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PUBLIC HEARING

before

THE ASSEMBLY STATE GOVERNMENT COMMITTEE

on

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

and

Assembly Concurrent Resolution No. 77
with Assembly Committee Amendments
(Schedule for placing public questions
on statewide general election ballots)

June 16, 1986
State House Annex
Room 373
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Assemblyman Richard A. Zimmer, Chairman

ALSO PRESENT:

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

* * * * *

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





RICHARD A. ZIMMER
Chairperson
MURRIAN CRECCO
Vice-Chairperson
ROBERT J. MARTIN
SEPH L. BOCCHINI, JR.
SEPH CHARLES, JR.

New Jersey State Legislature
ASSEMBLY STATE GOVERNMENT COMMITTEE
STATE HOUSE ANNEX, CN-068
TRENTON, NEW JERSEY 08625
TELEPHONE: (609) 292-9106

June 13, 1986

NOTICE OF PUBLIC HEARINGS

The Assembly State Government Committee will hold two public hearings on Monday, June 16, 1986, beginning at 10:00 A.M. in Room 373 of the State House Annex.

The purpose of the first public hearing is to receive testimony on an Assembly Committee Substitute for Assembly Concurrent Resolution No. 16 and Assembly Concurrent Resolution No. 10. This legislation proposes an amendment to the Constitution to provide for the establishment of the office of Lieutenant Governor.

The purpose of the second public hearing, which will begin following the conclusion of the first, is to receive testimony on Assembly Concurrent Resolution No. 77 Aca. This legislation requires that final action to place a public question on the Statewide general election ballot be completed at least 70 days before that election; it also establishes a 60-day pre-election notice requirement with respect to the public question.

ASSEMBLY COMMITTEE Amendments

ADOPTED

JUN 9 1986

to
ASSEMBLY CONCURRENT
RESOLUTION No. 77

Amend:

Page	Sec.	Line	
1	1	4-5	Omit "or" in line 4 and "any of its political subdivisions, as the case may be," in line 5
1	1	6	After "at" insert "the"; omit "elections" insert "election next occurring at least 70 days following the final action of the Governor or the Legislature, as appropriate, necessary to submit the questions"
1	1	8-10	Omit lines 8 and 9 in their entirety and "if it is not a Statewide question" in line 10
2	3	Box line 3	Before "PUBLIC" insert "STATEWIDE"
2	3	Box lines 8-9	Omit "or any of its political subdi-" in line 8 and "visions" in line 9
2	3	Box line 9	After "at" insert "the"; omit "elections" insert "election occurring at least 70 days following the final action necessary to submit the questions,"
2	3	Box lines 12-16	After "county" in line 12 omit rest of line; omit lines 13 to 15 in their entirety and "not a Statewide question" in line 16
2	3	Box lines 25-26	Omit "or any of its" in line 25 and "political subdivisions" in line 26
2	3	Box line 26	After "at" insert "the"
2	3	Box line 27	Omit "elections" ^{and} insert "election occurring at least 70 days following final action necessary to submit the questions"

ASSEMBLY CONCURRENT RESOLUTION No. 77

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

~~{OFFICIAL COPY REPRINT}~~

~~**ASSEMBLY CONCURRENT RESOLUTION No. 169**~~**STATE OF NEW JERSEY**

~~INTRODUCED MARCH 7, 1985~~

~~By Assemblyman McENROE, Assemblywoman GARVIN
 and Assemblyman PANKOK~~

A CONCURRENT RESOLUTION proposing to amend Article II, paragraph 2 of the Constitution.

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

1 1. The following proposed amendment to the Constitution is
 2 hereby agreed to:

PROPOSED AMENDMENT

3 Amend paragraph 2 of Article II to read as follows:

4 2. All questions submitted to the people of the entire State *for*
 5 *any of its political subdivisions, as the case may be,* shall be voted
 6 upon at general *elections*. *The text of any such question shall be*
 7 *published at least once in one or more newspapers of each county*
 8 *if it is a Statewide question and at least once in one or more news-*
 9 *papers of the county in which the political subdivision is located*
 10 *if it is not a Statewide question, if any newspapers be published*
 11 *therein, at least 60 days before the election at which it is to be*
 12 *submitted to the people, and the results of ~~such election~~ the*
 13 *vote upon a question shall be void unless ~~it~~ the text thereof*
 14 *shall have been so published.*

1 2. When the proposed amendment to the Constitution is finally
 2 agreed to, pursuant to Article IX, paragraph 1 of the Constitution,
 3 it shall be submitted to the people at the next general election
 4 occurring more than three months after such final agreement and
 5 shall be published at least once in at least one newspaper of each

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

Matter printed in italics *thus* is new matter.

~~Matter enclosed in asterisks or stars has been adopted as follows—~~

~~Assembly committee amendments adopted April 30, 1985—~~

6 county designated by the President of the Senate and the Speaker
 7 of the General Assembly and the Secretary of State, not less than
 8 three months prior to the general election.

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

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

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

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

12 b. In every municipality the following question:

	Yes.	<p style="text-align: center;">CONSTITUTIONAL AMENDMENT DEADLINE FOR THE SUBMISSION OF PUBLIC QUESTIONS</p> <p>Shall the amendment of Article II, paragraph 2 of the Constitution, agreed to by the Legislature and providing that questions submitted to the people of the entire State or any of its political subdivisions be voted upon at general elections and that the text of such questions be published at least once in one or more newspapers in each county if it is a State-wide question and at least once in one or more newspapers of the county in which the political subdivision is located if it is not a Statewide question, if any newspapers be printed therein, at least 60 days prior to the election at which it is to be submitted to the people, the results of such election to be void if it is not so published, be approved?</p>
	No.	<p style="text-align: center;">INTERPRETIVE STATEMENT</p> <p>This constitutional amendment provides that questions submitted to the people of the entire State or any of its political subdivisions be voted upon at general elections and that the text of questions which are submitted to the voters be published at least once in appropriate newspapers at least 60 days prior to the election at which they are to be submitted and that the results of such election shall be void unless they shall have been so published.</p>

~~STATEMENT~~

This concurrent resolution proposes a constitutional amendment to:

(1) Require that public questions submitted to the people of a political subdivision of the State be voted upon at general elections, just as is already required with respect to Statewide public questions; and

(2) Require that the text of any such public question be published, in a newspaper in each county in which the question is to be voted upon, at least 60 days before the election.

~~Failure to meet the publication requirement as to the text of a question would void the results of the vote upon that question.~~

ELECTIONS

Requires that final action to place question on Statewide ballot at general election be taken not later than 70th day preceding that election; requires 60 days' notice to public before submission.

ADOPTED
JUN 9 1986

ASSEMBLY COMMITTEE SUBSTITUTE

for

ASSEMBLY CONCURRENT RESOLUTION NO. 16 and
ASSEMBLY CONCURRENT RESOLUTION NO. 10

Sponsored by Assemblymen Haytaian and Brown

DATED: June 5, 1986

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

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

1. The following proposed amendment to the Constitution is
agreed to:

PROPOSED AMENDMENT

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

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, Lieutenant Govern-
or, 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.

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

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

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

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CL. N.J. CONST
Am. NO
Cm. T
B. 1947
N. MA

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

3. No member of Congress or person holding any office or position, of profit, under this State or the United States shall be Governor or Lieutenant Governor. If the Governor or Lieutenant Governor or person administering the office of Governor shall accept any other office or position, of profit, under this State or the United States, his office of Governor or Lieutenant Governor, as the case may be, shall thereby be vacated. No Governor or Lieutenant Governor shall be elected by the Legislature to any office during the term for which he shall have been elected Governor or Lieutenant Governor.

4. The Governor and the Lieutenant Governor shall be elected conjointly and for concurrent terms by the legally qualified voters of this State, which election shall be conducted in a manner that each voter shall cast a single vote applicable to both offices. The Legislature shall provide by law for making the choice in that manner. No person constitutionally ineligible for the office of Governor shall be eligible for that of Lieutenant Governor; and no person may, in any election held under the laws of this State, simultaneously seek nomination or election to both offices. No person shall seek election by the legally qualified voters of the State to either office except conjointly with a candidate for the other. For that election to office, the candidate of

each political party for the office of Lieutenant Governor shall be selected by the candidate of that party for the office of Governor and shall be confirmed by that party in a manner to be provided by law.

and the candidates so selected for both offices shall be the joint candidates of that political party in the ensuing election of Governor and Lieutenant Governor by the legally qualified voters of this State. The [person] joint candidates receiving the greatest number of votes shall be [the Governor] elected; but if two or more joint candidacies shall be equal and greatest in votes, one of them shall be elected [Governor] by the vote of a majority of all the members of both houses in joint meeting at the regular legislative session next following the election for Governor and Lieutenant Governor by the people. Contested elections for the [office] offices of Governor and Lieutenant Governor shall be determined in such manner as may be provided by law.

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

6. In the event of a vacancy in the office of Governor resulting from the death, resignation or removal of a Governor in office, or the death of a Governor-elect, or from any other cause, the [functions, powers, duties and emoluments of the office shall devolve upon the President of the Senate, for the time being; and in the event of his death, resignation or removal, then upon the Speaker of the General Assembly, for the time being; and in the event of his death, resignation or removal, then upon such officers and in such order of succession as may be provided by law; until a new Governor shall be elected and qualify] *Licutenant Governor shall become Governor.*

7. In the event of the failure of the Governor-elect to qualify, or of the absence from the State of a Governor in office, or his inability to discharge the duties of his office, or his impeachment, the functions, powers, duties and emoluments of the office shall devolve upon the [President of the Senate, for the time being; and in the event of his death, resignation, removal, absence, inability or impeachment, then upon the Speaker of the General Assembly, for the time being; and in the event of his death, resignation, removal, absence, inability or impeachment, then upon such officers and in such order of succession as may be provided by law] *Licutenant Governor*; until the Governor-elect shall qualify, or the Governor in office shall return to the State, or shall no longer be unable to discharge the duties of the office, or shall be acquitted, as the case may be, [or until a new Governor shall be elected and qualify].

