

**HB**

**45**

# FISCAL NOTE

STATE OF ALASKA  
2000 LEGISLATIVE SESSION

BILL NO. CSHB 45 (FIN) AM

Revision Date/Time (Note if correction) \_\_\_\_\_ Dept. Affected Office of the Governor  
 Title Relating to initiative and referendum petitions BRU Elective Operations  
 Component Elections  
 Sponsor Representative Williams  
 Requester Senate Judiciary Committee Component No. 21

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
Travel						
Contractual	3.0					
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>3.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ( )						
------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	3.0					
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>3.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2000) cost: 0.0

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This figure includes the cost of required programming changes to the Voter Registration and Election Management System (VREMS) and testing of the changes prior to implementation into the production environment.

Prepared by: Gail Fenumia Phone 465-3935  
 Division Division of Elections Date/Time 1/13/00 12:50 PM  
 Approved by: Gov. Governor Fran Ulmer Date 01/13/2000  
 Agency Office of the Lieutenant Governor

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# SENATE COMMITTEE REPORT

DATE: 5/16/99

FURTHER: Finance

DATE TURNED  
IN TO OFFICE: 2-3-00

Judiciary Committee considered CS FOR HOUSE BILL NO. 45(FIN) am

"An Act relating to initiative and referendum petitions; and providing for an effective date."

and recommends:

- be replaced with S CS CSHB45 (Jud)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to the \_\_\_\_\_ Committee

- Senate Bill:
- same title
  - new title
- House Bill:
- same title
  - technical title
  - new: SCR# \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
		<i>John Brown</i>	✓		
		<i>Waive only</i>		✓	
		<i>JR Ellis</i>		<del>✓</del>	
CHAIR: <i>Adrian L. Taylor</i>		CHAIR:	✓		

**NEW FISCAL NOTE(S):**

Department                      Date      Zero      Fiscal

*2 Gov. Div. Elections	2/1		2.0

**PREVIOUS FISCAL NOTE(S):\***

Department                      Date      Zero      Fiscal


APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

## STATE OF ALASKA

TONY KNOWLES, GOVERNOR

HB 45

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

P.O. BOX 110300  
JUNEAU, ALASKA 99811-0300  
PHONE: (907) 465-3800  
FAX: (907) 465-2075

December 10, 1999

The Honorable Fran Ulmer  
Lieutenant Governor  
Office of the Lieutenant Governor  
P.O. Box 110015  
Juneau, AK 99811-0015Re: Effect of *Buckley v. American Constitutional  
Law Foundation* on State of Alaska Initiative  
Statutes  
A.G. file no: 663-99-0171  
1999 Op. Att'y Gen. No. 2

Dear Lt. Governor Ulmer:

## I. Introduction

We have prepared this opinion to advise you and your staff about the effect on Alaska statutes of a recent United States Supreme Court decision. The decision is *Buckley v. American Constitutional Law Foundation*, 119 S. Ct. 636, 142 L. Ed. 2d 599, 67 U.S.L.W. 4043 (1999), in which the Court invalidated certain requirements set out in Colorado law regarding initiative petitions. This is important to Alaska because the *Buckley* case will affect some of Alaska's laws on initiative petitions. The holding of *Buckley* leads to the conclusion that a few of Alaska's laws governing initiatives are clearly unconstitutional, and that these laws should therefore be amended and not enforced until the constitutional defects are cured.<sup>1</sup>

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<sup>1</sup> As you will see from the discussion below, the Court's holding in *Buckley* as applied to certain of Alaska's election statutes satisfies the requirements of our supreme court's holding in *O'Callaghan v. Coghill*, 888 P.2d 1302, 1304 (Alaska 1995) (executive branch may abrogate a statute which is clearly unconstitutional under a United States Supreme Court decision dealing with a similar law, without having to wait for another court decision specifically declaring the statute unconstitutional).

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## II. *Buckley* Invalidates Requirements on Residency, Identification Badges, and Reporting of Payments to Individual Petition Circulators

The Court in *Buckley* invalidated three types of requirements for initiative petitions set out in Colorado's statutes and constitution. First, the Court struck down the requirement that initiative petition circulators be registered voters. *Buckley*, 119 S. Ct. at 644. Second, the Court invalidated the requirement that initiative petition circulators wear identification badges containing the circulator's name. *Buckley*, 119 S. Ct. at 646. Third, the Court invalidated the requirement that proponents of an initiative report to the state the names and addresses of all paid circulators and the amounts paid to each circulator. *Id.* at 647. The Court found that the three controls at issue were excessively restrictive of political speech, in violation of the First Amendment to the United States Constitution.

## III. Impact of *Buckley* Decision on Alaska Law Regarding Initiatives

### A. Registered Voter Requirement

There are a number of provisions in Alaska's constitution and statutes that may be affected by the holding of *Buckley* invalidating the requirement that initiative petition circulators be registered voters. First, Alaska law requires that persons who sponsor, sign, or circulate initiative petitions be "qualified voters," and part of the test for being a qualified voter is that the person be registered to vote. An explanation of "qualified voter" is set out in two places. Alaska Statute 15.05.010, entitled "voter qualification," provides that

A person may vote at any election who

(1) is a citizen of the United States;

(2) is 18 years of age or older;

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(4) has been a resident of the state and of the election district in which the person seeks to vote for at least 30 days just before the election; and

...

(6) *has registered before the election as required under AS 15.07 and is not registered to vote in another jurisdiction.*

(Emphasis added.) Similarly, AS 15.60.010, entitled "definitions," provides:

(25) "qualified voter" means a person who has the qualification of a voter and is not disqualified as provided by art. V, sec. 2, of the state constitution and AS 15.05.030.

However, the scope of *Buckley*'s prohibition on requiring that an initiative petition circulator be a registered voter is not entirely clear. First, it is unclear whether the *Buckley* Court meant to include petition signers as well as circulators in its holding on this point. The Alaska Constitution and Alaska statutes require that initiative petition signers and circulators be "qualified voters."<sup>2</sup> The constitutional provisions addressing the requirements for an initiative petition are article XI, sections 2 and 3.<sup>3</sup> The statutes requiring that qualified voters sign and circulate an

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<sup>2</sup> There are similar requirements for a referendum set out in the constitutional provisions referenced below and in Alaska Statutes 15.45.250 - 15.45.465.

<sup>3</sup> The Alaska Constitution, article XI, section 2, sets out the requirements for an application for an initiative or referendum as follows:

An initiative or referendum is proposed by an application containing the bill to be initiated or the act to be referred. The application shall be signed by not less than one hundred *qualified voters* as sponsors, and shall be filed with the lieutenant governor. If he finds it in proper form he shall so certify. Denial of certification shall be subject to judicial review.

(Emphasis added.)

The Alaska Constitution, article XI, section 3, sets out the requirements for a petition for an initiative or referendum as follows:

(continued. . .)

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initiative petition are AS 15.45.030(2), AS 15.45.060, AS 15.45.100, AS 15.45.120, AS 15.45.130(5), and AS 15.45.140.

Under *O'Callaghan*, 888 F.2d 1304, the holding of *Buckley* should be read narrowly and limited to its express terms. Under the language set out in *Buckley*, the Court struck down the requirement that petition circulators be registered voters. The Court did not address the issue of a requirement set out in state law that persons who sign an initiative petition application be registered voters.<sup>4</sup> Therefore, Alaska could retain the requirements set out in the Alaska Constitution and statutes that petition signers be qualified voters. However, it is clear that Alaska may not retain the requirement that petition circulators be qualified voters. The Court in *Buckley* suggested that the requirement that petition circulators be registered be replaced with a requirement that the circulators provide an affidavit demonstrating that they are residents of the state. *Id.* at 644.<sup>5</sup>

Under this limiting analysis, article XI, sections 2 and 3, of the Alaska Constitution would stand. Similarly, the following statutes would stand: AS 15.45.030, AS 15.45.060, AS 15.45.100, AS 15.45.120, AS 15.45.130(5), and AS 15.45.140. However, AS 15.45.110(a)

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(...continued)

After certification of the application, a petition containing a summary of the subject matter shall be prepared by the lieutenant governor for circulation by the sponsors. If signed by *qualified voters*, equal in number to ten per cent of those who voted in the preceding general election and resident in at least two-thirds of the election districts of the State, it may be filed with the lieutenant governor.

(Emphasis added.)

<sup>4</sup> In *Buckley* the Colorado law challenged did require that persons who signed initiative petitions be "registered electors" at the time of signing. *Id.* at 119 S. Ct. 640-641 n. 7.

<sup>5</sup> However, the Court expressly reserved judgment on the question of whether an actual statutory residency requirement would be permissible. Until there is authority to the contrary it is not clear that the Court would invalidate the residency requirement.

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requiring that petition circulators be sponsors would be clearly unconstitutional because of the requirement that sponsors be registered voters. Instead, under *Buckley*, Alaska could impose a requirement that petition circulators provide an affidavit that they are state residents, rather than registered voters. Similarly, many parts of AS 15.45.130 would be clearly unconstitutional because of the requirement that petition circulators be sponsors. Again, the sponsor requirement could be replaced by a requirement that the petition circulators provide an affidavit that they are Alaska residents. We suggest that your staff prepare an administrative regulation to address this matter. Under the regulation an initiative petition circulator could establish Alaska residency either by demonstrating that he or she was a registered voter or by submitting an affidavit attesting to residency in Alaska.

#### B. Identification Badge Requirement

The *Buckley* Court invalidated the requirement that initiative petition circulators wear identification badges containing the circulators' names. Alaska Statute 15.45.110(b) provides that "a sponsor shall display identification containing the sponsor's name when circulating a petition." Thus, AS 15.45.110(b) is clearly unconstitutional under *Buckley*.

#### C. Requirement That Payment to Individual Petition Circulators be Reported

The *Buckley* court struck down a requirement that ballot initiative proponents who pay circulators file a final report disclosing information specific to each paid circulator, including the circulators' names and addresses and the total amount paid to each circulator. In contrast, unpaid petition circulators were not required to disclose their names or other information. *Id.* at 646. The *Buckley* Court also invalidated the requirement that initiative proponents file a monthly report containing the names and addresses of each paid circulator and the amount of money paid and owed to each circulator during the month in question. Alaska Statute 15.45.130(8) includes a requirement

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that all sponsors file an affidavit containing the petition circulator's name and whether the circulator has or will receive payment for collection of signatures. Alaska's requirements are not the same as those invalidated in *Buckley*. In Alaska, all sponsors, paid or unpaid, must disclose their names. Those sponsors who did receive payment for petition circulation only need identify the fact of payment, not the amount. Therefore, the requirement of identifying the petition circulators by name is not clearly unconstitutional under *Buckley*.

Similarly, it is unclear whether the requirement of identifying whether petition circulators are paid or unpaid is unconstitutional under the holding of *Buckley*, noted above. The requirement set out in AS 15.45.130(8) is not identical to the requirements invalidated in *Buckley*. The Court in *Buckley* left open the question of whether the state could require petition circulators to disclose whether they were paid or unpaid. *Id.* at 646. Therefore, although it is a fairly close question, we would advise that the requirement set out in AS 15.45.130(8), that the sponsor's affidavit state whether petition circulators are paid or unpaid, is not clearly unconstitutional. Finally, the remaining language set out in AS 15.45.130(8) requiring identification of each person or organization that has paid or agreed to pay the sponsor for collection of signatures is allowable under *Buckley*. *Id.* at 647.

