

PUBLIC HEARING

before

ASSEMBLY STATE GOVERNMENT COMMITTEE

on

ASSEMBLY CONCURRENT RESOLUTION 1

(Proposes an amendment to the Constitution to establish the initiative and referendum procedure in the State)

ASSEMBLY CONCURRENT RESOLUTION 42

(Proposes an amendment to the Constitution to establish initiative and referendum)

ASSEMBLY CONCURRENT RESOLUTION 47

(Proposes an amendment to the Constitution to establish initiative and referendum in the State)

ASSEMBLY BILL 1

(Establishes procedures for exercising the power of initiative and referendum)

ASSEMBLY BILL 150

(Designated the "Initiative and Referendum Act," establishes procedures for exercising the power of the initiative and referendum)

June 17, 1985
Room 446
State House Annex
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Assemblyman Joseph Charles, Jr., Chairman
Assemblyman Thomas W. Long, Vice Chairman
Assemblyman Harry A. McEnroe
Assemblyman Robert D. Franks
Assemblyman Richard A. Zimmer

ALSO PRESENT:

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

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jb:1-65

ASSEMBLY CONCURRENT RESOLUTION No. 1

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1984 SESSION

By Assemblymen ZIMMER, WEIDEL, PALAIA, CHINNICI,
MUZLANI, D. GALLO, SHUSTED, MILLER, HENDRICKSON,
KERN, HAINES, Assemblywoman MUHLER, Assemblymen
FLYNN, FRANKS, BOCCHINI and FORTUNATO

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 General Assembly of the State of New*
2 *Jersey (the Senate 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. *a. 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. b. The people reserve*
8 *unto themselves the power of initiative to propose to the Legisla-*
9 *ture amendments to the Constitution and to approve or reject the*
10 *same at the polls, if not acted upon by the Legislature as may be*
11 *provided by law, and the power of initiative to propose to the*
12 *Legislature laws that are not only for the purpose of repeal and to*
13 *approve or reject the same at the polls if not enacted by the Legis-*
14 *lature and the Governor as may be provided by law. The people*
15 *also reserve unto themselves the power of referendum to repeal*
16 *at the polls any law, or any section or part thereof, if such repeal*
17 *is not enacted by the Legislature and the Governor as may be pro-*
18 *vided by law.*

Matter printed in italics thus is new matter.

19 (1) *The number of signatures required upon an initiative peti-*
 20 *tion proposing a constitutional amendment in order for that peti-*
 21 *tion to be submitted to the Legislature shall be equal to at least 12%*
 22 *of the votes cast in the State in the preceding presidential election,*
 23 *but no more than 15% of the signatures on the petition may come*
 24 *from any one county.*

25 (2) *The number of signatures required upon an initiative petition*
 26 *proposing a statute and upon a referendum petition shall be equal*
 27 *to at least 8% of the votes cast in the State in the preceding presi-*
 28 *dential election, but no more than 15% of the signatures on the peti-*
 29 *tion may come from any one county.*

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>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.	<p>INTERPRETIVE STATEMENT</p> <p>Adoption of this amendment would establish an indirect initiative and refer- endum process in this State whereby constitutional questions would be sub- mitted to the Legislature for action, and statutory questions to the Legislature and Governor for action, before being placed on the ballot.</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.

This concurrent resolution is a companion measure to Assembly Bill No. 1 of 1984 now pending before the Legislature, which establishes the procedures for conducting the initiative and referendum process.

ASSEMBLY CONCURRENT RESOLUTION No. 42

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1984 SESSION

By Assemblyman KARCHER

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 General Assembly of the State of New*
2 *Jersey (the Senate 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. *a. All political power is inherent in the people. Government*
5 *is 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.*

8 *b. The people reserve unto themselves the power to propose to*
9 *the Legislature amendments to the Constitution and to approve*
10 *or reject the same at the polls, if not acted upon by the Legislature*
11 *as may be provided by law, and the power to propose to the Legis-*
12 *lature laws that are not only for the purpose of repeal and to ap-*
13 *prove or reject the same at the polls if not enacted by the Legisla-*
14 *ture and the Governor as may be provided by law. The people also*
15 *reserve unto themselves the power, in addition to that required by*
16 *Article IV, Section VII, paragraph 2 and Article VIII, Section II,*
17 *paragraph 3 of the Constitution, to repeal at the polls any law, or*
18 *any section or part thereof, if such repeal is not enacted by the*
19 *Legislature and the Governor as may be provided by law.*

20 *The number of signatures required upon an initiative petition*
21 *proposing a constitutional amendment in order for that petition*

Matter printed in italics thus is new matter.

22 to be submitted to the Legislature, and the number of signatures
 23 required upon an initiative petition proposing a statute and upon
 24 a referendum petition shall be equal to at least 12% of the votes
 25 cast in the State in the preceding presidential election, and the
 26 number of signatures which shall come from each legislative dis-
 27 trict shall be equal to at least 12% of the votes cast in that district
 28 in the preceding presidential election.

29 c. The power of the people under subparagraph b. of this para-
 30 graph to propose, approve and reject amendments to the Consti-
 31 tution, laws and repealers of laws shall not apply to amendments
 32 or laws regarding elections, legislative and congressional redis-
 33 tricting and apportionment, appropriation of money, raising of
 34 revenue and limitations on government expenditures.

35 d. The Legislature shall enact laws to (1) prohibit the employ-
 36 ment or use of persons who, for remuneration, solicit signatures
 37 for petitions and (2) limit contributions and expenditures to pro-
 38 pose, approve or reject amendments to the Constitution, laws and
 39 repealers of laws, under subparagraph b. of this paragraph.

40 e. The Legislature shall enact laws to establish procedures for
 41 the implementation of subparagraph b. of this paragraph, to pro-
 42 vide for and regulate the manner in which an initiative or referen-
 43 dum question may be placed upon the ballot and the procedure for
 44 restructuring the form of the amendment or law affected.

45 f. If any provision of this paragraph, or the application of any
 46 provision to any person or circumstance, is declared invalid, the
 47 provisions which may be given effect are declared to be nonsever-
 48 able.

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 three months after such final agreement and
 5 shall be published at least once in at least one newspaper of each
 6 county designated by the President of the Senate and the Speaker
 7 of the General Assembly and the Secretary of State, not less than
 8 three 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." If
 10 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>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.	<p>INTERPRETIVE STATEMENT</p> <p>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 govern- ment of the State.</p>

STATEMENT

This resolution establishes an initiative and referendum procedure, whereby the citizens of this State may initiate amendments to the Constitution, laws and repealers of laws by securing signatures on petitions for that purpose.

The proposed amendment to the State Constitution gives the people the power to initiate legislative change, subject to certain limitations, and requires the Legislature to enact laws to implement the initiative and referendum process.

ASSEMBLY CONCURRENT RESOLUTION No. 47

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 23, 1984

By Assemblymen HENDRICKSON, CHINNICI, MUZIANI,
SHUSTED and ROCCO

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 General Assembly of the State of New*
2 *Jersey (the Senate concurring):*

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

PROPOSED AMENDMENT

3 Amend Article I, paragraph 2, as follows:

4 2. All political power is inherent in the people. *a. Government*
5 *is 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. b. The people reserve*
8 *unto themselves the power of initiative to propose to the Legisla-*
9 *ture amendments to the Constitution and to approve or reject the*
10 *same at the polls, if not acted upon by the Legislature as may be*
11 *provided by law, and the power of initiative to propose to the*
12 *Legislature laws that are not only for the purpose of repeal and to*
13 *approve or reject the same at the polls if not enacted by the Legis-*
14 *lature and the Governor as may be provided by law. The people*
15 *also reserve unto themselves the power of referendum to repeal*
16 *at the polls any law, or any section or part thereof, if such repeal*
17 *is not enacted by the Legislature and the Governor as may be pro-*
18 *vided by law. However, the power of initiative and of referendum*
19 *shall not extend to any law which embraces any provision of a*
20 *private, special, or local character.*

Matter printed in italics thus is new matter.

21 (1) The number of signatures required upon an initiative peti-
 22 tion proposing a constitutional amendment in order for that pe-
 23 tition to be submitted to the Legislature shall be 35,000, but no more
 24 than 5,000 of the signatures on the petition shall come from any one
 25 county.

26 (2) The number of signatures required upon an initiative peti-
 27 tion proposing a statute and upon a referendum petition shall be
 28 25,000, but no more than 5,000 of the signatures on the petition
 29 shall come from any one county.

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 oc-
 4 ccurring more than three 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 three
 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." If
 10 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>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.	<p>INTERPRETIVE STATEMENT</p> <p>Adoption of this amendment would establish an indirect initiative and refer- endum process in this State whereby constitutional questions would be sub- mitted to the Legislature for action, and statutory questions to the Legislature and Governor for action, before being placed on the ballot.</p>

STATEMENT

This constitutional amendment allows 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. However, the power of initiative and of referendum shall not extend to any law which embraces any provision of a private, special, or local character.

This concurrent resolution embodies an indirect system where constitutional amendment and legislative proposals are first submitted to the Legislature and the Governor for adoption.

If the proposals are not acted upon by the Legislature, the petitioner may use the initiative and referendum process.

In the case of proposed constitutional amendments, the resolution requires at least 35,000 signatures, no more than 5,000 of which shall come from any one county, for placement on the election ballot.

In the case of legislative proposals, the resolution requires at least 25,000 signatures, no more than 5,000 of which shall come from any one county, for placement on the election ballot.

Procedures for conducting the initiative and referendum process would be adopted by the Legislature pursuant to the constitutional amendment.

ASSEMBLY, No. 1

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1984 SESSION

By Assemblyman ZIMMER

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, amending and supplementing P. L. 1973, c. 83 (C. 19:44A-1 et seq.), 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. (New section) This act shall be known and may be cited as the
2 "Initiative and Referendum Act."

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

Matter printed in italics thus is new matter.

1 3. (New section) As used in this act:

2 a. "Initiative" means

3 (1) the power reserved by the people to propose constitutional
4 amendments to the Legislature and to approve or reject the same
5 at the polls, if not acted upon by the Legislature as provided by
6 this act; and

7 (2) the power reserved by the people to propose to the Legis-
8 lature laws that are not only for the purpose of repeal and to
9 approve or reject the same at the polls if not enacted by the
10 Legislature and the Governor as provided by this act;

11 b. "Petition" means a formal written proposal emanating from
12 the people to place an initiative or referendum question on the
13 ballot;

14 c. "Proponent" means any individual, group, committee or
15 organization that submits an initiative petition or referendum
16 petition for certification to the ballot as provided in this act; and

17 d. "Referendum" means the power reserved by the people to
18 repeal at the polls any law, or any section or part thereof, if the
19 repeal is not enacted by the Legislature and the Governor as pro-
20 vided by this act.

1 4. (New section) a. Only one referendum question proposing the
2 repeal of any one law in its entirety, and only one referendum
3 question proposing the repeal of any one section or part of any one
4 law, may be submitted to the people at any one election. In the
5 event that there are properly filed pursuant to the provisions of
6 this act two or more petitions proposing referenda with respect
7 to 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 addi-
9 tional or other sections or parts of that law are included in any
10 such petition, only that referendum question proposed in the peti-
11 tion with the largest number of signatures shall be submitted to
12 the people. Nothing herein contained shall be construed as prevent-
13 ing from being submitted to the people at the same election:

14 (1) A referendum question with respect to any law in its entirety
15 and a referendum question with respect to any section or part of
16 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,
22 but each proposal shall embrace but one object and that shall be

23 expressed in the title. However, if at a general election, a proposed
24 initiative or referendum question is not approved, neither the
25 proposed question nor one to effect the same or substantially the
26 same change shall be submitted to the people before the third
27 general election thereafter.

1 5. (New section) Prior to circulation for signatures, a copy of
2 the proposed initiative or referendum petition signed by 150 pro-
3 ponents who are legally qualified voters of this State shall be sub-
4 mitted to the New Jersey Election Law Enforcement Commission.
5 The commission shall have 30 days to review the proposed petitions
6 for compliance with the technical requirements of the laws of New
7 Jersey. If the commission finds that the petition is in compliance,
8 it shall certify the petition for circulation and prepare a title and
9 summary of the question proposed by the petition. Proponents
10 shall have one year from the date of certification to collect the
11 number of signatures required under section 10 of this act.

1 6. (New section) The New Jersey Election Law Enforcement
2 Commission shall transmit a copy of each initiative and refer-
3 endum petition certified by it to the Office of Legislative Services
4 which shall conduct a study of and issue a statement on the fiscal
5 impact and feasibility of each proposed question no later than
6 60 days after the receipt of the certified petition and transmit
7 a copy thereof to the commission.

1 7. (New section) Each initiative and referendum petition shall,
2 on the first page, set forth the title and summary prepared by the
3 New Jersey Election Law Enforcement Commission and the full
4 text of the question proposed and shall state that the petitioners
5 are legally qualified to vote in this State. The title and summary
6 prepared by the commission shall appear on each page of the
7 initiative and referendum petition.

1 8. (New section) The style of all laws submitted by initiative or
2 referendum petition shall be: "Be it enacted by the people of the
3 State of New Jersey," and of all constitutional amendments: "Be
4 it resolved by the people of the State of New Jersey."

1 9. (New section) The Secretary of State shall specify the form
2 and kind and size of paper on which initiative and referendum
3 petitions shall be printed for circulation for signatures. The peti-
4 tions shall be printed by the proponent under whose authority the
5 question is to be referred or initiated and circulated in the several
6 counties of the State for the signatures of legally qualified voters
7 of this State.

1 10. (New section) a. The number of signatures required upon an
2 initiative petition proposing a constitutional amendment in order
3 for that petition to be submitted to the Legislature shall be equal
4 to at least 12% of the votes cast in New Jersey in the preceding
5 presidential election, but no more than 15% of the signatures on
6 the petition may come from any one county.

7 b. The number of signatures required upon an initiative petition
8 proposing a statute and upon a referendum petition shall be equal
9 to at least 8% of the votes cast in New Jersey in the preceding
10 presidential election, but no more than 15% of the signatures on
11 the petition may come from any one county.

1 11. (New section) Initiative and referendum petitions in apparent
2 conformity with the provision of this act may be filed with the
3 Secretary of State provided that at least one of the voters signing
4 the same shall state under oath before a duly qualified officer that
5 the petition is made in good faith and that the affiant saw all
6 the signatures made thereto and believes that the signers are
7 legally qualified voters of the State.

1 12. (New section) After a petition is filed, the Secretary of State
2 shall have 45 business days to verify the signatures.

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

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

1 15. (New section) The filing of an initiative or a referendum
2 petition pursuant to the provisions of this act with respect to any
3 law, or section or part thereof, shall in no way affect the effective
4 date or the implementation of the law; provided, however, that

5 except with respect to circumstances subject to section 19 of this
 6 act no law, or section, or part thereof, upon which there has been
 7 filed an initiative or a referendum petition pursuant to the pro-
 8 visions of this act shall continue in effect unless the initiative or
 9 the referendum question proposed in the petition fails to receive
 10 a majority of the votes cast thereon at the general election in which
 11 the question on the law, or section or part thereof, is submitted
 12 to the voters.

1 16. (New section) a. After verification, the Secretary of State
 2 shall submit any petition with the required number of signatures
 3 to both Houses of the Legislature.

4 b. If the initiative petition proposes a constitutional amendment,
 5 the Legislature shall have six months from the date of submission
 6 of the petition to pass a concurrent resolution placing on the ballot
 7 the constitutional amendment either as submitted in the petition or
 8 in an amended form that substantially complies with the proposed
 9 petition. If the Legislature fails to pass the concurrent resolution,
 10 the proposed constitutional amendment shall be submitted to the
 11 voters at the next general election held more than 120 days follow-
 12 ing the expiration of the six-month period.

13 c. If within six months of the submission of an initiative petition
 14 proposing a statute or of a petition for a referendum, the proposed
 15 petition is not enacted either as submitted or in an amended form
 16 that substantially complies with the proposed petition, as deter-
 17 mined by a majority of the original proponents thereof or a
 18 majority of a committee designated by the proponents, the initiative
 19 or referendum shall be submitted to the voters at the next general
 20 election held more than 120 days following the expiration of the
 21 six-month period.

22 d. Initiative and referendum proposals shall be placed on the
 23 ballot in the order of their filing with the Secretary of State.

1 17. (New section) Except as otherwise provided, the manner of
 2 voting upon all initiative and referendum questions submitted to
 3 the people shall be the same as is now or may be required and pro-
 4 vided by law for all other public questions. Each initiative and
 5 referendum question on the ballot shall include the title and sum-
 6 mary of the question prepared by the New Jersey Election Law
 7 Enforcement Commission and the full text of the question proposed.
 8 No initiative or referendum question shall be adopted unless it
 9 shall be approved by a majority of the legally qualified voters of
 10 the State voting thereon and at least 30% of the votes cast in that
 11 election. A "yes" vote with respect to an initiative question shall
 12 be an affirmative vote with respect to the law or constitutional

13 amendment proposed by the initiative petition. A "yes" vote with
 14 respect to a referendum question shall be a vote to repeal the law,
 15 or section or part thereof, contained in the referendum petition.

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

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

1 19. (New section) Within 10 days of any election at which an
 2 initiative or a referendum question submitted to the people results
 3 in the repeal of any section or part of law, the Attorney General
 4 shall review the remaining sections or parts of the law not affected
 5 by the initiative or referendum to determine whether or not the
 6 remaining sections or parts can be implemented and enforced in
 7 light of the initiative or referendum results. If the Attorney Gen-
 8 eral determines that the remaining sections or parts:

9 a. Cannot be implemented and enforced, he shall certify the de-
 10 termination to the Secretary of State, and the whole of the law
 11 shall be deemed to have been rejected at the referendum and shall
 12 be void immediately upon the certification; or

13 b. Can be implemented and enforced, he shall certify the deter-
 14 mination to the Secretary of State, and the remaining sections or
 15 parts of law shall be implemented and enforced pursuant to the
 16 provisions thereof.

17 Nothing herein shall delay or prohibit the implementation and
 18 enforcement of any sections or parts of law subject to the provi-
 19 sions of this section during the time provided herein for the
 20 determination and certification of the Attorney General.

1 20. (New section) Any initiative or referendum affecting taxes
2 or appropriations will become effective at the beginning of the
3 fiscal year next following passage of the measure.

1 21. (New section) The final judgment of a trial court in initia-
2 tive and referendum matters shall be appealable to the New Jersey
3 Supreme Court.

1 22. (New section) A person is guilty of a crime of the fourth
2 degree if he purposely:

3 a. pays another person to sign or circulate a petition;

4 b. accepts payment for signing or circulating a petition; or

5 c. violates any other provision of this act.

1 23. (New section) In addition to the reporting requirements
2 contained in "The New Jersey Campaign Contributions and Ex-
3 penditures Reporting Act," P. L. 1973, c. 83 (C. 19:44A-1 et seq.),
4 each State, county and municipal committee of a political party,
5 each political committee and each political information organization
6 shall make a full report every 60 days prior to the election after
7 the receipt of amounts exceeding \$1,000.00, on a form prescribed
8 by the New Jersey Election Law Enforcement Commission, of
9 all moneys, loans, paid personal services, or other things of value
10 contributed to it and all expenditures made, incurred, or authorized
11 by it in furtherance of the passage or defeat of any initiative or
12 referendum proposal or to provide political information on any
13 initiative or referendum proposal. Each report shall cover the
14 period ending with the day preceding the date of the report and
15 beginning on the date the most recent report was filed. The report
16 shall contain the name and address of each person or group from
17 whom moneys, loans, paid personal services or other things of
18 value have been contributed and the amount contributed by each
19 person or group. In the case of any loan reported pursuant to this
20 section, the report shall contain the name and address of each per-
21 son who cosigns the loan. The report shall also contain the name
22 and address of each person, firm or organization to whom expendi-
23 tures have been paid and the amount and purpose of each expendi-
24 ture. The report shall be filed with the commission and shall be
25 required up to 60 days before the election. The campaign treasurer
26 of the committee or political committee reporting or the treasurer
27 of the political information organization reporting shall certify
28 to the correctness of each report.

29 In any report filed pursuant to the provisions of this section the
30 organization or committee reporting may exclude from the report
31 the names and addresses of contributors whose contributions during
32 the period covered by the report did not exceed \$100.00; but a. the
33 exclusion is unlawful if any person responsible for the preparation

34 or filing of the report knew that it was made with respect to any
 35 person whose contributions relating to the same election or issue
 36 and made to the reporting organization or committee or to an
 37 allied campaign organization aggregate, in combination with the
 38 contribution in respect of which the exclusion is made, is more
 39 than \$100.00 and b. any person who knowingly prepares, assists
 40 in preparing, files or acquiesces in the filing of any report from
 41 which the identification of a contributor has been excluded con-
 42 trary to the provisions of this section is subject to the provisions
 43 of section 21 of P. L. 1973, c. 83 (C. 19:44A-21), but c. nothing in
 44 this section shall be construed as requiring any committee or or-
 45 ganization reporting pursuant to this section to report the amounts,
 46 dates or other circumstantial data regarding contributions made
 47 to any other organization or committee.

48 Any report filed pursuant to the provisions of this section shall
 49 include an itemized accounting of all receipts and expenditures
 50 relative to any testimonial affairs held since the date of the most
 51 recent report filed, which accounting shall include the names and
 52 addresses of each contributor in excess of \$100.00 to the testimonial
 53 affair and the amount contributed by each, the expenses incurred,
 54 and the disposition of the proceeds of the testimonial affair.

1 24. (New section) The New Jersey Election Law Enforcement
 2 Commission shall promulgate the rules and regulations necessary
 3 to implement the provisions of this 1984 amendatory and supple-
 4 mentary act.

1 25. Section 4 of P. L. 1973, c. 83 (C. 19:44A-4) is amended to
 2 read as follows:

3 4. The provisions of this act shall apply:

4 a. (Deleted by amendment; *P. L. 1981, c. 151.*)

5 b. In any primary election for delegates and alternates to the
 6 national conventions of a political party:

7 c. In any election at which a public question is to be voted upon
 8 by the voters of the State or any political subdivision thereof *and*
 9 *for the purposes of P. L. 1973, c. 83 (C. 19:44A-1 et seq.) the term*
 10 *"public question" shall include any initiative or referendum ques-*
 11 *tion;*

12 d. In any primary, general, special, school or municipal election
 13 for any public office of the State or any political subdivision thereof:
 14 provided, however, that this act shall not apply to elections for
 15 county committeeman or committeewoman.

1 26. This act shall take effect immediately but shall remain
 2 inoperative until a constitutional amendment providing for the
 3 initiative and referendum process in this State has been adopted
 4 and has taken effect.

STATEMENT

The purpose of this bill is to establish procedures for exercising the power of initiative and referendum.

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 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: (1) an unrestricted initiative and referendum procedure that has no limitations on subject matter; (2) where a proposed initiative and referendum question has not been approved at a general election by the voters, no submission to the voters of either the proposed question or one to effect the same change before the third election thereafter; (3) a review by the New Jersey Election Law Enforcement Commission of initiative and referendum petitions for compliance with technical requirements and certification by the commission of the petitions for circulation, and a study by the Office of Legislative Services of the fiscal impact and feasibility of each certified initiative and referendum petition; (4) a differentiation in the signature requirements for statutory and constitutional initiative measures making the latter more difficult to place on the ballot; (5) a reasonable solution to the passage of conflicting initiative or referendum questions on the same ballot; (6) reports to the New Jersey Election Law Enforcement Commission by each State, county, and municipal committee and each political information organization after receipt of contributions exceeding \$1,000.00 for the purpose of passing or defeating any initiative or referendum proposal or providing political information on any initiative or referendum proposal; (7) and a prohibition against the Governor vetoing laws passed by the people.

Finally, it creates an indirect process whereby questions would be placed on the ballot if the Legislature and Governor did not

enact a substantially similar law or if the Legislature did not place a substantially similar constitutional amendment before the voters.

The bill takes effect immediately but remains inoperative until a constitutional amendment providing for the initiative and referendum process in this State, now pending before the Legislature as Assembly Concurrent Resolution No. 1 of 1984, has been adopted and has taken effect.

ASSEMBLY, No. 150

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1984 SESSION

By Assemblymen VISOTCKY, MARKERT, BAER and SCHWARTZ

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 finds and declares that it is in the best
2 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
5 popular vote of acts of the Legislature, as well as for the initiation
6 of laws and constitutional amendments; that properly restricted
7 and used, the initiative and referendum can strengthen democratic
8 government and popular sovereignty; that direct legislation affords
9 an additional and necessary means of political self-expression;
10 that 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 elec-
 5 tions on initiative and referendum questions shall be held at the
 6 next general election occurring 120 days or more following the
 7 proper 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 they 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
 15 entirety 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 the
 21 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 subsection b. of section 9
6 of this act no law, or section or part thereof, upon which there has
7 been filed an initiative or a referendum petition pursuant to the
8 provisions of this act shall continue in force and effect unless the
9 initiative or the referendum question proposed in such petition
10 fails to receive a majority of the votes cast thereon at the general
11 election in which the question on the law, or section or part thereof,
12 is submitted 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 that law not affected by such
17 initiative or referendum to determine whether or not the 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 the 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 law shall be
23 deemed to have been rejected at such referendum and shall be void
24 and of no force or effect immediately upon such certification;
25 or,

26 (2) Can be implemented and enforced, he shall certify such
27 determination to the Secretary of State, and the remaining sec-
28 tions or parts of law shall be implemented and enforced pursuant
29 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 this
2 State required upon an initiative or referendum petition shall be
3 equal to at least 10% of the votes cast for the office of Governor
4 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 affirma-
5 tive votes shall be the law, or in the case of amendments to the
6 Constitution shall be the amendment to the Constitution. No law
7 proposed by initiative or referendum petition and approved by the
8 voters as provided in this act shall be subject to the veto power
9 of the 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 the
13 same law and such questions shall each receive a majority of the
14 votes cast thereon, such law shall be repealed in its entirety only
15 if the referendum question proposing such repeal receives the
16 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 subsection b. (1) of section 6. 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 shall
5 add to his signature his place of residence, post office address and
6 street number, if any. All the names on such petition need not
7 be signed to one petition. Across the top of each page after the
8 first page of every such petition shall be printed a short title, not
9 to exceed 20 words, showing the nature of the petition and the
10 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
4 by the People of the State of New Jersey."

1 12. The Secretary of State shall specify the form and kind and
2 size of paper on which initiative and referendum petitions shall
3 be printed for circulation for signatures. Such petitions shall be
4 printed by the proponent under whose authority the question is
5 to be referred or initiated and circulated in the several counties of
6 the State for the signatures of legally qualified voters of this 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, that
4 the affiant saw all the signatures made thereto and verily believes
5 that the signers are duly qualified voters.

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

1 15. The Secretary of State shall in the first instance pass upon
2 the validity of the objection in a summary way unless an order
3 shall be made in the matter by a court of competent jurisdiction
4 and for this purpose the 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 affidavits thereto, is defective,
2 may cause such petition or affidavits thereto, to be amended in
3 matters of substance or of form as may be necessary to correct the
4 defect, but not to add signatures, or such amendment or amend-
5 ments may be made by filing a new or substitute petition, or affidavit
6 or affidavits, and the same when so amended shall be of the same
7 effect as if originally filed in such amended form; but every amend-
8 ment shall be made within six days after the last day for filing of
9 petitions has expired. This provision shall be liberally construed
10 to protect the interest of 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 the submission of
6 the same was procured; nor shall the repeal of any law, or section
7 or part thereof, submitted by referendum petition be held invalid
8 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 the refusal, to the Superior Court to compel him to do so. If it
6 shall be decided by the court that the petition is legally sufficient,
7 the Secretary of State shall then file it, with a certified copy of the

8 judgment attached thereto, as of the date on which it was originally
9 offered for filing in his office. On a showing that any petition filed
10 is not legally sufficient, the court may enjoin the Secretary of State
11 and all other officers from certifying or printing such measure on
12 the official ballot for the ensuing election. All suits shall be
13 advanced on the court docket and heard and decided by the court
14 as quickly as possible. Either party may appeal to the Supreme
15 Court within 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 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
11 petition not later than the fifty-fifth day before the general election
12 at which the question is to be voted upon. The 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 arguments for mailing to the legally qualified voters
5 of the State. When selecting the arguments, the Secretary of State
6 shall give preference and priority in the order named, where
7 appropriate, to the arguments of the following: (a) The proponent
8 of the question; (b) Bona fide associations of citizens according
9 to criteria therefor adopted by the Secretary of State and promul-
10 gated pursuant to the provisions of the "Administrative Procedure
11 Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.); and, (c) Individual
12 voters.

1 21. The Secretary of State shall, on or before the forty-fifth day
2 prior to the general election at which an initiative or referendum
3 question is to be voted upon, supply each county clerk with the
4 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 the 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 the arguments are provided
9 pursuant to this law to assist the voters in making their determina-
10 tion upon the questions submitted to them. The arguments when

11 printed and mailed shall show by whom they are issued. The cost
12 of printing and mailing the 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 the petition. The State
6 Treasurer, on receipt of the 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 the petition is to be voted upon, shall supply each county clerk
12 with the text of the estimate for printing and mailing to each
13 legally qualified voter in the county. The cost of printing and
14 mailing the estimate shall be paid for in the same manner and as
15 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 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 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 debates 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, 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.

ASSEMBLYMAN JOSEPH CHARLES, JR. (Chairman): We are ready to begin the public hearing. As you know, on April 12, an announcement was sent out by this Committee that today, June 17, there would be a public hearing concerning the issue of initiative and referendum. In that announcement, we noted that at this public hearing there would be a review of all legislation regarding the subject of initiative and referendum which is presently pending before the Assembly State Government Committee.

These bills include: ACR-1, sponsored by Assemblyman Zimmer, who is a member of this Committee; ACR-42, sponsored by Assembly Speaker Karcher; and, ACR-47, sponsored by Assemblyman Henrickson. Also related to this subject are: A-1, sponsored by Assemblyman Zimmer; and, A-150, sponsored by Assemblyman Visotcky.

That announcement stated that those who were interested in testifying personally or submitting written testimony or comments regarding the bills should contact the Committee Aide, Mr. Don Margeson.

We followed that up with a second announcement on June 10, reminding those who were interested in testifying that we were having this public hearing today.

Pursuant to those instructions and those people who contacted Mr. Margeson, a witness list was prepared. Our intention today is to allow those people, as their names appear on the witness list, to testify. This morning, other people arrived who indicated they also wanted the opportunity to testify regarding this matter. I imagine there may be some exceptions, but first I am going to follow the list that was prepared by Mr. Margeson; then I will go to those who signed in this morning.

I don't know how long all the testimony is going to take. As you can see, there are quite a few people here today who want to testify. If it happens that we do not finish with all the witnesses today, we will have to have a continuation of this hearing at another time, which you will be given notice of. I intend to adjourn this public hearing sometime between 12:30 p.m. and 12:45 p.m. today.

For the record, I would like the Committee Aide to take a roll call so that it will reflect who on the Committee is present today.

MR. MARGESON: Mr. Long?

ASSEMBLYMAN LONG: Here.

MR. MARGESON: Mr. McEnroe? (not present) Mr. Franks?

ASSEMBLYMAN FRANKS: Here.

MR. MARGESON: Mr. Zimmer?

ASSEMBLYMAN ZIMMER: Here.

MR. MARGESON: Chairman Charles?

ASSEMBLYMAN CHARLES: Here. As you know, the subject of initiative and referendum is a very important subject. It has a lot of interests. I am very happy about the interest that has been demonstrated up to this point, which is reflected in the attendance here this morning. I am sure we are going to hear testimony that will enable us to decide all of the issues that are involved with initiative and referendum. It is my expectation that as a result of this, we, as a Committee, will have a basis for making a good and informed judgment concerning the merits or demerits of initiative and referendum.

We will start with the witness list. I notice that Assemblyman Alan Karcher is listed as the first witness, but he is not here. The second speaker listed is Assemblyman Dick Zimmer, who has a concurrent resolution and also A-1. I understand from Dick that he has some adjustments to make in terms of who is going to speak.

ASSEMBLYMAN ZIMMER: Right. On the substance of my legislation, I would really like to defer most of my remarks to Lorraine Niemala from Common Cause, who was vitally involved in the development of this legislation.

As a member of the Committee, and for our benefit and for the benefit of those in attendance, before we get into the discussion of the legislation, can you tell us when we will be able to vote on ACR-1?

ASSEMBLYMAN CHARLES: I suspect that after we have had full public hearings on this subject, we will be in a position to vote on the bill.

ASSEMBLYMAN ZIMMER: As you are aware, the deadline for getting it on the ballot for 1985 is August 5. The legislation would have to pass both houses. There is a 20-day waiting period built in under the Constitution between the release of a concurrent resolution from committee and the vote on the floor. I am very concerned that if we don't vote soon, we will miss the August 5 deadline.

I have deferred making a motion on the floor of the Assembly so that we could go through the regular committee process, but I have been waiting for many months, as you know. There was originally an indication that we were going to consider this last fall, but as the days come down to a precious few, I would like to know from you whether you are going to set a date.

I would propose this, Mr. Chairman: Because we will have the benefit of more than two hours of testimony at this proceeding, and because we have the benefit of at least four printed transcripts of hearings on substantially identical legislation to draw upon, I would suggest that we decide right now to vote on ACR-1 on a certain date. I would not object to it being voted out of Committee without recommendation. And then the constitutional hearing -- even after we complete this hearing and vote on the legislation -- would still be required under the Constitution before we vote on the floor. That constitutional hearing could be the continuation of this hearing, so the information would not be lost. Everyone would have his say, and yet, we would have a shot at making the August 5 deadline.

I submit that for your approval. I would like to know your reaction.

ASSEMBLYMAN CHARLES: Well, I think my intention at this point is just to move the public hearing today to see how far we get with it, and then to continue as circumstances suggest. I am aware of the deadline you are talking about, and I am sensitive to that. My concern, like yours, is to wrap this up so that it can get it on the ballot for the next election, if that is possible. However, I think need to allow those present the opportunity to testify.

Also, I should say, in reference to the fact that the hearing is scheduled today, previously we, as a Committee, have had a lot to

do. We have probably considered and released more bills than any committee in the Assembly, so, as a Committee, we have not been dragging our feet.

This is a bill of some priority, and it is an important bill. But, other bills we have considered have also been important bills.

ASSEMBLYMAN ZIMMER: Mr. Chairman, I have already given formal notice of my intention to make a motion on the floor to relieve this Committee. If it looks as though we will not have a vote before the end of June, I am personally telling you, and I am making a public statement, that I will move on the floor -- to be precise, on June 24 -- to relieve this Committee.

ASSEMBLYMAN CHARLES: I appreciate that information. We will handle the situation with that idea in mind, and also with the need that this Committee has to fully consider this matter.

ASSEMBLYMAN ZIMMER: All right. At this point, I would like to defer my time to Lorraine Niemala.

LORRAINE NIEMALA: I am Lorraine Niemala. I am representing Common Cause of New Jersey.

The movement for initiative/referendum originated in New Jersey. On March 12, 1894, in the New Jersey Assembly Chamber, "the lobbies and galleries being filled to overflowing," there was a hearing on a direct initiative constitutional amendment proposed by the Honorable William Harrigan of Essex County. It was referred to the Judiciary Committee and later defeated by the full Assembly with a close vote. The legislation was the result of the research of James W. Sullivan of Montclair, editor of The Union Printer, and the State Direct Legislation League chaired by "well-known labor leader of Newark, Henry A. Beckmeyer. I would like to say that my father is a union printer, and I was proud to read that.

In 1893, the New Jersey delegation was the guiding force in first placing initiative/referendum on the Populist Party platform. It marked the nationwide beginning of the movement.

Samuel Gompers vigorously encouraged local chapters of the American Federation of Labor to actively lobby their state legislatures

for initiative/referendum. As we are here today, Samuel Gompers testified in support of the initiative at the New Jersey Assembly hearing.

Governor Woodrow Wilson strongly supported initiative/referendum with the statement, "The initiative is a means of seeing to it that measures that the people want shall be passed, when legislatures deny or ignore public opinion."

In 1947, for consideration in the New Jersey Constitution, the Federation recommended: "The people should have the right, by petition, to secure a referendum with respect both to constitutional amendments and to legislative enactments. Without this, democracy is totally lacking in a state government."

In 1976, Assemblyman Thomas Kean introduced ACR-181 and A-2239 proposing the direct initiative.

In 1981, a Senate Judiciary substitute for S-828 and S-81 was passed in the Senate by a vote of 30 to 3. It passed in the Senate again in 1983 by a vote of 33 to 4.

Initiative/referendum is not a new concept for New Jersey. Today, four approaches are under consideration:

1) ACR-1, A-1, and A-2. The program offered by Assemblyman Richard Zimmer is the product of careful thought and research. The experiences of 23 states over a period of 85 years have been studied. A brief review of the process proposed in ACR-1, A-1, and A-2 is useful. In my testimony, I included a chart that shows how the process works. I will go through it quickly.

A committee of 150 proponents would have access to the Office of Legislative Services for aid in drafting. They would give their proposal to the New Jersey Law Enforcement Commission, which would study it for technical compliance with New Jersey laws. The New Jersey Law Enforcement Commission would give its proposal to the Office of Legislative Services, which would have 60 days to write up a fiscal impact statement on the measure.

The New Jersey Law Enforcement Commission would write the title and summary for the measure, and within 30 days, certify the measure for petition circulation.

Signature requirements would be 8% for a statute -- that is, 186,000 signatures -- and, 12% of a constitutional amendment -- that is, 278,000 signatures of voters voting in the last gubernatorial election. Not more than 15% of the signatures could come from any one county. The title and summary of the measure would be on each page of the petition. No paid circulators would be allowed to circulate petitions. Financial disclosure by proponents and opponents would begin at this time.

There would be one year for petition circulation. The petitions would be given to the Secretary of State, who would have 45 days to verify the signatures.

The Legislature then would have six months to debate and vote on the issue. The Legislature would have two options: One, they can approve the measure or, two, they can approve the measure so that it is substantively the same as the original measure. In the latter case, the measure would then become law, and the process would be finished. The Legislature could also send it to ballot, either by not voting on it, or by defeating the measure. If they defeat the measure, they still could pass their own measure, which would diffuse the issue before the election.

If it goes to ballot, there would be voter pamphlets printed that would give the pros and cons of the arguments. They would include the fiscal impact, and they would provide the voters with a concise and balanced source of information.

At the ballot, there are two things that could happen. If it is passed, it would become law. There would be no Governor's veto. Amendment and repeal would be limited. Appropriation and tax laws would become effective the next fiscal year. If the measure is defeated, it would not be allowed to be repeated for three years.

This proposal -- ACR-1, A-1, and A-2 -- provides New Jersey with the most comprehensive program for initiative/referendum in the country. It requires a statewide citizen effort to place a measure before the Legislature and the voters, and it protects this effort.

2) A-150. A-150 proposes the direct initiative. The measure would be placed on the ballot upon verification of the petition

signatures. The indirect initiative of ACR-1 is part of the legislative process. It gives the Legislature the opportunity to hold hearings and vote on the measure. It provides the voters with six months of legislative debate to clarify the issue.

3) ACR-47. ACR-47 enables a much smaller percentage of voters to propose a ballot issue than any initiative state. Considering the 1981 gubernatorial election, 35,000 signatures for a constitutional amendment would be 1.5%, and 25,000 signatures for a statute would be 1% of the voters voting. Larger petition requirements show broader support for the proposal and edit issues of narrow concern.

4) ACR-42. ACR-42 makes petition qualification much too difficult. Twelve percent of the preceding presidential election in every legislative district is prohibitive. One legislative district could block the needs of the whole State. The initiative would rarely be used.

I have also included a chart that shows the comparison of State initiative petition requirements. It also shows the relationship of each amendment to the other states. ACR-47 is on one end of the spectrum -- it is a very low requirement -- and ACR-42 is on the other end. That is a very high requirement. ACR-1 has the moderate requirement of 8% of the voters voting in the preceding gubernatorial election for a statute, and a stricter requirement for constitutional amendments.

ACR-42 severely limits the subject matter of the initiative. Many important issues would be exempt.

ACR-42 would become ineffective due to the combination of two parts of Paragraph 2. Paragraph 2.c. states: "The Legislature shall enact laws to limit contributions and expenditures to propose, approve, or reject amendments to the Constitution, law, and repealers of laws"

The U.S. Supreme Court has declared limitation of contributions and expenditures unconstitutional.

Paragraph 2.f., an unusual clause, states, "If any provision of this paragraph, or the application of any provision to any person or circumstance is declared invalid, the provisions which may be given

effect are declared to be nonseverable." That is, the whole of ACR-42 will quickly be declared nonseverable.

Common Cause cannot support A-150, ACR-47, or ACR-42. Initiative/referendum would give New Jersey voters the opportunity to consider politically difficult issues of statewide concern. It would be a stimulus to more active voter participation, and it would give each voter a closer link to the processes of government. It is not a criticism of the Legislature, but an added option for both legislators and voters.

With almost 100 years of discussion and experience of initiative/referendum, the Legislature can feel confident -- I also think they can feel proud -- that the proposals in ACR-1, A-1, and A-2 will be a constructive part of New Jersey government. Please bring ACR-1, A-1, and A-2 -- and only ACR-1, A-1, and A-2 -- to a full Assembly vote.

Thank you.

ASSEMBLYMAN CHARLES: Does anyone have any questions he would like to ask of Ms. Niemala?

ASSEMBLYMAN ZIMMER: Yes, Lorraine, I think we ought to clarify one point. You referred to the percentages as percentages of the gubernatorial vote. ACR-1 and A-1, as currently drafted--

MS. NIEMALA: (interrupting) Right.

ASSEMBLYMAN ZIMMER: (continuing) --require the percentages to be of the presidential vote.

MS. NIEMALA: Yes, that is right.

ASSEMBLYMAN ZIMMER: If we are given the opportunity to consider these bills in Committee, I am going to offer an amendment to key it to the gubernatorial, rather than the presidential, vote because I feel that is a more appropriate vote to key it to.

Currently, as they are before this Committee, ACR-1 and A-1 would require, in order to qualify for a question, a change to the Constitution to 12% of the voters in the last presidential election. That is approximately 386,000. To qualify a proposed change in the statute, that would require 8% of the presidential turnout, or 257,000.

MS. NIEMALA: Right. I understand that.

ASSEMBLYMAN CHARLES: Does anyone else have any questions?

ASSEMBLYMAN FRANKS: Mr. Chairman, I would simply like to know from Lorraine what would constitute action by the Legislature, inasmuch as the question would be submitted to the Legislature, and the Legislature would have six months upon which to act on it. Is that correct?

MS. NIEMALA: Right.

ASSEMBLYMAN FRANKS: After public hearings and various new spin-offs of the concept were debated by the Legislature, if the Legislature took the public question which had been submitted to it through the process, and acted upon it by amending the public question in some way, would that constitute action, or would the vote have to be on precisely the language that would be submitted to the Legislature?

MS. NIEMALA: Well, as the bill is written, it would be acceptable, with the approval of the majority of a committee of 150 proponents. In other words, there are times when a proposal will go through the Legislature, and some part of it will be improved. In that case, it certainly could happen with the approval of the majority of the original 150 proponents. It wouldn't be changing the intent of the law, but it would change it in terms of making it work better.

