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NEW JERSEY REDISTRICTING
COMMISSION...

MAY 24, 1993

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Public Hearing

before

ASSEMBLY STATE GOVERNMENT COMMITTEE

ASSEMBLY CONCURRENT RESOLUTION No. 25 (ACS)

(Proposes an amendment to the Constitution creating the New Jersey Redistricting Commission (ACR-65 of 1990))

ASSEMBLY CONCURRENT RESOLUTION No. 125 (1R)

(Proposes constitutional amendment to prohibit the use of one-time State revenue sources for State government operations and State aid and grants-in-aid spending)

LOCATION: Committee Room 10
Legislative Office Building
Trenton, New Jersey

DATE: May 24, 1993
10:30 a.m.

MEMBERS OF COMMITTEE PRESENT:

Assemblyman Robert J. Martin, Chairman
Assemblyman John Hartmann, Vice-Chairman
Assemblyman John E. Rooney
Assemblyman Byron M. Baer



ALSO PRESENT:

Donald S. Margeson
Office of Legislative Services
Aide, Assembly State Government Committee

Hearing Recorded and Transcribed by
The Office of Legislative Services, Public Information Office,
Hearing Unit, State House Annex, CN 068, Trenton, New Jersey 08625

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ROBERT J. MARTIN
Chairman
JOHN HARTMANN
Vice-Chairman
VIRGINIA HAINES
JOHN E. ROONEY
DAVID C. RUSSO
BYRON M. DAER
QUILLA E. TALMADGE

New Jersey State Legislature
ASSEMBLY STATE GOVERNMENT COMMITTEE
LEGISLATIVE OFFICE BUILDING, CN-068
TRENTON, NEW JERSEY 08625-0068
(609) 292-9106

NOTICE OF PUBLIC HEARING

The Assembly State Government Committee will hold a public hearing on the following legislation:

- | | |
|-------------------------------|---|
| ACR-25 (ACS)
Martin/Franks | Proposes an amendment to the Constitution creating the New Jersey Redistricting Commission. (ACR-65 of 1990) |
| ACR-125 (1R)
Martin/Bagger | Proposes constitutional amendment to prohibit the use of one-time State revenue sources for State government operations and State aid and grants-in-aid spending. |

The hearing will be held on **Monday, May 24, 1993 at 10:00 AM** in **Committee Room 10 of the Legislative Office Building, Trenton, New Jersey.**

This public hearing has been ordered by the General Assembly under Rule 143 of the Rules of the General Assembly and in compliance with the requirements of Article IX, paragraph 1 of the State Constitution, concerning proposed constitutional amendments.

The public may address comments and questions to Donald S. Margeson, Committee Aide, or make bill status and scheduling inquiries to Deborah Del Vecchio, Secretary, at (609) 292-9106.

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY CONCURRENT RESOLUTION No. 25

STATE OF NEW JERSEY

ADOPTED MAY 6, 1993

Sponsored by Assemblyman MARTIN

1 A **CONCURRENT RESOLUTION** proposing to amend Article II of
2 the Constitution of the State of New Jersey and providing a
3 schedule therefor.

4
5 BE IT RESOLVED *by the General Assembly of the State of*
6 *New Jersey (the Senate concurring):*

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

9
10 PROPOSED AMENDMENT

11
12 Amend Article II to read as follows:

13
14 Article II
15 ELECTIONS AND SUFFRAGE
16 SECTION I

17
18 1. General elections shall be held annually on the first Tuesday
19 after the first Monday in November; but the time of holding such
20 elections may be altered by law. The Governor and members of
21 the Legislature shall be chosen at general elections. Local
22 elective officers shall be chosen at general elections or at such
23 other times as shall be provided by law.

24 (cf: Art.II, para.1)

25 2. All questions submitted to the people of the entire State
26 shall be voted on at the general election next occurring at least
27 70 days following the final action of the Governor or the
28 Legislature, as appropriate, necessary to submit the questions.
29 The text of each question shall be published at least once in
30 one or more newspapers of each county, if any newspapers be
31 published therein, at least 60 days before the election at which it
32 is to be submitted to the people, and the results of the vote upon
33 a question shall be void unless the text thereof shall have been so
34 published.

35 (cf: Art.II, para.2 amended effective December 8, 1988)

36 3. (a) Every citizen of the United States, of the age of 18
37 years, who shall have been a resident of this State and of the
38 county in which he claims his vote 30 days, next before the
39 election, shall be entitled to vote for all officers that now are or
40 hereafter may be elective by the people, and upon all questions
41 which may be submitted to a vote of the people; and

42 (b) (Deleted by amendment, effective December 5, 1974.)