#### IV. Corrective Action in Light of *Buckley*

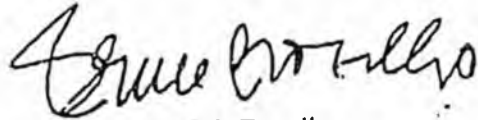
The next consideration is determining what action the state should take regarding the Alaska statutes that are clearly unconstitutional under *Buckley*. First, we recommend that corrective legislation be introduced to cure the constitutional defects. During this past legislative session we worked with the Division of Elections on legislation to update the elections code. This legislation was introduced as HB 163 and SB 120. We are available to work with your staff to add provisions to one of these bills that will address the constitutional problems with the initiative provisions of the

The Honorable Fran Ulmer, Lieutenant Governor  
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elections code in light of *Buckley*. Second, for the reasons set out in this opinion we advise you not to enforce the statutes discussed above as we have concluded they are "clearly unconstitutional."

Sincerely,



Bruce M. Botelho  
Attorney General

BMB:bw

cc: Janet Kowalski, Director  
Division of Elections  
Office of the Lieutenant Governor

*moved  
by Janssen  
adopted  
2/2/00*

1-LS0254V ✓  
Kurtz  
1/24/00

SENATE CS FOR CS FOR HOUSE BILL NO. 45( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY

Offered:  
Referred:

Sponsor(s): REPRESENTATIVE WILLIAMS

A BILL  
FOR AN ACT ENTITLED

1 "An Act relating to initiative, referendum, and recall petitions; and providing for  
2 an effective date."

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

4 \* Section 1. AS 15.45.110(a) is amended to read:

5 (a) The petitions may be circulated throughout the state [ONLY BY A  
6 SPONSOR AND] only in person.

7 \* Sec. 2. AS 15.45.110(c) is amended to read:

8 (c) A circulator [SPONSOR] may not receive payment or agree to receive  
9 payment that is greater than \$1 a signature, and a person or an organization may not  
10 pay or agree to pay an amount that is greater than \$1 a signature, for the collection of  
11 signatures on a petition.

12 \* Sec. 3. AS 15.45.110(e) is amended to read:

13 (e) A person or organization that violates (c) or (d) [(b) - (d)] of this section  
14 is guilty of a class B misdemeanor.

1 \* Sec. 4. AS 15.45.130 is amended to read:

2           **Sec. 15.45.130. Certification of circulator [SPONSOR].** Before being filed,  
3 each petition shall be certified by an affidavit by the person [SPONSOR] who  
4 personally circulated the petition. The affidavit must state in substance that (1) the  
5 person signing the affidavit meets the residency, age, and citizenship qualifications  
6 of AS 15.05.010 [IS A SPONSOR], (2) the person is the only circulator of that  
7 petition, (3) the signatures were made in the circulator's [SPONSOR'S] actual  
8 presence, (4) to the best of the circulator's [SPONSOR'S] knowledge, the signatures  
9 are those of the persons whose names they purport to be, (5) the signatures are of  
10 persons who were qualified voters on the date of signature, (6) the person has not  
11 entered into an agreement with a person or organization in violation of  
12 AS 15.45.110(c), (7) the person has not violated AS 15.45.110(d) with respect to that  
13 petition, and (8) the circulator [SPONSOR] prominently placed, in the space provided  
14 under AS 15.45.090(5) before circulation of the petition, in bold capital letters, the  
15 circulator's [SPONSOR'S] name and, if the circulator [SPONSOR] has received  
16 payment or agreed to receive payment for the collection of signatures on the petition,  
17 the name of each person or organization that has paid or agreed to pay the circulator  
18 [SPONSOR] for collection of signatures on the petition. In determining the sufficiency  
19 of the petition, the lieutenant governor may not count subscriptions on petitions not  
20 properly certified.

21 \* Sec. 5. AS 15.45.140 is amended to read:

22           **Sec. 15.45.140. Filing of petition.** (a) The sponsors must file the initiative  
23 petition within one year from the time the sponsors received notice from the lieutenant  
24 governor that the petitions were ready for delivery to them. The [, AND THE]  
25 petition may be filed with the lieutenant governor only if it meets all of the  
26 following requirements: it is [MUST BE] signed by qualified voters

27                   (1) equal in number to 10 percent of those who voted in the preceding  
28 general election;

29                   (2) [AND] resident in at least three-fourths [TWO-THIRDS] of the  
30 house [ELECTION] districts of the state; and

31                   (3) who, in each of the house districts described in (2) of this

1 subsection, are equal in number to at least four percent of those who voted in the  
2 preceding general election in the house district.

3 (b) If the petition is not filed within the one year period provided for in (a)  
4 of this section, the petition has no force or effect.

5 \* Sec. 6. AS 15.45.340 is amended to read:

6 Sec. 15.45.340. Circulation [BY SPONSOR]. The petitions may be  
7 circulated throughout the state [ONLY BY A SPONSOR AND] only in person.

8 \* Sec. 7. AS 15.45.360 is amended to read:

9 Sec. 15.45.360. Certification of circulator [SPONSOR]. Before being filed,  
10 each petition shall be certified by an affidavit by the sponsor who circulated the  
11 petition. The affidavit must [SHALL] state in substance that (1) the person signing  
12 the affidavit meets the residency, age, and citizenship qualifications of  
13 AS 15.05.010 [IS A SPONSOR], (2) the person is the only circulator of the petition,  
14 (3) the signatures were made in the circulator's [SPONSOR'S] actual presence, and  
15 (4) to the best of the circulator's [SPONSOR'S] knowledge, the signatures are the  
16 signatures of persons whose names they purport to be. In determining the sufficiency  
17 of the petition, the lieutenant governor may not count subscriptions on petitions not  
18 properly certified.

19 \* Sec. 8. AS 15.45.370 is amended to read:

20 Sec. 15.45.370. Filing of petition. The sponsors may file the petition

21 (1) only within 90 days after the adjournment of the legislative session  
22 at which the act was passed; and

23 (2) only if it meets all of the following requirements: it is signed by  
24 qualified voters

25 (A) equal in number to 10 percent of those who voted in the  
26 preceding general election;

27 (B) [AND] resident in at least three-fourths [TWO-THIRDS]  
28 of the house [ELECTION] districts of the state; and

29 (C) who, in each of the house districts described in (B) of  
30 this paragraph, are equal in number to at least four percent of those who  
31 voted in the preceding general election in the house district.

1 \* Sec. 9. AS 15.45.580 is amended to read:

2           **Sec. 15.45.580. Circulation [BY SPONSOR].** The petitions may be  
3           circulated [ONLY BY A SPONSOR AND] only in person throughout the state or  
4           senate or house [ELECTION] district represented by the official sought to be recalled.

5 \* Sec. 10. AS 15.45.600 is amended to read:

6           **Sec. 15.45.600. Certification of circulator [SPONSOR].** Before being filed,  
7           each petition shall be certified by an affidavit by the circulator [SPONSOR] who  
8           personally circulated the petition. The affidavit must [SHALL] state in substance that  
9           (1) the person signing the affidavit meets the residency, age, and citizenship  
10           qualifications of AS 15.05.010 [IS A SPONSOR], (2) the person is the only circulator  
11           of that petition or copy, (3) the signatures were made in the circulator's  
12           [SPONSOR'S] actual presence, and (4) to the best of the circulator's [SPONSOR'S]  
13           knowledge, the signatures are those of the persons whose names they purport to be.  
14           In determining the sufficiency of the petition, the director may not count subscriptions  
15           on petitions not properly certified.

16 \* Sec. 11. AS 15.45.110(b) is repealed.

17 \* Sec. 12. **CONDITIONAL EFFECT OF ACT.** Sections 5 and 8 of this Act take effect  
18 only if a constitutional amendment requiring signatures from four percent of the qualified  
19 voters who voted in the district in the preceding general election in each of three-fourths of  
20 the house districts of the state is passed by the legislature and approved by the voters at the  
21 2000 general election.

22 \* Sec. 13. If sections 5 and 8 of this Act take effect under sec. 12 of this Act, they take  
23 effect on the effective date of the amendment described in sec. 12 of this Act.

24 \* Sec. 14. Sections 1 - 4, 6, 7, and 9 - 12 of this Act take effect immediately under  
25 AS 01.10.070(c).

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
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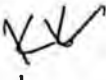
State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

January 24, 2000

**SUBJECT:** Senate CS for CSHB 45(FIN), Changing Alaska's Initiative Law to Conform with Recent United States Supreme Court Decision (Work Order No. 21-LS0254I)

**TO:** Representative Bill Williams  
Attn: Kyle Johansen

**FROM:** Kathryn L. Kurtz   
Legislative Counsel

Enclosed is a draft committee substitute designed to bring Alaska law into line with the United States Supreme Court's decision in Buckley v. American Constitutional Law Foundation, 119 S.Ct. 636, 142 L.Ed.2d 599, 67 U.S.L.W. 4043 (1999).

In the Buckley case, the Supreme Court said that Colorado could not require initiative circulators to be registered voters, and it could not require them to wear name badges. Alaska law has those same two requirements, and under the logic of the Buckley case, they are now clearly unconstitutional. Alaska law also requires those circulating referendum and recall petitions to be registered voters; by the same logic, those provisions are probably also unconstitutional.

The name badge problem is easy to solve: repeal AS 15.45.100(b). The enclosed draft close this.

The voter registration problem is more complicated. Currently, under Alaska law, only initiative sponsors may circulate initiative petitions, and sponsors are required to be registered voters. So, by implication, all petition circulators are required to be registered voters--which is exactly what the Buckley case prohibits.

The enclosed draft removes the AS 15.45.100(a) provision that says only sponsors can circulate petitions. It also changes all references to "sponsor" in AS 15.45.130 to "circulator." I believe this is the approach Mr. Botelho was suggesting. See Botelho letter at 4-5.

Mr. Botelho seems to believe that this approach is free of constitutional problems. See Botelho letter at 4. I do not share this view. Article XI, section 3 of the Constitution of the State of Alaska provides:

Representative Bill Williams

January 24, 2000

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After certification of the application, a petition containing a summary of the subject matter shall be prepared by the lieutenant governor **for circulation by the sponsors**. If signed by qualified voters, equal in number to ten per cent of those who voted in the preceding general election and resident in at least two-thirds of the house districts of the State, it may be filed with the lieutenant governor.

(emphasis added).

This provision might be read narrowly to imply that only sponsors may circulate initiative petitions, and this may be the basis for the existing statutory requirement to that effect. There is some support for this narrow reading of the constitution in a comment made by Delegate Sweeney at the Constitutional Convention. Discussing a proposal that would require at least 10 sponsors for each initiative petition, she argued for a 15% signature requirement rather than 10%, noting that "[i]f you have 4,000 votes to get **it requires each sponsor to secure 400 votes**, and I believe it should be left at fifteen percent." Proceedings of the Alaska Constitutional Convention at 1028 (December 17, 1955) (emphasis added). This comment seems to suggest that Mrs. Sweeney envisioned each of those ten people going out and getting 400 signatures each, and that she did not find this requirement especially burdensome. However, Mrs. Sweeney was one delegate among many, and it may be that a court would not find her remarks representative of the intent of the body.

A less literal reading would make sponsors responsible for gathering the necessary signatures, but allow them to delegate some of the actual work of soliciting signatures to others. This is the approach that the enclosed draft takes.

Please note that I have changed the title in this draft to include recall petitions, which were not mentioned in the original title of HB 45. As the bill is now in the second house, I am also enclosing a draft resolution waiving the uniform rules to permit this title change.

