative, with the intent to dissuade the circulator from cir-
6 culating the petition or in retribution for such circulation, is guilty
7 of a crime of the third degree.

1 51. Taking petition by force or stealth; crime of the third degree.
2 Any person who forcibly or by stealth takes from the possession
3 of a circulator any initiative or referendum petition, is guilty of a
4 crime of the third degree.

1 52. Buying of petition; crime of the third degree. Any person who
2 offers to buy or does buy from a circulator any referendum or
3 initiative petition on which one or more persons have affixed their
4 signatures is guilty of a crime of the third degree. This section is
5 not intended to prohibit compensation of a circulator, for his
6 services, by a proponent of the petition or his agent.

1 53. Solicitation to affix false or forged signature to petition;
2 crime of the third degree. Any person who solicits any circulator to
3 affix to any initiative or referendum petition any false or forged
4 signature, or to cause or permit such signature to be affixed, is
5 guilty of a crime of the third degree.

1 54. Failure to petition. Any proponent of an initiative or refer-
2 endum measure shall, within the time required by law for the filing
3 of such measure, file in the office of the clerk or other officer
4 designated by law all petitions and signatures obtained in connec-
5 tion with such measure accompanied by an affidavit that the
6 signatures so filed constitute and are all of the signatures secured
7 or obtained in connection with such measure or petition.

8 A violation of this section is punishable by a fine not exceeding
9 \$5,000.00, or by imprisonment for a period not exceeding 2 years
10 or both.

1 55. Failure to surrender petition to proponents. Any person
2 working for the proponent or proponents of an initiative or
3 referendum measure who solicits signatures to qualify such
4 measure or petition and accepts any payment therefor and who
5 fails to surrender such measure to the proponents thereof for filing
6 is punishable by a fine not exceeding \$5,000.00, or by imprisonment
7 for a period not exceeding 2 years or both.

1 56. Misappropriation of funds. Any person who is entrusted
2 with money or things of value, for the purpose of promoting or
3 defeating any initiative or referendum filed in the office of the
4 Secretary of State or measure shall be considered a trustee of
5 such money or things of value. If he wrongfully appropriates such
6 money or things of value to any use or purpose not in the due and
7 lawful execution of his trust, he shall be punishable by a fine not
8 exceeding \$5,000.00, or by imprisonment for a period not exceed-
9 ing 2 years or both. The following expenses shall be considered to
10 be within the due and lawful execution of the trust:

- 11 a. Securing signatures to an initiative or referendum petition.
 12 b. Circulating an initiative or referendum petition.
 13 c. Holding and conducting public meetings.
 14 d. Printing and circulating prior to an election:
 15 (1) Specimen ballots.
 16 (2) Handbills.
 17 (3) Cards.
 18 (4) Other papers.
 19 e. Advertising.
 20 f. Postage.
 21 g. Expressage.
 22 h. Telegraphing.
 23 i. Telephoning.
 24 j. All salaries and expenses of:
 25 (1) Campaign managers.
 26 (2) Lecturers.
 27 (3) Solicitors.
 28 (4) Agents.
 29 (5) All persons employed in transacting business at head-
 30 quarters or branch offices.
 31 k. Maintaining headquarters and branch offices.
 32 l. Renting of rooms for the transaction of the business of an
 33 association.
 34 Expenses for food, clothing, shelter and other personal needs
 35 of the trustee shall not be considered to be within the due and
 36 lawful execution of his trust.
- 1 57. Refusal to show text of measure; crime of the third degree.
 2 Any person working for the proponent or proponents of an initia-
 3 tive or referendum measure who refuses to allow a prospective
 4 signer to read the measure or petition is guilty of a crime of the
 4A third degree.
 5 An arrest or conviction pursuant to this section shall not invali-
 6 date or otherwise affect the validity of any signature obtained by
 7 the person arrested or convicted.
- 1 58. Obscuring summary of measure; crime of the third degree.
 2 Any person working for the proponent or proponents of a State-
 3 wide initiative or referendum measure who covers or otherwise
 4 obscures the summary of the measure prepared by the Attorney
 5 General from the view of a prospective signer is guilty of a crime
 6 of the third degree.
- 1 59. Refusal to show contents of petition. Any paid circulator
 2 of an initiative or referendum measure who willfully and know-
 3 ingly refuses to permit each person to whom the petition is pre-

4 sented for signature to read the contents of the petition if the
5 person so requests, is guilty of a crime of the third degree.

6 A conviction pursuant to this section shall not invalidate any
7 signature obtained by the defendant which is otherwise valid.

1 60. Use of petition for purposes other than qualification of
2 measure prohibited. No circulator of an initiative or referendum
3 shall permit the list of signatures on the petition to be used for
4 any purpose other than qualification of the initiative or referendum
5 measure for the ballot.

1 61. Severability. If any portion of this act is declared to be
2 unconstitutional such declaration shall not be deemed to affect
3 any other section of this act and all other sections shall remain
4 in full force and effect.

1 62. Enforcement. The enforcement of any section of this act
2 may be undertaken by any State or local agency, including but
3 not limited to the Attorney General and the Election Law En-
4 forcement Commission. The Election Law Enforcement Commis-
5 sion shall have all powers to receive complaints for violation of
6 this act as are provided for the enforcement of any other laws and
7 shall have all powers to levy fines, hold hearings, and make findings
8 as are provided for under other laws.

9 The proponents and the opponents of any initiative or referen-
10 dum measure shall comply with the requirements of P. L. 1973,
11 c. 83 (C. 19:44A-1 et seq.) with respect to all campaign contribu-
12 tions and expenditures, including but not limited to the expendi-
13 tures set forth in section 56 of this act. The Election Law
14 Enforcement Commission is empowered to promulgate such
15 additional rules and regulations it deems necessary to effective
16 supervision and enforcement of this act.

1 63. This act shall take effect immediately but shall remain in-
2 operative until the adoption and effectiveness of a constitutional
3 amendment providing for the initiative and referendum process
4 in this State.

STATEMENT

The purpose of this bill, a companion bill to Senate Concur-
rent Resolution No. 4, is to establish procedures for exercising
the power of the initiative and referendum, which power has been
reserved by the people in the above mentioned resolution. The
resolution amends the Constitution to provide the people with

the power to initiate laws and constitutional amendments and to review certain acts of the Legislature.

The initiative and referendum process, which is prevalent in many of the western states, has been shown to be of great benefit to the citizens of the states where constitutionally permitted. The process allows direct and meaningful participation by the public in the law-making process, and will go a long way to dispel the current disillusion with government. The process permits the people to directly make those decisions which they regard to be in their own best interests, subject, of course, to the constraints of the Federal and State Constitutions.

The bill establishes a fair and equitable method for qualifying a measure for inclusion on the ballot, and provides for criminal penalties for interference with the exercise of the power to qualify a measure on the ballot. The bill takes effect when an amendment to the Constitution allowing the initiative and referendum is passed by the people.

SENATE, No. 828

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1980 SESSION

By Senators SKEVIN and SHEIL

AN ACT establishing the initiative and referendum process in this State, providing a method to qualify questions for inclusion on the ballot for a popular vote, providing penalties for violations, and supplementing Title 19 of the Revised Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. This act shall be known and may be cited as the "Initiative
2 and Referendum Act."

1 2. The Legislature hereby finds and declares that it is in the
2 best interests of the citizens of this State that their right to alter
3 and reform the Government of the State should be given effect
4 through the provision of a mechanism for the submission to popular
5 vote of acts of the Legislature, as well as for the initiation of laws
6 and constitutional amendments; that properly restricted and used,
7 the initiative and referendum can strengthen democratic govern-
8 ment and popular sovereignty; that direct legislation affords an
9 additional and necessary means of political self-expression; that
10 initiative and referendum has an educational value to the voter
11 and arouses voter interest in State government by bringing many
12 policies to public attention and debate; that direct legislation is
13 useful in directing public attention to perceived evils in need of
14 correction; and, that the existence of initiative and referendum in
15 this State may well lead to the enactment of many reforms desired
16 by the people.

1 3. As used in this act:

2 a. "Initiative" means the power reserved by the people to
3 propose amendments to the Constitution and laws that are not
4 only for the purpose of repeal, and to approve or reject the same
5 at the polls, independent of the Legislature and the Governor;

6 b. "Petition" means a formal written proposal emanating from
7 the people to place an initiative or referendum question on the
8 ballot;

9 c. "Proponent" means any individual, group, committee, or
10 organization submitting an initiative or referendum petition for
11 certification on the ballot as provided in this act;

12 d. "Referendum" means the power reserved by the people to
13 approve or repeal at the polls any law, or any section or part
14 thereof, independent of the Legislature and the Governor.

1 4. Initiative and referendum petitions with the requisite number
2 of signatures attached, as provided in section 7 of this act, shall
3 be filed with the Secretary of State not less than 120 days before
4 the general election at which they are to be voted upon. All elections
5 on initiative and referendum questions shall be held at the next
6 general election occurring 120 days or more following the proper
7 filing of petitions pursuant to the provisions of this section.

1 5. a. Only one referendum question proposing the repeal of
2 any one law in its entirety, and only one referendum question
3 proposing the repeal of any one section or part of any one law,
4 may be submitted to the people at any one election. In the event
5 that there are properly filed pursuant to the provisions of this
6 act two or more petitions proposing referenda with respect to
7 any one law in its entirety, or with respect to the same sections
8 or parts of any one law, regardless of whether or not any additional
9 or other sections or parts of such law are included in any such
10 petition, only that referendum question proposed in the petition
11 with the largest number of signatures shall be submitted to the
12 people. Nothing herein contained shall be construed as preventing
13 from being submitted to the people at the same election:

14 (1) A referendum question with respect to any law in its en-
15 tirety and a referendum question with respect to any section or
16 part of the same law; or,

17 (2) Two or more referendum questions with respect to different
18 sections or parts of the same law.

19 b. There shall be no restrictions as to subject matter on the
20 laws or constitutional amendments proposed by the initiative or
21 the laws, or sections or parts thereof, subject to the referendum.

1 6. a. The filing of an initiative or a referendum petition pur-
2 suant to the provisions of this act with respect to any law, or
3 section or part thereof, shall in no way affect the effective date
4 or the implementation of such law; provided, however, that except
5 with respect to circumstances subject to section 9. b. of this act
6 no law, or section or part thereof, upon which there has been filed

7 an initiative or a referendum petition pursuant to the provisions of
8 this act shall continue in force and effect unless the initiative or
9 the referendum question proposed in such petition fails to receive a
10 majority of the votes cast thereon at the general election in which
11 such question on such law, or section or part thereof, is submitted
12 to the voters.

13 b. Within 10 days after any election at which an initiative or
14 a referendum question is submitted to the people resulting in the
15 repeal of any section or part of law, the Attorney General shall re-
16 view the remaining sections or parts of such law not affected by such
17 initiative or referendum to determine whether or not such remain-
18 ing sections or parts can be implemented and enforced in light of
19 the initiative or referendum results. If the Attorney General
20 determines that such remaining sections or parts:

21 (1) Cannot be implemented and enforced, he shall certify such
22 determination to the Secretary of State, and the whole of such
23 law shall be deemed to have been rejected at such referendum and
24 shall be void and of no force or effect immediately upon such
25 certification; or,

26 (2) Can be implemented and enforced, he shall certify such
27 determination to the Secretary of State, and such remaining
28 sections or parts of law shall be implemented and enforced pur-
29 suant to the provisions thereof.

30 Nothing herein contained shall be construed as to delay or
31 prohibit the implementation and enforcement of any sections or
32 parts of law subject to the provisions of this subsection during
33 the time provided herein for the determination and certification
34 of the Attorney General.

1 7. The number of signatures of legally qualified voters of
2 this State required upon a petition for an initiative constitutional
3 amendment shall be equal to at least 30% of the votes cast for
4 the office of Governor at the last regular gubernatorial election.
5 The number of signatures of legally qualified voters of this State
6 required upon a petition for an initiative law, and upon a petition
7 for a referendum on any law, or any section or part thereof, shall
8 be equal to at least 25% of the votes cast for the office of the
9 Governor at the last regular gubernatorial election.

1 8. The manner of voting upon all initiative and referendum
2 questions submitted to the people shall be the same as is now or
3 may be required and provided by law for all other public questions;
4 no initiative or referendum question shall be adopted unless it
5 shall be approved by a majority of the legally qualified voters of
6 the State voting thereon. A "yes" vote with respect to an initiative

7 question shall be an affirmative vote with respect to the law or
8 constitutional amendment proposed by the initiative petition. A
9 "yes" vote with respect to a referendum question shall be a vote
10 to repeal the law, or section or part thereof, contained in the
11 referendum petition.

1 9. a. If conflicting laws or conflicting amendments to the
2 Constitution proposed by the initiative are approved at the same
3 election by a majority of the total number of votes cast for and
4 against the same, the one receiving the highest number of affirmative
5 votes shall be the law, or in the case of amendments to the Constitu-
6 tion shall be the amendment to the Constitution. No law proposed
7 by initiative or referendum petition and approved by the voters as
8 provided in this act shall be subject to the veto power of the
9 Governor.

10 b. In the event that at the same election there are submitted
11 to the people referendum questions proposing the repeal of any
12 law in its entirety and the rejection of any sections or parts of
13 the same law and such questions shall each receive a majority
14 of the votes cast thereon, such law shall be repealed in its entirety
15 only if the referendum question proposing such repeal receives
16 the highest number of affirmative votes of all referendum questions
17 with respect to such law, unless the Attorney General certifies
18 that such law cannot be implemented and enforced pursuant to
19 section 6. b. (1) of this act.

1 10. a. Each initiative and referendum petition shall set forth
2 the full text of the question proposed and that the petitioners are
3 legally qualified to vote in this State.

4 b. Each voter signing an initiative or referendum petition
5 shall add to his signature his place of residence, post office
6 address and street number, if any. All the names on such petition
7 need not be signed to one petition. Across the top of each page
8 after the first page of every such petition shall be printed a
9 short title, not to exceed 20 words, showing the nature of the
10 petition and the subject to which it relates.

1 11. The style of all laws submitted by initiative or referendum
2 petition shall be: "Be it Enacted by the People of the State of New
3 Jersey," and of all constitutional amendments: "Be It Resolved by
4 the People of the State of New Jersey."

1 12. The Secretary of State shall specify the form and kind
2 and size of paper on which initiative and referendum petitions shall
3 be printed for circulation for signatures. Such petitions shall
4 be printed by the proponent under whose authority the question is

5 to be referred or initiated and circulated in the several counties
6 of the State for the signatures of legally qualified voters of this
7 State.

1 13. Before any petition shall be filed as heretofore provided,
2 at least one of the voters signing the same shall make oath before
3 a duly qualified officer that the petition is made in good faith,
4 that the affiant saw all the signatures made thereto and verily
5 believes that the signers are duly qualified voters.

1 14. Every petition in apparent conformity with the provisions
2 of this act shall be deemed to be valid, unless objection thereto
3 be duly made in writing and filed with the Secretary of State within
4 two days after the last day for filing of petitions has expired. If
5 such objection is made, notice thereof signed by such officer shall
6 forthwith be mailed to the proponent.

1 15. The Secretary of State shall in the first instance pass
2 upon the validity of such objection in a summary way unless an
3 order shall be made in the matter by a court of competent jurisdic-
4 tion and for this purpose such officer shall have power to subpoena
5 witnesses and take testimony or depositions. He shall file his
6 determination in writing in his office within 6 days after the last
7 day for filing of petitions has expired, which determination shall
8 be open for public inspection.

1 16. A proponent whose petition, or any affidavit or affidavits
2 thereto, is defective, may cause such petition or the affidavit or
3 affidavits thereto, to be amended in matters of substance or of
4 form as may be necessary to correct such defect, but not to add
5 signatures, or such amendment or amendments may be made by
6 filing a new or substitute petition, or affidavit or affidavits, and the
7 same when so amended shall be of the same effect as if originally
8 filed in such amended form; but every amendment shall be made
9 within 6 days after the last day for filing of petitions has expired.
10 This provision shall be liberally construed to protect the interest of
11 proponents.

1 17. No law or amendment to the Constitution submitted to the
2 voters by initiative petition pursuant to the provisions of this
3 act and receiving an affirmative majority of the votes cast thereon,
4 shall be held unconstitutional or void on account of the insufficient
5 number of signatures on the petition by which such submission
6 of the same was procured; nor shall the repeal of any law, or
7 section or part thereof, submitted by referendum petition be held
8 invalid for such insufficiency.

1 18. If the Secretary of State shall refuse to accept and file
2 any petition for the initiative or for the referendum with the
3 requisite number of signatures of legally qualified voters of this
4 State thereto attached, any citizen may apply, within 10 days after
5 such refusal, to the Superior Court for a writ of mandamus to
6 compel him to do so. If it shall be decided by the court that such
7 petition is legally sufficient, the Secretary of State shall then
8 file it, with a certified copy of the judgment attached thereto,
9 as of the date on which it was originally offered for filing in his
10 office. On a showing that any petition filed is not legally sufficient,
11 the court may enjoin the Secretary of State and all other officers
12 from certifying or printing such measure on the official ballot for
13 the ensuing election. All such suits shall be advanced on the
14 court docket and heard and decided by the court as quickly as
15 possible. Either party may appeal to the Supreme Court within
16 10 days after a decision is rendered.

1 19. The proponent filing any petition for the initiative or the
2 referendum under the provisions of this act or any other individual,
3 group, committee, or organization may file with the Secretary of
4 State for mailing to the legally qualified voters of the State any
5 argument advocating an affirmative vote on the question on any
6 such petition not later than the seventy-fifth day before the general
7 election at which the question is to be voted upon. Any individual,
8 group, committee, or organization may file with the Secretary of
9 State for mailing to the legally qualified voters of the State any
10 argument advocating a negative vote on the question on any such
11 petition not later than the fifty-fifth day before the general election
12 at which the question is to be voted upon. Such arguments shall
13 not exceed 500 words in length.

1 20. If more than one argument for or more than one argument
2 against the passage of any initiative or referendum question is
3 filed within the time prescribed, the Secretary of State shall select
4 one of each such argument for mailing to the legally qualified
5 voters of the State. When selecting the arguments, the Secretary
6 of State shall give preference and priority in the order named,
7 where appropriate, to the arguments of the following: (a) The
8 proponent of the question; (b) Bona fide associations of citizens
9 according to criteria therefor adopted by the Secretary of State
10 and promulgated pursuant to the provisions of the "Administrative
11 Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.); and,
12 (c) Individual voters.

1 21. The Secretary of State shall, on or before the forty-fifth
2 day prior to the general election at which an initiative or referen-
3 dum question is to be voted upon, supply each county clerk with
4 the text of the arguments prescribed in section 19 of this act and
5 selected, if necessary, pursuant to section 20 of this act. Each
6 county clerk shall cause such arguments to be printed and mailed
7 to each legally qualified voter in the county with a short explanation
8 from the Secretary of State that such arguments are provided
9 pursuant to this law to assist the voters in making their determina-
10 tion upon the questions submitted to them. Such arguments when
11 printed and mailed shall show by whom they are issued. The cost
12 of printing and mailing such arguments shall be paid for in the
13 same manner and as part of the costs of printing and mailing the
14 sample ballots.

1 22. Upon receipt of any petition that proposes or affects the
2 levy of any tax or the expenditure of any funds of the State or
3 any political subdivision thereof, the Secretary of State shall
4 request of the State Treasurer an estimate not to exceed 500 words
5 in length of the fiscal consequences of such petition. The State
6 Treasurer, on receipt of such request, shall prepare such estimate
7 and file same in the office of the Secretary of State at least 50
8 days before the general election at which the question is to be
9 voted upon. The Secretary of State, on or before the forty-fifth
10 day prior to the general election at which the question submitted
11 in such petition is to be voted upon, shall supply each county
12 clerk with the text of such estimate for printing and mailing to
13 each legally qualified voter in the county. The cost of printing
14 and mailing such estimate shall be paid for in the same manner
15 and as part of the costs of printing and mailing the sample ballots.

1 23. Any person, either as principal or agent, violating any of
2 the provisions of this act shall be guilty of a crime of the fourth
3 degree.

1 24. This act shall be liberally construed and the powers granted
2 and the duties imposed by this act shall be construed to be in-
3 dependent and severable. If any one or more sections, clauses,
4 sentences, or parts of this act shall for any reason be questioned
5 in any court, and shall be adjudged unconstitutional or invalid,
6 such judgment shall not affect, impair, or invalidate the remaining
7 provisions thereof, but shall be confined in its operation to the
8 specific provisions so held unconstitutional or invalid.

1 25. This act shall take effect immediately but shall remain
2 inoperative until the approval by the people of a constitutional
3 amendment authorizing an initiative and referendum procedure.

STATEMENT

The purpose of this bill is to establish procedures for exercising the power of the initiative and referendum. This bill is contingent upon the approval by the people of a constitutional amendment reserving to them the power to initiate laws and constitutional amendments and to repeal acts of the Legislature and the Governor.

Initiative and referendum, which exists in some form in almost half of the states, is designed to make government more accessible to the superior disinterestedness and honesty of the average citizen as well as to check the incursions of special interests upon the people and to realize a cleaner, more efficient government. Because many policies are brought to public attention and debate by direct legislation, voter interest is aroused in State government and a strong measure of political education occurs. The process permits the people to make directly those decisions that they regard to be in their own best interest, subject of course, to the constraints of the Federal and State Constitutions.

This bill creates a process of initiative and referendum that insures a maximum of voter involvement in the State political system without impairing the efficient functioning of government. Among the provisions of the bill are: an unrestricted initiative and referendum procedure that has no limitations on subject matter, a differentiation in the signature requirements for statutory and constitutional initiative measures making the latter more difficult to place on the ballot, an opportunity for the supporters and opponents of a question to publicize their arguments, and a guarantee that the electorate is informed of the consequences of every initiative or referendum question that has fiscal implications. It provides a reasonable solution to the passage of conflicting initiative or referendum questions on the same ballot and prevents the Governor from vetoing laws passed by the people. Moreover, the bill establishes a fair and equitable method for qualifying a question for inclusion on the ballot and provides penalties for interference with the same.

SENATOR WILLIAM V. MUSTO (Chairman): I would like to open this meeting if I can have your attention, please.

I am Senator Musto, Chairman of the Senate Judiciary Committee. With me is Senator Dorsey who is chairman of the Subcommittee that will hear the subject matter dealing with initiative and referendum.

The Judiciary Committee has had referred to it for consideration four constitutional amendments which will be considered during the public hearings. But I would like to suggest to all of you who have taken the time to come here that it is not limited to that. We would appreciate and enjoy your views on initiative and referendum and you don't have to stick to the legislation. You can give us your own thoughts and recommendations.