43 (c) Any person registered as a voter in any election district

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

ACS for ACR25

1 of this State who has removed or shall remove to another state or
2 to another county within this State and is not able there to
3 qualify to vote by reason of an insufficient period of residence in
4 such state or county, shall, as a citizen of the United States, have
5 the right to vote for electors for President and Vice President of
6 the United States, only, by Presidential Elector Absentee Ballot,
7 in the county from which he has removed, in such manner as the
8 Legislature shall provide.

9 (cf: Art.II, para.3 amended effective December 5, 1974)

10 4. In time of war no elector in the military service of the
11 State or in the armed forces of the United States shall be
12 deprived of his vote by reason of absence from his election
13 district. The Legislature may provide for absentee voting by
14 members of the armed forces of the United States in time of
15 peace. The Legislature may provide the manner in which and the
16 time and place at which such absent electors may vote, and for
17 the return and canvass of their votes in the election district in
18 which they respectively reside.

19 (cf: Art.II, para.4)

20 5. No person in the military, naval or marine service of the
21 United States shall be considered a resident of this State by being
22 stationed in any garrison, barrack, or military or naval place or
23 station within this State.

24 (cf: Art.II, para.5)

25 6. No idiot or insane person shall enjoy the right of suffrage.

26 (cf: Art.II, para.6)

27 7. The Legislature may pass laws to deprive persons of the
28 right of suffrage who shall be convicted of such crimes as it may
29 designate. Any person so deprived, when pardoned or otherwise
30 restored by law to the right of suffrage, shall again enjoy that
31 right.

32 (cf: Art.II, para.7)

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SECTION II

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36 1. (a) After each federal census taken in a year ending in
37 zero, the Congressional districts shall be established by the New
38 Jersey Redistricting Commission.

39 The commission shall consist of 13 members, none of whom
40 shall be a member or employee of the Congress of the United
41 States. The members of the commission shall be appointed with
42 due consideration to geographic, ethnic and racial diversity and in
43 the manner provided herein.

44 (b) There shall first be appointed 12 members as follows:

45 (1) two members to be appointed by the President of the
46 Senate;

47 (2) two members to be appointed by the Speaker of the
48 General Assembly;

49 (3) two members to be appointed by the minority leader of the
50 Senate;

51 (4) two members to be appointed by the minority leader of the
52 General Assembly; and

53 (5) four members, two to be appointed by the chairman of the
54 State committee of the political party whose candidate for the

1 office of Governor received the largest number of votes at the
2 most recent gubernatorial election and two to be appointed by
3 the chairman of the State committee of the political party whose
4 candidate for the office of Governor received the next largest
5 number of votes in that election.

6 Appointments to the commission under this subparagraph shall
7 be made on or before June 15 of each year ending in one and shall
8 be certified by the respective appointing officials to the
9 Secretary of State on or before July 1 of that year.

10 Each partisan delegation so appointed shall appoint one of its
11 members as its chairman who shall have authority to make such
12 certifications and to perform such other tasks as the members of
13 that delegation shall reasonably require.

14 (c) There shall then be appointed one member, to serve as an
15 independent member, who shall have been for the preceding five
16 years a resident of this State, but who shall not during that period
17 have held public or party office in this State.

18 The independent member shall be appointed upon the vote of at
19 least seven of the previously appointed members of the
20 commission on or before July 15 of each year ending in one, and
21 those members shall certify that appointment to the Secretary of
22 State on or before July 20 of that year. If the previously
23 appointed members are unable to appoint an independent member
24 within the time allowed therefor, they shall so certify to the
25 Supreme Court not later than that July 20 and shall include in
26 that certification the names of the two persons who, in the
27 members' final vote upon the appointment of the independent
28 member, received the greatest number of votes. Not later than
29 August 10 following receipt of that certification, the Supreme
30 Court shall by majority vote of its full authorized membership
31 select, of the two persons so named, the one more qualified by
32 education and occupational experience, by prior public service in
33 government or otherwise, and by demonstrated ability to
34 represent the best interest of the people of this State, to be the
35 independent member. The Court shall certify that selection to
36 the Secretary of State not later than the following August 15.

37 (d) Vacancies in the membership of the commission occurring
38 prior to the certification by the commission of Congressional
39 districts or during any period in which the districts established by
40 the commission may be or are under challenge in court shall be
41 filled in the same manner as the original appointments were made
42 within five days of their occurrence. In the case of a vacancy in
43 the membership of the independent member, if the other
44 members of the commission are unable to fill that vacancy within
45 that five-day period, they shall transmit certification of such
46 inability within three days of the expiration of the period to the
47 Supreme Court, which shall select the person to fill the vacancy
48 within five days of receipt of that certification.

