

Public Hearing

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before

ASSEMBLY POLICY AND RULES COMMITTEE

Assembly Concurrent Resolution No. 1 ACS

and

Assembly Concurrent Resolution No. 3

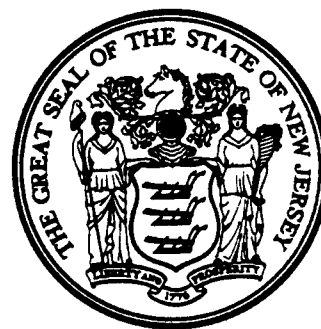
(Proposes Constitutional amendment to provide
for Statewide initiative and referendum)

LOCATION: Room 319
State House
Trenton, New Jersey

DATE: June 17, 1992
10:05 a.m.

MEMBERS OF COMMITTEE PRESENT:

Assemblyman Robert D. Franks, Chairman
Assemblyman Wayne R. Bryant
Assemblyman William J. Pascrell, Jr.
Assemblyman George F. Geist



ALSO PRESENT:

David L. Sallach
Office of Legislative Services
Aide, Assembly Policy and Rules Committee

New Jersey State Library

Hearing Recorded and Transcribed by

The Office of Legislative Services, Public Information Office,
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GEORGE F. GEIST

New Jersey State Legislature

ASSEMBLY POLICY AND RULES COMMITTEE
LEGISLATIVE OFFICE BUILDING, CN-068
TRENTON, NEW JERSEY 08625-0068

PUBLIC HEARING NOTICE

TO: MEMBERS OF THE ASSEMBLY POLICY AND RULES
COMMITTEE

FROM: ASSEMBLYMAN ROBERT D. FRANKS, CHAIRMAN

SUBJECT: PUBLIC HEARING - June 17, 1992

*The public may address comments and questions to David L. Sallach,
Committee Aide, or make bill status and scheduling inquiries to Norma
Morales, secretary, at (609) 984-0231.*

Pending resolution by the General Assembly, the Assembly Policy and Rules Committee, pursuant to Article IX of the Constitution, will hold a public hearing on **Wednesday, June 17, 1992 at 1:30 p.m. in Room 319, State House, Trenton** to hear testimony on the following bills:

ACR-1 ACS
Franks/Hartmann

Proposes constitutional amendment to
provide for Statewide initiative and
referendum.

ACR-3
Franks/Martin

Proposes constitutional amendment to
provide for Statewide initiative and
referendum.

Issued 6/5/92

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY CONCURRENT RESOLUTION No. 1

STATE OF NEW JERSEY

ADOPTED JUNE 8, 1992

Sponsored by Assemblymen FRANKS, HARTMAN,
ROONEY and RUSSO

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

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

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

9
10 PROPOSED AMENDMENT

- 11
12 a. Amend Article I, paragraph 2, as follows:
- 13 2. a. All political power is inherent in the people.
- 14 b. Government is instituted for the protection, security, and
15 benefit of the people, and they have the right at all times to alter
16 or reform the same, whenever the public good may require it.
- 17 c. The people reserve unto themselves: the power of initiative
18 to propose to the Legislature amendments to the Constitution and
19 to approve or reject the same at the polls in a general election if
20 the Legislature does not, within a period to be established by law
21 but not exceeding six months from the date of submission to the
22 Legislature of the initiative petition proposing that amendment,
23 complete action to provide for the submission of the proposed
24 amendment or a substantially similar amendment to the people
25 not later than the first general election occurring after the 120th
26 day following the expiration of that period; and the power of
27 initiative to propose to the Legislature laws which are not only
28 for the purpose of repeal and to approve or reject the same at the
29 polls in a general election if substantially similar legislation is
30 not enacted by the Legislature and the Governor, within a period
31 to be established by law but not exceeding six months from the
32 date of submission to the Legislature of the initiative petition
33 proposing that law. The determination of whether a
34 constitutional amendment proposed by the Legislature or
35 legislation enacted by the Legislature and the Governor is
36 substantially similar to a constitutional amendment or a law
37 proposed by an initiative petition hereunder shall be made by
38 sponsors of the petition in accordance with such procedure as the
39 Legislature shall provide by general law.
- 40 The people also reserve unto themselves the power of
41 referendum to propose to the Legislature the repeal of any law,
42 or any section or part thereof, and to approve or reject such

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

Matter underlined thus is new matter.

1 repeal at the polls in a general election if such repeal is not
2 enacted by the Legislature and the Governor, within a period to
3 be established by law but not exceeding six months from the date
4 of submission to the Legislature of the referendum petition
5 proposing that repeal.

6 There shall be no power of initiative or referendum to propose
7 to the Legislature, and to approve or reject at the polls, a law or
8 constitutional amendment to require or prohibit the siting of a
9 public or private facility in a specific county or class of counties,
10 or in a specific municipality or class of municipalities, or a law or
11 constitutional amendment to repeal a law requiring or prohibiting
12 such siting.

13 (cf: Art. I, para.2)

14 b. Amend Article II as follows:

15
16 ARTICLE II
17 ELECTIONS [AND], SUFFRAGE AND
18 INITIATIVE AND REFERENDUM
19 SECTION I
20

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

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

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

38 (cf: Art. II, para. 2, amended effective Dec. 8, 1988)

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

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

46 (c) Any person registered as a voter in any election district of
47 this State who has removed or shall remove to another state or to
48 another county within this State and is not able there to qualify
49 to vote by reason of an insufficient period of residence in such
50 state or county, shall, as a citizen of the United States, have the
51 right to vote for electors for President and Vice President of the
52 United States, only, by Presidential Elector Absentee Ballot, in
53 the county from which he has removed, in such manner as the
54 Legislature shall provide.

55 (cf: Art. II, para. 3, amended effective Dec. 5, 1974)

1 4. In time of war no elector in the military service of the
2 State or in the armed forces of the United States shall be
3 deprived of his vote by reason of absence from his election
4 district. The Legislature may provide for absentee voting by
5 members of the armed forces of the United States in time of
6 peace. The Legislature may provide the manner in which and the
7 time and place at which such absent electors may vote, and for
8 the return and canvass of their votes in the election district in
9 which they respectively reside.

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

11 5. No person in the military, naval or marine service of the
12 United States shall be considered a resident of this State by being
13 stationed in any garrison, barrack, or military or naval place or
14 station within this State.

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

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

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

18 7. The Legislature may pass laws to deprive persons of the
19 right of suffrage who shall be convicted of such crimes as it may
20 designate. Any person so deprived, when pardoned or otherwise
21 restored by law to the right of suffrage, shall again enjoy that
22 right.

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

24 SECTION II

25
26
27 1. (a) The number of signatures of registered voters required
28 upon an initiative petition proposing a constitutional amendment
29 in order for that petition to be submitted to the Legislature shall
30 be equal to at least 12% of the number of votes cast for the
31 office of Governor in the State in the gubernatorial election
32 preceding certification of the petition for circulation as shall be
33 provided by law, provided that the petition signatures shall
34 include signatures from each of the four regions of the State
35 hereinafter designated equal in number to at least 12% of the
36 total number of votes cast for the office of Governor in those
37 respective regions in that gubernatorial election.

38 (b) The number of signatures of registered voters required
39 upon an initiative petition proposing a law of enactment or a
40 referendum petition proposing a public question effecting repeal
41 in order for that petition to be submitted to the Legislature shall
42 be equal to at least 8% of the number of votes cast for the office
43 of Governor in the State in the gubernatorial election preceding
44 certification of the petition for circulation as shall be provided
45 by law, provided that the petition signatures shall include
46 signatures from each of the four regions of the State hereinafter
47 designated equal in number to at least 8% of the total number of
48 votes cast for the office of Governor in those respective regions
49 in that gubernatorial election.

50 (c) For the purposes of subparagraphs (a) and (b) of this
51 paragraph, the regions shall be: a northeastern region,
52 comprising the counties of Bergen, Essex, Hudson, Passaic, and
53 Union; a northwestern region, comprising the counties of
54 Hunterdon, Morris, Somerset, Sussex, and Warren; a central

1 region, comprising the counties of Burlington, Mercer, Middlesex,
2 Monmouth, and Ocean; and a southern region, comprising the
3 counties of Atlantic, Camden, Cape May, Cumberland,
4 Gloucester, and Salem.

5 (d) Before an initiative petition or referendum petition is
6 submitted to the Legislature, petitioners shall file the petition
7 with the Secretary of State, who shall within 60 days after that
8 filing determine whether the petition includes sufficient numbers
9 of signatures of registered voters as required under subparagraph
10 (a) of this paragraph, in the case of an initiative petition
11 proposing a constitutional amendment, or subparagraph (b) of this
12 paragraph, in the case of an initiative petition proposing a law or
13 a referendum petition. The Secretary of State may employ such
14 random sampling techniques, meeting ordinary professional
15 standards of statistical reliability, as the Legislature may provide
16 by law or, in the absence of such provision, as the Secretary of
17 State shall find to be effective and convenient. If, on or before
18 the 60th day following the filing, the Secretary of State
19 determines that sufficient numbers of signatures so required to
20 be included on the petition shall not have been obtained, that
21 petition shall be deemed void and without effect. Otherwise, the
22 petition shall be deemed eligible for submission to the Legislature.

23 (e) An initiative or referendum petition which is not filed with
24 the Secretary of State as required under subparagraph (d) of this
25 paragraph within such period following the certification thereof
26 for circulation as may be established by law but not less than one
27 year shall be void and without effect.

28 2. No law proposed by an initiative petition which was enacted
29 by a vote of the people, nor any law enacted by the Legislature
30 and the Governor in response to such a petition, shall be
31 amended, repealed, superseded, nullified or suspended, and no law
32 which is repealed as a result of a referendum shall be reenacted,
33 by the Legislature for a period of two years except by a vote of
34 three-fourths of all the members of each House, or for a period
35 of three years after the two-year period except by a vote of
36 three-fifths of all the members of each House, after at least 20
37 calendar days shall have elapsed following the introduction of a
38 bill to amend, repeal, supersede, nullify, suspend or reenact, as
39 the case may be, and a public hearing has been held thereon.

40 3. If, at a general election, a law or constitutional amendment
41 proposed by an initiative petition is not approved or a law whose
42 continuance is the subject of a public question proposed by a
43 referendum petition is not rejected, neither the proposed law or
44 constitutional amendment, nor the public question concerning the
45 law which was the subject of the referendum petition, nor one to
46 effect the same or substantially the same change shall be
47 submitted to the people before the third general election
48 thereafter.

49 4. (a) Prior to the submission to the voters of a constitutional
50 amendment or law of enactment proposed by an initiative
51 petition or a law of repeal proposed by a referendum petition, a
52 party may seek a declaratory judgment of the Supreme Court (1)
53 that the proposed constitutional amendment or law of enactment
54 or repeal would be invalid under the Constitution or laws of the

1 United States, or (2) in the case of a proposed law of enactment
2 or repeal, that such a proposed law cannot be enacted or given
3 effect as legislation, if the pleading requesting such judgment is
4 filed with the Supreme Court not later than the 90th day
5 following the submission of the petition to the Legislature. Any
6 such action shall be heard and decided, and appropriate relief
7 granted, with all due expedition, but in no case later than six
8 months following that submission.

9 (b) No law or amendment to the Constitution submitted to the
10 people by initiative petition and approved by the people shall be
11 held unconstitutional or void on account of the insufficient
12 number of signatures on the petition by which the submission of
13 the same was procured; nor shall the repeal of any law, or section
14 or part thereof, resulting from a referendum be held invalid for
15 the same insufficiency.

16 5. If a public question on the continuance of a law is presented
17 in a form other than a law of repeal and the repeal of that law is
18 effected, the latter shall be deemed repealed at the time
19 specified in subparagraph (b) of paragraph 6 of this section.

20 6. (a) A law proposed by an initiative petition or referendum
21 petition shall begin in the following style: "Be it enacted by the
22 People of the State of New Jersey".

23 (b) Any law or constitutional amendment proposed by an
24 initiative petition affecting taxes or appropriations and enacted
25 by the people shall become effective at the beginning of the
26 fiscal year next following passage or approval of the law or
27 constitutional amendment, and any law affecting taxes or
28 appropriations whose continuance is the subject of a public
29 question proposed by a referendum petition shall cease to be
30 effective at the beginning of the fiscal year next following the
31 rejection of that law. Any other law, constitutional amendment,
32 or public question proposed by such a petition shall become
33 effective on the date provided by that proposed law or
34 constitutional amendment or by that public question, or if no such
35 date is so provided, then upon the 30th day following enactment
36 or approval of the law or constitutional amendment, as
37 appropriate, proposed by an initiative petition or following the
38 rejection of a law as a result of a referendum.

39 7. The Secretary of State shall cause a law or constitutional
40 amendment proposed by an initiative petition or a public question
41 proposed by a referendum petition which is to be submitted to the
42 people to be published at least once in one or more newspapers of
43 each county, if any be published therein, not less than three
44 months prior to that submission to the people.

45 8. (a) If conflicting laws or conflicting amendments to the
46 Constitution proposed by initiative petitions, or enacted by the
47 Legislature and the Governor or passed by the Legislature in
48 response to initiative petitions and submitted to the voters, are
49 approved at the same election by a majority of the total number
50 of votes cast for and against the same, the one receiving the
51 highest number of affirmative votes shall be the law, or in the
52 case of amendments to the Constitution shall be the amendment
53 to the Constitution.

54 (b) If there are submitted to the people at the same election

1 public questions proposed by referendum petitions effecting the
2 repeal of an existing law in its entirety and sections or parts of
3 the same law, or laws enacted by the Legislature and the
4 Governor in response to those referendum petitions, and those
5 public questions or laws shall each receive a majority of the votes
6 cast thereon, the one receiving the highest number of affirmative
7 votes shall be the law.

8 9. No law proposed by an initiative or referendum petition and
9 approved by the people shall be subject to the veto power of the
10 Governor.

11 10. The filing of an initiative or referendum petition with
12 respect to any law or section or part thereof shall in no way
13 affect the effective date or the implementation of the law.

14 Nothing contained in this section shall be construed as
15 preventing from being submitted to the people at the same
16 election:

17 (a) A referendum question with respect to a law in its entirety
18 and a referendum question with respect to any section or part of
19 the same law; or

20 (b) Two or more referendum questions with respect to
21 different sections or parts of the same law.

22 11. If legislation is not enacted within one year of the
23 adoption of this constitutional amendment which implements this
24 constitutional amendment, then this constitutional amendment
25 shall be construed as being self-executing, and in that case, shall
26 be administered by the Secretary of State, provided that the
27 regulations adopted by the Secretary of State shall be superseded
28 by subsequent legislation consistent with this constitutional
29 amendment governing the conduct of the initiative and
30 referendum process.

31 2. When this proposed amendment to the Constitution is finally
32 agreed to, pursuant to Article IX, paragraph 1 of the
33 Constitution, it shall be submitted to the people at the next
34 general election occurring more than three months after such
35 final agreement and shall be published at least once in at least
36 one newspaper of each county designated by the President of the
37 Senate and the Speaker of the General Assembly and the
38 Secretary of State, not less than three months prior to said
39 general election.

40 3. This proposed amendment to the Constitution shall be
41 submitted to the people at said election in the following manner
42 and form:

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

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

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

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

52 b. In every municipality the following question:

1
2
3 ESTABLISHES THE INITIATIVE AND
4 REFERENDUM PROCESS IN THE STATE
5

6 YES. Shall the amendment to Article I, paragraph 2
7 and Article II of the Constitution, agreed to by
8 the Legislature, establishing the process of
9 initiative and referendum in the State, be
10 adopted?
11

12
13 INTERPRETIVE STATEMENT
14

15 NO. Adoption of this amendment would establish an
16 indirect initiative and referendum process in this
17 State whereby proposed constitutional
18 amendments and proposals that new laws be
19 enacted or existing laws be considered for repeal
20 would be submitted to the Legislature for action.
21 If no action is taken upon a proposal, or if such
22 action as is taken is addressed to a constitutional
23 amendment or law not substantially similar to
24 that which has been proposed, the proposed
25 constitutional amendment or law would be placed
26 on the ballot. The number of signatures required
27 to submit a proposed constitutional amendment
28 to the Legislature would be at least 12% of the
29 votes cast in the State in the preceding
30 gubernatorial election, and the number of
31 signatures required to submit a proposed law to
32 the Legislature would be at least 8% of the votes
33 cast in that election. In each case, a proportional
34 number of the signatures would have to come
35 from each of four regions in the State; those
36 regions include a northeastern region (the
37 counties of Bergen, Essex, Hudson, Passaic, and
38 Union), a northwestern region (the counties of
39 Hunterdon, Morris, Somerset, Sussex, and
40 Warren), a central region (the counties of
41 Burlington, Mercer, Middlesex, Monmouth, and
42 Ocean), and a southern region (the counties of
43 Atlantic, Camden, Cape May, Cumberland,
44 Gloucester, and Salem).
45
46
47

48 SCHEDULE
49

50 This constitutional amendment shall become a part of the
51 Constitution on the 30th day next following the general election
52 at which it is approved by the voters, except that if, at that
53 election, one or more other public questions proposing
54 constitutional amendments providing for the establishment of the
55 initiative and referendum power are submitted to the voters, then
56 this constitutional amendment shall not be deemed to have been
57 approved, and shall be void and without effect, unless the number
58 of legally qualified voters voting to approve this constitutional
59 amendment shall be greater than the number of such voters
60 voting to approve any of those other constitutional amendments.

1

2

3 Proposes constitutional amendment to provide for Statewide
4 initiative and referendum.

ASSEMBLY STATE GOVERNMENT COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY CONCURRENT RESOLUTION No. 1

STATE OF NEW JERSEY

DATED: JUNE 8, 1992

The Assembly State Government Committee reports favorably an Assembly Committee Substitute for Assembly Concurrent Resolution No. 1.

This concurrent resolution proposes to amend the State Constitution to provide the people of the State with the power of indirect initiative and referendum.

This constitutional amendment provides the people with the ability to propose to the Legislature a constitutional amendment or new law and to place before the Legislature the question of the continuance in force of any existing law. The Legislature (and the Governor, in the case of a proposal to enact or repeal a law) are to respond to such a proposal within a specific time period; otherwise, the people are to have the power to adopt or enact the proposed constitutional amendment or new law, or to reject the existing law, at the polls. The power of initiative and referendum is not to include the power to propose constitutional amendments or laws to require or prohibit the siting of any facility in a specific county or class of counties, or in a specific municipality or class of municipalities.

To qualify a constitutional amendment for submission to the Legislature, the petition which proposes it must contain a number of signatures equal to at least 12% of the number of votes cast for the office of Governor in the State in the gubernatorial election preceding certification of the petition for circulation. To qualify a law of enactment or repeal, proposed by an initiative petition or referendum petition, respectively, for submission to the Legislature, the petition which proposes it must contain a number of signatures equal to at least 8% of the number of votes cast for the office of Governor in the State in the gubernatorial election preceding certification of the petition for circulation. These signature requirements would apply regionally as well as Statewide: the petition must include signatures from five counties in the northeastern region of the State (the counties of Bergen, Essex, Hudson, Passaic, and Union), five counties in the northwestern region of the State (the counties of Hunterdon, Morris, Somerset, Sussex, and Warren), five counties in the central region of the State (the counties of Burlington, Mercer, Middlesex, Monmouth, and Ocean), and six counties in the southern region of the State (the counties of Atlantic, Camden, Cape May, Cumberland, Gloucester, and Salem), equal in number to at least 12% or 8%, as appropriate, of the votes cast for the office of Governor in that preceding gubernatorial election within those regions. A limit on the time allowed for collecting the required number of signatures may be established by law but shall not be less than one year.

Before a petition could be submitted to the Legislature, it is to be filed with the Secretary of State, who is to have 60 days to determine whether the petition was signed by sufficient numbers of registered voters. The Secretary of State is authorized to make this determination on the basis of a sample of the signatures to the petition chosen in accordance with appropriate random sampling techniques. If not found within the 60-day period to have been signed by insufficient numbers of registered voters, the petition could be submitted to the Legislature.

Once a constitutional amendment or law of enactment proposed by initiative petition or a law of repeal proposed by referendum petition is submitted to the Legislature, the Legislature (and the Governor, in the case of a proposal to enact or repeal a law) shall have such period of time as shall be established by law, but not exceeding six months, in which to propose a substantially similar constitutional amendment, enact a substantially similar law of enactment, or enact the repeal, as appropriate. In the absence of such timely response, the proposed constitutional amendment or law of enactment or repeal shall be submitted to the people.

The constitutional amendment provides that, prior to the submission to the voters of a proposed law or repealer, any party may seek a declaratory judgment from the New Jersey Supreme Court that the law or repealer violates the federal Constitution or law or would be invalid under the State Constitution.

If a constitutional amendment or law proposed by initiative petition and submitted to the people is not approved, or a law whose continuance is the subject of a public question submitted to the people in a referendum is not rejected, then neither that amendment, law or public question, nor one to effect the same or substantially the same change, may be submitted to the people for approval or rejection, as appropriate, before the third general election thereafter. If a law proposed by initiative petition is enacted by the people or a law in response to such a petition is enacted by the Legislature and the Governor, or if an existing law which is the subject of a referendum petition is repealed by the people or the Legislature and the Governor, any revision or repeal of the law so enacted, or reenactment of the law so repealed, would require a three-fourths vote in each House of the Legislature during the first two years following that enactment or repeal or a three-fifths vote in each House during the three years following that two-year period.

The constitutional amendment provides that no law proposed by an initiative or referendum petition and approved by the people shall be subject to the veto power of the Governor. It also states that if conflicting constitutional amendments or laws proposed by the initiative process are approved by the people at the same election, the one receiving the highest number of affirmative votes shall be deemed approved.

The constitutional amendment includes a schedule providing that, if one or more other proposed constitutional amendments establishing the power of initiative and referendum are on the ballot at the same election at which it is submitted to the people, then it shall become effective only if it passes with a greater number of votes than those other proposed amendments receive.

[FIRST REPRINT]
ASSEMBLY CONCURRENT RESOLUTION No. 3

STATE OF NEW JERSEY

INTRODUCED JUNE 4, 1992

By Assemblyman FRANKS

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

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

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

9
10 PROPOSED AMENDMENT

11
12 a. Amend Article I, paragraph 2, as follows:

13 2. a. All political power is inherent in the people.

14 b. Government is instituted for the protection, security, and
15 benefit of the people, and they have the right at all times to alter
16 or reform the same, whenever the public good may require it.

17 c. ¹[(1)]¹ The people reserve unto themselves the power of
18 initiative to propose to the Legislature laws which are not only
19 for the purpose of repeal and to approve or reject the same at the
20 polls in a general election if substantially similar legislation is
21 not enacted by the Legislature and the Governor, within a period
22 to be established by law but not exceeding six months from the
23 date of submission to the Legislature of the initiative petition
24 proposing that law; provided that the determination of whether
25 legislation enacted by the Legislature and the Governor is
26 substantially similar to a law proposed by an initiative petition
27 hereunder shall be made by sponsors of the petition in accordance
28 with such procedure as the Legislature shall provide by general
29 law. The people also reserve unto themselves the power of
30 referendum to propose to the Legislature the repeal of any law,
31 or any section or part thereof, and to approve or reject such
32 repeal at the polls in a general election if such repeal is not
33 enacted by the Legislature and the Governor, within a period to
34 be established by law but not exceeding six months from the date
35 of submission to the Legislature of the referendum petition
36 proposing that repeal. There shall be no power of initiative or
37 referendum to propose to the Legislature, and to approve or
38 reject at the polls, a law to require or prohibit the siting of a
39 public or private facility in a specific county or class of counties,
40 or in a specific municipality or class of municipalities, or a law to
41 repeal a law requiring or prohibiting such siting.

42 (cf: Art. I, para.2)

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows.

¹ Assembly ASG committee amendments adopted June 8, 1992.

b. Amend Article II as follows:

ARTICLE II
ELECTIONS [AND], SUFFRAGE AND
INITIATIVE AND REFERENDUM
SECTION I

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

(cf: Art. II, para. 1)

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

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

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

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

(c) Any person registered as a voter in any election district of this State who has removed or shall remove to another state or to another county within this State and is not able there to qualify to vote by reason of an insufficient period of residence in such state or county, shall, as a citizen of the United States, have the right to vote for electors for President and Vice President of the United States, only, by Presidential Elector Absentee Ballot, in the county from which he has removed, in such manner as the Legislature shall provide.

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

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

(cf: Art. II, para. 4)

5. No person in the military, naval or marine service of the United States shall be considered a resident of this State by being

stationed in any garrison, barrack, or military or naval place or station within this State.

(cf: Art. II, para. 5)

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

(cf: Art. II, para. 6)

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

(cf: Art. II, para. 7)

SECTION II

1. (a) The number of signatures of registered voters required upon an initiative petition proposing a law of enactment or a referendum petition proposing a public question effecting repeal in order for that petition to be submitted to the Legislature shall be equal to at least 6% of the number of votes cast in the State¹ for the office of Governor¹ in the gubernatorial election preceding certification of the petition for circulation as shall be provided by law, provided that the petition signatures shall include signatures from each of the four regions of the State hereinafter designated equal in number to at least 6% of the total number of votes cast¹ for the office of Governor¹ in those respective regions¹ [at] in¹ that gubernatorial election. For the purposes of this subparagraph, the regions shall be: a northeastern region, comprising the counties of Bergen, Essex, Hudson, Passaic, and Union; a northwestern region, comprising the counties of Hunterdon, Morris, Somerset, Sussex, and Warren; a central region, comprising the counties of Burlington, Mercer, Middlesex, Monmouth, and Ocean; and a southern region, comprising the counties of Atlantic, Camden, Cape May, Cumberland, Gloucester, and Salem.

(b) ¹If an initiative petition or referendum petition is presented to a prospective petition signer by a paid print advertisement, paid mailing, or paid solicitor, the petition and any appeal shall disclose prominently (1) the identity of the party paying for the printed or personal solicitation, and (2) that the solicitor is paid.

(c)¹ Before an initiative petition or referendum petition is submitted to the Legislature, petitioners shall file the petition with the Secretary of State, who shall within 60 days after that filing determine whether the petition includes sufficient numbers of signatures of registered voters as required under subparagraph (a) of this paragraph. The Secretary of State may employ such random sampling techniques, meeting ordinary professional standards of statistical reliability, as the Legislature may provide by law or, in the absence of such provision, as the Secretary of State shall find to be effective and convenient. If, on or before the 60th day following the filing, the Secretary of State determines that sufficient numbers of signatures so required to be included on the petition shall not have been obtained, that petition shall be deemed void and without effect. Otherwise, the

¹[petition] petition¹ shall be deemed eligible for submission to the Legislature.

¹[(c)] (d)¹ An initiative or referendum petition which is not filed with the Secretary of State as required under subparagraph (b) of this paragraph within such period following the certification thereof for circulation as may be established by law but not less than one year shall be void and without effect.

2. No law proposed by an initiative petition which was enacted by a vote of the people ¹[or] , nor any law enacted¹ by the Legislature and the Governor ¹[as may be provided by law] in response to such a petition,¹ shall be amended, repealed, superseded, nullified or suspended, and no law which is repealed as a result of a referendum shall be reenacted, by the Legislature for a period of two years except by a vote of three-fourths of all the members of each House, or for a period of three years after the two-year period except by a vote of three-fifths of all the members of each House, after at least 20 calendar days shall have elapsed following the introduction of a bill to amend, repeal ¹, supersede, nullify, suspend,¹ or reenact, as the case may be, and a public hearing has been held thereon.

