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# Public Hearing

before

## ASSEMBLY STATE GOVERNMENT COMMITTEE

"Establishment of Statewide Initiative  
and Referendum in New Jersey"

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**LOCATION:** Committee Room 8  
Legislative Office Building  
Trenton, New Jersey

**DATE:** April 23, 1992  
10:15 a.m.

### MEMBERS OF COMMITTEE PRESENT:

Assemblyman Robert J. Martin, Chairman  
Assemblyman John Hartmann, Vice-Chairman  
Assemblywoman Virginia Haines  
Assemblyman John E. Rooney  
Assemblyman Byron M. Baer  
Assemblyman Bernard F. Kenny, Jr.



### ALSO PRESENT:

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

New Jersey State Library

### ***Hearing Recorded and Transcribed by***

The Office of Legislative Services, Public Information Office,  
Hearing Unit, 162 W. State St., CN 068, Trenton, New Jersey 08625-0068

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ROBERT J. MARTIN  
CHAIRMAN  
JOHN HARTMANN  
VICE-CHAIRMAN  
VIRGINIA HAINES  
JOHN E. ROONEY  
DAVID C. RUSSO  
BYRON M. BAER  
BERNARD F. KENNY, JR.

New Jersey State Legislature  
ASSEMBLY STATE GOVERNMENT COMMITTEE  
Legislative Office Building CH 060  
TRENTON, NEW JERSEY 08625-0068  
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## NOTICE OF PUBLIC HEARINGS

The Assembly State Government Committee will hold three public hearings on the establishment of Statewide initiative and referendum in New Jersey.

The hearings will be held at the times and places indicated below:

Thursday, April 2, 1992  
7:30 p.m.

Petit Jury Assembly Room  
First Floor  
Morris County Courthouse  
Washington Street  
Morristown, New Jersey

Tuesday, April 14, 1992  
7:30 p.m.

Township Committee Room  
(L. Manuel Hirshblond Room)  
Second Floor  
Dover Township Municipal Building  
33 Washington Street  
Toms River, New Jersey

Thursday, April 23, 1992  
10:00 a.m.

Room 8  
Legislative Office Building  
Trenton, New Jersey.

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

(For directions to locations, please see reverse side.)

Issued 3/20/92

Morris County Courthouse  
Washington Street (Rt. 24)  
Morristown, New Jersey

Directions to the Courthouse:

From Rte. 287 Northbound:

Take Exit 31 (South Street exit).

At end of exit (at traffic light), turn left onto Rte. 24 West.

Proceed on Rte. 24 to Morristown Green (it will lie ahead to the right).

Turn right (so that Green is on your left), then go 3/4 way around Green.

After completing passage of third side of Green, turn right onto Washington Street (Rte. 24 West). Go to top of hill. At light turn right onto High Street. Half way down block is public parking on left.

Looking back at Washington Street you will see Courthouse. Western Avenue is on right of Courthouse. Entry is 1/2 way up Western Avenue. Ask directions once inside to Petit Jury Assembly Room.

From Rtes. 10, 46, 80 and 287, all Southbound:

Take Rte. 287 South; exit at Madison Avenue exit.

At top of ramp, bear right on to Rte. 24. Proceed on Rte. 24 to Morristown Green and follow above directions.

. . .

Dover Township Municipal Building  
33 Washington Street  
Toms River, New Jersey

Directions to Municipal Building from Garden State Parkway:

Take Garden State Parkway and exit at Exit 82 (Toms River exit). Exit will bring you onto Rte. 37 East.

Continue heading east. At second traffic light make a right which will be Hooper Avenue.

Continue on Hooper Avenue and at the second traffic light make a right. This will be Washington Street.

Continue on Washington Street; the Dover Township Municipal Building will be approximately the sixth building on your left hand side. There is meter parking in front of the Municipal Building and there is further parking in the back of the Municipal Building.





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**ASSEMBLYMAN ROBERT J. MARTIN (Chairman):** Hello. We're going to be starting momentarily, if everyone would have a seat.

This is the third in a series of public hearings relating to Initiative and Referendum proposals which have been sponsored by various members of the Assembly. Many of you know we had a meeting in Morristown a couple of weeks ago, followed by a meeting in Toms River where we took testimony from numerous persons -- pro and con -- on the issue of Initiative and Referendum. This is the third of the public hearings.

At this time we will simply have a public hearing. We will take testimony and attempt to allow everyone who is remaining, who wishes to be heard on this, to have that opportunity. What I plan to do after this is to attempt to digest what I've heard, spend the next three weeks or so reviewing that information, and at that time I'll attempt to put together what I would think may be a bill based upon the testimony, and also look at the individual components of the various Initiative and Referendum proposals.

At this time, I don't anticipate that any of the bills would be given to the Committee, per se, to vote up or down, but rather some product based upon these hearings and based upon what might be considered the best pieces of those existing proposals would be put together, and the Committee would have the chance to discuss that and to deliberate and make whatever recommendations that they wanted. I would anticipate that a bill may be released from this Committee sometime in the middle of May; around May 15 or May 20. That would be the time frame.

At this meeting, I would just reiterate again, we will be simply taking testimony. What I'd like to do is have those persons who have not had a chance to speak be given priority. We have the list and there are some people who-- Actually, we got through the list in Toms River, so there are no remaining persons from either Morristown or Toms River to the best of my

knowledge who didn't have a chance to speak at that time. So we're taking persons on a first-come, first-served -- based upon their listing here, that asked to be heard. The only exception, as I mentioned, is that those who have not spoken yet would be given preference to those who have spoken at one of the prior meetings.

Before I begin, I would just ask the Committee members that are present to introduce themselves, and if they have any opening comments, they may do so. I'll begin with my left: John Hartmann, who is the Vice-Chair of this Committee. John?

ASSEMBLYMAN HARTMANN: I represent the 15th District, which includes the City of Trenton as well as other parts of Mercer County. I'm glad to have a chance to hear the testimony on I&R, but something that came to my attention today, which I really feel we-- A strong argument for I&R is the fact that special interests groups gave over \$7 million in campaign contributions last year. I think this is something we have to take into consideration when we consider whether or not Initiative and Referendum is important for the State.

ASSEMBLYMAN MARTIN: Next, Virginia Haines?

ASSEMBLYWOMAN HAINES: Good morning. No comment. I'm saving all my comments for after the hearing.

ASSEMBLYMAN MARTIN: John Rooney?

ASSEMBLYMAN ROONEY: Thank you, Mr. Chairman. John Rooney, representing District 39, northeast Bergen County.

I think I've made my comments on I&R. I voted for it in the past, and listening to all the versions of it, I believe its time has come in some form. I think we have to listen to the people to find out which form. I think it's sorely needed at this time.

ASSEMBLYMAN MARTIN: To my right is Assemblyman Byron Baer, two seats over.

ASSEMBLYMAN BAER: I represent District 37, which is in the southeastern part of Bergen County.

ASSEMBLYMAN MARTIN: And Bernie Kenny is present. He's voting on his bill before the Appropriations Committee. I expect him to join us sometime before this hearing is over. I'm not sure about the other members who may come subsequent.

To my immediate left is John Kingston, who is a Republican aide, and Don Margeson is on my right, who is the staff member from OLS, assigned to the Assembly State Government Committee.

ASSEMBLYMAN BAER: And Dana Burley?

ASSEMBLYMAN MARTIN: Pardon me?

ASSEMBLYMAN BAER: The Democratic aide--

ASSEMBLYMAN MARTIN: Would you introduce her, please?

ASSEMBLYMAN BAER: Yes. And Dana Burley, who is the Democratic aide.

ASSEMBLYMAN MARTIN: We'll begin by taking the testimony of Barry Perlman, from the United Taxpayers of New Jersey.

Since I am now aware the Secretary of State is here, he will be next. He's also first on our list today so he's not bumping anybody with his presence.

Mr. Perlman.

B A R R Y S. P E R L M A N: Thank you. I have to say that I've been looking for I&R now for 16 years. And you people are getting younger, as I sit before you -- which must mean something about me, too.

Good morning, ladies and gentlemen, elected representatives, and neighbors. I come here today to speak to you -- all of you -- as though you were, literally, my next-door neighbor.

I seek the enactment of the Initiative and Referendum Plan as outlined by United Taxpayers, Common Cause, and PIRG. I take this position because its passage will support my special interest.

Yes, I freely admit that Initiative and Referendum will represent my special interests over the interests of some others. You don't have to agree with me. Your interest may be other than my own, but I know what's appropriate for me and, frankly, I must look to my own self-interest first.

I'm going to disclose what is my own self interest. Perhaps you share it, perhaps not, but at least you'll have insight into why I will never give up my goal of seeing I&R become law.

Today our State, as others in this great Union of states, is in trouble. We have seen our currency's buying power decline, the value of real estate fall, public services such as schools demanding increases in costs while being completely unaccountable for their product, all levels of our taxes increasing without audit or economic impact studies, the loss of our competitiveness at home and abroad, but far worse, yes, far worse, we are all experiencing the devaluation of confidence in the structure of our governmental processes.

Each and every elected and unelected politician, as well -- and lobbyists are politicians, too -- has seen his or her personal efforts to add to the common good seen as worthless or even an attack on the person of the citizens they represent. Yet, the number of people who participate in elections for everything from school board membership to President of the United States, has continually declined.

I ask you, my dear neighbors, you who have sought elected office, whose name shall appear in a book of the history of our period, our State, and our country, of what value is there to be elected by the majority of the minority, especially while the majority does not consider you to represent anything or anyone other than yourself and your own interests? How could you represent the interests of all those nonvoters? How do you know what they believe is their position, their desires, their fears, or their vision of a better tomorrow?

The fact is that you don't know what the people think, because they have ceased communicating with you, and you do not have a system to expose their interests to you. This is why you are feared and in some cases hated; because the majority of the voters do not believe you need them, or want to need them, as individual people. You are insulated from the people, and they are insulated from you.

It is because of this segregation; that is, the separation of the political body, the elected politician from its political soul -- the people -- that our mutual survival is at stake.

This is where my self-interest must assert itself. I cannot stand alone. I cannot survive while society is threatened by the government's death by suicide. I must participate in the bringing together of the political body and political soul of our society.

Some would have you believe that instituting Initiative and Referendum will reduce the power of this and other elected forums in our State's political life. I ask you to ask them: How will providing me with the ability to bring issues before you, my elected representatives, and always my neighbors -- within a structured process called I&R -- reduce your worth, value, or importance to me? Will I seek to duplicate government by paying a lobbyist to be my representative, as is the case at this unfortunate place in our society's political evolution? I doubt it.

Don't misunderstand me. The political action committees and lobbyists won't disappear. That's not my goal. My goal and self-interest is not to take away the power from those who disagree with me, and I must say I wished they felt the same toward me. It is only to raise the level of my voice to be able to catch your ear as well as they do. They do an excellent job of ear catching.

Some of us feel that these highly organized ear catchers not only monopolize your attention, but sometimes let their hands wander to parts of your political anatomy we wouldn't even think of grabbing. What's worse is, they tell you that they're grabbing you there for our benefit, not theirs.

But in all seriousness, I&R is the process to bring democracy to citizens communication with their elected representatives. It is not a reconstruction of our republican form of government. You are, and must be, part of the I&R process.

In closing, I want to make one important point: We have a political crisis in New Jersey, as well as the country. The problem is not Jim Florio. I know because I lived in the State while Kean was Governor. And the problem is not of Kean's making, because I've lived here since 1959. The problem which is at the base of all our serious problems is that the people have abandoned the political process, and that means that the process is no longer of the people, by the people, or for the people. Remember that many pressure groups opposing I&R, such as NJEA, AFSCME, CWA, New Jersey business organizations, etc., are not made up of monolithic lockstep voting members. Many belong because they must, in order to hold a job or get some particular benefit. They are still -- first and foremost -- citizens, and they know that as individuals they should have your ear and your attention.

I thank you all for permitting me to participate in this mini I&R experiment. I hope you think enough of your next door neighbors' rights of citizenship to give them the opportunity -- the same opportunity I have just had; that is, to tell you what I need you to do.

Thank you.

ASSEMBLYMAN MARTIN: Thank you.

Any questions of Mr. Perlman? I see he's joined by Mr. Perelli. Mr. Perelli, while we welcome you here, I've also

said that we will try to give preference to those who haven't spoken before.

S A M P E R L L I: I have not asked to speak. I'm just--

ASSEMBLYMAN MARTIN: Lending some moral support.

ASSEMBLYMAN BAER: One brief question.

ASSEMBLYMAN MARTIN: Mr. Baer.

ASSEMBLYMAN BAER: Mr. Perlman, you made reference to your concern about expression of the majority of the minority, near the beginning of your statement. Do you feel that there should be any requirement or standard in connection with I&R so that there's a minimum size vote, so that a measure to carry would have to be a majority of the majority rather than a majority of the minority, to use your terms?

MR. PERLMAN: I think I understand what you're saying--

ASSEMBLYMAN BAER: In other words, you're aware that in some states, some of these measures that carry, carry with a small percentage of the total electorate supporting.

MR. PERLMAN: Yeah. I think that your question has been brought up before. It's interesting and it always comes up in this. I think we have to put it in the context of what the vote, no matter what the percentage is, produces. All it produces is an opportunity to bring things before the forum of the political body, where it can stand the test of "X" amount of months getting there, and it can be thrashed out in the marketplace of ideas.

We have addressed that, I think, in the United Taxpayers, PIRG, and Common Cause's effort to propose a proposal here on I&R. I'm not as much afraid of what the ratios will be as long as they're rational. The object is to get people to participate. People are not participating. I don't think you would argue with me. I don't mean to speak for you. We have lower and lower voting in every election, no matter what it is. I want to create a process which will not only make people believe, but actually give them the ability to

put forth the things that are bothering them on their local level, so that it comes from the bottom up, and we can take the most appropriate and prioritize what is important. And that's what your jobs would be -- what is of concern to us. I think if something is able to go through a reasonable and rational political process to get to you, that I&R would be doing what I have always hoped it would do, and that would be to create more political inclusion, not exclusion and insulation, insulating you from me.

ASSEMBLYMAN BAER: Okay. When you speak of your concern about decisions made by the majority of the minority, that has to do with the present context, but it wouldn't trouble you if that's how I&R works?

MR. PERLMAN: Well, again, the only thing that I&R is doing is creating the -- bringing the information forth-- I mean, as far as I was-- Personally, I wouldn't mind if anybody could get a reasonable number of signatures that they could bring -- anything from their local town -- and have it filtered up.

ASSEMBLYMAN BAER: I'm not talking about the number of signatures to place something on the ballot. I'm talking about the number of votes to decide a matter -- votes registered on a referendum to determine whether or not it carries. I didn't mean to interrupt you, but it occurred to me when you made that comment, there might be some misunderstanding about my question. It doesn't have, at all, to do with the issue of what our question has to qualify to come on the ballot, but whether you would be comfortable if a measure that is put to a ballot is voted on, maybe by 20 percent of the electorate, and maybe of that, 55 percent support it, so it actually is carried with the active support of 11 percent of the electorate? That would be a majority of the minority. I'm not saying that to debate with you, but just to make sure that you understood the thrust of my question. And I was asking whether or not you

would feel it desirable to have an I&R measure have some standard in it to prevent measures carried by small votes that represent a majority of a relatively small minority?

MR. PERLMAN: These small voting numbers would be the population that was coming out to vote. Is that what you're talking about? You're talking about what happens if a small number of people come out and vote, and pass initiatives?

ASSEMBLYMAN BAER: Not precisely. You're getting close to it. But you can have a large number come out to vote, but a smaller number vote on a particular referendum. We know that even for candidates, fewer people vote for a particular position for all candidates combined for that position, than who come out to vote, although the difference isn't very great for very important positions and becomes greater for smaller positions. It is well-known in some initiatives and referendums, the percentage of those voting is much less than-- Voting for those measures, for and against combined, is much less than those who come out to vote that day.

MR. PERLMAN: I think I understand now what you meant, and that's an interesting point because of the fact that-- What I think you're saying is -- and if it's so, I would agree with it--

ASSEMBLYMAN MARTIN: Why don't we--

MR. PERLMAN: Wait a minute--

ASSEMBLYMAN MARTIN: In the interest of time, just try and respond as best as--

MR. PERLMAN: I would be in favor--

ASSEMBLYMAN MARTIN: Let me just finish. I am the Chair here. You seem to be restating his question and he restates his question-- Just do the best you can on the answer. We've got a lot of people and--

MR. PERLMAN: Yes, I understand. I think what you're saying is, would I be in favor of having a clause that, if there's a certain level of voting, there would be a sort of

"none of the above," of what the votes would be cast for. I would say, yes, I would like to see "none of the above" in all elections, whether they be bond or for candidates. So, I certainly support that. In fact, when I&R comes in, I think that might be one of the questions I would seek to have as an initiative: If there weren't enough people coming out to vote, that the candidates put up would be dropped, and there would not be a good election.

ASSEMBLYMAN BAER: Thank you, Mr. Perlman.

MR. PERLMAN: Thank you.

ASSEMBLYMAN MARTIN: Thank you, Mr. Perlman.

Just so you're aware, I will tell you who the people are on my list, at least the next several, so you can get ready: Secretary of State Dalton will be next, followed by Mr. Bolan, Betty Kraemer, Phil Kirschner, Barbara Trought, William Faherty, Jim Morford, John Tomicki, Rob Stuart, and Vince Miller.

Next is Dan Dalton, Secretary of State, representing the Governor, I believe.

**S E C R E T A R Y O F S T A T E D A N I E L J. D A L T O N:**  
Thank you, Mr. Chairman and members of the Committee. I appreciate the opportunity to testify on the proposal to amend the State Constitution to allow for indirect Initiative and Referendum. I'm delighted to be here on behalf of the Governor, and to reiterate the Governor's call for action on Initiative and Referendum.

In his State of the State Address, he asked the Legislature to pass Initiative and Referendum. And I want to commend this Committee and you, Mr. Chairman, for your efforts on behalf of what the Governor feels is a very worthy goal, and a goal whose time has come.

I understand that, generally, the testimony that you've received so far in your two previous hearings, has been generally positive. Because as the Governor goes around the

State, he also has heard from people and they are indicating a need, a desire, for a greater participation in their government. People want to have more of a say. Time and time again, when he chats to the residents of the State, he has indicated that they don't speak like insiders -- Trenton insiders. Instead they talk very straightforward, in terms such as, "I want my voice heard. I want a say, and I want government to listen to me." He has listened and heard their call for change. The Governor is convinced that the insider baseball -- the game that is being played, and has been played in Trenton -- must come to an end. For this reason, he is an advocate of Initiative and Referendum.

We live in a society in which we are deluged with information about local, State, and national problems, but oftentimes we are unable to use that information in a way that benefits our everyday lives. As a result, the sense of isolation which often results has generated a high degree of cynicism among the public about politics and government. Because of my concerns about the public's disenchantment with the political process, last session I began to take a serious look in Initiative and Referendum as a potential means of addressing this general lack of confidence in government. I've concluded that Initiative and Referendum, with proper safeguards, will provide a legitimate means for giving people the voice in government decision-making that they want and they deserve.

However, being aware of the pitfalls encountered in other states, most notably California, Governor Florio feels that any proposal should include safeguards necessary to avoid similar mistakes. He believes that the Legislature and this Committee can craft an amendment that will give all of the people of this State a voice. You must strive to find a proposal that will not tie the hands of government, nor will it clutter the ballot with Initiatives sponsored by deep-pocketed

special interests. Along these lines, we must guarantee that the interests of the entire State are considered. Clearly, the threshold for a minimum signature requirement is a safeguard against potential abuses of Initiative and Referendum. In establishing what these thresholds should be, the Committee must consider population density. As you know, New Jersey averages more than 1000 people per square mile, and David Kehler, of the Public Affairs Institute, stated and I quote, "Because signature gathering is a person-to-person activity, the population density of the State is an important logistical factor."

Again, the success two summers ago, of Hands Across New Jersey in collecting several thousand signatures in a period of a few months demonstrates that it would be possible to conduct a successful grass roots campaign statewide for a petition that was of real importance to people. However, the balance in establishing this signature requirement must be done in such a way as to ensure that the I&R process is "voter friendly." In other words, we cannot make the threshold so restrictive that we end up having an I&R process in name only in New Jersey.

In addition to setting the signature requirement, a balanced proposal should include a geographic requirement for signatures which would preclude the adoption of Initiative that is contrary to the interests of one region of the State. Obviously, it would be all too easy for the heavily populated northern counties to literally impose their will on the rural regions of South Jersey. This is an area where earlier proposals have been lacking, and it is the principal reason why I had voted against it in a proposal considered by the Legislature many years ago, as did many of my colleagues from the southern part of the State.

One of the institution arguments against I&R has been that it would allow special interest groups to set priorities

of the Legislature by bankrolling a campaign for successful initiatives. This may be so, if you require legislative action within too short of a time frame after certified receipt of an I&R question. Under that scenario, the Legislature could be forced to focus all of its resources on responding to I&R issues while ignoring other equally important problems. Therefore, this Committee should give equal consideration to the time frame by which the Legislature would have to act on I&R issues.

The Legislature should be able to act in a deliberate manner, taking into consideration necessary information such as fiscal analysis or an economic impact statement -- or both -- which would be prepared and digested. A longer time period may also provide sufficient time for a full and detailed public disclosure of the interest groups that are for or against an initiative. It is clear that there must be full public disclosure of the special interests through financing the various issues.

Finally, one of the major criticisms of Initiative and Referendum across the country is that it leads to bumper sticker democracy. The Governor believes that by including information like an economic impact statement and a fiscal analysis along with the question, the issues which are placed on the ballot would be fully and knowledgeably debated by the Legislature and the people of this State.

Your expeditious consideration of the constitutional amendment is important. As you know, for the question to appear on this November's ballot, the Legislature must pass any constitutional amendment by the beginning of August. I think those of us who support I&R share a common goal of increasing the ability of voters to participate in the democratic process.

The Governor believes that this shared goal will enable us to make the right decision for the benefit of most of the people.

Mr. Chairman, members of the Committee, I want to thank you for the opportunity to appear on behalf of the Governor. I will answer any questions that you might have, now.

ASSEMBLYMAN MARTIN: With respect to the issue of concern from the south about their interests which, theoretically, could apply to any geographic area in the State, how would you propose that we provide that protection? I assume it has something to do with either acquiring signatures in all, or a fraction, of the 21 counties of New Jersey, or maybe some other system?

SECRETARY OF STATE DALTON: The proposal that I had introduced, and had it considered before the Senate Judiciary Committee last year, called for a signature requirement in each county. I don't know that we have to go that far. I think there are many people who felt that that was too restrictive, and I would bow to the wisdom of this Committee and the Legislature with regard to that. What I was talking about, and I think what the Governor is interested in, is a geographic requirement. In other words, that each section, each region of the State, is represented in any petition drive. I think that would be a minimum standard that the Governor could live with.

ASSEMBLYMAN MARTIN: Okay. Thank you.

Any questions? Mr. Hartmann.

ASSEMBLYMAN HARTMANN: I'd like to thank you for coming to testify. I'd also like to thank the Governor for altering his position on I&R. I think it's a great example of how someone changes to what he believes is the right thing.

My question I'd like to ask you is, what procedure -- in case the petitions are challenged -- would be used for the validity of the signatures? What I'm trying to get at is what percentage of the actual signatures will you look at in order to validify if they're good or not?

SECRETARY OF STATE DALTON: I don't know, to be perfectly honest with you. Again, I would be willing to take a

look at the experiences in other states in drafting an I&R proposal. And again, I don't think that it should be so cumbersome, and a standard should be set so high as to make it impractical to get an initiative on the ballot. And I'd be willing to, for any of the suggestions that you or the other members of the Committee would have with regard to the certification process, as Secretary of State I'd be willing-- My job is to fulfill, in this case, what the Legislature would lay out, and the people would lay out as far as the certification process, and I'd be willing to live with it. I think, again, the only thing I would offer would be generally a standard that would not be so high or so tough that it would make it difficult to get an initiative on the ballot.

ASSEMBLYMAN MARTIN: Ms. Haines.

ASSEMBLYWOMAN HAINES: Thank you, Secretary Dalton. Of the proposals you're stating -- that yourself and the Governor favor I&R -- has he made any statement, or yourself, on the three proposals that are before us for I&R by Kamin and Garrett, or another one by Assemblyman Kamin, or by Assemblyman Franks? Has the Governor stated which one he prefers out of any of these?

SECRETARY OF STATE DALTON: I suspect-- I mean, I'm a veteran of the I&R wars, to a great extent, and one of the things that I've learned is that what you ultimately get via legislative process is a consensus, is a compromise. And I think the Governor is very, very willing to live with whatever compromise that this Committee and the Legislature reaches on the issue.

ASSEMBLYWOMAN HAINES: So, of the ones here, if you just compromise the three together, that's what's coming out of this Committee?

SECRETARY OF STATE DALTON: That's correct.

ASSEMBLYMAN MARTIN: Thank you.

SECRETARY OF STATE DALTON: Thank you very much, Mr. Chairman.

ASSEMBLYMAN MARTIN: Next we'll hear from Bill Bolan, Executive Director of the New Jersey Catholic Conference.

W I L L I A M F. B O L A N, JR., ESQ.: Good morning, Mr. Chairman, members of the Committee. My name is Bill Bolan and I'm Executive Director of the New Jersey Catholic Conference. I've filed written testimony, so I'll be brief.

The Catholic Conference appears today because of our interest in the political process and its furtherance of the critical values of human rights and social justice. We are opposed to I&R because it has the potential for eliminating serious and reasoned debate over public policy issues because of its reliance on campaign advertising, 30-second sound bites. We believe measured deliberations take place in the traditional legislative setting, particularly in public hearings such as this.

Because I&R is such a sophisticated and expensive process, it will have the effect of freezing the poor and all but the wealthy out of the political process. For example, in 1988, \$129 million was spent in California on initiative questions. That was more money than was spent on the Presidential campaign in that year. The poor and the vulnerable will never have the money to fight an initiative campaign which adversely affects them. We need more, not less, participation in the electoral politics. With voter turnout so low, does anyone really believe that a sample ballot which runs 250 pages long -- as the California ballot did in 1990 -- will attract more people to the polls? If voters feel that legislators are not responsive to their wishes, they can vote them out. Certainly we saw a large turnover in this Legislature last fall as a result of, obviously, some dissatisfaction.

How can we say that a system which would require extensive media advertising in the two most expensive media markets in the United States -- Philadelphia and New York -- political consultants, advertising agencies, even professional signature gatherers to get the signatures on these petitions, all at a cost of millions -- how can we say that that is giving power to a broader segment of our citizens? It clearly is not.

We submit the solution is much simpler. We think the better approach is for people to register and vote. This is a far better way to reinvigorate the political process than the alternative of relying on the simplistic, empty, and potentially polarizing tactics of Initiative and Referendum.

We urge you to reject this legislation, and we thank you for the opportunity to appear before you.

ASSEMBLYMAN MARTIN: Mr. Bolan, I just have one question. I can appreciate your concern for the poor and the underprivileged in our society. Has the Conference given any thought to the fact that there are several interests groups -- I'm not going to get into debate as to whose special interests -- but certain interest groups that allege to represent the public in a general way, such as the League of Women Voters and Public Interest Research Group, have supported this as being an opportunity for the so-called little person to have more opportunity in government? And you're saying that's not so. In fact, they'll be shut out of the process. Do you see fault in their reasoning? And how do you--

MR. BOLAN: Yeah, I think they're clearly wrong. I think the experience in other states proves it. All you have to do is look at the bucks involved here and know that poor people and advocates for the poor, don't have anywhere near the money that the lucrative special interest groups that generally use this initiative process to work their will have.

ASSEMBLYMAN MARTIN: Okay. Any other questions?

Mr. Rooney.

ASSEMBLYMAN ROONEY: Yes. I just have a question.

You've taken a position, and we've asked this question of the other groups, so it's only fair that we ask you: Have you polled your membership -- and how have you done it? -- and what results did you have?

MR. BOLAN: My membership is very small; it's 14 Catholic Bishops. I represent them. I don't represent all Catholics in the State of New Jersey, and never purported to.

ASSEMBLYMAN ROONEY: What was the vote?

MR. BOLAN: It was unanimous.

ASSEMBLYMAN ROONEY: Unanimous, all?

MR. BOLAN: Correct.

ASSEMBLYMAN ROONEY: I'll have to talk to Archbishop McCarrick. (laughter)

ASSEMBLYMAN MARTIN: Thank you, Mr. Bolan.

Next is Betty Kraemer, who is the New Jersey Education Association President.

B E T T Y K R A E M E R: Good morning, Mr. Chairman, and members of the Committee.

Happy birthday. (addressed to Assemblyman Rooney)

Thank you, Mr. Chairman, for this opportunity to provide NJEA the opportunity to testify against Initiative and Referendum as public policy in the State of New Jersey. You have already heard from many of NJEA's grass-roots members during the public hearings held in Morristown and in Toms River.

NJEA's position on I&R has been developed from a poll of our membership, input from our State leadership, county leadership, and the Delegate Assembly which is our policy-making body, made up of local leaders.

The debate on whether to adopt I&R in New Jersey is not a new one. The controversy over I&R began at the turn of the century, during the progressive era, because the public correctly perceived the legislative process to be closed, secretive, corruptive, unresponsive. The legislation continued

to be inaccessible until recent times, and yet I&R was never adopted.

Over the past 20 years, legislative reforms have made this lawmaking process very open, very accessible, and highly visible.

Power has been widely dispersed within the system. Reapportionment, reflecting the "one person/one vote" principle, the expansion of the number of legislators in each House, the creation of smaller legislative districts, have all enhanced the legislators' responsiveness to local constituencies.

Today, the New Jersey public is organized and participates more in the making of public policies than ever. Bills scheduled for legislative committee consideration are posted. The public has every opportunity to offer input during each committee meeting.

These opportunities allow us to craft legislation that has the better public good at the forefront. Experts in the field also have the opportunity to come forth and even to refine the legislation.

Over the last five years, the Legislature has "gone on the road," so to speak, holding committee meetings and public hearings all over the State of New Jersey, making our democratic government an even more participatory one.

In addition, legislators maintain district offices with staff aides and researchers who are highly accessible to their constituents.

If members of the public are unable to attend a legislative hearing, they have an additional opportunity to offer input; they can call, they can write. They can visit and meet with their legislators back in their own district.

The New Jersey legislative process is like a two-way mirror. If a representative is not responsive to his or her constituents, the voters can remove that legislator from office. And many of them were removed in the '91 elections.

As legislators, you currently must respond to a myriad of issues -- issues on tax reduction, health care, pension reinvestment, health crises, affordable housing, and State funding, just to name a few. Your consideration of these issues must be a very deliberative one.

If I&R is enacted, would we still have the right to that same quality analysis before the laws are created?