ASSEMBLYMAN FRANKS: But, the group that would hold the power to make the determination would be that group of 150 advocates who brought the question forward.

MS. NIEMALA: Right.

ASSEMBLYMAN CHARLES: Just to follow up on that point, you say a group of 150 proponents. That group could consist of more than 150 proponents, couldn't it?

MS. NIEMALA: It could. The working committee would be 150; however, in order to put an initiative through the petition process, I'm sure there will be many more than 150 people participating in the movement.

ASSEMBLYMAN CHARLES: To get it to the point at which it is submitted to the Election Law Enforcement Commission, you need 150 signatures. Would the 150 signatures constitute the committee?

MS. NIEMALA: Right.

ASSEMBLYMAN CHARLES: All right. Regarding that particular point, has there been any comparison between the requirement of 150 originating petitions and the requirements in other states? One hundred fifty people signing may be too little, or it may be too much with regard to starting this whole process. Under the scheme that is proposed in A-1, with 150 names you can get this whole thing going. Is that correct?

MS. NIEMALA: Right.

ASSEMBLYMAN CHARLES: Is the 150-person requirement-- Do you think that is broad enough in scope to start what is a very extraordinary procedure? Should it be more related to the numbers which may actually be required to get a petition certified for the ballot?

MS. NIEMALA: Well, the 150 proponents have the opportunity to basically use the Office of Legislative Services for drafting. They would be able to go to the New Jersey Law Enforcement Commission to have a title and a fiscal impact statement drawn up. That is as far as they could get in the process, and then they could start handing out petitions. They couldn't go beyond that without a lot of support.

ASSEMBLYMAN CHARLES: I guess my question is whether that is enough to trigger the process. Should there be more signatures to trigger the process, because once it is triggered, you get the Election Law Enforcement Commission and the Office of Legislative Services involved? There are 150 people sitting in this room right now. Is that enough to start this extraordinary procedure?

MS. NIEMALA: I think there is a similar procedure in most states. There is not a large requirement in any state.

ASSEMBLYMAN CHARLES: Regarding the committee, in order to make decisions as to whether or not there has been substantial compliance with an initiative or a referendum that has been approved -- a petition that has been approved -- AR-1 does not specifically provide for setting up that committee. The language is loose and clouded in terms of what that committee should consist of, isn't it?

MS. NIEMALA: In ACR-1 as opposed to A-1?

ASSEMBLYMAN CHARLES: In AR-1, not ACR-1, in implementing legislation. It is really silent as to the structure of what the majority of that committee will consist of, isn't it?

MS. NIEMALA: Yes, it is.

ASSEMBLYMAN CHARLES: Do you think it should be made more stringent, or at least clearer--

MS. NIEMALA: (interrupting) It could be.

ASSEMBLYMAN CHARLES: (continuing) --as to what the majority of the committee should consist of and what it would do?

MS. NIEMALA: It could be.

ASSEMBLYMAN CHARLES: I have a concern about substantial compliance. How is that really measured?

MS. NIEMALA: Well, I think it is within the subject matter. Dick deferred to me, and now I think I should defer to him because this was partially drawn up in terms of his thoughts and the research he has done on it.

ASSEMBLYMAN ZIMMER: If I may answer, the way the original initiative and referendum bill was drawn up by Senator Dorsey with the help of Common Cause, it left the objective standard of substantial compliance there. It did not say in whose opinion the question would have to be complied with. That would mean it would end up in the courts, which I don't think is a particularly appropriate forum for this question. I felt it was more appropriate that the proponents be the ones to decide whether or not the question would go on the ballot to an ultimate vote.

I have some clarifying amendments already drafted to make it clear that the proponents themselves would set up a committee to make the decision as to compliance. The way I envision it is, the committee could appear on the petition itself the way a committee on vacancies appears on a nominating petition. Everyone would know who the committee is and who they are delegating that authority to.

If they approve of the question and the committee, then they would sign the petition.

ASSEMBLYMAN CHARLES: I have another question regarding the initial steps in this process. There is a 30-day, or a 45-day, requirement in A-1 for the Election Law Enforcement Commission to do some certification to check out the names. Is that correct?

MS. NIEMALA: It is to check the measure to see if it technically complies with New Jersey law.

ASSEMBLYMAN CHARLES: And then--

MS. NIEMALA: (interrupting) And to write a title and summary.

ASSEMBLYMAN CHARLES: That then gets submitted to the Secretary of State?

MS. NIEMALA: No, then it is given back to the proponents, and they can start their petition certification.

ASSEMBLYMAN CHARLES: After it is put in shape, or it is checked for form by the Election Law Enforcement Commission, it is given back to the proponents, and they begin circulating it. At the point that it is given back to the proponents, it is referred to the Office of Legislative Services for a fiscal and feasibility review. Is that correct?

MS. NIEMALA: Right.

ASSEMBLYMAN CHARLES: And, the fiscal and feasibility review which is done by the Office of Legislative Services is something that has to be done within 60 days. Is that correct?

MS. NIEMALA: That is right.

ASSEMBLYMAN CHARLES: So, there is a period of about 60 days when the petitions are being circulated, and the public is unaware of the fiscal or financial feasibility of it.

MS. NIEMALA: I think actually it would be 30 days.

ASSEMBLYMAN CHARLES: Well, it says 60 days in the bill.

MS. NIEMALA: No, it is 60 days, but they would be given it at the same time as the New Jersey Law Enforcement-- It is my understanding that the New Jersey Law Enforcement Commission would give it to the Office of Legislative Services immediately upon receiving it, so there are 30 days that are being spent at the same time.

ASSEMBLYMAN CHARLES: I read the statute differently, but the point I'm making is, whether it is 60 days or 30 days, there would be that period of time where a petition would be circulating, and people would be signing it pursuant to whatever the signature requirement is, without having specific information of its fiscal impact. Is that correct?

MS. NIEMALA: Right.

ASSEMBLYMAN CHARLES: Suppose a law is put on the books by the initiative process. You go out and get your signatures, the voters approve it through whatever the scheme is, and it now becomes a law of the State of New Jersey. All right? Suppose it turns out that that law is no good, or the people decide it is not working out as they want it to work out. Who has the right to repeal that -- the Legislature? Or, is that something that has to go back through a referendum process under the I&R?

MS. NIEMALA: Right. For example, in California that is exactly what happens. Assemblyman Zimmer has some amendments he is going to submit to the legislation. The Assembly and the Senate would have the right to amend or repeal it. In the first two years, it would take a three-quarter majority, which is a very strong majority. Of course, the people went through a very long process to get this law passed. After two years, it would be a three-fifths majority to either change the law or repeal it, if for some reason it didn't work.

The other option, of course, is that people could go back to the initiative.

ASSEMBLYMAN CHARLES: So, after two years, the Legislature could get involved again with that particular law.

MS. NIEMALA: They could immediately, but they would have to have a three-quarter's majority.

ASSEMBLYMAN ZIMMER: That is the same majority we need for emergency resolutions in the Legislature, and we pass emergency resolutions several times every session.

I want to make it clear that those restrictions are not in the legislation that is currently before you. I would like to propose them as amendments.

ASSEMBLYMAN CHARLES: All right. How about subject matter limitations? What is the position of Common Cause, and you personally, on the question of subject matter limitations -- taxes, expenditures, revenue-raisers, a structure of the Legislature, recalls, and elections, things like that? Is there anything in your mind that should be exempt or excluded from initiative and referendum?

MS. NIEMALA: Common Cause supports an unlimited initiative and referendum.

ASSEMBLYMAN CHARLES: You mentioned that there are 23 -- what is it? -- 23 states which have it.

MS. NIEMALA: That is right.

ASSEMBLYMAN CHARLES: It is my recollection that most of those came on before the 1920s. Is that correct?

MS. NIEMALA: That is true.

ASSEMBLYMAN CHARLES: How many states have adopted I&R since the 1920s?

MS. NIEMALA: I have done this for eight years, and I get foggy with all the details. There are probably three or four states -- something like that. Florida, I know, was the last in 1968.

ASSEMBLYMAN CHARLES: When was that? That was in 1972.

MS. NIEMALA: Nineteen seventy-two.

ASSEMBLYMAN CHARLES: Has it come up for consideration in other legislatures since that time, let's say in the last 15 years or so? And, what has been the result of that?

MS. NIEMALA: Well, New York State had a very good bill which I used to submit at our hearings. Unfortunately, it became buried. As far as I know, it never got through the process.

Minnesota had a proposal, and it was put on the ballot, but the people defeated it on the ballot. This would have to be put on the ballot. I'm not clear, but there is an expert on the details who is going to speak. You might want to follow that up with him. His name is Dave Schmidt.

ASSEMBLYMAN CHARLES: Are there any questions? Mr. McEnroe?

ASSEMBLYMAN McENROE: No, thank you.

ASSEMBLYMAN FRANKS: Mr. Chairman, I commend the standards you are attempting to establish so that the people signing the petitions will fully understand the fiscal impact of the measure that was proposed for adoption. Lord forbid, any group of voters or any body with power under the Constitution to make laws in New Jersey not be aware of the fiscal impact of proposals before they are voted on. (laughter)

ASSEMBLYMAN ZIMMER: Isn't there a fiscal note to this legislation?

MS. NIEMALA: Yes, there is. That is right.

ASSEMBLYMAN CHARLES: I have no other questions. Thank you.

MS. NIEMALA: Okay, thank you very much.

ASSEMBLYMAN CHARLES: I should note for the record that Assemblyman Harry McEnroe joined the Committee at the beginning of Ms. Niemala's testimony.

Is Assemblyman Hendrickson or a representative of his in the room?

ASSEMBLYMAN ZIMMER: I saw Assemblyman Hendrickson earlier this morning. He said that he had to be at another committee meeting, but he would try to be here if possible.

ASSEMBLYMAN CHARLES: Thank you, Mr. Zimmer. Also, for the record, I received a note from Speaker Karcher who has indicated that he is tied up, so he will be unable to appear at the public hearing today.

ASSEMBLYMAN ZIMMER: Will there be anyone to speak on his behalf?

ASSEMBLYMAN CHARLES: I'm not sure yet. Next to testify is Vic McDonald, a representative of Senator John H. Dorsey.

VICTOR McDONALD: Good morning, Mr. Chairman. I've given Don Margeson copies of Senator Dorsey's testimony. Unfortunately, he can't be here today, but he has authorized me to speak on his behalf. I will go through his statement, and then add some other language that we discussed this morning.

I would like to begin my remarks today with some historic data about New Jersey and its voters so that we might appropriately frame the discussion of I&R.

Since the adoption by public referendum of the State Constitution in 1947, the State Legislature has placed 115 public questions before the voters for their consideration.

Of those questions, 59 have been bond issues with an aggregate total of \$8.93 billion; 45 have been amendments to the State's Constitution; six have been gambling statutes; three revised the terms and conditions of bond issues that had previously been approved by the voters; one endorsed a nuclear freeze between the United States and the Soviet Union; and, one was for the convening of a constitutional convention.

In their wisdom the people approved 41 bond issues totaling \$5.4 billion, and rejected 18 issues totaling \$3.5 billion, while 34 changes to the Constitution were accepted and 11 were defeated. The call for a constitutional convention was approved, as was the proposal for a freeze on nuclear weaponry. The proposals to revise the terms of three existing bond issues were accepted by the voters.

Of the six gambling proposals, four were accepted by the voters, while the remaining two were rejected.

The point I am trying to make is that the statewide electorate has demonstrated, on numerous occasions, that it is eminently capable of making clear, rational, and considered decisions on a wide variety of issues.

I would like to concentrate my remarks today on the three proposed constitutional amendments that are on your agenda.

The first, ACR-1, is identical to my bill, SCR-22. This initiative and referendum proposal has twice been passed by the State Senate, only to die in committee in the General Assembly.

On June 29, 1981, the Senate passed I&R by a vote of 30 to 3. That bill was referred to this Committee and was never voted on by the Assembly. On June 20, 1983, the Senate again passed my initiative and referendum proposal, this time by a vote of 33 to 4. The bill was again referred to this Committee, where it again died when the Assembly adjourned sine die.

ACR-1 is a carefully drafted proposal that is the product of several years of deliberation and compromise in the Senate. The

signature requirements were carefully selected in order to accurately reflect the difference between constitutional amendments and statutory proposals.

Under ACR-1, as currently drafted, a constitutional amendment would need at least 386,000 valid signatures in order to be submitted to the Legislature for consideration. Of those 386,000 signatures, not more than 58,000 could come from any one county. Practically speaking, signatures would have to be obtained from at least seven counties.

If the people wanted to submit a statute to the Legislature, then the signatures of at least 257,000 voters would be needed, with not more than 39,000 coming from any one county. These signature requirements, coupled with the requirement that the Legislature be given the opportunity to act on the petition without placing it on the ballot, were included in this proposed amendment in order to guarantee that only serious issues would be the subject of I&R. Under ACR-1, we would never have the California situation where every general election ballot is crowded with public questions. Ours is a very conservatively drafted proposal, which is geared towards keeping frivolous ballot questions off the ballot and giving the Legislature full input in the process.

The second bill before your Committee, ACR-42, is patently unconstitutional. Subparagraph d. of Paragraph 2 of Article I of ACR-42 violates the First Amendment of the United States Constitution. I have attached a copy of a formal opinion of the Legislative Counsel of the State of New Jersey, attesting to the unconstitutionality of ACR-42. ACR-42, as it is currently written, is constitutionally invalid. The proposal to limit expenditures and contributions has been repeatedly declared unconstitutional by the United States Supreme Court, and Paragraph f. of ACR-42, the nonseverability section, guarantees that if ACR-42 were ever approved by the voters, one court challenge would kill it, and I&R would end. I would just like to reemphasize that ACR-42 is invalid.

Aside from its obvious constitutional defect, ACR-42 signature requirements do not take into account the relative importance of constitutional amendments and statutory enactments and contain

an almost impossible to fulfill requirement that the signatures be evenly apportioned amongst the State's 40 legislative districts.

ACR-42 is both unworkable and unconstitutional.

The third proposed constitutional amendment, ACR-47, is reasonable in its scope; however, I believe that its signature requirements are rather low. Twenty-five thousand signatures for a statute, and 35,000 signatures for a constitutional amendment, are very low thresholds. I fear that limits this low might result in a flood of initiative proposals similar to the situation experienced by California.

I would like to thank the Committee for conducting this hearing, and I strenuously urge that you release ACR-1 so that the full Assembly may vote on this vital issue.

Twenty-three other states have it, and we believe that New Jersey should join the ranks of those states.

I would be happy to answer any questions.

ASSEMBLYMAN CHARLES: I have a question having to do with the form that the petition would take as prepared by the Election Law Enforcement Commission. First of all, I think there may be some questions about whether the Election Law Enforcement Commission should be involved at the point in A-1 that we are talking about. Whatever the body is -- OLS, Election Law Enforcement Commission, or whatever governmental body is involved -- would the petition describe the bill in detail, or the law we are talking about, or would it just be a concept? I'm not clear as to what is envisioned in these petitions.

MR. McDONALD: I believe the full text of the proposed statute -- the full literal text, just like one of our bills -- would have to be reproduced on the petition. As we all know, it is easy to phrase or describe something in one way without-- We want to give people the actual text of it.

ASSEMBLYMAN CHARLES: If, for example, you were talking about something like the minimum teachers' salary bill -- that is something that is fairly current -- and that was something voters wanted to consider, would the petition have to take the form of a complete bill?

MR. McDONALD: Yes. The complete text of the proposed changes or additions to our statutes would have to be reproduced on a petition.

ASSEMBLYMAN CHARLES: And that complete text would be something which would have to be attached to the first page of the petition that is circulated?

MR. McDONALD: I believe so, yes. At least that is Senator Dorsey's intention.

ASSEMBLYMAN ZIMMER: I would like to ask if there is a typographical error on the printed remarks. The last sentence reads, "I urge you to release ACR-42." Is that--

MR. McDONALD: (interrupting) That is-- Yes. (laughter) That is definitely a typographical error. Most definitely. Release it and have it withdrawn by the Assembly. (laughter) Yes, definitely -- ACR-1.

ASSEMBLYMAN CHARLES: That wouldn't happen on petitions for I&R. (laughter)

MR. McDONALD: Right. We have the complete Office of Legislative Services to make sure those blunders don't occur.

ASSEMBLYMAN CHARLES: All right. Thank you, Mr. McDonald. The next witness will be the Honorable Secretary of State, Ms. Jane Burgio.

JANE BURGIO: Thank you very much, Mr. Chairman. I am privileged to be here to support the initiative and referendum procedure, in particular, ACR-1 and A-1.

Initiative and referendum is an issue whose time has definitely come.

One of the problems we have in New Jersey is the apathy -- the apathy of the voters. I think many people do not vote because they feel their votes do not have any effect on what happens in our State.

Last year, a year ago March 1, I was privileged to travel to Vermont. The Secretary of State invited many Secretaries from all over the country to come to observe their town meeting process. In Vermont, each individual town, on March 1 or the night before, has what they call a town meeting where the citizens -- the voters of the town --

meet to decide issues concerning the town and also national issues. They vote on anything from appropriations for roads to national issues such as the nuclear freeze.

In Vermont, more people come out, sit all day listening and discussing the issues, than in New Jersey percentagewise came out and voted in our State Primary a couple of weeks ago.

In New Jersey, a State with a large population and a large amount of residents in our towns, I don't think town meetings would be practical. I believe initiative and referendum is a means for allowing the people to have more input in what the State does than we now have.

There are those who believe that by electing our representatives, that is the end of their responsibility as voters.

I served eight years in the Assembly -- four terms -- and if you gentlemen will forgive me, I don't believe all wisdom rests with 120 elected State representatives in the State of New Jersey.

I believe the bills are tight enough to protect the State from frivolous issues. I am not going to go over the details because that has been done by the two previous speakers, but I think the Zimmer bills strike a middle course. They make it possible to collect the signatures, but not impossible to collect the signatures.

I participated in a large petition drive in Essex County, which resulted in the change of government. At first it was considered to be impossible to collect the number of signatures necessary, but we did it.

I believe one of the problems in ACR-42 will be the requirement of 15% -- is it 15% or 12%?

ASSEMBLYMAN ZIMMER: It is 12%.

SECRETARY OF STATE BURGIO: Twelve percent from each legislative district -- 40 legislative districts. I think that is too restrictive. I think the requirement in the other bills of no more than 15% from any one county protects the State from an issue that may be locally oriented.

I repeat that I will not go into the details of these bills. There may be a problem with implementation, but by having these hearings, I think you will bring out the problem. You will bring out questions and answers that will improve the bills.

I urge the Committee to release these bills so that they can be voted on by the Assembly and the Senate, and so that they can go on the ballot in time for the people to finally vote on them. It has taken 100 years for women to get to vote in this country. I would like to see New Jersey get the initiative and referendum process put into effect in nine years less than the 100 years. I urge you to release the bill soon.

Thank you. If you have any questions, in my role as Secretary of State, I will be glad to answer them.

ASSEMBLYMAN CHARLES: I have a few. My recollection is that A-1 and the other bills on the subject provide that a petition shall be considered passed by the voters after it has gone through the first steps, the Legislature has enacted it, and voters get to vote on it, if the majority of the people who vote on the question vote in favor of it. I believe that is essentially it, although I think there may be a 30% requirement. At least 30% of those who vote in that election have to vote on the petition question.

ASSEMBLYMAN ZIMMER: They have to vote in favor of it.

ASSEMBLYMAN CHARLES: No, the majority of the 30% has to vote in favor of it. I think that is what the bill says.

SECRETARY OF STATE BURGIO: I'm sorry. Would you explain that?

ASSEMBLYMAN CHARLES: Well, the question is this: Let's assume the petitions have been gathered, and the Legislature has not acted. The question then goes on the ballot. The voters then vote on it. Most of the bills talk in terms of approval being the same way an approval is considered to be obtained for other public questions.

I think I&R is extraordinary. It is not presently in the Constitution. The questions that go on the ballot as public questions would get on it in a different way than I&R would get on the ballot. So, there is a difference in the process as to how they would get on the ballot.

My question is whether the vote requirement on the initiative and referendum should be the same as the public questions that are put on the ballot by the Legislature. Or, should there be a more stringent requirement before a question is considered approved?

I think under A-1, 30% of the people participating in the general election have to vote on the question. The majority of them-- What is it? You can help me.

ASSEMBLYMAN ZIMMER: The language says, "No initiative or referendum question shall be adopted unless it shall be approved by a majority of the legally qualified voters of the State voting thereon, and at least 30% of the votes cast in that election."

ASSEMBLYMAN CHARLES: Okay, so it is a majority of 30% of the votes. That is what I am saying.

ASSEMBLYMAN ZIMMER: No, no, it is a dual test. It has to be approved by a majority of those voting, and it has to be approved by 30% of those participating in the election.

SECRETARY OF STATE BURGIO: Let me go through that again. In other words, 30% of the people who vote must vote on the question.

ASSEMBLYMAN ZIMMER: A majority of those who vote on the question-- No, more than 60% of the people who turn out have to vote on the question in order to have 30% of the people who turn out to carry the question.

SECRETARY OF STATE BURGIO: I would say that that is a strict requirement.

ASSEMBLYMAN CHARLES: Where is that? I'm not sure I understand the language.

ASSEMBLYMAN ZIMMER: I would be glad to clarify that. It is on Page 517, Lines 8, 9, and 10.

ASSEMBLYMAN CHARLES: Okay, but just tell me what your intent is.

ASSEMBLYMAN ZIMMER: My intent is that it be approved by a bare majority of those voting on the question, provided that the number of people approving it shall, in no event, be less than 30% of those showing up at the polling places. It is a majority of those votes cast, and that majority must constitute, in addition, at least 30%.

If only half of the people voted on a public question, and 51% of that 50% voted yes, it could not carry because you would only have a shade more than 25% of those who had voted in that election voting yes.

ASSEMBLYMAN CHARLES: Well, under that scheme, in essence, you can have the same people who signed the petition voting in favor and approving a law without much greater participation from the public.

ASSEMBLYMAN ZIMMER: No, the public has the--

ASSEMBLYMAN CHARLES: (interrupting) Well, you are saying-- My point is that if you require, let's say 12% of the signatures to get it qualified in the beginning-- Then, if you require that 30% of the eligible voters vote in an election, and a majority of them--

ASSEMBLYMAN ZIMMER: (interrupting) No, that is not what I said. Let me say it again.

ASSEMBLYMAN CHARLES: Okay.

ASSEMBLYMAN ZIMMER: There is a dual test. All right? You have to have the question approved by a number of votes whereby it meets two tests: One, the number of voters has to be more than the number of voters who are voting no on that question.

ASSEMBLYMAN CHARLES: I understand that.

ASSEMBLYMAN ZIMMER: Number two, that number of voters has to be at least 30% of the number of voters who are voting yes. There has to be 30% of those who cast a vote for any office or question on election day. Most states don't have this protection.

ASSEMBLYMAN CHARLES: Let me see if I can clear up my--

ASSEMBLYMAN ZIMMER: (interrupting) The point is to avoid a problem--

ASSEMBLYMAN CHARLES: (continuing) The 30%-- You say 30% of the people who vote in that election? No, that is not what you are saying.

ASSEMBLYMAN ZIMMER: Yes, that is what I am saying. They have to vote for the question in order for it to pass, as well as, of course, casting more votes than those who vote against the question.

ASSEMBLYMAN CHARLES: So, if you have 100 people voting for the Governor, and 30 people vote on the public question, then--

ASSEMBLYMAN ZIMMER: (interrupting) No, 30 people have to vote yes on the public question.

SECRETARY OF STATE BURGIO: No, 60%.

ASSEMBLYMAN ZIMMER: And, less than 30 have to vote no. All right?

ASSEMBLYMAN CHARLES: Where is that language?

ASSEMBLYMAN ZIMMER: Page 7, Section--

SECRETARY OF STATE BURGIO: (interrupting) May I ask the sponsor a question? Is that allowed?

ASSEMBLYMAN ZIMMER: Yes.

SECRETARY OF STATE BURGIO: What is the percentage of people who now vote on public questions? Do you have any idea?

ASSEMBLYMAN ZIMMER: I thought maybe you could answer that question. The studies have shown that there is some fall off on public questions, particularly on those questions that are put to the public by the Legislature. There is a much more active participation by the public initiatives and referenda proposed by the citizens--

SECRETARY OF STATE BURGIO: (interrupting) There is a lot more publicity on it.

ASSEMBLYMAN ZIMMER: (continuing) --so I don't think we would have that problem. We would have it less than we have it today exclusively with legislative proposed questions.

SECRETARY OF STATE BURGIO: My feeling is that your requirement is tighter than what we now have. There is no requirement now. In some cases, I think less than 60% vote on public questions, particularly when the public questions are written so that they are very difficult to understand.

ASSEMBLYMAN ZIMMER: If that language isn't clear, Mr. Chairman, I would be glad to make it clear.

ASSEMBLYMAN CHARLES: Fine. I understand your intent though. Are there any questions?

ASSEMBLYMAN LONG: Yes.

ASSEMBLYMAN CHARLES: There is a question from Assemblyman Long.

SECRETARY OF STATE BURGIO: Yes, sir?

ASSEMBLYMAN LONG: Madam Secretary, I have noted with interest that you are relating to the town meetings and the huge success of them. Will you kindly share with me your thinking on why the voter turnout for school boards and school budget elections is so insignificant and low? I am sure you will agree that our voters have

direct input with respect to the expenditure of moneys, aside from those candidates they may elect or defeat in that process for the school board. Thank God for the senior citizens, in recent years, at least taking the time to vote in that area.

I would suggest that if your rationale is sound, voters, in turn, would have a great deal more input via this process. I would not disagree with you. Why are they not taking advantage in that particular area where they have direct input on the expenditure of moneys?

SECRETARY OF STATE BURGIO: I think I can answer that with respect to my area. Number one, in the last few years there has been no competition for members of the school boards in many, many towns. Number two, the mandates on the budgets leave very little leeway for the voters. In many cases, they may vote down a budget, and it can be reversed by going through various areas.

In an area where the budget is considered out of line, we get a much bigger turnout than when there is a contest for the school board. People do not realize the power they have when it comes to a school board election. They are told over and over again that, "Even if you vote no on the budget, it will only be cut down by a few thousand. It can go back to the Department of Education and be restored." I think people feel a sense of powerlessness in that case.

In the case where the budget is felt to be way out of line, you get a larger vote. As you know, people will come out a lot stronger to vote no than they will to vote yes.

ASSEMBLYMAN LONG: I would definitely agree with your last point, but I have to take exception to something you said. I think our constituencies' intelligence today is far above -- so is their knowledge -- what it was many, many years ago. I don't think anyone feels threatened anymore that by coming out and voting his conscience on a given question, ultimately it can be reversed. That would be a direct rationale for not voting. I feel today our constituencies are extremely interested and extremely committed. I guess this particular showing today is an obvious example of that. But, I do believe that that particular situation leaves a lot to be desired in terms of saying that voters don't have direct input and are not taking advantage of it.

Here you have an exact situation where they can make a determination at least at the grass-roots level. Whether or not they are ultimately reversed remains to be seen. I haven't seen an awful lot of those reversed, but they have been. I will admit that to you.

I think there is a contradictory kind of attitude involved when we suggest that there is no other vehicle for the average constituent to have direct input.

SECRETARY OF STATE BURGIO: I see your point.

ASSEMBLYMAN CHARLES: Thank you. Are there any further questions?

ASSEMBLYMAN McENROE: I have a question, Mr. Chairman, through you. Madam Secretary, do you think there is any danger that we are creating a massive political action committee that has the potential to usurp the responsibility of an elected Legislature in a State like New Jersey? There is a substantial amount of sophisticated voters who are addressing many of the major questions that are on our agenda. They have been of great assistance to us, I think, in defining the questions we need to address. But, do you think we are creating, in a sense, a political bureaucracy that would erode the responsibility of the Legislature in a State like New Jersey?

SECRETARY OF STATE BURGIO: I don't think so with the bills that are drawn up. If you had unlimited access to the ballots-- I think 25,000 or 35,000 signatures is much too low -- almost anything to get on the ballot -- but because of the way these bills are structured, the process is getting it on the ballot. Even getting petitions prepared is very strict. Then there are the number of signatures. The signatures have to be spread out all over the country. There is the fact that the issue is given to the Legislature to act on. Perhaps in the process of acting on that issue, the Legislature can bring out the pros and cons that will cause these issues to be examined closely by the citizens, and then finally being put on the ballot.

In other states, I've known them to go through all of the procedures, finally getting on the ballot, and then the people vote them down. I think the fact that the people are sophisticated enough to look at both sides of the issue will protect the State from that

situation because of the strictures of the bill and the fact that there is an opportunity for the Legislature to rescind the issue if it doesn't work out. You would have to prove that the issue proved very unsatisfactory for the Legislature to go against a vote by the entire populous of the voters of New Jersey. I think the strictures in here are tight enough for that.

ASSEMBLYMAN McENROE: Thank you. I have one more question, if I may. Your particular Department -- your Secretary of State's office -- would have substantial responsibility in this area. How could you translate that into additional employees and additional requirements budgetarily?

SECRETARY OF STATE BURGIO: Well, it depends on the requirements when the bill is implemented. If we are required to check every signature-- If I might ask, how many signatures might be required?

ASSEMBLYMAN CHARLES: Every hundred and sixty thousand reduced--

ASSEMBLYMAN ZIMMER: (interrupting) The maximum, if 12% of the presidential turnout is 386,000--

SECRETARY OF STATE BURGIO: (interrupting) If we had to check every one of the 378,000 -- 368,000 -- is that it?

ASSEMBLYMAN ZIMMER: Three hundred eighty-six thousand.

SECRETARY OF STATE BURGIO: That would require more employees and a lot more time. However, there is a bill I have here which is rather interesting. It is a previous bill -- if I can find it. This bill was introduced in a previous legislative session. There is a provision that if more than 500 names have been signed on one section's position within the county, which would multiply to a certain number for the State, a random sample could be verified. "A random sample of signatures are verified, to be drawn in such a manner that every signature filed with the county clerk shall be given an equal opportunity to be included in the sample."

In other words, there is a provision that if there are at least 500, or 5%, of the signatures -- whichever is greater -- there could be a process of random sampling, which, in these days of expert

poll taking, I think would be a way of eliminating the need for some 45 additional people.

Interestingly enough, this bill -- A-2239 -- was introduced on October 7, 1976, and it was sponsored at that time by Assemblymen Kean, Hurley, Foran, Dorsey, Albanese, Markert, and Gallo, all of whom we are still familiar with. I think that is something that might be considered in the present legislation; otherwise, it would require additional employees to certify every single thing.

ASSEMBLYMAN ZIMMER: If I may amplify that, it is my belief that the language of A-1 permits statistical sampling. I think it has been proven to be quite successful in other states.

As you probably know, the signatures on petitions we submit when we run for office are not verified. None of them are. I think that--

SECRETARY OF STATE BURGIO: Unless they are challenged. Unless they are challenged, Assemblyman.

ASSEMBLYMAN McENROE: It depends on where you run for office. (laughter)

ASSEMBLYMAN ZIMMER: The signatures would be challengeable through the normal process in any event. This legislation requires verification, but I would be glad to add language saying that statistically substantial sampling could be the method of that verification.

The Office of Legislative Services, in estimating the cost of that process and all of the other steps in ACR-1 and A-1, has given me a fiscal note that the cost would be negligible.

SECRETARY OF STATE BURGIO: There would be some cost, of course. There always is.

ASSEMBLYMAN ZIMMER: Well, sure. They said it could be absorbed by existing staff.

SECRETARY OF STATE BURGIO: But, that would be a reasonable cost.

ASSEMBLYMAN McENROE: Thank you very much.

SECRETARY OF STATE BURGIO: You are very welcome, Assemblyman.

ASSEMBLYMAN CHARLES: Madam Secretary, in the literature they talk about the initiative industry -- professional companies that come together to help promote getting a petition on the ballot. Do you have any thoughts about whether there should be restrictions on who can be involved in doing this? The idea is that this be a people process based upon what the population wants. There seems to be some concern that once you get the professionals -- or, in industry you can get a very skilled PR firm, or whatever -- involved, and you then get something put on the ballot, it may not really reflect the popular will. Do you have any concerns as to whether or not that is a problem and whether or not it should be addressed?

SECRETARY OF STATE BURGIO: I believe there is a provision in the bill that prohibits paying people to collect signatures. That is number one. Of course, you are going to get PR, but it is possible to get PR involved on both sides. I have known of cases where a very strong PR case got something on the ballot, but when the people voted, they voted against it. I think it would be very difficult to limit advertising and publicity because that would be limiting free speech. I believe that limiting the payment for collecting signatures does a lot in that way.

ASSEMBLYMAN CHARLES: Not paying to collect them should be--

SECRETARY OF STATE BURGIO: (interrupting) The prohibiting of paying a person to go out and collect signatures. I know some of these young people -- children -- say, "Oh, please sign, because I get \$1 or \$2 for every signature." Soft-hearted people will sign anything to help these "I'm working my way through college" kids.

Perhaps the sponsor might have--

ASSEMBLYMAN CHARLES: (interrupting) Are there any other questions? (negative response) Thank you.

SECRETARY OF STATE BURGIO: Thank you very much.

ASSEMBLYMAN ZIMMER: Mr. Chairman, at this point, for the record, I would like to submit testimony of the predecessor of our current Secretary of State, Donald Lan, who also endorses initiative and referendum.

ASSEMBLYMAN CHARLES: At your request, Assemblyman Franks, I'll read the final paragraph which, I think, sums up his sentiments.

"I encourage this Committee to recognize the potential of our system and to share the power and responsibility of government with the Governor. Please support the concept of initiative and referendum. The time for New Jersey to move the process forward is now." This will become part of the record.

I see that Assemblyman Hendrickson has joined us. Since he has a bill that is a part of the agenda being considered today, I invite him to come to the table and share his testimony with us.

ASSEMBLYMAN JOHN T. HENDRICKSON: First of all, Mr. Chairman, thank you very much for the opportunity to testify before your Committee.

I agree very much with the former Secretary that the time has come for initiative and referendum for our people in the State of New Jersey. I think the difficult decision that the Committee must weigh is, if you will, how easy or how difficult we are going to make it to establish initiative and referendum for our people.

I stood on the sidelines and listened to my friend, Tommy Long, from my hometown talk about the phenomenon of elections of school boards. I have to put it that way because I think all of us are in a quandary as to why we have such a light turnout of voters at such an important function.

As the Secretary spoke, I also felt-- At least I'll speak very ably about our area. It is an exercise in futility because many, many times when the budget has been voted down by the people, it is overturned substantially from the way it was presented. I have introduced legislation to address that.

Regarding initiative and referendum, I apologize for taking time. Again, weighing what is needed to get it on the ballot, I have put in a minimum of 35,000 signatures -- 5,000 from each of the seven counties. My thought is that it would be difficult enough to do it.

I support, at this time, Assemblyman Zimmer's bill, using his percentages. I think that using the percentages is a tremendous help in weighing the balance, if you will, of those who are so interested in trying to get something before the voters. Looking at the percentages is going to give them one more balance, so we are not just out there voting on frivolity on election day in November.

I would like the bills released substantially the way they are written.

I agree with the Chairman's statement, "I don't believe anybody should be out there being paid." I think that is an excellent point. Again, we would be placing a monetary value on something that is so very, very important to the great State of New Jersey.

After your trying deliberations, I hope you will release the Assemblyman's bill to allow the people of the great State of New Jersey to participate in their government. Along those lines, we all know that our youth are turned off regarding politics. When I speak before them, I tell them I am very proud to be a politician. I think we should be going to our youth, and I think this is a step in the involvement process -- at least, if you will, of turning on our youth to the politic side to go out and vote, regardless of political persuasion. I believe in allowing everyone to participate in government. Initiative and referendum is a large step in that direction.

Thank you very much. I know you have a big agenda.

ASSEMBLYMAN CHARLES: Thank you, Assemblyman. (applause)
Are there any questions? (negative response)

ASSEMBLYMAN HENDRICKSON: Thank you very much.

ASSEMBLYMAN CHARLES: Assemblyman Byron Baer?

ASSEMBLYMAN BYRON M. BAER: Thank you. I want to commend the Committee for having this hearing. I think the initiative and referendum concept is very much in the public interest. The public is better informed and better educated today, and it is more determined to have a direct voice in government.

I have long supported people having a larger voice in government through sponsorship of the Sunshine Law, the Conflict of Interest legislation, and legislation to end election abuses that have permitted a few political leaders, through manipulation, to nullify the franchise of a great number of voters.

However, like any very laudable and very important objective, if the legislation is not properly drawn and implemented and is badly flawed, it could do more harm than good.

The referendum outcome should reflect the will of the voters. It should not reflect an overwhelming impact of big money, special interest, media campaigns. It should reflect the will of the voters, not the impact of distortions and deceptions in the form of a question, whether the public is misled, or whether it is misled by facts that are distorted or omitted.

I think it is very important that the questions themselves be a fair representation of what the issue is. We have had a great many instances in other states of questions that are very deceptively worded so that they seem to have a different effect, or where some of the most important impacts of legislation are not at all obvious to the public, and the vote of the public does not reflect how they would have voted if they had understood it.

I think it is important that the initiative and referendum reflect the will of a substantial amount of the public, and not be like some of our school budget elections where a tiny percentage of the public participates, and an even smaller percentage determines the outcome.

To get to some of the specifics, first of all, in terms of the effect of money, I would like to suggest a somewhat novel approach to try to prevent the outcome of the initiative and referendum being bought. If there is concern about the constitutionality of direct limitations of expenditures, then I think that a provision should be adopted and provided for so that--

Just to back up for a minute, if there is concern, for instance, that to actually prohibit expenditures over a certain amount might be in conflict with the Constitution, as some people have asserted that is, it raises some First Amendment questions -- I don't know if this is the case -- then I would suggest an alternative or a supplementary provision, so that the effect of any election, referendum, or initiative should be considered non-binding and invalid where the total of contributions expended by the date of election in support of a question is more than twice the total of contributions in opposition to a question, or either way. You know, one side is more than the other -- more than twice. That number is not a magic number. The Committee may wish to pick a different number.

I also would like to suggest that these totals not include the first, let's say, \$50 contributed by any registered voter. Certainly if a measure is popular, quite possibly there are going to be more voters and more people contributing to it. The small contributions should not be weighed in determining whether there is a disproportionate impact of money. Where you have huge contributions from special interests that are trying through a few powerful sources to throw the election in one direction or another-- If the Committee, upon considering the legal questions, feels it needs a different or a supplementary protection against that, I would submit having a provision that would have the election be non-binding. It would be a strong check against it. I submit that that would very much restrain the efforts of those who would try to force something through by such contributions.

I also suggest that there be consideration-- First of all, I want to commend the suggestions of quite a number of the sponsors who have added provisions to limit certain types of things that ought to be within the purview of the referendum. I think it is important that they be issues which can be dealt with in a referendum.

I certainly support the idea of restrictions on those matters that would selectively restrict the rights of a minority. I don't think we want to use a referendum to determine minority rights.

By the way, I want to suggest that in relation to this, and to some of the other things I am about to mention, that you possibly consider the enabling legislation so that the courts could enforce these restrictions. There may be a question as to applicability, and I think the courts would be best able to determine that. We have to speak in broad generalizations in terms of a constitutional amendment. Even the enabling legislation that follows that has to be somewhat general.

A further provision would be that we don't permit a proposition that would be unconstitutional for the Legislature to enact because it intermixes objects that have no proper relation to each other. We are restricted from doing that by trying to confuse the issue, by trying to graft on to a motherhood proposition that could

easily pass something else. That might be very much against the public interest, but perhaps be less well understood. I think, for the same reasons, that type of restriction should apply with I&R.

I think that democracy depends upon an informed electorate. We have a more informed electorate than ever before -- an electorate that is alert and follows things. But, we also have a very substantial portion of the electorate that makes judgments on the basis of the limited amount of information that can be conveyed in a question, or sometimes in a commercial.

I think we should also provide that a court could strike down a question that would produce very serious, but obscure, consequences of such complexity that their major impacts could not be set forth in the question, or strike down a question that would produce very serious human hardship, which is neither obvious to the public based on the public's natural understanding, nor clearly disclosed in the question.

Those, I think, are important restrictions, and I think if there was a provision that permitted timely applications to a court to disqualify such a question, it would result in the public will being carried out to a far greater degree than otherwise.

I want to commend Assemblyman Zimmer for his concept of trying to deal with the question of minimum participation. We don't want a matter of major importance determined by a very small percentage of the public -- maybe a very small percentage that has a very special interest in a matter -- which could tilt the result of laws that would have general application to the entire public.

I question whether the provisions Assemblyman Zimmer has provided are sufficient.

We have many general elections now where the participation level is close to 50% -- 50% of the registered voters -- even a smaller percentage, therefore, of those who would be eligible to vote if they had chosen to register.

If you had an outcome determined by 30% of that 50%, you would have laws applicable to the entire public, in which only 15% of the public voted. Therefore, I think the Committee should consider not just a minimum percentage requirement in relation to those who

participate in an election, but perhaps in relation to either all registered voters or in relation to the citizenry of the State. I don't have a specific percentage to suggest, but I think that is a far better way to try to avoid the types of questions as to how democratic some of the school board elections are where you have such a small percentage of participation.

Lastly, I would like to suggest that there be a minimum number of questions that the public can vote on in any single election. I think situations such as they have in California where you have huge numbers-- The questions overwhelm many of the people, and they are not in the public's interest, again, because participation drops. I would like to suggest -- sharing in common with what some of the other witnesses said before me -- that the importance of questions should be focused on the most important issues. If we limit the number of questions to four, on the basis of those questions that have the greatest number of signatures on a petition, we will have the questions of greatest significance and importance to the public. We would not be turning off public participation on those questions by adding so many others. When you have four questions, I think it permits a public dialogue to be focused through the press, the media, private groups, and other forums on these questions, so that the public becomes highly informed. I suggest that you have that limitation.

The mechanics of that, to the degree to which it is appropriate to spell out here-- It may be that you don't want to get into that much detail; you may want to leave that to the enabling legislation. Up to a given deadline, you have a cutoff. At that point, whichever four questions have the greatest number should be the ones to survive. As a result, you may have some that are introduced early which may end up being displaced by others of greater importance.

Thank you for your time. Again, I commend the Committee for its interest in this subject. If the legislation can be drawn up tightly enough to prevent abuses by those who want to distort the process that allows the public to make a determination, and to a process that they may have a particular lock on by using some very sophisticated or skillful techniques, we can protect against those

abuses. We will have something very much in the public's interest. Thank you.

ASSEMBLYMAN FRANKS: Mr. Chairman, I have a few questions. Assemblyman, I am curious about the context of your appearance here this morning. Are you here in support of any of the bills that are before this Committee at this public hearing, as they exist today?

ASSEMBLYMAN BAER: Well, I think many of the bills contain very good provisions, but I would suggest that the Committee develop a further approach, either based on a substitute measure, or by taking one of the measures and amending it so that it would incorporate these protections, as well as some of the other provisions and protections that have been mentioned here. I don't want to dwell on those ideas that have already been presented because I think, at this point, the important thing is for the Committee to have all of the ideas before it, rather than just having each witness come forward to say what he likes in terms of the ideas that have already been presented. That would be taking up more of your time.