3. If, at a general election, a law proposed by an initiative petition is not approved or a law whose continuance is the subject of a public question proposed by a referendum petition is not rejected, neither the proposed law, nor the public question concerning the law which was the subject of the referendum petition, nor one to effect the same or substantially the same change shall be submitted to the people before the third general election thereafter.

4. (a) Prior to the submission to the voters of a law of enactment proposed by an initiative petition or a law of repeal proposed by a referendum petition, a party may seek a declaratory judgment of the Supreme Court that the proposed law of enactment or repeal ¹(1)¹ would be invalid under the ¹[State]¹ Constitution ¹or laws of the United States, or (2) cannot be enacted or given effect as legislation under this Constitution¹ if the pleading requesting such judgment is filed with the Supreme Court not later than the 90th day following the submission of the petition to the Legislature. Any such action shall be heard and decided, and appropriate relief granted, with all due expedition, but in no case later than six months following that submission.

(b) No law submitted to the people by initiative petition and approved by the people shall be held unconstitutional or void on account of the insufficient number of signatures on the petition by which the submission of the same was procured; nor shall the repeal of any law, or section or part thereof, resulting from a referendum be held invalid for the same insufficiency.

5. If a public question on the continuance of a law is presented in a form other than a law of repeal and the repeal of that law is effected, the latter shall be deemed repealed at the time specified in ¹subparagraph (b) of¹ paragraph 6 of this section.

6. (a) A law proposed by an initiative petition or referendum petition shall begin in the following style: "Be it enacted by the People of the State of New Jersey".

1 (b) Any law proposed by an initiative petition affecting taxes
2 or appropriations and enacted by the people shall become
3 effective at the beginning of the fiscal year next following
4 passage or approval of the law, and any law affecting taxes or
5 appropriations whose continuance is the subject of a public
6 question proposed by a referendum petition shall cease to be
7 effective at the beginning of the fiscal year next following the
8 rejection of that law. Any other law or public question proposed
9 by such a petition shall become effective on the date provided by
10 that proposed law or by that public question, or if no such date is
11 so provided, then upon the 30th day following enactment of the
12 law proposed by an initiative petition or following the rejection
13 of a law as a result of a referendum.

14 7. The Secretary of State shall cause a law proposed by an
15 initiative petition or a public question proposed by a referendum
16 petition which is to be submitted to the people to be published at
17 least once in one or more newspapers of each county, if any be
18 published therein, not less than three months prior to that
19 submission to the people.

20 8. (a) If conflicting laws proposed by initiative petitions, or
21 enacted by the Legislature, and the Governor in response to
22 initiative petitions and submitted to the voters, are approved at
23 the same election by a majority of the total number of votes cast
24 for and against the same, the one receiving the highest number of
25 affirmative votes shall be the law.

26 (b) If there are submitted to the people at the same election
27 public questions proposed by referendum petitions effecting the
28 repeal of an existing law in its entirety and sections or parts of
29 the same law, or laws enacted by the Legislature and the
30 Governor in response to those referendum petitions, and those
31 public questions or laws shall each receive a majority of the votes
32 cast thereon, the one receiving the highest number of affirmative
33 votes shall be the law.

34 9. No law proposed by an initiative or referendum petition and
35 approved by the people shall be subject to the veto power of the
36 Governor.

37 10. The filing of an initiative or referendum petition with
38 respect to any law or section or part thereof shall in no way
39 affect the effective date or the implementation of the law.

40 Nothing contained in this section shall be construed as
41 preventing from being submitted to the people at the same
42 election:

43 (a) A referendum question with respect to a law in its entirety
44 and a referendum question with respect to any section or part of
45 the same law; or

46 (b) Two or more referendum questions with respect to
47 different sections or parts of the same law.

48 11. If legislation is not enacted within one year of the
49 adoption of this constitutional amendment which implements this
50 constitutional amendment, then this constitutional amendment
51 shall be construed as being self-executing, and in that case, shall
52 be administered by the Secretary of State, provided that the
53 regulations adopted by the Secretary of State shall be superseded
54 by subsequent legislation consistent with this constitutional

1 amendment governing the conduct of the initiative and
2 referendum process.

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

12 3. This proposed amendment to the Constitution shall be
13 submitted to the people at said election in the following manner
14 and form:

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

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

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

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

24 b. In every municipality the following question:

ESTABLISHES THE INITIATIVE AND
REFERENDUM PROCESS IN THE STATE

YES. Shall the amendment to Article I, paragraph 2 and Article II of the Constitution, agreed to by the Legislature, establishing the process of initiative and referendum in the State, be adopted?

INTERPRETIVE STATEMENT

NO. Adoption of this amendment would establish an indirect initiative and referendum process in this State whereby proposals that new laws be enacted or existing laws be considered for repeal would be submitted to the Legislature ¹[and Governor]¹ for action. If no action is taken ¹upon a proposal¹, or if such action as is taken is addressed to ¹[legislation] a law of enactment or repeal¹ not substantially similar to ¹[the] that which has been¹ proposed ¹[legislation]¹, ¹[that] the¹ proposed ¹[legislation] law¹ would be placed on the ballot. The number of signatures required to submit a proposed law to the Legislature ¹[and the Governor]¹ would be at least 6% of the votes cast in the State in the preceding gubernatorial election. A proportional number of the signatures would have to come from each of four regions in the State; those regions include a northeastern region (the counties of Bergen, Essex, Hudson, Passaic, and Union), a northwestern region (the counties of Hunterdon, Morris, Somerset, Sussex, and Warren), a central region (the counties of Burlington, Mercer, Middlesex, Monmouth, and Ocean), and a southern region (the counties of Atlantic, Camden, Cape May, Cumberland, Gloucester, and Salem).

SCHEDULE

This ¹[Constitutional] constitutional¹ amendment shall become a part of the Constitution on the 30th day next following the general election at which it is approved by the voters, except that if, at that election, one or more other public questions proposing constitutional amendments providing for the establishment of the initiative and referendum power are submitted to the voters, then this constitutional amendment shall not be deemed to have been approved, and shall be void and without effect, unless the number of legally qualified voters voting to approve this ¹[constitutional] constitutional¹ amendment shall be greater ¹[that] than¹ the number of such voters voting to approve any of those other constitutional amendments.

Proposes constitutional amendment to provide for Statewide initiative and referendum.

ASSEMBLY STATE GOVERNMENT COMMITTEE

STATEMENT TO

ASSEMBLY CONCURRENT RESOLUTION No. 3

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: JUNE 8, 1992

The Assembly State Government Committee reports favorably and with committee amendments Assembly Concurrent Resolution No. 3.

This concurrent resolution proposes to amend the State Constitution to provide the people of the State with the power of indirect initiative and referendum.

This constitutional amendment provides the people with the ability to propose to the Legislature a new law and to place before the Legislature the question of the continuance in force of any existing law. If the Legislature and the Governor do not respond to such a proposal within a specific time period, the people are to have the power to adopt or enact the proposed new law, or to reject the existing law, at the polls. The power of initiative and referendum is not to include the power to propose laws to require or prohibit the siting of any facility in a specific county or class of counties, or in a specific municipality or class of municipalities.

To qualify a law of enactment or repeal, proposed by an initiative petition or referendum petition, respectively, for submission to the Legislature, the petition which proposes it must contain a number of signatures equal to at least 6% of the number of votes cast for the office of Governor in the State in the gubernatorial election preceding certification of the petition for circulation. This signature requirement would apply regionally as well as Statewide: the petition must include signatures from five counties in the northeastern region of the State (the counties of Bergen, Essex, Hudson, Passaic, and Union), five counties in the northwestern region of the State (the counties of Hunterdon, Morris, Somerset, Sussex, and Warren), five counties in the central region of the State (the counties of Burlington, Mercer, Middlesex, Monmouth, and Ocean), and six counties in the southern region of the State (the counties of Atlantic, Camden, Cape May, Cumberland, Gloucester, and Salem), equal in number to at least 6% of the votes cast for the office of Governor in that preceding gubernatorial election within those regions. A limit on the time allowed for collecting the required number of signatures may be established by law but shall not be less than one year. A petition which is presented to a prospective signer by a paid print advertisement, paid mailing or paid solicitor must disclose prominently the identity of the party paying for the solicitation and the fact that the solicitor is paid.

Before a petition could be submitted to the Legislature, it is to be filed with the Secretary of State, who is to have 60 days to determine whether the petition was signed by sufficient numbers of registered voters. The Secretary of State is authorized to make this determination on the basis of a sample of the signatures to the petition chosen in accordance with appropriate random sampling techniques. If not found within the 60-day period to have been signed by insufficient numbers of registered voters, the petition could be submitted to the Legislature.

Once a law of enactment proposed by initiative petition or a law of repeal proposed by referendum petition is submitted to the Legislature, the Legislature and the Governor shall have such period of time as shall be established by law, but not exceeding six months, in which to enact a substantially similar law of enactment or enact the repeal, as appropriate. In the absence of such timely response, the proposed law of enactment or repeal shall be submitted to the people.

The constitutional amendment provides that, prior to the submission to the voters of a proposed law or repealer, any party may seek a declaratory judgment from the New Jersey Supreme Court that the law or repealer violates the federal Constitution or law or would be invalid under the State Constitution.

If a law proposed by initiative petition and submitted to the people is not approved, or a law whose continuance is the subject of a public question submitted to the people in a referendum is not rejected, then neither that law or public question, nor one to effect the same or substantially the same change, may be submitted to the people for approval or rejection, as appropriate, before the third general election thereafter. If a law proposed by initiative petition is enacted by the people or a law in response to such a petition is enacted by the Legislature and the Governor, or if an existing law which is the subject of a referendum petition is repealed by the people or the Legislature and Governor, then any revision or repeal of the law so enacted, or reenactment of the law so repealed, would require a three-fourths vote in each House of the Legislature during the first two years following that enactment or repeal or a three-fifths vote in each House during the three years following that two-year period.

The constitutional amendment provides that no law proposed by an initiative or referendum petition and approved by the people shall be subject to the veto power of the Governor. It also states that if conflicting laws proposed by the initiative process are approved by the people at the same election, the one receiving the highest number of affirmative votes shall be deemed approved.

The constitutional amendment includes a schedule providing that, if one or more other proposed constitutional amendments establishing the power of initiative and referendum are on the ballot at the same election at which it is submitted to the people, then it shall become effective only if it passes with a greater number of votes than those other proposed amendments receive.

COMMITTEE AMENDMENTS

The committee adopted amendments to this concurrent

resolution to (1) clarify that an enactment of the Legislature which is "substantially similar" to a law proposed in an initiative petition is entitled to the same five-year supermajority protection against revision that a legislative enactment identical to that proposed law is to enjoy, (2) extend the scope of the declaratory judgment provision to a finding of invalidity under the federal Constitution or laws and clarify the wording of the provision, (3) incorporate the provision requiring disclosure of information regarding paid solicitation of petition signatures, and (4) correct typographical and editorial errors.

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ASSEMBLYMAN ROBERT D. FRANKS (Chairman): Ladies and gentlemen, will everybody please find a seat? We would like to convene the public hearing.

Ladies and gentlemen, I'd like to convene this public hearing of the Assembly Policy and Rules Committee. The subject of the public hearing are two Assembly Concurrent Resolutions, which seek to amend the New Jersey Constitution to provide the citizens of this State with the rights of initiative and referendum.

A whole host of witnesses have signed up. Those who are interested in offering testimony, who have not signed up, please find the slips on the witness table or at the end of the Committee table. Sign up and present it to Dave Sallach, our Committee Aide, in order that we can add you to the list.

I have a brief opening statement, and as most of you have now learned we are going to be visited by Governor Florio, who has asked for -- who has asked for time to address this Committee on initiative and referendum. Governor, welcome.

G O V E R N O R J A M E S J . F L O R I O: Thank you very much, Mr. Chairman.

ASSEMBLYMAN FRANKS: We're honored to have you here today. Given the present business before the State, that you would take your good time to come before this Committee to express your views on initiative and referendum is very important to us. We gratefully acknowledge your presence, and thank you for taking time from your busy schedule today.

GOVERNOR FLORIO: Well, thank you very much, Mr. Chairman, and members of the Committee. I'm very pleased, and I appreciate the invitation that was extended to me by you. It's very nice. It's almost nostalgic to be before a Committee. Before, as I think most of you know, in the Congress, I had the occasion to be on that side of the table at legislative hearings, and I know that legislative hearings are extremely important as part of the fact-finding process, to be able to get the information necessary to formulate good policy.

And of course, what we're talking about today is a very important fundamental review of some of the structural aspects of how government works, and how we can make the government more responsive and more responsible.

And I note that today, of course -- June 17 -- is the 20th anniversary of the Watergate break-in, which was an event that caused people in this nation to be apprehensive about their government. Reforms came out of that unfortunate circumstance, and I think, once again, today we are at a point in our nation's history, much less our State's history, when people do have some serious questions about their confidence in the institutions; not just the governmental institutions, but all of the institutions that are important to our whole society and its operation.

Today I'm very pleased to have the opportunity to discuss how I think we can move in a direction that will allow us to restore to our people a sense of the significance of their ability to influence policy; their ability to have some input into governmental policy that is so important to all of us.

As I said, people that I talk to-- I just left one town -- I was in Monroe Township in Middlesex County -- just a little while ago, and a number of individuals expressed to me their concern about the way the governmental system is responding or not responding to the concerns that they have. We happened to be talking about health care, and they were very concerned about the health care situation in this State and in the nation. I think that's symptomatic of the concerns that people have.

People are looking at things that they've seen in the newspapers in the last few years: the savings and loans scandal, the \$500 billion economic Chernobyl that was brought to us by a host of different special interests that interfered with the orderly process of dealing with governmental

regulations in that context. I think people are concerned about the ability of special interests, from time to time, to be able to overcome the public interest.

Seeing that in some respects, the interest of those groups -- particularly their financial ability -- impedes the ability of all of us, not only to take action, but in some instances -- and the health care example is one that I would point to you, in Washington. In some instances it impedes our ability to even discuss what actions should be undertaken.

I think what people are talking to me about, and I suspect they're talking to you about as well, is that average people -- people that don't have a PAC or a lobby for them -- feel left out of a system by which we make decisions in this State and in this nation, and I think people want to become more involved. They want to become more involved in the decisions that impact their families, the lives of their children, and the people that they care about.

It's clear to me that it takes more than just promises or pure assertions that we're going to change the process in the normal course of business. There is a need for some extraordinary remedies to deal with the extraordinary problems that we face right now. It's going to take more than just the normal course of events of promising people that we're going to listen and try to factor their thoughts more into the normal legislative process.

People are demanding fundamental change. They're saying that they are not sure they have confidence that the system is going to be self-correcting unless we make some of these fundamental changes, and the people have to have, institutionalized into the system, direct access in decision making.

Voting is certainly essential, and we all want to do everything we can to encourage greater participation. But the problems that people talk to me about, they maintain are much

more significant. They're much more difficult to resolve, than just hoping for the best; that our representative system is going to be the exclusive mechanism. In other words, there's a need for more direct democracy in the minds of an awful lot of people. Politics as usual undercuts the public interest, no matter who is elected, in the minds of an awful lot of people, and, frankly, they're not totally wrong.

I say that if we really want the people of this State to trust our government, we in government have to trust the people to a much greater degree than is currently allowed under the law. We've got to trust them and give them a bigger say in their own future and in our future, and that's why I'm here to ask that this Committee consider placing on the ballot -- and I guess you have to do it by the 1st of August, in order to have it happen this year -- an amendment that will allow New Jersey citizens an equal voice in government through initiative and referendum.

I think most people know that this has not always been my position. I've made the arguments, prior to the last year or so, that there were things to be concerned about. I think those things to be concerned about are still items of concern, but I'm convinced that the legislative craftsmanship that you can put into this effort will be able to address some of those types of concerns.

I think the whole question of who finances different questions, the need for disclosure about the interest, what the names of this committee hides as opposed to what it really means -- those types of things in implementing legislation can go a long way to address the types of concerns that I've always expressed apprehension about.

I see in the proposals that are being considered by the Committee there has been an effort to try to ensure that the various regions of the State have appropriate protection, that there are requirements that do reflect concerns about

regional interest. I think those are appropriate concerns that should be incorporated into the legislation that would authorize this bill.

I want to make sure that we do have full disclosure. I'm not sure that that has to be contained in the legislation authorizing the amendment, but whether it does or does not, at some point, were the amendment to pass, implementing legislation can take care of those things, and I guess what I would express-- It is my view that we should at least make public what the Legislature intends to do if the bill is passed by way of full disclosure and by way of campaign limitations in terms of these different campaigns, so we don't have what we've had in other states.

California, I guess, is the classic example, where every year they have these gigantic financial shoot-outs between the tobacco industry, and the trial lawyers, and whomever. I mean, what we want to do is make sure that this is going to be a people's contest, rather than a contest between special interests.

ACR-1 is an excellent vehicle that could be used, it seems to me, to be able to improve -- to move in the direction of taking into account the things that I've talked about. I guess I would just conclude by saying that I am prepared to be as helpful as possible, in making sure that all other interests are subordinated to the greater interest of ensuring that the people of this State have a greater say in policy.

As I say, ACR-1, I think, is the appropriate vehicle of the two vehicles that you apparently are considering, and would urge that this Committee and both Houses of the Legislature work in an expeditious fashion to make sure that the people of this State have on the ballot this November the opportunity to work their will.

Thank you. (applause)

ASSEMBLYMAN FRANKS: Governor, I want to thank you very much for your testimony today. I will observe that the opportunities to work with you on particular issues have been sharply limited in the past. I'm absolutely delighted that on this issue we have a strong foundation of agreement.

I appreciate your endorsement of ACR-1, which has, as you noted, been the product of some seven years of careful work and public hearings by this Legislature, and by concerned citizens across the State. I'm grateful that you're going to be putting your shoulder to the wheel in an effort to move this issue ahead, and I hope that together, the Legislature working with the influence of the Executive, can bring this about as a reality for the people of New Jersey.

I am going to-- I know you're under a tight time frame. If you would be open to--

GOVERNOR FLORIO: Certainly.

ASSEMBLYMAN FRANKS: --answering any inquiries? I would only issue one qualification, and that be that the limited -- questions be limited specifically to the issue of initiative and referendum that is before us. I know it's tempting to have the Governor here, to open up questions on a whole host of concerns that we mutually share, but I'm going to ask that questions be carefully limited to the issue of initiative and referendum today. On that note, I will turn first to Mr. Bryant. If you have any questions of the Governor, on this issue, I'll be happy to entertain you.

ASSEMBLYMAN BRYANT: Thank you, Mr. Chairman. Let me pose to the Governor, you said, "ACR-1 is something that you believe's time has come." Can you tell me, or tell our Committee what kind of things you can imagine coming from the grass roots of people -- that will be placed on the ballots -- that ought of be of concern where we ought to hear from the people of New Jersey?

GOVERNOR FLORIO: Well, there's a whole host of issues that I feel strongly about, that, again, the Chairman was very candid in saying that there are differences -- philosophic differences on different issues. There are issues right now, I mean. Frankly, not to touch on a particular sore spot, but the whole gun ban. I mean, the assault weapon issue is one that I think is a very clear issue that could be, and should be, resolved by the people of this State. There's obviously a difference of opinion between the legislative branch and the executive branch with regard to the repeal of this issue. That is a very clear-cut, easily resolved issue: either you are for more availability of assault weapons, or you're not.

There are other issues that I think fall into that category, and the concern that many people have. Not me. I have a concern from my perspective. I'm sure there's concerns from other perspectives as to whether the representative governmental system we have is really working to represent the interests of the average person.

As I said, I made reference to health care. I happen to believe -- and perhaps it is not universally shared. But I happen to believe that we know everything that has to be done in order to put forward a good universal health care system for the people of this State. It's not a matter of not knowing. The problem of course is that it entails a bit of disruption with the status quo.

There are a lot of people who like the status quo, emotionally, financially, intellectually, and therefore it is not going to be an easy thing to do the right thing. I happen to believe that it would not be a difficult thing to frame a health care proposal that could go on the ballot, that the overwhelming majority of the people of the State would sign on to in a heartbeat.

If, in fact, the legislative process didn't lend itself to getting to that point because of the disproportionate

amount of influence of various groups and interests, and if we want to solve that problem or other problems, the answer is let's go directly to the source of all authority; the people in the State.

ASSEMBLYMAN BRYANT: One other question, Mr. Chairman, through you. Governor, is it your belief that any initiative and referendum ought to include the Constitution as well as statutory, and secondly, are you saying that as you've changed your view, or as you've evolved to understanding, that people need another opportunity? Do you think that change is now? In other words, that it ought to be done on this year's ballot?

GOVERNOR FLORIO: The answer is, I think it should be done on this year's ballot. I think, also, if we believe in the confidence and the wisdom of the people, we can't say we only believe in it to the degree of legislation versus to the degree of dealing with the Constitution. But I know, and I suspect -- I haven't seen who's in the back of the room -- but I suspect there are folks here who feel very strongly about the issue of term limitations. I mean, that clearly is something that the people of this State, if they feel that is a good idea, would have the ability to weigh in and say that the change in the Constitution should be allowed to be submitted to the people.

So, the answer is, you can't be half in favor of the basic premise that the people are the sole and the exclusive repository of ultimate authority in this nation, and if you're going to go for this concept, you really have to go for it to the total degree of ACR-1.

ASSEMBLYMAN BRYANT: Thank you, Mr. Chairman.

ASSEMBLYMAN FRANKS: Thank you, Mr. Bryant. Mr. Geist.

ASSEMBLYMAN GEIST: Thank you, Chairman Franks. Good afternoon, Governor. Governor, as you know, despite our party affiliation difference, we share in common a South Jersey residency, and our strong advocacy of pro-choice. I assume

you've given strong consideration to South Jersey interests and to pro-choice interests before making the recommendation today.

GOVERNOR FLORIO: Are you talking about pro-choice in the context of abortion?

ASSEMBLYMAN GEIST: Yes.

GOVERNOR FLORIO: Okay.

ASSEMBLYMAN GEIST: I assume you've given careful consideration to both South Jersey interests and pro-choice interests before making a recommendation today. What safeguards do you believe should be incorporated to ensure that the best interests of South Jersey are protected?

As you know from your long history of representation of South Jersey, as originally a critic of I&R, South Jersey's interests need to be protected because of our significant population disadvantage. What recommendations of safeguards do you believe should be incorporated to ensure that the best interests of South Jersey are protected? And further, what safeguards do you believe should be incorporated to ensure that that right to choice, as you so strongly advocate, could not be infringed on by initiative and referendum?

GOVERNOR FLORIO: Well, it's interesting. I'm a little perplexed on the last point, because everything that I've ever seen indicates that the people of this State overwhelmingly support a woman's right to choose. I happen to subscribe to that, so I'm not-- I'm not at all uncomfortable with the idea as to what the outcome of that would be, but the answer is, what we have to do is make sure that the people have the ability.

It could be-- Whether it be that issue or the issue of assault weapons, the ultimate repository of correctness happens to be, under our system of government, what it is the people want by way of policy. On the first point that you made, I think ACR-1 addresses that issue. The concern that just by virtue of population one area, one county, one region

would totally dominate and subordinate the interests of everyone else-- Again, it's not the final product. Perhaps there may be some opportunities for modifications, but I think ACR-1, breaking the State into regions, requiring that there be a certain percentage of signatories from each region, I think that takes into account the concerns. But I think also it's important to note that I saw a poll -- and I suspect you saw it as well; it was recently conducted -- on this whole question of I&R in the different regions of the State, and ironically enough, questioning even the premise that you work from, the South Jersey region felt strongest about I&R in a positive way. So there doesn't appear to be the apprehension that people traditionally have thought existed in the southern portion of the State about I&R. I think possibly the absence of that apprehension is a direct result of the Chairman's efforts to try to build into his proposal the safeguards that he has built-in, by virtue of regional requirements.

ASSEMBLYMAN GEIST: Two quick follow-up questions. Thank you, Governor.

Governor, on the South Jersey issue: Currently, it's my understanding that all of the signatures could come from one South Jersey county. Camden County right now, our home county, an urban dominated county could be the focal point for all of the signatures. Yet the disparate interests of the Gloucesters, Salems, the Cumberlands, the Capes, the Atlantics, may not be thereby protected. Do you have any specific recommendations to ensure further safeguards so that the rural suburban counties of South Jersey have special incorporated protections?

GOVERNOR FLORIO: Well, obviously, the Chairman has the capability of making recommendations in his own proposal to modify it a bit, but I guess I sometimes think we overblow this difference of interests that exist, even within regions.

When I go and talk to people about health care, guess what? I don't get substantially different responses, one county from the other. If someone gets a hospital bill, and they look at it and say, "Whose bill is this? It's not mine," because it doesn't reflect the services they got, or that they're paying \$6 for an aspirin, these problems that we're talking about are problems that are uniformly stretching across the whole State, much less between counties. So, very rarely are there issues that are so provincial that one would think that one county would overwhelm another.

I think that the Chairman, unless one wanted to do this on a town by town basis -- I think the Chairman has done a good job in trying to balance the idea of differing parts of the State with the thought that you can't do it district by district. You're going to have to do it on some reasonable, rational basis, and his four regions, I think, is a reasonable approach.

ASSEMBLYMAN GEIST: One last quick follow-up on the abortion issue: Because you are such a strong advocate of abortion, Governor, every pro-choice group that I'm aware of -- although they recognize that popularity for pro-choice is strong -- every pro-choice group that I'm aware of, nevertheless, still opposes initiative and referendum, because they fear the possible interjection of constitutional infringements on this very important right. I recognize you've been reassured that the personal popularity of pro-choice will prevail, but nevertheless every pro-choice group in the State opposes. Do you have any comment on that particular aspect?

GOVERNOR FLORIO: No. I don't have any comment on it, except to say that certainly everyone should be aware of -- and I'm sure you all are -- the fact that nothing we do will take away Federal constitutional protections that would be available, notwithstanding any of these issues. But I guess the more important issue is-- What we're saying is that the

process that is spelled out in this bill by definition says, first, if the process is followed through: Someone comes forward with a proposition, the Legislature -- under this bill -- will have, I suspect, at least six months to engage, and in a sense, almost will be required to engage in, the debate to have all of the views aired. If in fact they choose not to do anything or fail to do something, then you start the process of a statewide dialogue, and I guess I work from the assumption that the public interest at the end of the process will, by definition, work out; that the dialogue will be conducted, the conflict of ideas, the conflict of conflicting views, will ultimately be decided by the people.

I have sufficient confidence in the people at the end of the process that I happen to believe that certain things will occur, and if one questions that premise then you're really questioning the whole system that we have, and I'm not prepared to question the underpinnings of our democratic system.

ASSFMBLYMAN GEIST: Thank you for your responses. Thank you, Chairman.

ASSEMBLYMAN FRANKS: Thank you, Mr. Geist. Mr. Pascrell.

ASSEMBLYMAN PASCRELL: Thank you, Mr. Chairman. Mr. Chairman, I have a statement to make. But after the Governor is finished I'd like to make the statement, and I'd like to ask a question right now.

ASSEMBLYMAN FRANKS: Sure.

ASSEMBLYMAN PASCRELL: Governor, you support this presentation that the Chairman has presented to us -- the legislation -- and I'm interested in one area. I'm interested in one specific area of this legislation that deals with disclosure, or the lack of it dealing with disclosure. Don't you think it's a good idea in view of what you've said, that you should have to file with ELEC if you're going to place and support a question that's going to be before the citizens of

this State? I'm trying to follow what Chairman Franks and you are saying, Mr. Governor, about the democratic aspects of this bill -- this particular bill. Don't you think that that would encourage and ensure what you both say are the major premises of this bill?