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

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

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

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

b. *Whenever there are simultaneous vacancies in the offices of Governor and Lieutenant Governor, the functions, powers, duties, and emoluments of the office of Governor shall devolve upon the President of the Senate, for the time being; and in the event of his death, resignation, removal, absence, disability, or impeachment, then upon the Speaker of the General Assembly, for the time being; and in the event of his death, resignation, removal, absence, disability, or impeachment, then upon the officers and in the order of succession as may be provided by law. The same order of succession shall obtain in any case of simultaneous temporary inability of the incumbents of both offices to serve by reason of absence, disability, or impeachment, or by simultaneous temporary inability of the incumbent of the office of Governor and vacancy in the office of Lieutenant Governor; until the temporary inability is removed.*

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

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

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

b. The Lieutenant Governor shall enjoy the rights, privileges and prerogatives commonly accorded by law, order, rule or usage to the heads of principal departments of the Executive branch of the State government. The Governor may nominate and appoint, with the advice and consent of the Senate, the Lieutenant Governor to be the head of a principal department, to serve at the pleasure of the Governor during his term of office and until the appointment and qualification of a successor as head of such department. The Lieutenant Governor shall in addition)

perform those duties of the office of Governor as the Governor may and shall delegate to him and those other duties as shall be provided by law.

'd. Amend Article V, Section IV, paragraph —→ 3, to read as follows:

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3. [The] Except as otherwise provided by Section I, paragraph 10 of this Article, the Secretary of State and the Attorney General shall be nominated and appointed by the Governor with the advice and consent of the Senate to serve during the term of office of the Governor.

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

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

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

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

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

b. In every municipality the following question:

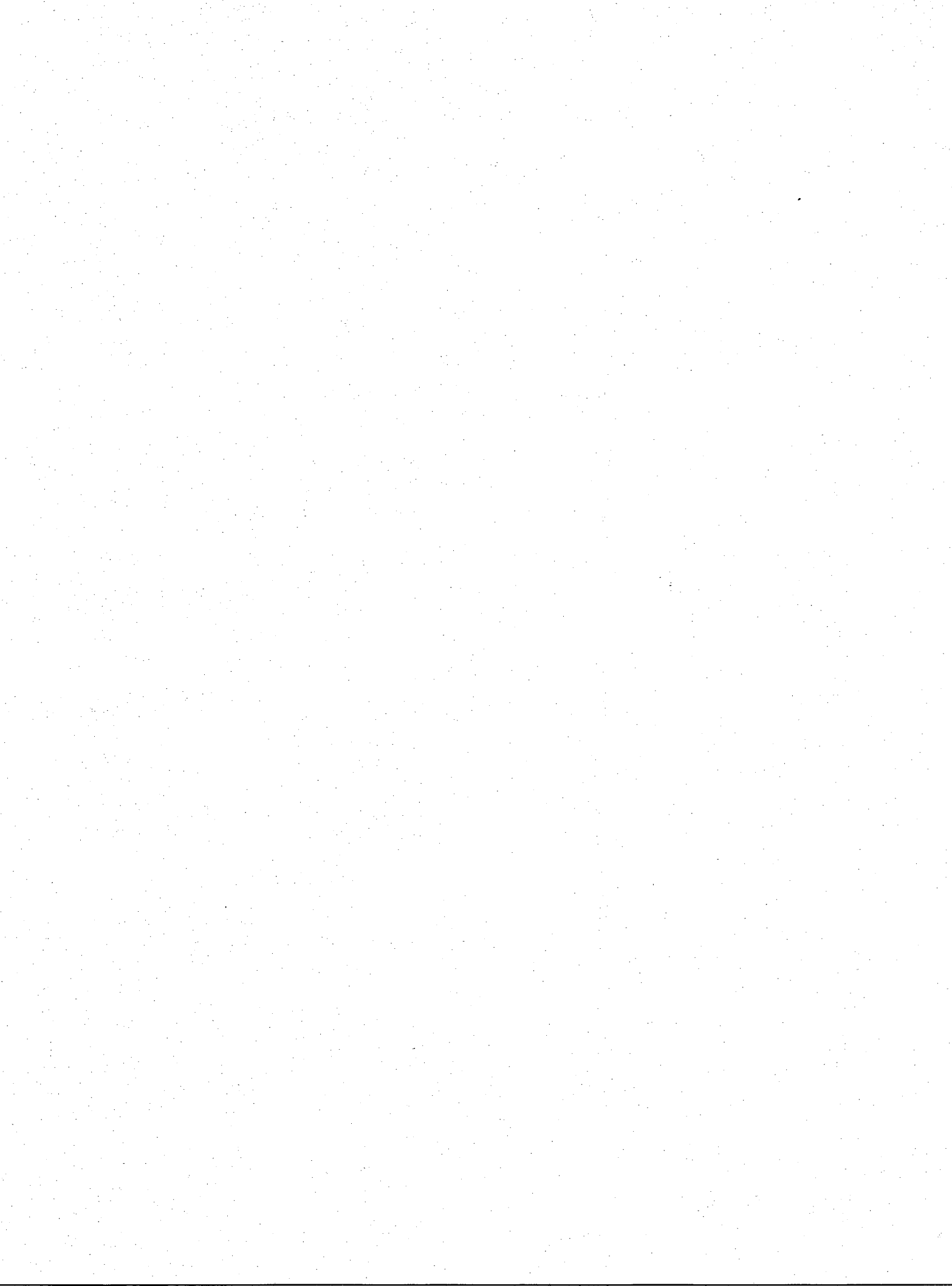
	Yes.	<p style="text-align: center;">ESTABLISHES THE OFFICE OF LIEUTENANT GOVERNOR</p> <p>Shall the amendment of Articles II, IV, and V of the Constitution, agreed to by the Legislature, establishing the office of Lieutenant Governor, the holder of which may, subject to appointment by the Governor, function as the head of a principal department of the Executive branch of State government, and providing for the term, election, succession, salary, qualifications, and duties of the office, be adopted?</p>
<p style="writing-mode: vertical-rl; transform: rotate(180deg);"> Approved by the Legislature on _____ 19____ </p>	No.	<p style="text-align: center;">INTERPRETIVE STATEMENT</p> <p>Approval of this amendment will provide for the establishment of the office of Lieutenant Governor. This new official will be elected conjointly with the Governor, serve as the head of a principal department of the Executive branch of State government, if appointed to such a position by the Governor, and directly follow the Governor in the line of succession. He will not be the presiding officer of the State Senate.</p>

SCHEDULE

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

GOVERNOR AND STATE OFFICERS

Proposes constitutional amendment to establish office of Lieutenant Governor, revise gubernatorial succession.



ASSEMBLY CONCURRENT RESOLUTION No. 77

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

By Assemblyman McENROE

[OFFICIAL COPY REPRINT]

ASSEMBLY CONCURRENT RESOLUTION No. 169

STATE OF NEW JERSEY

INTRODUCED MARCH 7, 1985

By Assemblyman McENROE, Assemblywoman GARVIN
and Assemblyman PANKOK

A CONCURRENT RESOLUTION proposing to amend Article II, paragraph 2 of the Constitution.

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

1 1. The following proposed amendment to the Constitution is
2 hereby agreed to:

PROPOSED AMENDMENT

3 Amend paragraph 2 of Article II to read as follows:

4 2. All questions submitted to the people of the entire State or
5 *any of its political subdivisions, as the case may be, shall be voted*
6 *upon at general elections. The text of any such question shall be*
7 *published at least once in one or more newspapers of each county*
8 *if it is a Statewide question and at least once in one or more news-*
9 *papers of the county in which the political subdivision is located*
10 *if it is not a Statewide question, if any newspapers be published*
11 *therein, at least 60 days before the election at which it is to be*
12 *submitted to the people, and the results of ***[such election]*** *the**
13 *vote upon a question* shall be void unless ***[if]*** *the text thereof**
14 *shall have been so published.**

1 2. When the proposed amendment to the Constitution is finally
2 agreed to, pursuant to Article IX, paragraph 1 of the Constitution,
3 it shall be submitted to the people at the next general election
4 occurring more than three months after such final agreement and
5 shall be published at least once in at least one newspaper of each

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

Matter printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Assembly committee amendments adopted April 29, 1985.

6 county designated by the President of the Senate and the Speaker
 7 of the General Assembly and the Secretary of State, not less than
 8 three months prior to the general election.

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

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

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

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

12 b. In every municipality the following question:

	Yes.	<p style="text-align: center;">CONSTITUTIONAL AMENDMENT DEADLINE FOR THE SUBMISSION OF PUBLIC QUESTIONS</p> <p>Shall the amendment of Article II, paragraph 2 of the Constitution, agreed to by the Legislature and providing that questions submitted to the people of the entire State or any of its political subdivisions be voted upon at general elections and that the text of such questions be published at least once in one or more newspapers in each county if it is a Statewide question and at least once in one or more newspapers of the county in which the political subdivision is located if it is not a Statewide question, if any newspapers be printed therein, at least 60 days prior to the election at which it is to be submitted to the people, the results of such election to be void if it is not so published, be approved?</p>
	No.	<p style="text-align: center;">INTERPRETIVE STATEMENT</p> <p>This constitutional amendment provides that questions submitted to the people of the entire State or any of its political subdivisions be voted upon at general elections and that the text of questions which are submitted to the voters be published at least once in appropriate newspapers at least 60 days prior to the election at which they are to be submitted and that the results of such election shall be void unless they shall have been so published.</p>

STATEMENT

This concurrent resolution proposes a constitutional amendment to:

(1) Require that public questions submitted to the people of a political subdivision of the State be voted upon at general elections, just as is already required with respect to Statewide public questions; and

(2) Require that the text of any such public question be published, in a newspaper in each county in which the question is to be voted upon, at least 60 days before the election.