ASSEMBLYMAN FRANKS: Mr. Baer, if I may, let me focus on one safeguard or protection that you initially indicated. You thought that if the expenditures on behalf of one side of a question were more than twice that of the expenditures made on the other side of a question, that it should be non-binding. Therefore, I think it would defeat the purpose of this entire concept. Wouldn't it be easy for someone who was an opponent to simply find out how much money was being expended to favorably promote the question, and make a very substantial contribution to that side, thereby guaranteeing that his side would prevail because the expenditures were more than twice the other side?

ASSEMBLYMAN BAER: I've considered that possibility. First of all, I think that outcome is very unlikely to occur. But, if it occurs -- for reasons I'll explain in a minute -- I think the--

Let me deal first with that. Let me take this in reverse order. You have to balance on one hand the possibility of something being enacted through the pouring out of a great deal of money where it doesn't represent the public will and is being forced on the public, as opposed to, on the other hand, something being defeated by that. I

would submit that in balancing those two alternatives, the public is better protected by not having something forced on them by a special interest than by having a special interest defeat something. I think you could get something far more bizarre.

You still have other democratic processes available. Having said that, however, I think it is very unlikely that a special interest would do that kind of thing.

First of all, it would involve pouring money into something that is against the interests of their own entity. I think they would produce quite an enormous division within their own ranks with the idea of spending money this way.

Second, I think you could, if you wanted to, provide some threshold amounts in here. I forgot to deal with that. I think it ought to be combined with some threshold amounts in terms of positive spending. Otherwise, in a situation with relatively minor amounts of spending, you might trigger this type of thing.

ASSEMBLYMAN FRANKS: Mr. Chairman, that covers my questions. Thank you very much, Assemblyman.

ASSEMBLYMAN CHARLES: I have no questions, Byron. Thank you very much.

ASSEMBLYMAN BAER: Thank you,

ASSEMBLYMAN CHARLES: Joseph Bell?

JOSEPH BELL: Good afternoon. My name is Joseph Bell, and I am the Morris County Clerk. Thank you for the opportunity to appear before such an august body.

Today you, and only you, will decide if direct democracy, whose historical roots date to the ancient Greek city states, will flourish in New Jersey by the adoption of initiative and referendum.

Less than two weeks ago, New Jersey experienced one of the lowest recorded voter turnouts in its history. Barely more than 10% of the registered voters participated. As elected officials, we must ask ourselves why.

Was it voter malaise, or is it a widely accepted view that the public has a widespread mistrust of elected and/or appointed officials?

As elected officials, we must take notice of the fact that a large cross section of the citizenry entertains an opinion that the government is no longer representative of the people. It takes outlandish financial resources to mount a campaign for office. Lobbyists play no small part in controlling the destiny of legislative matters, and in election years, our elected representatives procrastinate by taking no action even on urgent matters.

One counterbalance to this trend is to give vitality to the initiative power. The adoption of ACR-1, initiative and referendum, will have considerable benefits for the citizenry of New Jersey. Some of these include: It will encourage the goal of greater voter participation; initiative and referendum will spark more publicity and debate than decisions made in the Legislature; by studying constitutional and statutory proposals, the citizenry will feel less apathetic and alienated; and, voters effectively will become part-time legislators.

The growth of direct democracy represents a fundamental change in U.S. civic traditions, shifting decision-making responsibilities from the Legislature to the people.

It is not to be perceived as a threat to the Legislature, but rather it will complement it. The public may not trust appointed or elected officials; however, it trusts itself.

All political decisions must strive for legitimacy, and the highest degree of legitimacy is achieved when decisions are made directly by the people.

Perhaps today's decision to release ACR-1 will spur a renewed interest in a national initiative that has been before the United States Congress since 1977.

ACR-1, in my opinion, is a better drafted proposal than other bills listed for your consideration.

Under some of the other proposals, 12% of the signatures are needed from the 40 New Jersey legislative districts. This is an impossible feat. We know how difficult it is for people to have petitions signed for county and local offices, nevertheless 12% from the legislative districts. The subject matter of ACR-1 is open-ended, whereas, there are restrictions in ACR-42.

Issues such as taxation and spending, and reapportionment and election law reforms are critical to the citizenry of New Jersey, yet we would be precluded from participating in these matters if you choose ACR-42.

The time is right for New Jersey to take the lead in the Northeast in the wave of democratization that has swept the rest of the country. New Jersey can become the harbinger for things to come in the Northeast. The decision rests in your hands.

Thank you for your time and attention. (applause) Are there any questions? (negative response)

ASSEMBLYMAN CHARLES: There are no questions, Mr. Bell, at least not from me.

MR. BELL: Thank you.

ASSEMBLYMAN CHARLES: James Morford?

JAMES C. MORFORD: Mr. Chairman and members of the Committee, I am James Morford, Vice President of Governmental Relations for the New Jersey State Chamber of Commerce. Thank you for the opportunity to present the views of the State Chamber with respect to legislation which would establish an initiative and referendum procedure in New Jersey.

I think we should thank Assemblyman Baer for raising so many serious and important questions as to just how unworkable the proposal for I&R really is.

The State Chamber of Commerce has long been opposed to the idea that the highly complex problems confronting our State can be solved by asking the voters to vote "yes" or "no" on election day. Not only is this process inadequate, but it will undoubtedly, in our view, lead to an abdication of legislative responsibility. Initiative and referendum will transform our deliberative process in which issues are carefully weighed, studied, considered, honed, and shaped. It would transform it to an extremely expensive, political, and, we think, superficial system where elected representatives may, in fact, be tempted to duck the tough issues.

The New Jersey legislators do not disappear from their home districts and convene in far away Trenton for many consecutive weeks

away from access to the public. We turn to our legislative districts after the one-day sessions. We don't have back-to-back sessions in the State. Our legislators return home, and the media covers, in great detail, their activities in Trenton. The public has access to the members of New Jersey's Legislature. We are a small State. We don't have these continuing far away sessions, as they may have in larger geographical areas. So, our people have access, and I think each member of this Committee knows that by the number of telephone calls, telegrams, petitions, and letters they receive. The public has a great deal of access to members of the New Jersey Legislature.

The State Chamber is deeply concerned that initiative and referendum would result in significant increased costs to the public. Review of petition language by the Office of the Attorney General will require more staff. Verification and validation of petition signatures by the Secretary of State would be an immense undertaking. Even with the Secretary's proposal, which would be to use some kind of sampling system, we feel that those who might be opposed to the question would then surely want to challenge that and ask for verification of that sampling. They should have the right to challenge it, and they probably would exercise that right, thus adding to the cost that the public would have to assume. The printing and mailing of sample ballots, with the potential for an unlimited number of propositions, will, in our view, add massive costs, all to be borne by the public.

Mr. Chairman and members of the Committee, the State Chamber believes that the most burdensome aspect of an initiative and referendum process in New Jersey would be the costs of intensive media campaigns that will inevitably be created by the supporting and opposing groups of any controversial issue appearing on the ballot. Each election would have the potential of a multitude of propositions that would cause the business community to spend millions of dollars to make its views known to the electorate. While I appreciate Assemblyman Baer's concern in this area, I wonder if constitutionally you could limit the number of questions under such a system that could, if moved through the petition process, be placed on the ballot.

If there is any doubt that such media bonanzas would be created, I would like to point out that three years ago, the food and beverage industry in California spent a whopping \$7 million on their successful campaign to defeat a proposition on forced deposit legislation. Yes, Mr. Chairman, we believe the outcome of that initiative was pro-business, pro-labor, and pro-consumer. But, is this the type of reform legislation that the people of New Jersey need? How many millions of dollars will be spent on such media campaigns if initiative and referendum passes in New Jersey, and how much of the cost will be passed on to the public?

Assemblyman Baer's proposal seems to suggest that those who may be most affected by a proposal -- in our case, business -- might be severely restricted from making their case to the public. That presents grave problems too.

The State Chamber believes our legislators were elected to represent the interests of all citizens of New Jersey. We believe in representative government. As such, they are accountable to the people. Indeed, in 1947, when the current Constitution was being considered, they did consider it, they did debate it, and they did reject I&R for New Jersey. Only our legislators have access to the full array of information and research that is needed to cast intelligent, responsible votes on issues of such grave concern to New Jersey. You have Committee staff; you have individual legislative staff; you have partisan staff; you have two separate structures -- two houses in the Legislature which replicate those procedures -- and, you have an open process in New Jersey where all concerned citizens, be they lobbyists or individual, private citizens, can come before committees such as this at a formal public hearing or at a committee discussion. The issues, and the pros and cons, are heard, weighed, honed, and shaped. That is the give and take of the process, not reducing complex issues, as I said before, to a "yes" or a "no" decision in the voting booth.

The State Chamber also notes that initiative and referendum, while promoted as a populist reform, lacks the second "R" -- Assemblyman Zimmer, we discussed this the other morning -- that usually

accompanies such reform proposals, that is, "recall of legislators." I was curious as to why you had not included that.

Not one of the proposals--

ASSEMBLYMAN ZIMMER: (interrupting) I'll go for number three, if you'll go for numbers one and two. How is that? (laughter and applause)

MR. MORFORD: Well, we might talk about that. Let's see if number three works first before we do number one.

Although not perfect, we contend that the legislative process has worked well over the past years, and we think it will continue to work well. Therefore, we support the view that our elected representatives should have the responsibility to study all aspects of legislative measures and make informed decisions about them. To too many, we think this issue, because of the years it has been around, is viewed to be "Howard Jarvis Visits New Jersey." We question if that is necessary. You know, the Howard Jarvis momentum came about with property tax reform, and yet, we have a cap system in this State which is preferable.

AUDIENCE: We "had" a cap system.

ASSEMBLYMAN CHARLES: Excuse me, he is testifying. I would appreciate it if there were no comments made while a person is testifying. If you have a corrective statement to make, you may give it when you testify.

MR. MORFORD: Thanks, Mr. Chairman. We have a cap system in New Jersey at the county, municipal, and school district level, and we regret that the Governor has not encouraged the continuation of the State spending caps, with the legislative initiative to bring spending caps back to the State. It is a better system than I&R to limit government spending.

We are concerned with the kinds of issues that are very likely to appear on the ballot, whether they be utility rates, classification of property taxes, or a number of those kinds of traditions that we feel would be very detrimental to the business interests in the State, and would not, therefore, encourage the continued economic growth and development that has, in recent years, made our State, once again, vital.

The New Jersey State Chamber of Commerce does not favor government by initiative and referendum, and we urge the members of this Committee to oppose this legislation.

We thank you for the opportunity to address our concerns on this important issue.

ASSEMBLYMAN CHARLES: Mr. Morford, are there any areas of legislation which you think are particularly unsuitable to initiative and referendum? I understand that you have a general opposition to the whole process, but do you see any areas which lend themselves to particular aggravation if I&R becomes law?

MR. MORFORD: I think Assemblyman Karcher has begun to address that particular issue. When you get into the taxing and spending prerogatives of the Legislature and its constitutional mandate to deal in those areas, they are very, very significant. Even without those issues being available to the process, as you indicated, we would still have very, very serious problems, whether the issue comes before the State to make New Jersey a right-to-work State, whether we have a constitutional amendment to undo the court's efforts in Mount Laurel, whether we deal with utility rates, or whether we deal with beverage container legislation. I think there is an unending list of good and bad ideas out there that could lend themselves to the I&R process that are better left to our elected representatives and our elected representatives' system of government.

ASSEMBLYMAN CHARLES: Are there any other questions? (negative response) Thank you very much, Mr. Morford.

MR. MORFORD: Thank you, Mr. Chairman.

ASSEMBLYMAN CHARLES: Dennis Giordano?

DENNIS GIORDANO: Thank you, Mr. Chairman and members of the Committee, for allowing the New Jersey Education Association this opportunity to address an extremely important issue -- whether the State Constitution will be amended to allow the process known as initiative and referendum.

Most societies in recent history have had some form of representative government. That is, the voters elect representatives to take care of people's business. If those representatives do not do

their jobs, they are, in turn, voted out of office by the people. Although some people are inevitably dissatisfied, the process works reasonably well.

The central question here is, should it be changed? The NJEA believes it should not be changed.

New Jersey's Legislature is one of the most open in the nation. It has an elaborate committee structure, which allows public input on all bills that pass through this Legislature. Legislators have district offices in their home areas.

People who will tell you they can't reach these legislators or lobby for their special interests are really telling you one of two things: They either don't understand the legislative process, or they don't agree with the positions their legislators hold. These are the people who want initiative and referendum. They are the citizenry who wishes everything be brought to them. They don't want to have to call their legislators, visit their district offices, or even write letters, all those variables that make democracy work. Instead, they prefer armchair democracy.

Initiative and referendum is the simplistic form of government in action. Let the people vote on the issues. After all, aren't they the true source of governmental authority? So say the proponents of this type of government. Yes, I&R reduces the serious problems that government faces everyday to, at most, a few paragraphs on a ballot. It asks for a yes or a no answer to problems that, by nature, do not lend themselves to simplistic answers.

Let's face it. No legislator, no matter how diligent, can master all of the intricacies facing our State -- issues from acid rain to lack of rain, toxic dumps to environmental infrastructure retooling, and, school aid formula funding to tax commissions. The real question is, could the average voter? It is hard to see how.

If initiative and referendum was law, would voters take the time to study bills, to research issues, and to delve for the necessary data? How many would truly understand the statewide impact on that which they were about to vote on? If other questions were on the ballot at the same time, could the voter then study them all?

The proponents of I&R say that the public should have a voice. The public does have a voice, but it often speaks as a silent majority, preferring to remain silent in primary and general election voting.

Initiative and referendum is based on a faulty theory. It assumes there is a public that speaks with one voice. In fact, there is no such thing, as any pollster would tell you.

Public opinion consists of many divergent voices and conflicting interests that should be resolved, not kept constantly clashing. Public opinion can mean one thing today and another thing tomorrow. It is that way because people can change their minds all too quickly. They can receive new information; they can develop a new outlook through acquaintances; or, they can simply undergo a change in personal outlook.

But, if I&R is the law, there is no second chance. True, another ballot measure can be developed, but it generally takes at least 18 months to get a new petition drawn up, get signatures, get legal options, and so forth. So, the voter usually will have to wait two years to express his opinion on the very same subject. Two years can mean great damage to our government, as many residents of Massachusetts might tell you.

I&R also assumes that public opinion is completely informed. It is not. We have representative government for the very reason that all people cannot be completely informed on all issues. Legislators are elected to do this for the people. Legislators are elected to study issues and decide them on the basis of the information at hand.

Let's put the matter right up front. Most of the clamor for I&R comes from groups that simply want lower taxes. Well, we have one thing in common with them. We feel that the tax structure of this State is out of balance, with far too much reliance on property tax. This penalizes lower- and middle-income people and small businesses. But, the answer is not to put the simple question on the ballot: "Do you want lower taxes?" Of course, most people want lower taxes, but are they willing to support a fair system of taxation because they want and will support good schools and other essential public services?

The initiative and referendum process could polarize the State on many important issues. It could bring about an all-or-nothing approach to our government. We could find ourselves faced with extremism by being pushed by single-issue pressure groups.

The legislative process generally does just the opposite. The representative political process encourages accommodation of conflicting views. This moderating effect of our representative political system brings into play a more harmonious social order. It cannot be said too often that by calling for a yes or a no vote, it would dangerously oversimplify complicated policy questions.

The worst thing I&R could do would be to weaken representative government. Legislators who see what they sense are well-developed policies turned down by the voters are unlikely to continue making the efforts needed by lawmakers.

NJEA believes more people should be involved in the political process, but they should be involved in campaigning for honest, intelligent lawmakers who can be trusted to apply their best judgment to the questions of the day.

The system of representative government works, even if some of the voters don't like everything every representative does. Get involved in government, but in a way that doesn't equal the easy way out. Politics and government are like other human endeavors; they require work, not the simple pushing of a lever.

We ask all members of this Committee to vote against these measures before you on behalf of the 117,000 members of the New Jersey Education Association.

Thank you.

ASSEMBLYMAN CHARLES: Thank you, Mr. Giordano. I have no questions. Are there any questions from any member of the Committee? (negative response) Thank you very much.

MR. GIORDANO: Thank you.

ASSEMBLYMAN CHARLES: Susan Thomas?

SUSAN THOMAS: Good afternoon. It is a pleasure to be here to talk about the process of initiative and referendum.

My name is Sue Thomas, and I am the Executive Director of the National Center for Initiative Review Foundation located in suburban Denver, Colorado.

At the Foundation, we have followed your deliberations on initiative and referendum for the past several years because we are interested to see if New Jersey will be the first State since 1972 to amend the State Constitution to allow citizens to share legislative power with elected representatives.

We have studied several things about the initiative process, such as, how provisions are structured, the limitations on the use of the petition, how the State administers the programs, the kinds of issues that lend themselves to initiative activity, voter attitude and behavior toward initiative measures, etc.

We track both active petition drives and legislative activity in the area of the initiative process. We serve the general public, State officials, the Judiciary, and business and trade organizations. In other words, we serve everyone. Our services are free of charge, and we serve as a clearing house for information on the initiative process.

When I was contacted by Assemblyman Dick Zimmer to appear here today, I did so happily with the following disclaimer. Because I am the Executive Director of a nonprofit 501C3 tax exempt organization, I cannot advocate the passage or defeat of any bill before you. My purpose is more to provide information to the members of the Committee about how the initiative process is structured in other states, constitutionally and statutorily.

Of course, I think the basic question before you today is whether or not you can support the concept of the initiative process. You must answer that yourselves before you consider the bills and their intent. I think the questions you have to ask are: Is there a need for initiative and referendum in New Jersey? If it is passed, will it serve your citizens well? What are the expectations that the people have for the petition process? What effect does the initiative process have on the Legislature and other State institutions?

Only if you can reach a favorable decision on those kinds of questions will the comments I want to make to you be helpful. I have had an opportunity to review the bills in front of us, and I would like to speak to you in some detail on what is contained in constitutional provisions in other initiative states, and what is put into the statutes. I would like to kind of by-pass some of the remarks on the history of direct democracy. That has pretty well been covered this morning. I would like to go right into some suggestions that I have about what should be included in the constitutional amendment itself, and what should be relegated to the statutory level.

The first thing I did in preparing my comments today was to look at the resolutions before you and compare them with other initiative states, especially initiative states using the indirect initiative process. That is the kind of process that is proposed in all of the measures I read. This is where a state legislature has the opportunity to act on an initiative proposal before it is placed on the ballot.

In looking at all of your resolutions, I was a little concerned that the question and the content of the amendment was more than just calling for a very general, almost advisory vote by the public. It did not set forth, in any of the bills, the specifics of the proposal you were asking people to vote on.

With that in mind, I went to specifically indirect initiative states to call your attention to the kind of detail that is included in other states' Constitutions.

First of all, there is a complete definition of the types of petition powers being extended -- those being an amendment, a statutory initiative, the power of the popular referendum, or a citizens' veto -- and whether the initiative proposals have to be submitted to the legislature before going on the ballot.

Other states are also very specific in stating the kinds of issues that are exempt from initiative and referendum activity. Also, they state any limitation that is placed on the use of the initiative, such as limiting the proposal to a single subject, or to reasonably related subjects.

Next, you find an outline of the method of originating the petition. This includes all pre-circulation filing requirements, titling and review responsibilities, circulation details, signature requirements, geographic distribution requirements, deadlines for filing both with the state and the legislature, formal filing deadlines, and legal challenge outlets that are available to citizens.

Another thing that is contained in the constitutional provisions in most initiative states is a detailed description of the legislative responsibility toward the initiative proposal, including whether or not the legislature is allowed to have substitute amendments, whether or not they have the authority to amend the proposal, and then any other specific restriction that is placed on the legislature, including establishing a deadline for its action toward that measure before it automatically defaults to the ballot.

Finally contained in the constitutional provisions, there are provisions for the distribution of the measure if there are conflicting or alternative measures on the same ballot. There is also an establishment of the effective date of the law if it is passed, a description of majority requirements, an exemption of the initiative from gubernatorial veto, the type of voter information method that will be used, and a provision for a subsequent amendment or repeal of the law by the legislature.

One reason, I think, for this kind of detail to be included in the constitutional provision, rather than in the statutory provision, is to kind of offset the temptations of future legislative sessions to tinker with the process.

There are a couple of other suggestions that came to my mind as I was reading it, and in going back to the kind of experience we had in the last few years with initiative states. One was, if you mean that registered voters have to be qualified to sign your petitions, I would strongly urge that you use the term "registered voter," rather than "legally qualified elector." This was a very important distinction in a case that arose in Wyoming in 1982 on initiative law. I think you should kind of put that in the back of your minds, and if that is, in fact, what you mean, then you should put it in at the drafting stage, not in the courtroom.

Second, on the matter of exempt subject matters, while many states have, in fact, opened up the process and have not removed any specific subject matter from initiative activity, there is an inherent limitation on the use of the initiative. It cannot be used for something that is beyond the reach of the state legislature itself. This might be something that you would want to include in your provision, so that it is obvious from the beginning that citizens, through petition power, cannot do something that you, as elected representatives, cannot do.

Third, in one of the proposals was the concept of a correction period for petitions. There are three states that use a correction period, but it is used for a different purpose than what is stated in this bill -- that is, to replace signatures that are ruled invalid in the signature certification process. There is no state that allows a measure to have the content of the proposal changed after it has been approved for circulation. In fact, after it has been filed with a state, most states, according to a survey we did a couple of years ago in indirect initiative states, consider that proposal to become the state's property or the people's property, and beyond the reach of a group of proponents. It is no longer available for amendment by the proponents. In fact, one of the purposes of the indirect initiative process is to have that amendment possibility when it is presented to the state legislature.

Finally, one other remark I noticed in the bills is that there is no distinction made between requirements for the statutory initiative and the popular referendum. While it is not unusual in other states to have the same signature requirements for both, the referendum is viewed as a quick-response petition drive, and usually the circulation time is very short -- sometimes as short as 30 days, and sometimes as long as 90 days. In fact, usually the referendum has some subjects, especially lies, that have been passed on an emergency basis and are usually exempt from the referendum itself.

If you have all of those things in the Constitution, then for heaven's sake, what goes into the statutes-- I think the statutory provision is certainly the place where you would outline the technique that is to be used to certify your signatures.

I have brought along today several editions of the Initiative Quarterly, which are newsletters put out by our organization. The one that is on top -- the Fourth Quarter, 1982 -- addresses problems that came up in 1982 with signature certification techniques and court challenges to all of those. We go through the concept of individual checking for voter registration; we go through the scientifically selected random sample, which has been upheld in almost every case against court challenges; and, we go through the other very unpopular exercises in my home State of Colorado, which presumed that validity of signatures. We have tried them there to give you the high points of both. I think you would certainly want to spell that out in the statutes, along with developing rules and regulations for how the certification will be done and what the disqualification criteria would be for signatures. That seems to be one area that is especially susceptible to court challenge.

Titling of proposals has been talked about quite a bit. I would want to look at the more technical sides of that and determine if the titles will be limited in a number of words. Will they be supplemented by an official summary of the proposal, which is automatically on the ballot -- on the petition itself? Is the title going to be the same as it will be on the ballot itself so that people can kind of connect those two things in their minds? Will your questions be stated so that the intent of the vote is clear? What are the challenging procedures that you will make available when the titles are set? You will certainly have many instances where opponents to a major will be very unhappy with the title, no matter who does it.

I would also like to urge you to consider limiting the appearance of initiative measures that have qualified through general election ballots. I think the reason for this is pretty obvious. It has to do with voter turnout. Initiatives turn new ground and they set new rules. We really believe that they should have the broadest possible opportunity for the majority of voters to look at them. For this reason, we believe -- so do others who have studied the process over the years -- that the bi-annual general election ballot is really the only valid time to put it on the ballot for the voters. The use of

any other election date results in lies that are passed by a shrinking majority of voters.

I have taken a lot of time, and I know you are running late, but I hope that I have said something to you that is useful. I know you are faced with an enormous decision that will be unpopular with a large number of people in your State, no matter which way you go. I hope you will take some of the comments I have made and perhaps include them in your bills. If there is any further information that my organization can provide to you, we would be more than happy to do so.

Thank you for your time. (applause)

ASSEMBLYMAN CHARLES: Ms. Thomas, I gather you are saying that through studies, your group finds that the constitutional resolutions -- the provisions themselves -- contain much of what would be included in A-1.

MS. THOMAS: Right.

ASSEMBLYMAN CHARLES: That is what you are saying?

MS. THOMAS: That is basically what I am saying. I went back and checked several state Constitutions just to see if there was someplace where I could tell you that it is a bare-bones kind of approach.

As initiative grows by using it, there are more and more court challenges. So, even in states, such as Alaska, which perhaps have some initiative problems in the legislative action towards the process, they now have to go back and look at it again to protect themselves from court challenges and to keep it from being changed so readily in the state legislatures.

ASSEMBLYMAN CHARLES: Well, I think that-- I can understand that. I personally feel that just to have the question on the ballot without knowing fairly definitely what the statute is going to be, leaves the voter with some question. It leaves a wide-open question as to what the implementation of it will actually be. I think that is probably something we should consider as we move ahead in our deliberations. It will include more particulars regarding the constitutional resolution.

Another question is, what has been the nationwide-- I gather from history that there have not been too many state legislatures which have enacted I&R. What is the reason for that?

MS. THOMAS: Well, there are 23 states, plus the District of Columbia, that have a statewide initiative process. Of those 23 states, 19 adopted it before 1918. Then it wasn't until 1959 that another state adopted it; that was Alaska. They came into the Union with initiative in their Constitution. Then there was Wyoming, which passed it in 1968; Illinois passed it; and, Florida was the last one to do so in 1972. Each of these four states have very stringent restrictions on the use of the initiative. It is limited a great deal in the way it can be used within the states.

ASSEMBLYMAN CHARLES: Why is it that you have initiative and referendum out West and not too much of it in the East, Northeast, and the South? What is the explanation given by the experts?

MS. THOMAS: Everyone has his own explanation. (laughter) I think if you look at many of the reforms that came out of the progressive era, a lot of them, such as the primaries and direct elections that have been adopted universally, the ones that have to do with direct legislation, were specifically aimed at state legislatures. That might have been rightfully so at a time when we didn't have one-man, one-vote rulings within the state districts.

Legislatures themselves still suffer a great deal in their public images. I think a lot of the reasons why initiative and referendum recall came up to begin with may have been mitigated by some reforms that have taken place in the last 20 or 25 years.

I think people still complain that legislatures don't get things done, and that they don't address the problems that need to be addressed. That may be why we still see an awful lot of activity in the states where it is available.

We also don't see many state legislatures that are willing to share their legislative power.

ASSEMBLYMAN CHARLES: The subject matters that are exempt from initiative-- Could you give us a list of things that you find in common among the states which have initiative and referendum? You said

that in some states there are subject matters which are exempt from I&R. What are those subject matters?

MS. THOMAS: The most restrictive state as far as the initiative and referendum process is concerned is Massachusetts. They have a very lengthy list, including all of their personal rights. The state legislature itself is exempt from the initiative process, and the initiative laws themselves are exempt. They go through a whole other series of things. I would say that they have about six major areas of legislation that are exempt from the initiative process itself. In spite of that, they still manage to have two or three that come up on the ballot every year.

In other states, the most widespread limitation, of course, would have to be in the area of the appropriation of state funds. Some states say that you can appropriate state funds on an initiative if you include some method of increasing revenues. You can have a tax cut.

States have found a lot of different ways to limit the use of the initiative. Basically, I think the most common limitation you find in the initiative process is only that it be a single subject in each initiative or that the issues that are covered in the proposal be somehow related, so you aren't voting apples and oranges on one vote.

There have been some recent court challenges of the contents of initiatives that, I think, you may be interested in knowing about. In 1984, there were seven majors that qualified for the ballot in various states that were, in fact, removed from the ballot by courts because they ruled, for various reasons, that the subject matter was not appropriate, or that it violated the single-subject law. There were two in Florida that were kicked out under single-subject law. There were two Federal balanced budget initiatives that were kicked out in Montana and California because they dealt more with an advisory kind of vote and did not, in fact, establish a statute that could be uniformly enforced by a state. It was beyond the reach of the states to have the Federal balanced budget amendment on their state ballots.

ASSEMBLYMAN CHARLES: Was that predicated upon the states' constitutional provisions which allowed I&R, or was it predicated upon some other constitutional--

MS. THOMAS: (interrupting) The courts in both states, I believe, used not only the United States constitutional restrictions -- especially in California, they ruled that it was a violation of the United States Constitution -- but said it was also a misuse of the initiative process because it was not proposing a statute over which the state had sovereignty, or a rule that could be applied equally to all citizens in the state. Therefore, it was not a proper use of the initiative process. It remains to be seen how those kinds of rulings will affect some of the issues that we have seen on initiative in recent years.

ASSEMBLYMAN CHARLES: How are initiative and referendum questions affected by the change in legislatures? We have a two-year term here, and at the end of two years, this session is over and another one begins. What has been the experience with questions overlapping from one session to another? Does I&R set up a scheme of a certain period of time to circulate petitions in a year, and then the legislature acts in six months? Theoretically, you could go up to, I guess, two months before the end of a term, and then four months into the next session. What has happened in that type of situation?

MS. THOMAS: Well, I'm not really sure I can answer that. I don't know.

By the way, just as a handy reference, in one of the editions of the Initiative Quarterly, we have a copy of a chart that shows you the provisions in each of the states as far as initiatives are concerned. One thing I think you will find interesting is, of the 23 states that have the initiative process, there are not very many that, in fact, have the indirect initiative process, although there are two states that offer an option between the direct and the indirect initiative.

In the indirect initiative, all of the filing deadlines are usually tied to legislative session dates, so I don't think you would run into a problem with the body itself changing while the proposal is in circulation. Is that what you are asking?

ASSEMBLYMAN CHARLES: Yes.

MS. THOMAS: Usually the circulation time is relatively short and, in many cases, the states have given their legislatures maybe 40 legislative days to address the questions. It can be compacted into a relatively short time. Therefore, you wouldn't have the problem with the changing body. It wouldn't carry from one session to the next.

ASSEMBLYMAN CHARLES: All right. So, you don't know offhand of any situation where there was this carry-over from one body to the next?

MS. THOMAS: No. I think that would be because-- Well, I shouldn't really say that.

ASSEMBLYMAN CHARLES: Under the bills that are proposed here, that could very easily happen.

MS. THOMAS: Alaska right now has two initiative majors that were submitted before this session. In other words, they were submitted in late 1984. So, this session had an opportunity to address them, and they don't specify a deadline. All they say is, "It can go through this legislative session, and it can go through the next legislative session. If nothing happens, it will be on the ballot in 1986." The legislature cannot stop it from going to the ballot by ignoring it, so there is that two-year layover there. But, there still wouldn't be an election intervening to change the body.

ASSEMBLYMAN CHARLES: Are there any questions?

ASSEMBLYMAN ZIMMER: Yes. The Chairman asked you how many states had recently enacted initiative and referendum. Have any of the 23 states ever chosen to repeal initiative and referendum?

MS. THOMAS: No, it is very difficult. It is not only difficult to repeal, but it is difficult to make changes to it, unless they are fairly insignificant changes.

ASSEMBLYMAN ZIMMER: So, the public, you would say, is pretty happy with initiative and referendum in those states that have it?

MS. THOMAS: I can't answer that question.

ASSEMBLYMAN ZIMMER: All right. With the polling information you have access to and the results of-- Why haven't any of them been repealed?

MS. THOMAS: Well, because it is very difficult to repeal. It is a motherhood issue; there is no doubt about it. You just don't tinker with it unless there has been some enormous gross abuse to the process that people immediately rise up and say, "We have to do something about this."

ASSEMBLYMAN ZIMMER: So, since 1898, none of them have been--

MS. THOMAS: (interrupting) If you look at California, which is certainly the vanguard initiative state, you can say, "Well, they have initiatives. They just go crazy with initiatives." But, I can also tell you that at this point, there are many groups, including the state legislature, that are at the point where they are pulling their hair out over the initiative process as it is currently structured. No one is saying, "Let's repeal it," but they are saying, "We had better look at it to see if we can get control of it."

ASSEMBLYMAN ZIMMER: Right, and some of those proposals are incorporated in the legislation that is before us today. Right?

MS. THOMAS: Right.

ASSEMBLYMAN ZIMMER: To get specific about the legislation that is before us today, when you consider -- I'm talking about ACR-1 -- the number of signatures required, the distribution requirement, the indirect initiative feature of it, and the other procedural aspects, putting it on the spectrum of all the states that currently have initiative and referendum -- that is, the easiest and the most difficult to get on the ballot -- where would you put ours? I'm talking about ACR-1.

MS. THOMAS: Are you talking about it as written?

ASSEMBLYMAN ZIMMER: Yes, as written.

MS. THOMAS: With the presidential vote as the base?

ASSEMBLYMAN ZIMMER: Yes.

MS. THOMAS: That would be a fairly stringent signature requirement. There are other states that have 15% requirements, but their base is usually a gubernatorial race.

ASSEMBLYMAN ZIMMER: But, even reducing the gubernatorial turnout, would it be on the more stringent side of the spectrum?

MS. THOMAS: It would be above average.

ASSEMBLYMAN ZIMMER: Comparing that to ACR-42, Alan Karcher's resolution, is there any-- Where would that be on the spectrum?

MS. THOMAS: If you are talking specifically about the--

ASSEMBLYMAN ZIMMER: (interrupting) His proposal for 12%--

MS. THOMAS: (continuing) --percentage of the signature requirements--

ASSEMBLYMAN ZIMMER: (interrupting) No, I'm talking about the whole series of requirements.

MS. THOMAS: Okay.

ASSEMBLYMAN ZIMMER: In direct initiative, it would be 12% of the turnout for constitutional amendments and statutes, and 12% in every single one of the 40 districts. Where would that be on the spectrum?

MS. THOMAS: Well, on the chart that I referred to earlier, we have a breakdown of geographical distribution requirements, if, in fact, they exist. There is no state that requires signatures from the total election district or whatever they are using. Generally, it is a percentage requirement of the total, so you show a representation geographically across the state. Certainly, no state requires that each district meet a signature requirement.

ASSEMBLYMAN ZIMMER: So, that is unprecedented and unique.

MS. THOMAS: The thing that might be closest to it, I would think, would be in a state like Missouri where they require six out of nine congressional districts to have a minimum requirement. That is considered pretty--

ASSEMBLYMAN ZIMMER: (interrupting) What percentage of the vote is required in Missouri?

MS. THOMAS: Five percent.

ASSEMBLYMAN ZIMMER: So, that is much lower than the 12%.

MS. THOMAS: Yes.

ASSEMBLYMAN ZIMMER: All right. Thank you very much. I have no other questions.

ASSEMBLYMAN CHARLES: Thank you very much, Ms. Thomas. Our last witness of the day will be Mr. David Schmidt.

DAVID D. SCHMIDT: Thank you, Assemblyman Charles. My name is David Schmidt. I am editor of the Initiative News Report. I am a lifelong registered Democrat, and a former Executive Director of the Greater Washington Chapter of Americans for Democratic Action.

I grew up in California in the 1950s, 1960s, and 1970s, and I took the initiative process for granted as one of the voting rights that is the heritage of all Americans. But, when I moved to Washington, D.C. in 1977, I learned that many states still lack this essential mechanism of self-government. During that year, I participated in a successful campaign to get the initiative and referendum process in D.C. It was passed unanimously by the City Council and approved by a greater than three-to-one margin of voters.

It was in 1977 that I first encountered opposition to the idea that citizens should have the power to enact initiatives that they themselves propose. Many of these opposition arguments were based on unproven assumptions. At that time, there was no way to prove or disprove these arguments. The existing studies, at that time, were fragmentary and outdated.

I began to study the history of the initiative and referendum and to keep records of the campaigns. That led to my founding of the Initiative News Report in 1980, which became the first periodical to cover initiative and referendum campaigns and procedures since the progressive era.

Over the last eight years, my research, and that of others, has shown many of the unproven assertions that I heard during the late 1970s to be mistaken. Yet, despite the fact that the truth of these matters is now available, certain of these errors seem to come back from the dead more often than Count Dracula.

Right now, I would like to shed some light on the 10 most erroneous myths about the initiative process that I have heard most often. Hopefully, I will nail the coffin shut on these myths once and for all.

First of all, I have heard that initiatives are poorly written and are often unconstitutional. The fact is that for initiatives to win, they have to be carefully drafted to avoid flaws

that might give the opposition a campaign issue. Of the 40 state initiatives passed by voters in 1980 through 1982, only three were ruled unconstitutional, either in whole or in significant part. That is only 7-1/2%, so that means that most of them were constitutional, or no one could challenge them.

Secondly, I have heard that the side that spends the most money wins. The fact is, I have completed the most exhaustive research project ever undertaken on this subject, analyzing all the financial disclosure information available on initiative campaigns for the past nine years. I found that campaign spending seemed to be the decisive factor only in one out of eight initiative campaigns. In those cases where the spending was persuasive, its only effect was to make voters more cautious -- that is, when they were in doubt, they voted no. So, no harm was done by initiative.

A third myth I've heard is that initiatives help special interests or "the New Right," or, some people say, "the New Left." In fact, nationwide, two-thirds of all state-level initiatives are placed on the ballot, not by special interest groups, but solely by volunteer grass-roots' efforts. Furthermore, liberals and conservatives have had nearly equal success rates both in placing initiatives on the ballot, and in getting voter approval for them. This is documented in the material I have given you.

A fourth myth I have heard is that initiatives foster minority rule since many people don't vote. I heard that today. The fact is, the number of people voting on statewide initiatives in general elections averages 93% of the number voting on candidates for the highest office which is on the ballot -- governor, president, United States senator. That is a very high participation rate. It is as high, or higher, than the participation in state legislative races.

In addition, there is strong evidence that initiatives raise voter turn out. The fact is, in states that have initiatives on the ballot, in the past four or five general elections, on the average the turnout has been higher. You can see evidence of this in my written testimony also.

A fifth myth I've heard is that initiatives mean tyranny of the majority. This is just the flip side of the minority-rule myth, and it is just as inaccurate. Actually, initiatives constitute no more tyranny than bills passed by the Legislature, since both law-making processes are subject to judicial review and must conform to the U.S. Constitution.

Another myth I have heard is that initiatives cause ballot clutter. I heard that here today too. In fact, there is an average of only two initiatives on a ballot in each election in each of the 23 states that has the initiative process.

Four-fifths of all state ballot propositions are placed on the ballot, not by the citizen initiative process, but by state legislators.

In New Jersey, with the tough signature requirements that are proposed in the Zimmer and Karcher proposals, the number of initiatives on each ballot is likely to be below average.

Finally, I would like to refute what I have heard several times here, which is that California has lots of propositions on the ballot. They do have lots of propositions on the ballot, but most of them are put on the ballot by the legislature, not by the voters through initiative.

You have heard of Proposition 13. Well, Proposition 13 was the only initiative on that ballot. The other 12 propositions were placed on the ballot by the legislature. The average number of initiatives on a California ballot in the past decade has been about three, even in this high-use initiative state.

Another myth I have heard is that with initiatives, there is no use having a legislature. Well, the fact is, all 23 initiative states still have legislatures which still pass hundreds of bills in each session, while the voters pass less than one bill by initiative, per state, per election, on the average. Even in states with the most frequent initiative use, far less than 1% of all laws and constitutional amendments get on the book through the initiative process.

Another myth I have heard is that citizens selfishly vote their pocketbooks. In fact, voters rejected 16 of the 19 biggest tax-cut initiatives on state ballots since 1978. That is, they voted against getting a big tax cut in 84% of the cases where they had a chance to do so.

Even in California where Proposition 13 passed, voters rejected the other four major tax-cut initiatives which were on the ballot since 1968.

Another myth I have heard is that tax-cut initiatives have caused disasters in California and Massachusetts. The fact is that since voters passed those tax-cut initiatives -- Proposition 13 and Proposition 2-1/2 -- these two states have been among the nation's most prosperous, and overall levels of government services remain above national averages. The scare predictions of the opponents to these measures never materialized.

To give just one example, many people said that Proposition 13 would hurt the poor in California. Well, per capita welfare spending in California has now doubled the national average, despite the fact that Proposition 13 remains in effect.

A final myth I have heard is that people are simply too uninformed to vote on many subjects. In response to that kind of claim, I would like to cite Thomas Jefferson, who said, "I know of no safe repository of the ultimate power of society but the people. And if we think them not enlightened enough, the remedy is not to take the power from them, but to inform them by education." Jefferson said this in 1820, and a century later, there was nearly universal literacy among the voters, and there was widespread secondary education.

Today, 165 years later, we have the most highly educated electorate ever. We have had a record of voters casting ballots intelligently on an unlimited array of subjects by initiative for 81 years in as many as 23 states.

We have had a record of voters casting ballots intelligently on legislature-sponsored propositions in all 50 states for 200 years.

I would like to point out that initiative campaigns themselves are educational. Many states provide explanatory

information booklets. There is no reason to believe that New Jersey voters can't vote as intelligently as voters in the other 23 states that now have the initiative process.

Furthermore, when you consider subject restrictions, remember this: Every single subject restriction is an opening for the court to come in and take the initiative out of the legislature and the hands of the people, and say, "Hey, no one can vote on this." The interpretation of a subject restriction always ends up in court.

Just about every initiative in Massachusetts where they have lots of subject restrictions ends up in court before it gets on the ballot. Half of the initiatives that are proposed cannot even be subject to a petition drive.

To create an initiative process, such as the one proposed by the Karcher Bill, which prevents citizens from voting on anything meaningful, is analogous to a prison warden who grants freedom to a prisoner, but restricts that freedom to walking around the prison yard. (laughter and applause)

Assemblyman Zimmer's ACR-1, by contrast, and his implementing bill, A-1, deliver what they promise. They fulfill the promise of the New Jersey Constitution, Article I, Paragraph 2, which states that "All political power is inherent in the people," and that "They have the right at all times to alter or reform the government."

It is one of the ironies of history that New Jersey, where the national movement for initiative and referendum began nearly a century ago, and whose citizens provided leadership for this movement in the progressive era, still denies its citizens these basic voting rights.

I am confident that the members of the New Jersey Assembly will soon act to extend these voting rights to the people at long last, in light of the facts I have outlined here. I am aware that to achieve this, some members might have to change their positions. To these members, I submit the example of New Jersey's illustrious Governor and President Woodrow Wilson, who, in 1911, said, "For 15 years I taught my classes that initiative and referendum wouldn't work. I can prove it now, but the trouble is, they do." That is a quote.

From then on, Wilson said, "I am as strongly in favor of initiative and referendum as I was formerly opposed."

In closing, I would like to point out the results of a recent poll in the State of California whose citizens have been among active initiative users since 1911. The poll found that 79% said, "The initiative process is a good thing for California." Only 5% said, "It is a bad thing." This is a 16 to 1 margin. The evidence is in; the important studies are complete.