KLK:glc  
00-018.glc

Enclosure

GPVD090P X31U

VIEW PETITION TOTALS

01/31/2000 09:09

PETITION ID: 99PTAR

TYPE: INITIATIVE

NAME: AN ACT PROVIDING PROPERTY TAX AND ASSESSMENT REFORM

REQUIRED SIGNATURES: 22715

NUMBER OF QUALIFIED: 23592

NUMBER OF UNQUALIFIED: 7590

(Q) COMPUTER QUALIFIED 23592

(D) DUPLICATE 1418

(M) MANUALLY QUALIFIED 0

(J) NOT IN JURISDICTION 0

(I) INACTIVE 162

TOTAL SIGNATURES: 31182

(N) NOT REGISTERED 1601

(A) ADDRESS NOT PROVIDED 939

(U) UNABLE TO IDENTIFY 0

QUALIFIED SPONSORS 258

(X) NOT YET COUNTED 0

UNQUALIFIED SPONSORS 49

( ) OTHER 3470

(W) WITHDRAWN 0

PF1-MENU PF2-HELP

VREMS - (GBVREMS)  
PETITION STATISTICS REPORT FOR PETITION - 99PTAR

STATE OF ALASKA -- DIVISION OF ELECTIONS

TIME: 09:09

PAGE: 9

GPVR100P-R1

ID: 99PTAR  
TYPE: INITIATIVE

NAME: AN ACT PROVIDING PROPERTY TAX AND ASSESSMENT REFORM

NUMBER OF DISTRICTS IN STATE: 40  
NUMBER OF DISTRICTS REQUIRED: 27  
NUMBER OF DISTRICTS WITH SIGNATURES: 40

QUALIFIED SIGNATURES BY DISTRICT:	DIST	SIGNATURES
	1	24
	2	26
	3	38
	4	37
	5	52
	6	102
	7	435
	8	428
	9	272
	10	1043
	11	969
	12	898
	13	794
	14	585
	15	708
	16	837
	17	1141
	18	1197
	19	1114
	20	779
	21	921
	22	1057
	23	597
	24	1017
	25	1184
	26	1223
	27	1895
	28	1443
	29	304
	30	284
	31	290
	32	183
	33	400
	34	220
	35	245
	36	177
	37	157
	38	180
	39	194
	40	142

VREMS - (GBVREMS)  
PETITION STATISTICS REPORT FOR PETITION - 99PTAR

STATE OF ALASKA -- DIVISION OF ELECTIONS

TIME: 09:09

PAGE: 9

GPVR100P-R1

ID: 99PTAR  
TYPE: INITIATIVE

NAME: AN ACT PROVIDING PROPERTY TAX AND ASSESSMENT REFORM

NUMBER OF DISTRICTS IN STATE: 40  
NUMBER OF DISTRICTS REQUIRED: 27  
NUMBER OF DISTRICTS WITH SIGNATURES: 40

QUALIFIED SIGNATURES BY DISTRICT: DIST SIGNATURES

1	24
2	26
3	38
4	37
5	52
6	102
7	435
8	428
9	272
10	1043
11	969
12	898
13	704
14	585
15	708
16	837
17	1141
18	1197
19	1114
20	779
21	921
22	1057
23	597
24	1017
25	1184
26	1223
27	1895
28	1443
29	304
30	284
31	290
32	183
33	400
34	220
35	245
36	177
37	157
38	180
39	194
40	142

ID: 97TRAP  
TYPE: INITIATIVE

NAME: AN ACT RELATING TO THE USE OF SNARES IN TRAPPING WOLVES

NUMBER OF DISTRICTS IN STATE: 40  
NUMBER OF DISTRICTS REQUIRED: 27  
NUMBER OF DISTRICTS WITH SIGNATURES: 41

## QUALIFIED SIGNATURES BY DISTRICT: DIST SIGNATURES

1	48
2	475
3	1354
4	1266
5	224
6	144
7	439
8	419
9	243
10	1027
11	1096
12	1027
13	1440
14	821
15	1432
16	1403
17	1253
18	1291
19	1227
20	1182
21	1140
22	1106
23	641
24	977
25	863
26	765
27	692
28	919
29	481
30	253
31	251
32	121
33	214
34	180
35	205
36	124
37	140
38	113
39	113
40	111
88	4

ID: 99HEMP  
TYPE: INITIATIVE

NAME: AN ACT TO RE-LEGALIZE HEMP

NUMBER OF DISTRICTS IN STATE: 40  
NUMBER OF DISTRICTS REQUIRED: 27  
NUMBER OF DISTRICTS WITH SIGNATURES: 40

QUALIFIED SIGNATURES BY DISTRICT:	DIST	SIGNATURES
	1	44
	2	54
	3	224
	4	172
	5	78
	6	152
	7	414
	8	434
	9	278
	10	857
	11	1030
	12	870
	13	1232
	14	632
	15	1325
	16	1405
	17	1162
	18	1249
	19	1171
	20	1016
	21	1153
	22	782
	23	559
	24	763
	25	889
	26	998
	27	1406
	28	1362
	29	259
	30	216
	31	236
	32	148
	33	332
	34	204
	35	212
	36	279
	37	280
	38	208
	39	203
	40	186

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January 24, 2000

TO: SENATE JUDICIARY COMMITTEE

Re: House Bill 45, Limitations on Initiatives

Dear Chairman Taylor and Committee Members,

I am the legal counsel for the Republican Party of Alaska and have worked on several initiative petitions. I will be testifying today at the hearing on this bill, but did want to submit certain information in writing. These comments are my own as an individual and do not represent any policy or statement of the Republican Party of Alaska.

First, the members of the committee must read two excellent articles by Liz Ruskin and Martha Bellisle at Page One of the Metro Section of the Anchorage Daily News of Sunday, January 23, 2000. These articles present an excellent, accurate and objective view of the issues.

House Bill 45 proposes and requires the adoption of a Constitutional Amendment to limit the rights of Alaskan voters to participate in the initiative process. Article One, Section Two of the Alaska Constitution specifically provides:

All political power is inherent in the people. All government originates with the people, is founded upon their will only, and is instituted solely for the good of the people as a whole.

Especially given the present political situation in Alaska, there is no way that anyone can justify a Constitutional amendment to restrict the initiative power of the people. It will end up being another massive embarrassment to the Republican legislators and Republican Party if this Constitutional amendment is placed on the ballot. There will be massive criticism across the entire political spectrum.

I can understand that certain legislators did not like certain laws that were enacted by the initiative, but this is no reason to restrict the rights of the people to enact these laws. Under our Constitution and our form of government, the power of the people is supreme, and the rights of the people should not be limited because some legislators did not like what the people did.

In addition, there is no problem which needs to be addressed, except the problems created by the Legislature itself when it previously limited the people's initiative rights. These limitations were

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in violation of the Constitution of the United States, and greatly increased the costs and risks involved in an initiative petition.

Despite the relative simplicity of the process and lower costs as compared to states such as California or Oregon, we have only a small number of petitions, only a smaller number of which actually make it to the ballot.

### PROPOSED ADDITIONAL LIMITATIONS

HB 45 proposes that the present Constitutional requirement of 10% of the number of votes cast statewide in the last general election, including at least one signature from each of 27 election districts, be changed to 10% of the number of votes cast statewide in the last general election, including at least 4% from each of 30 election districts. This additional limitation is not appropriate, particularly where we are going to have to amend our basic document of government - the Alaska Constitution - to do so.

One proposed justification for change is that it will force initiatives to be more broadly based. Upon closer examination, this is not a problem. For example, the 1998 Official English for Government initiative, processed under prior law, submitted multiple signatures from all 40 election districts. I am certain, without checking, that the initiatives which are going to be on the ballot in 2000 - hemp and property tax limitation - also have multiple signatures from all or almost all of the election districts. In order to pass the law once it is on the ballot, broad-based support is important. The circulators already seek this broad-based support from the beginning during their signature-gathering processes.

For example, both the hemp and property tax limitation petitions actually had people circulating petitions in most parts of Alaska - all the way from south-east to north of the Arctic Circle. Petition circulators actually flew or drove to other areas of Alaska in order to collect signatures. The petition upon which I am now working - instant run-off voting (IRV) - has actually distributed petitions to volunteer circulators who are responsible for circulation in all 40 election districts. This has been done, in part, in order to educate voters in all areas as to what the proposed law is all about. I am continuing to add additional local areas for circulation. For example, yesterday I mailed a petition to Nikiski for volunteer signature-gathering.

Another proposed justification for change is to insure that petitions are local and volunteer rather than paid efforts. Any proposed change which makes the process more difficult, however, has exactly the opposite result. Each change makes a locally-based volunteer petition more difficult, without affecting the ability of a well-funded petition to get on the ballot. A good example is

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the 2000 hemp initiatives. Actually, there were two proposed marijuana initiatives gathering signatures for the 2000 ballot. 99HEMP, the one that will make the ballot, was funded by California-based hemp crusader Jack Herer. 99MJNA, a local initiative to revise state drug laws, tried to rely completely on volunteers and failed miserably in the attempt to gather sufficient signatures. A local initiative to raise alcohol taxes also relied on volunteers. Despite having more than 200 volunteers gathering signatures, it did not obtain sufficient signatures to make the 2000 ballot.

As an aside, no one should fear well-paid initiative petition efforts, even from sources outside of Alaska. If the idea is not good, the voters will defeat it. Also, the Daily News Articles cite a study of 168 initiative petitions in 8 states done by Elisabeth Gerber, a political science professor at the University of California, San Diego. From this study, Professor Gerber concluded that the more money that is spent on an initiative, the more likely it is that the initiative will fail.

At present, about 23,000 valid signatures are needed to place an initiative on the ballot. Petitions have a signature validity rate of from 70 to 75%. Two years ago, if a petition came up short of valid signatures, there was an additional 30 days allowed during which a supplemental petition could be submitted to make up the shortfall. Then, a petitioner could be safe turning in 30,000 signatures, knowing that there was an additional 30 days to make up any shortfall that might occur. (Cost - a combination of \$30,000 @ \$1/signature or substantial volunteer hours) Now that the Legislature has removed the grace period, a petitioner cannot be safe turning in less than 40,000 signatures, because there is no opportunity to make up any shortfall. (Cost - a combination of \$40,000 @ \$1/signature or 1 1/3 times as many volunteer hours) I have not calculated the effect of House Bill 45 on the cost of petitioning because it would be too time consuming with too much estimating involved. I know that a petitioner would need to turn in many more than 40,000 signatures, at substantial additional cost, because a petitioner could not afford to miss the required 4% of valid signatures in each of 30 election districts.

The year 2000 is a presidential election year, will have property tax limitation and hemp legalization on the ballot, and may very well also include a \$25,000 Permanent Fund payout. One can reasonably expect a large voter turn-out. This means that the number of signatures required for an initiative petition will substantially increase after the 2000 general election, even without any change at all in the Alaska Constitution or laws.

HB 45 will kill volunteer petitions. Volunteer petitions already have one foot in the grave because the 30 day grace period has been taken away. I believe that we will see the effect of the removal of the grace period in a month or so. The minimum wage petition turned in sufficient

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signatures. If the petitioners did not actually validate their own signatures prior to turning them in, however, it will be a miracle if they have sufficient valid signatures to make the ballot. These petitioners will have no time to gather the few additional signatures necessary, and all their prior efforts will have gone for nothing.

In summary, there is no problem which needs to be addressed by Constitutionally-restricting the voters' right of initiative and to try to do so is counter-productive in several ways. This bill should not be enacted.

