

PUBLIC HEARING

before

THE ASSEMBLY STATE GOVERNMENT COMMITTEE

on

Assembly Concurrent Resolution No. 1  
(Elected Attorney General)

Assembly Concurrent Resolution No. 2  
(Elected State Comptroller and Abolishment of State Auditor)

Assembly Concurrent Resolutions Nos. 10 and 16  
(Elected Lieutenant Governor)

Assembly Concurrent Resolution No. 41  
(Amend Constitution to provide that Secretary of State shall  
be first in line of succession to fill Office of Governor)

**New Jersey State Library**

April 23, 1986  
State House Annex  
Room 341  
Trenton, New Jersey

**MEMBERS OF COMMITTEE PRESENT:**

Assemblyman Richard A. Zimmer, Chairman  
Assemblyman Joseph Charles, Jr.  
Assemblyman Robert J. Martin  
Assemblyman Joseph L. Bocchini

**ALSO PRESENT:**

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

\* \* \* \* \*

Public Hearing Recorded and Transcribed by  
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State House Annex  
CN 068  
Trenton, New Jersey

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# ASSEMBLY CONCURRENT RESOLUTION No. 1

Introduced Pending Technical Review by Legislative Counsel  
PRE-FILED FOR INTRODUCTION IN THE 1986 SESSION  
By Assemblyman ZIMMER

# ASSEMBLY CONCURRENT RESOLUTION No. 17

# STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1984 SESSION

By Assemblymen ZIMMER, BENNETT, MARKERT, FRANKS  
and Assemblywoman MUHLER

A CONCURRENT RESOLUTION proposing to amend the Constitution so as to provide for election of the Attorney General by the people, and to provide that no diminution in the functions, powers and duties of that office may be made after the election and during the incumbency of any person elected to that office.

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

1 1. The following proposed amendments to the Constitution are  
2 agreed to:

#### PROPOSED AMENDMENTS

3 a. Amend Article II, paragraph 1, to read as follows:

4 1. General elections shall be held annually on the first Tuesday  
5 after the first Monday in November; but the time of holding such  
6 elections may be altered by law. The Governor, *Attorney General*,  
7 and members of the Legislature shall be chosen at general elections.  
8 Local elective officers shall be chosen at general elections or at  
9 such other times as shall be provided by law.

1 b. Amend Article IV, Section V, paragraph 1, to read as follows:

2 1. No member of the Senate or General Assembly, during the  
3 term for which he shall have been elected, shall be nominated,  
4 elected or appointed to any State civil office or position, of profit,  
5 which shall have been created by law, or the emoluments whereof  
6 shall have been increased by law, during such term. The pro-  
7 visions of this paragraph shall not prohibit the election of any  
8 person as Governor, *as Attorney General*, or as a member of the  
9 Senate or General Assembly.

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

Matter printed in italics thus is new matter.

1 c. Amend Article V, Section I, paragraphs 2, 3, 4, 5, 6, 7, 8, 9, and  
2 10, to read as follows:

3 2. The Governor *and Attorney General* shall be not less than 30  
4 years of age, and shall have been for at least 20 years [a citizen]  
5 citizens of the United States, and [a resident] residents of this  
6 State 7 years next before [his] their election, unless [he] they or  
7 any one of them shall have been absent during that time on the  
8 public business of the United States or of this State.

9 3. No member of Congress or person holding any office or posi-  
10 tion of profit, under this State or the United States shall be  
11 Governor or *Attorney General*. If the Governor or *Attorney*  
12 *General* or person administering the office of Governor or *Attorney*  
13 *General* shall accept any other office or position, of profit, under this  
14 State or the United States, his office of Governor or *Attorney*  
15 *General* shall thereby be vacated. No Governor or *Attorney General*  
16 shall be elected by the Legislature to any office during the term for  
17 which he shall have been elected Governor or *Attorney General*.

18 4. The Governor *and Attorney General* shall be elected by the  
19 legally qualified voters of the State. The person receiving the  
20 greatest number of votes cast for either office shall be [the  
21 Governor] elected to that office; but if two or more shall be equal  
22 and greatest in votes for the same office, one of them shall be elected  
23 [Governor] to that office by the vote of a majority of all the mem-  
24 bers of both houses in joint meeting at the regular legislative  
25 session next following the election for Governor or *Attorney*  
26 *General* by the people. Contested elections for the [office] offices  
27 of Governor *and Attorney General* shall be determined in such  
28 manner as may be provided by law.

29 5. The [term] terms of office of the Governor *and Attorney*  
30 *General* shall each be four years, beginning at noon of the third  
31 Tuesday in January next following [his] their election, and ending  
32 at noon of the third Tuesday in January four years thereafter. No  
33 person who has been elected Governor or *Attorney General* for two  
34 successive terms, including an unexpired term, shall again be  
35 eligible for that office until the third Tuesday in January of the  
36 fourth year following the expiration of his second successive term.

37 6. a. In the event of a vacancy in the office of Governor resulting  
38 from the death, resignation or removal of a Governor in office, or  
39 the death of a Governor-elect, or from any other cause, the func-  
40 tions, powers, duties and emoluments of the office shall devolve  
41 upon the President of the Senate, for the time being, and in the  
42 event of his death, resignation or removal, then upon the Speaker  
43 of the General Assembly, for the time being; and in the event of his

44 death, resignation or removal, then upon such officers and in such  
45 order of succession as may be provided by law; until a new Gov-  
46 ernor shall be elected and qualify.

47 *b. In the event of a vacancy in the office of Attorney General*  
48 *resulting from any of the causes enumerated, the functions, powers,*  
49 *duties and emoluments of the office shall devolve as shall be pro-*  
50 *vided by law, until a new Attorney General shall be elected and*  
51 *qualify.*

52 7. *a.* In the event of the failure of the Governor-elect to qualify,  
53 or of the absence from the State of a Governor in office, or his in-  
54 ability to discharge the duties of his office, or his impeachment, the  
55 functions, powers, duties and emoluments of the office shall devolve  
56 upon the President of the Senate, for the time being; and in the  
57 event of his death, resignation, removal, absence, inability or im-  
58 peachment, then upon the Speaker of the General Assembly, for the  
59 time being; and in the event of his death, resignation, removal,  
60 absence, inability or impeachment, then upon such officers and in  
61 such order of succession as may be provided by law; until the  
62 Governor-elect shall qualify, or the Governor in office shall return  
63 to the State, or shall no longer be unable to discharge the duties of  
64 the office, or shall be acquitted, as the case may be, or until a new  
65 Governor shall be elected and qualify.

66 *b. Vacancies for like cause in the office of Attorney General shall*  
67 *be determined and declared in the same manner as vacancies in the*  
68 *office of Governor; and during the continuation of any such vacancy,*  
69 *or until such time as a new Attorney General shall be elected and*  
70 *qualify into office, the functions, powers, duties and emoluments of*  
71 *the office shall devolve in such manner as shall be provided by law.*

72 8. Whenever a Governor-elect or Attorney General-elect shall  
73 have failed to qualify within 6 months after the beginning of his  
74 term of office, or whenever for a period of six months a Governor or  
75 Attorney General in office, or person administering the office, shall  
76 have remained continuously absent from the State, or shall have  
77 been continuously unable to discharge the duties of his office by  
78 reason of mental or physical disability, the office shall be deemed  
79 vacant. Such vacancy shall be determined by the Supreme Court  
80 upon presentment to it of a concurrent resolution declaring the  
81 ground of the vacancy, adopted by a vote of two-thirds of all the  
82 members of each house of the Legislature, and upon notice, hearing  
83 before the Court and proof of the existence of the vacancy.

84 9. In the event of a vacancy in the office of Governor or Attorney  
85 General, a [Governor] person shall be elected to fill the unexpired  
86 term at the general election next succeeding the vacancy, unless

87 the vacancy shall occur within 60 days immediately preceding a  
 88 general election, in which case he shall be elected at the second  
 89 succeeding general election; but no election to fill an unexpired term  
 90 shall be held in any year in which [a Governor is to be elected] an  
 91 election for a full term is to be held. A Governor or Attorney  
 92 General elected for an unexpired term shall assume his office im-  
 93 mediately upon his election.

94 10. The Governor and Attorney General shall each receive for  
 95 his services a salary, which shall be neither increased nor dim-  
 96 inished during the period for which he shall have been elected.

1 d. Amend Article V, Section IV, paragraphs 1 and 3, to read as  
 2 follows:

3 1. All executive and administrative offices, departments, and  
 4 instrumentalities of the State government, including the offices of  
 5 Secretary of State and Attorney General, and their respective func-  
 6 tions, powers and duties, shall be allocated by law among and within  
 7 not more than 20 principal departments, in such manner as to  
 8 group the same according to major purposes so far as practicable.  
 9 Temporary commissions for special purposes may, however, be  
 10 established by law and such commissions need not be allocated  
 11 within a principal department. *No diminution in the functions,*  
 12 *powers, and duties, of the Attorney General, whether by law or*  
 13 *by executive order or proclamation, enacted, adopted or issued after*  
 14 *the election of any person to that office, shall take effect until*  
 15 *another person has been elected to succeed him and has qualified*  
 16 *into office.*

17 3. The Secretary of State [and the Attorney General] shall be  
 18 nominated and appointed by the Governor with the advice and con-  
 19 sent of the Senate to serve during the term of office of Governor.

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

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

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

- 6 a. In every municipality in which voting machines are not used,  
 7 a legend which shall immediately precede the question, as follows:  
 8 If you favor the proposition printed below make a cross (X),  
 9 plus (+) or check (✓) 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 style="text-align: center;"><b>CONSTITUTIONAL AMENDMENT:</b></p> <p style="text-align: center;"><b>ELECTIVE ATTORNEY GENERAL; RESTRICTIONS ON DIMINUTION OF HIS OFFICE</b></p> <p>Shall the amendment of the Constitution, providing that the Attorney General be elected, and that neither the Governor nor the Legislature may diminish the duties, powers and functions of the office of Attorney General after the election and during the incumbency of any person elected to that office, be approved?</p>
	No.	<p style="text-align: center;"><b>INTERPRETIVE STATEMENT</b></p> <p>These Constitutional amendments remove the power of the Governor to appoint the Attorney General and require that the Attorney General be elected at the general election.</p>

#### SCHEDULE

1. These amendments shall become part of the Constitution on the date fixed pursuant to Article IX, paragraph 6, of the Constitution.
2. The first election of any Attorney General for a full term shall be held at the next general election occurring two years after the most recent general election at which a Governor was elected prior to the date on which these amendments became a part of the Constitution.
3. If these amendments become a part of the Constitution in year in which, in accordance with section 2 of this Schedule, an Attorney General should have been elected for a full term, but after the general election held in that year, then an Attorney General shall be elected at the next general election thereafter, as for an unexpired term, to serve until the qualification into office of the first Attorney General elected for a full term.

## STATEMENT

This proposed Constitutional amendment makes the office of Attorney General elective, and enhance its independence from the influence or interference of either the Governor or the Legislature.

The Attorney General, like the Governor, would be elected to a four-year term and barred from serving more than two consecutive terms. The time fixed for his election is such as would make his term overlap the Governor's and cause the elections for the two offices to take place two years apart.

Provisions for filling vacancies in the office of Attorney General are similar to those relating to the Governorship, except that the actual line of succession is not constitutionally fixed, but is left to be settled by statute. (Current law, which would prevail unless or until changed, requires the Attorney General to designate one of his subordinate officers as his successor.)

To secure the independence aimed at by making the office elective, it is further provided that neither the Governor nor the Legislature, by statute or decree, can diminish the scope and powers of the Attorney General after he is elected and until his successor takes over. This provision assures that the powers of an "independent" Attorney General can not be reduced to a hollow shell by hostile political forces acting to transfer his duties to other officers, or otherwise diminishing his authority.

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# ASSEMBLY CONCURRENT RESOLUTION No. 2

Introduced Pending Technical Review by Legislative Counsel  
PRE-FILED FOR INTRODUCTION IN THE 1986 SESSION  
By Assemblyman ZIMMER

# ASSEMBLY CONCURRENT RESOLUTION No. 18

# STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1984 SESSION

By Assemblymen ZIMMER, BENNETT, ROCCO and SHUSTED

A CONCURRENT RESOLUTION to amend Articles IV and VII of the Constitution of the State of New Jersey to provide for the election of a State Comptroller and to abolish the office of State Auditor.

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

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

#### PROPOSED AMENDMENT

3 a. Amend Article IV, Section V, paragraph 5 to read as follows:  
4 5. Neither the Legislature nor either House thereof shall elect  
5 or appoint any executive, administrative or judicial officer **[except**  
6 **the State Auditor]**.

7 b. Amend Article VII, Section I, paragraph 6 to read as follows:  
8 6. **[The State Auditor shall be appointed by the Senate and**  
9 **General Assembly in joint meeting for a term of five years and until**  
10 **his successor shall be appointed and qualify. It shall be his duty**  
11 **to conduct postaudits of all transactions and accounts kept by or**  
12 **for all departments, offices and agencies of the State Government,**  
13 **to report to the Legislature or to any committee thereof as shall**  
14 **be required by law, and to perform such other similar or related**  
15 **duties as shall, from time to time, be required of him by law.]**

16 *(a) The State Comptroller shall be elected by the legally quali-*  
17 *fied voters of this State. The person receiving the greatest number*  
18 *of votes shall be the State Comptroller; but if two or more shall*  
19 *be equal and greatest in votes, one of them shall be elected Comp-*

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

**Matter printed in italics thus is new matter.**

20 troller by the vote of a majority of all the members of both Houses  
21 in joint meeting at the regular legislative session next following  
22 the election for State Comptroller by the people. Contested elec-  
23 tions for the office of State Comptroller shall be determined in such  
24 manner as may be provided by law.

25 (b) The State Comptroller shall not be less than 30 years of age,  
26 and shall have been a citizen of this State for five years and actively  
27 engaged in the profession of accounting for 10 years next preceding  
28 his election.

29 (c) The term of office of State Comptroller shall be four yea  
30 beginning at noon on the second Tuesday in January next following  
31 his election, and ending at noon on the second Tuesday in January  
32 four years thereafter. The State Comptroller shall be elected for the  
33 first time at the general election to be held in November, 1984.  
34 Any vacancy in the office of the State Comptroller shall be filled in  
35 such manner as shall be provided by law.

36 (d) The State Comptroller shall hold no other office or position,  
37 of profit, under this State or the United States.

38 (e) The State Comptroller shall have the power and duty to:

- 39 (1) Superintend the fiscal affairs of the State;
- 40 (2) Audit all vouchers before payment and all official ac-  
41 counts;
- 42 (3) Audit the accrual and collection of all revenues and re-  
43 cepts of any department, office, agency or authority (State or  
44 interstate) of State government;
- 45 (4) Audit all vouchers of any person, corporation, associa-  
46 tion, State or other public office, department or institution to  
47 whom or to which moneys appropriated are payable;
- 48 (5) Supervise the accounts of any political subdivision of  
49 the State;
- 50 (6) Examine, audit and settle the accounts of all public  
51 officers and other persons indebted to the State;
- 52 (7) Prescribe such methods of accounting as are necessary  
53 to the performance of his duties;
- 54 (8) Requisition and examine all books and records of any  
55 department, office, agency, authority (State or interstate) or  
56 political subdivision of the State government that may be re-  
57 quired in order to carry out the duties and responsibilities  
58 herein invested in the State Comptroller;
- 59 (9) The State Comptroller shall report his findings and  
60 recommendations, which he may develop, annually to the Gov-  
61 ernor and the Legislature, or at any other time as he sees fit.

62 *The State Comptroller shall also have such other powers and*  
 63 *duties as shall be prescribed by law.*

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

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

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

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

8 If you favor the proposition printed below make a cross (X),  
 9 plus (+) or check (✓) 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 style="text-align: center;"><b>ABOLITION OF AUDITOR AND ELECTION OF COMPTROLLER</b></p> <p>Shall the amendment of Article IV, Section V, paragraph 5, and the amendment of Article VII, Section I, paragraph 6 of the Constitution of the State of New Jersey, agreed to by the Legislature, providing for the abolition of the office of State Auditor and for the popular election of the State Comptroller and prescribing the term of office, election, powers and duties of such office, be adopted?</p>
	No.	<p style="text-align: center;"><b>INTERPRETIVE STATEMENT</b></p> <p>This Constitutional amendment abolishes the Office of State Auditor and provides for the popular election of a State Comptroller.</p>

## STATEMENT

This constitutional amendment provides for the popular election of a State Comptroller and the abolition of the office of State Auditor. The present practice of vesting pre-audit and post-audit responsibilities in an appointed official as well as in the executive branch is no longer good fiscal practice in an economically complex era that has witnessed the advent of billions of dollars for State budgets. An independently elected comptroller, acting as a "fiscal watchdog" over finances at all levels of government, should provide assurance to the electorate that their tax dollars are being properly and efficiently spent.

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# ASSEMBLY CONCURRENT RESOLUTION No. 10

Introduced Pending Technical Review by Legislative Counsel  
PRE-FILED FOR INTRODUCTION IN THE 1986 SESSION  
By Assemblyman BROWN

# ASSEMBLY CONCURRENT RESOLUTION No. 164

# STATE OF NEW JERSEY

INTRODUCED FEBRUARY 25, 1985

By Assemblymen BROWN and HAYTAIAN

A CONCURRENT RESOLUTION proposing to amend Articles II, IV,  
and V of the State Constitution.

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 is  
2 agreed to:

#### PROPOSED AMENDMENT

3 a. Amend Article II, paragraph 1, to read as follows:

4 1. General elections shall be held annually on the first Tuesday  
5 after the first Monday in November; but the time of holding such  
6 elections may be altered by law. The Governor, *Lieutenant Gov-*  
7 *ernor*, and members of the Legislature shall be chosen at general  
8 elections. Local elective officers shall be chosen at general elec-  
9 tions or at such other times as shall be provided by law.

10 b. Amend Article IV, Section V, paragraph 1 to read as follows:

11 1. No member of the Senate or General Assembly, during the  
12 term for which he shall have been elected, shall be nominated,  
13 elected or appointed to any State civil office or position, of profit,  
14 which shall have been created by law, or the emoluments whereof  
15 shall have been increased by law, during such term. The provisions  
16 of this paragraph shall not prohibit the election of any person as  
17 Governor, *as Lieutenant Governor* or as a member of the Senate  
18 or General Assembly.

19 c. Amend Article V, Section 1, paragraphs 2, 3, 4, 5, 6, 7, 8, 9  
20 and 10 to read as follows:

21 2. The Governor *and Lieutenant Governor* shall be not less than

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

Matter printed in italics *thus* is new matter.

22 30 years of age, and shall have been for at least 20 years [a  
23 citizen] *citizens* of the United States, and [a resident] *residents*  
24 of this State seven years next before [his] *their* election, unless  
25 [he] *they or either of them* shall have been absent during that  
26 time on the public business of the United States or of this State.

27 3. No member of Congress or person holding any office or posi-  
28 tion, of profit, under this State or the United States shall be Gov-  
29 ernor or *Lieutenant Governor*. If the Governor or *Lieutenant*  
30 *Governor* or person administering the office of Governor shall  
31 accept any other office or position, of profit, under this State or the  
32 United States, his office of Governor or *Lieutenant Governor* as  
33 *the case may be*, shall thereby be vacated. No Governor or *Lieu-*  
34 *tenant Governor* shall be elected by the Legislature to any office  
35 during the term for which he shall have been elected Governor or  
36 *Lieutenant Governor*.