Now it is time for action. People have waited far too long already. Thank you. (applause)

ASSEMBLYMAN CHARLES: Thank you, Mr. Schmidt. You know, I know you didn't mean that Dick is opening the prison for all the criminals to run out into the street. (laughter)

I have no questions.

ASSEMBLYMAN ZIMMER: I don't know if this was brought out in your introductory remarks, but can you tell us what party you are affiliated with?

MR. SCHMIDT: Which party?

ASSEMBLYMAN ZIMMER: Yes.

MR. SCHMIDT: I have been a registered Democrat ever since age 18.

ASSEMBLYMAN ZIMMER: Can you give some advice to those on the Democratic side of the aisle? (laughter) Do you feel that you are a traitor to your class, in view of the fact that most of the resistance to the proposal I am supporting comes from the Democratic side of the aisle? Do you feel that somehow you are out of step with the traditions of your party?

MR. SCHMIDT: No, I think the initiative process has always been a bipartisan issue. During the progressive era, it got the support of all the major political parties. I just think that the Democratic party, if it means anything at all, if it stands for any principle at all, stands for democracy. It stands for the ultimate power being in the people, and initiative and referendum is within that tradition. (applause)

ASSEMBLYMAN ZIMMER: Thank you.

ASSEMBLYMAN CHARLES: Thank you very much, Mr. Schmidt.

MR. SCHMIDT: Thank you.

ASSEMBLYMAN CHARLES: At this point, we are going to end the testimony. As I indicated, there is a long list of persons who have expressed an interest in testifying and whose testimony I, as a member of the Committee, am interested in hearing. So, we will end this public hearing today, but we will continue it on another day. I will advise the public within a short period of time of the date. Thank you very much for coming.

(HEARING CONCLUDED)

APPENDIX

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Assistant Reviser of Statutes

(609) 292-5430
MAURICE E. GOLD

April 24, 1984

Honorable John H. Dorsey
355 Route 46
Mountain Lakes, New Jersey 07046

Dear Senator:

You have asked for an informal opinion on the constitutionality of subparagraph d. of paragraph 2 of Article I as proposed in Assembly Concurrent Resolution No. 42 of 1984. Please be advised that that subparagraph which requires the Legislature to enact laws limiting contributions and expenditures to propose, approve or reject amendments to the Constitution and laws of this State in our opinion would be adjudged unconstitutional as a violation of the First Amendment right of free speech, based on the following analysis and application of caselaw.

Assembly Concurrent Resolution No. 42 of 1984 proposes an amendment to the Constitution to establish the initiative and referendum process in the State. Subparagraph d. of paragraph 2 of Article I as proposed therein provides that

d. The Legislature shall enact laws to (1) prohibit the employment or use of persons who, for remuneration, solicit signatures for petitions and (2) limit contributions and expenditures to propose, approve or reject amendments to the Constitution, laws and repealers of laws, under subparagraph b. of this paragraph (which reserves unto the people initiative and referendum) (emphasis added).

The question presented, therefore, is (1) whether limits can be imposed on contributions and expenditures which are made to oppose or support amendments to the Constitution or laws of this State, and (2) whether limits can be imposed on contributions and expenditures which are made to propose amendments to the Constitution or laws of this State.

WHETHER LIMITS CAN BE IMPOSED ON CONTRIBUTIONS AND EXPENDITURES WHICH ARE MADE TO OPPOSE OR SUPPORT AMENDMENTS TO THE CONSTITUTION OR LAWS OF THIS STATE.

The United States Supreme Court has, in recent years, been confronted with issues very similar to these. In Buckley v. Valeo 424 U.S. 1 (1976) the Court was confronted with a federal election campaign act provision limiting contributions to candidates for federal elective office. The Court held, in part, that although the campaign contribution ceiling infringed on important associational rights, such a restriction was justified by the presence of the compelling governmental interest of avoiding the appearance of corruption and maintaining the integrity of our system of representative democracy. In a case closer to the facts presented here, however, First National Bank of Boston v. Bellotti 435 U.S. 765 (1977), the Court, when confronted with the issue of the constitutionality of a state statute that prohibited certain expenditures by banks and corporations for the purpose of influencing the vote on referendum proposals, held that a state could not prohibit corporations any more than it could preclude individuals from making contributions or expenditures advocating views on ballot measures. The Court noted that

Referenda are held on issues, not candidates for public office. The risk of corruption perceived in cases involving candidate elections [citations omitted] simply is not present in a popular vote on a public issue. To be sure, corporate advertising may influence the outcome of the vote; this would be its purpose. But the fact that advocacy may persuade the electorate is hardly a reason to suppress it: The Constitution 'protects expression which is eloquent no less than that which is unconvincing.' Kingsley Int'l Pictures Corp. v. Regents, 360 U.S., at 689." 435 U.S., at 790 (footnote omitted)¹

Similarly, the United States Court of Appeals (Ninth Circuit) was confronted with a Montana statute in C & C Plywood Corp. v. Hanson 583 F.2d 421 (9th Cir. 1978) that prohibited corporations or banks from making contributions to promote or defeat ballot issues. The court, relying on Bellotti and Buckley, held that even though the corporation's involvement may influence the vote on a ballot issue, such involvement is not an adequate reason to suppress corporate speech. Therefore, the statute was held to be an unconstitutional restriction of corporate First Amendment rights.

Subparagraph d. of paragraph 2 of Article I as proposed in Assembly Concurrent Resolution No. 42 of 1984 attempts, in part, to limit contributions

¹ See also Citizens Against Rent Control v. Berkeley 454 U.S. 290 (1981) and Let's Help Florida v. Smathers 453 F.Supp. 1003 (U.S.D.C. 1978) for a discussion of how statutes which limit contributions to committees formed to support or oppose ballot questions violate both the rights of association and free speech provided by the First Amendment.

April 24, 1984

and expenditures to approve or reject public referendum issues. Based upon the reasoning of the Court in Bellotti and Buckley and the line of cases that follows those decisions, a statute (or in this case a constitutional amendment) that attempts to limit these types of contributions and expenditures, which may in fact influence the outcome of the vote, are unconstitutional as a violation of the First Amendment since the compelling governmental interest - risk of corruption - is not present in a popular vote on a public issue.

WHETHER LIMITS CAN BE IMPOSED ON CONTRIBUTIONS AND EXPENDITURES WHICH ARE MADE TO PROPOSE AMENDMENTS TO THE CONSTITUTION OR LAWS OF THIS STATE.

Subparagraph d. of paragraph 2 of Article I as proposed in Assembly Concurrent Resolution No. 42 of 1984 also requires the Legislature to limit contributions and expenditures which are made to propose amendments to the Constitution or laws of this State. Attempts to limit expenditures to propose initiative measures also have been found to violate the First Amendment. In Hardie v. Fong Eu 556 P.2d 301 (1976), the California Supreme Court was confronted with a government code section that limited the amount that could be expended in furtherance of circulation of petitions by which initiative measures may qualify for the statewide ballot. The respondents, the Fair Political Practices Commission contended that the state had a compelling interest in assuring that position on the ballot could not be bought. The court held, in part, relying on Buckley, supra, that the code sections were unconstitutional as an undue infringement on the rights of political expression guaranteed by the First Amendment to the federal Constitution. Hardie, supra, at p. 304; see also Urevich v. Woodard 667 P.2d. 760 (1983).


Based upon this reasoning limits on expenditures (the same rationale would apply to contributions) which are made to propose amendments to the Constitution or laws of this State are unconstitutional as an undue infringement on the rights of political expression guaranteed by the First Amendment.

Therefore, please be advised that for the foregoing reasons, subparagraph d. of paragraph 2 of Article I as proposed in Assembly Concurrent Resolution No. 42 of 1984 in our opinion would be held unconstitutional as a violation of the First Amendment.

Very truly yours,

DIVISION OF LEGAL SERVICES

Albert Porroni
Legislative Counsel

By: 
Marvin W. Jiggetts
Deputy Legislative Counsel

AP/MWJ/cu
cc: Victor McDonald ✓

DEBUNKING THE MYTHS ABOUT THE INITIATIVE PROCESS

by David D. Schmidt, Editor, Initiative News Report

Summary of Testimony before the New Jersey Assembly State Government Committee

June 17, 1985

Myth #1: "Initiatives are poorly written, often unconstitutional."

FACT: Winning initiatives must be carefully drafted, to avoid flaws that may give the opposition a campaign issue. Of the 40 state-level initiatives passed by voters in 1980-1982, only three have been ruled unconstitutional.

Myth #2: "The side which spends the most money wins."

FACT: The most exhaustive study yet completed on initiative campaign spending found that money appeared to be the decisive factor in only one campaign of every eight. And even in these campaigns, the effect of the spending was only to make voters more cautious.

Myth #3: "Initiatives help special interests/the New Right/the Left."

FACT: Nationwide, two-thirds of all initiatives are placed on ballots solely through volunteer efforts. Liberals and conservatives have had nearly equal success rates both in ballot placement and voter approval.

Myth #4: "Initiatives foster minority rule because many people don't vote."

FACT: The proportion of people voting on state initiatives averages 93 percent of the number voting for the highest office on the ballot (President, U. S. Senator, Governor). Furthermore, initiatives raise turnout.

Myth #5: "Initiatives cause ballot clutter."

FACT: In the 23 states which now allow them, there have been an average of two (per state) initiatives on the ballot in each election in the past decade. Four-fifths of all state propositions are placed on ballots by legislatures.

Myth #6: "Initiatives mean tyranny of the majority."

FACT: Initiatives are subject to judicial review, the same as laws or constitutional amendments passed by the legislature.

Myth #7: "With initiatives, what's the use of having a legislature?"

FACT: All 23 initiative states still have legislatures, each of which passes hundreds of bills per session. Voters, on the average, pass less than one initiative per election in each of the 23 states.

(over, please)

DEBUNKING THE MYTHS ABOUT THE INITIATIVE PROCESS, 2

Myth #8: "Citizens selfishly vote their pocketbooks."

FACT: Voters rejected 16 of the 19 biggest tax cut initiatives on state ballots from 1978 through 1984 -- 84 percent of the total. Even in California, where Proposition 13 passed, voters rejected the other four major tax cuts that have been on the ballot since 1968.

Myth #9: "Tax cut initiatives caused disasters in California and Massachusetts."

FACT: Since the passage of tax cut initiatives, these two states have been among the nation's most prosperous, and overall levels of government services remain above national averages.

Myth #10: "People are too uninformed to vote on many subjects."

FACT: Today's electorate is more highly educated than ever before. Voters in the 23 initiative states have built up a record of intelligent, responsible voting on initiatives for over eighty years. Voters in other states have voted intelligently on two centuries of propositions placed on ballots by legislatures. Most initiative states do not restrict the subject matter of initiatives; voters have cast ballots on an unlimited array of issues. Subject restrictions contradict the very essence of the initiative process: self-government.

For further information and documentation, see the full version of this testimony, published in Initiative News Report, June 14, 1985. Extra copies can be obtained from David D. Schmidt, 4607 Connecticut Avenue NW #719, Washington, D. C. 20008. Or phone (202) 364-2402.

DAVID D. SCHMIDT

NATIONAL EXPERT ON INITIATIVE AND REFERENDUM CAMPAIGNS/PROCEDURES

CREDENTIALS

- Founder/Editor of nation's first periodical on Initiative & Referendum campaigns and procedures since the Progressive Era. Editor, 1980-1985.
- Campaign Consultant to Washington, D. C. Committee on Overnight Shelter, proponents of successful 1984 ballot initiative to create a legal right to shelter for homeless persons. This initiative won with a 72 percent favorable vote, and was the subject of nationwide press coverage.
- Author of numerous articles on Initiative and Referendum campaigns, published in national publications.
- Executive Director/Lobbyist for Greater Washington Americans for Democratic Action, 1979-1980. Helped secure Initiative & Referendum voting rights in District of Columbia for first time in D. C. history.
- Administrative Assistant to U. S. Senator James Abourezk, 1978. Handled research and all other matters concerning Abourezk's Voter Initiative Constitutional Amendment, which proposed a national referendum procedure.
- Research Intern for Initiative America, a citizen group backing nationwide Initiative and Referendum voting rights, 1977.
- Volunteer Organizer for California Campaign to Pass Proposition 15, a 1976 ballot initiative to restrict nuclear power. Worked on campaign from January 1975 to June 1976.
- Volunteer Organizer for California Campaign to Pass Proposition 17, a 1974 ballot initiative to stop construction of a massive dam on the Stanislaus River. Worked on campaign May 1974 to November 1974.

As Founder/Editor of Initiative News Report, and due to my additional years of advocacy and research on the subject, I have become recognized as the nation's foremost expert on Initiative and Referendum politics.

TESTIMONY OF DAVID D. SCHMIDT

EDITOR, INITIATIVE NEWS REPORT

before the New Jersey Assembly State Government Committee

June 17, 1985

"As a resident of California in the 1950's, 1960's, and early 1970's, I grew up taking the initiative process for granted as one of the voting rights that are the heritage of all Americans. But when I moved to Washington, D. C. in 1977 I learned that many cities, and most states east of the Mississippi lacked this essential mechanism of self-government. In that year, I participated in a successful campaign to amend the Washington, D. C. charter to provide for Initiative and Referendum. The amendment was passed unanimously by the D. C. Council, and approved by greater than a three to one margin of voters.

"It was in that campaign that I first encountered opposition to the idea that voters should have the power to enact or reject a law or amendment that they themselves propose. These arguments were largely based on unproven generalizations. At the time, there was no way to prove or disprove them , for existing studies provided only fragmentary or outdated information.

"I began to study the history of the initiative process nationwide, and to keep records of initiative campaigns in progress. This led to my founding the Initiative News Report in 1980, the first periodical devoted to Initiative

and Referendum campaigns and procedures to be published since the Progressive Era. Over the last five years, my research and that of others has shown many of the unproven generalizations I heard in the late 1970's to be mistaken. Yet despite the fact that the truth of these matters is now available, certain of these errors seem to come back from the dead more often than Count Dracula.

"So right now I'd like to shed some light on what I consider the ten most common myths about the initiative process, and hopefully nail the coffin shut on them once and for all -- or at least, failing that, force them to flee into the dark corners of other states.

Myth #1: Initiatives are "poorly written" and "often unconstitutional."

FACT: To win voter approval, initiatives must be carefully drafted: Any flaw provides the opposition with a campaign issue. The care with which sponsors draft their initiatives is reflected in the fact that of the 40 state-level initiatives passed by voters in 1980-1982, only two have been ruled unconstitutional, and a third unconstitutional in part -- a paltry 7½ percent of the total. Opponents of the remaining 92½ percent have had plenty of time to pursue legal challenges to the measures' validity, but either have not done so or have failed in court. Anyone skeptical about this may contact state officials responsible for implementing these 40 initiatives:

N. D.: Oil production tax hike (1980) -- law in effect.

Ore. : Nuclear power restrictions (1980) -- law in effect.

Mont.: Nuclear waste dump ban (1980) -- law in effect.

Wash.: Nuclear waste import ban (1980) -- ruled unconstitutional.

Ill. : Single-member house districts (1980) -- const. provision in effect.

Mont.: Lobbying disclosure (1980) -- law in effect.

Colo.: Elected transit board (1980) -- law in effect.

Wash. DC: Statehood Constitutional Convention (1980) -- law carried out.*

Wash: Nuclear Power Bond Approval (1981) -- law ruled partially unconstitutional,
substantial portion remains in effect.

S. D.: Single-member state senate districts (1982) -- const. provision in effect.

Ariz.: Voter registration eased (1982) -- law in effect.

Mo. : Sales tax hike for schools (1982) -- law in effect.

Mont.: Coal tax investment (1982) -- Const. provision in effect.

Ida. : Property tax shift (1982) -- law in effect.

Neb. : Corporate farm acquisition ban (1982) -- const. provision in effect.

Mass.: Nuclear power/waste restrictions (1982) -- law in effect.

Wash.DC: Nuclear arms freeze (1982) -- law carried out.*

Mont.:	"	"	"	"	"	"	"
Mich.:	"	"	"	"	"	"	"
N. D.:	"	"	"	"	"	"	"
Ore.:	"	"	"	"	"	"	"
Calif.:	"	"	"	"	"	"	"

Mo. : State spending limit (1980) -- Const. provision in effect.

Mass.: Property tax cut (1980) -- law in effect.

Mont.: Income tax indexing (1980) -- law in effect.

Wash.: Repeal state inheritance tax (1981) -- law in effect.

Calif.: Income tax indexing (1980) -- law in effect.

Calif.: Repeal state inheritance tax (1982) -- law in effect.

Calif.: Repeal state inheritance tax (1982) -- identical in effect to above measure.

Calif.: "Victims' Bill of Rights" (1982) -- Const. provisions in effect.

Nev. : Repeal personal property tax (1982) -- Const. provision in effect.

Ida. : Nuclear power referendum requirement (1982) -- law in effect.

Maine: Income tax indexing (1982) -- law in effect.

Alas.: "Tundra Rebellion" (1982) -- ruled unconstitutional.

N. D.: State housing loans (1980) -- law carried out.*

Ariz.: State lottery (1980) -- law in effect.

Ida. : Denturist Licensing (1982) -- law in effect.

Wash.DC: Lottery (1980) -- law in effect.

Wash. DC: Mandatory prison sentences for drug pushers (1982) -- law in effect.

Colo.: Municipal annexation (1980) -- Const. provision in effect.

*law required only short-term action.

Myth #2: The side which spends the most money wins.

FACT: I compiled the most exhaustive statistical study on initiative campaign spending ever published, which utilized all financial disclosure information available for the years 1976-1984. Of the 189 initiative campaigns covered in this study, spending could be judged the decisive factor in the outcome of only 23 -- approximately one-eighth of the total. These latter campaigns were characterized by one-sided "Vote No" spending, in which the opponents outspent proponents by a least a 2 to 1 ratio, and spent an amount sufficient to reach voters throughout the state with the "Vote No" message repeatedly.

The observation that money has a noticeable persuasive impact only when it is used in a "one-sided 'Vote No'" campaign has been supported by the findings of other, more limited studies, such as Daniel Lowenstein's 1982 UCLA Law Review article (which covered only California, 1968-1980), and John S. Shockley's

study of initiatives in Colorado in 1976 (The Initiative Process in Colorado Politics: An Assessment, published in 1980 by the University of Colorado, Boulder, Bureau of Governmental Research and Service). While this finding has a negative aspect in that it shows campaign spending to influence voters under certain circumstances, it has a positive aspect in that it indicates voters approach controversial initiatives with a healthy degree of caution. Another positive finding in the campaign spending data was that voters were independent enough to approve initiatives despite one-sided 'Vote No' spending in one-fourth of the cases where there was such spending. A summary of the most important findings of the Initiative News Report study (published May 3, 1985) is reprinted below.

Campaign Spending: Summary of 1976-1984 INR Findings

One-sided "Vote No"	won:	21 initiatives = 25%
spending:	lost:	62 initiatives = 75% ¹
One-sided "Vote Yes"	won:	17 initiatives = 55%
spending:	lost:	14 initiatives = 45%
Negligible or roughly	won:	39 initiatives = 52%
equivalent spending:	lost:	36 initiatives = 48%
All initiatives*:	won:	91 initiatives = 39.9%
	lost:	137 initiatives = 60.1%
Initiatives with	won:	15 initiatives = 38%
unknown spending:	lost:	24 initiatives = 62%

*includes initiatives with unknown spending (from states where disclosure is not mandated)

¹The 62 initiatives defeated in instances of one-sided 'Vote No' spending represent 33 percent of the total of 189 initiatives for which spending data is available. However, one cannot assume that in the absence of spending all these initiatives would have passed. Most likely, even with negligible or roughly equivalent spending, or one-sided 'Vote Yes' spending, 52-55 percent of these initiatives would pass -- as they actually did in the latter categories. To bring the success rate of "one-sided 'Vote No'" initiatives up to the success rate of the other categories -- in which spending had no noticeable influence -- would require the passage of 23 additional "one-sided 'Vote No'" initiatives. These 23 -- one-eighth of the total of 189 -- are the ones whose outcomes appear to have been changed by the influence of campaign spending.

Myth #3: The initiative process serves "special interests" or "the New Right" or "the Left."

FACT: The initiative, alone among governmental decision-making processes, unfailingly puts the public interest first by letting the people decide their own interests. The grassroots nature of the initiative process is illustrated by the fact that nationwide, two-thirds of all initiatives on state ballots in the years 1980-1984 were petitioned to the ballot solely through volunteer effort. The non-partisan nature of the initiative process is shown by my finding that liberal and conservative initiative sponsors have about the same success rate both in getting initiatives on ballots, and in securing voter approval. In the years 1977-1984, liberal-leaning groups secured ballot placement for 79 state-level initiatives, and voters approved 44 percent of them. During the same period, conservative-oriented groups put 74 initiatives on state ballots, and voters passed 45 percent of them.

This finding is consistent with that of the American Enterprise Institute's Dr. Austin Ranney, whose 1978 book Referendums included a section entitled "Liberal or Conservative Outcomes." There, he concluded: " . . . the evidence presented in this and other chapters of this book -- admittedly incomplete, yet more comprehensive than that presented in any other recent study -- suggests that the referendum is neither an unfailing friend nor an implacable enemy of either left or right. . . . Surely the institution should be evaluated according to whether it is a good way of making political decisions, not according to the predicted outcome of those decisions." (p. 85).

Myth #4: Initiatives enhance "minority rule" because many people don't vote on them.

FACT: In the general elections of 1976, 1978, 1980, and 1982, the proportion of people voting on statewide initiatives averaged 93 percent of the total casting ballots for the highest office in that election (governor, U. S. Senator, President). Other, less comprehensive studies have shown that the rate of voter participation on initiatives is as high or higher than for state legislative races. Shockley's study (see Myth #2) found initiative participation 7 percent higher; the Initiative News Report study of 11 initiatives on ballots in Washington and Oregon in 1984 found initiative participation 5 percent higher (published in INR Feb. 22, 1985), and Dr. David Magleby's study of California general elections 1970-1982 found voter participation on initiatives and state assembly races about equal (Magleby's source is State of California, Statement of the Vote, 1970-1982, published in Sacramento by the Secretary of State).

There is also strong circumstantial evidence that initiatives raise voter turnout. Initiative News Report's voter turnout study, published January 25, 1985, showed that turnout was consistently higher in states with initiatives on

ballots than in states without. This effect was dramatic in non-Presidential election years, but occurred in Presidential years as well -- despite the fact that early projections of the winners were decreasing turnouts in the West, which included most of the states with initiatives on ballots! The relevant statistics are summarized below.

	<u>Turnout as % of eligible (18 and over) population</u>				
	<u>1976</u>	<u>1978</u>	<u>1980</u>	<u>1982</u>	<u>1984</u>
<u>States with initiatives</u>					
<u>on ballots:</u>	59.0	44.7	59.8	46.8	54.5
<u>States without initiatives</u>					
<u>on ballots:</u>	56.0	39.4	55.0	39.8	51.5
<u>Difference:</u>	3.0	5.3	4.8	7.0	1.5
<u>Initiative states' advantage</u> ¹ :	5.4%	13.5%	8.7%	17.6%	2.9%

¹Calculated by dividing the number in the third row by the number in the second. For instance, in 1976, turnout in states with initiatives was 3/56 higher, or 5.4 percent higher, than in states without.

A final ^{observation} ~~note~~ on the "minority rule" myth is that it could be applied to any election. If non-voters were included in vote totals, few candidates would ever win majorities. That's why elections are decided by those who do vote -- not those who don't.

Myth #5: Voter-initiated measures cause "ballot clutter."

FACT: During the past decade, which has been a period of relatively high use of the petition process to put Initiative and Referendum measures on the ballot, the average number of such measures on a single ballot ^{in the 23 initiative states} has been just two. In 1982 and 1984, such measures accounted for just one-fifth of all state ballot propositions in the nation. The rest were put on ballots by actions of legislatures. The origin of the ^{ballot clutter} myth can be traced to states which make no distinction between voter-initiated measures and other measures in numbering the propositions. California's "Proposition 13" was the only initiative on the ballot in that state's June 1978 primary. The other twelve measures were constitutional amendments and bond issues put on the ballot by the legislature.

Myth #6: The initiative process is "tyranny of the majority."

FACT: "Tyranny" is defined as "the rule of a sovereign unrestricted by law or constitution." Since even constitutional initiatives are subject to judicial review and must conform to the federal Constitution, initiatives can no more be equated with "tyranny" than enactments of the legislature, which are subject to similar restrictions.

Myth #7: If the people can make laws, there's no need for a legislature.

FACT: There are 23 states with constitutional provisions for the initiative process, and in each one there still remains a legislature which passes hundreds of bills each session. The voters, through the initiative process, pass an average of less than one bill per election per state. Even in states where initiative use is relatively high, laws placed on the books through the initiative process represent well under 1 percent of the total.

Myth #8: Citizens selfishly "vote their pocketbooks."

FACT: The voters deserve credit for rejecting initiatives to substantially cut their own taxes in sixteen out of nineteen -- 84 percent -- of such campaigns in 1978-1984. Even in California, where voters approved "Proposition 13," they rejected four other major tax cut initiatives on their state ballot in the years 1968-1984. Initiatives to cut taxes drastically have passed only in instances where legislatures failed to provide relief from extraordinarily high and rapidly rising tax burdens. The nineteen initiatives that proposed major tax cuts are listed below.

1978 Calif. "Proposition 13" Property Tax Cut -- passed.
1978 Idaho Property Tax Cut -- passed.
1978 Mich. Property Tax Cut -- rejected.
1978 Ore. Property Tax Cut -- rejected.
1980 Calif. State Income Tax Cut -- rejected.
1980 Ariz. Property Tax Cut -- rejected.
1980 Mass. Property Tax Cut "Proposition 2½" -- passed.
1980 Mich. Property Tax Cut -- rejected.
1980 Nev. Property Tax Cut -- rejected.
1980 Ore. Property Tax Cut -- rejected.
1980 S. D. Property Tax Cut -- rejected.
1980 Utah Property Tax Cut -- rejected.
1982 Ore. Property Tax Cut -- rejected.
1983 Ohio Repeal Income Tax Hike -- rejected.
1983 Ohio Require 3/5 Legislative Approval for Tax Hikes -- rejected.
1984 Calif. Strengthen "Proposition 13" -- rejected.
1984 Mich. Tax Rollback, Referendum Requirement -- rejected.
1984 Ore. Property Tax Cut -- rejected.
1984 Nev. Property Tax Revenue Lid -- rejected.

Myth #9: Tax cut initiatives have been disastrous for California and Massachusetts.

FACT: Since the passage of California's "Proposition 13" in 1978 and Massachusetts' "Proposition 2½" in 1980, these two states have been among the nation's most prosperous. As of mid-1983, Massachusetts had the lowest unemployment rate in the nation, according to James Ring Adams' book, Secrets of the Tax Revolt (p. 332). In California, in the year following Proposition 13's passage, public sector employment decreased less than 1 percent. By 1980, the number of government jobs had rebounded to pre-Proposition 13 levels, and it has continued growing since then. While some government services have been cut back or had user fees imposed, the overall level of government services in both states remains above national averages. The dire predictions made by opponents of "13" and "2½" in the months just before and after these measures passed simply have not come true. To cite just one example, opponents of "13" claimed that the measure would hurt the poor. However, as of 1984, California's per capita spending on welfare was double the national average. In November of that year, California voters rejected an initiative to cut welfare spending -- by a nearly 2 to 1 margin of votes.

Myth #10: The people are too uninformed to vote on many subjects.

FACT: Thomas Jefferson said: "I know of no safe repository of the ultimate power of society but the people. And if we think them ~~not~~enlightened enough, the remedy is not to take the power from them, but to inform them by education." Jefferson said these words in 1820, and a century later the nation had achieved nearly universal literacy and widespread secondary education. Progressive reformers of the early 1900's judged that this level of education was sufficient

to enable citizens to participate intelligently on law-making through the initiative process.

Since 1904, when Oregon voters cast ballots on their first statewide initiative, the people in 23 states have built up a record of intelligent, responsible voting on an unlimited array of issues. In some states, governments have aided voters by providing a booklet explaining each initiative which will be on their ballots. These booklets include the actual text of the measure, a summary and statement of fiscal impact prepared by state officials, and pro and con arguments prepared by sponsors and opponents of the measure.

Here in New Jersey and in the other states which still lack the initiative process, citizens have built up their own record of responsible voting by casting ballots on constitutional questions and other measures placed on ballots by state legislatures. Education levels nationwide have kept rising to the point where college education is as common today as secondary education was during the Progressive Era. There is no reason to believe that today's voters in New Jersey or any other state will perform less intelligently in deciding on initiatives than citizens of the 23 initiative states over the past eighty years.

The myth that voters should be prohibited from voting on certain subjects, as embodied in ACR 42 by Assemblyman Karcher, is a transparent cover for the real purpose of the bill: To prevent citizens from voting on anything that really matters. The Karcher proposal's ban on initiatives involving election laws, redistricting, appropriations, revenue and government expenditures is analogous to a prison warden who grants "freedom" to a prisoner -- but limits the freedom to walking around the prison courtyard.

Assemblyman Zimmer's ACR 1, by contrast, is an initiative proposal that delivers what it promises -- if citizens are willing to work hard enough to gather the hundreds of thousands of signatures required to petition a measure into the legislature and onto the ballot. The initiative process under Zimmer's ACR 1, and his implementing bill A-1, is the mechanism needed to fulfill the promise of the New Jersey Constitution, Article I, paragraph 2, which states that "All political power is inherent in the people," and that "they have the right at all times to alter or reform the same (Government)."

"It is one of the ironies of history that New Jersey, where the national movement for Initiative and Referendum began nearly a century ago, and whose citizens provided leadership for this movement in the Progressive Era, still denies its citizens these voting rights. I am confident that the members of the New Jersey Assembly will soon act to extend these voting rights to the people, in light of the facts I have outlined here. I am aware that to achieve this, some members will have to change their previous positions. To these members I submit the example of New Jersey's illustrious son Woodrow Wilson, who said in 1911:

For fifteen years I taught my classes that the Initiative
and Referendum wouldn't work. I can prove it now -- but the
trouble is they do!¹

From then on, Wilson later said, he was "as strongly in favor" of Initiative and Referendum "as (he) was formerly opposed."²

¹From an interview with Wilson printed in Outlook magazine, Aug. 26, 1911.

²From a quote attributed to Wilson which graced the letterhead of John Randolph Haynes' League to Protect the Initiative, headquartered in Los Angeles, 1925. The full quote appears in California Controversies: Major Issues in the History of the State, by Leonard Pitt, p. 120.

CALIFORNIA POLL: VOTERS LOVE BALLOT INITIATIVES

According to the most recent California Poll, released June 5 by the San Francisco-based Field Institute, four out of five Californians agree that their right to vote on statewide initiatives is "a good thing for California." A somewhat smaller two-thirds majority agreed that initiative proposals should be submitted to the Secretary of State for review and comment prior to petition circulation, and Californians split nearly evenly on the question of whether an "indirect initiative" procedure should be established whereby initiatives are sent to the legislature prior to being put on the ballot.

Here is the exact wording of the questions, and the results:

1) As you know, California is one of the states that allows for ballot proposition elections. This is where an initiative on any issue can be voted on whenever its sponsors obtain a certain number of signatures from registered voters to qualify it for the ballot. Do you think that statewide proposition elections are a good thing for California, a bad thing, or don't you think they make much difference?

	<u>1985</u>	<u>1982</u>	<u>1979</u>
Initiatives "a good thing"	79%	80%	83%
Initiatives "a bad thing"	5	6	4
Neither good nor bad	10	9	11
No opinion	6	5	2

2) From time to time proposals have been made to try and change the initiative process. I will describe some recent suggestions and I would like you to tell me whether you favor or oppose each one. Here's the first one: This plan would require sponsors to submit their initiative to the Secretary of State for review and comment on its conformity to present law and its clarity of language before circulating it for signatures. Do you favor or oppose this idea?

Favor: 62%

Oppose: 29%

No opinion: 9%

3) Another proposal calls for establishing an "indirect initiative" in California. This is where sponsors can have their initiative voted upon by the state Legislature. If the initiative failed to pass the Legislature or was passed in an unacceptable form, its sponsors would then have the option of placing it on the next statewide election ballot. Do you favor or oppose this idea?

Favor: 46%

Oppose: 44%

No opinion: 10%

Sample Details: Interviewing was conducted between April 30 and May 7, 1985.

The sample consisted of 520 adults statewide, and was weighted by age, sex, and region to bring it into conformity with the state's adult population on these dimensions.

Initiative Quarterly

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In 1982, 226 citizen-initiated ballot proposals were titled for circulation of petitions in 23 states and the District of Columbia. Fifty-seven ballot initiatives will have been voted on by the electorate in those jurisdictions by the time this year's general election has passed.

An Introduction to "I.Q."

Initiative, the process by which citizens can propose a law or constitutional amendment by petition and then decide the proposal in an election, has become an increasingly important part of the politics of the United States.

First introduced in the Western states during the early 1900's, the initiative for many years remained a regional phenomenon, not heavily used and seldom the vehicle for major controversial issues. However, beginning in the 1970's there has been an evident resurgence of interest in (and use of) direct legislation by citizen initiative—even at the national level, where talk of adopting a National Initiative surfaces periodically.

This "Initiative Explosion" led to the creation of the National Center for Initiative Review in 1981. NCIR is a non-profit corporation providing information and assistance to those working for improvement and reform of the initiative process. It seeks to ensure that the lessons of America's 84 years of initiative experience are brought to bear on decisions for the future.

"I.Q." = A Timely Review of the Process

The expanded use of the initiative process is slowly, but dramatically, changing the way Americans practice politics—and govern themselves. NCIR believes the Initiative is a legislative form of such significance—whether directly or through the influence initiative campaigns have on elected representatives—that the **process** itself warrants an ongoing critical review.

The focus of this periodical will be to help stimulate that review, always with an eye toward where and how the **process** might be improved.

Initiative Quarterly will be published four times a year: January, April, July and October, with supplemental reports to keep readers up to date on initiative and legislative activity around the country.

Inside I.Q.

Initiative Update Pages 5-7
Legislative Update Pages 8 & 9
Focus: Certification Pages 3 & 4

NCIR Sponsors Mervin Field Initiative Poll

California voters will be the focus of one of the first major pieces of survey research done on the voters' view of the **initiative process**. California's most respected pollster, Mervin Field, will conduct a special initiative survey this fall, in conjunction with their regularly scheduled California election year polling.

This important new work has been commissioned jointly by NCIR and Brigham Young University, and is expected to provide some of the most comprehensive information to date on the voters' real feelings about the initiative process and its use, rather than about particular ballot issues alone.

The Field Institute undertakes regularly scheduled public opinion and voter surveys of the California public, reporting the results through its statewide public opinion news feature service, **The California Poll**, published by the firm since 1947.

This year, two studies are scheduled for the month of October—just prior to the general election on November 2—each conducted by telephone with a sample of at least 1,000 California adults. Supplemental questions relating to initiatives will be included.

Mervin Field will present findings from the surveys at the 1983 National Seminar on the Initiative, at the L'Enfant Plaza Hotel in Washington, D.C., on January 21, 1983. (See page 12 for seminar details.)

NCIR: Exploring the Need for Reform

Because of the unprecedented increase in ballot initiative activity, as well as the growth of an "initiative industry," attention is being focused on some fundamental public policy concerns. Some of these include:

- The lack of general public understanding about the initiative process;
- The difficulty faced by citizens interested in the initiative process in locating an impartial source—one that does not view the process on the basis of a particular issue or a narrow interest;
- The impact of greatly expanded ballot initiative activity on the state legislative processes and on our political system in general;
- The quality of the legislative product of the initiative compared with legislation enacted by state assemblies;
- The actual level and quality of citizen participation in the process: who votes and what is the level of their understanding of the increasingly complicated ballot measures;
- The increasingly large amounts of money spent in initiative cam-

paigns compared with funding for state and federal legislative campaigns.

- Decisions by states about an initiative—its adoption, structure, implementation, and administration—should be based on as complete an understanding of the available evidence and experiences as possible. To base a decision on less is not in the interest of responsive government.

The National Center for Initiative Review, therefore, has been established, as a nonprofit corporation, to assist in the long-term improvement of the initiative process by

- Acting as a national clearinghouse on initiative activity—gathering, analyzing, and disseminating information;

- Assisting individuals and groups who seek initiative reform.

NCIR programs to accomplish these goals include:

- Sponsoring seminars and conferences;
- Issuing a newsletter and other special publications;
- Testifying at public hearings; and
- Commissioning original research.

An Idea Whose Time Has Come

Several decades of experience with the initiative process exist. The National Center for Initiative Review seeks to ensure that lessons from that experience, as well as data from new research, are made available to all interested persons. The brief experience of the past 18 months has clearly demonstrated that the NCIR is an idea whose time has come.

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EDITOR'S NOTE: Each edition of I.Q. will devote this space to an in-depth look at some facet of the initiative process.

Focus: Certification

Not many people are aware that signatures must be **validated** in some way before the initiative measure can actually be put on the ballot. This procedure, referred to as "Certification", is one of the initiative's least understood dimensions.

The techniques used for signature certification vary widely throughout the 23 initiative states and the District of Columbia.

INDIVIDUALLY VALIDATED SIGNATURES. Each signature on the petition forms is compared to voter registration lists to assure the signator is a qualified registered voter. Names that do not conform to the voter lists are invalidated.

RANDOM SAMPLING OF SIGNATURES. If valid signatures in the random sample fall within a predetermined "confidence" level, the proposal is placed on the ballot. If not, an individual verification of signatures **may** be required.

PRESUMED VALIDITY. Under this system, petitions carry the warning statement "You must be a registered voter to sign this petition." Circulators must sign an affidavit (which is subsequently notarized) swearing that all signers of the petitions are, to his best knowledge, registered voters and are who the signature purports them to be. These caveats and affidavits are deemed sufficient cause for all signatures to be accepted as valid by the certifying authority of the state, who merely counts signatures submitted.

1982 Challenges

In 1982 there were major challenges to certification techniques in four different states: Michigan, Arizona, Wyoming and Colorado. These challenges illustrate the dramatic importance of these procedures in determining which measures will be presented to voters. It is **significant to note that NO CHALLENGES** were reported in states using **INDIVIDUAL SIGNATURE VALIDATION** as their **PRIMARY** certification technique.

Michigan's Random Sample Results Upheld by State Supreme Court

Early in July proponents of the "Expanded Death Penalty" petition drive submitted approximately 307,000 signatures to fulfill a requirement of 286,722. Twelve percent of the signatures in the random sample were found to be invalid. The Board of State Canvassers ruled the probability that the remaining signatures would be sufficient to meet the state's requirements was less than 0.001% and the Secretary of State disqualified the measure.

On September 29, following a series of hearings in state district courts, the Michigan Supreme Court sustained the Secretary's ruling.

The Court upheld the random sampling techniques used by the Board of Canvassers. Particularly important was the effect of the decision in support of Michigan's requirement that the name and address on the petition must conform to the signer's official voter registration.

A final attempt to save the measure failed when the Federal District Court refused to hear the case on jurisdictional grounds.

Arizona's Court Puts 'Anti-Sagebrush Rebellion' Initiative Back on Ballot

Michigan relies solely on the random sample. Arizona, on the other hand, has the fall-back procedure of individual signature validation when the random sample is inconclusive. In a ruling on the "Anti-Sagebrush Rebellion" initiative, after two random samples were inconclusive, the Arizona Supreme Court allowed the measure on the November ballot anyway because there was not sufficient time to conduct the individual validation prior to ballots being printed.

The significance of the Arizona ruling was not so much the Court's support of random sampling, but its willingness to give the benefit of the doubt to proponents when the statutory process could not be completed.

Wyoming's In-Stream Flow Certification Challenge

Wyoming has the highest signature threshold in the nation for initiative laws (15% of the votes cast in the last election for the office of Secretary of State). Even though the laws have been on the books since 1968, no petition drive had been completed before 1982.

Proponents for regulation of in-stream flows submitted 30,822 signatures toward a requirement of 27,154. Wyoming uses the "random sampling" method of certification with a fall-back to individual validation, if necessary.

The petitions required individual signature validation and were found to be almost 5,000 signatures short. The Secretary of State declared the measure had failed to qualify.

After failing to get similar legislation passed during the 1982 session, proponents filed suit in the Cheyenne district

Which Certification Technique Is Best?

INDIVIDUAL SIGNATURE VERIFICATION

Advantages:

Very little room for challenge.

Disadvantages:

Costly and time consuming.

States Using Method:

Alaska, Arkansas, Florida, Idaho, Maine, Massachusetts, Missouri, Nebraska, North Dakota, Ohio and Utah

RANDOM SAMPLING OF SIGNATURES

Advantages:

Cost-effective and efficient, can be completed in a relatively short time. Has fall-back position of complete individual signature verification if necessary.

Disadvantages:

Can be subject to challenge. Methodology for selection of sample varies greatly from state to state.

States Using Method:

Arizona, California, District of Columbia, Illinois, Michigan, Montana, Oregon, Washington, and Wyoming

PRESUMED VALIDITY

Advantages:

Benefits proponents of a proposal.

Disadvantages:

Places undue burdens on opposition to challenge signatures. Opposition must bear costs of voter lists, verification time, and political costs of providing show-case for proponents' proposal through hearing process. Is conducive to abuse where financial, political and personal stakes are high to qualify the measure for the ballot.

States Using Method:

Colorado, Nevada, Oklahoma and South Dakota

QUARTERLY SPOTLIGHT

court to have the Secretary of State's ruling overturned. The plaintiffs claimed the Secretary of State had exceeded her authority by checking signatures on the petition against voter registration lists and that, in the absence of a challenge, the signatures must be **presumed valid**.

The district court ruled in favor of the proponents, ordering the initiative on the November ballot.

Considering the far-reaching implications of the decision, Secretary of State Thyra Thomson, represented by Attorney General Steven F. Freudenthal, appealed the case to the Wyoming Supreme Court, which reversed the lower court's decision.

The Supreme Court rejected outright the plaintiffs' claims of presumed validity. The ruling established some important precedents:

The Secretary of State is required by law to validate signatures on a petition by checking them against voter registration lists.

The Court affirmed the validity of the random sampling technique as a first cut method of determining ballot certification.

And, It's Presumed "Invalidity" in the Colorado Casino Drive

Colorado is one of four states recognizing the "Presumed Validity" concept. One of the most controversial initiatives of the year would have allowed legalized casino gambling in certain parts of Colorado. Proponents gathered barely enough signatures on petitions to qualify the measure (approximately 41,000 were submitted with a required minimum of 38,896). Secretary of State Mary Estill Buchanan declared the measure qualified for the ballot.

Strong vocal opposition had been mounted against the gambling proposal during the petition circulation period. As soon as the petitions were submitted, opponents began their own effort to check signatures against voter registration lists. When some questionable signatures were found, two protests were filed with the Secretary of State which triggered the involvement of that office in the validation process. In compliance with Colorado law, a formal hearing was scheduled.

The bill of particulars outlined in the protests would have been humorous if the issues had not been so serious. Abuses of the process during signature collection included:

- Non-registered voters circulating and signing petitions.
- Unattended petitions left in bars and other public places for signatures.
- Improper notarization of petitions

and affidavits.