49 2. The independent member shall serve as the chairman of the
50 commission. The commission shall meet to organize as soon as
51 may be practicable after certification of the appointment of the
52 independent member, but not later than the Wednesday after the
53 first Monday in September of each year ending in one. At the
54 organizational meeting the members of the commission shall

ACS for ACR25

1 determine such organizational matters as they deem appropriate.
2 Thereafter, a meeting of the commission may be called by the
3 chairman or upon the request of seven members, and seven
4 members of the commission shall constitute a quorum at any
5 meeting thereof for the purpose of taking any action.

6 3. On or before the third Tuesday of each year ending in two,
7 or within three months after receipt in each decade by the
8 appropriate State officer of the official statement by the Clerk
9 of the United States House of Representatives, issued pursuant to
10 federal law, regarding the number of members of the House of
11 Representatives apportioned to this State for that decade,
12 whichever is later, the commission shall certify the establishment
13 of the Congressional districts to the Secretary of State. The
14 commission shall certify the establishment of districts pursuant
15 to a majority vote of the full authorized membership of the
16 commission convened in open public meeting, of which meeting
17 there shall be at least 24 hours' public notice. Any vote by the
18 commission upon a proposal to certify the establishment of a
19 Congressional district plan shall be taken by roll call and shall be
20 recorded, and the vote of any member in favor of any
21 Congressional district plan shall nullify any vote which that
22 member shall previously have cast during the life of the
23 commission in favor of a different Congressional district plan. If
24 the commission is unable to certify the establishment of districts
25 by the time required due to the inability of a plan to achieve
26 seven votes, the two district plans receiving the greatest number
27 of votes, but not fewer than five votes, shall be submitted to the
28 Supreme Court, which shall select and certify whichever of the
29 two plans so submitted conforms most closely to the
30 requirements of the Constitution and laws of the United States.

31 4. The New Jersey Redistricting Commission shall hold at
32 least three public hearings in different parts of the State. The
33 commission shall, subject to the constraints of time and
34 convenience, review written plans for the establishment of
35 Congressional districts submitted by members of the public.

36 5. Meetings of the New Jersey Redistricting Commission shall
37 be held at convenient times and locations and, with the exception
38 of the public hearings required by paragraph 4 of this section and
39 the meeting at which the establishment of districts is certified as
40 prescribed by paragraph 3 of this section, may be closed to the
41 public.

42 6. The Legislature shall appropriate the funds necessary for
43 the efficient operation of the New Jersey Redistricting
44 Commission.

45 7. Notwithstanding any provision to the contrary of this
46 Constitution and except as otherwise required by the Constitution
47 or laws of the United States, no court of this State other than the
48 Supreme Court shall have jurisdiction over any judicial
49 proceeding challenging the appointment of members to the New
50 Jersey Redistricting Commission, or any action, including the
51 establishment of Congressional districts, by the commission or
52 other public officer or body under the provisions of this section.

53 8. The establishment of Congressional districts shall be used
54 thereafter for the election of members of the House of

1 Representatives and shall remain unaltered through the next year
2 ending in zero in which a federal census for this State is taken.

3 9. If a plan certified by the commission is declared unlawful,
4 the commission shall reorganize and adopt another Congressional
5 district plan in the same manner as herein required and within the
6 period of time prescribed by the court or within such shorter
7 period as may be necessary to ensure that the new plan is
8 effective for the next succeeding primary and general election
9 for all members of the United States House of Representatives.

10 2. When this proposed amendment to the Constitution is finally
11 agreed to, pursuant to Article IX, paragraph 1 of the
12 Constitution, it shall be submitted to the people at the next
13 general election occurring more than three months after the final
14 agreement and shall be published at least once in at least one
15 newspaper of each county designated by the President of the
16 Senate and the Speaker of the General Assembly and the
17 Secretary of State, not less than three months prior to the
18 general election.

19 3. This proposed amendment to the Constitution shall be
20 submitted to the people at the election in the following manner
21 and form:

22 There shall be printed on each official ballot to be used at the
23 general election, the following:

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

26 If you favor the proposition printed below make a cross (x), plus
27 (+) or check (✓) in the square opposite the word "Yes." If you are
28 opposed thereto make a cross (x), plus (+) or check (✓) in the
29 square opposite the word "No."