37 4. The Governor and the *Lieutenant Governor* shall be elected  
38 *conjointly and for concurrent terms* by the legally qualified voters  
39 of this State, *which election shall be conducted in a manner that*  
40 *each voter shall cast a single vote applicable to both offices. The*  
41 *Legislature shall provide by law for making the choice in that*  
42 *manner. No person shall seek election by the legally qualified*  
43 *voters of the State to either office except conjointly with a candidate*  
44 *for the other. When a primary election is held under the laws of*  
45 *this State for the selection of nominees for Governor by members*  
46 *of any political party, the nominee for Governor so selected shall*  
47 *select a Lieutenant Governor, and the two candidates for either*  
48 *office shall be the joint candidates of that political party in the*  
49 *ensuing general election of Governor and Lieutenant Governor by*  
50 *the legally qualified voters of this State. The [person] joint candi-*  
51 *dates* receiving the greatest number of votes shall be [the  
52 Governor] *elect*; but if two or more *joint candidacies* shall be  
53 equal and greatest in votes, one of them shall be elected [Governor]  
54 by the vote of a majority of all the members of both houses in joint  
55 meeting at the regular legislative session next following the election  
56 for Governor and *Lieutenant Governor* by the people. Contested  
57 elections for the [office] *offices* of Governor and *Lieutenant Gover-*  
58 *nor* shall be determined in such manner as may be provided by law.

59 5. The term of office of the Governor and of the *Lieutenant Gov-*  
60 *ernor* shall be four years, beginning at noon of the third Tuesday  
61 in January next following [his] *their* election, and ending at noon  
62 of the third Tuesday in January four years thereafter. No person  
63 who has been elected Governor for two successive terms, including  
64 an unexpired term, shall again be eligible for that office until the

65 third Tuesday in January of the fourth year following the expira-  
66 tion of his second successive term.

67 6. In the event of a vacancy in the office of Governor resulting  
68 from the death, resignation or removal of a Governor in office, or  
69 the death of a Governor-elect, or from any other cause, the [func-  
70 tions, powers, duties and emoluments of the office shall devolve  
71 upon the President of the Senate, for the time being, and in the  
72 event of his death, resignation or removal, then upon the Speaker  
73 of the General Assembly, for the time being; and in the event of  
74 his death, resignation or removal, then upon such officers and in  
75 such order of succession as may be provided by law; until a new  
76 Governor shall be elected and qualify] *Lieutenant Governor shall*  
77 *become Governor.*

78 7. In the event of the failure of the Governor-elect to qualify,  
79 or of the absence from the State of a Governor in office, or his in-  
80 ability to discharge the duties of his office, or his impeachment, the  
81 functions, powers, duties and emoluments of the office shall devolve  
82 upon the [President of the Senate, for the time being; and in the  
83 event of his death, resignation, removal, absence, inability or im-  
84 peachment, then upon the Speaker of the General Assembly, for  
85 the time being; and in the event of his death, resignation, removal,  
86 absence, inability or impeachment, then upon such officers and in  
87 such order of succession as may be provided by law] *Lieutenant*  
88 *Governor*; until the Governor-elect shall qualify, or the Governor  
89 in office shall return to the State, or shall no longer be unable to  
90 discharge the duties of the office, or shall be acquitted, as the case  
91 may be[, or until a new Governor shall be elected and qualify].

92 8. Whenever a Governor-elect or a *Lieutenant Governor-elect*  
93 shall have failed to qualify within six months after the beginning  
94 of his term of office, or whenever for a period of six months a Gov-  
95 ernor or a *Lieutenant Governor* in office, or a person administering  
96 the office of the Governor, shall have remained continuously absent  
97 from the State, or shall have been continuously unable to discharge  
98 the duties of his office by reason of mental or physical disability,  
99 the office shall be deemed vacant. Such vacancy shall be determined  
100 by the Supreme Court upon presentment to it of a concurrent  
101 resolution declaring the ground of the vacancy, adopted by a vote  
102 of two-thirds of all the members of each house of the Legislature,  
103 and upon notice, hearing before the court and proof of the existence  
104 of the vacancy.

105 9. [In the event of a vacancy in the office of Governor, a Gover-  
106 nor shall be elected to fill the unexpired term at the general election  
107 next succeeding the vacancy, unless the vacancy shall occur within

108 60 days immediately preceding a general election, in which case he  
109 shall be elected at the second succeeding general election; but no  
110 election to fill an unexpired term shall be held in any year in which  
111 a Governor is to be elected for a full term. A Governor elected for  
112 an unexpired term shall assume his office immediately upon his  
113 election.]

114 a. *Whenever there is a vacancy in the office of Lieutenant Gov-*  
115 *ernor, the Governor shall nominate within 45 days of the occurrence*  
116 *of the vacancy a Lieutenant Governor, who shall take the office upon*  
117 *confirmation by a majority vote by both Houses of the Legislature.*

118 b. *Whenever there are simultaneous vacancies in the offices of*  
119 *Governor and Lieutenant Governor, the functions, powers, duties,*  
120 *and emoluments of the office of Governor shall devolve upon the*  
121 *President of the Senate; for the time being; and in the event of his*  
122 *death, resignation, removal, absence, disability, or impeachment,*  
123 *then upon the Speaker of the General Assembly, for the time being;*  
124 *and in the event of his death, resignation, removal, absence, dis-*  
125 *ability, or impeachment; then upon such officers and in such order*  
126 *of succession as may be provided by law. The same order of suc-*  
127 *cession shall obtain in any case of simultaneous temporary inability*  
128 *of the incumbents of both offices to serve by reason of absence, dis-*  
129 *ability, or impeachment, or by simultaneous temporary inability of*  
130 *the incumbent of the office of Governor and vacancy in the office*  
131 *of Lieutenant Governor; until such temporary inability is removed.*

131A c. *Whenever, by reason of simultaneous vacancies in the offices*  
132 *of Governor and Lieutenant Governor, the functions, powers,*  
133 *duties, and emoluments of the office of Governor have devolved*  
134 *upon any officer other than the Lieutenant Governor, a Governor*  
135 *and a Lieutenant Governor shall be elected to fill the unexpired*  
136 *terms of those vacancies at the general election next succeeding*  
137 *their occurrence, unless the vacancies have occurred within 60 days*  
138 *immediately preceding a general election, in which case they shall*  
139 *be elected at the second succeeding general election; but no election*  
140 *to fill the unexpired terms shall be held in any year in which a Gov-*  
141 *ernor and Lieutenant Governor are to be elected for full terms. A*  
142 *Governor and Lieutenant Governor elected for unexpired terms*  
143 *shall assume their offices immediately upon their election.*

144 d. *Whenever an appointed Lieutenant Governor becomes Gov-*  
145 *ernor, an election to fill the unexpired terms of the elected Governor*  
146 *and Lieutenant Governor shall be held at the general election next*  
147 *succeeding the assumption of the office of Governor by the ap-*  
148 *pointed Lieutenant Governor, unless the assumption has occurred*  
149 *within 60 days immediately preceding a general election, in which*  
150 *case an election shall be held at the second succeeding general elec-*

151 tion; but no election to fill the unexpired terms shall be held in any  
 152 year in which a Governor and Lieutenant Governor are to be  
 153 elected for full terms. A Governor and Lieutenant Governor elected  
 154 for unexpired terms shall assume their offices immediately upon  
 155 their election.

156 10. a. The Governor and the Lieutenant Governor shall receive  
 157 for [his] their services [a salary] salaries, which shall be neither  
 158 increased nor diminished during the period for which [he] they  
 159 shall have been elected, or in the case of an appointed Lieutenant  
 160 Governor, during the period of his service as Lieutenant Governor  
 161 or as Governor.

162 b. The Lieutenant Governor shall be the executive assistant to  
 163 the Governor and shall perform such duties of the office of Gov-  
 164 ernor as the Governor may and shall delegate to him and such other  
 165 duties as shall be provided by law.

1 2. When this proposed amendment to the Constitution is finally  
 2 agreed to, pursuant to Article IX, paragraph 1 of the Constitution,  
 3 it shall be submitted to the people at the next general election oc-  
 4 ccurring more than three months after final agreement and shall  
 5 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 the general election.

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

4 There shall be printed on each official ballot to be used at the  
 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), plus  
 9 (+) or check (✓) in the square opposite the word "Yes." If you  
 10 are opposed thereto make a cross (X), plus (+) or check (✓) in  
 11 the square opposite the word "No."

- 12 b. In every municipality the following question:

	Yes.	<p style="text-align: center;"><b>ESTABLISHES THE OFFICE OF LIEUTENANT GOVERNOR</b></p> <p>Shall the amendment of Articles II, IV, and V of the Constitution, agreed to by the Legislature, establishing the office of Lieutenant Governor and providing for the term, election, succession, salary, qualifications, and duties of the office, be adopted?</p>
	No.	<p style="text-align: center;"><b>INTERPRETIVE STATEMENT</b></p> <p>Approval of this amendment will provide for the establishment of the office of Lieutenant Governor. This new official will be elected conjointly with the Governor and directly follow the Governor in the line of succession. He will not be the presiding officer in the State Senate.</p>

**SCHEDULE**

- 13 The first election of a Lieutenant Governor shall be held at the  
14 1989 general election.

---

**STATEMENT**

The purpose of this constitutional amendment is to provide for the establishment of the office of Lieutenant Governor.

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# ASSEMBLY CONCURRENT RESOLUTION No. 16

Introduced Pending Technical Review by Legislative Counsel  
PRE-FILED FOR INTRODUCTION IN THE 1986 SESSION  
By Assemblyman HAYTAIAN

# ASSEMBLY CONCURRENT RESOLUTION No. 3

# STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1984 SESSION

By Assemblymen HAYTAIAN, GILL and PATERNITI

A CONCURRENT RESOLUTION proposing to amend Articles II, IV,  
and V of the State Constitution.

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 is  
2 agreed to:

#### PROPOSED AMENDMENT

3 a. Amend Article II, paragraph 1, to read as follows:

4 1. General elections shall be held annually on the first Tuesday  
5 after the first Monday in November; but the time of holding such  
6 elections may be altered by law. The Governor, *Lieutenant Gover-*  
7 *nor*, and members of the Legislature shall be chosen at general  
8 elections. Local elective officers shall be chosen at general elections  
9 or at such other times as shall be provided by law.

10 b. Amend Article IV, Section V, paragraph 1 to read as follows:

11 1. No member of the Senate or General Assembly, during the  
12 term for which he shall have been elected, shall be nominated,  
13 elected or appointed to any State civil office or position, of profit,  
14 which shall have been created by law, or the emoluments whereof  
15 shall have been increased by law, during such term. The provisions  
16 of this paragraph shall not prohibit the election of any person as  
17 Governor, *as Lieutenant Governor* or as a member of the Senate or  
18 General Assembly.

19 c. Amend Article V, Section I, paragraphs 2, 3, 4, 5, 6, 7, 8, 9, and  
20 10, to read as follows:

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

21 2. The Governor *and Lieutenant Governor* shall be not less than  
22 30 years of age, and shall have been for at least 20 years [a citizen]  
23 citizens of the United States, and [a resident] residents of this  
24 State 7 years next before [his] their election, unless [he] they or  
25 either of them shall have been absent during that time on the public  
26 business of the United States or of this State.

27 3. No member of Congress or person holding any office or posi-  
28 tion, of profit, under this State or the United States shall be  
29 Governor or *Lieutenant Governor*. If the Governor or *Lieutenant*  
30 Governor or person administering the office of Governor shall  
31 accept any other office or position, of profit, under this State or the  
32 United States, his office of Governor or *Lieutenant Governor*, as the  
33 case may be, shall thereby be vacated. No Governor or *Lieutenant*  
34 Governor shall be elected by the Legislature to any office during the  
35 term for which he shall have been elected Governor or *Lieutenant*  
36 Governor.

37 4. The Governor *and the Lieutenant Governor* shall be elected  
38 conjointly and for concurrent terms by the legally qualified voters  
39 of this State, which election shall be conducted in a manner that  
40 each voter shall cast a single vote applicable to both offices. The  
41 Legislature shall provide by law for making the choice in that  
42 manner. No person constitutionally ineligible to the office of  
43 Governor shall be eligible for that of *Lieutenant Governor*; and  
44 no person may, in any election held under the laws of this State,  
45 simultaneously seek nomination or election to both offices. No  
46 person shall seek election by the legally qualified voters of the  
47 State to either office except conjointly with a candidate for the  
48 other; but in any election held under the laws of this State for the  
49 selection of nominees by members of any political party, candidates  
50 for Governor and *Lieutenant Governor* shall be separately selected,  
51 and the candidates so selected for either office shall be the joint  
52 candidates of that political party in the ensuing election of Governor  
53 and *Lieutenant Governor* by the legally qualified voters of this  
54 State. The [person] joint candidates receiving the greatest number  
55 of votes shall be [the Governor] elected; but if two or more joint  
56 candidacies shall be equal and greatest in votes, one of them shall  
57 be elected [Governor] by the vote of a majority of all the members  
58 of both houses in joint meeting at the regular legislative session  
59 next following the election for Governor *and Lieutenant Governor*  
60 by the people. Contested elections for the [office] offices of  
61 Governor *and Lieutenant Governor* shall be determined in such  
62 manner as may be provided by law.

63 5. The term of office of the Governor *and of the Lieutenant*  
64 *Governor* shall be 4 years, beginning at noon of the third Tuesday  
65 in January next following [his] *their* election, and ending at noon  
66 of the third Tuesday in January 4 years thereafter. No person who  
67 has been elected Governor for two successive terms, including an  
68 unexpired term, shall again be eligible for that office until the third  
69 Tuesday in January of the fourth year following the expiration  
70 of his second successive term.

71 6. In the event of a vacancy in the office of Governor resulting  
72 from the death, resignation or removal of a Governor in office, or  
73 the death of a Governor-elect, or from any other cause, the [func-  
74 tions, powers, duties and emoluments of the office shall devolve  
75 upon the President of the Senate, for the time being; and in the  
76 event of his death, resignation or removal, then upon the Speaker  
77 of the General Assembly, for the time being; and in the event of  
78 his death, resignation or removal, then upon such officers and in  
79 such order of succession as may be provided by law; until a new  
80 Governor shall be elected and qualify] *Lieutenant Governor shall*  
81 *become Governor.*

82 7. In the event of the failure of the Governor-elect to qualify, or  
83 of the absence from the State of a Governor in office, or his in-  
84 ability to discharge the duties of his office, or his impeachment, the  
85 functions, powers, duties and emoluments of the office shall devolve  
86 upon the [President of the Senate, for the time being; and in the  
87 event of his death, resignation, removal, absence, inability or im-  
88 peachment, then upon the Speaker of the General Assembly, for  
89 the time being; and in the event of his death, resignation, removal,  
90 absence, inability or impeachment, then upon such officers and in  
91 such order of succession as may be provided by law] *Lieutenant*  
92 *Governor*; until the Governor-elect shall qualify, or the Governor  
93 in office shall return to the State, or shall no longer be unable to dis-  
94 charge the duties of the office, or shall be acquitted, as the case may  
95 be[, or until a new Governor shall be elected and qualify].

96 8. Whenever a Governor-elect *or a Lieutenant Governor-elect*  
97 shall have failed to qualify within 6 months after the beginning of  
98 his term of office, or whenever for a period of 6 months a Governor  
99 *or a Lieutenant Governor* in office, or a person administering the  
100 office *of the Governor*, shall have remained continuously absent from  
101 the State, or shall have been continuously unable to discharge the  
102 duties of his office by reason of mental or physical disability, the  
103 office shall be deemed vacant. Such vacancy shall be determined by  
104 the Supreme Court upon presentment to it of a concurrent resolu-  
105 tion declaring the ground of the vacancy, adopted by a vote of

106 two-thirds of all the members of each house of the Legislature, and  
107 upon notice, hearing before the court and proof of the existence  
108 of the vacancy.

109 9. [In the event of a vacancy in the office of Governor, a Governor  
110 shall be elected to fill the unexpired term at the general election  
111 next succeeding the vacancy, unless the vacancy shall occur within  
112 60 days immediately preceding a general election, in which case  
113 he shall be elected at the second succeeding general election; but no  
114 election to fill an unexpired term shall be held in any year in which  
115 a Governor is to be elected for a full term. A Governor elected for  
116 an unexpired term shall assume his office immediately upon his  
117 election.]

118 a. *Whenever there is a vacancy in the office of Lieutenant*  
119 *Governor, the Governor shall nominate within 45 days of the*  
120 *occurrence of the vacancy a Lieutenant Governor, who shall take*  
121 *office upon confirmation by a majority vote by both Houses of the*  
122 *Legislature.*

123 b. *Whenever there are simultaneous vacancies in the offices of*  
124 *Governor and Lieutenant Governor, the functions, powers, duties,*  
125 *and emoluments of the office of Governor shall devolve upon the*  
126 *President of the Senate; for the time being; and in the event of his*  
127 *death, resignation, removal, absence, disability, or impeachment,*  
128 *then upon the Speaker of the General Assembly, for the time being;*  
129 *and in the event of his death, resignation, removal, absence, dis-*  
130 *ability, or impeachment, then upon the officers and in the order of*  
131 *succession as may be provided by law. The same order of succes-*  
132 *sion shall obtain in any case of simultaneous temporary inability*  
133 *of the incumbents of both offices to serve by reason of absence, dis-*  
134 *ability, or impeachment, or by simultaneous temporary inability*  
135 *of the incumbent of the office of Governor and vacancy in the office*  
136 *of Lieutenant Governor; until the temporary inability is removed.*

137 c. *Whenever, by reason of simultaneous vacancies in the offices*  
138 *of Governor and Lieutenant Governor, the functions, powers,*  
139 *duties, and emoluments of the office of Governor have devolved*  
140 *upon any officer other than the Lieutenant Governor, a Governor*  
141 *and a Lieutenant Governor shall be elected to fill the unexpired*  
142 *terms of those vacancies at the general election next succeeding*  
143 *their occurrence, unless the vacancies have occurred within 60 days*  
144 *immediately preceding a general election, in which case they shall*  
145 *be elected at the second succeeding general election; but no election*  
146 *to fill the unexpired terms shall be held in any year in which a*  
147 *Governor and Lieutenant Governor are to be elected for full terms.*  
148 *A Governor and Lieutenant Governor elected for unexpired terms*  
149 *shall assume their offices immediately upon their election.*

150 *d. Whenever an appointed Lieutenant Governor becomes*  
 151 *Governor, an election to fill the unexpired terms of the elected*  
 152 *Governor and Lieutenant Governor shall be held at the general*  
 153 *election next succeeding the assumption of the office of Governor by*  
 154 *the appointed Lieutenant Governor, unless the assumption has*  
 155 *occurred within 60 days immediately preceding a general election,*  
 156 *in which case an election shall be held at the second succeeding*  
 157 *general election; but no election to fill the unexpired terms shall be*  
 158 *held in any year in which a Governor and Lieutenant Governor are*  
 159 *to be elected for full terms. A Governor and Lieutenant Governor*  
 160 *elected for unexpired terms shall assume their offices immediately*  
 161 *upon their election.*

162 10. *a. The Governor and the Lieutenant Governor shall receive*  
 163 *for [his] their services [ a salary] salaries, which shall be neither*  
 164 *increased nor diminished during the period for which [he] they*  
 165 *shall have been elected, or in the case of an appointed Lieutenant*  
 166 *Governor, during the period of his service as Lieutenant Governor*  
 167 *or as Governor.*

168 *b. The Lieutenant Governor shall be the Secretary of State, and,*  
 169 *in addition, he shall be the executive assistant to the Governor and*  
 170 *shall perform those duties of the office of Governor as the Governor*  
 171 *may and shall delegate to him and those other duties as shall be pro-*  
 172 *vided by law.*

173 *d. Amend Article V, Section IV, paragraphs 2 and 3, to read as*  
 174 *follows:*

175 2. Each principal department shall be under the supervision of  
 176 the Governor. The head of each principal department shall be a  
 177 single executive unless otherwise provided by law. Such single  
 178 executives, *except the Secretary of State*, shall be nominated and  
 179 appointed by the Governor, with the advice and consent of the  
 180 Senate, to serve at the pleasure of the Governor during his term  
 181 of office and until the appointment and qualification of their  
 182 successors, except as herein otherwise provided with respect to  
 183 **[the Secretary of State and]** the Attorney General.

184 3. The **[Secretary of State and the]** Attorney General shall be  
 185 nominated and appointed by the Governor with the advice and  
 186 consent of the Senate to serve during the term of office of the  
 187 Governor.