In tough economic times we would be faced with larger class sizes in education, and the elimination of many programs. Preschool programs and early childhood programs possibly would be cut, and yet these are very important to a large percentage of our State's students.

The average age of our school buildings is over 40 years. In the urban areas, how can we move education into the 21st century when our buildings aren't even in the 20th century?

How can we compete in a world class economy amidst I&R proposals which would reduce tax revenues?

While the system may not be perfect, NJEA believes representative democracy works better than ever before in this State.

Some cry that the legislative process is controlled by special interests. But let's be honest: This entire room today is filled with special interest lobbyists. Everyone who has testified in the previous public hearings, as well as this hearing, represents some form of special interest.

Groups advocating tax cuts are special interest groups. Organizations which seek to improve the environment are special interest groups. Coalitions of people who want to remove the tolls on the Parkway and Turnpike are special interest groups. And the list goes on and on.

Yes, NJEA is also among the special interest groups. But the members that I represent are also New Jersey taxpayers -- 138,000 -- and as taxpayers we don't like waste in government. We want accountability. We want accountability in our schools, and we want accountability from our government.

While the proponents call for accountability and cuts in State government, the same public, in an Eagleton Poll conducted in January 1992, 75 percent of the respondents wanted legislators to roll back their sales tax, just so long as none of their services were cut.

Providing more service with less money is an impossible dream. It denies people the needed services, and it weakens their faith in government.

Without tax dollars, how will the State provide a thorough and efficient education to all children as the Constitution demands?

How will the State provide the necessary social services to effectively respond to health crises such as AIDS, drug abuse, and crack babies? These are just some of the problems that the members I represent will face in the decade ahead.

These social problems raise the cost of education if we are to meet truly world class education and the challenges by the year 2000.

While we don't like the horror stories of California and Massachusetts, we all know them. Public services have been drastically cut in those states; the very same objections raised by New Jersey respondents during that recent Eagleton Poll.

In California, 92 percent of California's budget is mandated. California's ballot initiatives limit discretionary state funding to eight percent, and does not allow for emergencies; emergencies such as the recent earthquake in San Francisco, the rebuilding of government buildings, schools, and highways which is still an ongoing process. The funds aren't available to complete those projects.

In Massachusetts, each year another school district goes bankrupt because of Proposition 2 1/2. Class sizes have drastically increased. Thousands of school employees became

unemployed, further creating a downward economic spiral in an already depressed state economy. Programs were slashed and educational opportunities were lost.

Is this the education that we want for our children in New Jersey? I don't think so.

The cost of I&R will not come cheaply. You will be creating regionalism, sectionalism, and moral issues which could tear at the very fiber of this State.

Members of the Committee, you are opening up a Pandora's box. And out of that box will come causes like big money -- big money causes versus those with no money -- such as the ongoing car insurance issue in California which still hasn't been resolved \$8 million later; environmental quality versus industrial development -- such as "Big Green" in California -- which has already cost \$32 million; and high tech media consultants -- versus ordinary citizens -- who would control the 30-second sound bites for a new height in their own self-serving gains. Where do we draw the line?

If I&R is adopted, the courts have already determined there can be no safeguards to prevent "big money" out-of-state interests from bankrolling New Jersey initiatives as they do in the other states -- all 23 states.

I&R would pave the way for single issues zealots to whipsaw our State legislators, forcing them to react constantly to I&R.

Why should legislators work through, and bother to take stands on very controversial issues, when they could simply sit back and wait until the people at ballot time have spoken?

And the voters' voice would be based on three sources of information: ballot pamphlets, media, and paid advertising.

No matter how honest each side is, the bottom line is whose message is going sell, and not really what it will tell. That's the real truth about I&R, and it's been proven in every state, every year.

NJEA believes more people should be involved in the political process, but they should be involved in campaigning, and in committee hearings, and in giving their input. They should be involved in working to elect honest, intelligent, lawmakers who can be trusted to apply their very best judgment to the questions of the day. The system of representative government works, even if some voters don't like everything every representative does.

NJEA urges you as legislators, elected by the people, to continue to represent the people to the very best of your ability. Please reject the release of any Initiative and Referendum bills.

Thank you very much.

ASSEMBLYMAN MARTIN: Questions of Ms. Kraemer?

Mr. Rooney.

ASSEMBLYMAN ROONEY: Yes. It says you conducted a poll of your members. Can you fill us in on what that poll revealed?

MS. KRAEMER: It overwhelmingly says that our people do not want to see Initiative and Referendum. We're an organization representing 138,000 people, so we have ongoing polls of our people for the last five years, including a lot of other issues along with Initiative and Referendum. Overwhelmingly, our people are opposed. Otherwise I wouldn't be here.

ASSEMBLYMAN ROONEY: Well, could you share with us the results of those polls? Would you give us some tallies or poll questions--

MS. KRAEMER: Well, I just did.

ASSEMBLYMAN ROONEY: We'd like to see some numbers; some actual numbers.

MS. KRAEMER: Oh. It's an internal document. I&R is not the only question on this document that went to the members.

ASSEMBLYMAN ROONEY: Can you just extract the information we question? We'd really appreciate it.

ASSEMBLYMAN MARTIN: Thank you.

MS. KRAEMER: Thank you.

ASSEMBLYMAN MARTIN: Phil Kirschner, Executive Director of Employer Legislative Committees of New Jersey.

P H I L I P K I R S C H N E R, ESQ.: Thank you, Mr. Chairman. I'm Phil Kirschner. I'm the Executive Director of the Employer Legislative Committees of New Jersey. The Employer Legislative Committees of New Jersey, or the ELCs as they're better known, is an independent group of employers with chapters representing all 21 counties. They're a grass-roots organization of thousands of businesses -- overwhelmingly small businesses -- that meet, generally, monthly with the legislators to facilitate a dialogue between business and the Legislature. The ELCs vigorously oppose I&R. The ELCs firmly believe -- because of the experience in other states -- that I&R is often used as a vehicle for antibusiness proposals, and antigrowth proposals that threaten to damage the economy. We don't believe that this is theoretical. This is actual.

For a minute, let us take a look at some of the proposals that are likely to be on the ballot this year, 1992, in various I&R states. This is the reality of I&R: In Michigan, a proposal will be on the ballot that will increase business taxes three-quarters of a billion dollars -- \$750,000,000. Three initiatives submitted in the 1992 session of the Massachusetts Legislature are: public disclosure of corporate tax returns; a new excise tax on business -- roughly \$150 million; and severe product packaging restrictions.

All three proposals are likely to appear on the ballot this year. I should note that Massachusetts is an indirect initiative state with a process that is similar to what is in the I&R bills before you, that you submit proposals to the Legislature first -- they have a period of time with which to act -- and if they don't approve it, it goes on the ballot.

In Oregon, advocates are currently circulating initiative petitions proposing that business property taxes be set at twice the level of those paid by residential taxpayers.

All of these proposals are in states that are not named California, and are either indirect initiative states or supposedly have other "safeguards," or limits in their laws. We think, therefore, in New Jersey we can reasonably expect that I&R means that there will be questions on the ballot for higher business taxes, onerous and unbalanced environmental regulations, mandated benefit-type bills, and other proposals from that ilk. Businesses deciding whether to locate or expand in the east, we believe, will shy away from New Jersey as the only state in this region where one issue groups, anticompetitive, antibusiness groups, can get initiatives on the ballot.

I do want to talk for a minute about -- there's been a lot of talk conceptually about I&R -- the supposed "safeguards" in some of the I&R bills that are before you, and why we believe that those safeguards are not real. They're really an illusion. They really don't accomplish what I think they are intended to accomplish. They give people, in general -- I think legislators, in particular -- a false sense that some of the fears of the abuse in I&R are being taken care of, but, in fact, they are not.

The first one is that the indirect nature of the I&R bills are meaningless as they provide the legislators with no real choice. The Legislature's only choice in the bills before you, when considering an I&R proposal, is to adopt a bill that is "substantially similar" or it goes on the ballot automatically after six months. This is no choice at all for you. For instance, if a proposition is submitted to raise business taxes by 10 percent, the legislators-- You must embrace the concept of higher business taxes. You have no choice. You must embrace that concept of higher business taxes. Your only decision is perhaps to cut the rate to 9

percent, maybe even 8 percent would be considered substantially similar, but that's your only choice. That's no choice at all. That's a "gun to your head" type of choice to the Legislature.

The Legislature plays no real role, no real ability to independently think through whether business taxes need to be raised or not. If you decide in your best efforts, after hearing, after analysis, that business taxes, for instance, don't need to be raised, that's too bad. It will go automatically on the ballot in a six-month period. We don't believe that that's any real choice at all. We've already shown what happens in Massachusetts really is a distinction without a difference, whether I&R is indirect or direct. They accomplish basically the same thing.

We also think the geographic limitations in this bill cannot achieve the desired result because they do not require each county, or even the majority of the southern counties, to sign petitions for I&R. The vote of the eight southern counties are combined -- combined to reach the 8 percent vote total required in the bills. Therefore, two counties -- like Camden and Ocean, which would be the two biggest counties in the region -- can combine for virtually all of the vote of South Jersey, leaving counties like Burlington and Atlantic, Cape May and Salem, and others, Cumberland, virtually without any representation in the petition process. Also, with all due respect to our Ocean County representatives, Ocean County is considered southern New Jersey, which it is not, and which dilutes the geographic limits in the bill by making it the second largest county, supposedly, in the southern region.

Perhaps even more important, there's also no requirement that the actual vote on a proposition not be dominated by a few counties. There's no requirement that a majority of the counties in the State and/or a majority of the counties in the south actually vote to pass an I&R bill. If

you really believe geographic limitations are important in getting a proposal on the ballot, isn't it even more important to have such geographic representation to actually pass and approve the proposal? It's easy to get signatures on the ballot. That doesn't take a lot of work at all. That's the easy part. What you want to show and demonstrate is that a proposal doesn't disadvantage a geographic region when a proposal is actually passed and implemented. Forget the southern counties. There's not even a requirement in this bill that the majority of the counties in the State vote to approve a proposal. So, so much for that "safeguard."

The threshold for the signature requirements, also, we do not believe would meet the goal of stopping a plethora of initiatives or having a cluttered ballot. New Jersey is ideal as a highly, densely populated State, small geographic region in which to collect signatures. Already, as you know, out-of-state signature companies are in the State. I think it's more likely that many more will come. I believe that they view New Jersey as an ideal kind of place to gather signatures because of the-- You don't have to travel a great deal. You don't have large areas of our State that are sparsely populated. There are many, many states, for instance, where I&R is, where they have counties with 2000, 3000, 5000 people -- entire counties. We don't have that here. So, the signature requirement, we think, really has to be thought of.

Finally, any safeguards that you put on I&R can be eliminated by the I&R process itself. So let us dispose, once and for all that this is an I&R proposal with safeguards, at least the ones before you, that is vastly different than California. The results, in fact, will be the same.

I think another important point to make, and there's been a lot of debate back and forth on polling, what the people really believe, and back and forth-- We believe, at least from what we have seen, that I&R is not a top public priority. All

surveys or polls on I&R, that we know of, show that there is very little public awareness of what I&R is, and does not rate I&R as one of the major problems pressing the State of New Jersey. Very, very, few people went to sleep last night hoping to wake up to find out that I&R was passed this morning, in the Legislature. There is no--

ASSEMBLYMAN MARTIN: There are some in this room, Phil. (laughter)

MR. KIRSCHNER: Some in this room. I said very few -- very, very few. But, as you know, that is accurate. Yes, those same polls also show if you just go up to people and say, "In Initiative and Referendum, well, what that is, is you get a chance to vote on things on the ballot if you like it," they'd say, "Yeah, yeah we do." Put some other things in there and tell them some of the negatives, that support comes down. But is it a priority? Do people even know what it is in terms of a great awareness? No, they do not. This is initiative generated by politicians, not by the public.

Furthermore, I&R is not the way to provide solutions to complex public problems. It doesn't provide needed checks and balances. It is not an ability to look at a wide variety of solutions and pick and choose the parts of bills, or proposals that you like, and reject others. There's no fiscal analysis. There's no economic analysis.

Do you really believe that I&R is the way to solve complex issues such as health care -- who pays for it? -- solid waste disposal, education, higher education, and other problems? Can they really be solved through I&R? We believe it's a simplistic way to solve complex problems. It's a take it or leave it form of government that pits groups in society against each other in a winner take all confrontation. As we said before, it transforms decision-making on complicated issues into campaigns where slogans, bumper stickers and slick advertising campaigns prevail over reasoned and rational debate.

I think that's the irony -- the irony of I&R. Everything that people, today, abhor about campaigns is what I&R is about -- the slick commercials, the 30-second sound bites, the who's supporting an issue and what dirt they have in their closets, as opposed to the substance of the proposal and what it really means. It's what the reality is in I&R in other states; not some great rational public debate on whether something is good or bad.

Finally, contrary to the notion that I&R provides power to the typical voter, it actually makes the lawmaking process so costly that only those with money and access to the media can get their initiatives on the ballot. It gives tremendous power, therefore -- and that is the history of I&R in other states -- to one-issue groups that have money and access to the media to get on the ballot. I mean, God forbid, if this State is going to be turned into 101.5 generated proposals, and that's what is going to dominate the political initiatives in this State. That's not the way to run government. We're not saying that government and the way it is now, is the be-all and end-all; it certainly has faults. It can be ponderous at times. Legislators make good decisions and they make bad decisions, but I think they try to reach the best decisions that they know how, based on the wealth of information that they have.

This is not the way to go. It's simply a very bad idea, and we ask you to reject it.

ASSEMBLYMAN MARTIN: Thank you. I would just point out that among the issues that this Committee will be considering in releasing a bill, would be a provision in the language of the legislation itself that would prevent any alteration of the I&R process which you can do within the constitutional amendment, as you know, Phil. Secondly, we would be looking at potentially greater geographic protection than in the current bills before us, such as all county or

further distribution techniques, thirdly, a limit of the number of the I&R's in a given year; and fourthly, at least, the potential of greater than a 50 percent majority on passage, such as the 55 percent that was upheld in the East Lake case before the U.S. Supreme Court. So, there's a number of ways that we will at least be considering some of the issues you have addressed.

Any questions for Mr. Kirschner? (negative response)

Thank you.

MR. KIRSCHNER: Thank you, Mr. Chairman.

ASSEMBLYMAN MARTIN: Next is Barbara Trought, New Jersey League of Women Voters. After Barbara, there is William Faherty, James Morford, John Tomicki, Rob Stuart and Vincent Miller.

D O T T I E D U N F E E: Thank you for the opportunity to speak to you today. Copies of the League's testimony are being passed to members of the Committee. I am Dottie Dunfee, Advocacy Vice President for the League of Women Voters of New Jersey. I represent 70 local Leagues in the municipalities and counties throughout the State.

Before taking a position on an issue, the League determines the viewpoints of its members through an intensive study process leading to a "consensus" position. These positions are reviewed and reaffirmed on a regular basis. League support or opposition to particular legislation is always based on these consensus positions. So, we always have member input and support for what we do.

In 1982, the League used this process to determine that indirect initiative and referendum should be available to New Jersey voters. Our study included input from 16 Leagues throughout the country where Initiative and Referendum was already in place. These Leagues reported that their experience had been positive. Current correspondence with other state Leagues indicate that these Leagues continue to be supportive

and are working on measures to refine and strengthen their I&R procedures.

To be frank, we really wish it weren't necessary to be here today to advocate for I&R. In an ideal representative system like the one our forefathers probably envisioned, there would be no need for I&R because legislators would clearly reflect, represent, and respond to the views of their constituents.

But in the complex political world of 1992, voters perceive, rightly or wrongly, that that ideal does not exist. Instead, they perceive that legislators have been unable or unwilling to enact meaningful campaign finance reform. They perceive that lobbyists, backed by big money interests, exert undue influence in the Legislature. They perceive that virtually all incumbents are assured of re-election. They perceive that the "little guy or gal," the single voter, has been squeezed out.

The League views I&R as an extension of the citizens' right to vote and, hopefully, a vehicle for changing these kinds of perceptions and for bringing citizens back into a system in which they are represented. But we also believe that the process needs stringent safeguards to protect it from the very factors I was just talking about. The League insists that:

- \* The initiative should be an indirect one where registered voters may petition the Legislature to consider specific proposals or constitutional amendments.

- \* We insist that signatures on petitions should represent a wide geographical distribution of voters. I think we've been talking about that before.

- \* The number of signatures required should be a reasonable percentage of the voters in the last gubernatorial election.

- \* Adequate information on the issue should be provided to voters by the State.

Our position also calls for setting limits on contributions, and for banning paid petition solicitors. We recommend that these limitations be considered in a constitutionally appropriate manner.

The League's Board of Directors has voted to support Assembly Concurrent Resolution No. 1, as the bill that most nearly meets our criteria. We specifically endorse the percentages cited in Section II, items 1(a) and (b). The information contained therein is summarized in the third paragraph of the statement on page seven. If you'll bear with me, I would like to read this because it's a very integral part of the safeguards contained in the League position, and I think it's also relevant to other things that have been said here this morning:

To qualify a proposed constitutional amendment for submission to the Legislature, the initiative petition which proposed that it must contain a number of signatures equal to at least 12 percent of the number of votes cast in the State in the gubernatorial election preceding certification of the petition for circulation. To qualify a petition proposing consideration of a law, the number of signatures must equal at least 8 percent of that turnout figure. These signature requirements apply regionally as well as statewide: a petition must include signatures from the eight southernmost counties of the State equal in number to at least 12 percent or 8 percent, as appropriate of the gubernatorial election turnout within those counties. A corresponding requirement applies to signatures obtained from the other 13 counties. Signatures from any one county in excess of 15 percent of the total number required statewide are disregarded in determining whether that required number has been obtained. 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.

The League would be reluctant to support legislation which is based on smaller percentages than these.

We also firmly believe that before the issue goes to the people, the procedures should be clearly spelled out, -- as I believe this Committee intends to do -- the enabling legislation should be written, and it should be available for evaluation.

The safeguards cited are a specific part of our position on indirect Initiative and Referendum. But the League's interest in the issue is broader than a single study. We are not a special interest group; instead, our overall goal is to encourage informed and active participation of all citizens in government. We fervently hope that the petition signing process and the attendant media coverage will serve to better inform citizens. Perhaps a desire to sign petitions will motivate people to register to vote.

I thank you for your attention this morning.

ASSEMBLYMAN MARTIN: I would merely point out as some of the other spokespersons have indicated-- I assume that the League is aware that U.S. Supreme Court in 1988 in a Colorado matter said that paid signature gatherers cannot be banned, because it violates the First Amendment, so--

MS. DUNFEE: We are aware.

ASSEMBLYMAN MARTIN: I don't know whether that was taken into consideration when that report was initially done. I think it's a fact of life that there may be some ways to deal with that, but I don't think it can be avoided entirely.

MS. DUNFEE: This is why we use the term "constitutionally appropriate." It was part of our 1982 study. Since that time the Supreme Court decisions have come down. We would just like you to consider if there are constitutionally appropriate ways in which to provide something of a safeguard along those lines.

(UNIDENTIFIED SPEAKER FROM AUDIENCE): Mr. Chairman, we can't hear a word.

ASSEMBLYMAN MARTIN: Well, she's done. (laughter)

**New Jersey State Library**

Any questions?

(UNIDENTIFIED SPEAKER FROM AUDIENCE:) What side is she on?

MS. DUNFEE: We're for.

ASSEMBLYMAN MARTIN: She doesn't represent a special interest, but-- (laughter)

Thank you.

MS. DUNFEE: Thank you.

Mr. Faherty from the New Jersey State Chamber of Commerce. That little mike is the one you can speak into for greater volume. Would you pull that switch towards you on the mike and it will--

W I L L I A M F. F A H E R T Y: Testing.

ASSEMBLYMAN MARTIN: Good.

MR. FAHERTY: Mr. Chairman, my name is Bill Faherty. I'm President of the New Jersey Chamber of Commerce, have been since August 1 of 1991. Before that I was Deputy Mayor of the City of Trenton. I see a young man by the name of John Hartmann. Was your great-grandfather the former great Mayor Hartmann of Trenton?

ASSEMBLYMAN HARTMANN: No, my great-grandfather came over from Romania.

MR. FAHERTY: All right. It's spelled the same way. It was John A. Hartmann and he lived on Centre Street, and really one of the great Mayors of our great city. I was deputy to another great Mayor, Arthur Holland, and for the past-- I was also Deputy Commissioner of Banking and Insurance for six years, and for the past 22 years headed our Governmental Affairs Department and Government Banking Department of First Fidelity Bank.

Mr. Chairman, and members of the State Government Committee and other members of the Legislature: Thank you for the invitation to speak at this mornings hearing of the Committee on the issue of Initiative and Referendum.

I feel its important in my role as State Chamber President to speak out on public issues that affect business and our State's economy. Unfortunately, there are so many vexing issues that face our State, such as State spending and taxes, regulatory reform, governmental efficiency, the environment, health care reform, transportation, and a hundred others that make up the Chamber's 1992 legislative agenda for business that Jim Morford and Bill Healey recently sent you, about two months ago.

They are the real problems that need the Legislature's attention to achieve real solutions. In all candor, I must say that instead of I&R, I wish we were addressing those very real problems this morning.

Like it or not, we are convinced that an I&R process won't provide the effective solutions those complex problems that I just spoke about, and others require. Our business and professional members in all 21 counties believe that complicated public policy issues cannot be addressed by bumper sticker slogans -- you've heard it before -- 30-second commercials nor a simple "yes" or "no" answer in the voting booth, based on a 100-word statement.

Each day that the real key issues and problems of this State go unsolved, a more uncertain future is created for our economy, our businesses, and our citizens. That's the message I hear from our members everyday, and I might tell you that it is my goal-- We have 148 Chambers of Commerce, and I've visited one-quarter of them since I've been there, personally. It is my goal to visit every one of them, and I hear this every day from them.

Let me digress for a moment to dispel another myth you've probably heard.

Contrary to the rumor, the New Jersey Chamber of Commerce is far from a big business group. We have our large corporations and naturally we're very proud of them. Fully 75 percent of our members are small businesses, employing -- believe it or not -- less than 50 employees.

Last fall, through the efforts of Science Management, Inc., Jim Skidmore, President and CEO, a member of our Board-- We did a detailed survey. It was the first one done since 1971 when the late Dr. George Gallup, who was also a member of our Board, deceased now, did this survey for our membership. We did a complete survey of our membership on a wide variety of matters, including how and what issues should be immediately addressed by the new Legislature. You have those facts; we've sent them to you. But I want to remind you what they were. There were many choices of legislative issues listed in our survey, at the time, including the slot -- and we didn't put down at the bottom -- for I&R. Did it make businesses' top 10 of the New Jersey State Chamber? No, it did not. Did it make our top 20? I'm sorry; again, no way.

Our members listed as your top five legislative issues for this year -- the new Legislature: 1) Health care costs -- not true in 1971, 2) Regulatory reform -- not true in 1971, believe it or not, environmental laws, unheard of in '71, 4) this was true in '71 -- taxation and spending, and 5) education reform -- not true in '71, of the first five, the only one: taxation and spending.

But make no mistake. We do have a very real interest in I&R but it is a negative one. We do not want to see it implemented as a supposed means to solve problems. Rather, businesses wish to avoid I&R so that key issues may continue to be effectively resolved by you, the elected representatives of the people of New Jersey.

We have been complimentary, as you know, on the job that you, this Legislature has done in its first few months. And we've told you so. But there are many pressing problems that are far from being solved.

Let's get on with the resolving of those issues. We're here to help, believe me, but let's not spend more time addressing the "placebo" that is labeled I&R.

I call I&R a "placebo" because we think the term fits. It's a drug that really has no therapeutic benefit, yet it makes the patient feel very good. How apropos. In this case, don't address the problem, don't plan, don't create a solution. Turn it over to the people. Let them decide. It will make them feel very good.

Unfortunately gentlemen and ladies, that is not representative government which this nation was built on. That's not even, I'm sorry to say -- I feel, personally, and our membership -- responsible government which every one of you were elected to do.

I think the voters of New Jersey demand more. That's why there was such a turnover in the legislative ranks last fall. This has been said before, but I want to emphasize that. Voters will judge you, your Legislature, by your progress in dealing with the State's real problems that I mentioned before -- the first five. They'll not judge you by how many questions you ask them to decide, questions that Legislature, as a body, chooses not to address. I can't emphasize this enough.

The State Chamber believes a large part of the debate on this issue should be about legislative responsibility.

Because New Jersey is so populous and diverse, we ask you as legislators to come to Trenton as our -- truly -- representatives to deliberate and make reasoned, informed decisions on our behalf.

Let me refer to another analogy, one that you can probably relate to in your "other lives," which are important, as maybe owners, managers, or employees of a business, not a big business; a small business, or as a professional person.

I would liken the voters of New Jersey to stockholders of a business. The voters are the stockholders of our State. They choose to invest their votes in all of you. As legislators, you are a board of directors. The Governor is the

CEO, the Chief Executive Officer. The stockholders entrust you, the Legislature, to make basic policy decisions and provide good direction. If legislators start asking voters to make all the decisions, or if a board of directors suddenly asked the stockholders as to how many paper clips to buy, how many widgets to use in their factories, or where to market their products, I would start to question the credibility of that management. It wouldn't be around too long.

Let me say again, this Legislature will be judged the next year on the progress you've made on our State's pressing problems: those first five major issues, not on the perception of the solution of I&R.

All of us have "wish lists," things we like to see if this were a perfect world. I certainly have them in the State Chamber. Each person's "wish list" is different, though.

We would all like to see taxes reduced, lowered insurance rates, uncongested roads, and elimination of every other nagging problem we face everyday. Let's not kid ourselves that we can magically wish away our woes through I&R. We cannot.

The New Jersey Chamber of Commerce is a known entity here in Trenton, and we're proud. It's important that we effectively represent our members. Sometimes, and most of the time, we support legislative initiatives. Other times, unfortunately, we must oppose. This obviously, is an occasion for the latter.

Sometimes we're frustrated by the legislative process, just as I'm sure you are. But flawed that it may be, it tries -- and generally succeeds -- to take into account the views of numerous interests in this State.

Representative democracy has accommodated the diverse needs of our State and our nation and for more than 200 years, as we all know. Forty-five years ago -- and I was there -- in 1947, that was reaffirmed when our Constitution was completely redrawn and no provision was made for I&R.

In 1992, it's time to reaffirm the responsibility of a representative Legislature, and work its details. On behalf of the 110 Chambers throughout New Jersey, its 45,000 businesses and three million employees they represent, we know you'll be capable of this great challenge. We look forward to working with you to find real solutions to our many problems in the give and take of the legislative process.

We firmly believe -- I state it again -- that I&R is not the solution, or even a realistic means to solution of the many complex issues facing our State. For that reason, we'll continue to oppose it in any way, shape, form, or fancy package.

On behalf of the 45,000 members of the New Jersey Chamber of Commerce, and the 110 Chambers throughout the State, I want to thank you for the opportunity to present the views of our Chambers of Commerce, based on 80 active years of aggressive and sound government, and a healthy economy for New Jersey's businesses and their employees.

I thank you. I also have copies of my remarks.

ASSEMBLYMAN MARTIN: Thank you, Bill.

Any questions? (negative response)

Next is Jim Morford, Executive Director, New Jersey SEED.

J A M E S C. M O R F O R D: Chairman Martin, members of the Assembly State Government Committee, I'm Jim Morford, Executive Director and Secretary of the New Jersey Society for Environmental Economic Development -- NJ SEED -- which is New Jersey's leading business and labor advocacy organization.

Thank you for the opportunity to address this public hearing on the subject of Initiative and Referendum.

At the November 15, 1991 meeting of the NJ SEED Board of Trustees the Society's long-standing opposition to Initiative and Referendum was reaffirmed. NJ SEED considers I&R to be a threat to our State's carefully crafted constitutional system of checks and balances through representative democracy.

A New Jersey I&R system that even comes close to replicating California's would be, in our view, a disaster for our State. On the other hand, creating a New Jersey I&R system so restrictive that it is very difficult to utilize will surely draw objections from the most vocal proponents who can be expected to employ that very system to create one more, like the California chaos.

Representative democracy as provided for in our Federal and State Constitutions was designed for efficiency or simplicity. It was designed to craft public policy through the give and take of ideas in the caldron of the legislative process resulting in majority consensus that is sensitive to protecting the rights of minorities. This vital process can be lost under I&R where issues are chiseled in stone many months before the voters who, at the end of sound bite and bumper sticker campaigns, must cast a simple yes or no vote -- with no opportunity to offer amendments or changes.

One only need look at the proponents of I&R to recognize that they are dominated by the most extremist elements in our society both on the extreme left and the extreme right. Extremists' issues are often not addressed by Legislatures, certainly not to the satisfaction of the extremists. The I&R process, however, is ideal for extremist causes.

To unleash upon the citizens of New Jersey the kind of divisive and disruptive issues that will surely emerge as ballot initiatives from every special interest group that feels its will has been thwarted by the legislative process, is a needless mechanism to set citizen against citizen, region against region, and race against race.

I&R is a very costly process, not just in its social costs, but also in real dollars. It will be an expensive system to institute, requiring a new or greatly expanded State bureaucracy. It will be an extraordinarily expensive system

for those who must defend themselves against ballot initiatives. Ballot campaigns cost real money. The cost of getting messages across to a statewide electorate will run into the millions of dollars for each question. Proposals to limit what can be spent on such campaigns, and on the petition gatherers as you've heard suggested even again today, run up against the First Amendment guarantees in the United States Constitution, and as you've alluded to, Mr. Chairman, have been addressed by the courts.

There is compelling evidence that in these difficult economic times, when states are seeking to retain and attract business, companies are reluctant to locate in states with I&R. Even more alarming is the trend of companies moving out of I&R states because I&R adds so substantially not only to the cost of doing business, but to creating an unstable business climate.

NJ SEED believes that the system of checks and balances crafted by our founding fathers at both the State and Federal levels works in the best interest of the overwhelming majority of citizens. The citizens of New Jersey are perfectly capable of exercising their voice in the electoral process. The general election last November clearly demonstrated that if the public feels it is poorly represented the voters will make changes in their representation. The citizens elect their representatives to do the job of analyzing issues and crafting public policies in the give and take of the process known as representative democracy.

We believe that you, our elected representatives, are capable to exercise your responsibilities. We would hope that you would have the same confidence in yourselves to accept that responsibility and not abandon it to the extremism of I&R.

Thank you.

ASSEMBLYMAN MARTIN: Any questions? (negative response)

Thank you Mr. Morford.

Is John Tomicki here, from the League of American Families? (no response) Seeing that he is not, Rob Stuart, from NJPIRG. After Rob Stuart will be Vincent Miller, Chester Jankowski, Don Lippincott, and Eugenia Pitts.

**R O B S T U A R T:** Good morning, Mr. Chairman, members of the Committee. (addressed to Assemblyman Rooney) Happy birthday.