GOVERNOR FLORIO: Mr. Assemblyman, as I said, it is absolutely imperative that there be full disclosure. It would be my suggestion that there would also be some limitations on the ability of people to engage in spending wars in these types of things. I guess the question that is open for debate as to whether that has to be involved in the actual referendum question, or if in fact you pass companion legislation either before the fact of the question being put on the ballot, or conceivably after the fact of the question being put on the ballot. But your basic concern is one that I share; that people know what's going on.

We've seen too many-- I mean, in the insurance field I'm very familiar with sort of dummy groups that get started that have nice sounding names but represent the very opposite of what their nice sounding name connotes. So, I think all of us are entitled to know who it is that's behind something, and who it is -- and what their motivations are for their support for programs.

ASSEMBLYMAN PASCRELL: The major motivation, as I read your comments in papers and what you've said, opening before and after -- last November 5 -- you want to provide a greater form for democracy in the State of New Jersey, and that the people of this State would be able to express their viewpoint, particularly if they feel the Legislature has not acted and has not been responsive. Having said that, the question of how many pieces of legislation -- how many pieces of bills that we would have to act upon, and how many things really go on the ballot in any given November, is something that becomes almost mind-boggling to me, and how we protect against that.

GOVERNOR FLORIO: Can I just respond to that, because I happen to think, almost, that this might even be a refining process. It's my understanding, according to my Counsel, that there are currently pending in the Legislature, now, in excess of 30 constitutional amendment proposals; some of them, quite frankly, in my opinion, frivolous. Now I trust that the legislative process is going to work out so that you will not have those questions on the ballot.

You can make an argument, and I would be inclined to make it, that if unofficially the Legislature said, "The Constitution should not be tinkered around with, except for extraordinary purposes," I think what you're setting up in this process is almost a screening process whereby, particular with constitutional amendments, you would propose those amendments that the people and the State have in fact gone through the effort -- the extraordinary effort -- that's spelled out for in the procedure here.

The whole process then will allow, in a sense force, the Legislature to consider those proposals, and however the Legislature worked out whatever they proposed we would certainly have a lot less than 30 constitutional amendments pending under a procedure that was followed, in that way, rather than ones that are pending now to deal with regionalizing schools, and other types of things that I see the Legislature working on now. So, that the filtering process that would be spelled out may very well even result in more deliberation being given to proposals than is currently the case.

ASSEMBLYMAN PASCRELL: The proponents of this legislation, regardless of which state they reside in and which state they've taken up the fight -- even though most of the I&Rs are west of the Mississippi -- those particular states where they fought to get I&R on the ballot did show to increase and expand, as you both have said, democracy. The other reason

fits New Jersey and other communities, and I'd like your feeling about it. That's the question of credibility.

It seems to me that public officials in this State, regardless of party affiliation, have a credibility problem with the public. Do you think that I&R -- and I know you've mentioned other things as well; term limitations being one of them -- do you think I&R is going to be a major reason to reestablish the credibility of public officials in the State of New Jersey?

GOVERNOR FLORIO: I think it goes beyond public officials to talk about the governmental system, to establish the credibility of the public governmental system for purposes of the public interest. The example I used earlier, this whole question -- and I feel very strongly about this -- of the assault weapon ban-- I mean, there is no question in my mind that the vast majority of the people of this State feel very, very strongly about the last thing that we should be doing is providing more access to Uzis and AK47s.

For the Legislature to go forward, as it apparently is going to go forward, within its rights, within its prerogatives, to effectively undo what was done in the direction that I happen to think, and I think most people think, is in the public interest, puts into question whether this governmental system is responding to the public interest as the public sees it. Unless there is a safety valve so that the public's will can be vindicated, there will be a constant undermining of people's confidence in whether this system is really representing their interests.

I can give you examples in the same vein in insurance. There's legislation pending now -- as a matter fact, I think it's passed in the Legislature -- to go and take the Commissioner of Insurance's authority away to intervene in the flex rating system, that was put into effect five or six years ago.

A good example: This year the Commissioner intervened when the flex rating proposal came forward. The flex rating proposal provides for an annual cost-of-living increase for insurance companies, plus 3 percent. That's 4-1/2 percent now, plus three. That's a 7-1/2 percent automatic rate increase for insurance companies. Our Commissioner of Insurance looked at it and said, "This is wrong." He said, "No more than 1.5." This piece of legislation will take away his authority to do that, so the people of this State would have seen an automatic 7-1/2 percent increase. I don't think anybody in the State feels that the problem is that the auto insurance rates are too low. It's obviously the opposite of that.

Lots of examples of things that are done that really are counterintuitive to the people of this State. We ought to have a safety mechanism so the people can have their views brought into the process.

ASSEMBLYMAN PASCRELL: Governor, I admire your courage in coming out in support of this legislation. You say, and Chairman Franks reiterates that this legislation is being presented to increase democracy in New Jersey. Yet, when I look at the facts, it would seem to me -- on this particular legislation that's before us today -- 99 organizations have come out against this legislation.

As a legislator, I'm concerned about my own credibility and the credibility of the institution we call the Legislature, and I'm sure -- and I know that you're concerned about your credibility and the institution you call the Governor's Office. With so many groups opposed, how does that weigh against attempting to increase democracy in New Jersey?

GOVERNOR FLORIO: The very easy answer, Assemblyman: Put it on the ballot. Find out what the people of this State want. (applause) They will either say, "Yes--" They will either say, "Yes," or they will say, "No." And more

importantly, there will be an opportunity, if this Legislature acts expeditiously -- puts it on the ballot by the 1st of August -- we will have August, September, and October; a three-month period, when I suspect a major source of discussion in this State will be the merits. There will be the argument, the opportunity for those organizations that feel strongly on the one side and those organizations that feel strongly on the other side to make their case.

The people of the State will have, as they should, the ultimate authority to give the answer, and if people's arguments on both sides of this issue can't stand the scrutiny of the public, then their arguments, probably, are not very strong.

ASSEMBLYMAN PASCRELL: Thank you.

ASSEMBLYMAN FRANKS: Governor, again, we appreciate very much your attendance, and your support for this measure today. We thank you.

GOVERNOR FLORIO: Thank you very much. (applause)

(BRIEF RECESS)

AFTER RECESS:

ASSEMBLYMAN FRANKS: Ladies and gentlemen, I'd like to reconvene. I had a sneaking suspicion that the broadcast media might leave following the Governor's appearance, and I wanted to give them a chance to clear out.

Again, those who would like to offer testimony this afternoon, I would ask to fill out one of the sheets that is on the pad at the end of the table here. We have a reasonably long list of witnesses, and we have brief statements, first, from a couple of Committee members. It was my intention actually to have read an opening statement prior to the Governor's testimony, but it all happened so quickly I did not

want him to have to listen to me while he awaited offering testimony. So, I will avail myself of that opportunity today.

Today both sides of the initiative and referendum issue have one more opportunity to present their views, and I know that each witness will provide us with well documented information to support their differing position, as has been done so many times before.

The parameters of the debate, for and against, giving New Jersey citizens the power to initiate public questions on the statewide ballot were defined more than a decade ago, and for the most part, have not shifted since then. But the political climate of the State and nation we live in is far different today than it was 12 years ago when I first advocated initiative and referendum, and demonstrably different than even six years ago when the last major effort was made to bring this change in our State Constitution before the voters.

Today, we face a crisis of confidence -- an unprecedented dissatisfaction with the ability of government at all levels to address the issues that really matter to the people. In this atmosphere of cynicism and discontent, elected representatives must look for ways to win back the public's trust and confidence in their government. A proper constituted initiative and referendum process with adequate safeguards is one way to meet that objective, to the well organized, economic driven, special interest groups who have spent more than a decade steadfastly opposing initiative and referendum. I think it's time to rethink your position.

Today, we've heard from Governor Florio, who after years of opposition to initiative and referendum is now embracing it. The Governor, on this issue, has listened to the people, witnessed their anger, seen their frustration, and now believes the people need greater control over their government. Look around you and listen to what your friends and neighbors are saying. They will tell you that government

appears to be in a gridlock, incapable of responding to the concerns they see in their everyday lives.

Nowhere is this feeling of dissatisfaction and alienation more evident than in the race for the presidency of the United States. The polls show that if the election was held today, independent candidate Ross Perot would be our next president, even though the public, by and large, admits they have virtually no idea where he stands on the important issues of the day. The public is desperately looking to send a signal, a signal that communicates their rejection of business as usual. They too often believe that the two political parties are out of touch. The political structure has failed them. People all over this country want to reclaim their government and make it work for them.

Over the past three months -- I looked at my calendar yesterday -- I've made more than 30 presentations on behalf of I&R, and in all cases but one, I have appeared before groups that have a position of long-standing opposition to initiative and referendum. The points they raised and the materials they're circulating to defend their positions are not new. In fact, in most cases they are literally identical to the anti-I&R material that they circulated six years ago.

These groups, representing some of the most powerful and important special interests in our State, continue to believe, apparently, that government is working just fine, and the people have all the power they need to dictate the direction their government should take. The special interests, on this issue, failed to get the point. They refuse to face reality.

The people are fed up. They want further assurances that government is serving their agenda and not its own self-interest, and that's why I&R is so essential in 1992.

A day after riots tore apart Los Angeles this spring, Secretary of Housing and Urban Development, Jack Kemp, issued a

challenge to America. He said that, "All too often violence is the result of people who no longer believe they have control over their own destiny; people who have lost faith and confidence and the ability to affect their own future; people who are denied both the ability to gain political power or even access to political power; people with no hope, and no faith in their government." But we don't need to look only to Los Angeles to underscore this problem. We find evidence right here in New Jersey.

Just 10 years ago there were 3.68 million registered voters in our State, as our population stood at 7.36 million residents. Today, 10 years later, the number of registered voters has actually declined by more than 9000 while our population has grown by 365,000 new residents. People are dropping out. They're not participating in the electoral process any longer.

To strengthen our democracy and better serve our people we need new avenues of access that will make our citizens stakeholders in the actions of their own government.

ACR-1 was developed after years of hard work, countless hours of testimony, and extensive research. It represents, in my judgement, an effective, fair, and responsible way for our citizens to have a more meaningful role in their government by providing them with access to the statewide ballot box. This crisis of confidence that we find in government in 1992 will not go away on its own. We in government must respond to the challenge and enable the citizens of New Jersey to take control of their government once again.

The people want, need, and deserve, a carefully crafted system of initiative and referendum. This year, more than ever, ACR-1 deserves to be placed before the voters. (applause)

I don't need the same treatment that goes to Florio, thank you. (laughter) Let me turn to members of the Committee who might have a statement. Mr. Pascrell indicates he has a statement.

ASSEMBLYMAN PASCRELL: Thank you, Mr. Chairman. Chairman Franks, and Committee members I commend you for your persistence, and I commend this Committee for holding this public hearing on this very important subject of initiative and referendum.

I do find it somewhat inconsistent, indeed ironic, in that there are some of us who support this legislation, at the same time -- in the name of democracy -- have attempted to undermine the Office of the Public Advocate. I'm sure you are aware, Chairman Franks, that Assemblyman Green and myself introduced I&R legislation -- ACR-79 -- which this Committee is not considering today, for reasons unknown. The issue of I&R has been around for some time.

I'll limit my testimony to some very specific concerns about the specific bill before us today. Assemblyman Green and I wholeheartedly support the notion that the public should have the ability to participate in the electoral process. The problems with the bills before this Committee today, however, is that adequate safeguards are lacking in these bills to protect the citizens of this State from being manipulated by well paid, well organized, special interests.

First and foremost, the mechanisms in these bills can undermine the very premise of the I&R majority rule by the ballot on a particular issue. Under these bills being considered today by this Committee, by dividing the State into geographical regions, certain counties will have a disproportionate control over the outcome of any issue that affects the rest of the State.

Respectfully, Mr. Chairman, I submit that both, ACR-1, and ACR-3 are flawed legislation because there is no logic in

allowing the residents in four counties to determine the fate of the entire State of New Jersey -- no logic whatsoever.

Mr. Chairman, you've been involved, sincerely, with the issue for a long time. I commend you for your dedication and for recognizing the importance of citizen participation in the electoral process. I share your commitment to promote the principle of initiative and referendum. I believe that the citizens deserve more credit than any of us are willing to give them. However, no one is immune from a deceptive advertising campaign, and when I look at the numbers and the dollars that have been spent in California, and through the '80s and late '70s, I have to pause at the safeguards that are lacking in both of these pieces of legislation.

I do not believe that the framers of our Constitution wanted the Constitution to be changed without careful deliberation, thought, and consideration. My objections to both pieces of legislation are that by placing no limits on the number of ballot questions that the public may consider we run the real risk of becoming another California.

Unlimited ballot questions do not allow the public to adequately consider the serious task of amending our Constitution. Mr. Chairman, I believe we will be using the public if the legislation before us remains as is. The rules of this body put limits on how many bills we can consider. At the beginning of this current legislative session you and my colleagues on the Policy and Rules Committee agreed that limits on the number of bills that we could introduce was necessary and, indeed, good policy. We needed to slow down the runaway train of endless legislation, we said. Both sides of the aisle agreed to those limits. Now, however we are expected to approve legislation which would allow our Constitution to be amended without such limitations. Mr. Chairman, I cannot disagree more with that particular notion.

Mr. Chairman, I also think that we are not giving the public the best options here. On one hand -- under ACR-3 -- we say, "No constitutional questions may be considered." I do not agree with such an extreme restriction on public participation in the legislative process. I can think of a number of instances where the public should be given the opportunity to initiate certain constitutional amendments. However, this approach should be balanced by excluding questions on the Bill of Rights of our Constitution. This legislation does not. The only other option we are giving to the public is no restrictions of any kind, such as in ACR-1.

Mr. Chairman, this is not an either/or issue. We should not be considering this issue as an all or nothing proposition. All of these bills before you today recognize the importance of providing safeguards from the direct method of I&R. However, I believe that our bill -- ACR-79 -- provides the best safeguards. Our bill would allow for constitutional amendments except to Article I of the New Jersey Constitution regarding individual rights. In other words, our bill would allow a constitutional amendment to be placed on the ballot through initiative and referendum, but would not allow any changes affecting the New Jersey Bill of Rights. This is critical in order to maintain individual rights in our State while providing the necessary options to address constitutional changes.

Mr. Chairman, another major flaw with the legislation before us today is the lack of limit of questions. While New Jersey residents want the advantages of I&R, I do not believe that we want to have an unlimited number of questions. I think it is imperative that groups that decide to promote I&R should comply with the State's election law reporting requirements. This would mean full disclosure: just as you have to do, Mr. Chairman; just as I have to do. Full disclosure of those

organizations and individuals who are promoting ballot questions -- ballot initiatives. The bills before us today have no such protections.

Additionally, it is inconsistent to disclose who's paying for circulating petitions, while not requiring the group behind the initiative to file with ELEC. It seems to be an inconsistency here. I think that the questions that we've raised will only work to safeguard the citizens of New Jersey. I urge that you, Mr. Chairman, and my colleagues, amend these bills before they are reported to the full Assembly, and I'm deeply grateful for you allowing me to speak at this point.

Thank you, Mr. Chairman.

ASSEMBLYMAN FRANKS: Thank you Assemblyman. Assemblyman, let me just very briefly touch on one issue raised by the Governor, shared by me as a principal concern, and articulated very effectively by you. That's the issue of disclosure. The question is one now, of process. Whether or not -- as the Governor observed -- whether the process protections, in terms of full disclosure, should be embodied in the text of the constitutional amendment or whether they ought to be embodied in enabling legislation.

I tend to agree that the protections which we both seek; and I assure you I retain this position as Chairman of this Committee. We will build into this measure in the enabling legislation. We will not only bring campaigns for public questions under the umbrella of ELEC as we have to, as you noted, but I think there's a need to go even beyond that.

In Assembly Bill No. 1223 there is a full disclosure requirement, which goes not only to asking for more information about contributors than you and I are asked to provide to ELEC, but the timeliness of the reports which we have to do on a six-day, 20-day, or if we are a PAC on a quarterly basis. We're going to demand monthly reports from those entities that are engaged in trying to campaign on behalf of or in opposition to public question campaigns.

So, I don't want to have anybody left with the perception that there's a disagreement on the need. It's an essential and overriding need to protect the integrity of this process. I would add that Assemblyman Hartmann is the sponsor of Assembly Bill No. 1223. I talked about these broad-based issues with Chairman Martin's State Government Committee, where I think these bills will at least first be heard, but I share with you a very deep sense that we need to not only put these under the same umbrella that we operate on, but to go a meaningful step even beyond that.

Mr. Bryant.

ASSEMBLYMAN BRYANT: Yes. Mr. Chairman, let me first commend you for bringing this effort. It has taken many years in order to get, I think, the voter direct access, and I think time has come in terms of the change that is necessary for folks to have the ability to speak directly to us -- directly to issues that concern them.

I'm really going to pose four questions that this hearing, hopefully, can clear up for me, that I think are very, very important. I look at siting of facilities as a flaw in any legislation. I don't think, if in fact we decide that the Constitution should be something heard by the public, that they can't deal with other questions, because to me, in my mind, it says that we have now raised the siting of facilities to a greater level than the Constitution. I recognize that I was even under the mistaken belief that that might be something that we should consider, but I am definitely at this junction -- unless someone can explain to me why that should ride even above the level of the Constitution.

I think, secondly, what I need to know is about the Bill of Rights. What makes our Constitution unique, in not only this country but this State, is that it is a democracy, and the only one in modern history which was developed that the majority could never be the tyranny to in some way enslave the minority viewpoint.

This legislation, as I read it, has no protection for the Bill of Rights. It does not call for either a super majority of those who must actually put it on -- a Bill of Rights issue -- the ballot, and it definitely has no super majority of those who must vote. So, in essence, what could happen in our State is, if the majority rule could be enabling, that individual rights could be taken away because the majority just disagrees. I think it is devastating to any Constitution and we ought to think about having, possibly -- unless someone can explain to me why we should not have some super majority of the votes even cast, to do away with individual rights, individual liberties.

I think, lastly, what I want to hear is -- again, I heard from Mr. Geist-- I am somewhat concerned, from even as much as you've done in terms of regions, that as I see the breakdown of the vote, every county in the region -- one county of every one of those regions -- could put something on the issue. It doesn't make just Camden County, but you could do it from Salem County. You going to end up being -- fulfilling the total population. That to me seems to be somewhat askew, in terms of if in fact we really want to make sure that we get broad-based support, that no one county in any region -- and that's not hard to do-- I mean, no one county in every region, meaning four counties could do it, unless someone can explain to me why there is some logic that four counties -- four difference regions -- should be able to put something on the ballot?

Those are the issues that I'd like to hear through this public hearing people to explain to me, especially, because I want to reiterate the Bill of Rights. We are really putting in jeopardy individual Bill of Rights. Part of our Constitution is to make sure the majority does not just rule minority issues for individual rights. There ought to be some super majority in voting, if the Bill of Rights issue is put

up, and to rush the judgment -- for us to put something on the ballot that will let the majority knock down individual rights -- to me, I think that's a mistake by this Legislature, and it's a mistake in terms of how we understand the Constitution and what has made New Jersey's Constitution uniquely, and also the Federal Constitution uniquely appropriate, for democracy in order to survive.

ASSEMBLYMAN FRANKS: Mr. Bryant, thank you very much. The first witness I'd like to call is the cosponsor of ACR-1, Assemblyman John Hartmann.

A S S E M B L Y M A N J O H N H A R T M A N N: Thank you, Mr. Chairman. I'd like to read into -- a statement by Congressman, now Congressman Dick Zimmer, who was actually, first, one of the leading crusaders for I&R. I hope you will give me that privilege.

ASSEMBLYMAN FRANKS: Absolutely.

ASSEMBLYMAN HARTMANN: Thank you.

This is from Congressman, Dick Zimmer. It is dated June 17, 1992.

"I regret that legislative business in Washington makes it impossible for me to testify before your Committee in person. I am grateful for the opportunity to submit my comments for the record.

"I strongly urge the State Legislature to approve ACR-1, rather than ACR-3, the pallid and toothless alternative. This is not simply a matter of pride of authorship, although ACR-1 is substantially the same as the initiative and referendum proposal I sponsored that passed the Assembly in 1986. ACR-1 is preferable because it would give the public a realistic opportunity to put every important issue on the ballot, while ACR-3 would remove from the scope of I&R, a wide range of critical issues including legislative reform, land use, school funding, and taxation. This is because New Jersey has one of America's most activist Supreme Courts, which

will not hesitate to invalidate popularly initiated laws on constitutional grounds if they conflict with its own social and economic agenda.

"Forsaking genuine I&R for a watered-down version like ACR-3 will not mollify I&R special interest opponents or garner you significantly more votes for passage. I urge you to stick with the genuine article, ACR-1.

"I am delighted that Governor Jim Florio has reconsidered his position on I&R after years of relentless opposition to it and trust that he will demonstrate his newfound commitment to I&R by using his considerable influence to deliver a substantial number of Democratic votes for ACR-1 in both Houses of the Legislature."

For my own testimony I'd first like to commend you, Assemblyman Franks, for your tireless effort to try and bring I&R to the State of New Jersey. During my last campaign -- and this is not a political issue -- but during my last campaign, I ran on I&R. I think it certainly received considerably support from the people of the State.

I would like to, though, mention about the Governor's testimony. I wish Bill Pascrell were here, because he often, during the speech, likes to talk about his grandfather who must have been quite a man. Well, my grandfather, he's an immigrant as well, and he told me -- he's not a politician; he's a simple carpenter, actually; he's retired now -- and he told me one thing which is, "Talk is cheap." And quite frankly, I hope that the Governor isn't just being cheap in his talk, and he's going to try to really fight for I&R.

I know in our Committee -- I'm the Vice-Chairman of the State Government Committee -- both the Democrats opposed I&R, while we managed to get the Republican votes. I hope things are going to change. I hope we can have bipartisan support for this issue, because the people of this State want I&R. In fact, in the last election they demanded I&R, and I

consider that with both parties, we're going to give the people of New Jersey some form of I&R. I would prefer ACR-1, but if passage mandates that we have either ACR-3 or ACR-1, I will gladly support either bill. Thank you for your time.

ASSEMBLYMAN FRANKS: Thank you Assemblyman Hartmann. Next we'd like to hear from Keith Jones, the President of the NAACP in New Jersey.

K E I T H J O N E S: Good afternoon. Thank you, Chairman Franks, for the invitation to speak on this very important issue, and to members of this Committee. First, let me state as a subsidiary unit of a national organization, the NAACP, historically, has taken a strong position against constitutional amendments. Let me also note that as the State President, we have 42 chapters around the State. And now I'll go into the body of my testimony.

The NAACP has severe reservations and concerns regarding current efforts to incorporate the initiative and referendum system as part of the political process in New Jersey. Our concerns are based upon both a historical and contemporary analysis, which leads us to conclude that, potentially, African-Americans, along with other racial minorities, and lower income people in general, would be particularly vulnerable to I&R efforts not in our interest.

It should be understood that our opposition to I&R should not be considered a blanket endorsement of the current system under which the Legislature now operates. We are fully aware that minorities are also vulnerable to what comes out of the current process. However, our position would be to fix what is wrong there rather than to move into an I&R system which could exacerbate the kind of divisiveness which has been rampant in our State since the so-called tax revolt issue gained steam. This divisiveness is found in the urban versus suburban taxpayer versus perceived nontaxpayer rhetoric, much of which is often coding for negative racial attitudes.

We also must acknowledge that this is not a simple issue. There are many complexities here, and obviously there are people who sincerely care about the issue of democracy and citizen participation in our State and nation who fall on opposite sides of the I&R question.

In opposing I&R we find ourselves aligned with most of the large business interests in the State, a sector we often are beating up on to increase job opportunities for minorities. But of course our position is not based upon a fear of environmentalists cutting into our profit margins. And on the other hand there are groups with which we have cooperated on various issues.

One of the most difficult questions for those who oppose I&R, is that of how can you be against people voting freely, directly, democratically, for the laws they want. Well, it's just not that simple. It never has been in our nation when it comes to political processes and their impact upon African-Americans.

In theory there are some very good sounding arguments for I&R: things like providing more accountable government, greater citizen participation, safeguards against concentration of political power, means for putting new ideas on the political agenda, etc. In theory they sound great. All things being equal, in fact, I&R might be absolutely wonderful.

Unfortunately all things are not; never have been for minorities. This is why we must look deeper beyond theory to what the practice might bring. In theory, the Declaration of Independence was a stirring and inspiring document of political philosophy embodied in the phrase, "All men are created equal." In practice, however, most of those who signed the document profitted from a system which enslaved the vast majority of African-Americans. All of them supported the legal designation of African-Americans as being three-fifths of a human being, in practice.

In theory most people thought the Rodney King verdict would be a foregone conclusion. In practice, of course, we saw something else entirely.

But let me review here a few of the specific concerns which prompt our opposition. The first and most basic is that, for a constellation of reasons, there is an inordinate amount of alienation and disenchantment from the electoral process by minorities.

Of course this is a problem across the board, racially and ethnically, if we analyze the voting numbers. But it is even worse for us. Now this is something we have been trying to address. However, I do not believe I&R will galvanize minorities to a surge of voting. In which case African-Americans and other minorities would be vulnerable in not being able to protect themselves from negative initiatives.

As some skeptical observers of the I&R process have pointed out, it does tend to exclude the poor and uneducated. Clearly there is a correlation between voter turnout and income, education, and race. There is also evidence to show that when lower income and working class voters go to the polls, they are less likely to vote on ballot propositions and just vote for candidates.

Secondly, even with the numerous and serious faults in the current legislative process, minorities still have more access to the existing process than we would to the kind of public information campaigns needed for I&R success and to the masses of white voters who, given the numbers, will determine ballot results.

Again, even with its faults, the current system does provide for hearings, revisions, and debates, which if conducted fairly can foster careful deliberation. In many ways I&R may result in less informed decisions based upon slick sound byte packaged campaigns. It is bad enough we wind up voting for most of our candidates this way, these days. We should try to avoid making legislation in the same manner.

Thirdly, the notion that I&R as an expression of direct democracy is somehow less subject to manipulation, influence, or corruption than the traditional legislative process. Presentation democracy is at best, naive.

Monied interests will always have their influence in any electoral process. And I use the term monied interests rather than special interests, because it is more precise. After all, special interests are really just those groups we happen to disagree with.

I realize that there will be those who will question our position by noting that I&R has in fact been around for a long time, at least since the turn of the century. And in that time, hundreds of State laws and/or State constitutional amendments have been passed through this process, most of which have been, for the most part, racially neutral.

My response is, why should we even take a chance? Given the growing sense of racial divisiveness, the apparent willingness of many white citizens to respond favorably to the racial pandering of politicians like our current and former President, why should African-Americans or any minorities take a chance on a system over which we would have virtually no impact?

Again, we must opt to try to correct the problems our current system contains before jumping into something which could be even worse.

It is a profoundly sad commentary upon the lack of real political, economic, and social equity in our country, but our position on I&R could best be summed up by saying, "We prefer to deal with the poison we know, than the poison we don't know."

I'll be happy to entertain any question, from either you, as Chairperson or members of the Committee.

ASSEMBLYMAN FRANKS: Mr. Jones, first, let me thank you for your testimony. Are there any questions from members of the Committee? Mr. Bryant.

ASSEMBLYMAN BRYANT: Mr. Jones, let me ask you, because it's one of the questions I posed: Are you proposing the same problem that I see, that when it comes to the Bill of Rights, that therefore the majority -- the tyranny of the majority -- could end up imposing upon those who are either minority, by either race or minority in groups, things which they have no control over, and that is not something in the best interest of a democracy?