30 b. In every municipality, the following question:

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	CREATES THE NEW JERSEY REDISTRICTING COMMISSION
YES	Shall the amendment of Article II of the Constitution, agreed to by the Legislature, making permanent provision for the creation of a New Jersey Redistricting Commission to establish Congressional districts, be adopted?
	INTERPRETIVE STATEMENT
NO.	Adoption of this amendment would make permanent provision for the appointment at the beginning of each decade of a bipartisan New Jersey Redistricting Commission to redraw Congressional districts for that decade. A temporary New Jersey Redistricting Commission was established in 1991 to create the Congressional districts for the 1990s.

ACS for ACR25

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SCHEDULE

This Constitutional amendment shall, if approved, be applicable to any establishment of Congressional districts for use subsequent to the official federal census in 2000.

Proposes an amendment to the Constitution creating the New Jersey Redistricting Commission.

ASSEMBLY STATE GOVERNMENT COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY CONCURRENT RESOLUTION No. 25

STATE OF NEW JERSEY

DATED: MAY 6, 1993

The Assembly State Government Committee reports favorably an Assembly Committee Substitute for Assembly Concurrent Resolution No. 25.

This concurrent resolution proposes an amendment to the State Constitution making permanent provision for the appointment in each decade of a New Jersey Redistricting Commission to establish Congressional districts for that decade pursuant to the federal census taken at the commencement of that decade. In 1991, a temporary New Jersey Redistricting Commission was established to create Congressional districts for the 1990s.

The Redistricting Commission is to consist of 13 members, appointed with due consideration to geographic, ethnic and racial diversity. The presiding officers and minority leaders of the two houses of the Legislature are each to appoint two members, for a total of eight members, and the respective State chairmen of the two principal political parties in the State are each to appoint two more members, for a grand total of 12. These 12 members are, by majority vote, to select a 13th person to serve as an independent member of the commission. The independent member must have been a State resident for the preceding five years, but shall not during that period have held public or party office in the State. If no independent member has been appointed within the time provided under the proposed amendment, the names of the two persons receiving the largest number of votes for the position are to be certified to the Supreme Court, which shall select the one more qualified by education and occupational experience, by prior public service in government or otherwise, and by demonstrated ability to further the best interest of the people of the State, to be the independent member. The independent member is to serve as the chairman of the Redistricting Commission.

The commission is to certify a Congressional district plan only upon a majority vote of its full authorized membership. The vote of any member in favor of any plan will nullify any vote which that member shall previously have cast during the life of the commission in favor of a different plan. Certification must occur by the third Tuesday of each year ending in two or within three months of receipt by the Governor at the beginning of each decade of the official statement of the number of members of the United States House of Representatives to be apportioned to this State during that decade, whichever is later. If no plan achieves the necessary seven votes within the time allowed for certification, the two district plans receiving the greatest number of votes, but no fewer than five votes, are to be submitted to the Supreme Court, which shall certify whichever of them conforms most closely to the Constitution and laws of the United States.

[FIRST REPRINT]

ASSEMBLY CONCURRENT RESOLUTION No. 125

STATE OF NEW JERSEY

INTRODUCED MAY 6, 1993

By Assemblymen MARTIN, BAGGER and Russo

1 A CONCURRENT RESOLUTION proposing to amend Article VIII,
2 Section II, paragraph 2 of the Constitution of the State of New
3 Jersey.

4
5 BE IT RESOLVED by the General Assembly of the State of
6 New Jersey (the Senate concurring):

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

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PROPOSED AMENDMENT

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Amend Article VIII, Section II, paragraph 2 to read as follows:

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Revenue on hand and anticipated to be available during a fiscal year that is attributable to a nonrecurring source not regularly foreseen, including but not limited to revenue from sales of assets, loans or transfers from trust funds, refinancing of obligations, revaluations of assets or liabilities, acceleration or shifting of tax collection schedules, and cost recoveries, reimbursements or settlement payments from non-State sources, shall not be expended for any purpose other than for capital construction and ¹[debt service appropriations] accelerating repayment of the principal amount of State obligations¹, except that such revenue shall be available for the purpose of rebating, refunding or reducing general State taxes as may be provided by law.

(cf: Article VIII, Section II, paragraph 2; effective Jan. 1, 1948)

2. When this proposed amendment to the Constitution is finally agreed to, pursuant to Article IX, paragraph 1 of the Constitution, it shall be submitted to the people at the next general election occurring more than three months after such

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly ASG committee amendments adopted May 6, 1993.

1 final agreement and shall be published at least once in at least
 2 one newspaper of each county designated by the President of the
 3 Senate and the Speaker of the General Assembly and the
 4 Secretary of State, not less than three months prior to said
 5 general election.