My name is Rob Stuart. I am the Program Director of the New Jersey Public Interest Research Group. Those of you who don't know, NJPIRG is a nonpartisan, nonprofit research and advocacy organization. We work on environmental preservation, consumer protection, and good government issues.

I want to thank the Committee, especially you, Chairman Martin, for allowing us the opportunity to appear and present testimony in support of amending New Jersey's Constitution to provide for an initiative and referendum process in New Jersey.

I believe NJPIRG brings a unique perspective to the Committee. As opposed to some of the previous speakers, NJPIRG has extensive experience both working on issues in the Legislature as well as organizing citizens outside the Legislature. NJPIRG also spearheaded the only petition drive to qualify a question for the ballot on the county level. Thus, we bring practical experience of what it takes to collect signatures of registered voters for a binding initiative question.

We believe, and urge you to act in favor of adopting an I&R amendment as a check on the undue special interest influence here in Trenton. I&R will not eliminate these lobbyists as some here might suggest. It is not a panacea for all of our State's problems. Nor will the citizens attempt to use it in such a fashion, but it will involve and elevate the average citizen's impact on the lawmaking process. I&R will

not replace the Legislature. Again, as I just heard, it will complement the Legislature.

Too many times, issues that need to be debated, need to be resolved in the public's interest, are stalled or defeated or delayed by the interests here in Trenton. An I&R process will not guarantee victory for all of these issues, but it will lift the special interest curtain that may keep a particular issue out of the public's view. I&R will let common sense ideas out of the political darkness that can be created by vested interest, and the arguments freely compete in the light and in the plain view of New Jersey voters.

Even if an initiative is ultimately defeated on the ballot, as the Mercer County Bottle Bill Question was in 1988 -- and I see some of my friends from that campaign are here to tell you about it, I guess there were public policy benefits. Citizens petitioned in Mercer County because Mercer County had not adopted a mandatory recycling ordinance, was in violation of the State law in thus doing so, and because deposits on containers are a proven way to collect and recycle large percentages of glass, aluminum, and plastic. Out of county and out-of-state interests contributed over \$400,000 to defeat the measure, but on a special Saturday session -- I don't know of one prior to that; I don't know of one since -- the Mercer County Freeholders approve the most comprehensive mandatory recycling ordinance in the State three days before the election.

I&R can be a fair system. Ideas and proposals should be allowed to be debated in as honest a fashion as possible. What could be more honest than having citizens petitioning each other in their neighborhoods, stores, and schools. Yet, we urge the Committee to include appropriate protections -- and I think we've supplied some of them -- that would guarantee that citizens are given the most complete information about the question: who supports it, their arguments, who opposes it, their arguments, and where the money that is being spent on a

campaign is coming from. As in all elections, one cannot control all the influences, but given that in a referendum everyone can participate and the citizens ultimately decide, no other form of government could be fairer.

We believe the Committee should approve an I&R process the people can use. It is very important not to set up artificial barriers to democracy and participation. We support the lower threshold signatures established under ACR-57 as modest, reasonable, and consistent with what other states now operate under. Contrary to those who have testified and may testify after me, given our experience with signature collection, you should not assume the collection of over 100,000 signatures or more, is easy. People are not willing to "sign anything," and not everyone willing to sign a petition is qualified to sign that petition. In addition we urge the Committee not to establish additional barriers, such as a requirement for specific distribution of signatures, because while the intent of making sure there's broad support for an initiative is understandable, the end result might be to put the whole I&R process into the courts or needlessly disqualify a well-qualified and popular initiative because the logistics and the organization needed to meet those requirements are beyond the ability of average citizens.

And I want to depart and say I'm very concerned about some of the discussion items, if you will, Mr. Chairman, that you discussed. Putting super majority requirements or distribution requirements that are far above what it takes to be Governor of this State, to be elected a representative of this State, to approve bond issues in this State, to approve constitutional amendments in this State, in an I&R process would not be fair to citizens and would not be providing them an I&R process. So we seriously hope that while you will consider the suggestions that may have come from I&R opponents, that you will reject them.

Throughout the hearings so far you've heard from a number of witnesses that I&R is not needed because the Legislature thoroughly debates and decides issues in such a way that it is beneficial to the public. I've been working in the halls of the Legislature for almost 10 years now. I sort of feel like I grew up here. I wish I could agree with that statement. Too often, the only reason a bill moves or doesn't move is because a particular interest "wants it", or a particular member or party "needs it." The merit of the issues gets lost in discussions on what effect action or non-action might have on a particular election or interest group. Often bills move so quickly that only a few legislators and lobbyists actually know what a particular law does or does not do. Often the rules can be used or abused to "fast track" or "derail" a bill solely because of politics.

I&R is not perfect, but rest assured, any issue that qualifies for legislative consideration under an indirect system is going to have been debated, examined publicly, and more commonly known about than most of the issues on the Legislature's agenda, or the bond issues, or constitutional questions which are currently on the ballot. If a citizen proposal actually is placed on the ballot -- and contrary to what you've heard, again, most do not qualify and few make it to the ballot -- it will probably have been in the public arena for at least two years. That is far longer than a number of measures which have been railroaded through the Legislature by particular interests who know the process and have the money to make that process work.

As you know, I&R is feared. You hear it again, you see it, and I think that's unfortunate because I&R is feared by those who are comfortable with the system the way it is and by those who are afraid to get out and explain their issues. I&R is an active process. Those who want change will be out telling their neighbors why, and those who oppose change will

have to go out and tell their side of the story. Ultimately the people decide. They decide whether or not they're going to sign a petition; they decide whether or not the Legislature's action satisfies their quest; and in some cases they will decide an issue at the ballot. I&R empowers citizens with ideas with a process to be heard and allows those ideas to become reality if there is popular support. What's there to be afraid of?

There are more arguments to address than there's time in testimony, so I've attached and would like to enter into the record an excellent chapter and appendix from a book written by David Schmidt who's been before this Committee in previous deliberations, "Citizen Lawmakers." It effectively discusses many of the common questions about I&R and provides a comprehensive list of the initiatives proposed in recent history and the outcome of those referendums. I think it's well worth reading. I wish our opponents would read it. If they had, specifically those who represent the NJEA, they would have been able to tell you that in recent years, since Proposition 2 1/2 in Massachusetts, since Proposition -- I guess it was 13 -- in California, voters have approved increases in education spending. They've approved them in California, as a matter of fact. There is no pattern that can be concluded from the list. Taxes have been raised. Missouri actually increased the sales tax by 1 percent -- Missouri voters. The vote was 70 percent to 30 percent. Education funding has been increased, as I said. Strong environmental protection measures have been approved. Big Green lost, so it didn't cost the state of California anything. Others have been defeated. Campaign finance reform hasn't been approved; term limits have been defeated.

What's clear in all this -- and I urge you to look at that list -- is that citizens can use and do use the petition process to initiate innovative ideas, and many of the issues

that remain on our legislative table have already been decided in I&R states.

In closing, I want to commend the Committee for taking the time to hear from citizens, to hold evening hearings outside Trenton, for offering the hope that this, in fact, may be the year that New Jersey finally lets the people decide whether we should have I&R. I would urge you to look beyond the horror stories and the fear that many well-meaning people here are testifying to. I think it comes down to two simple questions: Do you trust the people or not? And if not, why not give a chance to prove you wrong?

Thank you for the opportunity to testify. As I said earlier, we stand ready to assist you in your effort in crafting an I&R which satisfies not only the people, but this Committee.

I have one last thing to do and that is to give you something; not this Committee in particular, but this is a-- Attached to my testimony you'll find a list, a list of those interests that have testified so far, against Initiative and Referendum, and what they've spent to influence the Legislature. The total is over \$3.2 million. I ask you to take this but to reject it, symbolically, in that the PAC shouldn't decide whether or not we have I&R; the people should.

ASSEMBLYMAN MARTIN: We'll enter it as exhibit "A" and-- (laughter) (Mr. Stuart holds up large placard)

UNIDENTIFIED SPEAKER FROM AUDIENCE: Do you have any wallet-size? (laughter) Can you hold that up a minute for us, Assemblyman?

ASSEMBLYMAN MARTIN: I think it would be appropriate for Mr. Stuart to do that. It's his work product.

MR. STUART: Obviously I would be interested in any questions you may have.

ASSEMBLYMAN MARTIN: I would just point out, Rob, we've been through this discussion before, but with respect to

the geographical distribution, you know in order for this to get on the ballot in November, an I&R would have to pass by three-fifths of both Houses of the Legislature. And while I can't speak for the rest of the Legislature, I can tell you that there are more than a few, as you well know, who have real concern about ganging up on certain geographic areas in order to be able to achieve that, whether it be one year or two years as the Constitution allows. It might be-- To do it at all, whether you agree with the principle, it might have to allow with some type of geographical protection.

MR. STUART: The point we are making to those legislators that are in this, that raise those issues, is that if you look through again the comprehensive list which I've supplied to the Committee, hundreds of initiatives in states with north/south separations such as California, Illinois, Washington State, that the difference in geographic interests of those states are probably larger than those that exist in New Jersey, and there is no evidence that citizens from one end of the state want to do anything to the citizens in another part of the state. If that was the case, legislators like yourselves, which represent various areas of the State would be introducing bills that benefit one area over another area. We believe that this is a red herring.

And while we are interested in discussions about how one might determine that a question has broad statewide appeal beyond just putting it on the ballot, we believe that the danger of a constitutional challenge, or worse-- Well, that's actually the worse because we wouldn't be able to even have citizens petitioning, but as important, that to have a system which is logistically impossible, where you may have to have 21 clipboards or more to actually get people's signatures puts a barrier and a burden on citizens that the I&R process should not be required to have. It's going to take a lot-- We are not--

Contrary to, again, those that walk the halls of the Legislature, citizens are not going to use the initiative for every idea that may come about. They may just pick up the phone and call the legislator; it's a lot easier. In those instances, though, that citizens want to get together and they want to start petitioning, and the idea should be able to catch on, to put an artificial barrier, to put a logistical hurdle that basically sends the message that this is going to be impossible so why even try, defeats the fundamental principle of what I&R represents.

So, while we want and expect that the types of questions that we may see coming to the Legislature through an indirect process will be supported by the majority of the citizens whether they be from East Jersey or West Jersey -- and that's the way the State was traditionally split up -- or north/south, or urban/suburban -- to put artificial and logistical barriers may land us in a place we don't want to be. And that is without an Initiative and Referendum process that people can use. So that-- I, again, would like to help you out but I don't think that course is really the direction we really want to move in. And again, given that there's no history in the Initiative and Referendum states with over 1000 years of combined experience of those types of issues making it to the ballot -- are being approved on the ballot -- I'm not sure what people are really worried about.

ASSEMBLYMAN MARTIN: Are there any other questions for Mr. Stuart? (no response)

MR. STUART: No questions?

ASSEMBLYMAN MARTIN: No questions.

Joining us is Speaker Haytaian who is an ex officio member, I do believe, under our rules of all Committees. I have given the opportunity for all Committee members to speak earlier. Chuck, do you have anything to say? (negative response) He does not, at this time.

Vincent Miller is our next speaker, of the Associated General Contractors of New Jersey.

**V I N C E N T M I L L E R:** Thank you, Mr. Chairman, and members of the Committee. I speak on behalf of the Associated General Contractors of New Jersey.

We are an organization of 90 contractors involved in heavy highway construction in this State. The AGC is one of 101 chapters of the AGC of America, the largest construction trade organization in the country. Yet the vast majority of our members are small businesses.

We are in total opposition to the legislation being considered today. We hold this position for no self-serving reason, but rather because I&R represents a serious deviation from the system of checks and balances inherent in the democratic system of government we have in this State. This system has served New Jersey well for over 200 years and is, indeed, the reason I have the opportunity to speak before you today.

Rather than bringing democracy closer to the average New Jersey voter, we believe I&R would actually disenfranchise -- deprive them of the representation they now enjoy. It would take the lawmaking power out of the hands of those legally elected to represent them and put it into the hands of groups driven by a single purpose. The experience in other states and discussed here before, has revealed that this is, in fact, the case.

We believe that the average New Jersey resident has elected you and believes that you are there to make those tough decisions. Hearing from all sides of an issue as you have today and weighing the consequences are all part of the process that makes those decisions possible.

With I&R, there can only be yes and no answers. The spirit of compromise which is essential in any democratic form of government is virtually nonexistent. We urge you to vote no on this issue and put it to rest once and for all.

Those are my brief remarks of submitted testimony, so I just wanted to say those general comments today. I want to thank you again for the opportunity of being up here.

ASSEMBLYMAN MARTIN: Thank you, Mr. Miller.

Any questions? (negative response)

Thank you.

Next, we have Chester Jankowski from Jersey City. Is he here? Not seeing him, Don Lippincott, Chairman of New Jersey Hands '91. Is he here? (no response) Is there a representative from Hands '91? John Budzash is on my list. He's already spoken, but there may be someone else who's speaking today for--

UNIDENTIFIED SPEAKER FROM AUDIENCE: John is outside.

ASSEMBLYMAN MARTIN: I'm not asking for John. John has spoken, but there was some indication there might be an alternative person. If you want to discuss it with him--

UNIDENTIFIED SPEAKER FROM AUDIENCE: He just walked in.

ASSEMBLYMAN MARTIN: John, we're not asking you to speak at this time if there was somebody else from your group, maybe you can submit that name. We'll give them an opportunity.  
J O H N B U D Z A S H: Okay. No, they weren't able to show up today. I'm the only representative.

ASSEMBLYMAN MARTIN: Eugenia Pitts from the Monmouth Ocean Development Council. Then we'll have Bob Hoffmeier, if he's here, T.J. Mullen and Linda Pullen.

Good morning.

E U G E N I A P I T T S: Good morning, actually, good afternoon, Mr. Chairman and members of the Committee, and Mr. Speaker. I am Eugenia Pitts, Executive Director of the Monmouth Ocean Development Council. MODC is a private, nonprofit, nonpartisan organization of over 500 members dedicated to the economic, cultural, educational, and environmental growth of Monmouth and Ocean Counties.

One of our prime objectives is to promote the balanced and orderly growth of the two counties through the interaction of business, cultural, governmental, educational, and community leaders. Our members represent a wide spectrum of employees from sole proprietors to large manufacturers and public utilities.

I am here today to present the position of MODC's membership in opposition to government by Initiative and Referendum. After much deliberation and careful study by our Legislative and Transportation committees, the Executive Committee of MODC unanimously adopted a position in opposition to I&R. A copy of the resolution adopted by the Executive Committee has been forwarded to your Committee, and I have copies here with me today, so I will not repeat the contents of the document, but rather focus on several of the many issues of concern to our membership.

First, we believe that I&R would change the deliberative process in which our government carefully weighs and studies the issues. We do not always agree with legislation that comes down from on high, but frankly, the process that we currently have, as flawed as it may be, is preferable to having literally hundreds, if not thousands of "legislators" on the streets. We live in a state where we have difficulty getting a majority of the electorate to the polls on any issue. Legislators are elected with less than 50 percent of the eligible vote on many occasions. Bond issues, referenda, and school budgets are passed or defeated by a single vote in elections, the total of which can be counted in the one hundreds, sometimes only a fraction of that.

Now, under any of the I&R proposals, we're going to compound the problem by giving every special interest two bites of the apple: first, a review of the Legislature, then if the Legislature fails to adopt their proposal, then the general electorate. Then we will have minority interests decided by a

minority and more voters will be disaffected by the more complicated process, and the Legislature's review must be conducted in six months. Imagine that we can expect extremely complex legislation to be reviewed in only six months, and some of that proposed legislation may require changes in the Constitution. Think of it: The extraordinary deliberative process that developed the State Constitution, and the United States Constitution, compressed into six months and subject to change every general election. Moreover, we believe that with I&R in any form, public policy would be driven by narrow interest with little thought for the good of the general welfare, or consideration of the impact.

The California model is often espoused as the epitome of I&R, yet this Legislature should take a very close look at that state's real results.

The President of MODC, Frank McDonough, is a former resident of the state of California, having lived there for 15 years. Without reservation, he disputes the great gloss placed on I&R by those who point to the California model. Each election produces voluminous booklets -- both in Spanish and English -- which attempt to explain the numerous referenda on the ballot. In the most ballyhooed referenda which included the proposition known as Big Green, the explanatory booklet reportedly ran to 250 pages. More importantly, it doesn't take a political scientist to see the impact of the referenda in California over the last 15 years on the state's financial solvency. Since the early 80s when the first attacks on the state taxes, Proposition 13, insurance, and other issues were launched, that state has gone from budget surplus to budget deficit. A state which once boasted the most advanced educational system in the world is now struggling to maintain minimum standards. We urge this Legislature to look at those issues in depth.

Just this past Saturday, the Asbury Park Press decried the strangulation of regulation currently experienced by small business in this State. The Press editorial pointed out that mandated programs leave communities and school districts to scrape up the money to pay for what they are told they must do, whether they like it or not. That is exactly what I&R would produce for individual taxpayers and small businesses in the State of New Jersey.

Finally, what will be the first initiative if I&R is passed? I'm not going to answer that question, but leave you with this thought: What if the first initiative to be presented is a less restrictive form of I&R, or perhaps, it will be an amendment to the Constitution to do away with you, the Legislature?

If you have any questions I'll be glad to answer them.

ASSEMBLYMAN MARTIN: The first one's going to be my Bottle Bill. (laughter)

Any questions of Ms. Pitts? (no response)

Seeing there is not, thank you.

MS. PITTS: Thank you very much.

ASSEMBLYMAN MARTIN: Bob Hoffmeier, New Jersey Hands '91? Is he here? (no response) T.J. Mullen?

T. J. M U L L E N: Mr. Speaker, good afternoon, members of the State Assembly Government Committee. Thanks for the opportunity to be here.

I'm the Atlantic Regional Director for Beer Drinkers of America.

ASSEMBLYMAN MARTIN: I know you didn't poll your votes. (laughter)

MR. MULLEN: No, you're right. You're very, very right.

ASSEMBLYMAN MARTIN: And speaking personally-- (laughter)

MR. MULLEN: You know, when we talk to some of our members, though, they haven't heard anything from their legislative representatives about this either, and we were curious to find out how some of the people felt who we talked to.

Anyway, for those of you who don't know, Beer Drinkers of America is a nonprofit consumer advocacy group. It's open to people who are 21 years of age and older, and it's a simple organization. We advocate the freedom of Americans to drink beer responsibly, without excessive governmental regulation or unfair taxation. We were founded in March 1987, and today we have more than 700,000 members across the country, with more than 20,000 just here in New Jersey alone. Those are the beer drinkers who just want to stand up and be counted here in New Jersey. I'm sure that there are more than 20,000 of them.

In theory, Initiative and Referendum sounds like a useful method to empower voters and circumvent the legislative process which some believe is an unresponsive, ineffective, and very expensive form of government. In theory, a more efficient and more responsive component of government will be something Beer Drinkers of America would enthusiastically encourage. Sadly, in practice, Initiative and Referendum frequently falls far short of theoretical expectations when real issues and taxpayers' dollars are at stake.

Beer Drinkers of America is headquartered in California where we have nearly 100,000 members in that state alone and a state, which as you all certainly know, employs the Initiative and Referendum process. Consequently, the foundation of my testimony is based on our experience in California and with issues that affect the beer drinker.

Principally, our experience is based on involvement in 1990 with the Connelly Initiative, or Proposition 134. On the surface, Proposition 134 was a simple "nickel a drink" tax to help stop alcohol abuse in California. Sounds great. To beer

drinkers, just on the surface it represented a 1425 percent increase on the state tax on beer. That's just the beginning. In addition, the Initiative called for guaranteed non surtax revenue of hundreds of millions of dollars each year to support the beneficiary programs of Proposition 134. These non surtaxed dollars could have only come from one or two places: either revenue would have to be taken from existing programs, or programs like health care for the elderly or transportation, or it would have to come from a general tax increase. It's the only place that non surtax revenue is going to come from.

As with so many other initiatives, Proposition 134 was not a simple grass-roots initiative to make California a happier and better place to live. Much of the campaign money came from a group called "Five Pack." (laughter) Yeah, it's kind of funny, isn't it? Notice I didn't say six-pack. As it turns out, this group was primarily made up of wealthy private doctors, substance abuse clinic owners, and developers who were looking to increase their business with a nice \$61 million infusion of taxpayers' money. This group knew that they could easily gain support from anti-alcohol forces to further promote the initiative and ensure placement on the fall ballot.

Naturally, Beer Drinkers of America was opposed to the Proposition and activated its grass-roots network to oppose them. BDA certainly played a roll in its final rejection. However, our efforts were small, compared to the massive campaign that the alcohol industry mounted to defeat Proposition 134. They went as far as to introduce counter-proposition, which I'm sure you know happens in many of these sort of battles, to take votes away from the original Proposition 134. It was said that more than \$25 million went to fight Proposition 134. And I ask you, who paid for it?

UNIDENTIFIED SPEAKER FROM AUDIENCE: The beer drinkers.

MR. MULLEN: The consumers did. Consumers paid for it. Certainly the potential price increases were minor

compared with the huge increase it would have represented if Proposition 134 had passed. But in the long run, it was still the little guy who paid. This whole I&R process is to give the little guy a vote or a voice, and the little guy paid for it no matter what happened.

This is a reality of Initiative and Referendum; initiatives and counter initiatives, costly campaigns, misrepresentation, abuse by special interests, and voter confusion. As a theoretical model, I&R may be appealing and in some practice, may actually work. Unfortunately, as pertains to issues which affect the beer drinker -- which is really the only things that we know about it -- we found it more cumbersome, less representative, and ultimately more expensive than the legislative process it was intended to replace.

Thank you.

I have some copies of my remarks here if you'd like.

ASSEMBLYMAN MARTIN: Okay. A question from Assemblyman Baer.

ASSEMBLYMAN BAER: Mr. Stuart of PIRG had a presentation for the Committee. Do you have something to present to us? (laughter)

MR. MULLEN: It's out in the pool truck. We'll get it after lunch. Okay? (laughter)

ASSEMBLYMAN MARTIN: Campaigns sometimes make strange beer fellows, I'm sure. Thank you.

Linda Pullen, followed by Barbara Tomkiewicz.

L I N D A P U L L E N: It's going to be a tough act to follow, isn't it?

Good morning. My name is Linda Pullen. I am from Columbus, which is in Burlington County, Mansfield Township. I am here as a college student and a Columbus Home and School President, and a Mansfield Township School Board member. I hope I can add a different light on the many testimonies you already sat through. Please bear with me. You're going to think I'm drifting on in my testimony--

ASSEMBLYMAN MARTIN: Can I just ask, you're a college student from what school?

MS. PULLEN: Burlington County Community College.

ASSEMBLYMAN MARTIN: And Columbus is--

MS. PULLEN: New Jersey. Mansfield Township, Burlington County.

ASSEMBLYMAN MARTIN: Thank you.

MS. PULLEN: First, I'd like to testify as a student and a citizen. This past semester I did a term paper on I&R for a political science course. During my research I covered data from all aspects and I kept an open mind, listening to the pros and the cons in my paper. In my conclusion I stated my position which I will share with you.

After considerable research and reading through mounds of data outlining the pros and cons of I&R, my opinion is that our Legislature is open to anyone interested enough, cares enough, and has enough determination to go after what he truly believes. After all, it is the job of the legislators who are elected to represent the voters and who should be leading and governing the general population, not the special interest groups who just have the most money.

I am sure you are all aware of the history of I&R and when, where, and why it began. To those in the room who are not, I will briefly state that it began in Switzerland in 1831. It was in 1898 when South Dakota adopted I&R. Most of the states that have adopted I&R have done so between 1898 and 1918, at a time when the legislative process was closed to the public.

However, over the past 25 years, the New Jersey legislative process has been open to the public and encouraged access to the decisions made by our legislators by way of hearings such as this one, advanced lists of bills pending consideration, toll-free legislative information, district offices where many concerned citizens can call their

representative Assemblyman or Assemblywoman or Senator to express their views, and detailed reporting of the Legislature's activities and pending issues by the State House press corps. The Sunshine law must also be included in this list.

Under our current legislative process, opportunity is constantly presenting itself to those interested enough to attend or testify at a respective hearing. This in itself suggests that the need for I&R is unnecessary and highly questionable.

Secondly, I would also like to testify against I&R as a Home and School President, and school board member. This is where you might think I'm drifting. Our community is one that is labeled wealthy, under the current QEA. As you're all very much aware, not all communities that are labeled wealthy, are. In our particular case we have a retirement community which in the calculating of the QEA formula gives the impression of a wealthy district, which is far from the case.

With this information shared, I'd like to point out that in 1990 our budget was defeated for the very first time. We went through the process of meeting with our township committee and they cut \$70,000 of our \$1.9 million budget. Again, in '91 we faced another defeat. This time the township did not cut our budget; it was a unanimous decision to let it stand. All the township committee members sat on the school board at one time or another. They recognized it as a fair and honest budget and could not cut it in good conscience. However, it cost one of our committee members her seat when she came up for reelection. The person who won that election had never attended any meetings, served on any township boards, or committees. All he did, was throw out the fact that she didn't do the will of the people.

My point is that if all the people were aware that by law, the township cannot arbitrarily cut the school budgets,

they would not have let this one issue make the decision. You cannot depend on the voters to investigate the issues. They are sometimes shortsighted and do not know all the angles of a particular issue, whereas those in decision-making positions have done their homework and know the different aspects of a particular issue. To satisfy any curiosity there may be, this past budget was approved by the voters.

I got another school board member to help me register residents that were not previously registered. We informed them of the importance of their vote and tried to educate them as to what was going on in our school. This was started in January. Then as the President of the Home and School Association I presented our Home and School Board with flyers which they agreed to pay for. We mailed these flyers prior to election day. I also, as President of the Home and School sent home a newsletter after each Home and School meeting informing the parents of what is coming up and reporting on what is passed. I took the opportunity in February, March, and in April's newsletters to remind them of election day. Our Superintendent also made numerous presentations of our budget to parents and even to the retirement community. Once the people were informed, they did come out in support of our school.

My point is that a great deal of work was put forth by a team of us to have our budget approved. Not all people, or even a few, will work as hard as we did. We did it because we believe in our budget, and in our school, and are committed our children receiving a quality education.

Putting this into perspective of I&R, if all this work has to go into educating the public on a particular issue, you can almost bet that the one who has the most money will win. It was a great deal of work and a loss of family time and time we could not even spare.

Republicans believe in a representative democracy; not a direct democracy. You will be abating your responsibilities as a legislative body if I&R becomes part of our Constitution. You are in the position you are in because the people voted you in. They believed in your ability to make complex decisions, to lead and to govern. That is why you are in the seat you're presently sitting in. There are those who believe that the voters should make such decisions and are pushing for I&R. Can you honestly believe that the majority of voters will thoroughly investigate the issues in the hurried lifestyle we all lead? I know myself. I'm not a lazy person. I will find out the facts on some issues. However, my schedule would not allow me to thoroughly investigate all the issues that would come up.

In summary, I would like to reiterate what I mentioned before. The voters elect our legislators to govern us. You are the educated body to make the complex decisions; not the average voter. If we do not like what you are doing, it is our responsibility to elect someone else. As I stated before, I realize that some people are demanding I&R in view of their professed lack of confidence in our government. It is your responsibility to build public trust by executing your expertise and not be letting the interest groups take the decision-making process into their own hands.

In my research I found that the cons far outweigh the pros of I&R, and I also found that there was tremendous opposition by well-educated, well-informed citizens from all walks of life. I am sure that you have heard all the facts that I have found in my research. Please take these views seriously. If you would like, I would be happy to share my findings in my research paper with you.

I thank you for letting me be part of this legislative process, and I sincerely hope it continues in this manner.

I would like to add one thing. When I was sitting back there listening to testimony, Phil Kirschner, when he was talking about the average voter not being aware-- When I did my term paper, I was talking to a lot of different people about it, and he's absolutely right. People have no idea; general, everyday citizens have no idea. I don't know if even I would know about it if I didn't do a term paper on it -- which is right here if you'd like a copy of it -- as a student. And the average voter really has no idea of what I&R is, if you ask them. Special interest groups? Yes, they do know what I&R is, and they know what it means.

I'd like to leave a copy of my testimony for the record. Any questions? This is the first time I've ever done anything like this.

ASSEMBLYMAN MARTIN: Did you get an A on your term paper?

MS. PULLEN: You know what? He hasn't given it back to me yet. (laughter) But it's right here, and I'll be honest. I've listed the pros and the cons. It's very objective. The paper is objective.

ASSEMBLYMAN MARTIN: Well, if you leave us a copy, and as a former professor at a community college in the political science department, I'll even grade it for you. (laughter)

MS. PULLEN: Okay. Will you call me and let me know what I get? Thank you.

ASSEMBLYMAN MARTIN: Thank you.

Barbara Tomkiewicz please? After Barbara Tomkiewicz will be Ellie Stone, Maurice Hageman, Rosalind Collis, and Robert Woodford. Not seeing Barbara Tomkiewicz, Ellie Stone, Executive Director of the Jewish Federation.

**E L L I E S T O N E:** Good afternoon. Thank you very much for allowing me to testify. A member of our community testified, I guess up in Morristown, before your Committee.

I represent the 14 Jewish Federations in the State of New Jersey, representing 20 of your 21 counties. In response to the polling question, and in anticipation of it, I must tell you we did poll the memberships of the Executive Committees of the Federation, not the members of the Federations themselves, and we continue to have an area of great concern under the I&R legislation as currently formulated.

We continue as a Jewish community to support representative democracy as a form of government which provides the greatest security for both the democratic process and minority citizenry. In this regard, we learned as a minority community with religious freedoms at risk, that constitutional protections are safely secured through representative democracy.

Just to recall for your interest, the United States constitutional history originally did not include the Bill of Rights, placing minority communities at risk. It was with the adoption of the Bill of Rights, that formed the basis for separation of church and state, permitting religious diversity in the United States to be safely practiced, allowing complex religious issues to be decided on an individual basis and without government interference. Therefore, our government has evolved with separate school systems, both parochial and public, but never enjoining religion in the public domain. It is in this light of the protection of these freedoms that the Jewish community continues to support representative government.

The issues raised in the pursuit of Initiative and Referendum have left our community forced to continue to oppose any crossing over of government into areas currently protected by the Constitution. Through the election process, the electorates decide who will represent them in the Legislature and permits those elected to enact legislation in coordination with other duly constituted elected representatives. This process as you all are experienced in doing, allows for the

hearings, the open discussion, the voting and compromises, and continues to fulfill the protection of the Constitution. Although this process may appear frustrating to some, it does guarantee minority voices to receive a fair hearing. The call of the crowd, the outrage of the moment, the issue of the moment, could place at risk religions and religious freedoms, and particularly minority communities.