- Forged and fraudulent signatures, often appearing in alphabetical order on a single page of the petition. (Later it was determined these were copied from voter registration lists apparently by one person.)

After several days of testimony the Secretary of State ruled that since all but a few thousand signatures had been proven fraudulent, she had no choice but to bar the initiative from the ballot. She labeled the discredited petitions a "gross insult to the citizens of Colorado."

In a further action, Buchanan withdrew the 15-day "cure" period extended to petitioners under Colorado law to replace invalidated signatures. She said that considering the gross fraud prevalent in the initial drive, she would have to presume that subsequent signatures would be equally suspect.

The Casino Gambling Initiative in Colorado dramatically illustrates the problems inherent with presumed validity. First, it is naive to assume that all signatures collected will be valid and

not to provide some mechanism for verification only invites abuse.

In examining other areas of "presumed validity" found in dealings with state government, it is hard to pinpoint any area where such leniency is tolerated. For example, vehicle operators are "presumed" to be legally licensed drivers—but your driver's license is the first thing requested if you are stopped on any traffic infraction. And, you may go to the polls on any election day and claim to be a registered voter, but until you have signed a sworn statement and your name and signature are checked against current rolls, you are not allowed to vote.

Second, it is very possible that citizens are uncertain of their voter registration status and sign a petition in good faith unaware they are not qualified to do so.

No matter which certification procedure is used, conventional wisdom holds that proponents need to pad signature goals by at least 15 percent.

Concern in California

Los Angeles Herald Examiner, Monday, October 18, 1982

These days, a good process is too often abused

We have thought for some time that the initiative process in California is itself badly in need of reform. The process has largely become a tool of the special interests. It substitutes emotion-laden, misleading TV commercials for legislative hearings and rational debate, and it results, time after time (although not always, in bad law, a laughably complex constitution and tax dodges or additional profits for those who least need them. It also, by the way, opens the door to trivia.

Examples of measures that simply should not be decided by the initiative process are Propositions 6 and 13 on the November ballot. The former would alter the investment formula for public pension funds, an issue that most voters are unqualified to decide. The latter is a massive and extremely complicated attempt to alter the state's water-use and water-conservation policy. Let the legislators decide such matters. That's what we elect and pay them to do.

Then there's triviality. Only last Friday, one Barton Gilbert of Burbank (who earlier tried, and failed, to get an initiative on the ballot for the legalization of marijuana), launched the latest initiative drive. Gilbert wants to change the term used to describe those entitled to sign initia-

tive petitions from "electors" to "voters." Yes, yes — we *know* there's a difference. But, in all the years since the initiative process first went into effect, no change in the terminology was found necessary, and the secretary of state has consistently interpreted the term "elector" to mean registered voter. So why change now?

Yet Gilbert's proposal is only the latest — and not necessarily even the worst — cockamamie scheme to intrude on this state's long-suffering body politic. The initiative process isn't bad in itself. Indeed, it is a necessary corrective to abuses of power by elected officials. But the *ease* with which it can now be used to pass new laws or constitutional amendments abuses the very intention of the reformers who gave us the process in the first place 70 years ago.

Things plainly are out of hand. We therefore have a proposal for anyone who thinks it would be nice to come up with an initiative of his own: Draft one that would, for example, increase the number of registered voters needed to qualify a ballot measure, and you can count on us for support.

As for the Barton Gilberts of this world, we have the following message: Please, quit abusing the law, the constitution and the electors — er, voters. ■

INITIATIVE UPDATE

Ballot Designation	Subject	Classification	Provisions
ALASKA			
Ballot Measure No 5	Tundra Rebellion	1•7	Claims state ownership of federal lands (some exceptions)
No. 6	State Funding for Abortions	1•2•3•6	Prohibits use of state funds for abortions, unless life of mother endangered
No 7	Fish/Game Subsistence	4•7	Disallows classification of persons who fish and/or hunt for personal consumption
ARIZONA			
Prop 200	Bottle Deposit Bill	4•7	Requires 5¢ deposit on certain beverage containers; provides for refund procedures and redemption centers
Prop 201	Nuclear Weapons Freeze	1	Bi-lateral (US-USSR) nuclear weapons freeze resolution
Prop 202	Voter Registration	1•6	Allows permanent voter registration through drivers' licensing
Prop 203	Anti-Sagebrush Rebellion	1•7	Repeals state claim to control certain public lands, repeals statement of public land policy
CALIFORNIA			
Prop 5 [PASSED]	State Inheritance Tax Yes: 61.3% No: 38.7%	3	PRIMARY BALLOT - JUNE 8, 1982 Repeals state inheritance & gift taxes, effective June 8, 1982 [Superseded by passage of Prop. 6]
Prop 6 [PASSED]	State Inheritance Tax Yes: 63.9% No: 36.1%	3	Repeals state inheritance & gift taxes, retroactive to Jan 1, 1982 [Takes effect, having passed with higher percentage than Prop. 5]
Prop 7 [PASSED]	Tax Indexing Yes: 62.9% No: 37.1%	3	Indexes state personal income taxes
Prop 8 [PASSED]	Victim "Bill of Rights" Yes: 56.2% No: 43.8%	6	Enacts significant changes in criminal code [Court challenge filed claiming violation of state's single subject restriction for initiatives; California Supreme Court upheld validity of ballot placement 9/82. Subsequent challenges on constitutionality of its many provisions expected.]
Prop 11	Bottle Deposit Bill	4•7	GENERAL ELECTION Requires 5¢ deposit on certain beverage containers; provides for refund procedures & redemption centers
Prop 12	Nuclear Weapons Freeze	1	Bi-lateral (US-USSR) nuclear weapons freeze resolution
Prop 13	Water Resources	4•7	Establishes groundwater management/conservation programs in some agricultural districts, restricts filling New Melones reservoir and requires full cost from sale of water from that reservoir
Prop 14	Reapportionment	1	Repeals legislature's power over reapportionment. Establishes Districting Commission (for state & congressional districts) and defines its powers and duties
Prop. 15	Gun Control	4•6	Requires registration of concealable weapons by 11/83, specifies procedure for sale/transfer, restricts legislative power to enact certain laws regarding gun ownership
COLORADO			
Measure # 5	Bottle Deposit Bill	4•7	Requires 5¢ deposit on certain beverage containers; provides for refund/redemption procedures
6	Rocky Flats Fund	1•3	Allows income tax refund checkoff for conversion fund to educate public on danger of Rocky Flats and radioactive materials
7	Wine Sales in Supermarkets	2•4	Allows wine with alcohol content of 14% or less to be sold in supermarkets

Classification Codes:

1. Government/Political Reform 2. Public Morality 3. Revenue, Taxes & Bonds 4. Regulation of Business/Labor
5. Health, Welfare, Housing 6. Civil Liberties/Civil Rights 7. Environmental/Land Use 8. Education

INITIATIVE UPDATE

Ballot Designation	Subject	Classification	Provisions
DISTRICT OF COLUMBIA			PRIMARY BALLOT, SEPT. 14, 1982
	Mandatory Minimum Sentences	6	Sets minimum sentences for certain violent & drug crimes
[PASSED Yes: 72.7% No: 27.3%]			
	Nuclear Weapons Freeze	1	Bi-lateral (US-USSR) nuclear weapons freeze resolution
IDAHO			
IP - 1	Homestead Exemption-Property Tax	3	Exempts first 50% of market value for improvements from ad valorem taxes
IP - 2	Denturistry	4	Provides for licensing of denturists & sets prohibitions on their activities
IP - 3	Future Generation of Electricity Through Nuclear Power	1•4	Requires advisory referendum on any law prohibiting nuclear power
MAINE			
Question #1	Tax Indexing	3	Adjusts individual income tax laws to eliminate bracket creep
#2	Milk Price Controls	4	Repeals price controls on milk at wholesale and retail levels
#3	Nuclear Shutdown	4	Bans nuclear power generation in state by 11/87
MASSACHUSETTS			
	Nuclear Referendum	4	Requires statewide referendum for approval of new nuclear power plants—other provisions
MICHIGAN			
Prop. B	State Police Staffing	1	Freezes staff levels at 1980 figures
Prop. C	Mortgage Loans	4•5	Bans due-on-sale mortgage loans
Prop. D (See Note 1)	Automatic Utility Rate Increases	1•4	Bans rate hikes except when approved at full-scale hearings; limits frequency of such hearings
Prop. E	Nuclear Weapons Freeze	1	Bi-lateral (US-USSR) nuclear weapons freeze resolution
Prop. G	Elected Public Utilities Commission	1•4	Provides for election of 3-member board, rather than appointment by governor
MISSOURI			
Prop. D	Citizens Utility Board	1•4	Establishes non-profit corporation to represent consumers in hearings/appeals before PUC
Prop. C	Sales Tax Increase	3•8	Increases sales tax by 1¢, with additional revenue to be used for education
MONTANA			
I-91	Anti-MX Missile	1	Advisory against placement of MX missile in state; includes nuclear weapons freeze resolution
I-92	Expanded Gambling-State Gaming Board	1•2•3	Clarifies types of legal games; sets up board to regulate games
I-93	End Liquor Quota System	1•2•4	Eliminates licensing quotas for sale of certain liquors
I-95	Economic Development Fund	3	Dedicates a portion of coal tax proceeds to be used for economic development in state
NEBRASKA			
	Ban Corporate-Owned Farms	4	Prohibits any corporation/syndicate (other than family farm corporations) from purchasing farm/ranch land in state

Classification Codes:

1. Government/Political Reform 2. Public Morality 3. Revenue, Taxes & Bonds 4. Regulation of Business/Labor
5. Health, Welfare, Housing 6. Civil Liberties/Civil Rights 7. Environmental/Land Use 8. Education

INITIATIVE UPDATE

Ballot Designation	Subject	Classification	Provisions
NEVADA			
Question 8	Personal Property Tax	3	Exempts personal property from ad valorem taxes
Question 9	Food Tax Repeal	3	Removes sales tax from food
Question 12 (See Note 2)	Advocate for Utility Consumers	1•4	Establishes advocate's position in Attorney General's office
NORTH DAKOTA			
	Nuclear Weapons Freeze	1	Multi-lateral (all nations) nuclear weapons freeze resolution
	Limit Charitable Gambling	2	Restricts certain games currently allowed
OHIO			
	Elected Public Utilities Commission	1•4	Requires election of public utilities commissioners, with 6-year terms and publicly financed campaigns
OKLAHOMA			
			SCHEDULED FOR BALLOT:
			RUN-OFF ELECTION, SEPT. 21, 1982
[PASSED	Pari-Mutuel Betting Yes: 58% No: 42%]	2	Legalizes wagering on horse races
			GENERAL ELECTION, 1982
	Redistricting	1	Replaces current legislative redistricting outline with substitute plan
OREGON			
Measure 3	Property Tax Limitation	3	Caps property taxes at 85% of 1979 levels—other provisions
Measure 4	Self-Serve Gas Stations	4	Allows persons other than service station employees to pump gasoline and other fuels
Measure 5	Nuclear Weapons Freeze	1	Bi-lateral (US-USSR) nuclear weapons freeze resolution
Measure 6	Abolish LCDC-State Land Use Planning Powers	1•7	Ends state's land use authority and continues city/county land use planning
SOUTH DAKOTA			
"A"	Abolish Multi-member State Senate Districts	1	Reduces representation of large urban areas to 1 senator, 2 representatives
WASHINGTON			
I-412	Retail Credit Interest Rate	4	Sets most maximum loan & retail rates at 12% API or 1% over Fed discount rate, whichever is greater
I-414	Bottle Deposit Bill	4•7	Requires 5¢ deposit on beverage containers; includes refund/redemption procedures
I-435	Corporate Franchise Tax	1•3•4	Repeals food sales tax, replaces with corporate franchise tax

NOTES:

1. A Legislative Substitute (Prop. H) will also appear on Michigan ballot which would allow fuel adjustment costs to be granted through mini-hearings and reaffirmed at regular hearings on price increases
2. A Legislative Substitute (Question 11) will also appear on the Nevada ballot which proposes an Office of Consumer Advocacy within the Attorney General's office. Question 11 provides for state funding, under initiated version, position is funded by utilities companies.

LEGISLATIVE UPDATE

State	1983 Session:		Last Day Bills Can Be Filed	Initiative & Referendum Legislation
	Opens:	Time** Limits		
*ALABAMA	4/19	30 LD in 105 CD	24th LD	No I&R bills in 81 session
ALASKA	1/17	None	No restrictions	Bills to allow statute by initiative have been introduced in the past
ARIZONA	1/10	Late April	29th LD	Passed bill in 1981 to require finance reports for initiative campaigns
ARKANSAS	1/10	60 CD	55th CD	No recent I&R bills
CALIFORNIA	12/6/82	None	None	3 bills in past 2 years for minor changes (1 passed)
COLORADO	1/5	None	60th LD	Major changes to I&R laws adopted in 80-81. Some problems with 1982 drives may cause more activity
*CONNECTICUT	1/5	6/8	Determined during Session	I&R bills introduced each session, have not gone beyond committee in the past
*DELAWARE	1/11	By 6/30	Determined during Session	I&R bills considered in 81-82, died with adjournment
FLORIDA	4/5	60 CD	(H) noon 1st day except for standing committees; (S) 11th day	No I&R bills in 81-82
*GEORGIA	1/10	40 LD	(H) 30th LD (S) 33rd LD	I&R defeated in Senate by 1 vote in 1981. Could see more activity in 1983
*HAWAII	1/19	60 LD	19th LD by constitution, actual deadlines set during session	7 I&R bills during 81-82, interest seemed to increase, but none reported out of committee
IDAHO	1/10	None	(H) 20th LD (S) 12th LD	Tried to change needed majority to pass I&R in 1981, failed
ILLINOIS	1/12	None	(H) 4/6 firm (S) 4/11	Very limited I&R in state, efforts to expand have failed
*INDIANA	1/10	61 LD or 4/30	(H) 16th LD (S) 12th LD	Two I&R bills in 81, died w/adjournment
*IOWA	1/10	None, except limit on per diem pay, expect to end by mid-May	(H) 7th Friday (S) 7th Friday	Three bills introduced to establish I&R 81-82, no action taken
*KANSAS	1/10	None, expect to end by mid-May	31st CD for individuals, 45th CD for most committees	Four I&R bills in 81-82, support growing
*KENTUCKY	NO 1983 SESSION			
*LOUISIANA	4/18	60 LD in 85 CD	15th CD	No I&R legislation in recent years
MAINE	12/1/82	100 LD	To Leg Drafting by 2nd Friday, in final form by 7th Friday	Five bills for various reforms in 1982, one passed, to limit petition circulation time to one year
*MARYLAND	1/12	90 CD	None during last 35 days	One bill to establish I&R in 81, defeated in committee
MASSACHUSETTS	1/5	None	1st Wednesday in December (exceptions)	No I&R legislation in 81-82
MICHIGAN	1/5	None	No restrictions	No recent changes have been made to I&R laws
*MINNESOTA	1/4	120 LD or 1st Monday after 3rd Saturday in May	No restrictions	Constitutional amendment to establish I&R defeated in 1980
*MISSISSIPPI	1/4	90 CD	16th LD	No recent I&R bills
MISSOURI	1/5	June 30	60th LD	No recent changes have been made to I&R laws

**LD=Legislative Days; CD=Calendar Days

* States not currently having initiative process

LEGISLATIVE UPDATE

1983 Session:				
State	Opens:	Time** Limits	Last Day Bills Can Be Filed	Initiative & Referendum Legislation
MONTANA	1/3	90 LD	Individual to drafting by 10th LD to floor by 18th, committee 38th LD to drafting 40th LD to floor	Three minor bills passed in 81-82, seven others died at end of session
NEBRASKA	1/5	90 LD	10th LD	Several bills to change I&R law introduced in 81-82, none passed
NEVADA	1/17	60 CD	Bill drafting by 30th LD	Two bills introduced in 81 to change present I&R laws, no action taken
*NEW HAMPSHIRE	1/5	Limited only by lid on pay and per diem	(H) Drafting by 1/31 & approved for intro by 4/15, (S) 4/12	Bill to establish I&R passed Senate in 81, defeated in House
*NEW JERSEY	1/11	None, all year session	No restrictions	Proposals to establish I&R have been fiercely debated past few years
*NEW MEXICO	1/18	60 CD	30th LD	Bill to establish was tabled in 81
*NEW YORK	1/5	None	(A) end of March (S) determined after session starts	Sixteen bills introduced in 81 to establish I&R
*NORTH CAROLINA	1/12	None	By April 1	Some I&R activity in last session
NORTH DAKOTA	1/4	80 LD	Bills by 15th LD, Amendments by 33rd LD	Two minor changes to I&R laws in 81, four bills died with adjournment
OHIO	1/3	None	(H) 3/15 (S) 4/30	Efforts to tighten I&R failed in 81-82
OKLAHOMA	1/4	90 LD	None	No changes proposed
OREGON	1/10	None	(H) 20th CD (S) 36th CD	Efforts to tighten process failed in 81-82
*PENNSYLVANIA	1/4	None	No restrictions	Six bills introduced in 81-82 to establish I&R, all died
*RHODE ISLAND	1/4	Limited only by lid on pay & per diem	(H) 38th LD (S) 40th LD	Established a committee to study I&R process in 81
*SOUTH CAROLINA	1/11	First Thursday in June	(H) 4/15 (S) if received from (H), by 5/1	One bill to establish process presented in 81-82, no action
SOUTH DAKOTA	1/4	40 LD	14th LD	Efforts to raise signature requirement failed in 81
*TENNESSEE	1/4	90 LD	(H) 20th LD (S) 10th LD (JR) 30th day	No recent I&R activity
*TEXAS	1/11	140 CD	60th CD	Six bills to establish in 81, narrowly defeated; expect 83 activity
UTAH	1/10	60 CD	30th CD	Minor changes considered in 81-82; none adopted
*VERMONT	1/5	None	(H) 5th week (12th if through Legisl Drafting) (S) 53rd CD	One bill to establish process defeated in 81
*VIRGINIA	1/12	30 CD	Set during session	Bills to establish process introduced past sessions with no action, increased interest expected in 83
WASHINGTON	1/10	105 CD	(H) 50th day	Omnibus bill passed in 82 with several changes to laws
*WEST VIRGINIA	1/12	60 CD	(H) 50th CD (S) 41st CD	Bills have been introduced in past to establish process, expect activity in 83
*WISCONSIN	1/11	None	No restrictions	Bills to establish process unsuccessful in past sessions, expect activity in 83
WYOMING	1/11	40 LD	18 LD	Expect bills calling for major changes to be introduced in 83 (82 session limited to budget)

**LD=Legislative Days; CD=Calendar Days

* States not currently having initiative process

Unsuccessful Initiative Petition Drives

The INITIATIVE UPDATE, listing all citizen-initiated measures which qualified for the ballot in 1982, actually represents only a fraction of initiative activity across the country this year.

A look at petition drives that didn't make the ballot gives the more representative picture. The broad variety of issues that sought ballot qualification this year is catalogued into the eight major subject classifications used in the Initiative Update. Listed below are measures that were titled but did not qualify for the ballot in 1982.

GOVERNMENTAL/POLITICAL REFORM

State	Description-Title
AZ	Provide for election of judges (2)
AR	Alter qualifications for constitutional offices (2)
CA	Provide for recall of legislators Prohibit transfer of campaign funds Regulate planning (eminent domain) Regulate annexation by municipalities
CO	Safeguard emergency services in state
FL	Designate English as state's official language
ID	Establish legal tender (gold silver)
IL	Expand initiative process (Lincoln Amendment)
MA	Expand initiative process (Political Honesty Amendment/Quinn) Limit length of legislative sessions Abolish county governments Propose reforms for legislature (4) (consolidated into one proposal by legislature prior to defeating measure)
MI	Abolish motor vehicle department Revise various sections of budget Provide for recall of legislators Establish Regional Water Board Provide for part-time legislature Simplify ballot composition Place term limit on legislators
MT	End legislative repeal of initiatives
MO	Require open primary elections
ND	Abolish Daylight Svs. Time in state
NV	Redefine duties of Lt. Gov.
OR	Set 2-term limit for appointees

UT	Set 2-term limit for electees Set up Metro Service Districts 'No Fault' fines by government Require open legislative meetings Provide for community correctional facilities
WA	Establish victim compensation fund Require lobby campaign finance disclosure Limit public official perks Limit salaries for elected officials End state's alcohol sales

PUBLIC MORALITY

State	Description-Title
AZ	Prevent cruelty to animals (ban cock-fighting)
CA	Decriminalize possession and cultivation of marijuana for personal use Allow state lotteries Legalize casino gambling Repeal 1982 Lottery Act
CO	Require sterilization of animals sold through state private agencies
FL	Legalize casino gambling Allow state lotteries
MA	Legalize casino gambling
MI	Allow local control of nude dancing material
MO	Expand number of crimes for which death penalty can be given
OK	Legalize pari-mutuel betting Allow liquor sales by the drink

OR	Allow lotteries and charitable raffles Decriminalize possession and cultivation of marijuana for personal use
SD	Expand types of legal gambling
WA	Decriminalize possession and cultivation of marijuana for personal use

REVENUE, TAXES AND BONDS

State	Description-Title
AZ	Limit property taxes (Sen. of 106) Regulate public debt revenues and taxes
AR	Institute a motor vehicle fuel tax
CA	Increase mill levy for libraries Limit taxes (CAST) Ban use of state funds for abortion Limit real property tax Place tax on alcoholic beverages for rehabilitation programs
CO	Establish property tax rates Increase mineral severance tax rate Set tax cap (limitation)
FL	Limit property tax (Jarvis Prop. 13) Limit property sales tax (Fair Share) Limit taxation (Citizen's Choice) Set state spending limitations
MA	Prohibit tax increases
ME	Rollback property taxes
MI	Repeal single business tax Lower state taxes

MT	Remove education from property tax funding base
MO	Increase Sales Tax for education Set uniform property tax Exempt interest from state taxes Return tax appraisal duties to county
OR	Repeal Merchants' Manufacturers Tax Revise property tax assessment base Repeal 1/8-cent conservation tax Authorize municipal income tax Limit property tax to 1% TCV Limit property tax to raw value of land Reform private property laws Remove tax credits for political campaign contributions Remove pollution tax credits Provide 30% homestead exemption on property tax
SD	Cut property taxes
UT	Limit taxes
WA	Cut residential property taxes Repeal food sales tax (3) Reduce property taxes Provide tax relief for senior citizens Repeal sales tax increases Establish transaction tax to replace other taxes Exempt automobiles from sales tax (2) Place tax on all forms of legal games (2)

REGULATION OF BUSINESS AND LABOR

State	Description-Title
AZ	Require insurance on all automobiles
AR	Reform of utility regulations (Glover)
CA	Reform of utility regulations (ACORN) Rescind motor vehicle vapor recovery requirements Require oil companies to divest of certain business interests Remove restrictions on real property prices (rent control) (2) Require advisory referendum on banning nuclear waste disposal in state
CO	Prohibit strikes by public employees Ban Due-on-Sale Mortgage Loans Establish public power authority Replace appointed Public Utilities Commission with elected commission
FL	Limit nuclear waste disposal in state Replace appointed Public Utilities Commission with elected commission
ID	Impose "Use Tax" on state's energy labs
MA	Allow sale of dessert wines in supermarkets (up to 24% alcohol) Require one elected member to be on state public utility commission

MT	End milk controls within state Establish penalties for large scale layoffs & plant closures
MO	Curtail energy activity within state (anti-nuclear)
OH	Control toxic substances in workplace Control of hazardous materials
OR	Regulate forestry activities Provide for licensing and duties of denturists Establish a renewable energy commission Replace appointed Public Utilities Commission with elected one
WA	Regulate industrial insurance Retail Credit Lid (I-411) Provide for licensing and duties of denturists Limit utility rate increases Provide for energy allocations in emergencies Require warranties on all electronics equipment sold in state Repeal I-394 (nuclear waste disposal ban) passed in 1980
WY	Require water replacement for all slurry pipeline operations Protect levels of in-stream flows

HEALTH, WELFARE AND HOUSING

State	Description-Title
AZ	Appropriate funds for Medicaid
CA	Place limit on Medi-Cal claims Control rate of population growth Subsidize housing through taxation
MA	Allow for joint custody in divorce
MI	Limit welfare/ADC payments
OR	Require that insurance cover all licensed care
WA	Cut welfare benefits Require welfare recipients to work

CIVIL LIBERTIES/CIVIL RIGHTS

State	Description-Title
CA	Provide communications network for citizen use Increase punishment for "habitual criminals" Revise and reform criminal codes (Bookston)
MI	Establish tougher sentences for crimes against senior citizen
MT	Expand number of crimes for which death penalty can be assessed
MO	Abolish the Exclusionary Rule in criminal trials
MO	Promote neighborhood schools (anti-busing initiative)
OR	Expand the number of crimes for which the death penalty can be assessed Allow the death penalty for aggravated murder Reform parole system

ENVIRONMENTAL PROTECTION AND LAND USE

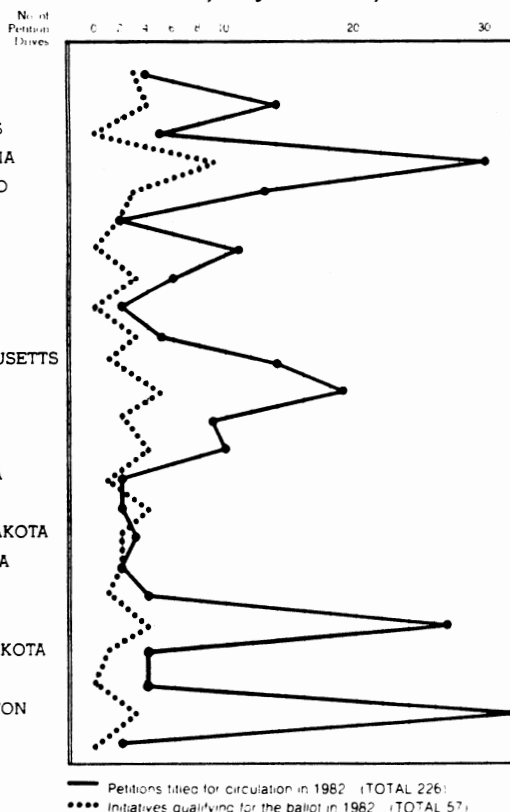
State	Description-Title
ME	Protect moose
NE	Establish fund for protection of wildlife through tax checkoff
OR	Regulate fish and game resources End state's role in land management End state's role in land planning
WA	Provide for emission controls
WY	Protect levels of in-stream flows

EDUCATION

State	Description-Title
AZ	Provide for election of state regents Allow prayer in schools
CA	Provide for education funding
MI	Require Bible classes (K-12)
WA	Limit college tuition

NOTE: Descriptions provided above may not reflect the total scope of the proposal but are given only to indicate the general thrust of the initiative.

Which are the most "active" Initiative states? The answers for 1982 can be found in the chart comparing the number of petition drives launched in each state with the number actually being voted on this year.



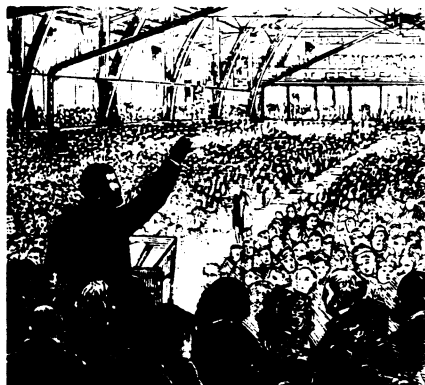
* MISSOURI does not have preling requirements, so this number reflects what were reported to be active petition drives during 1982.

** NEVADA requires that all constitutional amendments successfully pass in two general elections. Of the four initiatives on the 1982 ballot, only one is the result of a 1982 petition drive. Two are appearing for the second time. Another is the result of an earlier indirect initiative statute.

Direct Democracy Research Group Reports to Political Science Convention

Representatives of the National Center for Initiative Review participated in the panel discussion on direct democracy as part of the American Political Science Association's annual meeting held in Denver September 2-5, 1982.

The panel included several academicians who are currently involved in research on some aspect of direct democracy. Following is a summary of papers presented.



"The Initiative in the 1980s: Popular Support, Issue Agendas, and Legislative Reform of the Process."

David B. Magleby, Brigham Young University, Walt Klein and Sue Thomas, National Center for Initiative Review.

During the past decade there has been a resurgence of initiative and referendum activity. This upsurge has been especially great in the number of measures which are titled by election officials and which begin the petition circulation process. However, a declining percentage of the propositions that are titled actually qualify for the ballot. Those measures that do qualify for the ballot have generated significant interest in the process of direct legislation as well as in their particular special interest.

The direct legislation process has typically been seen as very popular with the public, but this paper demonstrates that this conventional wisdom needs some modification. While most recent surveys show a high percentage of voters think the initiative was a good thing, a recent New Jersey study by the Eagleton Institute

shows a high percentage of voters have serious concerns about the process.

The paper categorizes by subject matter all of the issues on the 1982 election ballots and attempts to explain why so many measures that were titled failed to qualify for the ballot. Legislation affecting the initiative process is surveyed and possible reforms of the process are discussed.

"The Role of Elites in Shaping Public Opinion."

John Zaller, Dept. of Political Science and Survey Research Center, University of California, Berkeley.

Proposes a model for empirical evidence to support the importance of roles of elites in shaping public opinion. Zaller tests the model on three issues:

1. School desegregation in the 1950s;
2. The Vietnam War in the 1960s; and
3. Gay rights at the time of the 1978 initiative campaign in late 1970s.

The model is based on the general claim that the effect of elite communications on mass attitude formation and change can be explained by two primary factors — the likelihood that individuals will be exposed to elite communications, and the disposition of individuals to accept the contents of those communications. Investigates the questions: If elites undertake a campaign (whether consciously or not) to persuade the public to accept a new idea, who among the public should be first to accept the idea?

"California Initiatives and the Single-Subject Rule."

Daniel H. Lowenstein, U.C.L.A. Law School, Los Angeles.

Lowenstein's work is especially relevant considering recent unsuccessful legal challenges to the "Victim Bill of Rights" initiative adopted by California voters in 1982. His paper reviews California court decisions regarding "rea-

sonably germane" and "functionally related" rulings within the single-subject restriction on initiative proposals in his home state.

"Popular Vote on Populist Amendments."

Charles H. Backstrom, University of Minnesota, Minneapolis, Minnesota.

Backstrom analyzes voter drop-off in the 1980 Minnesota election which included the constitutional amendment to provide for initiative and referendum in that state. He uses the aggregate vote on the amendment with full precinct vote and a 100-precinct model of the state as well as pre-election public opinion polls. Especially interesting are his findings on the voter drop-off, based on types of voting machines employed. Finds that drop-off was substantially greater where lever machines were employed versus where punch-card systems or paper ballots were used.

"The Illinois Cutback Initiative and its Aftermath."

David H. Everson and Joan A. Parker, Illinois Legislative Studies Center, Sangamon State University, Illinois.

Everson and Parker reviewed the history of the initiative in Illinois, the restrictions placed on the process by the state constitution, and the campaign to cut back the number of members of the state legislature by elimination of multi-member legislative district. Everson describes the concept of cumulative voting, competition for legislative seats under multi-member and single member legislative districts, and assesses the impact of the "cutback" on legislative activity. He concludes with a discussion of the 1982 Illinois Initiative which would have expanded use of the initiative and its unsuccessful effort for ballot placement.

Copies of all the papers summarized above can be obtained by writing the authors.

Press Reports on Initiative Growth

The initiatives currently qualified for the 1982 ballots span issues that affect the economy, the environment, and the daily lives of millions of Americans. As a result, coverage of the initiative process in general has begun to reflect the enormous importance attached to the process and its effect on legislative activity.

In recent months, the National Center for Initiative Review has provided information to a variety of news organizations that have written about initiatives.

Business and Public Affairs Fortnightly sees the 1982 increase in initiatives as a movement to be watched closely:

"...Don't underestimate the importance of findings by **Business Week** (4/12), the **Initiative News Service**, and the Colorado-based **National Center for Initiative Review**, that the 1981-82 election cycle is witnessing the greatest intensity of citizen initiatives since the 1920's. This is an important trend now moving into high gear.... Experts assume many

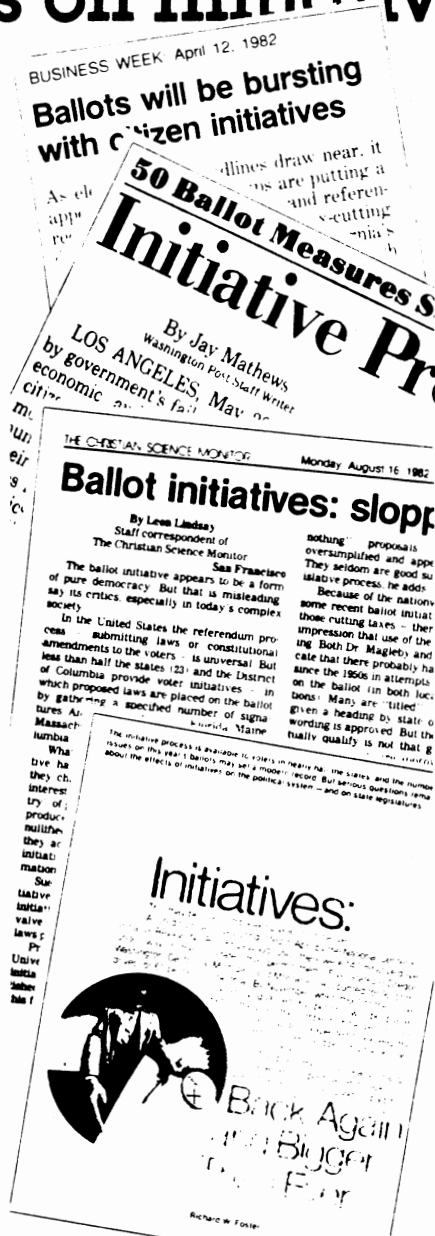
NCIR's Seminar

The National Center for Initiative will sponsor its annual Seminar on the Initiative Friday, Jan. 21, 1983, at the L'Enfant Plaza Hotel in Washington, D.C. Seminar moderator will be Board Chairman Stu Spencer.

Featured on the Seminar program will be Mervin Field, president of the Field Institute of California, with the results and an analysis of the first major poll sponsored by NCIR and Brigham Young University to assess California voter attitudes about the initiative process.

Also participating will be NCIR board members, who will moderate panels of academic and political experts discussing the 1982 initiative experience and prospects for reform.

Additional details about the Seminar program and official registration forms will be mailed with the I.Q. update in November.



more will qualify than the 46 making the ballot in 1980...."

The August 16, 1982, **Christian Science Monitor**, substantiates that assessment and quotes NCIR Research Director Sue Thomas as pointing out this year's total is ahead of last year's.

What are the reasons for this impressive increase in the number of initiatives?

According to a May 29, 1982, article in the **Washington Post**:

"Distressed by government's failure to solve a host of economic and social problems, private citizens in the United States have mounted what appears to be a record number of campaigns this year to get their proposals on the state ballots..."

State Legislatures, the mag-

azine of the National Conference of State Legislatures, featured an article in their July-August 1982 issue, entitled "Initiatives: Back Again and Bigger Than Ever," which stated:

"A look at this year's initiative drives shows the diversity of voter frustrations, ideologies, concerns and pet peeves... In many instances, initiative proponents—including some legislators—are responding to what they see as legislative inertia..."

This plethora of proposals continues to raise serious questions about the effects of the process.

The **Christian Science Monitor**, in their August 16 article entitled, "Ballot initiatives: sloppy laws from special interests?" summarized the initiative situation today:

"Through the initiative process, boosters of measures often too controversial or politically unpopular to make it through the legislature can bring their case directly to the voter..." The result, the article continues, is that "...decisions of often far-reaching consequences are made in the polling booth instead of through debate and compromise in legislative chambers..."

And, according to the May 29 **Washington Post**, "Despite the initiative's renewed popularity, many politicians and political science professors say they are troubled by what they consider ill-drawn initiative proposals that appeal to public passions against taxes and crime, but only produce long court battles over their constitutionality..."

State Legislatures admits that even though there are many problems with the process, little is being done to change and reform it. In the article NCIR's Sue Thomas points out, "Legislatures aren't at the point where they think they can get involved in initiative reform without adversely affecting themselves."

So, in the decade of the 1980s, the initiative process continues to increase as citizen frustration with government at many levels increases. As the **Washington Post** predicts, the process will "perhaps radically alter the style of American politics...."

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New Tool for Initiative Study

An accurate, readily-referenced, easy-to-use means of comparing the intricacies of the initiative structure

Initiative laws from state to state show an astonishing diversity—virtually no two states have identical initiative provisions. Yet, within each state, the particular initiative mechanism employed will profoundly influence the initiative experience.

Each year, NCIR receives hundreds of requests for information about how the initiative process works in particular states. Providing accurate answers involves consulting and cross-checking numerous sources. Even with the excellent information found in constitutional excerpts, in studies reported by governmental agencies, in academic articles, and in literature provided by individual state officers, any interstate comparative analysis of initiative procedures has been, at best, time-consuming.

An accurate, readily-referenced, easy-to-use means of comparing the intricacies of the initiative structure from state to state has long been needed.

NCIR has compiled a state-by-state comparison of initiative provisions and summarized them in chart form. This expansive wallchart, **INITIATIVE PROVISIONS BY STATE**, outlines more than twenty different provisions for ballot access, and allows easy cross-reference and comparison of the current initiative provisions in every state. Information on the chart is easily accessible, yet the format provides sufficient detail to make the chart a valuable tool for in-depth study.

NCIR is pleased to provide this chart to **Initiative Quarterly** subscribers. Hundreds of hours were spent compiling and organizing the data. We feel it will be an invaluable aid in stimulating interest in the dynamics of the initiative process.

Current Initiative Petition Drives by Status—for 1983-84 Ballots

Certified	7
Complete/In Certification	2
Announced, Not Filed	3
In Titling/Review/	
Attorney General (AG)	18
In Progress (Active)	84
Inactive/Abandoned	3
Withdrawn	
(may have been refiled)	6
Failed since last report	13
Failed/Withdrawn/Abandoned	
previously (dropped from report)	41
Total Drives	
Attempted to Date	177

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Ballot Measures Qualified

While a few states have initiative proposals on November ballots, most do not, since many states only allow initiatives to appear on biennial general election ballots. Several of those initiatives have generated legal challenges before even being voted on:

An initiative to save the historic 184-year-old Rhodes Tavern in Washington, D.C. would establish a 7-member board to negotiate with the building's owner, and would make preserving and protecting the landmark public policy. Since the initiative would only create a non-binding resolution, developer Oliver T. Carr could raze the structure—formerly the town hall—even if voters approve the measure. But Carr's application for the demolition permits he needs was answered by a court injunction barring the tavern's demolition until the public has a chance to vote on the proposal.

Maine's initiative to ban moose hunting will appear on the November ballot despite a court challenge against the petition signature threshold used to qualify the measure.

The state supreme court ruled 6-1 against an argument by the Sportsman's Alliance of Maine (SAM) that the Save Maine's Only Official State Animal (SMOOSA) measure qualified for the ballot under an outdated signature threshold based on 1978 election results, and that a higher threshold pegged to the 1982 voted numbers should have been in effect.

The court answered that the SMOOSA committee's decision to file their 39,942 valid petition signatures on November 1, 1982 allowed their petition to be qualified under the older threshold, thus avoiding the December 1, 1982 threshold increase from 37,026 to 40,030 signatures. The state's constitution does not bar such early filings, the court said.

Continued on Page 2

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Ohio voters will decide three ballot issues:

- A proposal to raise the state's drinking age from 19 to 21.
- A proposal to require a 3/5 majority in the state legislature to increase taxes
- A proposal to repeal the 90% state income tax increase enacted in 1983

Two measures have already qualified for 1984 ballots, and each has already generated legal contests:

A Florida constitutional property tax limitation sponsored by Floridians for Tax Relief would roll back the tax base 1980-81 levels and would limit increases in all state and local taxes to 5% a year. Miami lawyer Martin Fine has filed suit to bar the measure from the ballot on the grounds that it violates both Florida's one-subject-per-initiative rule and the Constitution's guarantee of due process.

State officials in Utah are exploring ways to remove a measure from the 1984 ballot that would ban salacious materials from cable television. Earlier this year, the state's legislature passed a similar law, overriding a veto by the governor — who called the measure unconstitutional — and rendering the initiative contest moot. Meanwhile, the ACLU has filed suit challenging the constitutionality of the new statute, and a second 1984 initiative campaign is under way to repeal the law should the court uphold it.

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New York Times looks at initiative process

THE NEW YORK TIMES, SATURDAY, SEPTEMBER 17, 1983

Voters vs. Legislatures: Ballot Issues Increasing

By ROBERT LINDSEY
Special to The New York Times

LOS ANGELES, Sept. 15 — Want to end nuclear war, start a space program, get tougher on crooks, cut taxes or reapportion electoral districts? In California, you pass a petition or, more likely, you hire someone to do it for you.

The initiative, an 85-year-old reform from the progressive era that grants voters in 23 states the right to bypass legislators by writing their own laws and then getting them adopted or rejected at the ballot box, has been experiencing a resurgence in much of the nation recently.

Last year 58 voter-initiated measures were placed on the ballot in 18 states, the largest number since 1934, and 26 were passed.

In no state has use of the initiative made greater headway than in California, where political scientists say it has drastically reshaped the machinery of government and led to the growth of a multimillion-dollar specialty trade whose practitioners get initiative measures placed on the ballot and then campaign for approval.

Californians Seen Undeterred

This week, for the first time in 35 years, the California Supreme Court removed measure from the ballot when it ruled a Republican-backed reapportionment plan was unconstitutional. But political scientists predict the decision will not deter Californians from using the process to change their laws.

According to a new study by David Magleby of Brigham Young University, an academic specialist in the field, there were more than four times as many initiative petition drives started in California in the 1970's than in the 1960's, for a total of 181. Of this number, 22 got enough signatures to qualify for the ballot and 7 were adopted.

In the 1980 and 1982 elections, there were 107 initiative petition drives; 13 qualified and 5 were adopted. If Californians follow the patterns of the recent past, Dr. Magleby said, the number will climb substantially in 1984.

"The resurgence began in the 70's," he said, "but I think the 80's will be the decade of the initiative; I prophesy more measures will qualify during the 1980's than in any previous decade."

The 'Initiative Industry'

Dr. Eugene C. Lee, who teaches political science at the University of California, said the number of ballot propositions had "gone up with the rise of special-interest politics and the growth of the initiative industry — you've got people making money out of it."

Even as it gains renewed popularity, the initiative process is a subject of dispute. Some political scientists say the renewed interest is evidence that state legislators are not responding to the wishes of the public, often because they are under the influence of big-spending lobbyists and special-interest groups. Therefore, the political experts say, the process is fulfilling the objectives envisaged for it.

"There's a growing sense of futility and unhappiness in the public over the Legislature, that it's not doing its job" and that "because it is so influenced by special interests, nothing happens," said Charles M. Price, a specialist in state government at Chico State University.