Failure to meet the publication requirement as to the text of a question would void the results of the vote upon that question.

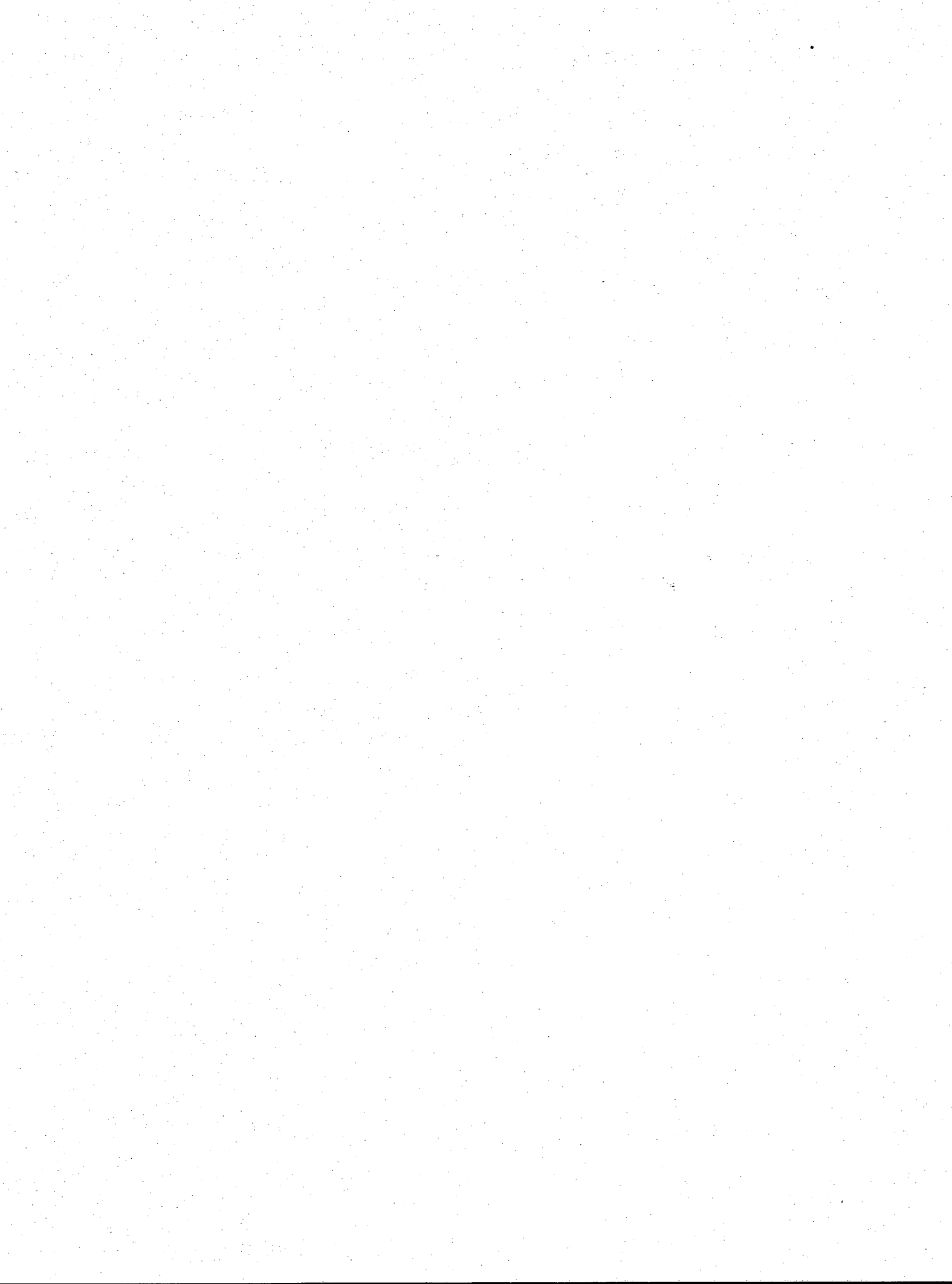


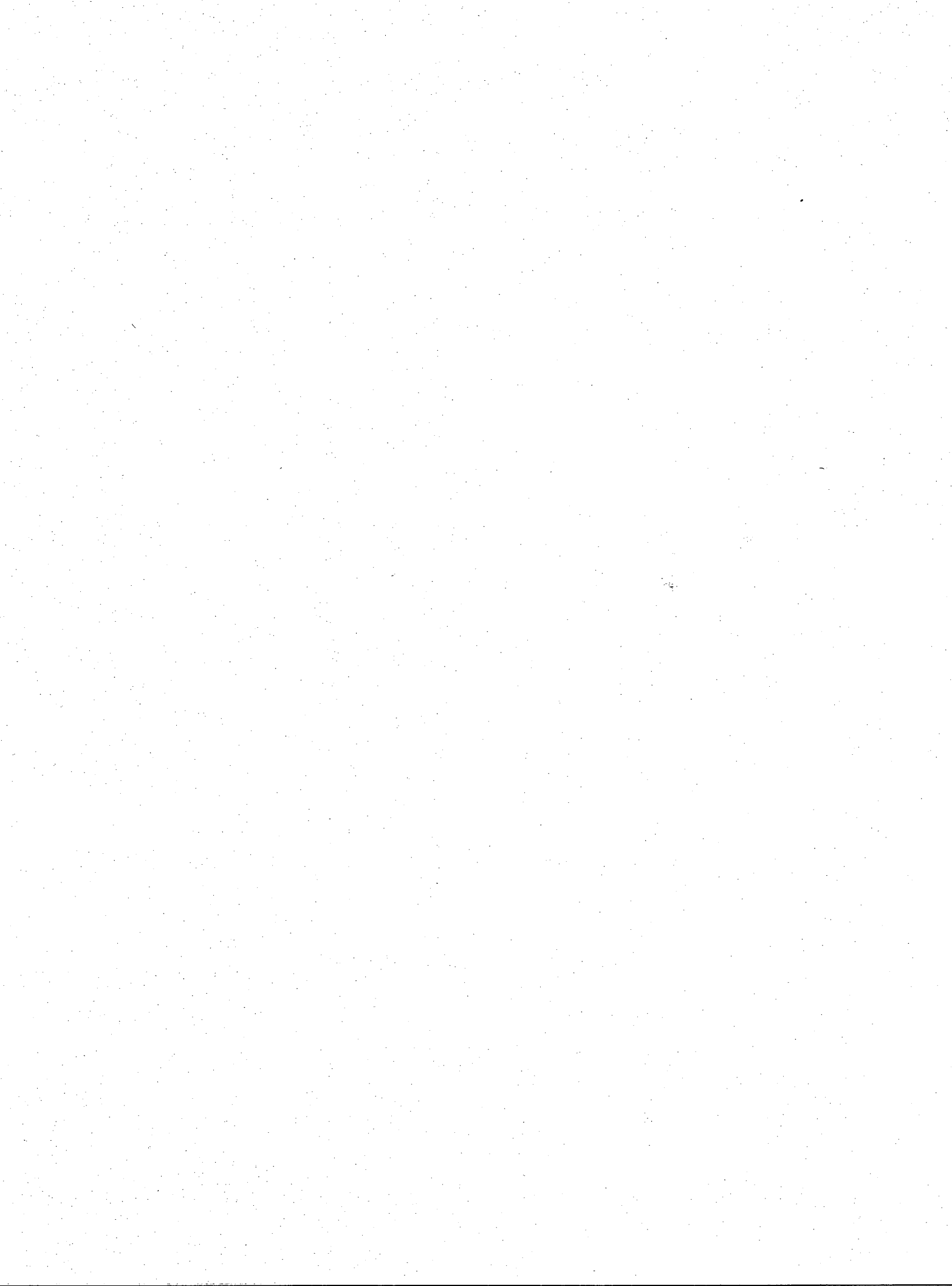
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ASSEMBLYMAN RICHARD A. ZIMMER (Chairman): The Constitutional Amendment hearing on Assembly Concurrent Resolution Number 77 is hereby called to order.

Can we call the roll? (laughter)

MR. MARGESON: Chairman Zimmer?

ASSEMBLYMAN ZIMMER: Here.

All right, is there anyone who wishes to testify on ACR-77?

CHRISTINE ST. JOHN: Oh, I do.

Mr. Chairman, as you know--

ASSEMBLYMAN ZIMMER: For the record, could you identify yourself?

MS. ST. JOHN: Christine St. John, Director of the Election Division.

We're very much in favor of ACR-77, as it gives a deadline for advertising the bond issues and the questions that go on the ballot. Right now, there's a deadline of 90 days for Constitutional amendments, but there is essentially no deadline for bond questions. The county clerks have to get their ballots out; they're ready for printing 43 days before the election. And at the moment, we're using the last day to fill a vacancy -- which is 48 days -- to say nothing more can go on the ballot. But that is not enough time to get questions translated into Spanish to certify, to have the county clerks have their material ready for printing and then go ahead and print the ballots. And then because, under existing law, there is no deadline, ACR-77 would give us a deadline for advertising of 60 days; and 70 days would be the cutoff time to prepare the questions that go on the ballot. So, we're very much in favor of it.