I therefore ask that when you consider your bill, that you consider ways of protecting the First Amendment rights and you consider ways of protecting the constitutional rights from any call in Initiative and Referendum.

I speak in experience. It is a great concern of myself and others when you allow issues that don't belong in the public domain to enter them. I'll give you an example. In this State we've passed a bill which permitted prayer in the public schools. It was overruled. When I was teaching, as a very young teacher, totally unexperienced--

ASSEMBLYMAN MARTIN: I think they called it a moment of silence.

MS. STONE: A moment of silence. In Sayerville, in this State, we still have a moment of silence. The children who do not wish to participate in that are asked either to leave the room or to stand quietly by themselves. Those issues, if raised through an I&R process, could possibly infringe upon other peoples' rights. And these protections should not be open to the call of the moment. They have served us well by forbidding them to go any further. Our courts have reviewed them and have set up standards for them, and the infringement on those standards would cause great concern to us. It would be hard for--

ASSEMBLYMAN MARTIN: Of course, you know as far as the First Amendment goes, nothing in this State we could do would supersede the protections in the U.S. Constitution, so to that extent-- I mean even if it were crafted into legislation, it

would be unnecessary with respect to the First Amendment of the U.S. Constitution.

MS. STONE: Except it's continually open to interpretation where that wall of separation occurs between public entities and religious bodies. We are asking that those protections be maintained to the fullest extent and not to the least extent, and not allow those issues to come up for Initiative and Referendum votes.

We'd be glad to work with you on language or changes. I know you've heard it from others.

ASSEMBLYMAN MARTIN: If you have any language on that I'd be more than happy to take a close look at it. I'm not sure how you would draft it.

MS. STONE: Okay. Well, it's a difficult issue, I know.

ASSEMBLYMAN MARTIN: I know you have some people who are smarter than I am in that area.

MS. STONE: Certainly smarter than I am, too, but they will supply you with the draft on the language and we hope that you will take a look at that.

I thank you.

ASSEMBLYMAN MARTIN: Thank you. Mr. Baer has a question, Ms. Stone.

MS. STONE: Oh, Byron. Excuse me, Assemblyman.

ASSEMBLYMAN BAER: Ellie, do I understand that you're saying that you want to be assured that not only individual rights that are defined by the Constitution, but other individual rights should not be subject of--

MS. STONE: Any initiatives.

ASSEMBLYMAN BAER: --any initiative or referenda. It's not just those that are protected by the Constitution?

MS. STONE: Yes. Individual rights. Protection of individual rights.

ASSEMBLYMAN BAER: Thank you.

ASSEMBLYMAN MARTIN: Thank you.

Maurice Hageman, New Jersey Association of Realtors, then after Mr. Hageman, we'll have Rosalind Collis and Bob Woodford.

M A U R I C E H A G E M A N: Good afternoon. My name is Maurice Hageman and I'm the President of the New Jersey Association of Realtors. The New Jersey Association of Realtors is a 40,000 member organization made up of people who are in the selling of real estate as licensed brokers and salespeople.

Ladies and gentlemen, I appreciate the opportunity to be able to be here and testify today. I'm also mindful of the fact that the mind sometimes can only absorb what the seat can endure. It has been a long time that we've been going through this, so if you'll bear with me--

I&R in our opinion came up from the result of the feeling of distrust by some people of the public -- distrust of government. I&R is a popular concept as a talking point frequently, but we seriously question whether it is good public policy. We think that the public policy of going into an I&R process could be very dangerous to all of the people of New Jersey at one time or another, rather than being the responsive thing it is supposed to be. NJAR has been and continues to remain opposed to NJAR (sic). We heard and it was interesting to hear about the college study that was done on I&R. It dates back to, as she was saying, the 1870s there. We now have and it was appropriately mentioned, Sunshine laws, open meetings. This meeting has had adequate publicity. The bills that you are considering had adequate publicity, and all one needed to do to know what was being considered was to go to the bill room or call the bill room and it would be sent to them, or call their elected representatives and they would pass it on.

You, the legislators, who are the elected legislators, to do your job in considering legislation spend hours in

weighing the legislative process; the good points and the bad points of legislation. They say sometimes two things people do not want to see made are sausage, and legislation in the process, because both of them will make you sick to your stomach. This is the third hearing you have had on this, and I commend you for taking the time and the deliberations to do the due process on the legislation which is an important issue to the people of New Jersey. Otherwise, we wouldn't be having this many speakers or the publicity on that.

We don't question whether the voters can make the decision, but do they have the time to study the issues and really study the issue and do the deliberation the way you gentlemen are doing it? It is your elected responsibility. Many people have time constraints on them in their jobs, their families. Whether it will become-- I've heard the 30 sound bites and bumper stickers, that are there, the PR campaigns that are going on, this is what will be inundating the people.

The California ballot for 1990 for the general election -- and California has ballot issues in the primary election and the general election-- I happen to have a copy of the 1990 general election ballot in California. This is just the state issues, not the local issues, not the county issues, not the issues that were voted on and became law in the primary. It goes on for 143 pages with 16 items on that. The items run from two pages to 64 pages. I happened to look up Proposition 134 of the beer drinkers and that only ran on for two pages on that, so people could get through that relatively quickly, but there were issues that ran as long as 64 pages. A friend of mine who is a California resident and is a diligent voter, conscientiously went through the ballot, and it took him over eight hours to conscientiously read the ballot and to study it. I'm not sure that the majority of the citizens of New Jersey have that kind of time to weigh the issues on that.

The balance of the issues-- Let's look at what people are really looking at. People want to have lower taxes but they don't necessarily want to have their services cut. With an I&R issue, it's either up or down. There are no compromises. It's an all or nothing issue. With this, seriously, people can be hurt from one side or the other by these issues.

As you are weighing in the legislative process you have the art -- and Secretary of State Dalton talked today about the art of compromise and working on various pieces of legislation, including this legislation. You can give compromise. The voters, once the issue is on the ballot, they will not have the compromise and to meld and blend good legislation: It will be one person's or a group of persons ideas and attitudes that will come in, and it will be all or nothing -- up or down on that.

I&R will tend to pit, in our opinion, groups of voters against each other. You're going to have urban/suburban areas -- and I'm not just talking in the collection of votes to be sure that all 21 counties are covered or to be sure that the eight southern counties are covered on that -- but you're going to have the urban and suburban areas on issues. You're going to have all different kinds of segments of the population that can be pitted; rich against poor, apartment dweller against property owner. You're going to have heavy voter or light turnouts. Depending on how it is worded, you can literally have as was pointed out this morning, sometimes 10 percent to 12 percent of the population dictating law through the result of a PR campaign.

In the opinion of the New Jersey Association of Realtors, we don't think that this makes for good legislation. We like the process. Yes, there are some problems on this. We think that this could lead to the tyranny of the majority on this. We've also found in talking to some friends in

California that there are some abuses of the signature collections, and it's very difficult to monitor that. The Secretary of State cannot possibly go through and monitor a petition that may have people running from Sussex County to Cape May County on one petition to verify the signatures that are going on there.

Also, there are many good issues and many good items that could be put on the ballot as a referendum item that could go down. There's a whole new industry that is being presented, the professional signature collectors, the professional consultants who do nothing other than handle the I&R issues with the big media blitz, the cost of printing and distributing the ballots. I would daresay, to distribute this kind of a ballot to every voter in New Jersey-- And no, we would not probably have it the first year or two, but five or ten years into it we don't know what we would have. The door would be open to having this kind of a ballot distributed. In today's economic crisis, do we want to be able to fund-- I would daresay it's probably going to cost \$3 or \$4 apiece to print and mail this. Incidentally, if you'd like, I'd be glad to pass this around -- I would like to have it back -- so you could look at it. The typeset on this is about the typeset of an average telephone directory, so it's not even as easy reading as some of the legislation that you were passing out and that you were considering.

ASSEMBLYMAN MARTIN: You can pass it around. I've seen several of the California books. I haven't read them all.

MR. HAGEMAN: It would take you over eight hours, Assemblyman.

In our opinion I&R is just a bad response to bad government which is not responsive. It is seldom done in a sophisticated manner and in the long run it will create more problems than it solves. We strongly feel that the best referendum is the voters' vote every other year. You are the

elected representatives to represent people in your constituency and if they aren't being represented by you, they can vote you out, as happened in 1991. There were a lot of people in the public throughout New Jersey that were upset. There's an awful lot of new faces around here in Trenton, and I'm sure that if the people don't feel that there's an adequate job being done in this session, in the 1993 election there will be a lot of new faces again coming to Trenton. That is the right and proper challenge. I respect you. While I may not always agree with you, I respect the legislative process in New Jersey. The Assemblymen and the Senators that are elected to do the job. Yes, they're respected. They're paid, and they have the time and the initiative to weigh the issues and to come up with a properly blended form of legislation.

Gentlemen and lady, I would encourage you, please, have the courage to do the right thing, and I respectfully ask that you not report any I&R proposal out of Committee.

ASSEMBLYMAN MARTIN: Thank you.

MR. HAGEMAN: If I may? Mr. Rooney isn't here to ask the question, but if I could respond to his question: Yes we did do a polling of our members and not all 40,000 members-- But let me tell you how the NJAR legislative process works in case you're not familiar with it.

We have a Legislative Committee of 12 people who review bills that are pertinent to our industry or those that we wish to take a position on. Those people then come up with a legislative report which is then sent on to the Board of Directors. Our Board of Directors votes on practically a monthly basis on various issues, including legislative issues. Our Board of Directors is approximately 183 people and every Board in the State of New Jersey has at least two representatives as well as committee chairmen, etc. We feel we have a very responsive Board of Directors representing our membership. In addition to that, we have also publicized it in

our newspaper, talked about it, and for two or three years now we've been taking positions on I&R and studying the issue. Any of our members that have had a question on that have had the opportunity to question our position when they know we're in opposition, and to the best of my knowledge, we have not had any groundswell, or I have never had a call to me talking about our opposition to I&R. So I think we have a fairly positive negative response to I&R and again I would encourage you not to consider anything out of Committee on this issue.

ASSEMBLYMAN MARTIN: Thank you, Mr. Hageman.

Okay, Rosalind Collis? Is she here?

R O S A L I N D C O L L I S: Mr. Chairman and the Committee, I wish to thank you for this opportunity to present to you the full support of Initiative and Referendum.

Anita Hill, the law professor who stood in front of the Senate Investigating Committee in Washington a year ago, after 10 years of silence, told of her experience. Today, after 18 years of hard work, I must expose my experience. Unlike Anita Hill, this presentation is not about sexual harassment. It is about a corrupt system of injustice condoned through the years by our State government, for the benefit of medical and legal professionals in serious question.

I know of what I speak. My husband was a physician, and a victim of a brutal, wrongful surgical death, in the opinion of highly respected surgeons on the faculty of the University of Pennsylvania School of Medicine and the staff of the University's Hospital. These physicians wrote their opinions addressing this heartless tragedy. One physician stated in his letter to me, and attached to the complaint to the State Medical Board, "This case should be legally and morally opened." This case was never opened. It was conducted behind closed doors. The executives of the State Medical Board can be as partial to the licensee in serious question as they choose to be with their system of preferential treatment for the licensee.

The State Medical Board and the Attorney General's Office had and has the power, without accountability, to cover up any malpractice complaint they choose. The families of victims who complain to the State Medical Board deserve equal rights and equal justice -- the very same system of justice provided street crime victims.

Through the years, long before our tragedy, the executive committee of the State Medical Board has been covering criminal medical malpractice complaints. It is a conspiracy condoned through the years by the Attorney General's Office and their Department of Law and Public Safety, the very Department in our State government whose responsibility it is to protect the people.

Mr. Chairman, everyone on the Committee, and the audience, must be asking themselves why would Attorneys General through the years be a part of this conspiracy that condones the coverup of medical malpractice complaints? The answer is, because the State government has provided the legal board with the very same power, power without accountability to cover up any serious complaint that the executives of the legal board choose to conceal, via closed secret sessions. An investigation free of government intervention will prove these statements to be correct.

The State Medical Board intentionally denies medical victims and their families the right to be present at closed secret sessions whenever they choose. These closed sessions titled, "Non Public Conferences" are a loophole in the commonly called Sunshine law. Believe me, when I tell you, this intentional exception to the law provides the executive doctors of the State Medical Board and the licensee in serious question with a loophole a mile wide, and a brick wall for the medical victims. The following undemocratic injustices that the brick wall denied our family were:

- \* our right to a hearing,

\* our right to be represented by counsel,  
\* our access to the records of the secret sessions,  
and  
\* our right to appeal.

ASSEMBLYMAN MARTIN: Ms. Collis, I respect what you're saying, but how does that relate to Initiative and Referendum?

MS. COLLIS: Mr. Martin, without Initiative and Referendum, the people will never get equal justice in a court of law. The legal profession is a power in Trenton. They will cover it up because they want the preferential treatment, and two, if it was such an embarrassment to them that it's going to be an explosion, hopefully, Initiative and Referendum, Mr. Chairman, is our only solution. It's been going on for years and it will continue.

I thank you for asking me the question.

Now, I don't have to say any more except for one thing. I would like to read this last thing about Commissioner of Investigation, James Morley.

On the editorial page of The Star-Ledger dated December 25, 1989, James Morley the Executive Director of the Commission of Investigation addressed the question of a conspiracy of silence by the medical profession, whereby these professionals in charge can cover up medical crimes. In the article he questioned, "Should the public interest in such an important matter be left to a profession's efforts at self-policing, or should the State government set up its own plan for obtaining the truth and acting upon it?" James Morley further emphasized that such an important matter be the State government's responsibility to obtain the truth and to act upon it.

Well, if you'd like me to stop, I can stop right there.

ASSEMBLYMAN MARTIN: I think we really do get the point.

MS. COLLIS: Okay, because the other is a big plug for Initiative and Referendum because without, the legal profession is never going to let us have it.

Thank you very much.

ASSEMBLYMAN MARTIN: Thank you.

Next, Robert Woodford from New Jersey Business and Industry Association.

I note that Assemblyman Bernard Kenny is now with us. We gave every member a chance to make a statement or comment if they wished to. Some did and some didn't. If you would like to say something--

ASSEMBLYMAN KENNY: Thank you, Mr. Chairman. I sit on the Appropriations Committee and we had a meeting this morning that just adjourned. I'm very happy to be here to listen to the testimony. Thank you very much.

ASSEMBLYMAN MARTIN: Mr. Woodford.

R O B E R T W O O D F O R D: Thank you, Mr. Chairman, members of the Committee. These proposals before you pose as a means to opening up the political process. In fact, they close people out of the political process. Very few people will ever draft an initiative. Everyone will be affected by initiatives. Anyone can be the target.

Let me just relate to you some things that are going on today in states with Initiative and Referendum of concern to us in the business community: In Michigan, \$750 million of additional business taxes have been proposed. From a citizen? No. From a political party not now in the majority seeking to wrest control of the policy agenda from those elected to a majority. In Oregon, Oregon Fair Share petition is going around the state calling for taxing business at twice the tax rates imposed on other property taxpayers. In Massachusetts and Ohio, unreasonably restrictive regulatory proposals which would not survive a legislative system in their proposed form, are proposed for the ballot.

What poses as a means for providing access and power to the people, has, in fact, in I&R states, become a tool useful to a relative handful of groups who have the money or the numbers to make use of the process. These groups control the policy agenda -- it moves from the parties; it moves from the majorities -- and the issues on the policy agenda are determined by the ballot questions. Those who are targeted, the businesses that I've mentioned in states who have initiatives that could affect their economy, their ability to invest and provide jobs must spend immense sums -- sums that certainly make Mr. Stuart's figures of today pale by comparison -- to attempt to reach the entire electorate to argue their case.

My question is, who is served by this system? And I can tell you that those who draft initiatives are under no compulsion to seek to serve a broad public interest. You are elected to do so; they are not under any compulsion to do so. They don't bear your obligation to the general public. They dominate the initiative process and they seldom demonstrate a sensitivity to the broader consequences of their proposals in society.

And who uses the process? It is not a populace system. It is generally true of Initiative and Referendum states that there is an Initiative and Referendum industry who manufacture questions and sell them to the public just as they would sell hand cream. Well paid political consultants, pollsters, public relations and media experts put together these campaigns, hire those who solicit with petitions, and manage the development of slogans and advertising to sell what they've created. Does that provide a more accountable system?

We've been told that Initiative is needed to make the Legislature accountable because the Legislature ignores the will of the people. In fact, there is no way to hold accountable the groups who manufacture and sell these legal

products in the initiative system. They appear on the scene. They sell their product. They fade from the scene. You can't unelect them. They are not incumbents who must stand before the public. If they have defrauded the public in the claims they've made, if they have provided nonfactual information to the public, if their slogans have been misleading, if their product doesn't work, they're gone. There is no accountability in that system.

Once a state provides pressure groups, big money interests, and the I&R industry the power to control the public policy agenda, accountability slips from the hands of the political parties. Accountability slips from the hands of majorities in the Legislature because you no longer control the policy agenda.

Recently, I had a guest editorial published in the Asbury Park Press, side by side with that of Congressman Zimmer, for whom I have the highest respect, but with whom we disagree on this issue substantially. A series of letters to the editor followed, commenting upon these. I think one of them is really germane to today's discussion. This individual said, "In this age of computers and instant telecommunications I not only support I&R, I don't see the need for either the Senate or the House, both on the State and national level. Voters could be asked their opinions about a multitude of topics that affect them on local and national levels every day. We would then be required to phone in or register our yea or nay through a computer keyboard. Money could be spent for the actual work and items required instead of filling the pockets of the legislators."

Now, that may seem humorous in a way, but I think this author is correct in discerning the impact and the nature of Initiative and Referendum because this system says it isn't necessary to have staffs analyze and fact find; it requires no specialized legislative committee such as your own; it requires

no open public hearings; it requires no floor debate or opportunity to amend; it requires none of the mechanisms of the legislative process designed to balance diverse interests and build consensus; it requires no one to serve a broad public interest. Taxes, you? No. Taxes, the other guy? Yes. Serves your interest? Yes. The other guy? No. It's a simple system and it will not serve this State or the people of this State as well as the system that was designed to balance interest, to protect minority and individual rights, and to bring about consensus -- agreement where possible -- by refining legislative concepts, a difficult process for which you are compensated because it is a difficult process.

Now proponents claim that, of course, the whole opposition to I&R shows a basic distrust of the judgment of the public. It's said you're talking down the ability and the common sense of the public if you don't give them this power. That's nonsense.

If you want to see talking down to the public, listen to the advertising in any political campaign these days: the kind of advertising that will sell laws in future campaigns if you adopt this legislation. The issue is whether laws will be based upon open public input, careful analysis and factfinding, and on an effort to represent the whole public: even children who don't vote but need education and need health care, even persons institutionalized who will not vote. The laws we produce will be no better than the quality of the information and the analysis that we bring to bear on the decision-making process, and perhaps on our ability to see beyond our self-interest to the needs of the general society.

We have equipped you and compensated you to make those good decisions. We have provided in the Constitution a system of safeguards, and checks and balances. The Constitution makes it difficult to enact a law; deliberately so. Approval can only be achieved in either House of the Legislature by majority

vote, not by the simple plurality votes that's permitted in all of the bills before you, and the approval of the Governor, the dual approval of the bicameral Legislature.

The review process that proceeds it and the debate that precedes it, is an essential part of the safeguard. But the other part of the safeguard is that you run for reelection, and the movement of a small group of constituents displeased in the process can make the difference between your reelection and someone else taking your seat in the Legislature, and that is the ultimate protection of minorities and individual rights in this system.

I&R, make no mistake about it, is a majoritarian system. It does not pay heed to small groups within society and we are all, at one time or another, part of a small group whose interest can be the target of this system. It is basically a selfish system. It is basically a system that says we don't care about the other guy. And you are here with a difficult position of trying to balance the interests of all of us who say that to produce good public policy.

Please don't surrender the protections of the current system. Thank you.

ASSEMBLYMAN MARTIN: Thank you, Robert.

Peter Reinhart is next.

C A R O L A N N G I A N C A R L I, ESQ.: If it's okay with you, Mr. Chairman, I would like to speak on behalf of Peter Reinhart. Unfortunately he had to leave a few minutes ago -- about an hour ago.

ASSEMBLYMAN MARTIN: I might say-- Someone remarked earlier we've been going about very close to three hours. I'm not sure we can complete the list. What I may suggest is on April 30--

UNIDENTIFIED SPEAKER FROM AUDIENCE: Don't do this to us. We came a distance. We sat here for hours--

ASSEMBLYMAN MARTIN: Ma'am, I'm going to say what I'm going to say and I don't pretend it's going to please everyone. If you want to have your testimony taken with deliberation -- which is what we've been trying to do-- What I've seen is after about three hours we lose some members. Because of other activities, it just becomes difficult to focus on what's been said. While it may be difficult to sit for three hours, it's very difficult to sit and absorb--

UNIDENTIFIED SPEAKER FROM AUDIENCE: I know it is. But there's a time limit. I came from Jersey City. It's a long distance.

ASSEMBLYMAN MARTIN: I'm not going to sit here and debate with you. I'm telling you what we're going to do. We're going to take about 10 to 15 minutes more testimony and we're provide an opportunity, for those who wish to, on April 30 to have the first hour of our meeting at that time.

UNIDENTIFIED SPEAKER FROM AUDIENCE: I won't be here. It's not fair to reschedule our life when you allow people to go on for 30 minutes. It's really not fair at all.

ASSEMBLYMAN MARTIN: You're cutting into your own time now. I'm going to ask you please--

UNIDENTIFIED SPEAKER FROM AUDIENCE: You don't know how to run a meeting. You have people speak up there for 35 minutes at a time.

ASSEMBLYMAN MARTIN: Ma'am, I would ask you to please confine your remarks to yourself. I'm not going to be insulted by you and if you keep it up, we'll ask the people outside to direct you outside.

UNIDENTIFIED SPEAKER FROM AUDIENCE: You have the nerve to not let the people speak after all this.

ASSEMBLYMAN MARTIN: Carol?

MS. GIANCARLI: In that light I will attempt to refrain from repeating some of the comments that were made. Let me introduce myself. Mr. Chairman, members of the

Committee, I am Carol Ann Giancarli, Director of Legal and Legislative Affairs for the New Jersey Builders Association. I greatly appreciate the opportunity to appear before you to address the issue of Initiative and Referendum.

In examining proposals to authorize I&R, we should consider the role that New Jersey's Constitution assigns to the Legislature. The Legislature is the policy-making body of the State. It is responsible for examining the broad implications of issues, and on the basis of that analysis it is expected to devise solutions that will balance the interests that are affected by our laws and regulations.

The Legislature is composed of individuals elected to represent their local districts, and seats are apportioned to the maximum extent possible to give equal representation to every citizen of the State. As a result, the Legislature is a microcosm of the State and represents the broad diversity of regions and interests that exist in New Jersey. Yet, the Legislature is sufficiently small so as to permit formal debate, insightful give and take, and approves legislative proposals as they wind their way through the legislative process. In this way, our representative form of government is both representative of the people and efficient in accomplishing its proposed purposes. Our system of representative government adds stability to public policy which is essential to long-term prosperity of our citizens. As a result, the individual private citizen as well as the private sector in general, can plan and make long-term commitments with the sense that public policy will remain stable, evolving only incrementally and not shifting haphazardly.

I&R has the potential to dismantle the strengths and the protections that are at the heart of our representative government. It will disrupt our governmental structure by introducing into it a potentially simplistic legislative process. It reduces highly charged and complex questions to a

simple vote of yes or no. Voters have two stark choices and cannot rely on their elected leadership to apply political skills to achieve balanced and rational compromises.

Despite claims the Legislature will have the opportunity to act prior to an issue reaching the ballot, experience in other states demonstrates that those dissatisfied with legislative compromises will still pursue the I&R option, and while the legislative compromise has typically survived these bad faith challenges, this has not deterred the cost and uncertainty associated with those campaigns. The NJBA is concerned that I&R would result in significant increased costs to businesses in this State.

Specifically for builders and developers, each election would have the potential of a multitude of propositions that would cause the housing sector to spend millions of dollars to make our views known to the electorate throughout the State. Because I&R would promote a media bonanza, it would only add to the already escalating costs of housing in New Jersey's tight construction market. This flies directly in the face of the State Supreme Court decision mandating the construction of affordable housing for our low- and moderate-income citizens. Experience in other states that already have I&R has proven that the costs of conducting public information campaigns results in millions of dollars spent annually by businesses.

Additionally, I&R would result in initiative campaigns on such issues as taxation, utility rates, and planning and zoning issues which are better left to the legislative process.

What do we want for New Jersey? Do we wish to be held hostage to simplistically stated but disruptive proposals from single interest groups? Do we want to commit ourselves to waging expensive media campaigns to stop proposals that would gut the State's revenue base or disrupt its economy? It's easy to imagine proposals that would do things such as this, and

often they can be cast with a highly emotional appeal. The New Jersey Legislature has a national reputation of being responsible in taking action on very complex issues that then become model legislation for other states to follow.

We support the view that our elected representatives should continue to have the responsibility of all aspects of the legislative measures and should continue to make informed decisions on them. Our Association is deeply concerned with all of the pending proposals relating to I&R. While they may have been put forward as a good faith attempt to make government more responsive, they hold the potential to become the means by which the general welfare is abused while special interests use it to promote their own very narrow objectives. I&R borders on the abdication of legislative responsibility and can become a mechanism for circumventing our currently rational system of government.

You have before you, proposals that will alter the very fabric of our State's government. They have the potential of transforming the State's legislative process into an erratic instrument of special interests and emotionalism. In this light, I&R must not be seen as a proposal to reform our government, but rather as one that will deform it. If such a fundamental change in our constitutional structure is thought to be necessary, it should be done by way of a constitutional convention, not a proposed constitutional amendment.

For these reasons I encourage you to set aside these proposals. Thank you, Mr. Chairman, members of the Committee.

ASSEMBLYMAN MARTIN: Thank you. Question?

ASSEMBLYMAN HARTMANN: I never even heard this: "just by constitutional convention." Can you expound on that?

MS. GIANCARLI: What I'm suggesting is, instead of putting issues on the ballot for the citizens who may not be well-informed because they don't have the advantage of the legislative process and input and debate, and continuing the

process as we have it now through both Houses, that if we want such a change and we want it to be the benefit of all people, have it go through the Legislature itself and change the Constitution so there will be significant input.

ASSEMBLYMAN MARTIN: Thank you.

Karen Thorsen Lamond, National Association of Social Workers.

K A R E N   T H O R S E N   L A M O N D: I really have intense admiration -- I have to say that I'm new at this process -- for what you're going through, and I know you've been through this two other times. You're proposing going through it another time. I respect this process which is directly related to what we're talking about today. I just cannot imagine every individual voter taking the time and having the knowledge and the ability to analyze legislation the way you all are doing right now on this one item. I just have to weigh that before I start.

ASSEMBLYMAN MARTIN: We're doing the best we can.

MS. LAMOND: I mean I'm tired of sitting here already. You've been sitting for hours, so I want to say that I respect that you've really been more than gracious to the public, who I am one of.

I'm going to read this so that I don't leave it out. It's very short, though. I hope you'll bear with me. And there is one part I want to change.

I'm here to represent the New Jersey Chapter of the National Association of Social Workers. We're 5700 members in New Jersey and growing. I'm also here to represent the many clients that we serve, in addition. We ask you to oppose this Initiative and Referendum -- vigorously oppose it.

A central mission of the social work profession is to serve and advocate for the many citizens who cannot participate in the political and legislative process, and appeal to their representatives on their own behalf. Some of these are --

to mention only a few -- the mentally and physically disabled, the economically and environmentally disadvantaged, the uneducated, the illiterate, the frail elderly, children, many of the hardworking poor -- for whom even the loss of a car battery can cause crisis and chaos; I can't imagine them spending three days listening to this piece of legislation -- many minority groups who consist of a multitude of languages, and many others. The rights of the members of this disadvantaged population can be very disregarded and even violated through the legislative process.

I think we're experiencing some of that right now. The current legislative process is often painfully slow -- like today -- and extremely frustrating -- like today. But, the current path of legislation, with its flaws, still allows opportunity for education, healthy debate, compromise -- I know you've heard all this -- consensus building, a chance for amendment and change, as well as a system of checks and balances -- I've heard that all day today -- that protects and defends citizens from unwise and dangerous legislative activity.

I'll skip the part about what happened in other states because I personally believe that you all know more about what happened in all the other states than I'm putting forth here. Needless to say, it's caused a lot of duplicate legislation and massive spending. Needless to say, many of the poor do not have that type of representation.

We must guard and support the Constitution of the United States that defends equal rights and the opportunity to speak, such as this, with respect. You've afforded us all respect. You've let us speak as long as we wanted to. I don't know that I would have allowed-- I think I would have allowed everybody only five minutes. You've had great patience. I ask you to keep this system intact, and keep promoting the general welfare of all the citizens regardless of race, regardless of color, sex, their sexual orientation, regardless of their age, religion--

ASSEMBLYMAN MARTIN: Excuse me, one second. No one had-- I didn't put a time constraint--

UNIDENTIFIED MEMBER OF THE AUDIENCE: You should put a time limit on it because now--

ASSEMBLYMAN MARTIN: (to member of audience) I don't want to keep going through it, but I really don't like what you have to say. I don't like your insults. I don't think it's fair to the other speakers, and if you keep it up, as I said, we're either going to stop now--

UNIDENTIFIED MEMBER OF THE AUDIENCE: (initial comments inaudible) You should have cut them short. You let them speak for 15 or 25 minutes.

ASSEMBLYMAN MARTIN: When you get elected to the Assembly and Chair this Committee, you can set your own rules.

ASSEMBLYMAN KENNY: Excuse me, I'd like to say-- Excuse me, ladies and gentlemen. I'd like to say, for the record, I'm on the opposite party than Assemblyman Martin. He's been a very good Chairman of this Committee. If it weren't for him, this issue would not be before the public. He is the Chairman of the Committee, and he has put this issue of I&R before the public. He's done it around the State, and he's going to continue to do that, because he knows it's an important issue. Criticizing Assemblyman Martin -- Chairman Martin -- is not in the interest of people who support I&R; it's not in the interest, for that matter, of people who oppose it. He is doing his job, and he's done it well. And as a member of this Committee, I take real exception to anybody from the public insulting him. He's been a good Chairman and I think he should conduct the meeting as he sees fit. He's done it well, and I know he'll continue to do so.

ASSEMBLYMAN MARTIN: Thank you, Assemblyman Kenny. I appreciate that.

Would you please continue, Ms. Lamond?

MS. LAMOND: Yes, thank you. Thank you for the privilege of that.

(continuing) --religion, regardless of national origin, regardless of political belief, mental or physical handicap, or any other characteristics, conditions, or social status. Please protect all of the citizens of New Jersey. And oppose -- I'm going to change this on the statement, please cross out Senate Concurrent Resolution No. 37 -- please oppose all I&R policy initiatives in the State of New Jersey.