Proposition 13 and Aftereffects

The most commonly cited example of an initiative that grew out of legislative inaction is Proposition 13, the 1978 law that substantially limited property taxes in the nation's most populous state.

Two little-known California businessmen, Howard Jarvis and Paul Gann, gathered enough signatures to place the measure before voters after several years in which lobbyists for cities, counties and school districts, ignoring

mounting public protests, successfully blocked legislative efforts to reduce rapidly growing property taxes.

The measure, which passed by 2 to 1, slashed property taxes as promised. But critics have assailed Mr. Jarvis and Mr. Gann as drafting a vaguely written law that has had profound, unforeseen effects on government because it all but took away local government's only taxing power and shifted enormous power to the state capital in Sacramento.

Despite such criticism, many California leaders say it would be political suicide to propose ending the initiative process, even if, as Dr. Price and other political scientists say, the turn-of-the-century progressives who fought for acceptance of the initiative to bypass corrupt and unresponsive legislatures would barely recognize it today.

The political scientists say the original process has been drastically altered by the advent of professional petition-passers and consultants who specialize in computerized direct-mail techniques and other modern campaign methods and the availability of millions of dollars in campaign funds to special-interest groups.

Turning Into a Major Business

The researchers say circulating initiative petitions and promoting initiative campaigns has become a major business for companies that employ thousands of people who gather signatures for a fee, serving, in effect, as hired guns for the special interests.

Typically, the researchers say, it costs about 60 cents for each signature collected the conventional way, by door-to-door canvass or at a shopping center, for example, and about \$2 a signature when "high-tech" campaign methods are employed.

Computers are used to identify registered voters who, for demographic reasons, are regarded as the most likely to respond to a direct-mail appeal for their signatures. Many more valid signatures were said to have been collected this way than those gathered by conventional methods of petition-passing.

Among the most prominent members of the "initiative industry" in California are the Butcher-Ford Company, Judith Brown Associates and the F. G. Kimball Company. Political scientists who have studied the changing role of the initiative say that the emergence of professional signature-gathering services makes it possible for almost any well-financed initiative proposal to reach the ballot.

According to a study directed by Dr. Magleby, who is writing a book, "Direct Legislation," about the initiative, many such proposals are written so unclearly that the vast majority of voters cannot comprehend them.

In the kind of vacuum of understanding that results, he continued, emotions and the slickest and often the most expensive television campaign carry the day. "It sometimes approaches an electoral roulette," Dr. Magleby said.

The Game Is Expensive

By all accounts, it is an expensive game. According to the National Center for Initiative Review in Denver, more than \$65 million was spent by the proponents and opponents of the 38 initiative measures that went before voters in 1982. The Denver organization, which describes itself as a clearinghouse for information about the initiative process, is financed in part by corporations that are concerned about the increasing use of the initiative to pass laws they regard as antibusiness.

Critics of big business assert that corporations are subverting the original function of the initiative as a tool of reform in the hands of the citizens by pouring millions of dollars into campaigns in which, generally, the richest contender wins.

About \$20 million was spent by business last year, they point out, to defeat a variety of consumer-backed initiatives aimed at utility companies and to fight environmentalists' "bottle bills," which require consumers to pay a refundable deposit on beverage cans and bottles to reduce litter. Three years ago, the critics say, the tobacco industry spent more than \$7 million on a successful campaign to defeat a proposed California law that would have placed a variety of restrictions on smokers.

Businessmen say they must spend the money in self-defense. They argue that the initiative process has made it possible for small groups of people, well-organized and sometimes well-financed, to pass laws that, in the businessmen's eyes, are often irrational and economically unacceptable.

Regardless of the merits of each side in the dispute, said Roy Palmer, a researcher at the National Center for Initiative Review, "The costs involved are enormous, and they're getting larger."

Of the 22 states that have adopted the initiative process since South Dakota became the first in 1898, the majority are in the West: five, Florida, Michigan, Ohio, Maine, and Massachusetts, are in the East. The District of Columbia allows for voter initiatives as well. Illinois has a statute that provides for initiative, but specialists on the subject say there are so many restrictions on its use that it is rarely used.

One conservative leader who is said to have Presidential ambitions, Representative Jack F. Kemp, Republican of upstate New York, has said he favors establishing a national initiative patterned after the law in California.

Dr. Magleby said, "Supporting the initiative has become a way for both liberals and conservatives to establish populist credentials." Moreover, he says, it can provide a politician with instant celebrity.

"How else could Paul Gann become a candidate for the United States Senate and Howard Jarvis end up on the cover of Time Magazine?" Dr. Magleby asked Edmund G. Brown Jr., he added, rode into the California Governor's office largely on the publicity he gained while championing a 1974 initiative aimed at reducing corrupting influences in the State Legislature.

The initiative has been available to voters in California, since 1912, when it was enacted at the behest of the state's Progressive Governor, Hiram Johnson.

In recent years, voters have set tax policy by passing Proposition 13 and several other tax-cutting initiatives; they have determined how long felons should remain in jail, with Proposition 8, helped determine the shape of the state's future growth by turning down a mammoth water canal project, with Proposition 9; and they have given California its own foreign policy by voting in favor of a two-sided freeze on nuclear weapons development, with Proposition 12. Another measure, which did not qualify for the ballot, called on the state to endorse launching a space station by the end of the decade.

When administrators of the state's junior college system became unhappy recently over a decision by Gov. George Deukmejian to impose a \$80-a-semester tuition fee, they did what comes naturally in California: they announced plans for an initiative drive, later abandoned, to go around the Governor.

In California, the signatures of 5 percent of the total votes cast in the previous gubernatorial election (394,000), place a proposed measure on the ballot; 8 percent of that total vote (830,000) is required to place a constitutional amendment before the voters.

Despite the changes that time and modern campaign technology have brought to the reforms of the old progressives, many political scientists, including Dr. Price of Chico State, maintain that the advantages outweigh the disadvantages.

In California and elsewhere, he said, state legislatures are "under enormous influence by special interests because of their money and campaign contributions."

Focus: New Initiative Legislation

Nevada Officials Now Able to Scrutinize Signatures

By Eric Miller

Initiative petition signatures in Nevada are no longer presumed valid under a new law that took effect there July 1, a change that pleases state and county officials who felt that Nevada's old law left much room for error.

The new law is a much-needed improvement to the state's provisions for direct legislation, according to Secretary of State William D. Swackhamer, who promoted the bill through the state legislature.

"We had been concerned that maybe some things were getting through that shouldn't have," Swackhamer said in a recent phone interview from Carson City. "Under our old law, all we could do was verify the number of signatures, and verify that the person signing the petition lived in the right county. We didn't have any way of certifying or comparing the signatures (to registered voter lists)."

The new law is a much-needed improvement to the state's provisions for direct legislation, according to Secretary of State William D. Swackhamer, who promoted the bill through the state legislature.

Swackhamer said that even when officials had doubts about the validity of signatures, they were powerless to check the signatures against voter rolls unless someone filed a formal challenge against the petition. And that's exactly what happened two years ago, he said, when an initiative proposal that would have amended the state's constitution to repeal the food tax in restaurants met the signature threshold requirement - but just barely.

"The petition had just the bare minimum number of signatures needed in some of the counties," Swackhamer recalled. "The Nevada Taxpayers Association took some of the petitions to those counties, checked the signatures and found that they were indeed deficient, something we had suspected all along."

The measure was thrown off the ballot, but Swackhamer's concern over such problems led him to propose the

new law (Senate Bill 354), which is modeled after California's law and provides for both random and exhaustive signature certification.

Nevada county clerks and registrars who gathered in Carson City last month for their biannual workshop on new state election laws endorsed the new law despite the fact that it promises to create a big seasonal workload for them, Swackhamer said.

"They know it's going to be a big job, but it got an enthusiastic reception," Swackhamer said. "They generally felt the same way we (state officials) did - that in the past, we had not been any too accurate about petition signatures."

Under the new law, the county clerk in each county is responsible for checking petition signatures against names on the county's voter rolls. If the petitions submitted to the clerk contain fewer than

500 signatures, the clerk checks each individually. If there are more than 500, the clerk uses a scientific sampling method.

Swackhamer's office then tabulates the results from all the counties. There are three possible outcomes:

- 1) If the random sampling predicts that the number of valid signatures is probably 110% or more of the required minimum, the petition is considered qualified for the ballot without further verification.
- 2) If the number of valid signatures appears to be below 90% of the minimum needed, the petition is disqualified.
- 3) However, if the number of valid petition signatures appears to fall within 90% and 110% of the minimum threshold level, the Secretary of State instructs each county clerk to verify each signature

individually - and passes or fails the petition on those results.

Swackhamer said the random sampling procedure adopted from California is well-tested, court-approved, and extremely accurate.

"The counsel for the election department of the California Secretary of State's office told me that in the two instances when California had followed up the random sampling with a name-by-name verification of signatures, the percentage of valid names fell within one percent of the percentage established by random sampling," Swackhamer said.

Since Swackhamer estimates that the new certification procedure could take up to 65 days, initiative petitions must now be turned in 65 days earlier than under the old law. That's not a change likely to upset petitioners, since Nevada's petition circulation period is unlimited - petitioners can start gathering signatures as early as they wish.

How much will the new procedure cost Nevada's 17 counties, which must foot the bill for checking the names? No one knows yet, Swackhamer said. But "the county clerks are especially relieved that the law requires that county commissioners provide them with whatever help they need to get the job done."

No petitions have been filed with the Secretary of State's office since the law went into effect, so the new signature verification method still awaits its first test.

With the passage of Nevada's new law, only Arizona, Colorado, Oklahoma and South Dakota still have no provision for checking petition signatures against voter rolls. Thirteen initiative states and the District of Columbia certify every signature on every petition. Four states use some sort of scientific random sampling procedure, and another four states, like Nevada, fall back to individual signature certification if the random sampling is inconclusive.

(See IQ's October, 1982 issue for a detailed review of petition signature certification techniques employed by various states.)

INITIATIVE UPDATE

Subject	Status	CA/ST	Sign. Req.	Due	Ballot	Remarks
ALASKA						
Limit Payment of Legislative Per Diem Rates	Inactive	ST	19,936			#83-01. Moot since legislators have been placed on salary.
Abolish Alaska Transportation Commission/Deregulate	In Prog	ST	19,936	1-11-84	11-84	#83-02. Lift requirement that US flagships transport to Alaska.
Nuclear Weapons Freeze	In Prog	ST	19,936	6-30-84	11-86	#83-03. Would establish the nuclear weapons freeze as state policy. Could be on 1984 ballot if submitted by 1-11-84.
Compensation for State Legislators	In Prog	ST	19,936	9-14-84	11-86	#83-04: Could be on 1984 ballot if submitted by 1-11-84.
ARIZONA						
Move Primary Election from September to June	In Prog	CA	108,955	7-5-84	1984	Initiative 1-1-84.
Raise Drinking Age From 19 to 21	In Prog	ST	72,637	7-5-84	1984	Initiative 2-1-84.
ARKANSAS						
Change Length of Terms for State Officers from Two Years to Four Years	In Prog	CA	78,935	7-6-84	1984	Proponents are not the same as those who sponsored a similar drive in 1982.
CALIFORNIA						
Redraw Congressional and Legislative District Lines	Barred from Ballot by State Supreme Court 9-15-83					Sponsor: Rep. Sebastiani.
Call Constitutional Convention to Adopt a Federal Balanced Budget Amendment	Withdrawn	ST	393,835			Sponsored by the National Tax Limitation Committee. No. 0313, Refiled as No. 0327 below.
Reform Legislative Rules Procedures, Powers, and Funding	Complete	ST	393,835	10-7-83	1984	Sponsor: Paul Gann. No. 0314. In certification.
Decriminalization of Marijuana, Drug Paraphernalia Sales, etc. for Adult Use	Failed	ST	393,835	10-14-83	1984	Sponsor: Herer. No. 0315.
Establish Space Station	Failed	ST	393,835	10-14-83	1984	Sets forth findings of U.S. space program. Calls for inhabited space station by end of decade. No. 0316.
Utility Rates: Increase Lifeline Allowances, Etc.	Failed	CA	630,136	10-21-83	1984	Raises lifeline allocations to seniors and others, restricts rates. No. 0317.
Public Officers and Employees: Salaries, Expenses, Benefits, Etc.	In Prog	CA	630,136	11-21-83	1984	Establishes, among other provisions, maximum salaries and benefits. No. 0318.
Assure Human Survival by Placing All Nuclear Weapons Under Control of the United Nations	In Prog	ST	393,835	12-12-83	1984*	No. 0319.
Welfare Reform	In Prog	ST	393,835	12-12-83	1984*	Sponsor: R. H. Waters. No. 0320.
Legalize Casino Gambling and Lotteries	In Prog	CA	630,136	12-12-83	1984*	This is the 18th try to qualify this proposal for the ballot. No. 0321.
Disclosure of Campaign Finances/Regulation of Contributions, Expenditures, etc.	In Prog	ST	393,835	12-26-83	1984*	No. 0322.

*California petition drives successfully completed by 11-29-83 will be on June 1984 ballot.

INITIATIVE UPDATE

Subject	Status	CA/ST	Sign. Req.	Due	Ballot	Remarks
CALIFORNIA, continued						
Require Cigarettes and Small Cigars to Meet Safety Standards by 1985	In Prog	ST	393,835	12-23-83	1984*	No. 0322
Require State to Divest Itself of Financial Holdings in South Africa	In Prog	ST	393,835	12-29-83	1984*	No. 0324.
"Save Prop. 13" Tax Limitation	In Prog	CA	630,136	3-14-84	11-84	Sponsors: Jarvis/Gann, to close loopholes in Proposition 13. Third revision, No. 0328. (First 2 withdrawn).
Criminal Court Reform	In Prog	CA	630,136	2-10-84	11-84	Sponsors: Robert Kane, retired justice, California Court of Appeal, and Evelle Younger, former California Attorney General. No. 0326.
Call Constitutional Convention to Adopt a Federal Balanced Budget Amendment	In Prog	ST	393,835	2-2-84	1984	Sponsored by the National Tax Limitation Committee. No. 0327 (Refiled version of No. 0313).
Welfare Reform	A.G.	ST	393,835	TBD	1984	Filed 8-17-83. Sponsor: Ross Johnson (A-64).
Educational Funding and Tax Reform	Withdrawn	CA	630,136	TBD	11-84	May be refiled.
Direct Vote of People to Repeal Law (untitled)	A.G.	CA	630,136	TBD	TBD	Filed 9-12-83. Sponsor: Applegate.
"Legislative Pink Slip"	A.G.	CA	630,136	TBD	TBD	Sets salaries, penalties in budget considerations.
Public Gaming Commission Educational Funds	A.G.	CA	630,136	TBD	TBD	Sponsor: R. Wilson -- See No. 0321 above.
COLORADO						
Legalize Casino Compound in Pueblo	Announced	CA	46,737			Expected to be filed in January 1984.
DISTRICT OF COLUMBIA						
Preserve the Rhodes Tavern as Historic Site	Certified	ORD	14,671		Next	Calls for preservation of oldest building in town which once served as town hall.
Prohibit Employers From Administering Drug Tests to Employees	In Prog	Ord	18,032	1-7-84	5-84	
Fair Travel Practices	In Review	Ord	18,000**	TBD	TBD	Initiative No. 15.
D.C. Unemployment Compensation Act of 1984	In Review	Ord	18,000**	TBD	TBD	No. 16.
Right to Shelter Act of 1983	In Review	Ord	18,000**	TBD	TBD	Unnumbered.
D.C. Self-Determination Act	In Review	Ord	18,000**	TBD	TBD	Unnumbered.

**Exact signature requirement is established at time of approval for circulation and is equal to 5% registered voters in District at that time.

Initiative Provisions By State

Guide to Chart

By Sue Thomas NCIR Research Director

1 • Pre-Circulation

This area of the chart examines the various binding procedural requirements that must be met in many states before a petition can be circulated for signature collection. The chart notes the following possible state pre-circulation requirements: mandatory filing of a copy of the proposal with a state officer for review and officer's title; possible subject matter restrictions (subjects disallowed for initiative legislation vary widely from state to state, but a state's Secretary of State or Attorney General can provide further information); possible ballot restrictions - while some states allow initiatives to appear on primary ballots and off-year ballots, others do not; and nature of preview by state officials, if any is required - some states preview the substantive merit and content of proposals while others simply ensure compliance with required form.

Titling States have diverse provisions for the titling of an initiative proposal - some require titles to be written by a specified state official, while in other states proponents title their own proposals. The timing of the titling procedure in the initiative life cycle can also have important implications: some states title proposals before petitions are circulated while other states affix a title after petition signatures are turned in. Titling requirements can be very specific. For example, Oklahoma's legislature passed a bill in 1983 mandating the Secretary of State to prepare ballot titles for initiative measures that can be understood by voters with 8th-grade reading levels.

Specified Petition Form The petition form itself is often regulated by statute dictating such specifications as size of paper, size of print, warning statements, appearance of title and summary of proposal, and the number of signature lines that can appear on a given page of the petition. In states where petition proponents furnish their own petition forms, the state may still require that they submit a "proof" of the petition form for approval prior to circulation. Petition specifications are readily available from the Secretary of State of each state.

Financial Disclosure Requirements Some states require periodic reports on contributions/expenditures to initiative campaigns.

Paid Versus Volunteer Circulators Some states forbid payment of any kind to petition circulators (while other states allow reimbursement of expenses). Some states have no restrictions against paying signature collectors.

INITIATIVE PROVISIONS BY STATE outlines more than twenty different provisions for ballot access in every state, and allows easy cross-reference and comparison of the current initiative provisions. This guide provides additional information and explanation of the column headings on the enclosed chart.

NCIR canvassed the initiative states to collect procedural information and historical data on initiative laws. This material, plus a review of constitutional provisions, was the primary source for the chart. Heavy reliance was placed on previous research conducted by others, including the pioneer work of Virginia Graham and Thomas Durbin at the Congressional Research Services, Library of Congress. And the work of Dr. David B. Magleby of Brigham Young University was especially helpful.

The three major sections of the chart follow the life cycle of an initiative proposal from inception through date of implementation. An additional column of historical data provides a baseline perspective on the increase in initiative activity in recent years.

2 • Petition Circulation Period

After a petition is approved for circulation - if approval is needed - proponents must collect a certain number of signatures to qualify the measure for the ballot.

This section of the chart provides signature threshold and distribution information for two types of statewide initiative petitions - those that would amend a state's constitution, and those that would create a statute.

Signature Thresholds Established by each state's constitution, signature thresholds - the minimum number that will qualify a measure for the ballot - greatly influence the likelihood that any given measure can be qualified. Based on some previous election vote, a threshold is usually set as a percentage of the number of votes cast for all the candidates of a particular office. The most common base is the total number of votes cast for the office of governor at the last election in which that office appeared on the ballot. This is expressed in the chart as LGV. It is not uncommon, however, for some other state office total vote to be used as the base - perhaps the Secretary of State - or for the overall total votes cast in a previous election to be the basis for the signature threshold. In most states the number of signatures required to qualify a constitutional measure for the ballot is greater than the number needed for a proposed statute, but some states set identical thresholds for both types of initiatives.

Geographic Distribution Only about half the initiative states require any kind of geographic distribution of petition signatures, and requirements vary. Congressional districts, state legislative districts and counties are commonly-used divisions to ensure a minimum of signature distribution, and Alaska uses "election districts", which are political divisions within the state that do not coincide with either congressional, legislative or county lines. The chart lists the minimum number of districts (stated in parentheses) and numbers of signatures per district that meet requirements.

Since most states set their statewide signature threshold as a percentage of the total number of votes cast in a particular candidate race in the last general election (see **Signature Threshold** above), states commonly base their geographic distribution rule on the same formula and the same race, thus requiring petitioners to gather signatures in each district equal to a percentage of the total votes cast in that district for that same office. The remainder of the signatures needed to meet the overall statewide signature threshold could be collected from anywhere in the state.

A definite correlation exists between the presence of a geographic distribution rule and the number of initiatives appearing on a given state's ballots, as seen in the historical information in the final section of the chart. States where the initiative is heavily used, such as Arizona, California, Colorado, North Dakota, and Oregon, do not require signature distribution.

3 • Post-Circulation

Filing Instructions Petition signatures are usually filed with the Secretary of State or in states lacking this office with the Lieutenant Governor. Some states allow or require petitions to be turned in at the local level, through the County Clerk's office.

Signature Certification Certification is the method used to verify that signatures contained in the petition are valid. Many states check each signature individually (I) against voter registration lists. A few do a random sample (RS) of signatures to determine if requirements have been satisfied. Four states do not validate signatures but simply count them and presume they are valid (PV) upon submission of appropriate affidavits by circulators.

Voter Education Some states take steps to inform the voters of ballot measures appearing on upcoming ballots. A common method is to print the entire text of the measure in general publication newspapers at specified times prior to the election. States which do this are noted by the letter "N". Other states publish a pamphlet which is mailed to voters,

either individually or by household. These pamphlets usually contain the text of the proposed measure and arguments for and against its passage. A "P" indicates these state. Most states or localities post some form of sample ballot at the polls, but this is not noted in the chart.

Majority Required To Pass Unlike candidate races, a simple majority of voter past on the issue will not always pass a ballot measure. Sometimes the majority requirement is applied to the total votes cast in that election. And in Wyoming a measure passed only if approved by a majority equal to a majority of total votes cast in the last general election.

Effective Date A ballot measure which passes does not take effect until the official canvass of the vote is completed and the results are officially announced by the governor or some other state officer. As the chart notes, some states impose an additional waiting period, 30 days or 90 days, which begins from the date the canvass is complete.

Legislative Amendment or Repeal Many states do not allow state legislatures to

amend or repeal initiated measures in which case the initiative is valid until overturned by another initiative or struck down by a court. Those states that do allow legislative action to initiated laws usually severely restrict this power by specifying a waiting period - often several years - before the law can be amended or imposing extraordinary majority levels required to change the law.

Cooling-Off Period Only a few states currently provide any kind of "cooling off" period that is restrictions on when a previously-defeated initiative can reappear on the ballot. Such restrictions are usually expressed in a number of years or a number of election cycles after the measure last ballot appearance. Nevada has added a twist to "cooling off": Constitutional amendments there must pass in two successive general elections before they take effect.

4 • Miscellaneous

Direct Versus Indirect Initiatives Initiatives are classified direct or indirect depending on their route to the ballot. A **direct initiative**, having met signature thresholds and procedural rules, goes directly to the ballot to be voted on by the public. An **indirect initiative**, having met the requirements, is submitted to the state legislature for consideration before it goes to the ballot. Generally the legislators have three options: (1) They can adopt the measure - subject to referendum - as presented, or in substantially the same form. (2) The legislature can "pass through" the initiative, sending it to the ballot in its original form for a vote by the electorate. (3) The legislature can draft its own, alternative version of the measure to appear along with the original initiative proposal on the ballot. Should both measures pass, the measure winning the higher majority vote becomes law.

Chart notations showing both "D" and "I" designations indicate that the state allows both direct and indirect initiatives. In these states statutes are usually indirect and amendments are direct.

Massachusetts, Ohio and Utah use the indirect process to place the legislative review in the middle of the signature collection process. Taking a hypothetical Massachusetts initiative statute as an example, the first phase requires that 61,506 signatures (3% LGV) be collected prior to submission of the measure to the legislature. If the legislature fails to act on the measure within a specified time, an additional 10,251 signatures (5% LGV) must be collected before the initiative can be placed on the ballot, subject to the same standards and reviews as signatures collected earlier.

Deadlines Filing deadlines for proposals depend on the type of initiative - direct or indirect. **Direct initiative deadlines** are tied to ballot dates - that is, a chart notation of "120 d" means signatures must be submitted no later than 120 days prior to the election on which the measure is to appear. **Indirect initiative deadlines** are tied to legislative session dates. In most cases the chart shows the deadline in days prior to the beginning of a session, i.e., 30 days, as in the first phase portion of an indirect statute in Ohio. Some states simply set an arbitrary day in a certain month. In these cases the chart indicates only the month in which the deadline falls. Exact requirements can be obtained through the state offices or through NCIE.

Maximum Circulation Periods Filing deadlines are not the only limit that some states impose on the petition circulation period. Some states also impose limits on the length of time petitions can be in circulation. Some states, such as California, Colorado, and Oklahoma, require that circulation be complete within a specified number of days or months after approval for circulation is granted. Others limit circulation time by placing a time limit on the validity of petition signatures, as Florida did in 1983 by allowing signatures to be valid up to four years after the date of signature.

Sometimes a conflict arises during a petition drive between the **Filing Deadline** and the **Maximum Circulation Period**. If this happens, and if proponents are seeking to qualify their measure for the next election ballot (rather than a later one), the filing deadline for the ballot always takes precedence over the allowed circulation period.

Historical Use of the Initiative The first column in this section indicates the year the process was adopted in a particular state—not when the process was first used. Ballot measures are broken into three time periods: (1) from time of adoption of the process through 1969; (2) the total for the decade from 1970-1979; and (3) the total for the period from 1980-1982.

Other Citizen Petition Processes Allowed The last two columns of the chart show other direct legislation processes available, such as the **referendum**, wherein citizens can petition to subject a legislative action to a popular vote, or **recall** of elected officials. This same information is provided for local uses of citizen-initiated actions. Specific provisions for statewide referendum and recall are not included in this chart due to space limitations. A word of caution about local citizen-petition efforts: "home rule" or "charter" cities can establish their own particular guidelines for charter amendments, ordinances, referendums and recall efforts that may or may not agree with state statutes controlling non-charter cities. It is a good idea to check with municipal officials about local initiative, referendum, and recall provisions.

Additional copies of **INITIATIVE PROVISIONS BY STATE** are available from NCIE for \$5.00 each.

INITIATIVE UPDATE

Subject	Status	CA/ST	Sign. Req.	Due	Ballot	Remarks
FLORIDA (Please see Note 1)						
Limit All Taxes to 5%	Certified	CA	298,743		11-84	Under court challenge to bar from ballot.
Establish State Lotteries	In Prog	CA	298,743	90 d	1987	Committee: Committee for Florida State Lottery.
Unicameral Legislature	In Prog	CA	298,743	90 d	1987	Would cut number of legislators from 160 to about 120.
Establish Fish and Wildlife Commission	In Prog	CA	298,743	90 d	1988	Committee: Committee to Restore Fish and Wildlife Resources.
Legalize State-Owned Casinos	In Prog	CA	298,743	90 d	1987	Committee: Floridians for State Casinos.
Hazardous Waste Sites (Prohibit)	In Prog	CA	298,743	90 d	1987	Committee: Clean Backyard Project.
Elected PUC	In Prog	CA	298,743	90 d	1987	
Freeze Budget and Staffs at 1980 Levels for Fire, Police and Medical	In Prog	CA	298,743	90 d	1987	Committee: Save Our Emergency Services.
Legalized Casinos and Lotteries	In Prog	CA	298,743	90 d	1987	Committee: Citizens for Less Taxes.
Establish English as the Official Language of the State	In Prog	CA	298,743	90 d	1987	Committee: Floridians for the English Language Amendment.
Raise Drinking Age	In Prog	CA	298,743	90 d	1988	Committee: Save Our Teenagers.
MAINE						
Ban Moose Hunting	Certified	ST	37,026		11-83	See Title
MASSACHUSETTS (NOTE: 8 of the 20 petitions submitted to the AG were declined--see August Update.)						
Selection of Hazardous Waste Sites	In Prog	CA	61,508	12-7-83	1984	Indirect.
Revise the State's Workers Compensation System	In Prog	ST	61,508	12-7-83	1984	Indirect.
Disclosure to Employees Working with Toxic Materials	In Prog	ST	61,508	12-7-83	1984	Indirect. "Right to Know"
Prohibit Pound Seizures for Animal Experimentation	In Prog	ST	61,508	12-7-83	1984	Indirect.
Limit Legislative Sessions to Six Weeks	In Prog	CA	61,508	12-7-83	1984	Indirect.
Revise Laws Concerning Disability Income	In Prog	ST	61,508	12-7-83	1984	Indirect.
Repeal of the 7.5% Surtax	In Prog	ST	61,508	12-7-83	1984	Indirect.

NOTE 1: A law passed in the 1983 session placed a four-year validity period on all signatures gathered during an initiative campaign. This law is retroactive to all initiative proposals approved for circulation by the Secretary of State and therefore includes initiative petition drives which did not file signatures for the 1982 ballot as well as those proposals approved prior to October 1, 1983, for the 1984 (or future) ballot.

The petition drives shown as active under Florida in this report are those which have not officially closed their political committees with the Secretary of State and must therefore be assumed to be active until the expiration date of four years. Because of this, no ballot date is provided--this update reflects the election believed to be the latest a proposal could qualify for given the four-year validity rule. Deadline for filing proposals in Florida is 90 days prior to the election on which the ballot measure may appear.

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INITIATIVE UPDATE

Subject	Status	CA/ST	Sign. Req.	Due	Ballot	Remarks
MASSACHUSETTS, continued						
Disclosure of Hazardous Waste--Accountability and Siting	In Prog	ST	61,508	12-7-83	1984	Indirect.
Reform Rules Governing the General Court (Legislature)	In Prog	ST	61,508	12-7-83	1984	Indirect.
Compensation for Victims of Crime	In Prog	ST	61,508	12-7-83	1984	Indirect.
Reform of Criminal Justice System (2)	Pending	ST	61,508	12-7-83	1984	Both petitions are under challenge as to suitability to the initiative.
MICHIGAN						
Reserve a percentage of State Revenues for Schools	In Prog	CA	304,001	7-9-84	11-84	"FAIR" Petition
Require Voter Approval of Any Tax Changes	In Prog	CA	304,001	7-9-84	11-84	"Voters' Choice on Revenue"
Reduce Property Tax and Require Voter Approval on any New Taxes or Tax Increases	In Prog	CA	304,001	7-9-84	11-84	T.A.G. Tax Out Petition -- Taxpayers Action Group
Limit Constitutional Amendments on the Ballot to One Per Subject	In Prog	CA	304,001	7-9-84	11-84	T.A.G. Ballot Limit Petition -- Taxpayers Action Group
Restrict State Legislature from Increasing State Income Taxes by More than 5%	In Prog	CA	304,001	7-9-84	11-84	Sponsor: Thomas E. Brennan
Establish 7-member, Non-Partisan Reapportionment Commission	In Prog	CA	304,001	7-9-84	11-84	Sponsor: Thomas E. Brennan
Limit Office of Governor to Two Terms	In Prog	CA	304,001	7-9-84	11-84	Sponsor: Thomas E. Brennan
Make the State Legislature a Part-Time Body	In Prog	CA	304,001	7-9-84	11-84	Sponsor: Thomas E. Brennan
Provide for nomination of Supreme Court Justices and establish succession procedures	In Prog	CA	304,001	7-9-84	11-84	Justices will hold offices till successors are elected and qualified.
Regulation of utility rate allowances	In Prog	CA	304,001	7-9-84	11-84	Disallows charging customers for construction work in progress or for unneeded or abandoned plants. Other provisions.
Forbid Abortion Under Any Circumstances	Pending	CA	304,001	7-9-84	11-84	Not recommended for approval without some changes in form.
MISSOURI						
Forbid Operation of Nuclear Power Plants in State	In Prog	ST	67,581	7-7-84	11-84	See Title
Legalize Pari-Mutuel Betting	Announced	CA	108,130	7-7-84	11-84	Similar drive failed to gather sufficient signatures in 1982.

INITIATIVE UPDATE

Subject	Status	CA/ST	Sign. Req.	Due	Ballot	Remarks
MONTANA						
Change the Election Date to Coincide with Tax Due Dates	In Review	CA	36,047	6-29-84	11-84	Expect circulation to begin about October 13.
Forbid Seizure of Property or Jailing for Non-payment of Taxes	In Review	CA	36,047	7-13-84	11-84	Expect circulation to begin about 10-13 if approved.
NEBRASKA						
Increase State Legislators Salaries	In Prog	CA	54,790	7-6-84	11-84	Filed 8-3-83. Proponents: "Coalition for Fair Compensation."
NEVADA						
Freeze State Property Tax	Announced				11-84	The intention of proponents to submit this proposal has been noted in the press; however, no formal filing had been completed as of our press date.
OHIO						
Alcohol Beverage Tax	In Prog	ST	100,702 100,702	1-15-84 5-15-84	11-84	Two-cent per drink tax to fund alcohol rehabilitation programs. Two-phase petition drive. Second step if measure fails in legislature.
Raise Drinking Age from 18 to 21	Certified	CA			11-83	Issue #1.
Require 3/5 Majority in Legislature for Passing Tax Increases	Certified	CA			11-83	Issue #2.
Repeal Increase in State Income Taxes	Certified	CA			11-83	Issue #3. Taxes were increased 90% in current session. Proposal repeals increase.
OKLAHOMA						
Set Drinking Age at 18	Failed	CA				SQ-562. To offset 1983 law raising age to 21. (Referendum)
Liquor by the Drink	Complete	CA	132,470	10-17-83	11-84	SQ-563. Certification underway.
Denturism	In Prog	ST	70,650	11-28-83	11-84	SQ-565.
Code of Ethics	In Prog	CA	132,470	12-8-83	11-84	SQ-566. (Refiled version of SQ-564)
Lottery	In Prog	ST	70,650	11-28-83	11-84	SQ-567.
Elect Members of PUC	In Prog	CA	132,470	12-1	11-84	SQ-568.
OREGON						
Restrict Government Competition with Private Industry	In Prog	CA	83,361	7-6-84	11-84	#1: Would not allow employees to be hired if in competition with private firms. Other provisions.
Legalize Possession and Growth of Marijuana for Adults' Personal Use	In Prog	ST	62,521	7-6-84	11-84	#2: Decriminalizes possession, growth, transport and consumption for private and medical use. #13: Second filing.
Place Moratorium on Auto Emission Tests	In Prog	ST	62,521	7-6-84	11-84	#3: Would end program in 1985 and 1986, not to be reinstated without voter approval. #10: Second filing.
Dissolve All Metro Service Districts	In Prog	ST	62,521	7-6-84	11-84	#4: Allows only 100 days to dissolve and dispose of assets. #9: Second filing.

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INITIATIVE UPDATE

Subject	Status	CA/ST	Sign.Req.	Due	Ballot	Remarks
OREGON, continued						
Abolish Land Conserv. and Develop't Comm., Land Use Bd. of Appeals and Dep't. of Land Cons. & Development.	In Prog	ST	62,521	7-6-84	11-84	#5: Continues 1982 effort to place land use planning powers in hands of local bodies. Also provides challenge procedure.
Reduce State Income Tax to 3/4 of the 1980 Levels	In Prog	CA	83,361	7-6-84	11-84	#6.
Limit Property Taxes	In Prog	CA	83,361	7-6-84	11-84	#7: Taxes would be based on 1% of land's true cash value. Similar to 1982 proposal which was defeated at polls.
Ban Sales Tax	In Prog	CA	83,361	7-6-84	11-84	#8: Would prohibit imposition of tax for transfer of any tangible or intangible property.
Change Makeup of Land Conservation and Develop't Comm. and Set Up Appeal Process	In Prog	ST	62,521	7-6-84	11-84	#11: Describes makeup of state, county and city planning groups and provides appeal process.
Protect Private Property	In Prog	CA	83,361	7-6-84	11-84	#12: Forbids passage of any law that infringes on use, ownership, and enjoyment of private property.
Limit Elk Cow Hunting and Change State Fish/Wildlife Commission	In Prog	ST	62,521	7-6-84	11-84	#14.
Incorporate the ERA into the State Constitution	In Prog	CA	83,361	7-6-84	11-84	#15.
Direct Removal and Control of Alleged "Threat" posed by "Rajneesh"	In Prog	ST	62,521	7-6-84	11-84	#17. Amended from #16, which was declined for titling by A.G.
Require that Elected Officials Comply Immediately with Voter Initiated Laws	In Prog	CA	83,361	7-6-84	11-84	#18.
"Contain and Repel" Certain "Cults"	In Prog	CA	83,361	7-6-84	11-84	#19: Same sponsor as Nos. 17 and 18 above.
Reinstate the Death Penalty	In Prog	CA	83,361	7-6-84	11-84	#20: Sponsor is William A. Jolly.
Death Penalty or Life Sentence for Aggravated Murder	In Prog	CA	83,361	7-6-84	11-84	#21: Sponsor is Delight Streich.
Death Penalty for Aggravated Murder Under Some Circumstances	In Prog	ST	62,521	7-6-84	11-84	#22: Sponsor is Delight Streich.
Adds Requirement for Approval of Radioactive Waste Disposal Sites	In Prog	ST	62,521	7-6-84	11-84	#23: Filed 7-7-83 and titled. Appealed by opponent.
Real Property Tax Limit	In Prog	CA	83,361	7-6-84	11-84	#24: Filed 7-20, titling appealed. Sponsor is Ray Philips who headed up similar drive in 1982.
Limit Voting to Persons Registered 20 Days Before Election	In Prog	CA	83,361	7-6-84	11-84	#25: Would require voter registration 20 days prior to an election.

INITIATIVE UPDATE

Subject	Status	CA/ST	Sign. Req.	Due	Ballot	Remarks
OREGON, continued						
Allow Tax Exemption for Certain Properties	Withdrawn	CA	83,361			#27. Refiled as Initiative #30.
Allow Tax Exemption for Certain Properties	Withdrawn	ST	62,521			#28. Refiled as Initiative #31.
Relating to Ethical Conduct in Public Office	A.G.					#29. In titling and review (filed 9-14-83).
Allow Tax Exemption for Certain Properties	A.G.	CA	83,361	7-6-84	11-84	#30. Filed 9-15-83.
Allow Tax Exemption for Certain Properties	A.G.	ST	62,521	7-6-84	11-84	#31. Filed 9-16-83.
State Lottery	A.G.	CA	83,361	7-6-84	11-84	In titling and review.
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SOUTH DAKOTA						
Nuclear Weapons Freeze	In Prog	ST	13,929	7-84	11-84	
Prohibit School Openings Prior to Labor Day	In Prog	ST	13,929	7-6-84	11-84	
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UTAH						
Ban Salacious Material on TV	Certified	ST	60,002		6-84	State Legislature overrode Gov's veto of similar bill; however, there is no legal provision for removing an initiative once it has qualified for ballot.
Repeal 1983 Law Regarding Salacious Material on TV	In Review	ST	60,002	6-5-84	11-84	Filed 9-27-83.
Establish New Working Hours for State Offices	In Prog	ST	60,002	6-5-84	11-84	Would have offices open from Noon until 8:00 PM.
Community Correctional Facilities	In Prog	ST	60,002	6-5-84	11-84	Carryover from 1982. Would prohibit regional prisons in residential areas.
Elected Public Utility Commission	In Prog	CA	60,002	6-5-84	11-84	See Title.
<hr/>						
WASHINGTON						
Indirect: Salmon and Steelhead Resources	In Prog	ST	138,472	1-84	11-84	Filed 4/29/83. Will be submitted to 1984 legislature if signatures are completed. 1-84.
Federal Balanced Budget Resolution	In Prog	ST	138,472	1-84	11-84	1-85.
<hr/>						
WYOMING						
Regulate Deposit of State Money in Credit Unions	Inactive	ST	25,810	12-16-83	1984	Sets forth requirements and procedures for state fund deposits. No activity reported.
Lower Signature Requirements for State Initiatives	Inactive	CA				Constitutional Amendments not provided for in Wyoming Initiative laws.
In-Stream Flows	In Prog	ST	25,810	12-16-83	11-84	Slightly modified version of the 1982 initiative which narrowly missed ballot placement.
Water Storage for In-Stream Flows	In Prog	ST	25,810	12-16-83	11-84	Calls for levels necessary to sustain game fish.

Initiative Quarterly

WE'VE MOVED

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Indirect Initiative: A Closer Look

While all initiatives are initiated by citizens rather than by lawmakers, some initiatives do undergo the scrutiny of a legislature at some point before reaching the ballot, and it is this extra step that delineates initiatives as either examples of the direct or indirect initiative process. A direct initiative lives up to its

This is the most common type of initiative in the United States, used in some form in 22 states and the District of Columbia. The path of an indirect initiative, on the other hand, takes the proposal through the state legislature for possible action there before continuing on to the election ballot.

...An important improvement... or an obstructionist hurdle?

name—once enough signatures have been gathered and all other requirements have been met, such a proposal goes directly to the voters.

Current Initiative Petition Drives by Status—for 1983-84 Ballots

Certified.....	13
(1983 Election)—(5)	
Complete/In Certification.....	3
Announced, Not Filed	3
In Titling/Review/	
Attorney General (AG)	27
In Progress (Active)	134
Inactive, Abandoned	3
Withdrawn	
(may have been refiled)	6
Failed since last report	13
Failed/Withdrawn/Abandoned	
previously(dropped from report) ..	87
Total Drives	
Attempted to Date	291

The indirect initiative offers lawmakers the opportunity to review, debate and discuss, and adopt the proposed law—an opportunity absent when the direct initiative is used. In some states, the lawmakers can alter the initiative before adopting it. In other states, they must consider it without changing it.

Depending on one's viewpoint, the extra step of legislative review afforded by the indirect initiative process is either an important improvement to an otherwise reckless law-making process, or an obstructionist hurdle that frustrates citizens' efforts to legislate for themselves. IQ's **Spotlight** this quarter focuses on the indirect initiative. (Please turn to page 3.)

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Utah's Initiative Puzzle

By Eric Miller

An initiative scheduled to appear on the Utah 1984 November ballot and aimed at banning pornography from cable television has spawned an administrative and judicial tangle that may take many months to work out.

It will probably be sometime after the November election before all of the knots unravel, and even then, the fight may go directly from the election ballot to the court docket.

In a recent telephone interview with **Initiative Quarterly**, Deputy Lt. Governor Brad Hainsworth reviewed the two-year old initiative dispute and offered guarded speculation on the possible outcomes.

In September of 1982, a group led by John Harmer filed an initiative petition with the state called the "Cable TV Decency Act". The proposal, aimed at regulating the content of cable-fed subscriber television, spells out a definition of salacious materials and prescribes criminal penalties for violators.

It is an indirect initiative, that is one which gives the state legislature an opportunity to act before the proposal is carried to the state's voters (see the story in this edition on indirect initiatives).

Continued on Page 2

INITIATIVE PUZZLE IN UTAH

Cont. from Page 1

Under Utah's provision for an indirect initiative, proponents must gather a number of signatures equal to 5% of the total vote in the governor's race in the last election, currently about 30,000 names, before their proposal is submitted to the state's lawmakers. If they fail to receive satisfaction from the legislature, the proponents can then gather another 30,000 signatures to place their measure on an election ballot.

"They easily got that number of signatures," Hainsworth said of the initiative proponents. "In fact, they had no problem in getting all the signatures they needed to go to the ballot—all 60,000—before the legislature even met."

The 83rd Session of Utah's legislature did, indeed, choose to act on the initiative proposal. But rather than adopt the initiative as it was written, both houses adopted a similar bill drawn up with the help of the state attorney general.

"The interesting problem is: how in the world do you go about withdrawing something from the ballot?"

"As I recall, the issue in the legislature was over penalties—whether or not certain things would be a felony or misdemeanor, when the state would seek to prosecute, and so forth," Hainsworth said. "The legislation written by the Attorney General and some others differed from the original initiative measure in some details of the penalties, and it passed."