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 3 months after such final agreement and shall be  
 5 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 months  
 8 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 position 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 style="text-align: center;"><b>ESTABLISHES THE OFFICE OF          LIEUTENANT GOVERNOR</b></p> <p>Shall the amendment of Articles II, IV, and V of the Constitution, agreed to by the Legislature, establishing the office of Lieutenant Governor, the holder of which shall additionally function as the Secretary of State, and providing for the term, election, succession, salary, qualifications, and duties of the office, be adopted?</p>
	No.	<p style="text-align: center;"><b>INTERPRETIVE STATEMENT</b></p> <p>Approval of this amendment will provide for the establishment of the office of Lieutenant Governor. This new official will be elected conjointly with the Governor, serve as Secretary of State, and directly follow the Governor in the line of succession. He will not be the presiding officer in the State Senate.</p>

**SCHEDULE**

13 The first election of a Lieutenant Governor shall be held at the  
 14 next general election at which a Governor is elected for a full term.

**STATEMENT**

The purpose of this constitutional amendment is to provide for  
 the establishment of the office of Lieutenant Governor.

# ASSEMBLY CONCURRENT RESOLUTION No. 41

Introduced Pending Technical Review by Legislative Counsel  
PRE-FILED FOR INTRODUCTION IN THE 1986 SESSION

By Assemblyman ALBOHN

# ASSEMBLY CONCURRENT RESOLUTION No. 26

# STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1984 SESSION

By Assemblyman ALBOHN

A CONCURRENT RESOLUTION proposing to amend Article V, Section 1,  
paragraphs 6 and 7, of the Constitution.

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 as  
2 agreed to:

#### PROPOSED AMENDMENT

3 Amend Article V, Section 1, paragraphs 6 and 7 to read as  
4 follows:

5 6. In the event of a vacancy in the office of Governor resulting  
6 from the death, resignation or removal of a Governor in office, or  
7 the death of a Governor-elect, or from any other cause, the func-  
8 tions, powers, duties and emoluments of the office shall devolve  
9 upon the *Secretary of State, for the time being, and in the event of*  
10 *his death, resignation or removal, then upon the President of the*  
11 *Senate, for the time being, and in the event of his death, resignation*  
12 *or removal, then upon the Speaker of the General Assembly, for*  
13 *the time being; and in the event of his death, resignation or removal,*  
14 *then upon such officers and in such order of succession as may be*  
15 *provided by law; until a new Governor shall be elected and qualify.*

16 7. In the event of the failure of the Governor-elect to qualify,  
17 or of the absence from the State of a Governor in office, or his  
18 inability to discharge the duties of his office, or his impeachment,  
19 the functions, powers, duties and emoluments of the office shall  
20 devolve upon the *Secretary of State, for the time being, and in the*  
21 *event of his death, resignation, removal, absence, inability or im-*  
22 *peachment, then upon the President of the Senate. for the time*

23 being; and in the event of his death, resignation, removal, absence,  
24 inability or impeachment, then upon the Speaker of the General  
25 Assembly, for the time being; and in the event of his death,  
26 resignation, removal, absence, inability or impeachment, then upon  
27 such officers and in such order of succession as may be provided by  
28 law; until the Governor-elect shall qualify, or the Governor in  
29 office shall return to the State, or shall no longer be unable to  
30 discharge the duties of the office, or shall be acquitted, as the case  
31 may be, or until a new Governor shall be elected and qualify.

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

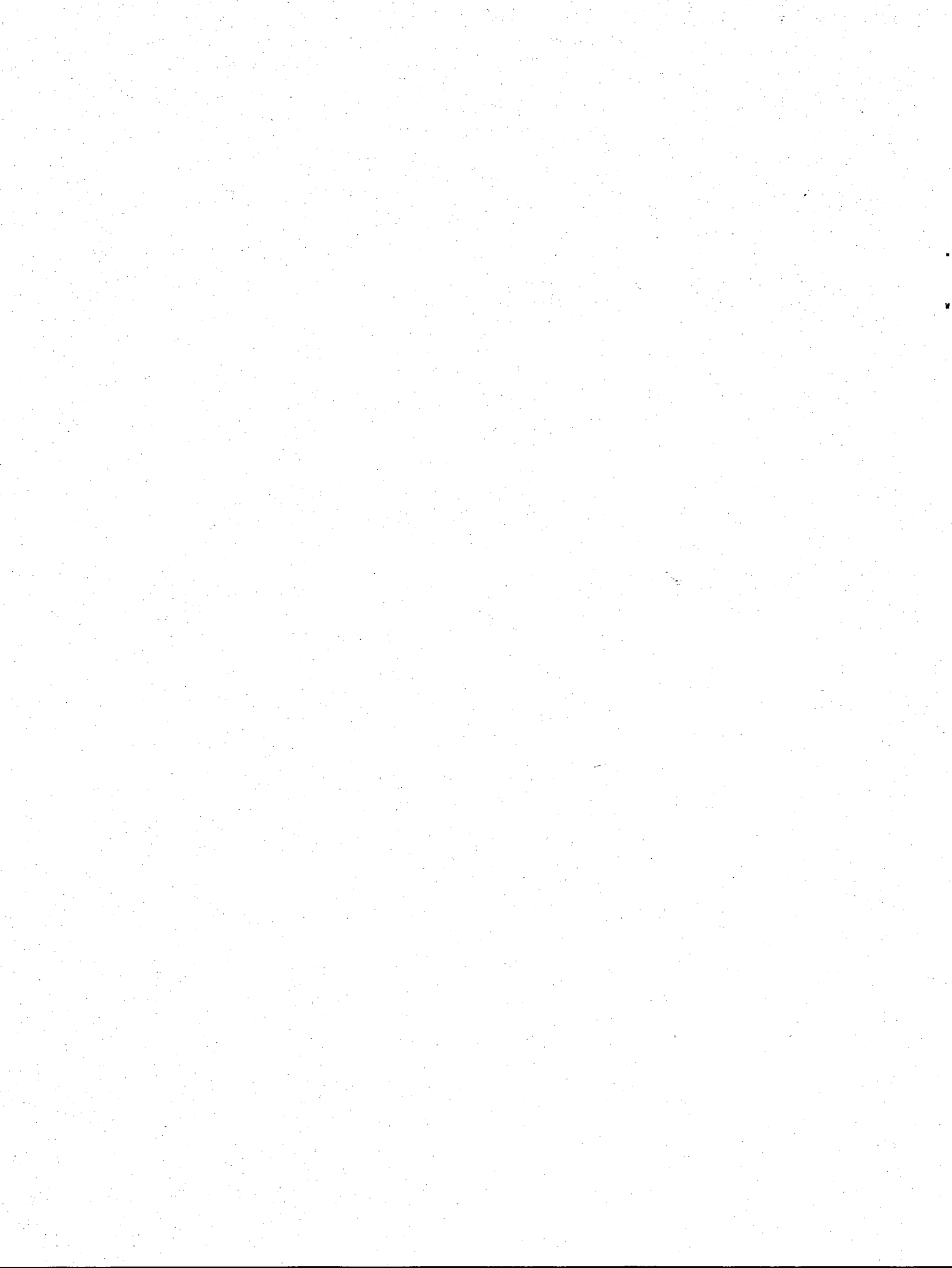
	<b>Yes.</b>	<p style="text-align: center;"><b>CONSTITUTIONAL AMENDMENT</b></p> <p style="text-align: center;"><b>SECRETARY OF STATE FIRST IN LINE OF SUCCESSION TO FILL OFFICE OF GOVERNOR.</b></p> <p>Shall the amendment to Article V, Section 1, paragraphs 6 and 7 of the Constitution, agreed to by the Legislature, and providing that the Secretary of State will be the first in line of succession to fill the Office of Governor in the event of a vacancy resulting from the death, resignation or removal of a Governor, or death of a Governor-elect; or in the event of the Governor-elect failing to qualify for office, or the Governor's absence from the State, or his inability to discharge the duties of his office, be approved?</p>
	<b>No.</b>	<p style="text-align: center;"><b>INTERPRETIVE STATEMENT</b></p> <p>This amendment provides that the Secretary of State shall be first in the line of succession to fill the office of Governor during a vacancy or absence of the Governor from the State.</p>

---

**STATEMENT**

This proposed amendment to the Constitution provides that the Secretary of State shall be first in the line of succession to fill the office of Governor during a vacancy or absence of the Governor from the State.

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### APPENDIX

Statement of the Honorable Cary Edwards Attorney General of New Jersey	lx
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mjz: 1-21  
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ASSEMBLYMAN RICHARD A. ZIMMER, (Chairman): I would like to call the hearing to order. This hearing has been called to consider a number of proposed constitutional amendments to create new statewide elected offices for New Jersey. There are three proposals to create the office of Lieutenant Governor. One of the three does not call it Lieutenant Governor, but provides for ultimate means of succession. Then there are two to create an elected Attorney General and an elected Comptroller, respectively.

Because most of the witnesses who have signed up are interested in addressing the Lieutenant Governor issue, we will consider those proposals first. That's ACR-10, sponsored by Assemblyman Brown; ACR-16, sponsored by Assemblyman Haytaian; and, ACR-41, sponsored by Assemblyman Albohn. I would appreciate it if staff could summarize the three before we begin.

MR. MARGESON: Yes. First, ACR-10, by Assemblyman Brown. This resolution proposes an amendment to the State Constitution to establish a new constitutional office of Lieutenant Governor and revise the gubernatorial succession. The amendment would establish the same age, citizenship, and State residency requirements for the Lieutenant Governor as now apply to the Governor. Similarly, the amendment would apply to the Lieutenant Governor certain other constitutional provisions presently applicable to the Governor: First, a prohibition against dual office holding; second, election at general elections by plurality vote; and third, a four-year term, but no prohibition against election to more than two terms in succession.

Under this proposed amendment, the Governor and Lieutenant Governor would be elected together and jointly as joint candidates for the respective offices. A party's nominee for Lieutenant Governor would be selected in a primary election separately of the selection of the party's nominee for

Governor. The Lieutenant Governor would be the Secretary of State and, in addition, Assistant to the Governor. He would also perform such duties as the Governor might delegate to him and any other duties as provided by law.

The amendment provides that if a vacancy occurs in the office of Governor, the Lieutenant Governor would become Governor. In the event of the failure of a Governor-elect to qualify, or of a temporary absence or incapacity of the Governor, the functions, power, and duties of the office of Governor would devolve upon the Lieutenant Governor until the disqualification or incapacity ceased. A vacancy in the office of Lieutenant Governor would be filled by nomination of the Governor and confirmation of the nominee by a majority vote of both houses of the Legislature.

Assembly Concurrent Resolution No. 16, Assemblyman Haytaian's proposal, is somewhat similar to Assembly Concurrent Resolution No. 10, but differs in one important respect; that is, the choice of Lieutenant Governor nomination. This resolution proposes an amendment to the State Constitution to establish a constitutional office of Lieutenant Governor and to revise the gubernatorial succession. The amendment would establish the same age, citizenship, and State residency requirements for Lieutenant Governor as now apply to the Governor. Similarly, the amendment would, again, apply to the Lieutenant Governor certain other constitutional provisions presently applicable to the Governor -- prohibition against dual office holding, election by plurality vote, and four-year term.

Under this proposed amendment the Governor and Lieutenant Governor would be elected together as joint candidates for their respective offices, but a party's nominee for Lieutenant Governor would be selected by that party's nominee for Governor, following the gubernatorial primary election.

The Lieutenant Governor would be the Secretary of State and, in addition, would be the Executive Assistant to the Governor. He would perform such duties as the Governor might delegate to--

Forgive me. The first description which was previously read was a description of Assemblyman Haytaian's bill. Excuse me, Assemblyman. I apologize, in his absence, to Assemblyman Brown.

This, then, is Assemblyman Brown's-- What I am reading right now is for Assemblyman Brown's bill. In this case-- The Governor and the Lieutenant Governor in the case of both bills would be elected together. Under Assemblyman Brown's bill, the nominee for Governor would select the nominee for Lieutenant Governor, and then they would both run together in the election.

Again under Assemblyman Brown's bill, the Lieutenant Governor would be the Executive Assistant to the Governor, and he would perform such duties of the office of the Governor as the Governor might delegate to him, and any other duties that might be provided by law to be performed by him. In other respects, I believe the bills are the same.

Finally, Assemblyman Albohn's provision for the Secretary of State to succeed to the office of Governor. This is Assembly Concurrent Resolution No. 41. This resolution proposes an amendment to the Constitution of this State to revise the order of succession to be followed when a vacancy occurs in the office of Governor, or when a Governor-elect fails to qualify, or an incumbent Governor is absent from the State or incapacitated.

The Constitution concurrently provides in any of those situations for the devolution of the functions, powers, and duties of the office of Governor upon the President of the Senate until a new Governor is elected and qualified. Under this proposed amendment, the devolution would first be upon the

Secretary of State. Thereafter, the current line of succession would be preserved, devolution first to the President of the Senate, then to the Speaker of the General Assembly, and thereafter as provided by law.

ASSEMBLYMAN ZIMMER: Assemblyman Haytaian?

A S S E M B L Y M A N G A R A B E D H A Y T A I A N: Mr. Chairman, thank you very much. I appreciate the opportunity to again-- I say again because there was or public hearing on this bill in four years, and that was in the middle of last session. I'm glad that we are now looking at the possibility of a Lieutenant Governor in the State of New Jersey, since we have gotten an awful lot of publicity from the Governor. He indicated in his State of the State Message that he thought it was time for a Lieutenant Governor in the State of New Jersey, and I truly appreciate that.

Unfortunately, it hasn't been mentioned that this is not a new concept in the State of New Jersey. Back when Ray Bateman was a Senator, back in the '70s, this proposition came up. I also believe a Senator from Hudson County had similar bills in for a Lieutenant Governor.

My immediate problem with the Constitution we have in this State that does not provide for a Lieutenant Governor is that we have the intermingling of two branches of government in the succession process in case a present Governor becomes incapacitated, leaves the State, or, in the worst of all cases, dies in office. As the present law states, the next in line to the Governor in those cases where a Governor is incapacitated, leaves the State, or dies in office, is the President of the Senate. Mr. Chairman, as you and I know, the President of the Senate, who is elected in one district, as we are, by 185,000 people, could be of a different party from the sitting Governor -- as we have today -- and could have a different philosophy of government than the sitting Governor has in any particular year.

What we would have is a succession in government that would, in fact, disrupt the State government and the Executive Branch, as well as the Legislative Branch, because what we would have would be a Governor and a Senate President being the same person under the present law. Therefore--

ASSEMBLYMAN ZIMMER: For the benefit of the public, could you go further into detail on that? What would happen if the Senate President, in order to devote his full time to the office of Governor, resigned as Senate President?

ASSEMBLYMAN HAYTAIAN: He doesn't have to under the present law.

ASSEMBLYMAN ZIMMER: Under the present law, I believe the impact would be that he would no longer be Governor. He is Governor only because he is Senate President. As long as he-- If he stops being Senate President, then he is no longer Governor either. He has to hold them both simultaneously.

ASSEMBLYMAN HAYTAIAN: That is correct; simultaneously. And that causes now, I think, a constitutional problem that has never been looked at; that is, the mixing of the branches of government, where you have the Legislative Branch and the Executive Branch one and the same, in essence. In one instance, being the Senate President and the Governor would be the same person.

So, I have always had a problem with that, but I have more of a problem in that that person who is the Senate President, regardless of the party in this instance, has only been elected by 185,000 people, whereas the Governor of the State of New Jersey has been elected, in reality, by possibly three million people, but governs 7.3 or to 7.4 million people. So, I have a problem in that the succession in the Executive Branch is not what it should clearly be, and that is, pure succession. The only way we would have that, in my estimation, would be with a Lieutenant Governor following the Governor in the line of succession for his seat.

Now, my bill has been part and parcel of my Assembly career because when I was elected four years ago, it was one of the first bills that I introduced as an Assembly Concurrent Resolution. In the '82 session, by the way, it was ACR-32; in the '84 session it was ACR-3; and, in this session, it is ACR-16. Now, how do we come to those numbers? It depends on how fast you get a bill into the Office of Legislative Services so that you have the lowest number. So, if anyone says "Well" -- because a number is lower -- "it was my idea," I refer him back to the '82 session to see who, in fact, had ideas. At that time it was the present Speaker, Chuck Hardwick, who had a bill in, and the present Majority Leader, Chuck Haytaian, who had a bill in, and then I'm sure there were others. I really did not check to see who they were.

What I see as true succession in government in the Executive Branch is a Governor and Lieutenant Governor elected co-jointly, or conjointly; that is, when the November election comes, they will be elected as a team. So if the gubernatorial candidate and his Lieutenant Governor candidate -- whoever, and whatever party gets the most votes -- the two people would take office.

But there is a difference, Don, and this is the difference between Assemblyman Brown's bill and my bill. There are two differences: One, I have in my bill that both candidates for Governor and Lieutenant Governor would run for the office. In Assemblyman Brown's bill, the Lieutenant Governor candidate would be selected by the gubernatorial nominee after the primary election.

I feel there are more benefits in my bill, in that the person for Lieutenant Governor would be elected by the people, rather than appointed by the gubernatorial nominee, which would be similar to what we have on the Federal level, with a nominee for President at a convention then choosing his or her vice presidential candidate. So, my feelings are, it would be

better to have both candidates running for the office. Now, it opens up-- There are some positives and some negatives to that in the minds of some people, in that it opens up the question: What happens if a gubernatorial nominee ends up with a Lieutenant Governor nominee where there may be some personal differences, philosophical differences? My answer to that is, it should be the will of the people, and that is exactly what it would be under my bill.

Second, I see my bill as a -- I think, because it is my bill and I am somewhat prejudiced -- stronger bill, in that we do not create another bureaucracy, another office. What we will be doing under my bill is combining the office of Lieutenant Governor with that of Secretary of State. Now I know the present Secretary of State has some questions about that, and I think you have a statement in your folders. I can understand her concerns, except that there have been statements made by many people about Lieutenant Governors' positions in our State and in other states, in that: What does a Lieutenant Governor do? Why have a Lieutenant Governor, if the former Lieutenant Governor of New York, Alfred DelBello, said, "There's not too much for me to do, so I resigned."

I feel that a Cabinet level position would definitely give that person a lot to do, and would make him or her a Cabinet level person, as well as Lieutenant Governor.

With that, I am open to questions. I feel we should not have a line of succession, as I indicated in my opening statement and remarks, one which would have conflicting constitutional questions of the Executive Branch and the Legislative Branch of government not being separate, because, in essence, if that did occur where the Senate President became Governor, that would be one person.

I also believe that a Lieutenant Governor would succeed a Governor who would, in fact, be elected by the people of the State, not the people of one district. I also believe

that it would maintain the continuity of a political philosophy that the people in this State agreed with, in that they would have elected that person to become Governor.

I think truly we need a Lieutenant Governor in the State of New Jersey because I think, quite frankly, we have been very lucky, and we have been very fortunate that we have had very healthy people who have been Governor, and we have been fortunate in that none of those people have met with a fatal accident in their terms of office. With the present Governor and former Governors, I think it is safe to say that Governor Byrne was one who traveled extensively while he was in office and, as we know, with the current modes of transportation, it is not out of anyone's thoughts that there could be an accident, a fatal accident to a sitting Governor.

With that, I will open it up for questions, if there are any.

ASSEMBLYMAN ZIMMER: I have a few, Assemblyman. There are a couple of provisions I just want to focus on because I am not sure I understand what the intent of the legislation is. If the Lieutenant Governor, an elected Lieutenant Governor, succeeds to the office of Governor under your proposal, would the new Governor -- the former Lieutenant Governor -- serve out the entire remainder of the gubernatorial term?

ASSEMBLYMAN HAYTAIAN: The provisions are-- I think it calls for as long as it is outside of 60 days to the next election; then, yes, in fact, he would serve, and he would have appointment power for a Lieutenant Governor during that time.

UNIDENTIFIED PARTISAN AIDE: Or if it's the last year.

ASSEMBLYMAN HAYTAIAN: Or if it is the last year; that is correct.

ASSEMBLYMAN CHARLES: Excuse me, I didn't understand the answer. What was the answer to the Chairman's question?