You know the argument that NJPIRG made when they said that they thought that citizens were capable of studying and reading and comprehending all of the issues that are brought before the Legislature? I think it's naive, and I think it's very dangerous.

I thank you very much for this opportunity.

ASSEMBLYMAN MARTIN: Thank you.

Any questions? Seeing none, thank you.

Fran Avallone is next, Right to Choose.

F R A N A V A L L O N E: Thank you. I'm very glad for the opportunity to be here today, and I appreciate your patience, and everybody else's.

Most of the people that have come up today have discussed I&R on general grounds and either their opposition or support for it. I'd like to discuss how it would impact on the abortion issue because, you know, that's why they call me the "abortion lady."

Many states that have had I&R questions on the abortion issue have had pro-choice results. The majority of I&R proposals in other states on abortion have come down on our side, except that the costs have just been tremendous.

ASSEMBLYMAN MARTIN: Have most of them been initiatives that advance your interest, or have they been opposed to it?

MS. AVALLONE: Yes. Well, I really haven't done a count because there's been so many. Probably half and half, and the majority of them that have won have been to reaffirm the state's commitment to a pro-choice position. We just had that in the State of Washington. In the State of Washington, however, the vote was so close because there were so many ballot issues and the language was so confusing and there was something like 200,000 absentee ballots that they had to have a recount which cost the state a lot of money.

I would much rather -- and I said this to Congressman Zimmer when he was a State Senator -- the pro-choice community spend their money supporting pro-choice candidates, spending their money supporting family planning programs, and programs to help the homeless and people ill with deadly diseases like AIDS, than spending millions of dollars promoting an I&R.

I was very glad to hear the Catholic Conference opposing I&R. I think this is the only time their group and my group have been on the same side. It was wonderful to see that. But one of the things I'm very concerned with is interference by religious organizations. In Wyoming, just recently, the Catholic Bishop of Cheyenne sent a letter to all his area churches urging the priests to start petition campaigns to get the number of signatures required to get on the ballot a proposal that would outlaw all abortions. I'd like to know from this Committee whether any the proposed I&R proposals would prohibit involvement by any religious organization? Would it prohibit religious organizations from raising money for an initiative, from putting forth an initiative, from collecting signatures for an initiative? Because I think that would destroy the separation of church and state that we want to hang onto so carefully.

ASSEMBLYMAN MARTIN: The answer to your question: I have not seen any of those proposals. I'm not sure, given the First Amendment establishment clause and other aspects, that if

you attempted to prohibit a religious group from doing what others could do, whether it would also meet constitutional musts, although I haven't given it much thought.

MS. AVALLONE: Well, I mean, I think that would be a problem. Assemblyman Rooney was asking people before if they had polled their members. It's interesting that the League of Women Voters testified today in favor of I&R based on a 10-year old study. Well, 10 years ago I was a member of the League of Women Voters and I thought I&R might be a good idea, and I probably voted in that consensus in favor of I&R. But the League has not polled their members in the last 10 years on that issue, and I'd like to see them restudy it.

I'd also like to say that my children live in California and last year my daughter sent me after the election the books -- literally, books -- that she received to help them figure out what the questions were on the California ballot; these huge books. She said that she had to go to vote with a score card -- vote yes on this one, no on this one, and that one of the very confusing things on the California ballot was that there were, say, four pro-environmental resolutions and four anti, and you had to be very careful about what you voted yes and what you voted no on. She also told me that the campaigns -- the television and media campaigns -- in that state are celebrity based. So it's not Proposition 12 in favor of clean water: It's Jane Fonda's Proposition 12 in favor of clean water. It's Charleton Heston's Proposition whatever against clean water. You know, I'm not saying Heston is. I just picked the name out of the air, although he probably is.

I would also like to say that in 1988 in the general Election in this State, 800,000 people voted for-- Of the people who voted for President, 800,000 of them did not vote on any of the four ballot questions that were up, ballot questions that had been put on by the Legislature. In 1989, in the State general election, over 600,000 voters ignored five ballot

questions. I go to the Teachers' Convention every year as an exhibitor, and every year I have postcards for people to sign to their legislators, either Federal or State. The last couple of years, it been to you guys on the parental notification issue, and every other year it is two days after the election and I say to people, "Would you sign a postcard to your State Senator? And every other year, 9 out of 10 people say, "I don't know who he is. I just moved." Okay? And if people don't know who their State Senators are, they certainly don't know who their Assembly people are. (laughter)

ASSEMBLYMAN MARTIN: How do you think we get elected?

MS. AVALLONE: Well, I'm sorry, but it's true. Okay? If I asks people who their State Senator is the say, "Bill Bradley." Okay? And I say, no, no, no, he's your U.S. Senator, who's your State Senator? And, I mean, they certainly don't know who's on their school board. They don't know who their Mayor is. And if they don't know who their elected officials are, how do you think they're going to deal with huge numbers of ballot issues? I mean, that is really what concerns me; that people are not informed enough. People read headlines in newspapers; they don't read the stories. They watch, you know, Channel 5 news that starts off with the belly dancer that got arrested, rather than what's going on in Europe, and I think it's a very bad thing to--

ASSEMBLYMAN BAER: Channel 5? (laughter)

MS. AVALLONE: Channel 5, the New York Post of journalism.

So, I would really urge you to oppose all I&R resolutions, and I'd be happy to answer any of your questions.

ASSEMBLYMAN MARTIN: Thank you.

MS. AVALLONE: Okay, thank you. I'd like to leave you with my testimony which includes a fact sheet that I did which has statistics on what has happened in other states.

ASSEMBLYMAN Baer: Okay. Thank you very much.

ASSEMBLYMAN MARTIN: Peter Furey, New Jersey Farm Bureau.

P E T E R F U R E Y: (speaking from audience) Mr. Chairman, I'd like to take the April 30 option if this is possible, in deference to time? Do you think it would be possible if I appeared at the next Committee meeting in the interest of time?

ASSEMBLYMAN MARTIN: It will be at 9:00 on April 30th.

MR. FUREY: I'd be happy to. Thank you.

ASSEMBLYMAN MARTIN: Dr. Joseph Appel, Superintendent of Schools, North Hunterdon Regional High School District.

J O S E P H M. A P P E L, Ed.D.: First of all, thank you very much Mr. Chairman and members of the Committee. I was feeling some frustration having waited about three-and-a-half hours and then I thought of, frankly, your own position here, and I really do wish to commend you, because I've attended hearings before and very often people walk out and they leave, and you wonder who you're talking to after a while. So I really do appreciate the fact that--

ASSEMBLYMAN MARTIN: Well, it's impossible for all the members to be here all the time, but I have managed to sit through, I guess now, the better part of about 13 or 14 hours of testimony.

DR. APPEL: And I appreciate that. I know the remarks are repetitive. I hope I can bring a different flavor. I'm a recent resident of California, so I'll try to just give a personal reaction to the process.

ASSEMBLYMAN MARTIN: So you've recently been a--

DR. APPEL: Just recently moved to New Jersey -- been here nine months. In fact, I don't really represent any special interest group and I was trying to think how you would view that, whether that's a plus or a minus. (laughter) I'll tell you how I got here; it's kind of an interesting story.

I was attending a meeting of the New Jersey Administrators Association and I happened to identify myself as

a Californian and someone came up to me and said, "Well, can you talk about Initiative and Referendum?" And I said, "Well I don't know if whether you'd like what I'm going to say." I had no idea what their position is. As it turned out, I guess my position coincides with theirs, but I really am just going to speak personally to you. I have these written, and I'll give you a copy. (referring to his statement)

Let me begin by saying I am a former resident of California, and I serve as Superintendent of the North Hunterdon Regional High School District in Annandale, New Jersey. However, I do want to make it clear -- and this is very important to me -- that I am not here representing the views of the Board of Education or the District. I am not knowledgeable regarding their views, and my purpose is simply to share with you my personal experience of the initiative and referendum process as of recent.

ASSEMBLYMAN MARTIN: Could you distribute those as you testify. It would be a little easier for us to follow.

DR. APPEL: I was going to wait until I was through so you're attention wouldn't be diverted, if you don't mind? If that's all right with you?

Anyway, from firsthand observation, I would say that the process does not accomplish its purpose of benefiting the public. Indeed, during my 20-plus years in California, I found three major impacts of Initiative and Referendum. This is my observation: 1) It produces substantial inequities, as illustrated -- and I'll illustrate that for you -- in taxes paid by property owners; 2) there has been, I feel, as a result of that process, a deterioration in the financing and quality of education; and 3) and I think you've heard that numerous times here, it has resulted in increased confusion, dissatisfaction, and cynicism regarding the initiatives placed on the ballot. This is all from personal experience.

Let me speak to the first impact: inequities in benefits to citizens. I think many of you have heard of Proposition 13 which was hailed as the premier property tax relief measure. Now I happen to believe that owners of property do need tax relief. However, Proposition 13 solved this problem for only those who acquired property as of a date certain. Those fortunate people pay taxes on a much lower assessed value than those, like myself, who moved and acquired property after that date.

Without discussing complicated tax formulas, let me say that there are in California huge inequities in the taxes paid by property owners. It is quite common to have two owners on the same block with the exact same type residence and the same market value paying totally different taxes -- one very modest, the other exorbitant. These inequities exist throughout the entire state because the simplistic Proposition 13 initiative established formulas based on date of acquisition rather than a uniform and equitable system of establishing assessed valuations. By the way, this went to the courts. Some people look at relief from the courts. This went to the courts in California and was declared constitutional and nothing that the court chose to do about it, so you have this inequity there.

The second impact, deterioration in the quality of education is also the result of various initiatives, including Proposition 13, which essentially took control away from local Boards of Education -- don't take my word for it; ask any school board member in the state of California and they will tell you they have very little control -- and through these equitable formulas, tied the hands of the state legislature. The net effect is that California, once a leader in many areas of education, is in serious trouble. California now is a leader in the wrong direction. It is a leader in the highest class sizes in the nation; it is a leader in the most

overcrowded, poorly financed school facilities in the nation; it is a leader in "year-round schools," but not for educational reasons. In California, year-round school has nothing to do with extending the school year to raise standards and to offer our students opportunities comparable to those in other countries. It simply means juggling the use of facilities and student schedules so that schools can cope with overcrowded conditions. In short, there is no extension of the school year, only different times when students attend the same number of days. Why has this happened? Because of various initiatives, the state was forced to use its surplus for schools and other agencies formerly financed by property taxes. The use of this surplus, by the way, was advertised by proponents of various initiatives as the panacea for handling the future financial needs of the state. They said a huge surplus would take care of all these needs, and this was a property tax relief measure.

The third impact that I mentioned before -- and I'm just about through here -- confusion and cynicism regarding the initiatives placed on the ballot. This is one I can describe to you based on firsthand experience. But I owe it to you to tell you a little bit about the background I bring to the voting booth. I consider myself a fairly typical voter with fairly typical habits of acquiring information: I read the editorial pages of several reputable newspapers; my car radio is tuned to the all news station; I watch most of the televised news shows -- Prime Time, Nightline; Sixty Minutes; all that stuff and various Public Television documentaries. I read news magazines and nonfictions books of various historical and political events.

So, while I'm not an authority or an expert, I do bring a degree of understanding to some fairly complex political issues.

Yet, I must tell you that when I go to the voting booth in California, I am totally overwhelmed by the numerous initiatives placed on the ballot. Most of these deal with highly complex matters -- which are reduced to one or two paragraphs. The explanatory language seems to be of two types. Someone had a ballot here, and you can check on this. The explanatory language seems to be of two types: 1) abstract terminology or jargon understandable only to those who have the requisite background information, or 2) oversimplified wording which does not convey the complexity of the issues involved.

The last time I entered the voting booth I did not vote on a number of the initiatives. I could not in good conscience cast my vote on matters of which I had little or no understanding. My fear is that I would do more harm than good. There were simply too many initiatives to research and gain any genuine understanding of the topics or issues involved.

The question that I pose to you is whether this Initiative and Referendum process is one that we wish to institute in New Jersey. As I've explained, I don't favor it because it has produced the opposite of what it purports to achieve. It has resulted in inequities in benefits, deterioration in the financing and quality of public education, and at best, simplistic analyses of complex issues; at worst, apathy and cynicism at the ballot box.

The present legislative process in New Jersey will serve the electorate far better than the Initiative and Referendum. I urge you to study what has happened in California in greater depth than what I have been able to present to you here. In California, Initiative and Referendum has stymied the legislative process, thwarting many excellent compromise legislative efforts of both parties. I hope you'll pay attention to that, because I know probably you represent -- some of you -- opposite sides of the fence, but clearly there were many times Democrats and Republicans, I think, came

together on issues only to have those efforts thwarted by the Initiative and Referendum process.

We have the means through the regular election process of changing the way things are. Most important, our present legislative processes offer the opportunity for reasoned, intelligent discussion of issues. I think they do offer that opportunity. We need to improve the process rather than subvert it with the illusory benefits of initiative and referendum.

ASSEMBLYMAN MARTIN: Thank you, Dr. Appel.

DR. APPEL: I appreciate your patience. I know you've been here a long time.

ASSEMBLYMAN MARTIN: Any questions of the Superintendent? (no response)

We will continue this hearing at 9:00 next Thursday, April 30th.

UNIDENTIFIED SPEAKER FROM AUDIENCE: It's totally unfair. It really is totally unfair. I took my day from my job to come down here-- (inaudible)

**(HEARING CONCLUDED)**



**APPENDIX**



BARRY S. PERLMAN  
150 CHALKBOARD COURT  
MOORESTOWN, NEW JERSEY 08057  
(609) 273-3253

April 23, 1992

**WHY INITIATIVE AND REFERENDUM?**

**GOOD MORNING LADIES AND GENTLEMEN, ELECTED REPRESENTATIVES, AND NEIGHBORS.**

**I COME HERE TODAY TO SPEAK TO YOU, ALL OF YOU, AS THOUGH YOU WERE LITERALLY MY NEXT DOOR NEIGHBOR.**

**I SEEK THE ENACTMENT OF THE INITIATIVE AND REFERENDUM PLAN AS OUTLINED BY UNITED TAXPAYERS AND COMMON CAUSE. I TAKE THIS POSITION BECAUSE ITS PASSAGE WILL SUPPORT MY SPECIAL INTEREST.**

**YES, I FREELY ADMIT THAT INITIATIVE AND REFERENDUM WILL BENEFIT MY SPECIAL INTERESTS OVER THE INTERESTS OF SOME OTHERS. YOU DON'T HAVE TO AGREE WITH ME. YOUR INTERESTS MAY BE OTHER THAN MY OWN, BUT I KNOW WHAT'S APPROPRIATE FOR ME, AND FRANKLY I MUST LOOK TO MY OWN SELF INTEREST FIRST.**

**I AM GOING TO DISCLOSE WHAT IS IN MY OWN SELF INTEREST. PERHAPS YOU MAY SHARE IT, PERHAPS NOT, BUT AT LEAST YOU'LL HAVE INSIGHT INTO WHY I WON'T EVER GIVE UP MY GOAL OF SEEING I & R BECOME LAW.**

**TODAY OUR STATE, AS OTHERS IN THIS GREAT UNION OF STATES, IS IN TROUBLE. WE HAVE SEEN OUR CURRENCY'S BUYING POWER DECLINE, THE VALUE OF REAL ESTATE FALL, PUBLIC SERVICES SUCH AS SCHOOLS DEMANDING INCREASES IN COSTS WHILE BEING COMPLETELY UNACCOUNTABLE FOR THEIR PRODUCT, ALL LEVELS OF OUR TAXES INCREASING WITHOUT AUDIT OR ECONOMIC IMPACT STUDIES, THE LOSS OF OUR COMPETITIVENESS AT HOME AND ABROAD, BUT FAR WORSE, WE ARE ALL EXPERIENCING THE DEVALUATION OF OUR CONFIDENCE IN THE STRUCTURE OF ALL OUR GOVERNMENTAL PROCESSES. EACH AND EVERY ELECTED AND UNELECTED POLITICIAN, AND LOBBYIST ARE POLITICIANS TOO, HAS SEEN HIS OR HER PERSONAL EFFORTS TO ADD TO THE COMMON GOOD SEEN AS WORTHLESS OR EVEN AN ATTACK ON THE PERSON OF THE CITIZENS THEY REPRESENT. YET, THE NUMBER OF PEOPLE WHO PARTICIPATE IN ELECTIONS FOR EVERYTHING FROM SCHOOL BOARD MEMBERSHIP TO PRESIDENT OF THE UNITED STATES HAS CONTINUALLY DECLINED.**

I ASK YOU, MY DEAR NEIGHBORS, YOU WHO HAVE SOUGHT ELECTED OFFICE, WHOSE NAME SHALL APPEAR IN A BOOK OF THE HISTORY OF OUR PERIOD, OUR STATE, AND OUR COUNTRY, OF WHAT VALUE IS THERE TO BE ELECTED BY A MAJORITY OF THE MINORITY, ESPECIALLY WHILE THE MAJORITY DOES NOT CONSIDER YOU TO REPRESENT ANYTHING OR ANYONE OTHER THAN YOURSELF AND YOUR INTERESTS. HOW COULD YOU REPRESENT THE INTERESTS OF ALL THOSE NON-VOTERS? HOW DO YOU KNOW WHAT THEY BELIEVE IS THEIR POSITION, THEIR DESIRES, THEIR FEARS, OR THEIR VISION OF A BETTER TOMORROW?

THE FACT IS THAT YOU DON'T KNOW WHAT THE PEOPLE THINK, BECAUSE THEY HAVE CEASED COMMUNICATING WITH YOU, AND YOU DO NOT HAVE A SYSTEM TO EXPOSE THEIR INTERESTS TO YOU. THIS IS WHY YOU ARE FEARED AND IN SOME CASES HATED, BECAUSE THE MAJORITY OF THE VOTERS DO NOT BELIEVE YOU NEED THEM OR WANT TO NEED THEM AS INDIVIDUAL PEOPLE. YOU ARE INSULATED FROM THE PEOPLE, AND THEY ARE INSULATED FROM YOU.

IT IS BECAUSE OF THIS SEGREGATION, THAT IS THE SEPARATION OF THE POLITICAL BODY, THE ELECTED POLITICIAN, FROM ITS POLITICAL SOUL, THE PEOPLE, THAT OUR MUTUAL SURVIVAL IS AT STAKE.

THIS IS WHERE MY SELF INTEREST MUST ASSERT ITSELF. I CANNOT STAND ALONE. I CANNOT SURVIVE WHILE SOCIETY IS THREATENED BY THE GOVERNMENT'S DEATH BY SUICIDE. I MUST PARTICIPATE IN THE BRINGING TOGETHER OF THE POLITICAL BODY AND POLITICAL SOUL OF OUR SOCIETY.

SOME WOULD HAVE YOU BELIEVE THAT INSTITUTING INITIATIVE AND REFERENDUM WILL REDUCE THE POWER OF THIS AND OTHER ELECTED FORUMS IN OUR STATE'S POLITICAL LIFE. I ASK YOU TO ASK THEM, HOW WILL PROVIDING ME WITH THE ABILITY TO BRING ISSUES BEFORE YOU, MY ELECTED REPRESENTATIVES, AND ALWAYS MY NEIGHBORS, WITHIN A STRUCTURED PROCESS CALLED I&R, REDUCE YOUR WORTH, VALUE, OR IMPORTANCE TO ME? WILL I SEEK TO DUPLICATE GOVERNMENT BY PAYING A LOBBYIST TO BE MY REPRESENTATIVE, AS IS THE CASE AT THIS UNFORTUNATE PLACE IN OUR SOCIETY'S POLITICAL EVOLUTION? I DOUBT IT.

DON'T MISUNDERSTAND ME. THE POLITICAL ACTION COMMITTEES AND LOBBYISTS WON'T DISAPPEAR. THAT'S NOT MY GOAL. MY GOAL AND SELF INTEREST IS NOT TO TAKE AWAY THE POWER FROM THOSE WHO DISAGREE WITH ME. (I MUST SAY I WISHED THEY FELT THE SAME TOWARD ME.) IT IS ONLY TO RAISE THE LEVEL OF MY VOICE TO BE ABLE TO CATCH YOUR EAR AS WELL AS THEY DO. THEY DO AN EXCELLENT JOB OF EAR CATCHING.

SOME OF US FEEL THAT THESE HIGHLY ORGANIZED EAR CATCHERS NOT ONLY MONOPOLIZE YOUR ATTENTION, BUT SOMETIMES LET THEIR HANDS WANDER TO PARTS OF YOUR POLITICAL ANATOMY EVEN WE WOULDN'T THINK OF GRABBING. WHAT'S WORSE IS THEY TELL YOU THAT THEY'RE GRABBING YOU THERE FOR OUR BENEFIT, NOT THEIRS.

BUT IN ALL SERIOUSNESS, I&R IS THE DEMOCRATIZING OF CITIZENS' COMMUNICATION WITH THEIR ELECTED REPRESENTATIVES. IT IS NOT A RECONSTRUCTION OF OUR REPUBLICAN FORM OF GOVERNMENT. YOU ARE, AND MUST BE, PART OF THE I&R PROCESS.

IN CLOSING, I WANT TO MAKE ONE MORE POINT. WE HAVE A POLITICAL CRISIS IN NEW JERSEY, AS WELL AS THE COUNTRY. THE PROBLEM IS NOT JIM FLORIO. I KNOW THAT, BECAUSE I LIVED IN THE STATE WHILE KEAN WAS GOVERNOR. AND THE PROBLEM IS NOT OF KEAN'S MAKING, BECAUSE I HAVE LIVED HERE SINCE 1959. THE PROBLEM, WHICH IS AT THE BASE OF ALL OUR OTHER SERIOUS PROBLEMS IS THAT THE PEOPLE HAVE ABANDONED THE POLITICAL PROCESS, AND THAT MEANS THAT THE PROCESS IS NO LONGER OF THE PEOPLE, BY THE PEOPLE OR FOR THE PEOPLE. REMEMBER THAT MANY PRESSURE GROUPS OPPOSING I&R, SUCH AS NJEA, AFSCME, CWA, NEW JERSEY BUSINESS ORGANIZATIONS, ETC. ARE NOT MADE UP OF MONOLITHIC, LOCKSTEP-VOTING MEMBERS. MANY BELONG BECAUSE THEY MUST IN ORDER TO HOLD A JOB OR GET SOME PARTICULAR BENEFIT. THEY ARE STILL, FIRST AND FOREMOST, CITIZENS, AND THEY KNOW THAT AS INDIVIDUALS THEY SHOULD HAVE YOUR EAR AND YOUR ATTENTION.

I THANK YOU ALL FOR PERMITTING ME TO PARTICIPATE IN THIS MINI I&R EXPERIMENT, I HOPE YOU THINK ENOUGH OF YOUR NEXT DOOR NEIGHBORS' RIGHTS OF CITIZENSHIP TO GIVE THEM THE OPPORTUNITY I HAVE JUST HAD, THAT IS, TO TELL YOU WHAT I NEED YOU TO DO.

# New Jersey Catholic Conference

211 North Warren Street • Trenton, New Jersey 08618-4894  
(609) 599-2110

Most Rev. Theodore E. McCarrick  
Archbishop of Newark  
President

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

STATEMENT  
OF  
NEW JERSEY CATHOLIC CONFERENCE  
IN CONNECTION WITH PUBLIC HEARING  
OF  
ASSEMBLY STATE GOVERNMENT COMMITTEE REGARDING  
STATEWIDE INITIATIVE AND REFERENDUM  
April 23, 1992

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

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

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 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.



New Jersey Education Association 180 W. State Street P.O. Box 1211 Trenton, NJ 08607-1211 (609) 599-4561 FAX: (609) 392-6321

TESTIMONY BY BETTY KRAEMER, PRESIDENT  
BEFORE  
THE NEW JERSEY  
ASSEMBLY STATE GOVERNMENT COMMITTEE  
ON  
INITIATIVE AND REFERENDUM  
APRIL 23, 1992

Thank you, Mister Chairman and members of the committee, for providing NJEA an opportunity to testify against Initiative and Referendum as a public policy in New Jersey.

You have already heard from many of NJEA's grassroots members during the public hearings held in Morristown and Toms River.

NJEA's position on "I&R" has been developed from a poll of our membership, input from our state leadership, county leadership, and the Delegate Assembly, our policy-making body.

The debate on whether to adopt "I&R" in New Jersey is not a new one. The controversy over "I&R" began at the turn of the century during the progressive era because the public correctly

perceived the legislative process to be a closed, secretive, corrupt, and unresponsive one. The legislative system continued as a closed and inaccessible process until recent times, yet "I&R" was never adopted.

Over the past 20 years, legislative reforms have made the lawmaking process open, accessible, and highly visible.

Power has been widely dispersed within the system. Reapportionment, reflecting the "one person one vote" principle; the expansion of the number of legislators in each house; and the creation of smaller legislative districts have enhanced the legislators' responsiveness to local constituencies.

Today, the New Jersey public is organized and participates more in the making of public policies. Bills scheduled for legislative committee consideration are posted and available in advance of the hearings. The public has the opportunity to offer input during each committee meeting.

These opportunities allow us to craft legislation that has the better public good at the forefront. Experts in the field also have the opportunity to come forth and refine legislation.

Over the last five years, the legislature has "gone on the road" holding committee meetings and public hearings all around the state, making our democratic government an even more participatory process.

In addition, legislators maintain district offices where staff aides and researchers are highly accessible to their constituents.

If members of the public are unable to attend a legislative hearing, they have an additional opportunity to offer input on a bill --- they can call, write, or meet with their legislators back in their own district.

The New Jersey legislative process is like a two-way mirror --- if a representative is not responsive to his or her constituents, voters can remove that legislator from office as they did in the 1991 elections.

As legislators, you currently must respond to a myriad of issues - issues on tax reduction, health care, pension reinvestment, health crises, affordable housing, and state funding just to name a few. Your consideration of these issues must be a deliberative process.

If "I&R" is enacted, would we still have the right to that same quality analysis before laws are created?

In tough economic times we would be faced with larger class sizes and the elimination of programs. Pre-school programs and early childhood programs would be cut, yet they are important to a large percentage of our state's students.

The average age of our school buildings is over forty years. In the urban areas, how can we move education into the 21st century when our buildings aren't even in the 20th century?

How can we compete in a world class economy amidst "I&R" proposals which reduce tax revenues?

While the system may not be perfect, NJEA believes representative democracy works better than ever before in New Jersey.

Some cry that the legislative process is controlled by special interests. But let's be honest ... This entire room is filled with special interest lobbyists. Everybody who has testified in the previous public hearings, as well as this hearing represents a special interest.

Groups advocating tax cuts are special interest groups. Organizations which seek to improve the environment are special interest groups. Coalitions of people who want to remove the tolls on the Parkway and Turnpike are also special interest groups. And the list goes on and on.

Yes, NJEA is also among the special interest groups. But the members I represent are also New Jersey taxpayers. As taxpayers, we don't like waste in government. We want accountability in our schools. And we want the legislature and governor to be directly accountable, too.

While the proponents call for accountability and cuts in state government, seventy-five percent of the same public in an Eagleton poll conducted January, 1992, wanted legislators to roll back sales taxes just so long as NONE OF THEIR SERVICES WERE CUT.

Providing more services with less money is an impossible dream. It denies people the needed services and weakens their faith in government.

Without tax dollars, how will the state provide a "thorough and efficient" education to all children as the constitution demands?

How will the State provide the necessary social services to effectively respond to health crises such as aids, drug abuse, and crack babies? These are just some of the problems the members I represent will face in this decade.

These social problems will raise the cost of education if we are to meet the education challenges by the year 2000.

While we don't like the horror stories of California or Massachusetts, public services have been drastically cut --- the very same objection raised by New Jersey respondents during the recent Eagleton Poll.

CALIFORNIA:

- \* Ninety-two percent of California's budget is mandated. California ballot initiatives limit discretionary state funding to eight percent --- and don't allow for emergencies.
  
- \* In emergencies such as the San Francisco earthquake, the rebuilding of government buildings, schools, and highways is still an on-going process.

- \* Why? Because the funds aren't available to complete these projects.

MASSACHUSETTS:

- \* Each year another school district goes bankrupt because of Proposition 2 1/2.
- \* Class sizes increase.
- \* School employees become unemployed further creating a downward economic spiral in an already depressed state economy.
- \* Programs are slashed and educational opportunities are lost.

Is this the education we want for the children of our state?

NJEA thinks not.

The cost of "I&R" will not come cheaply. You will be creating regionalism, sectionalism and moral issues which could tear the fiber of the state in half.

Members of the committee, you are opening up a Pandora's box --- And out of that box will come causes . . .

- \* "big money" causes versus those with no money such as on-going car insurance issues in California which still haven't been resolved \$8 million later.
- \* environmental quality versus industrial development such as "Big Green" in California which costs \$32 million.
- \* And hi-tech media consultants versus common citizens who would control the 30-second sound bytes to a new height for their own self-serving gains - not for the issues themselves.

Where do we draw the line?

If "I&R" is adopted, the courts have already determined there can be no safeguards to prevent "big money" out-of-state interests from bankrolling New Jersey initiatives as they do in California, Massachusetts and the other 23 states.

"I&R" would pave the way for single issue zealots to whipsaw our state legislators, forcing them to react to constantly shifting centers of power.

Why should legislators work through and take stands on controversial issues when they can simply sit back and wait until "the people have spoken?"

And the voters' "voice" would be based on three sources of information --- ballot pamphlets, media, and paid advertising.

No matter how honest each side is, the bottom line is whose message sells, not what it tells. That's the real truth about "I&R" ... proven in every "I&R" state year in and year out.

NJEA believes more people should be involved in the political process. But they should be involved in campaigning for honest, intelligent lawmakers who can be trusted to apply their best judgement to the questions of the day. The system of representative government works, even if some voters don't like everything every representative does.

NJEA urges you as legislators, elected by the people, to continue to represent the people to the "best of your ability." Please reject the release of any initiative and referendum bills.

Thank you and I would be happy to answer any questions.



## TESTIMONY ON INITIATIVE AND REFERENDUM

Assembly State Government Committee, April 23, 1992.

I am Philip Kirschner, Executive Director of the Employer Legislative Committees of New Jersey. The Employer Legislative Committees of New Jersey is an independent group of employers with chapters representing all 21 counties. We are composed of thousands of employers, most of whom are considered small businesses. It is a grass-roots organization designed to facilitate relations between legislators and business and to speak out on public issues. We vigorously oppose I&R. The ELCs firmly believe because of the experience in other states that I&R is often used as a vehicle for anti-business proposals and to put up propositions that damage the economy. Let us take a look at some of the proposals that are likely to be on the ballot this year in various I&R states.

- In Michigan, a proposal will be on the ballot that will increase business taxes by \$750,000,000.
- Three initiatives submitted in the 1992 session of the Massachusetts Legislature are:
  - 1) Public disclosure of corporate tax returns.
  - 2) New excise tax on business.
  - 3) Severe product packaging restrictions.