But though SB 309 called for lesser penalties than the original initiative proposal, Utah's Governor Scott Matheson vetoed the law in March, 1983, claiming it was unconstitutional.

The legislature overrode the gubernatorial veto, reaffirming their intention to put the statute on the books.

The ACLU promptly brought suit to have the law thrown out. And that, according to Hainsworth, is the current status of the legislative version —

"on hold" awaiting a decision in the courts.

But, meanwhile, the proponents of the original initiative—the one calling for stiffer penalties—have decided to let their version go to a vote in November.

"So the Cable TV Decency Act is still going to appear on the ballot," Hainsworth said. "As far as I'm concerned, unless a court tells me otherwise, I don't have the authority to remove it..."

Hainsworth pointed out that the sponsors of the initiative don't seem to think that the legislature's action rendered their proposal superfluous, or that any upcoming court decision might render it moot, and "since the sponsors aren't treating it that way, I don't have any authority to do so."

But, as Hainsworth puts it, "Now an interesting situation has arisen:

another group, wanting to go another way entirely, has now filed an initiative petition with the Lt. Governor to repeal the legislature's act."

This direct initiative proposal bypasses the legislature entirely, Hainsworth said. Its proponents have until June to file the required number of signatures—60,000—for their measure to appear on the November ballot.

But even if the measure qualifies for the ballot, and passes, it wouldn't repeal the initiative version slated for the same ballot.

Hainsworth said he imagined that if the legislative version looked secure—that is, if the courts upheld it as constitutional and the initiative to repeal it failed to qualify for the ballot, that there might well be a movement by the sponsors of the original initiative to withdraw their issue from the November ballot and let the

recently-passed law stand as is. But Utah law wouldn't let the sponsors drop the issue even if they wanted to.

No mechanism exists in Utah's initiative provisions to remove a properly-qualified initiative from an election ballot, Hainsworth said, adding that any decision to attempt such a withdrawal would have to be judicial rather than administrative in nature.

"The interesting problem is: how in the world do you go about withdrawing something from the ballot?" he said.

"So it's a real can of worms," Hainsworth said. "You've got a bill on the books tied up in the courts, a petition that qualified for the ballot a long time ago that would make the law even stiffer, and another petition to repeal it..."

But almost any outcome is bound to spell trouble for the law passed by the legislature, which survived a gubernatorial veto only to face a triple threat of sorts: 1) the courts can strike it down; and/or 2) the initiative to repeal it may pass; and/or 3) the original initiative may pass and replace it as the law of the land.

Hainsworth thinks that the original initiative will pass by a wide margin in November, regardless of what the courts decide about the legislative version. "I would guess that it would easily pass," he said. "They had no trouble at all getting those signatures, and you know, that's not an easy task. In fact, it's an organizational feat."

If courts uphold the legislative version, and the initiative version passes in November, which statute will supercede the other? "I would imagine the initiative would take precedence," Hainsworth mused, "since it is the voice of the people... but I really don't know... I'm guessing. That would be a dispute of law."

Until November, it's anybody's guess. And since the initiative version, if successful at the polls, is bound to draw legal challenges of its own, the courts will almost certainly have the last word.

Focus: Indirect Initiative

By Sue Thomas
Executive Director
NCIR

This Spotlight examines the indirect initiative process as it is used in the nine states that provide it:

Alaska, Maine, Massachusetts and **South Dakota** have no direct initiative procedure—all initiatives must pass through the state legislature.

Michigan, Nevada and **Ohio** require that statutory initiatives use the indirect route, while allowing constitutional initiatives to go directly to the voters without legislative review.

Utah and **Washington** offer initiative proponents the choice of either the indirect or direct mechanisms; proponents have historically bypassed the legislature by opting for the more direct route to the ballot.

The Mechanics:

Each state sets a deadline by which initiative proponents must file the required number of signatures for their measure to be sent to the legislature. These deadlines usually fall prior to the commencement of the session.

Two-Step Indirect Initiatives

Ohio, Massachusetts and **Utah** employ a two-step signature collection process. The first petition drive qualifies the measure for legislative review, but not for ballot placement. If the legislature fails to act on the proposal and the initiative's proponents are still determined to put the measure on the ballot, then they must undertake a second petition drive to gather additional signatures. In Massachusetts, for example, a statutory initiative can go to the legislature after 61,508 valid signatures are submitted prior to the session. Failing action by the General Assembly, an additional 10,251 signatures are necessary to place the measure on the ballot. All

signatures are subject to standards and reviews prescribed by each state.

Legislative Review

In **Alaska, Maine, South Dakota, Utah** and **Washington**, the legislature is given the length of the session to consider an initiative proposal. Other states specifically limit the time during which the legislature can take action. If the time expires, the measure either defaults directly to the ballot or (in the two-step states) efforts can begin to complete the supplemental signature drive. **Michigan** and **Nevada** have placed a 40-day limit for legislative action; **Ohio** gives their lawmakers four months to review the proposals; and in **Massachusetts**, lawmakers must take action by the first Wednesday in May or the initiative's sponsors are free to press on with the second step of their petition drive to send the proposal to the voters.

States also differ in the leeway—if any—they offer their legislature in altering the original proposal. **Maine, Massachusetts, Michigan,**

Nevada and **Washington** require the proposal either be adopted exactly as presented or else passed on to the voters. **Alaska, Ohio** and **Utah** allow the lawmakers to pass a measure substantially the same as the initiative, in which case the proposal simply becomes law and no further action is required. In **South Dakota**, all initiatives are submitted to the legislature, where, as a formality, they are routinely passed through to the voters without legislative action.

When legislators are not afforded the opportunity to adopt an amended version of an initiative proposal, they are allowed to write their own version of the initiative, called a legislative alternate, which is offered to the voters along with the initiative. Should both measures pass—that is, receive a majority—then the measure winning the higher majority becomes law. There were two examples of this in 1982—the **Michigan** utility measures and **Nevada's** proposals for a utility consumer advocate. In both instances, a legislative alternative was accepted by voters by a wider margin than the initiative version.

Pros and Cons of the Indirect Initiative

The main attraction of the indirect initiative is that it puts the legislature back into the loop of public policy formulation and offsets the main argument against the direct initiative, i.e., there is no debate and review of the initiative proposal before it goes to the voters. The National Municipal League (NML),

once an avid supporter of the direct initiative, now uses the indirect process in its model initiative legislation. At NCIR's 1983 Washington seminar, NML Executive Director Bill Cassella explained that the League has become convinced of the desirability of allowing lawmakers to review proposals prior to their submission to voters.

The indirect initiative also acts

as a strong warning to legislators that the public feels a particular problem needs to be addressed and can force their immediate attention to finding a solution to that problem. The downside of the indirect initiative is that no state has found a sure-fire method of assuring the legislators will not simply "pass through" the proposal to the voters, thus sidestepping a controversial vote on a tough question.

Continued on Page 4

QUARTERLY SPOTLIGHT

Cont. from Page 3

Problems can also arise in determining whether a legislative action is "substantially" the same as the original initiative proposal presented to the lawmakers. In other words, if the legislature passes a bill similar to, but not identical to, an initiative proposal submitted for its consideration, is the substantive effect of the two measures similar enough to preclude sending the original proposal on to the ballot? This task of interpretation seldom falls to the initiative proponents. More often, an officer of the state is asked to make this determination. Initiative proponents who don't agree with the judgment rendered can file court challenges, or, in those states employing the two-step process (Ohio, Massachusetts and Utah), dissatisfied proponents can simply start the second half of their petition drive to gain access to the ballot (see the paragraph below on Utah's current predicament).

In a recent NCIR survey, election officials of states allowing indirect initiatives were asked, "If you could change any portion of your state's initiative provisions, what changes would you make?" The majority of states felt their process works well, except for a few areas in administrative procedures. All agreed the initiative is here to stay.

But in those states providing the choice between either the indirect or direct initiative process, why don't initiative proponents use the indirect process more? Many initiative proponents say that the indirect procedure creates an additional time lag that drags too much on the momentum of an initiative campaign. Initiative proponents may also fear that voters will take a cue from their lawmakers and vote against a proposal which the legislature has either already defeated or refused to act on, a reasonable prediction, given the relatively high voter approval rate for legislative measures referred to the ballot (about 60% in 1982) and the low voter approval rate for initiated measures (less than 30% in 1982).

REQUIREMENTS FOR INDIRECT STATUTORY INITIATIVES

State:	AK	ME	MA	MI	NV	OH	SD	UT	WA
Constitutional amendments allowed under direct or indirect procedure?	No	No	I	D	D	D	I	No	No
Statutes allowed under direct or indirect?	I	I	I	I	I	I	I	D/I	D/I
Signature requirements for initiatives proposing statutes ¹	10	10	3+ .5 ²	8	7	3+ 3	5	D:10 I:5+5	8
Filing Deadline ³	1st LD	50th LD	Dec.	10	30	10	None ⁴	10	10
How long can the legislature take to act? (S=Session)	S	S	1st Wed in May	40d	40d	4mos.	S	S	S
Can the legislature amend the proposal (as long as it remains substantially the same?)	Y	N	N	N	N	Y	N	Y	N
Who decides if the legislature has satisfied the intent of the original initiative proposal?	LG AG	SS	na	na	na	Prop	na	LG AG	na
Can the legislature draft its own version of the proposal to be placed on the ballot along with the original measure?	na	Y	Y	Y	Y	na	na	N	Y
Can the legislature amend or repeal the initiative after it has been approved by the voters?	Y	Y	Y	N	Y ⁵	N	Y	Y	Y ⁶
Second deadline for filing signatures in states with two-step petition drives ⁷	na	na	July	na	na	90d.	na	July	na

I=Indirect D=Direct LG=Lt. Governor AG=Attorney General SS=Sec. of State
Prop=Proponents d.=day na=not applicable LD=Legislative Day

¹All percentages except Alaska are based on the total votes cast for office of governor at the last election where that office appeared on the ballot. Alaska bases signature requirements on the total number of votes cast in the last general election.

²In states using a two-step petitionary process, "n+n" refers to the percentages of signatures required in the first and second petition drives.

³All deadlines specify the number of days prior to the beginning of the legislature's session, unless otherwise noted.

⁴South Dakota allows statutory initiatives to be submitted throughout the session. Constitutional initiatives be submitted a year in advance of the session.

⁵After three years

⁶After two years

⁷Prior to the election in which the measure is to appear on the ballot.

The National Center for Initiative Review's chart "Initiative Provisions by State" sets forth comprehensive initiative requirements for all states. Copies are available from NCIR at 5670 S. Syracuse Circle, Suite 328, Englewood, Colorado 80111. Phone: 303-779-1949. Cost of the chart is \$5. (No charge for state legislators.)

QUARTERLY SPOTLIGHT

Here's a state-by-state rundown of recent indirect initiative activity:

Alaska: Petitions on three measures were circulated in hopes of qualifying for legislative review in this session, and one may yet succeed. Circulated by the Libertarian Party, the proposal would abolish the Alaskan Transportation Commission and deregulate certain aspects of transportation, especially those requiring the use of U.S. flagships in Alaskan ports. Although more than 26,000 signatures were submitted by the due date of January 11, 1984, about 8,500 were disqualified in the signature validation process. But proponents were granted an additional 30-day period to bring the number of qualified signatures to the minimum threshold of 19,936, and did, so the proposal has been submitted to the legislature. Failing approval by that body, the measure will appear on the November 1984 ballot.

Two other measures, one calling for a nuclear weapons freeze and another dealing with state legislators' compensation, were short the required number of signatures when the legislative session arrived, preventing the measures from being reviewed in this session, but not necessarily spelling the end of the proposals. The maximum signature collection period for an initiative in Alaska is one year, leaving open the possibility that proponents could continue collecting additional signatures until their respective June and September deadlines. Even so, a requirement that one full legislative session must take place between the filing of an indirect initiative and its appearance on the ballot would dictate that these measures, if successful, could appear on the ballot no earlier than 1986.

Maine: Proponents of a proposal to make insurance mandatory on all automobiles failed to submit signatures by the due date. Maine has no pending initiative proposals on the 1984 ballot.

Massachusetts: Of the twenty initiative proposals submitted to the Attorney General back in August, only one qualified for submission to the legislature, while the others succumbed to failed petition drives, court challenges and the like.

The successful measure, which dealt with experimentation on animals, was passed into law in December by the Massachusetts General Court (the legislative body).

The most important decision regarding Massachusetts initiative proposals this year was a state Supreme Court decision blocking an initiative proposal that would have made sweeping changes in the internal structure of the General Court. The court ruled that rather than proposing a statute or amendment, the proposal was attempting to set internal rules for the legislature, an area outside the prescribed realm of initiative activity in that state.

Michigan: Of the 12 initiative proposals filed to date in Michigan for the 1984 ballots, eleven are constitutional amendments, and thus, under state law, direct initiatives. The single statutory initiative, calling for licensing and regulation of outdoor advertising, will be sent to the legislature if sufficient signatures are turned in by the May 30th filing deadline.

Ohio: A petition to place a tax on alcoholic beverages to support alcoholism treatment programs was circulated in 1983, but won't be placed before the legislature this session since no signatures were filed by the January 15, 1984 deadline.

Under Ohio's two-step signature collection process for statutory initiatives, 100,702 signatures are necessary to submit the proposal to the legislature. If the measure is not adopted by that body, a second drive for 100,702 additional signatures must be completed before the measure can be placed on the ballot.

Nevada: There are no statutory initiative proposals—the only kind subject to legislative scrutiny here—in circulation for 1984 ballots.

South Dakota: All initiative proposals are referred to the legislature in this state, where the only action taken is a formal vote to pass the measure through to the ballot. In the current session, three of four measures which attempted to meet ballot access requirements (a measure seeking to control siting of nuclear waste storage in the state; a nuclear weapons freeze resolution; and a prohibition against starting the public school year prior to Labor Day) have received the perfunctory nod from the legislature and will appear on the November, 1984 ballot. Proponents of the fourth measure, a "peace through strength" resolution, failed to submit signatures before the session ended.

Utah: Although initiative proponents here are offered the option of an indirect initiative incorporating a two-step signature drive, most initiative proponents opt for seeking ballot access directly, and so the indirect process is rarely used. The 1984 ballot will contain one such measure, however, which would ban salacious materials on television. The same ballot may also contain a direct initiative aimed at repealing a legislative version of the salacious materials ban addressed in the indirect initiative. See the story on Utah in this same issue.

Washington: Proponents of two 1983 initiatives, one dealing with salmon resources and the other with a federally-balanced budget amendment, failed to submit signatures for review by the legislature. This was not surprising, since, as in Utah, the indirect mechanism is a seldom-used option, and proponents are probably intending to apply the signatures that they have collected toward a direct bid for ballot placement.

LEGISLATIVE UPDATE

State	Bill No.	Legislative Proposal	Bill Status
AK	SB1/HB172:	Municipal I and R - Effective dates	Introduced 2-7-83. Now in respective Judicial Committees. If reported, will be referred to Finance Committees. Adjournment: May or June.
AZ	HB2039:	Campaign Committee Finance Reporting	Passed House 3-15-84. Forwarded to Senate.
	HB2061:	Allow Deputy Registrars to Circulate Petitions	Passed Senate 3-22-84 without change. Forwarded to governor.
	SCR1010:	Require Geographic Distribution of Signatures	Failed on third reading in Senate 2-13-84.
	SB1136:	Legislative Council to Prepare Analysis for Initiative Publicity Voter Handbook	Passed Senate 2-9-84; Passed House Judiciary Committee 3/26/84 without change. To Gov Ops Comm.
CT	BJR-CA9:	Establish statewide Initiative-Referendum	To House floor 3-7-84. Amended to allow legislature to amend initiative after second session from passage. No further action.
CA	ACA7:	Requires same majority to pass as is necessary to amend, if one contained in initiative proposal.	Sent back to Elections-Reapportionment Comm. 7/8; author must reactivate for further consideration.
	AB780:	Increases filing fee to \$1,000-\$800 refunded if 25000 signatures submitted, all if measure qualifies	Assembly passed 2/17. No further action taken.
	AB1206:	Voluntary compliance to financial disclosure of major contributors; limitations on contributions	Back in E and R committee. Scheduled hearings postponed. Committee staff feels this bill is dead due to many legal problems with content.
	AB1963:	Require hearings on initiative proposals	Died in committee 1-30-84.
	SCA44:	Require distribution of signatures by geographic regions, by political party; provide for amendment of initiated law by legislature, with limitations	In Elections and Reapportionment Committee. Hearings scheduled 2/15 postponed. Author expected to drop bill.
CO	SCR194:	Remove some rezoning decisions from initiative and referendum activity	Passed both houses with significant amendments. Going to Conference committee. Adjournment expected 5-22-84.
FL	S24/S25:	Provide for certification of petition signatures through random sampling technique	Both bills in Senate Judiciary Committee since 11-4-83.
	H33/H34:	Companion bills to above	Both bills in House Ethics and Election Committee since 10-13-83.
	H315:	Raise signature requirements from 8% LGV to 15%	In House Ethics and Election Committee since 2-9-84.
GA	HB160:	Establish statewide initiative and referendum	Carryover from 1983. Never out of committee. Adjourned 2-29-84.
ID	HB615:	Require geographic distribution of signatures with not more than 20% from any one county	In Senate State Affairs Committee since 3/13/84.
	HB500:	Limit sigs from any one county to 20% of total	In House State Affairs since 2-3-84. No action.
IL	BJRCA15:	Expand initiative process to include statutes	Referred to House Executive Committee 5-6-83. No action since that date.

LEGISLATIVE UPDATE

State	Bill No.	Legislative Proposal	Bill Status
MD	HB94:	Provide for statewide indirect initiatives	Unfavorably reported from committee 2-7-84.
	HB24:	Provide for the statewide initiative	Unfavorably reported from committee 2-7-84. Withdrawn.
MS	SR556 and SR557:	Provide for statewide initiative	Both bills died in committee.
NE	LB1010:	Omnibus bill to make changes to the general provisions governing the municipal initiative process	Select filed for consideration before adjournment 4-9-84. Passed first stage of debate: For=26; Against=0; Abstained=23.
NJ		At least six bills have been introduced calling for a statewide initiative: SCR20, 22 and 59 and ACR 1, 42 and 47	Bills are in respective State Government Committees All were introduced at the beginning of current session. No activity planned in immediate future.
NY		About six bills have been introduced in the current session to adopt the initiative.	All bills are in Judicial Committee which has never taken action on such proposals in the past. No action has been planned at this time.
NC	SB540:	Extend power of initiative on matters of taxes and fees	Died in State Committee--not included under topics for reconsideration in short June session.
ND		No bills introduced however an interim committee will study the initiative and report in November	
OH	HB749:	Clarifies referendum exemption for certain PUD decisions	Introduced 3-15-84. Assigned to Local Govt. Committee.
OK	HB1860:	Forbid expenditure of public funds by elected officials for ballot measure campaigns	Died in committee.
RI	SB7040:	To establish a statewide initiative and referendum	Introduced 1-4-84 and referred to House Special Legislation Committee. No action since then.
TN	SJR-75:	To establish statewide initiative and referendum	Introduced 1983 and carried to this session. Withdrawn 3-14-84.
UT	HJR-5:	To expand the initiative process to allow constitutional amendments	Died in committee.
VA	HJR-97:	To establish statewide initiative and referendum	Committee voted to carry over to next session.
WI	SJR-58:	Establish initiative and referendum on state and local levels	Introduced 2-21-84 and referred to Urban Affairs and Government Operations Committee. No action to date. Adjournment 4-6-84.
WY	HR7 and HB182:	Proposing certain changes to the initiative process (elections and petitions)	Both bills died in committee.

NOTE: States not listed have no current legislative activity relating to the initiative and referendum process.

INITIATIVE UPDATE

Subject	Status	CA/ST	Sign. Req.	Due	Ballot	Remarks
ALASKA						
Abolish Alaska Transportation Commission Deregulate	Complete	ST	19,936	1-11-84	11-84	#83-02. In legislature. Will go to November ballot if not passed in session.
Nuclear Weapons Freeze	In Prog	ST	19,936	6-30-84	11-86	#83-03. Missed filing deadline for 1984 consideration.
Compensation for State Legislators	In Prog	ST	19,936	9-14-84	11-86	#83-04: Missed filing date for 1984 ballot.
ARIZONA						
Move Primary Election from September to June Establish Presidential Primary	In Prog	ST	72,637	7-5-84	1984	Initiative 1-1-84. Withdrawn and refiled as 3-I-84.
Raise Drinking Age From 19 to 21	In Prog	ST	72,637	7-5-84	1984	Initiative 2-I-84. Sponsored by State Rep. Earl Wilcox.
Provide Statements to Jurists	In Prog	ST	72,637	7-5-84	1984	Initiative 4-I-84. Sponsor, Wayne Stump.
Use Gold/Silver Coins as Legal Tender	In Prog	ST	72,637	7-5-84	1984	Initiative 5-I-84. Sponsor, Wayne Stump.
Cost Effective Health Care	In Prog	ST	72,637	7-5-84	1984	Initiative 6-I-84. Withdrawn, revised and refiled as 7-I-84 (see 3-C-84).
Compulsory School Attendance-8 to 17 years old	In Prog	ST	72,637	7-5-84	1984	Initiative 8-I-84. Sponsor: State Representative Jesus Higuera.
Tax Credits for Water Purification	In Prog	ST	72,637	7-5-84	1984	Initiative 9-I-84. Sponsor: Pat Prate.
Fair Value Rates for Public Service Corporation	In Prog	CA	108,955	7-5-84	1984	1-C-84, refiled as 2-C-84. Fair Electric Rates Coalition.
Regulation of Health Care Institutions	In Prog	CA	108,955	7-5-84	1984	3-C-84. Arizona Coalition for Cost Effective Quality Health Care.
Coin Operated Gaming Devices	Withdrawn				1984	Initiative 10-I-84. Withdrawn.
ARKANSAS						
State-Owned Lottery	In Prog	ST	76,935	7-6-84	1984	Sponsor: State Rep. Doug Wood.
1/8 cent Sales Tax Increase	In Prog	CA	78,935	7-6-84	1984	Proceeds to be used for a Fish and Game Commission.
Unborn Child Amendment	In Prog	CA	78,935	7-6-84	1984	Promote health & welfare of unborn from conception to birth; legislature to regulate; limit state funds. Filed 3-7-84.
CALIFORNIA						
Reform Legislative Rules Procedures, Powers, and Funding	Certified	ST			6-84	No. 0314. Sponsor: Paul Gann.
Require State to Divest Itself of Financial Holdings in South Africa	Failed	ST	393,835			No. 0324.
"Save Prop. 13"	Failed	CA	630,136		11-84	No. 0325: Sponsor has revised petition in circulation, to close loopholes in Proposition 13. See No. 0328 due 3-19-84.
Criminal Court Reform	Failed	CA	630,136	2-10-84	11-84	No. 0326: Sponsors: Robert Kane and Evelle Younger. Insufficient signatures.
Call Constitutional Convention to Adopt a Federal Balanced Budget Amendment	Certified	ST	393,835	2-21-84	11-84	No. 0327:
"Save Prop. 13" Tax Limitation	Complete	CA	630,136	3-19-84	11-84	No. 0328 (Rev. No. 0325): In certification.
No First-Use of Nuclear Weapons (Nuclear Weapons Policy)	In Prog	ST	393,835	5-7-84*	11-84	No. 0329: Sponsor, Dr. John Somerville, CA Nuclear No First Use Campaign.
Public Gaming Commission Educational Funds	In Prog	CA	630,136	5-7-84*	11-84	No. 0330: Sponsor, R. Wilson (Latest of many revisions).

INITIATIVE UPDATE

Subject	Status	CA/ST	Sign.Req.	Due	Ballot	Remarks
CALIFORNIA, continued						
Peoples Right to Repeal Laws (Plebiscite)	In Prog	CA	630,136	5-7-84*	11-84	No. 0331: Sponsor, Peter Applegate.
Tobacco Education Project through Taxes	In Prog	ST	393,835	5-7-84*	11-84	No. 0332: Sponsor, Gerry Mandell, Tobacco Education Council (Ventura).
Prayer in Public Schools	In Prog	CA	630,136	5-11-84*	11-84	No. 0334: Sponsor, Committee for Religious Freedom in Schools.
Welfare-Public Assistance Programs	In Prog	ST	393,835	5-11-84*	11-84	No. 0335: Sponsor: Ross Johnson (A-64).
Legislators Compensation-Budget Bill Enactment	In Prog	CA	630,136	5-14-84*	11-84	No. 0333/0336: Sponsors, Les Kelting and Lee Phelps ("Pink Slip").
Designate California a Nuclear Free Zone	In Prog	ST	393,835	5-29-84*	1985	No. 0337: If turned in by 5/1, could be on 11-84 ballot.
Voting Materials only in English	In Prog	ST	393,835	5-29-84*	1985	No. 0338: Sponsor: Stanley Diamond.
Phase Out of Local Rent Control-Conversion of Rental Housing to Tenant Ownership	In Prog	ST	393,835	5-29-84*	1985	No. 0339: Sponsor: Trevor A. Grimm.
Rent Control Phase Out by 1990-Amendment and Statute	In Prog	CA	630,136	5-29-84*	1985	No. 0340: Sponsor: George Young.
Welfare Reform	In Prog	CA	630,136	6-11-84	1985	No. 0341. Sponsors, State Reps. E. Royce, P. Nolan, R. Waters, S. Nielsen, E. Konnyu.
Rent Control Phase Out	In Prog	CA	630,136	6-15-84	1985	No. 0342: Sponsor: George Young. One of two drives underway.
State Lottery	In Prog	CA	630,136	6-18-84	1985	No. 0343: Sponsor: Barry Fadem.
Fair Reapportionment Commission	In Prog	CA	630,136	6-15-84	1985	No. 0344: Sponsor: Governor George Deukmejian.
Campaign Contribution Limitations - State Offices	In Prog	ST	393,835	6-25-84	1985	No. 0345. Sponsors: T. K. Houston, A. Post.
Agricultural Labor Management Relations Act	In Prog	ST	393,835	6-25-84	1985	No. 0346: Sponsor: St. Sen. Jim Nielsen.
Campaign Contributions Limits. Elective Offices	In Prog	ST	393,835	6-25-84	1985	No. 0347. Sponsors: See 0345 above.
Open Primary	In Prog	ST	393,835	6-25-84	1985	No. 0348: Sponsors: Californians for Open Primary.
Legalization of State Lottery	In Prog	CA	630,136	6-25-84	1985	No. 0349: Sponsor, Tom Sullivan.
"Short and Simple Tax Plan-State Income Taxes	Withdrawn	CA	630,136			No. 0350: Sponsor: Conway H. Collis Withdrawn-Refiled 2-28-84 with A.G.
Firearms: Right to Own Not To be Infringed Upon	In Prog	CA	630,136	7-24-84	1985	No. 0351: Sponsor: St. Sen. H. L. Richardson.
Educational Voucher	Announced					
Governmental Reorganizat'n	A.G.	CA	630,136	TBD	TBD	Filed 11-29-83. Sponsor: D. Excell et al.
Amendment to Fair Political Practices Act	A.G.	ST	630,136	TBD	TBD	Filed 12-3-83. Sponsor, Assemblyman Ross Johnson.
Locally Governed Community College Stable Funding	A.G.	CA	630,136			Filed 12-20-83. Sponsors, Cornell, Voth and James Young.
"Short and Simple" Tax Plan - State Income Taxes	A.G.	CA	630,136	TBD	TBD	Filed 2-26-84. Conway H. Collis Revision of 0350.
Federal Voter Initiative Process	A.G.	ST	393,835	TBD	TBD	Filed 3-13-84. David E. Miller.

* California petition signatures must be submitted to county clerks by 5-1-84 for to be assured of ballot placement in 1984. Absolute filing deadline for the 1984 ballot is 6-28-84.

INITIATIVE UPDATE

Subject	Status	CA/ST	Sign. Req.	Due	Ballot	Remarks
COLORADO						
Legalize Casino Compound in Pueblo	In Prog	CA	46,737	8-5-84	11-84	Began circulation in early March 1984.
Prohibit Public Funding of Abortions	In Prog	CA	46,737	8-5-84	11-84	Began circulation in early March.
Deregulate Transportation	In Prog	CA	46,737	8-5-84	11-84	Sponsors: Coloradans for Free Enterprise.
Voter Registration Through Drivers Licensing	In Prog	CA	46,737	8-5-84	11-84	Sponsor: Colorado Public Interest Group.
Reform of Education System	Pending	CA	46,737	8-5-84	11-84	First hearings 3-14-84. Sponsor: Clinton Bullock.
Raise Legal Drinking Age From 18 to 21 Years of Age	L.C.	ST	46,737	8-5-84	11-84	Filed 3-19-84 with Legislative Council. Sponsors: CO Federation of Parents, Inc.
DISTRICT OF COLUMBIA						
Prohibit Employers From Administering Drug Tests to Employees	Failed	Ord				Believed to have been an inactive effort.
Fair Travel Practices	Failed	Ord		1-7-84		Initiative No. 15.
D.C. Unemployment Compensation Act of 1984	Pending	Ord	15,000*	6 mos.	11-84	No. 18. Council's decision to decline overruled by court. Appeal filed.
Right to Overnight Shelter Act of 1983	In Prog	Ord	18,032	5-84	11-84	Was No. 16. Revised/Refiled No. 17.
D.C. Self-Determination Act	Declined	Ord				Council decision to decline upheld by Court.
Public Service Commission Act	Withdrawn	Ord				
People's Council Election Act	In Prog	Ord	20,000	9-17-84	11-84	Relates to Public Service Commission; Must be certified by 8-31 for 11-84 ballot.
Unemployment Compensation in Private Industry	Declined	Ord				
*Exact signature requirement established at time of approval for circulation and is equal to 5% registered voters in District. Filing deadline is six months from date of approval to circulate.						
FLORIDA (Please see Note 1)						
Limit All Taxes to 5%	Pending	CA	298,743		11-84	State Supreme Court threw off ballot, 3-27-84. Appeal pending.
Establish State Lotteries	In Prog	CA	298,743	8-6-84	1984	Committee: Committee for Florida State Lottery.
Unicameral Legislature	In Prog	CA	298,743	8-6-84	1984	Would cut number of legislators from 160 to about 120.
Establish Fish and Wildlife Commission	In Prog	CA	298,743	8-6-84	1984	Committee: Committee to Restore Fish and Wildlife Resources.
Legalize State-Owned Casinos	In Prog	CA	298,743	8-6-84	1984	Committee: Floridians for State Casinos.
Hazardous Waste Sites (Prohibit)	In Prog	CA	298,743	8-6-84	1984	Committee: Clean Backyard Project.
Elected PUC	In Prog	CA	298,743	8-6-84	1984	
Freeze Budget and Staffs at 1980 Levels for Fire, Police and Medical	In Prog	CA	298,743	8-6-84	1984	Committee: Save Our Emergency Services.
Legalize Casinos and Lotteries	In Prog	CA	298,743	8-6-84	1984	Committee: Citizens for Less Taxes.
Establish English as the Official Language of the State	In Prog	CA	298,743	8-6-84	1984	Committee: Floridians for the English Language Amendment.
Raise Drinking Age to 21	In Prog	CA	298,743	8-6-84	1984	Committee: "Coalition 21."

INITIATIVE UPDATE

Subject	Status	CA/ST	Sign. Req.	Due	Ballot	Remarks
FLORIDA, continued						
Environmental Rights Amendment	In Prog	CA	298,743	8-6-84	1984	Committee: Clean-up 84.
Repeal Single Subject Restriction on Initiatives	In Prog	CA	298,743	8-6-84	1984	Committee: Citizens Initiative Committee.
NOTE 1: A law passed in the 1983 session placed a four-year validity period on all signatures gathered during an initiative campaign. This law is retroactive to all initiative proposals approved for circulation by the Secretary of State and therefore includes initiative petition drives which did not file signatures for the 1982 ballot as well as those proposals approved to attempt qualification for the 1984 ballot.						
IDAHO						
Limit Exemptions for Sales Taxes; Uniformity	In Prog	ST	32,666	7-6-84	11-84	Sponsor: Bannock County Property Owners.
Prohibit use of Property Taxes for General Public Services	In Prog	ST	32,666	7-6-84	11-84	Sponsor: Bannock County Property Owners.
Lowering Signature Requirements for Recall (all)	A.G.	ST	32,666	7-6-84	11-84	Revision of earlier version. Refiled 3-5-84.
Limit Legislative Amendment of Initiatives	In Prog	ST	32,666	7-6-84	11-84	
Interest Earnings on Fish and Game Account	A.G.	ST	32,666	7-6-84	11-84	Would revert to Fish and Game Commission.
Idaho Natural and Recreational River System	A.G.	ST	32,666	7-6-84	11-84	Limits uses - especially development.
Exempt Food from Sales Tax	A.G.	ST	32,666	7-6-84	11-84	
Concealed Weapons: Allows Possession; Permit System	A.G.	ST	32,666	7-6-84	11-84	
MAINE						
Mandatory Auto Insurance	Failed	ST	46,030	1-30-84	11-84	No signatures submitted.
MASSACHUSETTS						
Prohibit Pound Seizures for Animal Experimentation	Adopted	ST	61,508		11-84	Passed in Legislature. This will be considered a successful drive.
MICHIGAN						
Reserve a percentage of State Revenues for Schools	In Prog	CA	304,001	7-9-84	11-84	"FAIR" Petition.
Require Voter Approval of Any Tax Changes	In Prog	CA	304,001	7-9-84	11-84	"Voters' Choice on Revenue".
Reduce Property Tax and Require Voter Approval on any new Taxes or Tax Increases	In Prog	CA	304,001	7-9-84	11-84	T.A.G. Tax Cut Petition (Quasi-Proposition 13) -- Taxpayers Action Group.
Limit Constitutional Amendments on the Ballot to One Per Subject	In Prog	CA	304,001	7-9-84	11-84	T.A.G. Ballot Limit Petition -- Taxpayers Action Group.
Restrict State Legislature from Increasing State Income Taxes by More than 5%	In Prog	CA	304,001	7-9-84	11-84	Sponsor: Thomas E. Brennan.
Establish 7-member, Non-Partisan Reapportionment Commission	In Prog	CA	304,001	7-9-84	11-84	Sponsor: Thomas E. Brennan.
Limit Office of Governor to Two Terms	In Prog	CA	304,001	7-9-84	11-84	Sponsor: Thomas E. Brennan.
Make the State Legislature a Part-Time Body	In Prog	CA	304,001	7-9-84	11-84	Sponsor: Thomas E. Brennan.

INITIATIVE UPDATE

Subject	Status	CA/ST	Sign. Req.	Due	Ballot	Remarks
MICHIGAN, continued						
Provide for nomination of Supreme Court Justices and establish succession procedures	In Prog	CA	304,001	7-9-84	11-84	Justices will hold offices till successors are elected and qualified.
Regulation of utility rate allowances	In Prog	CA	304,001	7-9-84	11-84	Disallows charging customers for construction work in progress or for unneeded or abandoned plants. Other provisions.
Forbid Abortion Under Any Circumstances	Pending	CA	304,001	7-9-84	11-84	Has not been submitted to State Board of Canvassors for approval.
Control of Outdoor Advertising; Licensing	Pending	ST	243,201	5-30-84	11-84	Indirect: Must be submitted to Legislature prior to ballot placement.
Unicameral Legislature	Pending	CA	304,001	7-9-84	11-84	Filed 1-19-84: Awaiting approval to circulate.
MISSOURI						
Forbid Operation of Nuclear Power Plants in State	In Prog	ST	67,581	7-7-84	11-84	
Legalize Pari-Mutuel Betting	Pending	CA	108,130	7-7-84	11-84	Legislature may place on ballot. Proponents awaiting action.
MONTANA						
Change the Election Date to Coincide with Tax Due Dates	In Prog	CA	36,047	6-29-84	11-84	C-1-20.
Forbid Seizure of Property or Jailing for Non-payment of Taxes	In Prog	CA	36,047	6-29-84	11-84	C-1-21.
Raise Legal Age for Drinking of Alcoholic Beverages from 19 to 21	Pending	CA	36,047	6-29-84	11-84	C-1-22.
Call for a Federal Balanced Budget	Pending	CA	36,047	6-29-84	11-84	C-1-23.
Implement a 5 Percent Sales Tax	Pending	CA	36,047	6-29-84	11-84	C-1-24.
Milk Price Decontrol	In Prog	ST	18,024	6-29-84	11-84	I-96.
Dentistry: Regulation Of; Allow Fitting of Plates	In Prog	ST	18,024	6-29-84	11-84	I-97.
Nuclear Disarmament by US; (Unilateral)	In Prog	ST	18,024	6-29-84	11-84	I-98: US to dismantle one system and wait to see what USSR response will be. Calls for beginning with a Montana-based system.
Call for Federal Balanced Budget	In Prog	ST	18,024	6-29-84	11-84	I-99.
NEBRASKA						
Increase State Legislators' Salaries	In Prog	CA	54,790	7-6-84	11-84	Proponents: "Coalition for Fair Compensation."
Bi-Lateral Nuclear Weapons Freeze/Anti-MX in Nebraska	Pending	CA	54,790	7-6-84	11-84	Awaiting court decision regarding suitability to initiative action.
Limitation on State Spending	In Prog	CA	54,790	7-6-84	11-84	Sponsors: Taxpayers Survival Comm. 1/2 rate of PC income over 5 $\frac{1}{2}$ year.
Limitation of Property Taxes: 1.5% Assessed Value	In Prog	CA	54,790	7-6-84	11-84	Sponsors: Taxpayers Survival Comm. 3-yr intervals; improvements exempt.

INITIATIVE UPDATE

Subject	Status	CA/ST	Sign. Req.	Due	Ballot	Remarks
NEBRASKA, continued						
Parents Rights regarding their Children	In Prog	CA	54,790	7-6-84	11-84	Adds new section to state Bill of Rights.
Providing for the Popular Election of Judges	Pending	CA	54,790	7-6-84	11-84	In titling and approval process.
NEVADA						
Freeze State Property Tax	Announced	CA	24,258	6-4-84	11-84	Not filed.
Elected State Board of Wildlife Commission	In Prog	CA	24,258	6-4-84	11-84	Proponents: "Coalition for Fair Compensation."
NORTH DAKOTA						
Prohibit State Sale of State-Owned Farm Land	Inactive	ST	13,055	8-6-84	11-84	This attempted petition drive has been discontinued.
Revert Junior Colleges to Local Control	In Prog	ST	13,055	8-6-84	11-84	
Bar Closure at 10 PM	Announced	ST	13,055	8-6-84	11-84	By the Prohibitionist group that sponsored anti-gambling in 1982.
OHIO						
Alcoholic Beverage Tax	Failed	ST		1-15-84		No signatures were turned in by filing deadline for consideration by the legislature this session.
OKLAHOMA						
Liquor by the Drink	Complete	CA			11-84	SQ-563. Pending with Supreme Court.
Tax Relief	Failed				11-84	Our last edition indicated this measure had qualified for the ballot. It did not.
OREGON						
Restrict Government Competition with Private Industry	In Prog	CA	83,361	7-6-84	11-84	#1: Would not allow employees to be hired if in competition with private firms. Other provisions.
Legalize Possession and Growth of Marijuana for Adults' Personal Use	In Prog	ST	62,521	7-6-84	11-84	#2: Decriminalizes possession, growth, transport and consumption for private and medical use. #13: Second filing.
Place Moratorium on Auto Emission Tests	In Prog	ST	62,521	7-6-84	11-84	#3: Would end program in 1985 and 1986, not to be reinstated without voter approval. #10: Second filing.
Dissolve All Metro Service Districts	In Prog	ST	62,521	7-6-84	11-84	#4: Allows only 100 days to dissolve and dispose of assets. #9: Second filing.
Abolish Land Conserv. and Develop't Comm., Land Use Bd. of Appeals and Dep't. of Land Cons. & Development	In Prog	ST	62,521	7-6-84	11-84	#5: Continues 1982 effort to place land use planning powers in hands of local bodies. Also provides challenge procedure.
Reduce State Income Tax to 3/4 of the 1980 Levels	In Prog	CA	83,361	7-6-84	11-84	#6.
Limit Property Taxes	In Prog	CA	83,361	7-6-84	11-84	#7: Taxes would be based on 1% of land's true cash value.
Ban Sales Tax	In Prog	CA	83,361	7-6-84	11-84	#8: Would prohibit imposition of tax for transfer of any tangible or intangible property.
Change Makeup of Land Conservation and Develop't Comm. and Set Up Appeal Process	In Prog	ST	62,521	7-6-84	11-84	#11: Describes makeup of state, county and city planning groups and provides appeal process.
Protect Private Property	In Prog	CA	83,361	7-6-84	11-84	#12: Forbids passage of any law that infringes on use, ownership, and enjoyment of private property.
Limit Elk Cow Hunting and Change State Fish/Wildlife Commission	In Prog	ST	62,521	7-6-84	11-84	#14.

INITIATIVE UPDATE

Subject	Status	CA/ST	Sign.Req.	Due	Ballot	Remarks
OREGON, continued						
Incorporate the ERA into the State Constitution	In Prog	CA	83,361	7-6-4	11-84	#15.
Direct Removal and Control of Alleged "Threat" posed by "Rajneesh"	In Prog	ST	62,521	7-6-4	11-84	#17. Amended from #16, which was declined for titling by A.G.
Require that Elected Officials Comply Immediately with Voter Initiated Laws	In Prog	CA	83,361	7-6-4	11-84	#18.
"Contain and Repel" Certain "Cults"	In Prog	CA	83,361	7-6-4	11-84	#19: Same sponsor as Nos. 17 and 18 above.
Reinstate the Death Penalty	In Prog	CA	83,361	7-6-4	11-84	#20: Sponsor is William A. Jolly.
Death Penalty or Life Sentence for Aggravated Murder	In Prog	CA	83,361	7-6-4	11-84	#21: Sponsor is Delight Streich.
Death Penalty for Aggravated Murder Under Some Circumstances	In Prog	ST	62,521	7-6-84	11-84	#22: Sponsor is Delight Streich.
Requires Approval of Radio-active Waste Disposal Sites	In Prog	ST	62,521	7-6-84	11-84	#23:
Real Property Tax Limit	In Prog	CA	83,361	7-6-84	11-84	#24: Sponsor, Ray Philips.
Limit Voting to Persons Registered 20 Days Before Election	In Prog	CA	83,361	7-6-84	11-84	#25: Would require voter registration 20 days prior to an election. Sponsor, Carolyn Oakley.
Regulates Ethical Conduct: Influence Peddling, Gifts, Lobbying	In Prog	ST	62,521	7-6-84	11-84	#29. Sponsor, St. Sen. J. Wyers.
Allow Tax Exemption for Certain Properties	In Prog	CA	83,361	7-6-84	11-84	#30. Refiled version of #27.
Allow Tax Exemption for Certain Properties	Inactive	ST	62,521	7-6-84	11-84	#31. Refiled version of #28.
State Lottery	In Prog	ST	62,521	7-6-84	11-84	#32. Allow legislature to provide for
Oregon Tax Law Repeal	In Prog	ST	62,521	7-6-84	11-84	#33. Refiled version of #31 above.
Allows Use of Unconstitutionally Obtained Criminal Evidence.	In Prog	CA	83,361	7-6-84	11-84	#34. Title changed from last report
Revise Numerous Criminal Laws: Police Powers; Trials; Evidence; Sentencing	In Prog	ST	62,521	7-6-84	11-84	#35. Title changed from last report
Forbids Payment for Circulators of Petitions (all kinds)	In Prog	CA	83,361	7-6-84	11-84	#37.
Const. State and Local Gov't Spending Limits; Require Sales Tax Adoption.	In Prog	CA	83,361	7-6-84	11-84	#38.
State and Local Spending Limits	In Prog	CA	83,361	7-6-84	11-84	#39.
Vests all Judicial Authority in Supreme Court and Justices of the Peace	In Prog	CA	83,361	7-6-84	11-84	#40.