ASSEMBLYMAN HAYTAIAN: The Lieutenant Governor would serve as Governor, assuming that the person did not take office

60 days prior to the next election, and then would serve out the term with an appointed Lieutenant Governor at that point.

ASSEMBLYMAN CHARLES: So, the answer then is that he would be the Governor for the unexpired term--

ASSEMBLYMAN HAYTAIAN: That is correct.

ASSEMBLYMAN CHARLES: --unless it was within 60 days of the next election.

ASSEMBLYMAN HAYTAIAN: That's right; that is correct, the next gubernatorial election.

ASSEMBLYMAN ZIMMER: And if it is within 60 days of the next gubernatorial election?

ASSEMBLYMAN HAYTAIAN: Well, he then would serve, but would not appoint a Lieutenant Governor, and would run at that point for Governor. Again, I go to the bill itself. As we all know, legislation gets complicated when you start talking about succeeding and succession. It's on Page-- Let me check it out. Page 5, Section b.-- It's where it says "a vacancy." Let me just get that for you.

Yeah, at the top of Page 5, Section d. I'm sorry, I thought I heard b; it's 5 d.: "Whenever an appointed Lieutenant Governor becomes Governor, an election to fill the unexpired terms of the elected Governor and Lieutenant Governor shall be held at the general election next succeeding the assumption of the office of Governor by the appointed Lieutenant Governor, unless the assumption has occurred within 60 days immediately preceding a general election, in which case an election shall be held at the second succeeding general election; but no election to fill the unexpired terms shall be held in any year in which a Governor and Lieutenant Governor are to be elected for full terms. A Governor and Lieutenant Governor elected for unexpired terms shall assume their offices immediately upon their election."

ASSEMBLYMAN ZIMMER: Chuck, the reason I asked you the question is because that subsection refers to an appointed

Lieutenant Governor, as opposed to an elected Governor. So, the way I read it was that if you have an elected Lieutenant Governor, instead of having an election for Governor at the next general election -- which is the rule currently -- you would have the elected Lieutenant Governor serve out the entire remainder of the Governor's term.

It doesn't say either way explicitly, and I think maybe we ought to spell it out.

ASSEMBLYMAN HAYTAIAN: Maybe we ought to clear that up then.

ASSEMBLYMAN ZIMMER: Do you have a preference?

ASSEMBLYMAN HAYTAIAN: Not really, in that case. I would look toward the Committee and the Chairman as to some suggestions.

ASSEMBLYMAN ZIMMER: My feeling is that if he has been elected by the entire electorate--

ASSEMBLYMAN HAYTAIAN: He should serve out the term.

ASSEMBLYMAN ZIMMER: --he or she has the legitimacy to-- Right.

ASSEMBLYMAN HAYTAIAN: Yes, I agree with that. I would have no problem with that. Could we clear that up in the language?

ASSEMBLYMAN ZIMMER: We could.

ASSEMBLYMAN HAYTAIAN: Okay.

ASSEMBLYMAN ZIMMER: Another point of clarification. You've got-- As I understand-- On Page 4, Section 9 b., you've got candidates for Governor and Lieutenant Governor running separately in the primary?

ASSEMBLYMAN HAYTAIAN: That is correct; that is correct.

ASSEMBLYMAN ZIMMER: But, there are two levers that you would pull in the primary.

ASSEMBLYMAN HAYTAIAN: In the primaries; that is correct.

ASSEMBLYMAN ZIMMER: But you say they are running conjointly.

ASSEMBLYMAN HAYTAIAN: No, that is in the general election.

ASSEMBLYMAN ZIMMER: Okay, in the general election.

ASSEMBLYMAN HAYTAIAN: Yes. Once the primary is over and you have elected both nominees, they then would run conjointly. What I wanted to prevent was what has occurred in New York and what has occurred -- sorry, not in New York, but what has occurred in California in the past. They had a Lieutenant Governor of a different political party, and the Governor of the state was reluctant to ever leave the state because of a fear of the Lieutenant Governor of a different party taking office and disrupting the operation of state government. It occurred during Governor Brown's term, when he, as a Democrat, had a Republican Lieutenant Governor, and was reluctant to leave the state because of that.

ASSEMBLYMAN ZIMMER: Since you reintroduced the bill, of course, we had another experience in Illinois, where the candidates for Governor and Lieutenant Governor ran separately in the primary, and now the Governor-- I believe they have to run as a ticket in general. The Democratic candidate for Governor is a dead duck, I guess.

ASSEMBLYMAN HAYTAIAN: Well, he indicated that he is not satisfied with his candidate for Lieutenant Governor. I can understand that, but-- You know, it's not etched in stone that they run separately. My thoughts are that the people should have their say, rather than having one person appoint a person to succeed him or her in office. I really, truly believe that we should open it up to the electorate, and I truly believe-- I'm sure there may be some changes in this legislation and, as I indicated, that is not an area that is etched in stone. If I could be convinced that it would be better for the gubernatorial nominee to select a Lieutenant Governor nominee, then I could see amendments in that area.

ASSEMBLYMAN ZIMMER: Okay. Thank you very much.

ASSEMBLYMAN HAYTAIAN: Okay.

ASSEMBLYMAN ZIMMER: Are there any questions from members of the Committee?

ASSEMBLYMAN MARTIN: Yeah, I have some.

ASSEMBLYMAN CHARLES: Yeah, I have a couple.

ASSEMBLYMAN ZIMMER: Okay, go ahead.

ASSEMBLYMAN CHARLES: I'm sorry, Bob.

ASSEMBLYMAN MARTIN: We can duke it out to see who goes first. The questions will be asked, I'm sure, in any event. One general question. I support the constant. If we go to Lieutenant Governor, I think the position of Secretary of State would be an appropriate one. My question is: Do you contemplate, at least now, any other duties or functions that the Lieutenant Governor would have, as a practical matter in this capacity?

ASSEMBLYMAN HAYTAIAN: Other than being the Secretary of State and Lieutenant Governor, I think it would be asking too much of any one individual to take on any more responsibility.

ASSEMBLYMAN MARTIN: When you say "other than being the Secretary of State and Lieutenant Governor," I'm trying to fashion in my own mind what role you would see the Lieutenant Governor actually fulfilling.

ASSEMBLYMAN HAYTAIAN: On a day-to-day basis, the role would be the role of Secretary of State -- the office of Secretary of State -- with a very close contact with the Governor. In cases where the Governor was out of State, or was incapacitated, then the Lieutenant Governor would assume the role of Governor. Then, I guess the appropriate question would be: What happens to the Secretary of State's role? And that is something that I have not thought about at this point, other than I believe it could be handled jointly, in that case.

Now, once the Governor -- as I said -- dies in office, then the Lieutenant Governor becomes Governor. So, there would not be at that point a Secretary of State, which could cause us problems, but there would be an Acting Secretary of State, as we have today. There is always-- In fact, I have on one resolution-- Alvin Felzenberg is assigned the resolution as Acting Secretary of State in the absence of the present Secretary of State. So, I don't see that as a problem. I think we have enough assistants; we have enough deputies; and, we also have that role as Acting Secretary of State. So, I don't see that becoming a problem.

ASSEMBLYMAN CHARLES: So, is that what we would call the Lieutenant Governor? He would be the Secretary of State/Lieutenant Governor? There would be no Cabinet position of a permanently appointed Secretary of State?

ASSEMBLYMAN HAYTAIAN: That is correct because my resolution -- my concurrent resolution -- abolishes the office of Secretary of State, and now provides for an elected Lieutenant Governor/Secretary of State.

ASSEMBLYMAN CHARLES: My question, I suppose, is whether or not there isn't enough for a -- just strictly an Assistant Governor, a Lieutenant Governor, to do, without also being involved with the responsibilities of a Secretary of State. I mean, to put it to your-- Your thesis, I guess, seems to be that the office of Secretary of State, although it has its functions and all, at least it is not so all-consuming as to prevent a person from discharging those duties and, in addition to that, becoming a functional Assistant and a real Assistant to the Governor. I don't know if we can -- if that is something that can be accepted that easily.

ASSEMBLYMAN HAYTAIAN: Joe, when I introduced this legislation four years ago, I caught the comments of Secretary of State Burgio, who said, "Now wait a minute, Assemblyman, we have an awful lot to do," and she pointed out all the things

she had to do. I agree with that. She does have a lot to do. But I also believe that to offset the criticism of, "A Lieutenant Governor would have nothing to do and would be superfluous," I feel that a person can be Lieutenant Governor/Secretary of State and operate in State government very well. I don't think we would be over-burdening anyone, nor would we be putting so much responsibility on one person that that person could not function well.

ASSEMBLYMAN CHARLES: In states which have the position of Lieutenant Governor, what are their additional functions? Are they--

ASSEMBLYMAN HAYTAIAN: Well, there are a number of states--

ASSEMBLYMAN CHARLES: Do they have cabinet level posts, or are they simply assistants?

ASSEMBLYMAN HAYTAIAN: Yes, they do. A lot of them preside over the Senate. I would not want to do that, because as soon as I did that, then I could safely say my legislation would die in the Senate. I really believe that because the Senate President, whoever he or she is presently, would never put the bill up. I'm hoping that doesn't occur. I don't want to take any functions away from present legislators. The only thing I am doing is putting a person in-between the succession, and that is, the successor to the Governor would be a Lieutenant Governor, and then it would be the Senate President. At the present time, that is not the case, and I really feel there may be some selfish attitudes in the Senate, but I can understand that. I guess if I were a Senator, possibly I would be looking at it that way also, that here is a chance for a person who is Senate President to become Governor. I mean, a breath away from the Governor.

I can understand the problem that they may have. So, I don't want to put them as heading the Senate. Therefore, what I'm really saying is, I don't want to mix the Executive

Branch of the government with the Legislative Branch in succession, because that is really what we have now. We have that mixture.

ASSEMBLYMAN ZIMMER: As part of the materials we were handed, this is from the book of the states. There is a Table 8 which points out -- specifies in which states the Lieutenant Governor is a member of the Governor's cabinet, or advisory body, etc.

ASSEMBLYMAN CHARLES: Is that Table 7?

MR. MARGESON: Table 8.

ASSEMBLYMAN CHARLES: I don't have that.

ASSEMBLYMAN ZIMMER: It looks like about half.

ASSEMBLYMAN HAYTAIAN: There is also another table. I don't have it. I have it in my notes, and I can take it out. But, a number of Lieutenant Governors in other states are Secretaries of State; or they hold a dual office. So, it's not an innovative idea. It is one that is a functioning idea in other states. Maybe Don can help us with that. I'm not quite sure. I could find it if I had to, but there are states with Lieutenant Governor/Secretary of State positions.

MR. MARGESON: I believe so, but not a large number.

ASSEMBLYMAN HAYTAIAN: No, but there are, and they are operating today.

ASSEMBLYMAN CHARLES: Are there any other positions besides Secretary of State that they hold jointly with their position of Lieutenant Governor?

MR. MARGESON: I would have to research that for you.

ASSEMBLYMAN HAYTAIAN: I have that information, but go ahead and ask some more questions.

ASSEMBLYMAN CHARLES: That's all right; you don't have to look. If you don't have it off the top of your head, that's all right.

ASSEMBLYMAN HAYTAIAN: All right.

ASSEMBLYMAN MARTIN: Mr. Chairman, if I may? Chuck, let me just propose an alternative. Obviously, I guess that you may not favor this, but I would be interested to at least hear your comments. We have been thinking about the possibility, and there has been a bill prepared which I, at this point, tend to favor, which would create the Lieutenant Governorship, but in terms of the nomination process, have that done by a convention, which already, by law, has to meet approximately a week after the primary, at which time the Governor would put forward a nominee. Then, the delegates to the convention, who would be essentially State committee members and elected officials, would confirm or not confirm that nominee. If they did not confirm, then the Governor would put forward another candidate.

Now, that would not be a separate election during a primary. One of the benefits, I think, would be the fact that during the primary period, people could then have the opportunity to focus on the issues of the aspiring gubernatorial candidates without, if you will, being distracted by an additional set of people who would be running for Lieutenant Governor, whose issues, I think, would be somewhat obscure because, unless you had a gubernatorial candidate and knew how he would fit in, his position would be tentative.

I mention that to you-- I just don't know how strongly you would be opposed to a Lieutenant Governor selection process with that as an alternative to yours.

ASSEMBLYMAN HAYTAIAN: As I indicated, Assemblyman, it is not etched in stone as to the choice and how that choice for Lieutenant Governor is made. Presently, I believe it should be by election, but if I got enough comments and felt that the bill was a stronger bill by allowing the nominee for Governor to go that route, and then go to a convention, or choose his or her Lieutenant Governor candidate-- As I said, if I felt that were a stronger bill, I would have no objection.

My prime concern at this point is to have orderly succession in the Executive Branch of government. I truly do not believe we have that today. And yet, we have never been tested with it. So, someone could easily say to me, "Well, it has never happened, so how can you prove your point?" I would not want to prove my point, quite frankly, because it would mean that a Governor would have to expire in office, or become incapacitated, and I would not want to be the one to suggest that should happen to prove a point. But when I truly look at the different philosophies of the two parties in the State of New Jersey, I see what has happened in the past, and I try to put that in perspective for the future. My answer is, if it ever did occur, we would have chaos because you would have a nominee who then -- or not a nominee, but an Acting Governor -- who was the Senate President, who had a legislative responsibility, and who then would have an Executive Branch responsibility. What would happen?

First of all, I'm sure that a number of Commissioners would be removed and new ones would be put in, in the middle of a term. That, we know, becomes a major problem for departments in State government. So, I think if we can put it in theory and say, "What could happen if this did, in fact, happen?" I think we would get our answers without it, in fact, happening.

ASSEMBLYMAN MARTIN: What your saying is, it is nonpartisan in the sense that regardless of what party had succeeded--

ASSEMBLYMAN HAYTAIAN: It wouldn't matter.

ASSEMBLYMAN MARTIN: --the Governor and, in fact, maybe someone from the wrong party might be Senate President, it's just that there would be this transitional period where everything would be in a state of flux.

ASSEMBLYMAN HAYTAIAN: I would give you an example, and now that Assemblyman Bocchini is here, I think maybe he would understand. If we had-- When we did have Brendan Byrne

in office, and Senate President Merlino-- I think their thoughts on government were different. I may be wrong, but I know the way they operated they were different.

ASSEMBLYMAN BOCCHINI: Their styles were different, but they were pretty much the same.

ASSEMBLYMAN HAYTAIAN: Their styles were different-- Well, it might be, but I think there is an awful lot to style in the Governor's chair-- as to how government will react and how government is operated... It has to do with the personality of the person. So therefore, I just feel that if we tested this, succession in government, if it ever had to be tested, I think we would have chaos.

ASSEMBLYMAN MARTIN: Just one further follow-up, and I think I know the answer since you said, you know, the specifics are not etched in stone. I have a tendency at this point to feel that I would not want to allow a Lieutenant Governor to have as much as three and a half, or close to four years of service. I would be more inclined to say-- Well, we have State elections every two years, and at that general election we could frame the bill so that the person would serve no more than two years, because he would have to stand at the next general election, if necessary, to have the person who, if he didn't run -- whomever it would be -- it would be for a two-year term so that the Governor would be back on track of his normal four-year period.

But, would you have a strong negative reaction to limiting it to no more than a two-year term of service?

ASSEMBLYMAN HAYTAIAN: Not really, if it could be proved to me that it would be a stronger bill, and possibly it would be. I haven't -- truly I haven't -- thought that far ahead because when I put the bill in, it was pre-filed, with no thought whatsoever that the Governor would make this a headline situation by proposing it in his State of the State. I never expected that. There was no indication from the Governor's

office that, in fact, he would do that. So, it was pre-filed based on what I had been filing for the two previous sessions.

Now that we are talking about it, I would welcome the Committee making recommendations and suggestions, possibly with the other bills, such as Assemblyman Albohn's bill, and Assemblyman Brown's bill. Possibly the Committee could come up with a Committee Substitute, as we saw accomplished in the Department of Energy abolishment bill, which is also mine. I would have no problem with that. My basic purpose here is to have a Lieutenant Governor. The specifics on how he is chosen, or how she is chosen, and about the succession after the person becomes Governor, I think they can be worked out to the benefit and to the agreement of the Committee members, because without that kind of agreement, I cannot see this bill even passing the Assembly. I think it has to be a bipartisan bill.

Now, last year when Assemblyman Brown put his bill in, and I became a co-sponsor of his bill, I think we understood what occurred. I mean, at that time Assemblyman Brown was in the majority, and I thought there was a very good chance that maybe we could get some things moving. So, I became a co-sponsor, and now he will become a co-sponsor of mine, I am sure, because we are in the majority. But, you know, we can work that out. I have no problem with that.

But, I believe truly that to get this bill through this house -- meaning the Assembly -- and then into the Senate, it must be one of bipartisan approach. I would welcome Assemblyman Brown becoming the co-sponsor, along with Assemblyman Albohn, on a Committee Substitute, if the Committee so desired it, and maybe that is what will happen.

ASSEMBLYMAN ZIMMER: Are there any further questions?  
(negative response) Thank you very much.

ASSEMBLYMAN HAYTAIAN: Mr. Chairman, thank you very much. I truly appreciate the time.

ASSEMBLYMAN ZIMMER: Assemblyman Albohn?

A S S E M B L Y M A N   A R T H U R   R.   A L B O H N: Thank you very much, Mr. Chairman. My approach is somewhat different. I have had my bill in for a number of years, too, and this is the first time it has had the courtesy of a hearing, and I appreciate that very much.

The publicity headlines that our Majority Leader mentioned at the beginning of his comments have been substantial, it's true; however, they have not all been, let's say, adulatory of this particular type of legislation. The one headline reads: "Kean's Folly," and then it goes on to detail some of the problems with a Lieutenant Governor bill. Then another headline reads: "How About a Sergeant Major?" and that goes on in perhaps a more derisive vein as to the lack of need for a Lieutenant Governor.

ASSEMBLYMAN BOCCHINI: I didn't see that one; that's funny. (laughter).

ASSEMBLYMAN ALBOHN: The whole problem is-- Well, let me put it this way, I appreciate this opportunity. I am going to speak against the prior sponsor's proposal because I think it is simply an enlargement of the State bureaucracy, and it adds another Cabinet-level position to what I consider to be an already excessive number of agencies and executives that the taxpayers are required to support.

On top of that, the proposals for various forms of Lieutenant Governor arrangements seem to be complicated and confusing, even to this rather sophisticated group here. I can just about imagine how difficult it is going to be to have the citizens of the State understand all the ins and outs and ramifications of changes in office, departures from office, deaths in office, or things of that sort.

I also oppose the very concept of the title Lieutenant Governor because, to me, that amounts to an intimation of preordination of this person as the heir to the throne when the present Governor retires, resigns, leaves, or whatever.

Secondly -- or third or fourthly, I'm not sure now -- problems arise as to who chooses this Lieutenant Governor candidate and how he is chosen. Is it a back-room situation where the people are presented with a candidate for Lieutenant Governor? Just how is it arranged? It sounds to me as though it has a lot of flaws and a lot of faults, and very little in the way of admirable possibilities.

In the words of Shakespeare, really, it is "Much ado about nothing," since that is exactly what the Lieutenant Governor job entails. It is well-known that New York, for one, has a long-standing vacancy in that office. It's last occupant got so bored with the whole thing that he resigned, and he was so greatly missed that it has been a year now since he resigned and they have not replaced him, and apparently there will be no replacement until next November's election. What kind of a person will acquire the position at that time remains to be seen, but I think it is important to recognize that in New York, at least, the Lieutenant Governor's position is looked upon as a dead-end assignment for people, with no political future beyond that level, because you have never heard of any Lieutenant Governor in New York, except Cuomo -- I'll agree. (laughter) He is about the only one, but, let's see, who is the fellow who was Nelson Rockefeller's Lieutenant Governor?

ASSEMBLYMAN ZIMMER: Governor Malcolm Wilson was Lieutenant Governor under--

ASSEMBLYMAN ALBOHN: Who?