6 3. This proposed amendment to the Constitution shall be
 7 submitted to the people at said election in the following manner
 8 and form:

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

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

13 If you favor the proposition printed below make a cross (X),
 14 plus (+) or check (✓) in the square opposite the word "Yes." If you
 15 are opposed thereto make a cross (X), plus (+) or check (✓) in the
 16 square opposite the word "No."

17 b. In every municipality the following question:

18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42	YES.	<p>PROHIBITS SPENDING OF ONE-TIME REVENUE SOURCES FOR CERTAIN STATE GOVERNMENT EXPENSES</p> <p>Shall the proposed amendment to Article VIII, Section II, paragraph 2 of the Constitution, providing that State revenue from a nonrecurring source not regularly foreseen for State budget purposes, such as revenue from sales of State government assets, loans or transfers to the State from trust funds, refinancing of State obligations, revaluations of State assets or liabilities, acceleration or shifting of State tax collection schedules, and cost recoveries, reimbursements or settlement payments from non-State sources, shall only be expended for capital construction and ¹[debt service appropriations] <u>accelerating repayment of the principal amount of State obligations</u>¹, and for the purpose of rebating, refunding or reducing general State taxes, be approved?</p>
43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66	NO.	<p>INTERPRETIVE STATEMENT</p> <p>This proposed constitutional amendment prohibits the use of one-time State revenue sources for funding the general operations, local aid and grant expenses of State government. Revenue obtained through nonrecurring sources such as sales of State government assets, loans or transfers to the State from trust funds, refinancing of State bonds, revaluations of State assets or liabilities, acceleration or shifting of State tax collection schedules, and cost recoveries, reimbursements or settlement payments from non-State sources, shall only be expended for capital construction projects and ¹[debt service appropriations] <u>accelerating repayment of the principal amount of State obligations</u>¹, and for rebating, refunding or reducing State taxes. The purpose of this amendment is to ensure that State government services and aid are supported by recurring State financial resources.</p>

ACR125 [1R]

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3 Proposes constitutional amendment to prohibit the use of
4 one-time State revenue sources for State government operations
5 and State aid and grants-in-aid spending.

ASSEMBLY STATE GOVERNMENT COMMITTEE

STATEMENT TO

ASSEMBLY CONCURRENT RESOLUTION No. 125

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: APRIL 15, 1993

The Assembly State Government Committee reports favorably and with committee amendments Assembly Concurrent Resolution No. 125.

This concurrent resolution proposes an amendment to the State Constitution to prohibit the expenditure of State revenue "attributable to a nonrecurring source not regularly foreseen" for any purpose other than capital construction and accelerating repayment of the principal amount of outstanding State obligations. The proposed amendment specifies that the category of nonrecurring revenue includes, but is not limited to, revenue from: the sale of State government assets; loans or transfers to the State from trust funds; the refinancing of State bonds and other obligations; the revaluation of State assets or liabilities; the acceleration or shifting of State tax collection schedules; and cost recoveries, reimbursements or settlement payments from non-State sources.

The proposed amendment provides a limited exception to the prohibition, permitting the application of nonrecurring revenue to rebates, refunds or reduction of State taxes.

COMMITTEE AMENDMENTS

The committee adopted amendments to this concurrent resolution to clarify that the use of nonrecurring revenue to service outstanding State obligations would not apply broadly to interest-plus-principal payments under regular amortization schedules, but rather would be limited to accelerating repayment of the principal amount of those obligations earlier than required under those schedules, thus effecting not merely a substitution of nonrecurring revenue for recurring revenue as the source of State debt payments, but an actual reduction in total interest paid.

TABLE OF CONTENTS

	<u>Page</u>
Samuel Perelli President United Taxpayers of New Jersey	3
Larry Haverly Executive Director Taxpayer Political Action Committee (TAXPAC)	4
John Budzash New Jersey Taxpayers' Task Force	4
 mjz: 1-10	

* * * * *

ASSEMBLYMAN ROBERT J. MARTIN (Chairman): We are going to begin the public hearing on the two proposed constitutional amendments. We do not need a quorum for the public hearing, so we will commence. We have three members present, and hopefully we will see some additional persons come in, in just a moment.

We will begin with ACR-25, which is a proposed constitutional amendment which would permanently create the New Jersey Redistricting Commission. This is a constitutional amendment that was originally put forward by then Assemblyman Franks, who is now in the Congress. It recognized the fact that, historically, when one party was in power in the State, there was the propensity to have gerrymandering when it came time every 10 years, according to the U.S. Constitution, to redistrict the State for members of the House of Representatives on the basis of population.

We are familiar with the fact that in 1990, legislation was passed under then Speaker Doria that put in a Commission for Congressional Redistricting that, in my view, worked reasonably well as far as drawing up the districts. We used that as primarily the basis on which ACR-25 has been drafted.