The reason Senator Dorsey is Chairman of the Subcommittee is because no one has been more interested - let me put it that way - in this subject matter than he has. He has done an admirable job as a legislator and the worse thing I can say about Senator Dorsey is that he is a Republican and I am a Democrat. We have one interest in common and that is to have emerge from this public hearing - and it may take more hearings - a bill that we hope will meet the approval of the people of the State of New Jersey. The outcome will hinge on what you and the Judiciary Committee put together to submit to the voters.

Without further ado, I am going to turn this meeting over to Senator Dorsey who will chair this meeting and any other public hearings on this subject matter. Assemblyman Dorsey.

SENATOR JOHN H. DORSEY (Acting Chairman): Thank you very much, Chairman Musto.

I appreciate all of you coming down here. Most of you have already played some part in the movement to see that the State Senate and Assembly adopt a constitutional amendment dealing with initiative and referendum. Last year, not having the benefit of a solicitous chairman, such as Senator Musto, we attempted to bring some public attention to bear on the issue and I was able in eight counties to have an advisory question placed on the ballot, relative to whether or not the people in a particular county endorsed the concept of initiative and referendum. I think that, in part, has persuaded the Senate Judiciary Committee to move forward with consideration of the various bills.

Our aide to this Committee, John Tumulty, has prepared a rather thorough memorandum dealing with initiative and referendum: how it exists in other states, what limitation and conditions are normally attached to it.

Having said that, I will begin by calling Freeholder Rose Marie Sinnott of Union County, who as a member of the Board of Freeholders in Union County last year proposed a resolution which placed the advisory question on the ballot in Union County, as to whether or not the people of Union County endorse the question of initiative and referendum. That question was approved by the voters in Union County approximately two to one. So, Freeholder Sinnott, would you like to begin the hearing?

R O S E M A R I E S I N N O T T: Thank you, Senator Dorsey and Senator Musto.

Just for the record, I am Rose Marie Sinnott, Freeholder in Union County.

In August, 1979, the Union County Board of Chosen Freeholders unanimously adopted a resolution requesting the Union County Clerk to place the following question on the November 6, 1979, ballot: Shall the Board of Chosen Freeholders adopt a

resolution urging the Legislature of the State of New Jersey to adopt a Concurrent Resolution proposing to amend the New Jersey Constitution to grant the people of this State the power of initiative and referendum.

Union County residents voted in favor of this referendum in the November, 1979, General Election, by a margin of 33,866 votes. This affirmative vote, which won by more than half, indicates that a large number of citizens in Union County are not content with the measures afforded them to have a bill passed and are seeking alternative ways of having new legislation passed or to change a law that has already been adopted.

Thereafter, in response to this mandate by the people, the Union County Board of Chosen Freeholders in November, 1979, unanimously adopted a resolution urging the Legislature of the State of New Jersey to adopt the necessary legislation to propose an amendment to the New Jersey Constitution to grant the people of this State the power of initiative and referendum.

It is apparent that many citizens of the State of New Jersey feel it is their basic right to have a mechanism for establishing laws or repealing laws that affect them. This right to the people of initiative and referendum is part of the law in approximately half of the states of the United States.

In many important and controversial issues which directly affect the lives and the quality of life of the residents of New Jersey, for example, location and regulation of nuclear power plants, state income tax, environmental health standards, and hazardous waste control, the citizens of this State have virtually no input into the way these issues are addressed, other than through lobbying efforts and organized demonstrations.

Initiative and referendum would afford the citizens the right of an informed vote on a major issue or a subject of concern and would give them direct input into the decision-making process.

This call for the right to initiative and referendum made by the citizens of New Jersey must not be looked upon as criticism of our law-makers. Instead, this movement should be viewed as a forward step in allowing citizens a more active role in our democracy and in shaping their own destiny. Currently, many citizens perceive that legislation is too often influenced by strong special interests and professional lobbying groups. The granting of the right of initiative and referendum would reassure and reinforce the people's belief that a particular issue indeed reflects the will of the majority of the total population.

Initiative and referendum, by providing the option by which a group of citizens can petition an issue to be placed on the ballot to have a statewide vote on it, results in the democratic principle that majority rules. Initiative and referendum is an out let for corrective action and for progressive ideas to become future legislation.

Presently, in New Jersey, the Legislature is the only membership authorized to pass a law or amend a present law. The only vehicle a citizen has to have a law passed or amended is through strong lobbying efforts. With the passage of initiative and referendum, the citizen of New Jersey would be given a vehicle to propose laws and amendments which affect their lives and to vote on these laws, a right that is long overdue.

I would also like to submit with this statement a copy of a letter from the County Clerk, indicating the vote on the ballot last November, and copies of the two resolutions from the Board of Chosen Freeholders.

SENATOR DORSEY: Can we have those made part of the record, John?

MR. TUMULTY: Yes.

(Letter and resolutions submitted by Ms. Sinnott can be found on

SENATOR DORSEY: Thank you very much, Freeholder. We appreciate your coming down and particularly appreciate the support which you have given us in Union County on this important issue.

Is there a representative of the Secretary of State's Office here now? (No response.)

I will call on Matt Grubeleck, Federation of New Jersey Taxpayers.

M A T T H E W G R U B E L E C K: Senators Musto and Dorsey, and ladies and gentlemen, I want to say at the outset that I was pleased to hear Senator Musto's comment that we needn't confine ourselves to a detailed analysis of these particular bills, although I will make some comments in my talk here that pertain to certain factors in these bills.

I think it was fortunate that we are holding this hearing today because only three days ago, last Friday night, the Federation had its executive meeting, enabling me to come here with the benefit of having participated in that meeting and with a freshness in my mind about the three most important items that were discussed at that meeting. Those three most important items were these: What is wrong with New Jersey? What are the causes of what is wrong? And, how can we correct what is wrong?

This came about because we were analyzing the results of an issues ballot which we circulate among the Federation membership. This membership is spread all over the State from Cape May to Mahwah. As a result of studying those issues, we have a summary of what the taxpayers perceive as what is wrong, what causes the wrong and what is the remedy. To boil this all down in some what that won't take too much time, we have five things that the membership considers as what is wrong.

Unemployment is rising. Inflation is rampant. Taxes are too burdensome. Education is in a chaotic state. And government is too costly and inefficient. On the last one I mentioned, driving down here in the car, I heard a radio commentator say we are out of date. When we are confronted with so many problems that all of us face today, we shouldn't talk about the high cost of living; what is really killing us is the high cost of government. He gave some specific data that showed that the cost increase for the necessities of life has been in the neighborhood of 200 percent over a period in which the cost of government has increased 450 percent. I didn't have an opportunity to check what he had to say, but it is in keeping with the times.

Now, that I have told you what the Federation membership thinks is wrong and as a result of an analysis of our ballot results, we have concluded that these are the causes for what is wrong.

The State bureaucracy is too responsive to special interests. The executive has all but destroyed the checks and balances normally exercised by the Legislative and Judicial Branches of government. Insolence and arrogance characterize the comportment of the State bureaucracy. Innovation is lacking. The universal approach to anything portrayed as a problem is to drown it with taxpayers' money.

Faced with these wrongs and their causes, how is the citizen to remedy them? It appears to the membership of the Federation that there is an exquisitely elemental process of restoring their power as guaranteed by the Constitution, and, more specifically, by amending the Constitution to include unrestricted, direct initiative and referendum. I want to emphasize those words, "unrestricted" and

"direct."

Now, how is this analysis supported by the results of the Federation's issue ballot? Our ballot contains eight issues that were originally condensed from a list of twenty submitted by the membership. The heaviest votes were cast for four of the eight. Leader among the four was initiative and referendum, garnering 53 percent of the vote for first place and 90 percent of the vote for inclusion of the group of four of most important. The repeal of the gross income tax was a close runner-up. Third and fourth place were filled with expressions that T & E should be deleted, repealed, or in some way ---

SENATOR DORSEY: --- modified.

MR. GRUBELECK: --- very seriously modified.

As a result of this study, these are the recommendations of the Federation of New Jersey Taxpayers: We urge you to move with dispatch to amend the Constitution to permit unrestricted, direct initiative. That is what we want you to do. What you don't want you to do is to emasculate these amendments by including complex reservations, time limits, and high petition signature percentages. The people know that such conditions are imposed by those who loathe to relinquish power.

Ladies and gentlemen, the membership of the Federation knows and you know that the conditions alluded to under what is wrong are responsible also for decreasing voter participation. Voter participation will not increase, as our Secretary of State suggests - and I hope a representative from that office is here - by increasing the budget, to advertise the need to vote, from \$200,000 to \$400,000. All that will do is increase the number of billboards on which his name and that of the Governor are displayed. It will also turn off some voters who are in despair of this kind of profligate spending. As a matter of fact, had the Secretary resolved to decrease the budget by \$200,000, he would have inspired a few fallen-away voters to register and resume voting.

Another angle to this, it appears to us - and it only appears that way - that the delaying tactics and some of these revisions were put in the I & R bills indicate a fear that passage of I & R might create an adversary relationship between the Legislature and the people. It is the conviction of the Federation that this is simply not the case. The situation currently is one in which the State bureaucracy and the people are adversaries. There is also ample evidence that the Executive and Legislative Branches are adversaries. Thus, the people and the Legislature face a common problem. To overcome the common problem and to remedy what is wrong in New Jersey, the people and the Legislature must support each other. Initiative and referendum, direct and unrestricted is the tool through which such mutual support can be generated.

I & R is, in effect, the court of last resort for the outraged citizen and the despondent voter, witnessing the trampling of checks and balances, the arrogance of the bureaucracy and the greed of special interests.

This hearing, we believe, is also in a way a court of last resort. The Federation's pleas is that I & R must be established to arrest a further development of the conditions that are disturbing us and to encourage a resurgence of voter participation.

SENATOR DORSEY: Thank you very much.

We will hear now Dr. James Reilly, New Jersey Education Association. Would you identify yourself, please?

R O S E M A R Y K N A B: I am Rosemary Knab. I am speaking for Dr. Reilly who cannot attend the meeting.

I am Assistant Director of Research for the NJEA. Having listened to your opening comments, Senator Musto, I feel that I may be speaking in the minority today. However, I do speak for a majority of people - that is the 100,000 members of the NJEA - and we have some very serious concerns about initiative and referendum proposals and I think they should be given serious consideration.

Our first concern with the measures you have before you today concerns the opportunity that initiative and referendum measures may provide for citizens to place tax-limiting proposals on the State ballot.

According to the Council of State Governments, 24 states and the District of Columbia currently have provisions for initiative measures in their state constitutions. In 1978, tax-limiting proposals were placed on ballots in California, Colorado, Idaho, Illinois, Michigan, Nebraska, North Dakota and Oregon by initiative. NJEA is committed to seeing that New Jersey fulfills its financial obligations to education mandated by the State constitution by providing a full-funding of the provisions of Chapter 212. Given the current trend, it is probable that taxation would be one of the primary targets if the initiative and referendum process is adopted.

Besides proposing amendments to the State constitution ---

SENATOR MUSTO: May I interrupt you for a moment. I would like quiet in fairness to the speaker. I want everybody to have the same consideration. Thank you.

MS. KNAB: Some of the bills you have before you also allow small groups of people to approve or reject laws adopted by the Legislature. Only Senate Concurrent Resolution 45 limits the initiative process to constitutional amendments. Such measures could destroy much of the legislation that NJEA has fought long and hard to gain. For example, in 1978, a measure was placed on the California ballot by initiative which would permit the firing of a teacher for homosexual activity or conduct. In the 1978 Washington election, an initiative measure was adopted which would require students to be assigned to the nearest or next nearest school. Initiative and referendum legislation could result in similar measures being placed on our State ballot which could alter the State's obligation to see that the children of New Jersey receive a thorough and efficient education and have a harmful effect on the employment rights of our members.

An analysis of campaigns dealing with ballot measures also reveals that corporations and special interest groups spend a great deal of money supporting and opposing initiative measures. Over \$1 million was spent on campaigns by corporations and other interest groups to support and oppose California's Proposition 13. That is \$1 million for those who supported it and \$1 million for those who opposed it. One year later, proponents of the Gann initiative spent over \$2 million to adopt a measure limiting state and local spending in California.

Financial dominance in campaigns can be an advantage in elections, for referendum issues as well as for candidates. This raises serious questions regarding the opportunities voters would have to make decisions independent of pressures applied in campaigns funded by corporations and partisan interests.

It should also be noted that corporations outspend other interest groups on initiative campaigns by a wide margin. For example, over \$6 million was spent by four tobacco companies to oppose an anti-smoking initiative in California. There is every reason to believe that this trend will continue since limitations on corporate contributions have been ruled unconstitutional by a 1978 Supreme Court

decision, *First National Bank v. Bellotti*. It is now virtually impossible for states to prevent unlimited spending by corporations in ballot campaigns.

NJEA is also concerned because initiative and referendum measures cannot adequately deal with complicated issues. Although Senate Bill 828 and Senate Bill 81 would provide ways for opponents and supporters of ballot measures to prepare arguments for distribution to the voters, the general public cannot take advantage of the extensive resources used by the Legislature to make decisions. The legislators of this State spend a great deal of time and effort researching, debating and hearing testimony on legislative issues.

The proposed legislation would not provide an equivalent process for analysis by citizens.

The initiative and referendum measures being considered also limit the role of elected representatives. The provisions of Senate Bill 81 and its companion resolutions require the signatures of 4 percent of the total number of registered voters in the last Assembly election and approval of only 30 members of either the State or General Assembly to qualify a measure for the ballot. The Legislature would also have a maximum of 45 days to consider these measures for the ballot. The provisions of Senate Concurrent Resolution 45 require petitioners to obtain the signatures of 3 percent of the total number of votes cast in the last gubernatorial election. These petitions are then submitted to the Legislature for approval of one-third of the members of both houses. The provisions of Senate Bill 828 exclude legislative approval and prevent the Governor from vetoing laws passed by the people. None of the proposed measures requires the approval of a majority of the members of either house and, in some cases, specifically remove the Governor's authority to veto proposed measures. These actions undermine representative government by undercutting the power of the State Legislature.

Supporters of initiative and referendum measures claim that this process would provide a concrete means for citizens' direct participation in the policy-making function of state government and would provide for an open educational debate on issues which otherwise would have been inadequately considered.

New Jersey currently has a system which allows its citizens to actively participate in state government. Public hearings, open committee meetings, and accessible legislators provide this state with a political system that works. Rather than change this system with the initiative and referendum process, legislators should concentrate their efforts on working to improve and enhance the existing procedures which allow citizens to take an active part in their government.

Thank you for allowing me to speak today.

SENATOR DORSEY: Thank you for your statement. I don't want to debate with you, but I think you raise an interesting question which was raised two or three years ago when the movement for initiative and referendum in this State commenced and that was the allegation that the people would necessarily be irresponsible if questions involving taxation and revenues were placed on the ballot. Now, I think in the last year we have been treated to specific situations in which that has been disproved. Namely, in 1978 or 1979, the people of California approved Proposition 13 and one or two years later, they specifically rejected another revenue reducing measure which would have substantially, very substantially reduced the income or the revenues of the State of California. So, it is clear that people are simply not going to go out and vote against every tax revenue raising measure and for every reduction, where it appears, to them, to be unreliable. Also, I think, last year, we had the situation in Dade County, Florida where another question was placed on the ballot to eliminate a tax, I think it was the personal income tax, and that was rejected. So, I think, in fact, we do have very specific situations in which the people have not been irresponsible and have been able to draw the line, even in connection with financial issues, as to which are responsible and those which are not.

MS. KNAB: May I respond to that for just one minute?

SENATOR DORSEY: Sure.

MS. KNAB: I chose my words very carefully when I wrote this testimony and I've been looking into this question for a long time. I specifically tried to avoid words like, "the electorate would be irresponsible," because we do not believe that the electorate would be irresponsible at all. But, we do believe that they could be put under inordinate pressure by wealthy campaigns to make decisions because they would be, perhaps, misinformed. But, we do believe that the electorate has grown much more sophisticated and well educated in the last decade than it ever has been before.

SENATOR DORSEY: Of course, the other side of that coin is that many people feel that the legislators are placed under enormous strains relative to campaigns either for financial or political purposes. So, it is a two-way sword that cuts both ways. Thank you very much.

SENATOR MUSTO: Mr. Chairman, I have a question.

SENATOR DORSEY: Certainly.

SENATOR MUSTO: Rosemary, does your association take the position that you object to any form of initiative and referendum?

MS. KNAB: Yes, we do.

SENATOR MUSTO: Any form?

MS. KNAB: Yes.

SENATOR MUSTO: Even on a local level?

MS. KNAB: Any of the forms that I have seen, and that includes the Senate and the Assembly bills that I have reviewed. I could not address myself to any other bill that has been drafted because, obviously, I haven't seen it.

SENATOR MUSTO: Well, eliminating the bills that we have before us because, at the outset, we said we were looking for input from the general public not limited to the legislation we are considering, that's why I put the question to you, and maybe you don't know, but I would like to know the answer to that question, whether the New Jersey Education Association has taken a position that they are against any form of initiative and referendum.

MS. KNAB: Based on the bills that are here and based on the review that we've had of these bills, we have taken the position that we are opposed to it.

SENATOR MUSTO: Locally, you know that you have a form of initiative and referendum in certain instances.

MS. KNAB: Yes.

SENATOR MUSTO: Do you object to that?

MS. KNAB: I haven't really looked into that in depth. Our position as a state organization is to protect the interests that we have on the State level. Locally, I would have to say that our position would be up to our local associations to determine whether that would be a good or bad process.

SENATOR MUSTO: I would appreciate from your association a more direct response on that. Would you get that for me?

MS. KNAB: I certainly will.

SENATOR DORSEY: Thank you very much. I would now like to call on Mr. Milton Mound, who is Chairman for the national movement for initiative and referendum for a few comments.

M I L T O N M O U N D: My name is Milton Mound. I am Chairman of the National Initiative and Referendum Association. I thank you, Mr. Chairman, for the opportunity to testify before your committee.

Before I go into my own testimony, I would like, if I may, to make a comment or two about the testimony just given by the young lady. The gist of what she said I have heard again and again. Unnumerable times, and it boils down to this, if I may say so, and I think it comes with least propriety from people representing teachers. What she is really saying is that it is possible, where you have initiative and referendum, for the people to place upon a ballot a bill, the substance of which special interests do not like and they would, therefore, not want that bill introduced. She is overlooking the fact, of course, that every member of the Legislature could also introduce such a bill and there is no way in which special interests could stop the introduction of such a bill. The real problem, therefore, is that special interests find that they can be more successful, or at least have been, up to now, at lobbying and imposing their will upon the Legislature than they could be in trying to impose that same will upon the enlightened voters. They like the present system because they know that they can get what they want from the Legislature through their lobbying. They also know that if they tried the same lobbying on the enlightened public whose dollars are involved, who is paying for all of these expenses, the public, in their wisdom, would not succumb to the lobbying to the extent that the legislators, for political reasons, are obliged to succumb.

Now, if you recognize that fact, that eliminates all discussion about the fact that irresponsible legislation can be proposed by initiative and referendum. Of course, it is possible. But, similarly, I don't think there is any person in this Legislature that hasn't seen bills introduced in the General Assembly and in the Senate, again and again, which in the opinion of many, many people are really pretty silly bills. What happens? The Legislature, in their wisdom, generally defeats the bills. Similarly, we have found over 60 odd years of history of initiative and referendum that the people, generally, have as much wisdom and many times more wisdom than is exercised by the Legislature. All you have to do is let the people understand the facts involved and they will come up with the right decision. As Senator Dorsey pointed out, Proposition 13 was passed in 1978 to cut the taxes. In '79, they passed

Proposition 4 in California to reduce the amount that the government could spend. In 1980, Proposition 9 was proposed to reduce taxes very substantially and the public, in their wisdom, without needing a great deal of lobbying, voted the bill down. People who represent educational organizations strike me as being in a particularly delicate position because they should at least be able to feel that the children that they educate to adulthood have acquired common sense and wisdom and know something or other about what they ought to do and know how to make decisions. But, they will make the decisions in their own best interests, as distinguished from the legislators making decisions in their own best interests. It boils down to whose interest should be served, the public or the legislators and the lobbyists.

Now, I'm going to turn my attention, if I may, sir, to what I think is a far more important problem. I heard the discussion here about all of the great problems that you have here in the State of New Jersey. Fortunately, however, that is not unique to New Jersey. It is universal. In every one of the fifty states, they have the same problems. But, most of the problems that come are problems which originate not in Trenton, but in Washington. That is where inflation is created. That's where all of our high taxes go. Every taxpayer in New Jersey pays far, far less taxes to support the state government than he does to support the federal government. The real cause of unemployment, the recession is the federal government and there is a way in which the Legislature in New Jersey can be most helpful in solving that problem. I shall address myself to that in a moment, if I may.

Now, before I state my reasons for supporting the bills which I have received, which are now pending before this Committee, I should like to tell you some facts, which I believe you will want in your official record, which are taken from the reports of the President of the United States, the U.S. Senate and the House of Representatives and I think these facts will shock you, as knowledgeable as you may be about the affairs of the federal government. I'm going to give you some facts which I believe you will all agree you have not seen or heard before. I'm going to give you the bad news of how bad the situation is in the nation and therefore, in every state, including New Jersey. Then, I'm going to give you the great news, your own unique opportunity to take the lead in solving those problems by enacting legislation which is now pending in your Legislature.

In the last seven years, annual federal expenditures have increased in the federal government by 135%. From \$247 billion in 1973, the expenditures this year are over \$580 billion in 1980. In those seven years, the national debt has increased 92%, from \$468 billion to \$897 billion. I will submit to you copies of the President's budget message and statements of reports from the Senate and the House showing where all of these figures come from.

Contrary to widely circulated reports of the government's fiscal affairs for 1981, the truth is, and you have all seen it in the newspaper, that the President and the Senate and the House have announced that they are now going to have a balanced budget for 1981. Unfortunately, that is distinctly a misstatement. The official government reports project, for 1981, two other very important categories which are not included in the budget, but which are included in the national deficit and the debt. One is what they call "the off budget outlays," for which they now appropriating \$18.1 billion for 1981. In addition, there are the trust fund monies, which also cost an additional \$14 billion for 1981, which will mean that we will have a deficit, if you add those two together, of at least \$32.1 billion which the public has not been told about, although the figures do appear in obscure places in the reports.

So, that \$32.1 billion will have to be added to whatever deficit they do show in what they call the consolidated budget. At the end of 1929, just fifty years ago, 153 years after our government was created, the national debt was \$17 billion. We are a great country, the largest industrial country in the world. In 1929, the debt was merely \$17 billion. In the next thirty years, by 1959, the debt rose to \$287 billion and by 1969, it had risen to \$367 billion and in 1979, it more than doubled to \$833 billion.

The interest we now pay on the national debt is \$77 billion. That is the annual interest on the debt, \$77 billion. In 1929, fifty years ago, the total debt was only \$17 billion. So, the interest that we are paying now is four and a half times as much as the debt was fifty years ago. Now, it is true that the dollar isn't worth as much because we've had inflation. But, the cause of the inflation is caused by the figures that I've been giving to you. It is the enormous amount that the federal government has been taking from taxpayers and spending and, in addition, spending more money which it keeps borrowing every single year. It is the excessive taxes, the excessive spending and the necessity for increasing the national debt which is the primary reason why we are having inflation.