ASSEMBLYMAN ZIMMER: Thank you very much.

MS. ST. JOHN: Okay. Any further questions? You understand the problem?

ASSEMBLYMAN ZIMMER: Yes, and I understand the solution.

MS. ST. JOHN: Right.

ASSEMBLYMAN ZIMMER: Thank you.

(Brief pause while Chairman and aides wait for subsequent witnesses to arrive)

ASSEMBLYMAN ZIMMER: We will recess temporarily the hearing on Assembly Concurrent Resolution Number 77 in anticipation of Mr. McEnroe's arrival, and we will proceed with the hearing on Committee substitute for ACR Number 16 and ACR Number 10, which is now called to order.

Mr. Haytaian?

ASSEMBLYMAN GARABED "CHUCK" HAYTAIAN: Thank you very much, Mr. Chairman.

As you know, I've introduced Assembly Concurrent Resolution 16, and Assemblyman Brown had introduced Assembly Concurrent Resolution Number 10. These bills are to provide a Lieutenant Governor for the State of New Jersey, and therefore require an amendment to the Constitution. I'm hoping that the people of the State of New Jersey would agree with me that it is very important that we have normal transition in government, if and when it ever became necessary to replace a Governor due to illness, due to death, or due to incapacity to complete his responsibilities in the office.

The office of Lieutenant Governor, in my estimation, is important to the people of the State of New Jersey because, at the present time, I truly believe we would have a Constitutional crisis if, in fact, the Senate President became Acting Governor, because he would have to also -- or she would have to also remain as Senate President while serving in the Executive branch of government as the Acting Governor.

Also, another reason that I've given in many of my

testimonies is that the Senate President is elected in one district in the State of New Jersey, made up of approximately 185,000 people, whereas the Governor of the State of New Jersey is elected by a State made up of 7.3 and possibly, now 7.4 million people. Therefore, I've always been of the mind that it is not right nor fair to have a Governor -- even if that person is in an acting capacity -- who was elected by one-fortieth of the population of our State to head the State made up of that many people. So, for that reason, I'm hoping that this public hearing would serve the purpose of providing this bill with the ability to get on the ballot this year.

That's it; I'm open for questions.

ASSEMBLYMAN ZIMMER: I think you addressed the subject pretty competently--

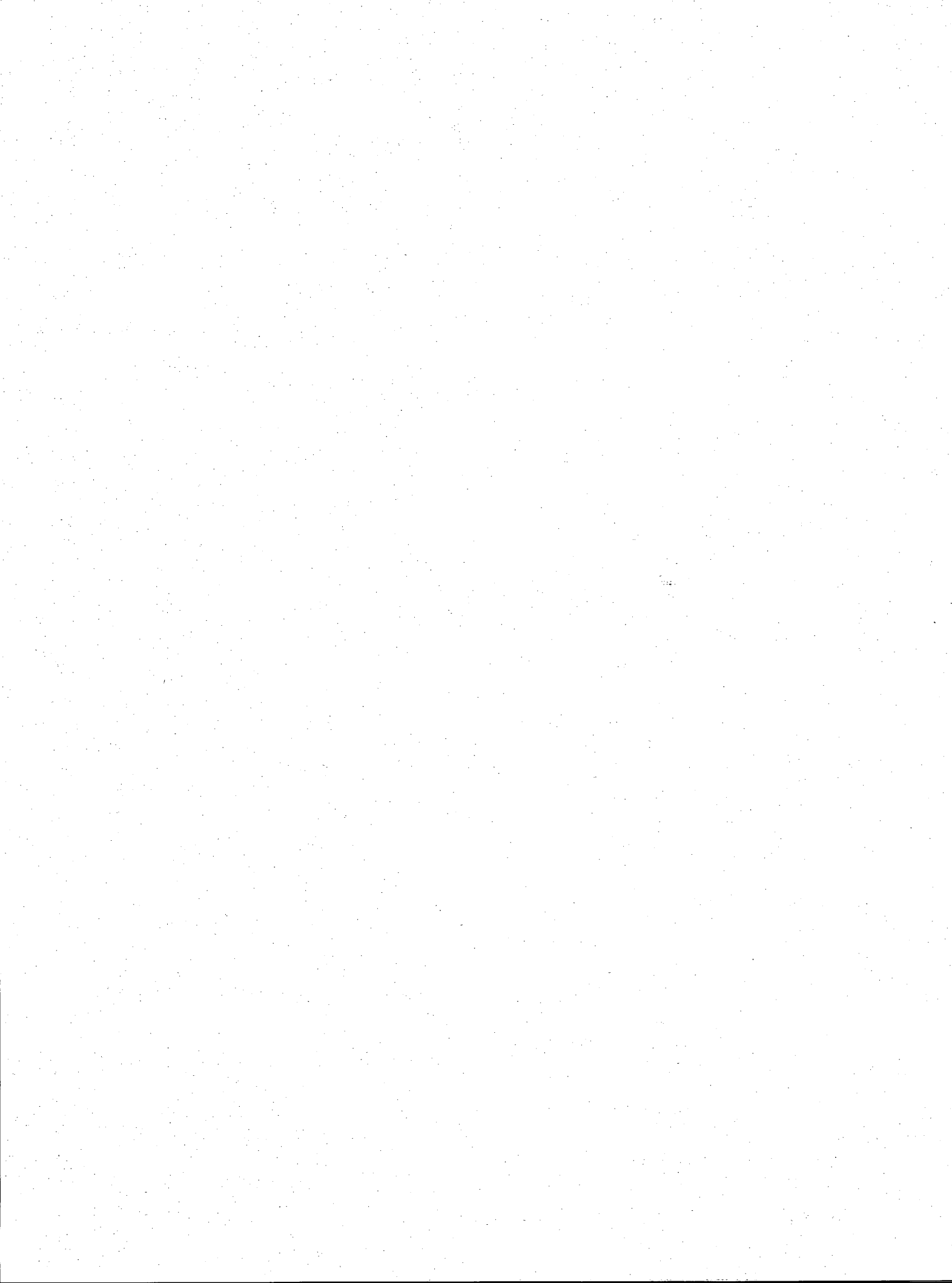
ASSEMBLYMAN HAYTAIAN: Thank you.

ASSEMBLYMAN ZIMMER: --Mr. Haytaian. I have no questions. Thank you for testifying.

ASSEMBLYMAN HAYTAIAN: Thank you very much.

ASSEMBLYMAN ZIMMER: Is there anyone else who would like to testify on these -- on this legislation? (no response) In that case, we will conclude the hearing on the Assembly Committee substitute for ACR-16 and ACR-10. Now, we'll call back in order the hearing on ACR-77. Let the record show that the response from Mr McEnroe, who has been informed of this hearings -- that it's 10:38, and since he has not arrived, we will adjourn this hearing as well.

(HEARING CONCLUDED)



APPENDIX

Testimony of Secretary of State Jane Burgio
Before the Assembly State Government Committee -
April 23, 1986

I want to thank this committee for allowing the Department of State to express its views on the issue of establishing the position of Lieutenant Governor in our State.

Generally we support the establishment of an Office of Lieutenant Governor. Two primary goals are met by such an action.

First, establishing a Lieutenant Governor in New Jersey will reinforce the integrity of separation of powers in New Jersey. The immediate successor to New Jersey's chief executive should be someone within the executive branch of Government. As you know the current constitutional scheme vests temporary executive control with the Legislative leadership in our state whenever the chief executive is not within New Jersey or is disabled. Such leadership is undoubtedly capable of fulfilling such an assignment, but it does pose certain problems. An individual who may have formulated legislation, and pushed for its passage in the legislature may in turn then be reviewing and adopting the measure into law. This may unbalance the checks and balances that are the heart of democracy in our great republic.

Second, having a Lieutenant Governor may foster continuation and achievement of the basic goals of an Administration. The current line of succession may cause a disruption in general policy objectives. There is no guarantee that the successor will have the same objectives or general paths set to achieve these objectives. Midterm changes in the partisan affiliation of the chief executive may also result in a number of changes in staff throughout the executive branch. Such changes are disruptive enough at the start of a new incumbent's term, but could be devastating if it occurs more frequently than every four or eight years.

Our general support of the establishment of the Office of Lieutenant Governor, however, must be subject to several conditions.

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

Second, we firmly feel that even a conjointly and concurrently elected Lieutenant Governor should not by law automatically assume control of one of existing departments of our State Government.

During the last five years the legislature has generously supported the Department of State, making it a bastion of the arts, culture and history in our great State. This role, combined with the long existing Commercial Recording responsibilities of our Department, make it imperative that the leader of the Department be well versed and capable of performing these important functions.

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

This also applies to automatically making the Lieutenant Governor the head of any particular department of our State Government. The Commissioners of Health, Insurance, Banking, Human Services, Defense, etc. all have specific duties to carry out for the people of our State.

These duties warrant appointment of individuals with specific qualifications. Instead of naming by statute a particular Department for a Lieutenant Governor to head, perhaps the Department should be named by the Governor. This would allow the Chief Executive to place the Lieutenant Governor in the cabinet position where his or her vita would best allow him to serve.

On this basis we also can not support the eloquent proposal of Assemblyman Haytaian set forth in Assembly Concurrent Resolution Number 16.

In conclusion, a Lieutenant Governor should be either 1) conjointly elected with a Gubernatorial candidate to the specific office of Lieutenant Governor or 2) the line of succession in our Constitution should be amended to keep the line of successors in the Executive Branch of State Government. As to this second course of action, the Secretary of State finds the proposal of Assemblyman Albohn in ACR 41 most flattering.