ASSEMBLYMAN ZIMMER: Governor Malcolm Wilson was Lieutenant Governor under Rockefeller.

ASSEMBLYMAN ALBOHN: Yes, and the State of New York dumped him at the next opportunity, right? He shadowed Nelson Rockefeller for 15 years as Lieutenant Governor.

ASSEMBLYMAN ZIMMER: He was an excellent Governor.

ASSEMBLYMAN ALBOHN: Well, I don't know him that well myself, but that is not the impression I get from what I read about him. We really--

ASSEMBLYMAN ZIMMER: He was a man who shared your philosophy in a lot of things, Art. (laughter)

ASSEMBLYMAN ALBOHN: On top of all that, you know, we really don't need a stand-in for the Governor. The Governor doesn't exactly complain about traveling around the State, or even around the country, and no Governor ever has. You know, it seems to be endemic to the position that when you become Governor, you do a lot of traveling, you do a lot of speaking. I guess that is something in connection -- if it is in your first term -- with your running again; and, in your second term, it may have some connection with some other political aspiration that some Governor or other might have.

The point is, if we want a stand-in for the Governor to go to ceremonies, and so on, we can go to one of the various theatrical agencies and get a look-alike for Tom Kean. You know, we have look-alikes for all sorts of other people and I'm sure we could find one who looked like our Governor, and people might not even know the difference and they could have a stand-in for the Governor there. (laughter) Wait a minute, that had sinister overtones there, and I didn't really mean it quite that way. But, after all, we have an actor in another prominent position; this might be another opportunity for another actor.

I agree that the present line of succession, in the case of the Governor's absence or demise, is totally inappropriate. At least in that regard, I agree with Assemblyman Brown and Assemblyman Haytaian. The President of the Senate and the Speaker of the Assembly can be, as they have been, of different parties and of different philosophies -- as well as political persuasions -- from the Governor. Under such circumstances, no Governor is going to give them much in the way of power, other than to sit in his chair, perhaps, while he's off on vacation, and that's about the limit of the duties they will be assigned. An elected or appointed Lieutenant Governor, in my estimation, will be a little different.

The bill I would offer as an alternative, ACR-41, would simply change the line of succession. In other words, I would insert the Secretary of State ahead of the Senate President or Speaker in line of succession, because as we seldom get past the first level in any kind of a succession, the advantages are that this person, who already -- in many instances -- substitutes for the Governor, is appointed by him and can be counted on to follow his leadership and his policies in a constructive fashion.

Furthermore, the Secretary of State already has a staff that is productively engaged in support of that office and its duties, and we would not need a new staff, new office space, a new limousine, a new helicopter, or a new whatever, in order to carry a Lieutenant Governor around the State while the Governor may be using his equipment for some other purpose. In other words, I see substantial savings to the taxpayer from simply rearranging the order of succession and putting the Secretary of State in there as the next person to support the -- or, to take the place of the Governor in his absence.

The Secretary of State, after all, is chosen by the Governor. He is approved by a vote of the full Senate. He has a full background check by the State Police, and this is more rigorous than any candidate for Governor or even Lieutenant Governor has to go through, not to mention one of 40 Senators who happens to have risen to the roster of the Senate and is now Senate President.

So, I think we are much better served by having a person who has undergone that kind of investigation become a temporary substitute for a Governor in the case of his incapability.

I urge you, save the public some money. Don't spend a lot of money on unnecessary trappings. Put a hold on further growth of our bureaucracy. Improve the line of succession over the present system, and release ACR-41 so that it may have a

floor vote and, perhaps, be presented to the people of the State on the ballot this year. Perhaps you can even, if you wish, make arrangements that the people of the State-- We heard a lot, a few minutes ago, from the Minority Leader how he wants the people of the State to have the voice. Perhaps you would like to put both questions on the ballot, and let the one that gets the most votes determine which situation should prevail, because I'm confident that, given the facts, the people of the State would choose a Secretary of State as the next person in the line of succession rather than have some person of questionable policies -- or whatever -- chosen in some questionable fashion become the next Governor, through whatever kind of a default may cause that to happen.

I appreciate your attention, and I would be delighted to answer any questions you might have, or to try to answer any questions you might have on the subject.

ASSEMBLYMAN ZIMMER: Assemblyman Albohn, I think some of your criticisms -- well, I think there may be more common ground between your proposal and Assemblyman Haytaian's proposal-- And you concede -- the criticisms that you make about an unnecessary bureaucracy, an unnecessary additional cabinet position, and an office with no function, really would be most apt in connection with a proposal to create a brand new office of Lieutenant Governor without having that office assume a current cabinet responsibility.

As I understand the spirit of Assemblyman Haytaian's proposal, it is to elect the person who will be -- do, essentially, the same job as the Secretary of State, but, in addition, stand in for the Governor as and when necessary. It seems to me that that proposal addressed your concerns, which are the concerns that are most often voiced about the Lieutenant Governor's position. Could you address that?

ASSEMBLYMAN ALBOHN: Well, one of my concerns there is that I think you have a better follow-up on the Governor's

philosophy by someone he has appointed than someone he has elected or chosen by one of a variety of processes. In other words, there have been suggestions that the runner-up in the gubernatorial primary should be the Lieutenant Governor candidate. Now, he might be the guy that has bucked horns the hardest with the Governor, you know, and that's not a very good idea either.

There have been suggestions that there be separate primaries for Lieutenant Governor and for Governor, and, here again, you talk about possible conflicts in philosophy even within the party.

Now, you also have -- as was mentioned -- the selection by the Governor himself -- well, that might be appropriate. But it certainly is -- I have some reservations about the propriety and desirability of that in view of the fact that the Secretary of State really serves at the pleasure of the Governor; the Lieutenant does not.

ASSEMBLYMAN HAYTAIAN: No.

ASSEMBLYMAN ALBOHN: He does not? I beg your pardon. I'm in error on that one then. But the Lieutenant Governor certainly would not be serving at the pleasure of the Governor, and I think there might be some problems there as well.

I would give Assemblyman Haytaian's bill further consideration because it was only in the past couple of weeks that I realized he was combining the two offices. But, as far as I've read, I still have these same basic concerns with a needless title and excessive cost, and the difficulty of having proper representation and follow-up on the Governor's policies.

ASSEMBLYMAN ZIMMER: I believe an underlying assumption of those who favor the election of Lieutenant Governor is that it provides the Lieutenant Governor with legitimacy, having been elected by the entire electorate. Now, currently the Governor is succeeded by somebody who's been elected by 1/40th of the electorate. You would have that

person succeeded by somebody who's selected by one person. You have confidence in the four-way check, and the other means of checking the Lieutenant Governor nominees, but I'm concerned by the fact that the Secretary of State has been in an office in past decades that has a great deal of scandal associated with it. In fact, we've had three Secretaries of State indicted. I think that's an indoor record, and I wonder whether we could do any worse with an election process.

ASSEMBLYMAN ALBOHN: Well, I don't know. We've had people at every level of government indicted and removed from office, and I think it's one of the risks.

Take New York City, it seems to be running rampant over there right now. They're all elected -- well, not all of them are elected officials; a good number of them are. A number of them, it's true, are appointed by the-- Let's say Borough Presidents are elected over there, I guess, too. So, you know, you have a lot of problems with those.

So, the election itself does not guarantee anything, and I sometimes feel that an appointment is, in some ways, safer, because the person who makes the appointment has reflected upon him any evils of the person who he appoints; whereas, if that person is elected, the Governor can say: "Gee, I don't know, you folks out there, you sure made a terrible mistake in electing that fellow Lieutenant Governor."

I don't know. There are pluses and minuses to both cases. I think that there's little need, though, for the kind of confusion that I see coming around from the Lieutenant Governor approach, as compared to a simple change in the order of appointment, because the Secretary of State is in line right now, as I recollect, right after the Lieutenant Governor -- right after the Speaker and the Senate President, or in reverse order. So, it's simply moving the Secretary of State up, ahead of two elected officials, and keeping the rest of the sequence exactly the same.

ASSEMBLYMAN ZIMMER: I do believe that there is some common ground, and you might find more. I would urge that you--

ASSEMBLYMAN ALBOHN: We'll look for it.

ASSEMBLYMAN ZIMMER: I would urge that you confer with Assemblyman Haytaian and Assemblyman Martin as far as trying to address your concerns, which I understand are sincere and well-founded in many respects. I think we might be able to allay your worst fears.

ASSEMBLYMAN ALBOHN: Well, I'd be delighted to, really, if you could combine the best features of all three bills and perhaps come up with an Assembly Committee Substitute that could not only be bipartisan politically, but bipartisan philosophically. So, I'd be happy to join in that kind of an effort.

ASSEMBLYMAN ZIMMER: Okay. Any further questions? Bob?

ASSEMBLYMAN MARTIN: Just a comment. You know if you put-- If you look at the Majority Leader's bill, and perhaps combine the suggestions I made before about, particularly, the manner in which the selection was made, the only thing I find of probably the most concern that I've heard you say today is that you don't like the name Lieutenant Governor because it seems to create an heir apparent.

What Assemblyman Haytaian has really proposed is, it strikes me, very much similar to what you've suggested, other than the title. And I think with the proposal that I've suggested, as far as -- and even to a certain extent what he suggested-- He suggested an election; I suggested a nomination by the Governor which would be confirmed by his party. That tends to give a little more legitimacy, it seems to me, to the person who's going to be Lieutenant Governor. I mean, this person, although he's more than a cabinet person because he is the person who would assume the position of Governor-- I think that person should have a little more of a public airing,

in some form, than simply just being appointed by the Governor, like every other cabinet member.

ASSEMBLYMAN ALBOHN: Well, it's something to consider, certainly. I appreciate your input. Thank you very much, gentlemen.

ASSEMBLYMAN ZIMMER: Are there any other questions? (no questions) Okay. Thank you.

Assemblyman Brown?

A S S E M B L Y M A N W I L L I E B. B R O W N: I'd like to say good morning to all the members, and, Mr. Chairman, you are to be commended for addressing, and having the bill heard. It appears that all the comments and amendments seem to describe my bill identically, so I'll be glad to accept some amendments based on-- Since Mr. Albohn said the Minority Leader, I always respected him as the Majority Leader. I was wondering how he got his bill up. Mine is ACR-10 and his is 16, and Albohn's was four-to-one, so maybe they did it alphabetically. But then, Haytaian didn't come before Brown, but Albohn did, so we'll be glad to consider all the different considerations.

Let me just say I appreciate the opportunity to address this Committee regarding my proposal to elect a Lieutenant Governor. ACR-10 is one component of a package of electoral reforms I've sponsored which I believe will give the electorate -- among other things -- the opportunity to become acquainted with candidates and office-holders of statewide stature.

My other proposal calls-- My other proposals call for the election of a State Secretary of State, the Attorney General and the county prosecutors and judges, with exceptions to the Supreme Court. Currently, there are only three statewide positions which New Jerseyans are able to vote on; that is, the Governor every four years, and two United States Senators, elected for six-year terms. I can think of no other

state that is limited to just three statewide elected officials.

One of New Jersey's basic political problems is our inability to nurture viable statewide candidates. We shouldn't confuse viable with credible. Many people are credible, based on intelligence, experience, and potential public personality. But, you have to take into consideration almost no one is viable, because in New Jersey the politicians have virtually no real opportunity for mass public exposure. We have regional candidates by way of North Jersey/New York media, and South Jersey/Philadelphia media, but no statewide media.

Another reason for a Lieutenant Governor is, it would allow for an orderly succession, as was pointed out earlier, to replace the Governor if he leaves office, if he becomes incapacitated, or if he leaves the State. What would happen if Governor Kean left office, or became incapacitated when he leaves the State? Senate President Russo is acting Governor. There have not been any problems of which I am aware when the Governor has left the State and the Senate President has been acting Governor, but it could be a problem, and I think that was pointed out earlier.

The acting Governor could veto bills that the Governor wanted signed, or sign other bills he wanted to veto. A Lieutenant Governor could do the same thing; however, the chances of that occurring, I think, would not be that great.

An important function of any elected official is ceremonial, such as presenting resolutions, attending openings, giving welcoming remarks, etc. Everyone wants the Governor of the State to attend his or her event. The Governor cannot. With a Lieutenant Governor representing the Governor, the Governor could be free to attend other functions or duties of his or her position.

Allowing the election of statewide candidates depends on how elected. The position of Lieutenant Governor might compel party leaders to seek a balanced ticket -- for

example, geographical considerations: North Jersey Governor, South Jersey Lieutenant Governor; woman Governor, man Lieutenant Governor; black Governor, white Lieutenant Governor, Jewish Governor, Catholic Lieutenant Governor; urban Governor, rural Lieutenant Governor, or vice versa; conservative Governor, liberal Lieutenant Governor. Those are areas that could be selected through the nominee process which is proposed in my bill.

Mr. Chairman and members of the Committee, I would be the first to admit that my proposal will not directly improve the governmental process. However, it would improve the political process which, in turn, would improve -- in the long run -- statewide government. So, based on that, I think ACR-10 is very significant, and it's something we should take under consideration.

Let me just make a couple of more observations that I think are very significant in my bill, that are unique to some of the other proposals. My proposal would allow the nominee -- and I think that was expressed in some of the concerns on the Committee -- in a primary, to select the candidate to run with the Governor in the general election, which is the same process that we have as we do the Presidential election, where we have the Vice President selected by the nominee.

What it would also do is, it would allow that person -- as was pointed out earlier -- to get exposure to-- The public would feel that they've had some input in that election process because the nominee would have to be very careful in selecting his running mate to make sure, number one, that that candidate would be accepted by the majority of the people, which would also depend upon that individual's election. So, both individuals would be elected, and selected, by the people, to a certain degree, and they would have to go through a certain scrutiny as it relates to being electable.

The other point is, when you look at it, as opposed to

having candidates running in a primary, you eliminate the problem as it deals with campaign funding -- the funds that are involved. In a primary, you'd have all the Lieutenant Governor candidates qualifying for public funds, and it would probably cost taxpayers an additional amount of money. This process would not have to worry about that problem. The nominee, at that point, would only deal with the general election, so it would eliminate 50 candidates filing for Lieutenant Governor, as we've seen it to be a problem in some of the elections as it relates to that concept.

So, I think those are some of the key things. I think the current Governor last year -- we had some other major problems, and this was one reason that the majority now is getting down to this particular significant problem to resolve. But, I do know we had bipartisan support on my concept, including the Governor's office. And I think the current Attorney General's office, Cary Edwards', supported it, along with the Majority Leader, Haytaian's, now supports the concept. I think the concept is probably the most "doable" and the most practical one to accept in the first introduction of a Lieutenant Governor in the State. There are probably only eight other states in the country that are without a Lieutenant Governor, just to dispel some of the other problems that people pointed out -- that a Lieutenant Governor would have.

I'm open also, as are the other sponsors, to a compromise. I'm not locked in totally. One objection I probably would have is one that was raised by one of the Committee members, Assemblyman Martin -- the two-year term for Lieutenant Governor. I'm not sure if that would solve a problem, or address what we're really -- the intent of a Lieutenant Governor. I'm not sure if that's a positive concept. I haven't, you know, analyzed it yet, but I think that could be a problem because then you'd get back into the

Governor selection process, and you'd have to deal with the election. Would that person go back to another election? So, we're talking about an additional election, which is an additional cost with that. The public funding issue comes back up again. So, I'm not sure. Maybe we could just address that -- you know, the purpose of that two-year. I wasn't clear on it.

ASSEMBLYMAN MARTIN: My concern was, if for some reason -- if God forbid -- the Governor was newly in office and left for whatever reason, you might have this Lieutenant Governor -- especially in a nomination process -- serving virtually three and one-half years, and had never been elected by the public to serve that office. I think that's a feature that I don't like in our presidential system. I know when I vote for President, my overriding concern is who the President is, with very little regard for Vice President, and, yet, a Vice President could theoretically serve longer than the person you elected and, in fact, has in some instances.

ASSEMBLYMAN BROWN: Yes. Well, I can understand that concern. I think we probably can just talk about the election of a Governor -- or the reelection of a Governor, in case that occurs, rather than just limiting the Lieutenant Governor to a two-year term. I think that could be corrected. You know, the language could be worked out, accomplish the same thing, and still have a four-year term Lieutenant Governor. And even, maybe, we could look at the language where, if that Governor had to run -- in case something actually happened -- then the two should probably do the whole cycle over again if the Governor was deceased or something unfortunate--

ASSEMBLYMAN MARTIN: I mentioned the two-year cycle because we have statewide State elections every two years.

ASSEMBLYMAN BROWN: Well, I can see the two -- yeah, I could see the two-year cycle.

ASSEMBLYMAN MARTIN: So, we have a -- you know, we have a mechanism in place for State elections.

ASSEMBLYMAN BROWN: I could support the concept as it relates to the next two-year period. Then the election, or reelection, should take place, but I think it should include both rather than just-- What I understood you to say is, if it is a two-year term, then every two years the Lieutenant Governor would have to run. If it says-- One, if-- You know, in case the Governor expires, is that it?

ASSEMBLYMAN MARTIN: Yes.

ASSEMBLYMAN BROWN: Well, okay. I could support that then, yeah.

ASSEMBLYMAN ZIMMER: Assemblyman, there's one difference between your bill and the Resolution and Assemblyman Haytaian's Resolution that you didn't address. Your proposal would have the Lieutenant Governor simply be the executive assistant to the Governor without any cabinet responsibilities, is that correct?

ASSEMBLYMAN BROWN: That's correct.

ASSEMBLYMAN ZIMMER: Could you address that, because that, I think-- You've heard criticisms of that concept, and I'd like you to address those criticisms.

ASSEMBLYMAN BROWN: Well, I don't know if they were criticisms of just observations. I think that there are two concepts, and in any observation-- I think the Majority Leader pointed out, and the Secretary of State -- the current Secretary of State -- pointed out that they have a lot of work to do as it is as Secretary of State. Now, if you tied the two in, I'm not sure it would accomplish the same thing. And, I wouldn't want to suggest that the Secretary of State is a part-time job, and I think the Governor's office is like a job and a half with the responsibilities.

My concerns-- The purpose, I think, of a Lieutenant Governor -- or one of the purposes -- should be to free the Governor up to concentrate on more serious, major problems, as it relates to a lot of ceremonial type issues, and I think that

the Secretary of State's job is pretty well full-time, and I think they are pretty well taxed already.

I'm not locked in. If someone knows the role of the Secretary of State better than I, I'm open for discussion as it relates to their having the time to do the job as a Lieutenant Governor. I just see that the role being dual -- I mean enough for two people -- without having to address the Secretary of State's responsibility. But, also, that's another reason why we could talk about an elected Secretary of State. You know. And, I'm not sure that we need a bureaucracy, as has been pointed out. Someone may have been critical. I'm sure there's enough existing staff. We can look at the Governor's staff, and we could go back, and I'm not sure the bureaucracy will stop, one way or the other.

I recall I came to the Legislature in 1973 and the budget was \$2.8 billion. Today it's \$9 billion without a Lieutenant Governor. I'm sure the employees have increased, so -- you know -- that, to me, is not necessarily a good argument. I think a Lieutenant Governor could have a very small staff and probably use the same staff as the Governor. They're both working on the same issues, the same problems, the same concept. That's why I think the Governor should select the person also. You'd get away from the political fights that you could have two opposite parties, and those issues.

ASSEMBLYMAN ZIMMER: One final question: You pointed out that you believe that there should be more elected officials, statewide. This hearing does have under consideration ACR-1 and ACR-2, which would elect the Attorney General and a State Comptroller, respectively. Do you support the concept?

ASSEMBLYMAN BROWN: I would support the concept. I guess you looked at some of my bills. I'm glad to know that you've gotten the wisdom to follow, as the majority--

ASSEMBLYMAN ZIMMER: Well, I believe that an

Assemblyman, named Tom Kean, introduced both of them a while back.

ASSEMBLYMAN BROWN: Well, Tom served with me in the Legislature. I think that's why he supports a lot of my-- (laughter) But, I would support that. I think it's good. I think we need a cross section of representation. I think the input would give us more of a balance, you know, in the whole statewide-- And I think the citizens would be served better.