Now, to disabuse anyone from the idea that the government intends to balance the budget and eliminate deficits in the next few years, it will be interesting for you to know that the government reports which I shall show you--and you all agree that the debt at the end of 1979, fiscal '79, was \$833 billion--but they project that for 1980, '81, '82, and '83, the debt will increase each and every year by significant amounts. President Carter estimates that by 1983 the debt will have increased from \$833 billion to \$988 billion, over \$150 billion increase in the national debt in the report which he sent to Congress as part of the budget message. The Senate estimates that the debt will be increased to \$968 billion and the House estimates it will be increased to \$970 billion by the end of 1983. In each of these years, they all agree, the debt will increase every single year. Yet, they give lip service to the fact that they say the budget is balanced. As you may remember, on March 14, the President announced that he had revised his original 1981 budget and that "he would cut federal spending by \$13 billion to achieve a balanced budget." In light of the figures that I have just given to you, that does not seem to be an accurate statement by the President.

Congressman Giommo, Chairman of the House Committee on the Budget, stated, on March 26, in a similar vein, that for the first time in 12 years the federal budget will show a surplus in fiscal 1981. The surplus or deficit, he said, is one of three major components which enter into the calculation of the change in the public debt figure and then he, in fact, disclosed that there was one place which they called off-budget and the other was trust funds, and those are figures which I gave you a few moments ago with those two totalling \$32.1 billion.

Senator Muskie, on April 9, announced that the Congressional Budget recommended for 1981 proposes the first balanced federal budget in 12 years.

Newspapers and the news media carried the story, and I have copies for you of the various newspapers, Washington Post, New York Times, Wall St. Journal, etc., which carried the full blazoned fact that the budget would be balanced in 1981. The answer is that nobody has taken the trouble to look beyond the first page and to look into the figures which I have and which I shall submit to you, which I mentioned to you.

Now, where does this all bring us? Mr. Felix G. Roeing, who, for those who may not remember the name, was the investment banker, one of the most notable bankers we have, who was called in by the City of New York in 1975 to help get the City out of the trend toward bankruptcy, and he was the one who told them how to change their bookkeeping, make various changes and he then became the Chairman of the Big Mac Corporation. He recently wrote, as recently as June 16, "We are facing a political and social crisis of major dimensions challenging democracy as nothing has done since 1930." He went on to say, "We must reduce, gradually and consistently, the size of the federal budget and the level of taxation."

Unfortunately, for you gentlemen to give the voters of New Jersey the right of initiative and referendum would require an amendment to the New Jersey Constitution, which would entail red tape and years of delay by those groups, whom your committee has already encountered, who do not like the idea of making any change in the arrangement which they now find suitable to them, regardless of whether it is suitable or unsuitable to the voters, who carry the burden and pay the bills. However, we have a bill pending here in the Legislature which will not require any constitutional amendment and it is an advisory referendum proposed in Senator Hagedorn's bill, introduced by Senator Hagedorn and Senator Anthony Russo, and it has also been introduced in the General Assembly by Assemblywoman Muhler. Because the bill would provide for an advisory referendum, it can be placed on the ballot at any time by a vote of the Legislature. The referendum will have no impact, good or bad, on the Legislature or Governor of New Jersey. It gives the voters the opportunity to advise the President, the two Senators from New Jersey, and the representative from each of the 15 congressional districts whether or not the voters want them to do all in their power, without impairing services essential to the nation, to reduce total federal spending in fiscal year 1981 to 21% of estimated GNP, Gross National Product, for that year and in fiscal year 1982, to 20% of estimated Gross National Product for that year, and in 1983, to 19% of estimated Gross National Product in that year, and to use the surplus that will be created in each year to reduce income taxes and the national debt.

SENATOR DORSEY: Would you try and summarize a little bit because you see the room is getting crowded and we have some commitments to other people.

MR. MOUND: I'm practically finished now.

SENATOR DORSEY: Good.

MR. MOUND: The bill number is Senate Bill 367 and Assembly Bill 1167. My suggestion and recommendation to this Committee is that if you enact the Hagedorn and Muhler bills, your constituents will be grateful to you for giving them the opportunity, for the first time in history in any state, to communicate their wishes in unambiguous language directly, by a simple yes or no vote, directly to the people who represent them in Washington, the President, the two Senators from your state, and the Congressmen from each congressional district. They will know exactly how many of his voters, his constituents want him to do what he can to reduce spending, because it is only in that way that the Congress, the representatives in Congress and the representatives in the Legislature here in the State can be liberated from the pressures now brought upon them by lobbyists and the voter can reassure the representative in Congress that if he does all in his power to try to have expenses reduced, he can count upon the support of a particular number of voters in his district who have told him in advance that is what they want him to do. Contrary-wise, if he ignores their wishes and succumbs to the pressures of the lobbyists, he can be reasonably sure that the voters

in his congressional district will show him their opinion of his conduct by either nominating someone else from his own party to take his job or by voting in somebody from the opposition party because these people will soon be pledging themselves to the voters. If they get a mandate from the voters telling them what they want in reducing expenses, they will promise the voters that they will carry out the wishes of those voters and pledge themselves to do so.

I, therefore, believe that if your state takes the lead in getting this bill out of the committee, where it is now, if you get that bill passed and out of committee and word gets out to the rest of the country, that New Jersey has taken the lead, then other states, very quickly, will pick up the idea and the 24 states which have the right of initiative and referendum, the citizens of those states, following the example that you have here, would circulate petitions and get this proposition on their ballots at the next general election. It is not terribly important when they do because once the legislators and the lobbies know that this is on the way, it will change the entire trend of our country and will save us from the problems that many people foresee clearly and with great fear.

SENATOR DORSEY: Thank you very much, Mr. Mound. I want to point out that Mr. Mound came last Monday when we had it rescheduled because I didn't have a chance to tell him that it was off until today and I appreciate your perseverance in coming before us and testifying. Thank you very much.

MR. MOUND: Thank you for giving me the chance to be here.

SENATOR DORSEY: I would like to recognize our Secretary of State, Donald Lan.

SENATOR MUSTO: May I point out to everyone here, if I may take the liberty, that we will have no clapping, no cheering, no booing. This is an informative meeting and we're all trying to get a job done and we would appreciate that very much.

D O N A L D L A N: Thank you, Mr. Chairman, Senator Dorsey and esteemed staff. I promise you I don't have an economic address to present to you this morning, but I do welcome this opportunity to present my views on the question of initiative and referendum in New Jersey.

It appears to me that it is generally perceived that initiative and referendum is other than a progressive concept. Frankly, I've never accepted the argument that initiative and referendum was a tool of conservatism or reactionary thinkers. Quite the contrary, I view this process as embodying the fundamental tenets of a participatory democracy, government by the governed, if you will.

It is my hope that the deliberation on this subject will avoid such labels and rather analyze the the strengths and drawbacks of such legislation and the potentially large impact it could have.

In its basic terms, the question we face is whether or not we have sufficient confidence in the judgement of the people. A positive response could go a long way toward eliminating the skepticism and alienation that I believe currently exists.

As chief election officer for the State, I have attempted to detail the continuing decline in voter participation. The recent June 3 primaries are indicative or the problem we all face. On a State-wide basis, only 17% of our eligible citizens participated. This means that over 4 million eligible New Jerseyans did not choose to exercise the most fundamental right of democracy, the casting of a ballot.

This decline has, in my judgement, reached alarming proportions wherein

only 32% of the eligible citizens voted in last year's general election, when the entire State Assembly was up for election. This is the lowest turnout since 1945.

Certainly, the reasons for declining turnout are many and varied. We have supported legislation by Senator Lipman to improve registration efforts among our young people. We actively supported the legislation of Assemblyman Karcher whereby as of July 1, that's tomorrow, of this year, no longer will the registration rolls be the sole list used for jury duty selection. Last week, I joined in supporting Senator Dorsey's bill to allow those over 65 to vote by absentee ballot, when they need to.

While government should work to eliminate needless barriers to voter participation, this in itself will not reverse the downward trend. More basic changes may be needed.

The feeling of isolation and powerlessness, in dealing with government, is very real among the citizens. Responsive government is furthered when a citizen believes that his views are part of the input in the governmental process. The development of a well thought out program of initiative and referendum could help to rekindle the active interest participation of citizens in their government.

One of our forefathers, James Madison, is quoted as saying, "All great reforms, great movements, come from the bottom, not from the top..." "Wherever there is a wrong, point it out to all the world, and you can trust the people to fight it." I also have this respect in the good judgement of the people and would point to the recent experiences in those states where initiative and referendum is in operation.

Recent ballot questions in Michigan (dealing with the raising of the drinking age to 21), in Alaska (setting aside land for small homesteaders), in Montana (dealing with nuclear power plant licensing) have proven false the fears that initiative and referendum will foster irresponsible ballot questions.

Even in California, and the prior speaker touched on the same subject, which spawned the most celebrated case of initiative and referendum, Proposition 13, which dramatically reduced property taxes, has clearly demonstrated voter sophistication by defeating Proposition 9 in this last election. This initiative would have cut personal income taxes in half and had a drastic effect on state services.

From a practical view, there are mechanical issues as to access to the ballot, which must be examined. For instance, while initiative and referendum is needed, we must be vigilant in preventing the placing of deceptively worded or contradictory questions on the ballot. The number of petitioners and their geographical distribution must be weighed carefully to allow easy access, but to discourage abuse.

I note that of the bills under consideration today, most provide for only indirect initiative and referendum and one pertains to only constitutional amendment.

I would submit that both direct initiative and referendum on both constitutional and statutory enactments also be considered. The direct initiative could be balanced by allowing a legislative repeal or gubernatorial veto. Additionally, a strong system of initiative and referendum need not include all questions.

While the questions over mechanics, type of questions, and indirect or direct access need to be determined, the value of initiative and referendum is clear. The constitutional right of initiative and referendum would demonstrate to the people the trust in their capacity to participate in the formulation of the direction and content of public policy. The renewed partnership of the people and their government will mean a more active participation by the citizenry.

Departing, for a moment, from my prepared remarks, I want to express to you my very deep concern about the failure of our citizens to participate in our government. This decline, and I related to you a 32% participation, that's 32% of the qualified citizenry participating in 1979's general election. When we take the younger people, the future leaders of this nation, we see them participating at a rate of 20%. Now, you change governments in two ways. You change it by bullets or you change it by ballots and it seems to me that this electorate of ours has been turned off and we must not lose any opportunity, and I view initiative and referendum as an opportunity, to strengthen the bond between government and the people because a participatory democracy, obviously, does not function if we hold an election someday and hypothetically nobody shows up. There are, I think, no more fundamental problems facing the government of the United States than the one of the failure of our citizens to participate and I certainly hope that this esteemed committee, in its wisdom, will find a means to permit increased participation through the initiative and referendum process for our citizens.

I have, by the way, stayed away from specifics, which I think is the prerogative and purpose of this committee. I have addressed myself, basically, to the concept, dealing with the election process, which is within my purview.

SENATOR DORSEY: I certainly want to thank you for taking the time to come. You certainly express your concern over voter apathy and its relationship to the democracy in which we live. We certainly appreciate your support and your coming here. I know that Chairman Musto will want to be in touch with you when we get down to actually drawing a bill so that the proper procedures, which you are probably more familiar with than anyone else, are included therein.

SENATOR MUSTO: I think that the specifics are very, very important and we would appreciate anything your office can offer in that regard, Donald.

SECRETARY LAN: Senator, my staff is at your disposal. We are not only available, but we are desirous of being helpful.

SENATOR DORSEY: Thank you very much. We now have Anne Fortuna.

A N N E F O R T U N A: I have followed the progress of initiative and referendum--

SENATOR DORSEY: Excuse me. Could you just begin by stating your name and address for the record?

MS. FORTUNA: I am Mrs. Anne Fortuna.

SENATOR DORSEY: And your address?

MS. FORTUNA: I'm from Linden. I have followed the progress of the initiative and referendum issue in our state these many months and as a concerned, involved citizen and parent, I am here to make serious inquiry as to our constitutional right to an initiative and referendum.

First of all, we are all here today because we believe in our New Jersey State Constitution. We accept this document as embodying the principles of government for New Jersey. As our elected representatives each of you has sworn, when taking your oath of office, to support that same Constitution.

Article I does not promise, it guarantees to me and to my children and to my children's children that as a people, all power is inherent in us and we the people have the right, at all times, to alter or reform government. So important is this constitutional right that it is placed in the Constitution before the freedom to worship and even before the now famous thorough and efficient. Article I is specific.

It does not state that we will exercise democracy only through our elected officials. Of course, the Constitution provides for their election also. But, first and foremost, Article I states that the direct democratic principle of political power is inherent in the people and that we have the right, at all times, to alter and reform the government whenever the public good may require it.

Now, Article XI of our Constitution gives simple, clear instructions to the Legislature to enact all laws necessary to make this document fully effective. Well, gentlemen, our delegates to the convention passed our Constitution in 1947. It has been 33 years and our Constitution is still not fully effective. We still do not have our right to initiative and referendum and how long are we to remain stuck in neutral?

In 1776, Thomas Paine wrote, "a long habit of not thinking a thing wrong finally gives it a superficial appearance of being right and raises, at first, a tremendous outcry in defense of custom." Gentlemen, we have had 33 years of custom. We, the people of the State of New Jersey, demand our rightful, constitutional mandate. Surely, you, our elected representatives, cannot believe that you can continue to enjoy your rights and privileges given to you under our Constitution, while denying me and mine our full rights and privileges under the same document. We demand all our constitutional guarantees. The message is clear. You cannot allow even one part of our Constitution to remain meaningless through legislative inaction or indifference without weakening the very fiber of the document itself. You cannot, knowingly and with forethought, to allow this document to pass impaired to this generation and then to the next.

Add to this, other successful, interpretive challenges to this document, and in no time at all, you will not believe in our Constitution anymore and neither will we. Simply put, the Constitution for the State of New Jersey, passed in 1947, guarantees its citizens the right to direct democratic powers and mandates you, the Legislature, to pass the laws to provide these guarantees. Each legislator has this responsibility to the people of the State of New Jersey, to his oath of office and to democracy itself.

SENATOR DORSEY: Thank you very much. Can you leave us a copy of your statement for the record?

MS. FORTUNA: I don't have a copy.

SENATOR DORSEY: Well, you can send it to our aide. Thank you very much. Mr. Perelli, State Chairman of the United Taxpayers Association?

S A M U E L P E R E L L I: Thank you, Mr. Chairman. I just want people to know how important this issue is. My name is Sam Perelli and I am with the United Taxpayers of New Jersey. It seems that it takes one hell of a snowstorm and a "sock it to the voter" issue to get everybody to turn out, as we saw very eloquently demonstrated in January of this year, when we had an interesting package that was an emergency appropriation.

I am the State Chairman of the United Taxpayers of New Jersey and I would like to thank this distinguished committee in behalf of property owners, tenants, business and taxpayer associations which I have been given the honor to speak for here today.

My parents settled here in New Jersey years ago and they raised me in this beautiful state and they taught me to keep my words short and sweet just in case I ever had to eat them and I have no fears that this will be the case today.

My testimony today is not going to deal with taxes, gentlemen, because I didn't come down here to talk about taxes, as our association name implies. I came here to talk about the expansion and the strengthening of voter rights by amending the State Constitution to provide for direct access and participation by voters in the state lawmaking process. I believe, as do many groups associated with the United Taxpayers, that this issue is the keystone to the future of this great state.

The Secretary of State has been engaged in an effort to increase voter participation. Mr. Lan has spent thousands of taxpayer dollars in that endeavor, only to find that his efforts are unsuccessful. The Secretary would do well to study the voter turn-out statistics of the 23 other states which have the initiative process. Even here in New Jersey, where referendum laws apply only on a municipal and county level, public questions dealing with Sunday closing, pay raises for public officials, turned out greater number of voters than normal. In November of 1979, the voters of eight counties expressed their sentiments by voting overwhelmingly in favor of the initiative and referendum question on their county ballots. When this signal reached this Legislature, or this message reached this Legislature, rather than support greater voter rights, we saw an Assembly committee on state government, in December, amend ACR 38 to nearly double the percentage of signatures required on initiative. The national average is 4%, but this bill was raised to 7%. Even as recently as last month, an attempt was made in the Assembly to sneak a bill into law, which would have, according to the Star-Ledger report, stifled the taxpayers of this state by making it virtually impossible for voters to challenge unreasonable pay raises taken by local government officials. I submit to you that eternal vigilance does pay.

The defeat of Proposition 9, a referendum, which would have, if approved, slashed California's state income tax in half, is positive evidence that the voters can be trusted to make their own decisions when it comes to governing themselves. We can only conclude that the only motive remaining in the minds of any legislators having reservations about allowing direct public input into the State government, especially after seeing the results of the California election, is either ignorant of the fact or that they are dedicated to the deliberate suppression of voter rights for New Jerseyans.

We have reviewed the initiative and referendum bills now pending before this Legislature. A committee of citizens and taxpayers made up of housewives, engineers, accountants, educators, lawyers, doctors, factory workers have developed a simple criteria which we offer to guide this committee as it develops a final and equitable piece of legislation.

Gentlemen, the time has come for our legislators to stand up and be counted one by one. I think we would like to see who really believes in government by the people and for the people.

I have attached to our written remarks what we call a very simple criteria. I call to your attention that our Constitution and our voter rights have been eroded, systematically, in this state. Three or four years ago, the right to question public employee payraises was taken from us and I note with interest that just last month the PBA of New York City said, "Put the question of our payraises on the ballot. Put the question of police and firemen on the ballot." They actually believe in the public. I was shocked. Yet, I don't blame the N.J.E.A. for their comments. I would be damned afraid of the public having this awesome right of saying what they want spent, where and how much. I would be afraid too.

Of course, we go on with all the other information about how millions and millions of dollars were spent and how multi-national corporations can delude the public. Well, if those people who come here with that misinformation would study the facts in California, they will find that one of the reasons that Proposition 9 failed, gentlemen, was a thing called the "Fairness in Broadcasting Doctrine." It said that any monies expended on a public issue by a private organization must have equal and free airtime, and there were millions of dollars in free airtime given to the opponents of Proposition 9. So, let's not be afraid that the bigwheels are going to hurt the littlewheels, because, if we have initiative and referendum, we, the voters, are the bigwheels. We're not afraid of it.

Another thing that I am very concerned about-- and I know that news media often do not do their homework--when the news media in the rural areas become very concerned about this awesome right of initiative and referendum and they think that the big city guys are going to gang up on the little country folk, that's garbage. United Taxpayers says that every one of the 21 counties should be represented equally; that no initiative could pass in this state unless it had representation from every one of the 21 counties and I offer that to our brethren in the South, who want to leave us. Come back into the fold, I say to them. We can do the job together.

I offer into the testimony, articles. Senator Dorsey mentioned the Florida situation. The major newspapers in New Jersey endorse the issue. Even as recently as June 23, one of the major television networks came out and said, let the taxpayers and voters have a shot.

Before I leave, gentlemen, I thank you again. I will just inform you of one fact and one statement. As of this morning, the United Taxpayers of New Jersey, involved in a statewide survey of the 120 legislators, has in its possession documents stating that one third of the State Legislature, right now, has said and committed themselves to voting, yes, to this proposition. I ask you, what are we waiting for? One third. Nobody is against initiative and referendum and for ten years, we've been sitting here grinding our wheels. Quite frankly, gentlemen, I am a little annoyed, as a representative of an organization that carries statewide clout, if you will, that I have to sit here with two representatives of our State. It is annoying to me and it is a personal insult to me and every voter in this state that this issue is only covered by two of you gentlemen. I commend both of you for being here today.

SENATOR MUSTO: May I point out, in all fairness to the Committee, I am the Chairman of the Committee and this is the Chairman of the Subcommittee on this particular subject matter. This is only a beginning. This is not a full committee hearing. We consider the subject matter that important that we want to break it down to a subcommittee before the full committee. We want to get the job done and not just have public hearings. That is one of the reasons that you don't see the full committee here today. They will be here when this is all put together. It is a busy committee. We have broken it down to the subcommittee so this subject matter would be getting the consideration it is getting now.

MR. PERELLI: In closing, gentlemen, I defy anyone in this room, anyone, to come forward here and state one initiative measure in any one of the states that have the initiative process, one, that has ever been frivolous or that has ever passed that actually hurt the voters of that state, whether they be the voters little means or the voters of many means. I defy anyone in this room. Thank you for your time.

SENATOR DORSEY: Thank you very much, Sam. I appreciate your taking your time to come down and the efforts that you have put forward in behalf of this.

MR. PERELLI: Thank you.

SENATOR DORSEY: Next, we will have Mr. Ernest Lettieri.

E R N E S T L E T T I E R I: My name is Ernest Lettieri and I live at 894 Avenue C in Bayonne. Our organization of Bayonne Property Owners is an affiliate member of the United Taxpayers of New Jersey.

Gentlemen, I have now appeared before your committee, I believe that this is the third time that I've appeared. Of course, everything that we say is redundant and repetitive, more or less. I'm going to deviate from my prepared text for a minute because of the fact that I heard some remarks here this morning and I am especially concerned about the remarks made by the representative of the NJEA on T&E, which I term "trial and error" education. It has not proven to be a good thing and it is not a proven fact that even if it were put on the ballot that it would be knocked out, although I have some suspicions that it may. They talk about financial backing to past, cockamamie legislation, so to speak. How much financial backing does the NJEA pour into elections to have their favorite candidates elected? I would like them to make those figures known.

You know, there are three kinds of people in this world, as I have been observing here this morning. There are those that make it happen; those who watch it happen; and those that say, "What happened?" Well, I don't intend to watch it happen and I don't intend to ask, "What happened?" I intend to make it happen. I have been referred to as the Rembrandt of petitions in my hometown of Bayonne and I believe the Senator is well aware of what we have done up there. We gave the people an elected school board. We fought against ungodly pay raises. We have sought two terms and out for our local officials, which incidentally, gentlemen, is being questioned by the courts because of the ambiguities in the Faulkner Act, and we are now in the throes of changing our government in the City of Bayonne from non-partisan to partisan government because, in my opinion, there is nothing more partisan than non-partisan government in Hudson County. We have the democrats that are in and the democrats that are out.