#### CHANGES WHICH ARE NEEDED

There are various provisions which do need to be enacted, as follows:

- (1) Those provisions of the present law which violate the U.S. Constitution need to be repealed.
- (2) The grace period should be reinstated at 30 or 45 days, in order to breathe life back into local volunteer petition efforts. This will decrease the number of signatures that need to be collected initially and decrease the cost and effort that must be put in by local volunteers.
- (3) The \$1/signature limit should be removed, and allow the matter to be determined by free enterprise. First, price controls never work and people look for ways to get around them. Second, although a year ago I believed that the \$1/signature limitation was Constitutionally valid, I no longer believe that it is. This limit effectively prevents the exercise of the right of petition. The year 2000 volunteer petitions did not make the ballot. The right of petition is now exercised through the use of paid circulators. People who believe in an issue are generally extremely busy, and would rather contribute money to hire people to gather signatures than stand in the winter cold in front of a large box store in Fairbanks gathering signatures themselves. In addition, it takes a certain type of person who is willing to stand in the cold and ask total strangers to sign a petition. Most people do not have that type of personality or physical constitution.

The economy of Alaska and the United States has changed substantially since a year ago. Unemployment is down. It is no longer possible to hire sufficient competent circulators at \$1/signature in order to mount an effort with paid circulators. This point was made in the Daily News Articles by Rick Arnold of National Voter Outreach, a professional signature-gatherer, who can no longer bid on Alaska petitions because of this limitation. In the lower 48, payments of more than \$1/signature are being made. Alaska is known as a difficult location, justifying higher rates, because many signatures must be collected during the winter months to meet an early

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January turn-in date.

In summary, the \$1/signature limit should be removed because I believe that it unconstitutionally prevents the right to petition.

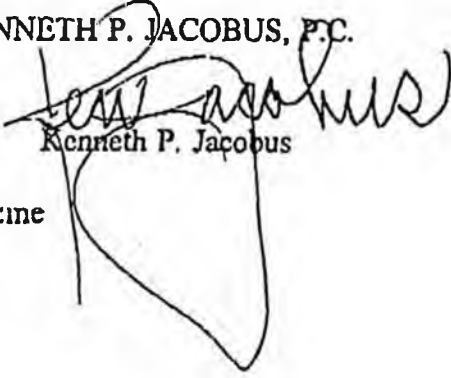
(4) Another problem exists which circulators have been trying to address on a case-by-case basis which relates to access to public areas for purposes of gathering signatures. Circulators, volunteer and paid, are being evicted from places that they clearly should be allowed to gather signatures. A "guaranteed access" law needs to be enacted in order to protect the right to petition.

If you have any questions, or need further information, please let me know and I will try to help.

Very truly yours,

KENNETH P. JACOBUS, P.C.

By

  
Kenneth P. Jacobus

KPJ:me

# Alaska State Legislature



Member:  
House Finance  
Subcommittee Chair:  
Transportation  
Environmental Conservation  
Subcommittee Member:  
Fish and Game

Representative William K. Williams

During Session:  
State Capitol  
Juneau, AK 99801-1182  
(907) 465-3424  
Fax (907) 465-3793

In Ketchikan:  
50 Front Street, Suite 203  
Ketchikan, AK 99901  
(907) 247-4672  
Fax (907) 225-7157

## Sponsor Statement HJR 7/HB 45

HJR 7 and HB 45 were introduced to ensure statewide consideration and discussion of an initiative petition before it is put on the ballot. The legislation requires signatures equal to 10% ballots cast in the prior General Election (same as current law) and 4% of ballots cast from 30 of the 40 Election Districts.

In past elections the greatest support for initiatives has come from one general area of the State, the Anchorage-M... region. The legislation is intended to further statewide discussion of an issue before it reaches the voters on Election Day.

Alaska's population distribution is much different now than it was when our Constitution was approved. Today, initiative supporters can collect signatures in a limited area and get a question on the ballot. The legislation will facilitate a broader discussion of potential ballot questions, thus helping to create a balanced question which considers effects on all the citizens of Alaska.

As we write laws in the Capitol many perspectives are taken into account as issues are discussed through the committee process. During this process healthy debate, from representatives of all areas of the state, is conducted. This healthy debate gives all members opportunity to see how their lawmaking will affect areas that they do not represent. Pertinent questions are asked and legislation is constantly amended to take into account those concerns.

Currently, initiatives can be put onto the ballot with very limited perspective. Constructive analysis of a question, from a statewide perspective, does not currently occur. Right now signatures equaling 10% of ballots cast is required. In addition, initiative sponsors must obtain one signature from 27 districts. One signature from a district is hardly representative of a districts opinion on an issue.

In closing, this legislation would get people from all over the state more involved in the initiative process. This in turn can create an atmosphere of healthy debate and ensure questions which reach the ballot have a statewide perspective.

WILLIAM A. EGAN  
President of the Convention

/s/

THOMAS B. STEWART  
Secretary of the Convention

Attest:

Signed and the Seal of the  
State of Alaska affixed this  
(seal) 14th day of May, 1965.

/s/

HUGH J. WADE  
Secretary of State

ALASKA CONSTITUTIONAL CONVENTION

University of Alaska

1955

DELEGATES AND OFFICERS

- WILLIAM A. EGAN -- President
- FRANK PERATROVICH -- First Vice President
- RALPH J. RIVERS -- Second Vice President

---

MILDRED R. HERMANN - Temporary President

THOMAS B. STEWART -- Secretary

KATHERINE T. ALEXANDER -- Chief Clerk

---

1455

Alaska Place of Date of

Delegate Home Resident Birth Birth

Since

Armstrong, R. Rolland Juneau 1940 Pennsylvania 1910

Awes, Dorothy J. Anchorage 1945 Minnesota 1918  
 Barr, Frank Fairbanks 1932 Illinois 1903  
 Boswell, John C. Fairbanks 1926 Oregon 1905  
 Buckalew, Seaborn J. Anchorage 1950 Texas 1920  
 Coghill, John B. Nenana 1925 Alaska 1925  
 Collins, E. B. Fairbanks 1904 Indiana 1873  
 Cooper, George D. Fairbanks 1949 Colorado 1923  
 Cross, John M. Kotzebue 1934 Kansas 1895  
 Davis, Edward V. Anchorage 1939 Idaho 1910  
 Doogan, James P. Fairbanks 1914 Alaska 1914  
 Egan, William A. Valdez 1914 Alaska 1914  
 Emberg, Truman C. Dillingham 1935 Minnesota 1909  
 Fischer, Mrs. E.A. Anchorage 1905 Washington 1905  
 (Helen)  
 Alaska Place of Date of  
 Delegate Home Resident Birth Birth  
 Since  
 Fischer, Victor Anchorage 1950 Germany 1924  
 Gray, Douglas Douglas 1912 Montana 1908  
 Harris, Thomas C. Valdez 1950 Oklahoma 1926  
 Hellenthal, John S. Anchorage 1915 Alaska 1915  
 Hermann, Mildred R. Juneau 1919 Indiana 1891  
 Hilscher, Herb Anchorage 1906 Washington 1902  
 Hinckel, Jack Kodiak 1922 Massachusetts 1901  
 Hurley, James Palmer 1933 California 1915  
 Johnson, Maurice T. Fairbanks 1937 Minnesota 1901  
 Kilcher, Yule F. Homer 1936 Switzerland 1913  
 King, Leonard H. Haines 1920 Michigan 1901

Knight, William W. Sitka 1919 England 1889  
Laws, W. W. Nome 1935 Washington 1884  
Lee, Eldor R. Petersburg 1920 Alaska 1920  
Londborg, Maynard D. Unalakleet 1946 Nebraska 1921  
McCutcheon, Steve Anchorage 1911 Alaska 1911  
McLaughlin, George W. Anchorage 1949 New York 1914  
McNealy, Robert J. Fairbanks 1940 Nebraska 1907  
McNees, John A. Nome 1942 Idaho 1917  
Marston, M. R. Anchorage 1941 Washington 1900  
Metcalf, Irwin L. Seward 1927 Washington 1908  
Nerland, Leslie Fairbanks 1930 Yukon Territory 1902  
Nolan, James Wrangell 1920 Massachusetts 1901  
Alaska Place of Date of  
Delegate Home Resident B h Birth  
Since  
Nordale, Katherine D. Juneau 1925 Washington 1902  
Peratrovich, Frank Klawock 1895 Alaska 1895  
Poulsen, Chris Anchorage 1933 Denmark 1904  
Reader, Peter L. Nome 1934 North Dakota 1913  
Riley, Burke Haines 1938 Montana 1914  
Rivers, Ralph J. Fairbanks 1906 Washington 1903  
Rivers, Victor C. Anchorage 1906 Washington 1905  
Robertson, R. E. Juneau 1906 Iowa 1885  
Rosswog, John H. Cordova 1905 Washington 1904  
Smith, W. O. Ketchikan 1932 New Mexico 1907  
Stewart, B. D. Sitka 1910 Montana 1878  
Sundborg, George Juneau 1938 California 1913  
Sweeney, Dora M. Juneau 1907 Minnesota 1907

Taylor, Warren A. Fairbanks 1909 Washington 1891

VanderLeest, H. R. Juneau 1908 Michigan 1882

Walsh, M. J. Nome 1905 Ireland 1882

White, Barric M. Anchorage 1947 New York 1923

Wien, Ada B. Fairbanks 1907 Alaska 1907

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B-1

V. RIVERS: I move and ask unanimous consent that we adopt that amendment.

PRESIDENT EGAN: Mr. Victor Rivers moves that the proposed amendment be adopted.

JOHNSON: I object.

V. RIVERS: I so move.

SMITH: I second the motion.

PRESIDENT EGAN: The question is open for discussion. Mr. Victor Rivers.

V. RIVERS: Mr. President, it seems to me in view of the geographical distribution of the country and in view of the varied interests, economic and otherwise, that we would be defeating practically the purpose of the initiative and referendum if we require two-thirds of the districts to be represented on this petition. I think that half is a fair figure. It seems to me that if you were going to have an initiative or referendum on mining matters that in all probability it would be very hard to get votes for that initiative in two-thirds of the districts where their main interests perhaps would lie in fish, or fur, or timber. I put this amendment in in all sincerity, because I think it will make the initiative and referendum more workable and more fair if we allow it to go through.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I would like to say that we are talking not about precincts here, which at the present time there are something like 400 in the Territory, but about election districts under the constitution, and my understanding is that the Committee on Apportionment will bring in a proposal which will specify there will be 24 election districts. That would mean if we leave it the way it is that it would require at least one person's signature only from 16 of the districts to be among either ten or fifteen per cent as we may vote tomorrow on Mr. McNealy's motion to reconsider. The way Mr. Rivers would propose to change it, it would be necessary to get signatures from only 12 different districts, that is 12 signatures would be necessary, one from each district, making up a total of around 4,000 at the present time. I feel that as it is it is not at all cumbersome or difficult. If we had required that a large number had to be obtained from the districts, it might be, but all that is necessary is one lone signature from each district.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Fellow delegates, I hope that most of you are more aware of this issue that is getting more and more confused than I am. As I have shown on the last vote, and I want to be well aware that those among you who are in favor of the initiative in principle should see that any other attempt to emasculate the initiative as such should be voted down, and I see that Mr. Rivers' amendment is in favor of reinjecting some strength in the initiative. Since Section 3 has been amended to take more rights away

from the people, since the first sentence will give the legislature the right to prescribe procedures, it is only fair that we reduce the "two-thirds" to one-half" because if those that are opposed now and in the future to the initiative will have their way, they will have the legislature immediately to go about and have strict procedures established, for instance that in two-thirds of all the election districts we will have to have the full 15 per cent of signatures prorated in each district. I think the legislature will try to do that, and if they try to do it, if it is unconstitutional, it will have to be the people who go to the court and prove that such an act by the legislature would be unconstitutional. I think the legislature would get away with it and I wouldn't blame them for trying. It is not true that it will take only eleven signatures, one signature from each of the other eleven districts, and the one that tries to "railroad" something, I have no doubt whatsoever that those elements opposed to the initiative in the legislature will circumscribe the necessary procedure where we would end up by having two thirds of all the election districts required to furnish 15 per cent of the signatures. They would not rest quiet before they have that. Consequently, they will make the initiative unworkable. Consequently I am in favor of Mr. Rivers' amendment that only half of the election districts be required to furnish signatures. I have no doubt that before long they will be required to furnish each 16 per cent of the signatures, and be well aware of that, that attempt will be made, and all in favor of the initiative in principle should vote in favor of Mr. Rivers' amendment.