MR. JONES: Yeah. Clearly, I think it works against the interest of a real democratic process that works for all of our citizens. It is clear that there has been, at least as far as I can tell from the reading of the bills, no real effort or solution to the problem of-- Yes, you regionalize the input from the citizenry, but how do you control the notion of people of color: African-Americans, Latinos, and Hispanics, not being represented -- and their interests being represented, as those members come forward to bring initiatives forward?

I think it would be deadly to the interest to bring those racial minority groups into the mainstream of a State and a society that we find we live in two different diverse societies: one where people are able to access, and those who are not able to access. I would give you an example that quickly pops into my mind: with all of the debate coming out of the State Supreme Court ruling on Abbott v. Burke, and then this Governor's solution in terms of the Quality Education Act as a formula to address what the Supreme Court mandated, that if there was an appropriate question that came forward from legitimate sectors of the State relative to whether or not those property taxes should be utilized in the way that QEA calls for to rectify the thorough and efficient education mandates that our education process has.

I think you will find that based on the tax revolt that has occurred, they would turn that initiative on its head, and those 30 needy school districts, mostly black and Hispanic,

would still go wanting for quality education for their children. I think those are the kinds of initiatives, by well-intended individuals, who could continue to preclude real opportunity for people who have been historically locked out of opportunity in this State.

ASSEMBLYMAN BRYANT: Thank you.

ASSEMBLYMAN FRANKS: Any other questions for Mr. Jones? (no response)

MR. JONES: Thank you very much.

ASSEMBLYMAN FRANKS: Seeing none, Mr. Jones, thank you again. Next we'd like to here from Ed McCool, Chairman of New Jersey Common Cause.

E D M c C O O L: Thank you, Mr. Chairman. My name is Ed McCool, Executive Director with New Jersey Common Cause. First I'd like to thank Chairman Franks, and members of the State Government Committee for working long and hard to develop a viable form of initiative and referendum, to the extent that now facing the Assembly is a most important question, and that question is, "Shall the people have a right to decide, on their own, whether they want initiative and referendum?"

So much of the debate and the discussion that has taken place today, both the press conferences held earlier this morning, as well as some of the questions posed today to some of the witnesses, have begged a very important question. As the Governor underscored, the issue before the Legislature and specifically the Assembly is not whether the State of New Jersey should have initiative and referendum. The question before the Assembly is, "Shall the people be allowed the right to vote on whether they want initiative and referendum?"

They must vote yes, otherwise somehow come up with some rationale that says, "The public is intelligent enough to amend the Constitution to permit casino gambling, intelligent enough to decide whether or not it wants to allow sports betting, intelligent enough on, and on, and on, for all of the

other ballot questions, but too dumb and stupid to decide whether or not it wants initiative and referendum. Therefore, the Legislature will not allow them to make that choice."

That, clear and simple, is what the legislation pending before the Assembly, and hopefully posted for a full vote before the end of this month, will require each member of the Assembly to decide; whether they believe the public is intelligent enough to decide whether or not they want initiative and referendum. They are not being asked to play censor and keep the public from having the right to make that decision.

I'd also like to make a couple of points respective to the disclosure concerns. We thank Assemblyman Hartmann for being the sponsor of a separate piece of legislation, which addresses the requirement that the public be informed in an adequate and timely fashion with respect to who's financing and who's really behind questions that appear on the ballot for referendum.

The existing law is that if you are working pro or con on an issue before the public as a referendum, you only have to register and disclose 29 days before the election. That means that if initiative and referendum were on the ballot for this November, or -- as most likely will happen -- if sports betting is on the ballot for this November, the public will not really be able to find out who's behind the names of groups that are usually calling themselves "Good Things for All Americans," and "We Love the Country," and things like that. Who are they really? You will not know until 29 days before the election, unless A-1223 gets passed.

It's already cleared the Assembly Committee and hopefully will be posted for a full vote in the Assembly before the end of this month. We ask all members of the Committee, to the extent that they share their concern with disclosure, that they support this legislation. It requires truth in labeling,

and it requires -- as Chairman Franks has pointed out -- a reporting every 30 days, the minute you spend over \$2500, either for or against a question, or even to get one rolling.

That's the kind of information the public needs, and, in fact, the Legislature shouldn't be putting any more questions on the ballot to be decided until it amends the existing disclosure requirements, irrespective of whether I&R also appears on the ballot. We need to change this rule now because we have important questions other than I&R that the public's going to be asked to decide without adequate information as to who's fueling the debate, and who's funding the campaigns.

The second thing I'd like to address is the assertion that money dominates the initiative and referendum process. It's stated as a fact by groups, interestingly enough, who have great deals of money and are quite used to dumping up to \$600,000 in a given campaign season into the electoral process, and they're very worried about the role of money in the initiative and referendum process. We welcome their concern, one that Common Cause has had for almost two decades, about the role of money in the electoral decision-making process.

And simply to refute it being stated as fact, I cite two examples, both of which are taking from that notorious and hellacious place known as California in which Proposition 104, attempted to impact, in a negative way, on the no-fault insurance requirements. In that campaign, in 1988 the insurance industry and its allies spent \$55.7 million. I'll repeat that figure. They spent \$55.7 million in support of that Proposition. The opposition to that question spent \$23,766. The biggest single contributor to that campaign of \$23,000 was California Common Cause, which raised and contributed \$13,066 up against \$55.7 million. That question lost, 75 percent to 25 percent. Any day that you can beat

\$55.7 million with \$23,000, I say, that says that the public knows the difference between a heavily funded and skewed campaign and one that's based on the truth.

Another example was an increase in the tobacco tax. In that campaign the supporters of that increase spent \$1.7 million. To give you an example: They included such radical groups as the American Cancer Society, the California Hospital Issues Commission, the American Lung Association, etc. Opposing the tobacco tax, being led off by Phillip Morris at \$10.9 million, Phillip Morris and its allies spent a total of \$21.2 million to defeat the increase in the tobacco tax. The tobacco tax passed 59 percent to 42 percent (sic) despite the \$21.2 million to \$1.7 million skewed spending.

The public is not stupid. They are able to discern what's in their own best interest. After all, they elected all of you.

I don't know how many examples you need to cite in order to prove a fact is not a fact. Yes, money does play a role in campaigns, and it does play a role in referenda. I don't deny that. My two examples were cited to say, that it is not a fact all the time. Sometimes it does, and sometimes it doesn't. What makes the difference, frankly, the intelligence of the voter, and the nature of the campaign. But again, I go back to that incredible example where \$23,000 beats \$55 million, to say that you've got some pretty extreme examples to show that money doesn't call the shots when it comes to referenda.

The other thing that I would like to bring to the Committee's attention, and enter into the formal record, is our concern with the civil liberties issue. We respect the concerns of the NAACP and groups affiliated with their position with respect to minority rights. No organization has been more in the forefront, particularly on a national level, fighting for a strong civil rights bill over the Bush Administration's

objections, and over the Reagan Administration's previous objections than Common Cause has. Common Cause has been part of the National Coalition for Civil Rights for quite some time.

We are concerned, however, that the civil liberties issue is being raised in a manner raised to distract from who's really opposed to the initiative and referendum process. And I cite as an example a copy of a form letter that's been designed by a consultant firm, hired by the opposition to I&R, in which people are to send to their own membership organization. And I'll enter this in the record, but the third paragraph says-- This is-- You're to write to the members of your organization and say the following: "I&R allows the majority to tyrannize the minority. With I&R, what the majority says, goes. This means that --," and then this letter says, "Fill in with majority group that could harm your group."

So, it's basically an attempt to excite minority groups throughout the State with the bogeyman of whatever majority group they are most afraid of. And such callous manipulation in these sensitive times -- people's legitimate minority concerns, and we share them organizationally -- strikes us as being, quite frankly, beneath the dignity of most of the organizations engaged in that kind of negative campaign.

Let the issue be about the merits of I&R as each member organization opposed to it sees it. And that leads us to what the real opposition is; and it's economic. There are elements of the opposition to I&R that have cited specifically, although not always publicly, that they feel that it's very hostile, because, for example, in North Dakota, voters adopted an initiative that more than doubled the oil tax from 5 percent to 11.5 percent with substantial portions of these tax revenues being used to reduce voter taxpayers' income and property taxes. No wonder they're upset. Put it on the ballot in New Jersey, and you could bet it would carry as well.

They cite as an example of a hostile I&R, in Montana, antinuclear forces, putting an initiative on the ballot that prohibited the disposal of mill tailings from low-level nuclear waste material, that the result of mining uranium. I think that's a healthy initiative to have put on the ballot. And my favorite example they cite as why I&R is so hostile to finance, in Washington, a 1968 voter initiative rolled back the maximum interest rates paid on retail installments to 12 percent. The previous year the Legislature established a maximum of 18 percent. The difference depends on who's the majority, the debtor or the creditor. I think that's a perfectly pro consumer bill, and one that would also have carried in New Jersey as a referendum to roll back the userious taxes the consumers often have to pay.

They're the real basis for objections, and there's enough of them. Let's cite them and debate them, but let's have that debate once the questions been put on the ballot. That's really what today's testimony is about. It's about letting the people decide, and all that has to be done is for the Assembly to concur with the Constitution of the State of New Jersey, which says, "That the people have the ultimate right to decide whether they want to amend their Constitution or not," and thereby place both ACR-1 and ACR-3 on the ballot in time for this November's election.

Thank you, Mr. Chairman.

ASSEMBLYMAN FRANKS: Mr. McCool, thank you very much. Are there any questions for Mr. McCool? Mr. Bryant.

ASSEMBLYMAN BRYANT: Yes. Mr. McCool, it's nice that you have concerns for minority groups. What I'm really concerned about is, how can you tell me, as a minority, that I should allow a question to go on the ballot -- where even today to change the Constitution, there has to be a super majority in this House -- that we should allow -- and that's sort of like a red herring -- that you should not look at the Bill of Rights as having some different standards of initiatives?

I mean, a concern to me is like putting your mouth where, what is coming out, and that to me is-- I can't see how you can't support super majority for the Bill of Rights, as opposed to a regular majority. I mean, don't tell me you're concerned, and say, "But just let the simple majority do that." That's what makes our Constitution unique, that super majority. I mean, the majority just do not move those kinds of issues. How can you support something that does not require that?

MR. McCOOL: Well, through you, Mr. Chairman. First of all, Assemblyman Bryant, I would never presume to tell you what you should do. I would simply tell you what my opinion is on the issue. I recognize that you will make up your own mind as to what you feel you must do.

In terms of procedure, the Legislature can pass and place on the ballot an amendment to the New Jersey Constitution by a simple majority in two consecutive legislative sessions. It requires a super majority only if it wishes to do it in that same particular calendar year.

With the respect the protection of all--

ASSEMBLYMAN BRYANT: But-- Let's go through that.

MR. McCOOL: Yes, sir.

ASSEMBLYMAN BRYANT: What it made you do is, do something twice.

MR. McCOOL: That's correct.

ASSEMBLYMAN BRYANT: It always requires something different than just the normal majority. In other words, normally how we pass a bill is, you have a majority one time, and then it goes to the Governor, or whatever else. So, in essence, we've always had some concept of doing something extra.

MR. McCOOL: Sure, sure. If I may, through you, Mr. Chairman? And also the right to amend the Constitution does not rest with the Legislature, because all that process refers to is putting the question before the people, and it is a

referendum by Constitution requirement that is required before the Constitution can be amended, which is the same principle as I&R. So, we're not really talking about introducing a new radical innovation here in New Jersey government. We're simply extending it to legislation, because people already have that right when it comes to amending the Constitution. That's why we're having the hearing.

I view the courts as the last-- Let me begin by saying, I view my personal rights directly tied to the rights of any minority in this State. To the degree to which any individual's rights are infringed or basically trampled on, is the degree to which my rights are as well. And I view the courts as the last recourse in its interpretation of the Constitution and the Bill of Rights, and that, to me, shifts the focus not to I&R, but to the quality of judicial appointments, both in our State and Federal system as well as Supreme Court, as to the final guarantor as to whether or not our civil liberties are going to be adequately protected or not.

It was the New Jersey Legislature that violated the principle of endorsing unorganized religion by passing the prayer in schools. It's been legislatures throughout the states that have periodically trampled on individual rights. They're just as capable of doing it, as the public is being accused now of doing it.

ASSEMBLYMAN BRYANT: Through you, Mr. Chairman. What I'm trying to get at-- That's nice to tell me about the courts, but if we put, "to do away with the Bill of Rights," and we did away with them, how does the court interpret something that's not there, once the people vote for it?

MR. McCOOL: I'm sorry, I don't understand what you mean by do away with the Bill of Rights?

ASSEMBLYMAN BRYANT: Assuming there was a constitutional amendment to eliminate Article I--

MR. McCOOL: Of which Constitution?

ASSEMBLYMAN BRYANT: New Jersey's. Which have other protection besides only the protections that the Federal have. We vote on it. The simple majority votes on it. They agree to it. How do the courts in New Jersey protect something that's not there, and it's not in the Constitution?

MR. MCCOOL: Well, I don't know that, but I think the question before the Legislature is not all the worst case scenarios of I&R, but why does the Legislature not believe that people should have the right to decide whether they want I&R or not?

ASSEMBLYMAN BRYANT: That's not the question. The question is, should you not have tiers in terms of what is more important, as opposed to what is less important? Maybe the Bill of Rights ought to have a different majority than other kind of questions. That's all I'm asking.

MR. MCCOOL: Well, then you probably find room to support ACR-3, I would think then.

ASSEMBLYMAN BRYANT: It doesn't have that, as I understand it.

ASSEMBLYMAN FRANKS: Mr. McCool and Mr. Bryant, let me focus the attention of both of you, as well the members of the audience, that this is a constitutional requirement that this public hearing be held today. This is not a Committee meeting, and I've tried to encourage the witnesses to be available to questions, and this is a very appropriate line of questioning, but we have a whole host of folks who want to testify. I've tried to be as generous as I can with Committee members' time. Mr. McCool-- Is there any other for Mr. McCool?

ASSEMBLYMAN GEIST: Just briefly.

ASSEMBLYMAN FRANKS: Quickly, please, Mr. Geist.

ASSEMBLYMAN GEIST: Thank you, Chairman Franks. Mr. McCool, on behalf of Common Cause, do you believe that through I&R the people in the State of New Jersey should be so enabled to propose a constitutional amendment to dissolve the government of the State of New Jersey?

MR. McCOOL: We would campaign against that question.
(laughter)

ASSEMBLYMAN GEIST: With the current popularity of the Governor and the Legislature, do you believe the people of the State of New Jersey should, through I&R, have the right to propose a constitutional amendment to dissolve the Office of the Governor, or to establish a unicameral Legislature, or to dissolve both Houses of the Legislature?

MR. McCOOL: There's two parts to your question. I can believe in the right of the people to put a stupid question on the ballot, but I can also campaign against it as much as I can believe of the right of the people to put a not-so-bright candidate in office, but -- you know -- not necessarily vote for them. So, I mean there are two things: One is the process, and the difficulty is trying to approve a process and at the same time control all the things that it might be used for, is as difficult as trying to control the nominating process but at the same time trying to control for -- all the types of candidates that might get nominated by that process.

ASSEMBLYMAN FRANKS: Let me add, that the Federal Constitution contains a requirement that each of the states have a republican form of government. So, such a constitutional initiative at the State level would run afoul of our Federal constitutional requirements, Mr. Geist. Any other questions? Seeing none, I thank you very much, Mr. McCool.

MR. McCOOL: Thank you, Mr. Chairman. Thank you, members of the Committee.

ASSEMBLYMAN FRANKS: Next, I'd like to hear from the New Jersey Education Association, from Betty Kraemer who is the President.

B E T T Y K R A E M E R: Thank you, Mr. Chairman, and members of the Committee for providing NJEA the opportunity to testify in opposition to initiative and referendum, as public policy in the State of New Jersey.

NJEA believes there are many problems that will be created if ACR-1 or ACR-3 become law. Our position is clear and consistent. Enacting initiative and referendum would undermine New Jersey's system of representative government, threatening it with all-or-nothing proposals written by narrow special interest groups.

The system of representative democracy works. To see that, all one has to do is look how the issue of I&R has moved through the legislative process. Four public hearings were held, and all the citizens who wanted to testify were heard. The bill was reviewed and analyzed by legislative staff, and after all was said and done, ACR-1 and ACR-3 were developed as a compromise. The process works.

I&R is not representative government by the people. It is irresponsible reform. It panders to those with enough money to hire petition gatherers and pay for big media hits, allowing them to create and then control the entire public agenda. It undermines the ability of responsible citizens to reach compromise on proposals, and it reduces opportunities for amendments, compromise, and meaningful debate among the public or the elected officials. But unfortunately, if these I&R bills are passed, rather than an atmosphere of compromise, New Jersey voters will participate in a process that is divisive in the State.

New Jersey is already a State divided by geography, industry, and even the cost of living. And there are two different media markets -- two of the most expensive in this country. ACR-1 and ACR-3 would further divide New Jersey, by creating four regions with regard to signature gathering.

Both I&R bills require that the minimum signature requirement be met in each region. On the surface that sounds like a real safeguard, but within a region, one county can meet the signature requirement without the participation or consent of the rest of the region, let alone the rest of the State.

For example: In the central region, the more populated counties of either Monmouth or Ocean could easily dominate the less populated Burlington County. How can this be good for the State of New Jersey?

The most densely populated counties in each region -- four of our total 21 -- can dictate the direction of the entire State. How can this be good for the State of New Jersey?

After the minimum signatures are gathered, and the issue is placed on the ballot, the region concept is then abandoned. A vote in Paterson carries the same weight as a vote in small National Park. The voters in the heavily populated north can and will always dominate voters from the less populated south. How can this be good in New Jersey?

These I&R bills creates sectionalism similar to California. The socioeconomic and political climates are vastly different from regions of that state too. Is it any wonder that there is little interest among Californians as a whole to rebuild Los Angeles after the riots last month?

Besides, 92 percent of California's budget is now mandated. California ballot initiatives limit discretionary state funding to only 8 percent, and it doesn't allow for emergencies. Without Federal assistance, Los Angeles would continue to remain in ruins.

When Proposition 13 first passed in California, there was a huge surplus which carried the state for awhile. But just like New Jersey, there is no longer a surplus. In fact, California is financially unable to deal with the aftermath of either the riots or their earthquake. California must rely on the Federal government all the time to intercede, when the Federal government feels it's needed; not when California feels it's needed.

The only ones who profit from I&R are the high tech, high-priced media consultants who control the 30-second sound bytes for their clients' truly self-serving gains, not for the issues, and certainly not for the good of the state.

If I&R is adopted then big money, out-of-state money, out-of-state interests will start to bankroll New Jersey as they do in every state that has I&R.

The facts are clear: The adoption of I&R will threaten the stability and quality of our State. NJEA will continue to hold the needs of our children, our schools, and education as sacred. Please oppose any effort to bring I&R to the State of New Jersey. Thank you.

ASSEMBLYMAN FRANKS: Ms. Kraemer, thank you very much for your testimony. Any questions of Ms. Kraemer? Seeing none, thank you very much.

MS. KRAEMER: Thank you.

ASSEMBLYMAN FRANKS: Next I'd like to hear from Larry Haverly, from the Taxpayers' Political Action Committee, TAXPAC. L A R R Y H A V E R L Y: Thank you, to the Committee, and Mr. Chairman. I'm here representing the Taxpayers' Political Action Committee, which is a statewide volunteer group. We want to reaffirm our support for initiative and referendum, and we would like, specifically, to indicate our support for the ACR-1 Committee substitute that's before the Committee.

We have been very active in this. I won't repeat all of our arguments. We've placed them on the record with the State Government Committee, and they're on the record and can be seen. I think many other speakers have eloquently spoken of the need for initiative and referendum.

I've listened to -- sat through a lot of these hearings. This is my third one, this time -- fourth one actually -- and I've listened with an open mind to many of the objections that have been expressed, and the concerns, and so on. I think the Committee has done an excellent job of incorporating into ACR-1 provisions that would address many of these. Some of the remaining concerns that we heard expressed, sort of fall in two groups.

One of these is that there seems to be a distrust of democracy that runs through this: The voters are not smart enough to make decisions; the voters will be bought off by the group that spends the largest amount of money; and in the end, only the 120 legislators in Trenton, with advice, of course, from lobbying groups, are capable of writing laws. I think those of us who support initiative and referendum disagree with those sorts of views.

While we respect the abilities of the people in Trenton -- we've seen many good things come out of Trenton -- we don't think all ability in the State resides in Trenton, and we think in this time when so many people have a distrust of government, they've been turned off by so many of the things that have happened and not happened, that we think that this is a safety valve which is badly needed in the State to restore people's interest and confidence in government.

In the more than 14 years that I've been working on trying to get initiative and referendum passed in the State Constitution and dealing with taxpayer groups, taxpayer leaders, and people around the State, I can't think of a single instance where I've heard anyone express that we want to get I&R because we want to do this -- something that would be to the disadvantage of the State. I don't think there's--

Among the citizens I think there's a great respect for the need to have broad-based things that work to the advantage of the entire State. So, I've never seen a regional problem. I've never seen anybody say, "Oh, if we can just get initiative -- I&R up north, we'll stick it to those--" It doesn't work that way. It's not that way. The citizens that I deal with, the taxpayers' groups that I deal with, the people I talk to, all look on this as something which is for the good of the State, not something where a majority can dominate a minority or anything else. And many of these things which are expressed, which are fundamentally a distrust of democracy,

many of these can be done by the Legislature, and yet we don't worry a lot that the northern legislators are going to really take advantage of the southern legislators, or that somebody in the Legislature will pass -- put on the ballot a constitutional amendment to abolish the government or any of those things.

So, I just want to conclude by saying, that our group strongly supports ACR-1. We think the time has come. We want to see the ACR on the ballot this year, so that, finally, the citizens of this State can make the decision as to whether this is not something that would be to their advantage, and something that will improve their interest and respect for government. Thank you.

ASSEMBLYMAN FRANKS: Larry, thank you very much for your testimony, and thank you for the great work you've done as a crusader for this issue.

MR. HAVERLY: Thank you very much.

ASSEMBLYMAN FRANKS: Next I'd like to hear from Mr. Geiger of the New Jersey Association of School Administrators. He's also the Superintendent of Schools in Piscataway.

P H I L I P E. G E I G E R, Ed.D.: Good afternoon, Mr. Chairman. I thank you very much for this opportunity. In order to save the Committee time I would just like to paraphrase my written comments that I presented to the Committee. I realize that you're short of time at the moment.

There are, basically, four issues that I'd like to address. I am the Superintendent of Schools in Piscataway Township, in Middlesex County. I'm formally the Superintendent of Schools in Lexington, Massachusetts. I'd like to speak from some firsthand experience of initiative and referendum as it developed in the State of Massachusetts, and basically the demise of the public school system in that state.

I was Superintendent of Schools in one of the finest school systems in Massachusetts, but, quite frankly, I found that through initiative and referendum, that there is a

continuous decline, and Massachusetts public schools, in many cases, are near bankruptcy. I would like to therefore speak on four basic issues that I think are very important.

Number one is, the issue of the financial burden on public institutions. My experience in the State of Massachusetts was that when initiative and referendum was placed before -- the issues that came from I&R came before the public, frequently, it required the public school system and other public institutions to respond by giving factual information that was not always presented by the particular supporting party of an initiative or referendum. The cost involved in that, and the diversion from the requirements of running a public school system was substantial.

I believe that it's important that the Legislature realize that when there's a particular initiative, it will require the action of public school administrators, school boards, and others. With our declining resources in the State already, we're concerned about what the effect will be in terms of the ability to get true factual information to the public.

The second issue is, limited knowledge and insight. Ms. Kraemer has already spoken about the issue of the 30-second sound bite. I watched the news the other morning, and heard that it's no longer 30 seconds; that since 1970 it's now an eight second sound bite -- the average sound bite in the national elections today.

We're pretty good in the education business, but eight seconds is a little bit too fast even for us. I'm not quite sure that that's really going to make it, but, in fact, we are concerned that people will not have adequate insight. It's not just a matter of what seems right by reading the headlines on a particular initiative, but, in fact, really understanding the particular obligations that the proposal puts forth.

I actually bought with me the November 6, 1990 referendum pamphlet from the State of California. That

referendum has 143 pages. In print-- Basically, sir, I celebrated my 45th birthday the other day. I can't read it any longer. The print is so small that it's virtually impossible to read. And I recognize that that 143 pages may not be what you intend, but California not only intended this 143 pages, they didn't finish the job correctly. They had to put an addendum out for that, and they put out another 79 pages of addenda for that same election.

Now, we have trouble having kids read their homework, and do the work they're supposed to do. But I'll tell you the truth. I'm not quite convinced that the public -- every resident in Piscataway that can vote -- would read all 222 pages of these documents before they voted intelligently in the election. I do, though, believe that, in fact, the Legislature does take time to really understand the issues through these kinds of hearings and other activities that are very important to gain insight and knowledge.

We are concerned about the public schools. We are concerned that people won't have the information that's necessary to make those judgments. I record my one statement as being information overload, which I've already mentioned -- perhaps information inflation. The cost of mailing and printing of these items alone are several hundred thousand dollars per each election, and obviously, becomes millions of dollars over the course of time.

Finally, we talk about local responsiveness. There are critics all over the State of the State Legislature and of our local elected officials. I happen to have the experience of living in another state and coming back to my home State after several years, and I can say to you that I believe that this State is, in fact, very responsive.

I used to be the Superintendent of Schools in Galloway Township, in Atlantic County from 1977 to 1984, and although I lived in South Jersey at a time when South Jersey wasn't quite

sure it was part of the State of New Jersey, I think people began to realize that this Legislature will pay attention.

Senator Gormley, Assemblyman Nickles, and other fine distinguished legislators certainly are heard in this legislative body, and we believe that the State of New Jersey has represented itself in a way where people from all over the State can be heard and their issues can be considered.

Finally, my last issue is the issue of accountability and responsibility. I believe that despite the statements made today about the people being -- objecting to government; the Governor's Office or the Legislature, I don't think people are asking for abdication of your responsibility. I think people are asking you to assume responsibility and the authority for what, in fact, has to be done in this State. These are very difficult times.

As a School Superintendent, this year I proposed a budget with no tax increase, and was criticized, heavily, because we didn't provide everything we provided last year, in exactly the same form as we provided before.

The public wants services. They also want ways to pay for those services without being taxed. It's a difficult, difficult time. You have a difficult job. So do we. What we've realized is that people get appointed and elected to assume the responsibility and to take the accountability for those decisions. My concern is that with I&R the public will assume the role of decision-making, but will not decide, necessarily, where the money is going to come from. That comes back to the Legislature to somehow work that out.

We're concerned that with I&R there is, in fact, the decision made without real personal accountability. We're concerned that with I&R the legislators will respond to decisions that other people have made on their behalf and the question becomes, "Who will, in fact, be responsible?"

I always have a problem when I allocate some, or let people decide issues totally by a Committee, because when a decision is totally made by a Committee, and it doesn't quite work, the public comes back to me and says, "Regardless of that, sir, you're the Superintendent of Schools. What are you going to do about it?" In fact, the Legislature here has that responsibility.

I believe, and I hope that you will see that we want the Legislature to, in fact, not abdicate that responsibility; to assume that authority that, in fact -- to which you have been elected. Then we believe that public education in this State will be better served by what I believe is a responsive Legislature, having experienced a different situation in Massachusetts.

Lastly, if I may say, that Governor Weld, the Republican Governor of Massachusetts -- who is really an exceptional Governor -- really, when he was elected, decided that he would have to take control of the State of Massachusetts, and get it out of its situation. And that Governor has now taken action, in some cases unilateral action to restore the quality of public schools and to literally prevent the state from its imminent bankruptcy.