SENATOR MUSTO: I'll let you discuss that in a while. (Laughter)

MR. LETTIERI: Take it easy. I'll get to you in the end. I would like to quote here, "Voters must fight for a voice." In the July 13 issue, this is in the Star-Ledger, Superior Court Judge Lawrence Bilder ruled in May that the Mayor of Bayonne was entitled to receive a \$5,000 pay hike despite the fact that the City voted to turn down a proposal to increase the Mayor's salary. It becomes increasingly clear that the voters no longer have a say in how much they will be taxed and how that money will be spent. Isn't it a sad state of affairs when in this nation of ours, where we once had a republican form of government, the vote of the people may be summarily dismissed by appointed officials. All New Jerseyans should be reminded of the fact that under the State Constitution all political power is inherent in the people. I am convinced that too frequently the courts act without restraint. As one example, I cite a case in the township where I live. Although our Constitution decrees that taxes raised on real property are for the use of the taxing district in which they are taxed, we are forced to pay not only for our own support, but we must contribute to the support of an adjoining municipality. We must start and start now to peacefully fight these periodic and recurring usurptions of our rights and privileges. If we fail to do so, all of the freedoms which remains will go down the drain. I say to you, as I have said to our Hudson County Board of Freeholders,

when I appeared to them and I asked them to, at least, put on the ballot, last November, a non-binding resolution asking the people of Hudson County how they felt and I close in saying that initiative and referendum may be the last peaceful means we have, in the State of New Jersey. I want you to ponder on that for a minute. You see, Assembly studies double dip exemter. You know about this Mr. Musto. How quick they can get a bill through to get a man's pension and yet we can't get a bill to even come up for a hearing for initiative and referendum.

SENATOR MUSTO: It took thirty years for the lottery, too.

MR. LETTIERI: Jersey Journal, May 31, "Musto backs initiative and referendum." That's a very nice article. I like that. "Musto flexes political muscle to save the budget." Are you going to flex your political muscle to give us initiative and referendum quick and put it on the ballot this November?

SENATOR MUSTO: You won't get it on this November and I don't kid anybody on that. Always the truth, nothing but the truth. We'll try to do the best we can.

MR. LETTIERI: The sky never fell in California after Proposition 13, gentlemen. "Peter Shapiro, Essex County, backs initiative and referendum."

SENATOR DORSEY: You better leave us a copy of that one.

MR. LETTIERI: I can't. "Bill Bradley backs initiative and referendum."

SENATOR DORSEY: Better leave us a copy of that one too.

MR. LETTIERI: I'll leave the whole folder if you care to xerox it and return it to me, okay? I'm saving the best for last, like the wine at the wedding of Canaan. "Public referendum on vista-view unlikely." Remember that, Senator.

SENATOR MUSTO: Yes, I was for it.

MR. LETTIERI: "Musto, who searchers believe is one of the leading supporters of the purchase, has suggested that leaving the question up to the voters might cloud the realities of the issue with political overtones." Is that in favor of it, Senator?

SENATOR MUSTO: I endorsed it. No problem at all. You can't believe everything you read in the papers, as you should know.

MR. LETTIERI: How true it is. Lastly, I would like to read piece of the transcript of a story from Justice William O. Douglas who stated, "We tend to overlook the basic political and legal reality that the people, not the bureaucracy, are the sovereigns. Our federal government was created for security and happiness of the people. Executives, lawmakers, and members of the judiciary are inferior in the sense that they are in office only to carry out and execute the constitutional regime." The Preamble of the Constitution states that we, the people, ordain and establish the Constitution. The Declaration of Independance states that to insure certain inalienable rights, governments are instituted among men, deriving their just powers from the consent of the government and that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or abolish it. Gentlemen, you are denying us, the people of New Jersey, the right to either abolish or to enact better government for ourselves. When I say, you gentlemen, I am talking about the Democratic Party, per se, and I believe, William Musto, you belong to that same Democratic Party and I have to say this much in your behalf. You are sponsoring these hearings. You are a fair and just person, even though you are a democrat. I must confess that I too was once a democrat, but I saw the fallacy of their ways and I have become a convert to the Republican Party.

SENATOR MUSTO: You know something, Ernie, I can't tell the difference any more.

MR. LETTIERI: So, let me say this. There is another little piece that I would just like to add. It's about "Beware of Lameduck Legislators." This is another reason why we need initiative and referendum, because these people, who are elected to office and are then voted out of office, take their vengeance out on the voting public and vote for any particular piece of taxation to get even, so to speak.

As to this bill, in parting, let me say, don't bother to even put this on the floor. When you want a person to come up with 30% of the votes cast or 25% of the votes cast, don't insult the intelligence of the voters and the people of the State of New Jersey. 10% is more than enough. As a matter of fact, 5% is what it is in most states and I would like to see the 5% because then I could go out state-wide and get the 5% myself in case nobody wants to help me. Thank you very much.

SENATOR DORSEY: Thank you. We will now hear from Larry Haverly, Executive Director of Taxpayers Political Action Committee.

L A R R Y H A V E R L Y: My name is Larry Haverly from Denville, New Jersey. We have done quite a bit of research on this subject and I have embodied most of the research into this handout. I will submit it for the record and not go over it in its entirety, but I would like to go over some of the primary points in the thing.

The concept of initiative and referendum, the need for it, has been very eloquently addressed by a number of the speakers and I'm sure will be by other speakers. I would like to just read into the record a few points from Senate bill 828, which is one of the ones under consideration, which I think summarizes it very well. "Initiative and referendum can strengthen democratic government and popular sovereignty; that direct legislation affords an additional and necessary means of political expression; initiative and referendum has an educational value to the voter and arouses voter interest in State government by bringing many policies to public attention and debate; direct legislation is useful in directing public attention to perceived evils in need of correction; and the existence of initiative and referendum in the State may well need to the enactment of many reforms desired by the people."

Our organization strongly supports the idea of initiative and referendum. I think it is interesting that the bulk of the current legislators also support initiative and referendum. During the campaign for the Assembly seats last year, our organization polled all of the candidates, both Democratic and Republican candidates for the State Assembly. One of the questions which was asked of these candidates was, "Do you support amending the State Constitution to allow the citizens the right of initiative and referendum?" We received over 80 responses to our questionnaire last year. Now, we have selected from those the responses of those candidates who were actually elected. Some of the people who responded were subsequently not elected. Of the people who responded, 59 of them are currently members of the State Assembly and 91% of these people responded that they were in favor of initiative and referendum and only 3% were against it. So, of the bulk of the current representatives in the State Assembly, it is 30 to 1 in favor of initiative and referendum over those who oppose and this is shown on page 5.2 of our handout.

I think it is also interesting, on page 5.3, that there are currently 36 members of the General Assembly who have co-sponsored one of the three bills which represent initiative and referendum rights and in the Senate, there are five members, of which two of them are here at the hearing, who have co-sponsored one of the four resolutions which would provide initiative and referendum.

Now, at a national hearing that was held a few years ago, which was reported by the committee there, it included testimony from people from all sorts of political persuasion, ranging from people like Ralph Nader to people like conservatives. So, initiative and referendum, I think, is well supported by all spectrums, by members of both political parties, and if you look at the list on page 5.3, it is supported by people from all parts of the State. So, it has broad support.

I would like to, now, to concentrate more in my talk on specifics. Many people have talked about the generalities. I think one of the most important aspects of it is the number of signatures that should be required on a petition to recognize initiative and referendum. I think it is helpful to start out by saying that we are actually dealing with three separate matters embodied in this. We're dealing with initiative on constitutional amendments. In other words, the citizens could collect signatures and have a proposed constitutional amendment then put on the ballot. The second one is initiative on statutes or on laws, where people could collect signatures and these would not have the same force as a constitutional amendment, but would have the same effect as a law. The third is referendum, which involves the review of laws which have been passed by other means, specifically, by the Legislature.

If we look at what the other states have done, and initiative and referendum is not an untried thing, there are 29 states that have some form of direct democracy, which includes initiative, referendum or recall, where the citizens, by petition could cause things to happen. Of these, 23 states, specifically, have what is known as initiative. So, this is widely used and I think it is helpful, in reviewing what New Jersey should do, to take a look at what the other states have done and what experiences they have had.

Now, in this handout that I have prepared there is a summary on page 3.6, which shows the number of voter requirements in the various states, the various 23 states that have initiative, and it is shown in two separate columns because the number of votes required for legislation initiative, in some states, is different than the number of votes required for amending the state constitution. Now, in these cases, you will notice that they range all over the lot, but they fall within certain boundaries. In order to initiate a constitutional amendment, the least amount of votes required is three percent--this is in Massachusetts--three percent of the number of people who voted in the prior gubernatorial election. The greatest number is in the states of Arizona and Oklahoma, where they require fifteen percent of the number who voted in the prior gubernatorial election. If we take an average of all the states, we find that it is 9.1% of those who were actually voting. Now, this is the figure that our group has decided is a very appropriate one for constitutional amendments. In the case of statute initiative, they range all the way from 3% up to a high of 10%, with an average of 7.2%.

Now, if you turn over to page 3.7, I've translated these percentages into the number of signatures which would be required if we would use the same number of voters and the number of voters who voted in the last gubernatorial election. We applied the rules of the other states to the New Jersey voter and we find that in order to have a constitutional amendment, if we used the rule in Massachusetts, it would require 65,000 signatures in New Jersey. On the other hand, if we used the rules of Arizona, it would require 326,000 signatures. If we take an average of all the states, it would require 193,000 signatures in New Jersey. Having been involved in collecting signatures and involved in citizen matters for quite a few years, it seems to me that 193,000 signatures is probably a very reasonable amount to use

for New Jersey. This means that it would not be easy to get the signatures because you would have to have broad support, both among volunteers and the people willing to sign the signatures, but on the other hand, it would not become an impossible number of signatures. Notice that this would require slightly more than it would require if we used the California rule, which, if applied to New Jersey, would require about 175,000 signatures. We know that in California initiative has worked quite well both in terms of keeping off the ballot things that are frivolous and allowing things which are of importance to appear on the ballot.

In the case of legislation, the numbers are slightly less and the average, in that case, is 150,000. Now, if we translate these in terms of percentages which should go into the legislation or the constitutional amendment, this would mean that the amendment for New Jersey should require about 7% of those actually voting for legislation initiative or 9% of those actually voting for an amendment to the Constitution, or, if as Senator Dorsey has proposed, we base it not on the number who actually voted, but rather on the number who are registered. In that case, the percentages to achieve that number of votes would be less because not everyone who is registered votes, so the percentages have to be less. In that case, the number required for legislative initiative would be 4% and the number required for amendment initiative would be 5.5%. So, we think that is one of the most important questions to be resolved, the number of signatures. We have studied it from a number of different angles and we feel that these recommendations that we have are sound. They're not overly generous and they're not unduly difficult. We would not, of course, go along with the 30% that was proposed in your bill because that is more than twice as much as any other state requires. It is more than three times as much as the average of the other states and we would recommend that 9% be substituted for the 30% and 7% be substituted for 25% that appears in your bill.

One other matter that is fairly important is whether we would require the concurrence of the Legislature with any proposed initiative. We went through all of the laws and constitutions of the various states and we found that the majority of the states do not require any legislative concurrence with initiative measures. The only that has an absolute requirement is Massachusetts, which requires not only that 3% of the voters sign petitions, but that, in addition, 1/4 of the Legislature agreed to this measure.

SENATOR DORSEY: How do they agree to it, Larry? Do they sign the petition as well?

MR. HAVERLY: No. On two consecutive courts--I guess that means sessions--two consecutive sessions, 1/4 of the Legislature, I think that's 1/4 of each body of the Legislature, must approve the measure. First of all, the signatures are collected and then once they've met the requirement and they are submitted to the Secretary of State, then the Legislature votes on it in two consecutive sessions. Now, none of the other states have that as an absolute requirement and in the case of Massachusetts that only refers to the constitutional amendments. In the case of statutes, they don't have that requirement, that the Legislature concur.

Some of the states have the requirement that once the signatures have been collected, it then goes to the Legislature and if the Legislature passes it, it then becomes law; if the Legislature rejects, it then still goes on the ballot or some states say that you can put it on the ballot by collecting some additional signatures, like I think it is 3% in Ohio, and then it goes on the ballot whether the Legislature agrees or not.

The bulk of the states, the fourteen, have no requirement at all that it go to the Legislature and then four requires that, if rejected, it still goes on the ballot. So, 18 of the 23 states actually have no requirement. Only one has an absolute requirement.

The Secretary of State mentioned the possibility of an Executive Veto. We have studied that. None of the states that now have initiative and referendum have any provision that the Executive can veto the bill and we would oppose that particular provision.

One matter which has not been mentioned is the question of amendment or repeal of the bill once it has been passed and approved by the voters. The states vary all over the place. Quite a few of them allow repeal or amendment anytime. For example, Montana, Ohio, Oklahoma, Oregon, South Dakota, Colorado, Massachusetts, Missouri, and Utah have no provisions which prohibit repeal by the Legislature. Some of them prohibitions such as, no repeal for two years. Alaska and Wyoming have that sort of provision. Others have a provision that it can be repealed but only by a more than majority vote. For example, Arkansas and North Dakota require that a 2/3 vote would be required to repeal or amend a bill that has been approved by initiative and referendum.

It is interesting that some states have a lower percentage signature requirement for referendum measures, but our group does not feel that that's particularly desirable. The average, where it was 7.2% for legislation initiative, it averages to be only 6% for referendum. But, we can really see no good reason why a referendum, a petition to repeal a bill, should require fewer signatures than an initiative to initiate a bill. So, we have stuck with the basic. Initiative and referendum of laws would require the same thing.

I think that is basically it. We have made a few specific comments about wording in the bills which we have submitted for the record, but don't feel that they are particularly important at this moment. We do object to the SCR 45 provision which is that the only place you can sign petitions would be in the county clerk's office and other public places. As someone who has been engaged in collecting petitions, I think it would be incredibly difficult to expect that the voters would actually go down to the county office to sign a petition. I think we do need the provision that you can circulate petitions and that people can sign them, if they are so inclined, no matter where and we would strongly object to that provision that the signers of petitions are restricted to very few places.

Basically, we feel that this is a very important matter, that initiative and referendum is badly needed in the State of New Jersey and we certainly hope that it will be moved ahead as rapidly as possible. Thank you.

SENATOR DORSEY: Thank you very much, Larry. We appreciate your thoroughness and your research. That's going to help John Tumulty. Thank you very much.

MR. HAVERLY: Thank you.

SENATOR DORSEY: Our next witness will be Richard Zimmer.

R I C H A R D Z I M M E R: I am an Attorney, and I live in Hunterdon County. I, as many of the other witnesses, am disappointed that election day 1980 will pass by without an opportunity for the people to vote on the constitutional amendment, adding initiative and referendum to our Constitution. It is important that this complex issue be considered with deliberation and with care, but I think there will be no excuse if 1981 comes and goes without the issue of initiative and referendum being presented to the people in the form of a constitutional amendment.

I do commend this Committee for having this hearing this morning to start the ball rolling. It is not surprising that there are few registered lobbyists here to testify in favor of this measure, because lobbyists have ample access to the legislative process in New Jersey, but I don't think the Committee should get the impression that because lobbyists are not here people are not in favor of this legislation. As you well know, in every county in which the question of initiative and referendum appeared on the ballot last year, it was approved by a substantial majority throughout the State.

I would like to address myself to certain of the substantive points in the legislation before the Committee. I believe that since initiative and referendum should be a last resort rather than a casual way to make laws on a routine basis, that the number of signatures required to enact legislation by this means should be on a high side of the range that Mr. Haverly discussed between 3% and 15%. I believe, however, that the 30% requirement in S-828 is very much in excess of a reasonable percentage. Furthermore, because the purpose of initiative and referendum is to provide a backstop way to act if the Legislature for some reason has refused to act, I believe it is inappropriate to require any percentage of legislators to endorse an initiative before it is allowed to be on the State ballot. You should consider, if you are interested in giving legislative input, the method of so-called indirect initiative where a petition is presented to the legislature. The legislature has the opportunity to act, but if the legislature does not act, the petition will then reach the State ballot, regardless of whether any legislators affirmatively voted in favor of it. That will put the ball in the court of the State Legislature where it belongs. It is the job of the Legislature to pass laws, to make laws and to consider them, and to gain expertise, but when the time comes that an important issue is ducked, as it is so often by our state legislators, then I believe the time has come for the people to speak in the form of an initiative and referendum.

Thank you very much.

SENATOR DORSEY: Thank you very much.

SENATOR MUSTO: I have one question. Is there one form you prefer? Do you have a preference?

MR. ZIMMER: My preference is for an indirect initiative. There are states that have indirect initiative, they are, Maine, Massachusetts, Michigan, Nevada, and South Dakota. I would suggest that you take a look at those states.

SENATOR MUSTO: I am familiar with them.

MR. ZIMMER: Right.

SENATOR MUSTO: I wanted your position.

MR. ZIMMER: I would prefer an indirect initiative. But, it would take a little bit longer to get a matter considered by initiative, but it would keep the heat on the Legislature which is the appropriate body to deal with public issues.

Now, I think the experience in other states with indirect initiative has shown that very often the threat of a pending initiative will force the Legislature to act and to pass some pretty good legislation, where it wouldn't be willing to do so before. That is why I am in favor of that.

SENATOR DORSEY: Dick, you said you were not speaking here today for Common Cause. Do your views comport with those of Common Cause?

MR. ZIMMER: Well, let me just explain what my experience has been as a former member of the National Governing Board of Common Cause. I had the opportunity to discuss the use of initiative and referendum with heads of the State organizations and many of the states that do have initiative and referendum. Initiative and referendum was a tool that was used by Common Cause, amongst other good government groups, to force the legislature to pass legislative reform.

In many of the issues that Common Cause deals with, the prerogatives of the legislators themselves are being affected, and they are the ones that are least likely to find a resolution in the legislature. For instance, codes of ethics, something that is of current concern, it is extremely difficult to get meaningful codes of ethics. For instance, an ethics commission comprised of members who are not themselves legislators, it is very difficult to get that through a legislature. And, Common Cause has used in other states either the threat of the initiative, or the initiative itself to see that good ethics legislation has been passed. It was a proposition in California, Proposition 9 on the 1974 ballot, I believe, that was a comprehensive political reform proposition supported by Common Cause, opposed by virtually every other organized lobbying group but it passed overwhelmingly.

In Massachusetts, by use of the indirect initiative, ethics legislation was passed by the Legislature when it saw that there was a chance that there would be an initiative imposed on the State if the Legislature failed to act. I think it is important that these issues be focused on, because in the light of proposition thirteen, the cause of initiative and referendum has tended to be linked with the cause of tax reduction and spending reduction. I do believe that it is important that the people retain the right to deal with taxes and spending through the initiative process. It is by no means the exclusive issue that can be dealt with through initiative. There is a broad range dealing with returnable bottles and ethics legislation and abortion, and some other issues that go across the entire political range.

One further point I would like to make is, as a general rule the people act intelligently, and they are very cautious and conservative in adopting or rejecting proposed initiatives. In California where there are more initiatives on the ballot than any other State for 63 years of its experience with that method, only 15% of the initiatives were voted on favorably. So, concerns that there is going to be some kind of irresponsible mob rule is just basically unfounded.

SENATOR DORSEY: Thank you. I now call on Lorraine Niemela, Common Cause.

L O R R A I N E N I E M E L A: Common Cause does not have a position for or against initiative and referendum. In study of the issue, we have found that there are important areas to be considered in drafting a constitutional amendment and the enabling legislation for initiative and referendum.

One, indirect initiative, should there be provision for indirect initiative? An indirect initiative is presented to the voter if the Legislature fails to pass the proposal and the Governor fails to sign it within a specified time.

It makes efficient use of the government structure. If the measure is passed and signed, the cost of placing it on the ballot is eliminated. If the measure is not passed, the legislative debate will have served to publicize the issue for the voters.

Two, petitioners, who is eligible to petition the government? Is the requirement of voting registration restricted?

What percentage of eligible voters must sign petitions to qualify the measure? A high percentage could prohibit use in practice and a low percentage could be unwieldy. Initiative is used widely in California and Oregon where the requirements are 5% and 6% respectively of votes cast in the gubernatorial election. Most states in which 10% is required seldom use the process. The geographic distribution of residents and the political tradition of the state are also factors in usage. Signatures are more readily collected in population centers than in low density areas such as agricultural regions. The progressive movement in the western states at the beginning of the century made initiative and referendum a fundamental part of their political process. In states where initiative and referendum is more recently introduced, the citizens rely on it less.

Should the required percentage be higher for constitutional initiative than for a statutory initiative? For example, if a statutory initiative requires 8% of registered voters, then a constitutional initiative might require 12%.

Who should be allowed to circulate a petition? Should hired circulators be prohibited? What are the penalties for petition violations?

Three, schedule, what specific schedule would insure a rapid and deliberate movement of the procedure?

Should there be a legal review of the proposal before it is circulated? What government office would execute this function objectively and would the proponents of the measure have the right to challenge the results?

Who has the final responsibility for the wording of the petition so that it clearly describes the intent of the proponents?

What procedure should be used for validation of signatures and who will be responsible for it?

How can court challenges be handled rapidly and at the highest level?

For indirect initiative, what time limit should be given to the legislature and the governor to act on the measure?

Four, subject matter, will there be limitations on the subject matter of the measure?

Should the measure be limited to one subject?

Five, public information, should a government office be available to the proponents to help draft the measure in conformity with the constitution?

How much information should be provided on each page of the petition?

What means should be used to inform the public on the measure?

Should public hearings be held by the government before the petition is circulated so that the proponents have an opportunity to amend the proposal and the voter understands the issue?

If a government analysis of the fiscal consequences of the initiative or referendum is useful, what government office would perform this function objectively?

Should the state provide an information pamphlet for each voter with an objective statement of the proposal, arguments and rebuttals of the proponents and opponents, statement of the proposal, arguments and rebuttals of the proponents and opponents and the fiscal analysis? This practice has been found useful in several states.

Should deliberate influences of state or national government agencies be prohibited?

Six, passage, amendment, repeal, what is the passage requirement? Most states use a simple majority; some states require a majority of votes cast on the measure that is at least a specified percentage of votes cast in the election.

Should there be restrictions on requalifying a measure that has been defeated on the ballot?

What will be the procedure for amendment and repeal? For example amendment and repeal might be limited for two years to a 3/4 majority of both houses of the legislature.

Is the governor's veto prohibited?

Seven, campaign financing, can the initiative and referendum campaign be protected from the excessive influence of money with financial disclosure of contributions and expenditures?

Eight, intent of initiative and referendum, finally, and of major importance, how many should be in enabling legislation? The purpose of initiative and referendum is to give the citizen a direct means to enact and repeal laws. If the legislature has the power to control the procedures, the process could be inhibited.

Nine, conclusion, our study of initiative and referendum has centered on the record of states that have the processes. There are states where initiative and referendum are rarely used because the requirements are too strict or the subject matter is severely limited. In sparsely populated Maine and Idaho, the petition requirement of 10% of votes cast in the preceding gubernatorial election inhibits use. New Mexico and Nevada have the additional requirement that 3/4 of the counties meet a minimum percentage of signatures. Laws necessary for preservation of public peace, health and safety and for specific government appropriations are exempted from referendum in Colorado, New Mexico, and Missouri. Broad interpretation of this clause has curtailed use in Colorado and New Mexico. Application of referendum in Missouri has been more successful.