PRESIDENT EGAN: The question is -- Mr. Victor Rivers. V.

RIVERS: I ask that the roll be called.

PRESIDENT EGAN: The question is, "Shall the proposed amendment offered by Mr. Victor Rivers be adopted by the Convention?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 26 - Aves, Coghill, Doogan, Emberg, H. Fischer, Gray, Harris, Hermann, Hilscher, Hinckel, Hurley, Kilcher, King, Knight, Lee, McNees, Marston, Nordale, Peratrovich, Riley, R. Rivers, V. Rivers, Smith, Stewart, Taylor, VanderLeest.

Nays: 26 - Armstrong, Barr, Boswell, Buckalew, Collins, Cooper, Davis, V. Fischer, Hellenthal, Johnson, Laws, Londborg, McLaughlin, McNealy, Metcalf, Nolan, Poulsen, Reader, Robertson, Rosswog, Sundborg, Sweeney, Walsh, White, Wien, Mr. President.

Absent: 3 - Cross, McCutcheon, Nerland.)

CHIEF CLERK: 26 yeas, 26 nays and 4 absent.

PRESIDENT EGAN: So the motion has failed of adoption. Mr. Buckalew

R. RIVERS: I now move the adoption of the amendment in the form presently presented and before you.

PRESIDENT EGAN: The Chief Clerk will read the proposed amendment.

CHIEF CLERK: "Page 1, Section 4, strike lines 13 to 18 inclusive, and lines 1 to 5 inclusive, on page 2 and substitute the following: 'Section 4. Prior to general circulation, an initiative petition containing a draft of the proposed law in bill form shall be signed by ten qualified electors as sponsors and have its sufficiency as to form certified by the attorney general. Denial of certification shall be reviewable by the court. If certified to be sufficient the initiative or referendum petition containing a summary of the subject matter prepared by the attorney general may then be circulated and must be signed by qualified electors equal to 15% of the number of votes cast for governor in the preceding general election at which the governor was chosen. The petition shall contain signatures from at least two-thirds of the election districts of the State. The petition may be filed with the attorney general who shall prepare a ballot title or proposition designating and summarizing the substance of the proposed law which proposition shall go upon the ballot as hereinafter provided.

PRESIDENT EGAN: Is there a second to the motion by Mr. Ralph Rivers?

BARR: I second the motion.

PRESIDENT EGAN: It has been moved and seconded, and the motion is open for discussion. Mr. Taylor.

TAYLOR: I have an amendment to offer. It is on the desk, an amendment changing "15" as a per cent in the unnumbered lines here, but it is the last word in the original proposal, changing the 15%" to "10%".

PRESIDENT EGAN: Your amendment is out of order at this time. This motion is before us. A new amendment is on the floor at this time.

TAYLOR: Amending the amendment though.

PRESIDENT EGAN: Amending the "15%" to "10%"? Mr. Taylor then offers an amendment to the amendment seeking to change to read "10%". Is there a second?

MARSTON: I second the motion.

SWEENEY: I object.

PRESIDENT EGAN: The question is on the amendment to the amendment seeking to make it ten per cent of the number of votes cast. Mrs. Sweeney.

SWEENEY: This matter was voted on in the Committee of the Whole last night, and in coming into the plenary session we adopted the oral report of the Committee. Now I don't feel that we can vote on that issue again any more than we can vote on the 19 or 20 years again.

PRESIDENT EGAN: Mrs. Sweeney, the Chair does not recall that we ever voted on ten per cent. But anything that happened in the Committee of the Whole session would just come to the plenary session as a recommendation. That is all. Mr. Sundborg.

SUNDBORG: Mr. President, I believe Mrs. Sweeney's recollection is perhaps incorrect and that we did in plenary session amend from the figure eight to fifteen per cent. I don't believe we discussed that matter at all in Committee of the Whole.

PRESIDENT EGAN: No one could again offer the amendment and be in order to make it eight per cent, Mrs. Sweeney, but the Chair will have to rule that the particular amendment to the amendment offering ten per cent as the figure is in order. Mr. Taylor.

TAYLOR: I would like to speak briefly. I think this has been argued pro and con at the time that the original proposal was eight per cent. I think a number of the Committee have spoken against the fifteen per cent on the grounds that it would positively make it impossible or so difficult to circulate a petition for an initiative that it would render the law inoperative. Now as Mr. Londborg said, this morning he was reading some statistics in Missouri, and to initiate a law it only requires five per cent. Now, of course, we realize that in Missouri it is much easier to get petitions circulated. The transportation problem is nothing. The people who circulate them can drive around different places and counties and get them signed. Here with the vast distances and the difficulties of transportation, it would be a little bit difficult. So that would leave us, if we adopt the ten per cent, still twice as high as the State of Missouri where transportation is very easy. So I think ten per cent would be a good compromise.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: I think if we read the Missouri Constitution carefully we will find that it is "five per cent of the qualified electors". We are only asking for a certain per cent of the governor's vote. There is a lot of difference because I don't think half or maybe a third of the people who can vote go out and vote. So actually five per cent in Missouri would be equivalent to maybe fifteen or twenty per cent here. Not only that, they also require five per cent of the electors in each of two-thirds of the voting precincts. We are saying that they can get all but fourteen, I believe it is, in one precinct and then just go out and spot enough so that they qualify in the two-thirds in the other.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: I don't go along with Mr. Taylor that this is going to be such a difficult task to get the fifteen per cent. Every petition will have at least ten sponsors, and if they know it is going to have to come from two-thirds of the legislative districts, those ten sponsors will in all likelihood come from ten different districts or maybe five. If you have 4,000 votes to get it requires each sponsor to secure 400 votes, and I believe it should be left at fifteen per cent.

MARSTON: The 19 states who have the initiative and referendum laws have averaged a little below eight per cent requirement. We went over this document and this figure with the experts here. It was in keeping with their thinking, and eight per cent is higher than the average of the 19 states who have this, and it is the right number. I want to warn the people here of one thing I see coming up. The person or persons who are issuing most of these amendments are people against initiative and referendum. I know that.

PRESIDENT EGAN: The Chair will have to hold from here on that the Chair will have to declare any one out of order if they allude to the motives behind any delegate.

MARSTON: Can I say who is for and against? It has been said on the floor.

PRESIDENT EGAN: This does not particularly refer to your statements, but the Chair is going to have to hold firm on allusions as to what might be the motives of other delegates on the floor.

MARSTON: Eight per cent is above the average required. If you want the initiative and referendum to work, if you want the people of Alaska to have a chance to initiate and recall laws, keep it at eight per cent. That is the right figure. Ten per cent would be plenty high. Fifteen per cent rules it out. It is not effective.

PRESIDENT EGAN: Mr. Harris.

HARRIS: I am both in agreement and in disagreement with Mr. Taylor's proposal. Ten per cent at the present time with our present voting population perhaps would be a little low. Also, I have an amendment on the desk, and if Mr. Taylor would adopt the latter part of my amendment, I think maybe we would straighten this situation out. I would go ten per cent provided however that no petition shall have less than 5,000 signatures.

SUNDBORG: Question.

COOPER: I move the previous question.

PRESIDENT EGAN: Mr. Cooper moves the previous question.

BUCKALEW: I second the motion.

PRESIDENT EGAN: The question is, "Shall the previous question be ordered? All those in favor of ordering the previous question will signify by saying "aye", all opposed "no". The ayes" have it and the previous question has been ordered. The question is, "Shall Mr. Taylor's proposed amendment to the amendment be adopted by the Convention?"

JOHNSON: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

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Yeas: 29 - Coghill, Collins, Davis, Doogan, Emberg, H. Fischer, Harris, Hermann, Hinckel, Hurley, Kilcher, King, Knight, Lee, McLaughlin, McNealy, McNees, Marston, Metcalf, Nordale, Peratrovich, Riley, R. Rivers, V. Rivers, Smith, Stewart, Sundborg, Taylor, VanderLeest.

Nays: 21 - Armstrong, Awes, Barr, Boswell, Buckalew, Cooper, Gray, Hellenthal, Johnson, Laws, Londborg, Nolan, Poulsen, Reader, Robertson, Rosswog, Sweeney, Walsh, White, Wien, Mr. President.

Absent: 5 - Cross, V. Fischer, Hilscher, McCutcheon, Nerland.)

LONDBORG: I have an amendment. It is the one I submitted before the recess. I would like to resubmit it.

PRESIDENT EGAN: The Chief Clerk may read the proposed amendment. The amendment was not voted upon, is that right?

LONDBORG: It was not voted upon, I had asked that it be withdrawn.

CHIEF CLERK: This was to Section 4, is that right?

LONDBORG: I believe so. It is in the Ralph Rivers amendment. I think you will find it better on page 2, line 8 of the changed copy, although I can't legally attach it to that.

CHIEF CLERK: "After the word 'signatures' in the next to the last sentence of the Ralph Rivers amendment, delete the rest of the sentence and substitute the following: 'from each of two-thirds of the election districts of the State with signatures equalling not less than 3% of the number of voters casting ballots for governor in each such district in the preceding general election at which a governor was elected'."

PRESIDENT EGAN: What is your pleasure, Mr. Londborg?

LONDBORG: I move the adoption of the amendment.

JOHNSON: I second the motion.

PRESIDENT EGAN: The question is open for discussion and the Chief Clerk might read the proposed amendment once more.

CHIEF CLERK: You can find it on page 5 of the journal of the 42nd day, next to the last paragraph, it is the bottom of the page.

PRESIDENT EGAN: Is there discussion of the proposed amendment? Mr. Londborg.