There have been several hearings on the bill. There have been some changes from the original drafting by then Assemblyman Franks. Probably the major change from its original draft was the recognition by Commission members who testified before us that the role of the independent chairperson should be a prominent one. That person should be selected right up front at the beginning, when the Commission is appointed. That person should be able to then participate in a very strong way in directing the Commission, whose other members are members of the two leading parties in the State.

So I won't say more about that at this time because of the extensive hearings we have had on the matter. I will open it up to anyone who wishes to testify on ACR-25. I see no one.

Mr. Baer, do you have any comments to make on ACR-25?

ASSEMBLYMAN BAER: No.

ASSEMBLYMAN MARTIN: Okay. Mr. Rooney?

ASSEMBLYMAN ROONEY: No.

ASSEMBLYMAN MARTIN: No comments. Mr. Hartmann, any comments on ACR-25, the Congressional Redistricting Commission amendment.

ASSEMBLYMAN HARTMANN: No.

ASSEMBLYMAN MARTIN: Okay. Then I will close the public hearing. The bill will be submitted to the House, put on the members' desks, and perhaps action may or may not be taken by the Speaker. Hopefully, it will in this session.

We will now take up ACR-125. This is the legislation that I had submitted, along with Assemblyman Bagger, that proposes an amendment to the State Constitution prohibiting the use of one-time State revenue sources for State government operations and State aid and grants-in-aid spending. This legislation, which I prepared, was based on the concern I had that the State has used bonding as a mechanism to pay for current operational expenses. I see great danger in that system, in that each year, if the State is using bonding -- future moneys -- to pay for current operational expenses, as we begin each successive year the State goes further into the hole, in the sense that they have to set aside a certain amount of money to pay back the principal and interest. Before they can use that money for any other operational expenses, we have to put that aside for paying off bonds for future proposals.

I am not philosophically or practically opposed to bonding. I think bonding is important when you are dealing with projects that have a life use which extends into the future. I feel strongly that we should not be using bonding just to pay for ongoing expenses, and this constitutional amendment would prohibit it. The money for operational

expenses would have to come from current revenues; that is, the taxes that we collect in a given year.

Bonds could be used for the building of schools with a long-term life use. They could be used to build something like the Garden State Arts Center, or other items which people can identify as sort of typical to the way in which you mortgage for a house, in the sense that there you have something you plan to enjoy over a long term of years. You may not have the moneys right up front to be able to pay for it, but you can apportion that out over time.

So, that type of bonding remains permissible, but under this proposed constitutional amendment the other type, which was just merely going to plug a hole in one year's budget, would no longer be permitted in this State.

We had a hearing on this in April in Morristown, and the Committee released the legislation -- the proposed constitutional amendment. Now we are having the public hearing.

Is there anyone who wishes to speak on this? Sam?

SAMUEL PERELLI: Mr. Chairman, thank you for the opportunity of offering our comments. I am Sam Perelli, from the United Taxpayers of New Jersey.

Anytime we start these one-shot gimmicks, I think we have to turn around and find out who pays for all this chicanery. It boils down to one answer -- the taxpayers of this State. We get a tremendous, tremendous short circuit in our system. We have seen these one-shot bond issues used for things other than what they were intended for. We now see \$1.8 billion in additional debt that our State has because of a lot of these one-shot funding situations. Selling highways-- I mean, what are we going to sell next? It is like the State government is in the used car business, and the Legislature is in a race to see who is the best salesman for selling these used cars.

I urge you to pass this legislation. Let's get this thing on the ballot. Be assured that the people of New Jersey will overwhelmingly approve it. Let's not discuss it any further. Let's let the public make their decision. I don't think there is a taxpayer group in this State, or any kind of a civic organization, that doesn't agree that it's 1993, and let's stop the games.

Thank you.

ASSEMBLYMAN MARTIN: Thank you, Mr. Perelli. Yes, Larry?

LARRY HAVERLY: I am Larry Haverly, of TAXPAC. We just want to go on record as being strongly supportive of this. We think it is a great idea. The arguments have all been made and presented, so I won't go over those.

We urge the Committee to pass it out. We hope it will be voted. We hope it will appear on the ballot this year.

Thank you.

ASSEMBLYMAN MARTIN: Thank you. John Budzash. Is it Candidate Budzash?

JOHN BUDZASH: A combination. I am here representing the New Jersey Taxpayers' Task Force. I am John Budzash. I would like to echo the words of Sam and Larry. It sounds something like the Stooges, unfortunately, when I put it that way.