Thank you.

THE FEASIBILITY OF
CREATING THE POSITION OF
LT. GOVERNOR

Submitted to Assemblyman Garabed Haytaian

March 15, 1982

Prepared by Ann Mader, Member, and
Douglas Ortelere, Editor, of the
Seton Hall Legislative Bureau

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Part I

STATES WITHIN THE UNITED STATES WHICH
PROVIDE FOR THE GENERAL ELECTION OF
LIEUTENANT GOVERNORS, SECRETARIES OF
STATE AND ATTORNEY GENERALS

Since Assembly Concurrent Resolution No. 32, as introduced by Assembly Haytaian in the 1982 Session, provides that the Lieutenant Governor shall be the Secretary of State [Paragraph 10b. amending Article V, Section I] and also that the Attorney General shall be nominated and appointed by the Governor with the advice and consent of the Senate [Paragraph 3 amending Article V, Section IV], the thrust of my research centered on the methods of selecting a Lieutenant Governor in those states which provide for such a position.

One state government official which New Jersey does not have in common with 43 of its sister states is a lieutenant governor. The desirability of having such an official in New Jersey has frequently been proposed (Senator Musto frequently advocated the desirability of such a position), and in 1967, for the first time, there was a public hearing on such a proposed Constitutional amendment to provide for the office.

Part A. The Office of Lieutenant Governor in the States

A review of the status of the office of the lieutenant governor in the states indicates the following:

Of the 50 states, 43 have a lieutenant governor.

In 36 states it is provided for in the original state Constitution.

Only one state, Maryland, has ever abolished the office of lieutenant governor (1960). It reinstated the position in 1970.

In 41 of the 43 states which have the office, it is filled by popular vote. In Tennessee the president of the Senate is next in line of succession to the governor. This official bears the additional statutory title of "Lieutenant Governor." That title is not provided for in New Jersey, Maine, New Hampshire and West Virginia, wherein the president of the Senate is next in line of succession.

In the majority of states which provide for the direct election of a lieutenant governor, the ballot for lieutenant governor is independent of that for the governor.

A number of states, among them New York, Connecticut, Hawaii, Michigan and New Mexico, require joint election of the governor and lieutenant governor, that is, one vote for both candidates. New York was the first state to adopt this provision in a 1953 Constitutional amendment.

The term of the lieutenant governor's office is provided for in the Constitutions and coincides with the governor's term: in the majority of states the term is for a period of four years; in a few states the term is two years.

Every state has some minimum qualifications for the office of lieutenant governor. More commonly these are a combination of age, United States citizenship and the state residency. In 29 states the minimum age is 30, while in California the minimum age is 18.

The duties assigned to the lieutenant governor vary somewhat from state to state. In all 43 states which provide for the office, the lieutenant governor succeeds the governor if

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the office of governor becomes vacant.

A variety of additional duties have been assigned to the lieutenant governor by statute in several states, while in others no additional duties have been assigned by law.

Examples of assigned duties are:

Chairman of Legislative Research Commission: Kentucky

Director of Commerce and Public Relations, Chairman of Legislative Council, Commissioner of Agriculture: Indiana

Member of Board of Pardons: Louisiana, Delaware, Colorado

From a composite list of statutory duties, it seems that Indiana has made the office more useful administratively than any other state.

The first state to create the office of lieutenant governor appears to have been Virginia, for the office is included in its state Constitution of 1776.

Part B. Constitutional and Statutory Elective Lieutenant Governors

The following states provide for the general election of a lieutenant governor. The officials are popularly elected as provided by constitutional provisions. The states include:

Alabama
Alaska
Arkansas
California
Colorado

Nebraska
Nevada
New Mexico
New York
North Carolina

Connecticut
Delaware
Florida
Georgia
Hawaii

North Dakota
Ohio
Oklahoma
Pennsylvania
Rhode Island

Idaho
Illinois
Iowa
Kansas

South Carolina
South Dakota
*Tennessee: provided for statutorily
Texas

Michigan
Minnesota
Mississippi
Missouri
Montana

*Utah: provided for statutorily and the lieutenant governor and the secretary of state are the same individual.

Vermont

Virginia
Washington
Wisconsin

Guam
Virgin Islands

Puerto Rico does not provide for the position of lieutenant governor

Part C. List of States Which Do Not Provide for the Office of Lieutenant Governor

<u>State:</u>	<u>Official Elected Statewide Who Succeeds Governor:</u>
Arizona	Secretary of State
Maine	President of Senate *[not selected statewide because selected from among senate members by Senate]
New Hampshire	President of Senate
New Jersey	President of Senate*
Oregon	Secretary of State
West Virginia	President of Senate*
Wyoming	Secretary of State

Part D. Methods of Selecting the Offices of Secretary of State and Attorney General in the States

<u>State</u>	<u>Attorney General</u>	<u>Secretary of State</u>
Alabama	CE	CE
Alaska	GB	-
Arizona	CE	CE
Arkansas	CE	CE
California	CE	CE

<u>State:</u>	<u>Attorney General</u>	<u>Secretary of State</u>
Colorado	CE	CE
Connecticut	CE	CE
Delaware	CE	CE
Florida	CE	CE
Georgia	CE	CE
Hawaii	GS	-
Idaho	CE	CE
Illinois	CE	CE
Indiana	SE	CE
Iowa	CE	CE
Kansas	CE	CE
Kentucky	CE	CE
Louisiana	CE	CE
Maine	CL	CL
Maryland	CE	GS
Massachusetts	CE	CE
Michigan	CE	CE
Minnesota	CE	CE
Mississippi	CE	CE
Missouri	CE	CE
Montana	CE	CE
Nebraska	CE	CE
Nevada	CE	CE
New Hampshire	GC	CL
New Jersey	GS	GS
New Mexico	CE	CE
New York	CE	GS
North Carolina	CE	CE

<u>State:</u>	<u>Attorney General</u>	<u>Secretary of State</u>
North Dakota	CE	CE
Ohio	CE	CE
Oklahoma	CE	GS
Oregon	SE	CE
Pennsylvania	CE	GS
Rhode Island	CE	CE
South Carolina	CE	CE
South Dakota	CE	CE
Tennessee	SC	CL
Texas	CE	GS
Utah	CE	CE
Vermont	SE	CE
Virginia	CE	GB
Washington	CE	CE
West Virginia	CE	CE
Wyoming	GS	CE
Wisconsin	CE	CE
<hr/>		
Guam	GS	-
Puerto Rico	GS	GB

*Legend

CE - constitutional, elected
 CL - constitutional, elected by legislature
 SE - statutory, elected
 SL - statutory, elected by legislature
 SC - statutory, elected by state supreme court
 GS - appointed by governor, approved by senate
 GB - appointed by governor, approved by both houses
 GC - appointed by governor, approved by council

Part II

THE CASE FOR AND AGAINST THE POSITION
OF LIEUTENANT GOVERNOR

Arguments For and Against the Office of
Lieutenant Governor May Be Summarized As
Follows:

Advantages

1. Provides for the popular election of a logical successor to the governor who is a member of the same political party. Rather than having no say over who will succeed the governor in the event of his death, disability or retirement, the people of New Jersey will have something to say and a measure of control over who retains that position.

2. As proposed in Assembly Concurrent Resolution No. 32, the office of lieutenant governor is unlike that in most of the states, where the individual serves both as a member of the legislative branch and the executive branch. Instead he would serve as a member of the executive branch exclusively.

3. There would be a joint vote for governor and lieutenant governor, thereby preventing any independent selection of a lieutenant governor as well as the possibility of electing a governor of one political party and a lieutenant governor of an opposing party.

4. The use of a team election plan wherein the governor and the lieutenant governor run on the same ticket not only assures that both individuals represent the same party, but also that they share similar philosophical views, thereby strengthening the ideal purpose of such a lieutenant governorship - the continued vigor in leadership and the administration of policies and programs instituted by the former governor.

5. To provide for a successor with the establishment of a lieutenant governorship is a sound business practice in the administration of government affairs especially in view of today's exceedingly complex modern government.

6. The most important function of the lieutenant governorship office is its provision providing for the exercise of succession in the event of the governor's inability to govern, for whatever reason. The role as successor is the most important role assigned to the lieutenant governor and as proposed, the amendment provides for an adequate system of succession. Furthermore, under the proposed amendment it is readily apparent that the possible successor (the elected lieutenant governor) will be fully trained and prepared to take over the governorship should that become necessary. Overall, the greatest advantage over such a position and the general election of the individual successor is that it provides for a smooth continuity of day to day affairs of state government and a smooth transition.

7. Provides needed executive assistant to relieve the governor of duties and responsibilities which are increasing steadily with the growth of the state. As an example, the lieutenant governor could discharge the social or ceremonial duties of the governor. The lieutenant governor would share the governor's burden and provide aid to the single chief executive upon whom is placed an unprecedentedly complex network of executive responsibilities in a modern government.

8. In addition to increasing efficiency and assuring a smooth transition of power should the elected governor vacate office, the amendment would strengthen the government's hand

in administration since the governor and the lieutenant governor run as a team.

The Office of the Lieutenant Governor, as proposed in Assembly Concurrent Resolution No. 32, provides a remedy to the defects in the administration of state affairs as currently run. The lieutenant governor would be a colleague of the governor, his principal assistant, with a cabinet seat and responsibility over the duties assigned to him by the governor. Not only would he share the responsibilities, but it could safely be assumed (where joint elections are held) that he would share the confidence and the aims of the governor. The lieutenant governor would be well prepared to carry out the former governor's tasks and programs in the event of recession. Furthermore, like the governor, he would be elected by the people of the state.