LONDBORG: The reason for this proposed amendment is to make it a little more clear that there should be at least more than one signature in each of these two-thirds of the districts. As the proposal now reads, they are to obtain signatures in at least two-thirds of the election districts of the state. Now, as I take it, that would mean that a person wanting to start an initiative, if he would get ten per cent of the total votes cast in one city, then he could send out or go out, either way, and just get one signature in each of two-thirds remaining districts and that would make the petition valid. Probably he would get two or three to play safe, but he would only have to get one. He would get a signature in each of the two-thirds districts and I believe that when we have such an important thing as an initiative and if the legislature has failed to the great extent that initiative is necessary, then that initiative should be a vital interest over all the state and not just in one area, and I believe that that interest will be best shown if we have at least three per cent of the voters in each of those two-thirds districts signing. Now three per cent is not very high. I put that purposely low so that it would not make it hard to get the signatures in any one of those areas, but at least it should be

more than one signature in two-thirds of the election districts. That is not going to make the initiative, I don't believe, any harder to work but it will at least show and prove that that proposed bill or that proposed law is gaining interest over the whole state, not just a local affair that the ten per cent would indicate if they were taken from one city or one locality and just go out and get one signature to comply with our initiative.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I am going to support the amendment because I think it makes good sense.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: I am going to vote against the amendment because I don't think it makes good sense. The reasoning behind it sounds perfectly logical but I call attention to the fact that in this proposal that we have so far, we have at least three types of initiative which are not possible. We have put safeguards on it as far as the people are concerned so that the Territorial legislature will not be faced with a law they do not want. I think we also should remember that the initiative petition is just the beginning, that it will still be referred to the people for a vote throughout the Territory of Alaska, and I am sure by that time there will be sufficient discussion of it so it will be taken up, but I have the feeling we have gone to too large an extent in legislating this matter of initiative and referendum in the first place. We are continually getting into numbers. We are getting into things that are subject to critical glances from the people that are trying to get the job done, and I think generally that the less restrictions that we put on this thing the better off we are going to be, and I don't think the amendment will serve the purpose that the proposer thinks it will.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. Chairman, I believe I agree with Mr. Hurley's position on this. Even though the signatures originate in one area I want you to note that in Section 5 it states, "Neither the initiative nor referendum may be used as a means of making or defeating appropriations of public funds or earmarking of revenues nor for local or special legislation." Well, if there is no special local interest in the legislation, even though the signatures should come from a local area, if it is an overall general legislation, it would be my assumption that they would probably try to get as widespread number of signatures as possible to get as widespread interest as possible. I see no reason to impose some other percentage figure now. I don't see we gain a thing by it. I think it is an extra handicap and does not add to but detracts from the initiative and referendum as we now have it.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: I would like to close this short debate. In answer to the last objection, I don't believe Section 5 is a safeguard at

all. It just merely says that they may not be used for means of earmarking revenues, etc., but there still may be a law that one locality might particularly want, maybe it isn't pertaining to them, but it may pertain to the whole state, but the state may not be particularly interested in it, and the initiative may spring out of a populous area and they could get the ten per cent in just an overnight campaign and get the one signature out around, and then in answer to the former objection where we should not make it hard or things of that nature, let us remember that the initiative is not enacting laws by an apportionment representation. We are enacting laws by popular vote, and we have set up a machinery in the legislature to make our laws and they are sitting representing the various areas of the country, but when it comes to a popular vote, then you will find that it is where the people are that is going to count, and I think as a safeguard, and again I say it is not a high safeguard but very low, if you get three per cent of the qualified voters in these two-thirds districts you will have a good indication of whether it is of statewide interest.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Londborg be adopted by the Convention?"

LONDBORG: Mr. President, I request a roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll on the proposed amendment.

(The Chief Clerk called the roll with the following result:

Yeas: 17 - Barr, Boswell, Cross, Hinckel, Johnson, Kilcher, Laws, Londborg, McNealy, Metcalf, Nerland, Poulsen, Reader, R. Rivers, Stewart, Sweeney, Walsh.

Nays: 31 - Barr, Coghill, Collins, Cooper, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hurley, King, Knight, Lee, McCutcheon, McLaughlin, McNees, Marston, Nordale, Riley, V. Rivers, Rosswog, Smith, Sundborg, VanderLeest, White, Wien, Mr. President.

Absent: 7 - Armstrong, Buckalew, Davis, Nolan, Peratrovich, Robertson, Taylor.)

CHIEF CLERK: 17 yeas, 31 nays and 7 absent.

PRESIDENT EGAN: The "nays" have it, and the proposed amendment has failed of adoption. Mr. Sundborg.

PRESIDENT EGAN: The Chief Clerk will please read Mr. Johnson's amendment.

CHIEF CLERK: "Page 1, Section 4, line 18. Strike word 'eight' at the end of the line and insert in lieu thereof the word 'fifteen'."

JOHNSON: I move the adoption of the amendment.

PRESIDENT EGAN: Mr. Johnson moves the adoption of the proposed amendment.

MCNEALY: I second the motion.

GRAY: I would like to ask the mover how he arrived at the figure "fifteen". I had in mind "twenty-five" but I don't know what

the difference is between eight, ten, or fifteen per cent.

JOHNSON: I suppose I arrived at my fifteen like you arrived at your twenty-five. It was simply an estimate of what I thought would be a far better percentage of the electorate needed to initiate a proposal under this act. It seemed to me that eight per cent was a little bit low.

SUNDBORG: I think we should all be clear that all that this figure refers to is the percentage of the electors or of those voting at the last election who would have to sign a petition in order to get it voted upon. It does not mean that eight or fifteen percentage means it goes into effect. It just puts it on the ballot. I venture if we change this to fifteen there would be very few initiative measures would ever get on the ballot. That is quite a high percentage to get when you carry petitions around.

LONDBORG: If you can't get fifteen per cent to put it on the ballot they certainly would not get enough to pass it when it does come out. I think it should be a little bit higher than eight per cent because its not eight per cent of the qualified electors, it's only eight per cent of the ones that voted . and I think we ought to have it a little bit higher to preclude any possibility of throwing in legislation that might also call for special elections and a lot of expense.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, I am not an authority on the subject, but I understand there are other states who have as high a percentage as 15 and I believe one has as high as 20 per cent. I can't quote the number of states. I would like to hear from some of the Committee that has investigated that.

MARSTON: Mr. Chairman, the average requirement is eight per cent of the states that have this form of law. The average is eight per cent.

PRESIDENT EGAN: Mr. Kilcher, did you want the floor?

KILCHER: Yes. I advise that this amendment be defeated. It is exorbitantly high and I intend to suggest an amendment at a

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much lower figure than this. The average is slightly less than eight per cent, as for as my figures show. Considering the distance and geography of Alaska, we should rather have a figure lower than eight or leave it as it is. That defeats the purpose of the measure.

GRAY: I feel that this is an important figure. I feel that this is the one place, if this is a constitutional measure, to insure that the people want the measure rather than some small

group in one locality. I believe that this figure should be sufficiently high. Under a republican form of government we are going to legislate through our legislature. We want to keep the principle of the law ultimately belongs to the people, and I think the figure should denote and be used only at a time that the legislature is not conforming to the wishes of the people, and that is why I believe this figure is very important, and by this figure I think we save the initiative for the constitution or we lose it due to the cumbersome expenses of practice of possibly poor legislation.

PRESIDENT EGAN: If there is no further discussion -- Mr. Barr?

BARR: Mr. President, as I stated before, I am against the basic idea of an initiative but I realize it has some value if it is in the constitution. In fact it may be a deterrent on the actions of legislature if they know it is there and could be used, but my main fear was it would be used too often for no good purpose. I may change my mind and vote for it if this figure of fifteen per cent is adopted.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, I think that possibly the adoption of this 15 per cent motion would make the program of the initiative unworkable. I notice that the states that used the initiative for statutory purposes, there are none of them that are above ten. Now I will grant that for purposes of amending the constitution there are some states that go as high, I believe, as thirty. I think it would be an error to adopt this fifteen per cent because of the fact it would be practically impossible to get that number of signatures on the petition required to initiate an initiative.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, now they call this a petition by the voters, how to get a certain per cent of it. Now in looking at it another way, it is a motion by a certain percentage of the electors that they would like to have something voted on. Now you say eight per cent is too much, but as important as this session is, less than two per cent of the body of this house can initiate anything they want to before this body and have it voted on, so why should you have to have the electors, eight per cent or fifteen per cent more. Eight per cent I think is a fair compromise. We discussed that considerably in the Committee, but when you figure that less than two per cent in here can start something, all a man has to do is to make a motion. That one man is less

than two per cent and everybody considers it, so I think if we have eight per cent on this initiative, that is plenty.

PRESIDENT EGAN: Mr. Marston.

MARSTON: Eight per cent is a little higher than the average state that uses this law. Now we know how hard it was to go out and get 250 names on a paper to get the chance to run for this Constitutional Convention. It was a lot of work for most of us to go out and do it ourselves. To get one of these initiative measures before the people it takes over 2,000 people to sign up. You would not get any place if you had to get 2,000. You would not be here and neither would I. It's a hurdle high enough if they feel that 2,000 votes to get on the ballot is what you have to get, they have a cause and then the people have a chance to say "yes or "no". I think eight per cent is right.

BOSWELL: I wondered if the Committee had studied the statistics of voting and about what eight per cent would require. Is that the figure -- 2,000?

MARSTON: My recollection is 27,000 votes here all over Alaska. Eight per cent of that is 2,160.

BOSWELL: I would speak in favor of a higher figure than eight per cent. It seems to me that one of the things, one of the abuses is that a number of bills could get introduced with a few voters and with only 2,000 it seems to me that it would be very easy for one locality to get 2,000 votes on a particular issue. That is why I would favor a higher figure, and I think fifteen per cent is about right.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: If Alaska had a static population I would be inclined to agree, but I feel we have an expanding population, and by the time we become a state, the people that are concerned with introducing proposals, our population and our voting population will be such that eight per cent will be a reasonable figure.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, talking about the difficulty of getting that number of signatures to a petition, I maintain it is pretty easy to get a petition signed. I know of one candidate to this Constitutional Convention who merely typed up some petitions and mailed them to friends and he got 800 signatures with no effort on the part of himself.

PRESIDENT EGAN: Mr. Gray.

GRAY: I have to rise a second time because of that 200-vote

deal. The gentleman on that pointed directly at me. I wish to cite right now the principle of the thing. On the extraneous, unimportant matters, we don't care what the percentage is, two per cent, but on these important matters we must raise it to a higher value.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I would just like to say that the effect of the amendment, if it is adopted, would be that in Alaska right now in order to get any measure up before the people on an initiative basis, it would require 4,050 signatures on petitions. That is a lot of signatures to try to go out and get in Alaska. That is what fifteen per cent of 27,000 is. This is not going to carry the proposition. This is what is required to simply get it on the ballot so the people can have a chance to vote on it. The eight per cent now in there, as Mr. Marston said, would require slightly over 2,000, so that is what we are voting on.

ROSSWOG: Mr. Chairman, I would like to say a few words.

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: I think it should be hard to get these petitions out and have them filled out, and I would be in favor of a little higher figure than the eight per cent.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I am recalling the other arguments that have been made prior to this particular question. And if you will recall various people stated "Well, when the legislature fails to enact some necessary legislation the people can put the blocks to them. If the legislature has fallen down that much, it is not going to be any trouble at all to get fifteen per cent because they are all going to be up in arms. If the legislature has fallen down that much and they have to resort to the initiative, I think you can get fifteen per cent, if it's that important.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: I take my second turn here. I still believe it should be a lot higher. If that small percentage can throw the wheels in motion and perhaps calls for a special election and have \$40,000 every time a few people get together and want it if it does not happen to fall on a primary or general election, I think it should be relatively hard to do it because if it is something that that many people want, I am sure you can get the signatures. There have been various experiments performed on the idea of getting people to sign their names, and they say in cities that one out of ten will refuse to sign their signatures on a petition and perhaps not even look at the petition.

COOPER: I would like to point out that the figure fifteen per cent as used in the proposal, the figures that were presented on the floor were fifteen percent of 27,000 votes, and the last general election, as I recall I am not letter perfect on these figures -- was over 40,000. Is that correct? Might I ask if any of the delegates know?

PRESIDENT EGAN: Twenty seven thousand the Chair believes, or something like that.

COOPER: Of the general election?

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PRESIDENT EGAN: Twenty seven thousand, six hundred and something.

COOPER: I just wanted to point out in argument that the delegate that was elected at large with the greatest number of votes, Territory wide, received 7,000 votes, which in effect would be a signature. The 15 per cent of the 27,000 votes then would be over 4,000 signatures. I believe it is a little high.

R. RIVERS: That delegate was running in a field of seven candidates. The 27,000 reflects the number of votes cast per delegate, I believe.

HILSCHER: According to the report of PAS slightly less than eight per cent seems to be the average in the states where this provision applies. Those states have a far more static population than we have. They are closely allied through transportation, through numerous radio stations, telephones, and it is much easier to get your message across. Here in Alaska where we have such a large area, the great distances between our towns and communities, our lack of communications comparable to those in the states places an additional penalty upon our people. So if we are to adopt the fifteen per cent, we might in essence from the standpoint of inconvenience, be setting it up almost at 25 per cent. I am in favor of the figure as it stands at the present time in Section 4, at eight per cent.