I believe that the State of Massachusetts has given me enough examples, having lived through that experience, that New Jersey certainly does not need I&R to make progress.

Thank you very much, sir.

ASSEMBLYMAN FRANKS: Thank you very much. Any questions? Seeing none, thank you. Next we'd like to hear from Public Research Interest Group -- I sorry -- Public Interest Research Group. I have the wrong name written by Rob Stuart's title. Mr. Stuart, welcome.

R O B S T U A R T: Thank you, Mr. Chairman. You're going back and forth. The other group is not for I&R.

ASSEMBLYMAN FRANKS: I was. I'm starting to get confused here.

MR. STUART: Thank you very much, Mr. Chairman, and members of the Committee. My name is Rob Stuart. I'm the Program Director for the New Jersey Public Interest Research Group. New Jersey PIRG is a nonprofit, nonpartisan research advocacy organization. We have long supported initiative and referendum for the citizens of New Jersey.

I'm here to say that we support ACR-1 and ACR-6 -- excuse me, ACR-3, and we heartily recommend that the Legislature do what no other Legislature has done before, and that is to allow the people to decide whether or not New Jersey would join the 23 other states and the District of Columbia in adopting initiative and referendum.

We've testified on the record before, and we'll submit comments for this record. I don't want to take a lot of time, but I think I need to make a few points. I'm sorry some of the members of the Committee are not here, and I hope I will be able to have a conversation directly with them.

I think it's unfortunate that there are groups in this State and in this audience that propose that citizens of New Jersey would pit one region of the State against another; that they would pit one type of group, or one type of citizen versus another, to benefit some selfish interest. I think the opposite is the case.

Mr. Chairman, I think the groups that call themselves "Citizens for Representative Democracy" are really about preserving a democracy that they control, and that they put out of reach of the public. Why else would they oppose an initiative and referendum process that in other states has enabled and afforded more citizens to be registered to vote, has lead to an increase in participation in elections, has lead to an increase, ironically -- given the last speaker -- to increases in funding for education?

No, Mr. Chairman, I think that the monied interests are not concerned about monied interest, controlling the

initiative and referendum process. I think their control -- their concern is to preserve the status quo. The status quo is that if you have enough money and if you can hire enough lobbyists, some of which do not need a particular -- do not carry a particular interest at all times and are actually for hire, you can defeat a particular interest, or you can put through a particular bill that would actually potentially harm the majority over -- to benefit a minority interest.

I think it's time for certain organizations to come clean. For the Education Association -- the group that has spent more money in elections and lobbying the Legislature, to say that they're concerned that big money interests are going to control the process, is hypocrisy. To have a school superintendent stand before us and say that citizens of the State would be unable to read over a hundred pages on issues, says to me that the school superintendent is not fulfilling his responsibility.

Such callous disregard for the citizens' interests in public issues says to me that groups like NJEA and the School Boards Association are not interested in taking their issues, their arguments out of in the public view and waging a legitimate fight, but instead like to hide behind other issues which, in fact, might be more emotional. It might be scary. It might lead people to fear initiative and referendum, as opposed to the real issues: as to who is controlling what happens in this State.

Initiative and referendum-- As you've made a lot of presentations, I've made a lot of presentations. I like initiative and referendum, and the opposition to initiative and referendum, to George Orwell's book, "1984." And to those who have not read on this subject, people live in fear of Room 101, and their lives-- They live their lives fearing that they may be sent to Room 101, and Room 101 happens to be the place where their greatest fear comes true. And the premise of that book

is that the society -- the question is able to control the masses by putting -- by very much demonstrating the ability to make people's greatest fears come true, and it breaks the masses' spirit to rebel.

For groups to oppose initiative and referendum and to use the greatest fear as the reason for that opposition, and maybe their theme is going to be, "Why take a chance?" -- we've already heard that today -- is destining our democracy to one which free spirit, and the spirit of change and power for the public is diminished. So, I resent those groups' attempts to scare the public into believing that the public will hurt itself and diminish the rights of the minority for the rights of the majority, when, in fact, the groups that make up the "Citizens for Representative Democracy" do not represent the majority interest.

Their literature, as Mr. McCool indicated, talks directly about the fact that if I&R was put into place, the majority of citizens could, in fact, infringe upon special financial interests and could have a detrimental effect. I probably disagree with their scenarios and probably support a number of their initiatives that they oppose, but that is not, again, the question before this Committee.

Initiative and referendum should be put on the ballot as a legitimate way to involve and activate the public in public policy issues. We should have the debate about whether or not New Jersey should have I&R, not about what initiatives could, in fact, be used for. The Legislature should approve ACR-1 and ACR-3 for consideration by the people, so that the public can decide that.

I think I want to close by saying that we would welcome that debate, because if you look down the list of the initiatives that have been adopted and defeated, overall, the reasonable people can agree and disagree, but that the public interest, in most cases, has prevailed. And I say that,

knowing that almost half of the initiatives that are on the ballot fail. But in the process, the people are heard and people are included as part of the system, and they are not disillusioned with the outcome of those elections.

So, with that, Mr. Chairman, I'll pause, but would obviously welcome the opportunity to respond to some of the questions that have been put before-- But I would, for the record -- since it was not answered before -- suggest to Assemblyman Bryant, that an appropriate initiative could be to amend the Constitution to require a super majority for issues relating to civil rights, since that does not currently exist in the Constitution.

The questions of initiative and referendum should not be what awful things could be put before -- could be achieved through initiative and referendum; instead what good things, what proactive things could be achieved through initiative and referendum. Thank you.

ASSEMBLYMAN FRANKS: Mr. Stuart, thank you very much, for your testimony today. Appreciate it. Next we'd like to hear from George Howard and Roger Iverson of New Jersey State Federation of Sportsmen.

G E O R G E P. H O W A R D: First of all I'd like to thank Chairman Bryant -- Chairman Franks, and the Committee for the opportunity to appear here today on this most important subject.

My name is George Howard. I am a resident of Pittstown, in Hunterdon County, and I'm testifying today as President of the 150,000 member New Jersey State Federation of Sportsmen's Club. The Federation has long been on record in opposition to initiative and referendum legislation for New Jersey.

The potential for abuse of I&R is substantial, and the system practically guarantees the abuse of minority interests by well-funded special interest groups. The experience in other states is that I&R is most often used to bypass the

legislative process to get self-serving single issues passed. Contrary to testimony today by Common Cause and Public Interest Research Group, I&R does allow the majority to tyrannize the minority, and it eliminates the checks and balances inherent in our present system of government. With the elimination of checks and balances, including hearings and amendments, there is no opportunity for reasoned deliberation, debate, compromise, or consensus building.

My testimony has some references to horror stories in California and Arizona, which I'll skip over. But I would like to point out a couple. As sportsmen, we have seen firsthand the I&R process being used by animal rights and anti-hunting zealots in Arizona to place Proposition 200 on the ballot, which could result in the prohibition of all hunting, fishing, and trapping in that state. Millions of dollars are now being raised by wildlife, hunting, and conservation groups all over the country to fight this initiative. These are sorely needed monies, which could have otherwise been used for wildlife conservation measures.

The concept of using I&R as a method to halt legitimate hunting, fishing, and trapping operations, as well as all use and management of our wildlife is spreading, and animal rights factions are now using the same strategy in Colorado.

The enactment of I&R will force groups such as the New Jersey Sportsmen's Federation to spend much needed and presently nonexistent conservation dollars fighting special interest self-serving I&R legislation to the benefit of no one. In other states, I&R forces groups like ours to raise and spend millions of dollars just to have their position heard by the public.

We recognize I&R not as the voice of the people, but the voice of special interest groups with money. And in order to preserve the voice we presently have and the voice

guaranteed us by the Constitution, we respectfully request the I&R legislation not be enacted in New Jersey. Thank you.

ASSEMBLYMAN FRANKS: Thank you very much, Mr. Howard. Mr. Iverson.

R O G E R I V E R S O N: Mr. Chairman, I'm Roger Iverson, representing Coalition of New Jersey Sportsmen. As you've heard from the Governor's own lips, in his testimony, we are planned to be his first victim in the event I&R comes about. So, I think I don't need to say a whole lot more to make it clear that we're going to have to be opposed to initiative and referendum.

Also, in the Governor's statement he said that, "Nothing will be done to jeopardize Federal constitutional protections," but his next statement that he brings forth to the Committee is that his first attack will be on the Second Amendment right to keep and bear arms. It's quite clear, quite evident to myself and the members of our organization, that though there is some merit to parts and portions of initiative and referendum, there is considerable danger, because in many instances, a little bit of knowledge can be very dangerous. The fact of the matter is, unless you have the ability to develop the necessary media attention to a particular issue, the average group, organization, or issue will never have the dollars necessary in order to portray their part and parcel to their issue.

We feel as if the initiative and referendum concept that you've brought forth to us has some merit to some degree, and the one degree that we should possibly consider is recall of elected officials; more specifically, of the Governor's Office. Thank you very much, Mr. Chairman.

ASSEMBLYMAN FRANKS: Thank you, Mr. Iverson. Mr. Howard, thank you very much.

Let me make certain that everybody understands that the testimony today is going to be transcribed into a document

that is going to be made readily available to all members of the Legislature and interested members of the public. So, I don't want you to think that any of the testimony today that is offered is simply pro forma. It will, in fact, be transcribed and become a part of the permanent record.

Next we'd like to hear from Jerry Tomkiewicz and Barbara Tomkiewicz from the Hudson County Chapters of Hands Across New Jersey.

J E R R Y T O M K I E V I C Z: Good afternoon. My name is Jerry Tomkiewicz. I'm the Hudson Coordination of Hands Across New Jersey. Basically, "coordination" means working together.

I have sat up until this point, and I have listened to some groups speak. I have seen and I have heard some -- in a sense -- big guns. To a certain extent I feel a little bit like David and Goliath, but I have come to realize that we have approached a year of the importance of initiative and referendum, and that it's getting to the point that big guns don't make any difference any more. Why? Joseph Stalin once asked the Pope, "How many divisions of military did he have?" And the Pope answered, "None." But as you can see, over a period of time, communism as we know it in Russia has been overcome.

We have seen since then, perhaps with the largest army in the world, in Russia -- after Stalin -- and it has reached a point where Russia now, in a sense, has I&R-- So, it is getting to the point that big guns don't make any difference anymore. As far as special interests, SIs; LOs, Lobbyists; BM, big money; we have reached a point that it's not going to make any difference how much you spend. The reason for that is that you're coming onto the scene of initiative and referendum in this State.

It has been tried before, and it's been turned down, for one feeble reason or another. The reason why the situation is different this year is another word. It's called "grass

roots." Hands Across New Jersey instituted the largest signing petition ever presented in this country, three years ago. Three years ago if you said, "grass roots" a person might think you're talking about cutting lawns with grass. I would venture to say, there isn't a person in this country today who doesn't know what grass roots means. And we're not talking about cutting grass. The biggest factor that we have in this State, and what is developing throughout the country is grass roots.

Last year we had a situation with the D's and the R's -- the Democrats and the Republicans. Grass roots has now spread throughout the country. If you'd like to look at initiative and referendum geographically you will notice that really almost all initiative and referendums are beyond the Mississippi. Maybe that's why the people in the east are losing representation of people; because everyone is moving to the west. Why? Because they have initiative and referendum. If you can't have control and input in your country, then you've got to go to those parts of the states that you do have.

What is initiative and referendum? It is, to a certain extent, giving power back to the people. Fewer and fewer people are registering to vote. Fewer and fewer people are voting. And why is that? Because they have lost faith in their government. Whether you look at it from a State level or whether you look at it from a national level, grass roots is starting to make a difference. More than 50 percent of the people who vote are not R's or D's. They're I's. They're "I" persons -- me, I, you. They're independents.

I do not take the subject of a constitutional amendment very lightly. I think it is a very, very serious concern. I understand there are numerous bills that incorporate the basic idea of constitutional amendment. However, in this situation, with ACR-1 you have to have a constitutional amendment. From that standpoint, I've listened to numerous groups talk, and it's interesting because I hear

from groups like the Sportsmen -- the 150,000 members -- and I'd like to know how they polled their members; or did they poll their members?

From all these groups, whether it's the NJEA, who talks about quality education-- I find it interesting that it appears that we need quality education in this State, but apparently the people of New Jersey are never going to be educated enough or smart enough to have initiative and referendum, according to them. I find that significant.

Anyone who talks about minorities or the concern of representation as far as one county over another has not looked. They have not studied. They have read-- But more importantly they have not analyzed ACR-1. Of the more than 22 states that have initiative and referendum, it's interesting, for example, that three states are pointed out. But I don't see those three states filing for bankruptcy. I don't see chaos in those three states, and I certainly don't see that situation in any of the other 20 states either.

Franklin Delano Roosevelt once said, "You have nothing to fear, except fear itself." Whether you realize it or not, you have the basis and foundation of a revolution that is sweeping this country. It's not a violent revolution. In a way it is a peaceful revolution. But the people are angry. People are fed up. The people are entitled, and they want initiative and referendum. You might think, maybe, it kind of slightly (sic), maybe, in this State, but it's there.

The basic thing you have to do is, you have to look at perception. You have to get out there. You have to meet the people. You have to see the people. You have to talk to the people, and you'll realize that you have, in a sense, a revolution forming in this State -- in fact, really in this country.

Up until a couple of months ago it, perhaps, was only a question of the D's and the R's: Are you a Democratic or are

you Republican? But as you can see, grass roots has taken place, and you can see the perception that this year, conceivably, is going to be different.

The important thing, for example, isn't a person like Ross Perot running to be President of the United States. That is immaterial. You, basically, have the forerunning of, conceivably, a third party. And why? Because the people realize that whether you're a "D" or an "R" things are just not working.

Now, from the standpoint of initiative and referendum this is not something that is going to be agreeable to everyone, but we have to get beyond the position of taking positions. It isn't a case of positions. We have to start approaching the subject. And ACR-1 is the better crafted of the two bills, and it's something that has to be proceeded with.

I hope you will listen to what I've said and bear in mind, and then come November, judge whether you think I was right or whether I was wrong. I'm open to any questions that anyone would like to ask me.

ASSEMBLYMAN FRANKS: Any questions? Seeing none, Mr. Tomkiewicz, thank you. Barbara.

B A R B A R A T O M K I E V I C Z: Since I'm just a citizen, I believe that I am aware that there is only one Committee member in this room. Is that correct?

ASSEMBLYMAN FRANKS: There are two Committee members.

MS. TOMKIEVICZ: Two. Who is the second?

ASSEMBLYMAN FRANKS: Assemblyman Geist.

MS. TOMKIEVICZ: Oh, I'm sorry. You were out of the room before, when I took a head count, and came down to one. These people here are legislative aides?

ASSEMBLYMAN FRANKS: Yes. Correct.

MS. TOMKIEVICZ: Or such-- I understand.

ASSEMBLYMAN FRANKS: They're staff people.

MS. TOMKIEVICZ: So, they don't have to pay attention to me, when I speak, do they? Because apparently they weren't paying attention when my husband was speaking. But I do appreciate your attention, and Assemblyman Geist's attention to this matter, and any other legislative aides that will be interested in what we have to say.

Basically, my husband introduced himself as Hudson Coordination Hands Across New Jersey. I take a slightly different position. I introduce myself as Hudson Coordination Incorporated, New Jersey Hands '91.

This is a typical example of coordinated efforts. We work with not only two statewide organizations, plus the people in our county, plus TAXPAC, United Taxpayers, etc., any sources that will help the people of Hudson County, through our efforts, which are not supported, not paid for-- None of our trips to Trenton are paid for by anyone except our own pockets."

We represent grass roots. In our efforts to support initiative and referendum we have participated in a group called New Jersey Coalition for I&R. Assemblyman Franks, you yourself, are familiar with this organization. We also have had meetings without you, and I do have the consensus at this point, from the groups -- as when I've spoken to them -- as well as our people at home that we tend to support ACR-1 as compared to ACR-3.

I'm surprised that the Coalition does not have an authorized speaker here today, but if I could be of assistance in that capacity to the group or the Coalition, I do wish to explain to you the views.

ACR-1 just deals with statutes and laws, nothing having to do with changes in the Constitution. Excuse me, ACR-3 is only statutes and laws. ACR-1 has to do with the changes in the Constitution. ACR-3, though, only being involved in statutes and laws, as I understand it, the statutes and laws can also be put into place by legislation alone, which

means that if people of New Jersey go through with ACR-3 and petition efforts to have something put on the ballot, etc., etc., on down the line, it seems to me that efforts of the legislation can reverse this because it's not constitutional changes. This is one of the drawbacks of ACR-3, as compared to ACR-1.

It seems to me that it's a terrible waste of time for people to go around and take up positions on an I&R that deals only with statutes and laws, when the Legislature can change it in short order. It's a typical example, as I see it, in this day and age, of strategists, paid consultants, lobbyist, etc., of just another way that the voter can be giving the runaround, spinning wheels while the opposition -- the special interests -- wait and watch; wait for the people to become exhausted, or run out of their own money.

Special interests get paid. Lobbyists who sit behind me, at this point, are paid to be here, every time you see them. We are not. We are grass roots. We try to come when we can. We try to have some kind of an input on activities here in Trenton, but you people are exposed to the pressures. You're exposed to the pressures of the pocketbook first, from special interest groups. Who is going to send me money for my campaign? Can I get enough one way or another to continue to be here in the Legislature or in the government?

Special interest money may be an encouragement to take a position against I&R, or in support of ACR-3, but it is the voting public that will perceive that ACR-3 is only a sellout to pacify the masses: to give them something, and they will just go away. You're wrong. Across the State the truth is coming out that ACR-3 is only a half a loaf. And if I can make a comparison to a loaf of cinnamon bread that has icing on the top, ACR-3 is the bottom of the pan, the part that's burnt. It is not the top that has the icing. We want the whole loaf.

ACR-1 has a higher percentage threshold on voting. It has regional situations, etc., but at this point we feel that it is the best kind of I&R that came out of the Legislature this year.

You have to rely on the intelligence of the voters. We are sick and tired of sound bytes, whether they be eight seconds or 30 seconds. My husband and I are of an age bracket, right now, that we would be considered baby boomers, or the beginnings of them, or maybe at the beginnings of the senior citizen, being in the 50 year age bracket. This is the largest population. It is becoming more and more (inaudible) because it has, in the recent past, become more and more irritated with events in government: local, State and Federal.

You may have pressures from people that have big money, but you have to think of the pressure of the people that you should be representing here, the voting public -- the intelligent voting public. No matter how poorly NJEA or NEA or any of the other lobbyist groups have educated us, we have risen above that and have become more intelligent to be able to distinguish between issues, and decide. And this is democracy, the decision -- the power of decision on the part of the people.

Basically, I would support the withdrawal of ACR-3, because I feel if anyone does not vote for ACR-1, they are not voting for I&R. However, you may have a different position on this, and I understand Assemblyman Franks, with due respect to you, I understand in my mind why the two forms of legislation have been formulated and presumably will be presented to the Assembly for a vote.

Basically, it is my position, and I assume that no one-- Anyone who abstains from either of the forms of legislation is an opposer. I come from Hudson County. There are nine Democrat legislators. If any of them vote against or abstain, it will be totally advertised in our area that they are not supporters of the intelligent voter.

The rights of the people -- of the voter -- must be maintained. People want to have a power and a voice over their destiny. As far as regional sections of the State, I come from a city -- Jersey City -- and maybe the city people might be concerned about what the people in Cape May might decide, or want to put on an initiative and referendum, but I can't be afraid of that if I want freedom for me or the people around me.

As to concerns to the limitations of the number of I&R issues that come down the pike, you can't address this, because you don't know the people with big bucks who may put the first four or five initiatives on the ballot -- or try to -- with their petition efforts or the paid petitioners -- and then you're going to miss out on the ones the voters really want. Where are you going to say, "Enough is enough"? Where are you going to draw the line? You're not going to be able to put a limit on it.

But I think intelligent voters and people that sign petitions nowadays don't just do it en masse. They are selective. And after you sign the first petition you think about the second, and you say, "Should I, or should I not have done that?" So, each in its own step is an education of the voter, and the education of the participants of this democracy. You cannot exclude any issue by putting a number count on the limit of I&R.

Enabling legislation must carry out full disclosure of any I&R, and constitutional change, recall -- whatever it happens to be. You must have enabling legislation to carry this out. We must know who's paying for what.

It is a shame that Assemblyman Bryant is not here right now, but he knows that I come from Jersey City and Hudson County, where recently I read in one of the newspapers that the minorities of Latinos, black Americans, and Asians outnumber the white population by over 50 percent. That puts me in the minority. I think he would find this to be an interesting

concept, since across the State it is not the "them" and the "us." It is the "we." It is all of us, together, who have to survive, whether it be cities, country, farms, taxpayers, etc.

All things are not equal. Keith Jones said that today. I agree with him. When you speak of special interests versus the ordinary, law abiding, taxpaying citizenry, that's where you find your inequality. And it's up to you people to not fall into the temptations of the pocketbook, and find out who actually does support you.

I find it very interesting that special lobbyists today come and represent the NAACP -- the black community -- sportsmen, teachers. We've also heard in previous testimony the Chamber of Commerce, and of course you hear from the taxpayers. You're never going to know that person's position until they walk into the voting booth, because I could be -- I could be -- black, a sportsman, a teacher, be married to someone in the Chamber of Commerce, and a taxpayer at the same time. How are you going to take that head count? Only by the ballot, and initiative and referendum.

I never fear giving someone else freedom. I think about it, yes, but I cannot afford to control others and take my freedom away from me, or vice versa. The idea is, freedom is for everyone, and I or you, or any of the legislators here cannot fear -- or any of the lobbyists -- cannot fear giving freedom to someone else in this country or in this State because of what they personally may feel is their position. Democracy means everyone has a say, and everyone will decide, and everyone has freedoms controlled by the Constitution, whether they be State or Federal, etc., which can be corrected by court decisions if anyone has fears. I hope I've made my statements clear to you, and they can be beneficial to you in deciding in favor of ACR-1. Thank you, Assemblyman.

ASSEMBLYMAN FRANKS: Barbara, thank you very much. Unfortunately, there are no other members present.

MS. TOMKIEVICZ: Yeah.

ASSEMBLYMAN FRANKS: So, there are no questions.

MS. TOMKIEVICZ: Well, you did say--

ASSEMBLYMAN FRANKS: Thank you very much.

MS. TOMKIEVICZ: --they would get the transcripts.

ASSEMBLYMAN FRANKS: Yes, they will, indeed. Next we'll be hearing from Donna Puluka from the National Organization for Women. (no response) We will hear, in that case, from Pete Smith, from the Firefighters Association of New Jersey.

P E T E R F. S M I T H: Thank you, Chairman Franks. I'm also-- First, my name is Peter Smith. I'm the President of the Fire Fighters Association of New Jersey, affiliated with the International Association for Fire Fighters and AFL-CIO, and I'm also speaking today in opposition to initiative and referendum for the State AFL-CIO.

The Fire Fighters Association of New Jersey and the State AFL-CIO are opposed to any legislation concerning initiative and referendum. Experiences related to us by our brother fire fighters and other labor members in California and Massachusetts make us believe I&R is bad public policy for New Jersey.

Initiatives begin and end as one group's thinking -- take it or leave it proposals which preclude compromise or refinement. Once a proposal is formulated, public access is effectively closed off. On the other hand, a law which has made its way through the legislative process is open to public input and capable of being refined or redesigned from the day of introduction until signed into law.

The current legislative process allows full access to the public. A bill, when introduced, is referred to one or more committees. These committees, as you know, hold open hearings, listen to public testimony, and refine or amend bills based on input they receive. Our State provides the

opportunity for any individual or group to be heard. If New Jersey passes I&R, the process will frequently degenerate into expensive and emotional debate controlled by a handful of single issue or narrow special interest groups.

The experience in other states is proof that over the years, state legislators have systematically avoided large policy issues and allowed them to go on the ballot. This leads to special interest groups writing slingshot initiatives to take care of their own problems.

The I&R process in some states has become a growth industry. Paid signature gathering has become big business. Public relations firms are the only real winners. And just let me say, from our own experiences in the fire service, in California, and Massachusetts, the fire service has never recovered from either Proposition 13 in California, or 2-1/2 in Massachusetts.

We've lost thousands of members. In Massachusetts this year alone-- There was a gentleman here, a representative from the Commonwealth this morning, that just told me since the beginning of the year, 29 more fire stations have been closed. Hundreds of fire fighters have lost their jobs. The public is in danger in Massachusetts. Believe it, I know it. California is the same way. The fire fighters took a terrible hit in the State of California when Proposition 13 was passed, and they've never recovered from it. There's problems in both of those states in the fire service. Thank you.

ASSEMBLYMAN FRANKS: Mr. Smith, thank you very much. Next we'll hear from John Sheridan, from Hands Across New Jersey.

J O H N S H E R I D A N: John Sheridan from the Hands Across New Jersey, Freehold office, on behalf of Pat Ralston, Chairwoman. Pat had to leave today, so she asked me to address the Committee. We were concerned about some of the concerns that were expressed by some of the members of the Assembly

today, specifically with respect to the issue that I&R -- ACR-1 in particular -- could be used to undermine the rights and privileges of minorities. It troubles us. It concerns us.

Actually, it troubles us more, to the extent it does, because it's so unfounded. I&R, as you know, is enjoyed in 23 states, and to the best of our knowledge, information, and belief, it has never been used to undermine the rights and privileges of any minority. Why, then, we ask, is it being interjected here today as a possible cause for concern? Surely, they're not implying that in the State of New Jersey there is a prevalence of racism in this State greater than any other state in this country where I&R is available?

And what we want to do is, perhaps, urge those Assemblymen who are using this as an issue, to perhaps put it aside, because it does them a great disservice, and it does the people of this State a great disservice to insinuate or to imply, that we are, somehow, more inherently racist than someone else. That is not the purpose of this, and I am sure the people of this great State would never use it to undermine anyone's rights or privileges. Thank you very much, Mr. Chairman.

ASSEMBLYMAN FRANKS: Thank you, Mr. Sheridan. Next we'd like to hear from Carolyn Smith, the President of the New Jersey School Boards Association.

C A R O L Y N R. S. S M I T H: Good afternoon, Mr. Chairman. My name is Carolyn Smith. I'm a local Board of Education member in High Bridge, Hunterdon County, and President of the New Jersey School Boards Association. I am here today representing over 5000 elected and appointed, unpaid, volunteer, local school board members throughout the State.

We are deeply concerned about the devastating impact that a system of initiative and referendum could have on public education in New Jersey.

Many of our local board of education members appeared before the Assembly State Government Committee and testified in strong opposition to this issue, supporting the belief of our Association that I&R is an extremely dangerous idea. Quoting from a board member in Morris County, "Initiative and referendum -- the wonder drug to cure all the ills of New Jersey -- will prove to be a carcinogen in the future."

NJSBA has three specific concerns relative to I&R and the two bills you have before you today. First, the deliberative legislative process established by our State Constitution is far more preferable to the kind of oversimplified public discussion that would take place in an atmosphere dominated by the media and the ad campaigns of special interest groups. The public's ability to discuss and analyze issues, to introduce amendments, and to refine proposals would be eliminated under I&R.

Currently, those who oppose legislation have the opportunity to testify, to exercise their democratic right to appear in a public forum, as well as to personally influence the outcome by calling and writing to their legislators. Under I&R, voters are told to take it or leave it.