There are states where the cost of an initiative and referendum campaign is becoming prohibitive. In 1976, Colorado had four consumer-oriented initiatives. Early in the campaign, polls indicated that the initiatives were likely to pass. The proponents of the nuclear safety initiative were outspent five to one. The proponents of the establishment of a consumer advocate before the State Public Utility Commission were outspent 15 1/2 to 1. The proponents of a tax proposal to substitute a tax on mining and large corporations for the state food sales tax were outspent 16 to 1. The proponents of mandatory deposits on bottles and cans were outspent 27 to 1. The four initiatives were strongly rejected by the voters. The major factor in their defeat appears to have been that the total cost of the campaigns was almost \$2 million.

In drafting the New Jersey proposal, the legislature should benefit from the experience of the other states.

SENATOR DORSEY: Thank you very much.

MS. NIEMELA: I have a voter pamphlet from another state, and a New York State bill that is before the Legislature.

SENATOR DORSEY: Thank you.

SENATOR MUSTO: Thank you.

SENATOR DORSEY: I call on Edward Mc Gee, Independent from Jersey City.

EDWARD MCGEE: I am Edward Mc Gee. I live at 241 Union Street, Jersey City. I am Chairman of the Taxpayer's Political Action Committee. Members of the Senate Judiciary Committee, Senator Musto and Senator Dorsey --- I cite you first, sir, because you are the senior man up there. I know that, having lived in Hudson County a long time.

At the outset I want to express the thanks of the members of the organization I represent, the Taxpayers Political Action Committee and other citizens of our state for your holding this public hearing on the bills proposing constitutional amendments allowing New Jersey residents to participate in the initiative and referendum process. By so doing you are supporting further discussion of this very important question.

Of course it is probably too late now to get the question on the ballot in the election on November 4th next. We feel bad about that because as supporters of I & R we worked very hard to get the matter before the electorate last year, but were stymied by the obstructionist tactics of the Byrne Administration and the leadership of the majority party.

Nevertheless, we did succeed last year in persuading the minority party to hold independent hearings on I & R, in the State House in Trenton, in Ocean County and the Court House in Morristown. I believe that about 75 citizens were thus given an opportunity to be heard on the question.

And, while the people did not get a chance to vote on the question last November, they did express themselves favorably on it in eight counties where it appeared as a non-binding referendum. More important than that, however, is the fact that 10 majority party members of the General Assembly were defeated for re-election last November. We taxpayer groups like to

think that we had something to do with that. By the way, it may be appropos to recall that all the members of the legislature will be on the ballot in November '81, next year that is.

Why are we taxpayer groups so favorably disposed toward the I & R process for New Jersey? In the first place, because this right is guaranteed to us by the First Amendment of the U. S. Constitution, which reads, "Congress shall make no law . . .abridging . . .the right of the people . . . to petition the government for a redress of grievances."

There is provision for the exercise of this right in, I believe, 27 states of the union, but not in New Jersey. We in TAX PAC feel bad about that too.

Secondly, the trend of events during the last 35 years in our state suggests that unless we, the people, are able to put an end to the seemingly endless upward spiral of taxing and spending, both we and the state government will find ourselves one day soon bankrupt.

Please consider these facts. In fiscal 1945-46 the New Jersey State budget was \$90 million. In the year beginning tomorrow it will be \$5.1 billion, an increase of 5,600 percent. During these same years our state's population went up a little more than 60 percent. This means that annual state spending increased 90 times as much as the number of people. And the quality of both life and education gets worse every year.

What about the future? Is there any hope for a tapering off of demands for additional taxes? I don't see any. About next year's budget, which is \$1 billion higher than it was four years ago when the state income tax was imposed, Governor Byrne had this to say in his budget meassage last January: "The budget has been tight for the past five years; it is tight again this year; and perhaps it already is too tight . . ." Elsewhere he declared, "It is not a budget which meets all our needs."

Dr. Milton Friedman tells us that the cost of government takes 42 cents out of every dollar we earn, but Governor Byrne tells us that that is not enough and that the tax "bite" must be increased.

We self-supporting citizens of New Jersey need something like a statewide Proposition 13, which, it seems to me, is the only way we can stop the endless escalation of taxes on our incomes. I am convinced that such a thing is not too far off, that indeed, it is just a short distance down the road, but that we must modernize our state constitution by providing for initiative and referendum in order to bring it about.

Thank you very much.

SENATOR DORSEY: Thank you very much. Mrs. Rohrer.

I O L A R O H R E R: My name is Mrs. Iola Rohrer from Boonton Township. I am a native Californian who moved to New Jersey two years ago. Naively, I thought the initiative and referendum processes were universally available until I moved to New Jersey, so with only that exception, New Jersey is a state that I love very much, but because of my move, I feel that I have suddenly been stripped of a right which was once a very valuable and treasured one in California. There is one highly visible difference between our states

in the political arena. California has profited from the initiative and referendum process by having voters with political vigor that we in New Jersey really can't comprehend unless we have been there, or in a state that does have initiative and referendum.

The press coverage, and the closeness of the press to the tempo of the people and their feelings about the political measures that they are involved in is much better in a state where you have these processes. The beneficiaries of the initiative and referendum are clearly the voters, and that is the way it was intended to be by all of our constitutions across the nation and federally. Thank you very much.

SENATOR DORSEY: Thank you very much. Joseph Shanahan.

J O S E P H F. S H A N A H A N: Mr. Chairman, members of the Committee, I am Joseph F. Shanahan of Lambertville representing the Hunterdon County Citizens and Taxpayers Association, Inc., a non-partisan group of working taxpayers who are interested in the promotion of efficiency and economy in government and who deplore the ever-increasing spending policies of government at every level.

This is our third appearance before a State legislative committee to approve the idea of reforming the government of the State of New Jersey to allow initiative and referendum for state legislation and constitutional amendments. Our enthusiasm for the idea stems from the immediate possible objectives which we may obtain, as for example:

1. Gaining financial relief from the taxing and unnecessary spending policies of the state and local governments by insuring that pertinent constitutional limitations on those items are placed on those bodies.

2. In the event that the legalization of gambling in Atlantic City would result in an influx of scoundrels into the State - in addition to the indigenous ones we have - and there was evidence of statewide corruption in the administration of such activity, the people would not have to stand by helplessly while the politicians and their minions traded charges and counter-charges, but did nothing. They could themselves initiative the necessary changes in the law.

3. And with the current census returns being applied to the redistricting of the federal and state legislative districts on the usual basis of partisan gerrymandering to best suit the political fortunes of the in-party, rather than advancing the best representative interest of the citizenry, we could change all that by amending the constitution to mandate impartial apportioning by the simple method of computerization.

As to the particular bills before this Committee, we prefer SCR-7, ACR-38 and the implementing bill, Senate 81 over SCR-78 and its companion bill, Senate 828. One reason for such preference is in the implementation, the former calls for the preparation of a title and summary by the Attorney General before the circulating of petitions - page 2, section 7,11 - while the latter calls for a review and certification by the Attorney General after the election in which if he so determines "that such remaining sections or parts: (1) Cannot be implemented and enforced, he shall certify such determination to the Secretary of State, and the whole of such law shall be deemed to have been rejected. . ." - page 3, section 6, 1.20 - the final say would appear to be in the hands of the Attorney General.

Another reason for such preference is the more realistic petition signature requirement of S-81 - 4% of total statewide vote of last election for General Assembly, or about 80,000 based on two million total - page 8, section 23, 1.5 - as compared to the outrageously large amount required by S-828 - 30% of votes cast at the last Governor election, or about 600,000 on a two million vote total - page 3, section 7, 1-1.

In addition, we disapprove of SCR-45 which, although it calls for a reasonable amount of signatures - 3% of total for Governor at last election - does require a favorable vote of 1/3 of both houses of the legislature - page 2, 149 - which means that it is an indirect initiative contrary to its explanatory statement which refers to it as initiating ". . .directly by petition."

We believe that support for such reform is widespread throughout the State and we urge this Committee to do its utmost to get our preferred bills before both houses for a vote as expeditiously as can be done.

Thank you for allowing us this opportunity to express our views.

SENATOR DORSEY: Thank you very much. I remember about a year and a half ago you gathered about 800 names in favor of initiative and referendum in Hunterdon County, and it was presented to me by Senator Foran.

MR. SHANAHAN: Well, you were somewhat the inspiration for that, Senator.

SENATOR DORSEY: Rose Monyek.

R O S E M O N Y E K: I am Rose Monyek, and I am from Rahway, New Jersey. I didn't realize that I should have a written statement.

SENATOR DORSEY: Feel free to say anything you like.

MS. MONYK; Fine. This past election, by the way, I was nominated as the Democratic candidate for the 12th Congressional District. I blame my political career on being involved in petitioning for referendum in my little hometown of Rahway.

I petitioned before that for saving a fire house, and we had to go out and petition twice for the right to vote whether or not we wanted a fire house-police station complex, which was not federally funded, but was to be bonded by the city. It so happens Alan Karcher is the City Attorney for Rahway and he is also in the Assembly. With his direction, somehow we don't even abide by the Faulkner Act in the City of Rahway. Now, we were dragged through the courts, and we testified. Our Business Administrator became a public relations man quoting patriotic rhetoric and defaming it in a way, intimating that we were forgers, and they had people coming down as handwriting experts investigating the signatures and then we had it go through one court and at this point it is up for appeal, which --- It hurts, because we were actually denied a right to vote on a Faulkner Act which happens to be a law in the State of New Jersey.

Now, the other thing is, it gave me an experience, too, where I walked around and I talked to many, many people, and when you see a person who has just come back from war or from the service telling you they are thoroughly disgusted with politics--- I hate to even say I am a politician

now. I am going to call myself a candidate. I will call myself a Congresswoman, but I refuse to be called a politician at this point, because people have just lost their faith in what is going on. I mean, it is costing them--- It is immaterial which party it is. I don't think it is fair. I think that the legislators or anyone involved in politics --- It should have just as much prestige and honor and pride being a representative of the people as if you were head of the PTA, or the head of some charity, or the head of some church group, but the people do want a right to vote on what they want.

The Faulkner Act, I guess, is a mini representation of what initiative and referendum stands for. I do know about S-81 and the other numbers, because I happen to get your legislative calendar. I ran for Senate in the last election, if you recall. That was also because I became involved. I went around door to door, and said, if the law is that lousy, if there is a vacancy, I will go to the Senate, and I will change it and improve it.

Now, I didn't go to law school, and I am bucking Alan Karcher up in Federal District Court and the City, because of--- I will tell you something else, I don't think it has to do with initiative and referendum, but I am wondering if the Senate Judiciary Committee has anything to do with it, but I do feel that the State, whether it is the Governor or the Senate, is supposed to protect the voting process and the candidates running for public office. It happens to be a state law. I have investigated it at various levels, and I was a victim and a witness. Unfortunately, I am going to have to become a movie star to have any action done on this. But, initiative and referendum is something else.

The whole building has solar energy and we have listened to all the propaganda about solar energy and it is really impractical in this part of the country. We have it up. They were supposed to be limited. The courts did not restrain the building, and within our city, besides that with the direction of Alan Karcher, they are running special meetings to decorate the place. If they want red and white polka dots, I want to know whether I can vote on whether I want orange and white polka dot curtains in the City Hall. It just isn't fair. Aren't they supposed to observe the law of the State? Possibly if it gets to be at the State level, I mean it shouldn't be that way where it is going to be dragged down to the courts in the same way. Will it be?

There was a whole question on how many votes, the numbers, whether it should be 30% or 3% or 4%. We were establishing the fact that it was the number of registered voters that voted in the last election.

Now from what I understand, once you even petition, it is hard to get it on the ballot. Most of the people that signed the petition would have been possibly in favor of what the city officials had done. But, yet they have lost their faith in the people. From what I have seen, and I will say I am intelligent and educated in many fields, but I am not a specialist in one. So, I can see the trees, and the forest and I can separate the two sometimes, and sometimes I get the wisest answers in the simplest forms. But once a referendum is petitioned for, will there be a law to put it on the ballot, or will it have to go through the same type of court procedure

that we had with the Faulkner Act.

Now, there is another problem--- I can't think of it right now. Give me a minute. Oh, the 1605 bill, I happened to be down here in the State House, and I walked in and I said, again, my friend Mr. Karcher has been playing around with the petitioning whether or not we wanted--- I think it had something to do with the salaries of municipal employees. He happened to be an Assemblyman for another county, but he is our attorney, and since he is doing such a nice job trying to change the Faulkner Act, with how many signatures are required, or how the voters are going to be counted, our little city put through an increase for the police department, I think, of 14% every six months, where it came to 40% for a police chief. Now, these are exorbitant salaries even with the high cost of living, that the ordinary taxpayer who doesn't get that kind of an increase to cope with the increase in the cost of living, that municipal employees, or whatever, I mean, that is double. Even if you are in business, you are lucky if you can keep your doors open with the way the economy is. That a police chief should be awarded in such a manner--- He is playing games at a state level to protect our little city characters at a local level. So, how do you do? I am here. I am going to run for office this time. I don't like it. I thought possibly I could run high enough and stay honest at the same time, and it is going to be a hard job. I don't like what is happening down the line. I see it. And I don't like. Whether it is a Democrat or Republican, like my three-cornered hat gentleman said, I think it is about time we all started thinking American, because it is getting rough.

SENATOR DORSEY: Thank you. Alton Heyn.

A L T O N H E Y N: Senator Dorsey, I am a taxpayer senior citizen. I saw this in the paper. So, I just came in to say I am for getting this on the ballot. I got a letter from Jarvis who wanted me to send him \$50 or \$100 to do the same thing. I am a do-it-yourselfer and don't have that kind of money, so I came down in person.

SENATOR DORSEY: I appreciate your coming. It is a pleasure to hear your view. Thank you very much. That concludes our list. Is there anyone else who would like to speak?

L E E P A C I F I C O: This is testimony in favor of initiative and referendum on behalf of the TRIM Organization, which stands for Tax Reform Immediately.

New Jersey is in a state of crisis, a crisis brought about by the citizens' loss of confidence in representative government. The most serious fallout from loss of confidence is a steadily declining citizen participation in the voting process, which in turn results in further erosion of representative government. The Chief Executive Officer of this State, even while junketing around on a global scale at taxpayer expense, has recognized the vicious circle relationship of what he chooses to term "voter apathy" and a crisis condition throughout the State.

As evidence of that recognition, he has at taxpayers' expense, mind you, displayed his name along with that of his Secretary of State on huge billboards.

The billboards carry a simplistic message, "Speak out New Jersey, vote." Would we but could do that.

Unfortunately, the simplistic approach portrays a lack of comprehension of mathematical realities inherent to representative government and the majority vote. It takes only a few minutes to examine the mathematical realities. Basically it is impractical for every citizen to vote on every issue. Instead, each voter casts two votes, one in the primary and another in the general election to select legislators. Legislators during their term of office cast thousands of votes. Just last year the number of laws legislators voted on exceeded 6,000. That should be down to 60 instead of 6,000.

Expansion of the citizens' meager two votes into thousands by the legislators is a convenient arrangement. However, there are risks in the arrangement that must be recognized. It is a mathematical reality that the majority of the legislators will actually disagree with a majority of the voters who put them in office, on some issues. Mathematical reality in the management profession indicates that only 60% of the decisions made by a good manager are the right decisions. Even Babe Ruth struck out twice as many times as he made home runs. Failure to make the right decision does not always result in serious consequences. Sometimes, however, the consequences are so grave that an immediate correction is required. The feedback loop, provided to make correction, lies in the opportunity for periodic voting and prescribed inputs. While the process is adequate for routine matters, it is not effective when a wrong decision needs prompt correction. If the car you are driving is heading toward the edge of a cliff, you must steer to the right or the left now, and not sometime after you have gone over the edge. When the claim is made that wrong decisions can be corrected through voting at the next election, we are in effect turning the steering wheel after the car has plunged over the cliff.

Mathematically, the feedback loop has too much inertia. The remedy for this condition is to increase the elasticity of the feedback loop by adding initiative and referendum. This addition would moderate the phase delay resulting from the present rigidly fixed dates for voting. The responsibilities of voters to legislators would be sharpened in both directions, gentlemen. Initiative and referendum would increase the checks and balances which all of us treasure as a feature of representative government. Initiative and referendum is the ultimate refinement of the majority rules method of government. It provides a process for correcting disagreements between the majority of the legislators and the majority of the voters, which, mathematically, must occur from time to time.

Initiative and referendum vindicates Abraham Lincoln who said, "You can fool all of the people some of the time; you can fool some of the people all the time; but, you can't fool all the people all the time." Many of the people of New Jersey refrain from voting because they feel they are being fooled all of the time, and have no recourse. They deserve that recourse. They are entitled to that recourse. Therefore, gentlemen, on behalf of the taxpayers of this State, the TRIM, Tax Reform Immediately Organization, urges the legislature to amend our Constitution to include direct initiative and referendum, preferably ACR-38, and to do so with utmost dispatch. We can no longer indulge in the

luxury of procrastination while the crisis in confidence in representative government and the rule of the majority continues to deteriorate. Thank you, gentlemen.

SENATOR DORSEY: Thank you very much. Is there anyone else who wishes to be heard?

J A M E S B E N N I E: My name is James Bennie. I am from Clifton, and I am speaking as Director of the Federation of New Jersey Taxpayers. I apologize for not having a prepared statement, but I just found out about this meeting yesterday. I have been away on a trip, so I will speak from some notes that I have made.

The question is, why do we need initiative and referendum? I believe it is needed, because the State government is not responsive to the will of the people, and the way in which the State income tax was passed is a perfect example of what is wrong with the present way the government is operated. The overwhelming majority of the people were opposed to the State income tax, and the State Legislature knowledgeable of this fact voted down the bill time after time after time. But, it kept getting revised and re-introduced in new forms. Finally, the State Supreme Court ordered the schools closed until the legislature came up with a new system for funding education.

Even then, the bill was passed with the bare majority of one vote in both the State Assembly and the State Senate - even then only with the self-destruct clause included. After that, at the next election many of the members of the Legislature who had voted for the income tax were rejected by their constituents. After the election and before the new legislature took their seats, these lame ducks got together and repealed the self-destruct provision of the income tax law and made it permanent.

Now, if we have initiative and referendum, it would prevent that sort of thing from happening. The fact that a lame duck session of the legislature did what they did proves that many members of the Legislature do not have confidence in the electorate process. If they did, they would take these kind of votes before the election and then go to the people with their record. In many cases, they choose not to do this, and this was proven again this year with this new package of tax bills that the Governor presented. Thank God most of them were defeated, but unfortunately a few of them went through, again by the lame ducks. One of the previous speakers referred to an article, "Beware of the Lame Duck Legislature." I wrote that article, okay. And, I propose there several solutions to the problem, but the main item to bring about reform is initiative and referendum.

Now, people say, you can always throw the rascals out at the next election. Well, this is true, but sometimes that is too late, because when the income tax became permanent, the government is used to spending at a higher level, and by the time another four years went around, it is too late already. You are never going to get that repealed.

Also, the elective contents very often are not based on the issues. They are based on the personality of the candidate, and the party loyalties, and the real basic issues are rarely even discussed. This is why you have

a decline of turnout at elections. It is not because people are apathetic or they are not interested, it is just that they feel that the politicians only pay attention to the voter a few weeks before election. They feign interest in what the voters want at that time, and then as soon as the election is over, what happens? The legislature is dominated by the Governor, intimidated by the courts and seduced by the special interest groups. And, that is why we need initiative and referendum. It would put a check on that sort of activity. Thank you.

SENATOR DORSEY: That is a great line you had in the ending. Do you want to give that to us one more time?

MR. BENNIE: I said that after the election the legislature is dominated by the Governor, intimidated by the courts, and seduced by the special interest groups.

SENATOR DORSEY: Thank you very much. Is there anyone else to be heard?

Mr. Haines.

F R A N K H A I N E S: Good morning, sir. My name is Frank Haines. I am the Executive Director of the New Jersey Taxpayers Association. The New Jersey Taxpayers Association is a non-profit, non-partisan, governmental research organization founded in 1930. We have been in continuous operation for 50 years.

I apologize for not having a complete statement this morning, Our duplicating machine was on the blink and there was some doubt as to whether I would even make it here this morning. We made a rather comprehensive statement before the Assembly Committee a year ago during the hearing in September. We went into some detail on the various states, and some of the history of initiative and referendum.

I would point out that there is some extensive difference in the legislation which you have before you today, although it appears that concurrent resolutions 7 and 78 provide for an unlimited direct initiative for both laws and constitutional amendments and an unlimited direct referendum for laws, while your SCR-4 provides an unlimited direct initiative for both laws and constitutional amendments, but a limited direct referendum for laws in that it excludes laws calling for elections appropriating money for general state purposes and raising revenue. I think in our statement last year we questioned why you would limit some of those items in referendum for statutes but would not do it for constitutional amendments. And, it would seem that it might be desirable for both if you are going to impose limitations. This is something that I want to address, the limitation aspect of this.

SCR-45 is an unlimited indirect initiative for constitutional amendments only. I am sorry Senator Musto isn't here, because as I view it, it has several procedural sections, which might better be left to statute.

SENATOR DORSEY: He is here. He just excused himself for a minute.

MR. HAINES: I thought I saw him earlier. If that is going to be the approach, to have initiative only for constitutional amendments, to put it in broad general language and leave the rest to the statutory implementation, however, I view that proposal as significant because it is an indirect proposal

since it has approval by the legislature, and that is the key to some of the differences. Some of the earlier people testifying this morning commented on the indirect method and it should be very carefully pointed out that when the legislature gets into the review process, or has to be involved, then we are getting into adding indirect, whether it be a constitutional amendment or a statute. And, the requirement of one-third of the members of each house which is relatively low certainly in comparison to other places is a significant factor in SCR-45 as a prerequisite for ballot qualification.

S-81 is an implementing measure for either SCR-4 or SCR-7, and I think the key points of those are the signature requirements of 4% of the statewide total of registered voters at the general election for the Assembly, and no more than 25% of those could be in any one county.

Senate 828 has an implementing measure for SCR-78 and it has two significant provisions which I have already heard criticized in terms of the high requirement in that it is based on votes cast for Governor in the last gubernatorial election. But, I think there is a significant provision there which merits consideration in that there is a higher requirement for a constitutional amendment than for statute, and I think that is a point that should be considered, because I think we view a constitutional amendment as a much more important step and worthy of a slightly higher degree of proportionate signatures than initiative over referendum for a statute.

The Taxpayers Association's position was stated at the hearing of the Assembly State Government Committee on September 18, 1979, and that position is reinforced by both our Executive Committee and Board of Directors is that an amendment to the New Jersey Constitution, which would authorize use of unlimited, and I emphasize "unlimited" direct initiative for either constitutional amendment or statute, and unlimited referendum for statute, is in our minds unsound policy and not supportable by the Taxpayers Association.