ASSEMBLYMAN ZIMMER: Thank you. Joe?

ASSEMBLYMAN CHARLES: No.

ASSEMBLYMAN ZIMMER: Bob?

ASSEMBLYMAN MARTIN: No.

ASSEMBLYMAN ZIMMER: Thank you very much.

ASSEMBLYMAN BROWN: Thank you.

ASSEMBLYMAN ZIMMER: Ed McCool, New Jersey Common Cause.

E D Mc C O O L: Thank you, Mr. Chairman. The Committee has-- I gave to staff a copy of a report, a study that Common Cause had done back in 1982, which was a survey of those states which have offices of Lieutenant Governor, or something to the equivalent. Surveys were mailed to the Governors of those states, people who occupied the elected office of succession, and members of the Senate, since that was the most common chamber involved in succession.

I'd like to point out initially that New Jersey is only one of five states that does not have a Lieutenant Governor, or a statewide elected official next in line for succession to the Governor's office; and New Jersey is only one of four states that has only one statewide elected state official. The others are Maine, New Hampshire, and Tennessee.

Assemblyman Charles, in answer to your questions earlier about what some of the experiences of the other states are, it might be helpful to refer to the report briefly. The report was done in cooperation with the Council of Lieutenant

Governors, and in there they identified, essentially, four types of models for Lieutenant Governor: One being the Executive Plan, in which the -- which demands a close working relationship between the Governor and Lieutenant Governor. Most of his or her time is devoted to areas and assignments specifically given by the Governor.

Typically, under this plan the Lieutenant Governor is a cabinet member who presides over the cabinet in the Governor's absence. They also usually serve on various councils, and interstate commissions, and the like.

One of the things in this, because of the close relationship between the Governor and the Lieutenant Governor, functioning as an executive assistant, is that in almost all cases the Governor selects the Lieutenant Governor.

Another model, on page four, is something called the Administrative Plan, which we've heard some discussion of, in which the Lieutenant Governor serves as -- not only in the line of succession but also performs many of the functions done, ordinarily, by the Secretary of State. The interesting thing here is that in those states that have this type of process, the Lieutenant Governor is viewed as not totally dependent on the Governor and, consequently, is independently nominated and elected.

The states that have had the most difficulty in terms of the survey -- that reacted most negatively to the concept -- were those states where the Lieutenant Governor was of one party and the Governor was of another, or, barring that, where they were at least political opponents.

A third concept is a Legislative Plan, in which the Lieutenant Governor has a very powerful role with the Legislature, acting as a tie-breaker in the Senate, and that is common in states which have a weak executive, as well as a single party domination. And I think that something to bear in mind is the type of political climate -- traditional

political climate -- that New Jersey has as a factor in what type of Lieutenant Governor model it wishes to adopt, or what type of hybrid model it wishes to evolve.

The Executive seems to be best suited, according to the Council of Lieutenant Governors, in those states which have a constitutionally strong executive and a viable two-party system. And, in contrast to that, I would suggest the Legislative Plan, where you might have single-party states in the South -- some sections of the South, still -- and weak executives.

ASSEMBLYMAN MARTIN: Excuse me. Right now, if you considered the President of the Senate as your Lieutenant Governor -- at least for that -- we would then have that legislative model, in some respects, right now, because that's the line of succession we have.

MR. McCOOL: In that sense, except that they're not elected. I mean in this case-- What we're talking here under the Legislative Plan is this would be also someone who's elected as Lieutenant Governor, but the Lieutenant Governor functions include presiding over the Senate.

ASSEMBLYMAN BROWN: Like the Vice President.

MR. McCOOL: Yes. It is very similar to that.

The third is what's called the Traditional Plan, which while looking at the study kind of strikes me as something -- all the other things they couldn't describe and put in one of the three above, and it's also, obviously, one of the most used. It's in 23 states. It also seems to be the one, based on the survey, that got, generally, the lowest grades simply because it is the least defined. The relationships varied so much, that trying to elicit just what individuals in those states felt were the most important roles varied greatly.

On page eight, the paragraph says, "Governors and Senators seem less happy with the Lieutenant Governorship in this model than in any of the other three. They were

especially unhappy in cases where the Governor and Lieutenant Governor were of different parties. None of the traditional L.G.s are elected as part of a team with the Governor in the primaries, and 10 out of the 24 run as a team in the general election." So, again, we see in the traditional-- It's an independent -- politically independent -- office, and in many of those states that have latched onto this, it's not been entirely satisfactory -- depending on who you talk to.

We would just like to make several points. In addition to the obvious need, we feel, to establish an office of Lieutenant Governor to succeed the Governor in the event of an emergency or a vacancy, we feel that the Lieutenant Governor should be selected by the winner of the gubernatorial primary. We also feel that the Lieutenant Governor and the Governor should run as a ticket in the general election, to be selected by a single vote by the voter. And, third, we feel that the duties and responsibilities of the Lieutenant Governor be substantive and provide the Lieutenant Governor with the sense of the direction of the administration and the scope of the responsibilities of Governor.

We too are concerned that an additional patronage office not be created solely for the convenience and political career of someone who might be occupying it, that it have definite, real functions.

At the same time, we're concerned that the Secretary of State's office is a substantive one, and how much attention can be spent to an adequate administration of a key office that oversees our elections and the issuing of ballots and the like, and, at the same time, being, basically, understudy to the Governor, aware of major policy directions, representing the Governor at many ceremonial functions, and be prepared to step in and continue the flow of that administration as much as possible, when needed? They seem to be potentially conflicting situations. As a result of that, we're still investigating it

organizationally, so we have not endorsed any of the bills presently before the Committee.

We have endorsed those three concepts though: That they be appointed by the nominee who wins the gubernatorial nomination, that they run together as a ticket, and that whatever duties evolved, they be very specific and very real, with the main objective in mind that those duties enhance the learning of the office and keeping abreast of wh the administration is about.

ASSEMBLYMAN BROWN: Which is exactly what my bill does. I don't know if you read it.

MR. McCOOL: Okay. We have read your bill, yes. Thank you. Any questions?

ASSEMBLYMAN ZIMMER: Thank you. You indicated in your earlier remarks that the Executive Plan might be best suited for New Jersey -- New Jersey's particular circumstances. What concerns me about the Executive Plan is the possibility that the Lieutenant Governor could be frozen out of the process and sent to political Siberia, so to speak, by a Governor with whom he does not get along.

The New York situation is apt here, I believe, because Cuomo did that to his Lieutenant Governor, and he had that done to him by Governor Cary before him.

MR. McCOOL: It's like Lieutenant Governor abuse. (laughter)

ASSEMBLYMAN ZIMMER: Yes. How, with the Executive Plan, would you make sure that the person who is next in line to become Governor have the kind of responsibilities that prepares that person to assume the office, both substantively and in terms of access to the policy of the State?

MR. McCOOL: I don't-- I mean, that's the dilemma we faced in the Steering Committee, discussing this. I don't know. Thinking off the top of my head, could we constitutionally identify what the main function of the

Lieutenant Governor is? You know, could we word it in such a way that he doesn't wind up dying on a diet of mashed potatoes, peas, and rubber chicken at dinners, but, rather, is entitled, constitutionally, to periodic briefings, whose presence is required, and who maybe has a vote at cabinet meetings and the like, and actually spell out some of those? I mean, a chief executive would have ideas about the best way to break in a Lieutenant Governor -- I mean, to keep them abreast. I'm not aware of all the activities a Governor would be involved in today, but having identified them, couldn't we institutionalize some of them in the language of the office so that when it is constitutionally created, the key elements of some of those duties are embodied in the definition of that office? After that it's up to the integrity of--

That should be an issue, by the way. It always is with-- I was going to say it should be an issue in the election, "How well will you use your Lieutenant Governor?" But, God, how many times have we seen Presidential elections where, "This will not be a lost Vice President?" Right? And then nobody knows who it is. But, I guess there's only so far we can go, unless we want to make a cabinet department as well, and give it all those responsibilities.

ASSEMBLYMAN ZIMMER: Any questions, Joe?

ASSEMBLYMAN CHARLES: Yeah. Do you have a position on how long a Lieutenant Governor should serve as the Governor once he succeeds? Should it be limited to two years -- to a maximum period -- or should he be permitted to serve out the unexpired term, however long that is?

MR. McCOOL: No, we don't have a position on that. My own reaction to that would be, if they're elected, then there would seem to be some line of reasoning that they should be entitled to serve out the term.

ASSEMBLYMAN ZIMMER: Bob?

ASSEMBLYMAN MARTIN: No.

ASSEMBLYMAN ZIMMER: Thank you.

ASSEMBLYMAN HAYTAIAN: Mr. Chairman, may I take the prerogative, if you'll allow me, to bring up some points, since we've heard a number of points? Back in '82--

ASSEMBLYMAN ZIMMER: Do you want Ed to stay with you?

ASSEMBLYMAN HAYTAIAN: Yeah, maybe Ed can stay here. Common Cause put out an editorial supporting my bill, except for -- and I'll read the concluding paragraph: "At the June Steering Committee meeting, Common Cause voted to support ACR-32" -- which has not changed -- "except for the provisions requiring the Governor and the Lieutenant Governor to run separately in the primary." And at that time they indicated it was a good idea to have the Secretary of State and Lieutenant Governor be the position so that we would not create the bureaucracy.

In turn, I also have editorial comment from The Star Ledger, supporting that position on September 5, 1982, and editorial comment from The Daily Advance in our area of the State, supporting the ACR-32. I guess the question is, and I--

ASSEMBLYMAN ZIMMER: I believe WOR-TV also endorsed it.

ASSEMBLYMAN HAYTAIAN: Yeah, WOR-TV. I have that also. But, I guess the question is, has the position of Common Cause changed, in that that was the only provision they disagreed with in my bill? And I would have expected them to be in the same position, unless something has changed in the interim, other than executive directors.

ASSEMBLYMAN BROWN: Mr. Chairman, if I may interrupt, maybe it's probably because they had not read my bill. (laughter)

ASSEMBLYMAN ZIMMER: You don't give up, Willie. Mr. McCool?

MR. MCCOOL: Assemblyman, what changed is the Steering Committee. Common Cause is not a static organization. Its members are active and on a rotating basis, and the Steering

Committee, in reviewing both Assemblyman Brown's bill and yours -- various members of the Committee raised the legitimate arguments that can be raised on both sides of that argument. Some remembered that position and felt that there's not much to the Secretary of State's office, so much so that a Lieutenant Governor could function that way.

Others raised concern, based on some of the material that Secretary of State Burgio had provided back then, that there was substantive work to be done as Secretary of State, and why distract someone who's supposed to stay on top of where the Chief Executive is going, with, also, the charge of administering a department? Isn't that relegating that department to a second-class function? And because we couldn't resolve it this time-- And the reason is because our Steering Committee is viable and changing.

ASSEMBLYMAN HAYTAIAN: All right. But, I think to conclude, possibly -- and I'm not sure if there are other people who want to speak -- Common Cause is of the opinion that a Lieutenant Governor's position is needed in the State of New Jersey?

MR. McCOOL: Absolutely.

ASSEMBLYMAN HAYTAIAN: All right.

MR. McCOOL: And also that they should be -- the Lieutenant Governor should be selected by the winner of the primary.

ASSEMBLYMAN HAYTAIAN: And I think we could work out the details with a committee substitute. I'm hoping that we can do that.

ASSEMBLYMAN MARTIN: I have a-- It seems to me that you're creating something of an inconsistency, in that you suggested that if the duties are executive -- or duties which are specific but assigned by the Governor, but are within his parameters, as opposed to a separate cabinet position -- the Governor, by expanding or extracting those, can create

Lieutenant Governor abuse. He can have positions of responsibility in his office, but by narrowing them, that Lieutenant Governor winds up with very little to do, or ignoring them as long as they're within his executive domain. But if you have a separate cabinet position, the Governor would not be able to diminish the role of the function, let's say with elections or whatever the other responsibilities of the Secretary.

MR. McCOOL: I agree with that, but then the next question is, what do those functions have to do with being an adequate successor to the Governor? In other words, you might be, constitutionally, totally entitled to be the most active Secretary of State that's ever existed, but that may not prepare you for the policies and directions that you're supposed to assume in the event of a vacancy.

ASSEMBLYMAN MARTIN: Except that in any cabinet position, since the Governor, by definition, has supervisory responsibility over each cabinet position, one has to thereby assume that those positions have an -- you know, an executive function.

MR. McCOOL: Yeah. It certainly gives them something to do. Our concern is that that something they're doing be directly related to the main purpose of the Lieutenant Governor's office, and that is to be, in effect, the understudy of the Governor, to be aware of the direction of the administration and the policies that need to be implemented.

ASSEMBLYMAN HAYTAIAN: Mr. Chairman, I would also like to bring to the attention of Assemblyman Albohn and his presentation -- remember two former Secretaries of States who could have become Governor under his proposition, and that is Ed Crabel, who had many problems with his Governor, and Don Lan who had many problems with the same Governor. And if that occurred, it would be like, quite frankly, having a person of another party assume the position of Governor, if, in fact, the Secretary of State just got in line in succession. Thank you.

ASSEMBLYMAN ALBOHN: Mr. Chairman, if I may just respond to that-- I think--

ASSEMBLYMAN ZIMMER: Sure. Come on up and talk into the mike so you'll be a part of the record.

ASSEMBLYMAN ALBOHN: If my bill had been in effect at the time Mr. Crabiel was in office, the chances are that the Governor would never have appointed him as Secretary of State. (laughter)

ASSEMBLYMAN ZIMMER: With that, I think we should invite a representative of the Office of Secretary of State to address this. Charles Hager?

C H A R L E S C. H A G E R: Chairman Zimmer and members of the Committee, I want to thank you for the opportunity to appear before you today. I also want to extend the apology of the Secretary of State and the Assistant Secretary of State. Both had prior commitments. They both did indeed want to be here today, but unfortunately-- However, the Secretary of State did put together some testimony for the Committee. I'd like to read that testimony.

Basically, there seems to be general agreement between the Secretary, and also, all of those who have spoken thus far this morning in reference to the need of the office of Lieutenant Governor in the State of New Jersey. First, the establishing of the office of Lieutenant Governor of New Jersey will reinforce the integrity of separation of powers in New Jersey. The immediate successor to our Chief Executive should be someone within the Executive branch of government. As you know, the current Constitutional scheme lists temporary executive control with the legislative leadership in our State whenever the chief executive is not within New Jersey, or is disabled.

Such leadership is undoubtedly capable of fulfilling such an assignment, but it does pose certain problems. An individual who may have formulated legislation and pushed for

its passage in the Legislature may, in turn, then be reviewing that particular piece of legislation, and signing that particular bill into law.

Second, having a Lieutenant Governor may foster continuation of the various policy objectives of the Governor. I think we've heard very eloquent testimony thus far today in reference to the need of continuity of office, and not have a major upheaval in the mid-term period, with the new appointees being placed in key positions, that there may be a fluctuation of party affiliation of the particular individual serving as Governor, or simply a different ideological outlook between the Governor and the individual who would be succeeding that particular chief executive.

Our general support, however, of the establishment of the office of Lieutenant Governor does have to be conditioned. First, we firmly feel that the Lieutenant Governor should not be independently elected from a gubernatorial candidate. Such a system would -- could result in a candidate of each of the major parties filling one of the offices. This would address our basic concern of enhancing the integrity of separation of powers, but it would not foster our equally ardent desire to have an interim successor who would continue striving for the basic goals of the incumbent being replaced.

Second, we firmly feel that even a conjointly and concurrently elected Lieutenant Governor should not, by law, automatically assume control of one of the existing departments of our State government. During the last five years, this Legislature has generously supported the Department of State, making it a bastion of the arts, culture, and history in our great State. This role, combined with the long-existing commercial recording responsibilities of the Department, make it imperative that the leader of the Department be well-versed and capable of performing these important functions.

We're all too aware of political reality. The

selection of the gubernatorial candidate's running mate may not always be based upon that individual's ability to administer a particular department. Geographic balance, ethnic balance, racial balance, gender balance, and socioeconomic balance are all important concerns when formulating a political slate. To automatically make a person so selected the Secretary of State would be devastating to our Department's functions.

This also applies to automatically making the Lieutenant Governor the head of any particular department within State government. The Commissioners of Health, Insurance, Banking and Services, etcetera, all have specific duties to carry out for the people of the State. These duties warrant appointment of individuals with specific qualifications. Instead of naming by statute a particular department for a Lieutenant Governor to head, perhaps the Department should be named by the Governor. This will allow the chief executive to appoint -- put the Lieutenant Governor in a position where he's best able to serve. If the individual has a particular background in environmental issues, perhaps DEP would be the best place for that Lieutenant Governor to be serving within the cabinet. This would address Assemblyman Albohn's concerns about not adding to the bureaucracy, and not increasing the size of our State government. But in the same token, it would be allowing the Governor to place the Lieutenant Governor in the Department, where that person's vitae would best suggest him serving.

On this basis, we cannot support the eloquent proposal of Assemblyman Haytaian set forth in Assembly Concurrent Resolution Number 16, in its current form. The Committee thus far seems to be addressing putting together a Committee substitute, and I think that may be the best way to proceed here, taking the best parts of the various proposals before us.

The Office doesn't have any particular position as to whether we go with the conjointly elected gubernatorial

candidate or a line of succession to be established within the Executive branch, simply by having various individuals appointed by the Governor succeeding that Governor in case a vacancy occurs in the position. We do, though, have to comment that we find the proposal of Assemblyman Albohn most flattering. Thank you.

ASSEMBLYMAN ZIMMER: Thank you. Any questions? (no response) Thank you very much.

At this point, I'd like to invite Donald Belsole, First Assistant Attorney General, to speak.

D O N A L D B E L S O L E: Good morning, and thank you for allowing me a couple minutes -- and I will only be a couple of minutes. I'm not going to read anything to you; I'd like to advise you that sometime today, a statement from the Attorney General on this ACR-1 will be delivered here.

I have one thing I want to say, and that's why I asked to testify. Although I understand the rationale and the motivation behind the bill that would allow for a Constitutional amendment to elect an Attorney General -- and I appreciate that -- I think it would be a very big mistake to go that route. My opinion is based upon the following: I have been in this system for about 20 years, on both sides of the aisle -- defense attorney and prosecutor. I've served under two attorneys general, Kimmelman and present Attorney General Edwards.

In a real sense, I served under Kugler many years ago, when I was a prosecutor. You should understand -- I'm sure you do -- that nobody, nobody in this country has a better system than we have in New Jersey, and I don't say that in a patronizing way; it's a fact. We have the strongest Attorney General there is in the United States. We have an Attorney General who has a line of command and a chain of command right through the State Police, Division of Criminal Justice; every prosecutor -- 21 prosecutors -- down to the police officer on

the street. He exercises this authority in an apolitical way. Since Kugler, right up through Edwards, that's the way the office functions. That's its reputation. To have an elected Attorney General, in my opinion -- this is my personal opinion -- would politicize an office that we cannot afford to politicize. If your concern is the independence of the Attorney General, I assure you, in the 20 years that I have been watching the system -- the criminal justice system -- the Attorney General is independent. He is a Constitutional officer. He serves for four years, not at the pleasure of the Governor.

Gentlemen, I would hate to see the day when we have an Attorney General who runs for office and requires a constituency, because the constituency of the Attorney General ought to be the State -- everyone in this State. A person who has to go out and raise money to run -- and that's a necessity of running for office-- I don't think we want the chief law enforcement of this State having to go out and solicit money in order to run.

Also, I don't think we want an Attorney General who spans a couple of years in office, and then gets ready to run again. From personal experience, it is a most demanding job, requiring all of his energy and all of his time. I daresay, if you get on the phone at 10 o'clock at night and call the AG's office, you're going to find him there and you're going to find me there, and a lot of our staff people. It's a 15 hour a day job, if you're going to do it right.