All three proposals are likely to appear on the ballot this year. I should note that Massachusetts is an indirect initiative state with a process that is similar to what is in the I&R bills before you.

- In Oregon, advocates are currently circulating initiative petitions proposing business property taxes be set at twice the level of those paid by residential taxpayers.

All of these proposals are in states that are not named California, and in states that either have indirect initiative or supposedly have other "safeguards". In New Jersey, therefore, we can reasonably expect that Initiative and Referendum means that questions will be on the ballot which propose higher business taxes, onerous and unbalanced environmental regulations, initiatives such as the H.E.L.P. bill of last session, and other anti-competitive bills. Businesses deciding whether to locate or expand in the East will shy away from New Jersey as the only State in the region where one issue, anti-business groups can harm the economy by getting poorly-conceived propositions on the ballot.



The supposed "safeguards" in I&R are an illusion. They do not work and will not provide the safeguards that you want. They give people and legislators a false sense that their fears of I&R are being taken care of, but they in fact are not.

The indirect nature of the I&R bills are meaningless as they provide the legislators with no real choice. The Legislature's only choice when considering an I&R proposal is to adopt a "substantially similar" bill or have it go on the ballot. That is no choice at all. For instance, if a proposition is submitted to raise business taxes by 10 percent, the legislators must embrace the concept of higher business taxes. Its only decision is to perhaps lower the rate to 8 or 9 percent. This is no choice at all. The Legislature plays no real role.

The Geographic limitations in the bills cannot achieve the deserved result because they do not require that each county or even the majority of the southern counties sign petitions for I&R. The vote of the eight southern counties are combined to reach the 8 percent vote total required. Therefore, two counties like Camden and Ocean County can account for virtually all of the votes in the South. Also, Ocean County is considered Southern New Jersey, which it isn't, and which dilutes the geographic limits in the bill.

There is also no requirement that the actual vote on the proposition not be dominated by a few counties. There is no requirement that a majority of the counties in the state and a majority of the southern counties actually vote to pass an I&R bill. If you believe geographic limitations are important in getting a proposal on the ballot, isn't it even more important to have such geographic representation to actually pass a proposal?

The threshold for the signature requirements are not a problem for well-paid companies to obtain in a densely populated small-sized state like New Jersey. Already companies specializing in getting signatures for the ballot are in New Jersey. There would be "no problem" in meeting the threshold.

Finally, any "safeguard" on I&R can be eliminated by the I&R process itself. So let us dispose once and for all that this is an I&R with "safeguards" that is vastly different than California. The results will in fact be the same.

Another important point to make that is I&R is not a top public priority. All surveys or polls on I&R that we know of, show that the public has very little awareness about what I&R is and does not rate I&R as one of the major issues facing New Jersey. There is no public demand for I&R as the proponents would lead you to believe. This is an issue generated by the politicians, not by the public.

Furthermore, I&R is not the way to provide solutions to complex public problems. It does not provide needed checks and balances. There is no ability to look at a wide variety of solutions and pick and choose the best parts of various solutions. There is no fiscal analysis, and no economic impact analysis.

Do you really believe that such complex issues as providing healthcare and the means to pay for it, solid waste disposal and education, can be solved through I&R? It is a simplistic way to solve complex problems. It is a take it or leave it form of government that pits groups in society against each other in a winner take all confrontation. It transforms decision-making on complicated issues into

campaigns where slogans, bumper stickers and slick advertising campaigns prevail over reasoned and rational debate.

Contrary to the notion that I&R provides power to the typical voter, it actually makes the lawmaking process so costly that only those with money and access to media can get their initiatives on the ballot. It gives tremendous power, therefore, to one issue groups that have the money and access to the media to get their issues on the ballot. It is simply a very bad idea. We ask you not to do this. Vote down this terrible concept!



**TESTIMONY BEFORE THE ASSEMBLY  
STATE GOVERNMENT COMMITTEE**

Thursday, April 23  
by Dottie Dunfee

League of Women Voters of New Jersey

Thank you for the opportunity to speak to you today. I am Dottie Dunfee, Advocacy Vice President for the League of Women Voters of New Jersey. I represent 70 local Leagues in municipalities and counties throughout the state.

Before taking a position on an issue, the League determines the viewpoints of its members through an intensive study process leading to a "consensus" position. These positions are reviewed and reaffirmed on a regular basis. League support or opposition to particular legislation is always based on these consensus positions.

In 1982 the League used this process to determine that indirect initiative and referendum should be available to New Jersey voters. Our study included input from 16 Leagues throughout the country where initiative and referendum was already in place. These Leagues reported that their experience had been positive. Current correspondence with other state Leagues indicates that they continue to be supportive and are working on measures to refine and strengthen their I & R procedures.

To be frank, we really wish it weren't necessary to be here today to advocate for I & R. In an ideal representative system, like the one our forefathers probably envisioned, there would be no need for I & R because legislators would clearly reflect, represent and respond to the views of their constituents.

But in the complex political world of 1992, voters perceive, rightly or wrongly, that the ideal does not exist. Instead, they perceive that legislators have been unable or unwilling to enact meaningful campaign finance reform. They perceive that lobbyists, backed by big-money interests, exert undue influence in the legislature. They perceive that virtually all incumbents are insured of re-election. They perceive that the "little guy or gal," the single voter, has been squeezed out.

The League views indirect I & R as an extension of the citizen's right to vote and, hopefully, a vehicle for changing perceptions and bringing citizens back into a system in which they are represented. But we also believe that the process needs stringent safeguards to protect it from the very factors mentioned above. The League insists that:

- the initiative should be an INDIRECT one where registered voters may petition the legislature to consider specific proposals or constitutional amendments;

- continued -

- signatures on petitions should represent a wide geographic distribution of voters;
- the number of signatures required should be a reasonable percentage of the voters in the last gubernatorial election;
- adequate information on the issue should be provided to voters by the state.

Our position also calls for 1) setting limits on contributions, and 2) banning paid petition solicitors. We recommend that these limitations be considered in a constitutionally appropriate manner.

The League's Board of Directors has voted to support Assembly Concurrent Resolution No. 1 which most nearly meets our criteria. We specifically endorse the percentages cited in section II, items 1 (a) and (b). The information contained therein is summarized in the third paragraph of the statement on page 7:

To qualify a proposed constitutional amendment for submission to the Legislature, the initiative petition which proposed it must contain a number of signatures equal to at least 12% of the number of votes cast in the State in the gubernatorial election preceding certification of the petition for circulation. To qualify a petition proposing consideration of a law, the number of signatures must equal at least 8% of that turnout figure. These signature requirements apply regionally as well as Statewide: a petition must include signatures from the eight southernmost counties of the State equal in number to at least 12% or 8%, as appropriate, of the gubernatorial election turnout within those counties. A corresponding requirement applies to signatures obtained from the other 13 counties. Signatures from any one county in excess of 15% of the total number required Statewide are disregarded in determining whether that required number has been obtained. 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.

The League would be reluctant to support legislation which is based on smaller percentages.

We also firmly believe that before the issue goes to the people, the procedures should be clearly spelled out and the enabling legislation should be written and available for evaluation.

The safeguards cited are a specific part of our position on indirect initiative and referendum. But the League's interest in the issue is broader than a single study. The overall goal of our organization is to encourage "informed and active participation of all citizens in government." We hope that the petition-signing process and attendant media coverage will serve to better inform citizens. Perhaps a desire to sign petitions will motivate people to register to vote.



NEW JERSEY STATE  
CHAMBER OF COMMERCE  
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Position Statement  
on Initiative & Referendum

Remarks of  
William, F. Faherty, Jr., President  
New Jersey Chamber of Commerce

Hearing of the Assembly State Government Committee  
Trenton, New Jersey  
April 23, 1992

Mr. Chairman, members of the State Government Committee and other members of the Legislature, thank you for the invitation to speak at this morning's hearing of the committee on the issue of Initiative & Referendum.

I feel it's important in my role as State Chamber President to speak out on public issues that affect business and our State's economy. Unfortunately, there are so many vexing issues that face our State, such as State spending and taxes, regulatory reform, governmental efficiency, the environment, health care reform and transportation and a hundred others that make up the Chamber's 1992 LEGISLATIVE AGENDA FOR BUSINESS.

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They are the real problems that need the Legislature's attention to achieve real solutions. In all candor, I must say that instead of I&R I wish we were addressing those very real problems this morning.

Like or not, we are convinced that an I&R process won't provide the effective solutions those complex problems and others require. Our business and professional members in all 21 counties believe that complicated public policy issues cannot be addressed by bumper sticker slogans, 30-second commercials nor a simple "yes" or "no" answer in the voting booth, based on a 100-word statement.

Each day that the real key issues and problems of this State go unsolved, a more uncertain future is created for our economy, our businesses and our citizens. That's the message I hear from our members every day.

Let me digress for a moment to dispel another myth you've probably heard.

Contrary to rumor, the State Chamber is far from a "big-business" group. Fully 75% of our members are small businesses, employing fewer than 50 members.

Last Fall, we surveyed our State Chamber membership on a wide variety of matters, including how and what issues should be immediately addressed by our Legislature.

There were many choices of legislative issues listed on our survey, including a slot for I&R. Did it make businesses' top 10? No, it did not. Did it make our top 20? Again, it did not.

Our members listed as our top five legislative issues:

- Health Care Costs
- Regulatory Reform
- Environmental Laws
- Taxation and Spending
- Education Reform

But make no mistake. We do have a very real interest in I&R but it is a negative one. We do not want to see it implemented as a supposed means to solve problems; rather business wishes to avoid I&R so that key issues may continue to be effectively resolved by the Legislature.

We have been complimentary of the job this Legislature has done in its first few months. But there are many pressing problems that are far from being solved.

Let's get on with resolving those issues. We're here to help, but let's not spend more time addressing the "placebo" that is labeled I&R.

I call I&R a "placebo" because we think the term fits. A placebo is a drug that really has no therapeutic benefit, yet it makes the

patient feel good. How apropos. In this case, don't address the problem, don't plan, don't create a solution. Turn it over to the people, let them decide. It will make them feel good.

That's not representative government. That's not even responsible government.

I think our voters demand more. That's why there was such a turnover in the legislative ranks last Fall. Voters will judge this Legislature by your progress in dealing with the State's real problems. They'll not judge you by how many questions you ask them to decide, questions the Legislature as a body chooses not to address.

THE STATE CHAMBER BELIEVES A LARGE PART OF THE DEBATE ON THIS ISSUE SHOULD BE ABOUT LEGISLATIVE RESPONSIBILITY.

Because this State is so populous and diverse, we ask you as legislators to come to Trenton as our representatives to deliberate and make reasoned, informed decisions on our behalf.

Let me refer to another analogy, one that you can probably relate to in your "other lives" as owners, managers or employees of a business, or as professional persons.

I would liken voters to stockholders of a business. The voters are the stockholders of our State. They chose to "invest" their votes in you.

As legislators you are a board of directors. The Governor is the Chief Executive Officer. The stockholders entrust you to make basic policy decisions and provide direction. If legislators start asking voters to make all the decisions, or if a board of directors suddenly asked stockholders as to how many paper clips to buy, how many widgets to use in their factories, or where to market their products, I'd start to question the capability of that management.

Let me reiterate, this Legislature will be judged on the progress you've made on our State's pressing issues, not by the perception of solution by Initiative & Referendum.

All of us have "wish lists", things we'd like to see if this were a perfect world. Each person's wish list is different, though.

We would all like to see taxes reduced, lowered insurance rates, uncongested roads and elimination of every other nagging problem we face every day. Let's not kid ourselves that we can magically wish away our woes through I&R.

The New Jersey Chamber of Commerce is a known entity here in Trenton. It's important that we effectively represent our members. Sometimes we support legislative initiatives. Other times we must oppose. This obviously, is an occasion for the latter.

Sometimes we're frustrated by the legislative process, just as I'm sure you are. But flawed though it may be, it tries -- and

generally succeeds -- to take into account the views of the numerous interests in this State.

Representative democracy has accommodated the diverse needs of our State -- and our Nation -- for more than 200 years. 45 years ago, in 1947, that was reaffirmed when our Constitution was completely redrawn and no provision was made for I&R.

In 1992, it's time to reaffirm the responsibility of a REPRESENTATIVE Legislature, and the work it entails. On behalf of our 110 chambers throughout the State and the 45,000 businesses and 3 million employees they represent, we know you're capable of that challenge. We look forward to working with you to find real solutions to our many problems in the give and take of the legislative process.

I&R is not a solution -- or even a realistic means to solution of the many complex issues facing our State. For that reason, we'll continue to oppose it in any way, shape, form or fancy package.

Thank you for the opportunity to present the views of the State Chamber of Commerce based on our 80 years of aggressive advocacy of sound government and a healthy economy for New Jersey's businesses and their employees.

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POSITION STATEMENT  
ON INITIATIVE & REFERENDUM

REMARKS OF  
JAMES C. MORFORD  
EXECUTIVE DIRECTOR  
NEW JERSEY SOCIETY FOR ENVIRONMENTAL, ECONOMIC DEVELOPMENT  
(NJ SEED)

HEARING OF THE ASSEMBLY STATE GOVERNMENT COMMITTEE  
TRENTON, NJ  
APRIL 23, 1992

Mr. Chairman and members of the Assembly State Government Committee. I am James C. Morford, Executive Director to the Society for Environmental, Economic Development (NJ SEED), New Jersey's leading business/labor coalition. Thank you for the opportunity to address this public hearing on the subject of Initiative & Referendum.

At the November 15, 1991 meeting of the NJ SEED Board of Trustees the Society's long-standing opposition to initiative and referendum (I&R) was reaffirmed.

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NJ SEED considers I&R to be a threat to our state's carefully crafted constitutional system of checks and balances through representative democracy.

A New Jersey I&R system that even comes close to replicating California's would be a disaster for our state. On the other hand creating a New Jersey I&R system so restrictive that it is very difficult to utilize will surely draw objections from the most vocal proponents who can be expected to employ that very system to create one more like California.

Representative democracy as provided in our federal and state constitutions was not designed for efficiency or simplicity. It was designed to craft public policy through the give and take of ideas in the caldron of the legislative process resulting in majority consensus that is sensitive to protecting the rights of minorities. This vital process can be lost under I&R where issues are chiseled in stone many months before the voters who, at the end of sound bite and bumper sticker campaigns, must cast a simple yes or no vote - with no opportunity to offer amendments.

One only need to look at the proponents of I&R to recognize that they are dominated by the most extremist elements in our society both on the extreme left and the extreme right. Extremists' issues are often not addressed by Legislatures to the

satisfaction of the extremist. The I&R process is ideal for extremist causes.

To unleash upon the citizens of New Jersey the kind of divisive and disruptive issues that will surly emerge as ballot initiatives from every special interest group that feels its will has been thwarted by the legislative process, is a needless mechanism to set citizen against citizen, region against region, and race against race.

I&R is a very costly process - not just in its social costs but also in real dollars. It will be an expensive system to institute requiring a new or greatly expanded state bureaucracy. It will be an extraordinarily expensive system for those who must defend themselves against ballot initiatives. Ballot campaigns cost real money. While some funds will undoubtedly be diverted from legislative campaigns, the cost of getting messages across to a statewide electorate will run into the millions of dollars for each question. Proposals to limit what can be spent on such campaigns run up against First Amendment guarantees in the united States Constitution and have been repeatedly struck down by the court.

There is compelling evidence that in these difficult economic times, when states are seeking to retain and attract business, companies are extremely reluctant to locate in states with I&R.

Even more alarming is the trend of companies moving out of I&R states because I&R adds so substantially to the cost of doing business and to creating an unstable business climate.

NJ SEED believes that the system of checks and balances, crafted by our founding fathers at both the state and federal levels, works in the best interest of the overwhelming majority of our citizens. The citizens of New Jersey are perfectly capable of exercising their voice in the electoral process. The General Election last November 5 clearly demonstrated that if the public feels it is poorly represented the voters will make changes in their representation. The citizens elect their representatives to do the job of analyzing public policy issues and crafting public policies in the give and take of the process known as representative democracy.

We believe that you our elected representatives are capable to exercise your responsibilities. We would hope that you would have the same confidence in yourselves to accept that responsibility and not abandon it to the extremism of I&R.

Thank you.

JCM/lvw

**Testimony Before the Assembly State Government Committee  
In Support of ACR-57, Initiative & Referendum  
Presented By Rob Stuart, Program Director  
April 23, 1992**

Good morning, my name is Rob Stuart, I am the Program Director of the New Jersey Public Interest Research Group, NJPIRG. NJPIRG is a non-partisan, non-profit research and advocacy organization. NJPIRG works on environmental preservation, consumer protection and good government issues on behalf of over 70,000 members and contributors in New Jersey. I want to thank the Committee and Chairman Martin for allowing me the opportunity to appear and present testimony in support of amending New Jersey's Constitution to provide an initiative and referendum process in New Jersey.

NJPIRG brings a unique perspective to the committee. As opposed to some of the previous speakers, NJPIRG has both extensive experience working on issues inside the Legislature as well as organizing citizens outside the Legislature. NJPIRG also spearheaded the only petition drive to qualify a question for the ballot on the County level. Thus, we bring practical experience of what it takes to collect registered voters signatures for a binding initiative question.

NJPIRG urges the Committee to act in favor of adopting an I&R amendment that can be used by the people as a check on the undue special interest influence here in Trenton. I&R will not eliminate lobbyists, as some here might suggest, it is not a panacea to all of our state's problems, but it will involve and elevate the average citizen's impact on the lawmaking process. I&R will not replace the Legislature, it will complement the Legislature.

Too many times, issues that need to be debated and resolved in the public's interest are stalled or defeated by special interest pressure. An I&R process will not guarantee victory for all these issues, but it will lift the special interest curtain that

may keep a particular issue out the public view. I&R will let common sense ideas out of the political darkness that can be created by vested interest and let the arguments freely compete in the light and in the plain view of NJ voters.

Even if an initiative ultimately is defeated on the ballot, as the Mercer County Bottle Bill Question was in 1988, public policy benefits. Citizens petitioned in Mercer County because Mercer did not have a mandatory recycling ordinance and because deposits on containers are a proven way to collect and recycle large percentage of glass, aluminum and plastic. Out of county and out of state interests contributed over \$400,000 to defeat the measure, but on a special Saturday session, the Mercer County Freeholders approved the most comprehensive mandatory recycling ordinance in the State three days before the election.

I&R can be a fair system. Ideas and proposals should be allowed to be debated in as honest a fashion as possible. What could be more honest than having citizens petitioning each other in their neighborhoods, stores and schools. Yet, we urge the Committee to include appropriate protections, such that citizens are given the most complete information about the question, who supports it, who opposes it and where any money that is being spent on a campaign is coming from. As in all elections, one cannot control all the influences, but given that in a referendum everyone can participate and the citizens ultimately decide, no other form of government could be fairer.

We believe that the Committee should approve an I&R process that people can use. It is important not to set up artificial barriers to democracy and participation. NJPIRG supports the signature thresholds established under ACR-57 as modest and reasonable. Contrary to some of those who have testified before the Committee, given our experience with signature collection you should not assume the collection over 100,000 signatures is easy. People are not willing to "sign anything", and not everyone willing to sign a petition is qualified to sign a petition. In addition we urge the committee not to establish any additional signature requirements such as specific distribution requirements, because while the intent of making sure there is broad support for a measure is understandable, the end result might be to put the whole I&R process into the courts or needlessly disqualify a well qualified and popular initiative because the logistics and organization needed to meet the requirements are beyond the ability of average citizens.

Throughout the hearings so far you have heard from a number of witnesses that I&R is not needed because the Legislature thoroughly debates and decides issues in such a way that is beneficial to the public. After eight years of living with the legislature, I wish I could agree with that statement. Too often, the only reason a bill moves or doesn't move is because a particular interest "wants it" or a particular member or party "needs it". The merit of the issues gets lost in discussions on what effect action or non-action might have on a particular election or interest group. Often bills move so quickly that only a few legislators and lobbyists actually know what a particular law does or does not do. Often the rules can be used or abused to "fast track" or "derail" a bill solely because of politics.

I&R is not perfect, but rest assured, any issue that qualifies for legislative consideration under an indirect system is going to have been debated, examined publicly, and more commonly known about than most of the issues on the legislature's agenda or the bond issues or constitutional questions which are currently on the ballot. If a citizen proposal actually is placed on the ballot, and contrary to what you have heard, most do not qualify and few make it to the ballot, it will probably have been in the public arena for at least two years. That is far longer than a number of measures which have been railroaded through the legislature by particular interests who know the process and have the money to make the process work.

As you are aware, I&R is feared. I&R is feared by those who are comfortable with the system the way it is and by those who are afraid to get out and explain their issues. I&R is an active process. Those who want change will be out telling their neighbors why, and those that oppose change will have to go out and tell their side of the story. Ultimately the people decide. They decide whether they want to sign a petition, they decide whether the legislature's action satisfies their quest, and in some cases they will decide an issue at the ballot. I&R empowers citizens with ideas with a process to be heard and it allows those ideas to become reality if there is popular support. What's there to be afraid of.

There are more arguments to address than there is time in testimony, to address these issues, I would like to enter for the record an excellent chapter and appendix from a book written by David Schmit, Citizen Lawmakers, it effectively

discusses many of the common questions about I&R and provides a comprehensive list of the initiatives proposed in recent history and the outcome of those referendums. As you will see, there is no pattern that can be concluded from the list, taxes have been raised and cut, education funding has been increased, strong environmental protection measures have been approved, others have been defeated. Campaign finance reform has been approved, term limits have been defeated. What's clear is that citizens use the petition process to initiate innovative ideas, and many of the issues which remain on the table in NJ have already been decided in I&R states.

In closing, I want to commend the Committee for taking the time to hear from citizens, to hold evening hearings outside Trenton, for offering the hope that this in fact may be the year that NJ finally lets the people decide whether we should have I&R. I urge you to look beyond the horror stories and the fear that many of the well meaning people here are testifying to. I think it comes down to two simple questions. Do you trust the people or not? And if not, why not give them a chance to prove you wrong?

Thank you for the opportunity to testify, we stand ready to assist you in your effort to move I&R forward.

**I&R Opponent's Spending to Influence the Legislative Process**

<b>Political Committee</b>	<b>'90</b>	<b>'91</b>
Atlantic Electric	8,436	15,725
Builder's PAC	58,077	311,124
Dental PAC	96,621	136,015
Food Council	19,830	102,526
J & J	19,175	30,745
NJBIA	*	227,947
NJEA	291,396	663,996
NJOBS	21,744	215,258
NJ Optometric	83,935	354,650
NJ Retail Merchants	*	98,078
Public Service Exec. PAC	25,584	14,526
Realtors	148,496	269,495
SEED	*	30,163
<b>Sub-Totals</b>	<b>773,294</b>	<b>2,470,248</b>
<b>Total</b>	<b>3,259,267</b>	

Data Compiled by NJ Common Cause & NJPIRG from Election Law Enforcement Commission Records.

\*Data not obtained or unavailable from ELEC

For Immediate Release  
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## **SPECIAL INTERESTS OPPOSED TO I & R SPENT OVER \$3.25 MILLION I&R ADVOCATES SAY LEGISLATURE SHOULD REJECT PAC INFLUENCE**

Special interest political committee's opposing Initiative & referendum reported spending at least \$3.25 million to influence the legislature during the '90-'91 session. I & R advocates said these groups oppose I&R because they have made an investment in the current legislative process. During their testimony before the Assembly State Government Committee in support of I&R the groups presented a large "Special interest" check symbolizing the amount the PAC's spent.

"Right now special interests can spend millions making their case behind the scenes to the legislature," said Ed McCool, Executive Director of NJ Common Cause. "They oppose I&R because they do not want the public to be in a position where they can break up this cozy arrangement."

Using reports filed with the Election Law Enforcement Commission (ELEC), NJ Common Cause and the New Jersey Public Interest Research Group, (NJPIRG) documented legislative expenditures of thirteen political committees that testified against I&R last year. The PAC's reporting spending \$773,294 in '90 and \$2,470,248 in '91 for a total of \$3,259,267. The NJ Education Association led the list by reporting spending \$955,392.

"Special interest money unduly influences legislative consideration of issues," said Rob Stuart, NJPIRG Program Director. "The Committee should reject the special interest's opposition to I&R and approve an I&R amendment so that the people, not the PAC's, decide whether NJ establishes I&R."

Both McCool and Stuart testified in support of the "People's I&R" ACR-57, which would set modest signature requirements (3-5%), yet would set strict financial disclosure requirements for any individual or group contributing to an initiative campaign.

# ASSOCIATED GENERAL CONTRACTORS

*of New Jersey*



Richard L. Forman, Executive Director

STATEMENT OF THE  
ASSOCIATED GENERAL CONTRACTORS  
OF NEW JERSEY  
ON INITIATIVE AND REFERENDUM LEGISLATION

ASSEMBLY STATE GOVERNMENT COMMITTEE

APRIL 23, 1992



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Mr. Chairman and members of the State Government Committee, I speak on behalf of the Associated General Contractors of New Jersey, an organization of 90 contractors involved in heavy/highway construction in this State. The AGC is one of 101 Chapters of the AGC of America, the largest construction trade organization in the nation.

We are in total opposition to the legislation being considered today. We hold this position for no self serving reason, but rather because I & R represents a serious deviation from the system of checks and balances inherent in the democratic system of government in New Jersey. This system has served New Jersey well for over 200 years and is indeed the reason I have the opportunity to speak before you today.

Rather than bringing this system closer to the average New Jersey voter, I & R would actually deprive them of the representation they now enjoy. It would take the lawmaking power out of the hands of those legally elected to represent them and put it into the hands of groups driven by a single purpose. The experience other States have had with I & R thus far reveals that this is the case.

We believe, as does the average New Jersey citizen, that you were elected to make those tough decisions. Hearing from all sides of an issue and weighing the consequences are all part of the process that makes those decisions possible.

With I & R there can be only yes and no answers. The spirit of compromise which is essential in any democratic form of government is virtually non-existent. We urge you to vote "no" on this issue and put it to rest once and for all. Thank you.

Good Morning. My name is Linda Fullen. I am from Columbus, Burlington County, and I am here as a college student, Columbus Home & School President and a Mansfield Township School Board Member and a registered Republican. I hope I can add a different light on the many testimonies you have already sat through.

First I would like to testify as a student and citizen. This past semester I did a term paper on I & R for a political science course. During my research, I covered data from all aspects and I kept an open mind, listing the pros and the cons. In my conclusion I stated my position which I will share with you:

After considerable research and reading through mounds of data, outlining all the the pros and cons of I & R, my opinion is that our Legislature is open to anyone who is interested enough, cares enough, and has enough determination to go after what he truly believes. After all, it is the job of the Legislators, who are elected to represent the voters and who should be leading and governing the general population not the special interest groups who just happen to have the most money.

I am sure that you are all aware of the history of I & R and when and where and why it began. For those in this room who are not, I will briefly state that it began in Switzerland in 1831. It was in 1898 when South Dakota adopted I & R. Most

of the states that adopted I & R have done so between 1898 and 1918, at a time when the legislative process was closed to the public. However, over the past 25 years, the NJ legislative process has been open to the public and encouraged access <sup>to</sup> the decisions made by our legislators by way of legislative hearings, such as this one, advance lists of bills pending consideration, toll-free legislative information, district offices where many concerned citizens can call their respective Assemblyman/woman or Senator to express their views, and detailed reporting of the Legislature's activities and pending issues by the State House Press Corps. The "sunshine law" must also be included in this list. Under our current legislative process, opportunity is constantly ~~open and available~~ <sup>presenting itself</sup> to those interested enough to attend or testify at the respective hearings, ~~call their legislators, etc.~~ This in itself suggests that the need for I & R is unnecessary and highly questionable.

Secondly, I would like to also testify against I & R as a Home & School President and School Board Member. Our community is one that is labeled "wealthy" under the current QEA. As you are all very much aware, not all communities that are labeled "wealthy" are. In our particular case, we have a retirement community, which in the calculating of the QEA formula, gives the impression of a wealthy district, which is far from the case. With this information shared, I would like to point out that in 1990 our school budget was defeated for the very first time. We went through the process of meeting with our Township

Committee and they cut \$70,000, of our \$1.9 million budget. Again in 1991 we faced another defeated budget. This time, the Township Committee did not cut our budget, it was a unanimous decision to let it stand. All of the Township Committee members sat on a school board at one time or another. They recognized it as a honest and fair budget and could not cut it in good conscious. However, it cost one of our comittee members her seat when she came up for re-election. The person who won the election had never attended any township meetings, served on any township boards/committees - all he did was throw up the fact that "She" did not do the will of the people. My point is that if all of the people were aware that by law, the township committee cannot arbitrarily cut school budgets, they would not have let this one issue make their decision. You cannot depend on the voters to investigate the issues. They are sometimes short sighted and do not know all angles of a particular issue, whereas those in the decision making positions, have done their homework and know the different aspects of a particular issue.

To satisfy any curiosity there may be, this past budget was approved by the voters. The reason for this is because of a great deal of hard work. I got another school board member to help me register parents that were not previously registered. We informed them of the importance of their vote and tried to educate them as to what is going on in our school. This was started in January. Then as Home & School President, I

presented our Home & School board with flyers, for which they agreed to pay. We mailed these flyers prior to election day. I also send home a newsletter after each month's <sup>N+S</sup> meeting informing the parents of what is coming up and reporting on what has past. I took the opportunity in February, March and April's newsletters to remind them of election day. Our superintendent also made numerous budget presentations to our parents and even to the retirement community. Once the people were informed, they did come out in support of our school.

My point is that a great deal of work was put forth by a team of us to have our budget approved. Not all people, or even a few, will work as hard as we did. We did it because we believe in our budget and in our school and are committed to our children receiving a quality education.

Putting this into a perspective of I & R, if all this work has to go into educating the public on a particular issue, you can almost bet that the one who has the most money will win. It was a great deal of hard work and loss of family time and even time we could not spare.

Republicans believe in a representative democracy, not direct democracy. You will be abating your responsibilities as a legislative body <sup>I & R becomes part of an Constitution.</sup> You are in the position you are in because the people voted you in. They believe in your ability to make complex decisions, to lead and govern - that is why you are in the seat you are presently sitting in. There are those who believe the voters should make such decisions and are pushing

for I & R. Can you honestly believe that the majority of the voters will thoroughly investigate the issues in the hurried life style we all lead? I know myself, I am not a lazy person, I will find out the facts on some issues, however, my schedule would not allow me to thoroughly investigate all of the issues that would come up.