But anyway, the whole point is that this is something that is necessary. As far as I am concerned, I differ a little bit with you as far as bonding goes. I think sometimes bonding is a necessary evil, but as with most individuals in the State, you realize there are only so many mortgages you can put on your house before you lose it. Before we lose New Jersey, I think we should definitely put an end to these one-shot deals and gimmicks, and get our government back on the right track with its finances and move forward.

Thank you.

ASSEMBLYMAN MARTIN: Thank you, Mr. Budzash.

Is there anyone else who wishes to be heard on this matter? (no response) I see no one, so I will allow the Committee members to speak. Mr. Baer?

ASSEMBLYMAN BAER: I just wanted to ask a few questions. Since the record here is sometimes used later on to determine intent, I guess it would be appropriate to ask the questions of the Chair/prime sponsor of the legislation.

First of all, would this measure, if enacted, prohibit any of these things going into a rainy-day fund where they could be subsequently spent in a later year? Would they be prohibited from going into a surplus that could be spent in a subsequent year? Would the surplus -- these are three interrelated questions -- from a prior year, which is in a sense a one-time amount-- Would it be prohibited that that surplus could be used in the budget of the following year?

ASSEMBLYMAN MARTIN: A heck of a question. The language that Don (Committee Aide) and I -- that he prepared and we struggled over, provides as follows: that the only use of these moneys would be that they could be used for rebating, refunding, or reducing general State taxes, as may be provided by law. That is written in a very general sense, so I am not sure whether I can answer with specificity any of your questions. But certainly the intent that we had was that there would be very limited use of it. That language was put in so that if you had, for example, a framework in which there was a refinancing of bonds, that money could not be applied for further bonding, and any revenues recovered, in a sense, then would either be refunded or would reduce State taxes.

ASSEMBLYMAN BAER: What I am trying to understand with greater specificity are the three types of things that I mentioned. I'm not sure that I am clear, or that the record is clear, and these issues may come up later.

First of all, on the issue of the surplus left over from a prior year's budget, that could be argued. It appears in some sense to be a nonrecurring thing, at least in terms of the specific amount. Conceptually, some sort of surplus is left over from each year, but certainly nobody knows, or can count on, what it is going to be from one year to another.

Now, would this prohibit that being applied and spent for operating purposes in the following years--

ASSEMBLYMAN MARTIN: No.

ASSEMBLYMAN BAER: --assuming that the following year's budget, as they normally do, provides an adequate surplus on a planned basis, which they do normally, and which, in any case, is a different issue whether the proposed surplus is adequate?

ASSEMBLYMAN MARTIN: No, it was not my intention, because that surplus was drawn from recurring revenue in its first instance, so that is where it was developed.

ASSEMBLYMAN BAER: Well, to the extent that it is drawn from recurring revenue-- I think the surplus, in a sense, is a net sum that is the result of a huge number of various financial realities that affect the entire budget. Money coming in, going out, etc., from all kinds of sources.

ASSEMBLYMAN MARTIN: It would make little sense, and it is not my intent to have the surplus not available for ongoing operations. What I would quickly foresee if that were the case, is that departments would be really pressured to spend their money and not build a surplus if they felt that that money was not going to be able to be used potentially for operational expenses.

ASSEMBLYMAN BAER: Right, which would add to the motivation that sometimes already exists to do that.

Now, what about these funds being allocated to a rainy-day fund, these one-time sources of income? Could they be allocated to a rainy-day fund where they would be available

in some future year, depending on the economic circumstances and criteria as applicable to such rainy-day funds?

ASSEMBLYMAN MARTIN: I don't believe so, because the language says, if you do have a surplus somehow from bonding, not from recurring expenses, it can only be used for rebating, refunding, or reducing general State taxes.

ASSEMBLYMAN BAER: Okay. Let me ask about relatively small one-time sources. We are generally conscious in any given budget year of some controversy that surrounds three or four typically rather large one-time sources of funding, but I believe the budget may have hundreds and hundreds of small items in it that occur during the course of the year from very small developments. Is there any cutoff in terms of size for this measure, or must all of those be added together, measured, totaled, and also excluded from being absorbed in the operating funds of the following year?

ASSEMBLYMAN MARTIN: I would think that there would be two approaches: Historically the courts have recognized a de minimis standard where moneys are so small that they may not be applicable even to a constitutional standard. The other possibility is, since this money could not be used for operational expenses, it would be pooled into some account. It is not the rainy day that we have talked about, but a rainy-day fund here would be, in effect, a pool which would build up to a point where you could then have some reduction in State taxes, as permitted under the Constitution.