INITIATIVE UPDATE

Subject	Status	CA/ST	Sign.Req.	Due	Ballot	Remarks
OREGON, continued						
Homestead Exemption-Income Tax Funded; Local Gov't Spending Limits	In Prog	CA	83,361	7-6-84	11-84	#41.
Limit Public Employees' Salaries; Regulate Pensions	In Prog	CA	83,361	7-6-84	11-84	#42. Equal to pay in private sector.
Restrictions on Commercial Salmon Hatcheries	In Prog	ST	62,521	7-6-84	11-84	#43.
Limit Public Employees' Salaries	Inactive				11-84	#44. Refiled version of #42. Sponsors have decided on #42.
Create Citizen Utility Board to Represent Interest of Consumers	Pending	ST	62,521	7-6-84	11-84	#45. Proponents are challenging title to state supreme court.
Repeal Land Use Regulation with Local Planning Remaining	In Prog	ST	62,521	7-6-84	11-84	#46. Sponsors: Dallas Ferry, Roy Durham, and Patrick Kelly.
Conform Certain Rights of Accused Under Federal and State Constitutions	In Prog	CA	83,361	7-6-84	11-84	#47. Sponsor: Cheryl A. Kuhn.
Provide Exemption to the Definition of Illegal Pyramid Clubs	In Prog	ST	62,521	7-6-84	11-84	#48. Sponsor: Diana Van Cleave. Those with less than \$25 investment.
Limit Terms of Legislative Office	In Prog	CA	83,361	7-6-84	11-84	#49. Terms limited to three consecutive, eight years out of 12. Requires resignation upon filing for another office with overlapping term.
Establish State-Run Lottery to Fund Public Transportation	Pending	CA	83,361	7-6-84	11-84	#50. In titling.
SOUTH DAKOTA						
Nuclear Weapons Freeze	Certified				11-84	Legislature approved for ballot.
Prohibit School Openings Prior to Labor Day	Certified				11-84	Legislature approved for ballot.
Voter Approval of Radio-Active Dump Sites	Certified	ST			11-84	Legislature approved for ballot.
"Peace Through Strengtn" Resolution	Failed	ST	13,929	2-84	11-84	Did not submit signatures.
Repeal HB1026 which Raised Legal Drinking Age to 19	In Prog	REF	13,929	6-13-84	11-84	
UTAH						
Ban Salacious Material on TV	Certified	ST	60,002		6-84	
Repeal 1983 Law Regarding Salacious Material on TV	In Prog	ST	60,002	6-5-84	11-84	
Establish New Working Hours for State Offices	In Prog	ST	60,002	6-5-84	11-84	Would have offices open from Noon until 8:00 PM.
Community Correctional Facilities	In Prog	ST	60,002	6-5-84	11-84	Carryover from 1982. Would prohibit regional prisons in residential areas.
Elected Public Utility Commission	In Prog	CA	60,002	6-5-84	11-84	
WASHINGTON						
Indirect: Salmon and Steelhead Resources	Failed	ST	138,472	1-84	11-84	I-84. Did not file signatures by deadline.
Federal Balanced Budget Resolution	Failed	ST	138,472	1-84	11-84	I-85. Did not file signatures by deadline.

INITIATIVE UPDATE

Subject	Status	CA/ST	Sign. Req.	Due	Ballot	Remarks
WASHINGTON, continued						
Decommercialization of Steelhead; Indian Rights	In Prog	ST	138,472	7-6-84	11-84	I-456: Same as I-84 above.
Establishing 18 as Minimum Legal Age for All Entitlements except relating to Alcohol	In Prog	ST	138,472	7-6-84	11-84	I-457: Relates to employment, licenses, etc.
Tax Watercraft on Basis of Length Rather than Value; Proceeds for Boating Safety Programs and Facilities	In Prog	ST	138,472	7-6-84	11-84	I-458: Refiled as I-459: Sponsor: Louise Miller.
Increase Taxes on Alcoholic Beverages; Proceeds-Victims Assistance; Research; Enforcement	In Prog	ST	138,472	7-6-84	11-84	I-460: Would also tax out of state wine. Sponsor: E.C. Renas.
Require Corporations Issuing Securities with Gold - Clause to Make Payment in Gold	In Prog	ST	138,472	7-6-84	11-84	I-461. Sponsor: Robert Ellison.
Petition Congress to Have Space Shuttle Energy Lottery; Increase Space Travel; Energy Independence	In Prog	ST	138,472	7-6-84	11-84	I-462. Sponsor: Jeff Bales.
Petition Congress to Pass Balanced Budget Amendment; or Call Constitutional Convention for Same	In Prog	ST	138,472	7-6-84	11-84	I-463. Sponsor: James Medley.
Exempt the Value of Trade-In Automobiles from Sales Tax Calculation	In Prog	ST	138,472	7-6-84	11-84	I-464. Sponsor: Eugene Prince.
Lower Sales and Business Tax Rates; Set Spending Limits; Limit Tax Increases	In Prog	ST	138,472	7-6-84	11-84	I-465. Sponsor: Ken Pullen.
Legalized Casino Gambling on a Local Option Basis	In Prog	ST	138,472	7-6-84	11-84	I-466. Sponsor: Fred Ladd, Ocean Shores, Washington.
Replace all Current Taxes with Transaction Tax Not to Exceed 1%	In Prog	ST	138,472	7-6-84	11-84	I-467. Sponsor: Clarence Keating who has sponsored similar drives before.
Property Tax Reduction "Proposition 13 Type"	Pending	ST	138,472	7-6-84	11-84	I-468. Untitled. Sponsor: Martin Ottesen, Tacoma.
Change Regulation of Legal Gambling in State	Pending	ST	138,472	7-6-84	11-84	Unnumbered and untitled at press time. Sponsor: M. Kinsley, Seattle.
WYOMING						
In-Stream Flows	Failed	ST	25,810	12-16-83	11-84	Filed less than 2,000 surplus signatures. More than 3000 were disqualified. AG has ruled additional signatures can be filed.

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Fifteen Non-initiative States Ponder the Process

Some proposals incorporate lessons learned from the experience of other states by providing safeguards....

At present, lawmakers in 15 states are being asked to amend their state constitution to allow law-making by initiative.

There are 26 proposals in all, suggesting initiative mechanisms as varied as those already existing in other states, and expressing varied degrees of enthusiasm or suspicion for, and understanding or ignorance of, the philosophy of direct democracy.

Current Initiative Petition Drives by Status—for 1985-86 Ballots

Certified	4
In Titling/Review/Attorney General (AG)	10
In Progress (Active)	47
Inactive/Abandoned	4
Failed since last report	2
Failed previously (dropped from report)	10
Total Drives Attempted to Date	77

Some proposals incorporate lessons learned from the experience of other states by providing safeguards such as single-subject limits; legal review by the Attorney General; "cooling-off" periods before the same subject matter can be put to the voters again; limited "hands-off" periods before the legislature can amend or repeal a law passed by initiative; financial reporting requirements and even amount-specific campaign spending ceilings; limits on the number of initiatives that can appear on a ballot; and various subject restrictions such as prohibitions against local or special legislation, creation or abolition of courts, attempts to prescribe court rules or alter a court decision, or naming specific individuals or corporations.

Other bills seem to ignore the entire history of American experience with the initiative, such as those bills setting low signature thresholds or expecting the statehouse to docilely implement proposals that may be highly controversial or disruptive to the legislature itself.

Highlights and notable provisions of some of these bills are examined in this edition's **Quarterly Spotlight**. For a digest of the current status of all initiative legislation, see the **Legislative Update** on Page 2.

Initiative Provisions Chart to be updated

The next issue of *Initiative Quarterly* will contain an updated version of NCIR's chart "Initiative Provisions by State," published in the fall of 1983. Since its publication, the chart has been distributed to individuals, students, businesses, state legislators and officials, and to schools.

This unique resource, with its state-by-state summary of requirements to qualify ballot measures, has been a helpful tool in understanding the mechanics of the initiative process.

We are verifying all the particulars and provisions with each state to provide the most complete and accurate information possible. The new chart can be ordered by non-subscribers of *Initiative Quarterly* by contacting the NCIR Foundation at 303-779-1949 or writing to 5670 S. Syracuse Circle, Suite 328, Englewood, Colorado 80111.

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LEGISLATIVE UPDATE

STATE DESCRIPTION OF LEGISLATION

ACTION - DISPOSITION

AL	SB 1386: Campaign Contributions and Expenditures (allows AG to approve ballot titles) SB 1076: Petition Signature Withdrawal	1386 amended and passed by Judiciary Committee on 3/12. 1076 passed by Senate and is now in House Judiciary.
CA	Elections & Reapportionment Committee is still considering recommendations for changes to I&R. Two bills have been introduced: One by Senator Gary Hart calls for reinstituting the indirect process; another by Senator Dan McCorquodale calls for limiting corporate campaign contributions to initiative campaigns to \$25,000	E&R recommendations are expected at any time. There seems to be growing sentiment to reform the initiative process. The degree of reform is yet to be agreed upon.
CT	Hearings were held 3-12-85 on several bills pending before Government Administration Committee, which decided to draft its own measure calling for indirect initiative. HJR 58.	Bill not scheduled for committee vote as of 4-4-85. Must have action by 4-12-85. See story elsewhere in this issue regarding details of bill.
FL	Expect legislation defining "single subject tests" and review of proposal prior to circulation	Session begins early April.
GA	SR 47(Stumbaugh) to establish initiative and referendum SR 30, HR 107, HR 110 - all to establish I&R	SR47 defeated in Senate 2/14/85. SR 30 in Senate Government Operations since 1/16/85; HR 107 & HR 110 had 2nd reading in House Rules Committee 2/5/85. No further action taken. Adjourned 3/8/85. Carryover.
HI	Three bills to establish statewide initiatives were introduced: HB948, HB 1303 and SB790.	All dead for 1985. Carryover to 1986.
IA	One bill (SJR6) to establish a statewide initiative process has been introduced.	In the Senate State Government Committee since 3/1/85 and no further action has taken place. Adjournment scheduled for early May. No carryover.
KS	SCR1617 calls for a statewide initiative for amendments only. HJR5021 introduced 4-4-85 - also calls for statewide indirect - amendments only.	Passed by Senate Elections Committee 3-14-85 11-2. On general orders in Senate. HJR5021 sent to House Federal and State Affairs Committee - no further action. Recessed 4-12 and come back 4/23 for 3-day veto session. Carries over.
MD	One bill to establish the initiative process (HB624) was introduced.	Defeated in Constitutional & Administrative Law Committee 2/19/85. Adjournment 4/8/85.
MI	Two bills to establish the initiative process (HB113 and SB123) have been introduced	Both bills were introduced 1/21/85. HB113 was referred to House Judiciary and SB123 was referred to the Elections and Ethics Committee. There has been no activity on either.
NE	LB559 requires that only petitions registered with the - state can be circulated and changes bonding requirements for circulators	Bill is ready for final reading but has not yet been scheduled.
NJ	Assemblyman Zimmer and Senator Dorsey have bills for a statewide initiative which carried over from 1984	Zimmer is expected to make procedural motion on 4/15 when session reconvenes to relieve committee of this bill and bring to floor for vote.
NY	S552, S1385, A1820 & S2230 all would establish a statewide initiative process.	All bills are in respective Judiciary Committees and no action has been taken.
PA	SB198 calls for the establishment of a statewide initiative process.	There has been no activity since the bill was introduced on 1/22/85 and referred to the State Government Committee.
RI	S3 and S558/H5174 call for the establishment of the initiative process.	S3 was a prefiled bill - no action to date. S558/H5174 are in Committee on Special Legislation, no action to date.
SC	SB68 calls for establishment of the initiative process.	In Senate Judiciary Committee since 1/9/85.
TX	HJR4 calls for establishment of statewide initiative process	In State Affairs Committee since 1/22/85.
WV	HJR3: Calls for establishment of a statewide initiative process	In Constitutional Revision Committee since 2/13/85. Adjournment 4/13/85.
WY	Several bills were introduced which would affect the initiative process.	Passed bill defining maximum circulation time as 18 months from day proponents get petition forms. Legislature referred measure to 1986 ballot to change majority requirements to majority cast in election. Efforts to change signature requirements failed.

NOTE: States not listed had no initiative legislation introduced in the current session.

Focus: Fifteen Non-Initiative States Ponder the Process

CONNECTICUT

Seven bills calling for the adoption of statewide initiative and referendum processes were introduced this session. **SJR14**(Gunther, et al), **SJR42**(Scott), **SJR44**(Scott), **SJR48**(Guiletti), and **HJR67**(Chase) proposed direct initiatives, while **HJR58**(Van Norstrand) and **HJR60**(Schmidle) proposed an indirect process. Only the Chase and Schmidle bills would have allowed initiatives amending the state's constitution; the remainder provided solely for statutory initiatives.

After hearings in mid-March, the Government Administration and Elections Committee opted to draft its own version of an indirect initiative bill. The committee revised **HJR58** to contain the following provisions:

Type: indirect initiative for statutes, amendments; also statewide referendum process. **Signatures:** 5% total vote for governor last gubernatorial election (LGV) for statutes and 12% LGV for amendments. **Pre-filing:** with Secretary of State for signature certification, and with the Attorney General for legal review. **Legislature:** can amend, approve or disapprove the measure. Approved bills must be substantially the same in intent as original proposals; disapproved measures are submitted to the voters. No gubernatorial veto.

The committee favorably reported the bill on April 12 (19-0), but it has yet to be placed on the House calendar. A similar resolution (**HJR9**) which the Committee favored 10-6 in 1983 died in the House. There is no carry-over to the next session, so barring action by the June 5 adjournment, this proposal will be dead, too.

GEORGIA

SRC47 (Stumbaugh) was defeated in the Senate in February, contrary to the prediction of Senator Bud Stumbaugh, who told NCIR in January that the bill would clear the Senate, but run into House difficulties. Stumbaugh, who suffered a similar setback in 1978, said public support for the initiative is growing. **Type:** direct, for amendments. **Signatures:** 15% LGV with a minimum of 10% LGV in each of 10 Congressional districts.

Three other initiative measures were stuck in committees but could be considered next year.

HAWAII

Three bills to establish the initiative died in committee this session. Adjournment was scheduled for April 19th, and deadlines for committee action passed without notice.

Hearings on the initiative process never materialized, contrary to the January predictions of state Rep. Terrence Tom, chairman of the House Judiciary Committee. Rep. Tom also attributed the November defeat of Rep. Kate Stanley, former chairman of the House Judiciary Committee, to her efforts to stonewall passage of the initiative. Indeed, initiative proposals in past sessions have cleared the Senate only to bog down in the House.

IOWA

SJR6 (Walstein) makes the unusual provision for a gubernatorial veto of initiatives after approval by the voters. The bill was filed and sent to the Senate State Government Committee in March. **Type:** indirect statutory initiatives and a statewide referendum. **Pre-filing:** with the Secretary of State 30 days prior to convening of the General Assembly. **Signatures:** 5% LGV statewide and in 2/3 counties of the state. **Legislature:** 90 days to act, and the governor can veto. If not passed or vetoed, must be sent to voters at the next general election, along with any legislative alternatives. If passed, the governor can veto.

KANSAS

Kansas Secretary of State Jack Briar is pushing for adoption of the initiative at a time when many Secretaries of State are embroiled in battles over petition signature certification procedures. Both of the bills below would limit to 3 the number of initiatives on any given ballot.

SR1617 — **Type:** direct initiative, amendments only. **Signature requirements:** 15% LGV. Initiatives are usually seen as a means of circumventing lawmakers, yet this bill requires the legislature to pass laws and procedures implementing proposals approved by voters.

After increasing signature requirements from 12% to 15% LGV, the Senate Elections Committee favorably reported the bill in mid-March and added it to the bottom of a list of items for the full Senate's consideration.

QUARTERLY SPOTLIGHT

Focus: Fifteen Non-initiative States Ponder the Process

KANSAS continued

HCR 5021 (Ross, et al) was introduced on April 4 and referred to the House Federal and State Affairs Committee for carry-over to the 1986 session. The bill's 30 House sponsors include Speaker Mike Hayden. **Type:** indirect, amendments only. **Signatures:** a daunting 20% LGV in each Congressional district gains examination in the Legislature. **Legislature:** would have 45 calendar days to approve or amend the measure, or the original measure appears on the next general election ballot.

Similar bills are introduced almost every session, and support draws on the examples of surrounding states, where the initiative is used to pass measures some Kansans would like to adopt. Oklahoma used direct legislation to pass liquor-by-the-drink, while Kansas is still a "brown bag" state. Colorado and Missouri have used the initiative to create a lottery, apparently a popular notion with the average Kansas voter, but not with the average Kansas legislator. Nebraska, Kansas' northern neighbor, also has the initiative process.

When the legislature reconvenes for a veto session the week of April 23, one or both of the proposals could see action, but this is unlikely. Regardless, the liquor-by-the-drink issue will be resolved on the November, 1986, ballot as a referendum, barring a veto by the governor. However, such popular notions as a state lottery, pari-mutuel betting, and reinstating the death penalty will likely sustain interest in the initiative.

NEW JERSEY

Interest in the initiative sparked here in 1980 continues, and if an amendment perceived as procedurally correct was placed before either house, it would probably pass. The Senate passed an initiative resolution last year; the Assembly

passed one in 1983, and hearings may come later this spring on two 1984 resolutions. Common Cause and the League of Women Voters have voiced support for a New Jersey initiative, and state lawmakers think they sense some public support as well. It's been suggested that a measure might pass both houses as a referendum to the voters this fall. Such a referendum would be expected to generate strong opposition from both organized labor and the business community.

ACR(1) and companion bills — Type: indirect for statutes, amendments. **Signatures:** for an amendment, 12% of the last presidential vote (LPV) with no more than 15% from any one county. For a statute (or referendum), 8% LPV would be required, same distribution. Restrictions include a cooling-off period; no paid signature collectors. **Pre-filing:** with New Jersey Election Law Enforcement Commission for compliance review, titling and summary. Proponents then have one year to gather signatures. **Legislature:** 6 months to enact substantially the same amendment or statute, or the original initiative is added to the next general election ballot.

SCR22(Dorsey et al) and companion Bill 421 — Type: indirect initiative with substantially the same provisions as the Zimmer bills, without financial reporting.

ACR42(Karcher) — Type: indirect for statutes, amendments. Also statewide referendum process. **Signatures:** 12% total votes in the last presidential election (LPE) in each legislative district for either statutory or amending initiatives. Passage of this amendment would require the state legislature to enact laws further governing campaign expenditures and use of the petition process.

ACR47(Henrickson, et al) — Type: indirect for statutes, amendments. **Signatures:** 25,000 for statutes and 35,000 for amendments, with no more than 5,000 from any one county.

NEW YORK

Two amendments have been proposed to establish the initiative process. Neither bill has seen much action. None is expected.

S555 (Goodhue) — Type: indirect for statutes, amendments. **Signatures:** statutes require 5% LGV with no more than 5% from any one county. Amendments have a two-step signature drive: 8% LGV gains legislative consideration. If the measure fails to pass in two years, the petition committee must, within 90 days, present a second petition of 4% of the original base vote to place the measure on the ballot. Measures are pre-filed with the Attorney General for legal review and with the Secretary of State for titling, summary and petition form preparation. There are some subject restrictions; a cooling-off period; a limited hands-off period. A statutory proposal passing both houses can nevertheless be vetoed by the governor.

Senate bill 1385 (Goodman, Sanders et al) — Type: indirect for amendments. Two-step signature drive calling for at least 100,000 signatures, with no more than 1/3 from any one county, no more than 1/2 from any one city, and at least 200 from 3/4 of the 62 counties. There are no specifics on when the lawmakers must act, but failing passage in the legislature, a second drive of 200,000 similarly distributed signatures takes the matter to the voters.

TEXAS

HJR11 was introduced this year by a familiar name in Texas initiative efforts—Carlyle Smith. The bill appeared in 1981 as HJR 60 (Sharp), which proposed a statutory initiative solely for spending and tax limit measures and died on the House floor. **Type:** direct, for statutes.

Continued on Page 5

Initiative Quarterly

SIGNATURE REQUIREMENTS BY STATE FOR 1986 BALLOT QUALIFICATION

State	Statutes	Amendments
Alaska*	21,101	—
Arizona	72,637	108,955
Arkansas*	70,924	88,655
California	393,835	630,136
Colorado	46,737	46,737
District of Columbia*	Variable ¹	Variable
Florida	—	342,939
Idaho	32,666	—
Illinois	—	293,894
Maine	46,030	—
Michigan	243,201	304,001
Missouri*	69,571	111,312
Massachusetts*	61,508	61,508
Montana*	18,949	37,897
Nebraska*	38,353	54,764
Nevada*	28,394	28,394
North Dakota	13,055	26,110
Ohio*	100,702 + 100,702	335,673
Oklahoma	100,455	188,352
Oregon	62,521	83,361
South Dakota	13,783	27,565
Utah*	62,962	—
Washington	151,133	—
Wyoming*	29,423	—

Numbers in bold show where changes occurred as the results of 1984 elections.

*Geographic distribution of signatures is required.

¹ District of Columbia requirement equals 5% of the registered voters at the time petitions are approved for circulation.

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Executive Editor: **Walt Klein**, Contributing Editor: **Sue Thomas**, Executive Director, NCIR Foundation; Contributing Writer/Editor: **Eric Miller**; Managing Editor: **Cheryl Klein**

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QUARTERLY SPOTLIGHT

TEXAS continued

Signatures: 10% LGV statewide and with a particularly rigorous distribution—in at least 190 of the state's 254 counties. Subjects limited to measures capping the gross amount of money the legislature may appropriate, reducing existing taxes, or limiting the rate of existing taxes. The Attorney General may advise proponents, and with their approval, redraft their measure as necessary to achieve its purposes. The circulation period is one calendar year, and paid circulators are prohibited.

This measure and HJR4 with similar provisions have been in the House State Affairs Committee since January with no further action scheduled.

RHODE ISLAND

Two Senate bills proposing direct initiatives on amendments and statutes, S3 (Miller) and S558 (Sasso), died in committee this spring, while a bill in the House remains on the calendar for consideration. An interesting provision in the Sasso bill would have allowed the legislature to amend or repeal laws passed by initiative only if the voters ratify the changes—that is, by referendum.

H5174(Levin) – Type: direct for statutes, amendments. Also statewide referendum process. Indirect route is provided as an option. Constitutional amendments by initiative must pass two separate general elections to become effective. **Signatures:** 10% qualified electors within a six-month circulation period.

Jeff Newman of the Lt. Governor's office says resistance to passage of the initiative, especially from the state's labor unions, will likely mean no further action on the House bill before the legislature's June adjournment. But at a constitutional convention approved for late this year, initiative and referendum are expected to be topics of lively debate.

CONCLUSIONS

Stringency of Requirements. Most of the 1985 bills reflect the more rigorous requirements for ballot access found in states adopting the initiative in recent decades. Signature requirements for amendments are generally high—the typical formula requires about 12% of the vote in the last presidential or gubernatorial contest, elections with traditionally high voter turnout. Two of the current proposals specify an absolute number of signatures rather than a percentage, and these seem low.

Direct versus Indirect. Since Connecticut rejected the concept of a direct initiative, the majority of viable bills propose an indirect initiative, including all of the bills under consideration in New Jersey and New York.

Understanding of Direct Democracy. Authors of some of the current proposals seem to have forgotten that the initiative was originally valued as a safety valve by which citizens could circumvent unresponsive legislatures to enact laws.

Connecticut's original HJR58 even proposed that if voters approve a measure, then the legislature would have to enact the law. But what if the legislature chooses not to act, or defeats the proposal?

Another bill that centralizes, rather than distributes, political power is the Iowa bill allowing the governor veto power over initiatives already approved by the voters. How could such a veto be overridden, or if it cannot be, what justifies such a concentration of political power?

Frequently, the media reports on various bills will add to the confusion. An article in the Sunday, April 7 Newark *Star Ledger* explained that:

"Under the Zimmer and Dorsey proposals... if the (ballot) question wins approval, the Legislature would have six months to take action. If no

action is taken, then the question would automatically become law."

In fact, the Zimmer and Dorsey bills, like other proposals for indirect initiatives, require that the initiatives go to the Legislature prior to being voted on—and then to the ballot only if not enacted by the lawmakers.

A statement prepared by one legislative council describes "an indirect system where... proposals are first submitted to the Legislature... If the proposals are not acted upon by the Legislature, the petitioner may use the initiative and referendum process." The writer's mistakes were common ones—not realizing that it would be use of the initiative process bringing the citizen's proposal to the legislature's attention in the first place, and further, that the referendum is an entirely separate and different lawmaking mechanism.

Adopting the initiative process has far-reaching effects—not all desirable. And once the title of citizen-legislator has been conferred, whether by granting the power of initiative, referendum or recall, it can never be taken away. Such finality obligates careful examination of history's lessons and thoughtful consideration of human nature. Perhaps this is why, despite hundreds of such bills, no state has added the initiative process to its constitution in 15 years.



Subject	Status	CA/ST	Sign. Req.	Due	Ballot	Remarks
ALASKA						
Nuclear Weapons Freeze	Certified	ST			1986	Init. #8303. Will be on ballot unless passed by State Legislature.
Compensation for State Legislators	Certified	ST			1986	Init. #8304. Will be on ballot unless passed by State Legislature.
Liability of Providers of Alcoholic Beverages	In Prog	ST	19,936	10-10-85	1986	Init. #8401. Sponsor: Katherine Bigler of MADD organization (Mothers Against Drunk Drivers).
ARIZONA						
Repeal Vehicle Transfer Tax Act of 1984	Pending	ST	72,637	7-3-86	11-86	11-86. Sponsors: St. Rep. Debbie McCune, App filed 12-19-84. Not in circulation as of 3-15-85.
Repeal State's Control of Rent on Mobile Home Parks	Pending	ST	72,637	7-3-86	11-86	21-86. Sponsor: Don Stevens. App filed 12-27-84. Not in circulation as of 3-15-85.
Legislative Salaries to be Inversely Related to Tax Rate	Pending	ST	72,637	7-3-86	11-86	31-86. Sponsor: Gregory Malley, Assoc. for Responsible Government. Filed 2-22-85, May be revised and refiled.
CALIFORNIA						
Licensure of Denturists	AG(1-3-85)	ST	393,835	TBD		Sponsor: Darryl K. Allison
Fair Motor Vehicle Insurance	AG(2-26-85)	CA	630,136	TBD		Sponsor: Manuel D. Talley
DISTRICT OF COLUMBIA						
Prohibit Homosexual Activities in Public Bathhouses	Pending	Ord	28,000	TBD	TBD	Awaiting approval to circulate from City Council; Sponsor: L. P. Matlovich
Require Businesses Catering to Homosexuals to Post Health Warnings	Pending	Ord	28,000	TBD	TBD	Awaiting approval to circulate from City Council; Sponsor: L. P. Matlovich
DC Statehood Constitutional Convention	Failed	Ord	22,427	12-4-84		No. 20.
DC Human Rights Initiative	Failed	Ord	22,427	12-3-84		No. 21.
FLORIDA						
Legalized Casinos	Inactive	CA	342,939			Sponsor: Jay Kashuk. State office notified that committee is no longer active.
State Lottery	Inactive	CA	342,939			Sponsor: Jay Kashuk. State office notified that committee is no longer active.
Save Our Emergency Services	Inactive	CA	342,939			Sponsor: J. Eugene Hunt. State office notified committee is no longer active.
English-Official Language	Inactive	CA	342,939			Sponsor: Byron Combee, Bob Melby See later drive below.
Restore Florida's Fish & Wildlife Resources	In Prog	CA	342,939	8-86	1986	Sponsor: John C. Jones
Unicameral Legislature	In Prog	CA	342,939	8-86	1986	Sponsor: Hon. Marilyn Evans-Jones
Coalition for 21 (Drinking Age)	In Prog	CA	342,939	8-86	1986	Sponsor: Hon. Richard H. Langley
Environmental Rights	In Prog	CA	342,939	8-86	1986	Sponsor: George Sheldon Committee: Cleanup 84
FL Property Owner's League	In Prog	CA	342,939	8-86	1986	Sponsor: Michael Parrish
Repeal Single-Subject Requirement for Initiatives	In Prog	CA	342,939	8-86	1986	Sponsor: Michael Block Committee: Voters Rights
Limit of Ad Valorem Taxes	In Prog	CA	342,939	8-86	1986	Sponsor: Herbert R. Kraft Committee: FL for Tax Relief
Citizens for Less Taxes	In Prog	CA	342,939	8-86	1986	Sponsor: Charles Rosen. Mail to committee returned. Probably Inactive.

INITIATIVE UPDATE

Subject	Status	CA/ST	Sign. Req.	Due	Ballot	Remarks
FLORIDA (Continued)						
Recall of State Officials	In Prog	CA	342,939	8-86	1986	Sponsor: Herbert R. Kraft Committee: FL for Tax Relief
Guarantee Religious Freedom	In Prog	CA	342,939	8-86	1986	Sponsor: Barbara Helvenston Committee: Comm. for Honest Govt.
English: Official Language	In Prog	CA	342,939	8-86	1986	Sponsor: Florida English Campaign
Legal Casino Gambling	In Prog	CA	342,939	8-86	1986	Sponsor: Andrew S. Rubin Committee: Cits. for Jobs in Tourism
Citizens Choice-Revenues	In Prog	CA	342,939	8-86	1986	Committees: Citizens Choice-Govt Revenue & Citizens Choice Committee
IDAHO						
Repeal "Right To Work"	In Prog	REF	32,666	5-11-85	1986	Bill passed in 1985 session.
MAINE						
Voter Approval-Low Level Radioactive Waste Disposal	Certified	ST	46,030	1-13-5	11-85	Unless passed this session, will appear on 1985 ballot.
MICHIGAN						
Unicameral Legislature; Duties of Leadership	In Prog	CA	304,001	8-5-86	11-86	108 Members, 6 from each Congress- ional District
Tax on Alcoholic Beverages for Substance Abuse Program	In Prog	CA	304,001	8-5-86	11-86	25% revenues to be dedicated to substance abuse programs
Gay Rights	In Prog	ST	243,201	5-86	11-86	Sponsor: PALO, Detroit
Employment Applicant's Protection Rights	In Prog	ST	243,201	5-86	11-86	Sponsor: PALO. Prohibits unfair hiring practices
Death Penalty for First Degree Murder	In Prog	CA	304,001	8-5-86	11-86	Sponsor: L. Brooks Patterson says qualification for 86 looks probable
Taxes. Referendum on Increases; Limitation of	In Prog	CA	304,001	8-5-86	11-86	Sponsor: Jim DeMar
Assure Right of Referendum on All Tax Laws	In Prog	CA	304,001	8-5-86	11-86	Sponsor: Bryant Tax Ref Amend- ment Committee, Rep. Wm. L. Bryant, Jr., spokesperson
State Income Tax Increase Ceiling at 5%	In Prog	CA	304,001	8-5-86	11-86	Sponsor: T. E. Brennan
Limitation on Number of Terms for Governor	In Prog	CA	304,001	8-5-86	11-86	Sponsor: T. E. Brennan
Reapportionment; Commission and Guidelines	In Prog	CA	304,001	8-5-86	11-86	Sponsor: T. E. Brennan
Nomination of Supreme Court Justices	In Prog	CA	304,001	8-5-86	11-86	Sponsor: T. E. Brennan
Utility Rate Regulation & Allowable Charges	In Prog	CA	304,001	8-5-86	11-86	Sponsor: Michigan Citizens Lobby
Exempt Small Businesses from Single Business Taxes	Inactive	CA	304,001	8-5-86	11-86	Sponsor told NCIRF he has moved from state and committee has disbanded
10 Year Tax & Spending Reduction (1% per year)	Inactive	CA	304,001	8-5-86	11-86	Sponsor told NCIRF he has moved from state and committee has disbanded.
Allocation of State Income for Schools, Control of Schools	Inactive	CA	304,001	8-5-86	11-86	Sponsor: FAIR. Ronald G. Erickson Spokesman says drive "somewhat dormant" and may have to be revised.
Prohibition of Abortion Under Any Circumstances	In Prog	CA	304,001	8-5-86	11-86	Sponsor: Dwight Leo

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INITIATIVE UPDATE

Subject	Status	CA/ST	Sign.Req.	Due	Ballot	Remarks
MICHIGAN (Continued)						
Part-Time Legislature	In Prog	CA	304,001	8-5-86	11-86	Sponsor: P/TL Committee; Rep. Thomas Powers, Spokesman
NEVADA						
Legislative Process Reform	In Prog	CA	28,394	7-3-86	11-86	Continuation of 1984 drive which did not submit signatures
OHIO						
Merit Selection of Judges	In Prog	CA	335,673	8-5-86	11-86	Could qualify for 1985 but probably will go for 1986 ballot
OREGON						
20-Day Cutoff for Voter Registration	In Prog	CA	83,361	7-3-86	1986	Sponsors: St. Rep. Donna Zajonc, Carolyn Oakley, Liz Van Leeuwan
Prohibit Laws Against Private Property	In Prog	CA	83,361	7-3-86	1986	Sponsors: Roy Durham, Harley Mishler, Joe Spenner (Mad Oregonian Prop Owners)
Limit Public Employee Pay to Private Average	In Prog	CA	83,361	7-3-86	1986	Sponsors: Ruth Bende, Vernon White (Oregon Fair Pay Committee)
Prohibit Certain State Employees from Serving in State Legislature	In Prog	CA	83,361	7-3-86	1986	Sponsors: Frank Nims, Max Sims, Eliz. Warman (Oregonians in Action)
Retail Sales and Use Taxes For Educational Funding	In Prog	CA	83,361	7-3-86	1986	Sponsors: R. H. Crumpton, J. Danielson, Nora Schliske (Oregon Ed. Association)
Marijuana Legalization	In Prog	ST	62,521	7-3-86	1986	Sponsors: Riff Atchley, Jerry Ray, Daniel Cossett
Tax Exemption - Social Security & Railroad Retirement Benefits	In Prog	CA	83,361	7-3-86	1986	Sponsor: Orvin C. Stanwood
30-Day Voter Registration Cut-off	In Prog	CA	83,361	7-3-86	1986	Sponsors: Eliz. Warman, Carolyn Oakley, Liz Van Leeuwan (Organians in Action)
Prohibit State Funding of Abortions	In Prog	CA	83,361	7-3-86	1986	Sponsors: St. Sen Anthony Meeker, St. Rep. Peg Jolin
Tax Cuts (30% over 3 years)	In Prog	CA	83,361	7-3-86	1986	Sponsor: Ray Phillips (Oregon Taxpayers Union)
Prohibit Dual Public Pay for State Legislators	In Prog	CA	83,361	7-3-86	1986	Sponsors: Frank Nims and Ruth Swyers
Salaries for Members of State Assembly	In Prog	CA	83,361	7-3-86	1986	Sponsors: Frank Nims and Ray Phillips
SOUTH DAKOTA						
Foreign Language Requirement for College Admission	In Prog	ST	13,929	3-86*	1986	Can't deny enrollment on basis of no foreign language.
* Deadline for filing is end of legislative session.						
WASHINGTON						
1% Transaction Tax	In Prog	ST	151,133	7-3-85	1985	I-473. Sponsor: Clarence Keating. Same as unsuccessful 1984 drive
Property Tax Limitation	Pending	ST	151,133	7-3-85	1985	I-474: Sponsor: Orvil L. Barnes, withdrawn and refiled.
National Initiative	In Prog	ST	151,133	7-3-85	1985	I-475: Sponsor: S. A. Panteli
Licensing of Denturists	In Prog	ST	151,133	7-3-85	1985	I-476: Sponsor: Eldo Hohman
Jurisdiction of Courts	Pending	ST	151,133	7-3-85	1985	Unnumbered: Sponsor: S. A. Panteli
Property Tax Limitation	Pending	ST	151,133	7-3-85	1985	Unnumbered: Refile of I-474 above - refiled 3-14-85

June 13, 1985

Joseph Charles, Chairman
Assembly State Government, Civil Service,
Elections, Pensions and Veterans Affairs
State House Annex
Trenton, N.J. 08625

Dear Assemblyman Charles:

Enclosed find a written Testimony which I hope
may be presented to the Members of your Committee
at your Hearing on Monday, June 17th.

Unfortunately, since I have to be out of state,
I am unable to appear personally, but I have a
long standing interest in the concept of the
Initiative and Referendum.

Your permission to permit me to participate
in this manner is sincerely appreciated.

Respectively,

Donald Lan

DL/dg

Testimony of Donald Lan in Favor Of
Initiative and Referendum

Dear members of the Assembly State Government Committee. I regret that a scheduling conflict requires that I be out of State on Monday, June 17, 1985, and am therefore unable to appear personally before your body.

As a former Secretary of State, Executive Secretary to the Governor, candidate for public office, and holder of various political offices, including Municipal and County Chairmen, as well as County, State and National Committeeman, I have an abiding interest in the continuity, growth and security of the democratic process.

My travels over many years have carried me to virtually every corner of our great State. My activities, in behalf of my Party, State and office, have made me keenly aware of a citizen apathy, that to a large extent is rooted in the notion that the individual is helpless and unable to impact on the actions and direction of his or her government.

My voter registration activities have all too often been greeted with such comments as, "My vote doesn't count", or "One vote is meaningless", or "You can't beat City Hall", etc.

It has been clear to me for years that leaders have the responsibility to make people realize that they do in fact make a difference, that bad government is the result of a bad electorate, for surely a democratic government which is a government of a minority is weak and subject to decay and demise.

I recognize that supporting the concept of Initiative and Referendum is not without risks, but if we have no confidence in the electorate, how can we expect the electorate to have confidence in our existing institutions?

I encourage this Committee to recognize the potential of our system and to share the power and responsibility of government with the governed. Please support the concept of Initiative and Referendum, the time for New Jersey to move the process forward is now.

June 17, 1985

Position of the New Jersey Public Interest Research Group
On Initiative and Referendum

1. NJPIRG supports Initiative and Referendum (I+R) and urges the Legislature to place an I+R Constitutional Amendment before the New Jersey electorate in November 1985.
2. NJPIRG supports reasonable but not excessive signature requirements for proposed ballot questions. Signature requirements should be based on turnout in state-wide elections, and should be set similar to the majority of I+R states, i.e. 3.5 to 8%.
3. NJPIRG supports a provision which would require full public disclosure of all contributions and expenditures in furtherance of the passage or defeat of an initiative.
4. NJPIRG opposes provisions which would limit or exempt any subject matter from the Initiative and Referendum process.
5. NJPIRG opposes provisions which would require signature distribution from legislative districts, or other regional designations.

The New Jersey Public Interest Research Group (NJPIRG) is a non-partisan, non-profit, public interest organization devoted to research, education and advocacy on consumer and environmental issues. NJPIRG represents 25,000 citizen and 31,000 student members throughout the state of New Jersey.

Federation Of New Jersey Taxpayers Inc.



June 17, 1985 P.O. Box 86, Summit, N.J. 07901

Testimony for Right of a Bill for Initiative and Referendum

My name is Bernadine Silver. I am Legislative Chairman for the FEDERATION OF NEW JERSEY TAXPAYERS INC., which has been in existence since the 60's.

For those of you who believe that the demand for the Right of Initiative and Referendum is something new, I will quote from history showing that demand of the American people to have a greater part in governance is almost an inalienable right.

As far back as the 14th century, Ibn Khaldun said and I paraphrase, Damage to government is done by FOOLHARDY TAXATION. In New Jersey there are about 21 items on which taxes are levied, plus a Gross Personal Income tax, ^{Sales Tax} (which was NOT needed), ^{Sales Tax} plus the Lottery, Gambling and a Sports Arena. We even pay even for the air we breathe. I shall not go into the figures which such taxation generates but we believe the sum is more than sufficient for running good government.

Today, legislators seem to be little different in the main from their predecessors. It seems they have learned nothing from history. In 1790 Sir Edmund Andros abolished Town Meetings. This sparked a revolution. Today while Town meetings have not been abolished legislators refuse to listen to the Voice of the People. In 1976 thousands of people gathered before this State House and voiced their opposition to the Levying of a Personal Income Tax. A petition was presented on which was inscribed 600,000 names, no attention was paid to it. Did the Legislators listen-'NO'. The bill was passed. While Town meetings are still being held. in my opinion and as we used to say in college they are "Bull Sessions" from which nothing emanates. They are a farce.

History also tells us that in 1830 Americans demanded greater representation to control the government's claim on their property, they realized even a representative

Federation Of New Jersey Taxpayers Inc.



June 17, 1985

P.O. Box 86, Summit, N.J. 07901

Testimony For Right of Initiative and Referendum

Assembly could not be trusted with their pocketbooks. Even at that time some legislators indicated that the people "were incapable of judging the acts of their representatives and correcting their errors". At that time drastic changes were made in government. Today some of the same situation exists and we have now come to an impasse. Therefor the FEDERATION demands that a Bill for the Right of Initiative and Referendum be passed. The FEDERATION represents a cross section of New Jersey citizenry.

Bill A-1 presented here today in article 2 sentences 1 through 16 eloquently states reasons why it should be passed and become part of New Jersey Law.

We wish to congratulate the Senate for having passed such a bill recently. But the Assembly should be ashamed of themselves for not permitting the bill out of committee. We ask- Who stopped its presentation to the floor? Was it just legislators or was it Special Interests? We would remind Legislators that under a Democratic form of government legislation is devised for the benefit of All the People and not just for a selected few.

Have we learned nothing from American history or do we want it to be repeated?

Respectfully submitted

FEDERATION OF NEW JERSEY TAXPAYERS INC.

by

Bernadine Silver, Legislative Chairman

Initiative,
proposals by which citizens
express a view on constitutional
amendment by petition and then decide
by referendum. The initiative has become an
increasingly important part of the political life of the
state by state. Summary of initiative provisions
by state.

The National Center for Initiative Research, a non profit
organization, has been established in the state of
California to provide information on the initiative process. The
state by state summary of initiative provisions
is available from the center.

State by State Summary of Initiative Provisions
by Robert M. White, published by the National
Center for Initiative Research, 1000
University Avenue, Suite 100, Berkeley, CA 94702.
Price \$10.00. Order from: National Center for Initiative
Research, 1000 University Avenue, Suite 100, Berkeley, CA 94702.
Phone (415) 841-1000.

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NATIONAL CENTER for INITIATIVE REVIEW

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