In summary, I would like to reiterate what I mentioned before, the voters elect our legislators to govern us, you are the educated body to make the complex decisions, not the average voter. If we do not like what you are doing, it is our responsibility to elect someone else. As I stated before, I realize that some people are demanding I & R in view of their professed lack of confidence in our government. It is your responsibility to build public trust by executing your expertise and not by letting the interest groups take the decision making process into their own hands. In my research, I found that the cons far outweigh the pros of I & R and also found that there was tremendous opposition by well-educated, well-informed citizens from all walks of life. I am sure that you have heard all of the facts that I have found in my research, please take these views seriously. If you would like, I would be happy to share my findings with you.

Thank you for letting me be part of this legislative process. I sincerely hope that it continues in this manner.

**INITIATIVE AND REFERENDUM**

**Linda Pullen  
POL 101  
March 31, 1992**

## INITIATIVE AND REFERENDUM

Before judgement is passed on Initiative and Referendum, solid information to back up an opinion is essential. Many different aspects and views of I & R should be investigated. Certainly, an opinion could change if homework is done thoroughly enough.

First and foremost, what is Initiative and Referendum?

Initiative is the power by which the voters may, through a petition process, propose a statute or constitutional amendment and adopt or reject the same at a general election. Or otherwise stated, when there are enough registered voters that have a strong feeling about a particular law that should be passed or an amendment to the state constitution, they can cause the proposed law or amendment to be put on the ballot to be voted on at the next general election.

Referendum is the power by which the voters can sign a petition and force the legislature enactment onto the general election ballot for approval or rejection by the electorate. In other words, when enough registered voters do not agree with a particular law, they can sign a petition requiring the law to be placed on the ballot at the next general election.

In both Initiative and Referendum, the majority voting in that election would determine if the law or amendment would pass or be repealed. However, it is not quite as clear cut as one may think. Each state has its own laws and requirements as to how I & R is enacted.

Perhaps it would be helpful to know where and how I & R got its start. It was certainly not when our Forefathers were first formulating our Constitution nor when the state constitutions were being written. Oddly enough, in 1831 Switzerland pioneered the concept of I & R.<sup>1</sup> It was in 1898 when South Dakota recognized Initiative as a valuable tool in government and was the first state to adopt it. Many states have since adopted I & R, with a few states opting to just either Initiative or Referendum. Listed below is a chart indicating the year it was adopted, percentage of required signatures of voters needed to have a particular issue put on the ballot, and how many were put on the ballot over the time period in the history of I & R of the particular state.

State	Year	Required Signatures	Initiatives/Ballot
Alaska	1959	6-2/3%	6 in 17 years
Arizona	1911	10%	46 in 63 years
Arkansas	1910	8%	57 in 65 years(e)
California	1911	5%	155 in 65 years
Florida	1972	---	1 in 5 years
Idaho	1911	10%	11 in 39 years
Illinois	1970	N/A	0 in 6 years
Maine	1908	10%	12 in 67 years
Maryland	N/A	N/A	Ref. Only
Massachusetts	1918	3%	28 in 57 years
Michigan	1913	8%	38 in 67 years
Missouri	1908	3-1/2%	44 in 67 years
Montana	1906	5%	28 in 71 years
Nebraska	1912	7%	24 in 63 years
Nevada	1912	7-1/2%	14 in 63 years
New Mexico	N/A	N/A	Ref. Only
North Dakota	1914	10,000(b)	30 in 63 years
Ohio	1912	6%(c)	44 in 65 years
Oklahoma	1907	8%	69 in 69 years
Oregon	1902	6%	207 in 71 years
South Dakota	1898	5%	19 in 78 years
Utah	1900	10%	6 in 59 years

Washington	1912	8%	78 in 63 years
Wyoming	1967	10%	0 in 8 years
Average		7.2%	0.8 per year

- (a) plus 25% vote of legislature in 2 successive sessions
- (b) 1.6% of population
- (c) 3.2% of population
- (d) only 3% if subsequently passed by legislature
- (e) successful initiative count only

Source: Congress Research Service; Library of Congress, Report JF941, 76-95A, 597/110 (May 1976).

This chart indicates which states have I & R, and how many, at least up to 1976, initiatives appeared on ballots. However, what this chart does not include is how successful or damaging I & R can be. Many opponents to I & R charge that special interest groups could flood the public with ads and the media for their cause. In their view, it boils down to how much money is spent on a particular issue. "With commercial signature-gatherers and modern direct-mail technologies, it is possible to get almost anything on the ballot as long as one has enough money."<sup>1</sup> In 1988, more than \$100 million was believed to be spent to contest 29 ballot initiatives in California. Among those fighting the hardest were the tobacco and insurance industries. They used hard-hitting television ads to thwart initiatives that they saw as harmful to their interests.<sup>1</sup>

The proponents of I & R, however, have a different approach. They believe that the voters do have common sense and have a right to voice their opinion by way of casting their vote. In the 1990 election, many states had education related initiatives on their

ballots which received voter support. "Nearly all the education-related tax rollbacks were defeated, however, voters did not support tax increases either. Advocates of restructuring seem to be gaining strength despite the gloomy fiscal scene."

Another example the proponents can use to backup their point is

Voter response to education initiatives across the United States reflects skepticism about new reforms and about the conventional tactic of throwing money at problems. Voters in Oregon defeated a referendum that would have granted \$2,500 in tax credits to families who send their children to private schools or educate them at home. In Arizona, voters rejected a proposal to sharply increase education spending. California voters passed an \$800 million school construction proposal but defeated three other revenue-raising measures. In Massachusetts, however, where 40% of a school district's budget comes from state aid, voters defeated one of the most sweeping antitax measures on any state ballot. In addition, Nebraska voters failed to repeal the state's school-financing law, which results in higher state sales and income taxes.'

In some instances, the support shown by the voters on many I & R issues does prove that the voting public does think about the issues and does not arbitrarily vote no.

However, a good example of how I & R does not work is California. In their 1990 general election, they had a 280 page pamphlet which was so complex that the voters responded with anger, which sent most proposals to defeat, regardless of their merit. It should also be pointed out, that this election was dominated by expensive television advertising. This fact has given those opposed to I & R a good round of ammunition.

Turning now to New Jersey, the idea of I & R has been entertained and defeated by the legislature for many years. In

1979, Burlington, Cape May, Cumberland, Ocean, Hunterdon, Union, Morris, and Warren Counties overwhelmingly approved I & R with a 62.7% vote in favor and a 37.3% vote against. In 1980, Passiac County added their collective voice in support of I & R with 60% of the vote for and 40% against. There has been and still is strong public opinion that I & R should be part of our government. However, whenever public hearings on various forms of I & R have been held, going back as far as 1979, special interest groups voice their opposition. A listing of failed attempts is listed below:

- Public hearing was held on September 18, 1979 before the Assembly State Government Committee
- Public hearing was held on June 10, 1981, on SCR 72ndOCR before the Senate State Government, Federal & Interstate Relations & Veteran's Affairs Committee
- Public hearing was held in 1985 in the Assembly State Government Committee
- Public hearing was held on November 6, 1986 on SCR-1 in Mt. Holly
- Public hearing was held on June 20, 1991 before the Senate Judiciary Committee

Senator John Dorsey has been continuous in his efforts to have I & R, or at least some version of I & R, pass through the legislature. He came close in June of 1981 when his bill SCR-7 passed the Senate but died in the Assembly. As late as August 1991, a version of I & R was again defeated in the Assembly. However, Senator Dorsey has still not given up. He has pre-filed two Resolutions, Nos. 19 and 20, (SCR-19 and SCR-20) for introduction in the 1992 Session.

Since Governor Florio had the legislature push through the \$2.8 billion tax package in 1990, a major rebellion has surfaced, which has the public pushing for I & R. Several Assembly State

Government Committee meetings have been scheduled for this Spring, starting with April 2 in Morris County, April 14 in Ocean County and April 23 in Trenton.

The Speaker of the House, Garabed "Chuck" Haytaian, has now come out in support, saying has confidence that I & R would win significant statewide support if the people are given a chance to vote on the issue. But he said he fully expects opponents to wage an intensive and expensive campaign to defeat the proposed constitutional amendment. He also is quoted as saying "Giving people greater control over their own destiny is not something to be feared--but encouraged." He also stated that opponents are trying to confuse the electorate by constantly citing the California I & R experience. Let me set the record straight, three thousand miles separate New Jersey and California, that's how far apart we are in our thinking on I & R as well." It could be viewed that now public pressure is on the legislatures for some version of I & R, we can certainly expect a full blown battle to ensue over the next few months.

Proving a point, Senator Dorsey's interpretive statement in his bill SCR-20, is so complex that after reading, rereading, thinking and rethinking what it actually means, one can come to the conclusion that passing laws is the job for our legislatures and not the average voter. Perhaps those who have a degree in law would have no problem understanding what the statement actually means; however, for the average voter, it seems overwhelming and extremely complex. There is certainly cause to be concerned over

the issue and I & R, this should not be taken lightly.

And of course, it is not. Many organizations oppose I & R, any version of it. They hold a common list of very good reasons why they feel I & R is a dangerous form of government.

- pits group against group in winner-take all conflicts
- allows majorities to roll over the rights of minorities
- permits poorly crafted laws and a cluttered constitution
- makes access to the lawmaking process so costly and difficult that most of the public are shut out of the public policy debate
- provides narrow interest groups the power to design a law or constitutional amendment behind closed doors, then to veto any efforts to amend it
- makes it virtually impossible for persons to argue their concerns unless they can commit substantial wealth to the task
- provides no means for balancing and compromising diverse interests affected by a proposal
- closes off the law drafting process before public input, expert testimony or public debate can occur on the merits of a proposal
- limits policy making on difficult public issues to a "yes" or "no" response to a single option
- bypasses the checks and balances and safeguards carefully designed into the state constitution to weed out unsound proposals
- provides that a small percentage of voters is sufficient to amend the constitution to enact a law (in contrast to the requirement that a law be approved by more than half of the members of each house of the Legislature and be signed by the Governor, or be approved by two-thirds of each house if vetoed by the Governor)
- substitutes reliance on one-sided, oversimplified advertising campaigns for open debate and deliberation
- assumes that every voter will have sufficient time, information, expertise and interest to reach sound decisions on complex proposals
- makes it difficult to refine provisions or correct unforeseen problems after a proposal is approved
- is poorly suited to deal with complex, interrelated and difficult economic and social problems of a diverse, metropolitan state'
- the I & R process is easily abused by one-issue groups whose views have been rejected by the Legislature precisely because they are extreme and uncompromising; being elected by no one, special interest groups are accountable to no one, even for gross

- misrepresentations, elected lawmakers must always face the next election
- diminishes legislative responsibility by encouraging buck passing
  - if the legislature fails to design sound laws to deal with major public issues, the public already has a remedy in the ability to elect better candidates to elective office'

In order to be objective, one must include the opinions of those who favor I & R. The reasons given for support of I & R are:

- provides citizens a fundamental voting right - the power to make direct decisions on issues and reforms which the Legislature may be unwilling to tackle
- provides citizens the means of repealing unpopular laws
- makes the Legislature more responsive to popular demands
- generates greater participation in the democratic process
- increases voter turnout in elections
- provides a lawmaking process free of special interest domination

A very important point that should be made is that most states having I & R laws enacted them between 1898 and 1918 when the legislative process was closed to the public. Over the past 25 years, New Jersey's system has been made open and accessible to the public by way of legislative committee hearings, advance lists of bills pending consideration, toll-free legislative information, district legislative offices, and detailed reporting of the Legislature's activity and pending issues by the State House Press Corps. Also included in this list is the "sunshine" laws. Under the current legislative process, opportunity is always presenting itself to the interested individual or group to attend and testify at the respective committee hearings. All of the permits broad public input if one is willing to take the time to pursue their interests.

Just a few of who frequently use our present form of our government, which allows interested parties to testify at the committee meetings, are Mario Gangi, President of New Jersey School Boards Association, Betty Kraemer, President of New Jersey Education Association, and Alan Rosenthal of Eagleton Institute of Politics, Rutgers University. In Mario Gangi's testimony of June 20, 1991, he stated that on behalf of the New Jersey School Boards Association he opposed I & R. He stated that "I & R systems are ultimately detrimental to the State's public education system and what is bad for education is bad for New Jersey's future." He also pointed out that:

the fact that the Constitution could be changed through the I & R process without the approval of the Legislature, courts or governor. Any proposition signed by 15% of the voters from each county who voted in the last gubernatorial election could change the Constitution after a simple majority vote. This proposal has the potential to do irreparable damage to our State.

Also opposing I & R on June 20, was Betty Kraemer who stated that "enacting I & R would undermine New Jersey's system of representative government, threatening it with all-or-nothing propositions, written by narrow special interest groups." She also cited the experience in Massachusetts where:

the DOE reports that Proposition 2 1/2 reduced education funding by more than 6% When the law went into effect in 1981, more than 8,000 school employees were laid off. In 1982, 6,000 more employees were laid off. And today, 5,000 more school employees are being laid off.

In the New Jersey Business & Industry Association's testimony, they added a somewhat different approach. They pointed out that:

New Jersey has two centuries of experience with

representative democracy, and more than four decades of accomplishments under the checks and balances and multiple safeguards provided by the 1947 constitution to ensure a deliberative lawmaking process.

Also adding his opposition to the list was Alan Rosenthal from Rutgers University. He gave 10 reasons why he opposed I & R.

Examples that are different than what has already been listed are:

- the initiative is of questionable value because most -if not all issues are too complicated to be understood by reading a ballot
- the initiative process has a bias-it favors the well educated and the well off at the expense of the less well educated and the less well off

At the start of this research, an interview was conducted at the State House with Mr. Victor McDonald, Executive Director of the Senate Majority. Mr. McDonald has been working with Legislators for the last 21 years, is very knowledgeable and is a supporter of I & R. However, he did emphasize one point above all others:

I & R pits one group against another. Even groups that are at each others throat's join together in their opposition to I & R. All the groups that hate each other all agree, they want to fight issues with the 120 Legislatures and not out there. He went on to say that the proponents feel that the system is breaking down, is unresponsive and there are times when people need to take the matters into their own hands to force issues that their elected officials are incapable of dealing with. People can ban together to force them to do it. Mr. McDonald also pointed out that California's version of I & R is something to avoid. With indirect I & R, which is what is presently being sought after in New Jersey and has been for the last 15 years, it gives the Legislatures the first shot, once it goes into the Legislature, public hearings are held, committees study it, reporters write about it and the lobbyists look at it. It's a much slower process. The Legislature would have 6 months to a year to enact it. According to Mr. McDonald, the proposals in New Jersey are much tighter than in other states.'

During the time research was being compiled, many conversations had taken place with various individuals to try to find out how most people feel about I & R. The majority of those I spoke to were against it. However, one person's view point really hit me in a way I hadn't thought of prior to our conversation. While doing the weekly banking, the teller, Mrs. Josephine Haluska, made an excellent point. She asked me where I stood, at which I replied,

I'm against it because special interest groups can pour unlimited amounts of money into media advertising to get their point across, and it's not fair to the side that does not have as much money to support their views.

I was not prepared for her response:

special interest groups can give as much money into a candidate's campaign, so they essentially can 'buy' a candidate or at least one that he/she will owe big favors to. If special interest groups are that interested in an issue, at least all voters would have an opportunity to hear the controversy, not just one politician that happens to be indebted to them."

Mrs. Haluska made a valid point; one that I hadn't thought of previously.

However, after considerable research and reading through mounds of data, outlining all of the pros and cons of I & R, my opinion is still that our Legislature is open to anyone who is interested enough, cares enough, and has enough determination to go after what he truly believes. After all, it is the job of the Legislators, who are elected to represent the voters and who should be leading and governing the general population, not the special interest groups who just happen to have the most money.

The next few months will prove to be quite interesting if one follows and is interested in the I & R debate. My prediction is that I & R will be added to the New Jersey Constitution. The public is demanding it in view of its lack of confidence in our governing body. They have lost all respect for our elected officials and in turn, to try and prove to the public that they (the legislators) are the good guys, they will enact I & R. The legislators do not have short memories - they all remember what happened in November of 1991, when the people had had enough and literally voted out those who voted for the tax increases and they don't want that to happen to them. So no matter what all of the well-educated and well-informed opposition may say at the public hearings, I & R will be part of New Jersey's future.

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## NEW JERSEY ASSOCIATION OF REALTORS®

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TO: Assembly State Government Committee  
FROM: Maurice Hageman, President of NJAR  
SUBJECT: Initiative and Referendum  
DATE: April 23, 1992

Good morning, my name is Maurice Hageman. I am president of 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.

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 a popular issue 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 continue the process of deciding whether Initiative and Referendum is appropriate 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. In addition, nearly every segment of society has a 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. With the I&R example we are in the midst of the third public hearing on this topic which will have taken over ten hours when completed, with much informed and well prepared testimony on both sides. This process is essential in helping you, the legislature, make an informed decision. It is certain that you will spend many more hours listening to individuals and groups and reading your mail on this issue. At the end of the process you will make an informed decision on whether you believe this

process should or should not continue in 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 and other 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. This could lead to the often cited "tyranny of the majority."

In conclusion, NJAR respectfully asks that you not report any Initiative and Referendum proposal out of committee.

Thank you.

Mr. Robert J. Martin, Chairman  
Committee on Initiative & Referendum

April 23, 1992

Mr. Chairman and the committee, I wish to thank you for this opportunity to present to you the following in full support of Initiative & Referendum.

Anita Hill, the law professor who stood in front of the Senate Investigating Committee in Washington a year ago, after 10 years of silence, told of her experience. Today, after 18 years of hard work, I must expose my experience. Unlike Anita Hill, this presentation is not about sexual harrassment. It is about a corrupt system of injustice condoned through the years.....by our state government, for the benefit of medical and legal professionals in serious question.

I know of what I speak! My husband was a physician, and a victim of a brutal, wrongful surgical death, in the opinion of highly respected surgeons on the faculty of the University of Pennsylvania School of Medicine and the staff of the University's hospital. These physicians wrote their opinions addressing this heartless tragedy. One physician stated in his letter to me, and attached to the complaint to the State Medical Board, "This case should be legally and morally opened". This case was never opened. It was conducted behind closed doors. The executives of the State Medical Board can be as partial to the licensee in serious question as they choose to be with their system of preferential treatment for the licensee.

The State Medical Board and the attorney general's office had and has the power, without accountability, to cover up any malpractice complaint they choose. The families of victims who complain to the State Medical Board deserve equal rights and equal justice, the very same system of justice provided street crime victims.

Through the years, long before our tragedy, the executive committee of the State Medical Board has been covering up criminal medical malpractice complaints. It is a conspiracy condoned through the years by the attorney general's office and their Department of Law & Public Safety, the very department in our state government whose responsibility it is to protect the people!

Mr. Chairman, everyone on the committee, and the audience, must be asking themselves - why would attorney generals through the years be a part of this conspiracy that condones the cover up of medical malpractice complaints? The answer is, because the state government has provided the legal board with the very same power, power without accountability to cover up any serious complaint that the executives of the legal board choose to conceal via closed secret sessions. An investigation free of government intervention will prove these statements to be correct.

The State Medical Board intentionally denies medical victims and their families the right to be present at closed secret sessions whenever they choose. These closed sessions titled, "Non Public Conferences" are a loophole in the commonly called **Sunshine Law**. Believe me, when I tell you, this intentional exception to the law provides the executive doctors of the State Medical Board and the licensee in serious question with a loophole a mile wide, and a brick wall for the medical victims. The following undemocratic injustices that the brick wall denied our family were:

- our right to a hearing,
- our right to be represented by council,
- our access to the records of the secret session(s) and
- our right to appeal.

But "why?" is the logical question to ask. The reason is to thwart medical victims access to the court system, whenever the medical doctors on the executive committee of the State Medical Board choose to do so. Thwarting access to the system of justice is a very serious crime in a democracy, and it has been going on for years.

Our former Senator Richard Van Wagner wrote to the attorney general in my behalf. Attorney General Cary Edwards responded on December 21, 1987, "I am in receipt of your letter on behalf of Rosalind Collis in which she expresses concern about the manner in which the Medical Board of Examiners conducts its investigative hearings." Then the attorney general justified the Non-public Conference of the Public Meetings Act, by stating that, "the licensee's reputation would be in jeopardy if the sessions were not closed."

The attorney general then stated: "If Mrs. Collis is convinced that her husband died as a result of the doctor's negligence, she has recourse to the courts in a civil suit."

The attorney general continued: "The standard in a civil suit is a preponderance of evidence." Our family certainly had a preponderance of evidence, and the executive committee of the State Medical Board knew it because they were enclosed with the pertinent information requested by the Board. I did not send my request via the senator to the attorney general asking what I could do. The reason was to ask the attorney general what he was going to do to change a corrupt system of injustice against medical victims whose access to the court system was intentionally thwarted behind closed doors.

New Jersey State Library

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On the editorial page of the Newark Star Ledger dated December 25, 1989 - James Morley, the executive director of the Commission of Investigation, addressed the question of a **conspiracy of silence** by the medical profession, whereby these professionals in charge can cover up medical crimes. In the article, he questioned, "Should the public interest in such an important matter be left to a profession's efforts at self policing, or should the state government set up its own plan for obtaining the truth and acting upon it?" James Morley further emphasized that such an important matter should be the state government's responsibility to obtain the truth and to act upon it.

Medical crimes must be tried by the state government in a court of law, not by medical executives on the State Medical Board. Medical malpractice victims must obtain equal rights in a court of law. Monetary restitution only addresses half of the crime, criminal justice, the other half, is long overdue for all medical malpractice victims.

Our judicial system has a reputation of compassion, fairness, and uses closed chambers, when necessary, for confidentiality. Therefore, **INITIATIVE & REFERENDUM** is the people's only solution to obtaining medical and legal justice in a court of law.

I am confident the people of our state will work to obtain **INITIATIVE & REFERENDUM** and through it obtain legislation to outlaw closed secret sessions conducted by the State Medical and Legal Boards.

Thank you.

Submitted by: Rosalind Collis  
27 Danbury Ct. (Middletown)  
Red Bank, New Jersey 07701-5409

81X

**TESTIMONY  
OF  
PETER S. REINHART  
NEW JERSEY BUILDERS ASSOCIATION**

**ON  
INITIATIVE AND REFERENDUM**

**BEFORE THE  
ASSEMBLY STATE GOVERNMENT COMMITTEE**

**APRIL 23, 1992**

**MR. CHAIRMAN, MEMBERS OF THE COMMITTEE. I AM  
PETER REINHART, OF THE NEW JERSEY BUILDERS  
ASSOCIATION. I APPRECIATE THE OPPORTUNITY TO APPEAR  
BEFORE YOU TO ADDRESS THE ISSUE OF INITIATIVE AND  
REFERENDUM.**

**IN EXAMINING PROPOSALS TO AUTHORIZE INITIATIVE AND  
REFERENDUM IN OUR LEGISLATIVE PROCESS, WE SHOULD  
CONSIDER THE ROLE THAT NEW JERSEY'S CONSTITUTION  
ASSIGNS TO THE LEGISLATURE. IN THIS CONTEXT, THE  
LEGISLATURE IS THE POLICY MAKING BODY OF THE STATE. IT  
IS RESPONSIBLE FOR EXAMINING THE BROAD IMPLICATIONS OF  
ISSUES; AND, ON THE BASIS OF THIS ANALYSIS, IT IS  
EXPECTED TO DEVISE SOLUTIONS THAT WILL BALANCE THE  
MANIFOLD INTERESTS THAT ARE AFFECTED BY OUR LAWS AND  
REGULATIONS.**

**THE LEGISLATURE IS COMPOSED OF INDIVIDUALS  
ELECTED TO REPRESENT THEIR LOCAL DISTRICTS. SEATS ARE  
APPORTIONED, TO THE MAXIMUM EXTENT POSSIBLE, TO GIVE**

**EQUAL REPRESENTATION TO EVERY CITIZEN OF THE STATE. AS A RESULT, THE LEGISLATURE IS A MICROCOSM OF THE STATE AND REPRESENTS THE BROAD DIVERSITY OF REGIONS AND INTERESTS THAT EXIST IN NEW JERSEY. YET, THE LEGISLATURE IS SUFFICIENTLY SMALL AS TO PERMIT THE FORMAL DEBATE, THE INSIGHTFUL GIVE-AND-TAKE, THAT IMPROVES LEGISLATIVE PROPOSALS AS THEY WIND THEIR WAY THROUGH BOTH CHAMBERS. IN THIS WAY, OUR REPRESENTATIVE FORM OF GOVERNMENT IS BOTH REPRESENTATIVE OF THE PEOPLE AND EFFICIENT IN ACCOMPLISHING ITS PURPOSES.**

**OUR SYSTEM OF REPRESENTATIVE GOVERNMENT ADDS STABILITY TO PUBLIC POLICY AND THIS IS ESSENTIAL TO THE LONG TERM PROSPERITY OF OUR CITIZENS. AS A RESULT, THE INDIVIDUAL PRIVATE CITIZEN (AND THE PRIVATE SECTOR GENERALLY) CAN PLAN AND MAKE LONG TERM COMMITMENTS WITH A SENSE THAT PUBLIC POLICY WILL REMAIN STABLE, EVOLVING ONLY INCREMENTALLY AND NOT SHIFTING HAPHAZARDLY.**

**INITIATIVE AND REFERENDUM HAS THE POTENTIAL TO DISMANTLE THE STRENGTHS AND PROTECTIONS THAT ARE AT THE HEART OF REPRESENTATIVE GOVERNMENT. IT WILL DISRUPT OUR GOVERNMENTAL STRUCTURE BY INTRODUCING INTO IT A POTENTIALLY SIMPLISTIC LEGISLATIVE PROCESS. IT REDUCES HIGHLY CHARGED AND COMPLEX QUESTIONS TO A SIMPLE VOTE OF "YES" OR "NO"; VOTERS HAVE TWO STARK CHOICES AND CANNOT RELY ON THEIR ELECTED LEADERSHIP TO APPLY POLITICAL SKILLS TO ACHIEVE BALANCED AND RATIONAL COMPROMISES.**

**DESPITE CLAIMS THAT THE LEGISLATURE WILL HAVE THE OPPORTUNITY TO ACT PRIOR TO AN ISSUE REACHING THE BALLOT, EXPERIENCE IN OTHER STATES DEMONSTRATES THAT THOSE DISSATISFIED WITH LEGISLATIVE COMPROMISES WILL STILL PURSUE THE I&R OPTION. AND WHILE THE LEGISLATIVE COMPROMISE HAS TYPICALLY SURVIVED THESE BAD FAITH CHALLENGES, THIS HAS NOT DETERMINED THE COSTS AND UNCERTAINTY ASSOCIATED WITH THE CAMPAIGNS.**

**THE NJBA IS CONCERNED THAT INITIATIVE AND REFERENDUM WOULD RESULT IN SIGNIFICANT INCREASED COSTS TO BUSINESS. SPECIFICALLY FOR BUILDERS AND DEVELOPERS, EACH ELECTION WOULD HAVE THE POTENTIAL OF A MULTITUDE OF PROPOSITIONS THAT WOULD CAUSE THE HOUSING SECTOR TO SPEND MILLIONS TO MAKE OUR VIEWS KNOWN TO THE ELECTORATE THROUGHOUT NEW JERSEY. BECAUSE INITIATIVE AND REFERENDUM WOULD PROMOTE A MEDIA BONANZA, IT WOULD ONLY ADD TO THE ALREADY ESCALATING COST OF HOUSING IN NEW JERSEY'S TIGHT CONSTRUCTION MARKET. THIS FLIES IN THE FACE OF THE STATE SUPREME COURT DECISION MANDATING THE CONSTRUCTION OF AFFORDABLE HOUSING FOR OUR LOW AND MODERATE INCOME RESIDENTS. EXPERIENCES IN OTHER STATES THAT ALREADY HAVE INITIATIVE AND REFERENDUM HAVE PROVEN THAT THE COSTS OF CONDUCTING PUBLIC INFORMATION CAMPAIGNS RESULT IN MILLIONS OF DOLLARS SPENT ANNUALLY BY BUSINESS.**

**ADDITIONALLY, INITIATIVE AND REFERENDUM WOULD**

**RESULT IN INITIATIVE CAMPAIGNS ON SUCH ISSUES AS TAXATION, UTILITY RATES, AND PLANNING AND ZONING ISSUES WHICH ARE BETTER LEFT TO THE LEGISLATIVE PROCESS.**

**WHAT DO WE WANT FOR NEW JERSEY? DO WE WISH TO BE HELD HOSTAGE TO SIMPLISTICALLY STATED (BUT DISRUPTIVE) PROPOSALS FROM SINGLE INTEREST GROUPS? DO WE WANT TO COMMIT OURSELVES TO WAGING EXPENSIVE MEDIA CAMPAIGNS TO STOP PROPOSALS THAT WOULD GUT THE STATE'S REVENUE BASE, DISRUPT ITS ECONOMY, OR PLACE IT OUTSIDE ITS OWN (OR THE FEDERAL) CONSTITUTION? IT IS EASY TO IMAGINE PROPOSALS THAT WOULD DO THESE THINGS, AND OFTEN THEY CAN BE CAST WITH A HIGHLY EMOTIONAL APPEAL.**

**THE NEW JERSEY LEGISLATURE HAS A NATIONAL REPUTATION OF BEING RESPONSIBLE IN TAKING ACTION ON VERY COMPLEX ISSUES THAT THEN BECOME MODEL LEGISLATION FOR OTHER STATES. WE SUPPORT THE VIEW THAT ELECTED REPRESENTATIVES OF OUR STATE SHOULD**

**CONTINUE TO HAVE THE RESPONSIBILITY OF STUDYING ALL ASPECTS OF LEGISLATIVE MEASURES AND MAKING INFORMED DECISIONS ON THEM.**

**THE NEW JERSEY BUILDERS ASSOCIATION IS DEEPLY CONCERNED WITH ALL OF THE PENDING PROPOSALS RELATING TO INITIATIVE AND REFERENDUM. WHILE ALL OF THESE MAY HAVE BEEN PUT FORWARD AS GOOD FAITH ATTEMPTS TO MAKE GOVERNMENT MORE RESPONSIVE, THEY ALL HOLD THE POTENTIAL TO BECOME THE MEANS BY WHICH THE GENERAL WELFARE IS ABUSED, WHILE SPECIAL INTERESTS USE IT TO PROMOTE NARROW OBJECTIVES. INITIATIVE AND REFERENDUM BORDERS THE ABDICATION OF LEGISLATIVE RESPONSIBILITY AND CAN BECOME A MECHANISM FOR CIRCUMVENTING RATIONAL GOVERNMENT.**

**YOU HAVE BEFORE YOU PROPOSALS THAT WILL ALTER THE VERY FABRIC OF OUR STATE'S GOVERNMENT. THEY HAVE THE POTENTIAL OF TRANSFORMING THE STATE'S LEGISLATIVE PROCESS INTO AN ERRATIC INSTRUMENT OF SPECIAL**

**INTERESTS AND EMOTIONALISM. IN THIS LIGHT, INITIATIVE AND REFERENDUM MUST BE SEEN NOT AS A PROPOSAL TO REFORM OUR GOVERNMENT; BUT RATHER, AS ONE THAT WILL DEFORM IT. IF SUCH A FUNDAMENTAL CHANGE IN OUR CONSTITUTIONAL STRUCTURE IS THOUGHT TO BE NECESSARY, IT SHOULD BE DONE BY WAY OF A CONSTITUTIONAL CONVENTION, NOT A PROPOSED CONSTITUTIONAL AMENDMENT. FOR THESE REASONS, I ENCOURAGE YOU TO SET ASIDE THESE PROPOSALS.**

**MR. CHAIRMAN, THANK YOU FOR THIS OPPORTUNITY TO PRESENT MY VIEWS.**

# The Assembly State Government Committee

Testimony of  
Karen Thorsen Lamond

National Association of Social Workers  
New Jersey Chapter

Mr. Chairman and members of this committee. Good morning and thank you for the decision to hold public hearings on the issue of initiative and referendum.