I don't think we want to see a day when we want to have an Attorney General start to run in his second year, and have two agendas. More importantly, I don't think the system of law enforcement people -- the cop on the beat, the prosecutor, and everyone in-between, the Attorney General -- would be able to understand it in a professional sense, in a very real sense, the politics being associated with the

Attorney General's office. And so, I applaud, in one sense, the motivation into making it independent and unfettered. On the other side of the coin, I believe this particular bill would not accomplish that; and I live with a very pragmatic philosophy, which is, you don't fix what ain't broke. This system isn't broke; this system flourishes. Now, I've been around many states, and I've seen their systems, and I'd hate to see us wind up -- in New Jersey -- with an elected Attorney General fighting with the Governor, or trying to garner votes, and then lead into electing judges and prosecutors and things of that nature. It just doesn't belong in that process.

Thank you.

ASSEMBLYMAN ZIMMER: Thank you. The-- You mentioned Attorney General Kugler, and any discussion of this office rightfully does, because he established an excellent tradition of putting the Department above politics. However, there's nothing in the State Constitution or State statutes that requires that the appointees of the Attorney General be non-partisan. They're not covered by Civil Service, with very few exceptions; and we've been fortunate, since the time of Mr. Kugler, to have this tradition, but what -- from an institutional point of view, what is to prevent us from returning to a politics as usual system without a Constitutional amendment?

MR. BELSOLE: I think, tradition -- and that's not a really good answer, I guess. I can tell you now, when you walk into that office, you don't know much about it, but it only takes you about three, four, five months before you start being motivated and move by the tradition of the office started by Kugler and all the way up through all the attorneys general in-between. The-- Very rarely, if ever, is anyone asked his political affiliation. When I was hired by Kimmelman -- whether you believe this or not -- we talked for three and a half hours in an interview. He never asked me my political

background, and I was being hired as Director of Division of Criminal Justice.

We-- It's just the way the office-- It's hard to say this, I can't be objective; I'm in the office. I've only been there three and a half years; I'm not whetted to it. It works, and the reason is -- I think it's tradition. There's professionals in that office who were there before I arrive and who will be there after I leave and after Edwards leaves, that make the place run; they make decisions based upon the legal principles involved -- what's right -- the ethics involved, the morality involved, and very rarely, if ever, the political impact. It just happens, and maybe it's magic in New Jersey, I don't know. But over the-- We're talking quite a period of time now; we're going back to the early 70s, and we're talking about 1986 now. The Kugler tradition was carried on by Hyland, Degnan, Zazzali, Kimmelman; and I see no reason why it won't be carried on into the future.

We always have, obviously, impeachment; we have advise and consent -- before he's appointed-- I just don't see the requirement for this Constitutional amendment.

ASSEMBLYMAN ZIMMER: You deal with a number of other attorneys general offices around the country. Are there not some elected attorneys general who maintain the kind of non-political office that we have in New Jersey?

MR. BELSOLE: Yes. However, I don't think you can find an Attorney General in the United States who has the power this Attorney General has. The fact that he has the State Police within his jurisdiction is something that, when I tell other attorneys general, or first assistants or assistant attorneys general, they can't believe it. The fact that he has original jurisdiction -- criminal jurisdiction -- like in New York, that Attorney General doesn't have it. This Attorney General has access to a grand jury -- original criminal jurisdiction, civil jurisdiction. He has jurisdiction over

civil rights. It's the most unbelievable power to be given to one particular office, but it has worked. I'm not too sure, if you had that type of power in another attorney general in another state who was elected, you'd feel that comfortable with the process.

ASSEMBLYMAN ZIMMER: You had said that the Attorney General has a line of command that goes right through the county prosecutors. I checked the statute on this. There's no-- He doesn't supervise the prosecutors--

MR. BELSOLE: Yes, he does. It's the Criminal Justice Act. You have to look at the Criminal Justice Act--

ASSEMBLYMAN ZIMMER: What is his-- Can he tell a prosecutor to bring in a proceeding before a grand jury, or not?

MR. BELSOLE: Well, first-- Legally, he has general supervisory authority over each county prosecutor -- can supersede a prosecutor's office on any case.

ASSEMBLYMAN ZIMMER: He can order a case dropped?

MR. BELSOLE: No, he can order that he's going to take that case.

ASSEMBLYMAN ZIMMER: All right.

MR. BELSOLE: He can supersede the entire office for cause, not on a willy-nilly basis. Traditionally -- and this is since Kugler, also -- what has happened is, the 21 prosecutors see themselves as aligned with the Attorney General. We meet monthly -- 21 prosecutors, myself, and the Attorney General. And we discuss problems and set strategies. And also, if you've noticed -- like, for instance, with the strip search directive, with the qualification twice a year of police officers, the Attorney General, though directive, can direct all our enforcement people through this State to do what he thinks is in the best interest of the entire apparatus.

So, to answer your question, he has supervisory authority over the 21 prosecutors, and has general law enforcement authority over anyone in the system.

ASSEMBLYMAN ZIMMER: Okay, thank you. One final comment. You say you'd hate to see an Attorney General running for office. John Degnan ran for office; I believe Mr. Zazzali ran for office. And, are you stopping Mr. Edwards from running for office?

MR. BELSOLE: I mean, running for the office of Attorney General.

ASSEMBLYMAN ZIMMER: Oh, all right.

MR. BELSOLE: Once you leave the flock, you do whatever you want to do.

Let me-- I don't want to mention other states, but there's some states contiguous to our State, where you see some bizarre things happen. You see judges arguing what they're going to do to criminals before they even judge the case--

ASSEMBLYMAN ZIMMER: We are not discussing elected judges.

MR. BELSOLE: No, but that's what might happen with an Attorney General. I hate to see two persons trying to see who can best articulate a hard position on something before they even know what the job is all about.

Again, this system works, and in my opinion, works beautifully. I see no reason to change it.

ASSEMBLYMAN MARTIN: One question. Don, I know that you're speaking for yourself, but I wonder -- to a certain extent, do you think the representations you've made here this morning are pretty much the thinking of those deputy -- or assistant attorneys who work in the office?

MR. BELSOLE: I know it is. I think they would probably be -- they would be aghast, and somewhat shocked, if we ever had people coming in who were elected to that position. I'm talking about the real workers -- the people who really do the work in that Department. My DAGs, my investigators -- I'm echoing their feelings.

ASSEMBLYMAN ZIMMER: Joe?

MR. BELSOLE: And this is the Attorney General's position also, although he'll articulate his own reasons. Our reasons differ somewhat, but the conclusion is the same.

ASSEMBLYMAN CHARLES: From a-- Hi, Don. From a law enforcement point of view, do you have a feeling as to what statewide offices shouldn't be subject to statewide election? You mentioned the State Attorney General's office as one of those which you would not like to see vying for election in the normal way. We've been-- We're talking now about the State auditor, we're talking about a Lieutenant Governor, we're talking about some other things. Do you have any definite feelings on offices other than the Attorney General's offices, which should not be the subject of--

MR. BELSOLE: This is a terrible answer, but I'm ambivalent about these. I really am. I mean, that's something that--

ASSEMBLYMAN CHARLES: I mean, have you come across any things that -- incidents in some other kinds of positions which seem to make them not good areas for public election?

MR. BELSOLE: No, I have no really-- On the rest of the bills before this Committee this morning, I really have no position. I think you're better -- much more qualified than I am, and I feel it's to my arrear to make comments on these bills.

I would say that in my opinion, the electing-- The way we have it in New Jersey now, with judges, prosecutors, attorneys general, is the way it ought to be. It's the only way it can be. In terms of these other positions and whatnot, you know, I'm not qualified on that issue.

Lastly, I noticed in the statement fixed to the bill that we are saying that we don't want the Attorney General to be, in any way, interfered with by the Governor or the Legislature. Well, in New Jersey -- and I think you people know this better than I -- there is that working relationship

of the Legislature. The Legislature doesn't interfere with our office, but it does, in fact, give ideas and some direction, and that's the way it ought to be. I don't consider that interference, nor does Edwards. Again, I came to government as an iconoclast -- I'll tell you right now -- thinking that it doesn't work, and I wasn't too sure about it. Three and a half years here, and this is just a fact: I have great appreciation for the way it works down here in Trenton and across the State, which I didn't have before I got here. And that's the best comment I can give on what I've seen in government.

And I'm just saying, the way it works right now, why do you want to change it? Why would we want to change it? Although I appreciate your concern, I just don't think this is the way to correct that, or make sure your concerns or your fears don't come into being.

ASSEMBLYMAN ZIMMER: Thank you very much. Any further comments?

MR. BELSOLE: Thank you.

ASSEMBLYMAN ZIMMER: We have a representative from the Governor's office here this morning, Steve Carnes.

S T E V E N J. C A R N E S: If I can follow up a little bit, since we're on ACR-1-- Director Belsole eloquently expressed his views as to why there should not be an elected Attorney General from the Criminal Justice side. I would also like to point out that, in -- the Division of Civil Law is primarily responsible for rendering legal advice to all -- and representing all of the Executive branch agencies. And I would also like to point out that, in a contiguous state that does have an elected attorney general, there have arisen situations where there has been disagreement between the governor and the attorney general on policy, etcetera. And, to circumvent that, the governor has resorted to expanding his own personal legal staff, and having all the executive agencies obtain their legal advice through the governor's office, and governor's counsel,

rather than going through the attorney general, because there has been that conflict.

Addressing now the issue of Lieutenant Governor-- Before I really get into that, there's one other issue I think the Committee -- or I would request the Committee look at, and that's the Emergency Executive Succession Act, which is in Title 52, Chapter 14(a). In that act, as it's presently drafted, after succession passes from the Senate President through the Speaker, the Act provides that the powers of the governor then devolve upon the Attorney General, and then if he is unavailable, then the State Highway Commissioner. And that's where the statute ends.

Now, the history behind that particular law was, that section was written during World War II, when New Jersey was a hub of transportation for moving troops to Europe etcetera, and they thought the Highway Commissioner would then be that high up and you would have an urgent transportation need.

We have had a time during the first administration, that the Senate President and the Speaker have been off in other states at legislative conferences. The Attorney General became Acting Governor and then the Attorney General had to leave to attend an attorney general's conference, which left us down to Commissioner Sheridan, who was then Secretary of Transportation, and we interpreted the State Highway Commissioner -- the Secretary of Transportation would be his successor.

Maybe this Committee would consider addressing this particular statute and adding in the other cabinet officers -- the Secretary of State, through the Constitutional officers first, probably Attorney General, Secretary of State, then through the State Treasurer and then down through an orderly line of successions similar to the Federal statute. Because we did have -- I know of, in the past four years, at least one situation where we were down to our last person.

Addressing specifically the Lieutenant Governor initiatives which were before the Committee -- I'm not going to address the reasons why such a position is necessary, because I feel that enough persons have already addressed that particular issue and have eloquently stated their position. But with the specifics of what we feel, in counsel's office, should be in the bill, and starting with the least controversial and working backwards -- in the November election -- the general election, that the Governor and Lieutenant Governor should be elected as a ticket, and run together; and that their terms should be coterminus.

Secondly, going backwards to the primary -- that the Governor should be elected in the primary, and then, as similar a situation as Assemblyman Martin and Assemblyman Brown have stated, there should be a party convention at which the Governor would then nominate before his -- place the nomination before his political party, the name of his running mate. That way, you would avoid the situation which recently occurred in Illinois. It would also follow the Federal system.

I would like to point out, the purpose of a primary is to select the nominee of a political party. And we have to keep that in mind when we're trying to determine how to select this person, and it is really the nominee of a political party, and the party's working system. And they run the person for the election -- before the general election, in November.

To the duties of the office -- our office would favor what Mr. McCool termed as the executive plan, that the Lieutenant Governor should be a working partner with the Governor. If he is holding the position of Secretary of State, we agree with Secretary Burgio's office that that office, in and of itself, has significant duties and responsibilities, and that the Lieutenant Governor should be in a position to have an overview of all of State government, and be able to monitor all 20 executive departments and know what's going on in the

Legislature, and all the policies of the Governor. It should be a working partner with the Governor.

Regarding Assemblyman Martin's concern that the Governor could make the Lieutenant Governor a mere figurehead, that is always a concern under any situation, but the answer being making Secretary of State that way has evolved set duties, I would like to point out that under the Byrne administration, when there was the fallout between Governor Byrne and then-Secretary of State Lan, the Governor attempted to do that very thing. He took away functions from the Secretary of State and gave them to other agencies, and it's been this Governor, and Secretary Burgio, which have taken those things -- such as the Arts Council -- and given them back to the Secretary of State. So, it is possible, even with a cabinet member, that the Governor could attempt to limit that person's responsibility and function. So, that's an evil (indiscernible) at any point, but we feel that the better course of action is to have the person have a general oversight over all the State government, and be a working partner with the Governor.

ASSEMBLYMAN MARTIN: Can we read that to say new job?

MR. CARNES: Define new job. It could be a staff position such as, he might assume some of the responsibilities of what the Chief of Staff performs now, or some other position.

ASSEMBLYMAN ZIMMER: Would you want us to put that into the legislation requiring a person to do anything in particular? Would you want to say Chief of Staff in the legislation, or would you want to say, "such duties as the Governor shall prescribe"?

MR. CARNES: I don't think I can address that specific point at this particular time, but a broad framework of responsibilities, where he would be-- Obviously, you know, in the states which Mr. McCool addressed as the traditional plan, the person also serves as President of the Senate. Obviously,

the concerns expressed by Assemblyman Haytaian are well-founded in this State. That's not an option which I think would be viable and would pass, under our system. But I think a broad general framework, outlining that he would be a member -- a cabinet rank, that he would serve with the Governor, as duties which the Governor assigned; and would be a working partner with the Governor, and in a position where he would be able to have a broad overview of the State government in its totality, so we have a working knowledge of the issues which are before the State and before the Governor at any one time. And he would have a working relationship with the same staff, and he would use the same staff.

ASSEMBLYMAN ZIMMER: He would not, however have -- necessarily have administrative responsibilities as Lieutenant Governor?

MR. CARNES: Whatever administrative responsibilities the Governor would want to devolve on that person.

ASSEMBLYMAN ZIMMER: Okay, thank you. Bob, do you have a question?

ASSEMBLYMAN MARTIN: There was a proposal -- that's the first one I hadn't heard in quite this fashion. The Secretary of State's office suggested -- at least, as I understood the possibility -- where, instead of having the position be specifically associated with that of the State, that the person would hold a cabinet position. Now, given New Jersey's history of having many cabinet positions -- resignations -- sometimes lasting a year, two years is all -- it seems to me, in the course of a four-year term, there's people coming and going. There's positions that need to be filled. I'm not-- I haven't thought it through, but it strikes me that this has one possibility, that a person be assigned a cabinet position with a possibility that, in the course of a term, of serving several -- at least, theoretically, several cabinet positions, which tends to make

him a troubleshooter for the Governor, although he would have specific responsibilities. I recognize, I think, some of your concerns, but I would like to hear your comments as far as that proposal, at least as I understood it.

MR. CARNES: Cabinet officers other than the Constitutional officers of Secretary of State and the Attorney General serve at the pleasure of the Governor. And the Lieutenant Governor, we would envision as being a person elected by the entire electorate of the State, for a period of four years, to serve with the Governor. I don't know how that would fit in to the situation. I think the Governor should have -- I'm speaking for myself only now, because I have not addressed this specific issue with either the Chief Counsel or the Governor -- that I would think that the Governor would want to have the flexibility to run his administration the way he would want to, and be able to have administrative control over his commissioners at any one time. This Governor has attempted to select the best person qualified to be the cabinet officer of a particular department, which has particular expertise. You go get a--

ASSEMBLYMAN MARTIN: Well, that's--

MR. CARNES: --Bob Hughey to run DEP, a Dr. Goldstein at Health--

ASSEMBLYMAN MARTIN: Well, the suggestion was, instead of making the person Lieutenant Governor and putting, perhaps, a round peg into a square hole -- take the person and give him a cabinet position which that person would be best suited to fill, so you would have an expertise.

MR. CARNES: But then, would that person be spending his whole time just channeling -- in that one department, in that one narrow area; would not have an overview of the other 19 departments? If he's running a department like Human Services, which is a large Department--

ASSEMBLYMAN MARTIN: We're trying to-- I think, if

we're going to be serious about a Lieutenant Governor, we want the person to have specific responsibilities. We want to give that person something to do.

MR. CARNES: Having worked in the Governor's office--

ASSEMBLYMAN MARTIN: That's what-- It seems to me you're talking about a substitute quarterback who's going to sit on the bench for four years, and just watch the game, and just see whether they're going to be called in to make the big play. And I think that practically, we have to be a little -- in New Jersey, a little more concerned with actually giving this person a day-to-day function and responsibility.

MR. CARNES: Having worked in the Governor's office for four and a half years, I can say without a doubt there is sufficient work in our office alone to keep a person busy full time, in that level -- policy decision and overviewing, and seeing what goes on in all the other departments, and substituting for the Governor at numerous events. The Governor turns down 30 invitations for every one he accepts. Our Governor has a -- if you look at his schedule, he's gone from 7 o'clock in the morning to 10, 11, 12 o'clock at night, all over the State. And he cannot physically be -- in today's world, where we have a helicopter, he's helicoptering from North Jersey to South Jersey back to South Jersey, in hours. But even with that, he is restricted as to what he can go to. So, there would not be a lack of work for a person to do at that level.

ASSEMBLYMAN MARTIN: Well, we can debate this ad infinitum--

ASSEMBLYMAN ZIMMER: I think you both made your points. Thank you very much, Steve.

ASSEMBLYMAN BROWN: Mr. Chairman, may I make a comment, please?

ASSEMBLYMAN ZIMMER: Sure.

ASSEMBLYMAN BROWN: In reference to the same

statement. On my bill, on page five, a line -- 162, Section B -- it says that "The Lieutenant Governor shall be the executive assistant to the Governor, and shall perform such duties of the office of Governor as the Governor may and shall delegate to him, and such other duties as shall be provided by law." I think that covers that concept.

And my other question, I think, through the Governor's staff person-- Does the Governor still support that concept, or -- basically, is that--

MR. CARNES: In my discussions with the Chief Counsel this morning, the Chief Counsel does support that concept.

ASSEMBLYMAN BROWN: So that so far, the Governor still supports my bill, to be more blunt than modest? I'm just curious -- I just wanted it for the record, that's all.

ASSEMBLYMAN ZIMMER: Thank you. Is there anyone else who would like to testify? (no response)

Thank you very much. The meeting is adjourned.

ASSEMBLYMAN BROWN: I'm sorry, Mr. Chairman. I would like to testify on your Attorney General, for a second.

ASSEMBLYMAN ZIMMER: Oh, I'm sorry -- I thought -- The meeting is not adjourned. Why don't you move out front?

ASSEMBLYMAN BROWN: Thanks. I've never been given so much time on a Committee before. I'd like to commend the Chairman--

ASSEMBLYMAN MARTIN: We can't figure out whether you're also a member of the Committee.

ASSEMBLYMAN BROWN: Well, I noticed a few were missing; I was trying to fill in. All around, right?

Mr. Chairman, I think first of all, I would like to commend you for your bill on the election of an Attorney General. I support the concept, and I also would like to ask to be added as a co-sponsor of the legislation, because I do have similar legislation and concern.

Some key things, I think, should be pointed out to the

Committee, and the Legislature should be aware of. I probably support it for a different reason, but the bottom line is, we support the concept. I think we can accomplish a whole lot of things in that whole regard.

One is that when you look at the election of judges, the Attorney General and the county prosecutors -- all those different elected positions, in this particular case, the Attorney General, you have -- they have a lack of women, blacks, and Hispanics in the State judiciary.

Currently, out of 240 judges and justices on the State payroll, only five are black males, and one Hispanic male. On the other hand, you have 63% of all the youth arrests for serious crimes are white. However, the overwhelming population of our jails and detention centers is black and Hispanic. Now, there would seem to be some correlation between the fact and the almost invisible number of blacks and Hispanics working for the Attorney General as county prosecutors, and serving on the bench. Of judges, county prosecutors, and Attorney General, in this case, if the Attorney General were elected, I contend there would not have been a need for the Legislature, in its own slow way, to pass a law requiring harsher sentencing for drunk driving.