HINCKEL: I originally proposed or composed an article in which I set forth fifteen per cent. In Committee they changed my mind and I agreed to the eight per cent. In view of the fact that we have now removed all restrictions on the voters, a voter does not have to be able to read, etc., the qualified elector who would be permitted to sign this petition, I now favor that we raise the percentage back to a higher figure than eight -- possibly as high as fifteen.

UNIDENTIFIED DELAGATE: Question.

TAYLOR: I would like to say too that some of the states don't favor too large petitions. New York with three or four million voters, you can't present a petition that has more than 50,000 signatures, so it is a very small percentage of the voters that are on the petition because they are too bulky, there is too much trouble checking them. So in New York State you can't get more than 50,000 people on which would be a small percentage.

MCNEALY: I had not intended to speak on this, but everybody is taking a turn. The point is that I have some amendments to offer here which if the fifteen per cent went through I would be inclined to go along with the initiative and not offer my proposed amendments. Mr. Taylor speaks of New York. I think there are others here in the body who talked with Congressman O'Brien from New York. He said in one of his last words of parting from a little meeting, he said, "Don't get stuck like the State of New York with an initiative system or you will be spending out a good percentage of the Territory's money. You will find that your

initiative elections will cost you far more than your regular elections. As a Congressman from New York I sincerely hope you do not write the initiative into the constitution." I think this fifteen per cent would be somewhat of a safeguard against too many elections at least.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Johnson be adopted by the Convention?" That is changing "eight per cent" to read "fifteen per cent". All those in favor of the adoption of the amendment will signify by saying "aye", all opposed by saying "no".

SWEENEY: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 25 - Armstrong, Aves, Barr, Boswell, Buckalew, Cross, Doogan, V. Fischer, Gray, Hinckel, Johnson, Laws, Londborg, McCutcheon, McNealy, Nerland, Nolan, Poulsen, Reader, Rosswog, Sweeney, Walsh, White, Wien, Mr. President.

Nays: 23 - Coghill, Collins, Cooper, Davis, Emberg, Harris, Hermann, Hilscher, Hurley, Kilcher, Knight, Lee, McLaughlin, McNees, Marston, Metcalf, Nordale, Peratovich, R. Rivers, V. Rivers, Smith, Stewart, Taylor..

Absent: 7 - H. Fischer, Hellenthal, King, Riley, Robertson, Sundborg, VanderLeest.)

CHIEF CLERK: 25 yeas, 23 nays and 7 absent.

PRESIDENT EGAN: And so the motion has carried and the amendment is ordered adopted.

V. RIVERS: It takes a majority of all of the members to which the body is entitled for final action.

PRESIDENT EGAN: The Chair will declare a two-minute recess.

PRESIDENT EGAN: The Chief Clerk will please read Mr. Johnson's amendment.

CHIEF CLERK: Do you want this one taken up next?

JOHNSON: Yes, please.

CHIEF CLERK: "Page 2, line 3. Section 4, after word 'chosen' add new sentence, 'The petition shall be from two-thirds of the voting precincts.'"

JOHNSON: Mr. President, I move the adoption of the amendment.

PRESIDENT EGAN: "The petition shall be from two-thirds of the voting precincts" -- where, Mr. Johnson, of the Territory?

JOHNSON: Of course it would be from the state.

PRESIDENT EGAN: The Chair stands corrected.

CHIEF CLERK: Do you want to add that?

JOHNSON: It is not necessary.

PRESIDENT EGAN: Do you move the adoption of the proposed amendment?

JOHNSON: I do.

ROBERTSON: I second the motion.

JOHNSON: I might explain, Mr. President, that it occurs to me that under the present wording that a petition could be circulated in one large population area and the required number of signatures be obtained from that one population area, and I believe that it would be better or equitable to have the petitions circulated in at least two-thirds of the voting precincts and signatures obtained all around the state rather than just in one locality.

PRESIDENT EGAN: Mr. Marston.

MARSTON: We went all through this, and in this big land of Alaska we said the other day one voting precinct was bigger than 40 of the states, and we concluded it was not fair if we want the initiative to work, to chase them all over the great land of Alaska to get these petitions. You nullify it. Here is one man with five petitions here. It is not improving this thing. If you want to nullify it, this is one way to do it. We worked on it for about four weeks, good men, even if I was on there, the rest of them anyway, and we decided that some of these people -- we had it in there. We took it out. It was too big a land to chase them over the mountains and across the rivers and the oceans to get this scattered vote, so I wish if you want this initiative and referendum you would hold back on a lot of these amendments. They are not improving it. That is the reason we did not put it in there. We considered Mr. Johnson's amendment carefully. I would like to hear some of the other Committees on this.

F. 2

PRESIDENT EGAN: The question is, "Shall Mr. Johnson's proposed amendment be adopted by the Convention?" Mr. Davis.

DAVIS: May I ask Mr. Johnson a question? If I understood your explanation correctly, Mr. Johnson, what you intended was that the petition should be circulated or that signatures should be secured from at least two-thirds. It seems to me the form does not quite carry out what you are trying to do. I am in favor of the suggestion that I think you are trying to make there.

JOHNSON: We could add the words "shall be circulated in at least two-thirds of the voting precincts." I will accept Mr. Davis' suggested amendment, and insert, "The petition shall contain signatures from at least two-thirds of the election districts of the State."

PRESIDENT EGAN: Mr. Davis, do you offer that proposed amendment?

DAVIS: Yes.

PRESIDENT EGAN: Is there objection to Mr. Davis's proposed amendment to the amendment? Mr. McLaughlin.

MCLAUGHLIN: Are you substituting the word "circulating" and do not require signing, Mr. Davis?

DAVIS: Either "circulated" or "signatures should be secured

from". Either one would be all right from my standpoint. But as it reads it says, "it shall be from" and I think it is meaningless.

MCLAUGHLIN: I am just anxious to know what the amended amendment is.

DAVIS: I will say "circulated" as an amendment.

PRESIDENT EGAN: Mr. Cooper.

COOPER: Mr. President, I have the same question in mind, and in my mind it would have been at least two-thirds of the voting precincts that would be represented, and that would indicate at least one vote from at least two-thirds of the voting precincts in Alaska.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: I can certainly see a value in having signatures from that many of the precincts. That would be one of the best ways to get the people all over the State of Alaska acquainted with what is coming up, otherwise many people will have to depend on radio or newspapers, etc., to find out and first thing you know there is a special election and a lot of them will have the initiative before them to vote and come to the polls and probably have not had a chance to talk it over and can't read, and we are going to have a lot of confusion, but if it can be circulated around I think it is going to stimulate a lot of interest and a lot of study on the initiative.

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PRESIDENT EGAN: Mr. Metcalf.

METCALF: I am partially in favor of Mr. Johnson's motion, and I am against it for the use of the phraseology "of all the voting precincts", which would be a difficult job. I would like to amend the motion and make it similar to the Missouri Constitution, what they say on the matter. I would like to amend the motion and say "the major political subdivisions" and put the word "each" before that. In other words, you have Nome, Fairbanks, Anchorage, and Juneau, and you have to get two-thirds of your signatures from those major areas, and you won't work a hardship on the people with the initiative.

PRESIDENT EGAN: Mr. Metcalf, at the present time the particular motion cannot be further amended in its present state. There has already been an amendment to the proposed amendment offered and an amendment to the amendment to the amendment the Chair would hold would be out of order at this time. Mr. Stewart.

STEWART: Mr. President, just one question of information. Would the word "circulating include posting in a public place?

DAVIS: Mr. President, in order to get away from the confusion which I caused here, I would like to withdraw the proposed amendment, putting it back to Mr. Johnson's amendment, then we can start over again.

PRESIDENT EGAN: If there is no objection, Mr. Davis asks unanimous consent to withdraw his proposed amendment to the amendment.

MCNEALY: I object.

PRESIDENT EGAN: That will take a motion before we can discuss it further. Mr. Davis.

DAVIS: I move that I be allowed to withdraw my proposed amendment to Mr. Johnson's amendment.

JOHNSON: I second.

MCNEALY: I withdraw my objection.

PRESIDENT EGAN: The proposed amendment to the amendment was withdrawn. Mr. Metcalf.

METCALF: I should like to read the amendment to Mr. Johnson's motion here.

PRESIDENT EGAN: If you could get it in writing. The Convention will sit at ease for a minute or two. The Convention is at ease. The Convention will come to order. Mr. Johnson.

JOHNSON: Mr. President, I ask leave by unanimous consent to withdraw my original amendment and substitute in lieu thereof a different wording which I have placed on the Secretary's desk.

PRESIDENT EGAN: Mr. Johnson asks unanimous consent that he be allowed to withdraw his original amendment and substitute another amendment. Is there objection? If there is no objection it is so ordered, and the Chief Clerk may read the proposed amendment.

CHIEF CLERK: "Page 2, line 3, Section 4, after word 'chosen' add a new sentence, The petition shall contain signatures from at least two-thirds of the election districts of the State."

JOHNSON: I move the adoption of the amendment as read.

ROBERTSON: I second it.

PRESIDENT EGAN: The motion is open for discussion. Mr.

Smith.

SMITH: Mr. President, my recollection of the Committee discussion on this question was that under Section 3 the legislature would have the authority to require that signatures be obtained from as many legislative districts as they might deem necessary. The Committee felt, that is my version of the Committee feeling was, that due to the changes which will inevitably come, that the legislature could safely make those requirements. They could change those requirements to meet changing conditions and, therefore, I am opposing the amendment.

TAYLOR: I would just like to substantiate the remarks of Mr. Smith. We went over this quite carefully. We argued pro and con as to whether we should put anything in about where the petition was to be circulated, how many names to it, studied the other states' provisions along these same lines, and we felt due to our geographical limits that it would be better to leave that to the legislature. Now that is an untried thing in Alaska, and if we put this in here the legislature then would be unable to change it. It would take a constitutional amendment to make any change in the method of getting the signatures or where you got them from. So we thought we would leave this thing in the fluid stage so if there was an attempt to initiate legislation by this method, and they found out that the provision by law pursuant to the article was unwieldly, cumbersome, and made it practically impossible to get a measure through, that the legislature could change it at the first session if they realize it should be done. So we purposely left that out. We felt it would be better to leave it fluid so by trial and error we can find out what is the best manner to handle this, so I would think that the amendment should be defeated.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: I was going to state for the advocacy of the delegates that the original wording we had in there was that not over 25 per cent of the signatures on a petition should come from any one political subdivision, and we all agreed that it would probably be adequate but as Mr. Taylor has said, we finally decided that we might be wrong and it would be better to leave it to the legislature so it could be amended or changed without all the trouble of going through constitutional amendment.

PRESIDENT EGAN: Mr. Cooper.

COOPER: Line 25 on page 2, actually Section 5, says this measure of the initiative shall not pertain to local or special legislation. Therefore, I don't think the amendment is in any way, shape or form out of order. If the people of the state at-large are to be affected by eventual legislation, then I believe that petition should be distributed within at least two-thirds of the voting precincts.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: There seems to be a feeling here that this is making it too hard to get an initiative. I would like to call the attention to the initiative provision in the State of Missouri where they not only ask that it be circulated in two-thirds of the congressional districts of the state, but that it be signed by a certain per cent of the legal voters. Now in the case of the constitutionality amendment it is eight per cent. In case of the law it is five per cent, which I think would compare to our fifteen per cent of those who voted. This is five per cent of the legal voters and it shall be signed by five per cent of the voters in each of two-thirds of the districts, so they certainly have their initiative a lot harder than we are proposing here.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: Mr. President, I think we are losing sight of one of the main things to be considered in connection with this proposal. These amendments and others that have already been adopted, as well as some of the sections themselves, are clearly attempts to replace fundamental law with statutory law, and I think that the whole thing of setting up the procedure for initiative and referendum, which is now being clumsily done by the body, should be left in the hands of the legislature. I have said once on this floor, if I have said it once I have said it a dozen times and probably will say it that many more, we have got to leave things to the legislature that belong among the legislature's functions, and instead of trying to write statutory law into the constitution of the State of Alaska let's get down to brass tacks and write the fundamental law on which the legislature may base its actions. I am against the amendment.