The average citizen, however, could find it very difficult and extremely expensive to get his own viewpoint across to New Jersey's 7.7 million citizens, while special interest groups would have the resources to affect the electorate. Creating laws by way of the I&R process is far more expensive than doing so through an effective, elected Legislature.

Second, education issues are complicated and require an in-depth understanding of their impact on the diverse communities in New Jersey. Few people have the time or interest to read about the issues and debate their merits, let alone spend fifteen minutes at the polls. Why should we believe that they would be motivated to study, understand, and

vote on a major issue which could be reduced to a simple paragraph on a ballot?

As elected representatives, you are in the best position to make the decisions which our educational system demands. Under the I&R system, petition drives by special interest groups will dominate the political process, and lawmakers will be forced to react in response to those influences, rather than in the best interests of the public at large.

Finally, money issues will continue to be of overwhelming concern to petitioners. With school district operations accounting for approximately 70 percent of many municipal budgets, education as the largest single public expenditure would be a natural target for budget minded reformers. This has been, indeed, the case in other states. The experiences of both California and Massachusetts, in responding to I&R -- in its attempt to give true representation to the people -- has caused the demise of two of the most highly regarded educational systems in the country.

If I&R is enacted in New Jersey, a distressed and overtaxed citizenry can be expected to seek prompt relief through tax limitation measures without the regard to its impact on children -- the public education programs that serve them.

During recent years, the public schools of New Jersey have been severely injured by a lack of stability in funding and in governance. Hopes have been raised and dashed. Plans have been made and abandoned. Elections have been scheduled and rescheduled, and the budget process has become a farce. Make no mistake, our students have paid a heavy price, because this is not an atmosphere conducive to learning.

But, if a system of I&R is adopted, we will look back at this period with nostalgia, because every November's ballot will contain one or more weapons to be used against the public

school system. You can be sure that the proposals will not be thoughtfully considered proposals. They will be divisive issues that can pit region against region, rich against poor, and school district against school district.

In summary, let me share with you the depths of our opposition to I&R. NJSBA's Delegate Assembly is a policy-making member for our members, representing every school in the State. The issue of I&R was presented for debate and a vote. Only one district voted to endorse any form of I&R legislation. Our policy, in support of representative government, was overwhelmingly supported by board members who fear the damaging effect that I&R could have on New Jersey's school children. There's no question that I&R is a direct assault and a serious threat to public education in New Jersey.

Thank you.

ASSEMBLYMAN FRANKS: Thank you very much. Any questions? Seeing none, thank you very much.

MS. SMITH: Thank you.

ASSEMBLYMAN FRANKS: Next we'll hear from Steve Napolielio from New Jersey Hands '91.

S T E V E N A P O L I E L I O: Thank you, Mr. Chairman, for allowing me. I'm with the-- I'm the Burlington County Co-Coordinator of New Jersey Hands '91.

The most common complaint from the public is that the system of representative government doesn't work for them. People are saying it doesn't work in Washington, and it doesn't work in Trenton. Well, it is not that representative government, per se, can't work, because it used to work, at one time.

People by the millions are turned off with both parties, and more than 50 percent of the electorate doesn't participate. No matter who gets elected to Trenton, we get more of the same, is what we hear over and over. Government gets bigger, spending is greater, broad-based taxes and local real estate taxes go higher and higher.

Since 1963 broad-based taxes -- for instances the sales tax has more than doubled to 430 percent. The income tax since 1976 has more than doubled, and my local real estate taxes have gone up 712 percent, all of it in the name of "tax reform," and to give "local real estate tax relief." Well, I don't know about you people, but we can't stand any more of this local tax relief.

The cost of government at all levels is breaking our backs. The cost of government and taxes is the single greatest cause for inflation in this country. We are not only paying it in taxes, but we are paying it again in the products and services we buy. Government is an overhead costs, and we obviously need some more -- some hard decisions on downsizing the monster.

The loss of control of government began with the takeover by the professional incumbents, the professional politicians, whom our founding fathers warned us against -- that they would become the new royalty, isolated from the people. This began with the inception of PACs derived in Watergate reform -- which, to say the least, has backfired -- which amounts to legalized influenced buying by narrow monied interest groups. It is these groups who are represented and not the people. It is these narrowed monied interest groups who guarantee reelections at the rate of 98-plus percent rates.

We will hear over and over here today that representative government works fine. But they leave out two words, "for us, for them." This is why the people have said, "We have had enough. We want the playing field leveled. We want I&R. We can not depend on our so-called representatives, they have not and cannot make the hard choices necessary to effectively run the kind of government people want and can afford."

The people want I&R so they can represent themselves when their representatives fail to act at all, or fail to act

in the people's best interests. ACR-1 is what they are looking for. That will allow for legislation, legislative changes, and necessarily structural changes through constitutional change.

I was a bit dismayed, again, today about members of the Committee bringing up the fact of racism and minority discrimination by I&R -- or made possible by I&R. With the proposal of I&R, we are not proposing to unbalance the balance of government. We are not proposing a supra legislation, or legislative body. We will still have the courts. We have ample civil rights laws on the books. The courts still have to review legislation proposed by I&R as it is for the Legislature.

We are not-- I mean, it's got to be tested the same as yours is tested. Insofar as the right to bear arms, or in civil rights in that matter, if we were to propose legislation -- constitutional legislation -- to do away with any of the amendments, we still have the national law of the land on the books, to protect civil rights, to protect the right to bear arms. So, even if we were to change the Constitution of this State, where it would be out of bounds with the law of the land, that would still prevail, as it does in all other states. So, these are red herrings that I don't think deserve too much more attention.

And as far as the firemen being against I&R, I don't understand that because fire commissions are creatures of I&R in this State. All it takes is 5 percent of the vote, previous gubernatorial elections votes on a petition to create a fire commission and a paid fire station-- So, they are creatures of I&R, and I can't understand why they oppose I&R.

That's about it, unless there are questions.

ASSEMBLYMAN FRANKS: Steve, thank you very much. Any questions? Seeing none, thank you very much for your testimony. Next we'll hear from Mai-Tai McDonald from Reach Out/Speak Out.

M A I-T A I M c D O N A L D: Good afternoon.

ASSEMBLYMAN FRANKS: Welcome.

MS. McDONALD: Staff men, Chairman Franks, and Committee, my name is Mai-Tai McDonald. Unfortunately, but fortunately, I'm wearing two hats. The first hat is with Reach Out/Speak Out. It's a mental health consumer self-help group, housed here in Trenton and representing Trenton and Mercer County.

We have pretty close to, maybe, 600 mental health consumers throughout the State of New Jersey, hopefully to be in all 21 counties, not just four. We talked about me giving you some input from the mental health consumers. Their opinion and desire is, no. They see where it will affect many of them in their services, and money is being cut from different programs that are presently supposed to be servicing them now, in which a lot of us know that they are not servicing them properly and first class for various reasons that we do not share.

Looking over the structure this afternoon, I was quite appalled at a few things. I feel like I'm on C-SPAN, in noticing how empty the room gets, and upsetting it bothers me to have a hearing from the people, that would help you to make a decision that will be for the welfare of the people, and to see how disinterested some of the members of the Committee have been, even some empty chairs. That bothers me also. Because I would figure that something as important as this, whatever they had to do, should have been set aside at least for a few hours to show face and to stay and to hear the last of us who were not afforded the opportunity of the news media who oftentimes misrepresent, in your own opinion, what is really going on, and give us the wrong information so we have an opportunity to make an opinion that is not in our best interest.

Coming from you and seeing how laid back and complacent the whole thing is, I wonder, are you going to have any more hearings that are going to be to the benefit of the

people who elected you in, who got lost along the way -- not being a special group? And this happens. We see it every year when you come into the area to ask for our vote. By us not being special committees, and having dollar signs, we cannot afford to follow you around to the campaign, money-making, social activities that you have. So, we are really lost in the wayside, and I hope -- speaking on behalf of the mental health consumers -- we hope that you will go back to your drawing boards and rethink.

If your decision is already made as to what you're really going to do and how you're going to do it, they're asking me to ask you to reconsider, and take some of those hats off that you may be wearing because of your commitment to some of your colleagues who are involved with the special interest groups.

And, yes, Chairman Franks, we know that a lot of this is true. It may not apply to you, or members on the Committee, but it does apply. We are not stupid, ignorant, illiterate people in the community. We voted you in, for whatever reason. You told us that you were going to represent us, and as we go down the line during your term in office, we often find that what you told us and what you shook our hands for, and patted us on the back, and some of the little ones you patted them on the head, is not necessarily true, and they are tired of the double-talk coming out of both sides of whoever's mouth it might be. They would like to have some human consideration.

Should you care to meet with any of the mental health consumers in the State of New Jersey, my phone number is 396-5172.

UNIDENTIFIED SPEAKER FROM THE AUDIENCE: May I say something? I'm mad.

MS. McDONALD: Excuse me.

UNIDENTIFIED SPEAKER FROM THE AUDIENCE: I'm a voter. I pay taxes. So, I--

MS. McDONALD: Just a minute.

UNIDENTIFIED SPEAKER FROM THE AUDIENCE: Let me say something.

MS. McDONALD: No.

UNIDENTIFIED SPEAKER FROM THE AUDIENCE: I'm a voter.

MS. McDONALD: I know you are, but just a moment, please, please.

UNIDENTIFIED SPEAKER FROM THE AUDIENCE: Okay.

MS. McDONALD: As you can see, members from Reach Out/Speak Out are here. They're very vocal, and they are very upset, and I'm upset also.

My number is 396-5172. We meet on Tuesday evenings at 6 p.m., at 620 W. State Street, and should you like to come and try to explain in a language that they will understand what this is all about, so that they can either get themselves calmed down or we'll come out and raise a lot of hell-- It doesn't make any difference to them, one way or the other.

UNIDENTIFIED SPEAKER FROM THE AUDIENCE: Why can't I speak?

MS. McDONALD: Excuse me, because the procedures are not like that.

UNIDENTIFIED SPEAKER FROM THE AUDIENCE: Okay.

MS. McDONALD: Okay. So, we take it one step at a time.

UNIDENTIFIED SPEAKER FROM THE AUDIENCE: Okay. I'll remember that.

MS. McDONALD: Again, we invite you to come. It's right down the street. If 6:00 is too late for you, we can meet at 4:00, but we would like for you to set up some sort of agenda for the mental health consumers in the State of New Jersey before you put all of this up. They need some consideration. There are many questions that they have to ask, many questions.

And now I have to take that hat off and put the hat on for my time. I'm a resident of Trenton. I live here. I'm a homeowner and a taxpayer. I'm an advocate for many different things for many different people, and I am sort of like insulted at the whole process and whole procedure being jammed down one's throat with the special interest groups. Yes, I have a thing with that, because I know big bucks talk, and, no, money does not walk. We know that. But from the community that really, really helped to put you into office, believe me, is the group that can really take you out with no problem, no explanation. And you probably would never even know what hit you until you allow yourselves to be the same kind of supposed to be, human person, and come into the community and talk the language that the people may understand, if that's what you want.

If your game is to talk out of both sides of your mouth and play games with us through the special interest groups, then let us know, and we can move in another direction. I'm hoping, Mr. Sallach, Mr. Franks, and other members, that you will go back to your drawing board, and before you do anything, would you please give consideration, in your own heart, to the needs and the wants of the people? Ask us what we want? Ask us how we would like to have it? That's all I have to say.

I really thank you very much, and, hopefully, the next time other members of Reach Out/Speak Out will be able to speak. They're very upset, and I don't apologize for them, because I don't apologize for myself. I just want to say thank you.

ASSEMBLYMAN FRANKS: Ms. McDonald, thank you very much for attending today.

MS. McDONALD: If you have any questions?

ASSEMBLYMAN FRANKS: Just for the purpose of clarification, for the record, you came today in two

capacities, and you were speaking in opposition to initiative and referendum?

MS. McDONALD: Yes.

ASSEMBLYMAN FRANKS: Is that correct?

MS. McDONALD: Yes.

ASSEMBLYMAN FRANKS: Thank you very much.

MS. McDONALD: Unless you can-- I don't know how much -- part of it now that you can assure us that you're really going to take it back, and you're going to make a honest effort to do some changes within it. I guess you'll be seeing us again, and if there's another meeting on it, another hearing--

ASSEMBLYMAN FRANKS: There will be many more. I assure you this issue is only working its way to the first House, and there will be ample opportunity, through literally a number of public hearings, to offer up testimony again.

MS. McDONALD: Just one more thing, Mr. Franks, when you make your press release would you try to get the newspapers, especially in the proper of Trenton, to write it so that we know what's going on, so that it doesn't look like it's really not only double-talk but triple-talk, and we get an understanding of it?

ASSEMBLYMAN FRANKS: Ms. McDonald, if I could do that, I'd be a very happy camper. I unfortunately don't do that very successfully.

MS. McDONALD: I don't see any of the press in here, and this is what bothers me that they can give a press release on what happened here, and you're not even here.

Thank you.

ASSEMBLYMAN FRANKS: Thank you. Next we'll here from Ray Kalainikas, private citizen.

R A Y K A L A I N I K A S: Just commenting on what the woman just said, recently, about the press not being here: My own experience of going to many meetings throughout the State is

that too often the press corps becomes nothing more than a PR firm for the establishment, and I think indirectly that's what she was trying to say.

I would like to say, since I'm looking at the Republican Party, an influential Republican in Ocean County, from which I come, indicated to me -- privately -- that there will be no I&R this year. The Republicans will not give us I&R this year.

This particular individual I've listened to over many years. He has given me information about the future with regard to the Republican Party and State government, and he has been correct 99 percent of the time. I will not give the name out, but I want you to be aware I was told there will be no I&R this year. So, in effect, what I'm looking at -- what I'm viewing is game playing. I hope he is incorrect this time. I hope this is the 1 percent by which this individual is wrong, but if he's correct, it says something.

I would like to say, I support ACR-1, for obvious reasons, since I do support I&R. I have been listening to people come before you. I have been watching the lobbyists sitting here, and how they listen, and how they comment. It's my understanding that we do not have, currently, a government for, of, and by the people. We essentially have a government by the power of wealth. And the power of wealth, essentially, controls or manipulates the machinery of government for their own ends and purposes by controlling both political parties, by essentially controlling the media, and by controlling the intelligence community within our society.

I've always taken note of the fact that John F. Kennedy said, "I will splinter the CIA into a thousand pieces and scatter it to the wind." He understood the danger of government, where you have a secret police of any nature, in terms of how it infringes upon our rights and actually deprives all of us of our rights.

We have high priced messengers. We call these people lobbyists. They represent the power of wealth. Some of these people are sitting in back of me. They, perhaps, already know the outcome of what will occur within the coming weeks and months. I do not. I would like to say, I had an opportunity to speak to Congressman Zimmer this past Friday. He attended a Hands '91 gathering, in which he spoke about I&R.

I confronted Congressman Zimmer concerning the provisions, whereby, if the people actually reached the point of using initiative and referendum and bringing about a decision or law, that the Legislature, by three-quarters vote could nullify the will of the people within the first two years, and then within the following three years by a 60 percent majority which can nullify the will of the people. To me, effectively, that nullifies the whole I&R process.

So, I said, would it not be better if within the first two years the Legislature, by three-quarters vote, could merely resubmit the question to the people if they feel it's necessary, and the whole issue isn't working the way the people assumed it would? And he said, "You know I haven't thought about that. That's a good idea. I agree with it."

I thought that was interesting for him to acknowledge that, since he is was the prime author of what we're essentially dealing with here. But in listening to John Kingston a few hours ago, he said, "If I dare to call for this kind of change, we're going to kill the whole process at this particular time." So, what I would like to see occur is implementing legislation to ACR-1, whereby, before the Legislature can vote 75 percent to nullify the will of the people they will have to take a survey referendum through the ballot box, and if the survey referendum indicates a 50 percent drop in support for the issue, only then can they, by 75 percent within the first two years, and by 60 percent within

the following three years, nullify the will of the people. That's the only way I see of getting around the whole issue without killing the issue, currently.

I asked Congressman Zimmer what was your comment; what is your comment about the Catholic Bishop saying, they do not support I&R? And his comment to me Friday was, "Let the Catholic Bishops learn how to trust their flock." And as I was listening to Wayne Bryant dealing with the Bill of Rights-- You are currently elected to make the everyday decisions of government and to help secure the Bill of Rights. Well, overall, I would trust the people to do the same. I have no problem with that, but it seems that if we have a government for, of, and by the people, while you're elected to make the everyday decisions of government, the people at any given time if they decide they want to make a decision of government it's their right. They must have that right. It must never be denied them.

Now, the only other comments I would like to make with regard to implementing legislation is with regard to the signature requirements. There are a great many signatures required. I would like to see if in putting forth an initiative at a given time -- and let's say 10 percent of the necessary signatures are required in whatever way -- that automatically that petition be put into every municipal building in the State of New Jersey, and that every citizen be notified that they can come here to sign this petition in the presence of the clerk, who probably will verify whether they are voting citizens or not, to make it easy for the poor and disenfranchised to reach that signature requirement.

I think that should be involved in implementing legislation, because when you're talking thousands upon thousands upon thousands of signatures, you know, again, what the power of wealth can achieve. But those who have no wealth will find it very difficult. But by putting the question, or

the petition, or the initiative in the municipal building, and everyone being notified they can go there and sign that petition, but first you've got to have 10 percent--

The other concern I have-- There was supposed to be a committee that puts forth the initiative, and they ultimately decide whether the Legislature acts properly or does not act properly within the first six months. Let's suppose all of the signatures are gained that are necessary, the Legislature moves within the first six months, and then this individual or group decides whether the move by the Legislature was proper or not. Here again, I would like to see that group submit to the people of the State a survey referendum as to whether the Legislature acted properly or not, because quite frankly I see many points in this legislation where the intelligence community can cause operation chaos, and neutralize the whole process.

I want to make it very difficult for the intelligence community to do that, and I've mentioned before, in opposing the Vietnam War many years ago, I saw how the intelligence community operates. They are extremely sophisticated, very sophisticated. They can undo the I&R process rapidly. They are more dangerous to me than both political parties, than the media. It's the intelligence I'm more concerned about. We're not in control of that community.

So, that's what I want to leave you with. But I do support ACR-1. I want to see it go somewhere as the first step, and I understand that if I call for too many changes I'm going to kill the process, and if other people do the same, we're going to kill the process. So, let this go through. Let it get on the ballot. It's the implementing legislation that will determine where it ultimately goes.

Thank you.

ASSEMBLYMAN FRANKS: Thank you very much. Next we'll hear from Mr. William Healey of the New Jersey State Chamber of Commerce, or Mr. Faherty, as he is in attendance as well today.

W I L L I A M R. H E A L E Y: Actually, you will be hearing from Mr. Faherty, our President. We certainly feel that this issue is important enough to bring our top guns.

W I L L I A M F. F A H E R T Y, J R.: My Chief is going to be right to my right. Thank you, Bill.

The gentleman to my right, your left, is William Healey. I announced last week that Bill Healey who has been with the New Jersey State Chamber for approximately 4-1/2 years has succeeded Jim Morford as the Chief Lobbyist and head of our Governmental Affairs Department at the New Jersey State Chamber of Commerce. We're very proud of this promotion, and he gave his first real presentation at Drew University when we had our annual meeting last week -- and the Honorable Tom Kean is one of the newest members of our Board of Directors -- and Bill gave an excellent presentation, and spoke a little bit about I&R. What I'm going to say here today, I took from some of his remarks.

I am William F. Faherty, Jr. I am President of the New Jersey State Chamber of Commerce. I have been since August 1, of last year, 1991. Before that I spent 22 years in banking, at First Fidelity Bank. Before that I was Deputy Commissioner and Acting Commissioner of the old Department of Banking and Insurance for the State of New Jersey, and before that, my first job, I was Deputy Commissioner and Deputy Mayor of the City of Trenton, under the late Arthur J. Holland, Mayor of Trenton for some 29 years. I only spent the first 12 years with him.

Mr. Chairman -- Mr. Franks -- and members of the Committee: The New Jersey Chamber of Commerce thanks you for the opportunity to offer comments on the issue of initiative and referendum, today. Few issues that this Legislature will deal with in the course of this two-year session will have as much impact on the future of public policy in our State.

Our organization, as many of you know, is made up of both the smallest and the largest employers in the State, as well as the 110 affiliated local, county, and regional chambers of commerce. They represent some 45,000 businesses and approximately three million employees. Employers and employees alike fear the very negative impact that I&R could give on our system of representative democracy -- a system that has served us well for better than 200 years.

As much as I support many of your initiatives, Mr. Chairman, I respectfully disagree with you and the sponsors of this legislation and those of your colleagues on the Assembly State Government Committee who have already had the opportunity to vote on the two bills -- ACR-1 and ACR-3 -- which are being discussed here today. We feel the confidence of the public in the Legislature as a responsible institution is not served by these two bills.

As you know, several weeks ago I spoke before a hearing of the State Government Committee on the concept of I&R. That was my first time -- the concept -- and I sent it to all members of the Legislature -- 120-- At that time, the cornerstone of my remarks was the issue of legislative responsibility and how best the Legislature responds to the mandate of the voters.

I'd just like to refer -- it's not in my talk -- but I sent over to the office-- I want to refer to my April 23, Assemblyman State Government Committee remarks, just one small paragraph: Last fall one of our fine board members Jim Skidmore, who many of you know is Chairman, President CEO of Science Management Corporation of Basking Ridge, New Jersey, did an excellent survey, the finest survey that we have ever accomplished including Dr. Gallup's survey which was done 20 years ago. A survey hadn't been done in 20 years. The late George Gallup did a survey for us, of the State Chamber

membership on a wide variety of matters, including how and what issues should be immediately addressed by you, the new Legislature.

There were many choices of legislative issues listed in that survey, and this has been made public, including I&R. By the way, we didn't put initiative and referendum down the bottom; it was right up top, about fourth down. Did it make the business top 10? No. Did it make the top 20? No way. Did it make the top 30? Again, no. Our members listed -- and I'll just give you the first five, because we feel that's part of what he did for us -- the legislative agenda, stressed it very important in our Chamber legislative agenda 1992:

- 1) we're all facing it today -- health care cost;
- 2) regulatory reform;
- 3) environmental laws;
- 4) taxation and spending -- and right now you're doing one hell of a good job;
- 5) education reform, especially the Jim Cullen Quality Education Report.

Now, we have actual legislation that is being discussed, legislation that takes what we feel to be sure some of the worst features of I&R, and has been manifested in not only one but two bills. I'll deal with some of our specifics on both ACR-1 and ACR-3 later in my testimony.

Let me say, unequivocally, that this Chamber feels the Legislature best fulfills the mandate of the electorate by tackling the many pressing problems of this State. An election is only the yardstick by which legislators or any other elected officials, for that matter, are judged.

As I said before, there are certainly many pressing issues that need addressing such as health care, the State budget, etc. The list goes on and on. Two of those issues, our State budget, and long-term solutions to the issue of health care delivery and insurance, are so pressing that we feel they deserve the total attention of this Legislature.

Some additional comments about how we interpret the word "mandate" are in order.

This Legislature has already made some important strides in addressing some key policy issues. A good example is the bipartisan support that resulted in new legislation raising the spending cap on the Transportation Trust Fund.

Let me use the events of just this current legislative week, and take time to review just some of the new initiatives that our State Chamber has chosen to support.

Just this past Monday, the State Chamber endorsed in various committee meetings the following legislation:

- * establishment of health insurance reform to bring small employers into the market,

- * creation of an addition corporate tax credit to spur creation of research and development of jobs,

- * legislation that would allow the Legislature to control the reins of the bureaucracy by review of administrative rules and regulations, and

- * legislation reported by this very Committee that would deny meaningless delays of important regulatory permits very important to us.

These issues are all of great importance to not only the State Chamber's big business, but small business, of which -- by the way -- 75 percent of our membership is small business, 50 employees or less. Everybody thinks we represent the Fortune 500. Yes, we do, but we also represent the Fortune 1000, 2000, 10,000 -- the small employers, because they ultimately mean the expansion of business operations and more importantly the creation of new jobs in New Jersey. They are appropriate examples of the very positive influence the Legislature can have on this great State.

It's for precisely that reason that the State Chamber is so very much opposed to I&R. Under I&R, and especially so under both ACR-1 and ACR-3, the Legislature takes a back seat

-- I feel -- in the formation of public policy. Under these bills -- these two bills -- the Legislature cedes its policy-making role, one that is deliberative, and tries to account for the needs of all interests involved.

Instead, we feel that I&R replaces a system of compromise with one of sole rule of majority, without consideration for the rights of the minorities. Very important -- with one of the sole rule by majority, without the consideration of the rights of the minorities. And I'll go on to explain:

Of greatest concern to us and our members is the perception that you as legislators are forsaking responsibilities that voters have asked you to undertake on their behalf, to make informed decisions on complicated and intricate issues on their behalf.

I know you've heard it before, but I want to repeat it, because I want to put it a little bit differently: This State has enough slogans. Most of them we see pitching products or political campaigns. Under I&R we're asking the sloganeers, namely the consultants, the public relations types, and others, to pitch public policy. It's going to be great for them. We can talk political theory and the power to the people all we want. Yet we fear that is just what an I&R system would become: a question not of what public policy is best for the State, but what message best fits on a bumper sticker or a 30-second commercial.

The release of ACR-1 and ACR-3 by the Assembly State Government Committee only heightened such fears. Now, let me elaborate.

The give and take process of the Legislature, the politics of the Legislature, has for all its imperfections ultimately sought to balance the needs of the various regions of our State. Both of these bills would allow as few as four of our State's 21 counties to dominate the formation of public

policy. By dividing, as you have, into regions for purposes of fulfilling signature requirements, we're telling the lesser populated counties of each region that in effect, their opinion does not count. Four counties can control this State, guarantee it. Let me go on.

Under both ACR-1 and ACR-3 it's all too easy to collect the region's required signatures in just one county. And it's going to happen. Not only that, I will be so bold as to make four locations where all of these signatures could be collected: the Garden State Mall in Paramus, the Rockaway Townsquare Mall in Rockaway Township, the Menlo Park Mall in Edison, the Cherry Hill Mall in Cherry Hill Township, and I can go on. I've got five other malls, but these malls are very, very well populated. The people traffic at these four shopping centers alone would easily be able to meet the 35,000 signature requirements for each of the regions, just like that. -

Let me again point to the nice sounding question on national health care that appeared on our ballots last fall. We think it says something about the less than comprehensive nature of I&R, as a policy-making tool. Remember, that question failed to ask, what level of taxation we would be willing to support to pay for such a policy. A reasonable question, I think, in my mind.

Small groups with a special agenda or one narrow, single-minded goal could craft questions. By meeting the low signature requirements, they are put in the driver's seat as the sole judge and jury of determining whether or not the Legislature has met its wishes whether or not the Legislature has passed a substantially similar bill.

Yet, there is even one more disturbing facet that is present in at least one of the bills, and it's a fear that we have long held about I&R. ACR-3 would allow groups and organizations to have paid canvassers to collect signatures on behalf of a ballot question. Unfortunately, that says to my

organization, thousands of our members, and members of many other organizations in this State who are here today and who have testified, that this Legislature is willing to create a new class of public policy-maker; the public policy political -- what I'm going to call -- mercenary.

It's both ironic and unfortunate, because just a few yards from where we are this afternoon in this building is where General George Washington captured the Hessians -- the German troops -- on Christmas night of 1776. The Hessians under Colonel Rall, were the mercenaries of their time. They were paid by the English to fight the Americans. Let's not bring any mercenaries back to Trenton. Let's keep the process of lawmaking where it belongs: with you, Mr. Chairman, and your colleagues in this Legislature, and with the Governor as well. Governor Florio -- I call upon him to take back the I&R stand.