Disadvantages

1. The present line of succession is adequate as of 1967; only four vacancies have occurred in 122 years which had to be filled by the president of the Senate.
2. A lieutenant governor would serve only as an expensive social adjunct of the governor to relieve him of numerous political engagements.
3. Considering the powerful nature of the governor's office under the N.J. Constitution of 1947, it seems questionable whether the job would attract well qualified candidates.
4. Considering the powerful nature of the governor's office, where there is a vacancy in the office of governor, the people of

New Jersey ought to be allowed to select a second governor, having in mind only someone for that position. A vacancy could conceivably last for three years and eleven months and it would be undesirable to appoint as governor for the full, unexpired term an individual chosen by popular election to be lieutenant governor.

5. Controversies regarding scope of power and duties of the respective offices could develop and thereby lessen respect for the executive branch of government, especially in those jurisdictions which do not utilize the joint election approach.

6. Argument that the lieutenant governor would materially lighten the serious administrative duties of the governor is weakened by the fact that the lieutenant governor would have no fixed constitutional responsibilities, but only those functions assigned to him by the governor.

7. The degree of importance of these duties and their scope would be purely discretionary with the incumbent governor and the degree of delegation would vary from governor to governor, possibly leading to confusion within the individual administrations and to public confusion and misconceptions regarding the respective positions.

8. There is a need for the presence of clear, definitive guidelines to delineate the extent of the lieutenant governor's powers rather than a system of delegation. The amendment to Act V, Section I, paragraph 10 subsection (b) as proposed in the Assembly Concurrent Resolution No. 32 reads as follows:

- (b) The Lieutenant Governor shall be the Secretary of State and, in addition, he shall be the executive assistant to the governor and shall perform such

duties of the office of governor as the governor may and shall delegate to him and such other duties as shall be provided by law.

Such a provision leaving an inordinate amount of discretion in the governor's hands is subject to abuse. As evident from case law, a number of controversies have arisen regarding the interpretation of such provisions as in Brown v. Aub, 160 Cal. Rptr. 760, 603 P.2d 1357 (1979), where the California Supreme Court decided upon the interpretation of a provision providing for the lieutenant governor to assume power where the governor is "absent from the state." Art. V, § 10 of California Constitution. The court therein, faced with the broad issue of determining the gubernatorial powers of lieutenant governor during the governor's absence from the state, held that the lieutenant governor had the authority to exercise all gubernatorial powers of appointment while the governor is absent. Id. at 1359. There is a need for some type of definitive arrangement so that the entire plethora of gubernatorial powers can be handled without judicial intervention. This handling of day to day affairs is as important as the provision for gubernatorial succession and must be stated more precisely in guidelines so that the lieutenant governor, the remaining executives and the citizenry can recognize and understand the lieutenant governor's duties.

8. This conflict between the territorial limitations on powers of the office and an abhorrence of government by absentee officials on the one hand, and a citizen's right to be governed by the policies of the individual they elected to office must be

effectively considered and balanced so as to provide a well developed system which intertwines both in order to assure the smooth operation of state government.

See also, *Sawyer v. First Judicial District Ct.*, 82 Nev. 53, 410 P.2d 748 (1966), where the court determined that the lieutenant governor had no power to request the empanelment of a grand jury when the governor was absent from the state for a short time. (five hours). The court also held that the governor had properly revoked the request upon his return.

Thus, it is necessary to present guidelines to preserve the effectiveness of the executive branch of government and public confidence in that branch.

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609•396-1150

April 30, 1982

The Honorable Garabed Haytaian
106 Grand Avenue
Hackettstown, NJ 07840

Dear Assemblyman Haytaian:

On behalf of New Jersey Common Cause, I would like to thank you for recently introducing ACR-32, the constitutional amendment which would establish the office of Lt. Governor in New Jersey.

Our state Issues Committee first became interested in the establishment of an elected office of Lt. Governor in 1981 when the then Governor of Connecticut, Ella Grasso, died. Her untimely death raised some questions among our membership as to the order of succession established by New Jersey law in the case of a vacancy in the office of the Governor. Our preliminary research indicated that New Jersey was one of only 5 states that does not have a Lt. Governor or another statewide elected official who is next in the line of succession to the Governor's office.

Our Trenton office has recently completed an indepth paper on the office of Lt. Governor. We have relied heavily on the models used by other states and how those models have worked around the country. I am taking the liberty of enclosing a copy of our research paper for your information.

On May 12th, our Governing Board will be discussing the enclosed report and evaluating ACR-32 in light of our findings. I would very much appreciate the opportunity to meet with you sometime after May 12th to discuss Common Cause's position on your proposed constitutional amendment.

In the meantime, if you have any questions or if I may provide you with any additional information, please do not hesitate to call.

Sincerely,

Jo-Ann C. Oser
Executive Director
NJCC

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Lieutenant Governor Report

April 1982

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New Jersey is one of a group of only five states in the United States including Maine, New Hampshire, Tennessee, and West Virginia which does not presently have a Lt. Governor (hereafter LG) or a statewide elected state official next in line of succession to the Governor's office.¹

New Jersey is also one of four state (including Maine, New Hampshire and Tennessee) with only one state-wide elected state official.²

This study is an effort to understand the function and contribution of the office of Lt. Governor as it now exists in other states. It will present and discuss the four models of Lt. Governorship described by the National Council of Lt. Governors (hereafter NCLG) in their publication, "The Lt. Governor: The Office and Its Powers, 1976". It will include descriptions of possible methods of selection of the LG's for each of the different models of Lt. Governorship. The comments and suggestions of several Governors, Lt. Governors, and state Senators from states representing each model who were contacted by letter and questionnaire (See Appendix 1) from this office have been incorporated into the discussion.

Finally, the current situation regarding gubernatorial succession in New Jersey and an analysis of Assembly Concurrent Resolution No. 32 filed by Assemblyman Haytaian to establish a Lt. Governorship in New Jersey will be presented along with recent trends in the office of LG nationwide.

¹Arizona, Oregon, and Wyoming have Secretary's of State as state-wide elected officials who are successors to the Governors.

²The average number of state-wide elected state officials per state is 5.92 with one state, North Dakota, having 11.

The LG's of most states generally have closer working relationships with either the Governor or the Legislature. When an LG is closer to the Governor much of his/her authority and work is given to him/her through the Governor's office. And, when he/she is closer to the Legislature, much of his/her responsibility involves that body. The NCLG has identified four major models of LG as they presently exist in the United States. These models include the Executive Plan, the Administrative Plan, the Legislative Plan, and the Traditional Plan.

The Executive Plan is currently in effect in Colorado, Florida, Illinois, Kansas, Louisiana, Maryland, Massachusetts, Minnesota, and Montana. The plan demands a close working relationship between the Governor and LG, as most of his/her time is devoted to areas and assignments specifically given by the Governor. Typically, under this plan the LG is a cabinet-member who presides over the cabinet in the Governor's absence. Examples of the types of responsibilities given to the LG under this plan are: chairperson of advisory committees (e.g., Minnesota-Rural Development Council; Kansas-Economic Development and Criminal Administration; Illinois-Coal Development and Federal Deregulation; Maryland-State Development; and Montana-Economic Development and Taxation and Finance) and liaison function between the Governor's office and local governments.

Common Cause, New Jersey, sent 36 questionnaires to Governors, Lt. Governors and state Senators of states in this category. We received 10 responses (3 Governors, 3 Lt. Governors, and 4 Senators). In answer to the question regarding the most important contributions of the office to the state eight responded that they included his/her function as an aid to the Governor and seven included his/her role as successor to the Governor.

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The best method of selection in terms of efficient use of the office of LG in the plan seems to be the election of the Governor and LG as a team in both the primary and general elections. Florida, Kansas, Maryland, and Montana employ this system. The respondents from these states appeared to be happy with this situation. Lt. Governor Samuel Bogley's office (Maryland) added, however, that "Both the Governor and Lt. Governor have suggested that perhaps the Governor should have the option of selecting his running mate after he has won the primary and upon consultation with his Party."

Colorado, Illinois, Massachusetts and Minnesota have the LG and Governor run together in the general election only. Several respondents from these states were very unhappy with the way their state's selection system functioned. One senator (Colorado) believed the office should be "done away with." Gov. Thompson's office (Illinois) described a situation where the Lt. Governor had recently resigned because, "the duties of Lt. Governor are not broad enough by law." However, it was obvious that tensions had existed between the Lt. Governor and Governor. The letter commented that "There have been certain issues where each office has taken a different position on public policy questions, i.e., most recently, the Governor lobbied for ERA and the Lt. Governor against it."

David C. Treen, Governor of Louisiana, where the Governor and Lt. Governor do not run as a team in the primary or general election, expressed great dissatisfaction with his Lt. Governor based on conflicts between the two offices. "The Lt. Governor has the prerogative of choosing to refuse to perform the duties offered to him by the Governor. The current Lt. Governor has chosen not to assume those duties I have offered."

The state of Massachusetts has had similar problems. The current Governor, Edward King, and Lt. Governor, Thomas P. O'Neill, III, are diametrically opposed

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politically. As a result, the function of the LG has been drastically reduced from what it had been previously when the Governor and LG had been more politically compatible.

The NCLG has suggested that this plan would function best in a state with a high degree of executive branch authority in the Governor and a strong two-party system.

The Administrative Plan is currently in effect in Alaska, Hawaii, and Utah.³ This plan makes the LG the official who is first in line of succession to the Governor's office. He/she also performs many of the functions ordinarily performed by the Secretary of State. However, in contrast to the other plans, he/she should be an independently nominated and elected official with responsibilities delegated by state constitution or statute in addition to responsibilities given by the Governor. Thus, the LG is not totally dependent on the Governor for assignments, and neither is she/he primarily involved with legislative functions.