One of the aspects which we emphasized in our testimony last year is the tendency to oversimplify by the proponents of initiative and referendum. And, so whether we looked at a list of states which is 23, 24, or whatever the figure, that has some aspect of initiative and referendum, and it may be impressive, since it is almost half of the states, when you study the details and implications you find there are extensive variations and limitations in many of the states, and it is important to examine those limitations before using the plain statistic as an indication of the tremendous approval of these people powers.

Historical in those states which have provided initiative and referendum, limitations have been imposed, and probably one of the most understood aspects of the powers of initiative and referendum is that basically they are not unlimited powers. It is completely within the power of the legislature to put limitations on them, and if they don't then at some point the courts will in the problem of interpreting the extent of those powers. Even in states which seem to have no limits, the courts have been involved and determined under certain situations that there are practical limits of uses of the powers. But even the courts are not unanimous in their interpretation from state to state. And, this may seem odd, but we find that in many cases there are basic differences of interpretation

of statutes as to whether they are to become administrative matters, or whether they become policy matters, and many of the courts have looked at matters that they think are non-policy and say that administrative matters are generally not comprehended within the scope of initiative and referendum.

We find that only about 4 of 23 states authorize referendum for statute but have no limitations. In other words, in terms of referendum, the states have put limitations on use of those powers.

When I came to New Jersey 30 years ago, I thought the absence of initiative and referendum in our 47 constitution was a serious omission. I had grown up in a state where the town meeting was an important part of local life, where public participation of a so-called representative democracy was built into the system. But, I have concluded in my observations over that period of time that New Jersey is probably better off, and has been better off without the broader powers of initiative and referendum that are now provided.

Certainly, New Jersey has not had the constant doubt and uncertainty over the impact of some pending initiative and referendum measure which is aimed at making some drastic change in the system. I would submit that there is some disappointment voiced today about this question not being placed on the ballot in October. It might be interesting to look into October at the number of referenda questions which are now winning their way through the Legislature reach the ballot, because we may have or potentially have a record setting number of constitutional amendments and bond issues combinations on the ballot in November, and it may be a real test of voter participation in these matters, as to whether it is a desirable process and so on. I was pleased to hear the Secretary of State pointing out the problems of public participation.

I think our concern is that initiative and referendum can be a costly process. This is evidenced by some of the writings about California, the millions of dollars that are spent both in support of and against referenda questions. Also, I think it must be recognized that legislatures themselves may be more representative than voter participation on initiative and referenda questions. That in terms of the actual number of voters who participate that there is greater deliberation in the representative process at the legislative level.

I have one cite from California that indicates that in a recent study that in the initiative and referenda process in California that no initiative has received approval of a majority of California adults. That is an initiative measure. They get a little larger participation on referendum.

I think the difficulty is that most states which have imposed limitations have done it for various reasons, and even at the local level - I heard the lady from Rahway, and I sympathize with the situation there - there is a misunderstanding again that initiative and referendum at the local level is an unlimited power, and that, I don't think, was ever the intention of the legislature, and probably part of the problem there is that it has gotten into the question of what is policy making legislative problem and which is administrative, and this is one of the difficulties in interpreting initiative and referendum. The other one, I think, is plainly a philosophical difference. We have heard some of those differences expressed today that the power to petition is set forth in the constitution again is a fundamental right, but that it has been

left to the legislative bodies to define the scope of that fundamental right. Political scientists seem to point out that representative democracy was the concept of the founding fathers, as contrasted to pure democracy which would involve then the power of initiative and referendum on an unlimited basis.

It has been written that some direct democracy won't destroy the representative character of state governments, but it remains to be said that it is presently the power of the legislature to make the decision of how much direct democracy there shall be in this State.

It may be of interest to note that between passage of Proposition 13 in California in June of 1978 and March of this year, and I use March as a specific date, that no state legislature has approved the measure which would amend its constitution to add the initiative and referendum power. In other words, of those states, whatever the count be and however you count it, which have had initiative and referendum in their constitutions, and most of them date back through the early part of this century. There are very few after 1920. Minnesota may be the first, and I suspect it will be for this reason: In April the Governor signed Chapter 587 which places on the November, 1980, general election ballot the question "Shall the Minnesota Constitution be amended to provide for initiative and referendum?" and part of that question is also the extensive implementing legislation. I mean extensive, because for the first time this implementing legislation goes into almost lobby controls in financing, and so on of questions.

The Minnesota constitutional amendment--- And, I find out this significant fact again, is applicable only to statutes, and it is limited as indicated by the following language "The voters may not initiate or refer for appeal a constitutional amendment, an appropriation or a special law." In other words, in its wisdom, being one of the first states in recent years to do this, the legislature of Minnesota has made this a limited initiative. The Taxpayers Association does not view granting of the unlimited power of both initiative and referendum as either essential to or a constructive supplement to the representative form of government in New Jersey. As I said, excessive use of the powers as a costly process which unless carefully controlled can do more harm than good.

I think that we would view reasonable limits on use of both initiative and referendum power and use of the indirect method with reasonable limits to be a much more sound first step for New Jersey if the legislature does decide to embark in changing its constitution, which in essence might be taking New Jersey back to the beginning of the 20th century.

Thank you very much for the opportunity to speak to you today.

SENATOR DORSEY: Is there anyone else who has not spoken who wishes to be heard? All right, Sam, do you want the last word?

MR. PERILLI: I would like to have the last word. I would like the news media in this room to know that the New Jersey Taxpayers Association - and I challenge them - does not represent the little taxpayers in this State, and I would not want this message to get back to the little guys that we have the big guys saying they don't trust us. I object to the use of the New Jersey Taxpayers Association---

MR. HAINES: Mr. Chairman, I submit that gentleman is out of order.

SENATOR DORSEY: All right, we have to define that there is a difference between Mr. Haines' organization and the other speakers, particularly Mr. Perilli and Mr. Haverly and Mr. Mc Gee. They refer to themselves as the United Taxpayers, and yours is referred to as---

MR. HAINES: New Jersey Taxpayers Association, Incorporated since 1930.

MEMBER OF AUDIENCE: We are for the little people, the Federation.

SENATOR DORSEY: All right, we won't get into those personal commercials. Is there anyone else who wishes to be heard?

All right, so you understand the process, this transcript of the hearing will be prepared and submitted to all of the members of the Judiciary Committee together with the various exhibits and written statements that have been submitted. Thank you all for coming and participating. I think it has been very interesting and educational. We heard from both sides some very in depth information as to the implementing legislation that will be needed. Thank you very much.

(HEARING CONCLUDED)

Board of Chosen Freeholders

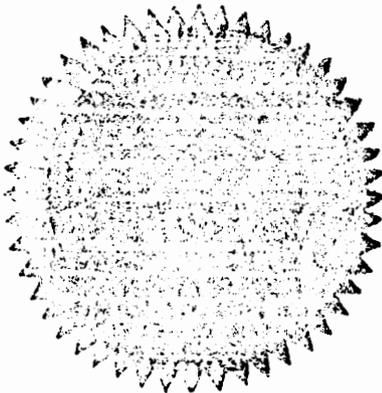
Hudson County, Elizabeth, New Jersey

I, JOAN M. KENNELLY, Clerk of the Board of Chosen Freeholders of the County of Union, do hereby certify that the annexed is a true copy of a Resolution, Passed at a ...REGULAR..... meeting of the Board of Chosen Freeholders, held on the23rd.. day of August....., 1979

In Witness Whereof, I have hereunto set my hand and the

seal of the County of Union, this24th.....

day of ..August....., 1979.....



Joan M. Kenelly.....
Clerk of the Board



UNION COUNTY BOARD OF CHOSEN FREEHOLDERS

No.

Date of Adoption August 23, 1979

RESOLUTION BY FREEHOLDERS SINNOTT and CHAIRMAN LATTIMORE

Approved as to Form

[Signature]
County Attorney

Moved by Frecholder

Secoded by

WHEREAS, the Board of Chosen Freeholders of the County of Union is considering the adoption of a Resolution urging the Legislature of the State of New Jersey to adopt a concurrent Resolution proposing to amend the New Jersey Constitution to grant the people of this State the powers of initiative and referendum; and

WHEREAS, the Board of Chosen Freeholders of the County of Union desires to ascertain the sentiment of the legal voters of the County of Union upon the question of whether the Freeholders should adopt a Resolution urging the Legislature to adopt a concurrent Resolution proposing to amend the New Jersey Constitution to grant the people of this State the power of initiative and referendum; and

WHEREAS, this Board has in the past urged the Legislature to take action on a variety of matters affecting the County and its citizens; and

WHEREAS, the grant of the powers of initiative and referendum to the people of the State of New Jersey will have significant impact on the government and the internal affairs of the County of Union in the future; and

(CONTINUED)

RECORD OF VOTE

FREEHOLDERS	AYES	NAYS	NOT VOTING	PASS	ABSENT
BORIGHT	✓				
CARMODY	✓				
DILLON	✓				
LONG	✓				
RAJOPPI	✓				
SEYMOUR	✓				
SINNOTT	✓				
SLOMKOWSKI	✓				
CHAIRMAN LATTIMORE	✓				
	9				

WHEREAS, there is no statute, other than N.J.S.A. 19:37-1
et seq., pursuant to which the sentiment of the voters can be
ascertained on the foregoing question:

NOW, THEREFORE, BE IT RESOLVED by the Board of Chosen
Freeholders of the County of Union that the County Clerk is hereby
requested to print upon official and sample ballots for the next
ensuing general election the following question:

"Shall the Board of Chosen Freeholders adopt
a resolution urging the Legislature of the
State of New Jersey to adopt a concurrent
resolution proposing to amend the New Jersey
Constitution to grant the people of this
State the power of initiative and referendum?"

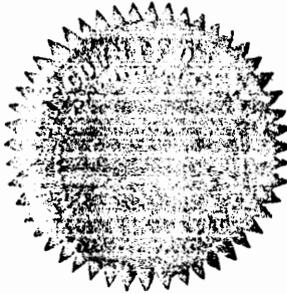
BE IT FURTHER RESOLVED that a certified copy of this
Resolution be filed with the County Clerk forthwith but in no event
later than sixty (60) days prior to the next general election.

Board of Chosen Freeholders

Union County, Elizabeth, New Jersey

I, JOAN M. KENNELLY, Clerk of the Board of Chosen Freeholders of the County of Union, do hereby certify that the annexed is a true copy of a Resolution, Passed at a Regular meeting of the Board of Chosen Freeholders, held on the 20 day of November, 19 79

In Witness Whereof, I have hereunto set my hand and the seal of the County of Union, this 21st day of November, 19 79



Joan M. Kennelly
Clerk of the Board



10

773

UNION COUNTY BOARD OF CHOSEN FREEHOLDERS

• • •

No.

Date of Adoption November 20, 1979

APPROVED BY FREEHOLDERS OF UNION COUNTY AND THE BOARD CHAIRMAN LATTIMORE

Approved as to Form

County Attorney

Moved by Freeholder

Seconded by

WHEREAS, The Board of Chosen Freeholders of the County of Union

adopted a Resolution No. 593 in August 23, 1979 requesting the County Clerk of this County to place upon the ballot at the November 6, 1979 General Election the following question:

"Shall the Board of Chosen Freeholders adopt a Resolution urging the Legislature of the State of New Jersey to adopt a concurrent Resolution proposing to amend the New Jersey Constitution to grant the people of this State the power of initiative and referendum?"

and

WHEREAS, the above-quoted question was placed on the ballot for the purpose of ascertaining the sentiment of the voters of this County of the issue as stated, as a result of which the overwhelming majority of the voters participating in the November 6, 1979 General Election voted in the affirmative on the question; and

WHEREAS, This Board now wishes to respond to the will of the voters by undertaking in this Resolution to urge the Legislature of the State of New Jersey to adopt the necessary concurrent Resolution to amend the New Jersey Constitution to grant the people of this State the power of initiative and referendum;

NOW, THEREFORE, BE IT RESOLVED by the Board of Chosen Freeholders of the County of Union, that in direct response to the will of the voters of this County as expressed at the General Election of November 6, 1979, it hereby urges the Legislature of the State of New Jersey to adopt the necessary legislation

RECORD OF VOTE

FREEHOLDERS	AYES	NAYS	NOT VOTING	PASS	ABSENT
BORIGHT	✓				
CARMODY	✓				
DILLON	✓				
LONG	✓				
CHAIRPERSON RAJOPPI	✓				
SEYMOUR	✓				
SINNOTT	✓				
SLOMKOWSKI	✓				
CHAIRMAN LATTIMORE					✓
	8				1

5X

Board of Chosen Freeholders

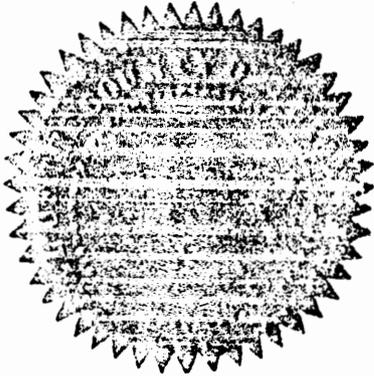
Anton County, Elizabeth, New Jersey

I, JOAN M. KENNELLY, Clerk of the Board of Chosen Freeholders of the County of Union, do hereby certify that the annexed is a true copy of a Resolution, Passed at a Regular meeting of the Board of Chosen Freeholders, held on the 20 day of November, 19 79

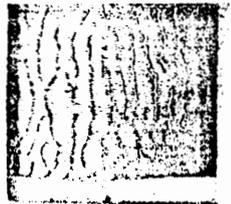
In Witness Whereof, I have hereunto set my hand and the

seal of the County of Union, this 21st

day of November, 19 79



Joan M. Kennelly
Clerk of the Board



to propose an amendment to the New Jersey Constitution to grant the people of this State the power of initiative and referendum; and

BE IT FURTHER RESOLVED that copies of this Resolution be forwarded to the Governor of the State of New Jersey, the President of the New Jersey Senate, the Speaker of the General Assembly and each of the members of the New Jersey Senate and General Assembly.

OFFICE OF THE
COUNTY CLERK OF UNION COUNTY, N.J.



WALTER G. HALPIN
COUNTY CLERK

WILBERT MILES
DEPUTY

June 24, 1980

The Honorable Rose Marie Sinnott
Union County Freeholder
County Administration Building
Elizabeth, New Jersey

Dear Freeholder Sinnott:

Relative to your phone inquiry to my office, I submit the following information to you.

Based on a county referendum adopted by the Union County Board of Chosen Freeholders, the following referendum did appear on the Union County ballot for the General Election held November 6, 1979:

"Shall the Board of Chosen Freeholders adopt a resolution urging the Legislature of the State of New Jersey to adopt a concurrent resolution proposing to amend the New Jersey Constitution to grant the people of this State the power of initiative and referendum?"

Yes	64,289
No	30,423

Very truly yours,

A handwritten signature in black ink that reads "Walter G. Halpin".

WALTER G. HALPIN
County Clerk

WGH:c



**UTNJ CRITERIA FOR
INITIATIVE AND REFERENDUM**

A. AMENDMENT TO THE CONSTITUTION

1. Add to Article 1, paragraph 2, a provision reserving to the people the fullest rights to Initiative and Referendum on the State, County and Local levels.

We have seen, throughout the years, legislation passed as a result of pressure from special interest groups which has eroded the Initiative and Referendum Statutes on a local level: i.e. public employee (police and firemen) pay raises and benefits. We also call to your attention that as recent as May 1980, the New York City PBA had suggested a public referendum on their pay raise and other benefits.

B. PROCEDURAL - STATUTES

1. Provide by statute for reasonable rules and regulations permitting the broadest possible participation in the Initiative and Referendum process. The sponsoring committees should have the same rights as citizen committees who are supporting any candidates for public office.
2. Review the rules and regulations of the several states to draw upon the widest experience in formulating New Jersey's Initiative and Referendum law.
3. Provide fair limits on the numbers of citizens signatures required from all 21 counties to put Initiative or Referendum on the ballot. The average of the 23 states is 4% of the registered voters who voted in the preceding gubernatorial election.
4. Avoid loopholes and legalistic double-talk which, while pretending to protect our rights to Initiative and Referendum, actually would eviscerate them.
5. Provide reasonable access to voter registration information for use by the sponsoring committee of an Initiative or Referendum drive.
6. To assure the broad support of a public question, we suggest signatures should be garnered from all 21 counties.



WNBC-TV4

30 Rockefeller Plaza
New York, New York 10020

Topic: CITIZENS MAKING LAW
Telecast: June 23, 1980

Can ordinary citizens make good laws? Or will they do crazy things, given such an opportunity? In California, among other western states, this idea, which is called initiative and referendum, has been part of the political system since the beginning of the century. In this part of the world, politicians hate it.

To prove that we are not to be trusted to legislate in a responsible way, they point to California's Proposition thirteen, the brain child of Howard Jarvis which put strict limits on property taxes. They said dire things would happen, but if California is falling apart at the seams, we haven't heard about it.

But the latest Jarvis notion had them really screaming. This would have effected a drastic cut in California income taxes, and that was really going to demonstrate how irresponsible voters are. And then what did they do? They turned the income tax cut down. Yes! People actually voted against a tax cut. They went to the polls, looked at that tempting proposition, and -- no doubt after drawing a deep breath -- voted the other way.

And what does that prove? Well, it proves that ordinary citizens are at least as responsible as, say, ordinary politicians. Anyway, that's what we think.

Editorial

These editorials express the opinion of WNBC-TV. Persons with opposing views are welcome to request time to reply. Address all correspondence to Joseph Michaels, Manager, Editorial Services, WNBC-TV, 30 Rockefeller Plaza, New York, New York 10020.

New Jersey State Library



TAXPAYERS POLITICAL ACTION COMMITTEE

TAXPAC

P.O. BOX 175 KEARNY, N. J. 07032

201-627-1533

Presentation at Senate Hearings on

Initiative and Referendum

State House June 30, 1980

by C. A. Haverly, Executive Director 201/627-1424

SECTION I - Introduction

I would like to thank the committee for the opportunity to express the views of our organization on the very important matter of reforming our state constitution to provide Initiative, Referendum and Recall procedures for the citizens.

Initiative, Referendum and Recall are Fundamental Voting Rights

Initiative, Referendum and Recall represents fundamental voting rights of the citizens. By these means the citizens can have a direct say in the vital issues which effect them. These fundamental voting rights are equaled only by the right to vote for representatives.

Fundamental Voting Rights Being Denied

At the present time, the citizens of New Jersey are being denied the fundamental voting rights of Initiative, Referendum and Recall. Although a large number of legislators of both parties have joined as cosponsors of resolutions to allow I & R, the matter has been bottled up. It's no wonder that so many citizens are turned off by the sorry state of New Jersey government.

Initiative and Referendum Would Counter Voter Apathy

It is especially sad because I & R is especially needed now. Recent years have shown a declining inclination on the part of voters to go to the polls. This apathy reflects a feeling that their vote really doesn't matter and that the politicians will just say one thing to get elected and then do the opposite while in office.

But just let the voters have their say on issues. Experience all over the country shows that when they can vote on an issue of concern to them -- and know that the results really matter -- the voters flock to the polls.

Initiative and Referendum Have Broad Support

The support for I & R is very broad based. Thirty six members of the State General Assembly have joined as cosponsors of one or another of the resolutions to provide I & R reform. A list of them is attached and it can be seen that support comes from all parts of the State and include both Republicans and Democrats.

Hearings were held in Washington DC on national I & R during December of 1977. At these hearings there was broad support including such diverse people as Ralph Nader (the consumer activist), David Brinkley (NBC TV), Kevin Phillips (conservative author) and Senator James Abourezk. George Gallup reported that national Initiative was favored by the people by a 3 to 1 majority.

The majority of the other states already allow their voters to exercise Initiative, Referendum or Recall (list attached). There seems no good reason that the citizens of New Jersey should longer be denied their fundamental voting rights.

To supplement these general views, we include the following:

- Section II TAXPAC General Positions
- Section III Background Research on I & R
- Section IV Quotes from Supporters of I & R
- Section V Current Status of I & R in New Jersey
- Section VI Analysis of Specifics of I & R

SECTION II

TAXPAC General Positions

Initiative Now

Initiative and Referendum are important forms of direct democracy badly needed by New Jersey. It's time that New Jersey modernizes its State Constitution to include Initiative, Referendum and Recall. Twenty-nine states already have one or more of these provisions in their State Constitutions and New Jersey should join them. Initiative, Referendum and Recall have proven themselves in these states.

Fundamental Voting Rights Being Denied

Initiative and Referendum are fundamental voting rights of the citizen. Our State constitution already says "All political power is inherent in the people". But we in New Jersey are being denied a part of our fundamental voting rights. A rational observer must place the blame for this on the Democrat party; its leaders have been blocking all action on allowing I & R on the ballot.

I & R Needed to Counter Voter Apathy

Recent years have shown a declining inclination on the part of voters to go to the polls. This apathy reflects a feeling that their vote really doesn't matter and that the politicians will just say one thing to get elected and then do the opposite while in office.

But just let the voters have their say on issues. Experience all over the country shows that when they can vote on an issue of concern to them -- and know that the results really matter -- the voters flock to the polls.

Initiative, Referendum and Recall have broad support from thoughtful and concerned citizens of all political persuasions. The time for action is now. A resolution (ACR 38) to propose an amendment to our State Constitution to allow Initiative and Referendum awaits action by the State Legislature.

The New Jersey State Constitution really needs modernization to allow voters their fundamental voting rights on Initiative and Referendum. This would make New Jersey government more democratic. It would give the people the opportunity to have a greater voice. It would make the politicians more responsive to the people in between elections. It would stimulate more public interest and participation at a time where there is too much voter apathy and feeling of helplessness. These devices allow public opinion to be recorded directly. They encourage useful and healthy contact between the elected and the electors in between elections.

Yes, a shot of direct democracy is what New Jersey badly needs. Perhaps that's what frightens the Democrat party bosses.

SECTION III

Background on I & R

What is Initiative, Referendum and Recall?

Initiative: If enough registered voters feel that a particular law should be passed or an amendment made to the State Constitution, then they can cause the proposed law or amendment to be put on the ballot by signing petitions. About 150,000 registered voters would have to sign. Then at the next general election all voters could vote yea or nay on the proposal and the majority would decide whether the law or amendment passed or was rejected.

Referendum: If enough registered voters (again about 150,000) did not agree with a particular law, they could sign a petition requiring that the law would have to be placed on the ballot at the next general election. The majority voting in that election would then decide whether the law would continue in force or be repealed.

Recall: If enough registered voters felt that an elected official was not properly representing them, they could sign petitions and, if enough signed, then a special election would be held to see if that official should continue to hold office.

How Initiative, Referendum or Recall Works

Anyone could propose a new law, a constitutional amendment or a recall election. They would have to meet certain requirements on the wording and register the proposal with the Secretary of State. Then they would have a certain length of time to collect signatures on petitions. They must get about 200,000 registered voters to sign their petitions in order to have the required number of valid signatures. Only if the required number of valid signatures are filed with the state in the specified time period would the proposal appear on the ballot. And then the voters would decide at the election whether the proposal is accepted or rejected.