Our members look forward to working with you to help craft a responsible and reasoned future for our State. I&R says you're willing to cede that responsibility to others -- as I see it.

I hope-- Let's reject I&R and other threats to our system of representative democracy.

I thank you for your time. I'm sorry I was so long-winded, but I felt it was important. I don't come to testify, Mr. Chairman, as you know. This is only the second time in eight months, since I've been President of the State Chamber that I've testified on an issue. I've allowed my chief representative, Jim Morford, and now Bill Healey to do the legwork, but my Board of Directors have asked me -- to a man; to a man -- to come to this meeting today to testify. I'm talking about my old Board, not my new Board.

Thank you for this opportunity to speak to the Committee today. I know you read into that, and I just wanted to make sure you didn't question me on the new Board.

ASSEMBLYMAN FRANKS: Mr. Faherty, always compelling testimony. We thank you very much for your recent presentation. You've outlined some historic areas of legitimate disagreement between the sponsors of this legislation and the State Chamber's official position on this matter. I thank you for taking the time to come before us today.

MR. FAHERTY: I don't know if Mr. Healey has anything to say?

MR. HEALEY: No, no. I'm not going to belabor this. We presented our testimony. I appreciate the time. Thank you as always, Mr. Chairman.

ASSEMBLYMAN FRANKS: I thank you very much, gentlemen.

MR. FAHERTY: And we thank you for spending your time, sir.

ASSEMBLYMAN FRANKS: It was my pleasure. Harry Boeselager from Princeton. Is Harry here? (no response) I've been trying to alternate individuals with groups, and pro and con, all day. I've got another 11 people on my list, but I'm not sure-- Harry, thank you.

H A R R Y B O E S E L A G E R: Thank you, Chairman Franks. My name is Harry, and I'm going to testify as a private citizen. I'm also a member of Hands Across New Jersey.

I&R -- initiative and referendum -- the people's tool to take back our government. We, the people, must take back our government from PACs and two political parties which have become special interest groups themselves, in promoting their own agendas and self-interests. Time has come for big changes in government behavior -- back to the republic, with power to the people.

Our votes no longer count in this elitist system of government, not touching the individual taxpayers with needed tax relief, or citizens who have problems to solve with our overregulated government. Too many laws hurting every citizen

through an overburdening process, no checks and balances in place, constantly expanding government bureaucracy, increasing budget, waste, etc., causing increased taxes, more inflation, designed to benefit only those in government and those benefiting from government connections. The public be damned. This is our government action for taxpayers. Who cares about people who pay their way? Just tax them some more.

Right now our government is taking 80 percent of substance. Has this caused much problem in our society? You bet. It causes inflation, loss of business, home foreclosures, lack of employment, higher prices, more wasteful government, and more elitist government.

I&R does not provide equal government. Excuse me, I&R does provide equal government for all citizens of New Jersey, stopping the abuse of power and influence that we have now generated. That's all I'd like to say. If there are any questions, I'll be glad to answer them.

ASSEMBLYMAN FRANKS: Harry, thank you very much. I appreciate the fact that you've-- We're into our fourth hour, and I appreciate you staying to offer testimony.

MR. BOESELAGER: I can understand that, sir. Thank you.

ASSEMBLYMAN FRANKS: Next, I'd like to hear from Mr. Robert Woodford, from the New Jersey Business and Industry Association.

UNIDENTIFIED SPEAKER FROM THE AUDIENCE: He went to the men's room.

ASSEMBLYMAN FRANKS: Okay. How about Deborah Cosgrove, New Jersey Principals and Supervisors Association. (no response) Well, we're losing out on everybody. How about Phil Kirschner from New Jersey ELC.

P H I L I P K I R S C H N E R, ESQ.: Thank you, Mr. Chairman. I will also try to be very, very brief. You've heard, I think, a wealth of testimony from some of the

opponents of I&R, about it being a very simplistic way to solve some very complex problems in our society, and that it is a take it or leave it form of government. I think that is highlighted by what we are going through here today.

There is a vast difference between putting constitutional amendments on the ballot as we do now with the protections of hearings, numerous hearings. Crafting with that constitutional amendment we'll say, we're finding it and then having it passed by either a super majority in one year or a majority in two years. Then there is in the process of I&R, which is sort of a take it or leave it type of proposition, which goes on the ballot, and you either vote it up or down.

I should also note in that respect, while there is an indirect nature to the I&R process, it really does not give the Legislature any real opportunity to mold or shape a proposition going onto the ballot. As you know, Mr. Chairman, the bill provides that the Legislature has six months to enact "a substantially similar piece of legislation to what is being adopted," and lo and behold, who gets to decide whether what you, the Legislature, has done is, in fact, a good faith effort to craft a piece of legislation that might show some individual discretion but the very sponsors of that initiative? We don't think that that gives the Legislature any real opportunity to act, and we believe that that is a defect of the bill.

I think another major defect in the bill is the ability of one county in each region, really four counties in all, being able to put a proposition on the ballot. We do not believe that that, in fact, shows geographic representation or any comprehensive representation at all. Even though we did not support it, your previous proposal before the two that was with us -- that are before us today -- that put a limit of 15 percent on the amount of signatures that any one county could contribute was far superior and offered more protections than is in the bill before you. In fact, when you break down the

regions and the numbers, you will see, for instance, that one county -- for instance Bergen County -- can supply 40 percent of the signatures statewide to put something on the ballot. That's 40 percent one county can provide.

That to us does not show a breath of interest throughout the State, or any deep commitment by the citizens of the State to put something on the ballot; when one county can put 40 percent of the signatures on the ballot.

We believe that New Jersey, if they would adopt this as being the only State in the region and virtually the only State in the East Coast, would be at a competitive disadvantage. People do look-- CEOs do look at the issues like I&R when they're looking to relocate plants. We think that they would look on this unfavorably.

The other thing that I would add is, there has been talk about initiatives, and what people pass and what they don't pass. The bottom line is, I do not think that California or Massachusetts are shining examples of where people are satisfied with their governments and are extolling the virtues. In fact, many articles recently have shown that California may have some of the most disaffected people in the entire country, even though they have had I&R since the turn of the century. And having I&R in California certainly did nothing to meliorate the alienation that people in California showed in recent events there at the Rodney King hearing.

Massachusetts and its indirect process, which is very similar to that, also the "Massachusetts Miracle," as you know, has been derided very much since it sort of petered out five years ago, and I do not think people in Massachusetts or we in New Jersey would try to emulate what's going on in California or Massachusetts. This is not a good idea, although well-intentioned. We hope that it will not come to pass.

ASSEMBLYMAN FRANKS: Mr. Kirschner, thank you very much.

MR. KERSNER: Thank you.

ASSEMBLYMAN FRANKS: Mr. Woodford has returned. Mr. Woodford. I've got Mr. Bradley and Ms. Cosgrove, if Ms. Cosgrove is here. Okay, Mr. Bradley's here I know.

R O B E R T W O O D F O R D: Good evening. Mr. Faherty referred to the Hessians. I have more an image of the Civil War, the last of the wounded, at this point. But while we have gone over this ground many times, I think each time the question of initiative and referendum arises, more of the learning curve is covered. We have more recently received from the State of California, and studied the report of their campaigning finance commission on initiative and what are preceived to be the problems of California.

I know you, Mr. Chairman, have often attempted to distinguish between the State of California and its system and that in New Jersey. We do not, in viewing these bills that have been released from the State Government Committee, see a significant difference.

The role of the Legislature, as Mr. Kirschner mentioned, is more perfunctory, in a system in which the petition sponsors are giving the power to determine whether what the Legislature has done is substantially similar to their proposal. So, the role of the Legislature, as minor as it might be in this proposal, in fact, is less than meets the eye in a system in which the proponents of a petition can sit back and let the Legislature give them 95 percent of what they want, and then go to the ballot.

The real role of the Legislature in negotiating compromise and bringing groups together and attempting to balance interest, is nowhere involved in a process that gives that power to the petitioners. We are disappointed that after many reassurances from various Legislators that this I&R coming out of this session would provide safeguards, and four specific safeguards having been mentioned in the April 23 hearing by the

Chairman of the State Government Committee as being under active consideration. That's so little by way of safeguards having in fact entered into the final product.

Chairman Martin had indicated in the April 23 hearing that there would be, potentially, a prohibition on the use of the initiative and referendum process to amend the conditions of initiative and referendum in the Constitution that you are proposing. We're disappointed that in fact there is no prohibition in this language which would prevent an initiative or a referendum from removing the signature requirement -- reducing the signature requirements, removing the regionalization, removing the siting provision, or as one Senator who is a proponent of the California system indicated, replacing the system you now propose with a direct initiative, California style.

Nothing in the language of ACR-1 would prevent any of those initiatives from reducing what little safeguards there are in this legislation. We were told that the Committee was looking at greater geographic protection such as all county or other further distribution techniques, but disappointingly there is nothing in this legislation which requires a vote distribution. A majority of voters and a majority of counties could vote, "No," on a proposal, and it could still be enacted with simply a statewide majority.

We were told as well that the Committee was considering a limit on the number of initiatives. Like the Governor said, "There are 30 potential ballot questions in the legislative process this year." Add to that the volume of initiatives that have been seen on the California ballot, something that we may well see here, and you could face the public in New Jersey with literally dozens of complex issues, requiring hundreds of pages of description and many hours of study for a voter to be even marginally informed in the process.

We were told as well that the Committee was considering a more than 50 percent majority for passage of an initiative and referendum. That would be particularly important in terms of constitutional amendments. I mean, here we sit today in a process that requires of the Legislature, in a bicameral system, a three-fifth majority of all members of the House voting to approve in each House, in order to place something on the ballot in a single year, or otherwise a majority of all members of each House to place something on the ballot in two consecutive years, and then the question going to the public for its approval. What you are proposing in both of these bills is simple majority vote on the question. Amend the Constitution with less than a majority of those who turn out in the general election to vote, is quite possible under either of these measures.

Why should we take the foundation for law in New Jersey, the strength of the system in the Constitution, in which the protections of individual rights are embedded, and make it so simple to place before the voters a question which will amend the Constitution with less than a majority of those who turn out to vote in the general election? That in itself, a majority of those turning out in the general election, would be a minimal standard, as compared with this difficult process: committee review, testimony, debate, and a vote in each House, which, in effect, counts those absent and those abstaining as negatives in accomplishing the needed majority.

What we are seeing, I think in either proposal, is almost a recklessness in terms of the Constitution, and the Constitution should be virtually untouchable except for major, well considered proposals.

Without going through much of this statement, I'll just indicate our position, as we have repeated over the years, is based upon our desire to keep the process open to advocates of business who wish, at least, to argue the case of business, in an open and affordable forum, which the Legislature provides.

We do not, although we may have the power to do so, wish to engage in a process that would cost a minimum of \$4 million to present one side of an issue on an initiative. Businesses in California have put forth 83 percent of the dollars on the 18 most expensive initiatives in California. They put out 67 percent of the costs of the initiatives in 1990, which totaled \$110 million in expenditures. We don't want to get into a process in which business or other groups, or individuals, in order to make their interest known or defend their livelihoods and existence, need to raise huge amounts of money beyond the means of many groups to argue their case before the public.

We think that this process could have been a much more careful process, could have provided regional protection, could have provided higher thresholds for approval, could have protected the mechanism you're recommending against further amendment through the initiative process. We regret that those safeguards were, at least, not built into these pieces of legislation. Thank you.

ASSEMBLYMAN FRANKS: Mr. Woodford, thank you very much. Let me, if I may, just respond very briefly, since this is going to be incorporated in a document that will be receiving distribution to every member of the House, and, hopefully, to interested members of the public. I congratulate you on, again, the effective nature of your testimony.

Let me review, very briefly, my experience -- and I know it's shared by Speaker Haytaian -- that each and every time a good faith effort was undertaken to consider negotiated changes in the composition of the I&R program that would be offered, hopefully, both to the Legislature and to the people for their consideration, the question was asked, whether or not if by embodying certain changes certain groups that have traditionally been in opposition to I&R would sign aboard -- if it met the standards of a reasonably crafted system?

I have to tell you, and I'm not, specifically, speaking of NJBIA in this regard, but individuals who are affiliated with both the Chamber and NJBIA, never could give us the assurance that any changes would ever lead to dropping their opposition to I&R. And it's very difficult to negotiate given those essential parameters, where one group -- any particular group -- whether yours or AFL-CIO, is so steadfast in their conceptual opposition that any negotiated changes are inadequate to assure support.

It is unfortunate that here today we're in disagreement on some of these issues, and regrettably the legislative process has not been able to answer those to your satisfaction. I regret that. But I'm hopeful that by airing these points that you bring up today and those that have been aired by numerous speakers before you, that will in fact create a more enlightened audience within the State Legislature first, and as you indicated at the beginning of your testimony, for the people to consider, should this issue move forward?

MR. WOODFORD: Thank you, Mr. Chairman.

ASSEMBLYMAN FRANKS: Thank you. Finally, I'd like to call on Dennis Bradley from the Chamber of Commerce of Southern New Jersey.

D E N N I S F. B R A D L E Y: We do represent a very minority sector of the population. That's why we're last. (laughter) He can always say, you were last.

Good afternoon, Mr. Chairman, Mr. Geist. My name is Dennis Bradley. I'm with the Chamber of Commerce of Southern New Jersey. We're headquartered in Pennsauken. We have approximately 800 member firms, which includes many of the large and mid-sized companies in the seven county South Jersey region.

Currently, before the New Jersey Legislature are several proposals for the implementation of an initiative and referendum system. The Chamber of Commerce of Southern New

Jersey strongly opposes the initiative and referendum system, as unnecessary and contrary to our representative form of government.

All individuals, groups, or organizations now have the opportunity to participate in the legislative process through equal representation and access to our elected officials. Under our current system, diverse and competing interests have input to the Legislature's debates and deliberations. You negotiate, and where appropriate compromise to effectuate legislation that recognizes these competing interests. All of that would be eliminated under I&R.

The initiative and referendum system will allow, in our opinion, a minority of the population to place before the electorate, selected issues, regardless of their impact on all the citizens of New Jersey. Such a system undermines the role of elected State representatives, who are charged with carefully evaluating the needs of all the citizens of New Jersey and enacting responsible legislation to address those needs.

Many of the issues facing the Legislature today, specifically health care, education policy, and taxation, would likely be the initial measures placed as referendums. The fact that the Legislature has been struggling with these issues in the past, demonstrates their complex nature. We believe that important issues are too complex for a simple yes or no vote in a public referendum.

The Chamber is concerned that we will deliver our government into the hands of well-financed, single-issue groups. We do not believe that the people of South Jersey want important policies to be made by the one person or group with the largest budget to spend on advertising campaigns, especially since we are in the least populated part of the State and will be at a distinct demographic disadvantage.

The Chamber feels that the Legislature has not always been responsible to its particular concerns. However, the current system does allow for comprehensive dialogue and debate of the issues. The result of an I&R system would be laws enacted without the benefit of essential open debate. There would be no give and take. There would be no compromise. The Chamber strongly urges the Legislature to resist attempts to establish any initiative and referendum system, including the bills released from the Assembly State Government Committee, ACR-1 and ACR-3.

Thank you for the opportunity to present this statement on behalf of the Chamber of Commerce of Southern New Jersey.

ASSEMBLYMAN FRANKS: Mr. Bradley, thank you very much.

(NOTE: DUE TO TECHNICAL DIFFICULTIES, THE TESTIMONY OF GREG DELOZIER COULD NOT BE TRANSCRIBED. MR. DELOZIER'S COMPLETE WRITTEN TESTIMONY IS INCLUDED IN APPENDIX PAGES 28X THROUGH 30X.)

(HEARING CONCLUDED)

APPENDIX

Dear MEMBER:

You may have heard about a proposal to authorize the Initiative and Referendum (I & R) process in New Jersey. I'm writing to tell you *NAME OF GROUP'S* opinion on why I & R is a bad idea for our state.

I & R would COMPLETE WITH SPECIFIC REASON.

I & R is NOT the voice of the people. Contrary to what its proponents say, I & R is usually the voice of special interest groups with money. In other states, these groups have abused I & R to bypass the legislative process and get self-serving or single-issue propositions passed.

I & R allows the majority to tyrannize the minority. With I & R, what the majority says, goes. This means that *FILL IN WITH MAJORITY GROUP THAT COULD HARM YOUR GROUP.*

I & R eliminates checks and balances. Our founding fathers organized a balanced government that operated on a system of checks and balances. This system ensures that every law must be thoroughly studied and debated before it passes. All checks and balances, including hearings and amendments, are lacking in the I & R process. There is no opportunity for reasoned deliberation, debate, compromise or consensus building.

I & R won't clean up politics. Advocates would have us think that I & R will make politics and politicians more honest. This isn't the case at all. Everything that's wrong about candidate campaigns is also wrong with I & R. With I & R, you can expect smear campaigns, oversimplification of issues into slogans and 30-second spots and excessive campaign spending. In the 1988 California elections, more than \$129 million was spent on initiative contests. That's more than was spent in the 1988 presidential election by all candidates combined!

In other states, I & R forces groups to raise and spend millions just to have their position heard by the public. We don't want I & R to bulldoze *NAME OF GROUP* into this position. To prevent I & R from taking away our voice, we need your involvement now. Please *CALL TO ACTION.*

Sincerely,

NAME
TITLE
ORGANIZATION

TESTIMONY REGARDING OPPOSITION TO INITIATIVE AND REFERENDUM LEGISLATION

June 17, 1992

Good afternoon, my name is Dr. Philip E. Geiger and I am the Superintendent of the Piscataway Township Public Schools and former Superintendent in Lexington, Massachusetts, where the initiative and referendum legislation was in effect. I had the direct opportunity to experience the impact, benefits, and liabilities of Initiative and Referendum legislation. Based on my first-hand knowledge of these procedures, I am presenting this testimony to express strong opposition to the Initiative and Referendum concept.

Before I specifically state the rationale for my opposition, I also want to indicate that, in addition to serving as Superintendent of Schools, I also serve as the Vice President of the Piscataway/Middlesex Chamber of Commerce, an organization that has created a strong partnership with public education, and I want to report to you that in that capacity and, based upon the official actions of the Piscataway/Middlesex Chamber of Commerce, my statements have the support of that organization as well.

Financial Burden on Public Institutions

Because Initiative and Referendum proposals are generally promulgated by professional organizations and special interest groups that place substantial amounts of funds behind I and R proposals, public school systems were required to spend an inordinate amount of time and effort to develop and disseminate accurate information.

While in Massachusetts, a number of educationally-related topics were suggested through Initiative and Referendum. In many ways specialized groups took advantage of the limited resources that the public school systems had by generating a media blitz. That required school districts to divert their time, attention, and funds from the primary goal of educating young people to providing multiple means to generate information to more fully inform the public prior to an election.

One of the primary concerns about Initiative and Referendum is that specialized groups have a war chest available to promote their points of view and recognize that public institutions in particular are far less able to respond even if it is simply to provide each member of the voting public with more accurate information. Therefore, besides the fact that a limited amount of accurate data may be available to the voting public, the potential of there being a balanced presentation is limited. In the State of Massachusetts, school systems that were once the pride of American public education have been relegated to the status of wounded animals, with limited resources available for instructional purposes and a continual decline in program opportunities. Quite frankly, as I returned to my home State of New Jersey, having served as Superintendent in the very fine public school system of Lexington, I realized that statewide our school districts are able to better serve our young people through the political process we have in New Jersey where in a representative democratic legislature makes decisions regarding the future of public schools.

Limited Knowledge and Insight

Unfortunately, we are in the era of the thirty-second soundbite. In fact yesterday I watched a news program that indicated that newsclips nationally have moved from 45 seconds in the 1970's to eight seconds in the 1990's. The public is surely getting less than a substantive perspective of candidates' points of view let alone clear perspectives on issues. Because Initiative and Referendum is in fact presented in a manner similar to national politics, we will be affirming an inferior approach to creating legislation. Although our individual legislators are elected using the media, they still are elected on a more localized, regional basis. In New Jersey, candidates always made the effort to have the electorate become personally familiar with their positions, their ideas, and their experience.

The issues proposed by Initiative and Referendum would be promoted through the media politics would ultimately resort to the eight second soundbite approach, thereby creating an environment where decisions are made with far less debate, knowledge and insight than our legislators are able to provide today. The quality of the decision making will undoubtedly be diminished.

Information Overload, Information Inflation

Should the State Legislature choose to adopt Initiative and Referendum as a process, they must then establish it in a format that will address these deficiencies. The state will have to produce substantial documentation and information for the public so they are able to vote intelligently. I have with me today some of that documentation that has been recently distributed to voters in the State of California. As you will see, not only is there a tremendous burden on the state to reproduce data and to mail it to each and every voter in the state, but there have also been addenda that the state had to produce in order for the public to be more fully informed. At best, this process creates both information overload for members of the public and "information inflation." The cost of the system becomes excessive because of the need to distribute mounds of information to great numbers of people, many of whom may resort to reading titles only, simply because of the limited amount of time and/or interest they may have in the individual subject. It would appear that the State of New Jersey is already finding it difficult to meet its current obligations to its citizens. The Initiative and Referendum proposals simply add additional bureaucracy and millions of dollars in printing and mailing costs, and more legislation that may sound better on a television commercial than in actual implementation.

Local Responsiveness

Having lived in Massachusetts, as well as New Jersey, I have been able to compare and contrast the political responsiveness of legislators in both states. Perhaps in the State of Massachusetts, Initiative and Referendum was desirable because state politics was substantially remote for some citizens. The fact that I lived in eastern Massachusetts, 11 miles northwest of Boston, I saw that the political clout of those in the eastern section of the state was substantial, but the central and western parts of the state had more difficulty acquiring the ear of the Legislature. That is far from the case in New Jersey. I have served as Superintendent of Schools in Piscataway in Middlesex County, as well as Galloway

Township in Atlantic County, and regardless of where a citizen lives in New Jersey, his/her legislators have been able to promulgate appropriate legislation when necessary and other legislators have responded. This is not a state where I and R is necessary simply to get the "ear of the State Legislature." The system has always provided for the public's initiative and interest to emerge through the state legislators. Our state is organized in a way that the political system will respond regardless of whether the proposal comes from a legislator from a remote part of our state or from a heavily populated section. The need for I and R in a state like Massachusetts may be greater because of the sense of exclusion that some of the public felt due to their remote location. That is not the case in New Jersey. Unfortunately I must tell you that the Initiative and Referendum legislation, however, has not helped the disenfranchised in Massachusetts but has simply strengthened the organizations and special interest groups that had major lobbying efforts in the Boston area.

We all want democracy to work and for grassroots efforts to be realized, but my experience in the State of Massachusetts is that bad legislation is often proposed through I and R and requires the diversion of attention and funds from public institutions like schools. Furthermore, the basic goals that may have existed in the State of Massachusetts for "I and R," and the remoteness of unrepresented citizens, do not occur in New Jersey.

Accountability and Responsibility Are Lost

In Massachusetts, the Honorable William Weld was elected governor to counterbalance the effects of that state's political agenda "out of control." Governor Weld has had to perform radical surgery on that state to help it regain its financial viability, to restore the quality of its public schools, and to literally prevent the state from experiencing financial bankruptcy. In order to restore the quality of life in Massachusetts, the governor has had to exercise substantially unilateral action to motivate the Legislature to correct issues that have been decided on a more liberal fashion. Once proud public school systems are now literally hanging on by a thread.

I am proud to be Superintendent of Schools in New Jersey because I believe we provide education that uniformly far exceeds the education throughout the Country. Only by returning to New Jersey was I able to better value the high quality that the individual boards of education and the State Legislature have provided here. When I went to Massachusetts, I thought I was going to the mecca of public education, a place where the individual citizens could in fact decide what is best. What I have learned is that the representative form of government is best served by a formal legislative body that makes decisions that are best for its citizens in a way in which the special interests are heard but not controlling and where officials elected in a responsive environment, unfettered by liberal and fiscally irresponsible thinking, can best serve the state and its youth. With I and R, accountability belongs to the Legislature, but not the decisions. With I and R, the public still does not assume the role of deciding where the money comes from to implement actions. With I and R, there is decision making without real, personal accountability.

I am very pleased to be in New Jersey serving the residents of Piscataway. I also understand the impact of Initiative and Referendum in the State of Massachusetts, I, therefore, implore you to defeat these proposals so that New Jersey does not experience the same level of decline that has occurred in the Commonwealth. Thank you.

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NEW JERSEY STATE FEDERATION OF SPORTSMEN'S CLUBS, INC

State Affiliate of National Wildlife Federation / Organized May 24, 1935 / Serving over 150,000 Members
President - George P. Howard / RD # 1 Box 193 / Pittstown, NJ 08867 / 908-735-5046

POSITION STATEMENT OF THE NEW JERSEY STATE FEDERATION OF SPORTSMEN'S CLUBS RELATIVE TO INITIATIVE AND REFERENDUM LEGISLATION IN NEW JERSEY PUBLIC HEARING - STATE HOUSE, TRENTON - JUNE 17, 1992

My name is George Howard. I am a resident of Pittstown in Hunterdon County and am testifying today as president of the 150,000 member New Jersey State Federation of Sportsmen's Clubs. The Federation has long been on record in opposition to Initiative and Referendum legislation for New Jersey.

The potential for abuse of I&R is substantial and the system practically guarantees the abuse of minority interests by well funded special interest groups. The experience in other states is that I&R is most often used to by-pass the legislative process to get self-serving single issues passed. I&R allows the majority to tyrannize the minority and eliminates the checks and balances inherent in our present system of government. With the elimination of checks and balances, including hearings and amendments, there is no opportunity for reasoned deliberation, debate, compromise or consensus building.

One only has to look to California and Arizona to see the disastrous effects of I&R on the citizens of those states. The millions of dollars now being spent by well financed, special interest groups to foster legislation beneficial to their beliefs, have forced the expenditure of additional millions to counter ill conceived and self-serving interests. I&R has fostered voter apathy, confusion and cynicism in California where some initiatives are being enacted by less than 20% of California's eligible voters. No California initiative has ever received the approval of a majority of California adults. In the 1988 election, voters in San Francisco had to face the ridiculous situation of voting on 57 separate initiative measures, and the 1990 California general election ballot title, short summary and analysis of initiatives, ran to 222 pages.

As sportsmen, we have seen the I&R process being used by animal rights and anti-hunting zealots in Arizona to place Proposition 200 on the ballot which could result in the prohibition of all hunting, fishing and trapping in that state. Millions of dollars are now being raised by wildlife, hunting and conservation groups all over the country to fight this initiative. These are sorely needed monies which would have otherwise been used for wildlife conservation measures.

The concept of using I&R as a method to halt legitimate hunting, fishing and trapping programs as well as all use and management of our wildlife is spreading, and animal rights factions are now using the same strategy in Colorado. Under Colorado I&R, residents may also have the opportunity to override existing game codes and vote on whether the state may conduct traditional hunting and fishing seasons.

The enactment of I&R will force groups such as the New Jersey Sportsmen's Federation to spend much needed and presently non-existent conservation dollars fighting special interest, self-serving I&R legislation to the benefit of no one. In other states, I&R forces groups like ours to raise and spend millions of dollars just to have their position heard by the public.

We recognize I&R not as the voice of the people but the voice of special interest groups with money, and in order to preserve the voice we presently have and the voice guaranteed us by the Constitution, we respectfully request the I&R legislation not be enacted in New Jersey.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "George P. Howard", written in dark ink.

George P. Howard

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REPLY TO: TRENTON, N.J.