Typical responsibilities include administration of such things as tourism, the state election system, audits, state's incorporations laws, and the performance of treasurer's duties.

Our office sent 12 questionnaires to these states and received 6 replies. The most important contributions of the office to the state of Alaska include legislative liaison and work done for the Governor (e.g., disposition of federal land, petrochemical development studies, work on a constitutional amendment to limit state spending increases) along with the LG's constitutionally mandated function of oversight of state elections. Both state Senators from Alaska who responded felt that there were really very few duties of the office.

³Arizona, Oregon, and Wyoming which do not have LG's employ this model also. See footnote 1.

One saw this as acceptable--he has filed to become the LG--and believed the Governor and LG should have a good working relationship in order to insure that the LG's office would be used. The other felt that the office should have "well defined and specific responsibilities along with accountability."

In Hawaii, the most important functions of the Lt. Governorship include responsibilities as Chief Election Officer and Secretary of State as well as acting as Governor when the Governor is absent from the state.

The Lt. Governorship in the state of Utah is currently in a transition phase. In 1980 the people of Utah voted to add the LG and delete the Secretary of State as an elected official. At the same time they voted to provide the tandem election of the Governor and LG. The LG is now responsible for the functions of the former Secretary of State's office, in addition to statutory duties and duties assigned by the Governor. However, Preliminary Recommendations on the Lt. Governor's Office drafted by the state's Committee on Executive Reorganization in February, 1982 has recommended that the statutory duties currently assigned to the LG be reduced drastically to insure that "the Governor should have the full authority and accountability for the administration of the executive branch of the State government... [his/her] authority should not be impaired by statutorily assigning to an elected official administrative duties in the Governor's line of responsibility." This proposal would effectively place Utah in the Executive Plan.

David S. Monson, Lt. Governor of Utah believes that this proposal would render the LG's office "meaningless...with no more than a title."

Utah's problem illustrates a concern of the NCLG that the authority of the LG should not infringe on the Governor's responsibility.

The ideal selection process for the Administrative Plan according to the NCLG would be to have the LG and Governor run separately to insure the independency of the LG. However, none of the three states specifically designated as Administrative function this way. In Hawaii and Utah the LG and Governor are elected jointly. And, in Alaska they run separately in the primary, but jointly in the general election.

The Legislative Plan is currently in effect in six states, Alabama, Georgia, Mississippi, North Carolina, South Carolina, and Texas. This plan allows the LG to be more deeply involved with the Legislature than any of the other plans. His/her primary responsibility is that of Senate President, but this role is expanded from being a tie-breaker with little other actual authority (as in plans where the LG primarily works with the Governor) to one having more legislative responsibility (e.g., appointing committee members and chairmen, assigning bills, interpreting parliamentary procedure and instituting legislative reforms). The LG can also be assigned duties by the Governor under this plan, but these duties are limited by the time-factor of his/her work with the Legislature.

According to the NCLG this plan is most effective in a state where 1) the Governor is constitutionally weak--the LG would be able to contribute a statewide view to deliberations on public policy or 2) one party is predominant.

Our office received five replies to the 24 questionnaires sent out to Governors, LG's, and state Senators from these states. In Alabama the Lt. Governorship is a part-time position which is completely independent of the Governor's office. Gov. Fob James mentioned the "smooth operation of the state Senate" and the function of "remaining in close contact with grass-roots Alabamians" as the most important contributions of the office. Lt. Governor

George McMillan, Jr. agreed that his most important function is to "create an environment in the Senate in which every citizen can feel that he or she can have a voice in legislative proceedings."

Georgia's Lt. Governor currently does not serve in any executive capacity but serves on numerous boards and commissions in his capacity as President of the Senate. The present Lt. Governor has been involved in legislative reforms and economic development. In the 1982 election Georgia's voters will vote on a new constitution, which, if passed, will move the Lt. Governor's office to the executive branch, with the LG being given executive responsibility at the discretion of the Governor. (The rationale for this change was not given.)

According to the NCLG, LG's in this model should be elected independently of Governors, because they are basically independent, and in none of the states do the LG's and Governors run as a team in either the primary or general election. Texas Governor William P. Clements, Jr. wrote that although the Governor and Lt. Governor do not run as a team, he has been able to work well with the present LG "for what is best for Texas." This is the case even though he is a Republican and the current LG is a Democrat.

The Traditional Plan is currently in effect in 23 states. Under this plan, the LG's duties are less well-defined than in the other plans. He/she usually has a less important legislative role than in the Legislative Plan, although all preside over their state Senates. None of them, however, is solely tied to the Executive Branch. Also, the office is not an independent office such as the Administrative Plan. Typical responsibilities for LG's in this plan include serving on state boards and commissions, involvement in intergovernmental relations, administrative oversight functions, membership on the state cabinet, some economic or budgetary responsibility.

- Our office received 34 responses to the 92 questionnaires sent out. The most important contributions of the office to the state were perceived as:
- 1) Performing executive functions assigned by the Governor (Michigan and S. Dakota)
 - 2) The role as successor to the governorship (Vermont, Nevada)
 - 3) "making speeches to groups who cannot get the Governor to attend" and performing executive functions assigned by the Governor (Oklahoma)
 - 4) "relieving the Governor of many of his statutory duties and committee meetings" and liason with the people of the state (N. Dakota)
 - 5) representing the Governor and presiding over the Senate (Virginia, Missouri, and Delaware)
 - 6) acting as chairperson of the Governor's Energy Council (Pennsylvania)
 - 7) Legislative reform and economic development (Washington)
 - 8) Economic development (Indiana)
 - 9) Little contribution (Arkansas, California)
 - 10) Liason with people of the state, succession to the governorship, and liason with legislature (Connecticut)

Governors and Senators seemed less happy with the Lt. Governorship under this model than any of the other 3 models. They were especially unhappy in cases where the Governor and LG were of different parties. None of the traditional LG's are elected as part of a team with the Governor in the primaries; 10 of 24 run as a team in the general election.

Typical comments on this issue include:

"There is little communication or cooperation between the LG and the Governor of our state. The only interaction between the LG and the Legislature is in the LG fulfilling his role as President of the Senate. This is entirely a procedural position and his only votes are in cases of a tie." (James N. Kosinski, Senator, Nevada)

"Since the Governor and LG are from two different political parties it is not easy to work together...The office should be combined with another office." (Office of Governor Frank White, Arkansas)

"...our LG's historically spend their time running for Governor. Only one LG has been successful in this effort in the past 40 years, however all of them have tried." (Sen. Richard Webster, Missouri)

"The Governor and LG belong to different parties and frequently are working at cross purposes." (Senator Diane Watson, California)

"The Governor and LG should be of the same political party so that the LG would be more likely to be used effectively." (Gov. John V. Evans, Idaho)

The LG has "traditionally few ties and little cooperation with the Governor" because of the split ticket. (Governor Richard Snelling, Vermont)

Similar comments were made by Governor Christopher Bond, Missouri and Governor Charles Robb, Virginia.

The Governor and LG's of Indiana and Michigan all had positive reaction to the "team approach" in their states, along with the LG's of both Connecticut and N. Carolina.

New Jersey Succession Arrangements

The 1947 New Jersey Constitution stipulates that "In the event of a vacancy in the office of Governor resulting from the death, resignation or removal of a Governor in office, or the death of a Governor-elect, or from any other cause, the functions, powers, duties, and emoluments of the office shall devolve upon the President of the Senate, for the time being, and in the event of his death, resignation or removal, then upon the Speaker of the General Assembly." Further succession arrangements are to be decided by the Legislature "until a new Governor shall be elected and qualify." (Article V, Section 1, #6)

Senator William Musto has shown strong interest in establishing a Lt. Governor in New Jersey since 1957 when he first introduced a constitutional amendment providing for an LG. The purpose of this amendment was to "insure the continuance of the same basic policies throughout a gubernatorial term, and at the same time, provide an official who may relieve the Governor of many minor yet time-consuming duties."

In a letter to this office of April, 1981 he stated that he felt major problems with the current system are: 1) The Senate President was elected by voters of a single Legislative district and would therefore not be as likely as a statewide elected Lt. Governor to "continue an administration's programs." 2) The Senate President could be a member of the opposite party of the former Governor. 3) Allowing the Senate President to fill a gubernatorial vacancy could lead to one person filling two major State offices in two separate branches of government for as long as sixteen months.

Box

Assembly Concurrent Resolution No. 32, Assemblyman Haytaian

Assemblyman Haytaian has pre-filed an Assembly Concurrent Resolution for introduction in the 1982 session which would establish a Lt. Governorship in New Jersey by amending Articles II, IV, and V of the State Constitution.

According to this resolution: 1) The Governor and LG would be elected "conjointly and for concurrent terms." A single vote would be applicable to both offices.

2) The Governor and Lt. Governor would be nominated separately by the political parties in the primary elections.

3) After the LG in the line of succession the office of Governor would go to the President of the Senate, then the Speaker of the General Assembly, and then be established by the Legislature.

4) The primary role of the LG would be that of the Secretary of State. He/she would also be an executive assistant to the Governor, and would also perform any duties "as provided by law."

Thus, Assemblyman Haytaian's resolution provides for a Lt. Governorship which would essentially be a combination of the NCLG's Administrative and Traditional Models. The LG would have the powers and authority normally given to those LG's in the Administrative Plan, by fulfilling the functions of the office of Secretary of State. However, in New Jersey the office of Secretary of State is "under the supervision of the Governor." Because of this the tension normally present in the Administrative Plan between the powers of the Secretary of State and the Governor's office (See page 5--Utah's Lt. Governorship) would be absent or minimal. Also, the LG and Governor would be elected as a team in the general election which would theoretically reduce tension.