I am here this morning to represent the New Jersey Chapter of the National Association of Social Workers (of 5,700 members in New Jersey) to ask you to vigorously oppose the establishment of a Statewide initiative and referendum in New Jersey.

A central mission of the social work profession is to serve and advocate for the many citizens who cannot participate in the political and legislative process to appeal to their representatives on their own behalf. Some of these are, to mention only a few, the mentally and physically disabled, the economically and environmentally disadvantaged, the uneducated and illiterate, the frail elderly, children, many of the hard working poor (for whom the loss of a car battery can cause crisis and chaos) many minority groups and others. The rights of the members of this disadvantaged population can be disregarded and even violated through the legislative process.

The current legislative process is often painfully slow and frustrating. But, the current path of legislation (with its flaws) allows opportunity for education, healthy debate, compromise, consensus building, a chance for amendment and change, as well as a system of checks and balances that protect and defend citizens from unwise and dangerous legislative activity.

In other states initiative and referendum has caused massive and duplicate legislation, heavily funded media campaigns by special interest groups, voter confusion, poorly crafted laws, and uninformed decision making.

We must guard and support the Constitution of the United States that defends equal rights and promoting the general welfare of all citizens regardless of race, color, sex, sexual orientation, age, religion, national origin, political belief, mental or physical handicap, or other characteristics, conditions or social status.

Protect all of the citizens of New Jersey and oppose <sup>all I & R proposals in the State of New Jersey</sup> ~~Senate Concurrent Resolution No. 37.~~

Thank you.



# Right to Choose

P.O. Box 343 • East Brunswick, New Jersey 08816  
908-254-8665

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• DEDICATED TO GUARANTEEING A WOMAN'S CONSTITUTIONAL RIGHT TO A SAFE ABORTION •

STATEMENT - FRAN AVALLONE  
STATE COORDINATOR

Since many others will (or have) discussed objections to Initiative and Referendum on general grounds, I would like to focus on how it would impact on the abortion issue.

Many states with I & R have had ballot questions pertaining to abortion and most of them have had a pro-choice result but the costs have been tremendous. Millions of dollars have been spent by both sides, either supporting or fighting proposals.

The pro-choice community would much rather that those millions had been spent supporting the election of pro-choice candidates, or, even better, spent supporting programs for family planning, the homeless or those ill with AIDS or other deadly diseases, programs that have been cut back over the last 12 years by the Reagan/Bush administrations.

Right to Choose is concerned about the interference of religious organizations seeking to impose their beliefs on everyone. In Wyoming, the Catholic bishop of Cheyenne sent a letter to area churches urging them to organize petition drives to collect the signatures required to get a proposal on the ballot that would prohibit all abortions.

We would like this committee's comments on whether any of the proposals for Initiative & Referendum laws would prohibit involvement of any religious organization in putting forth, collecting signatures and raising money for any ballot question. Will an I & R law in this state protect separation of church and state?



# Right to Choose

P.O. Box 343 • East Brunswick, New Jersey 08816

908-254-8665

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• DEDICATED TO GUARANTEEING A WOMAN'S CONSTITUTIONAL RIGHT TO A SAFE ABORTION •

## INITIATIVE AND REFERENDUM

Many states have laws which allow citizens to place issues on the ballot. The requirements (how many signatures, from how many counties or election districts) differ in each state but the intent is the same - to allow voters to pass laws instead of the legislators. New Jersey has never had an Initiative and Referendum (I&R) law and previous attempts to pass such a law have failed. Several new proposals have been announced since the state legislative elections in November 1991 which gave Republicans the majority in the Senate and Assembly.

Most states which have I&R laws enacted them between 1898 and 1918 when the legislative process was closed to the public. Today New Jersey's legislative system is open and accessible. The public has the opportunity to attend and testify at legislative committee hearings. Bills are often amended during that process and can be further amended during debate in either the Senate or Assembly. Voters can and should contact their legislators by phone or mail or arrange a private or group meeting.

Ballot questions allow only a "yes or no" choice. Many people do not even vote on ballot questions placed there by the legislature. In the 1988 general election, over 800,000 people who voted for President did not vote on any of the four ballot questions. And, you might remember that in 1988, George Bush was elected by only 23% of those eligible to vote. In the 1989 general election, over 600,000 voters ignore the five ballot questions.

In California's 1990 general election, voters were given a 230 page book listing ballot proposals, many of the proposals contradicted others on the ballot. There were four pro-environment questions and four anti-environment questions. California's Supreme Court is required to rule on the constitutionality of all ballot questions both before and after the election, a process that can politicize the court. Expensive advertising on television, radio and in print, dominated by celebrities, pushes each ballot question. In 1988, \$129 million was spent to promote just 12 ballot questions in California.

Initiative and Referendum is an extremely dangerous way to pass laws and it is especially troublesome in the abortion issue. Although most state referendums on abortion have had pro-choice results, the costs in time and money have been tremendous.

In Wyoming, the Catholic bishop of Cheyenne had sent a letter to area churches urging them to organize petition drives to get the 24,646 signatures required to get a proposal on the 1992 ballot that would prohibit all abortions except those to save the life of the woman or in cases of rape or incest. The referendum would make the performance of an abortion a felony. The Secretary of State has disqualified 3818 signatures and the anti-abortionists now have 11 more months to gather signatures to put the referendum on the 1994 ballot.

In Maryland, where new state legislation protects abortion rights, anti-abortionists have gotten a resolution placed on the November 1992 ballot to try to overturn the new law, which will not go into effect until after the election. Over \$1 million is expected to be spent by each side.

In Oklahoma, an initiative on the ballot would prohibit abortion except in cases of life endangerment, rape, incest, fetal defect or mental or physical risk to the woman's health. The proposal includes jail terms and \$100,000 fines.

In Colorado, the state Supreme Court has invalidated an initiative restricting a minor's access to abortion because of misleading words in the title of the ballot question.

In the November 1991 election in the state of Washington a very close vote on a pro-choice initiative required a recount.

A nonpartisan, non-profit policy analysis organization in New Jersey issued a report recently which says that rulings by the U.S. Supreme Court would make it impossible to limit spending by special interest groups promoting or trying to defeat ballot questions. Many of the I&R proposals in the state have included prohibitions against paying people to gather signatures and other spending limitations.

Initiative and Referendum allows duly elected legislators to avoid controversial issues and pass the burden to voters who have less opportunity to make an informed decision.

Initiative and Referendum proposals are drafted by small single issue groups, some heavily funded.

Initiative and Referendum can allow poorly crafted laws and a cluttered constitution.

Initiative and Referendum makes access to the lawmaking process so costly and difficult that most of the public are shut out of the public policy debate.

Initiative and Referendum closes off the law drafting process before public input, expert testimony or public debate can occur on the merits of a proposal.

Initiative and Referendum could allow two measures with conflicting provisions on the same ballot (as has happened in California). For example, voters could easily approve increased services while reducing the means available to pay for them.

Initiative and Referendum pits group against group in a winner-take-all conflict and allows majorities to roll over the rights of minorities.

March 1992

**SUMMARY**  
**THE PARENTAL CHOICE IN EDUCATION INITIATIVE**

*An Amendment to the Constitution of the  
State of California*

**Choice.** The Initiative empowers parents to choose any qualified K-12 public or private school for their children's education.

**Scholarships.** The Initiative provides every resident school-age child a scholarship worth at least 50 percent of present state and local educational expenditures per child (now approximately \$5,200 annually). Thus, the scholarship will initially be about \$2,600 per year.

**Regulation of Private Schools.** The Initiative limits new regulation of private schools and scholarship-redeeming public schools to the level in effect in private schools on October 1, 1991. Any new regulation of private schools requires a three-fourths vote of the state Legislature or a two-thirds vote of a local governing body and a majority vote of all persons registered to vote in an election -- uniquely tough standards. These standards are far more protective of private schools than the current environment -- where a mere majority of these governmental bodies can regulate private schools.

**Public Schools.** The Initiative requires the Legislature to establish a process for public schools to voluntarily become independent scholarship-redeeming public schools.

**No Cost.** To deal with the State of California budgetary realities, the Initiative phases in the program beginning in the Fall of 1993 with children who were in public schools on October 1, 1991, and, in the Fall of 1995, covers all children. For those public school children who elect private schools in the Fall of 1993 and the Fall of 1994, there will be a savings of \$2,600 per child. This, plus savings from not building planned new public schools, will allow the program to pay the tuition of private school children beginning in the Fall of 1995 at an unchanged level of state expenditure.

**Testing.** The Initiative authorizes statewide tests based on national standards to measure academic improvement and overall school performance.

**College Education.** The Initiative permits students whose scholarship amount exceeds the cost of the participating schools to use the surplus for higher education at any public or private institution in the State of California.

To volunteer, call 310-416-9601.

## REVIEW & OUTLOOK

### Grass-Roots Choice

Imagine that education reform in this country is taking place in two separate classrooms. The classroom in Washington, D.C., is filled with remedial students — Members of Congress and sometimes the Bush administration. They can't quite grasp the need for fundamental reform and waste time yawning over old lesson plans written by school administrators. The other classroom is animated — filled with parents, business leaders and dissident educators. Unwilling to fall behind, they've begun their own grass-roots reform efforts.

All over the country, in fact, people have decided that the fastest route to real educational reform is to allow parents to send their children to the public or private school of their choice. "Choice isn't the only reform we need," says John Chubb, a Brookings Institution scholar, "but it's a necessary precondition for other kinds of reforms."

Business leaders especially, who've invested billions of dollars in public education with meager results, are now warming up to choice. Pat Rooney, the president of Golden Rule Insurance Co., has given out 700 scholarships to inner-city students in Indianapolis so they can attend private schools. Since his program started, the local public schools have scrambled to implement their own reforms.

Programs similar to Mr. Rooney's are now planned for Detroit, Atlanta, Cleveland and Chicago. James Leininger, the founder of Kenetic Concepts Inc., read about Mr. Rooney in these columns last August 2 ("Education's Golden Rule") and decided to start his own version in San Antonio. Last week, KCI, the USAA Federal Savings Bank and the San Antonio Express-News created a \$1.5 million scholarship fund so parents can choose their own schools.

Families are eligible if their child qualifies for a low-cost school lunch. The first 700 who apply will receive a three-year scholarship for half the tuition costs at a private school, up to \$750 a year. Students can also use the money as tuition if they are transfer students at a public school outside their area. The Express-News printed the scholarship form in last Thursday's paper and more than 300 parents mailed their applications the same day.

The most ambitious choice program is in California, where a coalition of parents and business leaders called ExCEL is trying to qualify an initiative for the November ballot. It would grant students who wanted to attend a private school a \$2,500 annual state scholarship, or somewhat less than half the average cost of a public-school education.

The initiative's sponsors, who in-

clude Joseph Allbrandi, the CEO of Whittaker Corp., and former Democratic Senator John Tunney, have been subjected to a campaign of vilification and intimidation. The California Teachers Association has sent teachers to cluster near signature tables and talk people out of signing the choice petition. Many school boards have openly voted to oppose the initiative despite legal prohibitions against such action.

Choice supporters are fighting back. Last week, they were granted a temporary restraining order against the Las Virgenes School District in Los Angeles, after a flier attacking the initiative was sent out by the district under its nonprofit postal permit. District officials claimed they were at least partly reimbursed by the flier's sponsors, but Judge Robert O'Brien, a Jerry Brown appointee, ordered the district not to spend any more resources against choice.

Another temporary restraining order was issued last Friday against the Los Angeles City Unified School District, after choice supporters filed suit charging the district had used its cable-TV channel to attack the initiative. One of the parents bringing the suit is Star Parker, a small-business woman. Ms. Parker is a black single mother who was on welfare for three years in the 1980s. She's outraged that school officials are using tax money to try to prevent her from voting for a plan that would let her 11-year-old daughter, April, attend a better school.

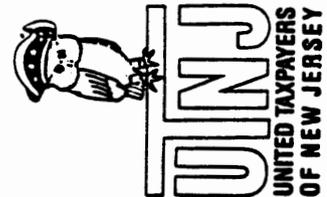
"The rich have choice now," she told us. "If I'd stayed on welfare, I could also have had choice. They would have let me attend a state university in a good neighborhood, and they would have allowed me to send April to a good school there instead of where I live. The only people who don't have choice today are the working poor and the middle class."

Ms. Parker says 60% of minority students now fail to graduate in her area, and that the only way the schools will improve is if the jobs of bureaucrats in them are threatened. What most galls parents such as Ms. Parker is that the educational establishment doesn't even want parents to have a chance to vote on choice.

The offensive by the California teachers' unions has hurt the collection of signatures. ExCEL has to turn in more than 800,000 names by next Monday. They have a number (800 962-ABCD or 310 416-9601) to take requests for petitions. Ms. Parker thinks educational reform has to be on California's ballot this fall. "If it isn't, you can bet the educational status quo will decide they now don't have to change anything."

STATE HEADQUARTERS

P.O. BOX 103 • CEDAR GROVE, NJ 07009 • (201) 890-0271



**Testimony Regarding Initiative and Referendum  
Joseph M. Appel**

Honorable Legislators and Citizens. I appreciate the opportunity to appear before you and share my thoughts regarding the initiative and referendum process.

I am a former resident of California and presently I serve as Superintendent of the North Hunterdon Regional High School District in Annandale, New Jersey. However, I want to make it clear that I am not here representing the views of the Board of Education or the District. I am not knowledgeable regarding their views, and my purpose is simply to share with you my personal experience of the initiative and referendum process.

From first-hand observation, I would say that the process does not accomplish its purpose of benefiting the public. Indeed, during my twenty plus years in California, I found three major impacts of initiative and referendum: (1) major inequities, as illustrated in taxes paid by property owners; (2) deterioration in the financing and quality of education; and (3) increased confusion, dissatisfaction, and cynicism regarding the initiatives placed on the ballot.

Regarding the first impact, inequities in benefits to citizens, I think many of you have heard of Proposition 13, which was hailed as the premier property tax relief measure. Now I happen to believe that owners of property do need tax relief. However, proposition 13 solved this problem for only those who acquired property as of a date certain. These fortunate people pay taxes on a much lower assessed value than those, like myself, who moved and acquired property after that date.

(1)

Without discussing complicated tax formulas, let me say that there are in California huge inequities in the taxes paid by property owners. It is quite common to have two owners on the same block with the exact same type of residence and the same market value paying totally different taxes—one very modest, the other exorbitant. These inequities exist throughout the entire state because the simplistic Proposition 13 initiative established formulas based on date of acquisition rather than a uniform and equitable system of establishing assessed valuations.

The second impact, deterioration in the quality of education, is also the result of various initiatives, including Proposition 13, which essentially took control away from local Boards of Education and, through inequitable formulas, tied the hands of the State Legislature. The net effect is that California, once a leader in many areas of education is in serious trouble. California now is a leader in the wrong direction. It is a leader in the highest class sizes in the nation; it is a leader in the most overcrowded, poorly financed, school facilities in the nation; it is a leader in "year round schools", but not for educational reasons. In California year-round school has nothing to do with extending the school year to raise standards and to offer our students opportunities comparable to those in other countries. It simply means juggling the use of facilities and student schedules so that schools can cope with overcrowded conditions. In short, there is no extension of the school year, only different times when students attend the same number of days. Why has this happened? Because of various initiatives, the State was forced to use its surplus for schools and other agencies formerly financed by property taxes.

(2)

The use of this surplus, by the way, was advertised by proponents of various initiatives as the panacea for handling the future financial needs of the state.

The third impact, confusion and cynicism regarding the initiatives placed on the ballot is one that I can describe to you based on first-hand experience. But I owe it to you to tell you a little bit about the background I bring to the voting booth. I consider myself a fairly typical voter with fairly typical habits of acquiring information: I read the editorial pages of several reputable newspapers; my car radio is tuned to the all news station; I watch most of the televised news shows-- Prime Time; Nightline; Sixty Minutes; and various Public Television documentaries. And I read news magazines and non-fiction books of various historical and political events.

So, while I am not an authority or expert, I do bring a degree of understanding to some fairly complex political issues.

Yet, I must tell you that when I go to the voting booth in California, I am totally overwhelmed by the numerous initiatives placed on the ballot. Most of these deal with highly complex matters--which are reduced to one-or-two paragraphs. The explanatory language seems to be of two types: (1) abstract terminology or jargon understandable only to those who have the requisite background information or (2) oversimplified wording which does not convey the complexity of the issues involved.

The last time I entered the voting booth I did not vote on a number of the initiatives. I could not in good conscience cast my vote on matters of which I had

little or no understanding. My fear is that I would do more harm than good. There were simply too many initiatives for me to research and gain any genuine understanding of the topics or issues involved.

The question that I pose to you, then, is whether this initiative and referendum process is one that we wish to institute in New Jersey. As I have explained I do not favor it because it has produced the opposite of what it purports to achieve. It has resulted in inequities in benefits; deterioration in the financing and quality of public education; and at best, simplistic analyses of complex issues, and, at worst, apathy and cynicism at the ballot box.

The present legislative process in New Jersey will serve the electorate far better than the initiative and referendum. I urge you to study what has happened in California in greater depth than what I have been able to present to you here. In California initiative and referendum has stymied the legislative process, thwarting many excellent compromise legislative efforts of both parties. Sometimes, years of excellent research and study are discarded in favor of poorly conceived initiatives.

I recognize that we are in a time when some voters are so dissatisfied that they are looking for a major change in the political system. But the solution to such disenchantment is not through initiative and referendum. We have the means, through the regular election process, of changing the way things are.

Most important, our present legislative processes offer the opportunity for a reasoned and intelligent discussion of issues. We need to improve this process rather than subvert it with the illusory benefits of initiative and referendum.

My name is Bernadine Silver, Legislative Chairman of the FEDERATION OF NEW JERSEY TAXPAYERS. I have lived most of my life in New Jersey and my family has been here for many generations. Through the years New Jersey has changed but not for the better. What was once the GARDEN STATE has long lost that appellation. Therefore I address the absolute need for the passage of a bill for the PEOPLE'S RIGHT OF A BILL FOR INITIATIVE AND REFERENDUM. The last election was just the beginning of how dissatisfied the Voters and Taxpayers of New Jersey are. So many of our Legislators have lost the fact that POWER belongs to the people. But you know all that. Furthermore when a Governor spends only one month on a budget and increases the figure by \$2,800,000. Two Billion eight hundred thousand very little attention can have been put into it to cut it especially since the country is in recession. If all our legislators can do to balance the budget is to raise taxes, it is a sorry state of affairs and it is just that.

What has further convinced me that we need 'I & R' is that this week I met four different people who are going to move out of New Jersey. The first was a couple both of whom had lived here all their lives they are moving to another State. The second was a couple living on Social Security whose assessment has gone so high, they expect to lose their home, the third was a man who expects to retire within a short time and plans to move to a southern State while the fourth, where I had my automobile repaired, He works 14 to 16 hours a day makes a good income but his rent which is \$6,500 per month plus taxes, plus cost of permits etc and the mortgage on his home, which he expects to lose and which he and his wife had worked to buy several years ago, he too is going to close his shop and move out of the State. I am sure most of you have heard similar stories. Our governance has lost sight of what is needed. Therefore it is more important than ever that a bill for I & R be passed.

We sincerely suggest after studying and researching whatever possible.

- A) Our bureaucracy is too large.
- (b) Our method of assessing property is wrong.
- c) Projects such as the Tunnel which is being proposed to stop flooding in Wayne and its environs. There are other methods of taking care of same less costly.
- d) Return more authority to local governments
- E) Reduce salaries at top level.



**TAXPAYERS POLITICAL ACTION COMMITTEE  
TAXPAC**

P.O. Box 919 • Denville, New Jersey 07834 • (201) 627-1424

April 22, 1992

Dear Committee:

We have been examining the details of Initiative and Referendum (I & R) and would like to comment on the details we consider important.

Attached is a summary we have prepared of the key features of three resolutions (ACR33, ACR1 and ACR57) which are being considered by the Assembly Committee. We comment first on overall details and then on specific wording and provisions in each resolution.

**Indirect Initiative:** We agree with the principle of having a petition matter first go to the legislature for up to six months consideration, and only then go on the ballot if necessary. This creates an opportunity for additional consideration and discussion. We DO believe the time limit of six months should be in the constitutional amendment as provided by ACR1 and ACR57.

**Subject matter:** We believe I&R should be able to address a broad range of subject matter and the citizens should not be limited unduly. We favor ACR33 or ACR57 in that respect. However we do not have a major problem with the provisions of ACR1.

**Signature Percentages:** This is a major item of great importance. There is disagreement among different groups and among the three resolutions. We believe the 8% and 12% of ACR33 and ACR1 are at the maximum level that should be considered. It would be extremely hard for any group to achieve them. Only a few issues could support that high level of signature collection. Higher requirements would make I&R essentially unusable.

On the other hand, too low a signature requirement would make it easy for matters to be placed on the ballot. A group with a special idea might bring this before the voters and it might pass if it has a nice sound. This would be especially true for measures without strong focused opposition since the public depends on a vigorous dialog between proponents and opponents to clarify the issue. Also a low signature requirement would encourage more issues to be on the ballot. We are

concerned that the 3% and 5% of ACR57 may be too low and result in a large number of issues on the ballot.

There is also the question of the relationship between the signature percentages for legislative referenda (repeal of laws), legislative initiatives and constitutional initiatives. It is common in other state constitutions for the first two to be the same. In the three resolutions before the Assembly Committee they are the same. We concur and believe they should be the same.

On constitutional initiatives it is common that the percentages be higher than for legislative initiatives. The nature of a constitution amendment should require a more difficult process than passing a law or repeal of a law. This is true in the three resolutions. These resolutions have the percentage for constitutional amendments at least 1.5 times as high but not less than a 2% difference (12% vs 8% in ACR33 and ACR1 or 5% vs 3% in ACR57). We favor that constitutional amendment initiatives require at least 1.5 times more signatures than legislative initiatives but not less than 9%.

One might consider the requirements of other states that have I&R in their state constitutions. A listing of these is attached. The average of all states with initiative is 7.4% for legislation and 8.9% for constitutional amendments. These numbers seem pretty good to us and have stood the test of time. No state has as low as the proposed 3% of ACR57. All states have a signature requirement of at least 5% and most have at least 5% for legislation and 8% for constitutional amendments.

Our group STRONGLY recommends that the signature requirements be made high enough to require a major effort, but not impossible, to put an issue on the ballot. We favor somewhere in the range of 6-8% for laws and 9-12% for constitutional amendments.

It's likely that these percentages would give some slight advantage to large existing organizations over small, informal volunteer groups on new issues. But they are enough that even a large organization would have to persuade a substantial number of its members to get active and in the end would have to persuade the public in order to succeed. A highly biased issue is not likely to be acceptable to the general public in any case. On the other hand if the public is highly interested in an issue, then it would be relatively easy for a volunteer group to collect the required signatures. This would have been true in the recent resentment over the 2.8 billion dollar tax increase. A brand new issue to the public would be harder—but we think it should be.

**Geographic Distribution of Signatures:** We have a slight preference for the 15% limit from any one county as contained in ACR33. However we can accept no limit as in ACR57. We could, reluctantly, accept the north-south requirement of ACR1.

The higher the percentages of signatures required then the less need for a geographic distribution requirement. The lower the percentages then there is more need.

**Time in Legislature:** We favor six months and believe it should be spelled out as in ACR1 and ACR57.

**Time after rejected by Legislature:** Both ACR1 and ACR57 specify that the matter would be on the ballot of the next general election more than 120 days later. For other similar matters in the New Jersey State Constitution, the time is specified as three months. For example the resolutions specify that three months would elapse before they go on the ballot. We strongly urge that the time be changed from "120 days" to "three months". This would be fairer.

**Time to collect signatures:** ACR1 and ACR57 specify "as set by law but not less than one year". We favor the one year but do not see why the possibility of a longer time is allowed.

**Other matters:**

We agree strongly (as in all three resolutions) that the governor should not have veto power over matters approved by the voters.

We agree strongly (as in ACR1 and ACR57) that a matter approved by the voters can not later be challenged regarding the signature count on the petitions.

We agree strongly (as in ACR1 and ACR57) that measures passed by the voters can not be amended, repealed or reenacted without a 3/4 vote for two years and a 3/5 votes for an additional three years. We think that a permanent 3/5 requirement (as in ACR33) is too strenuous.

We agree mildly (as in ACR1 and ACR57) that a measure rejected at the polls could not appear again until the third general election.

We agree as to the desirability of disclosure of expenditures and contributions but would tend to favor including this in enabling legislation and not the constitutional amendment.

We are somewhat opposed to delaying the effect of any tax or expenditure changes until the beginning of the next fiscal year. It is a long time from November to the next July. The possibility of the change would be well known a year before then and the government should be preparing.

We agree strongly (as in all three resolutions) on having a self-executing clause in case the enabling legislation is not passed within a year. Any petition drives started in that first year should be allowed to proceed under reasonable rules (grandfathering) in the enabling legislation.

**New matters:**

We are undecided about the desirability of a requirement of a fiscal note. This sounds good but may result in consequences which are undesirable. In any case, it is a matter for the enabling legislation and not the constitutional amendment.

We suggest that the enabling legislation allow for groups to request the use of the state personnel to help draft a proper initiative and that they be allowed to use state facilities to hold a public hearing prior to circulating petitions.

**CONCLUSION:** On balance we find that ACR57 would be the closest of any of the resolutions to our recommendations if the following two critical changes were made:

1. Percentages of signatures required changed from 3% to 6-8% and from 5% to 9-12%.
2. Delay for appearing on general election ballot changed from "120 days" to "three months".

We strongly hope that the final resolution released will be in line with these carefully considered recommendations.

Thank you,



C. A. Haverly, Executive Director

<u>I&amp;R Item</u>	<u>ACR 33</u> Kamin	<u>ACR 1</u> Franks	<u>ACR 57</u> Kamin
I & R applies to: Legislative Referendum Legislative Initiative Constitutional Initiative	Yes Yes Yes	Yes Yes Yes	Yes Yes Yes
Signature Requirements: Legislative Referendum Legislative Initiative Constitutional Initiative	8% of GV 8% of GV 12% of GV	8% of GV) (when signature 8% of GV)--(circulation 12% of GV) (begins.	3% of GV) (when signature 3% of GV)--(circulation 5% of GV) (begins.
GV is the number of votes cast in the preceeding gubernatorial election			
Restrictions on Subject Matter.	None specified.	1. Laws the legislature are prohibited from enacting. 2. Siting of facilities.	None specified.
Geographic Distribution of Signatures.	No more than 15% from any one county.	1. No more than 15% from any one county. 2. Percent of signatures must be met in both the southernmost eight counties and the other thirteen counties.	None specified.
Indirect (successful petition goes to Legislature first)?	Yes.	Yes.	Yes.
How long does legislature have to consider it?	Time set by law.	Time set by law but not over six months.	Time set by law but not over six months.
If not approved by legislature?	On ballot as specified by law.	On ballot at next general election more than 120 days later. Publish notice three months before election.	On ballot at next general election more than 120 days later. Publish notice three months before election.

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Time to collect signatures.	Not specified.	As set by law but not less than one year.	As set by law but not less than one year.
Can governor veto a measure approved by the voters?	No.	No.	No
Can an approved measure be set aside later for lack of signatures?	Not specified.	No.	No
Requirement to amend, repeal or reenact a measure decided at the polls.	3/4 vote of both houses for two years and 3/5 vote thereafter.	3/4 vote of both houses for two years and 3/5 vote for the next three years. Public hearing required.	3/4 vote of both houses for two years and 3/5 vote for the next three years. Public hearing required.
X 10901 If a petition measure fails to get the required votes how soon can it be on the ballot again?	Not specified.	Third general election.	Third general election.
If several petition matters on the same subject pass which one applies?	Not specified.	One with the most votes.	One with the most votes.
Disclosure.	Not specified.	Not specified.	Disclosure of expenditures and contributions is required.
When an approved matter takes effect.	Not specified.	At the beginning of the next fiscal year for taxes or appropriations. Other items in 30 days or as specified.	At the beginning of the next fiscal year for taxes or appropriations. Other items in 30 days or as specified.
If enabling legislation law not passed in one year.	Self executing.	Self executing.	Self executing

**NUMBER OF SIGNATURES REQUIRED FOR INITIATIVE IN THE VARIOUS STATES**

Minimum Requirements

	<u>Legislative Initiative</u>		<u>Amendment Initiative</u>	
	<u>%</u>	<u>Signatures</u>	<u>%</u>	<u>Signatures</u>
1. Alaska	10	20,343	-	-
2. Arizona	10	86,699	15	130,048
3. Arkansas	8	55,081	10	68,851
4. California	5	372,174	8	595,479
5. Colorado	5	50,668	5	50,668
6. Florida	-	-	8	363,886
7. Idaho	10	38,743	-	-
8. Illinois	-	-	8	180,813
9. Maine	10	42,686	-	-
10. Massachusetts	3(a)	50,525	3(a)	50,525
11. Michigan	8	191,725	10	239,656
12. Missouri	5	104,296	8	166,874
13. Montana	5	18,351	10	36,702
14. Nebraska	7	39,510	10	56,442
15. Nevada	10	35,426	10	35,426
16. North Dakota	1.6 (b)	13,055	3.2 (b)	26,110
17. Ohio	6 (c)	183,198	10	306,662
18. Oklahoma	8	93,683	15	175,656
19. Oregon	6	63,578	8	84,770
20. South Dakota	5	14,723	10	29,444
21. Utah	10	64,911	-	-
22. Washington	8	150,001	-	-
23. Wyoming	15	27,962	-	-
Average	7.4	81,778	8.9	152,883
Proposed for NJ	8	160,000	12	240,000

- (a) Plus 25% vote of legislature in 2 successive sessions.
- (b) of population in prior census
- (c) only 3% if subsequently passed by legislature

- Reference: David Schmidt, Citizen Lawmakers, Temple Univ Press,(1989) p 296.