Testimony of FFANJ Before Policy and Rule Committee

Mr. Chairman and Members of the Committee, I would like to thank you on behalf of the Fire Fighters Association of New Jersey AFL-CIO and myself for the opportunity to speak against Initiative and Referendum proposals presently pending in the Legislature and before this Committee.

Proponents of I & R contend that passage of Initiative and Referendum Legislation will give the citizens of New Jersey more involvement in the way their taxes are spent, how their state is governed, and, in general, the legislative power to mandate or repeal laws for all citizens of our State. This, the advocates argue, will in turn serve to place more power and input than they presently have in the law making process and lead to a greater state for all of us. If this were true, we might possibly have to adjust our position on I & R. The truth of the matter, however, is that this is not the case!

We can more realistically look forward to the situation that exists in many states who presently have I & R and see initiatives being put on the ballot by self serving groups with large sums of money to spend who will be able to advertise their point of view and get their initiatives approved by the voting public. It has happened elsewhere so how can we assume the same problems will not plague New Jersey.

I & R will lead to initiatives being past without the benefit of public debate and input, such as what is going on in this Committee today. Currently, any bill must go through the scrutiny of several committees, be past by both houses of the legislature by a majority vote, and then be approved by the Governor. There is debate and an opportunity for any person to have input in these hearings.

I & R will lead to initiatives being past without the chance for any amendment or compromise. It becomes a more or less "take it or leave it" method of running government.

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS • INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS

This so called "Direct Democracy" method can lead to chaos as far as the funding of public safety programs are concerned. Initiative limiting government spending may look very good to the voting public, but in reality could lead to almost total destruction of fire departments, police departments, and other critical emergency services. Initiatives to limit spending on these essential services could be passed without consequences of such actions. The persons who suffer from such a system in the end are the very citizens who often times are mislead into believing "tax" saving initiatives left with reduced services that they didn't realize came as a part of the package.

Complex issues are often times very difficult to understand when in the ballot form. Many times, when issues are on a ballot they are not fully understood by the public. I & R assumes that the voters will have enough time, information, expertise, knowledge, and desire to reach sound decisions on complex proposals. That is not to say that the voting public is not intelligent enough to understand issues, but we have all read some pieces of legislation many times to ascertain its true impact. Will the voting public have this opportunity or be lead by the most effective public relations campaign?

Initiatives could be approved by voters that will require many hours of legal deliberations as to their constitutionality or conflict with other statutes.

The people we elect to serve in the State House are representatives of many diverse interests that have been elected to come together in order to approve legislation and efficiently and responsibly serve the citizenry. We the people elect these representatives to serve as our voice in the governing of the State. This is true representation by the people and not representation by well financed groups who often confuse or misrepresent issues to their own benefit.

The present system of "Representative Democracy" has served us well in New Jersey and will continue to do so. Everyone will not be happy with all that transpires here in Trenton. There are many times when we would like to see things go differently, but regardless of the end result, the opportunity for input is always there for everyone. This will not be the case if Initiative and Referendum legislation is passed into law

On behalf of the Fire Fighters Association of New Jersey, I urge you to reject, for the reasons I have stated and numerous others, any and all Initiative and Referendum proposals that are brought before this Committee for consideration.

Thank you very much.



NEW JERSEY BUSINESS & INDUSTRY ASSOCIATION

Statement

of the

New Jersey Business and Industry Association

to the

Assembly Policy and Rules Committee

by

Robert Woodford

concerning

ACR-1 and ACR-3

'Initiative and Referendum'

June 17, 1992

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Mr. Chairman and members of the Committee, I am Robert Woodford, First Vice President and Secretary of the New Jersey Business and Industry Association. Our organization's membership of more than 13,600 businesses would be significantly affected by the enactment of either ACR-1 or ACR-3.

Based on the current and past experiences of businesses in states with initiative and referendum, we believe the net impact on businesses will be negative, with adverse consequences for business investment and employment levels.

MAJOR DEFICIENCIES IN ACR-1 AND ACR-3

The initiative and referendum (I&R) process is beset with major deficiencies common to all forms of the process. Nonetheless, it might have been possible to address at least some of the identified negatives in ACR-1 and ACR-3. In fact, Assembly State Government Committee Chairman Martin acknowledged during the April 23 hearing that the Committee was considering amendments to accomplish four changes:

- (1) prohibit the use of an initiative or referendum to alter the I&R process, as set forth in the Constitution;
- (2) provide "greater geographic protection...such as all county or further distribution techniques";
- (3) limit the number of initiatives and referendums in any given year;
and
- (4) require greater than a 50 percent majority for passage of an initiative and referendum.

Each of these potential amendments would have provided a more reasonable process than that proposed. None were adopted.

ACR-1 would permit the use of an initiative to lower the number of signatures required on petitions, delete the prohibition against use of I&R to site a facility, delete the regional signature requirements, or establish a direct I&R process.

With respect to "geographic protection," both ACR-1 and ACR-3 lack any form of vote distribution requirement. An initiative could be rejected by a majority of voters in a majority of counties and by voters in all of the counties of one or more regions yet be enacted. Even with regard to petition signature requirements, geographic protections were weakened by the Committee's elimination of the provision that required that signatures from any county be disregarded to the extent they exceeded 15 percent of the statewide signature requirement. Under either bill, all of a region's signature requirement could be met with signatures obtained from a single county (such as Morris with 42.5 percent of the Northwestern region's population, or Camden with 43.75 percent of the Southern region's population).

The failure of both measures to limit the number of I&R questions on any election year ballot may result in a greater volume of ballot questions on the New Jersey ballot than even the overwhelming numbers experienced in California. The ease of placing a question on the ballot is determined by population density, time allotted for signature gathering and number of signatures required. Under both bills, time allotted for signature gathering is not less than one year (compared with five months in California). Population density in New Jersey is nearly six times that of California. Therefore, with the 6 percent signature requirement in ACR-3 and the 8 percent and 12 percent requirements in ACR-1, questions should be easier to qualify for the ballot in New Jersey under ACR-3 and as easy as California under ACR-1.

The Assembly State Government Committee was correct in sensing the need for requiring more than a simple majority approval of ballot proposals, particularly those proposing constitutional amendments. Regrettably, neither ACR-1 nor ACR-3 requires that a question be approved by more than simple majority of those voting on the ballot question. ACR-1 would permit the amendment of the Constitution despite the failure of the ballot question to obtain the approval of a majority of those voting in the general election.

Currently, an amendment to the Constitution requires a three-fifths approval by all members of each House of the Legislature, or approval by a majority of all members of each House in each of two successive years, after which the amendment must be submitted to voters for approval. This careful procedure contrasts markedly with the one-step, simple majority requirement in ACR-1.

Finally, the insignificant role of the Legislature in the "indirect" I&R process proposed was further weakened by a Committee amendment which gave only the petition sponsors the power to determine if a law enacted by the Legislature is "substantially similar" to their proposal. The Legislature will have no real power to amend or redesign an initiative or to generate compromise. In regard to a referendum, only enactment of the referendum-- exactly as proposed-- will prevent the proposal from reaching the ballot. The process proposed is "indirect" in name only.

A DENIAL OF ACCESS

The initiative process is misrepresented as a means of increasing public involvement in lawmaking. The average voter (who learns of an initiative proposal only after it begins to circulate) receives nothing but a "take-it-or-leave-it" choice in exchange for surrendering the opportunities for meaningful input available within the legislative process.

It is infinitely easier for a group with a sound, fair and reasonable proposal to persuade legislators to introduce a bill than to obtain 135,000 voter signatures. Yet, I&R is the weapon of choice for pressure groups with extremist agendas because those whom they target with their rigid, uncompromising proposals are stripped of any meaningful input or chance of accommodation. Compromise is out of the question. Once a petition circulates, not even its sponsors can correct or amend it. Nor can the Legislature effectively negotiate compromise or improvements. The Legislature would have only the limited choice of enacting the law proposed by petition or a "substantially similar" law. Petition sponsors could reject any meaningful compromise or accommodation because only they would be empowered to judge whether a law enacted by the Legislature is "substantially similar" to their proposal.

THE HIGH COST OF DEFENSE

The volume of ballot questions in New Jersey could exceed that in California because Garden State petitioners would have at least 12 months to gather signatures (compared to five months in CA) within a State six times more densely populated. In California, initiative spending peaked at \$127 million in 1988. California businesses have been forced to spend enormous amounts when threatened, providing 83% of funds spent on the 18 highest spending initiatives and providing two-thirds of the \$110 million spent in 1990. The high cost of reaching New Jersey voters would divert needed funds from capital investment and research.

BADLY DRAFTED LAWS

In its 1992 report on initiatives, the California Commission on Campaign Financing concluded: "Initiatives are too often ambiguous, vague, overreaching, under-inclusive, contradictory and even unconstitutional." California's courts have had to invalidate all or portions of four of every ten initiatives adopted since 1964.

The I&R process produces unbalanced, incompetently drafted laws because it bypasses every safeguard, check and balance in the legislative system—drafting by professionals; analysis by partisan and non-partisan legislative staffs; review by knowledgeable, specialized committees; open public hearings; floor debate; and multiple opportunities to amend and redesign a proposal. Without such safeguards, there is no possibility that laws will be developed which interrelate well with other public policies and are sensitive to New Jersey's diverse population.

CONFRONTATION AND DIVISION

I&R is to our constitutional system of lawmaking, what war is to negotiation. New Jersey's constitution prescribes a system of lawmaking deliberately designed to make it difficult to enact laws except through consensus-building and compromise. Obtaining majority approval in each house of a bi-cameral Legislature and approval by the Governor, necessitates the balancing of diverse interests. In comparison, an initiative could be adopted by far less than a majority of those voting in a general election.

I&R is a confrontational system which permits a majority to dominate or ignore a minority (including business). Law making by such means invites alienation and is unlikely to develop public policies which serve the whole society.

LOSS OF ACCOUNTABILITY

Truth is one of the first victims in an initiative campaign. The California Commission on Campaign financing concluded that "media campaigns disseminate incorrect and deceptive information," "ballot pamphlets often fail to communicate information accurately and concisely," and "high-spending, one-sided campaigns dominate and distort the electoral process." Although California voters receive a ballot pamphlet, the 222 page November 1990 pamphlet would have taken an average voter ten hours to read (excluding the actual initiative tests).. Most voters are almost entirely dependent on emotional, simplistic and misleading television and radio spots.

When a ballot question is decided, those who produced deceptive information fade from the scene. There is no one to hold accountable for the lies that were told or laws that are flawed.

LESS RESPONSIVE GOVERNMENT

For all of the glowing promises of I&R proponents, citizens in I&R states, including California, are no more satisfied with politics and government in their states, nor have they found better solutions to their societal or fiscal woes.

Legislatures in I&R states can and do sidestep important decisions, leaving these to the initiative industry and its clients. "Initiative industry" is a fitting term for the army of political consultants, pollsters, advertising specialists and signature gathering firms who design proposals, seek out clients, and sell proposed laws like laundry soaps. In California, more money is spent lobbying the public on initiatives than is spent lobbying State government. Volunteer signature gatherers have given way to legions of expensive paid circulators. So powerful has the industry become that it operates outside of the checks and balances and consensus-building processes of the Legislature to serve as a major source of public policy. By no stretch of

the imagination can this system—dominated by big money and special interest groups—be called more responsive or responsible than the legislative lawmaking system in New Jersey.

ACR-1 and ACR-3 should be rejected by the Legislature.



New Jersey

Principals and Supervisors Association

1479 Pennington Road, Trenton, NJ 08618

TEL: (609) 771-8200 FAX: (609) 771-9375

NJPSA POSITION STATEMENT

ACR-1 ACS, ACR-3

The New Jersey Principals and Supervisors Association, representing over 5,000 public school principals, vice-principals and supervisors throughout the state, strongly opposes the institution of a system of initiative and referendum in New Jersey. We are deeply concerned about the devastating impact I & R could have on public education in New Jersey.

As individuals and as a professional association, we believe that public education is the most important investment we can make as a society. By developing the potential of our youth to become active, productive and informed citizens, we will improve the quality of life in New Jersey for years to come.

Initiative and referendum is a direct threat to the future of New Jersey's public education system. The very nature of our public school system leaves it vulnerable to attack if a system of initiative and referendum is enacted. Public schools are one of the most highly regulated and scrutinized institutions in the state. The manner in which schools are funded, operated, staffed and organized is currently governed by an intricate web of public laws, regulations and policies. Further,

schools are totally dependent upon public tax dollars for their very survival. Thus, any form of I & R including both ACR-1 and ACR-3 has the potential to do serious damage to our public schools.

If I & R is enacted, a distressed and overly-taxed citizenry can be expected to seek prompt relief through tax limitation measures without regard to the impact on public educational programs or other necessary social services. Due to difficult economic times and the recent uproar over tax increases, New Jersey citizens may react, yet fail to enact good public policy.

A brief glance at the actual impact of I & R on public schools in Massachusetts and California proves this point. Both of these states enacted tax limitation measures (Proposition 2 1/2 and Proposition 13 respectively) shortly after enacting a system of statewide initiative and referendum. The result was shrinking state and local aid to education.

This reduction in funding has led to these devastating results:

1. In Massachusetts;

- * In the first year of enactment, approximately 15,000 school employees (about 16% of the total work force) were laid off;
- * Class size rose dramatically -- up to 40 to 1 in some instances;
- * School libraries have been closed;

- * Many school buildings were closed;
- * Gifted and talented programs have been cut significantly statewide;
- * Due to decreased staffing and program cuts, high school students in Massachusetts typically spend two to three classes a day in study hall.
- * Co-Curricular and after school activities such as athletics have been cut or reduced. Students are currently charged users' fees in most districts for athletics, drama, yearbook and other extra curricular activities. In athletics alone, there has been a 20,000 reduction in the number of students participating over the last three years.
- * Budget cuts have significantly decreased the number of school administrators and supervisors. Current research indicates that the school principal as the educational leader is the key to a school's success. With the elimination of vice-principals and supervisors on the front lines in schools, principals in Massachusetts have been forced to perform the duties of principal, vice-principal, and supervisor of instruction. The resulting pressures leave little time for long range planning or vision for a school's success.

2. In California;

- * State per pupil spending has dropped to about \$4,500 per student;
- * Massive lay offs of teachers, administrators and other staff have occurred;
- * "Extracurriculars" such as art, music, and physical education have been eliminated;
- * At least two large school districts have considered filing for

bankruptcy;

- * The maintenance budget for schools has been drastically cut or eliminated. Leaky roofs, bad plumbing, and unsafe conditions continue to worsen;
- * Teachers, on average, spend \$1,200 per year out of their own pockets to purchase basic school supplies;
- * Teachers are abandoning their profession out of frustration and fear;
- * Crime, violence and vandalism are the norm in many of California's public schools.

In short, the impact of I & R on the Massachusetts and California public education system has been devastating! Can New Jersey afford a similar result?

Unfortunately, recent events in New Jersey have set the stage for similar outcome. Voters are demoralized by increasing taxes, decreasing services, and a declining economy. In the realm of education, the state has been polarized by long-term inequities in education spending and the resulting impact of the QEA. Complex issues in the areas of insurance, health care and social services cry out for statewide reform. I & R IS NOT THE ANSWER.

A system of I & R will not provide the necessary leadership to resolve the myriad of complex issues facing the state. As legislators, you are in

the unique position of being chosen to provide that leadership. You have the necessary staff, research tools and information to consider the tough issues in depth and within the context of competing state issues. You hear and balance the competing viewpoints throughout the public hearing process. I & R will only provide a roadblock to the resolution of these issues. In addition, I & R is costly, time consuming, and tends to reduce complex issues to simplistic slogans.

For these reasons, we ask you to vote no on initiative and referendum in New Jersey. We thank you for listening to the concerns of the NJPSA.

Submitted by: Debra J. Cosgrove, Esq.

Director of Government Relations



New Jersey School Boards Association.

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POSITION STATEMENT

INITIATIVE AND REFERENDUM

The New Jersey School Boards Association believes that the representative democracy which has served New Jersey and the United States so well for two hundred years is the best means of law-making for the future. The Association opposes legislation, which would dilute representative democracy by erecting a supplemental initiative and referendum system in the state.

The NJSBA is deeply concerned about the devastating impact that a system of I&R could have on public education in New Jersey and we oppose it for the following reasons:

- o The public's ability to introduce issues in debate would be severely restricted under an I&R system. The media and ad campaigns of special interest groups would dominate and affect the electorate.
- o Education issues are complicated and require in-depth analysis; our elected representatives are in the best position to make the decisions which our education system demands.
- o Education, as the largest single public expenditure, would be a natural target for budget-minded reformers. If I&R is enacted in New Jersey, a distressed and over-taxed citizenry can be expected to seek prompt relief through tax limitation measures without regard to the impact on public education programs.

In summary, there is no question that I&R is a direct assault and threat to public education in New Jersey.



The Alliance For Environmental Concerns, Inc.

P.O. Box 3692
Wayne, New Jersey 07474-3692

Ilona Gray
Executive Director
(201) 595-7172

June 15, 1992

David L. Sallach
Committee Aide
Assembly Policy and Rules Committee
Legislative Office Building
135 West Hanover Street
Trenton, NJ 08625-0068

Dear Mr. David L. Sallach:

This letter urges the members of the Assembly Policy and Rules Committee to vote NO on Initiative and Referendum legislation.

Public opinion is a volatile commodity. Initiative and referendum procedures allow those with large expense budgets to work through the media and with door to door soliticators to "buy" - pass our existing government process with its checks and balances. For example, in California in 1988 over 129 million dollars was spent on initiative contests. That's more than what was spent on the presidential election that year across the entire nation. This money could have been used by California to build new jobs or to improve the infrastructure. Instead it went to various consultants and to the media without real benefits to the public. Spending money on initiatives **cannot be controlled** by the state. The Supreme Court has struck down attempts by state governments to restrict the impact of large expenditures for and against initiative ballot questions as violations of the First Amendment freedom-of-speech protection, which cannot be curtailed. Initiative and referendum gives too much power to big money interests.

We don't want to see New Jersey governed by television, bill boards and radio spots. We need government of the people, by the people and for the people, and that's best done through our elected officials and the process of public hearings and testimony. This allows for the facts to come out in an orderly process.

Please let me know your position on this subject.

Sincerely,

Ilona F. Gray
Executive Director

23 X

New Jersey Catholic Conference

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(609) 599-2110

Most Rev. Theodore E. McCarrick
Archbishop of Newark
President

William F. Bolan, Jr., Esq.
Executive Director

June 17, 1992

STATEMENT OF NEW JERSEY CATHOLIC CONFERENCE ON ACR-1 AND ACR-3

The New Jersey Catholic Conference, the public policy arm of the Catholic Bishops of the State, appreciates the opportunity to comment on the proposal to establish Initiative and Referendum (I&R) in New Jersey. We offer these comments because we believe in the importance of the political process to furthering the critical values of human rights and social justice.

It is in the political arena that decisions are made that directly affect the dignity of the human person. Each person is made in the image and likeness of God -- and is the clearest reflection of the presence of God in our midst. The Church is involved in the political process because it is the task of the Church to uphold and to safeguard the dignity of the human person at every stage of life.

It is due to the importance of the political process in furthering the values of social justice and human rights that the New Jersey Catholic Conference is opposed to the establishment of I&R. We believe that instead of advancing or strengthening these values, I&R has the potential of eliminating the serious debate over public policy issues because of its reliance on simplistic campaign advertising or 30-second television sound bytes. We believe that every proposal, policy, or political platform should be measured by how it touches the human person; whether it enhances or diminishes human life, human dignity and human rights, and how it advances the common good. Such thoughtful and measured deliberation takes place in the legislative process, not through campaign advertising.

We are concerned that I&R will hinder public participation in the political arena because it has developed into a sophisticated and costly process. The level of expenditures in conducting initiative campaigns is enormous and is far too costly for the average citizen. In California, for example, more money was spent in the 1988 initiative contests (over \$129 million) than was spent in the presidential election that year. The costs of an initiative campaign in New Jersey

*Representing the Archdiocese of Newark, Diocese of Camden, Diocese of Metuchen,
Diocese of Paterson, Diocese of Trenton and Byzantine Catholic Diocese of Passaic*

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would be especially high due to the necessity of using two very expensive media markets in Philadelphia and New York. On occasion, a single entity will provide all the funding to support an initiative campaign. This is not only potentially destructive to the political process but can make it virtually impossible for the poor and vulnerable in our state without financial resources to wage a fight against an initiative which adversely affects them. In addition, the fact that initiative campaigns can and do hire professional signature gatherers for the necessary petitions is an affront to genuine pluralism in the making of public policy.

The increase in support for I&R seems to correlate with growing public frustration with political life. As the U.S. Bishops point out in their 1992 statement, "Political Responsibility: Revitalizing American Democracy," the causes of decline in political life are multiple and complex. We are concerned that this decline has led citizens to become indifferent to public life or unconvinced that politics makes any difference. The U.S. Bishops state:

"We regret and deplore increasing public cynicism which too often dismisses the role of government and ridicules public officials in sometimes understandable but often misguided frustration with all politics."

We stress here what has already been emphasized by the U.S. Bishops -- that we need more, not less participation in electoral politics, in broader issue advocacy, legislative networks and community organizations which give necessary vitality and substance to public life. As citizens, we are all called to become informed, active, and responsible participants in the political process.

We urge all citizens to examine their responsibilities; to register and vote; to analyze issues and to join with others in advocating for important values. Together we can reinvigorate our political processes and help make them genuine opportunities for informed debate and decisions about the future. This is more difficult and challenging for each of us as citizens than the alternative of relying on the simplistic, empty, and potentially polarizing tactics of I&R. But it is necessary if we are to strengthen public life and build a better society. Accordingly, the New Jersey Catholic Conference opposes ACR-1 and ACR-3.



NOW - NJ

NATIONAL ORGANIZATION FOR WOMEN OF NEW JERSEY

114 W. State Street, Trenton, New Jersey 08608
(609) 393-0156

STATEMENT IN OPPOSITION TO INITIATIVE & REFERENDUM
PRESENTED BY DONNA PULUKA, NOW-NJ PRESIDENT

On behalf of the 10,000 members of NOW-NJ, I urge this committee to oppose attempts to institute Initiative and Referendum in our state.

When described, I&R sounds like an opportunity for the "people to govern" but in reality is an opportunity for special interest groups to "govern the people" with carefully planned media manipulation. We already recognize the importance of the 30 second commercial to any campaign. Circumventing the legislative system (of public hearings/debates/opportunity to amend proposals) and reducing any issue to catchy sound bites or slick flyers is extremely dangerous.

Although nationwide NOW has won in 24 of 28 ballot measures in the past two years, this is not the way NOW-NJ members feel we should be spending our time and resources. The I&R process has too many drawbacks for abuse. Please do not release this bill from committee.

STATEMENT BY
ASSEMBLYMAN DICK KAMIN
TO BE READ INTO THE RECORD DURING
ASSEMBLY POLICY AND RULES COMMITTEE HEARING
ON I&R
June 17, 1992

AS A SUPPORTER OF THE INITIATIVE AND
REFERENDUM LEGISLATION BEFORE THIS COMMITTEE
TODAY, I WOULD JUST LIKE TO TAKE THIS
OPPORTUNITY TO APPLAUD THE DISTINGUISHED
COMMITTEE CHAIRMAN BOB FRANKS, AND TO
RECOGNIZE HIM FOR HIS PERSEVERANCE AND
ONGOING EFFORTS TO BRING GOVERNMENT BACK TO
THE PEOPLE THROUGH THE PROCESS OF I&R.

THANK YOU, MR. CHAIRMAN.



NEW JERSEY ASSOCIATION OF REALTORS®

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The Voice for Real Estate™

TO: Members of the Assembly Policy and Rules Committee
FROM: Greg DeLozier, Assistant Director, Government Affairs
SUBJECT: ACR-1/ACR-3 Initiative and Referendum
DATE: June 17, 1992

Good afternoon, my name is Greg De Lozier. I am assistant director of government affairs for the 40,000 member New Jersey Association of REALTORS (NJAR), a statewide trade association comprised of licensed real estate brokers and sales agents. NJAR remains in opposition to I&R as a means of making public policy. Neither ACR-1 or ACR-3 has changed our fundamental opposition to initiative and referendum.

The current public attitude is one of distrust of government and a desire to take control back and vest it in the people. This makes Initiative and Referendum as well as other structural changes in government popular issues in New Jersey today. The question of whether this is good public policy and an effective tool for public debate on issues of importance is another question entirely. As you prepare to vote on Initiative and Referendum you are also debating the fundamental structure of our representative democracy and potentially creating a system of public policy formation which is neither controlled nor equitable.

The concept of Initiative and Referendum began as a response to the overwhelming control a few powerful special interests had over corrupt and unscrupulous legislatures at the turn of the century. Without an ability to affect change in the legislative process, or quite frankly even determine what was being done by government, the residents of many states turned to initiative and referendum as a solution. At the time, legislatures could act behind closed doors and enact legislation affecting large segments of the population without their knowledge, and in some cases without their ability to vote in a general election. The frustration level among citizens must have been enormous, since they were in effect nearly disenfranchised. Since that time laws requiring open meetings at all levels of government have been enacted and we have given every adult the right to vote. It is interesting to note that no state has enacted an initiative and referendum measure in several decades. When we look at our current state constitution we should be aware that the authors of this document had of the I&R states when they drafted their document and for whatever reason choose not to include this provision. In addition, nearly every segment of society has a

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group to closely monitor activities in Trenton and the media closely monitors legislative activity, alerting the public to major policy making decisions.

The historical perspective is important in determining why some states chose the path of I&R. However the ability of I&R to deal with the complex problems of modern society is dubious. If we take the example of I&R we can see the burden we would place on voters. It is certain that nearly every voter has the intelligence to make an informed determination of whether they agree or disagree with an issue. The problem is in getting voters to the level where an informed decision can be made. This process is essential in helping you, the legislature, make an informed decision. As a supposed safe-guard to abuse these measures are indirect forms of initiative and referendum, that means that the legislature will have six months to enact substantially the same measures as called for in the petition, prior to a question being placed on the ballot. The problem however is that the legislature will be acting with a gun to its head, since it will be the sponsoring special interest that determines whether the legislature has acted properly. NJAR does not believe this type of deliberation will benefit the citizens of New Jersey. It is this process of decision making that forms the heart of our representative democracy.

The question we must ask, with respect to I&R, is not if voters can make an informed decision, but whether they have the time to make these decisions, or if the sound bites and media blitzes of I&R campaigns will carry the information necessary for informed decisions. Most New Jerseyans have jobs, families and activities which takes virtually all of their time, and with I&R we are asking each and every voter, not just the organized, to spend time debating policy on issues they have sent their representatives to Trenton to decide. We will be treading in dangerous water if we decide to allow the Public Relations campaigns to drive policy debate in New Jersey.

In addition to the volume of information needed to make a decision, legislators must also balance interests and deal with the dichotomy of public opinion. The public unquestionably wants lower taxes. However, if asked whether services should be cut in response to revenues cut the answer is ambiguous at best. Once again I&R does not allow voters to make compromise decisions. In the legislative process, virtually no bill arrives on the Governor's desk without some changes -- the process is called compromise and is essential to government. I&R on the other hand is an all or nothing proposition, without the ability of the legislature to catch mistakes and the unforeseen consequences of approved ballot questions.

Another issue the legislature must face is that the interests of all New Jerseyans must be considered when enacting legislation. With I&R we risk pitting groups of voters against one another when their interests do not coincide. While voters are fully capable of making decisions they will also quite naturally reflect on the impact ballot questions will have on themselves and their families. We risk hurting groups with less voter

representation or turnout.

In conclusion, NJAR respectfully asks that you not support any Initiative and Referendum proposal.

Thank you.

New Jersey State Library