In practice only a few proposals ever gain enough signatures, and of these, most are rejected at the polls. However, sufficient important proposals -- those with real merit and broad support -- have been approved to make Initiative, Referendum and Recall valuable reforms and an enhancement in democracy.

The N. J. State Constitution really needs modernization to include referendum and initiative rights. Many other state constitutions already have initiative and referendum. This would make N. J. government more democratic. It would give the people the opportunity to have a greater voice. It would make the politicians more responsive to the people in between elections. It would stimulate more public interest and participation at a time where there is too much voter apathy and feeling of helplessness. These devices allow public opinion to be recorded directly. They encourage useful and healthy contact between the elected and the electors in between elections.

Our State constitution already says "All political power is inherent in the people." At the present time the people are severely restricted in the way they can influence government. About their only voice is at election and for governor and senate this can be as much as four years in the future. Allowing the people the added option of initiative and referendum (even if it were not used very often) would be a very healthy change - as so many other states have found.

Initiative and Referendum allow the voters a certain amount of direct control over lawmaking. Initiative allows the people to take direct political action if their representatives refuse to pass some legislation or constitutional amendment that the people want.

The N. J. Constitution already includes several limited forms of referendum i.e. that bond issues and amendments to the state constitution must be put on the ballot for the people to decide. However these items can only be initiated by the legislature. The citizens do not have the option to initiate referendum by petition -- which is what ACR-138 would provide.

The reason the N. J. constitution does not already include initiative and referendum is historical. The N. J. constitution was one of the earliest written among the states, and the value of including initiative and referendum was not widely recognized. Also, difficulties in travel and communication in those days made public participation much harder than today. Initiative and Referendum came into common use in Switzerland in 1831 in the reaction to abuse of government power after the Paris revolution. It was supported in the U.S.A. by Woodrow Wilson as a "gun behind the door" to be used when abuses arise in the legislative body.

The movement for initiative and referendum in the U.S.A. grew rapidly in the late 1800's and early 1900's. 23 states now have this provision according to the World Book. These devices were adopted in the U.S.A. "under the leadership of groups hostile to machine rule, distrustful of legislatures, and with a deep faith in democracy", according to the Encyclopedia Britannica.

It appears to have been an oversight that in the intervening years our constitution was not modernized in this respect. The time to do so is now.

Most States Have Initiative, Referendum or Recall

More than half the states (29) have constitutions which provide their citizens with Initiative, Referendum or Recall. These states are as follows:

	<u>Initiative</u>	<u>Referendum</u>	<u>Recall</u>
1. Alaska	X	X	X
2. Arizona	X	X	X
3. Arkansas	X	X	X
4. California	X	X	X
5. Colorado	X	X	X
6. Florida	X		
7. Idaho	X	X	X
8. Illinois	X		
9. Kansas			X
10. Louisiana			X
11. Maine	X	X	
12. Maryland		X	
13. Massachusetts	X	X	
14. Michigan	X	X	X
15. Missouri	X	X	
16. Montana	X	X	
17. Nebraska	X	X	
18. Nevada	X	X	X
19. New Mexico		X	
20. North Dakota	X	X	X
21. Ohio	X	X	
22. Oklahoma	X	X	
23. Oregon	X	X	X
24. South Dakota	X	X	
25. Utah	X	X	
26. Virginia			X
27. Washington	X	X	X
28. Wisconsin			X
29. Wyoming	X	X	

It is time New Jersey joins the majority of states in allowing its citizens Initiative, Referendum and Recall.

HISTORY OF INITIATIVE

The idea of Initiative did not exist at the time the USA was forming, and the first state constitutions were being written. Initiative was really pioneered in Switzerland starting in 1831. Initiative was recognized as valuable, and provisions were added to constitutions of various states in the USA starting around the turn of the century. So far 23 states have adopted it and the dates are as follows:

1898	South Dakota
1900	Utah
1902	Oregon
1906	Montana
1907	Oklahoma
1908	Maine, Missouri
1910	Arkansas, Colorado
1911	Arizona, California, Idaho
1912	Nebraska, Nevada, Ohio, Washington
1913	Michigan
1914	North Dakota
1918	Massachusetts
1959	Alaska
1967	Wyoming
1968	Florida
1970	Illinois

OTHER COMMENTS

Table 2 presents information of how many initiative matters have appeared on the ballots of the various states. The average is only 0.8 per year which certainly indicates that Initiative is not overused

Table 3 is an analysis of the 43 voter Initiatives which appeared on the ballot in 1978. About half passed (22) and half were rejected showing that the voters are selective.

Table 4 is an analysis showing that over a long period of time the voters rejected regulatory initiative by 4 to 1 and spending initiatives by 3.3 to 1.

TABLE 1

STATEWIDE NEW JERSEY PERCENTAGE VOTER TURNOUT

<u>Year</u>	<u>Registered Voters</u>	<u>Ballots Cast</u>	<u>% Voting</u>
1974	3,502,175	2,183,962	62
1975	3,490,370	2,000,165	57
1976	3,769,558	3,037,151	80
1977	3,656,394	2,174,417	59
1978	3,602,225	2,059,724	57

Source: 1974 - 1977 Legislative Manual,
1978, N.J. Department of State

TAXPAC June 19, 1979

TABLE 2

Signatures Required for Initiative by Various States

	<u>% of voters casting ballots</u>		<u>Initiatives on Ballot</u>
	<u>Legislation Initiative</u>	<u>Amendment Initiative</u>	
1. Alaska	6-2/3%	--	6 in 17 years
2. Arizona	10%	15%	46 in 63 yrs.
3. Arkansas	8%	10%	57 in 65 yrs. (
4. California	5%	8%	155 in 65 yrs.
5. Colorado	8%	8%	107 in 65 yrs.
6. Florida	--	8%	1 in 5 yrs.
7. Idaho	10%	--	11 in 39 yrs.
8. Illinois	--	8%	0 in 6 yrs.
9. Maine	10%	--	12 in 67 yrs.
10. Massachusetts	3% (a)	3% (a)	28 in 57 yrs.
11. Michigan	8%	10%	38 in 67 yrs.
12. Missouri	3-1/3%	5-1/3%	44 in 67 yrs.
13. Montana	5%	10%	28 in 71 yrs.
14. Nebraska	7%	10%	24 in 63 yrs.
15. Nevada	7.5%	7.5%	14 in 63 yrs.
16. North Dakota	10,000 (b)	20,000 (c)	30 in 63 yrs.
17. Ohio	6% (d)	10%	44 in 65 yrs.
18. Oklahoma	8%	15%	69 in 69 yrs.
19. Oregon	6%	8%	207 in 71 yrs.
20. South Dakota	5%	10%	19 in 69 yrs.
21. Utah	10%	--	6 in 59 yrs.
22. Washington	8%	--	78 in 63 yrs.
23. Wyoming	10%	--	0 in 8 yrs.
• Average (Percent of those actually voting)	7.2%	9.1%	0.8 per yr.
• Average (Percent of Registered Voters*)	4.3%	5.5%	

(a) plus 25% vote of legislature in 2 successive sessions

(b) 1.6% of population

(c) 3.2% of population

(d) only 3% if subsequently passed by legislature

(e) successful initiative count only

* Assuming 60% turnout

Source: Congress Research Service; Library of Congress, Report JF491, 76-95A, 597/110 (May 1976).

Note: Most of the above percentages are expressed as a percent of those actually voting. Percentages based on a percent of registered voters would be about 40% less.

TABLE 2A

Number of Signatures on a Petition that
would be Required for Initiative in New Jersey
if the Rules of other States were Adopted

	<u>Number of Signatures</u>	
	<u>For Legislation Initiative</u>	<u>For Constitutional Amendment Initiative</u>
1. Alaska	145,000	--
2. Arizona	217,400	326,100
3. Arkansas	173,920	217,400
4. California	108,700	173,920
5. Colorado	173,920	173,920
6. Florida	--	173,920
7. Idaho	217,400	--
8. Illinois	--	173,920
9. Maine	217,400	--
10. Massachusetts	65,220 (a)	65,220 (a)
11. Michigan	173,920	217,400
12. Missouri	72,390	115,870
13. Montana	108,700	217,400
14. Nebraska	152,180	217,400
15. Nevada	163,050	163,050
16. North Dakota	57,600	115,200
17. Ohio	130,440	217,400
18. Oklahoma	173,920	326,100
19. Oregon	130,440	173,920
20. South Dakota	108,700	217,400
21. Utah	217,400	--
22. Washington	173,920	--
23. Wyoming	<u>217,400</u>	<u>--</u>
AVERAGE VOTES REQUIRED	152,330	193,270

(a) plus 25% vote of legislature in two successive sessions.



TAXPAYERS POLITICAL ACTION COMMITTEE
TAXPAC

P.O. BOX 175 KEARNY, N. J. 07032

201-627-1533

June 9, 1980

Number of Signatures Required for Citizen Initiative

A significant decision on establishing Initiative and Referendum in the New Jersey Constitution is the number of valid signatures that will be required.

Since many states have had years of experience with Initiative and Referendum, it seems appropriate to consider their constitutional provisions as a guide to establishing New Jersey's. The provisions in the various state constitutions have been applied to New Jersey and the results are presented in the attached table.

The table shows that many states require more signatures to initiate a constitutional amendment than to initiate legislation. This seems reasonable.

To initiate legislation the number of signatures which would be required in New Jersey vary for different state provisions from a low of 57,600 (North Dakota) to a high of 217,400 (Arizona, Idaho, Maine, Utah and Wyoming). The average is 152,330.

To initiate a constitutional amendment the provisions in the various state constitutions would require between 65,220 signatures (Massachusetts) and 326,100 (Arizona and Oklahoma). The average of all states is 193,270.

Based on the provisions in the constitutions of the states which already have Initiative, it is apparent that New Jersey should require about 150,000 signatures for legislation initiative and 190,000 for constitutional amendment initiative. This would make us neither the worst nor the best but rather in line with the average of the other states. This would make collecting signatures very difficult but not completely impossible. Only measures with broad public support could be initiated.

The target number of signatures could be specified either in terms of the number of registered voters or in terms of the number of actual voters in the last gubernatorial election. The appropriate percentages (and the signatures) would be as follows:

Percentages of

	<u>Number of Registered Voters</u>	<u>Number of Actual Voters</u>
For Legislative Initiative	4% (142,240)	7% (152,180)
For Amendment Initiative	5.5% (195,580)	9% (195,660)

TAXPAC recommends that either of these columns of percentages be adopted.

Sincerely,

C. A. Haverly
Executive Director

INITIATIVE AMERICA

606 Third Street, N.W.
Washington, D.C. 20001

(202) 347-5959



■ = states with right of initiative

1978 VOTER INITIATIVE RESULTS
(november votes except as noted)*
state/issue number/pass or fail/title

* <u>CA</u> 13	<u>P</u> (june) property tax reduction	<u>NE</u> 301	<u>F</u> beverage container deposit
		302	<u>F</u> state spending limitation
* <u>MO</u>	<u>F</u> (june) increased fuel tax	<u>NV</u> 6	<u>P</u> property tax limitation
<u>AK</u> 3	<u>P</u> \$ to move state capitol	<u>OK</u>	<u>P</u> auto tag tax
4	<u>P</u> state land grants	<u>OR</u> 4	<u>F</u> public utility districts
5	<u>F</u> beverage container deposits	5	<u>P</u> allow denturists
<u>AR</u> 59	<u>F</u> removal of sales tax on food	6	<u>F</u> property tax limitation
<u>CA</u> 5	<u>F</u> restrictions on public smoking	7	<u>F</u> restrict abortions
6	<u>F</u> firing of homosexual teachers	8	<u>P</u> expanded use of death pena
7	<u>P</u> expanded use of death penalty	9	<u>P</u> limit utility rate base CV
<u>CO</u> 2	<u>F</u> tax limitation	<u>SD</u> 1	<u>F</u> lifeline utility rates
<u>FL</u> 9	<u>F</u> allowing gambling	2	<u>P</u> repeal of dairy act
<u>ID</u> 1	<u>P</u> property tax limitation	3	<u>F</u> regulate obscenity
<u>MI</u> B	<u>P</u> limitations on parole	<u>WA</u> 350	<u>P</u> restrict bussing
D	<u>P</u> raised drinking age		
E	<u>P</u> tax limitation		
G	<u>P</u> collective bargaining, police		
H	<u>F</u> school voucher plan		
J	<u>F</u> tax reduction		
<u>MO</u> 23	<u>F</u> right to work		
<u>MT</u> 79	<u>P</u> regulate obscenity		
80	<u>P</u> nuclear power safeguards		
81	<u>P</u> store sale of wine		
82	<u>F</u> local revenue sharing		
<u>ND</u> 1	<u>P</u> revenue sharing		
2	<u>P</u> income tax reduction		
3	<u>P</u> fish and game		
4	<u>F</u> state health costs council		

SUMMARY

P	22
F	19
	<u>41</u>

TABLE 1

WHAT EFFECT HAS THE INITIATIVE PROCESS HAD
ON EXPANDING GOV'T. AND ON THE FREE ENTERPRISE SYSTEM

AN ANALYSIS OF SPENDING AND REGULATION INITIATIVES IN THE 23 INITIATIVE STATES OVER THE PAST 80 YEARS --taken from the Library of Congress Congressional Research Service study. *BY EDWARD COHENDENT 10/15/78*

THRU 1976 202-333-4846

RESULTS:

REGULATORY INITIATIVES REJECTED BY ABOUT 4 TO 1
SPENDING INITIATIVES REJECTED BY NEARLY 3½ TO 1

RELATIVELY FEW REGULATORY MEASURES PASSED WERE AIMED DIRECTLY AT BUSINESS

	CONSTITUTIONAL				STATUTES				COMBINED TOTALS			
	RR	R	RS	S	RR	R	RS	S	RR	R	RS	S
ALASKA	0	0	0	0	0	0	2	1	0	0	2	1
ARIZONA	3	1	13	0	12	3	11	5	15	4	24	5
ARKANSAS	4	1	6	7	1	1	1	1	5	2	7	8
CALIFORNIA	8	0	29	6	32	9	6	3	40	9	35	9
COLORADO	14	1½	18	5	9	2	7	8	23	3½	25	13
FLORIDA	0	0	0	0	0	0	0	0	0	0	0	0
IDAHO	0	0	0	0	1	0	0	1	1	0	0	1
ILLINOIS	0	0	0	0	0	0	0	0	0	0	0	0
MAINE	0	0	0	0	4	1	3	0	4	1	3	0
MASS	0	0	0	0	6	2	2	2	6	2	2	2
MICHIGAN	5	1	6	0	1	1	0	0	6	2	6	0
MISSOURI	2	1	10	2	1	1	2	1	3	2	12	3
MONTANA	0	0	0	0	4	1	5	5	4	1	5	5
NEBRASKA	2	0	2	0	0	0	2	0	2	0	4	0
NEVADA	0	1	0	0	3	0	1	1	3	1	1	1
N DAKOTA	0	1	4	3	24	6	22	9	24	7	26	12
OHIO	2	1	6	0	2	0	3	1	4	1	9	1
OKLAHOMA	6	4	12	4	8	0	8	3	14	4	20	7
OREGON	12	2	29	2	20	8	32	6	32	10	61	9
S DAKOTA	0	0	0	0	10	0	3	0	10	0	3	0
UTAH	0	0	0	0	1	0	1	0	1	0	1	0
WASHINGTON	13	3	18	3	1	2	1	1	14	5	19	4
WYOMING	0	0	0	0	0	0	0	0	0	0	0	0
D OF C	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	71	17	153	32	140	37	112	48	211	54½	265	81

almost 4 to 1 3.3 to 1

CODE: RR - reject regulation or the establishing of regulatory boards and
R - regulate or authorize regulatory boards of agencies bureaus
RS - reject spending, funding, or taxing
S - spend, fund, or tax

Note 1: Of those initiatives passed, an estimated 20% of spending measures were for help for the blind, elderly, or disabled, and 20% of regulatory initiatives were for protection of fish and game or rivers and parks.

Note 2: Since 1955, rejection of regulatory measures has remained at about the same ratio, or a little less than four to one. However, rejection of spending measures since 1955 has risen over the previous three and one-third to one to a little better than a five to one ratio (Congressional Research state results through 1976).

*THE INITIATIVE RECORD CONTRASTS SHARPLY WITH THAT OF CONGRESS
IN BOTH THESE IMPORTANT AREAS.*

INITIATIVE AND REFERENDUM HAS BROAD SUPPORT

Initiative and Referendum has broad support. In the reported testimony for a Congressional hearing held in December 1977 there was considerable support including the following:

Robert Redford: "One of the major problems for citizens who are concerned with the issues facing our country has been the feeling that they really can't have much of an effect. (Initiative) would give people an open channel into the legislative process, and give them an opportunity to be heard. This is something that I heartily support."

Kevin Phillips: "Why not ask everybody?... Referenda -- the ultimate national polling could be the answer to (restoring citizen political confidence by inviting them to help make the decisions)."

Ralph Nader: "The ultimate check on representative democracy is direct democracy. If representative democracy turns itself into an institutionalized tyrant or is arbitrary in its decisions or insensitive in its decisions then there needs to be a resort back to the source of power in a democracy which comprises, of course, the electorate."

"(Initiative, Referendum and Recall) opens many more opportunities for local, state and national citizen leadership and involvement than has been the case. (without it) we are going to deprive ourselves of some very basic reservoirs of leadership in the country."

"(Another) effect that I think is important is that it puts a responsibility on the people. It is not only important to give people more rights and more opportunities to participate in decision making. It is also very important to put a civic burden on the people and in effect say to them that they have no longer any excuses about not participating or deciding the future of their society and that they can no longer say "you cannot fight city hall" and shrug off their responsibility."

"One of the functions of initiative is public education and public debate and the involvement of many people who don't aspire to be local, state or national leaders."

"We have a good history of initiative and referendum. People are often astonished at how sensible people can be."

George Gallup (from news report): "National Initiative is favored by 57 to 21 percent majority."

U. S. Senator James Abourezk: "The initiative process is founded on the belief that the citizens of this country are indeed as competent to enact legislation as we are to elect public officials to represent us. There are eight significant reasons that, to my mind, not only justify, but mandate the adoption of the right of initiative into our federal system:

First: The use of the initiative would be an exercise of the sovereign power of the American people to govern themselves.

Second: The initiative is an actualization of the citizens' first amendment right "to petition the Government for redress of grievances".

Third: The initiative provides a concrete means for citizens participation in the policymaking function of our Government:

Fourth: The use of the initiative could lessen the sense of alienation from their Government felt by millions of Americans.

Fifth: The initiative is a natural complement to our system of checks and balances.

Sixth: The initiative would enhance the accountability of Government.

Seventh: The use of the initiative would produce an open, educational debate on issues which otherwise might have been inadequately addressed.

Eighth: The history of the initiative has shown it to be a very sound, workable and democratic process.

Mr. President, the people of 23 States have already granted themselves the right of initiative. As an integral part of their State governments, its workability as a democratic tool has been clearly and repeatedly proven. I believe its extension to the Federal level is justified and long overdue."

U.S. Senator James Abourezk: "the (federal) voter initiative amendment is commanding the support of liberals, conservatives, Republicans and Democrats alike. The voter initiative process is truly a bipartisan issue and it has generated support from the Americans of every political persuasion."

"In the 23 states where the voters have previously adopted the initiative process ... it has become an accepted, integral part of the decision making process. ... The voting public realizes there is a clear need for it... The people should have the right to make their voices heard in a legitimate, constructive manner."

"The voter initiative provides a concrete means for citizens participation. It would make the legislative branch more accountable to the voters and it would allow for open educational debates on important issues. Perhaps more importantly, it would lessen the sense of alienation from government to which millions of Americans now profess. (It) would perfectly complement our representative form of government."

"Because the foundation of the voter initiative process is our trust in the American people, politicians who wish to oppose the initiative process place themselves in an especially difficult position. Opponents of the initiative process appear to be saying that they don't trust the people or that the people are not educated enough to vote on issues. What the critics ironically forget is that these very same "untrustworthy and uneducated" people can be trusted and are educated enough to elect politicians to office."

"It is clear from the history of the initiative process that the opposition arguments have been soundly refuted time and time again... The States (which have had initiative) have proven beyond a doubt that the voter initiative is a sound, basic, democratic process.... The people repeatedly have shown restraint and good judgment."

Benjamin Barber, Professor of Political Science of Rutgers University:

"The apathy, anger, factionalism, cynacism, indifference, privatism, pessimism... that have characterized the American political scene in the last fifteen years all point to the bankruptcy of citizenship."

"A major national priority ought then to be the revitalization of American citizenship and the fashioning or refashioning of participatory institutions (of which initiative is a significant step)."

"People stay home on election day not because they are lazy or do not care but because they have decided that meaningful communication with their leaders is no longer possible or effective. They withdraw from the system... Initiative can help avert the alienation of the people."

"Citizens are not likely to qualify a proposal for the ballot, or to subsequently pass such a proposal unless it has widespread support. Laws passed by initiative are subject to judicial review and can be changed by legislative action, if there is an overwhelming need to do so."

"Initiative is also a very open process which invites scrutiny by the public, the media, and by community leaders. Decades of use have proven the soundness of the initiative process. Even when initiatives have failed at the polls, they have served a much broader public purpose -- that of educating the people and their leaders."

Cambridge Survey Research Poll: "Would you be more inclined or less inclined to go to vote if you could vote on issues as well as on candidates?"

More Inclined - 74%, Less Inclined - 7%, No Difference - 13%, Don't Know - 5%.

Congressman James Jones: "The history of (initiative) shows it is a sound and workable process."

Congressman Michael Harrington: Initiative and Referendum "have the potential to revitalize government." It would counter the special interest groups. "Some opponents ... have predicted disastrous results. But these are the kind of scare tactics which I think one must expect whenever the prospect of more responsive government is raised."

Congressman Walter Fauntroy (member of Congressional Black Caucus): "I am delighted to join the host of prominent Americans from many walks of life who support the concept of pure democracy which will result from "federal initiative and referendum".

Professor Larry Berg (Univ. of So. Calif.): "There is no evidence to support the position of those who fear that special interests will be able to buy themselves special privileges through the initiative process." "With initiative citizens vote directly on issues." "You debate issues on their merits." "Furthermore the debate would be public and in the open." "You do not have to deal with the question of personality."

Of all the Initiative propositions which have appeared on the ballot in California, 70.8% were rejected. Only 13% of petitions seeking qualification were approved by the voters.

David Marker (Board of Directors, Maryland Public Interest Research Group): "Only approximately 1 in 10 petition drives collect enough signatures to reach the ballot and only 20-25% of those voted on are approved. Any proposal which survives this weeding out process deserves to be enacted into law."