Because the Secretary of State's office in New Jersey is not particularly demanding in terms of specific responsibilities, and because the other sources of responsibilities for the LG are not well-defined, under Assemblyman Haytaian plan the LG would probably function as an LG under the Traditional Plan, which was generally the least satisfactory in terms of use and efficiency for the respondents to our questionnaire.

A mitigating factor in this could be the LG's relationship with the Governor. If a strong team approach was present or could be developed the chances of the LG being used effectively (and thus being better prepared as a successor) would be enhanced.

The possibilities of a strong team approach might be jeopardized however, given that the LG and Governor are not nominated as team in the primary election. (See pp. 3-4) Several respondents expressed dissatisfaction with the LG-Governor relationship when they had not been nominated jointly in the primary, even after being elected jointly in the general election.

Current Trends in the Office of Lt. Governor in the United States

Between the years 1776 and 1976 there have been 327 occasions in the United States in which a permanent vacancy in a governorship has occurred. Of these, 113 times were the result of a death, 180 times were the result of the governor's resignation (87 of these governors resigned to become members of the U.S. Senate.), 24 times were the result of a removal from office. Only three states have never had succession in the office of Governor.⁴

As stated earlier, New Jersey is one of only 5 states in the United States that has not established a statewide elected official as the immediate successor to the governorship. The trend of establishing an LG as a statewide elected official is continuing with states such as Florida, Alaska, and Maryland all instituting Lt. Governorships within the past 14 years.

For states which have firmly established Lt. Governorships several trends can be observed in altering the role of the LG and succession arrangements to maximize efficient functioning of the office within the states.

1) Since WWII Lt. Governors have typically been given more responsibilities which include key management posts within state governments. Immediately following WWII the trend was to strengthen the legislative functions of the LG. Most recently the trend has been to reduce this function and strengthen the LG's executive duties. Studies have shown that an LG with no legislative duties is much more likely to be used by the Governor of the state.⁵

⁴Kallenbach, Joseph E. and Jessamine S., American State Governors, 1776-1976, Volume 1, Oceana Publications, Inc., 1977.

⁵A study reported in State Government, Autumn 1979, pp. 186-194 showed that 91% of those LG's without legislative duties were given assignments other than those constitutionally or statutorily mandated by the Governor as opposed to 53% of those LG's who presided over the Senate and 43.8% of those LG's who presided over the Senate and also had other legislative duties.

2) In 1953 New York State established a system whereby the Governor and LG are elected on the same ballot as an inseparable pair. By 1975, 20 other states had adopted this system. Florida, Maryland, Kansas, and Montana have also provided that the two offices must be voted for and nominated jointly in direct party primaries.⁶

3) There has been continual elaboration of state constitutions in order to cover all contingencies for succession in advance of need.⁷

4) Most states have ruled that absence of the Governor from the state for any reason causes the powers and duties of the governorship to devolve to the person next in line of succession.⁸

5) Since 1960 16 states have revised their constitutions in order to make it easier to implement temporary succession on the grounds of "inability" of the Governor to exercise his/her powers and duties.⁹

In 1976 the NCLG elaborated five principles for the office of Lt. Governor which it believes should be incorporated into every state's succession arrangements.¹⁰

A) There should be a Lt. Governor in each state to facilitate "immediate filling of a gubernatorial vacancy". He/she should "succeed to the governorship with full powers in the event of the Governor's death, resignation or incapacity." "The Lt. Governor should become acting Governor upon absence of the Governor from the state."

B) The LG should serve as the second highest executive official in state government. He/she should become fully knowledgeable "about the operations of all facets of state government at the highest levels."

⁶The same study showed that 65% of those LG's of the same political party are given assignments by the Governor other than those constitutionally or statutorily mandated as opposed to 40% of those from different political parties. This corresponds with the subjective responses we received to our questionnaires.

^{7,8,9} Kallenbach and Kallenbach.

¹⁰The Lt. Governor: The Office and Its Power (Revised), pp. 2-3

C) the LG should be a statewide elected official to "give the office wide visibility, promote public acceptance of a transition, and enhance the ability of the LG to function effectively."

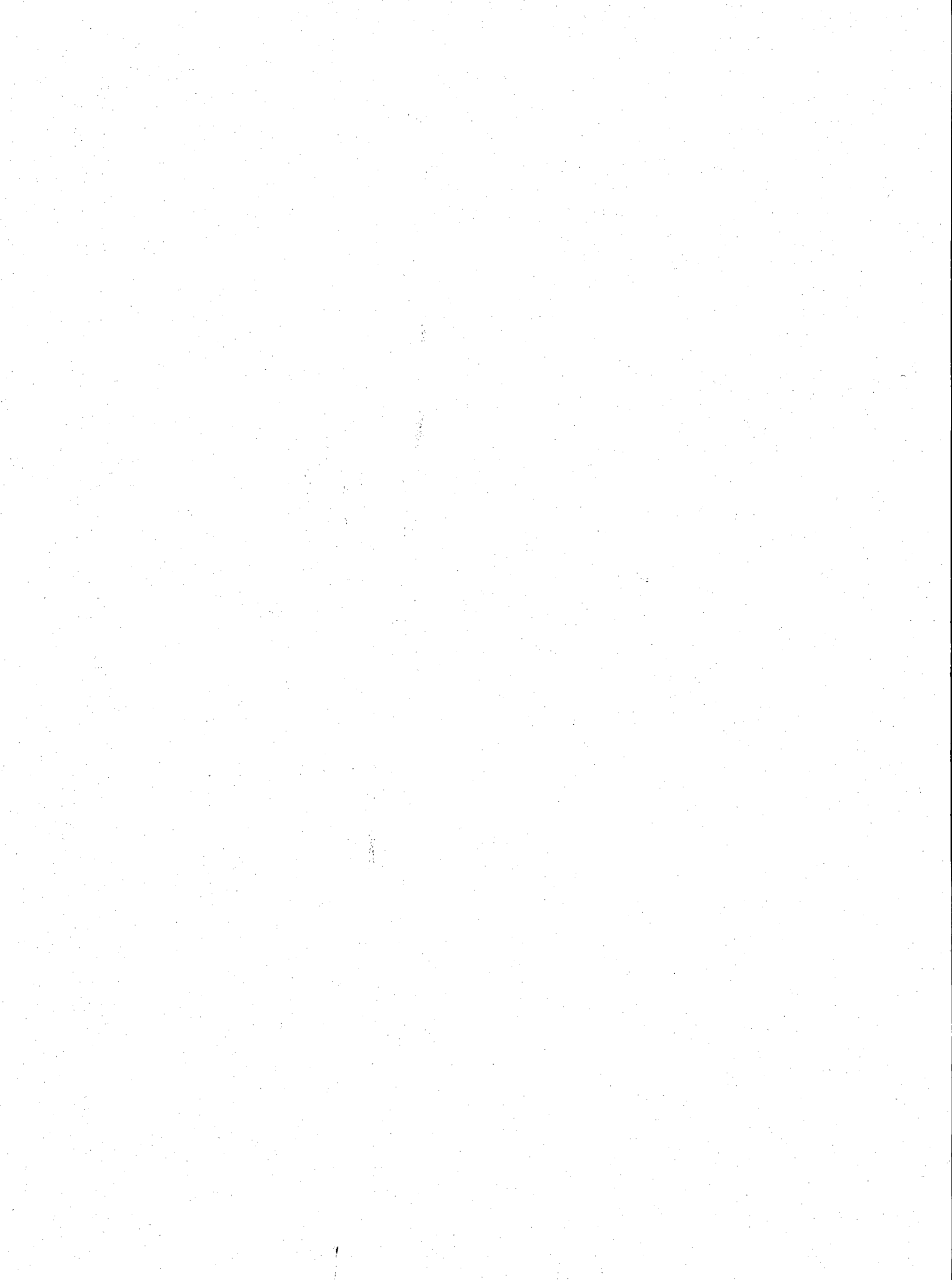
D) The Lt. Governorship should be a full-time position.

E) The office of LG should be "staffed and funded to reflect its significance in the structure of state government."

TABLE I

	PRIMARY ROLE	RELATIONSHIP TO THE GOVERNOR	TYPICAL RESPONSIBILITIES	SELECTION PROCESS (IDEAL)	TRENDS
EXECUTIVE PLAN	Carries out assignments given by Governor	Close working relationship needed	Chairperson of advisory committees; liaison between Governor and local governments; cabinet member	Team in both primary and general elections	More states are changing to this model since late 1960's (Montana, Minnesota, Fla., La., Maryland, Colorado)
ADMINISTRATIVE PLAN	Successor to the Governor Secretary of State role	Independently nominated with responsibilities delegated by statute/constitution, in addition to duties given by Governor	Tourism, state elections, audits, incorporations laws, treasurer's duties	LG runs independently of Governor	Utah reevaluating to put the LG in the Exec. Branch
LEGISLATIVE PLAN	Senate President who has important actual legislative responsibility	For the most part is independent of the Governor	Senate President, appoints committee chairmen, assigns bills, legislative reforms, interprets parliamentary procedures	LG runs independently of Governor	Georgia considering moving LG to Executive Branch
TRADITIONAL PLAN	Less well-defined role; some legislative, some executive responsibilities	Close working relationship with the Governor necessary for efficient functioning	State boards and commissions; intergovernmental relations; administrative oversight; state cabinet member; budget responsibilities	LG runs either independently or as a team with the Governor	Trend away from this model to a position with a more defined role for the LG

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