An Attorney General and a judiciary elected by the public would be closer to the concerns, wishes, and fears and desires of the public. How many more lives would have been saved -- or how many more lives would have been saved if judges had given stiffer sentences to those who use guns in the act of a crime? It was the Legislature which has forced -- the Legislature was forced to pass such things as mandatory sentencing and that issue. I think the Attorney General would have made that decision on their own, had they been elected. I think they would spend less time and taxpayers' money on going after headlines, and more time going after murderers and drug pushers.

We could look at the fact that if we had more women judges, I don't think that male judges would be so easy on rapists. If we had more black and Hispanic judges, I don't think that white judges would be more compelled to be sensitive in their sentencing as it relates to crime and the black and Hispanic community -- for example, harsher sentencing for arson and lighter sentences and dismissal for illegal lottery, whereas now, it is reversed.

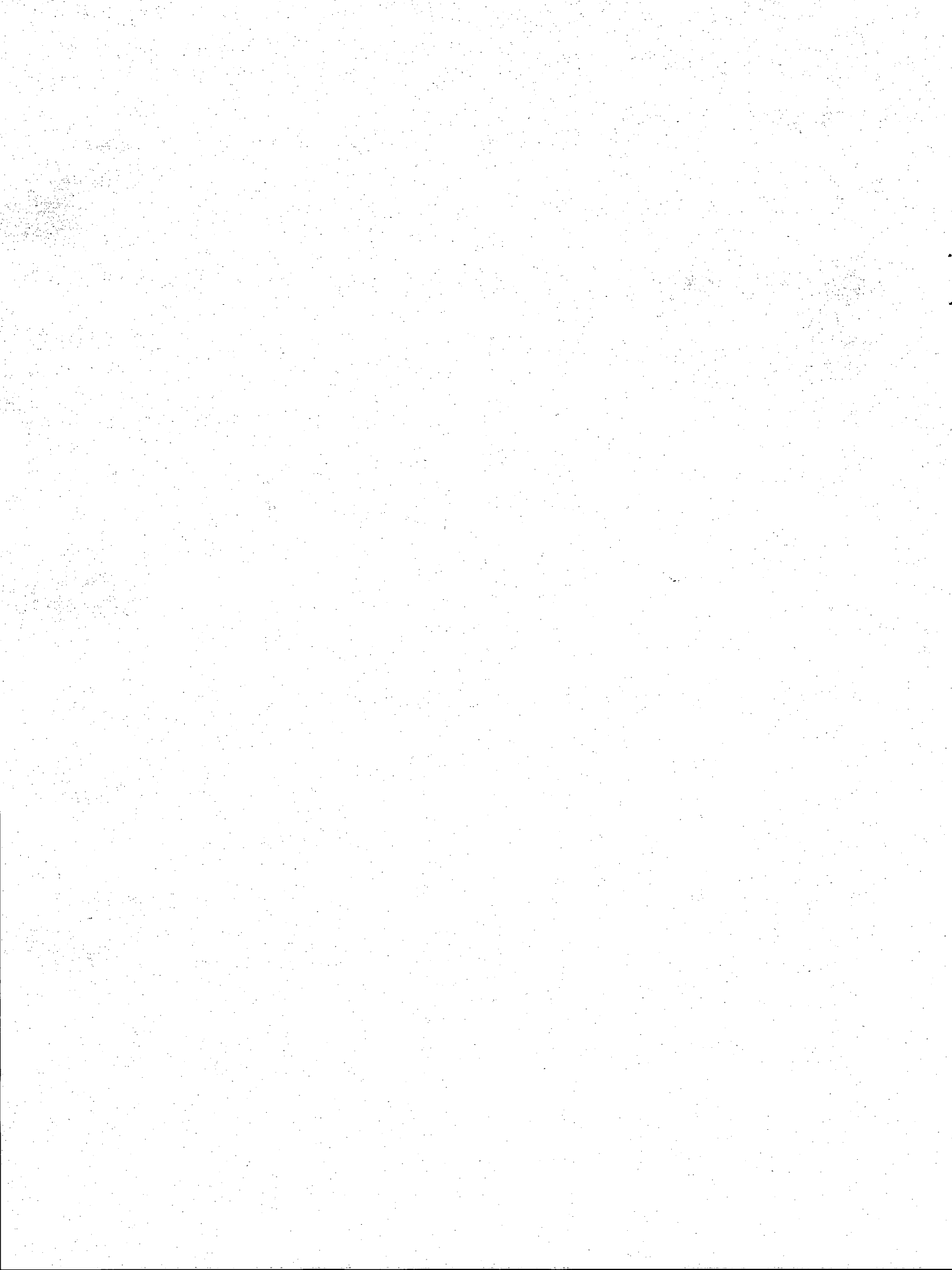
All too often, the prosecutors and others have used the office to promote and project themselves into positions. Black political leaders have too often been targets alone, unnecessary racist investigations, money entirely wasted in trying to make it look like leaders have their finger into different things, instead of going after the real hard-core drug pushers -- the real criminals who are really affecting society and making it uncomfortable.

So, I think those kinds of things should be stopped. I think, through an elected Attorney General, that Attorney General would be more representative of the entire citizenry of the State, and his actions would be reflective of the concerns and the priorities that people would have. So, I just wanted to share that with you, I think, as the other reasons why some of the things we could accomplish having an elected Attorney General. I commend your legislation and as I said, I would like to be added as a co-sponsor.

ASSEMBLYMAN ZIMMER: I certainly will add you as a co-sponsor. That is a very interesting perspective that you brought to the issue. Thank you very much.

Is there anyone else who would like to address this hearing? (no response) Then that concludes the hearing. Thank you very much for coming.

(HEARING CONCLUDED)



**APPENDIX**





STATE OF NEW JERSEY  
DEPARTMENT OF LAW AND PUBLIC SAFETY  
RICHARD J. HUGHES JUSTICE COMPLEX  
CN 080  
TRENTON, N.J. 08625  
609 292-4919

April 22, 1986

W. CARY EDWARDS  
ATTORNEY GENERAL

Honorable Richard A. Zimmer  
Chairman  
ASSEMBLY STATE GOVERNMENT COMMITTEE  
State House Annex  
Trenton, New Jersey

Dear Dick:

Please accept the enclosed statement as my contribution to the debate on ACR-1. I appreciate your allowing my views to be included in the public record.

With all good wishes.

Sincerely,



W. CARY EDWARDS  
Attorney General

Enclosure  
WCE/pjm

lx

STATEMENT

OF THE

HONORABLE W. CARY EDWARDS  
ATTORNEY GENERAL  
DEPARTMENT OF LAW AND PUBLIC SAFETY.

TO THE

ASSEMBLY STATE GOVERNMENT COMMITTEE

CONCERNING  
ASSEMBLY CONCURRENT RESOLUTION No. 1

APRIL 23, 1986  
TRENTON, NEW JERSEY

2x

MR. CHAIRMAN AND MEMBERS OF THE ASSEMBLY STATE GOVERNMENT  
COMMITTEE:

THANK YOU FOR PERMITTING ME TO EXPRESS MY VIEWS ON ASSEMBLY  
CONCURRENT RESOLUTION No. 1. INDEED, I APPRECIATE HAVING THE  
OPPORTUNITY TO ADDRESS THIS IMPORTANT QUESTION AND I ALSO  
COMMEND THIS COMMITTEE FOR ITS INTEREST IN AND WORK ON THE  
CRITICAL ISSUES CONCERNING THE MANAGEMENT OF STATE GOVERNMENT.

THE CONCEPT OF AN ELECTED ATTORNEY GENERAL IS NOT NEW.  
ALTHOUGH FOREIGN TO NEW JERSEY, MANY OTHER STATES HAVE PARTISAN  
POLITICAL ATTORNEYS GENERAL WHO STAND FOR ELECTION. THAT FACT  
ALONE HAS LED PROPONENTS OF ACR-1 TO SUGGEST THAT WHAT APPEARS  
GOOD FOR THE MAJORITY OF THE OTHER 49 STATES IS NECESSARILY GOOD  
FOR NEW JERSEY.

THIS CONCLUSION, I THINK, IS FUNDAMENTALLY FLAWED. FIRST,  
IMPLICIT IN THIS ARGUMENT IS THE IDEA THAT THERE EXISTS A REAL  
NEED TO REFORM THE PRESENT OFFICE OF ATTORNEY GENERAL. I DO NOT  
SEE THE OVERWHELMING EVIDENCE THAT THE PRESENT APPOINTIVE OFFICE

IS NOT MEETING THE STATE'S NEEDS. ALTHOUGH MY PRESENT POSITION PREVENTS ME FROM CLAIMING TOTAL OBJECTIVITY, I BELIEVE THE PRESENT SYSTEM IS WORKING AND WORKING WELL. LONG BEFORE I CAME TO THIS POSITION I WAS OF THE OPINION THAT NEW JERSEY'S CITIZENS WERE ABLY SERVED BY A LONG LINE OF PROFESSIONAL ATTORNEYS GENERAL AND THAT SUCCESS CAN ONLY BE CONTINUED UNDER THE PRESENT SYSTEM.

ACR-1 DECLARES THAT MAKING THE OFFICE OF ATTORNEY GENERAL ELECTIVE WILL ENHANCE ITS INDEPENDENCE FROM THE INFLUENCE OR INTERFERENCE OF EITHER THE GOVERNOR OR THE LEGISLATURE. MY EXPERIENCE AS A MEMBER OF THE LEGISLATURE AND AS A MEMBER OF THE GOVERNOR'S STAFF CONVINCES ME THAT THERE IS LITTLE, IF ANY, ROOM IN THE PRESENT SYSTEM FOR THE ATTORNEY GENERAL TO BE "UNDULY" INFLUENCED BY EITHER OF THESE BODIES. IN FACT, RECENT HISTORY SHOWS THAT THE CHIEF LAW ENFORCEMENT OFFICER IN THIS STATE, WHO IS ALSO THE HEAD OF THE DEPARTMENT OF LAW AND PUBLIC SAFETY, FUNCTIONS VERY EFFECTIVELY WITH SUPPORT, INFLUENCE AND CONTACT FROM BOTH THE GOVERNOR AND THE LEGISLATURE.

ADDITIONALLY, THE OFFICE OF THE ATTORNEY GENERAL ALREADY HAS PROPER CONSTITUTIONAL SAFEGUARDS TO PREVENT "INTERFERENCE" FROM EITHER THE GOVERNOR OR THE LEGISLATURE. UNDER THE NEW JERSEY CONSTITUTION, THE ATTORNEY GENERAL IS GRANTED A FOUR YEAR TERM OF SERVICE. THE ATTORNEY GENERAL DOES NOT SERVE AT THE PLEASURE OF THE GOVERNOR AND, THEREFORE, CANNOT BE REMOVED FROM OFFICE UNLESS "FOR CAUSE" RELATING TO HIS CONDUCT IN OFFICE.

UNDER THE GUISE OF "REFORM" ACR-1 WOULD DISCARD MANY OF THE BUILT-IN ADVANTAGES OF AN APPOINTIVE OFFICE OF ATTORNEY GENERAL. IT IS IMPORTANT TO REMEMBER THAT IN NEW JERSEY THE ATTORNEY GENERAL IS A MEMBER OF THE GOVERNOR'S CABINET. ACCORDINGLY, ON BUDGET AND ADMINISTRATIVE MATTERS (TO CITE JUST TWO AREAS) IT IS BOTH NECESSARY AND WORTHWHILE TO HAVE THE HEAD OF THE DEPARTMENT OF LAW AND PUBLIC SAFETY WORKING CLOSELY WITH THE OTHER STATE DEPARTMENTS, OMB AND THE GOVERNOR'S OFFICE. TO SEPARATE THE ATTORNEY GENERAL FROM THE REST OF THE EXECUTIVE BRANCH IS LIKELY TO DECREASE THE COORDINATION AND EFFECTIVE DELIVERY OF THE MOST

IMPORTANT SERVICE CITIZENS DERIVE FROM STATE GOVERNMENT: LAW ENFORCEMENT AND PUBLIC SAFETY.

OUR PRESENT NON-PARTISAN, APPOINTED ATTORNEY GENERAL IS IN MANY WAYS ENVIED BY OTHER STATES' LEADING LAW ENFORCEMENT OFFICERS. ALSO, IN MY DISCUSSIONS WITH ATTORNEYS GENERAL IN OTHER STATES INDICATE THAT THE MAJORITY OF THEM SEE GREAT ADVANTAGE IN OUR SYSTEM WHICH ENSURES THAT THE STATE'S CHIEF EXECUTIVE, THE GOVERNOR, WORKS CLOSELY WITH THE STATE'S CHIEF LAWYER, THE ATTORNEY GENERAL.

SWITCHING TO AN ELECTED ATTORNEY GENERAL BECAUSE IT IS IN USE IN MANY OTHER STATES IGNORES THE VAST DIFFERENCES IN RESPONSIBILITIES AND POWERS OF NEW JERSEY'S ATTORNEY GENERAL AND OTHER STATES' ATTORNEYS GENERAL. IN TRUTH IT IS AN APPLES AND ORANGES COMPARISON. FOR EXAMPLE, NEW JERSEY'S ATTORNEY GENERAL IS THE STATE'S CHIEF LAW ENFORCEMENT OFFICER RESPONSIBLE FOR THE OVERALL DIRECTION OF THE DIVISION OF STATE POLICE. THIS IS NOT THE CASE IN MOST OTHER STATES WHERE THE STATE POLICE ARE AUTONOMOUS UNITS.

NEW JERSEY'S ATTORNEY GENERAL HAS VAST CIVIL AND CRIMINAL JURISDICTION AS WELL AS RESPONSIBILITY FOR STATE DIVISIONS OF CIVIL RIGHTS, CONSUMER AFFAIRS, ALCOHOL BEVERAGE CONTROL, MOTOR VEHICLES, ETC. IN CONTRAST, No OTHER STATE IN THE NATION HAS AN ATTORNEY GENERAL WHOSE JURISDICTION COVERS ALL OF THESE RESPONSIBILITIES. AS STATED PREVIOUSLY, THE NEW JERSEY ATTORNEY GENERAL IS ALSO A MEMBER OF THE GOVERNOR'S CABINET. ONCE AGAIN, THIS IS IN CONTRAST TO MANY OTHER STATES WHERE ELECTED ATTORNEYS GENERAL ARE SEPARATE FROM THE EXECUTIVE BRANCH AND ACT AS "FREE AGENTS." GIVEN THE UNIQUE AND PRODUCTIVE HISTORY OF THE OFFICE OF THE ATTORNEY GENERAL IT SEEMS ESPECIALLY COUNTER-PRODUCTIVE FOR NEW JERSEY TO CONSIDER PULLING OUT OF STATE GOVERNMENT ONE OF ITS MOST IMPORTANT AND SIGNIFICANT SERVICES FOR THE SAKE OF MAKING ITS AGENCY HEAD MORE INDEPENDENT.

I HAVE LEFT FOR LAST PROBABLY THE MOST SIGNIFICANT DISADVANTAGE THAT WILL OCCUR WITH THIS REFORM. CHANGING THE OFFICE FROM APPOINTIVE TO ELECTIVE, WILL CAUSE A DRAMATIC CHANGE IN THE MOTIVATION OF THE PERSON WHO DIRECTS THAT OFFICE. AN

ELECTIVE ATTORNEY GENERAL'S OFFICE WILL DEMAND A POLITICAL ATTORNEY GENERAL. TO DATE, NEW JERSEY'S ATTORNEYS GENERAL HAVE BEEN FIRST AND FOREMOST PRACTITIONERS IN THE LEGAL PROCESS NOT POLITICIANS IN THE POLITICAL PROCESS: ACR-1 COULD WELL SUBSTITUTE DOING THE RIGHT THING TO WIN CASES WITH DOING THE POPULAR THING TO WIN VOTES. IS IT ADVANTAGEOUS TO NEW JERSEY CITIZENS TO REPLACE STATE GOVERNMENT'S SENIOR PROFESSIONAL ATTORNEY WITH A POLITICAL REPRESENTATIVE? THAT IS NOT TO SUGGEST THAT ELECTIVE POLITICS PER SE IS INHERENTLY BAD. NOR DO I WISH TO ASSERT THAT POLITICS WILL INEVITABLY CORRUPT OFFICE HOLDERS. RATHER, IT IS A QUESTION OF APPROPRIATENESS. IN MY VIEW, THE OFFICE OF THE ATTORNEY GENERAL, AND THE LARGER DEPARTMENT OF LAW AND PUBLIC SAFETY IS AN INAPPROPRIATE PLACE FOR POLITICS. THE ATTORNEY GENERAL IS CHARGED WITH CERTAIN RESPONSIBILITIES WHICH ARE CLEARLY INCONGRUOUS WITH THE ACTIVITIES OF A POLITICIAN WHO MUST SOLICIT SUPPORT FROM VARIOUS CONSTITUENCIES. THE PROPER FUNCTIONING OF THIS DEPARTMENT AS WELL AS THE RESPONSIBLE REPRESENTATION OF OTHER DEPARTMENTS

WITHIN STATE GOVERNMENT MUST BE MADE BY SOMEONE WHO IS AN EFFECTIVE ENFORCER OF LEGAL PRINCIPLES NOT AN AGGRESSIVE COMPROMISER OF POLITICAL POSITIONS.

NEW JERSEY HAS A STRONG AND PROUD TRADITION OF KEEPING ITS LAW ENFORCEMENT AND JUDICIAL OFFICERS OUT OF THE ELECTIVE POLITICAL ARENA. IN CONTRAST TO OTHER STATES, OUR STATE JUDGES AND OUR COUNTY PROSECUTORS DO NOT RUN FOR OFFICE. I AM PROUD TO SAY THAT WE HAVE A STATE BENCH AND A PROSECUTORIAL SYSTEM WHICH IS THE MODEL FOR THE REST OF THE NATION. THEY ARE NOT PROFESSIONAL POLITICIANS BUT PROFESSIONAL OFFICERS OF OUR JUDICIAL AND LAW ENFORCEMENT SYSTEMS. THEIR DECISIONS, WHICH MUST BE BASED ON LEGAL PRINCIPALS, ARE NEVER SUBJECT TO POLITICAL PRESSURE. WE SHOULD EXPECT THE SAME OF NEW JERSEY'S ATTORNEY GENERAL.

\* \* \* \*

IF HAVING A TRULY INDEPENDENT ATTORNEY GENERAL IS THE OVERRIDING GOAL, THEN ACR-1 IS A CURE FAR WORSE THAN THE SUPPOSED DISEASE. NEW JERSEY ALREADY HAS AN AUTONOMOUS, UNFETTERED ATTORNEY GENERAL. ALTHOUGH APPOINTED BY THE GOVERNOR, THE INDEPENDENCE OF THE ATTORNEY GENERAL IS GUARANTEED BY A FIXED TERM OF SERVICE AND CONSTITUTIONAL PROTECTION FROM BEING REMOVED FROM OFFICE.

IN CONTRAST, AND TO THE DETRIMENT OF THE EFFECTIVE LAW ENFORCEMENT, ACR-1 WOULD CREATE A LESS INDEPENDENT ATTORNEY GENERAL BECAUSE HE OR SHE WOULD ALWAYS BE DEPENDENT ON THE CHANGING WINDS OF PUBLIC OPINION. THAT ROLE IS PROPERLY LEFT TO THE LEGISLATURE AND THE GOVERNOR. TO MAINTAIN A SOUND SYSTEM OF CHECKS AND BALANCES THE OFFICE OF THE ATTORNEY GENERAL MUST REMAIN FREE FROM THE RESTRAINTS OF THE ELECTORAL PROCES.

REFORM CAN AND SHOULD COME WHEN SYSTEMS FAIL--OUR LAWS AND OUR HISTORY SHOW THAT SUCH IS SIMPLY NOT THE CASE WITH THE OFFICE OF THE ATTORNEY GENERAL FOR THE STATE OF NEW JERSEY. I STRONGLY URGE THIS COMMITTEE TO REJECT THIS PROPOSAL IN AN

EFFORT TO PRESERVE AN EXISTING OFFICE THAT IS SUCCESSFUL AND  
EFFECTIVE. THANK YOU.

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