SUNDBORG: I have to take a view opposite to that of Mrs. Hermann's, something which I do not often do, for the reason that this provision would cover not only initiative petitions but referendum petitions, and I do not believe it proper to leave in the hands of the legislature the writing of basic provisions on how petitions which would override and defeat actions which the legislature has taken would have to be handled. Now under your view it is open here if we don't mention it, and it is open to the legislature to put up any kind of a provision it wants, it could require that there would have to be signatures from every voting precinct in the state which would defeat it because it would be impossible to get such signatures, and I don't believe that if we are going to have the referendum at all which is the process for the people to say, "We don't want this law which the legislature has just passed. We don't want to leave it to the legislature to set up the ground rules of how those things are going to be

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handled. I think that the amendment as now submitted does not require very much. All it says is that the petition shall contain signatures from at least two-thirds of the election districts of the state. The Apportionment Committee is bringing out a report which is going to set up 24 election districts in the state. This would require that anyone who wants to get a matter on the ballot would only have to have signatures from 16 of those election districts. Say that we need 4,000 as it is in Alaska today, he could have 3,985 signatures from the City of Anchorage and he could get one each from the other 16 election districts and he's on the ballot. Now I don't think that is going to restrict very many initiative or referendum petitions.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I certainly agree with Mrs. Hermann. It seems to me a lot of delegates, and I have had the same idea myself up to this point, that you can't write into the constitution provisions that are going to take care of every imaginary evil that might come up. I think you can trust the legislature. We are going to trust the judges. We have created judges. We have given to the judges the power to incarcerate people and even hang them, and it is not any more illogical to trust the legislature. I might say that I offered an amendment which I think will cure all of this discussion, and I don't mean any reflection on Mr. Collins or his Committee, but I certainly agree with Mrs. Hermann. Now you can see the hassle we have gotten into over whether it is going to be ten or fifteen per cent, and it is all legislation, and if it proves to be unworkable you have got to amend the constitution to change it, and Mrs. Hermann is absolutely right.

MCLAUGHLIN: Without committing myself either way, I am just a little bit puzzled. Under Mrs. Hermann's suggestion it would all be left to the legislature. If the legislature exercises its authority under Section 3 prescribing the procedures to be followed in the exercise of powers of initiative and referendum, it makes it an emergency act, and you can't have a referendum on your referendum.

PRESIDENT EGAN: Mr. Smith.

SMITH: Mr. President, the only value for the initiative and referendum procedure is if there is a clear channel for enactment of legislation by the people. That is, if it goes directly from the people bypassing the legislature. If you give the legislature the power to block that channel, then you just as well as have no initiative and referendum at all. Now this is the second time I have had to change my mind on the question that is concerned with this, but I will now support the amendment offered.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I think, in answering Mr. Smith's objections, he possibly loses sight of the fact that this Convention, if we adopt this proposal would be bound by it, as it says "No law shall be enacted to hamper, restrict or impair the exercise of powers reserved herein...by the people." They have got to pass the legislation. It has got to be introduced. It has got to be implemented

by the proper legislative measure. Let us trust the legislature. Let us leave this just as much as basic law as we possibly can.

Otherwise, we are coming out of here with a constitution that the voters will not ratify. Maybe some of these amendments are put in for the purpose of defeating the constitution.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, I want to say that I agree, strange as it may seem, with what Mrs. Hermann has said here. I think a good deal that is in this bill as written is legislation. The amendment which Mr. Johnson offered and which I supported was a matter to amend something that is legislation in my opinion to make the thing clearer and more nearly responsive to the will of the people of the whole rather than one section. That was the reason for offering the amendment. I would agree right off that if this part of Section 4 could be stricken as legislation.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, I resent the implication that I have offered any amendments for the purpose of defeating this constitution. I don't believe that Delegate Taylor had any right to make such an inference. I think that any delegate here has the right to offer amendments as long as they feel they are justified and it is part of the subject matter at hand. Now certainly in this instance, the constitutions that have been read to us, clearly indicate that this provision which is now before us by way of amendment is not unusual. There is nothing strange about it, and as Delegate Sundborg points out, it is not an impractical proposition because you can get, as he says, 3,995 signatures in Anchorage and get the rest of them, one signature from the other 15 voting precincts, so it is not an impractical proposition. It still acts as an additional safeguard on the misuse of the initiative. Yesterday I was opposed to the initiative principle, but the delegation in the Committee of the Whole voted to support the principle, and it is now in our constitution and will be I assume, but I still think that we have the right to make it as strong as possible because certainly it can be very easily misused as has been pointed out, and a special election under the initiative could cost the taxpayers \$40,000 and you might have a number of those special elections every year, and it runs into money, and I don't think we are going to have any too much money after we become a state, at least not for awhile, so I believe it is a reasonable safeguard and that the amendment should be passed.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: Mr. President, I am a strong advocate of leaving matters to the legislature, but I want to point out that when you start writing legislation into the constitution then you have got to write more legislation in order to supplement the legislation that you already have written in, and I too want to call attention to Section 3, the last line where it states, "No law shall be enacted to hamper, restrict, or impair the exercise of powers reserved herein by the people. If this is left blank, the percentage of the voters

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who must sign the petition, and if it is left in the blank about what districts they shall be signed in, then I can foresee and very clearly there will be untold litigation, because if the legislature attempted to pass a bill and required fifteen per cent of the signatures, the people, or a small segment, would attack it on the grounds that it was hampering or restricting or impairing the voters. If the legislature attempted to say that the petitions had to be secured in certain districts they could always refer back to this clause here of hampering, restricting, or impairing. I think as long as we started writing legislation into this, unless the matter is clearly spelled out in the bill and left up to the legislature, then we must spell out these things in order to protect against future court action.

PRESIDENT EGAN: The Chair is going to adhere to the rule, Mr. Taylor, that each delegate is allowed two times around. Mr. Kilcher.

KILCHER: Point of information. I would like to address a question to Mr. Johnson. If Mr. Johnson's amendment should be adopted, would that leave enough power to the legislature later on to determine the percentage of signatures required in each of the two-thirds of the legal subdivisions?

JOHNSON: Offhand, I would say no, but it seems to me that it might be construed that if the legislature should determine later that each voting precinct would have to produce a proportionate share of the signatures, that might be in contravention of the constitutionality. I am not enough of a constitutional lawyer to know, but my offhand opinion is that this provision as it is now before us would make it flexible, and if the legislature attempted to put any restrictions on that flexibility, that it would not be improper.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Personally I think that the legislature would be entitled to make further specifications that are not limited by any of the constitutional sections, and I hope that it will. and provided that I am right in my assumption, I am in favor of Mr. Johnson's amendment.

ARMSTRONG: If Section 4 is to stay in the act, it seems to me that we have to have this provision. I want to revert back to the thing that Mr. Marston constantly talks about, the people. I have a feeling so often that when I vote on the wrong side of an issue that I am voting against the people because that word has been underscored so emphatically. I think that to eradicate sectionalism and provincialism from Alaska we must have an expression from as many sections of the state as possible. I think one of the great things that is hampering us now is the feeling that one area wants to dominate another area, and I will vote for this amendment because of my inner feeling that this is bridging all of these depressions of sectionalism. It is asking for a widespread opinion on a piece of legislation. If folks say "Well, we are not intelligently" enlightened on this enough so that we

can sign this petition, then let them dig into it before they sign it. It will probably give a wider base of opinion when it comes to a vote. We can probably vote on it more intelligently. I will support this amendment if we are keeping in Section 4.

BOSWELL: I move the previous question.

HERMANN: I second the motion.

PRESIDENT EGAN: The question is, "Shall the previous question be ordered?" All those in favor of the question will signify by saying "aye", all opposed by saying no. The "ayes have it and the previous question is ordered. The question is, "Shall Mr. Johnson's proposed amendment be adopted by the Convention?" All those in favor --

TAYLOR: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll. Will the Chief Clerk please read the amendment.

CHIEF CLERK: "Page 2, line 3, Section 4, after the word 'chosen' add a new sentence, 'The petition shall contain signatures from at least two-thirds of the election districts of the State.'"

PRESIDENT EGAN: The question is, "Shall the proposed amendment be adopted by the Convention?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 38 - Armstrong, Barr, Boswell, Coghill, Collins, Cooper, Davis, Doogan, H. Fischer, Gray, Harris, Hellenthal, Hilscher, Johnson, Kilcher, Knight, Laws, Lee, Londborg, McLaughlin, McNealy, McNees, Marston, Nolan, Poulsen, Reader, R. Rivers, Robertson, Rosswoog, Smith, Stewart, Sundborg, Sweeney, VanderLeest, Walsh, White, Wien, Mr. President.

Nays: 13 - Aves, Buckalew, Emberg, Hermann, Hinckel, Hurley, King, Metcalf, Nordalc, Peratrovich, Riley, V. Rivers, Taylor.

Absent: 4 - Cross, V. Fischer, McCutcheon, Nerland.)

CHIEF CLERK: 38 yeas, 13 nays and 4 absent.

PRESIDENT EGAN: The "ayes" have it and the proposed amendment is ordered adopted. Mr. Hellenthal.

CHAIRMAN R. RIVERS: Mrs. Sweeney.

SWEENEY: I would like to ask Mr. Taylor a question. On Section 4, the last line on page 1 and going to the top of page 2 it

provides that you will have eight per cent of the number of votes cast for governor in the preceding general election, at which the governor was elected. I am wondering if your Committee considered the possibility of a restriction in there similar to the one that is in the model constitution requiring that only a certain percentage of those signatures can come from a certain district. That is, that the petition must represent a large area rather than a restricted area.

TAYLOR: We did talk that over. We gave it consideration. We felt that with the geographical limitations of the state of Alaska, we felt that in view of the size of Alaska, the geographical size of it in proportion to the population, that if we put a limitation upon the number of voters that could come from any political subdivision or of any particular area, that it would make it very difficult up here by reason of the great sparsely populated areas, we did not hold that up. We felt it would make it very difficult if 25 per cent of, say 25 or 30 per cent of the petitions had to be from one division or one part of a division. Well, you could go in there and get those all right, but it is so difficult to circulate those petitions in the outlying precincts.

SWEENEY: On the other hand, I feel that, if just speaking of divisions now, if one division, for instance the Southeast, had a bit of legislation they wanted passed, they could get the eight per cent of the votes very easily and yet we would be imposing, if the legislature then passed whatever it was we wanted, we would be imposing our will on the whole of Alaska, and it seems to me that a portion should be required to come from another division, perhaps a third or even half from another section.

CHAIRMAN R. RIVERS: The Committee will be at ease for a moment while our guests pass out. (Guests left gallery.) The Committee will come to order.

TAYLOR: Mr. Chairman, I would like to answer Mrs. Sweeney's question in this way. Although as she states the eight per cent of the voters, of the number of voters that cast their votes for the governor at the previous election was secured in one division, that does not make it a law because that then is submitted, if they get the sufficient number of signatures on there, then it is submitted to the entire electorate and then it can be defeated by the voters of other divisions or political subdivisions whichever they might be, because the entire electorate then votes upon what eight per cent of the electorate initiated.

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