Robert Telschow (Co-Director of Initiative America): "the 23 states which authorize voter initiative have an outstanding record of citizen-made law. The process has been used with restraint." Some significant laws resulting from initiative are:

"the poll tax... was abolished in the Far West by successful initiative campaign early in this century."

In 1977 the citizens of Ohio voted to repeal the instant voter registration law passed by the legislature.

In 1976 voters in Maine and Michigan "enacted mandatory deposit container legislation by initiative."

Women's suffrage bills were first enacted at the state level by initiative.

"Use of the primary election to choose party nominees for elective office, an accepted practice all over the nation today, received much of its original impetus as a result of the initiative."

"citizens used initiative to repeal laws applying the state's sales tax to food."

A few persons testifying at the hearing opposed the idea of Initiative and Referendum. This included the following:

Professor Peter Bachrach (Dept. Political Science, Temple University):

"I have the uncomfortable position, apparently, of being the sole person here who is opposed to this resolution." "The basis of my concern... (is that) the resolution mistakenly presupposes that the people are in a position to make good judgements." "I do not trust the good judgement of the people will become manifest in politics when a significant number of them - coming primarily from lower income groups - are apathetic, alienated, and cynical toward the political system. The result is that they have not had the opportunity to be politically educated. They have not experienced political combat within the context of the American rules of the game. It is no wonder that we have found in countless of studies that the common man tends to be ignorant and irrational on the simplest kind of political issues."

"The inference of this argument for some students of the system is, of course, that this is indicative that democracy will not work and we must have elite rule."

We, of course, do not agree with Professor Bachrach that the people cannot be trusted to make reasonable judgements.

SECTION V

Current Status of I & R in New Jersey

The current status of I & R is summarized in this section.

Bills in the Hopper

There are actually seven different resolutions which would amend the state constitution to provide I & R. These resolutions are ACR16, ACR17, ACR38, SCR 4, SCR7, SCR45 and SCR78. The first three are in the Assembly "State Government Federal and Interstate Relations and Veterans Affairs" Committee whose members are:

Cody (Chairman). Kalik, Riley, Schuck, Cardinale, Curran and Villane.

The other four are in the Senate "State Government Federal and Interstate Relations and Veterans Affairs" Committee whose members are:

Lipman (Chairman), A. Russo, Hirkala, Laskin and Di Francesco. The cosponsors of the various resolutions are listed on page 5-3.

In addition to the seven resolutions to amend the constitution there are bills to specify the detailed law whereby the I & R amendment would be carried out. These bills include S81 and S828. The bills are the so-called enabling legislation and are also in the committees.

ACR16 would provide I & R at the local, county and municipal levels.

Candidates Favor I & R

TAXPAC sent a questionnaire to all Republican and Democrat candidates for State Assembly last year.

Question 1 asked:

"Do you support amending the State Constitution to allow the citizens the right of Initiative and Referendum?"

We received over eighty responses from the candidates. The responses from those subsequently elected to the Assembly showed 91% had answered Yes and only 3% No -- a 30 to 1 preference.

	<u>Responses</u>	<u>Percent</u>
YES	53	91%
NO	2	3%
UNDECIDED	2	3%
No Answer	<u>2</u>	<u>3%</u>
TOTAL	59	100%

In a similar poll taken two years ago, only one of the incumbent Senators and three of the incumbent Assembly people opposed I & R. Sixty-three of the 79 present Assembly incumbents have shown support for I & R by their answers, by their vote on A362 or by cosponsoring an I & R resolution.

Democrat Party Leadership Bottling I & R

It seems rather clear that with the broad support for I & R among the public and individual legislators it is only the Democrat Party, as controlled by its leaders, which is bottling up I & R.

Legislative Support for Initiative and Referendum Amendment to the
New Jersey State Constitution.

General Assembly

ACR 38

1. Barbara Curran (R24)
2. Walter Kern (R40)
3. W. Cary Edwards (R40)
4. Richard Codey (D260)
5. Donald Albanese (R15)
6. Elliott Smith (R16)
7. Carl Orechio (R27)
8. Anthony Villane (R10)
9. Dean Gallo (R24)
10. Tom Gallo (D33)
11. Joseph Chinnici (R1)
12. Chuck Hardwick (R20)
13. Walter Kavanaugh (R16)
14. Michael Adubato (D30)
15. Alan Karcher (D19)
16. Jane Burgio (R25)
17. Marie Muhler (R11)
18. Thomas Cowan (D32)
19. John Girgenti (D35)
20. William Maguire (R22)
21. David Schwartz (D17)
22. H. James Saxton (R8)
23. Clifford Snedeker (R8)
24. William Flynn (D12)
25. James Barry (R23)
26. Karl Weidel (R14)
27. James Hurley (R1)
28. John Paoletta (R38)
29. John Markert (R39)
30. Bob Franks (R22)
31. John Bennett (R11)
32. Hazel Gluck (R9)
33. Gerald Cardinale (R39)

ACR 17

34. Richard Visotcky (D36)
- * Richard Markert (R39)

ACR 16

35. Richard Van Wagner (D12)
36. Emil Olzowy (R34)
- * Plus 9 others also on ACR 8

TOTAL: 27 Republicans, 14 Democrats in all parts of the state.
As of June 16, 1980

* Also included as cosponsor on ACR 38.

Senate

SCR 4 & 7

1. John Dorsey (R23)

SCR 45

2. William Musto (D33)
3. Eugene Bedell (D12)

SCR 78

4. John Skevin (D38)
5. Walter Sheil (D31)

SECTION VI

Analysis of the Specific Provisions of an Initiative and Referendum Amendment

This analysis has been prepared to make comments on the detailed provisions of an Initiative and Referendum Amendment to the New Jersey State Constitution.

We direct most of our comments to ACR 38 as the amendment and to S 81 as the enabling legislation.

WORDING OF AMENDMENT

1. We agree with the scope of ACR 38 and with the specific wording it would add to the State Constitution. The scope of matters subject to Initiative or Referendum should not be restricted (as was proposed in an earlier resolution).
2. We agree with the idea provided in ACR 17 that Initiative matters are not subject to veto by the governor. We question whether it is necessary to include a specific clause in the amendment.
3. We believe that the basic ground rules for Initiative and Referendum should be embodied in the amendment and not jsut in the enabling legislation.

Chief among these are:

- a.) The number of signatures required.
- b.) The distribution of signatures geographically.
- c.) The time period over which signatures must be collected.

These could be included by adding wording something like: "Laws or referendum on laws may be proposed by signatures of not less than 4 percent of the registered voters, and amendments by not less than 5.5 percent of the registered voters, provided no more than one fourth of the signatures shall be from any one county and provided the signatures are collected no more than 12 months prior to the election in which the matter appears on the ballot."

WORDING OF ENABLING LEGISLATION

A bill such as S 81 would establish the law under which proposed Initiative and Referendum matters would be handled. This bill provides definitions, procedures for circulating and certifying petitions, penalties and similar matters. Generally the wording appears reasonable. However, we have questions in the following areas:

1. Section 8, line 16 and Section 15, line 3: For long bills, we wonder if full text should be required to be attached to every petition.
2. Section 12, paragraph beginning line 24: We oppose the idea that citizens initiative should require the concurrence of legislature. Most states do not have this requirement.
3. Section 12, line 14: 150 days is too few.
4. Section 13, line 2: We see no good reason why a person should be limited to circulating petitions only in the county where they vote. People are mobil. One may have friends in a neighboring county, etc. We would strike the words "within the county of which he is a voter".
5. Section 23, line 12: change "qualified" to "was filed"
6. Section 24, line 4: the qualifying procedure could take 50 days or more and there might not be three months.

The provision in SCR 45 that initiative petitions can only be signed "in the office of county clerks and other public offices..." would made initiative totally unworkable and is vigorously opposed by TAXPAC.

BASIS FOR NUMBER OF SIGNATURES

There are two basic ways in which the numbers of signatures can be specified. These are as a percentage of:

- a.) The number of registered voters.
- b.) The number of voters who actually voted in a prior general election.

NUMBER OF SIGNATURES REQUIRED

Twenty-three states have Initiative. In most states the number of valid signatures required on a petition is expressed as a percent of the number of votes cast in the prior gubernatorial election. Also most states require more signatures to place a constitutional amendment on the ballot than for a proposed law. TAXPAC agrees that this is sound.

The requirement on the number of signatures in the various states range between 3% and 10% for laws and between 3% and 15% for amendments. The average of all states is 7.2% for laws and 9.1% for amendments. After a detailed analysis TAXPAC is recommending that New Jersey use 7% of the number who voted in the past gubernatorial election for laws and 9% for amendments.

Since 2.17 million ballots were cast in 1977 (our last gubernatorial election) these percentages would require 152,000 valid signatures to place a proposed law on the ballot or 195,000 for a constitutional amendment. In practice one would have to collect about 200,000 or 260,000 actual signatures, respectively, to meet the minimum requirement for valid signatures. These are difficult but not impossible tasks - about what is needed for a proper I & R and in line with other states.

Note that the percentages are based on the number of people who voted rather than the number who are registered. In S'81 the percentage is expressed in terms of registered voters. If that basis is adopted then the percentages recommended by TAXPAC would be different, namely, 4% of the number of registered voters for laws and 5.5% for amendments. This would work out to the same number of signatures as given above. TAXPAC supports either basis as long as the appropriate percentages are used for the basis chosen.

Therefore, our recommendation is:

- 4% of registered voters (or 7% of those who voted in the last gubernatorial election) for Initiative laws or Referendum on laws.
- 5.5% of registered voters (or 9% of those who voted in the last gubernatorial election) for Initiative of a constitutional amendment.

GEOGRAPHIC DISTRIBUTION OF SIGNATURES

Many of the states with Initiative in their state constitution include a provision requiring a geographic distribution of the signatures such that all the signatures can not come from one small area of the state. This seems sound.

In New Jersey the most populous county had 13% of the total population of the State according to the 1970 census. Therefore, a provision that "no more than 25% of the signatures can be from any one county" would assure a reasonable geographic distribution.

LEGISLATIVE CONCURRENCE

S81 specifies that the proposed I & R matter receive a 25% favorable vote in the legislature in addition to the required number of signatures. Only a few states have such a provision. TAXPAC opposes this strongly and feels that a proper I & R bill should allow citizen action without any requirement of legislature concurrence.

TIME PERIOD

The citizens must be allowed a reasonable time to collect signatures, but not so long that the matter loses its timeliness. After study, TAXPAC recommends that a period of 12 months be allowed.



TAXPAYERS POLITICAL ACTION COMMITTEE
TAXPAC

P.O. BOX 175 KEARNY, N. J. 07032

201-627-1533

June 27, 1980

SCR 7 Dorsey ANALYSIS

Resolution to amend the state constitution to allow constitutional amendments and laws to be proposed by the initiative process and to review enacted laws by the referendum process.

The key wording is: "The people reserve unto themselves the power to propose laws and amendments to the Constitution through the initiative process as may be provided by law and, in addition to that required by Article 8, section 2, paragraph 3 of the Constitution, the people reserve unto themselves the power to approve or reject all or any part of any duly enacted law through the referendum process as may be provided by law.

Comments

We agree with the existing wording but feel that the key ground rules should be added; namely "Laws or referendums on laws may be proposed by signatures of not less than 4 percent of the registered voters, and constitutional amendments by not less than 5.5 percent of the registered voters, provided no more than one-fourth of the signatures shall be from any one county and provided the signatures are collected no more than 12 months prior to the election in which the matter appears on the ballot."



**TAXPAYERS POLITICAL ACTION COMMITTEE
TAXPAC**

P.O. BOX 175 KEARNY, N.J. 07032

201-627-1533

June 27, 1980

SCR 4 Dorsey

ANALYSIS

Initiative and Referendum.

This is the same as SCR 7 excepting the following words are added after

"...the power to approve or reject all or any part of any duly enacted laws":

"except laws calling elections and laws appropriating money for general state proposals and laws raising revenues..."

Comments

Totally unacceptable. This would reduce the scope of I & R unduly.



TAXPAYERS POLITICAL ACTION COMMITTEE TAXPAC

P.O. BOX 175 KEARNY, N. J. 07032

201-627-1533

ANALYSIS

June 27, 1980

SCR 45 Musto and Bedell

Resolution to amend the state constitution to allow future constitutional amendments to be proposed by initiative.

STATEMENT

"This amendment would enable the people to initiate a constitutional amendment directly by petition. Such petition would require the signatures of a number of registered voters equal to at least 3% of the total vote in the previous gubernatorial election. The petitions would be signed at county clerks' offices and in other public offices in the counties under regulations prescribed by the Legislature designed to assure that they represent the orderly and deliberate choice of the signers. A further requirement is the concurrence of 1/3 of the membership of each House of the Legislature, in order to assure that the proposal can command a significant measure of support among persons experienced and responsible in the field of legislation. If voted upon by the people and rejected, no such proposal could be resubmitted for five years."

Major Provisions and Comments

1. No provisions to allow initiative or referendum on laws. (Not acceptable)
2. Ten registered voters submit a proposed initiative to the Secretary of State. After checking it is sent to all County Clerks where registered voters may go to the offices of the county clerk and other designated public offices to sign the petitions. Only a period of 90 days, excluding Sundays, is allowed. (Not acceptable. It is too difficult to get people to go to the county offices to sign the petitions. The time period is too short).
3. Three percent of the registered voters must sign (OK if petitions could be circulated).
4. No more than 25% from any one county. (OK).
5. In addition to the signatures on the petitions it is required that 1/3 of the members of both the State Senate and Assembly approve it. (Not acceptable. Legislative approval should not be required).
6. On the ballot at next general election. (OK).
7. Any proposed initiative amendment which is rejected by the voters can not be resubmitted for five years. (Five years is not acceptable. For amendments proposed by the legislature and rejected by the voters the prohibited time is only three years).



**TAXPAYERS POLITICAL ACTION COMMITTEE
TAXPAC**

P.O. BOX 175 KEARNY, N.J. 07032

201-627-1533

June 27, 1980

ANALYSIS

SCR 78 Skevin and Sheil

Resolution to amend the state constitution to allow proposed constitutional amendments and laws by the initiative process and to review enacted laws by the referendum process.

This is the same as SCR 7 except the following words are added; "No law proposed by the people in an initiative or referendum petition and approved by the legally qualified voters of this State shall be subject to the veto power of the Governor".

Comments

We agree that the Governor should not have veto power over referendum or initiative matters. Otherwise our comments are the same as on SCR 7.



TAXPAYERS POLITICAL ACTION COMMITTEE
TAXPAC

P.O. BOX 175 KEARNY, N. J. 07032

201-627-1533

ANALYSIS

June 27, 1980

S 828 Skevin and Sheil

Enabling legislation for the SCR 78 initiative and referendum amendment. Provides the detailed procedures.

Main Provisions and Comments

1. Unrestricted initiative and referendum procedure that has no limitations on subject matter. (Good).
2. More signatures required for proposing constitutional amendments than for laws or referendum on laws. (Good).
3. Mechanics for publicizing arguments for and against I & R proposals. (OK).
4. Requires signatures equal to 30% of the votes last cast for the office of Governor for an initiative constitutional amendment. (Totally unacceptable. This is twice as much as the most restrictive other state and six times as much as the least restrictive. It is $3\frac{1}{2}$ times as much as the average of the other states. It would make initiative impossible to use. We recommend 9%).
5. Requires signatures equal to 25% of the votes last cast for the office of Governor for a law initiative or referendum. (Totally unacceptable. This is $2\frac{1}{2}$ times as much as the most restrictive other state and five times as much as the least restrictive. It is $3\frac{1}{2}$ times as much as the average of the other states. It would make initiative and referendum impossible to use. We recommend 7%).



TAXPAYERS POLITICAL ACTION COMMITTEE

TAXPAC

P.O. BOX 175 KEARNY, N.J. 07032

201-627-1533

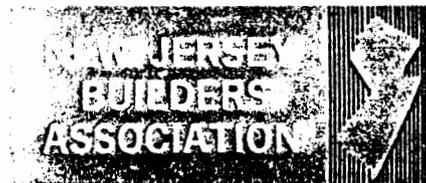
June 20, 1980

S 81 Dorsey

ANALYSIS

A bill such as S 81 would establish the law under which proposed Initiative and Referendum matters would be handled. This bill provides definitions, procedures for circulating and certifying petitions, penalties and similar matters. Generally the wording appears reasonable. However, we have questions in the following areas:

1. Section 8, line 16 and Section 15, line 3: For long bills, we wonder if full text should be required to be attached to every petition.
2. Section 12, paragraph beginning line 24: We oppose the idea that citizens initiative should require the concurrence of legislature. Most states do not have this requirement.
3. Section 12, line 14: 150 days is too few.
4. Section 13, line 2: We see no good reason why a person should be limited to circulating petitions only in the county where they vote. People are mobil. One may have friends in a neighboring county, etc. We would strike the words "within the county of which he is a voter".
5. Section 23, line 12: change "qualified" to "was filed"
6. Section 24, line 4: the qualifying procedure could take 50 days or more and there might not be three months.



July 9, 1980

The Honorable William Vincent Musto
321 23rd Street
Union City, New Jersey 07087

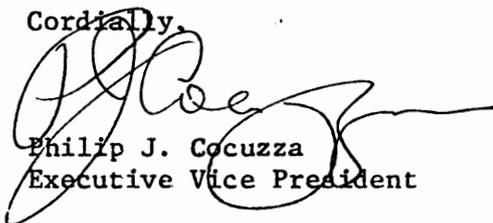
Dear Senator Musto:

We were anxiously waiting to participate at the public hearing on Monday, June 30, 1980, which was to discuss the question of Initiative and Referendum and its use in New Jersey. However, our general council, Stewart Hutt, who was preparing for this session suffered a back injury and was unable to attend.

Attached, however, are some thoughts that Mr. Hutt has put together on this issue which we would like to offer to the committee and make it part of the record.

Certainly, if you have any questions, please do not hesitate to contact us.

Cordially,



Philip J. Cocuzza
Executive Vice President

PJC:plh

Attachment

56X

PETER A. TUCCI
President
GEORGE KOHN
1st Vice President
THOMAS PAMPALONE
2nd Vice President
EDWIN H. FERREE
Treasurer

1980 OFFICERS

ROBERT J. KARNELL
Secretary
ALEXANDER BOL
VP Associate Affairs
PHILIP J. COCUZZA
Executive Vice President
Hutt, Berkow, Hollander & Jankowski
General Counsel



AFFILIATED ASSOCIATIONS

• National Association of Home Builders • Atlantic Home Builders Association of N.J. • Home Builders Association of Cape May County • Central Jersey Builders Association • Builders Association of Cumberland County • Builders Association of Metropolitan N.J. • Builders Association of Northern N.J. • Home Builders Association of Northwest N.J. • N.J. Shore Builders Association • Home Builders Association of Somerset & Morris Counties • Home Builders League of South Jersey

Initiative and Referendum

The New Jersey Builders Association has reviewed the various Senate Concurrent Resolutions and Bills relating to a New Jersey Constitutional Amendment to allow for the initiative and referendum process in this state for state legislation.

As you know, there already exists statutory provisions for the initiative and referendum process concerning municipal ordinances. See, for instance, the Falkner Act Municipalities, N.J.S.A. 40:69A-184, 189 and 191. As to commission form of government see N.J.S.A. 40:74-14. As to all municipalities, see N.J.S.A. 40:49-9 (relating to improvement ordinances) and N.J.S.A. 40:49-27 (relating to ordinances authorizing the incurring of indebtedness).

However, as you are no doubt aware, the Municipal Land Use Law, which went into effect in January of 1977, provides that no municipality shall have the right to enact zoning and land use regulations by initiative or referendum.

It is thus apparent that as to municipalities, our legislature in the past has thought that certain types of matters might be suitable for the initiative or referendum process, but not when it comes to zoning and land use regulations. The rationale for this distinction has been ably set forth by Judge Mintz in the case of Smith v. Livingston, 106 N.J. Super. 444, 256 A.2d 85 (Chancery Division, 1969), affirmed on opinion below, 54 N.J. 525, 257 A.2d 698 (1969).

Basically, opting to allow the initiative and referendum process to be used for zoning and land use regulation could create conflict with the due process clause of the U.S. Constitution, Fourteenth Amendment. As the Supreme Court of Nebraska said in the case of Kelley v. John, 162 Neb. 319, 75 N.E. 2nd. 713 (Supreme Court 1956) at page 716 of 75 N.W.2nd.:

" '***To say that administrative determinations are subject to referendum could defeat the very purposes of zoning. The uniformity required in the proper administration of a zoning ordinance could be wholly destroyed by referendum. A single decision by the electors by referendum could well destroy the very purpose of zoning where such decision was in conflict with the general scheme fixing the uses of property in designated areas.*** It would permit the electors by the referendum to change, delay and defeat the real purposes of the comprehensive zoning ordinance by creating the chaotic situation such ordinance was designed to prevent.***' (75 N.W. 2d at p. 716)

The court further said, referring to the action of the city council:

'***If its action may be nullified by a referendum, then the comprehensive master plan becomes a nullity and every change of classification of property made by the city council will be subject to the whims of the electors without regard to the master plan.***' "

If each change in a zoning classification were to be submitted to the vote of the electorate, any master plan would be rendered inoperative and comprehensive planning would become non-existent.

The framers of our Constitution did not think it wise to allow as a Constitutional right initiative or referendum in this state, but only a statutory right where appropriate legislation exists. Constitution 1947, Article IV., §1, Par. 1. Whether the time has come to relook at this philosophy and to rethink that provision is debatable. However, such a momentous decision, it would appear to us, should be studied in depth by an appropriate commission for a recommendation and analysis, as a change in our Constitution of this magnitude could have enormously far reaching effects upon the population of the state.

In conclusion, the New Jersey Builders Association recommends:

1. That a legislative study commission be appropriately created to study in great depth the question of an initiative and referendum amendment to our Constitution. There should be extensive public input, because of the magnitude of its import and the effect it can have on our traditional and customary political process in this state.
2. In the alternative, if the legislature decides to adopt the Initiative and Referendum Act or any of the concurrent resolutions, then we recommend that Senate Concurrent Resolution #4 be adopted with an additional exception to the exceptions already set forth therein (laws calling elections and laws appropriating money for general state purposes and laws regarding revenue) to wit: laws regulating zoning and land use controls should also be excepted.

As set forth in the statement to Senate Concurrent Resolution #4, the exceptions mentioned therein to the laws which may be the subject of a referendum are designed to provide uniformity and certainty in those areas and recognize that the Legislature is uniquely qualified to deal with those areas. Our recommendation of an additional exception relating to zoning and land use laws not only fits into that category, but, moreover, recognizes the uniqueness of this subject matter as being one which is not Constitutionally suitable for the initiative and referendum process because of its inability to provide due process of law pursuant to the provisions of the Fourteenth Amendment of the U.S. Constitution.

Thank you for considering our views on this momentous proposal.