So, while maybe any one individual amount would be very negligible or quite small-- I think \$500 is a lot of money, so I am not going to talk about whatever, but when you pool different amounts of money, at some point it may be that in a given year we could have a reduction in the sales tax, a reduction in the income tax, a reduction in some kind of business tax if we had achieved a significant amount of money,

because that is the only use that this money could be put forward to.

ASSEMBLYMAN BAER: The money could be put forward to the reduction of any of those taxes?

ASSEMBLYMAN MARTIN: Rebating, refunding, or reducing general State taxes, as may be provided by law. So it would be our determination as to how that amount of money, which would be specifically allocated, couldn't be used for operational expenses and could eventually be returned to some way benefit a class of taxpayers.

ASSEMBLYMAN BAER: All right. Now, let me ask you this. This question starts to border on both policy matters and clarifying the intent of the legislation. Maybe I should ask the policy question and then come back to the intent side of it, because I think it would be clearer that way.

Is it conceivable, at some point, that you may have a very large one-time source for revenue, but also the situation where there would be a huge shortfall in revenue, so that if you were forced to rebate it, if economies could not be found, and if there was some urgency in meeting a shortfall, some other tax then would have to be increased at the same time you're rebating?

Now, typically people would look at this with considerable suspicion and distrust, but is it conceivable that there might be some circumstance where that would be desirable and where, rather than having an outright prohibition, you might prefer -- and this is where I get to the policy thing -- to have the constitutional amendment provide maybe a two-thirds vote, or a three-quarters vote, or some type of a situation where in an emergency this might be accepted so as to avoid having to levy some new tax?

ASSEMBLYMAN MARTIN: Well, your question is framed in a way that is speculative, and I can't say no, that it would never happen. I think experience has told us over the last

couple of years, as we went through some very difficult budgetary times, that the State was under enormous pressure to try to look for ways to achieve additional revenues in years where our tax base was not providing amounts that we would have hoped for. I do not want to give the State the opportunity to use this mechanism. I would prefer that it would be closed.

I recognize that, you know, at least arguably there might be a circumstance where it might be good policy to leave the door open a little bit. On the other hand, I don't know how to leave the door open a little bit without the camel's nose bringing in the entire camel at some point in time. I think that is the problem now; that we do have this unusual opportunity where we can, from time to time, go out and find these moneys. The problem is: It is a short-term win and a long-term defeat, I think, as far as budgetary policy.

ASSEMBLYMAN BAER: This is my final question, and it deals with clarifying-- It deals with the side of clarifying the intent, part of what I have just been talking about.

Would it be possible to circumvent the intent you are talking about, or is it intended to permit, where you have such a one-time revenue, having on the one hand a rebating, but on the other hand somewhat of a nullification of it by providing some additional increment in a very similar tax, so that you are essentially doing very little, but economically, in terms of the objective here, you are kind of shuffling things around?

ASSEMBLYMAN MARTIN: Again, your question is posed in such a way, "Is that possible?" I am not sure that it could never be the case. My experience, again, tells me that generally it is very difficult to initiate a tax. If we constitutionally had to rebate money in the form of lowering taxes, and then, as a public body, we were increasing taxes in some other fashion, my sense is that the public would be so -- that it would be so transparent that it would be-- If it could be done, it would be so politically unacceptable to the

public-- I am not saying it couldn't happen, but I would foresee it much more difficult that that loophole, if you want to call it that, could emerge, than the loophole we are trying to close here, which I see as very broad and something that has been happening on a too frequent basis, for at least me.

ASSEMBLYMAN BAER: Thank you, Mr. Chairman. Then, it is your intention that the political process be the protection against that being done; the political process be the break against that, not that somebody be able to go to court and knock out some tax on the basis that it is occurring parallel to some rebate? You are intending to have the political process stop that, not to have that legally prohibited?

ASSEMBLYMAN MARTIN: That is correct. I can't stop the State Legislature from increasing taxes; that remains our prerogative. This is designed to prevent the State from having future expenses for our children to have to pay -- our current expenses.

I think we can stop that. I can't stop the State, if enough legislators want to vote for new taxes, from doing that. I would think that they would vote for that at their peril.

ASSEMBLYMAN BAER: Fine. It is my understanding that the record of this hearing, which is available to the entire Legislature at the time when they vote on this measure, has considerable weight in terms of legislative intent on any of the matters discussed here.

ASSEMBLYMAN MARTIN: That is correct.

ASSEMBLYMAN BAER: Thank you very much.

ASSEMBLYMAN MARTIN: Is there any other member of the Committee who wishes to speak on ACR-125? (no response) Seeing none, I will close the public hearing on that proposed constitutional amendment. It also will be directed to the Speaker, after being put on the desks of the members for possible action.

(HEARING CONCLUDED)